

DEPARTMENT OF NATURAL RESOURCES

RECORD OF DECISION

**In the matter of the Determination of Need for
an Environmental Impact Statement for the
Star of the North Walking Trail Project in Lake
of the Woods and Roseau Counties, Minnesota**

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

FINDINGS OF FACT

1. The DNR is proposing construction and designation of the Star of the North Walking Trail (Project). The Project would link approximately 29.5 miles of existing routes with 27.5 miles of new trail development to create a 57-mile loop system of signed and maintained natural surface walking trail corridor. Hunter walking trails provide comparatively easy access to grouse and woodcock areas in Minnesota's primary grouse range. These trails wind their way through Wildlife Management Areas (WMAs), connecting with some state forests and other public hunting lands. The Project site is located in Lake of the Woods and Roseau Counties, Minnesota.
2. The proposed project requires preparation of a State Environmental Assessment Worksheet (EAW) for constructing a trail at least ten miles long on naturally vegetated land for a recreational use other than snowmobiling or cross-country skiing. *See* Minn. R. 4410.4300, subp. 37A.
3. The Minnesota Department of Natural Resources (DNR) is the Responsible Governmental Unit (RGU) for preparation and review of environmental documents related to the Star of the North Walking Trail. *See* Minn. R. 4410.0500, subp. 1.
4. The DNR prepared an EAW for the Project. *See* Minn. R. 4410.1400.
5. The EAW was filed with the Environmental Quality Board (EQB) and a notice of its availability was published in the EQB Monitor on January 1, 2018. 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 of the EAW. A press release announcing the availability of the EAW was sent to newspapers, and radio and television stations, statewide. As required by Minnesota Rule, copies of the EAW were also available for public review and inspection at the DNR Central Office library, the DNR Northwest Region Headquarters, the Minneapolis Central Public Library, the Bemidji Public Library, the Williams Public Library, the Warroad City Library, and the Roseau Public Library. The EAW was also made available to the public via posting on the DNR's website. *See* Minn. R. 4410.1500.

6. The 30-day EAW public review and comment period began January 1, 2018 and ended January 31, 2018. The opportunity was provided to submit written comments on the EAW to the DNR by U.S. Mail, by facsimile, or electronically via email. *Id. See Minn. R. 4410.1600.*

7. During the 30-day EAW public review and comment period, the DNR received written comments on the EAW from the agencies and individuals listed below. The DNR appreciates all comments and will provide copies of all comments to the Project proposer and to the permitting and/or approval entities and/or authorities for their consideration as part of the permitting, approval, and/or implementation processes. All commenters will be provided with the record of decision on the need for an Environmental Impact Statement. *See Minn. Rules part 4410.1700, subp. 5.*
 - A) Gustafson, Owen (January 5, 2018)
 - B) Irvine, Rich (January 18, 2018)
 - C) Janssens, Thomas (January 18, 2018)
 - D) Keelin, Jody (January 24, 2018)
 - E) Minnesota Pollution Control Agency, Karen Kromer (January, 31, 2018)
 - F) Reynolds, John (January 18, 2018)
 - G) Slocum, Scott (January 18, 2018)

The comment letters are included in the Record of Decision in Attachment A. Discussion of comments received and DNR responses are provided in Findings of Fact paragraphs 7, 8, and 9.

8. Commenter A expressed support for the proposed project, but did not address the accuracy and completeness of the material contained in the EAW, impacts that may warrant further investigation before the Project is commenced, or the need for an EIS as required by Minn. R. 4410.1600. Commenter E reviewed the EAW, and reported having no comment at this time. Therefore these comments are not receiving a specific response. All persons that commented in writing will be provided with this Record of Decision. *See Minn. R. 4410.1700, subp.5.*

9. Several comments addressed concerns about the accuracy and completeness of the information provided in the EAW, potential impacts that may warrant further investigation, and the need for an EIS. The written comments that were received are listed below and compiled by topic and summarized from the comment letters. Where multiple comments on one specific issue were received, those comments are combined in summary form that represents the essence of the comments. The DNR's response follows each comment. These responses will be provided to all persons that commented in writing through this Record of Decision. *See Minn. R. 4410.1700, subp. 5.*

a. Incompatibility of the Trail with Nearby Land Uses

Commenters B - Rich Irvine, D - Jody Keelin, F- John Reynolds, and G – Scott Slocum

Comment: The commenters assert that any trapping allowed near the trail is incompatible with nearby land use. The comments allege that in order for this to be a safe trail dedicated to walking, body grip traps should not be allowed anywhere near the trail as dogs would be in danger of injury or being killed.

