Minnesota Department of Natural Resources
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**Date:** March 4, 2014

**To:** Parties on the EAW Distribution List
Other Interested Parties

**From:** Ronald Wieland, Environmental Planner
Environmental Review and Policy Unit
DNR – Division of Ecological and Water Resources

**Re:** Blazing Star State Trail, Myre-Big Island State Park to Hayward Project in Freeborn County, Minnesota
Record of Decision on Environmental Assessment Worksheet

The Minnesota Department of Natural Resources (DNR), as the Responsible Governmental Unit for environmental review of the Blazing Star State Trail, Myre-Big Island State Park to Hayward Project in Freeborn County, Minnesota, has issued the attached Record of Decision regarding the Need for an Environmental Impact Statement for the project.

The DNR has concluded that an Environmental Impact Statement is not required because the project does not have the potential for significant environmental effects. The justification for this determination is contained in the Record of Decision. The Record of Decision also contains the Department's responses to all substantive written comments received on the Environmental Assessment Worksheet during the 30-day review and comment period.

Issuing this Record of Decision concludes the State environmental review process for this project according to the Minnesota Environmental Quality Board rules, *Minnesota Rules*, part 4410.1000 to 4410.1700. This project can proceed to permitting and approvals.

For additional information, or copies of the Record of Decision, please call (651) 259-5157.

Attachment: Record of Decision (March 4, 2014)

# DEPARTMENT OF NATURAL RESOURCES

# RECORD OF DECISION

**In the Matter of the Determination of the Need for an Environmental Impact Statement for the Blazing Star State Trail, Myre-Big Island State Park to Hayward Project in Freeborn County, Minnesota**

**FINDINGS OF FACT, CONCLUSIONS, AND ORDER**

## FINDINGS OF FACT

1. Minnesota Department of Natural Resources (DNR) proposes to extend the Blazing Star State Trail 2.4 miles from Myre-Big Island State Park to Hayward in Freeborn County. The trail will consist of a 10-foot wide bituminous surface for pedestrian, bicycle and other non-motorized uses, and requires a new bridge crossing Albert Lea Lake. The 100-foot single span pedestrian bridge will be adjacent and parallel to the existing railroad bridge.

2. A project area totaling 53.5 acres (ac) was created to define the area encompassing the construction activities and vegetation management activities. The construction zone (9.8 ac) consists of two trail segments of varying width allocation: 1) an existing graveled segment approximately 0.7 miles long that would be paved with a bituminous surface (1.7 ac); and 2) about 2.4 miles of new trail construction (8.1 ac), including a bridge across a narrow point of Albert Lea Lake. The width of the construction zone along the existing trail segment would average 20 feet, and along the new trail segment, 28 feet. The resulting trail bed of both the existing and new segments will consist of a 10-foot wide paved treadway and 2-foot wide shoulders, resulting in a 14-foot wide trail approximately 5.2 ac in size. Areas within the construction zone that are disturbed but not allocated to the treadway and shoulders (approximately 4.6 ac) would be planted with native vegetation similar to standards applied to the vegetation management zone, where approximately 30 ac would be restored to native prairie or wetland plant communities. After project completion, approximately 90 percent of the project area would have a cover type of wetland, woodland, or brush/grassland. Mitigation options compensating for the project's environmental effects would affect additional areas outside the project area.

3. Pursuant to *Minnesota Rules*, chapter 4410.4300, subpart 1, an environmental assessment worksheet (EAW) must be prepared for projects that meet or exceed the threshold defined in any of the subparts 2 to 37. The proposed project exceeds the threshold defined under *Minnesota Rules*, part 4410.4300, subpart 27, item A, regarding wetlands and public waters. The project would change or diminish the course, current, or cross-section of one acre or more of Albert Lea Lake and therefore required the completion of an EAW.

4. Pursuant to *Minnesota Rules*, part 4410.0500, subpart 1, for any project listed in part 4410.4300, the governmental unit specified in those rules shall be the responsible governmental unit (RGU) unless the project will be carried out by a state agency, in which case that state agency shall be the RGU. Therefore, as proposer of the project, the DNR is delegated the duties of the RGU for conducting the environmental review.

5. The DNR prepared an EAW for the proposed project, pursuant to *Minnesota Rules*, parts 4410.1400 and 4410.1500.

6. The EAW was filed with the Minnesota Environmental Quality Board (EQB) and a notice of its availability was published in the EQB Monitor on December 23, 2013. A copy of the EAW was sent to all persons on the EQB Distribution List, to those persons known by the Department to be interested in the proposed project, and to those persons requesting a copy. A press release announcing the availability of the EAW was sent to newspapers and radio and television stations statewide. Copies of the EAW were also made available for public review and inspection at the Minneapolis Public Library; the DNR Library (St. Paul); the Albert Lea Library; the Rochester Library; the DNR Southern Regional Office (New Ulm); and the DNR Myre-Big Island State Park office. The EAW was also made available to the public via posting on the DNR's website.

