



Minnesota Department of Natural Resources  
Division of Ecological & Water Resources  
500 Lafayette Road, Box 25  
St. Paul, MN 55155-4025

May 9, 2023

Correspondence # MCE 2023-00041

Aaron DeRusha  
Washington Conservation District

RE: Natural Heritage Review of the proposed Brown's Creek Restoration,  
T30N R20W Sections 17-20, 29-30; Washinton County

Dear Aaron DeRusha,

As requested, the [Minnesota Natural Heritage Information System](#) has been reviewed to determine if the proposed project has the potential to impact any rare species or other significant natural features. Based on the project details provided with the request, the following rare features may be impacted by the proposed project:

*State-listed Species*

- Blanding's turtles (*Emydoidea blandingii*), a state-listed threatened species, have been documented in the vicinity of the proposed project. Blanding's turtles use upland areas up to and over a mile distant from wetlands, waterbodies, and watercourses. Uplands are used for nesting, basking, periods of dormancy, and traveling between wetlands. Factors believed to contribute to the decline of this species include collisions with vehicles, wetland drainage and degradation, and the development of upland habitat. Any added mortality can be detrimental to populations of Blanding's turtles, as these turtles have a low reproduction rate that depends upon a high survival rate to maintain population levels.

This project has the potential to impact this rare turtle through direct fatalities and habitat disturbance/destruction due to excavation, fill, and other construction activities associated with the project. Minnesota's Endangered Species Statute (*Minnesota Statutes*, section 84.0895) and associated Rules (*Minnesota Rules*, part 6212.1800 to 6212.2300 and 6134) prohibit the take of threatened or endangered species without a permit. As such, **the following avoidance measures are required:**

- Avoid aquatic impacts during hibernation season, between October 15th and April 15th, unless the area is unsuitable for hibernation.
- Be cautious using instream erosion and sediment control practices as turtles are mobile in streams and may get trapped.
- The use of [erosion control](#) blanket shall be limited to 'bio-netting' or 'natural-netting' types, and specifically not products containing plastic mesh netting or other plastic components.
  - Also, be aware that hydro-mulch products may contain small synthetic (plastic) fibers to aid in their matrix strength. These loose fibers could potentially re-suspend and make their way into Public Waters. As such, please review mulch products and do not allow any materials with synthetic (plastic) fiber additives in areas that drain into Public Waters.
- Areas where there will be construction, especially aquatic areas, should be thoroughly checked for turtles before the use of heavy equipment or any ground disturbance.
  - The [Blanding's turtle flyer](#) must be given to all contractors working in the area.
  - Monitor for turtles during construction and report any sightings to the [DNR Nongame Specialist](#), Erica Hoaglund ([Erica.Hoaglund@state.mn.us](mailto:Erica.Hoaglund@state.mn.us)).
  - If turtles are in imminent danger they must be moved by hand out of harm's way, otherwise, they are to be left undisturbed.

**If following the above avoidance measures is not possible, please contact [NHIS.Review@state.mn.us](mailto:NHIS.Review@state.mn.us) as further action may be needed.**

For additional information, see the [Blanding's turtle fact sheet](#), which describes the habitat use and life history of this species. The fact sheet also provides two lists of recommendations for avoiding and minimizing impacts to this rare turtle. **Please refer to both lists of recommendations and apply those that are relevant to your project.** For further assistance regarding the Blanding's turtle, please contact the DNR Regional Nongame Specialist, Erica Hoaglund.

- Tubercled rein orchid (*Platanthera flava* var. *herbiola*), state-listed as threatened, and water-willow (*Decodon verticillatus*) and Goldie's fern (*Dryopteris goldieana*), both state-listed as species of special concern, have been documented in the vicinity of the proposed project. The first two species occur in herbaceous-dominated wetlands while Goldie's fern is found in upland mesic hardwood forests. To prevent the possible take of tubercled rein orchid, **we recommend a qualified surveyor conduct a botanical survey in any suitable habitat that will be disrupted by the proposed project. A habitat assessment may be needed if potential habitat is unknown. If tubercled rein orchids are found, an avoidance plan or a permit to take must be submitted to the DNR.** Surveys must be conducted by a surveyor on the attached list and follow the standards contained in the [Rare Species Survey Process](#) and [Rare Plant Guidance](#). Project

planning should take into account that any botanical survey needs to be conducted during the appropriate time of the year, which may be limited. Please consult with the NH Review Team at [Reports.NHIS@state.mn.us](mailto:Reports.NHIS@state.mn.us) regarding these processes.

