

Lessard-Sams Outdoor Heritage Council

AGENDA ITEM MEMO:

Agenda Item # 8

DATE: November 14, 2013

SUBJECT: Request to combine DNR appropriation recommendations HA-03 Vermillion River WMA Acquisition into PA-01, DNR WMA and Scientific and Natural Area Acquisition.

PRESENTING: Bill Becker

Background: The Department of Natural Resources has submitted a draft accomplishment plan for HA-03 Vermillion River WMA that describes in greater detail the process to acquire land in Dakota County.

The Council voted on Sept. 20, 2013 to recommend \$4.25 million to the Department of Natural Resources for the acquisition of parcels to be included in the Vermillion WMA. This acquisition of 425 acres of property is currently owned by Cemstone and a private party. The proposal does contain several unique acquisition features, including the method of appraisal used to determine fair market value; the planned gravel mining of the property for a period of ten years and the related phased restoration of the property; the role of the Conservation Fund in the land negotiation and timing of the acquisition; and a proposed Dakota County paved trail along the Vermillion River.

In a letter dated Oct. 11, 2013, Commissioner Landwehr requested that the council's appropriation recommendation for PA-01 DNR WMA and Scientific and Natural Area Acquisition be combined with HA-03 Vermillion River WMA Acquisition into one appropriation with one accomplishment plan. This request is intended to simplify the administration of all DNR WMA acquisition projects.

Suggested Motion: Motion placed before the council to approve the Commissioner of DNR's request to combine its appropriation recommendations HA-03, Vermillion River WMA Acquisition into PA-01, DNR WMA and Scientific and Natural Area Acquisition.

Suggested Procedure: The council will hear testimony from the Department of Natural Resource staff regarding this request. The council hears motions and discussions and votes on any motions put forth.

Minnesota Department of Natural Resources

500 Lafayette Road · Saint Paul, Minnesota · 55155-4037

Office of the Commissioner

651-259-5555



October 11, 2013

Mr. David Hartwell, Chair
Lessard-Sams Outdoor Heritage Council
95 State Office Building
Saint Paul, Minnesota 55155
hartwell@bellcomb.com

Dear Chair Hartwell:

The Department of Natural Resources has been recommended funding for two wildlife management area (WMA) acquisition proposals: Vermillion River WMA Acquisition proposal (HA-3) with the DNR WMA and Scientific and Natural Area Acquisition proposal (PA1). I'd like to request that these proposals be merged into a single accomplishment plan and recommendation. Combining the proposals will streamline work for the Council and staff, as well as the DNR. The entire proposed budget for HA-3, \$4.25 million, would be included in the fee title acquisition budget of PA-1 and the Vermillion River WMA parcel would be added to the WMA SNA list. Both proposals' outcomes would remain unchanged, and additional costs associated with the Vermillion River WMA acquisition will be covered by matching funds.

The DNR would be happy to work with Council staff to draft accomplishment plan and recommendation language that assures the purpose of both programs remains intact.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Landwehr'.

Tom Landwehr
Commissioner

TJL/PR/jls

c Mr. Bill Becker, Executive Director, Lessard-Sams Outdoor Heritage Council; Bill.Becker@lsohc.leg.mn
Mr. Edward K. Boggess, Director, Division of Fish and Wildlife, MN DNR
Mr. Pat Rivers, FAW Land Acquisition Consultant,
Mr. Grant Wilson, FAW Policy Planning Coordinator/Liaison to Lessard-Sams Outdoor Heritage Council



Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-40__



COPY

October 31, 2013

Mr. Steve Hobbs, Minnesota Project Director
The Conservation Fund
7101 York Avenue South – Suite 340
Edina, Minnesota 55435-4408
952-456-8975
shobbs@conservationfund.org

Dear Mr. Hobbs:

RE: Letter of Intent – Vermillion River WMA/AMA, Dakota County

Thank you for agreeing to work in partnership with the Minnesota Department of Natural Resources (DNR) to protect lands in Dakota County. The purpose of this letter is to update the original Letter of Intent dated October 10, 2012, related to this acquisition.

At the time of that letter, it was our understanding the landowner desired to close before December 31, 2012. In your negotiations with Cemstone Products Company (CPC), a closing date is now tentatively set for June 2014. This development will save considerable holding costs for the State. Further, the initial holding costs were to be calculated at 5.0 percent per annum of total purchase price compounded monthly. We now agree to a rate of 4.1 percent per annum.

We encourage you to seek a direct sale to the State after July 1, 2014, when state funds are anticipated to be available at that time. If such an agreement is negotiated, the costs incurred by The Conservation Fund—outlined in the October 10, 2012, letter and amended above—would be reimbursed by the State.

The appraisal contracted by The Conservation Fund is ready for technical review. While not required, the DNR has decided to obtain a second, independent appraisal. The appraisal will include a mineral evaluation, provided we receive concurrence from the landowners to do so. The technical review of the first appraisal will coincide with the first to ensure they are comparable.

