

# DEPARTMENT OF NATURAL RESOURCES

## Record of Decision

**In the Matter of the Determination of the Need for an Environmental Impact Statement for the Voyageur Country ATV System in St. Louis County, Minnesota**      **FINDINGS OF FACT, CONCLUSIONS, AND ORDER**

### FINDINGS OF FACT

1. The Voyageur Country All-Terrain Vehicle (ATV) Club (the Club) proposes approximately 386.51 miles of roadway and natural surface trail to be included in the Voyageur Country ATV System (the System) connecting communities in northern St. Louis County. The proposed system would include 383.97 miles of existing trails and 2.54 miles of newly proposed routes.
2. On August 13, 2019, the Minnesota Department of Natural Resources (DNR) determined the need for a State Environmental Assessment Worksheet (EAW). The proposed project requires preparation of an EAW for constructing a trail at least 25 miles long on forested or other naturally vegetated land for recreational use. *See* Minn. R. 4410.4300, Subp. 37.
3. The Minnesota Department of Natural Resources (DNR) is the Responsible Governmental Unit (RGU) in the preparation and review of environmental documents related to the Voyageur Country ATV System (the Project). *See* Minn. R. 4410.0500, Subp. 1.
4. The DNR prepared an EAW for the project. *See* Minn. R. 4410.1400.
5. The DNR filed the EAW with the Minnesota Environmental Quality Board (EQB) and a notice of its availability was published in the EQB *Monitor* on November 16, 2020. Initially, a copy of the EAW was sent to all persons on the EQB Distribution List. The EAW was also sent 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. Copies of the EAW were also available for public review and inspection at the Arrowhead Regional Development Commission, the DNR Northeast Regional Office, and the DNR, Hennepin County, Duluth Public and Cook Public libraries. The EAW was also made available to the public by posting on the DNR's website. *See* Minn. R. 4410.1500.
6. The 30-day EAW public review and comment period began November 16, 2020 and ended December 16, 2020. Written comments on the EAW could be submitted to the DNR by U.S. mail or by email. *See* Minn. R. 4410.1600.
7. On December 13, 2020, Portage Township notified the DNR that they had not received notification of the project. Upon receiving this communication, DNR reviewed the distribution list and identified the

following townships were inadvertently missed in the initial distribution and did not receive a notification or copy of the EAW: Townships of Beatty, Camp 5, Crane Lake, Field, Kabetogama, Leiding, Owens, and Portage and the unorganized territories of Gheen, Northwest Saint Louis and Lake Vermilion. These are all local government units (LGUs) in which the proposed project would take place.

8. On December 15, 2020, the DNR extended the comment period on the proposed project by 30 days, in accordance with [Minnesota Statute 116D.04 Subd. 2a \(d\)](#) to allow for additional distribution and opportunity to comment for those townships that had not initially received notification of the EAW. The extended comment period began on December 17, 2020 and ended on January 15, 2021.
9. On December 17, 2020, the DNR notified the Townships of Portage, Beatty, Camp 5, Crane Lake, Field, Kabetogama, Leiding, and Owens of the EAW. The DNR was unable to find contact information for the unorganized territories of Gheen, Northwest Saint Louis and Lake Vermilion.

### *Public Comment Period*

10. During the initial 30-day and extended 30-day EAW public review and comment period, the DNR received 70 written comment letters on the EAW, containing 147 comments in total. A list of the individuals and agencies, along with a summary of their comment(s) is listed in attachment A.
11. The DNR appreciates all comments received. All persons that commented in writing will be provided with this Record of Decision. See Minn. R. 4410.1700, subp.5. Comments will be provided to the proposer and permitting authorities through this Record of Decision.

### *Response to Comments*

12. Minnesota Rules 4410.1700, Subp. 4 specifies that the Record of Decision (ROD) must include specific responses to all substantive and timely comments on the EAW. All comments and issues raised in comment submittals were reviewed to determine if they addressed the accuracy or completeness of the material contained in the EAW or environmental impacts that may warrant further investigation prior to the final ROD. Comment letters are available upon request.
13. The DNR notes that several commenters asserted that the proposed project is a DNR led project. As noted in Item 2 of the EAW, the proposer of the project is The Voyageur Country ATV Club. As stated in ¶12 above, The DNR acted as RGU of the proposed project.
14. Responses to all substantive comments are summarized below in ¶¶16 to 35. Each submittal was given an identification number. See Attachment A. Many submittals contained more than one comment. In those cases, each comment was assigned a unique comment identification number (comment ID). Similar comments were grouped together, each group was analyzed, and a single response to comment was developed for the category. See Minn. R. 4410.1700, Subp. 4.
15. Many commenters provided non-substantive comments in support of or opposition to the proposed Project, personal opinion on the proposed Project, general concerns on topics that were fully addressed in the EAW. These comments did not address the accuracy or completeness of the material contained in the EAW or environmental impacts and did not warrant further investigation prior to the final ROD. In accordance with Minn. R. 4410.1700, Subp. 4, these comments did not receive a specific response.

16. Air: Four commenters expressed concern related to air including dust, exhaust and general air pollution.

**Response:** Comment noted. Potential impacts to air are addressed in EAW Items 16 and 19 of the EAW.

17. Alternative Route: Five commenters suggested alternative routes for ATV riders, some being general and one commenter providing a map with an alternative route in order to reduce off-trail ATV use within Voyageur National Park.

**Response:** Comment noted. The EAW process in Minnesota Rules 4410.1200 to 4410.1700 do not require the proposer to address alternative routes. On February 01, 2021, the proposer was notified of the public comments regarding the request for route adjustments and informed that if re-routing of any trail segment occurs, the proposed change(s) would require review by the RGU to determine if any additional environmental review is needed. See Minn. Rule 4410.1000 Subp. 5.

18. Alternative Route – City of Orr: The commenter, on behalf of the City of Orr City Council, stated that the Council does not support the expansion of the northern trail connection as outlined in the EAW citing safety of the residents. The Council is willing to work with the Club to work out a different trail alignment for the north side of the City, citing safety concerns for residents.

**Response:** Comment noted. The EAW process does not require the proposer to address or consider project alternatives. The proposer has stated that it is committed to working with the City of Orr, St. Louis County, and Minnesota Department of Transportation (MnDOT) to seek approvals for denoting segments on VCATV System maps where ATVs are an allowed use on public rights-of-way. The proposer has stated that they will work with the road authorities to ensure appropriate, safe access on these rights-of-way.