7. The 30-day EAW public review and comment period began December 23, 2013 and ended January 22, 2014, pursuant to *Minnesota Rules*, part 4410.1600. The comment period closed at 4:30 pm. The opportunity was provided to submit written comments on the EAW to the DNR by U.S. Mail, by facsimile, or electronically by email.

8. The EAW is incorporated by reference into this Record of Decision on the determination of need for an environmental impact statement (EIS).

9. During the 30-day EAW public review and comment period, the DNR received written comments on the EAW from agencies and individuals. A copy of the comments is included with this Record of Decision as Attachment 1. The Findings (No. 10 through No. 16) include further discussion on comments received and responses from the DNR.

    1. Travis C. Oliver (December 25, 2013)
    2. Adam Burg on behalf of Signature Bridge Inc. (December 30, 2013)
    3. Tamela Drake (December 31, 2013)
    4. Rick Dyc on behalf of Crane Materials International (January 7, 2014)
    5. Gwen Hanson (January 11, 2014)
    6. Gerhard Skaar (January 15, 2014)
    7. Tracy Schnell on behalf of the Minnesota Department of Transportation (January 15, 2014)
    8. Sarah J. Biemers on behalf of the Minnesota Historical Society, State Historic Preservation Office (January 15, 2014)
    9. Karen Kromar on behalf of the Minnesota Pollution Control Agency (January 22, 2014)
    10. Jim and Merlene Stiles (January 22, 2014)
    11. Sarah Wingert on behalf of the St. Paul District Branch of the U.S. Army Corps of Engineers (January 22, 2014)

10. Several commenters expressed an opinion about the merits of the proposed project and did not address the accuracy and completeness of the Environmental Assessment Worksheet (EAW), specific impacts that require further investigation, the potential for significant environmental effects, or the need for an environmental impact statement (EIS).

    Five commenters expressed "support" or approval of the project. Two additional commenters representing commercial interests provided information on the types and sources for materials (timbers and aluminum) that could be used in the construction of boardwalks and bridges and requested additional information on the type of materials that would be used. One supporter

provided additional information on the names of early pioneers settling in Hayward Township and that their homesteads or places of business were in the general vicinity of the proposed trail.

The DNR appreciates the additional technical and historical information provided by the commenters. Individuals submitting comments in this category will generally find their comments regarding the merits of the proposed project not addressed in this Record of Decision. These comments will be provided to the proposer and to permitting and/or approval entities and/or authorities for their consideration as part of further decisions about whether to permit, approve, and/or implement the project.

11. The Minnesota Pollution Control Agency (MPCA) provided a letter of "no comment" and the Minnesota Department of Transportation (MnDOT) provided a letter of acknowledgment that the project would have "no significant impact on MnDOT roadways."

    The DNR appreciates receiving notice that the project has been reviewed by the agencies' resource staff.

12. The Minnesota State Historical Preservation Office (SHPO) commented that they look forward to receiving and reviewing the results of cultural resource surveys and to further consultation regarding any historic properties that were identified during the investigation.

    The DNR appreciates the coordination provided by SHPO and looks forward to working through these issues as the necessary archaeological review reports are completed.

13. The SHPO identified procedural requirements for applying Section 106 rules of the National Historic Preservation Act of 1966 (Section 106). The US Army Corps of Engineers (USACE) identified procedures for implementing Section 106 if a permit is required under Section 404 of the Clean Water Act.

    Item No. 8 of the EAW identifies permits and approvals required for the proposed project. The SHPO was listed as the unit of government that has the authority of overseeing the Archaeological Review for the project. "Section 106" was included in parenthesis next to "Archaeological Review" in the EAW.

    The project's archaeological review undergoes review through the SHPO, pursuant to Minnesota Field Archaeology Act and the Minnesota Historic Sites Act. The Section 106 requirements are invoked in non-federal projects when federal funds are used in financing the project or federal permits are contingent on the determination of the project's potential environmental effects on cultural resources. No federal funds will be used in the development of the proposed trail segment; however, as pointed out in the USACE comment letter, the Corps is responsible for considering impacts to historic features while reviewing the Section 404 permit application.

    Under Item No. 25 of the EAW, the DNR identified cultural resource sites within the development corridor and that protective measures or mitigation for potential disturbance may be necessary. The DNR will coordinate with the SHPO and the USACE to address procedural and potential mitigation requirements. The cultural resource survey will be forwarded to the USACE when available to provide an opportunity for reviewing the information and coordinating with the SHPO. If mitigation is required, mitigation may include constructing the trail on fill placed over the archaeological site.

14. The USACE comment letter described some important requirements for meeting Section 404 of the Clean Water Act (CWA) and procedures for applying for the permit. Based on the preliminary information, the USACE suggested that the project would be eligible for a Corps letter of permission, which is an abbreviated individual 404 permit review.

    The DNR appreciates receiving counsel from the USACE on issues related to application requirements for the Section 404 permit. The DNR will use the information provided to enable a more efficient and accurate application process.