A lease is being drafted that defines the mining terms and conditions for the property once the State owns the property. Referenced in the lease will be a restoration plan that CPC will need to agree to and complete. Those terms are integral to the agreement between the State and Cemstone. DNR staff will share a draft lease and restoration plan with CPC with you in the near future.

www.dnr.state.mn.us

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October 31, 2013
Mr. Steve Hobbs, Minnesota Project Director
Page Two

Attached to this letter is a copy of the October 10, 2012, letter with changes highlighted in yellow.

Thank you for your interest in working with us to preserve Minnesota's natural resources for future generations.

Sincerely,
 **COPY**

Edward K. Boggess, Director
Division of Fish and Wildlife
DNR Building – 500 Lafayette Road
Saint Paul, Minnesota 55155-4020
651-259-5180

EKB/PJR/jls

Attachment

- c Lands and Minerals
 - Ms. Kathy Lewis, Assistant Director
 - Ms. Cindy Nathan, Appraisal Unit Supervisor - Brainerd
Fish and Wildlife
 - Ms. Cynthia Osmundson, Regional Wildlife Manager, Central Region – Metro
 - Mr. Bob Fashingbauer, Wildlife Area Manager, Vermillion Highlands WMA
 - Mr. Pat Rivers, FAW Land Acquisition Supervisor

Acceptance

By _____

Date _____

For _____

Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-40



COPY

October 10, 2012 (AMENDED October 28, 2013)

Mr. Steve Hobbs, Minnesota Project Director
The Conservation Fund
7101 York Avenue South – Suite 340
Edina, Minnesota 55435-4408
952-456-8975

Dear Mr. Hobbs:

RE: Letter of Intent – Vermillion River WMA/AMA, Dakota County

Thank you for agreeing to work in partnership with the Minnesota Department of Natural Resources (DNR) to preserve and protect Minnesota's natural resources. We have agreed to work together in acquiring for the State the following described property for natural resource purposes. The purpose of this letter is to identify our agreed upon duties and responsibilities for this proposed acquisition.

The property the DNR is interested in acquiring is currently owned by two different parties in Dakota County (Township 114N, Range 19W, Section 24). The Property Identification Numbers (PINs) for parcels owned by Cemstone Products Company include: 120240078010, 120240077011, 120240050015, 120240028013, and 120240003010. The PINs for parcels owned by the Brockman family include: 120240001010, 120240002010, and 120240075010.

This is a fee interest acquisition. If acquired, the property will be used for a wildlife management area (WMA) and/or aquatic management area (AMA). This is a high priority for the DNR.

Funding for this project is expected to be from Minnesota Laws of 2014 Outdoor Heritage Fund (OHF) appropriation to DNR. The Environment and Natural Resources Trust Fund and bonding are two other potential sources of funding. Portions acquired with OHF money will include the standard OHF funding restrictions.

It is critical that this project only proceed forward with willing sellers. You must inform the landowner of the fact that the property or an interest in the property will be conveyed to the State. You must disclose the appraised value to the landowner prior to making the offer to purchase the property.

The acquisition of this parcel by the DNR is dependent on funding appropriations, Dakota County Board approval, and a determination by the DNR that there is marketable title to the property and it is free from environmental nuisances, hazardous waste, pollutants, and contaminants. Please take notice that it is possible that you may purchase the property and then find that the DNR will not proceed with purchasing the property from you due to lack of funding or the discovery of environmental or title issues. If the DNR is not able to proceed with a purchase of the property from you due to any of these situations, you are free to proceed to sell any interest that you acquire in the property.

www.dnr.state.mn.us

AN EQUAL OPPORTUNITY EMPLOYER



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COPY

Any agreement or contract between The Conservation Fund and current landowners must sunset upon DNR acquisition or have an expiration date of December 31, 2014. The land is to have no encumbrances. The DNR will negotiate any mining terms and lease(s), if applicable, when the property is conveyed to the State.

If you are successful in acquiring the above-described property, ^{or the State acquires the property as a result of our partnership,} and the DNR is able to proceed due to available funding with no issues as to title or environmental conditions, the DNR agrees to enter into an option and election to purchase agreement with you. As part of the acquisition, and in addition to the purchase price that the DNR agrees to pay, the DNR will agree to pay the following actual costs at closing:

Appraisal and appraisal review costs	Building and mineral extraction inspections
Environmental assessment	Property taxes, pro-rated as of date of closing
Survey	Mineral evaluation (including aggregate), not to exceed \$15,000
Closing fees	Reasonable costs for carrying during interim land trust ownership (calculated at 5% per annum compounded monthly of total purchase price) 4.1%
Wiring fees	Property taxes incurred during interim land trust ownership
Abstract updates	Costs to properly secure the property during interim land trust ownership
Title commitment	Staff time (not to exceed \$90,000 at rate of \$140/hr)
Title insurance	Travel (actual costs, using IRS mileage rate for travel not to exceed \$3,000)
Recording costs	Overhead at the following rate: equal to 25% of actual staff time

The DNR will not reimburse the above costs if the DNR does not acquire the property from you.

