



Photo point 25. Lat 48 51.3008, Long -96 28.1209. East.



Photo point 25. Lat 48 51.3008, Long -96 28.1209. West.



Photo point 26. Lat 48 51.2095, Long -96 27.8215. East.



Photo point 26. Lat 48 51.2095, Long -96 27.8215. West.



Photo point 27. Lat 48 51.1216, Long -96 27.5194. East.



Photo point 27. Lat 48 51.1216, Long -96 27.5194. West.



Photo point 28. Lat 48 51.0322, Long -96 27.2192. East.



Photo point 28. Lat 48 51.0322, Long -96 27.2192. West.



Photo point 29. Lat 48 50.9435, Long -96 26.9191. East.



Photo point 29. Lat 48 50.9435, Long -96 26.9191. West.

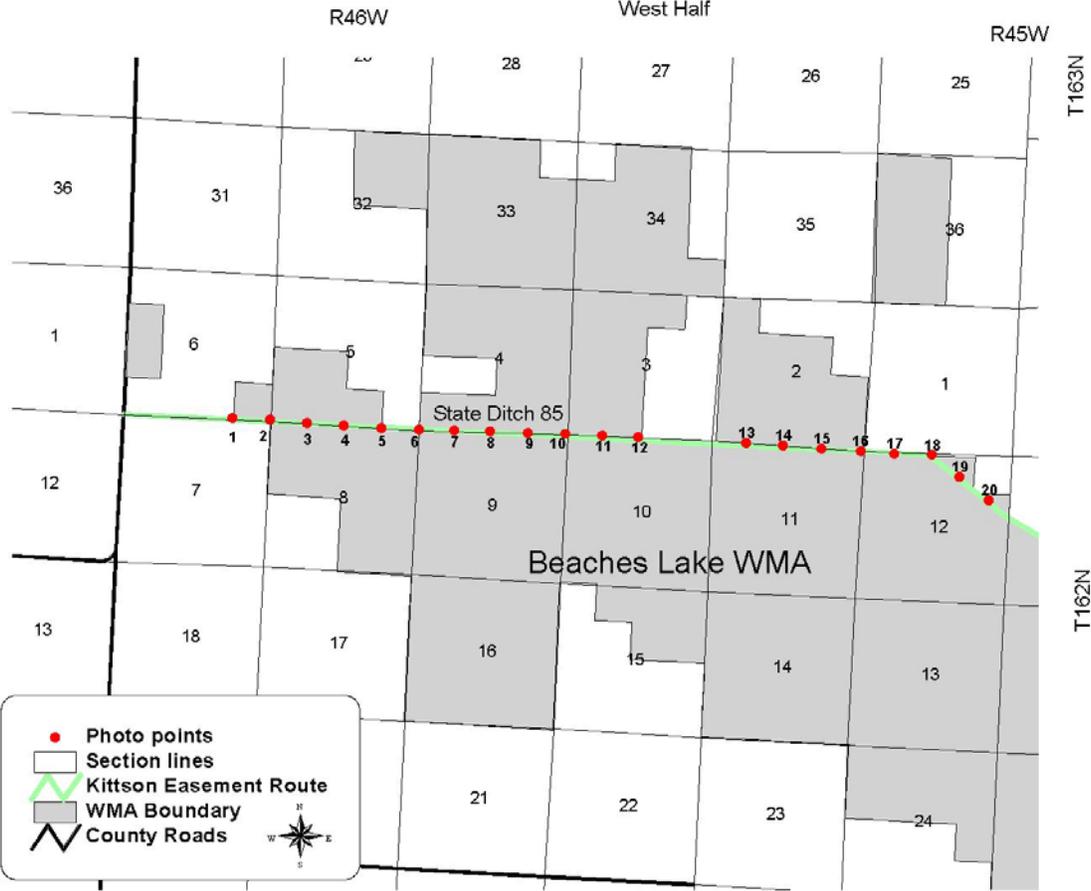


Photo point 30. Lat 48 50.9305, Long -96 26.5941. East.

