

## **Appendix L. Final Agricultural Impact Statement**

# AGRICULTURAL IMPACT STATEMENT



**DATCP  
#4472**

## **I-39/90/94 Corridor**

**Dane, Columbia, Sauk and Juneau Counties,  
Wisconsin**



**WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION**  
***PUBLISHED APRIL 29, 2024***

# **AGRICULTURAL IMPACT STATEMENT**

DATCP #4472

I-39/90/94 Corridor Study

Dane, Columbia, Sauk and Juneau Counties

**WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION**

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## LETTER TO THE READER

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Dear Reader,

Through the Agricultural Impact Statement ("AIS") program, agricultural operations have the opportunity to provide feedback, document impacts, and suggest alternative solutions when their agricultural lands are affected by an entity with the potential powers of eminent domain. The AIS program also provides affected agricultural landowners time to gather information to make well-informed decisions before a study begins. Lastly, the AIS program makes suggestions and recommendations to study initiators to promote study alternatives and management practices that would reduce potential impacts to agricultural lands and operations.

The AIS program also serves the needs of the study initiator by conducting the AIS analysis and publishing the statement within a timely manner as required by Wis. Stat. § 32.035. In addition, the AIS program provides a continuing presence throughout study development and oversight processes in order to support the interests of agricultural operations and the statewide priority to preserve prime farmland.

The Agricultural Impact Statement program and the WI Department of Agriculture, Trade and Consumer Protection are honored to provide this essential state service to the agricultural landowners and operators of the state.

Thank you,

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## SUMMARY OF AGRICULTURAL IMPACT STATEMENT

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The Wisconsin Department of Agriculture, Trade and Consumer Protection ("Department") has prepared Agricultural Impact Statement ("AIS") #4472 for a highway improvement study proposed by the Wisconsin Department of Transportation ("WisDOT"). The proposed highway study (referred to as "I-39/90/94 Corridor" or "Study") includes 67 miles of highway across Dane, Columbia, Sauk and Juneau Counties. The study corridor includes designing improvements to the interstate between United States (US) 12/18 and US 12/Wisconsin State Highway (WIS 16) in Wisconsin Dells as well as evaluation of potential reconstruction to 15 existing interchanges and potentially constructing two new interchanges in the Madison area (Figure 1). The new interchanges were requested by the City of Madison at Hoepker Road on I-39/90/94, and at a proposed extension of Milwaukee Street on I-94, located east of the I-94/WIS 30 interchange. WisDOT has indicated the primary reason for the Study is to address current and anticipated traffic demands, outdated infrastructure in the study area and to provide reliable and safe interstate travel system (WisDOT 2023). For additional context for needed highway improvements in the I-39/90/94 Corridor, see the [Wisconsin Department of Transportation's I-39/90/94: Corridor Study: Notice of Intent—Additional Information](#).

The proposed Study crosses through 4 counties and 16 municipalities (see Table 1) and commonly overlaps with or runs parallel to existing easements held by WisDOT. WisDOT cites that the mainline route generally stays within existing right-of-ways ("ROW"), but the study also contains several deviations therefrom where WisDOT plans to acquire new easements, particularly for interchanges improvements and new builds (WisDOT 2024b). This analysis does not include impacts related to the reconstruction of the I-39/90/94 and WIS 60 Interchange for which construction commenced in February of 2023 and is due to be complete in Spring of 2024 (511 WI).

The Study will also not include analysis of the Wisconsin River Bridge study or the County V interchange or the. Originally the County V Interchange was proposed to be modified by WisDOT which would include potential agricultural impacts. However, these agricultural impacts were not included within the AIN to the Department as a private development to the west of the interchange may complete a separate environmental document and reconstruct the interchange before construction could occur for a potential project through the I-39/90/94 Corridor Study. Should the development occur, WisDOT recommends the No Build alternative as the preferred alternative. If the development west of the interchange does not move forward, WisDOT would recommend a diamond alternative. If the project is altered in any way which could be construed as increasing potential adverse effects on agriculture or any farm operation, the Department should be re-notified.



WisDOT has developed preferred interchange and corridor alternatives, but at the time of writing this AIS, these preferred alternatives have not yet reached agency concurrence and so the department has analyzed all alternatives currently recommended by WisDOT for further study. WisDOT is recommending one design alternative for further study for 14 of the 15 existing interchanges and one design alternative for the 2 proposed new interchanges (WisDOT 2024b; WisDOT 2024c). The mainline and WIS 13 Interchange each have two alternatives recommended for further study. As determined by the AIS analysis with data provided from WisDOT, the Study will impact approximately 136 agricultural landowners and between 160.2 - 178.74 acres of agricultural lands, depending on the selected alternatives (WisDOT 2024b).

In accordance with [Wis. Stat. §32.035\(3\)](#), WisDOT has provided the Department with the necessary information and materials to conduct an AIS. The Department has also contacted agricultural landowners and operators impacted by the Study route. In accordance with [Wis. Stat. §32.035\(4\)\(b\)](#), the Department has reviewed and analyzed WisDOT materials and the comments from the affected agricultural landowners and operators to assess the agricultural impacts of the proposed study.

Through the AIS, the Department offers a set of recommendations – beginning on page 7 – and conclusions to WisDOT and the agricultural landowners and operators to help mitigate current and future impacts on agricultural lands and *agricultural operations* along the Study route. If WisDOT deviates from the selected alternatives, WisDOT shall re-notify the Department. The Department shall review the re-notification for new potential impacts to agricultural lands and may generate an addendum to this AIS, if warranted.

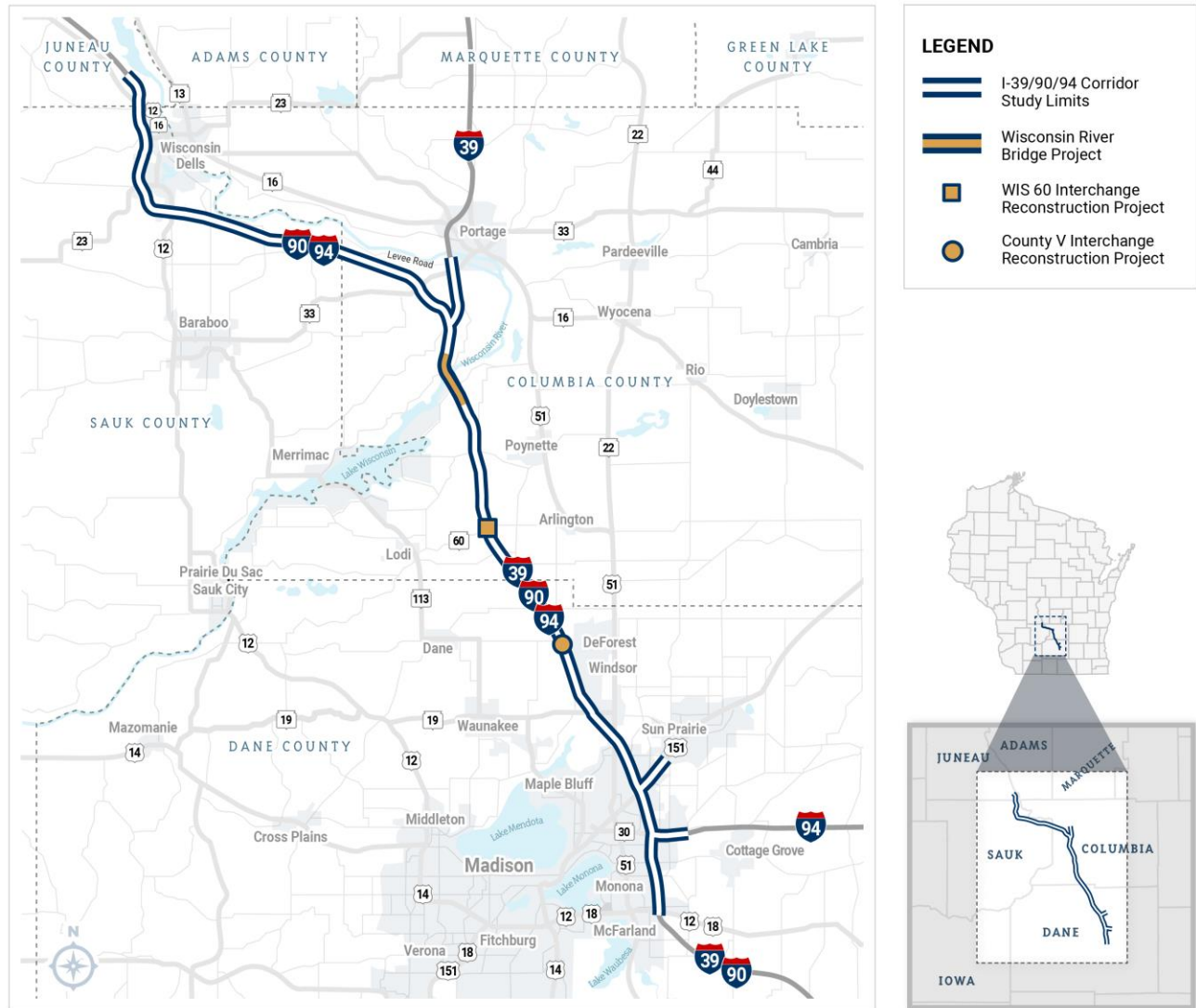


Figure 1: Location of the I-39/90/94 Corridor Study route, between City of Madison and City of Wisconsin Dells across Dane, Columbia, Sauk and Juneau Counties (WisDOT 2024b).

# AGRICULTURAL IMPACT STATEMENT

## RECOMMENDATIONS

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The Department has reviewed and analyzed the materials provided by WisDOT and comments from the affected agricultural landowners and operators regarding the proposed I-39/90/94 Corridor Study. The Department provides the following recommendations, in accordance with [Wis. Stat. §32.035\(4\)\(b\)](#) to WisDOT and agricultural landowners and operators to help mitigate impacts on agricultural lands and *agricultural operations* resulting from the Study.

### Recommendations to WisDOT

WisDOT has reviewed these recommendations and did not object, but did offer several comments as shown in Appendix G. The Department's response to WisDOT's comments and actions taken to address WisDOT's feedback is available in Appendix G.

1. The Department recommends WisDOT consult the Department in the year preceding construction regarding the status of effective FP agreements within the project corridor.
2. Where the Study compels the release of land from an effective FP agreement, WisDOT should coordinate with agricultural landowners and the Department in accordance with Wisconsin Department of Transportation Facilities Development Manual, Chapter 5, Section 10, Provision 30.2.2 (FDM 5-10-30.2.2). If the study compels the release of land from an effective FP Agreement and requires a landowner to pay a conversion fee under Wis. Stat. § 91.66(1)(c), DOT should consider compensating the landowner for said release.
3. WisDOT should provide the Sauk County Land Conservation Department with selected route information affecting the Fairfield AEA when available.
4. The Department recommends WisDOT work with landowners to identify effective CREP agreements prior to any construction or site disturbance activities.
5. The Department recommends that WisDOT coordinate with the appropriate Wisconsin CRP contact regarding effective CRP contracts within the project area and coordinate with FSA regarding impact mitigation to enrolled lands and/or potential contract (CRP-1) releases within 12 months of expected construction or site disturbance activities.
6. WisDOT should consult with the Department in the year preceding construction or site disturbance activities to determine if any CREP easements with expired federal contracts will be impacted by the project corridor.

7. As improvements proposed by the Study would impact the Lower Baraboo Drainage District, WisDOT is required by Wis. Stat. § 88.67(3) to inform and consult with the drainage board having jurisdiction. WisDOT should contact the Department's State Drainage Engineer for additional information related to the jurisdiction of the Lower Baraboo Drainage District.
8. Department recommends WisDOT inform agricultural operations at least 30 days prior to when they will lose access to the impacted farm fields and indicate when access will be lost and for how long. WisDOT should also work with agricultural landowners and any agricultural tenant operators to determine safe new access points to adjoining or remnant fields.
9. The Department recommends WisDOT to work within the bounds of Wis. Stat. § 88.87 to build adequate ditches, culverts, and other facilities to prevent obstruction of drainage, protect property owners from damage to lands caused by unreasonable diversion or retention of surface water, and maintain, as nearly as possible, the original drainage flow patterns to ensure stormwater and drainage impacts are mitigated on the remnant fields.
10. As the proposed construction of the Study holds the potential for numerous agricultural impacts, the Department recommends WisDOT to help mitigate by hiring an AI (Agricultural Inspector) or appointing a current staff person to function in a capacity as an AI or agricultural liaison.
11. The Department recommends that WisDOT should monitor for potential drainage tile damage during construction and, if one is determined to have been impacted by construction, work with the landowner to identify a remedy.
12. The Department recommends that WisDOT consider alternatives to chloride based deicing products, such as ones listed within the University of Wisconsin Madison - Extension publication [A3877](#), if construction will occur during winter months.

### **Recommendations to Agricultural Landowners and Operators**

1. If the proposed Study were to impact agricultural lands associated with an FP agreement, affected agricultural landowners and operators should contact the Department to release the affected agricultural lands from an FP agreement. Impacted landowners should notify WisDOT of enrollments in existing land conservation programs, including farmland preservation agreements.
2. The loss of forestland within MFL agreements affected by the Study may cause some parcels to lose their eligibility to stay enrolled within the MFL program. Impacted landowners should visit the WisDNR Forestry Assistance Locator website <https://apps.dnr.wi.gov/fal> to find their local DNR Tax Law Forestry Specialist and discuss the implication of the Project to their MFL enrolled lands.

3. Agricultural landowners within the impacted floodplains (or with floodplain impacts) may wish to consult the Columbia County Land Conservation Department for site specific voluntary management practices or programs that promote infiltration and reduce soil erosion such as long-term rent based alternatives, CREP, CRP, WRP, soil health practices, permanent cover type changes to reduce floodplain impacts to their agricultural land.
4. The Department recommends that agricultural landowners keep records of the conditions of the ROW before, during, and after construction. Records could include keeping crop yield records, beginning once the ROW is known, and photographs taken every season. These measures can help a landowner negotiate for compensation, should damages occur.
5. Agricultural landowners should inform WisDOT about the existence and location of drainage systems or planned drainage systems that could be affected by the Study.
6. Agricultural landowners should document field moisture conditions and the historic presence/absence of ponded water prior to the start of construction for post-construction comparisons.
7. Livestock owners & operators within the Study ROW who are concerned about the noise potential for the Study should inform WisDOT or their representatives of their concerns and ask for advanced warning before noise generating construction activities begin.
8. Prior to construction, *agricultural operations* that use irrigation within or adjacent to the Study ROW should inform WisDOT of their irrigation system, how the Study may impact the system, irrigation schedules frequency of irrigation and weather conditions that may change the irrigation schedule.
9. Landowners who wish to obtain their own appraisal for MFL land impacted by the Project should also hire an appraiser who has experience and expertise in valuing trees.