The land acquisition tasks are assigned as follows:

Appraisals:	The Conservation Fund
Appraisal review:	DNR
Mineral evaluation:	The Conservation Fund
Legal description preparation and review:	The Conservation Fund
Survey:	The Conservation Fund
Environmental assessment:	The Conservation Fund
Title examination:	The Conservation Fund will secure title commitment/title insurance; DNR will perform its own title examination.
Other: Coordination of County Board approval:	DNR

The DNR has approved your proceeding to hire an appraiser to prepare appraisals of the property. The appraiser must be a licensed, certified general real property appraiser in the state of Minnesota or an appraiser currently under contract with the DNR to do appraisal work. Please advise the appraiser as to the following:

1. The appraiser must provide appraisals for two parcels, one parcel owned by Cemstone Corporation, and one parcel owned by the Brockman family.
2. The DNR must be named as an intended user in the appraisals.
3. The appraisals must be in conformity with the guidelines titled "Uniform Standards of Professional Appraisal Practices" and "Minnesota DNR Supplemental Appraisal and Appraisal Review Guidelines (7/15/09)".
4. In order to ensure compliance with the applicable appraisal standards, your written assignment instructions to the appraiser must be included as an addendum of the appraisal report.
5. The appraiser must complete the DNR certification form and include it in the appraisal report.
6. The property must be valued as though the DNR is purchasing the property directly from the landowner. The appraiser must be instructed to include this assumption as a "Hypothetical Condition" in the appraisal.

October 10, 2012 (AMENDED October 28, 2013)

Mr. Steve Hobbs, Minnesota Project Director

Page Three

7. The appraiser must agree to work with the Minnesota DNR throughout the appraisal process including the appraisal review.
8. If the land trust or appraiser has any questions about the DNR Guidelines, or other appraisal concerns, please have them contact Cindy Nathan at 218/855-5126.

When the appraisal has been completed, please ask the appraiser to submit three reports directly to Ms. Cindy Nathan, DNR Division of Lands and Minerals for an administrative or technical appraisal review. **A second appraisal will be conducted by the State.**


It is our mutual goal to have the appraisal completed by ~~December~~ **January 4** 31, 2013, and the appraisal review completed by March 31, 2014. Goals for a DNR election to purchase and closing are ~~October~~ **May** 1, 2014, and ~~December~~ **July** 31, 2014, respectively.

The DNR staff person who will work with you on this project is: Mr. Jim Martin, Division of Lands and Minerals, jim.martin@state.mn.us; 651-259-5407. We understand that you are the person from your organization who will be working with DNR staff on this project and your contact information is: Mr. Steve Hobbs, The Conservation Fund, 7101 York Avenue South – Suite 340, Edina, Minnesota 55435-4408; 952-456-8975.

Again, thank you for your interest in working with us to preserve Minnesota's natural resources for future generations.

Sincerely,

COPY


Edward K. Boggess, Director
Division of Fish and Wildlife
DNR Building – 500 Lafayette Road
Saint Paul, Minnesota 55155-4020
651-259-5180

EKB/PJR/jls

- c Lands and Minerals
- Ms. Kathy Lewis, Assistant Director
 - Ms. Cindy Nathan, Appraisal Unit Supervisor - Brainerd Fish and Wildlife
 - Mr. Timothy P. Bremicker, Regional Wildlife Manager, Central Region – Metro
 - Mr. Bob Fashingbauer, Wildlife Area Manager, Vermillion Highlands WMA
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Mr. Steve Hobbs, Minnesota Project Director

