



Endangered Species Act: Updates

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- Protected Species Program – Who are we and what do we do?
 - Federal ESA News and Updates
 - Species Updates
 - Federal In-Lieu Fee Programs (compensatory mitigation)
 - ESA Review Informational Needs
 - MnDOT Research Projects
 - Additional Info/Updates (e.g., DNR)

Protected Species Program

Federal Regulations

- Endangered Species Act
 - Delegated authority to consult on behalf of FHWA
- Migratory Bird Treaty Act
- Bald and Golden Eagle Protection Act

State Regulations

- Endangered Species Statute



Protected Species Program

Environmental Reviews

- All federal-aid projects (MnDOT and SALT)
- Many non-federal MnDOT projects
- Misc. (Permits, Facilities, NMCs)

Surveys / Inspections

- Eagle nest surveys
- Bridge inspections (bats/birds)
- Mussel surveys
- Bumble bee habitat assessments



Protected Species Team

Chris Smith



Ryan Foley



Jessie Schmidt



New Hire (2026)



ESA News and Updates

- Federal Shutdown
 - Impacts to MnDOT minimized due to MnDOT/USFWS liaison (started December 2024)
- Unleash American Energy Act
 - Allow for 'economic impact' assessment of species listings (current: best available science, no economic impact)
 - Limits inclusion of climate change/shifting species distribution in listing criteria
 - Unoccupied habitat not likely to meet CH criteria under proposed changes
- Pet and Livestock Protection Act
 - Mandates that ESA protections removed from gray wolf (delisted) – prevents judicial review (e.g., court cases to challenge or overturn)
 - U.S. House of Representatives passed bill (211 – 204) December 2025
- ESA Amendments Act of 2025
 - Extend timelines for listing processes
 - Fast track de-listings
 - Narrow Critical Habitat criteria/designations
 - Passed House Natural Resources Committee December 2025
 - Awaiting U.S. House of Representatives vote

Species Updates: Monarch

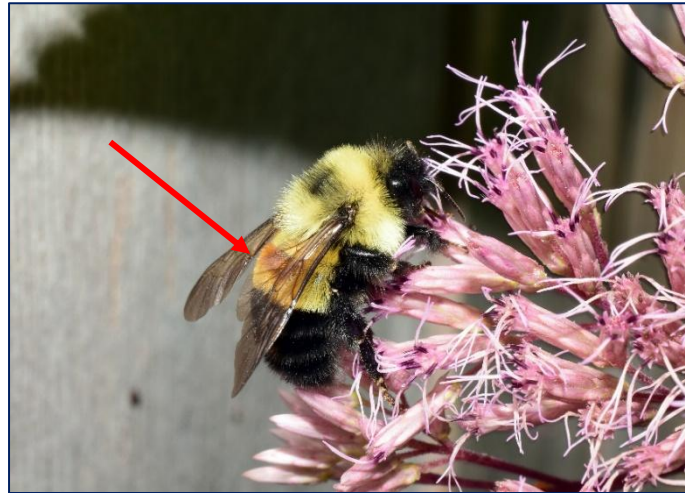
- Monarch
 - Proposed – Threatened (2024)
 - Final rule remains long term action, but final decision/rule **not** expected in the next 12 months
 - Early reports from Western Monarch Count remain low – suggests another historically low year
- Monarch CCAA
 - Cooperative agreement between road authorities and USFWS
 - More time to enroll in this ‘insurance policy’: before final rule
 - Road authorities voluntarily commit to conservation actions intended to benefit monarch & milkweed monitoring
 - In return, road authorities receive regulatory assurances & regulatory certainty – no additional conservation measures required beyond what is in CCAA
 - Adopted acres = 5% of enrolled acres
 - “Business as usual” for road maintenance and construction on non-adopted acres