# AGRICULTURAL IMPACT STATEMENT

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## 1. INTRODUCTION

The Wisconsin Department of Agriculture, Trade and Consumer Protection (“Department”) has prepared Agricultural Impact Statement (“AIS”) #4472 in accordance with [Wis. Stat. §32.035](#) for a highway improvement study proposed by the Wisconsin Department of Transportation (“WisDOT”). The proposed highway study (referred to as “I-39/90/94 Corridor ” or “Study”) corridor is studying improvements to interstate between United States (US) 12/18 and US 12/Wisconsin State Highway (WIS 16) in Wisconsin Dells as well as an interchange reconstruction at WIS 60 (not subject to review under AIS 4472). The Study is located across multiple counties and municipalities as shown in Figure 1. Through the Study, WisDOT expects to address current and anticipated traffic demands, outdated infrastructure in the study area and to provide reliable and safe interstate travel system (WisDOT 2023).

### 1.1. WisDOT Authority

In Wisconsin, WisDOT is responsible for planning, building and maintaining Wisconsin's network of state highways and Interstate highway system. WisDOT also collaborates with counties to share the costs of building and operating Wisconsin's county highways. In order to achieve its responsibilities to the residents of Wisconsin, WisDOT may be required to draw upon its vested authority of condemnation granted under [Wis. Stat. §84.09](#). Vested with the power of condemnation, WisDOT projects that impact agricultural lands are also subject to Wisconsin's AIS statute [Wis. Stat. §32.035](#).

### 1.2. Department Authority

In Wisconsin, the Department prepares an AIS – according to [Wis. Stat. §32.035](#) – when a involves the actual or potential exercise of eminent domain powers to acquire any interest in more than five acres of land from any *agricultural operation*. The AIS is designed to be an informational and advisory document that describes and analyzes the potential effects of a proposed project on *agricultural operations* and agricultural resources, but it cannot stop a project. The AIS reflects the general objectives of the Department in its recognition of the importance of conserving vital agricultural resources and maintaining a healthy rural economy. The Department is not involved in determining whether or not eminent domain powers will be used or the amount of compensation to be paid for the acquisition of any property.

WisDOT provided the Department with an agricultural impact notification (“AIN”), that complies with Wis. Stat. §32.035(3), for the I-39/90/94 Corridor Study (WisDOT, 2024b). This AIN serves as the Department's main reference document for the Study. Upon review of the AIN, the Department determined it would prepare this AIS for the Study.

As established under [Wis. Stat. §32.035\(4\)\(d\)](#), if the WisDOT intends to actualize its powers of condemnation at any point during the project through a jurisdictional offer(s), WisDOT may not negotiate with an owner or make a jurisdictional offer until 30 days after the agricultural impact statement has been published. If WisDOT deviates from the selected route alternatives discussed, WisDOT shall re-notify the Department. The Department shall review the re-notification for new potential impacts to agricultural lands and may determine to generate an addendum to this AIS.

Should WisDOT actualize its powers of condemnation for this acquisition, information on the appraisal and compensation process under eminent domain is provided within Appendix C. The full text of [Wis. Stat. §32.035](#) is included in Appendix D. Additional references to statutes that govern eminent domain and condemnation processes and other sources of information are also included in Appendix E.

## **2. STUDY DESCRIPTION**

### **2.1. Study Purpose**

WisDOT has indicated the primary reason for the I-39/90/94 Corridor Study is to address current and anticipated traffic demands, outdated infrastructure in the study area and to provide reliable and safe interstate travel system (WisDOT 2024b). WisDOT denoted that existing highway facilities scheduled for replacement were constructed in the 1950s and 1960s and will operate unacceptably by 2050 if there are no improvements. WisDOT reported that crash rates within the corridor are at or higher than the statewide average, with some parts being up to two times higher (WisDOT 2022; WisDOT 2023; WisDOT 2024c).

### **2.2. Study Location**

The proposed study corridor traverses 4 counties and 16 municipalities across south central Wisconsin as shown in Figure 1.

Table 1: Wisconsin Counties and Municipalities Impacted by the I-39/90/94 Corridor Study.

County	Municipality	Municipality Name	County	Municipality	Municipality Name
Dane	Town	Blooming Grove	Columbia	Town	Caledonia
Dane	Town	Burke	Columbia	Town	Dekorra
Dane	Town	Vienna	Columbia	City	Portage
Dane	City	Sun Prairie	Sauk	Town	Delton
Dane	City	Madison	Sauk	Town	Fairfield
Dane	Village	DeForest	Sauk	City	Wisconsin Dells
Dane	Village	Windsor	Sauk	Village	Lake Delton
Columbia	Town	Arlington	Juneau	Town	Lyndon

### 2.3. Existing Roadway

WisDOT has designated I-30/90/94 as a part of the Wisconsin’s “backbone system”. Backbone routes are the highest value multilane divided highways, interconnecting all regions and major economic centers statewide and tying them to the national transportation network to support the state and national economy (WisDOT 2023).

The study corridor is 67 miles long of multi-lane interstate, herein referred to as “mainline”, with 15 interchanges and over 100 bridges. The study corridor travels mainly between the Madison metropolitan area on the southern end, northward up to Wisconsin Dells, a popular tourist destination. In terms of land use, the area around Madison is largely urban and suburban, with the northern portion consisting of rural and natural resource land uses (WisDOT 2023; WisDOT 2024b).

### 2.4. Proposed Build Alternatives and ROW Changes

As part of the AIN submitted to the Department, WisDOT indicated and described all design alternatives evaluated during the study design process. The considered design alternatives included no build, Transportation Demand Management strategies, off alignments, spot improvements, freeway modernization, and various interchange alternatives (clover leaf, diamond, U-ramp, trumpet, and more) (WisDOT 2023; WisDOT 2024c). At this stage, WisDOT has screened alternatives based on the study’s needs for existing and future travel demands, safety, pavement needs, bridge needs and corridor resiliency in regards to flooding and has narrowed down potential designs to one or two alternatives for each segment. WisDOT considered potential impacts to structures, residencies, wetlands, floodplains, wildlife refuges, historic sites, and recreation lands for each alternative (WisDOT 2024c).



At the time of this AIS, WisDOT has developed preferred alternatives screening analysis through agency and public coordination, but agency concurrence on these alternatives will not be achieved before May 1, 2024 (See Appendix F). As such, the Department analyzed all alternatives currently suggested for further study (Table 2). There are only two options that have more than one alternative suggested for further study: the I-39/90/94 Freeway and the WIS 13 Interchange (WisDOT 2023; WisDOT 2024c). Discarded design alternatives are not be discussed in this analysis. For a description of all the design alternatives considered, please view [the Notice of Intent document](#) from WisDOT.

The Department in its analysis may have attributed select affected parcel acreage to an interchange or to the main I-39/90/94 roadway differently than WisDOT has, but all agricultural impacts will be considered within this analysis overall. Each interchange's agricultural parcel impacts as defined by this analysis can be seen in the maps named to the likes of "proposed agricultural land to be impacted by the Study" that are provided for each interchange.

Based on the design alternatives recommended by WisDOT for further study, there is 160.2 - 178.74 acres of agricultural lands that may be impacted. At the time of this AIS analysis, the I-39/90/94 Corridor is in the design process so the manner of acquisition, whether through easements (permanent or temporary) or through purchase (fee-simple), is not yet known.

Table 2: Study Alternatives Recommended for Further Study by WisDOT (WisDOT 2023; WisDOT 2024c).

Mainline or Interchange	Alternative
I-39/90/94 Freeway	Modernization Plus Added General-Purpose Lane; Modernization Hybrid
I-94/WIS 30 Interchange	Full Modernization Alternative #2
Milwaukee Street Interchange (Proposed New)	Partial Cloverleaf
US 151/High Crossing Boulevard	Directional
Hoepker Road Interchange (Proposed New)	Shifted Diamond
US 51 Interchange*	Partial Cloverleaf
WIS 19 Interchange	U-Ramp
County V Interchange*	No Build
County CS Interchange	Diamond
I-39/ I-90/94 Split Interchange	Low Build
WIS 33 at I-39 Interchange	Diamond
WIS 33 at I-90/94 Interchange*	Partial Cloverleaf
US 12 Interchange	Diverging Diamond
WIS 23 Interchange*	Diamond
WIS 13 Interchange	Split Diamond; Trumpet
US 12/WIS 16 Interchange*	Diamond

\*These are interchanges will not be discussed in this AIS as they do not have identified agricultural impacts. See Appendix F for WisDOT's recommended preferred alternatives.

#### 2.4.1. *Freeway Modernization*

WisDOT denotes that there are two build modernization alternatives still under consideration for the main I-39/90/94 route:

- Modernization Plus Added general-purpose lane (WisDOT's preferred alternative)
- Modernization Hybrid

WisDOT cites that it will review the modernization alternatives based on safety as the foremost concern, while aiming for improvements such as replace deteriorating pavement, bridges and

culverts, eliminating left-hand entrances and exits while improving ramp lengths and bridge clearance, expand shoulders and alter roadway curves, lighting and signage (WisDOT 2024b). Additional aspects considered may alter or add additional lanes in the form of Auxiliary Lanes, Managed Lanes, and or Collector-Distributor (C-D) Lanes in each of the modernization alternatives (WisDOT 2023; WisDOT 2024b).

Both modernization alternatives would also help to address flood risks analyzed in the Baraboo River floodplains (2024c). The WisDOT recommended raising I-39 and I-90/94 near the Baraboo River and lengthening the I-39 Baraboo River bridge (which will not be further analyzed within this document), and would affect interchanges near the I-39/I-90/94 Split (I-39 and I-90/94 Split Interchange, WIS 33 at I-39 Interchange, and WIS 33 at I-90/94 Interchange).

WisDOT cites that majority of both modernization alternatives would be within the existing ROW (2024b). This AIS analysis will cover any specific modernization alternatives that impact farm operations. The agricultural ROW needed for either of the mainline alternatives described below would be approximately 95.96 - 97.85 acres, depending on the alternative.



Figure 2: Modernization of Existing Travel Lane Alternative with Number of General-Purpose Lanes (WisDOT 2024b)

### *Modernization Plus Added General-Purpose Lane*

The Modernization Plus Added General-Purpose Lane is WisDOT's preferred alternative. With this alternative, the interstate would be modernized by reconstructing the interstate to replace pavement, bridges and interchanges, and adapt to modern design standards, such as including 12-foot shoulders along the existing alignment (WisDOT 2024c). Throughout most of the corridor, the Modernization Plus Added General-Purpose Lane alternative would additionally provide an additional general-purpose lane in each direction along the current freeway alignment, except I/39 starting from the I/39 I-90/94 Split to Levee Road, where the current number of lanes would be retained. C-D and auxiliary lanes would be included as needed (Figure 2) (WisDOT 2024c). The

Modernization Plus Added General-Purpose Lane would require approximately 95.96 acres of agricultural land.

#### *Modernization Hybrid*

The Modernization Hybrid is similar to the previous alternative, but reconstructs the interstate with a combination of adding a general-purpose lane or a managed land, depending on location. C-D Lanes are proposed between I-94/WIS 30 and US 151 Interchanges, while auxiliary lanes are proposed between the US 12/18 and I-94/WIS 30 interchanges and between the US 151 and WIS 19 interchanges (WisDOT 2024c).

A difference between those two alternatives is from US 12/18 to WIS 19, where the current number of general-purpose lanes will be kept and the inside shoulder would be 18ft that would additionally be utilized as a managed land (WisDOT 2024c). Modernization hybrid would require approximately 97.85 acres of agricultural land.

#### **2.4.2. Interchanges**

The I-39/90/94 Corridor Study area includes 15 existing interchanges subject to review for design improvements, though the WIS 60 Interchange will not be discussed as it will be reconstructed as a separate project (Figure 3). Of those 15 interchanges, 10 have agricultural impacts subject to review under AIS 4472 (Table 2). WisDOT is also studying two potential new interchanges in the city of Madison, one at Hoepker Road on I-39/90/94 and a proposed extension of Milwaukee Street on I-94 (WisDOT 2023a). AIS 4472 will comment on the design alternatives currently recommended for further review by WisDOT. The interchange design alternatives will affect between 67.96 and 80.9 acres of agricultural land, depending on which alternative is chosen for WIS 13 at I-90/94.

The Interchanges that will be discussed in this AIS are the following:



Figure 3: I-39/90/94 Corridor Study Interchanges (WisDOT

- I-94/WIS 30 Interchange
- Milwaukee Street Interchange (Proposed new)
- US 151/High Crossing Boulevard Interchanges
- Hoepker Road Interchange (Proposed New)
- WIS 19 Interchange
- County CS Interchange
- I-39, I-90/94 Split Interchange
- WIS 33 Interchange at I-39
- US 12 Interchange
- WIS 13 Interchange

The County V Interchange (no build), US 51 Interchange, WIS 33 at I-39, WIS 23 Interchange, US 12/WIS16 Interchange will not be discussed within this AIS as they did not have agricultural data provided within the AIN.

#### *1-94/WIS 30 Interchange*

This interchange is where I-39/90 meets I-94 to the east of the interchange and WIS 30 to the west, creating a four-legged system in Madison, Dane County. WisDOT cites a need for design improvements as there are multiple left-handed entrance and exit ramps, and as well as curves that do not meet modern standards. Additionally, there are safety concerns based on heavy traffic weaving between this interchange and the US 151/High Crossing Boulevard interchange that is about a mile north (WisDOT 2024c).

For this interchange, there is one alternative that was recommended by WisDOT for further study: Full Modernization Alternative #2 (See Figure 4 below). WisDOT discussed that this modernization alternative was chosen as its design featured less complicated geometry, fewer complex structures and the ramps allow speeds closer to the freeway design speed. The ramps accommodate traffic weaving better than other alternatives to allow for safer movements along the way to US 151/High Crossing Boulevard Interchange (WisDOT 2024c).

This design alternative will require 4.99 acres of agricultural land and would affect 1 agricultural owner (see Figure 5 below). A majority of the proposed agricultural land to be acquired for this design alternative is currently cropland. The additional ROW will run parallel to the existing highway ROW and range from 20-190ft in width (measured from the existing ROW).