19. Correction: One Commenter requested that “Lake Vermilion Bike Trail” as referred to on page 12 of the EAW should be changed to “Lake Vermilion Trail,” since the Lake Vermilion Trail alignment is still conceptual.

**Response:** Comment Noted. DNR acknowledges that the Lake Vermilion Bike Trail is in a conceptual stage and the EAW should have referred to it as the Lake Vermillion Trail.

20. Cumulative Potential Effect (CPE) Two commenters expressed concern about the cumulative impact of projects. One commenter asserted that that the EAW did not asses a large enough geographic scope concerning cumulative potential effects.

**Response:** Comment noted. The EAW evaluated the potential for CPE in EAW Item 19, which assesses the cumulative impact between the proposed project and other projects in the area, consistent with the definition of CPE found in Minnesota Rules 4410.0200, Subp 11a. Future proposed trail segments would be evaluated to determine any further CPE.

21. Environmental Impact Statement (EIS): Commenter asserts that an EIS should be completed, citing a need to quantify noise as it occurs in groups of ATV riders including day and/or night groups of ATV riders.

**Response:** Comment noted. See comment response in ¶128 regarding concerns about noise. An EIS is warranted when a project has the potential for significant environmental effects. In this case, because noise generated from the project is unlikely to rise above nuisance conditions, it will not result in a potential for significant environmental effect.

22. Inaccurate Figure: Commenter asserts that Figure 2-3 included with EAW is "not an existing route" and is "color coded incorrectly"

**Response:** According to the St. Louis County GIS Land Explorer, there is an existing 66-foot county road easement between County Road 517 and Bessette Road on the east side of Highway 53. This easement is where the "Old 53" used to exist. It is an existing route, but would need improvements, as described in the EAW. This parcel is located in Leiding Township, St. Louis County. The segment that is proposed farther north on County Road 517 is identified entirely within St. Louis County road right-of-way.

23. General – Maintenance/Enforcement/Safety: Thirteen commenters expressed general concern about the maintenance, costs (including funding) and upkeep as well as the efforts and amount of enforcement that would be needed to patrol the proposed trails. Some of these general comments included concern over potential safety for riders and others in the proposed project.

**Response:** Maintenance of the proposed project is addressed throughout the EAW, as is seasonal riding. The proposer has committed to design, construct, monitor, and maintain the proposed trails consistent with the Trail Planning, Design, and Development Guidelines (MNDNR, 2007), which were developed to specifically address the types of issues noted in these comments. The EAW addresses funding in Items 6 and 8. Safety and the work capacity of Conservation Officers are topics outside the scope of the EAW; however, it can be noted that DNR Conservation Officers and county sheriff deputies regularly patrol OHV trails. The DNR also has a Trail Ambassador Program. Trail Ambassadors are trained volunteers who promote safe riding by discussing safe and ethical riding techniques with trail users. Trail Ambassadors also identify safety issues along the trail and report the issues back to the DNR for attention.

24. Habitat/Plant Communities: Seven commenters expressed general concern over damage to the existing habitat or vegetation. One commenter expressed concern about spreading noxious weeds, in particular meadow knapweed, and suggested a survey for meadow knapweed as well as a plan for effective control coordinated and guaranteed prior to new construction as well as ongoing monitoring and management to prevent the spread.

**Response:** Potential impacts to natural habitat are discussed in EAW Items 13 and 19. The proposer has committed to design, construct, monitor, and maintain the proposed trails consistent with the Trail Planning, Design, and Development Guidelines (MNDNR, 2007), which were developed to specifically address the types of issues noted in the comment. Potential design features, including buffering along water, the Trail Ambassador Program, and best management practices (BMPs) to prevent the spread of invasive species are discussed in the EAW as mitigating efforts to reduce impact to habitat.

25. Habitat/Plant Communities – The Minnesota Department of Agriculture (MDA). The MDA expressed concern about the proposed project's potential to spread noxious weeds, in particular meadow knapweed, and suggested a survey for meadow knapweed as well as a plan for effective control coordinated and guaranteed prior to new construction as well as ongoing monitoring and management to prevent the spread.

**Response:** These concerns, along with information provided by MDA including a ["Meet the Knapweeds" brochure that can be accessed on this webpage](#), [the Early Detection and Distribution \(EDD\) Mapping System webpage for meadow knapweed](#), [the EDD webpage for brown knapweed](#), and the [MDA Minnesota Noxious Weed List webpage](#) have been shared with the proposer. EAW item 13.d addresses the approach for prevention and control of invasive species during construction and through ongoing trail

stewardship and maintenance activities. Additionally, the proposer is committed to establishing trails that are funded by the DNR Grant-In-Aid program (GIA). Paragraph 17 of the GIA contract agreement establishes requirements regarding invasive species prevention as follows:

**“17.1** Grantees and subcontractors must follow Minnesota DNR’s Operational Order 113, which requires preventing or limiting the introduction, establishment and spread of invasive species during activities on public waters and DNR-administered lands. This applies to all activities performed on all lands under this grant agreement and is not limited to lands under DNR control or public waters. Operational Order 113 (“Invasive Species Prevention and Management”) is incorporated into this grant agreement by reference and may be found at [http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder\\_113.pdf](http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder_113.pdf).

Duties are listed in Op Order 113 under the sections Invasives Species Prevention and Site Planning and Management (p. 3-5). The grantee shall prevent invasive species from entering into or spreading within a project site by cleaning equipment and clothing prior to arriving at the project site.

**17.2** If the equipment or clothing arrives at the project site with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by grantee furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The grantee or subcontractor shall dispose of material cleaned from equipment and clothing at a location determined by the DNR Grant Administrator or their representative. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.”

Beyond the established requirements of the contract, trails that are established in the GIA Program can take part in the DNR Trails Ambassadors program, in which Club volunteers would be trained to identify and monitor for invasive species. Any reported invasive species (type and location) would be provided to the Trail Administrator at which point an approach could then be developed to manage the spread of invasive species.

26. Land Use: Fourteen commenters expressed concern over the proposed trail segments crossing private property that is located in close proximity to the City of Orr. Some of the commenters expressed concern that they were not contacted prior to the proposed project being developed.

One commenter would like to see a plan that considers future road use, specifically pointing out that culverts and road beds should not be narrowed in the "likely" event they are used by the forestry industry in the future.

