



**AITKIN COUNTY ENVIRONMENTAL SERVICES  
PLANNING AND ZONING  
209 SECOND STREET NORTHWEST  
AITKIN, MN 56431  
218/927-7342**

October 28, 2008

Environmental Quality Board  
300 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155

Dear Environmental Quality Board:

Enclosed you will find the Aitkin County Board of Commissioners Record of Decision on the need for an Environmental Impact Statement for the 70-Mile OHV Trail project in Aitkin and Itasca Counties, Minnesota. The Aitkin County Board of Commissioners decision was to not require an Environmental Impact Statement for this project.

If you have any questions, please contact me at 218-927-7342.

Sincerely,

Terry Neff  
Environmental Services Director  
Aitkin County

Enclosure

## RECORD OF DECISION

In the Matter of the Determination of  
Need for an Environmental Impact  
Statement for the 70-Mile Trail OHV  
Project, Aitkin and Itasca County,  
Minnesota

## FINDINGS OF FACT, CONCLUSIONS, AND ORDER

### **FINDINGS OF FACT**

- 1) The consultants from Applied Ecological Services, LLC , Dovetail Partners, Inc., the Minnesota Department of Natural Resources, and Itasca County assisted Aitkin County (the RGU) with the preparation of an Environmental Assessment Workshop (EAW) for the proposed 70-Mile Trail OHV project, pursuant to Minnesota Rule Category 4410.4300, Subpart 37-A, Recreational Trails.
- 2) The EAW was filed with the Environmental Quality Board (EQB) and notice of its availability was published in the EQB Monitor on August 11, 2008. A copy of the EAW was sent to all persons on the EQB Distribution List, and a copy was available for review in the Aitkin County Planning and Zoning Office. Notice of the availability was emailed to the project contact list (154 individuals). A Quarterly Progress Report addressing the availability of the EAW was mailed on August 5, 2008 to 184 interested parties, including local town clerks, government officials, and businesses in the project area. The EAW was made available for download from the project website on July 28, 2008. A press release announcing the availability of the EAW was published in the August 6, 2008 issue of the Aitkin Independent Age newspaper.
- 3) The 30-day EAW public review and comment period began on August 11, 2008 and ended September 10, 2008.
- 4) The EAW is incorporated by reference into this Record of Decision on the Determination of Need for an Environmental Impact Statement.
- 5) The proposed project connects three existing recreational trails in an extensive, quality ATV/OHV trail system in Aitkin and Itasca Counties, Minnesota. The new designated trail is designed to be environmentally sensitive, economically beneficial, and community supported. A project goal is to reduce natural resource impacts associated with unregulated cross-country travel.
- 6) During the 30-day public review and comment period, the Aitkin County Planning and Zoning Department received written comments on the EAW from the Minnesota Department of Natural Resources, U.S. Army Corps of Engineers, Steve and Jan Graning, and Paul W. Lukens.

- 7) The following are comments submitted by Randall Doneen of the Minnesota Department of Natural Resources
- A. **Question #6** "Assessment of environmental effects would benefit from a clearer description of how much improvement work will be necessary for the segments that occupy existing trail beds. Description of wetland fill, maintenance, new features, and trail bed modification needs, etc., should be categorized by existing and new trail segments. The amount of existing trail that currently meets specifications would help indicate the length of trail upgrade and new construction that will be required."
- B. **Question #11** "The Lawler Loop portion of the proposed project is in an area of previous wildlife habitat improvement projects. Two main habitat projects were initiated in the late 1980s both to create wildlife openings in a timber harvest area. This trail proposal goes through most of the openings that were created in those projects. There are 9 openings (12.5 acres) on County land and 6 openings (12.2 acres) on State land that would be affected by this trail."
- C. **Questions #14** "The statement, there are 12 crossings of a shoreland district which total 37104 linear feet, does not agree with table 14.1. What portion of these crossings are on existing routes and what techniques are planned or additional mitigation measures are being taken to avoid impacts in these areas?"

"There are trout streams and other streams in the vicinity of the route. It is essential that at these crossings and near these streams methods are used to reduce erosion and runoff of fine silts and other sediments. Trout are especially sensitive to increases in fine silts and sediments."