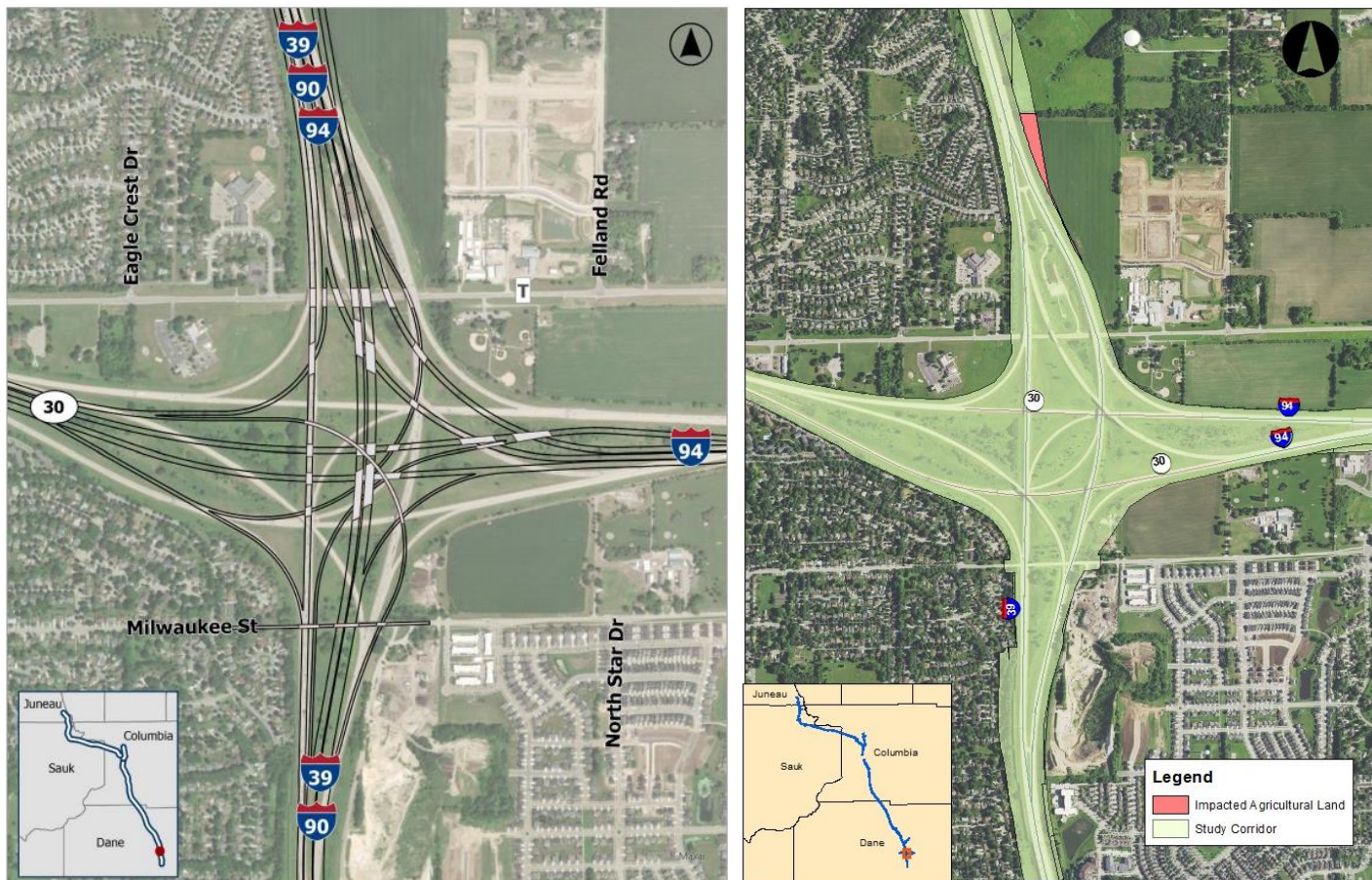


Figure 4: I-94/WIS 30 Interchange Alternative Selected for Further Study (WisDOT 2024c);  
 Figure 5: Proposed Agricultural Land to be Acquired for the I-94/WIS 30 Interchange Alternate Design, Credit: DATCP

### *Proposed New Milwaukee Street Interchange*

This interchange is one of the two new proposed interchange builds. Milwaukee Street leads to a dead end near East Hill Parkway in Madison, Dane County. The City of Madison requested WisDOT evaluate a new interchange that would propose an extension of Milwaukee Street at I-94, which was recommended in the city's Sprecher Neighborhood Development Plan (NDP) and the Northeast Neighborhoods NDP (WisDOT 2024c). This interchange proposal is dependent on funding from the City of Madison. If a funding agreement does not occur between WisDOT and the City of Madison, WisDOT would move forward a No Build alternative.

There is only one alternative selected for further study for this interchange, which is the Partial Cloverleaf (see Figure 6 below). This westbound entrance ramp features a loop that maximizes distance from the I-94/WIS 30 Interchange for traffic to weave between the new Milwaukee Street entrance ramp and the I-94/WIS 30 Interchange, allowing for greater safety benefits than the alternative design that was not recommended for further review (WisDOT 2024c).



The new ROW for this design would require 13.11 acres of agricultural land (see Figure 7 below). As shown in figure 5 below, this new proposed interchange will impact four different agricultural landowners. A majority of these agricultural impacts will significantly impact one landowner, with 12.36 acres being affected, parcels bisected, and necessitating the relocation of a farm building. Significant impacts such as this will be further addressed in Section 4: Agricultural Impacts.

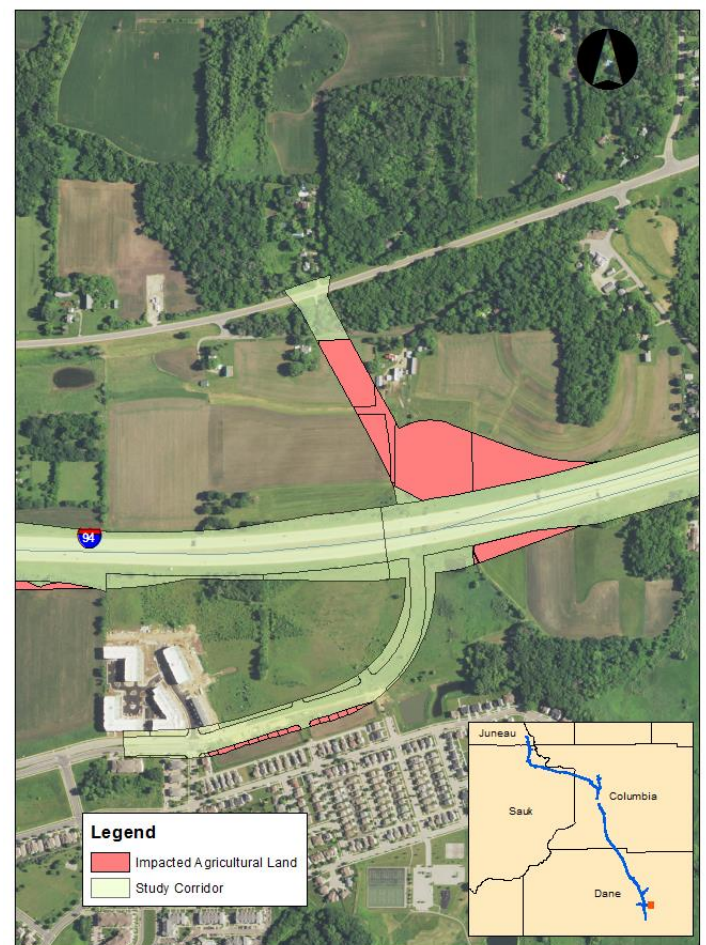


Figure 6: Milwaukee Street, Partial Clover Leaf Interchange (2024b); Figure 7: Proposed Agricultural Land to be Acquired by the Milwaukee Street Interchange Alternate Design, Credit: DATCP.

#### *US 151/High Crossing Boulevard Interchange*

The US 151 Interchange currently has a cloverleaf design and is situated 0.25 miles north of the High Crossing Boulevard Interchange, a half diamond interchange, in Madison, Dane County.

There is one design alternative WisDOT recommended for further study for the US 151/High Crossing Boulevard Interchange: the Directional alternative (Figure 8). This design would reconstruct the US 151 interchange to revise and improve ramp design and address congestion safety with having a diamond interchange embedded at East Washington Avenue to slow traffic and provide local access while allowing free-flow movements from the rest of US 151 with freeway-to-freeway movements (WisDOT 2024c).



The Directional design alternative would require 4.01 acres would be acquired from agricultural land, affecting three different agricultural landowners (see Figure 9 below). A majority of these impacts, 3.94 acres, come from the design extending the road ROW along one of the proposed ramps where High Crossing Boulevard intersects with East Washington Avenue, acquiring agricultural land along the area, with the approximate width ranging from 40ft to 175ft.



Figure 8: US 151/High Crossing Boulevard – Directional Interchange Design (WisDOT 2024c); Figure 9: Proposed Agricultural Land to be Impacted by the US 151/High Crossing Boulevard Alternate Design, Credit: DATCP.

### *Proposed New Hoepker Road Interchange*

The Hoepker Road Interchange is the other new interchange proposed to be constructed, along with the Milwaukee Street Interchange in Madison, Dane County. The City of Madison requested WisDOT to evaluate adding an interchange at Hoepker Road, aiming to provide access to businesses in the area and for residential development. As with the Milwaukee Street Interchange, this interchange proposal is dependent on funding from the City of Madison. If a funding agreement does not occur between WisDOT and the City of Madison, WisDOT would move forward with a No Build alternative.



For this interchange, the Shifted Diamond design was selected for further study (Figure 10). WisDOT cited that this this alternative was selected as it has lower overall real estate impacts on adjacent developable properties in the northeast quadrant of the interchange (WisDOT 2024c). Construction of the proposed interchange would expand the overall freeway eastward along I-39, with the diamond interchange on and off ramps being constructed closer to existing farm/rural residences and converting cropland (Figure 11).

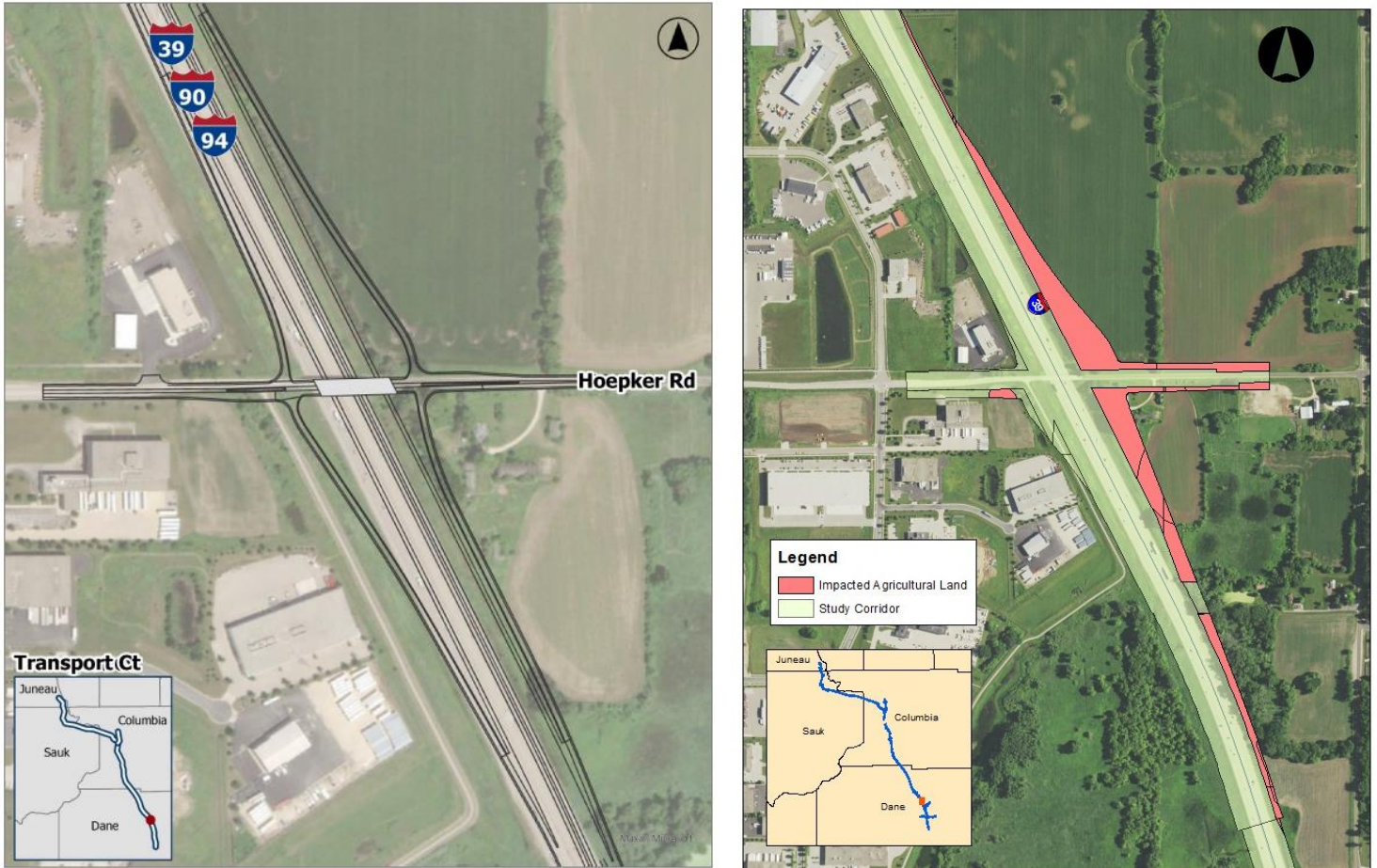


Figure 10: Hoepker Road Interchange - Shifted Diamond Design (WisDOT 2024c); Figure 11: Proposed Agricultural Lands to be Acquired by the Hoepker Road Interchange Alternate Design, Credit: DATCP

The new ROW would require 12.49 acres of agricultural land and would affect four different agricultural properties, including a significant impact on one where a farm building would need to be relocated (this will further be discussed in Section 4: Agricultural Impacts). The acquisitions along the current road ROW on Hoepker Road range in width from approximately 24ft to 60ft (measured from the current road ROW).



## WIS 19 Interchange

This interchange is situated in the Town of Burke, Dane County. The U-Ramp is the alternative chosen by the WisDOT for further study (see Figure 12 below). WisDOT reported that its design has been modified since the Notice of Intent was published in July 2023. WisDOT kept many aspects of the previous alternative, except that they propose to remove the bridge over the Canadian Pacific Railroad the interchange is located next to. The design otherwise retains its other aspects, such as increasing WIS 19 from 4 to 6 lanes of traffic between Tierney Crossing and Pepsi way, reducing the number of signalized intersections from 5 to 4, and decreasing the number of intersections from 9 to 7. WisDOT notes that the changes they made means the revised design no longer necessitates removing a business or closing down WIS 19 for most of a year, impacting local businesses and residents (WisDOT 2024c).

This interchange design would necessitate .07 acres of new ROW from agricultural land and affect one agricultural landowner (see Figure 13 below). The agricultural land affected here would be road acquisitions in the form of slivers of land parallel to existing road ROW, ranging from 0-6ft at the widest section.

