



*City Council Memorandum*

**To:** Mayor Hicks & City Councilmembers  
**From:** John Hinzman, Community Development Director  
**Date:** October 17, 2016  
**Item:** Remove from Table: Resolution - Conditional Use Permit #2016-33 – Public Utility within a Floodway District – Zayo – Mississippi River Boring.

**City Council Action Requested:**

Remove action from the table and consider adoption of the attached resolution granting a Conditional Use Permit to allow construction of a public utility within the Floodway District.

Action was tabled at the October 3, 2016 City Council Meeting and the Utility Committee of City Council was directed to further review the request.

Approval of the Conditional Use Permit requires six of seven councilmembers.

**Background Information:**

Zayo proposes to construct an underground fiberoptic transmission line from the northern City limits in Washington County, to 5<sup>th</sup> and Sibley Streets. The project is generally located within the MN DOT right-of-way of TH 61. The Mississippi River would be crossed via a 4” directional bore beneath the river; the area adjacent to the Mississippi River is within the Floodway District and subject to CUP regulations.

Please see the attached Planning Commission Memorandum for further information.

**Financial Impact:**

The project is not expected to have a significant financial effect on the City.

**Advisory Commission Discussion:**

The Planning Commission voted 7-0 to recommend approval of the Conditional Use Permit at the September 26, 2016 meeting. No one spoke for or against the action during the public hearing. Commissioners discussed other options for crossing the river, and temporary and permanent effects of the boring.

**Council Committee Discussion:**

The Utility Committee of City Council (Chair Nelson, Braucks, and Schultz) voted 3-0 to recommend approval of the request at the October 11, 2016 meeting subject to the following:

- 1) **Ensure that the City has recourse for any construction damage that may occur.** The City reserves the right to require an escrow as part of the Right-of-Way permit to protect against potential damage.
- 2) **Facilitate close communication with neighboring property owners throughout construction.** Zayo is encouraged to hold a pre-activity meeting in the field to better assess construction impacts.

Conditions have been added to the resolution to address the above concerns. Committee members discussed the purpose of the project, inability to locate on the TH 61 Bridge, and construction impacts. Please see the attached meeting summary for further information.

**Attachments:**

- Resolution
- Utility Committee of City Council Summary – October 11, 2016
- Planning Commission Staff Report – September 26, 2016

**HASTINGS CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HASTINGS  
GRANTING CONDITIONAL USE PERMIT APPROVAL FOR  
CONSTRUCTION OF A TRANSMISSION LINE IN THE FLOODWAY  
DISTRICT**

Council member \_\_\_\_\_ introduced the following Resolution and moved its adoption:

**WHEREAS**, Zayo Group, LLC has petitioned for Conditional Use Permit Approval per City Code Chapter 151.04, Subd. C.4 to construct a utility transmission line within the Floodway District. The project is generally located within the MN DOT right-of-way of TH 61. The Mississippi River would be crossed via a 4” directional bore beneath the river; the area adjacent to the Mississippi River is within the Floodway District and subject to CUP regulations; and

**WHEREAS**, on September 26, 2016, a public hearing and review was conducted before the Planning Commission of the City of Hastings, as required by state law, city charter, and city ordinance; and

**WHEREAS**, The Planning Commission recommended approval of the request subject to the conditions hereunder; and

**WHEREAS**, The City Council has reviewed the request and recommendation of the Planning Commission.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HASTINGS AS FOLLOWS:**

That the City Council hereby approves the Conditional Use Permit as presented subject to the following conditions:

- 1) Conformance with the plans submitted with the City Council Staff Report dated October 17, 2016.
- 2) All disturbed areas on the property shall be stabilized with rooting vegetative cover to eliminate erosion control problems.
- 3) Conformance with the Army Corps of Engineers General Permit Authorization for directional boring.

- 4) Conformance with the Minnesota Department of Natural Resources License for Utility to Cross Public Waters.
- 5) Spoil piles must not be located within the Special Flood Hazard Area.
- 6) Coordination of construction activities with the Public Works Director.
- 7) Approval of City of Hastings Right-of-Way Permits.
- 8) The City reserves the right to require an escrow or surety to protect against potential damage.
- 9) Providing timely communication of the construction schedule, details, and impacts with neighboring property owners and the City throughout the project.
- 10) Approval is subject to a one year Sunset Clause; if significant progress is not made towards construction of the proposal within one year of City Council approval, Site Plan approval is null and void.

Council member \_\_\_\_\_ moved a second to this resolution and upon being put to a vote it was adopted by the Council Members present.

Adopted by the Hastings City Council on October 17, 2016, by the following vote:

Ayes:  
Nays:  
Absent:

ATTEST:

\_\_\_\_\_  
Paul J. Hicks, Mayor

\_\_\_\_\_  
Julie Flaten,  
City Clerk

(City Seal)

I HEREBY CERTIFY that the above is a true and correct copy of resolution presented to and adopted by the City of Hastings, County of Dakota, Minnesota, on the 17<sup>th</sup> day of October, 2016, as disclosed by the records of the City of Hastings on file and of record in the office.

