

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

Record of Decision

In the Matter of the Determination of the Need for an Environmental Impact Statement for the Lower Knowlton/Munger Trail Culvert Replacement, in St. Louis County, Minnesota **FINDINGS OF FACT, CONCLUSIONS, AND ORDER**

FINDINGS OF FACT

1. The Minnesota Department of Natural Resources (DNR), St. Louis River Restoration Initiative, proposes the Lower Knowlton/Munger Trail Culvert Replacement project located in Duluth, Minnesota. The project proposes to replace a concrete box culvert with a bridge, at the location where the Willard Munger State Trail (Munger Trail) crosses Knowlton Creek. The proposed bridge would enhance the hydrological function of Knowlton Creek and would allow for aquatic and terrestrial organism passage under the Munger Trail.
2. The proposed project requires preparation of a State Environmental Assessment Worksheet (EAW) according to the rules of the Minnesota Environmental Quality Board (EQB), Minnesota Rules (Minn. R.) 4410.4300, Subp. 26, stream diversion.
3. The DNR Environmental Review Unit is the Responsible Governmental Unit (RGU) in the preparation and review of environmental documents related to the Lower Knowlton/Munger Trail Culvert Replacement project. See Minn. R. 4410.0500, subp. 1.
4. The DNR prepared an EAW for the proposed project. See Minn. R. 4410.1400 and 4410.4300, subp. 26.
5. The DNR filed the EAW with the EQB and a notice of its availability was published in the *EQB Monitor* on December 3, 2024. A copy of the EAW was sent to all persons on the EQB Distribution List, to those persons known by DNR to be interested in the proposed project, and to those persons requesting a copy. A statewide press release announcing the availability of the EAW was sent to newspapers, radio, and television stations. A paper copy of the EAW was distributed to the following locations: the Duluth Public Library, the Hennepin County Library, and the DNR Library. The EAW was also made available to the public via posting on the DNR's website. See Minn. R. 4410.1500.

Public Comment Period and Response to Comments

6. The 30-day EAW public review and comment period began December 3, 2024, and ended January 2, 2025. Written comments on the EAW could be submitted to the DNR by U.S. mail, or via email. See Minn. R. 4410.1600.
7. During the 30-day EAW public review and comment period, the DNR received four comment letters on the EAW. The agencies and individuals who submitted comments are listed below.
 - Jerry Babb, individual commenter
 - State Historic Preservation Office, Kelly Gragg-Johnson
 - Minnesota Department of Transportation, Marren Webb
 - Minnesota Indian Affairs Council, Isaac J. Weston
8. Comment letters are summarized below (See ¶¶ 9 through 12) with the RGU’s response following. Copies of these comments will be provided to the project proposer and to permitting and/or approval entities and/or authorities for their consideration as part of the permitting, approval, and/or implementation processes.
9. Jerry Babb provided support for the proposed project.

Response: Thank you for your comment.

10. The State Historic Preservation Office (SHPO) commented that they understood that an archaeological survey was completed for the proposed project and that the project proposers would be submitting the project for review under state statute. SHPO will provide comments on the project once they receive the survey report and supporting documentation. If the proposed project becomes a federal undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA) (i.e. Corps permit), SHPO will consult with the federal agency under the federal review process.”

Response: Thank you for your comment. The proposed project would require a permit from the U.S. Army Corps of Engineers and is subject to review under Section 106 of the NHPA. Project proposers would comply with any requirements subject to permitting.

11. The Minnesota Department of Transportation (MnDOT) provided comments regarding the use of Grand Avenue during closure of the Munger Trail. MnDOT commented that Grand Avenue in the area is TH 23 and under MnDOT jurisdiction and that the project proposers would need to apply for a permit for the trail to be detoured along TH 23/Grand Avenue. MnDOT also stated that a permit may also be needed from the City of Duluth for the use of Pulaski Street and Riverwest Drive for the detour.

MnDOT also provided reference information for “Accommodating People on Bicycle through Work Zones” as the detour involves designating an existing sidewalk as a shared facility.

Response: Thank you for your comment. The proposer no longer expects to propose a detour for the closed portion of the Munger Trail. MnDOT and City of Duluth permits for the purpose of detouring trail users from the Munger Trail will be applied for if needed. These permits were added to the permits and approvals table in ¶ 14 below. The reference information will be shared with the Proposer.

12. The Minnesota Indian Affairs Council provided comments pursuant to the responsibilities given to their agency by the Private Cemeteries Act (Minn. Stat. § 307.08), and the Minnesota Field Archaeology Act (Minn. Stat. § 138.31-.42). Their comment stated that there are no known or suspected burial sites that may be affected by the proposed project and advised that the project have an inadvertent discovery plan in place and that if human remains are found during ground disturbing activities, that law enforcement immediately be contacted.

Response: Thank you for your comment. The project proposers will develop an inadvertent discovery plan and would immediately contact law enforcement if human remains are found.