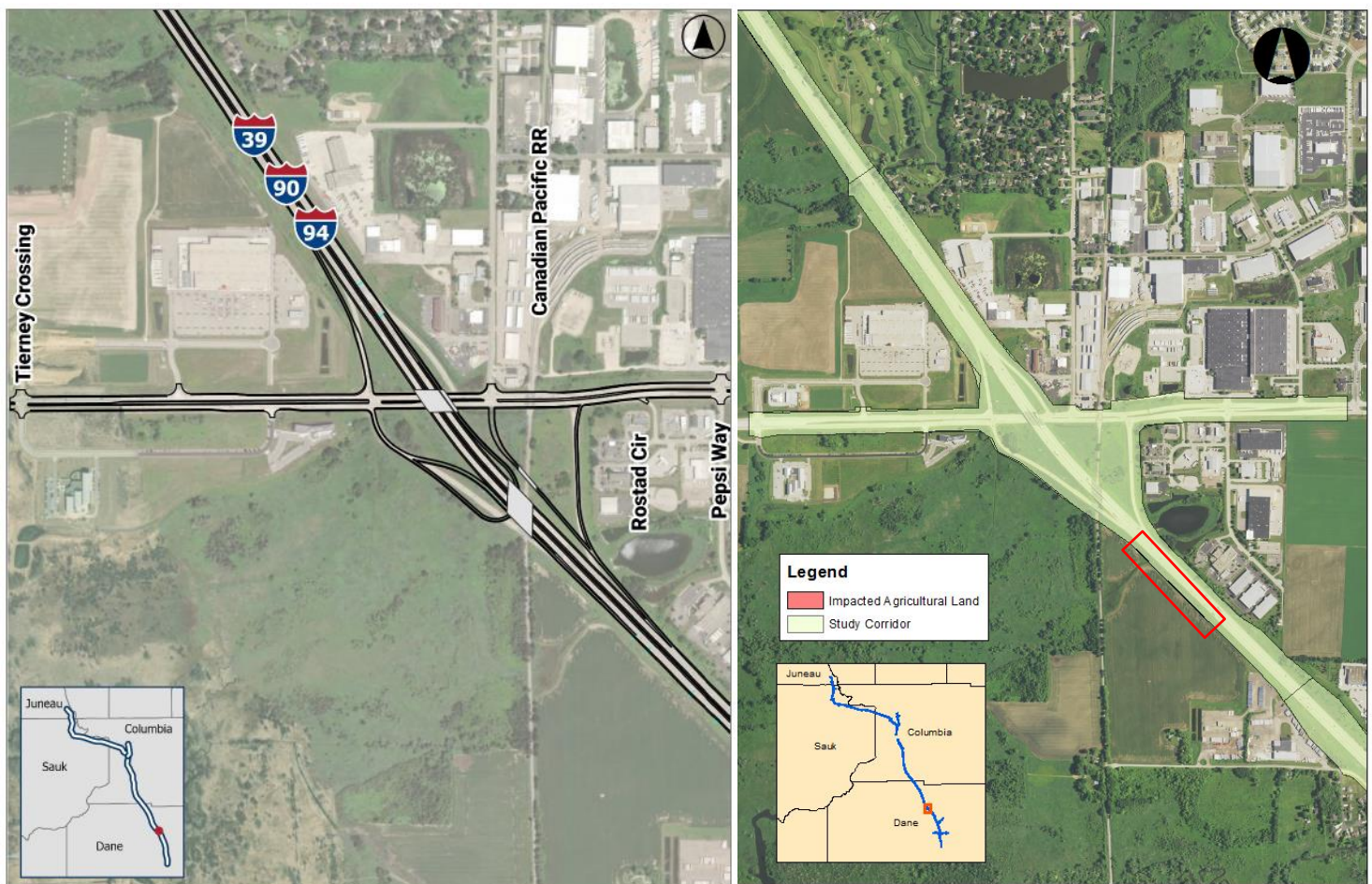


Figure 12: WIS 19 Interchange U-ramp design (WisDOT 2024c); Figure 13: Proposed Agricultural Lands to be Acquired by the WIS 19 Interchange Alternate Design, Credit: DATCP.



### County CS Interchange

The County CS Interchange is located in the Town of Dekorra, Columbia County. The design recommended for further study would reconfigure the current partial cloverleaf interchange into a Diamond alternative and reconstruct County CS and the bridge over the interstate (Figure 14). This design would reconstruct the CS interchange, narrowing the upper right and lower left quadrants where the partial clover leaves are while widening the middle for the Diamond shaped design.

This design would lead to increased ROW need towards the middle of the interchange as it expands out of the entrance and exit ramps to form the diamond shape, resulting in approximately .39 acres of agricultural land proposed to be acquired for ROW and affecting 3 agricultural landowners here (Figure 15). The impacted agricultural land is proposed to be acquired as strips along the current road ROW. To the lower right of the interchange, the width of proposed ROW had a width around 40 ft. The thin strips outlined in red boxes in figure 15 below had a max width of around 12ft.

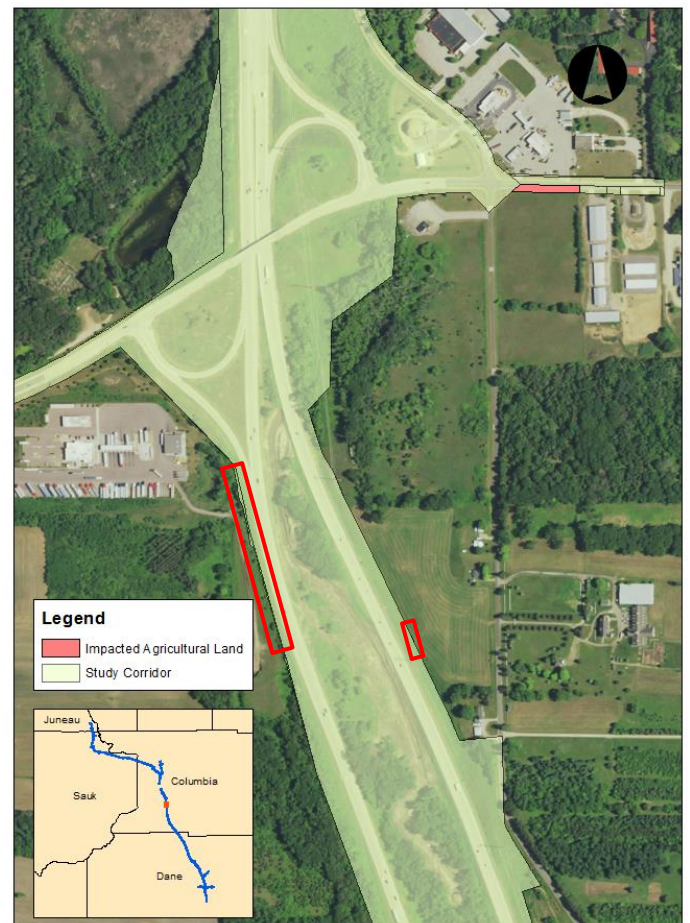


Figure 14: County CS Interchange – Diamond Design (WisDOT 2024c); Figure 15: Proposed Agricultural Land to be Acquired for the County CS Interchange Alternate Design, Credit: DATCP

### *I-39 I-90/94 Split Interchange*

The I-39 I-90/94 split is located within the Town of Caledonia. The interchange includes access to WIS 78, is within a mile of the Cascade Mountain Interchange, and is within a floodplain. WisDOT's selected the Low Build alternative (Figure 16), which recommends raising the Interstate roadway and lengthening the I-39 Baraboo River bridge to reduce flood risk that has historically closed all or part of both I-39 and I90/94 (WisDOT 2024c).

This design reconstructs the existing interchange as a 3-level interchange. The I-90/94 eastbound to I/39 northbound movement will have shorter over or underpass bridges in place of a flyover ramp to connect the two interstates; it will additionally realign WIS 78 slightly north (WisDOT 2024c).

This interchange design would require approximately 23.38 acres of new ROW from agriculture land, affecting 8 agricultural landowners. Much of the land affected is acquired as strips from where current corridor ROW is, up to 113 ft in width for some sections.

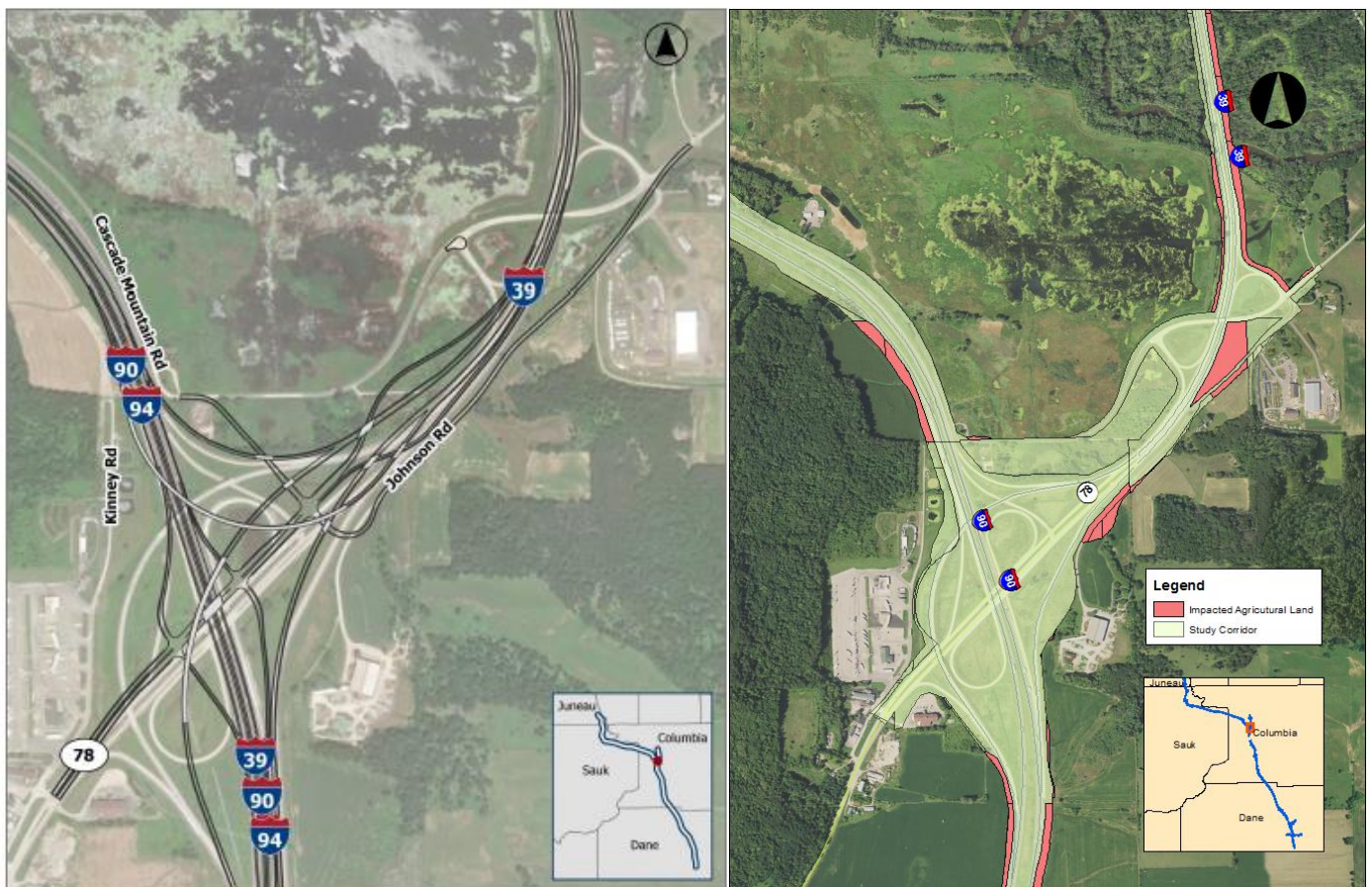


Figure 16: I-39 I-90/94 Split Low Build Design Alternative (WisDOT 2024c); Figure 17: Proposed Agricultural Land To Be Acquired for the I-39 I-90/94 Split Low Build Design Alternative, credit: DATCP.



### WIS 33 Interchange at I-39

The current design is a partial cloverleaf interchange in the City of Portage, Columbia County, that is also located within the floodplain like the I-39 I-90/94 Split Interchange. Similar to the County CS Interchange, WisDOT recommends altering the current partial cloverleaf design for a Diamond interchange, reconfiguring ramp alignments, and would feature a divided median (Figure 18) (WisDOT 2024c).

This interchange design would require an additional 5.83 acres of new ROW of agriculture land, affecting 2 agricultural landowners (Figure 19). The ROW would be acquired as strips along the roadside, with a width approximately between 60ft to around 110ft in width.

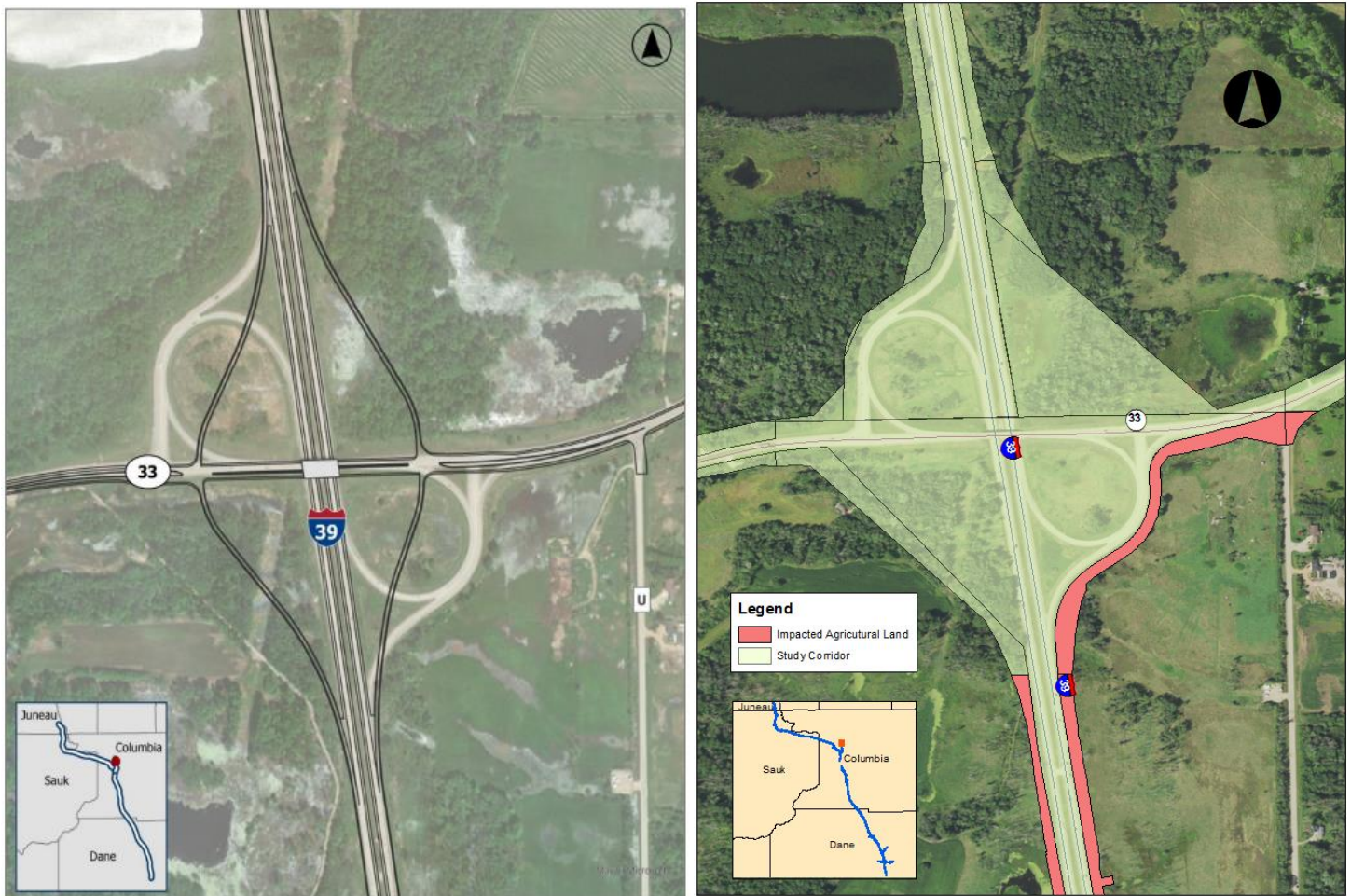


Figure 18: WIS 33 Interchange at I-39 diamond interchange alternative design (WisDOT 2024c); Figure 19: Proposed Agricultural Land to be Acquired for the WIS 33 Interchange At I-39 Alternate Design, Credit: DATCP

## US 12 Interchange

The US 12 Interchange is located within the Town of Delton, Sauk County. The current interchange design is a partial clover leaf. The design alternative that WisDOT is recommending for further study is a Diverging Diamond interchange (Figure 20). The alternative design would reconstruct the interchange and realign its exit and entrance ramps while leaving a smaller footprint (WisDOT 2024c). The readjustment to the ramps in the south east quadrant would affect agricultural land owned by the Ho-Chunk Nation.