- Louisiana waterthrush (*Parkesia motacilla*), a state-listed bird species of special concern, has been documented in the vicinity of the project. This bird species is found in mature, intact deciduous forest near streams or wetlands. Louisiana waterthrushes nest in small hollows within stream banks, root masses, fallen logs in riparian areas. This species is susceptible to forest fragmentation and deforestation. The project area includes habitat that could support breeding of this species. If feasible, disturbance to riparian area should be avoided from mid-April to early June to avoid disturbance of nesting birds. In addition, please consider maintaining nesting habitat for the Louisiana waterthrush during the design and construction of this project.
- The Natural Heritage Information System (NHIS) tracks bat roost trees and hibernacula plus some acoustic data, but this information is not exhaustive. Even if there are no bat records listed nearby, all seven of Minnesota's bats, including the federally endangered northern long-eared bat ([Myotis septentrionalis](#)), can be found throughout Minnesota. During the active season (approximately April-November) bats roost underneath bark, in cavities, or in crevices of both live and dead trees. Tree removal can negatively impact bats by destroying roosting habitat, especially during the pup rearing season when females are forming maternity roosting colonies and the pups cannot yet fly. To minimize these impacts, the DNR recommends that tree removal be avoided from June 1 through August 15.
- Please visit the [DNR Rare Species Guide](#) for more information on the habitat use of these species and recommended measures to avoid or minimize impacts. For further assistance with these species, please contact the appropriate [DNR Regional Nongame Specialist](#) or [Regional Ecologist](#).

#### *Federally Protected Species*

- The area of interest overlaps with a Rusty Patched Bumble Bee *High Potential Zone*. The rusty patched bumble bee (*Bombus affinis*) is federally listed as endangered and is likely to be present in suitable habitat within *High Potential Zones*. From April through October this species uses underground nests in upland grasslands, shrublands, and forest edges, and forages where nectar and pollen are available. From October through April the species overwinters under tree litter in upland forests and woodlands. The rusty patched bumble bee may be impacted by a variety of land management activities including, but not limited to, prescribed fire, tree-removal, haying, grazing, herbicide use, pesticide use, land-clearing, soil disturbance or compaction, or use of non-native bees. The [USFWS rusty patched bumble bee guidance](#) provides guidance on avoiding impacts to rusty patched bumble bee and a key for determining if actions are likely to affect the species; the determination key can be found in the appendix. If applicable, the DNR also recommends reseeding disturbed soils with native species of grasses and forbs using [BWSR Seed](#)

[Mixes](#) or [MnDOT Seed Mixes](#). Please visit the [USFWS Rusty Patched Bumble Bee Map](#) for the most current locations of *High Potential Zones*.

- To ensure compliance with federal law, conduct a federal regulatory review using the U.S. Fish and Wildlife Service's (USFWS) online [Information for Planning and Consultation \(IPaC\) tool](#).

#### *Environmental Review and Permitting*

- Please include a copy of this letter and the MCE-generated Final Project Report in any state or local license or permit application. Please note that measures to avoid or minimize disturbance to the above rare features may be included as restrictions or conditions in any required permits or licenses.

The Natural Heritage Information System (NHIS), a collection of databases that contains information about Minnesota's rare natural features, is maintained by the Division of Ecological and Water Resources, Department of Natural Resources. The NHIS is continually updated as new information becomes available, and is the most complete source of data on Minnesota's rare or otherwise significant species, native plant communities, and other natural features. However, the NHIS is not an exhaustive inventory and thus does not represent all of the occurrences of rare features within the state. Therefore, ecologically significant features for which we have no records may exist within the project area. If additional information becomes available regarding rare features in the vicinity of the project, further review may be necessary.

For environmental review purposes, the results of this Natural Heritage Review are valid for one year; the results are only valid for the project location and project description provided with the request. If project details change or the project has not occurred within one year, please resubmit the project for review within one year of initiating project activities.

The Natural Heritage Review does not constitute project approval by the Department of Natural Resources. Instead, it identifies issues regarding known occurrences of rare features and potential impacts to these rare features. Visit the [Natural Heritage Review website](#) for additional information regarding this process, survey guidance, and other related information. For information on the environmental review process or other natural resource concerns, you may contact your [DNR Regional Environmental Assessment Ecologist](#).

Thank you for consulting us on this matter and for your interest in preserving Minnesota's rare natural resources.

Sincerely,

A handwritten signature in cursive script that reads "James Drake". The signature is written in black ink and is positioned to the left of the typed name and title.

James Drake  
Natural Heritage Review Specialist  
[James.F.Drake@state.mn.us](mailto:James.F.Drake@state.mn.us)

Cc: Melissa Collins