\_\_\_\_\_  
Julie Flaten, City Clerk

(SEAL)

This instrument drafted by:  
City of Hastings (JH)  
101 4th St. E.  
Hastings, MN 55033

# MEETING SUMMARY

**VIII-B-3**

## Utility Committee of the City Council October 11, 2016 – 7:30am Hastings City Hall Volunteer Room

**Planning Committee Members Present:** Chair Nelson, Braucks, and Schultz

**Staff Present:** City Administrator Mesko Lee, Community Development Director Hinzman, and Public Works Director Egger

**Others Present:** David Bushaw – Zayo, and Aaron Zierden – Compass Engineering

### 1. Zayo Fiberoptic Line

Community Development Director Hinzman provided a summary of requested action by Zayo to construct an underground fiberoptic utility from the northern city limits along TH 61 to 5<sup>th</sup> and Sibley Streets. Approval includes a Conditional Use Permit for construction within the Floodway District to bore under the Mississippi River. The action was tabled at the October 3<sup>rd</sup> City Council meeting and directed to the Utility Committee for further discussion.

#### Committee Members discussed the following:

- **Purpose of the project:** Zayo primarily serves cellular communication companies by providing fiberoptic connections between cell tower sites. They currently lease fiberoptic lines in Hastings, and wish to construct and own their own lines.
- **Inability to locate on the TH 61 Bridge:** Zayo is unable to obtain permission from MN DOT or other private utility providers to utilize the TH 61 bridge. CP rail has also been contacted and space is not available on the railroad bridge. Boring is their remaining option for crossing the river.
- **Construction Impacts:** All lines will be buried. Temporary 4' x 4' bore pits will need to be constructed to facilitate the project. Temporary traffic impacts may occur at street crossings lasting 1-2 days. The total project should last about three weeks. Communication with neighboring property owners and concerns about the potential effects and duration of the project were expressed to Zayo by the Committee.

**ACTION:** Motion by Committee Member Braucks, seconded by Committee Member Schultz to recommend approval of the project subject to the following:

- 1) Ensure that the City has recourse for any construction damage that may occur.
- 2) Facilitate close communication with neighboring property owners throughout construction.

Upon vote motion passed 3-0. The item is tentatively scheduled for the October 17, 2016 City Council meeting.

**Meeting Adjourned at 8:15am**

**Meeting Summary transcribed by John Hinzman**



### *Planning Commission Memorandum*

**To: Planning Commission**  
**From: John Hinzman, Community Development Director**  
**Date: September 26, 2016**  
**Item: Conditional Use Permit #2016-33 – Construction of a Transmission Line in the Floodway District – Zayo Group.**

#### **PLANNING COMMISSION ACTION REQUESTED:**

Hold a public hearing and consider the request of Zayo Group, LLC for a Conditional Use Permit (CUP) per City Code Chapter 151.04, Subd. C.4 – Construction of a utility transmission line within the Floodway Zoning District. Zayo proposes to construct an underground fiberoptic transmission line from the northern City limits in Washington County, to 5<sup>th</sup> and Sibley Streets. The project is generally located within the MN DOT right-of-way of TH 61. The Mississippi River would be crossed via a 4" directional bore beneath the river; the area adjacent to the Mississippi River is within the Floodway District and subject to CUP regulations.

The Planning Commission serves as the Board of Zoning Adjustment and Appeals in review of the application.

#### **BACKGROUND**

##### **Existing Condition**

The subject area within the Floodway District is generally located within TH 61 right-of-way between the BNSF Railroad on the north and the Mississippi River Trail on the south.

##### **Proposed Condition**

No permanent structures or changes to the surface are proposed. The proposed boring will result in the construction of 4' x 4' temporary bore pits generally located in areas of directional change of the line.

##### **Zoning Classification**

The subject area is zoned FW – Floodway. The FW district includes areas that are within the Special Flood Hazard Area as determined by the Federal Emergency Management Agency (FEMA) and commonly referred to as the 100 year floodplain.

**Public Notice**

Notification of the Conditional Use Permit was sent to all property owners within 350 feet of the line's crossing within the Floodway District. No comments have been received at this time.

**CONDITIONAL USE PERMIT REVIEW****Standards for Floodway Conditional Uses**

City Code Chapter 151.04, Subd. D includes the following standards for Floodway Conditional Uses; staff analysis follows in **bold**:

(1) *All uses*. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected. **The proposal will not modify the potential for flood damage or change.**

(2) All floodway conditional uses shall be subject to the procedures and standards contained in §151.10(D) of this Ordinance. **See Factors for Making Decisions below.**

(3) The conditional use shall be permissible in the underlying zoning district if one exists. **The subject area is zoned FW floodway and is considered a primary zoning district per the Zoning Code.**

**Factors for Making Decisions**

City Code Chapter 1514.10, Subd. D.4 includes the following factors for which conditional use permit decisions should be made staff analysis follows in **bold**:

(a) The danger to life and property due to increased flood heights or velocities caused by encroachments. **Flood heights will not be affected.**

(b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures. **The project does not include permanent storage of materials. Equipment and materials utilized during construction would be required to be relocated during a flood event.**

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions. **Not applicable**

(d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner. **Not applicable**

(e) The importance of the services provided by the proposed facility to the community. **The proposed boring will accommodate an upgrade to fiberoptic service in Hastings.**

(f) The requirements of the facility for a waterfront location. **The line must cross the river.**

(g) The availability of alternative locations not subject to flooding for the proposed use. **Zayo has been unsuccessful in its attempts to facilitate crossing of the river via the TH 61 bridge.**

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future. **Not applicable.**

(i) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area. **Not applicable**

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles. **Not applicable**

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site. **The project does not include permanent changes at grade level.**

(l) Such other factors which are relevant to the purposes of this Ordinance. **No other factors identified.**

#### **Army Corps of Engineer Review**

The Army Corps of Engineers has given authorization to the directional boring project.