**Response:** Land use is addressed in Item 9 of the EAW. According to the St. Louis County GIS Land Explorer, there is an existing 66-foot county road easement between County Road 517 and Bessette Road on the east side of Highway 53, which is the former road corridor for Highway 53, and referred to locally as "Old 53." This parcel is located in Leiding Township, St. Louis County. Prior to the Club pursuing funding or approvals for improvements on this segment, or inclusion of this segment within the VCATV System maps, the Club would work with Leiding Township Supervisors, St. Louis County, and private landowners to seek permission to make improvements on this easement. Until that time, the Club has stated will not prioritize this segment for funding, nor will the Club identify this segment on VCATV System maps.

If re-routing of any trail segment occurs, the proposed change(s) would require review by the RGU to determine if any additional environmental review is needed. See Minn. Rule 4410.1000 Subp. 5.

27. Master Plan: One commenter asserted that the “Master Plan” should be included with the EAW

**Response:** The DNR considers the Voyageur Country ATV Club Master Plan as a reference document for the EAW, not the official project proposal; therefore, it was not included as an attachment. The document can be accessed by contacting the Club or via on-line search.

28. **Mitigation:** One commenter expressed concern that the EAW does not clearly define how mitigation as described in section 10a, "limiting traffic, seasonality or speeds on areas that are more vulnerable" would be enforced. Further, the commenter speculates that even if such mitigation were enforced, it would only encourage ATV riders to find alternative routes that could be undesignated and cause even worse environmental impact on trails that are not monitored.

**Response:** Limiting use is one of the mitigation efforts put forth for the proposed project. Other mitigating efforts are addressed throughout the EAW. The EAW addresses potential erosion impacts in Items 6, 10b, 11b.ii. The proposed trails would be designed to minimize runoff. Potential construction-related impacts are subject to control under the Stormwater Pollution Prevention Plan (SWPPP) as required under the NPDES/SDS Construction Stormwater Permit. BMPs would include erosion control blankets on steep slopes, bioroll/filter logs to capture mobilized sediment, and/or rock construction entrances. Permanent BMPs will be incorporated into the trail design to minimize erosion of the trail during routine operational activities (post-construction) per the "Trail Planning, Design and Development Guidelines" manual (MN DNR, 2007). Assessing impacts of misuse or non-compliant use of the proposed project or other areas ATV riders might choose to ride, falls outside of the scope of the EAW and is therefore not analyzed.

29. **Noise:** Eleven commenters expressed concern about noise, with general statements such as an increase in noise or noise from "many" ATVs that will disrupt peace and quiet and bother animals, domestic and otherwise. One commenter suggested that the EAW should have quantified noise and asserts that the proposer's description of noise is inaccurate.

**Response:** Items 17 and 19 in the EAW discuss noise impacts and acknowledge the potential for annoyance from increased operational-generated noise; however, increased noise due to ATV congregation is expected to be sporadic and temporary. DNR OHV Regulations dictate that noise emission from ATVs may not exceed 99 decibels at a distance of 20 inches and mufflers may not be altered to increase motor noise. Conservation officers, deputy sheriffs, police officers, and state troopers enforce non-compliance with off-highway vehicle use. Anticipated noise levels would not constitute a "nuisance." See Minn. R. 7030.

30. **Permitting:** One commenter stated that the areas of the proposed project that cross the Superior National Forest must comply with USFS plans and regulations.

**Response:** Permitting is addressed in EAW Item 8 and land use in the Superior National Forest in EAW Item 9.

31. **Prior work completed:** Commenter expressed concern that work on the proposed project was already completed before the public had the opportunity to comment (see Project Area Map 2.2/Topographic Map 3.2- Forest Road 207 the old Crane Lake Lookout Tower).

**Response:** EAW item 6.f. addressed segments that were completed prior to the EAW. As discussed in the EAW at the time these sections were proposed, they did not meet the threshold for a mandatory EAW; therefore, the opportunity for public comment did not exist. These portions of the VCATV System were established on existing roads. The scope and content of the EAW considered those segments previously built from 2015-2018.

32. Soils: Commenter expressed concern about "displacement of soils"

**Response:** The EAW addresses potential erosion impacts in Items 6, 10b, and 11b.ii. The proposed trails would be designed to minimize runoff. Potential construction-related impacts are subject to control under the Stormwater Pollution Prevention Plan (SWPPP) as required under the NPDES/SDS Construction Stormwater Permit. BMPs would include erosion control blankets on steep slopes, bio-roll/filter logs to capture mobilized sediment, and/or rock construction entrances. Permanent BMPs will be incorporated into the trail design to minimize erosion of the trail during routine operational activities (post-construction) per the "Trail Planning, Design and Development Guidelines" manual (MN DNR, 2007)

33. Solid Waste and Hazardous Materials: Six commenters expressed general concern that the proposed project would generate more trash/litter on trails/roads by (increased) ATV riders, with one commenter also expressing concern about fuel leakage.

**Response:** Item 12.b in the EAW discusses solid waste (trash/litter) impacts. EAW Item 12.c addresses hazardous materials impacts.

34. Trail Use: Commenter suggested closing "more fragile" trails on occasion to mitigate damage and consider multiple use beyond snowmobiles and be considerate of hunters that wish to use the trails.

**Response:** As addressed in ¶28, mitigation efforts (EAW Item 10.a.) could limit traffic and seasonal use on areas that are more vulnerable. The proposer has committed to design, construct, monitor, and maintain the proposed trails consistent with the Trail Planning, Design, and Development Guidelines (MNDNR, 2007), which were developed to specifically address the types of issues noted in the comment. Addressing use of the trail with other recreational activities, such as hunting, falls outside the scope of the EAW.

35. Tribal Rights: Commenter stated that the eastern portion of the proposed project falls within the 1854 Ceded Territory where Bands retain treaty rights to hunt, fish, and gather and that the EAW failed to include treaty rights and a description of any impacts (access for the exercise of treaty rights, hunting/fishing/gathering activities, natural/cultural resources, cumulative impacts, etc.).

**Response:** The DNR appreciates the comment and notes that EAWs do not assess social and economic impacts. With this said, DNR acknowledges that a portion of the project falls within the 1854 Ceded Territory. The findings and environmental impacts and mitigations, as described throughout the EAW, apply to treaty-protected resources for hunting, fishing, and gathering. Impacts to treaty resources are not expected to exceed any of those assessed in the EAW.