15. The USACE requested clarification on the width of the trail where it crosses Albert Lea Lake.

    It was stated that the fill strip will reach an elevation of four feet above the ordinary high water level (OHWL) and support a 20-foot wide trail corridor (Item No. 12 on, page 12 of the EAW). Within the 20-foot wide trail corridor a 10-foot paved trail with 5-foot shoulders will be constructed. The 5-foot shoulders provide a clear zone to reestablish the requisite rail corridor fencing along the north side of the trail and a clear zone to the 3:1 side slope along the south side of the trail.

16. The USACE requested information on the nature of the wetlands (formerly industrial settling ponds) proposed to be reconnected to Albert Lea Lake as part of the mitigation plan, including whether any hazardous materials are present and clean-up is needed. The USACE provided a checklist that identifies information that is needed for applying for approval of an on-site compensatory mitigation plan.

    The reconnection of wetlands to the lake is an option under consideration to fulfill compensatory mitigation for the proposed lake and wetland fill that was identified under Item No. 12 of the EAW. Historically the settling ponds were used to settle organic wastes from a meat packing plant. After the plant's closure in 2001, the settling ponds functioned similar to natural wetlands.

    If the mitigation option is chosen, the DNR will provide the baseline information on the site, as identified in the checklist. The potential need for baseline sampling of wetland substrates for contamination will be evaluated, taking into consideration previous sampling conducted in this area of Albert Lea Lake. If sampling for contaminants is necessary, the DNR will coordinate with the regulatory agencies to insure appropriate sampling methods and standards are met. Potential clean-up requirements would be taken into consideration on whether to adopt the site in the mitigation plan. At this time the DNR is not aware of any contaminant issues in the wetlands. A closed landfill, located adjacent to the wetland area, would not be affected by the proposed mitigation plan activities.

17. Based upon the information contained in the EAW, the DNR has identified the following potential environmental effects associated with the project:

    a. Wildlife and Habitat
    b. Invasive Species
    c. Rare Features
    d. Physical Impacts on Water Resources
    e. Erosion and Sedimentation
    f. Water Quality
    g. Water Use
    h. Water Surface Access
    i. Odors, Noise, Dust, and Air Emissions

j. Archaeological Resources
k. Prime Farm Land
l. Cumulative Potential Effects

Each of these environmental effects is discussed in more detail below. Discussion on cumulative effects as identified in the EAW under Item No. 29 is included with the relevant environmental effect below (Findings No. 17d and No. 17f).

**a. Wildlife and Habitat.** This topic was addressed in the EAW under Item No. 11a.

Construction would occur during intervals for a period of several years, with more intensive work involved in developing the Albert Lea Lake crossing. Operation of the trail includes the authorized use of the trail in length of time and/or number of daily trips by recreational users of the trail. Maintenance activities, such as mowing and reconstruction, are also part of trail operations.

Resident wildlife would be affected by the construction and operation of the proposed project. The environmental effects on wildlife would include the potential disturbance and the risk of mortalities caused by construction and the resultant permanent loss of habitat that would be converted to the trail's treadway (5 ac). The operation of the trail affects wildlife by enabling users to transit through areas of wildlife habitation, consequently affecting animals near the trail corridor. The negative environmental effects on aquatic species are rated to be proportional to the size of the fill activities in public waters, which is estimated to exceed one acre.

Pre-construction mitigation techniques, such as fencing, to exclude turtles or limit their nesting, and mowing of construction and haul areas, to limit the attractiveness of these areas, will be implemented to help avoid wildlife disturbances. Timing of construction during the summer and fall would avoid the peek breeding and nesting season for most species. Additional measures to control sedimentation in surface waters would also reduce the project's effect on wildlife. Best management practices (BMPs) including limiting the effects of construction on water quality, limiting the extent of fill area, re-stabilization of the fill and trail corridor using wildlife-friendly erosion control mesh, and reestablishing shoreline vegetation, will be used during the development of the lake crossing. Only minor disturbances and a low risk of mortalities are anticipated to occur during the construction and operation of the trail.

Positive environmental effects would accrue from the proposed increase in wetland and prairie habitat, which is estimated to exceed 30 ac after restoration is completed. After project completion, approximately 90 percent of the project area would have a cover type of wetland, woodland, or brush/grassland. In addition, an option for compensatory mitigation of the proposed lake fill has a goal of reconnecting 23 ac of wetland to the northwestern part of Albert Lea Lake (outside of the project area) to improve the functional value of these wetlands. Reconnecting the wetlands would reduce stagnation and enable natural processes of the lake improve the wetland habitat for wildlife. The wetlands would also incrementally improve the lake's water quality.

**b. Invasive Species.** This topic was addressed in the EAW under Item No. 11a.

Construction during trail development involves removing vegetation and exposing mineral soils over an area of 9.8 ac. The lack of vegetative cover enables weeds, including

problematic invasive species and noxious weeds to establish. The trail shoulder and ditch areas are prone to weed infestations if not properly re-vegetated and monitored over time after project construction is completed. Equipment used during construction, fill brought onto the site, and trail users could introduce weeds to the trail corridor.

Steps for invasive species (including noxious weeds) prevention and control are prescribed in the DNR operational orders No. 113 and No. 59. The operational orders have specific guidelines that define BMPs for implementing construction development and trail management operations carried out by the DNR Division of Parks and Trails staff and contractors. Freeborn County Environmental Services Office has provided a list of the noxious weeds that require active management and control on lands within the county.