The necessitated ROW for this proposed design would require approximately 1.53 acres of agricultural land and would affect 1 agricultural landowner, a strip of land along the current road ROW (Figure 21).

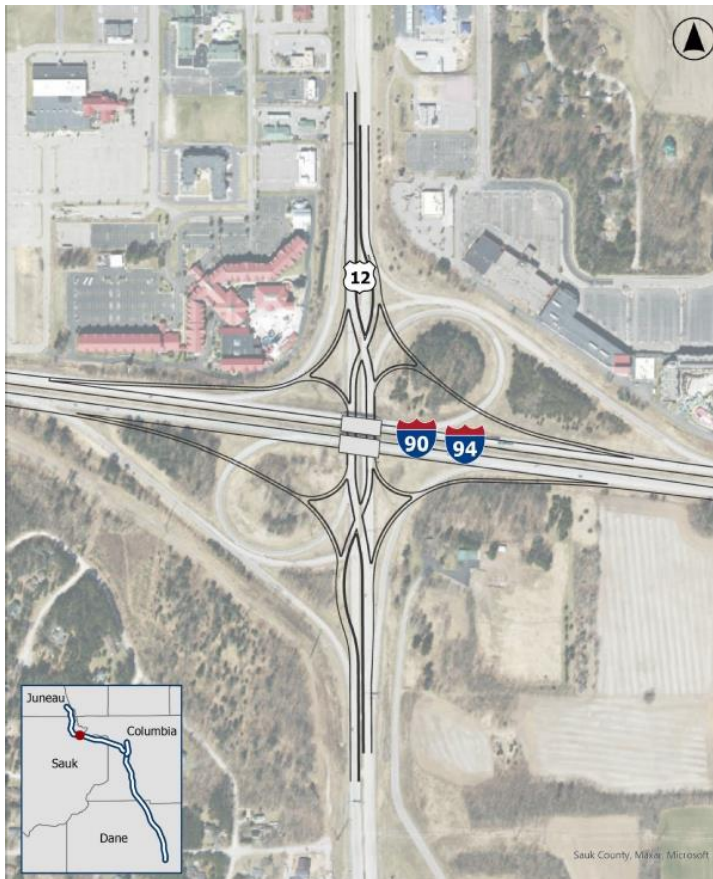


Figure 20: US 12 Diverging Diamond Alternative Design (WisDOT 2024c); Figure 21: Proposed Agricultural Land Acquired by US 12 Diverging Diamond Alternative Design, Credit: DATCP



## WIS 13 Interchange

The current WIS 13 Interchange has the design of a trumpet in the Town of Delton, Sauk County. During the time of writing this report, there are two designs selected for further study: Split Diamond and Trumpet. WisDOT recommends the Trumpet design as a preferred alternative.

The Split Diamond would reconstruct the interchange by creating four small diverging diamonds and realign old 12 road and County road H (Figure 22). The diverging diamonds would have a narrower footprint than the alternative trumpet design, but would need additional ROW where the diamonds would be situated and where County road H and old 12 road would be realigned (WisDOT 2024c). This alternative would impact approximately 2.16 acres of agricultural land and two different agricultural landowners (Figure 24).

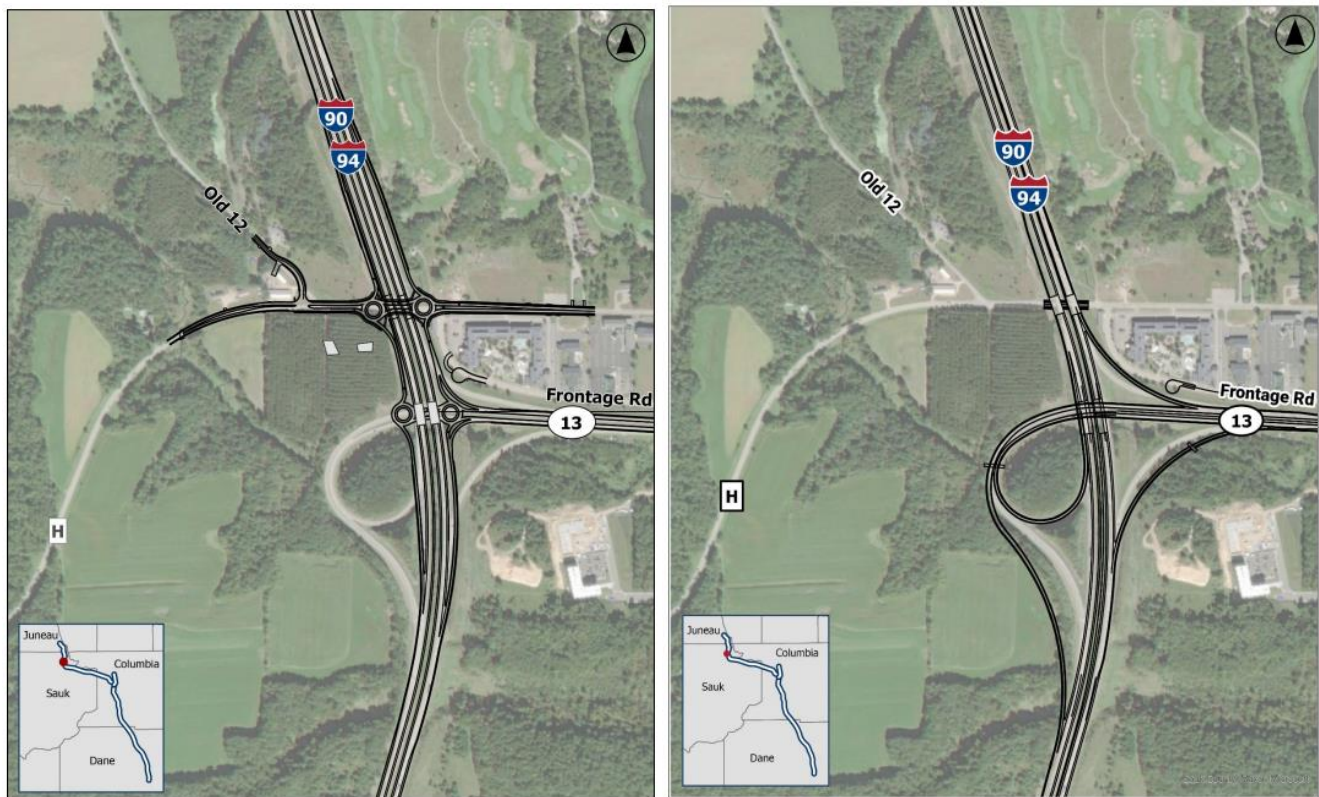


Figure 22: WIS 13 Interchange Split Diamond Design (WisDOT 2024c); Figure 23: WIS 13 Interchange Trumpet Design (WisDOT 2024c)

The Trumpet alternative design follows much of the current trumpet design, with the trumpet section having a more gradual exist ramp, requiring more ROW, but overall requiring less ROW than the split diamond alternative (Figure 23). This alternative would impact approximately 15.1 acres of agricultural land and two different agricultural landowners (Figure 24). A majority of these acres, approximately 14.89, will come from one landowner.

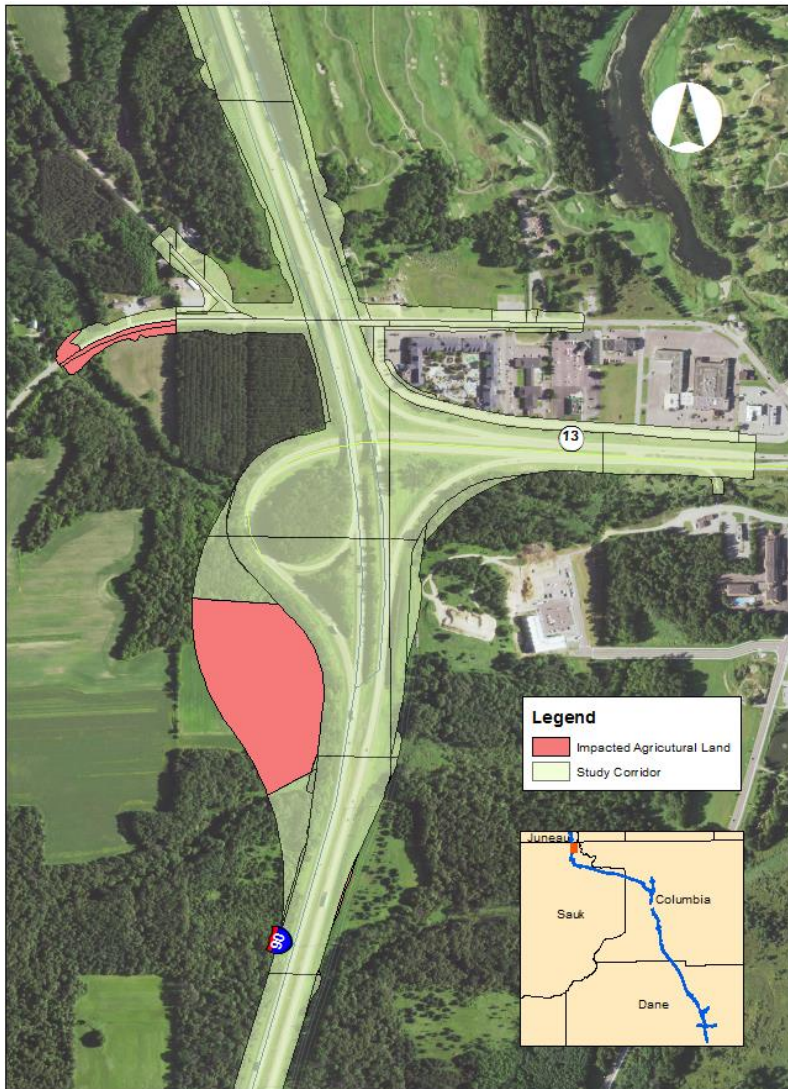


Figure 24: All Proposed Agricultural Lands to be Acquired by Both of the WIS 13 Design Alternatives, Credit: DATCP - showing approximately 16.82 acres of agricultural land and 4 different agricultural landowners.

## 2.5. Study Schedule

AIS 4472 discusses the I-39/90/94 Corridor in its current state as a study. As such, the final product of this study would be the Environmental Impact Statement, which is expected to be completed in November 2024. Implementation and construction of final designs depends on state and federal funding, as well as issuance of all federal, state, and local approvals and permits, of which there are no proposed dates at the time of this AIS analysis.



### **3. AGRICULTURAL SETTING**

#### **3.1. Farmland Preservation**

Wisconsin's farmland preservation ("FP") program provides local governments and landowners with tools to aid in protecting agricultural land for continued agricultural use and to promote activities that support the larger agricultural economy. Lands that are planned for FP by the county and included in a certified zoning district or located within an Agricultural Enterprise Area ("AEA") are afforded land use protections intended to support agriculture and are eligible for the farmland preservation tax credit.

##### ***3.1.1. Farmland Preservation Planning & Zoning***

All four counties where the Corridor Study is located within have FP plans certified by the Department that covering all or portions of their respective counties (DATCP 2024a). Of these four counties, Juneau County is the only county where municipalities do not have FP zoning for at least a portion of the county (DATCP 2024a). Areas that have adopted FP zoning will have a FP zoning district certified by the Department. This zoning district restricts covered lands to agricultural uses and uses compatible with agriculture and is certified to be consistent with the state's FP Law, Chapter 91. The Department suggests that WisDOT consult with all applicable local zoning authorities to identify if additional restrictions apply.

##### ***3.1.2. Agricultural Enterprise Areas***

AEAs are community-led efforts to establish designated areas important to Wisconsin's agricultural future. This designation highlights the importance of the area for local agriculture and further supports local farmland preservation and agricultural development goals. Designation as an AEA also enables eligible landowners to enter into FP agreements. Through an FP agreement, a landowner agrees to voluntarily restrict the use of his/her land to agriculture for a minimum of 10 years in exchange for eligibility for the FP tax credit.

Prior to 2009, owners of eligible farmland could sign 10 to 25-year FP agreements outside of AEA boundaries. The Project does not intersect any effective pre-2009 FP agreements in the 4 counties in which the Corridor Study is located.

A review of the I-39/90/94 Corridor Study identified three counties – Dane, Columbia and Sauk Counties – that contain designated AEAs (DATCP 2024a; DATCP 2024b). Of these three counties, part of the corridor abuts the northern boundary of the Fairfield AEA in Sauk County. The construction of a highway is a non-conforming land use on lands subject to an effective farmland preservation agreement according to Wis. Stat. § 91.62(1)(c). Agricultural lands covered by an effective FP agreement, where a non-conforming land use is planned, are required to release the affected lands prior to the initiation of the non-conforming land use. Landowners should contact the

Department to release affected agricultural lands from an FP agreement. As part of the release, the Department is required to collect a conversion fee, according to Wis. Stat. § 91.66, to release lands from an FP agreement. At the time of this analysis, it is not yet known how the proposed impacted agricultural land would be acquired, whether through purchase or fee simple. If the Project compels the release of land from an effective FP agreement, and the land is not owned by WisDOT, WisDOT should consider offering to pay all FP conversion fees incurred by agricultural landowners.

As Mainline I-90/94 crosses the Fairfield AEA between the WIS 12 Interchange and the WIS 33 at I-90/94, the proposed new road ROW would encroach around 82 feet on FP agreement number 307, recorded as Document number 1077431 on July 18, 2013 in the Sauk County Register of Deeds. The agreement is effective through July 12, 2028. Lands currently enrolled in the agreement that are proposed to be sited with expanded highway ROW will need to be released to accommodate the project area as a land use that conflicts with the use terms of the agreement. Coordination between WisDOT and the Farmland Preservation Program regarding farmland preservation agreement releases is detailed in Wisconsin Department of Transportation Facilities Development Manual, Chapter 5, Section 10, Provision 30.2.2 (FDM 5-10-30.2.2). Under s. 84.01(34), Wis. Stats., WisDOT is exempt from the conversion fee required to release lands from an FP agreement under s. 91.66(1)(c). To inquire about releasing lands from an FP agreement, contact [DATCPWorkingLands@wisconsin.gov](mailto:DATCPWorkingLands@wisconsin.gov).

It is possible that new agreements could be enrolled between the time of this analysis and potential construction of finalized designs related to the Study Corridor. The Department recommends WisDOT consult the Department in the year preceding construction regarding the status of effective agreements within the project corridor.

