

TRANSPORTATION REGIONAL GENERAL PERMIT

June 23, 2023



US Army Corps
of Engineers®





MEET THE REGULATORY TEAM



Erik Madaus

Office Administrative Assistant

Erik.A.Madaus@usace.army.mil

651-290-5357



Sean Kelly

Lead Project Manager

Sean.R.Kelly@usace.army.mil

(651) 290-5769

Morgan Vinyard

Regulatory Specialist

Morgan.W.Vinyard@usace.army.mil

651-508-3102



Tom Hayek

Regulatory Specialist

Tom.J.Hayek@usace.army.mil

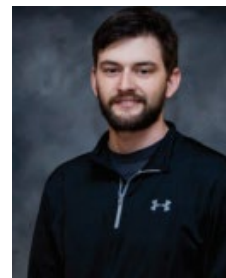
651-290-5344

Matt Groshek

Project Manager

Matthew.M.Groshek@usace.army.mil

(651) 290-5732



Benjamin Orne

Branch Chief

Benjamin.G.Orne@usace.army.mil

(651) 290-5280



OUTLINE



1. The New Transportation Regional General Permit (RGP) and How to Use It

- a. Transportation RGP
- b. RGP Expiration or Reverification
- c. What's New in the Transportation RGP
- d. 401 Water Quality Certification
- e. Pre-Construction Notice Triggers & Project Examples

2. Preparing a Permit Application

- a. Drawings and Figures
- b. Endangered Species Act (ESA) Considerations
- c. State Historic Preservation Act (106) Considerations

3. Submitting Projects to the Corps

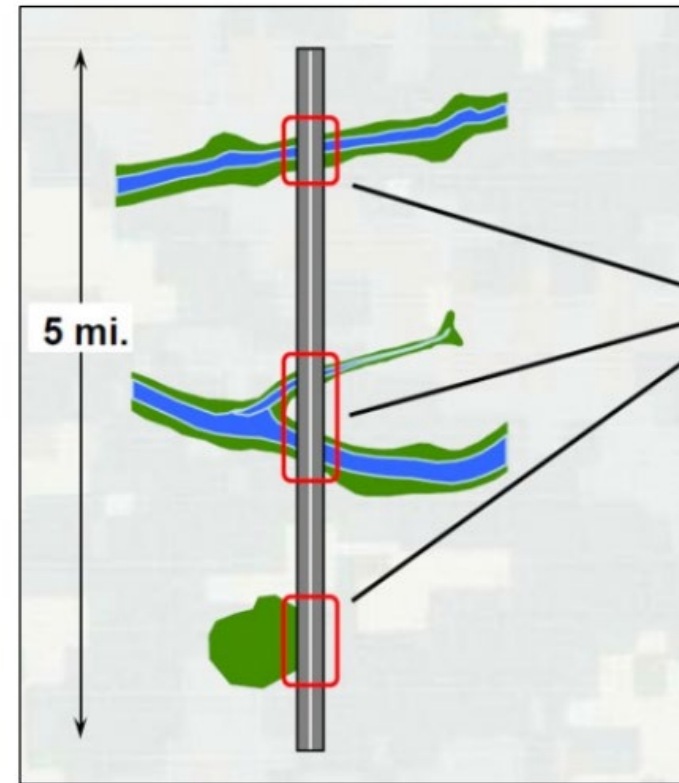
- a. Minnesota Inbox Email
- b. Notes on MPARS Applications
- c. Meet the Regulatory Team



TRANSPORTATION REGIONAL GENERAL PERMIT



- Section 10/404 Coverage: TRGP is an important permitting vehicle for transportation projects
- 5 categories to authorize different activities
 1. Minor Maintenance – Linear Transportation
 2. Modification – Linear Transportation
 3. New Construction – Linear Transportation
 4. Non-Linear Transportation Projects
 5. Transportation Surveying
- Single and Complete Linear Projects (SCLiPs)
- Each Category has specific pre-construction notification (PCN) requirements, thresholds, and activity restrictions





RGP EXPIRATION OR RE-VERIFICATION



- All RGP activities must be conducted in accordance with RGP terms and conditions
- The time limit for completing work authorized by the permit ends upon the expiration date of the RGP
- RGPs are on a 5-year cycle

Regional General Permit	Effective Date	Expiration Date
2018 RGPs	February 21, 2018	February 20, 2023
2023 RGPs	February 20, 2023	February 19, 2028

- Applicant's options for 2018 RGPs:
 - Complete work within 12 months of expiration, if work commenced (or under contract to) prior to expiration date
 - Reverify projects under the 2023 RGPs after February 20, 2023