Preventative measures would include project planning for invasive species management that includes documenting invasive species observations prior to initiating work; treatment of patches of invasive species within the corridor prior to construction; using weed-free seed sources; cleaning equipment prior to its arrival on site; using cover crops that are competitive against weed establishment; monitoring for invasive species after construction; applying suitable controls if invasive species are encountered; scheduling appropriate periods when mowing treatment is applied; and reducing the frequency of mowing events that can result in spreading weed seed. Invasive species would be kept under control during and after project completion. Once vegetation is reestablished in the project area, the area should experience a reduction in the presence and spread of invasive species.

**c. Rare Features.** This topic was addressed in The EAW under Item No. 11b.

A state-listed threatened species, the Blanding's turtle (*Emydoidea bandingii*), may be affected by the construction and operation of the proposed project. Blanding's turtles have been reported in the vicinity of the proposed project and may be encountered during construction and operation of the trail segment.

The DNR staff and contractors who construct the trail will be provided with the DNR fact sheet that contains specific recommendations for preventing disturbance and injury to Blanding's turtles, if encountered on site. Wildlife–friendly erosion control mesh and suitable silt fencing materials will be used to prevent injury to animals entering the work area. Perimeter searches would be regularly conducted to remove turtles that are stranded by the fencing. Animals that are in imminent danger would be move to safety by hand. A vegetation management plan amenable to turtle usage would be developed for shoreland areas where riprap is employed. The proposed restoration and management of native vegetation allows greater accessibility to habitats favorable to turtles. With the implementation of these BMPs, only minor effects on the Blanding's turtle are anticipated.

**d. Physical Impacts on Water Resources.** This topic was addressed in the EAW under Item No. 12 and Item No. 29.

Environmental effects on public waters and wetlands are categorized under three actions: construction and filling (temporary and permanent) necessary to complete a preferred crossing of Albert Lea Lake; installation of a culvert to cross County Ditch Number 32 near Hayward and the proposed corridor placement would disturb several wetlands. According to current designs, approximately 1.2 ac of permanent fill, 0.3 ac of temporary fill, and 0.1 ac of bridging are anticipated to complete the preferred Albert Lea Lake crossing alternative. Up to 0.9 ac of wetland would be filled or otherwise disturbed at three locations along the trail

corridor. An alternative trail extension analysis to choose the preferred route between Myre-Big Island State Park and Hayward was included in the EAW under Item No. 12.

By exploring several routes, the analysis helped to determine the best corridor for avoiding and reducing environmental effects and the most feasible and efficient placement of the corridor. Routes to the north and south of Albert Lea Lake were found to be impractical and/or resulted in having substantial negative environmental effects, including surface water impacts, and showed limited feasibility due to safety concerns and land use conflicts. Siting the route directly north of the railroad grade would result in similar fill requirements as the preferred route, resulted in substantial wetland losses, and was found unfeasible due to the lack of a willing seller of lands needed for this route. The preferred route, which was located along the southern flank of the railroad grade, would require some lake fill and bridging to cross a narrow section of Albert Lea Lake. However the fill would be applied to a shoreland of rip rap along a railroad grade.

Refinements of the proposed route crossing that reduce the amount of fill requirements are presently under consideration: 1) using sheet pile to create a retaining wall; 2) extending the length of bridge segments and increasing the number of segments, or 3) a combination of both. The retaining wall concept would reduce the amount of fill requirements by as much as 0.35 ac and bridging would reduce the permanent fill area by 0.001 ac per foot of additional bridging. However, the use of sheet pile introduces other environmental effects, such as reducing the value of shoreland habitat; creating a barrier to the movement of amphibians and reptiles; and providing limited buffering capacity to mollify wave force; consequently the potentially damaging force is reflected to other shorelands.

Additional means for minimizing the potential environmental effects of the proposed project have been incorporated into the proposed BMPs. The BMPs would be applied during construction, including: scheduling the installation to limit the potential of animal entrapment or mortality; using a double ring silt curtain to reduce sediments from moving into the lake; and developing a shoreland vegetation plan if natural rock or other anchoring materials are used to establish the new shoreline.

Guidance for designing and implementing projects that affect public waters are included in the DNR report, "Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001." These guidance measures help to develop the specific project BMPs so that suitable permit applications can be developed. The project would be subject to regulation under the Work in Public Waters permit (DNR), the Clean Water Act 404 permit (USACE), and the National Pollution Discharge Elimination System permit through section 401 Water Quality Certification (MPCA) and the Storm Water Pollution Prevention Plan (MPCA).

The DNR is identifying options that could mitigate the environmental effects of the proposed lake fill. A compensatory mitigation plan to reconnect 23 ac of wetlands, which were isolated from Albert Lea Lake during previous industrial developments, is being considered. This restoration project would entail removing 500 feet of dike (0.3 ac of fill) to reconnect one of the wetland basins to the lake. Mitigations options would be refined prior to and during the permitting phase according to the Technical Evaluation Panel (TEP) procedures, pursuant to *Minnesota Rules*, part 8420.0240 of the Wetland Conservation Act (WCA).