36. Water Resources: Four commenters expressed general concern about water resources including concern about wetland erosion, one commenter asserted the EAW did not provide sufficient evaluation "pursuant to MPCA and DNR rules" and another asserting that mitigation efforts surrounding water resources are not clearly defined.

**Response:** Water resources are addressed under Item 11 in the EAW. Item 11.b.iv of the EAW addresses impacts to wetlands.

37. Water Resources - Minnesota Pollution Control Agency (MPCA). The MPCA commented on permitting as well as required and recommend mitigation, and best management practices.

**Response:** The DNR appreciates the MPCA's comments. The project proposer will apply for and acquire all required permits and approvals and will comply with any required submittals. This comment will be provided to the proposer and permitting authorities through this Record of Decision.

38. **Wildlife:** Five commenters expressed general concern about impacts to wildlife as a result of the proposed project including displacement of wildlife, endangerment, reduced wildlife, wildlife being disturbed.

**Response:** Potential impacts to wildlife are discussed in EAW item 13.

### *Record of Decision Preparation*

39. Pursuant to Minn. R. 4410.1700, Subp. 2b, the decision on the need for an EIS shall be made no later than 15 days after the close of the 30-day review period. This 15-day period shall be extended by the EQB chair by no more than 15 additional days upon request of the RGU. *See* Minn. R. 4410.1700, Subp. 2b.
40. On February 11, 2021, the DNR requested a 15-day extension for making a decision on the need for an EIS for the proposed project. On February 11, 2021, the DNR was granted the extension by EQB. *See* Minn. R. 4410.1700, Subp. 2b.
41. On March 2, the DNR notified the EQB that a 30-day extension, as allowed by Minn. Rules 4410.1700, Subp. 2a, was needed to address substantive comments received by the Minnesota Department of Agriculture (MDA) and others regarding the potential for spread of noxious weeds and invasive species, specifically meadow knapweed, within the project area.

### *Environmental Effects*

42. 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
  - b. Land Use
  - c. Soils
  - d. Water Resources
  - e. Solid Waste Hazardous Materials
  - f. Wildlife Resources and Habitat
  - g. Endangered, Threatened, and Species of Special Concern
  - h. Historic Properties
  - i. Air/Dust
  - j. Noise
  - k. Traffic
  - l. Cumulative Potential Effects

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

**a. Project Construction**

This topic was addressed in EAW Items 6, 10, 11, and 13. Proposed trail types are divided into four categories, of which two require physical manipulation of the trail (*See* table below). ATV-only trails will



have a 12-14 foot wide drivable top surface within a maximum 26-foot wide cleared corridor for new trail segments. Proposed ATV use or shared use along existing state trails would have a minimum 14-foot top surface, 5-foot minimum cleared corridor on either side of the top surface. The activities described below could be applied across the entire proposed trail segments.

Construction-related activities are considered temporary and limited to the proposed project site. Actions would include grading and excavation; and clearing of vegetation for trail development and improvement. These activities are subject to ongoing public regulatory authority by MPCA’s NPDES/SDS Construction Stormwater General Permit, and provisions of DNR-administered GIA Funding. In order to minimize erosion, the proposer has committed to employ trail development standards that follow the sustainable natural surface trail design practices, as described in Trail Planning, Design, and Development Guidelines (DNR, 2007).

**Table 38 – Project Construction - Route Categories**

Route Category	Type	Landscape Position	Miles
1	Existing route, open to ATV use	On road/trail	301.32
2	Existing route, proposed new ATV use (no improvements needed)	On road/trail	12.82
3	Existing route, proposed new ATV use (improvements needed)	On road/trail	69.83
4	Proposed route, new construction proposed for ATV use	Off road	2.54
	Blank	<b>TOTAL</b>	386.51

**b. Land Use**

This topic was addressed in EAW Item 9 and response to comments 41-a, 42-a, 47-a, 54-a, 55-a, 56-a, 57-a, 59-a, 64, 64-b, 69-a, 70-a, and 71-a.

Land ownership in the System is a mix of county road right-of-way; county, state, and federally managed land, including related forest roads; and, privately owned parcels. The proposed project site and proposed action fall within the purview of a number of plans and planning efforts.

*State Forestry and Forest Classification and Road/Trail Designation Management Plan.* This plan evaluates forest classification and identifies “...forest roads and trails that the DNR proposes to (un)designate for various motorized and non-motorized purposes within the planning area.” The proposed project is compatible with this management plan.

*St. Louis County Comprehensive Plan.* The Comprehensive Plan is an ongoing process to actively guide the county’s long-term physical and community development. The plan goals include preserving opportunities for outdoor recreation; promote regional trail development and maintenance. The proposed project meets the goals and objectives of this plan.

*Superior National Forest Management Plan.* For motorized recreational opportunities, the plan indicates the use of recreational trails, including ATV use. Issues include “undesirable impacts” from off-highway vehicles. With careful management, as outlined in the Superior National Forest Land and Resource Management Plan, the proposed project is permissible.

*David Dill/Arrowhead State Trail Master Plan.* The Master Plan includes a goal and major objective to “provide Minnesotans with a recreational travel route which will allow them to enjoy, appreciate, and better understand the natural cultural and historic resources of the border lakes region.” The proposed project is not compatible with the proposed project. The Master Plan is currently being updated and will evaluate whether this corridor is compatible with ATV use in the System. The new master plan will be subject to permission from the DNR and any other landowner prior to implementation.

**c. Soils**

This topic was addressed in EAW Item 10 and responses to commenters 8, 53, and 62.

The proposed project area (the System) covers a wide area with many different soils. Routes throughout the system are predominantly located in soils less susceptible to erosion and the primary concerns related to soil erosion are dependent on the route category as described in table 38 under ¶138 b. Trails proposed in route category 1 (existing routes currently open to ATV use) are not anticipated to have potential impacts to soils and topography. Trails proposed in route category 2 (proposed new ATV use on existing routes) are mainly located on public and forest roads, which are minimally susceptible to erosion. New, seasonal use trails on natural surface have the potential of increased runoff. Trails proposed in route categories 3 and 4, (those needing physical improvement and new construction trails, respectively), would be more susceptible to erosion.

Earth disturbing activities associated with the construction of the proposed project are subject to ongoing public regulatory authority by St. Louis County’s Conditional Use Permit and Wetland Conservation Act, as well as provisions of DNR-administered OHV Grant-in-Aid funding. Design standards would follow the sustainable natural surface trail design practices to minimize erosion as described in the Trail Planning, Design, and Development Guidelines (DNR 2007).