CHANGES FOR 2023 TRGP: PCN TRIGGERS



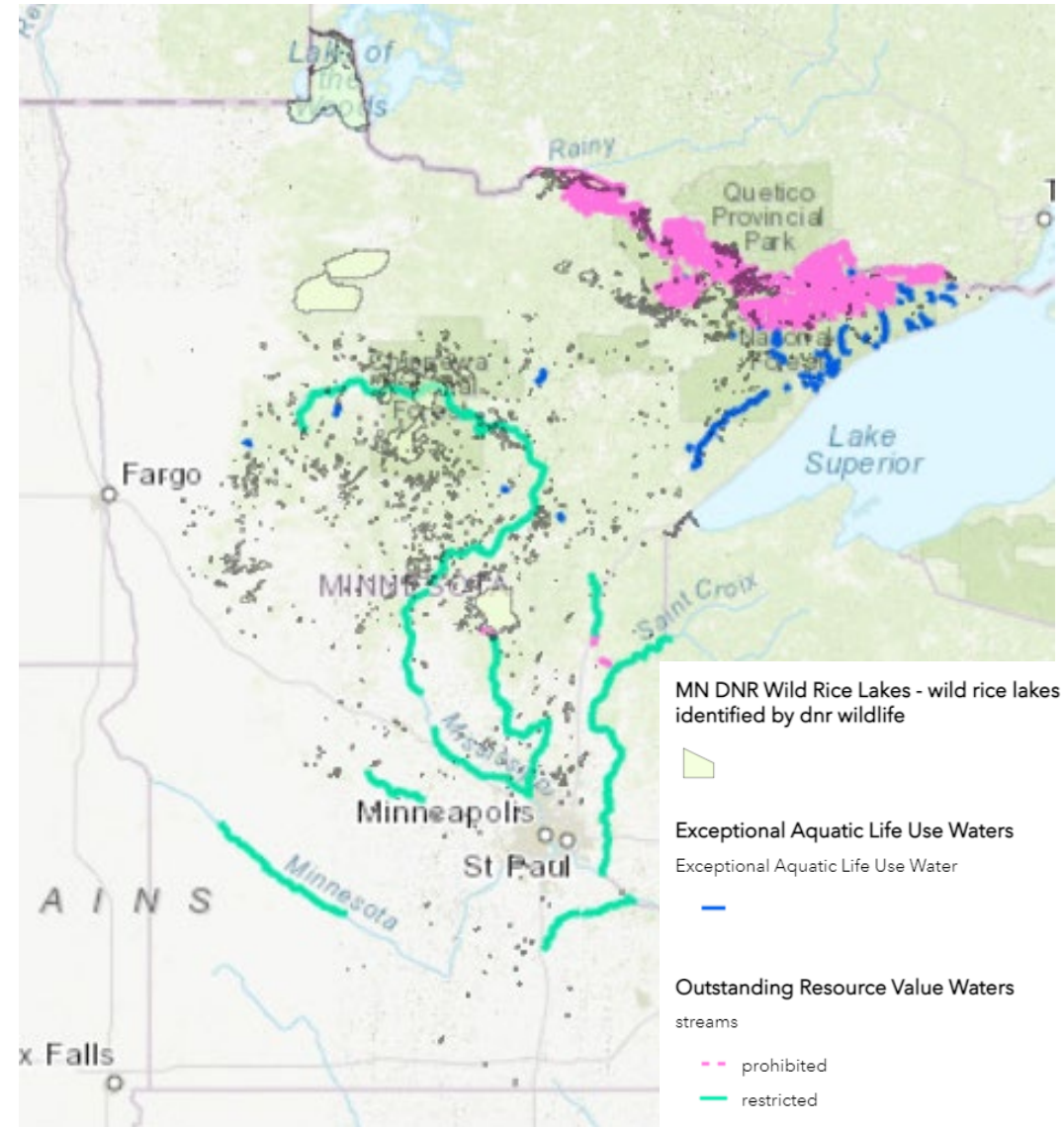
Aquatic Resource PCN Triggers

- Exceptional Aquatic Life Use Waters
- Outstanding Resource Value Waters (ORV)
Prohibited and Restricted Streams

Site-Specific PCN Triggers

- State-designated wild rice waters
- Bogs and fens

New triggers apply to TRGP Categories 2 - 5 only

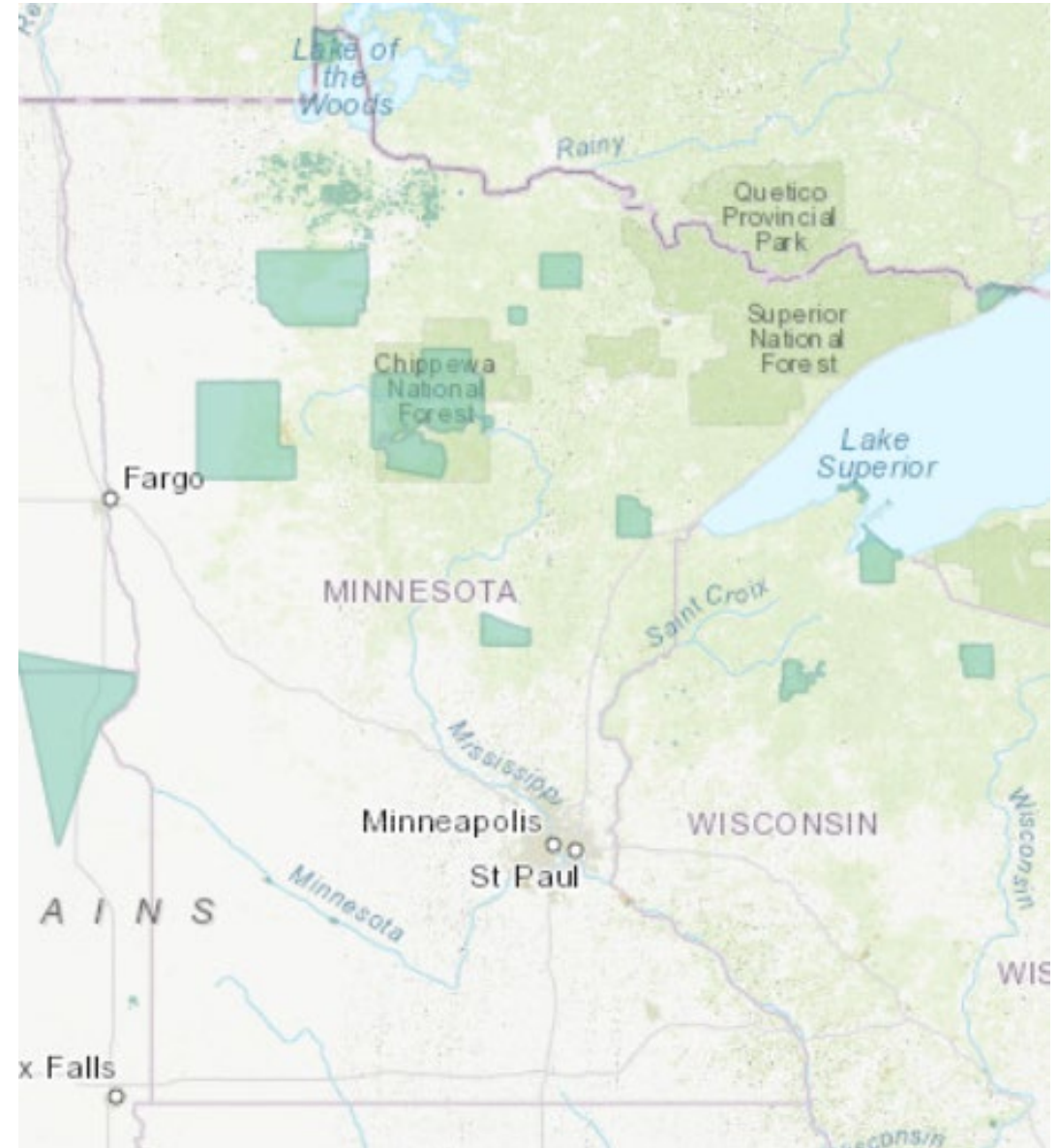




CHANGES FOR 2023 TRGP: COORDINATION



- **Agency coordination** (EPA, USFWS, MPCA, MNDNR) is now required for activities which require a waiver (linear footage) to be eligible for authorization by the RGP
- **Tribal coordination** is required for PCN projects within tribal boundaries: 10 to 25-day review timeframe
 - 10 days for Tribe to contact District Engineer
 - 15 day waiting period to issue a decision