Environmental Effects

13. Based upon the information contained in the EAW and received as public comments, the DNR has identified the following potential environmental effects associated with the project.
 - a. Project Construction and Design
 - b. Water Resources
 - c. Rare Wildlife Resources and Habitat
 - d. Air
 - e. Greenhouse Gas Emissions
 - f. Noise
 - g. Transportation

- a. **Project Construction and Design:** This topic was addressed in EAW Item 6.

Construction of the proposed project would include the removal of the existing culvert and the abandoned culvert, stream restoration (including channel shaping, installing grade control structures, and rock riffles), installation of the bridge, and site restoration (including planting or seeding native vegetation). Construction impacts are expected to be temporary and expected to begin in January 2025 with tree clearing, and be mostly complete by fall of 2025, with repaving of the Munger Trail in 2026. The proposed project is subject to the regulatory authority of permits discussed in ¶ 14 below.

- b. **Water resources:** This topic was addressed in EAW Item 12.

Surface water and water quality: Knowlton Creek is a DNR public water and a designated trout stream. The purpose of the proposed project is to enhance the hydrological function of Knowlton Creek and allow for aquatic and terrestrial organism passage

under the Munger Trail. The proposed project would also help improve the St. Louis River Area of Concern (SLRAOC) by limiting sediment reaching Tallas Bay. The project would include reconnecting the creek with the floodplain, channel shaping, installing grade control structures to help prevent channel incision, and installing rock riffles to help stabilize the channel bottom.

During construction, surface water and water quality may experience a short-term temporary adverse impact due to in-stream work. The magnitude of these impacts would be minimized by using measures to mitigate sedimentation and stormwater runoff during the construction and revegetation phases. Proposed measures to prevent erosion and sediment runoff include vegetated buffers, silt fence and wattles, and erosion control practices such as minimizing the area of disturbance, rapid re-vegetation, mulching, erosion blankets and/or hydromulch.

Potential water quality impacts would be subject to ongoing public regulatory authority discussed in ¶ 14 below. Erosion control would be addressed with the implementation of the National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit and associated Stormwater Pollution Prevention Plan (SWPPP) to comply with requirements per Minnesota Pollution Control Agency (MPCA) guidelines. The project would also adhere to guidelines associated with the City of Duluth Erosion Control Permit which will include best management plans (BMPs) for perimeter sediment control including vegetated buffers, silt fence, and wattles, and erosion control practices such as minimizing the area of disturbance, rapid re-vegetation, mulching, erosion blankets, and/or hydromulch.

Wetland impacts: The proposed project has the potential to cause temporary impacts to .75 acres of wetlands due to construction activities; any temporary impacts would be restored. According to Minnesota Rules, part 8420.0415, subpart D, the project is anticipated to qualify for a “No Net Loss Determination” under the Wetland Conservation Act. Wetland impacts would be subject to ongoing public regulatory authority discussed in ¶ 14 below.

- c. **Rare wildlife resources and rare habitat:** This topic was addressed in EAW Item 14.

Invasive species could be introduced to the site via construction equipment. Contracts would include language requiring contractors to clean equipment prior to arriving on site.

Removing trees from the project area could impact the northern long-eared bat (state-listed as special concern and federally listed as endangered) if this species is roosting within the project boundary. To limit impacts to roosting bats, tree harvest is proposed to occur before March 31, before bats emerge from hibernation. In addition, the existing culvert would be inspected for evidence of bats prior to construction. For these

reasons, no negative impacts on bats are anticipated to result from the proposed project.

- d. **Air:** This topic was addressed in EAW Item 17.

Heavy equipment, including construction vehicles, excavators, or loaders would be used during construction of the proposed project. Construction-related emissions would be expected to be minor and temporary in nature and not anticipated to cause or contribute to a violation of ambient air quality standards for any pollutants.

Odors and dust from the construction activities may occur. Dust would be visually monitored and recorded in conjunction with the NPDES Construction Stormwater Permit inspections. Appropriate dust control, such as soil wetting or misting/water vapor, would be implemented by the construction contractor as necessary. Odor and dust from construction would be expected to be temporary and localized.

- e. **Greenhouse gas emissions (GHG):** This topic was addressed in EAW Item 18.

Greenhouse gas emissions related to the proposed project include those related to the construction of the project. No operational GHG emissions are anticipated, as no permanent infrastructure is proposed. The GHG assessment indicates the project may generate 534.8 metric tons of emissions during construction. Over the course of the 50-year net lifetime of the project, these emissions equate to 10.7 metric tons per year. This accounts for 0.00000764% of the state of Minnesota's 2020 emission and the Next Generation Act (NGA) goals.

- f. **Noise:** This topic was addressed in EAW Item 19.

The project is expected to generate noise during active construction resulting from operation of heavy equipment to complete the project. Noise impacts would occur only during periods of active construction during the day (between January 2025 through fall of 2025, with repaving of the Munger Trail in 2026). All construction equipment would contain mufflers to reduce engine noise; noise from the project would be temporary during the construction period only.

- g. **Transportation:** This topic was addressed in EAW Item 20.