The project is subject to ongoing public regulatory authority under the Minnesota NPDES/SDS Construction Stormwater General Permit (MN R 100001) and associated project-specific Stormwater Pollution Prevention Plan (SWPPP). This approval addresses potential stormwater runoff impacts where temporary erosion and sediment control Best Management Practices (BMPs) would initially be installed in accordance with the SWPPP. These measures must be maintained, repaired, and amended throughout the construction phases as required under applicant’s general permit. Permanent BMPs would be incorporated into the trail design to minimize erosion of the trail during routine operational activities.

**d. Water Resources**

This topic was addressed in EAW Item 11 and responses to commenters 20-b, 58, 62-d, and 63-d.

The current System is located in an area with many nearby rivers, streams, lakes, and wetlands including the Vermilion River, a designated State Water Trail.

### *Designated Trout Streams*

The proposed project crosses many water bodies, including 16 designated Trout Streams. These are all existing trails, seven of which the project proposes improvements.

One crossing, on the Blackduck River, located on the David Dill/Arrowhead State Trail, is below bankfull width and under water during high flows. The section of the trail that follows the Blackduck River between Blackduck Lake and the David Dill/Arrowhead State Trail stream crossing on the Blackduck River are identified sources of sediment to the Blackduck River which is impaired for total suspended solids (TSS).

The proposer will coordinate with permitting regarding BMPs that could include, floating silt curtain, construction during no flows/low flows, or winter conditions, and if required, incorporate coffer or check dams into the final plans. The proposer will incorporate these BMPs for work conducted below the Ordinary High Water Level (OHWL) to assist in avoiding or minimizing TSS from entering water of the state along the System and other nearby water resources. Where applicable, crossings on public waters would be subject to ongoing public regulatory by DNR General Public Waters Work 2004-0001, which provides substantial guidance to engineers for designing and implementing projects that affect public waters.

### *Stormwater Runoff and Erosion*

The proposed project has the potential for increased stormwater runoff, erosion, and sedimentation during construction and operations.

Earth disturbing activities associated with the construction of trail segments that need improvements and new trail segments are subject to ongoing public regulatory authority under the Minnesota NPDES/SDS Construction Stormwater General Permit and associated SWPPP. It is also subject to St. Louis County's Conditional Use Permit and provisions of the DNR administered OHV GIA funding. Design standards would follow the sustainable natural surface trail design practices throughout the site to minimize erosion as described in the Trail Planning, Design, and Development Guidelines (DNR 2007). Permanent BMPs would be incorporated into the trail design to minimize erosion of the trail during routine operational activities.

### *Wetlands*

Potential wetland impacts on existing routes where improvements are needed, includes a total of 12.11 acres consisting of wetlands of, Type 1 (Seasonally Flooded Basin), Type 2 (Fresh Meadow), Type 3 (Shallow Marsh), Type 4 (Deep Marsh), Type 5 (Shallow Open Water), Type 6 (Shrub Swamp), Type 7 (Wooded Swamp), Type 8 (Bog), and Riverine Systems. Potential wetland impacts on new routes requiring construction, includes a total of 0.98 acres consisting of wetlands of, Types 2, 3, 5, 6, 7, and Riverine Systems. Impacts to wetlands are subject to ongoing regulatory authority from the USACE, under Section 404 of the Clean Water Act, and under the requirements of the Minnesota Wetland Conservation Act.

Wetlands are expected to be protected by establishing general activity setbacks (i.e., vegetated buffers) to protect surface waters. Additional protection would be provided by implementing proven trail management and maintenance practices to prevent and minimize runoff and erosion that might reach wetlands.

Wetland disturbance would be minimized by routing around wetlands where practicable. Temporary impacts to wetlands due to construction would be restored to pre-construction conditions as directed by permit conditions. This could include, but not limited to, restoring natural contours and re-seeding with recommended native vegetation. Unavoidable wetland losses would be mitigated as required by WCA. Wetland credits are planned to be purchased from a wetland bank approved by the Board of Water and Soil Resources (BWSR) and the United States Army Corps of Engineers (USACE). Any impacts identified for Rare Natural Communities could require enhanced mitigation beyond standard wetland bank credits; this would be assessed in permitting. The project proposer would coordinate with wetland regulatory agencies.

**e. Hazardous Materials/Wastes**

This topic was addressed in EAW Item 12 and responses to commenters 06-c, 15-d, 17-b, 57-b, 69-c, and 72-a.

During construction and eventual operation, fuels, oils, and antifreeze would be used in construction vehicles and individual ATVs. The incidental release of any hazardous liquid from leaks or spills at the site is not anticipated; however, minor leaks or spills of gasoline, oil, and other fluids could occur. Fuel spills over 5 gallons must be reported to the State Duty Officer subject to the reporting requirements of Minn. Statutes §115.061. Impacts are expected to be localized with minimal effects to natural resources.

During operation, there is a potential that solid waste (trash) could be left behind. Trail ambassadors would help monitor and maintain trails to leave no trace of trash. The proposed project is not expected to generate significant amounts of solid waste during construction. Solid waste generated during construction would be limited. The contractor would be responsible for removing any construction-generated wastes to appropriate off-site facilities for disposal.

**f. Wildlife Resources and Habitat**

This topic was addressed in EAW Item 13 and responses to commenters 02-c, 03, 08-b, 04-1a, 06-d, 15-c, 17-d, 52, 53, 54-b, 62, 72-b.

*Habitat*

The System has connections over a broad geographic area and includes conifer forest, mixed conifer-hardwood forest, and conifer-dominated wetlands. The System is situated nearby Minnesota Biological Survey (MBS) sites of high biodiversity significance. These sites generally border the System on the east, and are associated with Voyageurs National Park and Lake Vermilion areas. Short lengths of existing routes, not proposed for improvements intersect the MBS sites.

Construction of trails and amenities would expose mineral soils at the project site and create conditions suitable for invasive species to become established and spread. Where current or future infestations are identified, control methods would be applied to limit the spread and impact of invasive species. The proposer will work to use native plants and seeds on disturbed lands.

Keeping riders on designated trails will limit the potential of transporting invasive species to other uninfested parts of the system. Riders would be encouraged to use the PlayCleanGo program by cleaning machines prior to using the trail system. The GIA program identifies vegetation management as a maintenance priority, including control of invasive species by cutting and/or spraying with an approved herbicide by a licensed applicator along the trail.