The proposed crossing of County Ditch Number 32 would entail the placement of an appropriately sized culvert to ensure the culvert bottom has the characteristic of a natural stream channel bottom and a shoulder area for wildlife to travel under low flow periods.

Standard BMPs would be used during construction to reduce stream disturbance. The installation would comply with the Freeborn County drainage authority. Minor effects on the ditch channel are anticipated.

The corridor alignment has been positioned to avoid unnecessary wetland crossings. Where wetland impacts are unavoidable, additional care will be used in siting the trail and losses will be minimized by reducing the width of the trail's footprint by increasing the trail's side-slope ratio to 2:1 instead of the standard 3:1 ratio used in uplands. The WCA rules for mitigation would be applied under the TEP procedures. Wetland restoration is proposed in the project area but it may not qualify as acceptable mitigation for the project because of the difficulty in scheduling wetland restoration work prior to trail construction.

Albert Lea Lake fill activity would be regulated by public water rules, the Rivers and Harbors Act, and the Clean Water Act (Sections 404 and 401). Wetland disturbances would be regulated by the WCA and the CWA.

The physical impact of the proposed project's public water fill and wetland disturbances were considered in the context of cumulative effects from other projects in area. The DNR is unaware of other projects in the vicinity that would introduce fill into Albert Lea Lake or disturb nearby wetlands. Minor cumulative effects from this project and other potential future projects are anticipated.

**e. Erosion and Sedimentation.** This topic was addressed in the EAW under Item No. 16

The project has a 9.8 acre construction zone and would entail the movement of approximately 28,000 cubic yards of soil. The construction zone would include construction to create the trail bed, resulting in 5.2 ac of impervious surface, and adjacent areas covering approximately 4.6 ac that would be disturbed by exposing mineral soils. The trail grades will not exceed five percent to achieve ADA standards. The trail corridor is generally situated on gently sloping land but occasionally crosses steeper slopes, such as the area of hills along the eastern edge of Albert Lea Lake. The mineral soils are prone to erosion if left exposed to storm events in an un-vegetated state.

Temporary erosion prevention and sediment control BMPs for construction entrances and perimeter controls (silt fence) will be installed prior to clearing and grading and maintained until vegetation is re-established to minimize erosion from disturbed surfaces and capture sediment on site. Adjacent paved streets will be scraped clean daily and swept clean weekly. All exposed soils and soil stock piles will be stabilized by temporary seeding, blanketing, or mulching as soon as possible to limit soil erosion. Most of the slopes configured along the trail will have a 3:1 ratio; those with a slope ratio greater than 3:1 would be stabilized using erosion control blankets. Additional BMPs for erosion control include use of wildlife friendly erosion control mesh; stabilizing pipes and ditches within 24 hours of installation; and riprapping culvert inlets and outlets. Typically ditch bottoms along sloping areas will be lined with erosion control blankets.

Specific inspection/maintenance requirements will be applied to the construction area. Sediment from bale barriers, silt fences, ditch checks, and storm water filter logs will be removed when necessary. Stabilization of eroded areas shall take place within seven days of discovery, unless precluded by constraints identified in the protocol or permitting authority. After project completion, approximately 90 percent of the project area would have a cover type of wetland, woodland, or brush/grassland.

The requirements of the National Pollution Discharge Elimination System (NPDES) general construction storm water permit and standards meeting the Storm Water Pollution Prevention Plan (SWPPP) will be applied. Once the DNR project engineer has determine the site to be stabilized and vegetation established, the contractor will be allowed to remove the temporary erosion control measures. The DNR Division of Parks and Trails will be responsible for the long term operation and maintenance of the permanent erosion control installations. Only a minor incidence of erosion is anticipated and minor amounts of sedimentation will affect the area's surface waters.

**f. Water Quality.** This topic was addressed in the EAW under Item No. 17 and Item No. 29.

The general condition of water quality of the Shell Rock River watershed is ranked low principally due to stresses related to non-point source pollutants. Only a minor proportion of the watershed supports perennial vegetation cover, which protects soils from erosion, retains nutrients in the soils mantle, and infiltrates a higher percentage of precipitation. Albert Lea Lake was added to the list of impaired waters in 2008 for aquatic recreation due to excess nutrients. Turbidity and sedimentation contribute to the lake's impairment.

Approximately 9.8 ac of land would be cleared of vegetation and mineral soils exposed during construction; 5.2 ac would be impervious surface and 4.6 ac would be re-vegetated after grading is completed. The impervious surface area will be dispersed over the length of the trail, with the new trail segment having an average increase of 1.5 ac per mile. Placement of approximately 1.2 ac of permanent fill, 0.3 ac of temporary fill, and 0.1 ac of bridging is planned for completing the preferred Albert Lea Lake crossing. An additional 0.9 ac of wetland would be disturbed by construction.