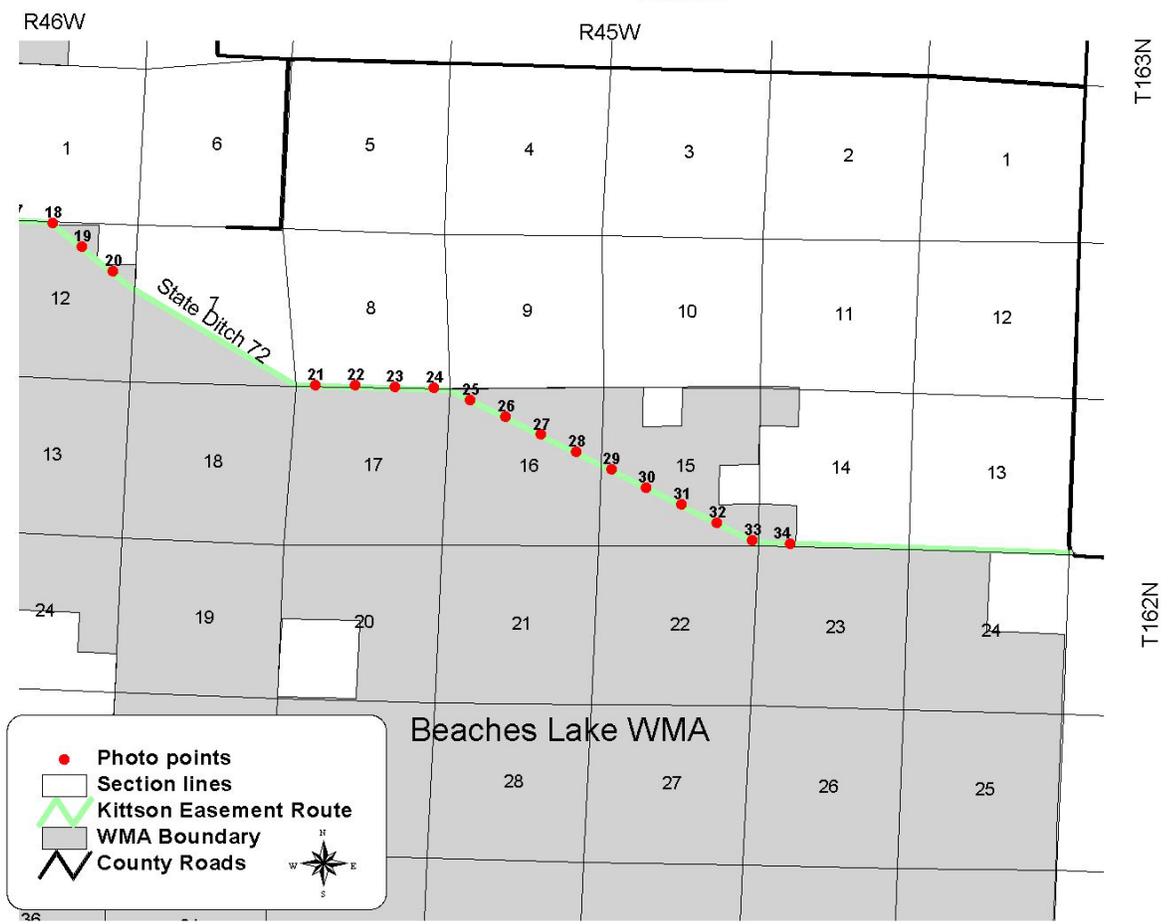


Photo point 30. Lat 48 50.9305, Long -96 26.5941. West.

Kittson Easement 133-023-0877
Property Report Photo Points
West Half



Kittson Easement 133-023-0877
Property Report Photo Points
East Half



REGION 3 WSFR SECTION 7 EVALUATION DOCUMENTATION

PHASE I: COMPLETED BY GRANTEE

(See Phase I Instructions for Completion)

State: *Minnesota* **Grantee:** *Natural Resources* **Grant Program:** *Wildlife Restoration*

Grant Title and Number: *W-27-L-119, Amendment 19*

I. Location:

- A. List counties where grant activities will occur:** *Kittson Co.*
- B. Describe the action area:** *Beaches WMA*

II. Species/Critical Habitat: List species or critical habitat (or attach list) that are and/or may be present within the action area.

Gray wolf (*Canis lupus*)
Dakota skipper (*Hesperia dacotae*)
Western prairie fringed orchid (*Platanthera praeclara*)

III. Description of Proposed Action: Describe the action(s) in sufficient detail so that the potential effects of the action can be identified and fully evaluated.

The proposed project is to create or convey easement(s) for a township road on a 16.5 foot wide strip on the existing spoil embankments on portions of State Ditch 85, State Ditch 72 (main ditch) and Lateral 12 of SD 72. It is unclear at this time if physical upgrades (i.e. shaping, blading, graveling, etc) will be conducted on this corridor outside of minor maintenance (i.e. mowing, spot graveling) once the easement has been conveyed.

Easement #133-023-0877
Beaches WMA – Kittson Co

IV. Description of Effects: Describe the effects, including beneficial, of the project actions on Species/Critical Habitat.

Summary of Minnesota’s recommendations for DNR Easement: 133-023-0877

The action area is: *Beaches WMA*

<u>Species</u>	<u>Status *</u>	<u>Minnesota’s Section 7 recommendation</u>
Minnesota dwarf trout lily (<i>Erythronium propullans</i>)	E	No Effect
Prairie bush clover (<i>Lespedeza leptostachya</i>)	T	No Effect
Western prairie fringed orchid (<i>Platanthera praeclara</i>)	T	No Effect
Leedy’s roseroot (<i>Rhodiola integrifolium leedyi</i>)	T	No Effect
Dakota skipper (<i>Hesperis Dacotae</i>)	C	No Effect
Karner blue butterfly (<i>Lycaeides melissa samuelis</i>)	E	No Effect
Higgins eye pearlymussel (<i>Lampsilis higginsii</i>)	E	No Effect
Winged mapleleaf mussel (<i>Quadrula fragosa</i>)	E	No Effect
Sheepnose mussel (<i>Plethobasus cyphus</i>)	C	No Effect
Spectaclecase mussel (<i>Cumberlandia monodonta</i>)	C	No Effect
Topeka shiner (<i>Notropis topeka</i>)	E, CH**	No Effect
Eastern massasauga (<i>Sistrurus catenatus</i>)	C	No Effect
Piping plover (<i>Charadrius melodus</i>)	T, E, CH ***	No Effect
Canada lynx (<i>Lynx canadensis</i>)	T, CH****	No Effect
Gray Wolf (<i>Canis lupus</i>)	T, CH	Not Likely to Adversely Affect
Sprague’s Pipit (<i>Anthus spragueii</i>)	C	No Effect
Epioblasma triquetra – <i>Smuffbox</i>	P	No Effect

* Federally listed endangered, threatened and candidate species and critical habitat in Minnesota as of September 8, 2011. This includes ten federally listed species, four candidate species, and critical habitat designations for the piping plover Topeka shiner, and Canada lynx.

** US Fish & Wildlife Service has designated five counties in southwestern Minnesota as critical habitat for the Topeka Shiner. These counties include; Lincoln, Murray, Nobles, Pipestone and Rock. This area includes the Big Sioux River and the Rock River Watersheds. Specific location are identified in 50 CFR Part 17, page 44769, Map4.