"At trout streams, bridges are recommended; however if bridges cannot be used we recommend these guidelines for culverts at trout streams or any type of stream crossing: Design, stream simulation method matching opening width to bankfull width of stream. Set the slope of culvert to stream slope. Burying culverts 1/6 bankfull of stream up to a maximum of 2ft. Offset multiple culverts. Bury thalweg culvert as described above and the other 1-2 feet higher from the bottom of initial thalweg culvert. Culverts should match alignment of stream channel. Grade control structure should be considered if past culvert installation created a hydraulic jump sufficient to create a head cut once the culvert is installed."

"Design crossings to reduce road and road ditch water runoff to streams by diversions, retention area and the method. Establish adequate buffers between road bed and stream."

- D. **Question #16** "Actual estimate of acreage that will be disturbed by berming and grading of the trail is very high. With such movements of large columns of soil, there probably would be a need to preserve topsoil for replanting ditches of trail sections that were bermed. Although the trail may be more stable once built and revegetated, it seems that the project should focus on disturbing minimal portion of the treadway to prevent weed invasions. The EAW estimates the amount of soil that will be grade or excavated as approximately 144,000 tons (~2,500 lbs/cubic yard), which converts to approximately 115,00 cubic yards or 71 acre-feet. The project should minimize the amount of soil disturbance as much as possible, and should strive to reduce actual soil movement below the projected volume."
- E. **Question #19** "The soils information provided in this section identifies various soil types along the route but does not provide details of how this information may be used. The soil delineations provided by the Natural Resource Conservation Service identify which areas may be problematic and which areas may have suitable soils. The DNR proposes that the County use the descriptions of the soil delineations to help define the necessary treatments and improvements required."

**Mr. Randall Doneen, MDNR:** Approximately 27 miles of existing trail will require some shaping/sloping for appropriate trail design (dozer or backhoe) and slopes will be vegetated to reduce erosion. Granular fill will be hauled and used on compactable soils to prevent rutting on the trail surface. All trail stream crossings will be dry crossings. ATVs/OHMs will be prevented from entering streams near bridges by installing rails along trails that lead to bridges. When required for safety reasons, rails or fences will be installed. The trail descriptions included in the EAW outline a number of these concerns including existing as well as new stream crossings, wetland crossings, and trail sections. The project includes 12 crossings of a shore land district that total 12,946 lineal feet. No new trout stream crossings are proposed and all precautions will be taken to minimize and eliminate crossings. Mitigation techniques are described in the EAW. Stream crossing structures currently exist for all crossings except one crossing on the Solana Loop. At this crossing a bridge will be constructed. Bridges are the least damaging stream crossing structures for trails because they do not affect streambeds, although stream banks may be altered for bridge footings and embankments. Siltation will be minimized at bridges with coarse, rocky, approaches to scour ATV/OHM tires before crossing the bridge. A maximum direct impact of 20 feet of fill on the stream bank may occur at the single new bridge proposed for the Solana Loop. ATV/OHVs will be prevented from entering streams near bridges by installing railings along trails that lead to bridges. Where a trail crosses a wetland with a defined channel, a fish-safe culvert will be used (a wide-bottomed culvert that is buried to provide adequate stream depth and low-velocity flow for safe fish passage).

Table 11.1 in the EAW notes 24.6 acres of “grassland” associated with the Lawler Loop. The project developers do not believe the trail will have a negative impact related to these openings. The trail route proposed is the existing route used to access these openings when they were constructed. The trail will be slightly re-aligned in specific areas to avoid ATV access to the wildlife openings. This loop may be considered for an earlier closure date for recreational ATV use.

The trail is to be realigned to create at least a 50-foot forested buffer between the trail and the wildlife openings. The trail will be closed in the early spring (until 5/15) when most wildlife species benefit from the early green-up of grasses in these openings.

Given the total length of the trail, the estimated total soil volume is high but likely over estimated. The large estimated soil volume was based on assuming some grading and shaping would be needed for most of the trail length. A review of the proposed trail indicates that a more accurate estimate may be that only 27 miles of existing trail and 12.9 miles of new trail will require grading and shaping (to DNR trail design specification and guidelines) and hauling of some fill material.

Existing trail no shaping/fill required = 20.3 miles

Existing trail shaping/fill required = 27 miles = 31,700 cu. yd. (27 mile x 12' x .5' / 27)

New trail = 12.9 miles = 30,300 cu. yd. (12.9 mile x 12' x 1' / 27)

Total - 60.2 miles = 62,000 cu. yd. material to be excavated / moved

As stated in the EAW, grading and filling will involve shaping of the trail surface to shed water and maintain soil stability based on provisions in Section 6 *Sustainable Natural Surface Trails* of the MN DNR publication *Trail Planning, Design, and Development Guidelines*. The areas where the trail will be built are generally level or slightly rolling with no steep slopes. Rolling dips and other runoff control techniques will be utilized on any slope that may pose erosion potential. In areas of highly compactable soils, dry granular fill (gravel) will be used for additional stabilization. Material without organic soil content will be used to avoid transporting of exotic species (e.g., earthworms) or seeds of invasive plants. Sediment fences will be utilized during and immediately after construction when working near wetlands or watercourses. Disturbed side slopes will be vegetated by seeding to stabilize the soil.