Construction of improvements proposed within the Study could impact future agreements within this AEA. WisDOT should provide the Sauk County Land Conservation Department with selected route information affecting the Fairfield AEA when available.

## **3.2. Conservation Programs**

Voluntary conservation programs such as the USDA Conservation Reserve Enhancement Program ("CREP") and the USDA Conservation Reserve Program ("CRP") are financial incentive programs to help agricultural landowners meet their conservation goals. The USDA and the Department jointly administer the CREP program in Wisconsin.

### ***3.2.1. Conservation Reserve Program (CRP)***

The CRP program is a land conservation program administered by the Farm Service Agency of the USDA. In exchange for a yearly rental payment, eligible agricultural landowners enrolled in the program agree to remove highly erodible land from agricultural production and plant resource-conserving plant species such as grasses or trees that will improve environmental health and

quality (USDA, 2022). CRP enrollment information is privileged to the USDA and CRP program participants. Absent information from the USDA and the impacted landowners, the Department cannot verify if any impacted agricultural parcels are enrolled within the CRP program.

### ***3.2.2. Conservation Reserve Enhancement Program (CREP)***

The CREP program pays eligible agricultural landowners enrolled within the program to install filter strips along waterways or to return continually flooded fields to wetlands while leaving the remainder of the adjacent land in agricultural production. To be eligible for CREP payments, a recipient must have agricultural lands in crop production that are within 150 ft of a stream or water body or 1,000 ft from a grassland project area (DATCP, 2019).

CREP enrollment information is privileged to the USDA, Cooperators, such as the Department, and program participants. A review of the Department's CREP records indicate that as of February 2024, the Project will abut or encroach upon two effective CREP agreements. Construction activities for the Project may directly or indirectly increase the occurrence of storm water runoff, erosion and sedimentation on lands in the project corridor. Additionally, changes to elevation of the Project area in a floodplain may affect the hydrology of surrounding areas and impact two nearby CREP agreements within the 100-year floodplain. The effective status of CREP agreements and new enrollment is subject to change between the time of this analysis and any proposed construction activity.

The Department advises WisDOT to:

- work with landowners to identify effective CREP agreements prior to any construction or site disturbance activities.
- The Department recommends that WisDOT coordinate with the appropriate Wisconsin CRP contact regarding effective CRP contracts within the project area and coordinate with FSA regarding impact mitigation to CREP enrolled lands and/or potential contract (CRP-1) releases within 12 months of expected construction or site disturbance activities.
- consult with the Department at least 12 months prior to any construction or site disturbance activities to determine if any CREP easements with expired federal contracts will be impacted by the project corridor.

If any portion of the CRP-1 contract is terminated by USDA-FSA, the corresponding area under the state CREP agreement must also be terminated. Termination of any part of a CREP agreement requires repayment of any funds issued to the landowner under the terms of the agreement.

### 3.2.3. Managed Forest Law (MFL)

The MFL program is a voluntary sustainable forestry program administered by the Department of Natural Resources ("WisDNR") under [subch. III of ch. NR 46](#). In exchange for reduced property taxes, eligible landowners commit to a 25-50 year sustainable forest management plan on their privately owned woodlands. Sustainable forestry practices such as harvesting mature timber according to sound forest management practices and reforestation and afforestation of land to meet the size and density requirements are required in enrolled landowner's management plans. Land with buildings or improvements associated with buildings are not eligible for MFL. Exceptions such as utility right of ways are permitted such that the project and its ROW will not interfere with future or current MFL eligibility (WisDNR, 2017).

A review of WisDNR's MFL Program database indicates that the Project will impact approximately 3.7 acres of MFL enrolled lands across Columbia, Sauk and Juneau Counties (Table 3).

The loss of forestland within these MFL agreements may cause some parcels to lose their eligibility to stay enrolled within the MFL program. Impacted landowners should visit the WisDNR Forestry Assistance Locator website <https://apps.dnr.wi.gov/fal> to find their local DNR Tax Law Forestry Specialist and discuss the implication of the Project to their MFL enrolled lands.

Table 3: Managed Forest Law lands where WisDOT plans to acquire new *easements* as part of the proposed I-39/90/94 Corridor Study.

County	Mainline or Interchange Segment	Mile Post	MFL Order Number	Impacted MFL Land (acres)
COLUMBIA	Mainline	87.0	11-002-2014	0.9
		87.0	11-002-2014	1.0
SAUK	Mainline	99.4	57-036-2012	0.4
		99.6	57-036-2012	0.4
		98.0	57-027-1999	0.1
		98.0	57-027-1999	0.1
		98.0	57-027-1999	0.6
		98.0	57-027-1999	0.0
JUNEAU	Mainline	84.4 and 84.6	29-024-2022	0.2
<b>Total</b>				<b>3.7</b>

### 3.2.4. Purchase of Agricultural Conservation Easement Programs

The 2009 - 2011 State of Wisconsin budget authorized the state Purchase of Agricultural Conservation *Easement* ("PACE") Program under [Wis. Stats. § 93.73](#). PACE provided matching

funds to local governments and non-profits to assist with the purchase of permanent agricultural conservation *easements*. PACE was intended to provide an additional layer of protection within certified FP planned areas and designated AEAs that prioritized the preservation of agricultural lands at risk of development.

A review of the Department's PACE Program shows the Project would not impact any state-held PACE *easement*. Counties and private non-governmental organization such as land trusts may also hold agricultural conservation *easements*. Based on a review of publicly available online resources, the Department could not find any record of a county held or non-governmental organization held agricultural conservation *easement* that would be impacted by the Project ([Land Trust Alliance 2024](#)).

### **3.3. Drainage Districts**

Drainage districts are local governmental entities governed under Wis. Stat. Ch. 88 and organized under a county drainage board and for the primary purpose of draining lands for agricultural use (DATCP 2021). Landowners who benefit from drainage pay assessments to cover the cost to construct, maintain, and repair the district's drains. According to the Department, approximately 190 active districts exist within 27 of Wisconsin's 72 counties (DATCP 2021).

A review of the Department's Drainage Program database indicates that the Project will cross one active drainage district – the Lower Baraboo Drainage District in Columbia County. Columbia County does have a county drainage board to administer the functions of a drainage district according to Wis. Stat. § 88.21.

As improvements proposed by the Study would impact the Lower Baraboo Drainage District, WisDOT is required by Wis. Stat. § 88.67(3) to inform and consult with the drainage board having jurisdiction. WisDOT should contact the Department's State Drainage Engineer for additional information related to the jurisdiction of the Lower Baraboo Drainage District.

## **4. AGRICULTURAL IMPACTS**

In addition to being a key component of [Wis. Stat. §32.035](#), documenting the agricultural impacts of a study provides the study initiator and the agricultural landowner the opportunity to better understand the study in its own right as well as learn how the study will impact agriculture. Furthermore, the documentation of agricultural impacts by agricultural landowners and operators creates the opportunity for them to consider alternatives that may reduce impacts to agricultural lands. The Department has used information provided by WisDOT for this AIS and information gathered from agricultural landowners and operators to analyze the potential agricultural impacts of the Study within the impacted counties. The analysis of the agricultural impacts and conclusions drawn from it form the basis of the Department's recommendations within the AIS Recommendation Section.

As [Wis. Stat. §32.035](#) limits the scope of this analysis to agricultural impacts, this analysis only examines and evaluates the aspects of the Study that affect *agricultural operations* and agricultural lands in Wisconsin. Furthermore, as WisDOT has identified alternatives for further study, this analysis will not evaluate the agricultural impacts of alternative study designs that were not recommended by WisDOT in their Technical Memorandum: Alternative Screening (WisDOT 2024c).

#### **4.1. Agricultural Land Acquisitions & Easements**

As proposed, the proposed design alternatives for the I-39/90/94 Corridor Study will affect approximately 160.2 - 178.74 acres of agricultural lands in Wisconsin, but is still subject to revision by WisDOT. As this is a study, it is not yet known how WisDOT will require additional ROW on agricultural lands until designs have been finalized. The Department analyzed all proposed agricultural lands to be impacted by the Study submitted within the AIN.

Agricultural tenant operators impacted by the final design of the I-39/90/94 Corridor may be eligible for a farm replacement payment from WisDOT in accordance with Wis. Stat. §32.19(4m)(b) if WisDOT exercises the powers of eminent domain through a jurisdictional offer to the agricultural landowner. A voluntary sale between WisDOT and an agricultural landowner, after a jurisdictional offer has been made, would not negate the potential for a farm replacement payment.

#### **4.2. Agricultural Landowner Concerns**

The Department attempted to contact 31 agricultural landowners and operators directly impacted by the Study who had agricultural impacts of 1.5 or more acres, as shown in Table 4. There were 105 agricultural landowners and operators with impacts less than 1.5 acres, who were not contacted by the Department. The following section relays the feedback and comments received from stakeholders and agricultural landowners through the Department's efforts. The information obtained helped form the basis of the Department's analysis of agricultural impacts to specific agricultural landowners and agricultural landowners in general. The Study also indirectly impacts agricultural landowners and operators within the Wisconsin River and Baraboo River floodplains. The Department reached out to the affected landowners and operators within these floodplains, where responses and impacts can be found in section 4.7.7.

##### ***4.2.1. Summary of Agricultural Responses***

The Department received 9 responses (29% response rate) from agricultural landowners and operators. Respondents were asked to answer questions on a range of topics including the basics of their *agricultural operation*, their general concerns for the Study, and potential impacts to their operations resulting from the Study.

Commonly held concerns included direct crop losses during construction & lingering yield reductions post-restoration, concerns for lost access to agricultural lands during construction, and

drainage/run-off issues (Figure 25). Impacts to non-agricultural land uses are beyond the scope of this analysis.

Agricultural landowners were also asked to indicate if they participated in any conservation or agricultural programming including FP agreements, FP zoning, CREP, CRP, and MFL. Two respondents (22% of respondents) indicated an enrollment. One respondent reported enrollment with an MFL, and one respondent reported enrollment in Farmland Preservation, CREP and within the federally managed CRP program, but did not disclose the location or agreement number to the Department.

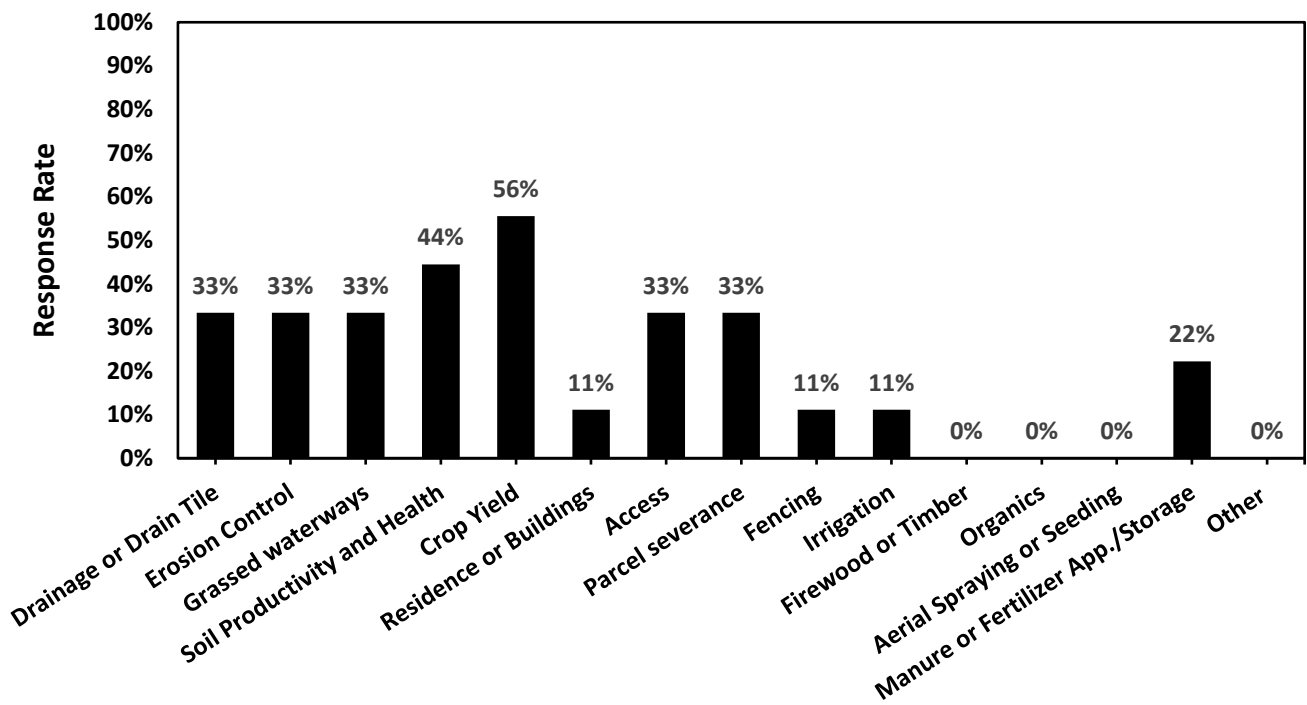


Figure 25: Generalized concerns reported to the Department from agricultural landowners and operators regarding the proposed Wisconsin Reliability Study.

**4.2.2. Distinct Agricultural Concerns**

Over the course of the survey, the following *agricultural operations* brought forward unique concerns warranting further evaluation by the Department. While other *agricultural operations* may also have similar or different unique concerns, they were not disclosed to the Department during the survey.

The Department also received responses from individuals not documented below, as they discussed general concerns already addressed in the overview in the previous section. A few of these landowners noted that they could not effectively comment about impacts to their land without more information about the project, as the Department’s outreach was either the first they had learned about their project or they had not been previously informed where on their farm operation the impacts would be.

## **John Larsen**

John Larsen's farm operation contains 673 acres, including cropland, 83 acres of managed woodlands, home and farm buildings.

The Corridor Study proposes to impact 2.95 acres of land from the I-94/WIS 30 Interchange, which John Larsen cites would affect access to fields from Commercial Avenue in Dane County, and acquire some of his most productive land.

## **John Thompson**

John Thompson's Farm operation consists of 42 acres, with a majority being cropland and two acres of idle or fallow farmland.

The Corridor Study proposes to acquire around 3 acres of active agricultural cropland, where it is located on the northern aspect of the I-94/WIS 30 Interchange in Dane County on the eastern half of I-39/90/94. John Thompson cites this area would be part of his most valuable land in terms of production, and also aids infiltration of rainwater and runoff. The landowner also shared that the loss of the 3.95 acres would be a major loss of easy access to the operation and reduces the value of future development opportunities.

## **Paul Meister**

Paul Meister's family farm operation consists of 110 acres of cropland, pasture, managed woodlands, homes and farm buildings, and some idle/fallow farmland and wetlands.

The proposed new Milwaukee Street Interchange in Dane County directly impacts over 6 acres of land, mainly pasture land and fences, would be acquired from the property that would also affect the rest of the property access issues and severance.

The proposed Interchange would sever the property in half, require relocation of at least one farm building and cut off access from the main road to farm house and buildings and the eastern half of the property. He noted that all the buildings are in good condition and in use, including the farm house as a residence.