*** The piping plover is listed as endangered in the Great Lakes watershed and threatened elsewhere. Critical habitats have been designated for the Northern Great Plains population of piping plovers (including area in Lake of the Woods County, MN) and for the Great Lakes population of piping plovers (including area in St. Louis County, MN).

**** On 2/25/09, the U.S. Fish and Wildlife Service published their Final Rule regarding Revised Designation of Critical Habitat for the Canada Lynx. Designated critical habitat for Canada Lynx in Minnesota now includes 8,065 square miles east of Highway 53 in Cook, Koochiching, Lake, and St. Louis Counties, but excludes the Iron Range and the Grand Portage and Vermillion Lake Indian Reservations.

***Erythronium propullans* - dwarf trout lily (E)**

The Minnesota dwarf trout lily (DTL) is a Minnesota endemic wildflower. Preferred habitat is rich north-northwest or

northeast-facing slopes dominated by maple and basswood and adjoining floodplains dominated by elm and cottonwood. As of May 2002, the Rare Features database included 46 known extant occurrences of *Erythronium propullans* in Rice, Goodhue, and Steele Counties. Within these counties, the species appears to be confined to the watersheds of the Straight, Cannon, Little Cannon, and Zumbro Rivers, and Prairie Creek. Although the conjunction of soil types and pre-settlement forest types in which the lily is now known to occur suggests that unknown populations are unlikely, not all areas of potential habitat, as defined by forest type, have been searched within the watersheds of these rivers. Wildlife management areas with documented occurrences of dwarf trout lily include:

Tangential WMA

Recommendation: *No Effect.*

Strategy:

***Lespedeza leptostachya* – prairie bush clover (T)**

Prairie Bush Clover (PBC) is a long-lived perennial prairie legume endemic to four Midwestern states. Extant occurrences have been documented in 12 Minnesota counties: Brown, Cottonwood, Dakota, Dodge, Goodhue, Houston, Jackson, Mower, Olmsted, Redwood, Renville, and Rice. An 1890 record from Crow Wing County appears to be spurious. Populations often occur in complexes that straddle ownership boundaries. In southeastern Minnesota, Prairie Bush Clover occurs most frequently on the slopes of bluff prairies and its habitat can grade into oak savanna. In southwestern Minnesota, the species most commonly occurs on slopes of hill prairies developed on glacial till, but it is also found on hill prairies that occur over bedrock in the Minnesota River Valley and northeastern Cottonwood County. As of December 2008, only one of the state's known sites occurs on a state wildlife management area, at Pheasants Forever WMA in Dodge County. However, the species is fairly cryptic, despite its large size, and it can occur in native prairie that is less than pristine. There is a good chance that additional populations will be discovered, especially in the Des Moines River Valley and scattered ravine prairies in northern Cottonwood County. At the present time, this species has not been documented west of the Des Moines River, except in prairies immediately adjoining the river.

Recommendation: *No Effect*

Strategy:

***Platanthera praeclara* – western prairie fringed orchid (T)**

Western prairie fringed orchid (WPFO) is a declining tallgrass prairie species that is currently known from six states and Manitoba. Three large meta-populations of thousands of plants occur in Manitoba, Minnesota, and North Dakota. The remainder of populations throughout the range, are small and often isolated. Minnesota is important for the species not only because of the large populations in central Polk County, but because of scattered populations that span the latitudinal and longitudinal range of prairie in the state. Populations have been documented in Clay, Kittson, Mower, Norman, Pennington, Pipestone, Polk, and Rock Counties.

This species is only conspicuous during its July flowering period, and plants are capable of remaining dormant for a period of several years. Although most areas of potential habitat in the interbeach areas have been searched at least once, new groups of plants continue to be found regularly. The species also occurred historically in Douglas, Dodge, Freeborn, Hennepin, Kandiyohi, and Nicollet counties. It is unlikely that the species still occurs in these counties and all areas of potential habitat have been searched at least once in Douglas, Kandiyohi and Nicollet counties. It is possible that unknown orchid populations are present in prairie areas on bedrock-dominated landscapes in Pipestone and Rock Counties.

Western prairie fringed orchid is a wet prairie species, but it may occur in unexpected settings, such as the bedrock underlain areas of the Prairie Coteau, where local hydrology is appropriate. In the Agassiz interbeach area, it appears that orchids may

be related to soil inclusions that follow the interface of wet prairie and sedge meadows. This species is apparently responsive to subtle hydrologic changes. For this reason, off site activities with the potential of altering hydrology at occupied sites should be scrutinized.

Orchids may not appear in newly acquired lands that were formerly grazed until several years after cessation of grazing. They may persist, or even potentially be favored, in shrubby portions of brush prairie. Orchids have been documented in swales in formerly cultivated ground.

Pollination rates appear to be fairly low, and activities that interfere with flower production or with the maturation of pods could impact long term population viability, especially in small populations. Random climatic events such as standing water, late frost, hailstorms, and mid-summer drought are all known to have interfered with flowering in orchid populations within the past decade. Spring burns after orchids have emerged to a height of approximately two centimeters appear to interfere with flowering in the year of the burn, and in cases where damage is severe, to result in reduced flowering in the subsequent season.