Cumulative effects on water quality from other local, state, and federal governmental projects within the upper Shell Rock River Watershed District were also evaluated. The governmental agencies within the District have implemented projects and are proposing additional small and large scale projects to improve water quality. Project water quality improvement strategies include storm water retention systems, wetland creation, vegetative cover management, ditch and creek bank stabilization, rock filter inlets, sewer system upgrades, control of aquatic invasive species, and non-point source erosion controls. The Fountain Lake Restoration Project is in phase one engineering study, which identifies lake restoration objectives and provides necessary background information for environmental review and permitting requirements and is a high priority for the watershed district, the city of Albert Lea and the Albert Lea-Freeborn County Chamber of Commerce. Lake restoration projects are complex and multi-year efforts requiring many partnerships. The District has purchased a dredge and has interests in dredging sediments in portions of Fountain Lake.

Measures to reduce erosion and sedimentation and prevent turbidity from affecting water quality have been described under Finding No. 17e. Water quality protection measures are stipulated in the guidelines of the work in public waters permits, the CWA Sections 404 and 401, and the Stormwater Pollution Prevention Plans (SWPPP). In instances when environmental effects cannot be avoided, appropriate mitigation needs to be applied according to standards developed by the permitting authorities, under guidance from the local Technical Evaluation Panel. Incorporating BMPs into project construction and implementation will help to reduce the cumulative effects of these projects. The relative increment of turbidity and sedimentation originating from the proposed projects is likely to be minor in comparison to other sources of pollution in the area.

The proposed water quality improvement projects and the Blazing Star State Trail, Myre-Big Island State Park to Hayward Project could temporarily increase the level of nutrients and sediments entering surface waters during construction or implementation. However over the long term, cumulative effects of the projects will generally be beneficial for improving surface water quality in the area. Individual projects would be developed over different multi-year time frames, resulting in less spatial and temporal overlap of their temporary negative environmental effects. The MPCA is in the process of launching the Shell Rock River total maximum daily load (TMDL) projects, which will provide additional remediation incentives within the watershed. With the addition of perennial vegetation acreage after trail completion in the Blazing Star State Trail project area, erosion and sedimentation should be notably lower, especially along segments that pass through cultivated lands.

**g. Water Use.** This topic was addressed in the EAW under Item No. 13.

Dewatering may be necessary for constructing the submerged footings of the concrete bridge abutments. If construction dewatering is employed, the dewatering volume would be small and fall under the DNR's Water Appropriation General Permit (No. 1997-0005) guidelines, which require documentation of timing and quantities of pumping events. The contractor must provide a site specific plan and notify the DNR Area Hydrologist prior to the start of pumping. Measures to control erosion and provide settling treatment prior to discharge into receiving waters would be administered and minimal environmental effect would be expected. Minor or no effects on water quality due to dewatering are anticipated.

**h. Water Surface Access.** This topic was addressed in the EAW under Item No. 15.

While the proposed lake bridge is under construction, boats will be prohibited from crossing under the bridge and the existing railroad trestle. The channel connecting the northeast lobe of the lake to the rest of the lake will be closed to boat traffic for a period of up to two construction seasons, from June 16, 2014 through November 2015. Several residents located along the shores of the northeast bay would be restricted from using the direct access route to the south side of the trestle. Only a small number of residents and a minor number of trips would likely be affected during the two year construction period. Other accesses to the lake surface would not be affected.

**i. Odors, Noise, Dust, and Air Emissions.** This topic was addressed in the EAW under Item No. 22 and Item No. 24.

Construction of the trail would involve the use of earth moving equipment including tractors, trucks, graders, dozers, and other diesel or gasoline powered equipment. A few residents who live near the project area have homesteads that range in distance from about 150-feet to 500-feet away from the construction zone. The closest residences would experience an increased level of noise during occasional episodes of construction. Construction of the trail grade within the town of Hayward is across a level surface. Only minor amounts of land preparation, grading, and filling are anticipated within the city limits. Exhaust emissions would be produced during project construction and only minor amounts during trail operation and maintenance. Temporary incidences of higher levels of odors, noise, and dust would likely occur during construction.

Construction activities will occur during daylight hours. Standard noise arrestors would be used on all equipment. If fugitive dust becomes a problem during construction, measures to limit fugitive dust such as watering travel corridors, will be implemented. The negative

effects caused by the construction and operation activities should be of temporary and minor in nature.

**j. Archaeological Resources.** This topic was addressed in the EAW under Item No. 25.

Archaeological investigations completed for the trail segment from Albert Lea through Myre-Big Island State Park and along Albert Lea Lake's eastern shore have identified archaeological sites in the vicinity of the trail corridor, with several located within the proposed construction zone. Some sites have been avoided by adjusting the alignment of the proposed trail. Some known archaeological sites may be affected by trail placement.

The project's archaeological review undergoes assessment through the SHPO, pursuant to Minnesota Field Archaeology Act and the Minnesota Historic Sites Act. Under Section 106 of the National Historic Preservation Act, the USACE is responsible for considering impacts to historic features while reviewing the Section 404 permit application. The DNR will coordinate with the SHPO and the USACE to address procedural and mitigation requirements. If mitigation is required, mitigation may include constructing the trail on fill placed over the archaeological site so that the areas containing artifacts are not disturbed.