## **Scott Van Etten**

Scott Van Etten's farm operation consists of over 820 acres of farmland that includes cropland, pasture, home and farm buildings, and wetlands. The Corridor Study would affect the approximately 2.98 acres through proposed acquisitions along the current road ROW where Kent Road meets I-39/90/94 in Dekorra Township, Columbia County. Scott Van Etten notes that productivity would be greatly affected where the road ROW is proposed to be extended on to his property.



Van Etten's irrigation system operated on the farm pivots that come within a foot of the existing ROW. The landowner indicated that the proposed road ROW would require relocation of the power system for the irrigation on the West side of Kent Road, along with the buried underground wire that then cuts across the field to service the well and pivots. If the irrigation service is interrupted during the growing season, Van Etten cited that it could dramatically impact the crop yields of the farm operation.

Van Etten also shared concerns of additional water runoff from the highway on to cropland, that productive land has been lost before from previous road ROW expansion, and suggests a swale to be installed alongside the road to help with run-off.

Farmers often need a diverse income beyond what they are able to produce from the farmstead alone. In the case of Mr. Scott Van Etten, the proposed road modifications would impact the location of where a highway billboard is located that he received rental income from. Additionally, the landowner notes that Columbia County and Dekorra Township grant development rights for each 35 acres in contiguous ownership. If the contiguous owned acreage were to fall below 105 acres, the landowner could lose a development right, which the landowner estimates to be worth between \$100,000 to \$150,000 dollars. Mr. Van Etten notes that he currently has 105.98 acres enrolled in this program, and is concerned about potential project acquisitions impacting the development rights.

The Department suggests that Scott Van Etten connect with the local administrators of the grant of development rights program about how the Study may affect current rights and if they may still remain in place if affected by a land use change that would be initiated by a WisDOT project. This information could be used in negotiations for the proposed land acquisitions with WisDOT.

Table 4: Agricultural landowners and operators with more than ½ acre of impact from the proposed I-39/90/93 Corridor Study the Department attempted to contact.

Agricultural Landowner	Impact Acres	Agricultural Landowner	Impact Acres
Ho-Chunk Nation	1.5	SCHOESSOW & SONS LLP	1.6
Ronald Wormet	5.2	SCOTT D VAN ETEN	3
Turner Family Acres LLC	3.8	STATE OF WISCONSIN CONSERVATION COMMISSION	10.2
Jean L Brew	14.8	STATE OF WISCONSIN DEPT NATURAL RESOURCES	2.3
BRIAN D PRITCHARD	1.7	STEPHEN J PATE	7.2
GARRETT MORAN	1.9	UNITED STATES OF AMERICA WILDLIFE & FISH SERVICE	3.1
GERALD RYCE	3.5	ZIEHMKE ACRES LLC	2.3
HARTMANN LAND LLC	5.3	Larsen Family LLC	3
HENRY R RUSSELL	7.6	Landowner	2
LEONARD A & ROSE N HEIN LIVING TRUST	7.8	THOMPSON ENGINEERING LLC	4
LEONARD A HEIN JR	2.9	Paul W Meister Trust	12.4
LYNDA CLAAS	1.5	JMJ Development LLC	3
MATTHEW J KREJCHIK	6.4	Donald G Hoepker Trust	2
PEACEFUL WATERS LLC	6.6	Pumpkin Hollow Prop's LLC	1.5
RICHEARTH LAND LLC	3.2	S C Swiderski LLC	5.3
SCHOESSOW & SONS	3.7		

### 4.3. Severance, Access and Wasteland

The acquisitions of agricultural property can result in agricultural parcel *severance*, the removal of existing field access points and potentially the creation of *wastelands* and *uneconomic remnant* parcels. The circumstances (i.e., loss of access, *severance*, *wasteland* etc.) surrounding the impacts to each impacted remnant agricultural parcel are unique, thus some agricultural parcels may remain economically viable, while others may not. The following analysis will document the potential for *severance*, loss of access and potential creation of *wastelands* and *uneconomic remnant* parcels for agricultural lands impacted by the Study.

#### 4.3.1. Severance

*Severance* may be a physical barrier such as a road or non-physical barrier such as land use restrictions. Severing an agricultural parcel to accommodate a study effectively splits the existing parcel into two or more smaller parcels. Severing an agricultural parcel may also remove existing access points, create agricultural *wastelands* or *uneconomic remnant* parcels, divide the operation of a farm, or potentially result in farmland conversion. Under Wisconsin's Eminent Domain Statute, compensation for damages resulting from *severance* is described in Wis. Stat. § 32.09(6).

As the majority of the proposed Study ROW is collocated and/or runs parallel to WisDOT's existing ROW, the potential for the highway to physically sever an agricultural parcel into two or more remnant agricultural fields is reduced. In terms of the interchanges, there is one proposed interchange design that would sever a parcel in half.

If constructed, the proposed new Milwaukee Street Interchange would sever tax parcel ID 071001111013 (Dane County) as it traverses the parcel diagonally between Highway T and I-94 (Figure 26, See also Figures 6 & 7). This interchange would separate the agricultural and residential buildings on the parcel from the pastureland that makes up a majority of the parcel, making it difficult to reach and creating a barrier to a large aspect of their farm operation. Details of the landowner's concerns are provided in Section 4.2.2. Relocation of an agricultural structure on tax parcel ID 071001111013 is discussed in Section 4.4.

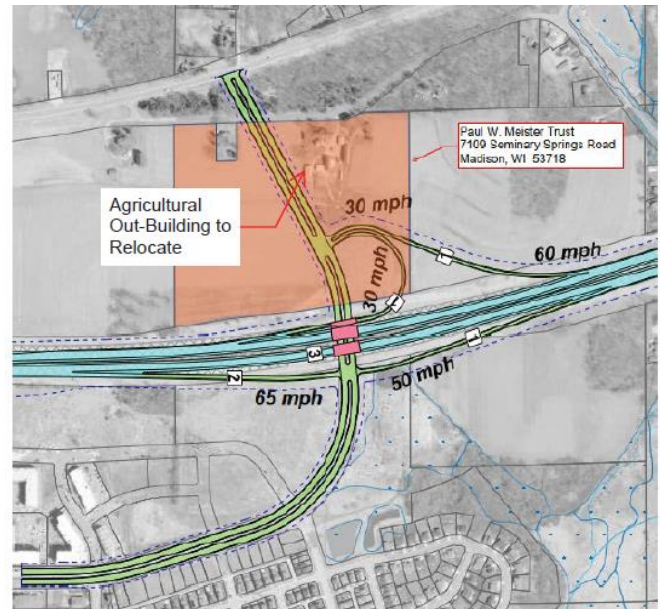


Figure 26: Relocation proposed due to Milwaukee St. Interchange Alternate Design

#### 4.3.2. Access

Acquisitions of farmland may permanently remove existing points of access utilized by *agricultural operations* to enter their remnant farmland. Access to farmland may also be temporarily lost within the construction area while a study is under construction. When agricultural lands and operations lose access, even temporarily, agricultural productivity may be impacted if crops, livestock, or other agricultural products cannot be tended. Lost access may also directly result in lost income if a field cannot be planted or harvested, or if an entire *agricultural operation* is hindered.

Landowner responses to the preconstruction survey related to agricultural impacts indicate that access to farm operations within the project corridor is a common concern. To mitigate temporary access impacts, the Department recommends WisDOT inform agricultural operations at least 30 days prior to when they will lose access to the impacted farm fields and indicate when access will be lost and for how long. WisDOT should also work with agricultural landowners and any agricultural tenant operators to determine safe new access points to adjoining or remnant fields.

#### 4.3.3. Wasteland

Acquisitions and *easements* that sever farmland frequently create small remnant fields that may be difficult to access or are irregularly shaped. Small remnant fields that are irregularly shaped can make it difficult for agricultural equipment to navigate and reduce the amount of tillable acres.

Land use restrictions within the ROW may also prevent the continuation of the only economically viable agricultural land use for the land. These impacts reduce agricultural productivity and decrease the economic viability of the land, which increases the potential of creating undeveloped land ([Wis. Stat. § 70.32\(2\)\(a\)\(5\)](#)) or what is commonly referred to as *wasteland*. Compensation for the reduction in the value of parcels that are small and/or irregularly shaped and the potential creation of *uneconomic remnant* parcels according to [Wis. Stat. 32.05\(3m\)](#) should be addressed in the appraisal of each affected parcel.

The Department's analysis found that the Study, as a whole, is unlikely to create agricultural *wastelands* or *uneconomic remnant* fields. This determination is based on the fact that the Study's proposed ROW primarily runs parallel to the existing road corridor.

Given the vast amount of agricultural land and the variety of *agricultural operations* impacted by the Study, the potential to create a *wasteland* or *uneconomic remnant* fields still exists. The potential is greatest for agricultural lands where the existing agricultural land use cannot be continued within the ROW, such as MFL lands or forest related land uses, and there are no economically viable alternative replacement land uses and/or the loss of the land use within the ROW prevents the entire parcel from continuing within a viable agricultural land use.

#### **4.4. Agricultural Buildings and Infrastructure**

WisDOT reported to the Department that the proposed I-39/90/94 Corridor Study will impact structures on two agricultural properties within the proposed new interchanges for Milwaukee Street and Hoepker Road.

One building is proposed to be relocated for the potential new Milwaukee Street Interchange. The new interchange would cut down the middle of the property and new road ROW would overlap with this agricultural out-building. It is located on parcel ID 071001111013 in the City of Madison in Dane County.

Two buildings, an agricultural residence and a barn, are proposed to be relocated for the potential new Hoepker Road Interchange as it shifts the current road westward, with the interchange's ramp crossing directly over an agricultural residence, and the area where a barn is located is proposed to be acquired for new road ROW. It is located on parcel ID 081016102022 in the City of Madison in Dane County (see Appendix B, Figure 2 for relocation map).

#### **4.5. Prime Farmland and Soils**

As proposed, the Study will impact between 160.2 – 178.74 acres of agricultural lands and soils across the study corridor. The final acreage of impacted agricultural lands and soils may vary slightly based on final designs. The soils impacted by the proposed Study were cataloged and analyzed by farmland classification for the proposed route using the NRCS *prime farmland* soils GIS layer. Farmland soil classifications impacted by the Study include *prime farmland* and *prime*

*farmland* if drained. *Prime farmland* is designated by the USDA according to section 622.3 of the National Soil Survey Handbook (USDA 2017) and is based on the ability of the land and soil to produce crops. Definitions of *prime farmland*, prime farmland if drained and farmlands of statewide/local importance are provided at the bottom of Table 5. The soil texture of agricultural soils impacted by the Study was analyzed, in general terms, across the study ROW.

The majority (60% or 105.9 acres) of the agricultural lands impacted by the Study in Wisconsin hold some level of federal or state priority designation. The agricultural soils across the proposed construction area when classified by texture are primarily loam, sandy loam, silt loam or silty clay loam soils. In general, loam and silt loam soils are medium-textured soils (Cornell 2017) with good soil structure, possess an ideal ability to hold onto water without becoming excessively wet, and are usually best suited for crop production (UW-Extension 2005). Loamy sand soils are coarse-textured porous soils (Cornell 2017) that aren't able to hold onto water as well as medium or fine textured soils, and may require irrigation to best suit crop production (UW-Extension 2005). Loamy sands make up 7.8 acres or around 4.4% of the affected soils. This soils analysis shows that WisDOT's currently proposed design alternatives for the I-30/90/94 Corridor Study will predominately impact priority farmland and high-quality soils.

Table 5: Impacted Agricultural soils, by farmland classification, in the counties impacted by all potential route designs proposed to be impacted by the I-39/90/94 Corridor Study in Wisconsin.

Soil Texture	Prime Farmland* (acre)	Prime Farmland if Drained <sup>o</sup> (acre)	Farmland of Statewide Importance <sup>r</sup> (acre)	Not Prime Farmland <sup>h</sup> (acre)	Total (acre)
<b>Segment PL-2</b>					
Loam	9.0	15.0	3.0	8.4	35.5
Loamy Sand	1.0	0.0	1.2	5.6	7.8
Muck	0.0	0.0	1.2	3.5	4.6
Sandy Loam	8.8	14.8	7.8	2.3	33.7
Sand	0.0	0.0	0.0	3.5	3.5
Silt Loam	62.2	8.8	11.7	4.9	87.6
Silty Clay Loam	0.0	0.8	0.0	0.0	0.8
Other**	0.0	0.0	0.0	4.3	4.3
<b>Project Total</b>					<b>177.8</b>

\***Prime farmland** is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and may be utilized for cropland, pastureland, rangeland, forest land, or other lands excluding urban built-up land or water. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management.

\***Prime farmland if drained**, indicates that if farmland is drained it would meet prime farmland criteria.

†**Farmlands of statewide importance** are set by state agency(s). Generally, these farmlands are nearly prime farmland and economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce yields high as prime farmlands under proper conditions.

\***Not Prime farmland**, indicates farmland is neither prime farmland nor of designated importance.

\*\***Other**, is used to cover soil types that were not defined in the other soil texture categories, such as ponds, marsh, rocky outcrops, cut and fill land, and eroded land.

## 4.6. Soil Health

Soil structure, texture, organic matter and microorganisms are all important factors that influence soil health (Wolkowski and Lowery 2008). Study construction activities with the potential to impact soil health include excavation and the movement of heavy equipment through the Study ROW that may compact soil. UW-Extension report A3367 states that heavy equipment with axle loads that exceed 10 tons increase the risk of soil compaction into subsoil layers that cannot be removed by conventional tillage (Wolkowski and Lowery 2008). This construction-caused soil compaction may also damage drain tiles leading to ponded water where none existed prior to construction.

Construction activities may also disrupt and/or mix soil profiles within the Study ROW as well as the surrounding area. Research has also shown that highway construction activities and impacts (e.g. equipment axle weight, use of excavation, intermixing of soil layers etc.) have the potential to negatively impact crop yields from two years up to a decade within the ROW depending on the construction methods, severity of the construction impacts, and *mitigation* practices (Culley and DOW 1988; Soon et al., 2000; Shi et al., 2014).

### 4.6.1. Stormwater & Erosion Control Permitting

WisDOT holds a general permit to discharge under the Wisconsin Pollutant Discharge Elimination System (WPDES), which supersedes local ordinances. WisDOT's current WPDES permit [No. WI-S066796-2](#), ensures that WisDOT is compliant with provisions of Wis. Stat. ch. 283, ch NR 151, Wis. Adm. Code, ch NR 216, Wis. Adm. Code, and Wis. Stat. 30.2022(2) when WisDOT engages in land disturbance construction activities including clearing, grading and/or excavating that affects one acre or more of land (WisDNR 2024). The permit only authorizes WisDOT to discharge stormwater from land disturbing construction activities that may become mixed with other stormwater discharges and the WisDNR may require individual permits for construction sites under section 1.1.4 of WPDES permit [No. WI-S066796-2](#) (WisDNR 2023).



## 4.7. Drainage

Maintaining proper field drainage is vital to the success of an *agricultural operation*. However, highway construction activities have the potential to affect both surface and subsurface (i.e. drain tile) drainage patterns and the overall soil health of agricultural fields. Potential drainage impacts from the construction of a highway include broken or damaged drainage tile lines, alterations to the topography of existing grassed waterways, or changes to known surface water flowlines. When these impacts happen and go unrepaired, drainage may become impaired, leading to the buildup of standing water on fields. Standing water on agricultural fields has a broad range of negative impacts including crop losses, concentrating mineral salts, flood damage to farm buildings, or causing disease in livestock.