Implementation of specific measures for invasive species management, monitoring, and control would be necessary over the life of the project to limit invasive species impacts. Potential impacts to wildlife habitat from invasive species are expected to be minimal with adherence to known invasive species control measures.

#### *Ecologically Significant Areas*

As mentioned above, MBS has identified several Sites of Biodiversity Significance in the proposed project including areas designated as Preliminary Sites. NHIS staff have recommend minimizing additional disturbance within and adjacent to these sites as much as possible.

Multiple portions of the proposed project are within and adjacent to old-growth forests. In particular, an existing trail that needs improvement within T68N R20W Sections 20 and 29, directly intersects a designated old-growth forest. The proposer is committed to consulting with the Regional Plant Ecologist regarding avoiding impacts in these areas, especially to avoid disturbance to old-growth forest stands, including tree removal.

#### *Fisheries/Wildlife*

The System encompasses an area typified by coolwater and warmwater game fishes, such as Walleye Northern Pike, and Smallmouth Bass. Some of the deeper lakes in the area include species such as Lake Trout, Whitefish, Cisco, and Burbot. Additionally, state-designated trout streams in the project area possess wild populations of Brook Trout. Trail segments that include new or improved trout stream crossings would be designed to meet DNR requirements for maintaining flood flow, fish passage, and navigability.

Resident wildlife in the proposed project area includes species common to areas with conifer and mixed forest, such as beaver, wolves, black bear, long-eared bat, bald eagle and spruce grouse.

Proposed project areas that require improvement and/or new construction could be more vulnerable to wildlife disturbance. Construction and operational activities could alter the quality of wildlife habitats compared to no additional use. Species currently conditioned to the proposed project site would be subject to new types of disturbances caused by the ongoing human activity and noise, which would be generated by individual ATVs or collectively when ridden in groups. Adverse environmental effects to wildlife are expected to be minor resulting from the construction and operation of the proposed project.

#### **g. Endangered, Threatened, and Species of Special Concern**

This topic was addressed in EAW Item 13.

The Minnesota Natural Heritage Information System (NHIS) was queried in April of 2020 to determine what rare, threatened, or endangered plant or animal species or other significant natural features are known to occur within or near the project area, including federal and state listed species. The rare features that may be affected by the proposed Project are as follows:

- Northern Long-Eared Bat (*Myotis septentrionalis*) – Federally endangered and State Species of Special Concern. The Northern Long-eared Bat commonly roosts in tree snags, under loose tree bark, and in tree cavities within forested habitat. There are known roost maternity trees in the direct vicinity of the trail in T67N R20W Section 35, within 850 feet of the trail in T67N

R18W Section 14 and mist net observations within 850 feet of the trail in T67N R18W Section 23.

- Canada Lynx (*Lynx canadensis*) – Federally threatened and State Species of Special Concern. The Lynx has been documented in the vicinity of the proposed project. Found in large tracks of boreal and mixed conifer-hardwood forests.
- Little brown bat (*Myotis lucifugus*) – State Species of Special Concern. During the active season (approximately April – October) these species typically roost underneath bark, in cavities, or in crevices of both live and dead trees; and in human structures such as buildings and bridges. During winter, they hibernate in caves and mines.
- Laurentian Tiger Beetle (*Cicindila denikei*) – State Species of Special Concern. Multiple observations were identified by the NHIS query. Suitable habitat for this species includes gravel roads and openings in northern coniferous forests.
- American White Pelican (*Pelicanus erythrorhynchos*) - State Species of Special Concern. The American White Pelican prefer large, shallow bodies of water, and generally nest on flat or bare islands.
- Creek Heelsplitter (*Lasmigona compressa*) – State Species of Special Concern mussel species. The Creek Heelsplitter occurs in creeks, small rivers, and the upstream portion of large rivers. It has been documented within the Black Duck River in T66N R19W Section 8.
- Northern Goshawk (*Accipiter gentilis*) – State Species of Special Concern. The Northern Goshawk is typically found and nests in larger tracts of mature upland forest.
- Least Moonwort (*Botrychium simplex*) – State Species of Special Concern. In the context of this occurrence, the habitat was sandy roadside. It is not known which variety of *B. simplex* this was, so a further description of habitat preference is not available.
- Caddisfly (*Goera stylata*) – State Threatened. The habitat of *Goera stylata* consists of fast-moving, cold, clear streams.
- Floating marsh-marigold (*Caltha natans*) – State Endangered. Floating marsh-marigold occurs in shallow, slow-moving water in streams, creeks, ditches, swamps, pools, beaver ponds, and sheltered lake margins.
- Trumpeter swans (*Cygnus buccinator*) - State Species of Special Concern. The Trumpeter swan nests in the vicinity of the proposed project. During breeding season, they select small ponds and lakes with extensive beds of cattails, bulrush, sedges, and/or horsetail.

#### *Measures to Avoid Impacts to Endangered, Threatened and Species of Special Concern*

In order to avoid impacts to listed species the proposer is committed to various specific, and otherwise, measures as follows:

To avoid impact to the northern long-eared bat (NLEB), the proposer would comply with the following measures:

- Avoid project-related removal of large trees with suitable bark, cavities, or degree of decay could diminish available roosting and rearing habitat, especially if these trees are removed during the summer months.
- Conducting surveys to assess NLEB use of the area and determine if the proposed actions would impact maternity roost trees.
- Avoiding direct impacts by conducting all tree removal in the winter when the species is not present (October 1 through March 31).
- Minimizing impacts by routing trails to avoid large trees, especially greater than 15 inches in diameter.

Environmental effects due to construction, operation, and maintenance-related impacts are subject to mitigation by ongoing public regulatory authority of DNR Public Waters Work Permits, Stormwater Pollution Prevention Plan (SWPPP) as required under the NPDES/SDS Construction Stormwater Permit pollution prevention BMPs.

Design standards will follow the sustainable natural surface trail design practices described in the *“Trail Planning, Design and Development Guidelines”* manual (MN DNR, 2007) throughout the project area. Potential design features that could provide benefit to wildlife include greater buffering along water and wooded areas.

The proposer is confident that the Trail Ambassador Program, a volunteer effort will help to promote safe, environmentally responsible operation of ATVs. Trail ambassadors of proper trail use and are certified to monitor trail conditions and identify invasive species. The GIA program would also allow an area ATV club to help maintain the trail system and help reduce environmental impacts to endangered, threatened and species of special concern.