#### **Minnesota DNR Review**

The Minnesota DNR has issued a "License for Utility to Cross Public Waters" for the project as presented.

#### **RECOMMENDATION**

Approval of the Conditional Use Permit subject to the following conditions:

- 1) Conformance with the plans submitted with the Planning Commission Staff Report dated September 26, 2016.
- 2) All disturbed areas on the property shall be stabilized with rooting vegetative cover to eliminate erosion control problems.

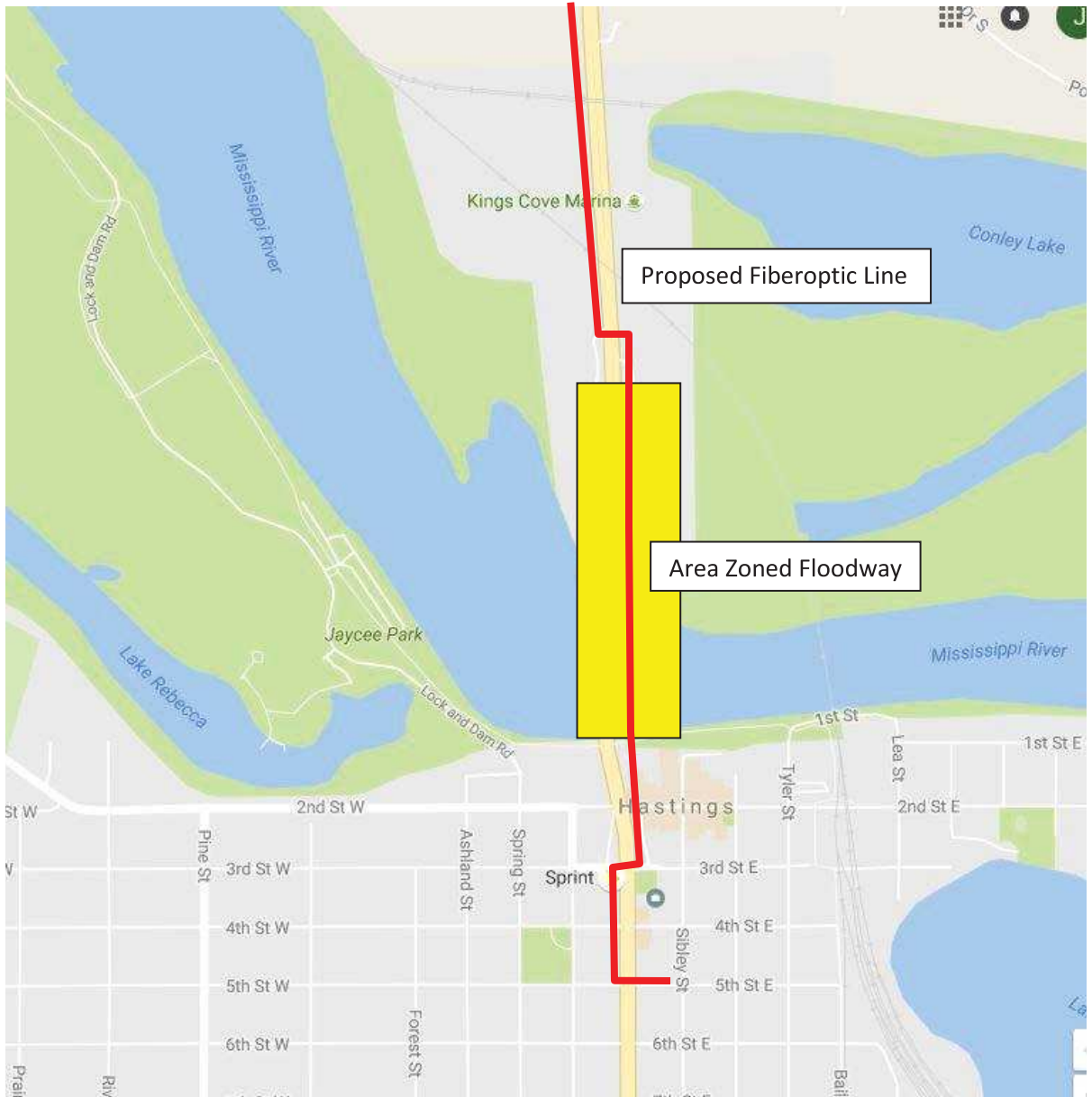


- 3) Conformance with the Army Corps of Engineers General Permit Authorization for ~~VIII-B-3~~ directional boring.
- 4) Conformance with the Minnesota Department of Natural Resources License for Utility to Cross Public Waters.
- 5) Spoil piles must not be located within the Special Flood Hazard Area.
- 6) Coordination of construction activities with the Public Works Director.
- 7) Approval of City of Hastings Right-of-Way Permits.
- 8) Approval is subject to a one year Sunset Clause; if significant progress is not made towards construction of the proposal within one year of City Council approval, Site Plan approval is null and void.