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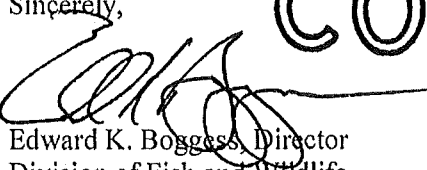
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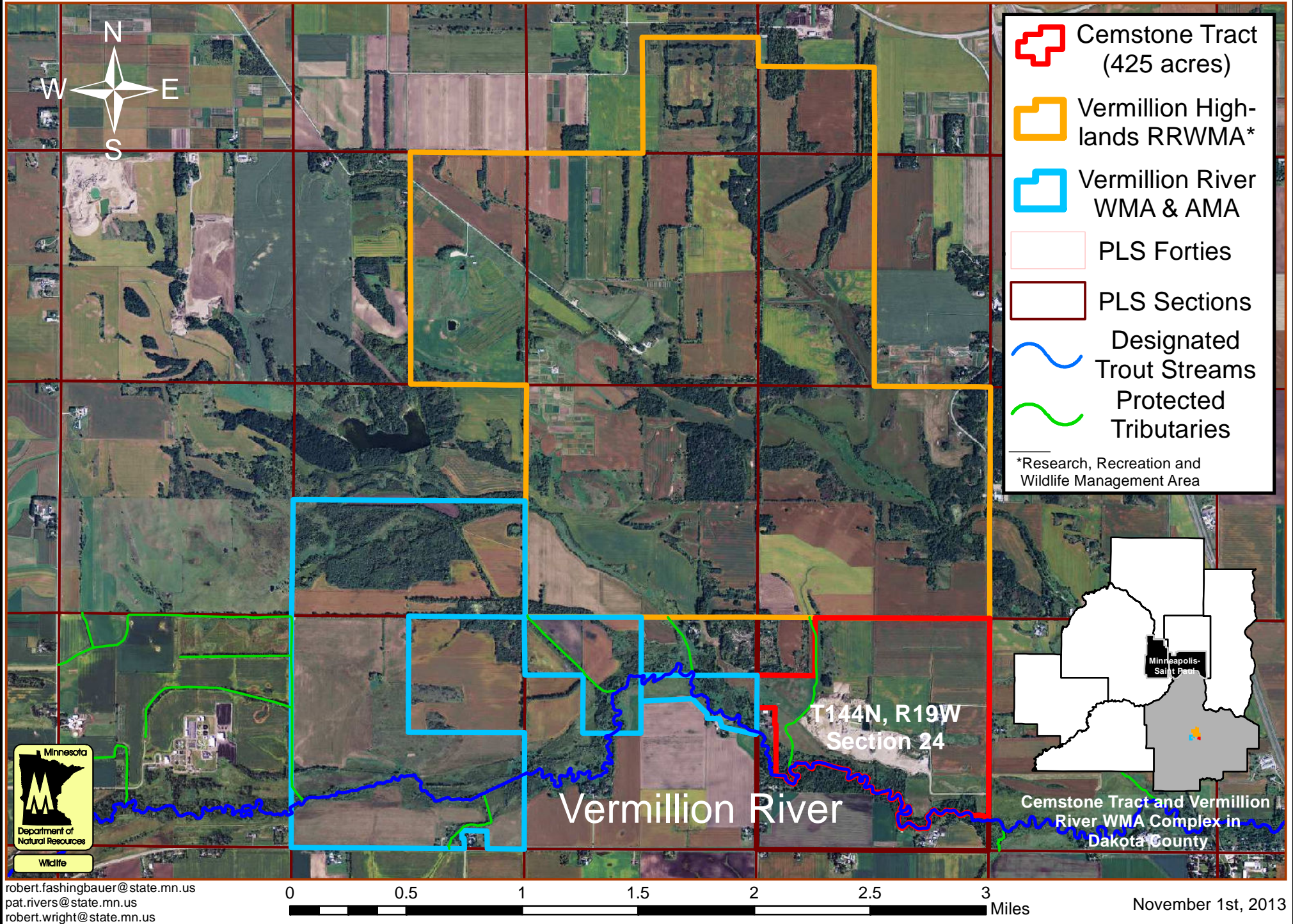