NOTABLE CHANGES FOR 2023 TRGP



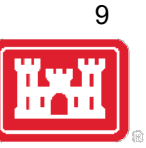
- Changes to PCN thresholds:
 - Tributary thresholds:

Category	2018 RGP PCN Thresholds:	2023 RGP PCN Thresholds:
1. Maintenance	Nothing	No change
2. Modification	Waiver to exceed 500 LF	Exceed 300 LF (waiver for >500LF)
3. New Construction	Waiver to exceed 500 LF	Exceed 300 LF (waiver for >500LF)
4. Non-linear	Waiver to exceed 300 LF	No change
5. Surveying	Nothing	No change

- Removal of the following reporting requirement for Category 2 (Modification):
 - This requirement applied to overall projects proposed to result in the cumulative loss in 10,000 square feet or more of waters of the U.S.
- Cast-in-place concrete culverts have been added to the list of culverts not requiring a PCN



401 WATER QUALITY CERTIFICATION



- RGP authorization is not valid without a 401 Water Quality Certification (WQC).
- Once a permit application is submitted, Corps staff will determine if the project activity qualifies for a blanket 401 WQC or if an individual certification is needed.
- If an individual WQC is needed, contact the applicable Certifying Authority as soon as possible.

401 Water Quality Certification of the New Transportation Regional General Permit:

MPCA	EPA*	Grand Portage Band	Fond du Lac Band	Leech Lake Band	Red Lake Band
Partial Certification with Conditions & Partial Denial	Partial Certification & Partial Denial of Certification	Partial Certification with Conditions	Denial of Certification	Denial of Certification	Certified

*EPA provides WQC decisions for tribes in Minnesota that do not have Treatment as a State status



INDIVIDUAL 401 WATER QUALITY CERTIFICATION



- The **Certifying Authority will notify the Corps** when a complete WQC request has been received.
- The **Corps will set the reasonable period of time** (60-75 days for GP's, 120 for IP's)
 - Timeline can be extended by request up to 1 year in total.
- Once an individual WQC is received, the **Corps will initiate coordination with EPA** for the A(2) Neighboring Jurisdiction review (30 days)



PREPARING A PERMIT APPLICATION



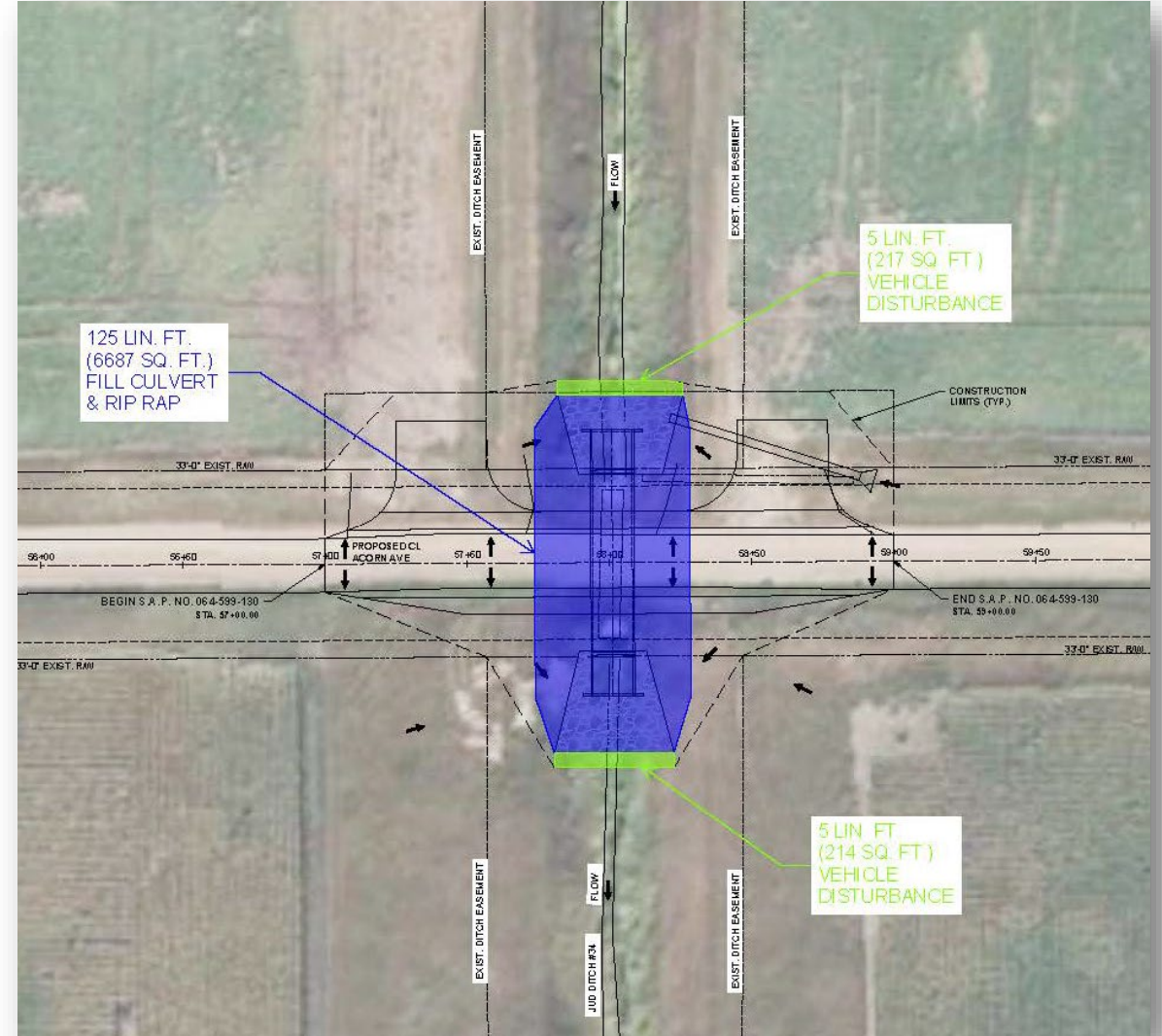
- ✓ **Delineation Reports**
- ✓ **Coordination with WCA or other State or Federal Agencies**
- ✓ **Signed TEP Letter (Attachment E)**
 - Needed to finalize mitigation requirements
- ✓ **Joint Permit Application (JPA)**
 - Depict, label and tabulate the size of all **waters** in the project area
 - Differentiate by type of water (e.g., wetland vs stream)
 - Depict, label and tabulate the size of all **impacts to waters** in the project area
 - Differentiate by type and permanence of impact
 - List tributary impacts in acres/square feet **and** linear feet
 - Mitigation is generally required for the footprint of permanent impacts in Waters of the U.S.
 - A project's impacts may require authorization but not compensatory mitigation