The County will use NRCS soil descriptions to identify soils that are suitable for trail construction as well as problematic soils. The soil survey data will be utilized as a guide for determining whether trail shaping is adequate or if granular fill will be required for trail stabilization. The soil surveys have and will be used to determine which areas can handle traffic as is; and areas that need granular fill to prevent rutting through repeated use. Initial wetland locations were verified using soils data (along with NWI, aerial photos, and ground truthing).

8) The following are comments submitted by Robert Whiting of the U.S. Army Corps of Engineers:

A. The project will require wetland permitting.

**Mr. Robert Whiting, U.S. Army Corps of Engineers:** The RGU recognizes that permits will be required from the U.S. Army Corps of Engineers and applications will be submitted at the appropriate time.

9) The following are comments submitted by Steve and Jan Graning:

- A. Rules should be clear regarding getting off the designated trail and harming the environment on government or private property.
- B. Concerns about dual trail usage with snowmobiles, signage, use of guard rails, dry methods for watercourse crossings, hunting and other safety concerns.

**Mr. Steve and Mrs. Jan Graning:** A project goal is to reduce natural resource impacts associated with unregulated cross-country travel. Trail operations will establish a patrolled, well-marked, destination-oriented trail system that will reduce ATV/OHV damage in the region by attracting riders to it and away from sensitive areas, and putting enforcement in other places where damage is occurring. The trail will be designed for use by ATVs and Off-Highway Motorcycles, OHMs or “dirt bikes.” Other Off-Highway Vehicles (OHVs), including jeeps and 4x4 trucks, will not be allowed on the trail. The project planning process includes an enforcement plan that designates responsible enforcement parties, including the DNR, the county sheriff department, and volunteer “Trail Ambassadors.” All trail stream crossings will be dry crossings. ATVs/OHMs will be prevented from entering streams near bridges by installing rails along trails that lead to bridges. When required for safety reasons, rails or fences will be installed. The RGU agrees with comments about trail safety considerations and these concerns are being addressed within the monitoring and enforcement plan that accompanies the project. These concerns are outside the scope of the environmental assessment worksheet and the determination of environmental impacts.

10) The following are comments submitted by Paul W. Lukens:

A. Economic and social concerns about the trail.

**Mr. Paul W. Lukens:** The RGU appreciates comments about the economics and social considerations for the project. However, these comments are outside the scope of the environmental assessment worksheet. Concerns about the spread of noxious or invasive species, erosion, littering, harm to wildlife, and noise are addressed in several sections of the EAW (see Questions #11, 16, 20, 24, and 29).

## CONCLUSIONS

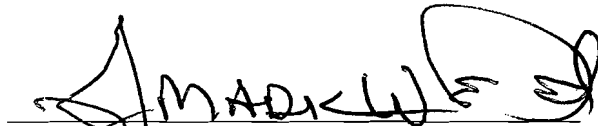
- 1) The Aitkin County Planning and Zoning Department has fulfilled all the procedural requirements of law and rule applicable to the need for an Environmental Impact Statement on the proposed 70-Mile OHV Trail project.
- 2) The identified environmental effects of the project are minor and/or temporary.
- 3) There are no elements of the project that pose the potential for significant environmental effects that cannot be addressed through permit and regulatory processes.
- 4) Based on consideration of the criteria and factors specified in the Minnesota Environmental Review Program Rules to determine whether a project has the potential for significant environmental effects, and on the finding and records in this matter, Aitkin County determines that the proposed 70-Mile OHV Trail does not have the potential for significant environmental effects.
- 5) An Environmental Impact Statements on the proposed 70-Mile OHV Trail in Aitkin County and Itasca County is not required.
- 6) That any Findings that might properly be termed Conclusions and any Conclusions that might properly be termed Findings are hereby adopted as such.

## ORDER

Based on the above Findings of Fact and Conclusions:

Aitkin County determines that an Environmental Impact Statement is not required for the 70-Mile OHV Trail.