As of December, 2007, this orchid is known to occur in the following Wildlife Management Areas and other lands administered or managed by DNR Division of Fish and Wildlife:

Burnham WMA, Polk County
Dugdale WMA, Polk County
Dalby WMA, Norman County
Dugdale WMA, Polk County
Godfrey WMA, Polk County
Godfrey State Trust Land, Section W ½ SE Section 4, T148N, R44W, Polk County
Goose Lake Trust and Tax Forfeit, Sections 8, 16, and 17, T153N, R 45 W, Pennington County
Mentor Prairie WMA, Polk County
Tympanuchus WMA, Polk County
Dalby WMA, Norman County
Pembina WMA, Pennington County
Ulen WMA, Clay County

The following units in Pipestone and Rock Counties have the potential of supporting the orchid:

Jasper WMA, Pipestone County
Eden WMA, Pipestone Co
Little Beaver Creek WMA, Rock County

Recommendation: *No Effect.*

Strategy: *Though this species has been identified within Kittson County, no recorded of them have occurred in Beaches WMA.*

***Rhodiola integrifolium leedyi* – Leedy’s roseroot (T)**

This rare cliff plant occurs on shallow ledges on north-facing limestone cliffs in the Root River drainage. The plants are restricted to specific strata where groundwater seeps through the rock resulting in a constantly wet, dripping habitat. There are four geographically separated Minnesota populations in Fillmore and Olmsted Counties. We have reasonable assurance that all populations are known. Only one of these populations (within Whitewater WMA) is in public ownership, but the cliff faces are largely safe from human alteration and the populations appear to remain stable by rapidly replacing lost individuals.

Leedy’s roseroot is treated at the present time by the USFWS as a single subspecies of a more widely distributed species. This recognized subspecies occurs in New York and Minnesota. However, genetic data from Joel Olfelt at St. Olaf College strongly

indicate that Minnesota populations are sufficiently distinct from the New York population to be treated as a separate taxon, and furthermore the 4 Minnesota populations may be distinct from one another.

Recommendation: *No Effect.*

Strategy: No Effect

***Hesperia dactotae* – Dakota skipper (C)**

The Dakota skipper butterfly is found in high quality remnants of tallgrass and mixed grass prairie in Minnesota, North Dakota, South Dakota and two Canadian provinces. Dakota skippers have been documented in the following counties in Minnesota: Big Stone, Chippewa, Clay, Cottonwood, Kittson, Lac Qui Parle, Lincoln, Murray, Norman, Pipestone, Polk, Pope, Swift, Traverse and Yellow Medicine. Experts believe that the likelihood of significant unrecorded populations in Minnesota is low. Dakota skippers are sensitive to several types of artificial and natural disturbances and are almost always absent from prairie remnants that are overgrazed or otherwise degraded. The isolation of remaining populations and threats to their habitat makes them highly vulnerable to disturbance. Without the availability of immigrants from nearby undisturbed prairie, Dakota skippers are likely to disappear permanently when isolated prairie remnants are subjected to untimely and intensive disturbance. Wildlife management areas with documented occurrences of Dakota skipper include:

Big Stone WMA, Big Stone Co.
Lac Qui Parle WMA, Main Unit, Chippewa Co.
Pelan WMA, Kittson Co.
Salt Lake WMA, Main Unit, Lac Qui Parle County
Hole in the Mountain WMA, Lincoln Co.
Altona WMA, Lincoln/Pipestone Co
Terrace WMA, Pipestone Co.
Sioux Nation WMA, Yellow Medicine Co.
Tympanuchus WMA, Polk Co.

Recommendation: *No Effect.*

Strategy: *Though this species has been identified within Kittson County, no recorded of them have occurred in Beaches WMA.*

***Lycaeides Melissa samuelis* – Karner blue butterfly (E)**

The Karner blue always occurs in close association with its only known larval host plant, wild blue lupine. Typical habitats, sandy barrens and oak savannas, are dependent on periodic fire to maintain the open character that both the host plant and butterfly need. There is only one extant metapopulation known in Minnesota. This metapopulation is located on the Whitewater WMA in Winona Co. in southeast Minnesota. Colonies within the Whitewater WMA are well documented because of the limited range of the host plant. Wildlife management areas with documented occurrences of Karner blue butterfly include:

Whitewater WMA, Main Branch Unit

Recommendation: *No Effect*

Strategy:

***Lampsilis higginsii* - Higgins eye pearly mussel (E)**

This species occurs in large river habitats. Details about its preferred microhabitat within river systems are unclear, but it has been found on sand-gravel bottoms in deep water and in moderate to swift currents and associated with sauger and fresh water drum fish populations. Its distribution in Minnesota was restricted to the lower reaches of the St Croix, the Minnesota and Mississippi rivers. Its range in the Mississippi contracted historically, but habitat areas in the upper pools are now improving, and propagation and restoration efforts are underway to restore the species to Pool 2.

Recommendation: *No Effect*

Strategy:

***Quadrula fragosa* (E)**

This species occurs in large rivers with clean swift flows and sandy bottoms. Reproduction requires a stable, undisturbed habitat and a sufficient population of fish hosts to complete the mussel's larval development. When the male discharges sperm into the current, females downstream siphon in the sperm in order to fertilize their eggs, which they store in their gill pouches until the larvae hatch. The females then expel the larvae. Those that manage to find a fish host to clamp onto by means of clasping valves, grow into juveniles with shells of their own. At that point they detach from the host fish and settle into the streambed, ready for a long (possibly up to 50 years) life as an adult mussel. In Minnesota, the only known occurrence is in the upper reaches of the St. Croix River.

Recommendation: *No Effect.*

Strategy:

***Plethobasus cyphus* (C)**

This species occurs in large rivers, in areas with sand and gravel substrates. Reproduction is believed to be similar to other unionid mussels, except that it is believed to be a short-term breeder, and is believed to be gravid primarily in early summer. The male discharges sperm into the current, and females downstream siphon in the sperm in order to fertilize their eggs, which they store in their gill pouches until the larvae hatch. The females then expel the larvae. Those that manage to find a host to clamp onto by means of clasping valves, grow into juveniles with shells of their own. At that point they detach from the host fish and settle into the streambed. Therefore, reproduction requires a stable, undisturbed habitat and a sufficient population of hosts to complete the mussel's larval development. The sauger has been shown to be a host organism for the sheepsnose, but its host fish preferences have not been thoroughly surveyed. It has been suggested that the walleye may also be a possible host. Although there are historical records from the Minnesota River in Dakota and Scott counties and at least one from every county along the Mississippi, the only recent (1979-present) live specimens were from the Mississippi in Washington, Wabasha and Winona counties. Threats to this species include: exotic species (especially zebra mussels), impoundments, fluctuating flow releases from dams, sedimentation, small population size, isolated populations, and nutrient enrichment.