Little or no impacts are anticipated to species sensitive to stormwater runoff generated from construction or operations as it must be contained under the Minnesota NPDES/SDS Construction Stormwater General Permit requirements.

#### **h. Historic Properties**

This topic was addressed in EAW Item 14.

One historical site was identified from a search conducted of the Minnesota Archaeological Inventory and Historic Structures Inventory for listed features of the project area and immediate vicinity (outside of the defined project area).

*Fire Tower at Shively Road.* The State Historic Preservation Office (SHPO) indicated that if the Fire Tower is approved for recreational use, prior to repairs, further identification and evaluation efforts might be needed to identify historic properties that might be affected by the proposed project. This could also apply to the Winchester Lake Overlook. SHPO recommended the proposer utilize the guidance provided in the report titled Rehabilitation Planning Study: Scenic Fire Lookout Tower, Scenic State Park (February 2019) as prepared by Gemini Research and Widseth Smith Nolting.

Duluth Archaeology Center completed a Phase 1A cultural resources literature review and archaeological assessment. As a result of the review, a Phase 1 archaeological survey was recommended prior to any construction in areas of proposed new trail construction as well as where any new ground disturbance would take place. SHPO concurred with this recommendation. The proposer commits to work with SHPO on Phase 1 archeological surveys. In the case of unanticipated

discovery of artifacts, any construction would be halted and SHPO would be notified for guidance before construction restarts.

**i. Air/Dust**

This topic was addressed in EAW Item 16 and responses to commenters 02-b, 06-b, 69-d, and 71-b.

Dust currently generated on existing routes, open to ATV use is not anticipated to increase. For routes with newly proposed use and newly constructed routes, dust is anticipated and dependent primarily on types and numbers of vehicles, operating speeds, time of day, and trail moisture conditions. Dust is not expected to adversely impair air quality. Dust from the construction of new trails or the physical improvement of existing trails is expected during periods of dry weather. Dust would be visually monitored and recorded in conjunction with the NPDES/SDS Construction Stormwater Permit inspections. Appropriate dust control BMPs, such as soil wetting or misting/water vapor, would be implemented by the construction contractor as necessary. Specific BMPs would be determined based on severity, weather conditions, and site conditions.

**j. Noise**

This topic was addressed in EAW Item 17 and responses to commenters 02-a, 06-a, 15-b, 19-b, 20-a, 41-b, 55-b, 63-a, 69-b, 71-c, and 72.

Current conditions, for existing routes currently open to ATV use is not anticipated to change. Existing routes with proposed new ATV use, as well as newly proposed routes, are expected to experience more noise than existing conditions; however, it is anticipated to be negligible. Operational noise sources would be intermittent and although the proposed project is expected to meet State Noise Standards, some may characterize the ATV-generated noise as disruptive to the natural area. While acknowledging this potential, the proposer does not believe project-generated noise would constitute a nuisance under state law.

Construction-related noise would include noise typical of road or trail project construction, such as contractors using skid steers, small excavators, or similar machinery, would be temporary and occur during daylight hours. Construction would occur in stages as trails and amenities are developed. Environmental effects due to construction, operation, and maintenance-related noise are subject to mitigation by ongoing public regulatory authority under MPCA-administered State Noise Standards.

**k. Traffic**

This topic was addressed in EAW Item 18.

Increases in traffic are expected as a result of new ATV use and associated vehicles trailering ATVs to the System. These increases will be sporadic and intermittent and restricted to seasonal (spring, summer, fall) use. Conflict with snowmobile use or groomer operations within the System trails is not anticipated since there is no current plan for winter use by ATVs. Construction-related traffic effects are expected to increase during construction. These effects are anticipated to be minor and temporary in nature. Application of appropriate traffic control measures, as specified in the *“Minnesota Manual on Uniform Traffic Control Devices”* (MnDOT) is expected to minimize temporary traffic disruptions.

**l. Cumulative Potential Effects**

This topic was addressed in EAW Item 19 and responses to commenters 02d and 62a.



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. (2013). DNR identified the following reasonably foreseeable projects within the environmentally relevant area.

**St. Louis County** – There are three planned roadway projects in the area of the proposed project as follows:

- Bridge construction - County Project 317610 (Township 62, Range 18, Section 16) - 2021
- Reclaim and overlay County Road 478 – County Project 367955 (Township 63, Range 18, Section 36) – 2022
- Bridge Construction CSAH 24 Crane Lake Rd - County Project 314089 (Township 65, Range 17, Section 9) - 2022

**Timber** - Timber Lands owned by the State of Minnesota within the proposed project area are subject to ongoing, active timber sale contracts.

**Voyageur Country ATV Club** - The Voyageur Country ATV Club’s Master Plan identifies future segment connectivity of the System (6-10+ years in the future) that could provide additional connections to communities and amenities in the region.

**Prospectors Trail Alliance** - The Prospectors Trail Alliance aims to connect the communities of Ely, Babbitt, Embarrass and Tower, as well as the Bear Head Lake and Lake Vermilion State Parks with a 130-mile loop open to Class 1 and 2 ATVs, off-highway motorcycles and some segments open to off-road vehicles.

**Quad Cities, Northern Traxx and Ranger ATV Clubs** – These clubs have proposed approximately 24 miles of trail improvements between four different trail segments in St. Louis County. Environmental effects from the proposed project that could combine with effects from these three sand and gravel operations have been considered for noise, dust, and traffic. Consideration of these cumulative potential effects is discussed below.

Project-related construction and operational (i.e., riding) activities could interact with the projects listed above over the next 10 – 15 years of on-going use of the System, but more immediately, the first five years of construction and early operations. Cumulative effects include changes to traffic, noise, dust, plant communities, possible introduction to invasive species, increased potential for erosion, and potential for water quality issues. With proper (permanent) monitoring and maintenance, these potential cumulative effects are not expected to be significant.

No other potential cumulative effects are anticipated with the Project.