Response: EAW items 9b and 9c refer to compatibility with nearby land use, and any potential mitigation, specific to environmental effects as a result of any incompatibility. Trapping is a legal form of recreation on all lands where this trail is being proposed and must follow the regulations as summarized in the 2017

hunting/trapping regulations. Portions of this proposed trail are within the Red Lake WMA, which requires a free trapping permit from the wildlife manager. In order to reduce hunter/trapper conflict along walking trails in the WMA, trappers are currently required to place body gripping traps at least 150 yards from walking trails.

b. Concern about Taxpayers Funding Recreational Trail

Commenter C – Thomas Janssens

Comment: There is no reason that tax payers [sic] should pay for a few hunters to have a better trail that has to be maintained. If hunters want better trails let them pay for them.

Response: Item 8 of the EAW addresses this comment. No special public funding would be used for this project; it is being funded by private donations. The trail would be financed by a non-profit group and subsequent maintenance would be furnished by normal operating budgets of the DNR. The Ruffed Grouse Society would not expend public funds or grant monies on this project.

10. On February 15, 2018, the DNR requested of the Minnesota Environmental Quality Board (EQB) a 15-day extension for making a decision on the need for an EIS for the proposed project. On February 15, 2018 the DNR was granted the extension by EQB. See Minn. R. 4410.1700, subp. 2b.

11. Based upon the information contained in the EAW, consideration of public comments, and supplemental information supplied by the proposer and developed by DNR, the DNR has identified the following types of potential environmental effects associated with the Project:

- a. Project Construction
- b. Hazardous Materials
- c. Rare Species and Significant Natural Features
- d. Invasive Plant Species
- e. Historic Properties
- f. Cumulative Potential Effects

Each of these environmental effects is discussed in more detail below.

- a. Project Construction

This topic was discussed in EAW Item 6.

The Project consists of an approximately 57 mile long naturally vegetated pathway, including existing roads and trails. Approximately 27.5 miles of the trail would be new development. Construction-related activities would include: trail mowing; limited gate installation; and tree and brush removal. If needed, parking areas for 1-2 vehicles would be created during maintenance mowing as ground conditions allow. Tree removal would be done by chainsaw where necessary and subsequent brush and small tree clearing with a skid steer. Biomass removed from clearing would be left onsite. Gates would be installed the following summer and consist of wooden posts and a cross bar. Annual maintenance mowing would be conducted in late summer.

Project-related construction activities are considered temporary and limited to the project site. The entire project area will remain vegetated before, during, and after Project implementation. Whenever

possible, the trail would stay within upland forest. Peatlands in the area would be avoided by this project because they do not contain suitable terrain for walking trails. Where the trail would cross a short, wet area, it would not be mowed to avoid potential adverse impacts to the resource. Public waters and public watercourses would be avoided, or crossed at locations of pre-existing infrastructure such as State Forest road crossings.

b. Hazardous Materials

This topic was addressed in EAW Item 12.

No hazardous materials would be used in construction or maintenance of this project. Diesel fuel would be used to run a skid steer. Potential hazardous waste includes generation of standard waste products associated with operation of a skid steer. A spill clean-up kit would be available on-site in case of a diesel fuel spill. Any hydraulic fluid and engine oil would be properly disposed of off-site.

c. Rare Species and Significant Natural Features

This topic was addressed in EAW Item 13

The Minnesota Natural Heritage Program review for rare species and significant natural features identified the following rare features within an approximate one-mile search radius of the Project area.

Minnesota Biological Survey (MBS) Site of Biodiversity Significance. Most of the MBS Sites that are crossed by the trail are ranked Moderate. They include Elkwood 18; Elkwood 28; Elkwood 14; Elkwood 11; Elkwood 7; Bemis Ridge Main; Norris Camp Peatland West; Luxemburg Southeast; Luxemburg East; Luxemburg West; Luxemburg Peatland North; Hansen Creek; Elkwood 36; and Elkwood 17. Sites with a moderate ranking could indicate that they contain occurrences of rare species and/or moderately disturbed native plant communities, and/or landscapes that have a strong potential for recovery.