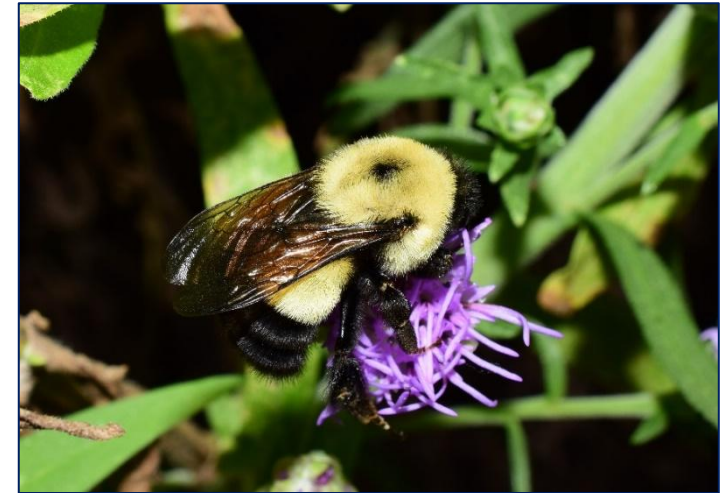
Species Updates: Rusty patched bumble bees

- Federally listed in 2017
- State listing (legislature mandate) anticipated February 2026
- Proposed Critical Habitat
 - 1.6 million acres IL, IA, MN, VA, WV, and WI
 - Generally not problematic (impacts minute % of entire CH)
 - If RFC-NLAA for RPBB, RFC for CH
 - Final rule delayed from 10/31/25 to 3/13/26 (delay due to fed shutdown)
- 2025 surveys indicate mixed year (+MN; -WI)
- MnDOT/FHWA RPBB Programmatic BA – 2026?

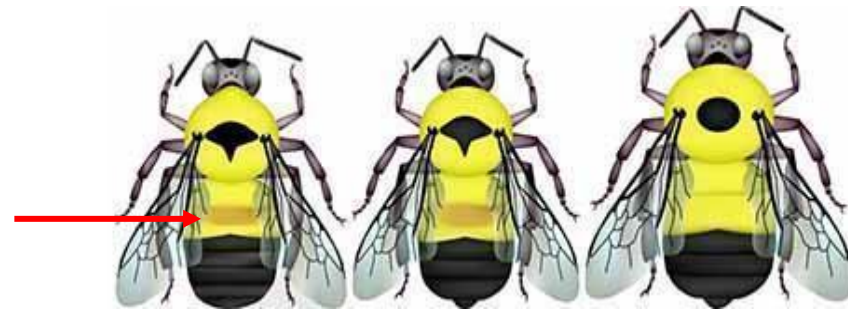
Photos by Christopher E. Smith



Males and Workers



Queens



Illustrations by Dr. Elaine Evans, University of Minnesota

Species Updates: Bats

- Bats
 - Updated FHWA NLEB/TCB/IB PBO (December 2024)
 - Includes TCB (proposed – endangered 2022)
 - Bridges *and* culverts (culvert waiver)
 - Includes Compensatory Mitigation for NLEB (discussed later) for active season tree removals
 - Includes projects >300' from road/rail
 - Noise (e.g., piling driving, jackhammering) >100'
 - Overall: no major issues/problematic changes
 - TCB listing
 - Final Rule pending (delays with all things ESA)
 - Often co-occurs with NLEB, so no major additional burdens



TCB w/ two pups on D6 bridge (2018)

Species Updates: Other

- Turtles (Blanding's & wood)
 - Remain 'Under Review'
 - Unlikely to be proposed any time soon
- Mussels
 - Salamander mussel (proposed – Threatened)
 - Unlikely to have Final Rule any time soon
 - Proposed Critical Habitat (primarily in St. Croix)
 - No major impacts to projects, unlikely any time soon
 - In-Lieu Fee Program/Compensatory Mitigation - TBD
- Wolves
 - Likely delisted as result of Pet and Livestock Protection Act



Blanding's turtle basking. Photo courtesy of Erica Hoaglund.