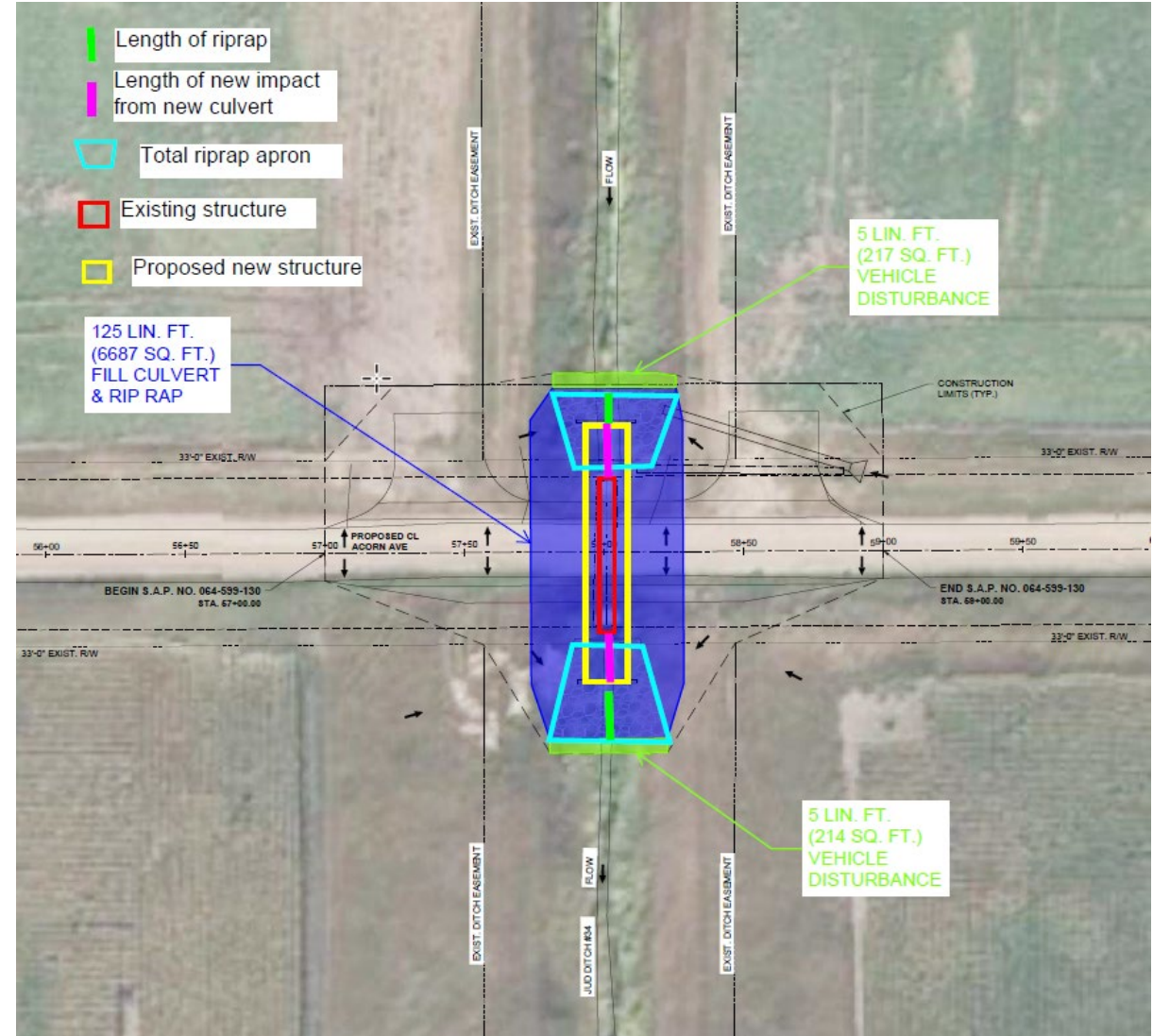
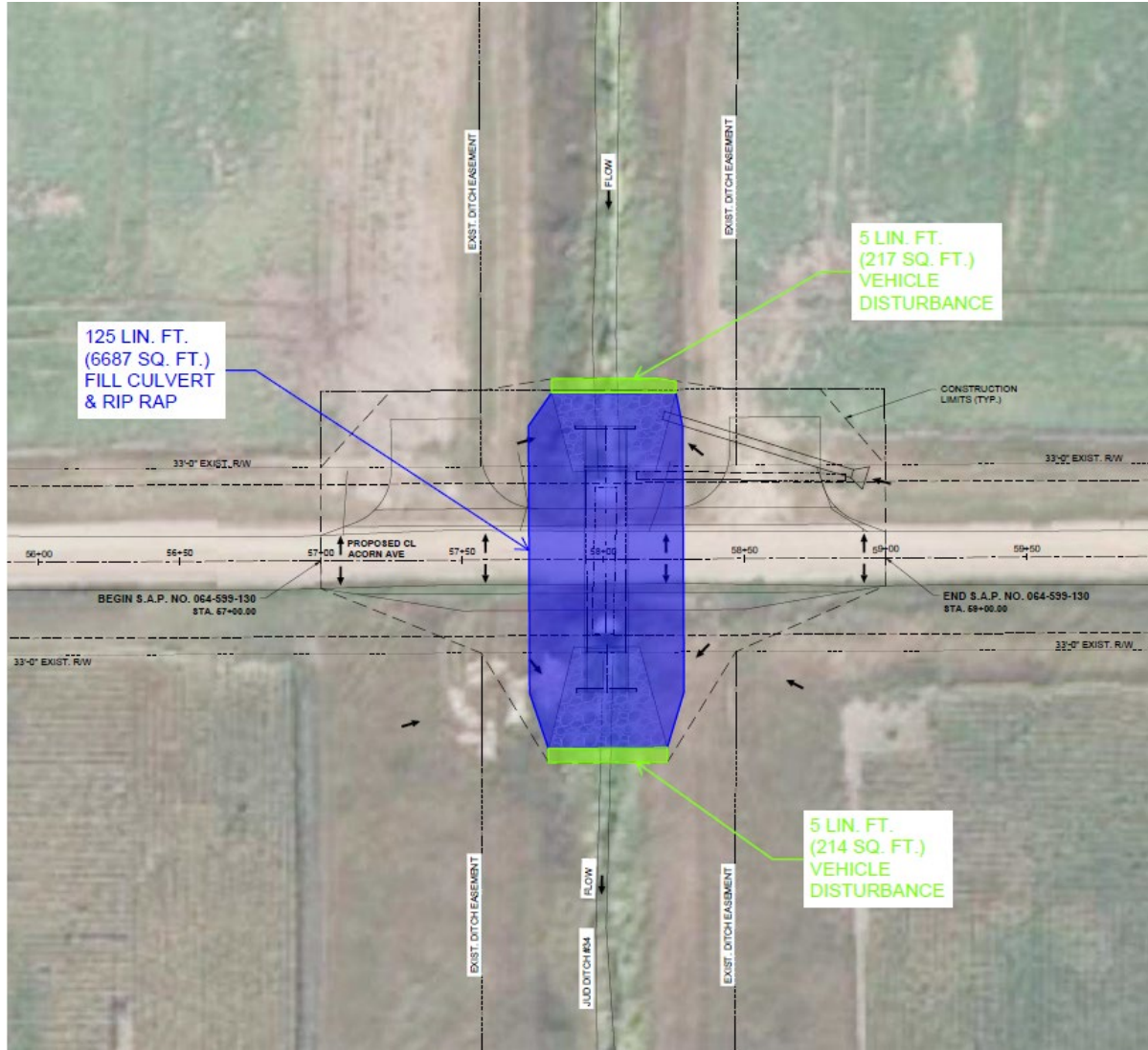
AQUATIC RESOURCE IMPACT FIGURES