COPY


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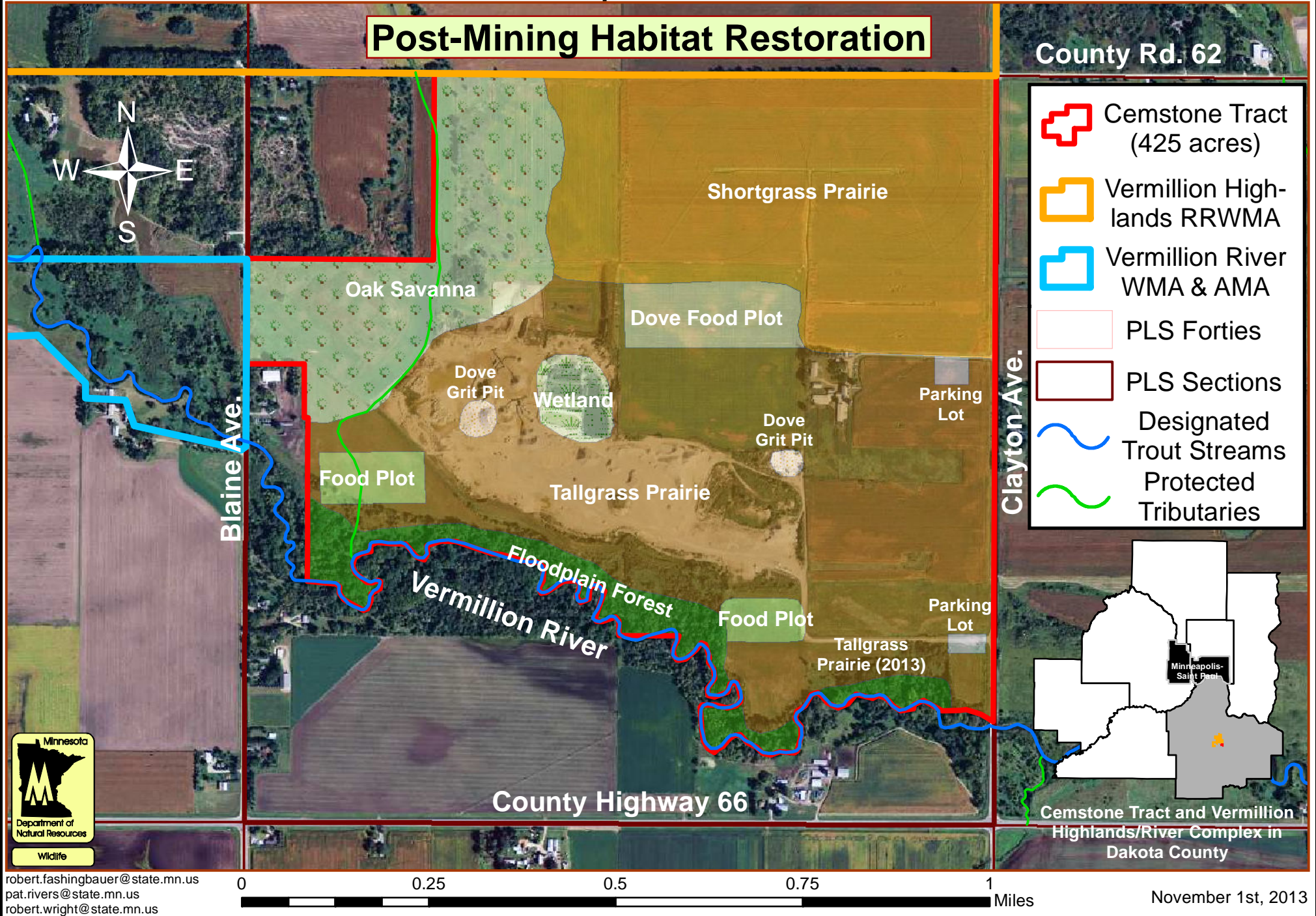
Vermillion Highlands RRWMA* and Proposed Cemstone Tract Acquisition



