



## ***Information on Transplanting Lady 's-slipper Orchids***

*and other plants protected by Minnesota Statutes 2010, Chapter 18H.18*

Staff of the Minnesota Department of Agriculture, the Minnesota Department of Transportation, and the Minnesota Department of Natural Resources receive numerous calls each summer requesting information about transplanting orchids from locations threatened by construction or road-building. This information sheet was prepared to answer some of the frequently asked questions and direct inquiries to the appropriate agency.

Collection and sale of native orchids, trilliums, gentians, lilies, lotus (*Nelumbo lutea*), coneflowers, bloodroot, mayapple, and trailing arbutus are regulated by Minnesota Statutes 2010, Chapter 18H.18, Conservation of certain wildflowers. Although this section of Chapter 18H covers other species, most transplant requests and inquiries concern orchids, most commonly the showy lady's-slipper, Minnesota's state flower.

### *Minnesota Department of Agriculture*

The Minnesota Department of Agriculture (MDA) has responsibility for administering the statutes and granting permits for the sale of wildflower species listed in Chapter 18H.18.

Wildflower collection by individuals for personal use (that is, transplanted to their own property and not offered for sale) is an issue between the property owner (whether public or private property) and the individual wishing to collect plants from that property. The collector needs the written permission of the landowner to enter the property and collect the plant species listed in the statute. The MDA requires a permit only if the plants are sold. Landowners may transplant species protected by Chapter 18H.18 within their own property without an MDA permit.

Wildflowers listed in 18H.18 cannot be collected or dug and *immediately* sold unless the plants are sold specifically for scientific or herbarium purposes. The individual selling the plants must own the land on which the plants are growing or have written permission of the landowner, and have a permit from the MDA. As part of the permit application, the MDA requires 1) written documentation that plants offered for sale grew naturally on the applicant's property or that the applicant had permission to collect them from property of another, and 2) the name and address of the organization receiving the plants.

If wildflowers are to be sold for purposes other than scientific and herbarium use, they must have been either A) growing naturally on the collector's property, then collected and cultivated by the collector on the collector's property, or B) collected with written permission from the property of another, then transplanted to the private property of the collector and cultivated on the collector's property. In either case, one or more permits and inspection by MDA are required prior to sale of the plants. Inspections must take place after the plant emerges from dormancy under cultivation and can be identified to species. As part of the permit application, MDA requires 1) written documentation that plants offered for sale grew naturally on the applicant's property or that the applicant had permission to collect them from the property of another, 2) a record of the dates they were collected and transplanted, 3) the cultivation techniques used by the applicant, 4) the intended date of sale, and 5) the approximate number of plants. Persons considering sale of these species collected from the wild should contact MDA staff listed below for further information.

Mark Schreiber ([mark.schreiber@state.mn.us](mailto:mark.schreiber@state.mn.us); 651-201-6388) and Steven Shimek ([steven.shimek@state.mn.us](mailto:steven.shimek@state.mn.us); 651-201-6619), of the Plant Protection Division of the MDA, are the persons to contact for more information about MDA nursery certification requirements and to apply for permits. Their mailing address is Minnesota Department of Agriculture, Plant Protection Division, 625 N. Robert Street, St. Paul, MN 55155. They can also be reached by fax at 651-201-6108.

### *Minnesota Department of Transportation*

The Minnesota Department of Transportation (DOT) is the landowner with jurisdiction over all state highways, interstates, and their rights-of-way. Collectors should contact the DOT District Permits Office serving their area to discuss collection of statute-listed plants from DOT-managed land. For plants adjacent to County State Aid Highways, the county engineer in the county in question is the contact person. Other roads may be under the jurisdiction of townships or cities, and township supervisors or city administrators would be the initial contacts for these ownerships.

DOT considers lady' s-slippers a state asset and makes an effort to transplant those that are likely to be damaged by roadwork. They prefer to use their own crews, because of the dangerous nature of the activity, and to transplant them onto public land. Showy lady' s-slippers are given first priority, followed by the two varieties of yellow lady' s-slipper. If the road project allows, DOT prefers to mark the plants ahead of time, then dig them in the fall after they' ve faded and are dormant. Crews replant them the same day or the next day, keeping the plants wet in boxes or packed in the back of a pick-up truck until they can be placed in the ground.

Removal of orchids by private citizens from DOT rights-of-way in which they are threatened by roadwork may be possible but requires a permit from the local DOT District Office. DOT may require that the plants be transplanted to public land rather than to private property. Interested persons should contact either the DOT District Environmental Coordinator in their area directly (see the DOT website at [www.dot.state.mn.us](http://www.dot.state.mn.us) for contact information for the district offices), or they may contact the DOT Botanist in the DOT Environmental Services office in St Paul. Transplanting orchids and then offering them for sale requires both permission of the landowner (in this case, DOT) and one or more permits from the Minnesota Department of Agriculture.

For more information about DOT' s wildflower program and policies, see the DOT Environmental Services website at [www.dot.state.mn.us/environment](http://www.dot.state.mn.us/environment).

### *Minnesota Department of Natural Resources*

If a citizen becomes aware that lady' s-slipper orchids or other statute-listed plants are threatened by construction on public lands, the concerned citizen should contact the agency managing the land. In the case of the Minnesota Department of Natural Resources (DNR), lands are usually managed by either the Division of Forestry or the Division of Fish and Wildlife. Contact your local DNR forester or DNR wildlife manager with questions about orchids or other plants threatened by road construction on these lands. However, neither DOT nor DNR has a list of volunteer orchid rescuers.

Showy lady' s-slippers and yellow lady' s-slippers are not listed as rare species in Minnesota. However, some plants listed in Chapter 18H.18 are also covered by Minnesota' s Endangered Species Act (Minnesota Statute 84.0895), including several species of lady' s-slipper and other orchids. These plants are protected from collection or harvest by the state Endangered Species Act. Copies of Statute 84.0895 and associated rules can be found on the Minnesota legislature' s web site at <http://www.leg.state.mn.us/leg/statutes.asp>. The current state list of endangered, threatened, and special concern plants and animals is available from the DNR Natural Heritage and Nongame Research Program, 500 Lafayette Road, Box 25, St. Paul, MN 55155, or from the DNR' s web site at <http://www.dnr.state.mn.us/ets/index.html>.

Most Minnesota orchids are also included in Appendix II of CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora). Species in Appendix II are not under immediate threat of extinction but require control of trade in order to avoid a level of use incompatible with their survival. An export permit from the U.S. Fish and Wildlife Service is required to export from the U.S. species that are listed under Appendix II. See the CITES website (<http://www.cites.org/>) for more information.

Persons interested in learning more about orchids should consult *Orchids of Minnesota*, a book written by Welby Smith, DNR Botanist, and published by the University of Minnesota Press. This book contains line drawings, color photographs, and descriptions of orchid species that are found in Minnesota.