- Depict and label impacts to Waters of the U.S.
 - Identify temporary and permanent impacts by activity type (e.g., riprap, culvert extension)
 - Break up impacts by resource type
 - List wetland impacts in acres/square feet
 - List tributary impacts in acres/square feet and linear feet
- Tributary impacts:
 - Corps only regulates discharges under the Ordinary High Water Mark (OHWM)
- Use aerial photos under construction plans to show impacts



AQUATIC RESOURCE IMPACT FIGURES





AQUATIC RESOURCE IMPACTS



Aquatic Resources ID (as noted on overhead view)	Aquatic Resource Type (wetland, lake, tributary, etc.)	Type of Impact (fill, excavate, drain, or remove vegetation)	Duration of Impact Permanent (P) or Temporary (T)	Size of Impact	Overall Size of Aquatic Resource	Existing Plant Community Type(s) in Impact Area	County, Major Watershed #, and Bank Service Area # of impact area
Stream 1	Tributary	Fill (Culvert extension)	P	125 linear feet (0.15 acres)	N/A	N/A	County, XX, X
Stream 1	Tributary	Fill (Riprap)	P	50 linear feet (0.11 acres)	N/A	N/A	County, XX, X
Stream 1	Tributary	Fill (stream diversion)	T (30 Days)	10 linear feet (431 square feet)	N/A	N/A	County, XX, X

AQUATIC RESOURCE IMPACTS

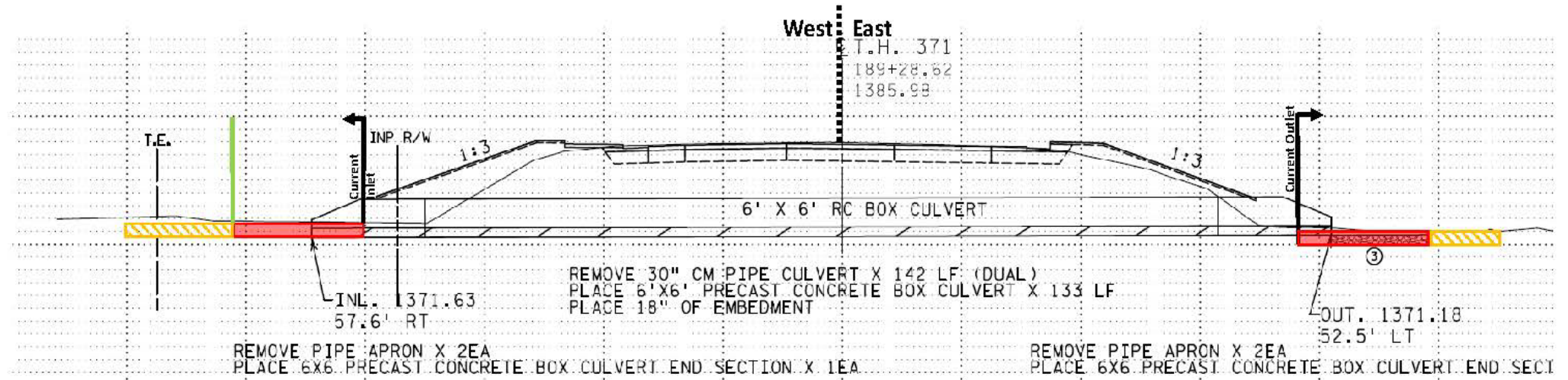
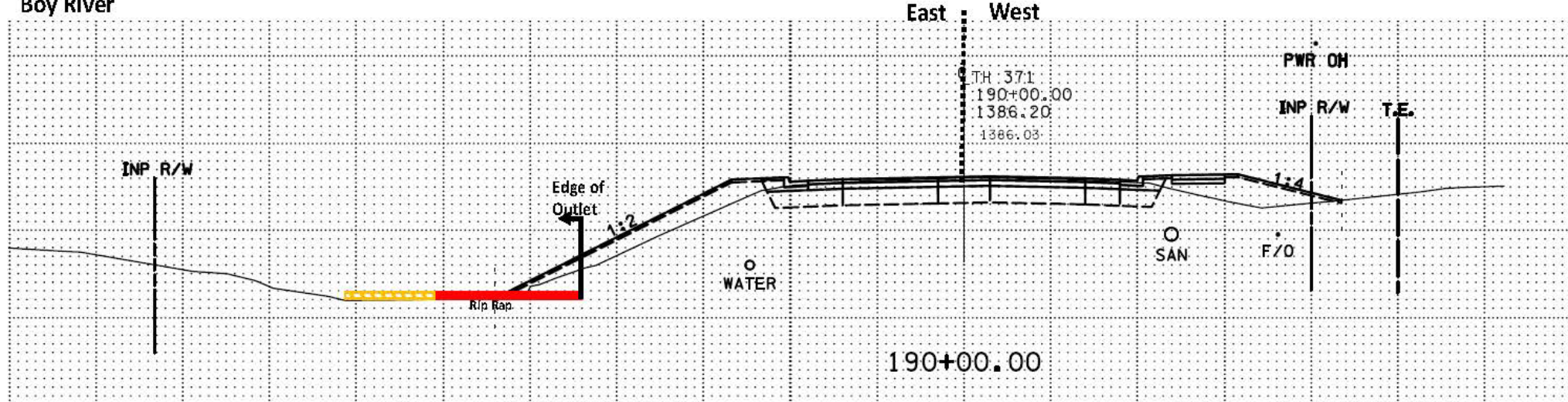