Cemstone Products Company Tract

T144N, R19W, portions of section 24

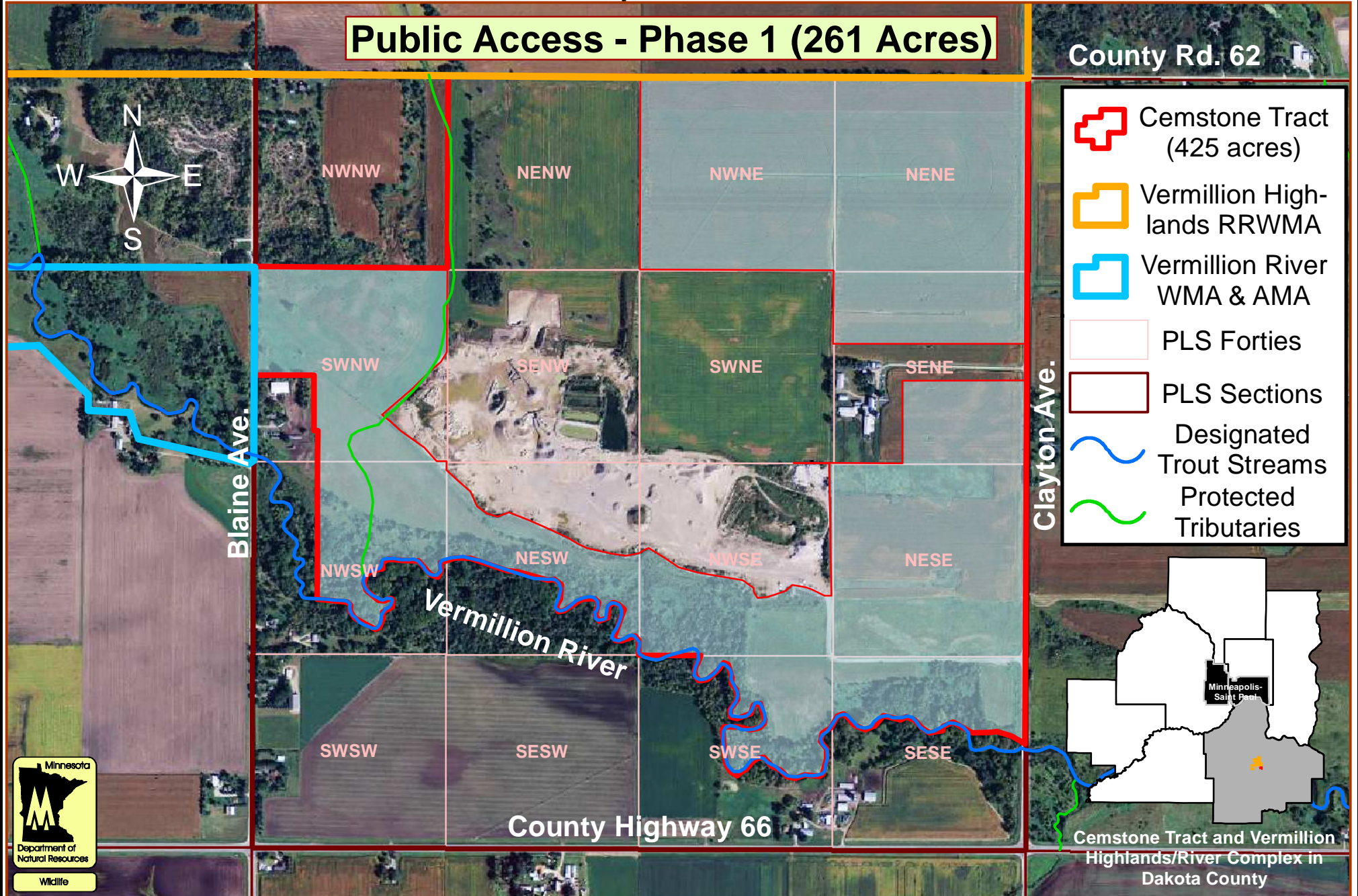
Post-Mining Habitat Restoration



Cemstone Products Company Tract

T144N, R19W, portions of section 24

Public Access - Phase 1 (261 Acres)



robert.fashingbauer@state.mn.us
pat.rivers@state.mn.us
robert.wright@state.mn.us

0 0.25 0.5 0.75 1 Miles

November 1st, 2013

County Rd. 62

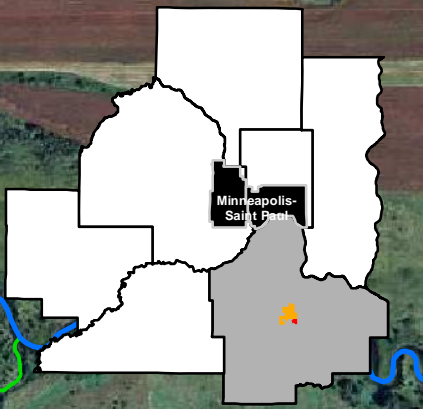
Blaine Ave.

Clayton Ave.

County Highway 66

Vermillion River

-  Cemstone Tract (425 acres)
-  Vermillion Highlands RRWMA
-  Vermillion River WMA & AMA
-  PLS Forties
-  PLS Sections
-  Designated Trout Streams
-  Protected Tributaries