Recommendation: *No Effect*

Strategy:

***Cumberlandia monodonta* (C)**

This species occurs in large rivers in areas with fast current velocity. It is most often found among patches of boulders,

and under large rocks, intermixed with sand and gravel substrates. Perhaps because this specific habitat is limited, the species often occurs in colonies. Reproduction is believed to be similar to other unionid mussels, except that it has been speculated that in some parts of the range this species may produce two broods of young per season. The male discharges sperm into the current, and females downstream siphon in the sperm in order to fertilize their eggs, which they store in their gill pouches until the larvae hatch. The females then expel the larvae. Those that manage to find a host to clamp onto by means of clasping valves, grow into juveniles with shells of their own. At that point they detach from the host fish and settle into the streambed. Therefore, reproduction requires a stable, undisturbed habitat and a sufficient population of hosts to complete the mussel's larval development. Unfortunately, the host organism for the spectaclecase is currently unknown. In Minnesota, the spectaclecase historically inhabited the Mississippi River, but recent observations have come only from the mainstem of the St. Croix River and in Rush Creek, in 3 counties (Pine, Chisago and Washington). Threats to this species include: exotic species (especially zebra mussels), delivery and deposition of fine sediments, small populations sizes, isolation of populations), livestock grazing, wastewater effluents, unstable and coldwater flows downstream of dams, gravel mining, and channel dredging.

Recommendation: *No Effect.*

Strategy:

***Notropis topeka* - Topeka shiner (E) (CH**)**

The Topeka shiner occurs primarily in channels and off-channel pools of small prairie (or former prairie) streams. Most Topeka shiner streams are perennial (flow year-round), but some are small enough to stop flowing during dry summer months. In these circumstances, water levels must be maintained by groundwater seepage for the fish to survive. In Minnesota, the Topeka shiner is restricted in its distribution to the streams that are tributary to the Missouri River in Lincoln, Murray, Nobles, Pipestone, and Rock counties in southwest Minnesota. It reproduces in quiet, off-channel pools of these creeks and rivers.

In August 2004, the USFWS designated critical habitat for Topeka shiners on 83 stream segments in 5 southwestern Minnesota counties (Lincoln, Pipestone, Murray, Rock and Nobles). This includes all of the Missouri River Watershed.

As of December, 2008, Wildlife Management Areas containing Topeka shiner critical habitat include Altona, Big John's Bluebird Prairie, Burke, Champepedan, Dewald, Little Beaver Creek, P.F. Mulder, Pipestone, Poplar Creek, Rock River, Russ Blanford, Salt & Pepper, Sherwood, and Terrace.

Recommendation: *No Effect.*

Strategy:

***Sistrurus catenatus catenatus* – Eastern Massasauga (C)**

The eastern massasauga, one of three subspecies of massasauga, is found from New York west to eastern Missouri, Iowa, and into southeastern Minnesota. Massasaugas prefer wet habitats such as marshes, bogs and swamps but also uses old fields, woods and pastures. Two necessary habitat components are sunny areas mixed with shaded areas for thermoregulation, and suitable areas for hibernation. Massasaugas overwinter individually in mammal burrows, tree stumps, rock crevices and crawfish burrows, often in low wet areas. Seasonal shifts between upland and lowland habitat have been reported from some parts of its range.

The massasauga's occurrence in Minnesota is based on two records before 1940 and two records from the Zumbro River drainage in 1969 (Stark unpublished observations). The last sighting reported in Minnesota was from 1986. At present, there is no evidence of established breeding populations on the Minnesota side of the Mississippi River. The Nongame Wildlife Program and the U.S. Fish and Wildlife Service funded a survey for massasaugas in Houston, Wabasha and Winona counties

in 1993. Twenty-three search areas were identified as having suitable habitat, however, no massasaugas were found. Additional surveys in 2001-2002 discovered no massasaugas. This species may well be extirpated from Minnesota as no documented locations have resulted from intensive survey work in recent years.

Recommendation: *No Effect*

Strategy:

Charadrius melodus* - piping plover (T) (E) (CH)**

In Minnesota, the piping plover prefers sandy beaches or sparsely vegetated shorelines that have a gravel or pebbly mud substrate. The only known nesting colonies with long-term occupancy are located in Lake of the Woods with less than 25 pairs in total. Critical habitat sites have been designated in St. Louis and Lake of the Woods counties. Wildlife management areas with documented occurrences of piping plover include:

Reservation Dam WMA

Recommendation: *Species and Critical Habitat - No Effect*

Strategy:

Lynx Canadensis* – Canada Lynx (T) (CH*)**

The Canada lynx inhabits northern forests with downed timber that provides den sites, escape cover, and protection from severe weather. Lynx feed primarily on snowshoe hares that inhabit dense thickets of younger trees and shrubs. Lynx are currently documented as reproducing and resident in Minnesota, but in some years, sightings of lynx in Minnesota may be the result of migrant animals moving down from Canada as their prey base, the snowshoe hare, nears its cyclic lows. More than one recent lynx sighting has come from each of the following 19 counties: Aitkin, Becker, Beltrami, Carlton, Cass, Chisago, Clearwater, Cook, Hubbard, Isanti, Itasca, Koochiching, Lake, Lake of the Woods, Marshall, Pine, Roseau, St. Louis, Stearns, and Wadena. In November 2006, the USFWS designated critical habitat for the Canada Lynx within Voyageurs National Park, which includes no state Wildlife Management Areas. On Feb. 28, 2008, the USFWS announced proposed revised critical habitat for the lynx, including 8,226 sq. mi. in Minnesota in portions of Cook, Koochiching, Lake and St. Louis Counties.