The project area also crosses the edge of one site of Outstanding Biodiversity Significance identified as the Luxemburg Peatland Main. This outstanding site is over 6500 acres in size and has this ranking due to the high integrity of the native plant communities.

The proposer commits to review the DNR's rare features database prior to project construction to ensure rare species are not located within the Project area. If rare features are identified, then the trail would be rerouted. Other measures to limit potential adverse environmental effects to sites of biodiversity significance include: minimize new trail construction; minimize trail width; siting the trail within already disturbed areas; avoiding wet swales and depressions; bridging all stream and wetland crossings; and provide natural resource interpretation where appropriate.

Old Growth Forest. The proposed trail crosses a stand of designated old growth forest. It is a cedar-type stand. The Natural Heritage Information System (NHIS) indicates that the ecological significance of this old growth stand is such that disturbance should be avoided or minimized to the extent feasible. The Proposer commits to have the proposed trail project completely avoid the designated old growth cedar stand, including the stand management zone. No adverse effects are anticipated.

State-listed Protected Species. The NHIS review identified the following state-listed plant and animal species documented in the Project vicinity:

Species of Special Concern

- The small-leaved pussytoe (*Antennaria parivifolia*). Given that almost all pre-settlement habitat has been lost, there is a limited amount of potential habitat remaining.
- Several species of ferns in the genus *Botrychium*.

Threatened Species

- The ram's head ladyslipper (*Cypripedium arietinum*) has been documented within one quarter mile of the proposed corridor.
- The small white waterlily (*Nymphaea leibergii*) has been documented in slow-moving streams, including Hansen Creek.

Endangered Species

- The purse casemaker caddisfly (*Hydroptila waskesia*). The only known occurrence is in Hansen Creek, which is a second order tributary of the Roseau River in the Beltrami Island State Forest.

The proposer commits to consult with the DNR Regional Plant Ecologist to identify impact avoidance and/or minimization measures for the small-leaved pussytoe, and various *Botrychium* species, with similar consultation occurring for the ram's head ladyslipper. Proposer commitments to avoiding impacts to the water quality and quantity of Hansen Creek, thereby minimizing potential impacts to the small white waterlily and purse casemaker's caddisfly.

Federally-listed Species. The NHIS review identified the following federally-listed animal species known within the Project vicinity:

- Northern long-eared bats have been captured in the vicinity of this project. It is also state-listed as a special concern species.
- Although not identified in the Natural Heritage Program's correspondence, both the Canada lynx and gray wolf are federally-listed species that occur in the Project area. The historic range of the Canada lynx includes the Project area; it is listed as a threatened species. The Project area is also within the range of the gray wolf, with both Roseau and Lake of the Woods counties identified as critical habitat by the USFWS; it is listed as a threatened species.

The proposer commits to avoid cutting large trees, especially large aspen, when clearing areas for trail development, as the primary measure to address potential impacts to northern long-eared bats. Measures to limit impact to Canada lynx and gray wolf include: controlling invasive plant species; minimizing trail development and corridor width; and avoiding denning sites.

Other rare natural resources or important habitat potentially affected by the Project include:

Species of Greatest Conservation Need. The Minnesota Wildlife Action Plan 2015-2025 identifies species that are rare, declining, or vulnerable to decline. Within the Project area, this includes the hoary bat, silver-haired bat, large marble (butterfly), monarch butterfly, American kestrel, black-backed woodpecker, black-billed cuckoo, black tern, brown thrasher, Cape May warbler, common loon,

common nighthawk, eastern whip-poor-will, golden-winged warbler, Le Conte's sparrow, olive-sided flycatcher, sedge wren, sharp-tailed grouse, and veery and western meadowlark. State-listed special concern species are little brown bat and short-eared owl.

Adverse effects to these species are expected to be minimal because the path would be naturally vegetated and only 8 feet wide, and would retain canopy coverage. Construction and maintenance related effects would be temporary, while species sensitive to human intrusion may show long-term responses, such as abandonment of preferred foraging areas.