#### **ATTACHMENTS**








- Location Map
- Development Plans
- Application

# LOCATION MAP














# Legend















## Fiber Linetypes

-  Proposed Underground Fiber
-  Existing Underground Fiber
-  Proposed Aerial Fiber
-  Existing Aerial Fiber
-  Proposed Aerial Strand
-  Existing Aerial Strand
-  Proposed UG Fiber in Existing Duct

## Other Utility Linetypes

-  Storm Sewer
-  Sanitary Sewer
-  Gas Line
-  Tele./Comm. Line
-  Water Line
-  Electric Line
-  Street light/Traffic signal
-  District Cooling
-  District Heating
-  Force Main
-  Other Utility or Unknown

## Symbols

-  Proposed Handhole
-  Existing Handhole
-  Manhole
-  Proposed Splice Point
-  Existing Splice Point
-  Power Pole
-  Proposed Slack Coil
-  Existing Slack Coil
-  Proposed Anchor/Down Guy
-  Existing Anchor/Down Guy
-  Proposed Riser
-  Existing Riser
-  Aerial Bond
-  Aerial Ground

## Abbreviations

- CL - Center Line
- R/W - Right of Way
- BOC - Back of Curb
- EOR - Edge of Road
- S/W - Sidewalk
- HH - Handhole
- MH - Manhole
- HDPE - High Density PolyEthylene

## Legend Wetland

- Type 1 = Seasonally - (PEMA)
- Type 2 = Wet Meadow - (PEMB)
- Type 3 = Shallow Marsh - (PEMC)
- Type 4 = Deep Marsh - (PEMF,PUBF)
- Type 5 = IACUSTRINE - (Conley Lake)
- Type 6 = Shrubswamps - (PSSIC)
- Type 7 = Woodswamps - (PFOIA)



1" = 

Route --

City Hasting, MN

County Washinton/Dakota

Filename MN009 Hasting Bridge

Work Order # MN009-11



5005 Cheshire Pkwy, Suite 1  
Plymouth, MN 55448

## TRACKING

Staked By: --  
 Drafted By: TJR 4/11/16  
 Built By: --  
 As-Built By: --

## MATERIAL LIST

Description	Quantity
Aerial Route	--
Aerial Fiber	--
UG Route	--
UG Fiber	--
Plow Footage	--
Bore Footage	--
Duct	--
Strand	--
Handholes	--

## GSOC

GOPHER STATE ONE CALL  
1-800-252-1116  
www.gopherstateonecall.org

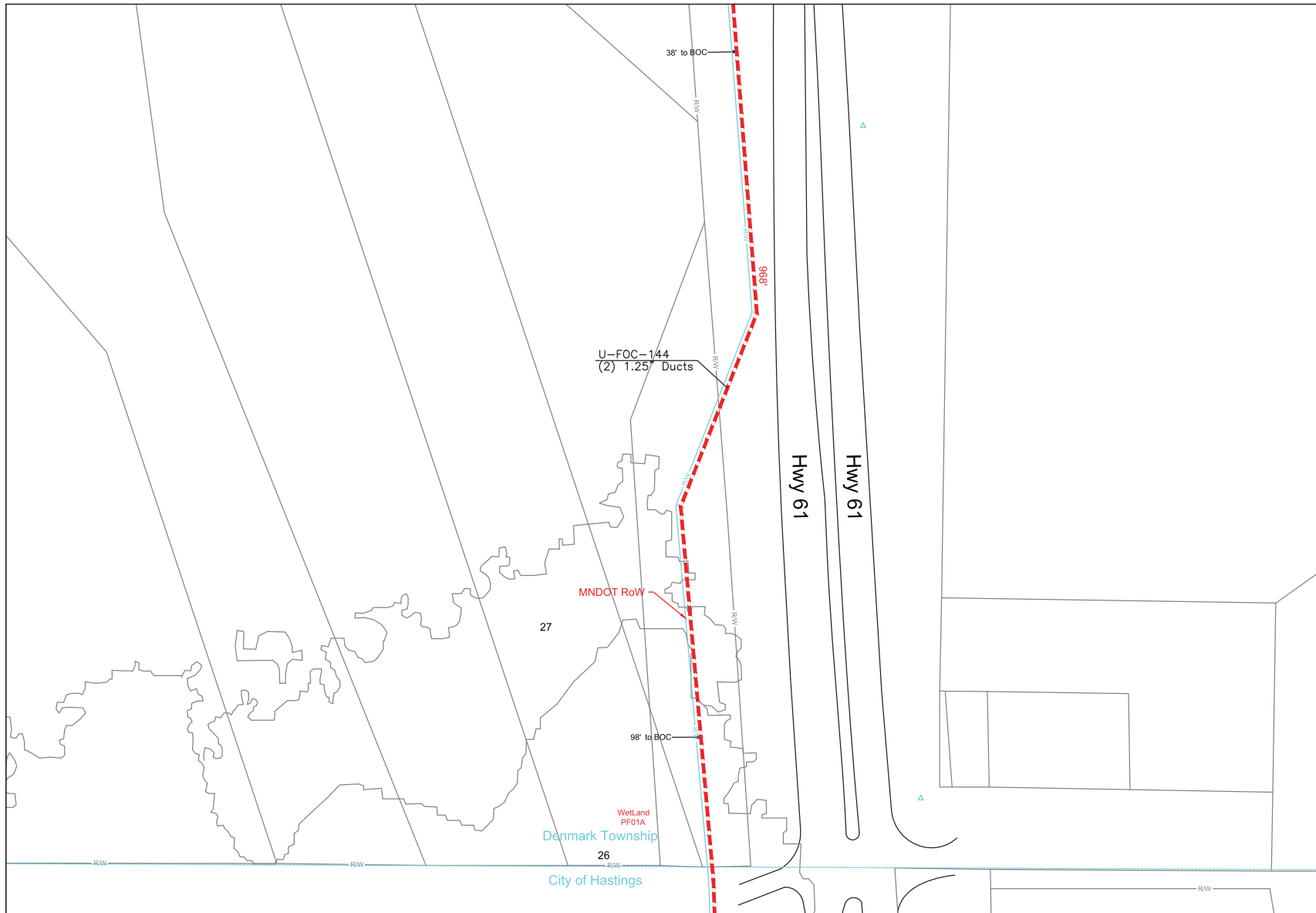
Prepared by:



Legend

VII-B-3

See Sheet MN009-11-03



See Sheet MN009-11-05



1" =

Route --  
 City --  
 County Hasting, MN  
 Washinton/Dakota  
 Filename MN009 Hasting Bridge  
 Work Order # MN009-11



5005 Cheshire Pkwy, Suite 1  
 Plymouth, MN 55446

### TRACKING

Staked By: --  
 Drafted By: TJR 4/11/16  
 Built By: --  
 As-Built By: --

### MATERIAL LIST

Description	Quantity
Aerial Route	--
Aerial Fiber	--
UG Route	968'
UG Fiber 144F	968'
Plow Footage	--
Bore Footage	968'
Duct (2) 1.25"	1936'
Strand	--
Handholes	--

### GSOC

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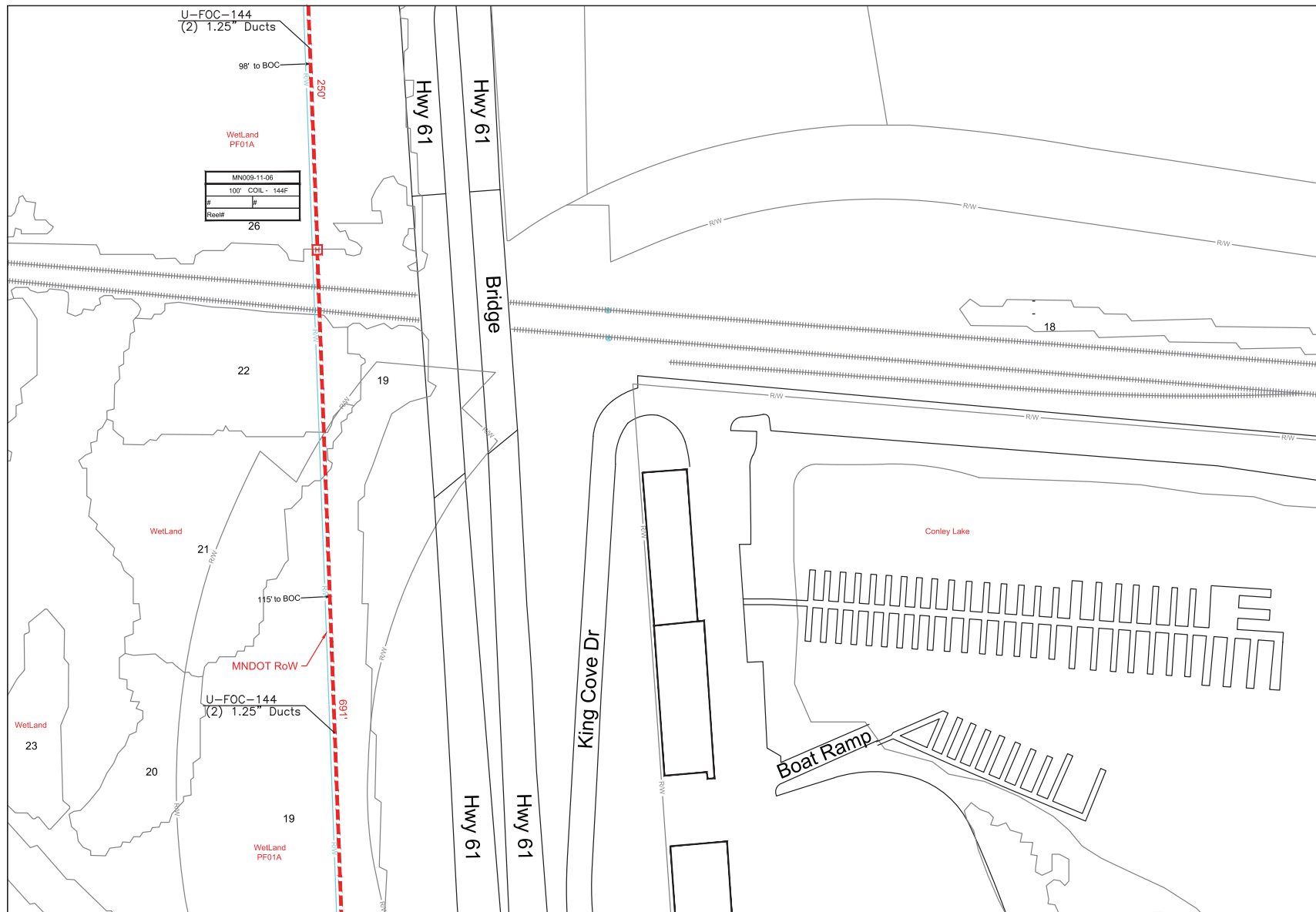
Prepared by:



MN009-11-04

VI-B-3

See Sheet MN009-11-04



See Sheet MN009-11-06



1" =

Route	--
City	Hasting, MN
County	Washington/Dakota
Filename	MN009 Hasting Bridge
Work Order #	MN009-11



5005 Cheshire Pkwy, Suite 1  
Plymouth, MN 55448

**TRACKING**

Staked By:	--
Drafted By:	TJR 4/11/16
Built By:	--
As-Built By:	--

**MATERIAL LIST**

Description	Quantity
Aerial Route	--
Aerial Fiber	--
UG Route	941'
UG Fiber 144F	1041'
Plow Footage	--
Bore Footage	941'
Duct (2) 1.25"	1882'
Strand	--
Handholes	1

**GSOC**

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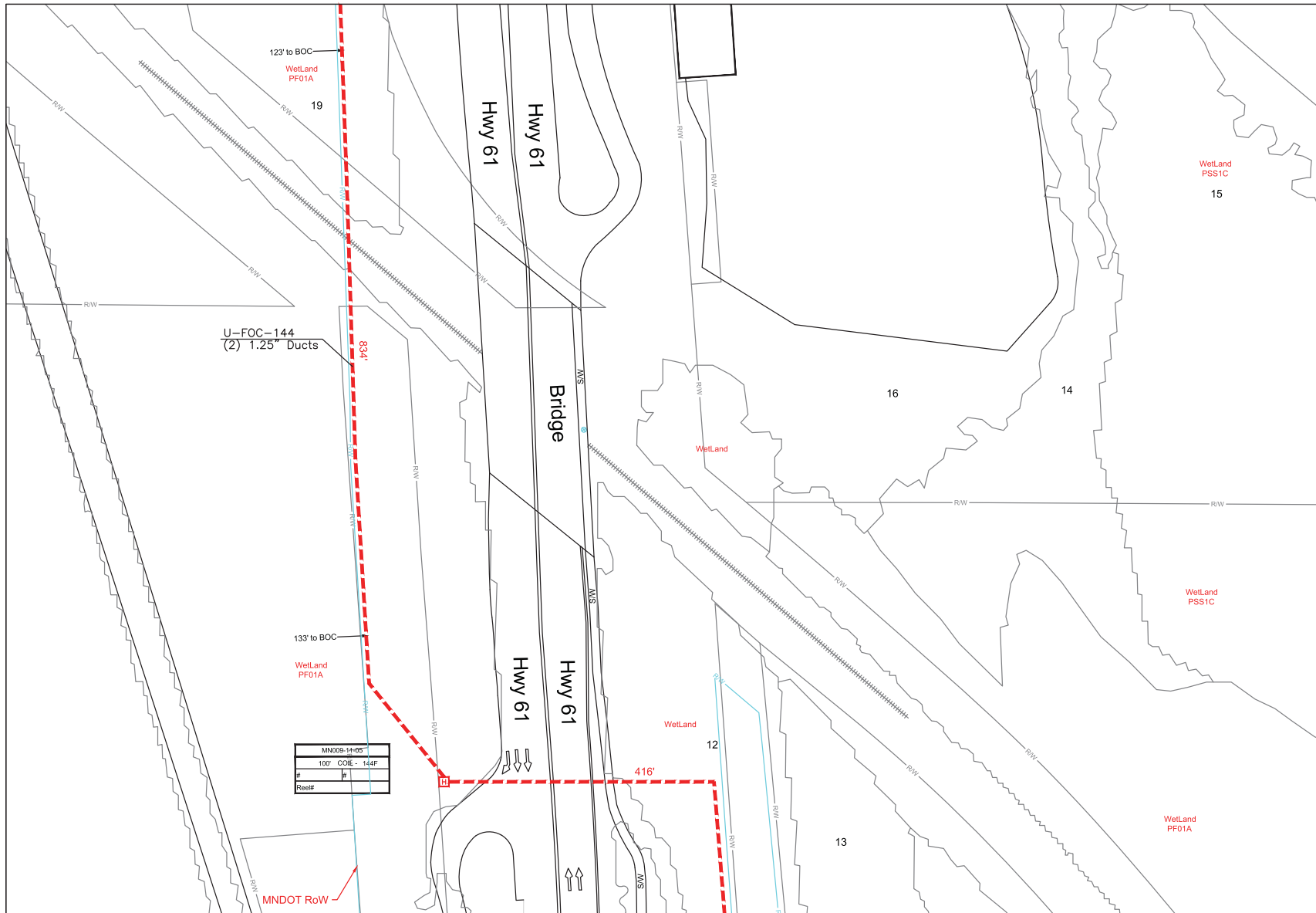


Perham 346-3600  
TrustCom.com

MN009-11-05

MNB-3

See Sheet MN009-11-05



See Sheet MN009-11-07



1" =

Route	--
City	Hasting, MN
County	Washington/Dakota
Filename	MN009 Hasting Bridge
Work Order #	MN009-11



5005 Cheshire Pkwy, Suite 1  
Plymouth, MN 55448

**TRACKING**

Staked By:	--
Drafted By:	TJR 4/11/16
Built By:	--
As-Built By:	--

**MATERIAL LIST**

Description	Quantity
Aerial Route	--
Aerial Fiber	--
UG Router	975'
UG Fiber 144F	1075'
Plow Footage	--
Bore Footage	975'
Duct (2) 1.25"	1950'
Strand	--
Handholes	1