Federal In-Lieu Fee Programs (Compensatory Mitigation)

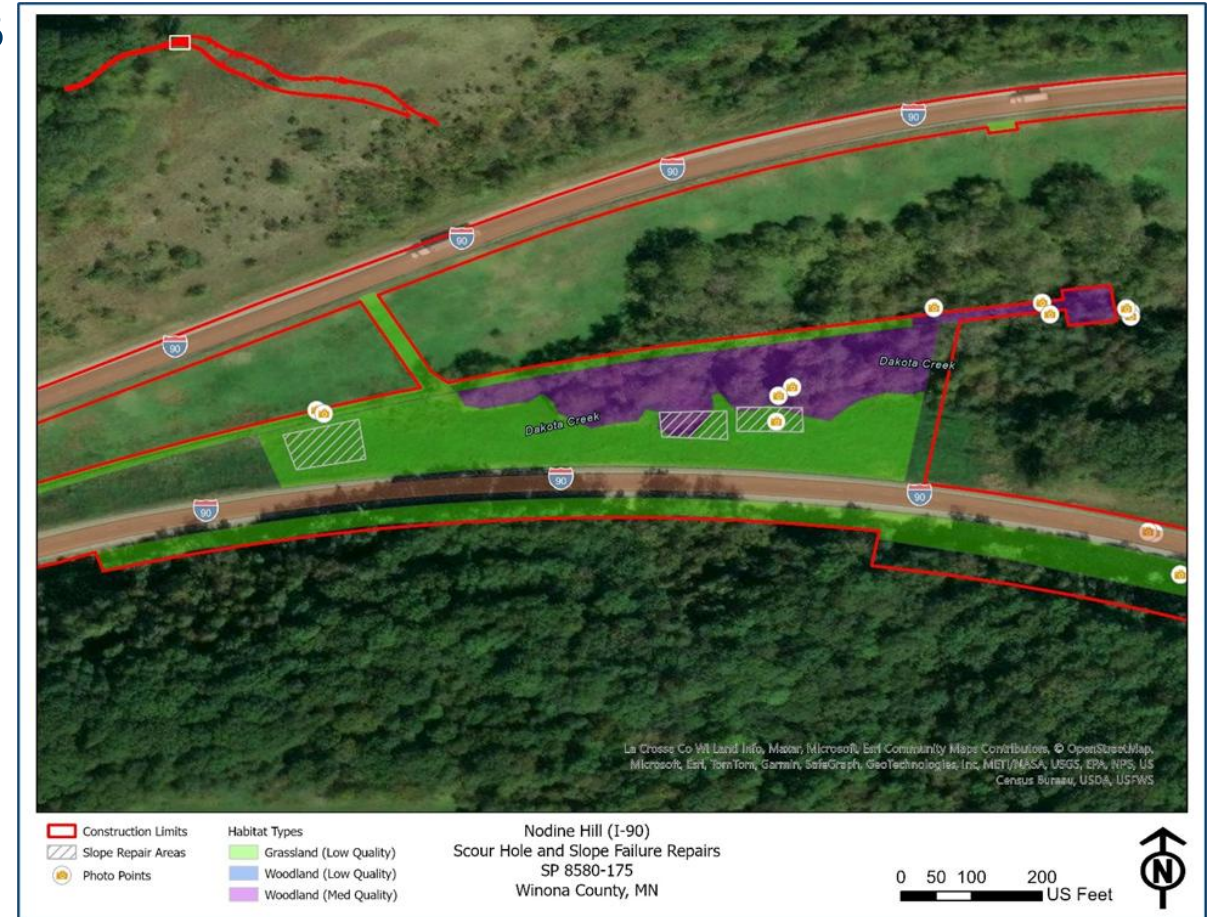
- Bats
 - NLEB/TCB Programmatic Biological Opinion
 - When needed
 - Active season tree removals
 - Removals within documented habitat
 - Ratios dependent on timing, location, distance from roadsides, forest cover (see Table)
 - \$10,837/acre (2026)
 - Example (5 ac during summer within 100' in Crow Wing County [43.99% forest cover])
 - $5 * 1.25 * \$10,837 = \$67,731.25$
 - Timeline: working on agreement with TCF to expedite
- Freshwater Mussels (in progress)