43. The following permits and approvals are, or may be needed, for the project:

Unit of Government	Type of Application	Status
Minnesota Pollution Control Agency	NPDES/SDS Construction Stormwater Permit Section 401 Water Quality Certification	To be submitted To be obtained if needed
St. Louis County	Conditional Use Permit	To be submitted
St. Louis County	Wetland Conservation Act approvals on lands under county zoning jurisdiction	To be submitted
St. Louis County	Approval to include trail segments on public road-right-of-ways on VCATV System maps	To be obtained
DNR	Public Waters Work Permit	To be obtained if needed
DNR	WCA approvals on state lands	To be submitted
DNR	ATV Grant-in-Aid Trail Application	Submitted March 2020 - Pending
DNR	Recreational Lease: School Trust Lands and State Forest Lands	To be submitted
DNR	Approval to include trail segments on David Dill/Arrowhead State Trail on VCATV System maps	To be obtained
U.S. Army Corps of Engineers	Section 404 Clean Water Act Permit	To be obtained
Cities and Townships	Zoning or other approvals	To be applied for if needed

## 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 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 Facts, ¶¶ 42a-l, the DNR concludes that the following types of potential environmental effects, as described in the Findings of Fact, will be limited in extent, temporary, or reversible:

- Project Construction
- Land Use
- Soils
- Water Resources
- Solid Waste Hazardous Materials
- Wildlife Resources and Habitat
- Endangered, Threatened, and Species of Special Concern
- Historic Properties
- Air/Dust
- Noise
- Traffic

3. *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 result from the addition of the effects of the proposed project and reasonably foreseeable future projects to the existing condition.

Cumulative potential impacts could include both project construction and operational activities. Potential cumulative impacts include the following: traffic, noise, dust, plant communities, possible introduction to invasive species, increased potential for erosion, and potential for water quality issues.

As described in Findings of Fact paragraph 42 I, environmental effects during the construction and operations phase of the proposed project could interact with any of the projects listed above.

Based on the Findings of Fact above, the DNR concludes that the cumulative potential environmental effects to traffic, noise, dust, plant communities, potential introduction of invasive species erosion, and water quality issues are not expected to be significant when viewed in connection with other contributions; the degree to which the project complies with proper (permanent) monitoring and mitigation measures and maintenance to minimize project impacts.

4. *Extent to which environmental effects are subject to mitigation by ongoing public regulatory authority.* Based on the Findings of Fact set forth 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:

**Project Construction/Improvements:** Multiple permits will control environmental effects associated with project construction, including the St. Louis County Conditional Use Permit and Wetland Conservation Act approvals; USACE Clean Water Act Section 404 Permit; DNR Public Waters Work Permit; DNR Wetland Conversation Act approvals, DNR ATV Grant-In-Aid, DNR Recreational Lease on School Trust Lands and State Forest Lands; MPCA NPDES/SDS General Construction Stormwater (CSW) Permit and its associated Stormwater Pollution Prevention Plan, Section 401 Water Quality Certification; Local Government Unit approvals/permits

**Land Use:** Environmental effects from land use changes are subject to mitigation by ongoing regulatory authority by St. Louis County Conditional Use Permits, and approval is to include trail segments on public road-right-of-ways on VCATV System maps as well as approval by DNR that would include trail segments on David Dill/Arrowhead State Trail on VCATV System maps.

**Stormwater, Erosion, and Sedimentation:** Environmental effects from stormwater, erosion and sedimentation are subject to mitigation by ongoing regulatory authority under the MPCA NPDES/SDS Construction Stormwater General Permit and the required SWPPP. These approvals address potential stormwater runoff impacts where temporary erosion and sediment control BMPs would be installed prior to construction. Redundant erosion control measures for any soil disturbing activities that encroach within 50 feet of natural surface waters or wetlands at the site will be required in the MPCA permit. The Proposer commits to employing appropriate trail construction BMPs for water quality and erosion control for the trail.

**Wetlands:** Impacts to wetlands are subject to permitting under the Minnesota Wetland Conservation Act administered by the DNR and the USACE Clean Water Act Section 404 Permit. Mitigation would be conducted pursuant to any permit conditions. Environmental effects to wetlands are subject to mitigation by ongoing public regulatory authority under the Minnesota WCA.

**Surface Waters:** All construction work proposed beneath the Ordinary High Water (OHW) level in public waterways will be subject to regulation under Work in Public Waters Permit, which would be required

from the DNR. Other water-related permits applicable to the project include the USACE Clean Water Act Section 404 permit, and the MPCA NPDES permit and CWA Section 401 Water Quality Certification.

**Contamination and Hazardous Materials:** It is the proposer's responsibility to properly handle and report any releases of hazardous materials to the State Duty Officer. The proposer commits to work with MPCA if any dredge spoil materials are encountered that need to be moved off site.

**Wildlife Resources and Habitat:** The proposer's commitment, including minimizing wetland impacts, limiting tree removal during certain periods to avoid impacts to wildlife, and minimizing canopy loss provide mitigation for impacts to wildlife resources and habitat from the project. Avoidance Plans for state-listed species and means to control invasive species in existing habitat will provide mitigation for potential impacts.

**Noise:** Operation of construction equipment and machinery would adhere to the State Noise Standards, which are not expected to be exceeded. Environmental effects due to facility construction-, operation-, and maintenance-related noise are subject to mitigation by ongoing public regulatory authority under the MPCA-administered State Noise Standards.

**Traffic:** Environmental effects due to traffic are subject to ongoing regulatory authority under St. Louis county, local government Units, and MnDOT. Impacts to traffic are expected to be negligible.

Prior to initiation of this project, the permits and approvals identified in ¶43 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:

Phase 1A Archaeological Review of the Voyageur County ATV Trail System (July 2020). Duluth Archaeology Center.

Guidance documents are based on the best available scientific studies that have been tested and approved by regulatory authorities. The proposed project is being designed in accordance with:

"Program Manual Minnesota Trails Assistance Program, Grant-in-aid (GIA) trails, Off-highway vehicle (OHV) – Funds of ATV, OHM, and ORV" (MNDNR; February 1, 2015).

Trail Planning, Design, and Development Guidelines (DNR, 2007).

Rehabilitation Planning Study: Scenic Fire Lookout Tower, Scenic State Park (February 2019). Prepared Gemini Research and Widseth Smith Nolting.

6. As set forth in ¶¶1 – 38, DNR has fulfilled all the procedural requirements of law and rule applicable to determining the need for an EIS on the Voyageur Country ATV System Project located in 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 the proposed Voyageur Country ATV System 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 Voyageur Country ATV System Project located in the St. Louis County, Minnesota.

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 18<sup>th</sup> day of March 2021

**DEPARTMENT OF NATURAL RESOURCES**



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Jess Richards  
Assistant Commissioner