**GSOC**

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Prepared by:

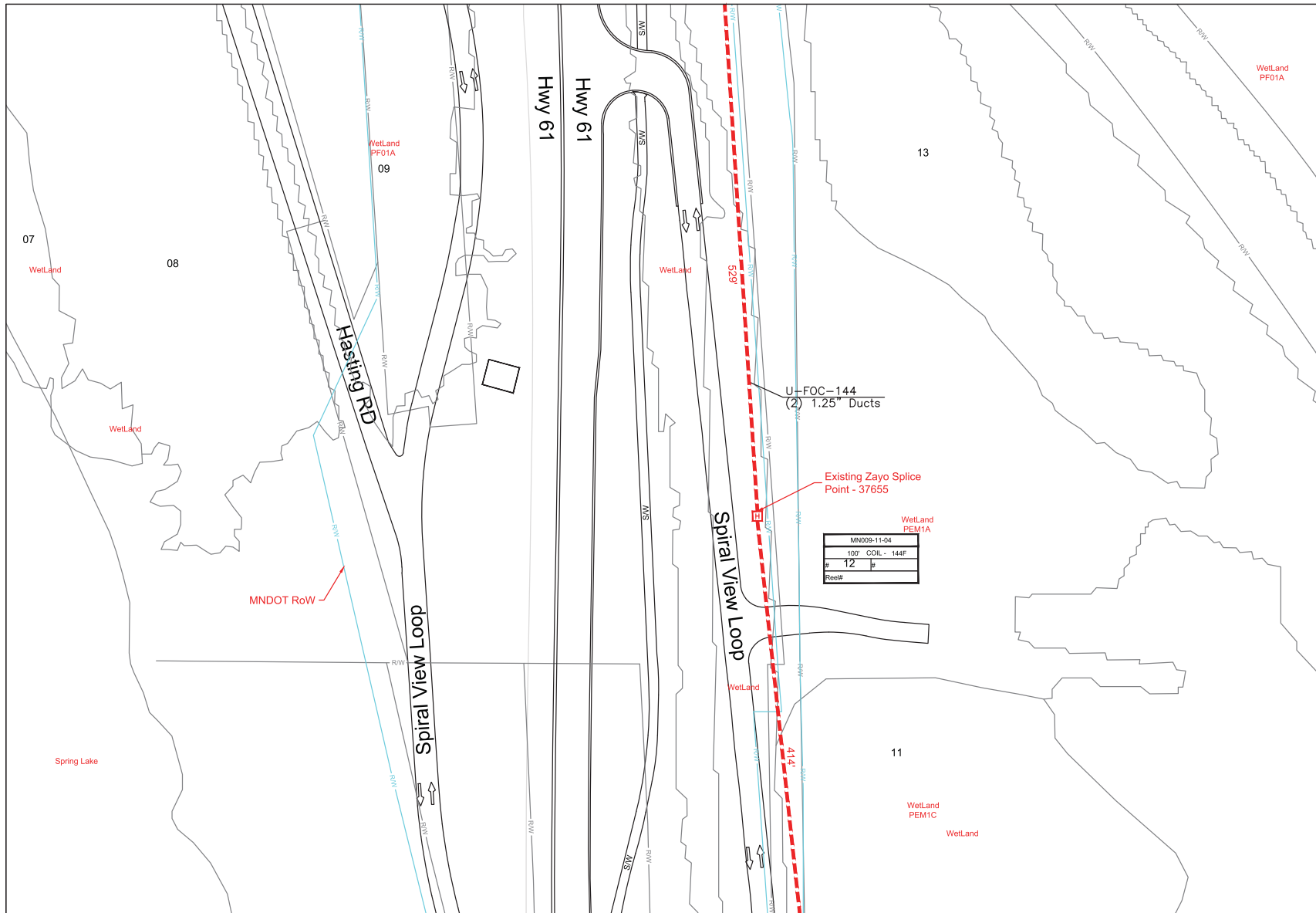


Perham 346-3600  
TrustCo.com

MN009-11-06

VI-B-3

See Sheet MN009-11-06



See Sheet MN009-11-08



1" =

Route --  
 City Hasting, MN  
 County Washinton/Dakota  
 Filename MN009 Hasting Bridge  
 Work Order # MN009-11



5005 Cheshire Pkwy, Suite 1  
 Plymouth, MN 55446

**TRACKING**

Staked By: --  
 Drafted By: TJR 4/11/16  
 Built By: --  
 As-Built By: --

**MATERIAL LIST**

Description	Quantity
Aerial Route	--
Aerial Fiber	--
UG Route	944'
UG Fiber 144F	1044'
Plow Footage	--
Bore Footage	944'
Duct (2) 1.25"	1888'
Strand	--
Handholes	1