AQUATIC RESOURCE IMPACTS



Boy River





AQUATIC RESOURCE IMPACTS



Aquatic Resources ID	Approx. Station Reference	Regulatory Type (wetland, lake, tributary, etc.)	Type of Impact (fill, excavate, drain, or remove vegetation)	Duration of Impact Permanent (P) or Temporary (T) ¹	Impacts (Acres) ²	Impacts (ft ² and/or LF)	Existing Plant Community Types(s) in Impact Area ²	County, Major Watershed #, Bank Service Area # of Impact Area	Figure #
Tributary	189+00	River	Fill	P	0.02	700 ft ² (165 LF)	Nonvegetated Aquatic Community	Cass, 8, 5	Figure 1.2
Tributary	1189+00	River	Fill	T (90 Days)	0.02	588 ft ² (165 LF)	Nonvegetated Aquatic Community	Cass, 8, 5	Figure 1.2
Wetland 5	166+00	Wetland	Fill	P	0.18	7,905 ft ²	Type 2 Fresh (Wet) Meadow	Cass, 8, 5	Figure 1.3
Wetland 5	166+00	Wetland	Fill	T (90 Days)	0.03	1,261 ft ²	Type 2 Fresh (Wet) Meadow	Cass, 8, 5	Figure 1.3

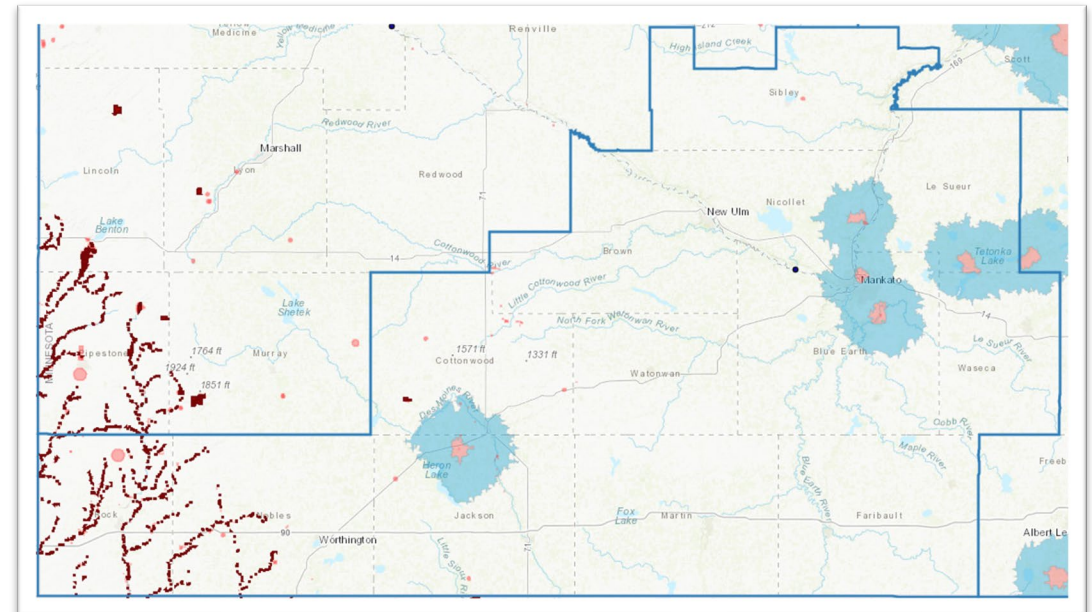


ENDANGERED SPECIES ACT (SECTION 7)



Threatened and Endangered (T & E) Species

- Review potential impacts to key federally T & E species in the area
 - ➔ If the project may affect federal T & E species, PCN would be required for the project
- Identify any species that has the potential to be in your project area
 - Natural Heritage Information System (NHI) data
 - U.S. Fish and Wildlife Service's IPaC Tool: <https://ipac.ecosphere.fws.gov/>
- Identify any suitable habitat in the project area for those species
 - Have any surveys been completed for this project?
- Northern Long-Eared Bat
 - Tree clearing? When? Where? How much?
- Rusty Patch Bumblebee
 - High potential zone?
 - List plants in project area
- Topeka Shiner
 - Work proposed in streams? When? Methods?





NATIONAL HISTORIC PRESERVATION ACT (SECTION 106)



Project Considerations

- Any known historic structures being directly impacted by the proposed work?
 - Historic bridge?
 - MnDOT Bridge Info Interactive Map

- Any known historic buildings nearby directly or indirectly impacted?
 - Sightlines/viewshed?
 - Significant topographic features nearby?

- Any known cultural resource sites near the proposed work?

- Tribal consultation may occur as part of the 106 review process



SUBMITTING PROJECTS TO THE CORPS



- MPARS or Joint Permit Applications?
 - The Corps is copied on MPARS submissions and actions.
 - Submit projects requiring Corps authorization to USACE_Requests_MN@usace.army.mil.
- Please list the State Aid (SAP) or State Permit (SP) number in the application materials and the email submission
- Highlight any previous Corps authorizations in the application and submission email
- Provide good location maps—our Admin will thank you!