Recommendation: *Species and Critical Habitat - No Effect*

Strategy:

***Canis lupus* – gray wolf (T) (CH)**

Gray wolves presently occupy the northern third of Minnesota, and directly connect to populations in northern and central Wisconsin, and the upper peninsula of Michigan. Current estimates of 2,500+ make this the largest state population in the lower 48 states. Gray wolves are habitat generalists; distribution and abundance of large prey (deer, moose, elk and caribou) are primary determinants of wolf distribution and density. Secondarily, gray wolf abundance and distribution are affected by human-caused mortality. The gray wolf was classified as endangered in the continental 48 states in 1974 under the federal Endangered Species Act of 1973; however, gray wolf status in Minnesota was downgraded to threatened in 1978. Population goals established in the wolf recovery plan, last updated in 1999, were fully achieved in 1999. Delisting of the Great Lakes population occurred in 2009 but reversed later that year.

Recommendation: *Species and Critical Habitat - No Effect*

Strategy: *The gray wolf is found within Beaches WMA. Gray wolf populations are very mobile and quickly*

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Easement #133-023-0877
Beaches WMA – Kittson Co

adapt to changing conditions. Type of use or expansion of the trail system is not expected to change with this easement, and though the volume of use may increase, no significant impact on this species is anticipated.

***Anthus spragueii* – Sprague’s Pipit (C)**

Sprague's pipits prefer native mixed or tall-grass upland prairies, particularly tracts that have light to moderate levels of grazing. Occasional mowing or burning may also provide the short-grass habitat required by this species. Areas with taller, dense grassy vegetation are sought for nest sites. Sprague's pipits prefer native prairie, although non-native grasslands are sometimes used (Robbins and Dale 1999).

They are thought to be solitary migrants and usually arrive on the breeding grounds in late April to mid-May. The size of this species' territory seems to vary widely, and birds may be closely packed in prime habitat. The species feeds almost entirely on arthropods, which are gleaned from the ground surface and grasses as the bird runs by. Habitat requirements for Sprague's pipit, particularly native short-grasses, should be considered in management plans for prairies in areas where this species may occur. This species was classified as a state endangered species in 1984 and was proposed as a federally threatened species in Sept., 2010. In Minnesota, this species has been known to occur in Roseau, Polk and Clay counties.

Recommendation: *No Effect*

Strategy:

***Epioblasma triquetra* – Snuffbox (P)**

The Snuffbox is a small freshwater mussel found in swift-flowing streams with sand and gravel substrates. In Minnesota, it is known from only the St. Croix River in Chisago and Washington Counties. The only documented host for snuffbox glochidia is the logperch (*Percina caprodes*). Threats to the snuffbox include dams, water pollution, and zebra mussel infestation.

Recommendation: *No Effect*

Strategy:

V. Recommended Determination(s) of Effect(s): For all species and critical habitat identified in Section II, mark (X) the appropriate determinations.

A. Listed, Proposed and Candidate Species

- a) "No Effect"
List species for which this recommendation is applicable (or attach list):
See Attachment _____
- b) "May Affect, but is Not Likely to Adversely Affect"
List species for which this recommendation is applicable (or attach list):
See Attachment _____
- c) "May Affect, and is Likely to Adversely Affect"
List species for which this recommendation is applicable (or attach list):

B. Designated and Proposed Critical Habitat

- a) "No Effect" to Critical Habitat
List critical habitat(s) for which the recommendation is applicable. _____
See Attachment _____
- b) "May Affect, but is not likely to adversely Affect"
See Attachment _____
- c) "May Affect, and is Likely to Adversely Affect"
List critical habitat(s) for which the recommendation is applied. _____

State Signatures:

Prepared by:
Name/Title: Jeanne Daniels, Federal Assistance Coordinator
Signature: Jeanne M. Daniels Date: 9/8/2011
Telephone No. 651.259.5214 email: Jeanne.daniels@dnr.state.mn.us

Reviewed by:
Name/Title: Richard Baker, Minnesota Endangered Species Coordinator
Signature: Richard J. Baker Date: 9/8/11
Telephone No. 651.259.5073 email: Richard.baker@state.mn.us

Daniels, Jeanne M (DNR)

From: Magner, Mike (DNR)
Sent: Thursday, February 17, 2011 1:05 PM
To: Daniels, Jeanne M (DNR)
Subject: Beaches Lake Road Easement

The following proposal was recently reviewed:

Grant permanent road easement along and adjacent to State Ditches 85 and 72
Kittson County

A review of project documentation suggests that the easement corridor will be confined to an artificial landform (an existing ditch bank road). Furthermore, archival research indicates that there are no recorded historic properties along the ditch bank. Granting the easement therefore would not appear to meet the definition of an "undertaking with the potential to affect historic properties" for purposes of Section 106 of the National Historic Preservation Act (NHPA). This determination has been guided by the 6/29/98 procedural document agreed upon by the Minnesota SHPO, DNR-Wildlife, and the Region 3 USFWS Federal Aid Office.

No further cultural resource review is necessary.