Table 3. Compensatory Mitigation Ratios for Indiana Bat or NLEB.

| Project Location | <30% Forest Cover (within County) | | ≥30% Forest Cover (within County) | |
|---|-----------------------------------|------------------|-----------------------------------|------------------|
| | Active Season* (pup season) | Inactive Season* | Active Season* (pup season) | Inactive Season* |
| ≤100 ft (0-30.5 m) edge of road/rail ballast – outside documented habitat | 1.5 | NLAA | 1.25 | NLAA |
| ≤100 ft (0-30.5 m) edge of road/rail ballast – within documented habitat | 2.25 | 1.75 | 2 | 1.5 |
| 100-300 ft (30.5-91.4 m) edge of road/rail ballast – outside documented habitat | 2.25 | | 2 | |
| 100-300 ft (30.5-91.4 m) edge of road/rail ballast – within documented habitat | 2.25 | 1.75 | 2 | 1.5 |
| Beyond 300 ft (30.5-91.4 m) edge of road/rail ballast – outside documented habitat | 3.0 | | 2.75 | |
| Beyond 300 ft (30.5-91.4 m) edge of road/rail ballast – within documented habitat | 3.0 | 2.5 | 2.75 | 2.25 |

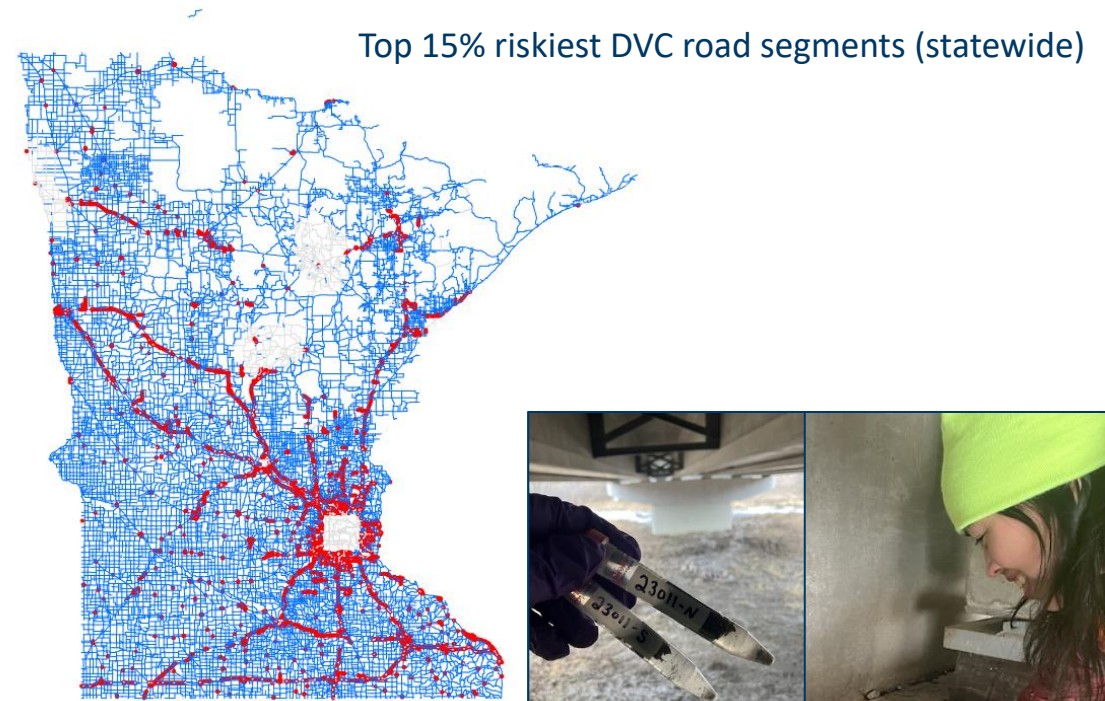
ESA Review Informational Needs

- Information needs focused around RPBB
 - Disturbance limits
 - Habitat quality and acreage
 - Traffic increases
 - AADT Forecasts
 - New Roads
 - New 'asks'
 - Seasonal tree removal restrictions
 - 'Nest minimization window'
 - Minimize disturbance footprint