**GSOC**

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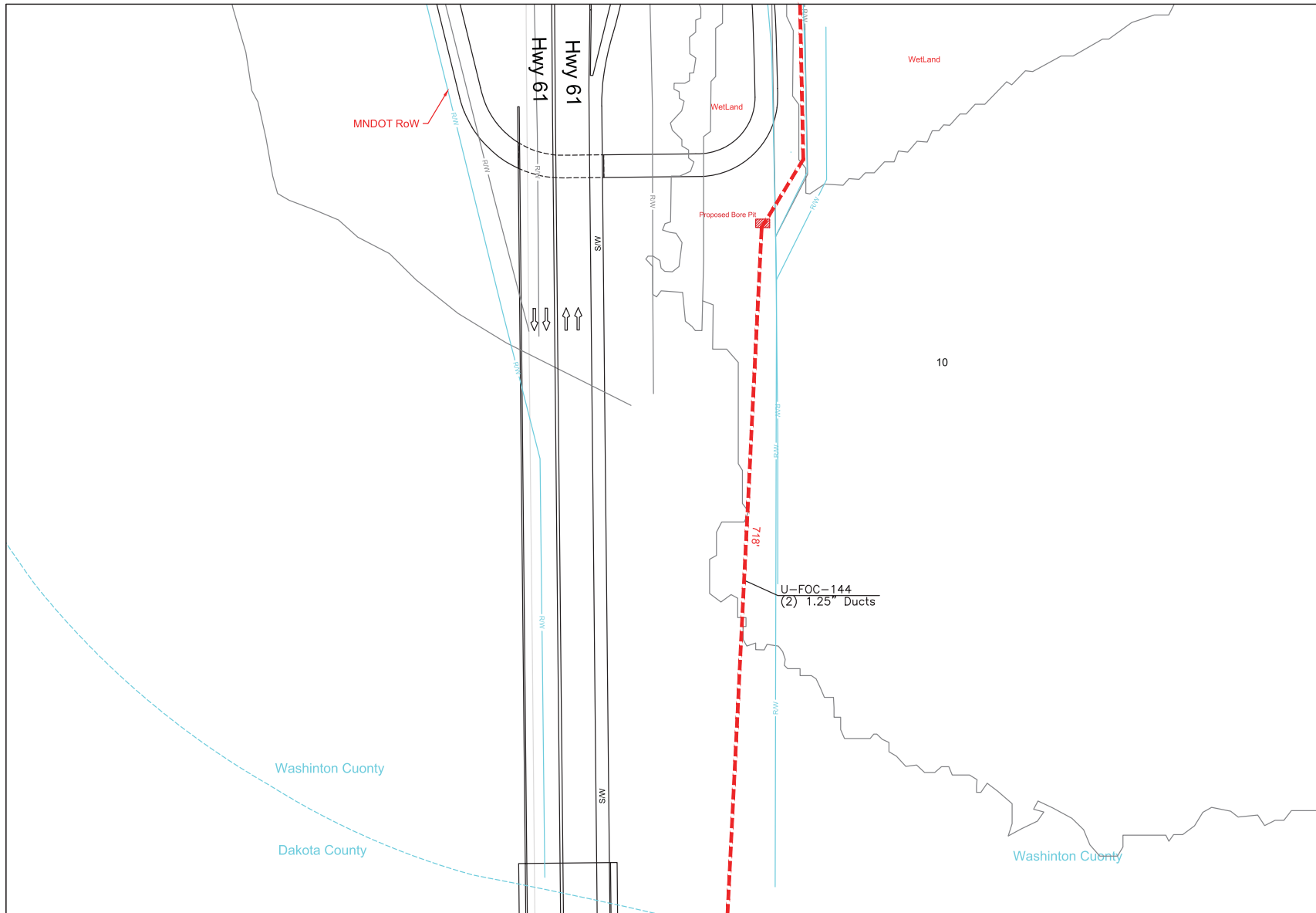


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MN009-11-07

VI-B-3

See Sheet MN009-11-07



See Sheet MN009-11-09



1" =

Route --  
 City --  
 County Hasting, MN  
 County Washinton/Dakota  
 Filename MN009 Hasting Bridge  
 Work Order # MN009-11



5005 Cheshire Pkwy, Suite 1  
 Plymouth, MN 55446

**TRACKING**

Staked By: --  
 Drafted By: TJR 4/11/16  
 Built By: --  
 As-Built By: --

**MATERIAL LIST**

Description	Quantity
Aerial Route	--
Aerial Fiber	--
UG Route	953'
UG Fiber 144F	953'
Plow Footage	--
Bore Footage	953'
Duct (2) 1.25"	1906'
Strand	--
Handholes	--

**GSOC**

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Prepared by:  
  
 Perham Trust Company

MN009-11-08

VI-B-3



See Sheet MN009-11-08

Washinton County

Dakota County

River Flow →

U-FOC-144  
(2) 1.25" Ducts

600'

SW

Mississippi River Regional Trail

Proposed Bore Pit

MN009-11-03	
100'	COL - 144F
Reel#	

SubStation Area

Heritage Preservation Sites

Historic Preservation Boundary

Mark MNRRA Critical area Bounadry

2nd St E

See Sheet MN009-11-10



1" = 100'

Route

--

City

Hasting, MN

County

Washinton/Dakota

Filename

MN009 Hasting Bridge

Work Order #

MN009-11



5005 Cheshire Pkwy, Suite 1  
Plymouth, MN 55446

### TRACKING

Staked By:

--

Drafted By:

TJR

4/11/16

Built By:

--

As-Built By:

--

### MATERIAL LIST

Description	Quantity
Aerial Route	--
Aerial Fiber	--
UG Route	948'
UG Fiber 144F	1048'
Plow Footage	--
Bore Footage	948'
Duct (2) 1.25"	1896'
Strand	--
Handholes	1

### GSOC

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MN009-11-03

VI-B-3