- Mike Magner
DNR Forestry / Fish & Wildlife Archaeologist
DNR Forestry Resource Assessment Office
413 SE 13th Street
Grand Rapids, MN 55744

Phone: 218-327-4449, ext. 243
fax: 218-327-4517

Attachment 5 Kittson Co. Board Resolution

RESOLUTION
Kittson County Board of Commissioners
Hallock, Minnesota 56728

Date January 18, 2011 Resolution No. #11-05
 Motion by Commissioner Olson Seconded by Commissioner Younggren

BEACHES LAKE ROAD EASEMENT

WHEREAS The Kittson County Highway Department proposes to acquire a permanent road easement along and adjacent to State Ditch 85 and State Ditch 72, and

WHEREAS the easement will allow for a legal corridor of travel for the public, and

WHEREAS Pursuant to Minnesota Statutes, the Kittson County Highway Department has prepared a right of way plan. The plan is on file at the Engineer's Office at 401 2nd Street SW, Hallock, MN 56728 and made a part of hereof, and which lands are more particularly described therein as follows:

- | | | |
|------------|----|---|
| Parcel No. | 1 | State of Minnesota, Department of Natural Resources |
| | 2 | State of Minnesota, Department of Natural Resources |
| | 3 | State of Minnesota, Department of Natural Resources |
| | 4 | State of Minnesota, Department of Natural Resources |
| | 5 | State of Minnesota, Department of Natural Resources |
| | 6 | State of Minnesota, Department of Natural Resources |
| | 7 | State of Minnesota, Department of Natural Resources |
| | 8 | State of Minnesota, Department of Natural Resources |
| | 9 | State of Minnesota, Department of Natural Resources |
| | 10 | State of Minnesota, Department of Natural Resources |
| | 11 | State of Minnesota, Department of Natural Resources |

NOW, THEREFORE, BE IT RESOLVED That the County Board of Commissioners hereby authorize the County Engineer to proceed to acquire the road easement over said land in accordance with Minnesota Statutes.

BE IT FURTHER RESOLVED That the Kittson County Board of Commissioners hereby authorizes the acquisition of said land by eminent domain and to take title and possession of that land prior to the filing of an award by the court appointed commissioner, pursuant to Minn. Stat. 163.02, Subd. 2, 117.011 and 117.042, and

BE IT FURTHER RESOLVED That those lands as described herein, which cannot be acquired by direct negotiation, shall be acquired by eminent domain and the County hereby requests the County Attorney to file the necessary petition therefore and to prosecute such action to a successful conclusion or until it is abandoned, dismissed or terminated by the County or Court.

VOTING AYE
 Commissioners Spilde x Anderson x Bouvette x Olson x Younggren x

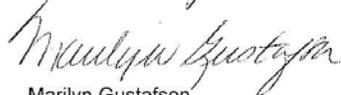
VOTING NAY
 Commissioners Spilde Anderson Bouvette Olson Younggren

ABSTAINING
 Commissioners Spilde Anderson Bouvette Olson Younggren

State of Minnesota
County of Kittson

I, Marilyn Gustafson, County Auditor /Treasurer of the County of Kittson, State of Minnesota, do hereby certify that the foregoing resolution is a true and correct copy of a resolution duly passed at a meeting of the Kittson County Board of Commissioners held on the 18th day of January, 2011.

Witness my hand and official seal at Hallock, Minnesota the 18th day of Jan, 2011.


 Marilyn Gustafson
 Kittson County Auditor/Treasurer

(Seal)

Attachment 6 MOU between the MN DNR and the MN Association of Townships Regarding Town Roads Crossing State-Owned, DNR-Administered Lands

DNR/KEHL ESTHIE

ID:612-297-3517

JAN 18'00

14:50 No.003 P.03

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
AND THE MINNESOTA
ASSOCIATION OF TOWNSHIPS
REGARDING TOWN ROADS
CROSSING STATE-OWNED, DNR-ADMINISTERED LANDS**

The Minnesota Department of Natural Resources (DNR) and the Minnesota Association of Townships enter into this Memorandum of Understanding (MOU) this _____ day of _____, 1996 in order to establish a process for townships to obtain easements for town roads crossing state-owned, DNR-administered land. This MOU applies to town roads on state-owned, DNR-administered land for which there is no record that a written easement (or other written evidence of title) exists. In the event such a town road is discovered, it is the intent of this MOU that there be a written easement issued by DNR to cover the road. DNR agrees to issue easements to townships without charge unless the town road crosses trust fund land or a fee (or other arrangement) is necessary because of other federal or state requirements.

WHEREAS, concerns have been raised regarding certain existing town roads which cross state-owned, DNR-administered lands for which there is no record that a written easement (or other written evidence of title exists); and

WHEREAS, the Minnesota Association of Townships and the Minnesota Department of Natural Resources believe that town roads serve an important public function benefiting the State of Minnesota's citizens and economy; and

WHEREAS, the Commissioner of Natural Resources is authorized under Minn. Stat. § 84.63 (1994) to grant easements over state-owned, DNR-administered lands to townships for town roads.

NOW THEREFORE, The Minnesota Association of Townships and the Minnesota Department of Natural Resources agree to the following:

I. DEFINITIONS:

1. "Town Road" means a road that physically existed and that was established by the town board as a town road, except cartways, as of August 1, 1995.
2. "Timber" means, as defined by Minn. Stat. § 90.01, subd. 6 (1994), trees that will produce forest products of value whether standing or down, and including, but not limited to, logs, posts, poles, bolts, pulpwood, cordwood, lumber, and decorative material.
3. "Trust fund land" is synonymous with the terms "state public lands" or "state lands", as defined by Minn. Stat. § 92.01 (1994), and means school, swamp, university, internal improvement, and other lands granted to the State of Minnesota by acts of Congress and includes lands exchanged with, purchased by, or granted to, the state whose proceeds, if any, would belong to a trust fund such as the permanent school fund, permanent university fund, or university salt land fund as mentioned in Minn. Const. Art XI, §§ 8 & 9 and statutes such as Minn. Stat. §§ 16A.125, 92.05 and 137.022 (1994).
4. "State-Owned, DNR-Administered Lands" means all those lands over which the Commissioner of Natural Resources has authority to issue an easement for road purposes.