Dated this 29 day of October, 2008.

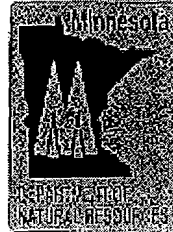


Chair Person, Aitkin County  
Board of Commissioners  
Aitkin County, Minnesota

## Appendix A. Comment letters received

### Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, Minnesota • 55156-4025



September 10, 2008

Terry Neff, Project Manager  
Aitkin County Environmental Services Director  
209 2<sup>nd</sup> St NW  
Aitkin, MN 56431  
[aitkdnps@co.aitkin.mn.us](mailto:aitkdnps@co.aitkin.mn.us)

Sept 10, 2008  
by email

Re: Aitkin-Itasca 70-Mile OHV Trail Project

Dear Mr. Neff:

As indicated in the Environmental Assessment Worksheet (EAW), the Minnesota Department of Natural Resources (MDNR) selected the proposed Aitkin-Itasca 70-Mile Trail project to satisfy the 2003 legislative requirement (Laws 2003, chapter 128, article 1, section 169) for locating, planning, designing, mapping, constructing, designating, and signing a 70-mile trail for use by all-terrain vehicles and off-highway motorcycles. The MDNR appreciates the work and coordination that has occurred on the proposed project to date and offers the following comments to assist in your environmental review.

The County uses the acronym, ATV/OHV, to reflect the usage of the trail; ORV, a specific type of Off-Highway Vehicles (OHV), are not proposed to be permitted on the trail. Since ATVs and Off-Highway Motorcycles (OHM) are the only type of OHV allowed, it would seem more appropriate to refer to ATV/OHM as the type of vehicles for this project.

#### Item No. 6. Description

(Part b.) Assessment of environmental effects would benefit from a clearer description of how much improvement work will be necessary for the segments that occupy existing trail beds. Description of wetland fill, maintenance, new features, and trail bed modification needs, etc., should be categorized by existing and new trail segments. The amount of existing trail that currently meets specifications would help indicate the length of trail upgrade and new construction that will be required.

#### Item No. 11. Fish, Wildlife, and Ecological Sensitive Resources

The Lawler Loop portion of the proposed project is in an area of previous wildlife habitat improvement projects. Two main habitat projects were initiated in the late 1980s both to create wildlife openings in a timber harvest area. This trail proposal goes through most of the openings that were created in those projects. There are 9 openings (12.5 acres) on County land and 6 openings (12.2 acres) on state land that would be affected by this trail.

#### Item No. 14. Water Related Land Use Management Districts

The statement, "There are 12 crossings of a shoreland district which total 37,104 linear feet," does not agree with table 14.1. What portion of these crossings are on existing routes and what techniques are planned or additional mitigation measures are being taken to avoid impacts in these areas?

There are trout streams and other streams in the vicinity of the route. It is essential that at these crossings and near these streams methods are used to reduce erosion and runoff of fine silts and other sediments. Trout are especially sensitive to increases in fine silts and sediments.

At trout streams, bridges are recommended; however if bridges cannot be used we recommend these guidelines for culverts at trout streams or any type of stream crossing:

DNR Information: 651-296-6157 • 1-855-640-6357 • TTY: 651-296-5484 • 1-800-657-3929



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Mr. T. Neff  
September 10, 2008  
Page 2

1. Design, stream simulation method matching opening width to bankfull width of stream.
2. Set the slope of culvert to stream slope. Burying culverts 1/6 bankfull of stream up to a maximum of 2 ft.
3. Offset multiple culverts. Bury thalweg culvert as described above and the other 1-2 feet higher from the bottom of initial thalweg culvert.
4. Culverts should match alignment of stream channel.
5. Grade control structure should be considered if past culvert installation created a hydraulic jump sufficient to create a head cut once the culvert is installed.

Design crossings to reduce road and road ditch water runoff to streams by diversions, retention areas and other methods. Establish adequate buffers between road bed and stream.

Item No. 16. Erosion and Sedimentation

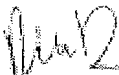
Actual estimates of acreage that will be disturbed by berming and grading of the trail is very high. With such movement of large volumes of soil, there probably would be a need to preserve topsoil for replanting ditches of trail sections that were bermed. Although the trail may be more stable once built and revegetated, it seems that the project should focus on disturbing a minimal portion of the treadway to prevent weed invasions. The EAW estimates the amount of soil that will be graded or excavated as approximately 144,000 tons (~2,500 lbs/cubic yard), which converts to approximately 115,000 cubic yards or 71 acre-feet. The project should minimize the amount of soil disturbance as much as possible, and should strive to reduce actual soil movement below the projected volume.