**k. Prime Farm Land.** This topic was addressed in the EAW under Item No. 25.

The proposed project would remove 32 acres of cropland from agriculture production. Several of the soil units presently under cultivation are classified by the Natural Resources Conservation Service as prime farmland, prime farmland if drained, or farmland of statewide importance. Most of the cropland acreage would be converted to native prairie or wetland vegetation and a few acres would be developed into bituminous trail.

The State Agricultural Land Preservation and Conservation Policy (*Minnesota Statutes*, sections 17.80 to 17.84) is a policy of the state to preserve agricultural land and conserve its long-term use for the production of food and other agricultural products. However, as defined in *Minnesota Statutes*, section 17.82, an agency action is not subject to review under this policy, if the action is reviewed as required by *Minnesota Statutes*, chapter 116D and under the environmental review rules adopted for the Environmental Quality Board (*Minnesota Rules*, chapter 4410). The loss of agricultural land was not identified as an issue by the Minnesota Department of Agriculture during their review of the EAW.

**l. Cumulative Potential Effects.** This topic was addressed in the EAW under Item No. 29.

The potential environmental effects related to this project could combine with environmental effects from other past, present, or reasonably foreseeable future projects for which a basis of expectation has been laid. As identified in the EAW under Item No. 29, the project's stormwater runoff, sedimentation, and loss of wetlands and public waters could locally contribute to cumulative potential environmental effects. The cumulative effects of the project's physical impacts on water resources and its contribution to increasing stormwater runoff and sedimentation have been discussed under the applicable subpart (Finding No. 15d and 15f).

18. The DNR requested and was granted a 15-day extension for making a decision on the needs for an EIS as provided under the provision of *Minnesota Rules*, chapter 4410.1700 subpart 2b.

19. The following permits and approvals are needed for the project:

| Unit of Government | Type of Application | Status |
|---|---|---|
| **State of Minnesota** | | |
| DNR | Work in Public Waters Permit | To be obtained |
| | Wetland Conservation Act (WCA) Permit | To be obtained |
| MPCA | National Pollutant Discharge Elimination System (NPDES) Permit, Section 401 Water Quality Certification | To be obtained |
| MHS/SHPO | Archaeology Review (Section 106) | Ongoing |
| **Freeborn County** | | |
| | Construction in Road Right-of-Way Conditional Use Permit or Land Use Permit | To be obtained as needed |
| **Hayward Township** | | |
| | Road Authority | To be obtained as needed |
| **U.S. Government** | | |
| U.S. Army Corps of Engineers (USACE) | Section 404 Permit, Clean Water Act Section 10, Rivers and Harbors Act | To be obtained for wetlands and/or Albert Lea Lake |
| U.S Department of Justice | Americans with Disabilities Act | To be in compliance with accessibility guidelines |
| **Other** | | |
| Canadian Pacific Railroad | Notification requirement if trail is within 50-feet of active rail | To be obtained as needed |
| Shell Rock River Watershed District | Project Review | Approvals as necessary |

# CONCLUSIONS

1. The Minnesota Environmental Review Program Rules, *Minnesota Rules*, chapter 4410.1700, subparts 6 and 7 set forth the following standards and criteria, to which the effects of a project are to be compared, to determine whether it has the potential for significant environmental effects.

   *In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:*

   a. *type, extent, and reversibility of environmental effects;*
   b. *cumulative potential effects of related or anticipated future projects;*
   c. *extent to which the environmental effects are subject to mitigation by on-going regulatory authority; and*
   d. *the extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by agencies or the project proposer, including other EISs.*

2. *Type, extent, and reversibility of environmental effects*

Based on the Findings of Fact above, the DNR concludes that the following potential environmental effects, as described in Finding No. 17, will be limited in extent, temporary, or reversible:

a. Wildlife and Habitat
b. Invasive Species
c. Rare Features
d. Physical Impacts on Water Resources
e. Erosion and Sedimentation
f. Water Quality
g. Water Use
h. Water Surface Access
i. Odors, Noise, Dust, and Air Emissions
j. Archaeological Resources
k. Prime Farm Land
l. Cumulative Potential Effects

Based on the Findings of Fact above, the DNR concludes the following potential environmental effects of the project, as described in Finding No. 17a will be beneficial:

Benefits include soil and water conservation effects and improved wildlife habitat resulting from an addition of over 30 acres of prairie and wetland restoration area. About 90 percent of the project area is proposed to be vegetated with perennial vegetation, including wetland, woodland, or brush/grassland cover types. Restoration of native prairie and wetland vegetation will be carried out according to standards developed for state lands. The improved habitat and cover will be locally available to wildlife.

3. *Cumulative potential effects of related or anticipated future projects.*

The effects of all past projects comprise the existing conditions of the project area. Cumulative environmental effects add to the existing condition, the proposed project, and future projects.

Cumulative environmental effects for future projects are assessed by evaluating the effect on the environment resulting from the incremental effects of the project under review plus similar effects from certain future projects that overlap spatially or temporally with the proposed project.