II. IN ORDER FOR TOWNSHIPS TO OBTAIN AN EASEMENT FOR A TOWN ROAD CROSSING STATE-OWNED, DNR-ADMINISTERED LAND, THE TOWNSHIPS WILL:

1. Initiate the process for seeking easements from DNR.

2. Provide DNR with a centerline survey of town road(s) prepared by a registered land surveyor for all easements requested.
3. Record the easements and pay all applicable county recording fees.
4. Provide DNR with a copy of the recorded easement.
5. Pay for all timber that must be cut and removed from within the right-of-way if DNR is unable to arrange disposition of the timber through alternative means.
6. Request all easements for town roads crossing state-owned, DNR-administered lands in a township at one time (see paragraph III 6).
7. Purchase easements for those portions of any town roads crossing trust fund land or where other federal or state requirements necessitate payment, or make other arrangements for authorization of the easement, if required. This provision applies to, for example, cases where a road crosses back and forth between state-owned, DNR-administered non-trust fund land and trust fund lands. The entire road must be covered by a single easement; however, the township need pay for an easement only for that portion of the road where payment is required.
8. Where payment for the easement is required, payment may be made in full upon issuance of the easement, or the township may request the following payment plan: 25 percent of the total payment upon issuance, remaining balance paid in three equal annual payments, with interest at the rate provided by Minn. Stat. § 334.01 (currently 6% per year), with the first payment due one year after initial payment.
9. As town roads on state-owned, DNR-administered land are upgraded, the townships will request easements over the entire length and right-of-way; not just for that portion considered to be an upgrade because of, e.g., widening or relocation.

III. THE DNR WILL:

1. Providing the procedures stated in this MOU are followed, issue easements across state-owned, DNR-administered land for town roads covered by this MOU.
2. Not charge a fee for the easement unless the town road is on trust fund land or land where a fee is necessary because of other federal or state requirements.
3. Be responsible for all DNR staff costs associated with issuance of easements.
4. Work with each individual township to handle disposition of timber within the easement right-of-way.
 - a) If it is necessary to cut and remove some or all of the timber from the right-of-way, DNR will make every effort to sell the timber under the timber permit provisions of Minn. Stat. ch. 90. If no permittee can be found within a reasonable period, then the township, as a term of the easement, will be required to pay the appraised value for all timber to be cut and removed. No timber may be cut without it being first paid for.
 - b) Any timber within the easement right-of-way which will not be cut may be handled by mutual agreement of the parties either by DNR reserving timber rights or the township paying the appraised price for the timber as a term of the easement.
5. At the request of the township, provide assistance in the township's sale of timber which the township has purchased within the easement right-of-way.
6. If possible, issue one easement document to the township for all town roads for which the township has requested easements (see paragraph II 6).

IV. THE DNR SHALL NOT:

Issue easements for contemplated improvements covering lands beyond the width of actual use if such improvements would cause adverse environmental or natural resource impacts. The DNR is willing, however, to issue easements for the width of actual use of such roads as they physically existed as of August 1, 1995. "Width of actual use" means the publicly travelled surface of an existing town road, and its associated shoulders, ditches, slopes, backslopes, and maintained vegetated areas.

V. DNR & THE TOWNSHIP ASSOCIATION MUTUALLY UNDERSTAND:

1. That DNR and an individual township seeking an easement shall enter into a binding agreement in order to implement the procedures set forth in this MOU. See Attachment A for an example of such an agreement.
2. That DNR may find it necessary to impose other easement conditions and terms, as necessary, to address resource related concerns. Examples of these types of easement conditions include timing of an upgrade or use of a culvert.
3. That it is the parties' goal for easements issued by DNR to cover a 66-foot-wide right-of-way, whenever possible, but that they recognize that the easement width may have to be restricted, in some cases, to not less than the width of actual use of the existing town road in order to avoid adverse environmental or natural resource impacts.
4. That timber must be paid for before it can be cut and removed.
5. That, when an individual township requests an easement from DNR for an improvement (e.g., relocation, widening) to a town road across trust fund lands or other lands where payment or another arrangement is required, the easement request will include the full width and length of the town road right-of-way not just the width and length of the

improvement, unless a different dimension(s) is required to avoid adverse environmental or natural resource impacts.

6. Nothing in this Agreement obviates DNR's obligation to seek fair market value compensation for use of trust fund lands. DNR's requirement is a condition of the trust relationship between the state and federal government to which the state agreed and incorporated into Art. 11, § 1 of the Minnesota Constitution and the principle of which was upheld in Lassen v. Arizona ex rel. Arizona Highway Dept., 385 U.S. 458, 87 S.Ct. 584 (1967).
7. That there are federal and state programs and funding mechanisms that require DNR to charge a fair market value fee for any easement to be issued or require that federal permission and alternative lands be provided before an easement can be authorized and that DNR and an individual township may have to address such situations on a case-by-case basis.
8. This MOU is not intended to deal with abandonment or vacation of town roads.
9. That they will work together to address issues related to town roads and agree to seek changes, legislative if necessary, to address these issues.
10. That this Memorandum of Understanding is not a legally binding contract, but an attempt to establish a process to resolve the issue of obtaining easements over state-owned, DNR-administered lands where there is no record that a written easement (or other written evidence of title) exists for certain existing town roads.

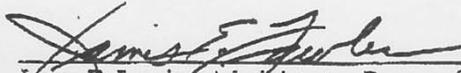
MINNESOTA ASSOCIATION OF TOWNSHIPS



David A. Fricke, Executive Director

Date: 2/12/96

MINNESOTA DEPARTMENT OF NATURAL RESOURCES



James H. Lawler, Administrator, Bureau of
Real Estate Management

Date: 2/8/96.

AG:17254 v1