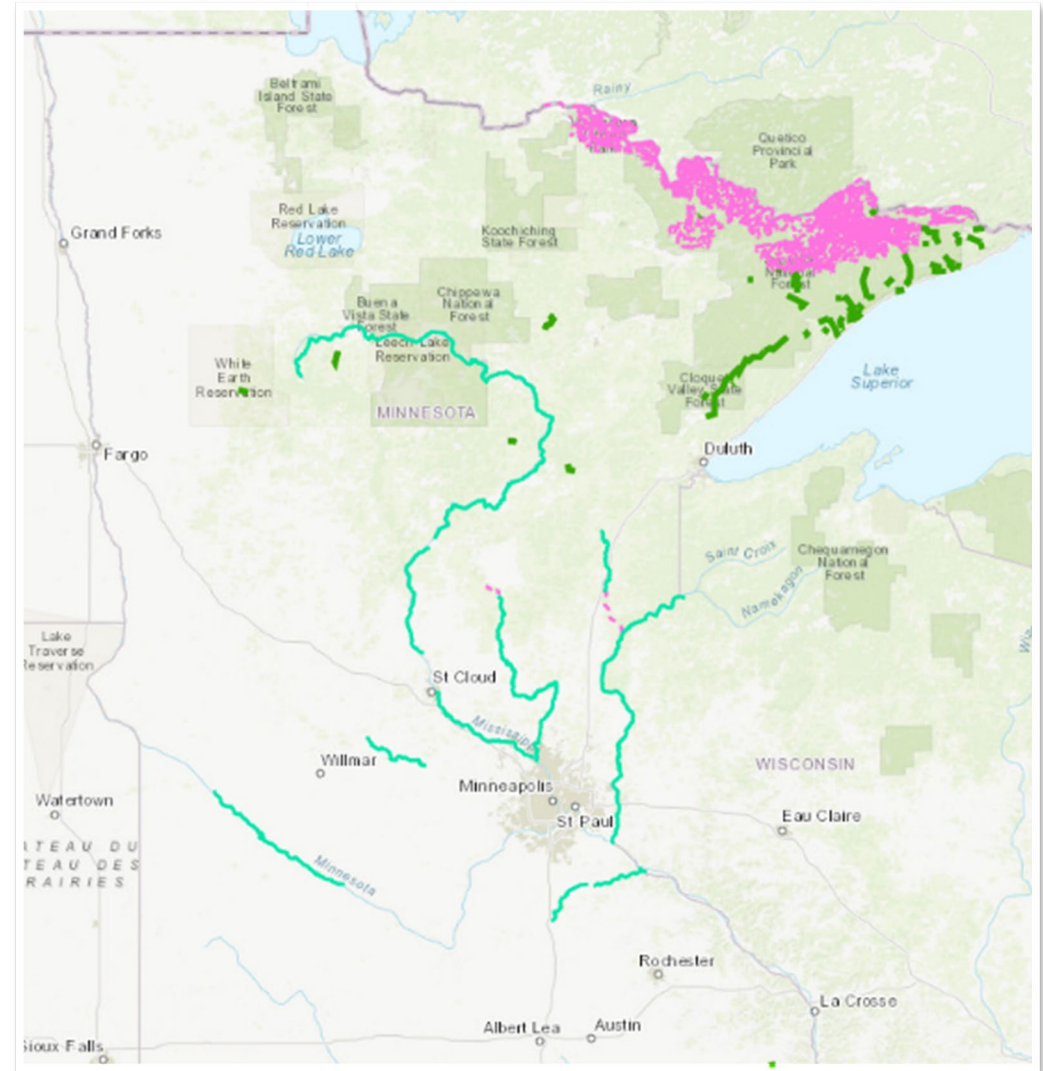
Questions?



NOTABLE CHANGES FOR 2023 TRGP



- New Tributary PCN Triggers in MN:
 - Exceptional Aquatic Life Use Waters
 - Outstanding Resource Value Waters (ORV)
 - Prohibited and Restricted Streams
- New Agency and Tribal Coordination
 - Agency coordination (EPA, USFWS, MPCA, MNDNR) is now required for activities which require a waiver (linear footage) to be eligible for authorization by the RGP
 - New tribal coordination requirements for projects which require PCN within tribal boundaries





401 WATER QUALITY CERTIFICATION



- RGP authorization is valid until a project proponent obtains a Clean Water Act Section 401 Water Quality Certification (WQC) or waiver from the appropriate water quality Certifying Agency.
- Once a project is submitted, Corps staff will determine if projects qualify for blanket 401 WQC or if an individual certification is needed
- If an individual WQC is needed:
 - Schedule a pre-filing meeting with the applicable Certifying Authority early
 - Notify the Corps of the scheduled meeting time
- After pre-filing requirement is satisfied, work with the appropriate WQC authority to request an individual WQC

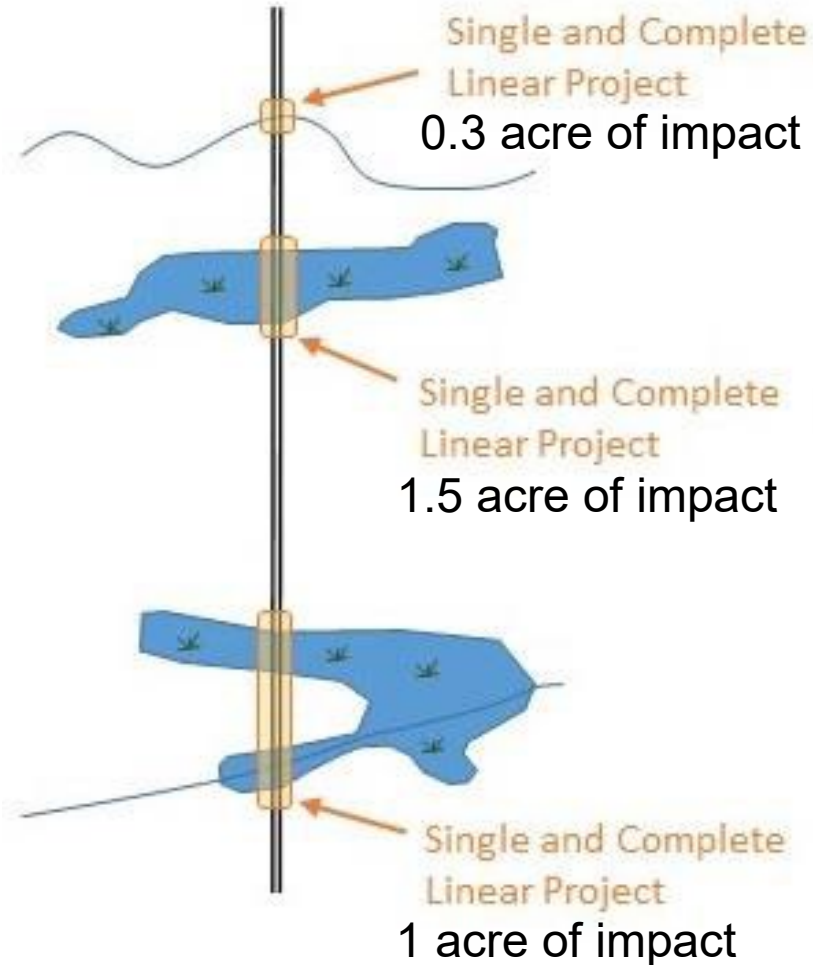


TRGP - CLARIFICATIONS



Category 2

- Eligible activities section now specifies minor realignments and trails associated with public road systems are included
- Under the Activity restrictions section, language has been consolidated and clarified to reflect that a single and complete linear project (SCLIP) cannot cause more than 1 acre of loss UNLESS the overall project (including all SCLIPs) would result in the loss of 3 acres or less of waters of the U.S. (including tributaries).