High Conservation Value Forest – Luxemburg Peatland. A High Conservation Value Forest (HCVF) is an area of outstanding biological or cultural significance where the DNR has committed to manage the site to maintain or enhance the identified high conservation values. The proposed project occurs in the vicinity of a DNR-designated HCVF that surrounds most of the Luxemburg Peatland Scientific and Natural Area. Because peatlands do not make suitable walking trail substrate, no trail routing is proposed within the Luxemburg Peatland.

Important Bird Areas. The DNR and Audubon Minnesota are jointly participating in the Important Bird Area (IBA) program, which is a voluntary, non-regulatory international effort to conserve critical bird habitats. The Big Bog IBA includes all of the Red Lake WMA and part of the Beltrami Island State Forest. Parts of the proposed trail occur in this area. At least 289 species of birds have been reported in the IBA, including at least 12 species of breeding warblers. Measures available to minimize impacts to IBA species include: controlling invasive plant species; minimizing new trail construction and corridor width; and limiting impacts to adjacent vegetation.

d. Invasive Plant Species

This topic was addressed in EAW Item 13.

Accidental introduction of invasive species can occur on hiking and walking trails. Seeds can be carried in on boots, clothing, and equipment. The disturbance of native vegetative cover and exposed soil enable invasive species to establish. This is of particular concern in areas with rare native plant communities. In order to mitigate potential impacts, the Proposer commits to inspect and clean equipment during both construction and maintenance to prevent invasive species. This includes adherence to DNR Operational Order 113 regarding prevention of the spread of invasive species at all stages of Project implementation. Upon completion of the trail development, annual mowing maintenance would be conducted by DNR staff trained in agency policy to prevent the spread of invasive species.

e. Historic Properties

This topic was addressed in EAW Item 14.

The State Historic Preservation Office (SHPO) identified the presence of several cultural resources located within close proximity to the Project, including the Norris Camp that is on the National Registry of Historic Sites. It is one of two surviving Civilian Conservation Corps (CCC) work camps in Minnesota and is also a DNR wildlife management station. There would be no impacts to the architectural features at the site as a result of this project. This site is already developed and intended for visitor

use. Connecting the site to a walking trail would not adversely affect the historic character or other site features.

Trail segments would be assessed by an archaeologist as they are proposed, and reviewed by the SHPO as mandated in Section 106 of the National Historic Preservation Act and Minnesota Statute 138. It is anticipated that trail development would not adversely affect any Post-Contact heritage sites, and is unlikely to expose heretofore inaccessible heritage sites to potential vandalism. All development work necessary would be completed in the winter, affording additional protection to any unanticipated archaeological deposits. Maintenance mowing would be conducted annually during the summer but would not overturn any soil, further minimizing potential adverse impacts to cultural resources.

f. Cumulative Potential Effects

This topic was addressed in EAW Item 19.

Cumulative potential environmental effects are the combined effects of the proposed project and past, present, and reasonably foreseeable future projects. See Minn R. 4410.0200, subp. 11a.

The Project area is largely managed for the production of timber. Timber harvest and reforestation activities can generate noise. Although no future harvest is specified, timber sales are frequent and ongoing and could occur during and after project implementation within and around the Project area. Because timber harvest frequently occurs during frozen soil conditions, cumulative noise effects could occur during winter project construction along any segments where harvest activity is also present. Any cumulative noise effects would be minor and limited to the vicinity of the Project corridor.

New corridor development would result in some degree of habitat fragmentation that could interact with covertime changes associated with other past, present, or future forest management activities. Cumulative effects would be tied to potential changes in animal movement across the landscape as well as increased predation pressures for certain species. The DNR Section Forest Resource Management Plan considers how the distribution of forest patches may result in forest fragmentation effects, with the goal of minimizing them. Any cumulative effects would tend to persist on the landscape as long as the trail is maintained and the impacts of the harvest persist.