Item No. 19. Geologic Hazards and Soil Conditions

The soils information provided in this section identifies various soil types along the route but does not provide details of how this information may be used. The soil delineations provided by the Natural Resource Conservation Service (Soil Conservation Service) identify which areas may be problematic and which areas may have suitable soils. The DNR proposes that the County use the descriptions of the soil delineations to help define the necessary treatments and improvements required.

Thank you for the opportunity to provide comments on the EAW and for your consideration of these comments. Please feel free to contact me with any questions or comments.

Sincerely,



Randall Doncen  
Environmental Review Unit  
Division of Ecological Resources

cc: Diane Anderson, Riam Reed, Ron Weiland, Steve Colvin

ERDID# 20080620-0002

AUG 25 2008

August 20<sup>th</sup>, 2008

Mr. Terry Neff  
Aitkin County Environmental Services

Re: 70-Mile OHV Trail EAW

Dear Terry,

We own property east of Jacobson, MN on Hwy 200. The south property line is approx. ¼ mile from a major snowmobile trail from Jacobson. Our family members are avid Snowmobilers, ATV/Dirt Bike enthusiasts, and Hunters. We will be retiring in the not to distant future, and will be spending a great deal of time in the area. We think your plans to provide trails for ATV's is great and fully support it. People need places to go and enjoy nature, no matter what the mode of transportation is. I have the following suggestions, which might be a consideration:

- It sounded like dual use by ATV's and Snowmobiles was still an uncertainty? We would recommend dual use to get the biggest bang for the buck! This decision should be made up front to incorporate design for both types of activity. It would be costly to go back after the fact and modify the design considerations.
- Any bridge or structure that crosses any substantial water should incorporate guardrails to help prevent a machine from falling into the water and contaminating it with fuel or oil. Machines should not be allowed to cross creeks without a structured dry methodology. Machines are usually covered, in some cases, with grease and oil residue, which can contaminate the environment.
- Rules should be clear regarding getting off the "approved" path/trail and harming the environment on government or private property.
- Hunting while riding/operating an ATV (road/trail hunting) should be strictly prohibited, as well as shining deer with the headlamps. Rifles being transported on an ATV must be unloaded.
- Signage on trails, in addition to destination directions/distance, should include directions to the nearest public phone in case of emergency.
- During hunting season, it might be a good idea to require bright orange vests be worn by hunters and recreational drivers.

Sincerely,  
Steve & Jan Graning  
2378 Seahurst Court  
League City, TX 77573

SEP 10 2008

September 8, 2008

Terry Neff  
Aitkin County Environmental Services Director  
209 2nd St NW  
Aitkin MN 56431

Terry Neff:

In Re: 70-mile OHR Trail EAW

One of the goals of this prospective ATV/OHV trail, as stated in section 6a of the EAW, is to be economically beneficial, but there is no further reference to economics, that I can find, in this worksheet. There should be, if not in this worksheet, then in another public document. Before Aitkin County gives final approval to this proposed ATV/OHV trail, you may want to factor in the hidden negative social costs.

ATV promoters like to pretend that their activities are only of benefit to society, but that is only part of the story. All human economic activities involve unintended consequences (side affects), and ATVs are no different.

ATV side affects? Deaths, injuries, vandalism of public and private property, lawlessness, trespass, drunken driving, enforcement, litigation, ecological destruction, spread of noxious or invasive plants, erosion, pollution, backcountry littering, the health costs of obesity, harm to wildlife, noise, annoyance, etc., etc. These costs, to society, are some of "the rest of the story". Is it worth it?

Our society has a penchant for emphasizing the beneficial side of our activities and ignoring the detrimental side, but the negative side imposes undisclosed costs, and these hidden costs must still be paid. Who pays these costs? You guessed it, the non-ATV riding public. Is it worth it?

Some examples of hidden or unrevealed costs include: destruction of both public and private property; some of the costs of enforcement and litigation; part of rescue equipment and personnel that respond to accidents; repair of erosion and ecological disruption; trail construction and maintenance; patrols; control of invasive plants; health costs resulting from lack of exercise; collection of litter at park lots and along trails.