Overall Project
2.8 acre of impact

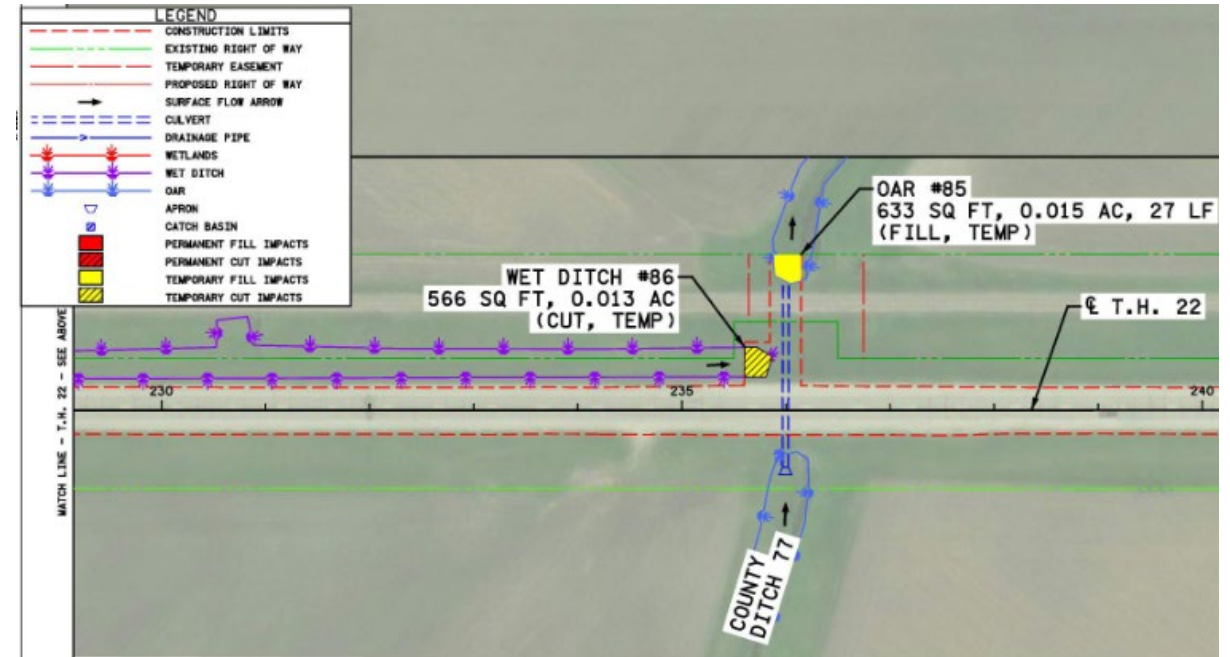


TRGP - CLARIFICATIONS



Category 1

- Category 1 of the TRGP only authorizes the specific activities that are listed within the description.
- Slope widening and road widening activities are NOT authorized under Category 1 of the TRGP. However, minor culvert extensions/apron placements may require tie-in to the slope and that is generally okay.
- Keep in mind the overall purpose of the project and potential riprap (new or beyond the original footprint) that may kick the project out of this category.





ESA & 106 CONSIDERATIONS



Other Federal Issues

Section 7

There are two federally listed species with potential to occur within Hennepin County, the northern long-eared bat (NLEB) and the rusty patched bumble bee (RPBB).

- According to information provided by the USFWS and DNR, there are no documented hibernacula within ¼ mile of the potential area of disturbance or maternity roost trees within 150 feet of the project study area. Tree removal will occur as a result of construction of the proposed project, see **Appendix D** for removal locations. Tree removal will be conducted before June 1 or after August 15th, inclusive, which is outside the northern long-eared bat (NLEB) active pup season.
 - Approximately 1.01 acres of clearing would occur between 0-100 feet from the existing roadway
 - Approximately 0.01 acres of clearing would occur between 100-300 feet from the existing roadway
- According to information provided by USFWS, the project is located within the low potential zone for the rusty patched bumble bee. The majority of the land to be affected by the proposed project is either manicured lawn, unmanicured roadside ditches, agricultural land, forested land, or wetlands. Only the unmanicured roadside ditches would constitute potential foraging habitat for the rusty patched bumble bee. After construction, stabilization of disturbed areas with native seed mixes (State Seed Mixes 33-261, and 35-241) would restore potential foraging habitat.

Section 106 Review

According to information acquired from the Minnesota Office of the State Archeologist (<https://osa.gisdata.mn.gov/OSA-viewer/>), there are no known known archaeological sites within the project limits.



TRIBAL COORDINATION



“Tribal coordination is required for all activities which require PCN and are located within the exterior boundaries of federally-recognized Indian reservations. When tribal coordination is required, the district engineer will immediately provide a copy of the complete PCN to the affected tribe. The tribe will have 10 calendar days from the date the material is transmitted to notify the district engineer that they intend to provide substantive, site-specific comments. If contacted by the affected tribe, the district engineer will wait an additional 15 calendar days before making a decision on the PCN. The district engineer will fully consider the tribe’s comments received within the specified time frame concerning the proposed activity. The district engineer will indicate in the administrative record associated with each PCN that the tribe’s concerns were considered.”



AGENCY COORDINATION



- Agency coordination is required for activities which require a waiver to be eligible for authorization by the TRGP

“When agency coordination is required, the district engineer will immediately provide a copy of the complete PCN to the appropriate Federal or state offices (EPA, FWS, state natural resource or water quality agency). Agencies will have **10 calendar days** from the date the material is transmitted to notify the district engineer that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If contacted by an agency, the district engineer will wait an **additional 15 calendar days** before making a decision on the PCN. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency. The district engineer will indicate in the administrative record associated with each PCN that the resource agencies’ concerns were considered.”