The project is not expected to have impacts on congestion and traffic flow. However, the Munger Trail would be closed for use within the project area, and it is expected that trail users would be directed to use a detour along Pulaski Street, Grand Avenue, and Riverwest Drive. Traffic detours would be subject to ongoing public regulatory authority discussed in ¶ 14 below.

Permits and Approvals

14. The following permits and approval are, or may be needed, for the project:

Unit of Government	Type of Application	Status
United States Army Corps of Engineers	Clean Water Act Section 404 Permit	To be submitted
Minnesota DNR	Public Waters Work Permit	To be submitted
Minnesota State Historic Preservation Office	Archaeological, Cultural, & Historic Resource Review	Submitted
Minnesota Pollution Control Agency	Clean Water Act 401 Certification	To be submitted
Minnesota Pollution Control Agency	National Pollutant Discharge Elimination System (NPDES)	To be submitted, if needed
Minnesota Pollution Control Agency	Construction Stormwater Permit	To be submitted
Minnesota Pollution Control Agency	State Disposal System Permit	To be submitted
Minnesota Department of Transportation	MnDOT Online Right of Way Permit	To be submitted, if needed
City of Duluth	Filling/Grading/Excavation Permit	To be submitted
City of Duluth	Wetland Conservation Act	To be submitted
City of Duluth	Erosion & Sediment Control Permit	To be submitted
City of Duluth	Shoreland Permit	To be submitted
City of Duluth	Temporary Access Agreement/License	To be submitted
City of Duluth	Right of Way Permit	To be submitted, if needed

Conclusions

1. The Minnesota Environmental Review Program Rules, Minn. R. part 4410.1700, subparts 6 and 7, set forth the following standards and criteria to compare the impacts that may be reasonably expected to occur from the project in order 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. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the*

project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the Proposer to minimize the contributions from the project;

- C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and*
- D. the extent to which environmental effects can be anticipated and controlled as result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.*

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

Based on Findings of Fact above in ¶ 13, the DNR concludes that the following types of potential environmental effects, as described in the Findings of Fact, would be limited in extent, temporary, or reversible:

- Project Construction and Design
- Water Resources
- Rare Wildlife Resources and Habitat
- Air
- Greenhouse Gas Emissions
- Noise
- Transportation

3. *Cumulative potential effects.*

Based on information contained in the EAW and comments submitted on the EAW, the DNR is unaware of any past, present, or reasonably foreseeable projects, for which a basis of expectation has been laid, that combined with environmental effects of the proposed project may result in significant potential for environmental effects.

4. *Extent to which environmental effects are subject to mitigation by ongoing public regulatory authority.*

Based on the Findings of Fact set forth in ¶¶ 13 and 14 above and the information contained in the EAW, DNR concludes that there is sufficient ongoing public regulatory authority and specific measures identified that can be expected to effectively address the following environmental impacts:

- Physical impacts on water resources are subject to regulatory authority by the DNR Public Waters Work Permit, the U.S. Army Corps of Engineers Joint Permit Application, the Wetland Conservation Act permit, and the City of Duluth.
- Erosion, sedimentation, and water quality from construction-related activity are subject to regulatory authority by the MPCA NPDES/ Construction Stormwater Permit, Clean Water Act 401 Water Quality Certification and the City of Duluth permits.
- Dust would be visually monitored and recorded in conjunction with the MPCA NPDES Construction Stormwater Permit inspections.
- Transportation impacts due to the closure of the Munger trail and rerouting of users would be subject to MnDOT and City of Duluth permitting, if needed.
- Impacts to Archaeological, Cultural, and Historic Resources would be subject to the Minnesota State Historic Preservation Office, subject to pending review.

Permits and Approvals: Prior to initiation of this project, the permits and approvals identified in Finding ¶ 14 would be required. When applying the standards and criteria used in the determination of the need for an environmental impact statement, DNR finds that the project is subject to these regulatory authorities to an extent sufficient to mitigate potential environmental effects through measures identified in the EAW and Record of Decision.

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.*

Environmental Studies undertaken by the proposer include the following:

- Knowlton Creek Stream Restoration Project EAW, July 2015
 - Remedial Action Plan (RAP) for the St. Louis River Area of Concern (SLRAOC), 2021
 - Lower Knowlton Creek Wetland Delineation Report, June 2024
 - Phase 1 Archeology Survey Report, December 2024
6. As set forth in ¶¶1 – 13, DNR has fulfilled all the procedural requirements of law and rule applicable to determining the need for an EIS on the proposed Lower Knowlton/Munger Trail Culvert Replacement, St. Louis County, Minnesota.
 7. Based on consideration of the criteria and factors specified in the Minnesota Environmental Review Program Rules (*Minnesota Rules* part 4410.1700, subparts 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 Lower Knowlton/Munger Trail Culvert Replacement 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 Lower Knowlton/Munger Trail Culvert Replacement, located in St. Louis County, Minnesota.

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

Dated this 22nd day of **January 2025**

DEPARTMENT OF NATURAL RESOURCES

Jess Richards
Assistant Commissioner