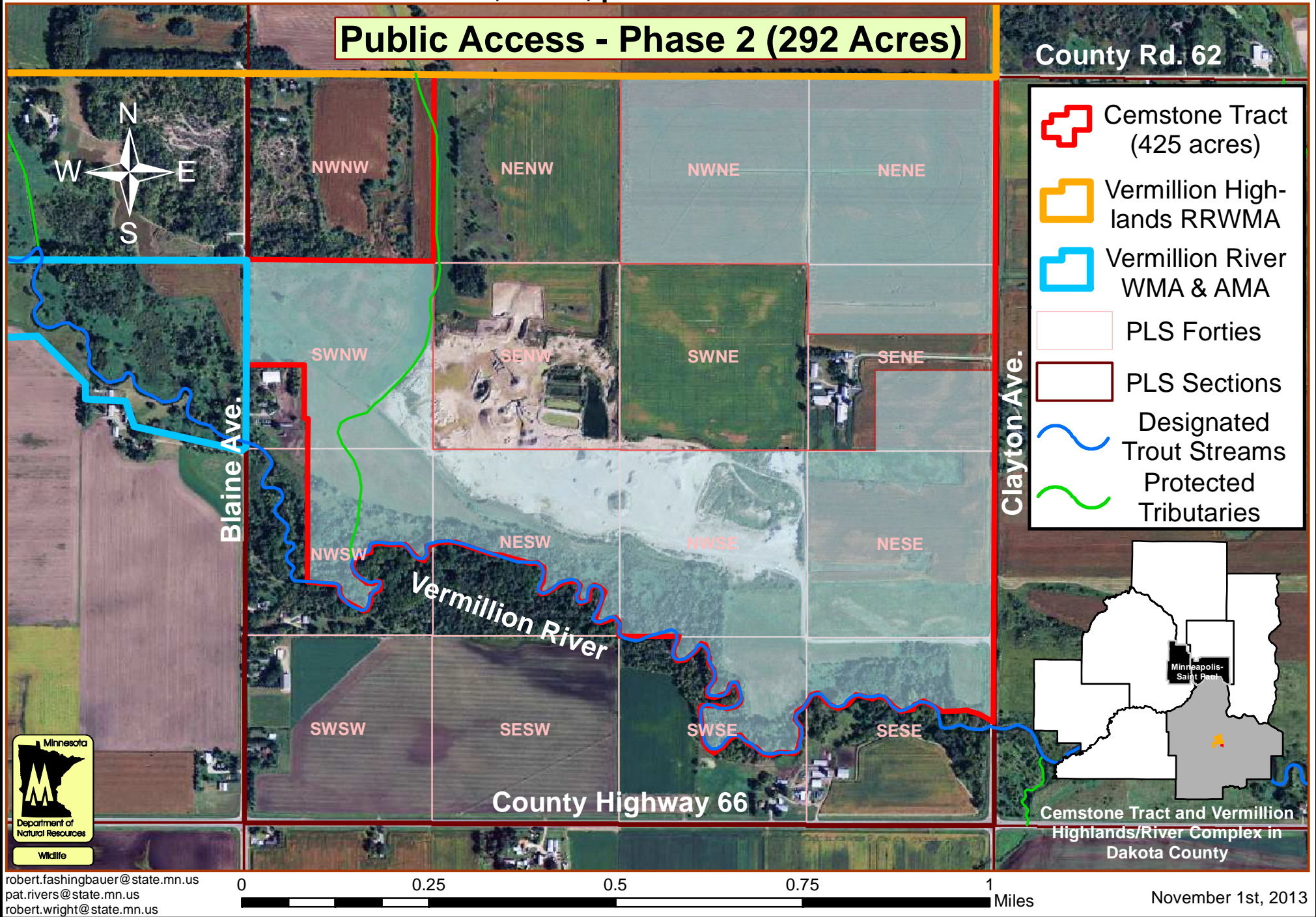


Cemstone Tract and Vermillion Highlands/River Complex in Dakota County

Cemstone Products Company Tract

T144N, R19W, portions of section 24

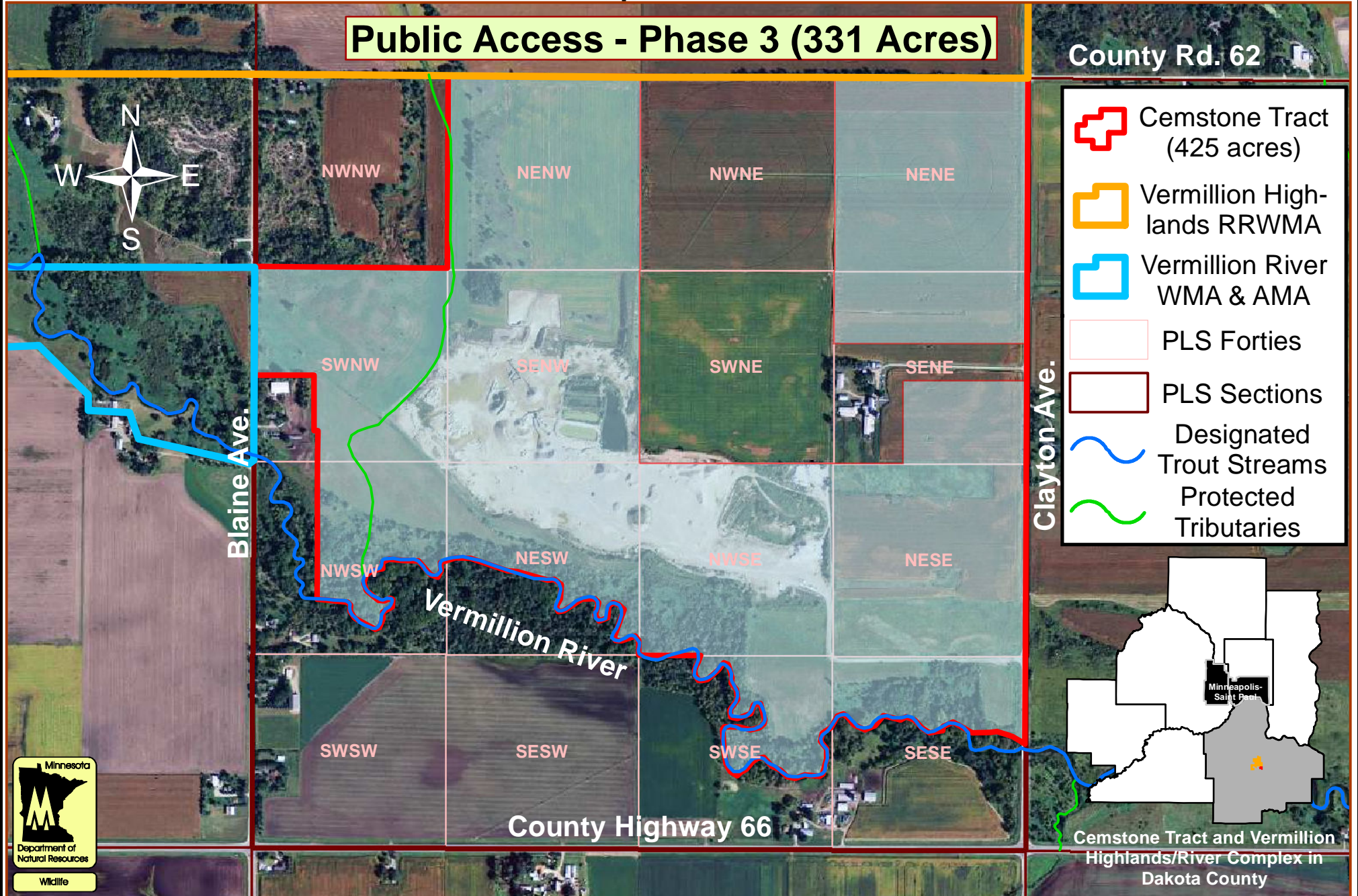
Public Access - Phase 2 (292 Acres)