12. The following permits and approval would be needed for the Project.

Unit of Government

DNR

Type of Application

Trail Designation Order

CONCLUSIONS

1. The Minnesota Environmental Review Program Rules, *Minnesota Rules* 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: 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 a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.*

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

Based on the Findings of Fact paragraphs 11a to 11e, and the information contained in the administrative record, the DNR concludes that the following types of potential environmental effects, as described in the Findings of Facts, will be limited in extent, temporary, or reversible:

Project Construction
Hazardous Materials
Rare Species and Significant Natural Features
Invasive Plant Species
Historic Properties

2. *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.*

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

Based on the Findings of Fact paragraph 11f, the DNR concludes that the cumulative potential environmental effects associated with the proposed project consists of potential habitat fragmentation and noise-related impacts in conjunction with past, present, and reasonably foreseeable forest management and timber harvest activities. Habitat fragmentation could be tied initial development of trail followed by annual maintenance and anticipated use over summer/fall. Fragmentation could also occur with forest management activities occurring next to the trail. The goal of the DNR Section Forest Resource Management Plan is to minimize fragmentation. Noise effects would be minor and limited to the vicinity of the project corridor during the initial period of trail development, followed by annual mowing in late summer.

Based on the Findings of Fact above, the DNR concludes that the cumulative potential environmental effects are not significant when viewed in connection with: DNR Section Forest Resource Management Plan objectives to minimize fragmentation; and the minor nature of Project and other noise-generating activities.

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

Based on the information in the EAW and Findings of Fact above, the DNR concludes that the following potential environmental effects, as described in Findings of Fact paragraphs 11a to 11e, are subject to mitigation by ongoing public regulatory authority:

Prior to initiation of this project, the following permit would be required: DNR Trail Designation Order.

Environmental effects due to project construction are subject to mitigation by ongoing public regulatory authority under the DNR Trail Designation Order. The proposer commits to minimize construction and remain in upland areas to the degree possible. Peatlands would be avoided and any crossings of wet areas would not be mowed. Public waters and public watercourses would be avoided, or crossed at locations with existing roads and bridges. Maintenance mowing would be limited to once per year.

Environmental effects due to hazardous materials are subject to mitigation by ongoing public regulatory authority under the DNR Trail Designation Order. The proposer commits to make a spill clean-up kit in the case of a diesel fuel spill. Any hydraulic fluid and engine oil would be disposed offsite properly.

Environmental effects to rare species and significant natural features are subject to mitigation by ongoing public regulatory authority under the DNR Trail Designation Order. The proposer commits to engage appropriate DNR resource specialists to identify potentially affected resources. Other measures to address potential impacts include designing the project to minimize new trail construction and corridor widths, control invasive species, and limit impacts to adjacent vegetation. The project would not affect the water quantity or quality of Hansen Creek.

Environmental effects due to invasive plant species are subject to mitigation by ongoing public regulatory authority under the DNR Trail Designation Order. The Proposer commits to inspect and clean equipment during both construction and maintenance to prevent invasive species. This includes adherence to DNR

Operational Order 113 regarding prevention of the spread of invasive species at all stages of Project implementation. Upon completion of the trail development, annual mowing maintenance would be conducted by DNR staff trained in agency policy to prevent the spread of invasive species.

Environmental effects to historic properties are subject to mitigation by ongoing public regulatory authority under the oversight of the SHPO. Trail segments would be assessed by an archaeologist as they are proposed, and reviewed by the SHPO as mandated in Section 106 of the National Historic Preservation Act and Minnesota Statute 138. All development work necessary would be completed in the winter adding additional protection to any unanticipated archaeological deposits.

4. *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 following environmental studies assist in the anticipation and control of potential environmental effects:

Beltrami Island Land Utilization Project Comprehensive Conservation Management Plan, 2013

Minnesota DNR Wildlife Action Plan 2015-2025, 2015

Norris Camp Interpretive Center Conceptual Master Plan, 2015

Northern Minnesota & Ontario Peatlands Section Forest Resource Management Plan, 2014

Red Lake Wildlife Management Area Master Plan 1980-89, 1980

Ruffed Grouse in Minnesota: A Long-Range Plan for Management, 2012

5. 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 Star of the North Walking Trail in Lake of the Woods and Roseau Counties, Minnesota.
6. 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 the proposed Star of the North 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 Star of the North Walking Trail.

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

Dated this 6th day of March 2018

**STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES**



Barb Naramore
Assistant Commissioner