The reality is that the undisclosed costs of ATVs to society are greater than the benefits. Nor can so-called responsible riders claim immunity from the hidden social costs imposed by ATVs. Their "dirty little secret" is that ATVs are a losing game. You don't believe it? Ask an impartial economist to make a list of not just the internal costs but also the external costs of ATV economics. Then you too can ask, is it worth it?

The tacit assumption that ATVs are of economic benefit to society is a myth, one that needs to be acknowledged and publicized so that the public knows and understands that this activity does not pay for itself but is being subsidized, unknown to them, by society. Society needs to have this information so that it can have the opportunity to decide whether or not society wants to continue to support the ATV industry and fraternity. The county may find, to comment on the third project goal listed in section 5a of the EAW, that once this information has been made public that community support will evaporate. Further, if ATV riders were required to pay the full costs of their activity, few would be able to participate.

The EAW acknowledges the hope that the establishment of this trail will reduce damage from cross country travel. That won't happen. My observations suggest that more trails means more riders, and that means more cross country travel. You can count on it.

This is a sad situation. The fact is that governments provide facilities for too many people that don't deserve them. You can quote me on that. Not all ATV drivers are in that category, but a significant number are.

Sincerely,



Paul W. Lukens  
Prof Emeritus, Biology  
Univ of WI



DEPARTMENT OF THE ARMY  
ST. PAUL DISTRICT, CORPS OF ENGINEERS  
SIBLEY SQUARE AT MEARS PARK  
190 FIFTH STREET EAST, SUITE 401  
ST. PAUL, MINNESOTA 55101-1638

REPLY TO  
ATTENTION:

18 August 2008

AUG 22 2008

Operations  
Regulatory (2008-03720-RQM)

Terry Neff  
209 2<sup>nd</sup> St. NW  
Aitkin, Minnesota 56431

Dear Mr. Neff:

We have received a copy of the Environmental Assessment Worksheet for the Aitkin-Itasca 70 mile OHV Trail Project. Due to limited staff and resources, it is unlikely that U.S. Army Corps of Engineers Regulatory staff will review or comment on this document until we receive a jurisdictional determination request and/or a permit application. In lieu of a specific response, please consider the following general information concerning our regulatory program that may apply to the proposed project.

If the proposal involves activity in navigable waters of the United States, it may be subject to the Corps of Engineers' jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 (Section 10). Section 10 prohibits the construction, excavation, or deposition of materials in, over, or under navigable waters of the United States, or any work that would affect the course, location, condition, or capacity of those waters, unless the work has been authorized by a Department of the Army permit.

If the proposal involves deposition of dredged or fill material into waters of the United States, including discharges associated with mechanical land clearing, it may be subject to the Corps of Engineers' jurisdiction under Section 404 of the Clean Water Act (CWA Section 404). Waters of the United States include navigable waters, their tributaries, and adjacent wetlands (33 CFR § 328.3). CWA Section 301(a) prohibits discharges of dredged or fill material into waters of the United States, unless the work has been authorized by a Department of the Army permit under Section 404. Information about the Corps permitting process can be obtained online at <http://www.mvp.usace.army.mil/regulatory>.

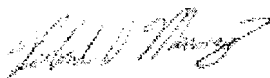
The Corps' evaluation of a Section 10 and/or a Section 404 permit application involves multiple analyses, including (1) evaluating the proposal's impacts in accordance with the National Environmental Policy Act (NEPA) (33 CFR part 325), (2) determining whether the proposal is contrary to the public interest (33 CFR § 320.4), and (3) in the case of a Section 404 permit, determining whether the proposal complies with the Section 404(b)(1) Guidelines (Guidelines) (40 CFR part 230).

If the proposal requires a Section 404 permit application, the Guidelines specifically require that "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences" (40 CFR § 230.10(a)). Time and money spent on the proposal prior to applying for a Section 404 permit cannot be factored into the Corps' decision whether there is a less damaging practicable alternative to the proposal.

If an application for a Corps permit has not yet been submitted, the project proposer may request a pre-application consultation meeting with the Corps to obtain information regarding the data, studies or other information that will be necessary for the permit evaluation process. A pre-application consultation meeting is strongly recommended if the proposal has substantial impacts to waters of the United States, or if it is a large or controversial project.

Thank you for your cooperation with the U.S. Army Corps of Engineers regulatory program. If you have any questions, contact Robert Maroney in our Brainerd Field office at (218) 829-2711. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,

  
for Robert J. Whiting  
Chief, Regulatory Branch

Copy furnished:

Mr. Mark Jacobs 209 2<sup>nd</sup> Street NW Room 9206 Atkin Minnesota 56401