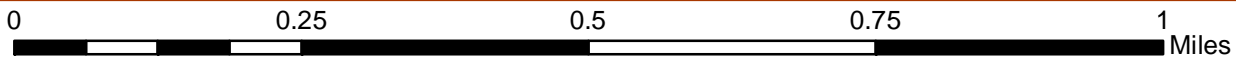
Cemstone Products Company Tract

T144N, R19W, portions of section 24

Public Access - Phase 3 (331 Acres)



robert.fashingbauer@state.mn.us
 pat.rivers@state.mn.us
 robert.wright@state.mn.us



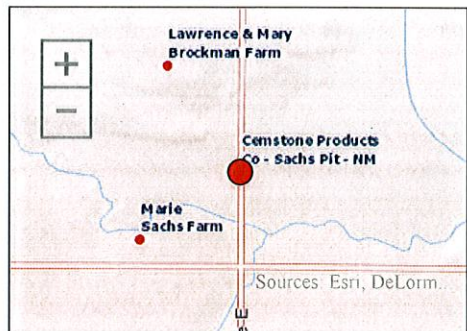
November 1st, 2013

What's in My Neighborhood

An environmental view of your community

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-  [Help](#)
-  [FAQ](#)
-  [Glossary](#)
-  [Feedback](#)

What's in My Neighborhood



 [Map Search](#)

Site Name: Cemstone Products Co - Sachs Pit - NM

Location: 19789 Clayton Ave
Empire Township MN, 55024
Dakota County

Owner Name: The Cemstone Companies

Watershed Name: Mississippi River - Lake Pepin

Watershed Code: 07040001

Latitude: 44.66296

Longitude: -93.03497

Coordinate Collection Method: Address Matching House Number

Currently Active? Yes

Industry Classification:

- Construction sand and gravel
- Crushed and broken limestone

[Activity Overview](#) Compliance & Enforcement Detail Data Contact Alternate Names

Activities at this site



Air Quality

Air Permit - 05301019
Cemstone Products Co - Sachs Pit - NM

[Less Detail](#)

Event	Effective Start	Effective End
General Permit - State	09/17/1996	11/21/2003

Inactive



Hazardous Waste

Hazardous Waste, Small to Minimal QG - MNR000030510
Hedberg Aggregates

[Less Detail](#)

This facility creates some quantity of hazardous waste, but it is smaller than a Large Quantity Generator.

Active



Tanks and Leaks

Tank Site - 124192
Cemstone Products Co

[Less Detail](#)

Tank Number - Action	Action Date
1001 - Install Tank	01/03/2000

Inactive



Water Quality

Industrial Stormwater Permit - A00000483
Cemstone Products - Sachs McNaughton -SW

[Less Detail](#)

Event	Effective Start	Effective End
Industrial SW Perm Termination	12/11/2002	
Industrial SW Permit Reissue	12/09/2002	12/10/2002
Industrial SW Permit Reissue	09/02/1999	12/08/2002
Industrial SW Permit Issuance	09/02/1999	12/08/1999

Inactive

What's in My Neighborhood

An environmental view of your community

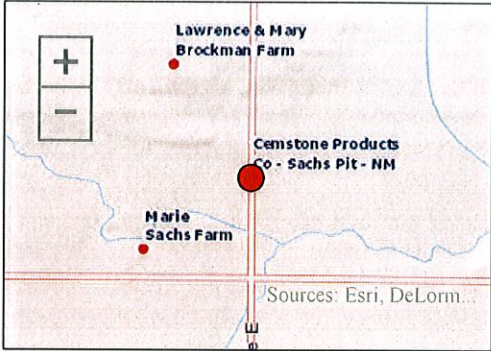
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[Glossary](#)
[Feedback](#)

What's in My Neighborhood



 [Map Search](#)

Site Name: Cemstone Products Co - Sachs Pit - NM
Location: 19789 Clayton Ave
 Empire Township MN, 55024
 Dakota County
Owner Name: The Cemstone Companies
Watershed Name: Mississippi River - Lake Pepin
Watershed Code: 07040001
Latitude: 44.66296
Longitude: -93.03497
Coordinate Collection Method: Address Matching House Number
Currently Active? Yes
Industry Classification:

- Construction sand and gravel
- Crushed and broken limestone

[Activity Overview](#)
[Compliance & Enforcement Detail](#)
[Data](#)
[Contact](#)
[Alternate Names](#)

Compliance & Enforcement Detail

Inspections ID	Type	Inspection Type	Inspection Date
05301019	Air Permit	Committed	05/26/04

Enforcement Activities

There are no public records of enforcement activities at this site.