Based on the Findings of Fact above, the DNR concludes that cumulative potential effects from stormwater runoff, sedimentation, and the loss of wetlands and public waters, as described in Finding No 17, are not significant in terms of:

During construction or implementation, the proposed Blazing Star State Trail project and the water quality improvement projects could temporarily increase stormwater runoff and sediments entering surface waters. However over the long term, a reduction in stormwater runoff and sedimentation is anticipated and these projects should generally be beneficial for improving surface water quality in the area. These projects would be developed over different multi-year time frames, resulting in less spatial and temporal overlap of their temporary negative environmental effects. The MPCA is in the process of launching the Shell Rock River TMDL projects, which will provide additional remediation to surface waters. With the addition of perennial vegetation acreage after trail completion in the Blazing Star State Trail project area, erosion and sedimentation should be notably lower, especially along segments that pass through cultivated lands. The projects will also comply with approved

mitigation measures specifically designed to address the cumulative potential effect; and efforts have been made by the proposer to minimize project contributions. The DNR is not aware of any cumulative effects from this project and other potential projects in its vicinity concerning public water and wetland fill activities.

4. *Extent to which environmental effects are subject to mitigation by on-going public regulatory authority.*

   Based on the information in the EAW and Findings of Fact above, the DNR has determined that the following environmental effects, as described in Finding No. 17, are subject to mitigation by ongoing public regulatory authority:

   Physical impacts on water resources including the approximately 1.2 ac of permanent fill, 0.3 ac of temporary fill in Albert Lea Lake are subject to regulatory authority by the DNR Public Waters Work permit and the USACE Section 404 permit under the CWA. Effects related to water use are subject to regulatory authority by the DNR's Water Appropriation General Permit (No. 1997-0005). The installation of a culvert to cross County Ditch Number 32 near Hayward is regulated by the Freeborn County Drainage Authority.

   Wetland effects include up to 0.9 ac of wetland that would be filled or otherwise disturbed at three locations along the trail corridor. The WCA and CWA Section 404 approvals will be required prior to initiation of this project.

   When applying standards and criteria used in the determination of the need for an environmental impact statement, the DNR finds that the project is subject to regulatory authority through the Minnesota public water and wetland conservation rules to sufficiently mitigate potential environmental effects on water resources through measures identified in the EAW that are specific and reasonably expected to occur.

   The negative effects of erosion, sedimentation, and reduced water quality from construction-related activity are subject to regulatory authority by the MPCA General Construction Stormwater NPDES/SDS Permit and CWA 401 Water Quality Certification.

   The project's archaeological review undergoes review through the SHPO, pursuant to Minnesota Field Archaeology Act and the Minnesota Historic Sites Act. Under Section 106 of the National Historic Preservation Act, the USACE is responsible for considering impacts to historic features while reviewing the Section 404 permit application.

5. *Extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or other EISs.*

   The DNR has implemented numerous trail construction projects to establish and expand its State Trail system, which includes several hundred miles of sustainable paved trails. In the process, numerous crossings of public waters and wetlands have been necessary.

   Guidance documents are based on the best available scientific studies that have been tested and approved by regulatory authorities. The Blazing Star State Trail project is being designed in accordance with MnDOT's *State Aid Geometric Design Standards, Minnesota Manual of Uniform Traffic Control Devices* (MnMUTCD), MnDOT's *Bikeway Facility Design Manual*, American Association of State Highway and Transportation Officials' (AASHTO) *Guide for Planning, Design and Operation of Pedestrian Facilities*, DNR's *Trail Planning, Design and Development Guidelines*,

and United States Department of Justice's *Americans with Disabilities Act (ADA) Guidelines*. The project will be constructed in accordance with the current edition of the MnDOT's, *Standard Specifications for Construction*. A DNR report, *Best Practices for Meeting DNR General Public Waters Work Permit* GP 2004-0001" provides guidance to engineers for designing and implementing projects that affect public waters.

6. The DNR has fulfilled all the procedural requirements of law and rule applicable to determining the need for an environmental impact statement on the proposed Blazing Star State Trail, Myre-Big Island State Park to Hayward Project.

7. Based on considerations of the criteria and factors specified in the Minnesota Environmental Review Program Rules (*Minnesota Rules*, chapter 4410.1700, subpart 6 and 7) to determine whether a project has the potential for significant environmental effects, and on the Findings and Record in this matter, the DNR determines that the proposed Blazing Star State Trail, Myre-Big Island State Park to Hayward Project does not have the potential for significant environmental effects.

## ORDER

Based on the above Findings of Fact and Conclusions:

The Minnesota Department of Natural Resources determines that an Environmental Impact Statement is not required for the Blazing Star State Trail, Myre-Big Island State Park to Hayward Project in Freeborn County, Minnesota.

Any Findings that might properly be termed Conclusions and any Conclusions that might properly be termed Findings are hereby adopted as such.

Dated this 4th day of March, 2014.

**STATE OF MINNESOTA**
**DEPARTMENT OF NATURAL RESOURCES**

Barb Naramore
Assistant Commissioner