MnDOT Research Projects

- MN Deer Vehicle Collision Study (2023)
 - Objective: ID high-risk areas for DVCs on MN roads
 - Significant variables
 - AADT (traffic volume)
 - Deer density
 - Next: create map of DVC Hotspots for Districts
 - Inform fencing & wildlife underpass prioritization
- Bat use/bridges study (In Progress)
 - Objective: ID bat species using bridges via defensible sampling protocol of guano for DNA analysis and streamlined ESA consultation
 - Assess guano/DNA results with acoustic detections at bridges
 - Prelim Results: Concrete + water + length = ^bat use
 - Next steps: Sampling protocol development (# and distribution of samples)



MnDOT Biologist Jessie Schmidt collecting guano samples

MnDOT Research Projects

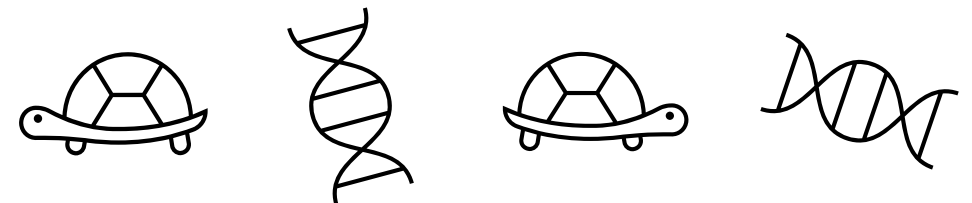
- Turtle eDNA Project (2025)
 - Blanding's and Wood turtles State threatened and under review for Federal listing
 - Turtle avoidance challenging & mitigation expensive
 - Traditional P/A surveys time intensive & expensive (\$25 – \$50k)
 - Objective: maximize detection & minimize cost
 - Results
 - It works
 - Seasonal variation in detectability
 - \$80/sample
 - \$350 (Fall) to \$7,500 (winter)

Table 1. Blanding's Turtle sampling effort required for per-site 95% detection probability, cost per detection, and the cost for 95% detection were calculated. As the year progresses, sampling density necessary to achieve 95% confidence in detection at any given site.

| | 95% CI Sample Density | Number of Sites | Detections | Cost per Sample | Cost per detection | Cost for 95%CI |
|--------|-----------------------|-----------------|------------|-----------------|--------------------|----------------|
| Winter | 91 | 26 | 1 | 79.38 | 2063.88 | 7223.58 |
| Spring | 36 | 36 | 7 | 79.38 | 408.24 | 2857.68 |
| Summer | 12 | 26 | 4 | 79.38 | 515.97 | 952.56 |
| Fall | 6 | 34 | 14 | 79.38 | 192.78 | 476.28 |

Table 2. Wood Turtle sampling effort required for per-site 95% detection probability, cost per detection, and the cost for 95% detection were calculated. As the year progresses, sampling density necessary to achieve 95% confidence in detection at any given site.

| | 95% CI Sample Density | Number of Sites | Detections | Cost per Sample | Cost per detection | Cost for 95% CI |
|--------|-----------------------|-----------------|------------|-----------------|--------------------|-----------------|
| Winter | 69 | 16 | 1 | 79.38 | 1270.08 | 5477.22 |
| Spring | 23 | 19 | 1 | 79.38 | 1508.22 | 1825.74 |
| Summer | 6 | 13 | 3 | 79.38 | 343.98 | 476.28 |
| Fall | 4 | 24 | 5 | 79.38 | 381.24 | 317.52 |



- MnDNR Updates
 - RPBB Listing: Anticipated February 2026
 - MnDNR Webinar (roadside vegetation & RPBB) – Anticipated March 2026
- Staffing Updates
 - MnDOT/USFWS liaison – Kathleen Mahoney
 - Minimized Fed shutdown impacts (2 weeks furlough vs 2 months)

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Thank you