### 4.7.1. Direct Impacts to Drainage Flowlines

The I-39/90/94 Corridor is a 68 mile corridor that is situated through various floodplains and crosses flowlines and rivers. The drainage analysis will focus on the agriculture parcels that are impacted by proposed improvements that affect drainage in new ways, such as alternative designs for interchanges that would mean crossing through flowlines differently than they current do. For a discussion on floodplains impacted by this Study, see section 4.7.7.

The Study has the potential to create a range of drainage impacts for the impacted *agricultural operations*. The nature of highway construction methods brings risks of damage or brakeage of drain tiles. Collectively, these risks raise the potential for yield losses, flood damage, and health impacts to livestock for the impacted agricultural landowners in the proposed Study ROW. Certain agricultural landowners, as discussed in Section 4.2.2, may have a higher risk of encountering these potential impacts. WisDOT stated they would design drainage improvements, as needed, after design alternatives are finalized. Initial plans consider using a range of potential drainage improvements, including but not limited to: ponds, swales and retention basins, which would be located within currently held ROW (Z. Zopp, personal communication, March 27, 2024). WisDOT states that they will follow BMPs for stormwater management and erosion control measures, as described within the WisDOT [Facilities Development Manual \(FDM\)](#). The Department's review and recommendations for additional AMP and BMPs can be found in Section 5.1.

### 4.7.2. Proposed New Milwaukee Street Interchange

This interchange would severely impact Parcel 071001111013, City of Madison. This parcel is within the Yahara River and Lake Kegonsa watershed. It is in a low lying area that contains hydric, silt loam soils. This severance may impede current overland drainage pathways within the parcel. The additional impermeable roadway surfaces proposed to be constructed for the New Milwaukee Street Interchange and the potential application of salt in winter also creates the potential for increased

volumes of overland salty runoff that will funnel onto the remnant fields and potentially degrade soil health.

The proposed interchange crosses over a known DNR flowline near the northern end of where the interchange is proposed to connect to County Highway T. Installation of this interchange may affect existing drainage of parcel 071001111013, City of Madison, and the upland fields if drainage is impaired or if backwaters are created upstream of the DNR flowline along the realigned roadway.

#### ***4.7.3. Proposed New Hoepker Road Interchange***

Of primary concern is the realignment of the I-41 west frontage road (Mid Valley Dr) at the CTH S interchange further eastward on to parcels 081016402018, 081009400996, 081009486200, 081016102022, 081016102014, 081016195300, and 081016102030, in the City of Madison.

Development of the New Hoepker Road Interchange has the potential affect the existing drainage of parcels in the area, particularly agricultural parcels 081009400988, 081016180003, 081016102014, 081016102030, and 081016195300 (City of Madison) where these flowlines directly cross their fields. Overall, potential increased drainage from the introduction from an interchange could affect the upland fields if drainage is impaired or if backwaters are created upstream due to the impacted flowline along the realigned roadway.

#### ***4.7.4. County CS Interchange***

The current design of the County CS Interchange already intercepts flowlines from Rowan Creek in a couple ways, but the south-eastern aspect of the recommended County CS Interchange diamond design would further impact it as it is situated along a section of the same flowline. Disruptions to any of these flowlines on or prior to the nearby agricultural parcels, such as parcel ID 2262423 or 2262401 (Columbia County), may disrupt the proper drainage of flow and degrade soil health, especially to those further downstream.

#### ***4.7.5. US 12 Interchange***

The existing US 12 interchange with a partial free-flow design runs through a flowline that originates from the Wisconsin River system multiple times. The recommended alternative design, a diverging diamond, would cross through the current partial clover leaf designs and further impact this flowline, potentially further disrupting the proper drainage of flow and degrade soil health agricultural parcels further downstream, such as parcel ID 008-1005-00000 (Sauk County) that likely drains into it.

#### ***4.7.6. WIS 13 Interchange***

The WIS 13 Interchange has two different alternatives recommended for further study, each of which would impact drainage differently. The current Trumpet design of WIS 13 Interchange cuts through two flowlines that both come from the Hulbert Creek. One of the flowlines is closer to the northern aspect of the current WIS 13 interchange, which intercepts the flowline as it crosses to the west in a northward direction, where it provides drainage for parcels 008-0435-00000 and 008-0406-00000 (Sauk County). The Split Diamond alternative design would further be developing this flowline and potentially impacting agricultural parcels further to the northwest.

The second flowline is closer to the southern aspect of the WIS 13 Interchange, which crosses it perpendicularly. The trumpet alternative design may further impact this flowline than WIS 13 interchange currently does, especially as it bisects parcel 008-0434-40000 in half, north to south. The construction of the design alternative and introduction of additional impervious surfaces may impede current overland drainage pathways within the parcel.

The additional new impermeable roadway surfaces for either alternate designs of the WIS 13 Interchange and the potential application of salt in winter, also creates the potential for increased volumes of overland salty runoff that will funnel onto the remnant fields and potentially degrade soil health.

#### ***4.7.7. Baraboo River and Wisconsin River Floodplain Impacts***

In the north-western aspect of the Corridor Study, I-39, I-90/94 and WIS 33 cross the Wisconsin River and Baraboo River floodplains. WisDOT cites that the two rivers that make up these floodplains, the Baraboo and Wisconsin rivers, have a history of flooding the surrounding area, with these events resulting in road closures and extensive damages (WisDOT 2024a). WisDOT and FHWA included flood minimization as part of recommended designs in the Study to mitigate flood risks. WisDOT used the US Army Corps of Engineers Hydrologic Engineering Center's River Analysis System (HEC-RAS) floodplain model to determine the potential degree of changes to FEMA regulatory water surface surrounding the Study corridor.

WisDOT's modeling has shown that increases to the floodplain elevation as a result of the improvements recommended in the Study would not affect any agricultural land uses until there is a flood. In some locations, the flood elevation change would only occur if there were a 100-year flood. During a 100-year flood event, impacted agricultural lands may take longer to drain than it would today, which could affect planting, decrease crop yield or increase acreage of crops lost to the flood. Should a 100-year flood occur, some impacted lands could receive up to an additional 0.7 feet of floodwaters (see Appendix B, Figure 1 to view the floodplain model).

WisDOT examined six alternatives (Options A, B, C2, C3, C4 and No Build) as well as a No Build alternative, and ultimately recommends option C4 for further study, which is the only option this

AIS will address. Option C4 would lengthen the I-39 Bridge over the Baraboo River, raise the I-39 road base by about four feet between the I-39 I/90/94 Split Interchange and the north study boundary near Levee Road, and raise 3.5 miles of the I-90/94 road base by four feet near the WIS 33 Interchange (WisDOT 2024a). This would adjust the floodwater to move under and away from the freeway, causing upstream and downstream impacts. Of the options considered, option C4 had the least downstream impact to water surface elevations.

Impacted agricultural lands could receive up between 0.01 and 0.7 feet of floodwater, which would potentially affect 3 agricultural owners and a total of 189.82 acres of agricultural land. This includes whole parcels to be impacted, and is separate from the Study's direct agricultural land impacts that are discussed in Section 4.2. These landowners have been contacted by WisDOT and have been reached out to by the Department to comment on potential impacts caused by the Study to their agricultural operation.

There was one response out of the 3 the Department tried to contact. The main concerns of the agricultural landowner, Peaceful Waters, LLC, was that increased flooding of the property would damage the crops and restrict access to the property. The landowner voiced the thought that if I-39 is to be rebuilt, there needs to be more box culverts place between STH 33 and the Baraboo River to help drain the flood water under the I-39 roadbed. The landowner indicated that the land was not enrolled in any agricultural conservation programs such as CRP, CREP or FP plans.

WisDOT has not yet determined if there are any insurable agricultural residences, buildings or structures would be flood-proofed, acquired or relocated as part of potential compensation for increasing the floodplain elevation within the FEMA regulatory water surface surrounding the Study corridor (WisDOT 2024a). WisDOT noted that there are four small agricultural outbuildings and an agricultural residence on parcel ID 2281458 (Columbia County) that may experience increased flood elevations (WisDOT 2024a). Agricultural-related property improvements identified by WisDOT are minimal, with the majority of agricultural land consisting of non-irrigated tillable land and no discernible livestock operations.

Agricultural landowners within the aforementioned floodplains (or with floodplain impacts) may wish to consult the Columbia County Land Conservation Department for site specific voluntary management practices or programs that promote infiltration and reduce soil erosion such as long-term rent based alternatives, CREP, CRP, WRP, soil health practices, permanent cover type changes to reduce floodplain impacts to their agricultural land.

While WisDOT is exempt from local floodplain zoning permits, the agency must operate within the intent of floodplain regulations and share documentation and analysis to ensure that the impacted area is in compliance with Federal, State and local floodplain standards. WisDOT must coordinate with DNR and local floodplain zoning agencies, which occurs under NR 116 and through [WisDOT's](#)

[cooperative agreement with WI DNR](#). This cooperative agreement also ensures that as long as DOT requires WisDOT to acquire Transportation Construction General Permit (TCGP) and Transportation Separate Storm Sewer System General Permit (TS4) for storm water discharges under Wisconsin's Pollutant Discharge Elimination System Permit (WPDES) (WisDNR & WisDOT 2020).

#### Drainage Conclusion

The proposed improvements to the I-39/90/94 Corridor have the potential to impact the drainage and soil health of the surrounding agricultural fields. Alterations to existing flowlines, breaking existing drainage tile lines, and increasing nearby impervious surfaces could create new flow patterns, create backwaters, and/or degrade drainage to an extent that may overwhelm the soil's ability to infiltrate and/or drain runoff. The application of salt to roadways in the winter also creates the potential for additional detrimental impacts to the health of the receiving agricultural soils and downstream waterways. WisDOT noted that they are considering ponds, swales and retention basins as potential drainage mitigation that would be placed in existing ROW (Z. Zopp, personal communication, March 27, 2024).

Impacts to those within the floodplain had been shown by WisDOT's model to have a potential impact to agricultural lands if there is a flood, and in some locations, the flood elevation change would only occur if there were a 100-year flood. At the time of this AIS analysis, WisDOT does not yet know the specific type of mitigation or acquisition needed for individually impacted agricultural parcels. However, WisDOT states that if they were to advance the build alternatives to the design phase, they may mitigate flood risks to insurable structures and/or acquire easements, or purchase lands as compensation for changes to the FEMA floodplain water surface elevations (WisDOT 2024a).

The Department advises WisDOT to work within the bounds of Wis. Stat. § 88.87 to build adequate ditches, culverts, and other facilities to prevent obstruction of drainage, protect property owners from damage to lands caused by unreasonable diversion or retention of surface water, and maintain, as nearly as possible, the original drainage flow patterns to ensure stormwater and drainage impacts are mitigated on the remnant fields. Refer to Appendix D, Section 3 for the statutes pertaining to drainage rights. Landowners whose property is damaged by improper construction or maintenance of highway facilities and highway drainage structures may file a claim with WisDOT within three years after the damage occurs (Appendix D, Section 3).

## 5. AGRICULTURAL IMPACT MITIGATION

Whether it be by design or geographic footprint, some projects have the potential for greater agricultural impacts. Common characteristics of projects with the potential for increased agricultural impacts include construction areas spreading across long linear tracks of land, impacts

to numerous landowners, or state/federal requirements to prepare an environmental assessment or environmental impact statement. Examples of these projects include natural gas pipelines, high-voltage electric transmission lines, or the expansion/creation of a highway corridor. In response to these types of studies, the Department analyzes the potential for best management practices (“BMP”) and/or an agricultural *mitigation* plan (“AMP”) to reduce or eliminate Study-related agricultural impacts.

### **5.1. Agricultural Mitigation Plan (AMP) and Best Management Practices (BMP)**

The Department recognizes the value and benefits achieved when any study initiator proactively supports practices and plans to restore impacted lands to pre-construction conditions and mitigate impacts to agricultural productivity. AMPs are one example of plans that describe the policies and methods study initiators will follow, during all phases of a study, to achieve these goals. AMPs typically describe, in detail, effective construction *mitigation* measures, restoration methods, best practices for communication with *agricultural operations*, and outlines the duties of the study’s Agricultural Inspector (“AI”).

At the current stage of the I-39/90/94 Corridor Study, no AMPS or BMPs specific to the Study have been identified by WisDOT. WisDOT notes that the overall aim of their designs are to reduce impacts and are following all required design practices (WisDOT 2024b). WisDOT states that they will follow BMPs for stormwater management and erosion control measures, as described within the WisDOT [Facilities Development Manual \(FDM\)](#) to minimize negative impacts to identified farmland with the following standard procedures:

1. Temporary seed (see FDM 10-10-6).
2. Permanent seed (see FDM 10-10-6).
3. Fertilizer (see FDM 10-10-12).
4. Mulch (see FDM 10-10-13)
5. Erosion mat (see FDM 10-10-15)
6. Temporary ditch checks (see FDM 10-10-22)
7. Silt Fence (see FDM 10-10-23)
8. Soil Stabilizer Type B (see FDM 10-10-47)
9. Erosion Control Mobilizations
10. Emergency Erosion Control Mobilizations
11. Other techniques are available as needed

BMPs employed may be structural, vegetative, or managerial practices used to treat, prevent, or reduce water pollution. During construction, WisDOT uses both temporary and permanent devices in accordance with standard procedures described in the FDM sections listed above (WisDOT 2024b).



WisDOT cites that they will continue to evaluate measures to further mitigate unavoidable impacts to farmland through preliminary design by adjusting alignments, steepening slopes, and adjusting ditches, where possible (WisDOT 2024b).

The remainder of Section 5 will document the Department's suggestions to WisDOT and agricultural landowners and operations that go above and beyond the federal and state *mitigation* plans and related permits WisDOT must follow. The additional plans and permits may overlap with various aspects of the AMPs the Department suggests. WisDOT must follow all required plans and permits and where overlap exists, the Department suggests that they follow the most restrictive standard.

## **5.2. Agricultural Inspector (AI)**

When a project affects agricultural land, an AI may need to be hired. The AI's role is to monitor study construction & restoration activities and report on a wide range of agricultural issues including but not limited to construction impacts to soil health, soil erosion, crop damage, *agricultural operations*, irrigation, and impacts to surface and subsurface drainage. They will also verify if the project initiator is complying with any agricultural BMPs or conditions established by the project initiator or required by a regulatory agency.

The proposed construction of the Study holds the potential for numerous agricultural impacts. For these impacts, the Department recommends WisDOT to help mitigate by hiring an AI or an EI serving with the responsibilities of an AI, which would be sufficient to ensure WisDOT adheres to any AMPs or BMPs the Department has recommended for WisDOT. WisDOT stated that they would likely have environmental designers/liaisons that would communicate with agricultural landowners, in addition to other landowners, as well as with DATCP as required (WisDOT, personal communication, February 28, 2024).

## **5.3. Recommended BMPs**

### ***5.3.1. Drain Tile Repair & Drainage***

Construction activities – especially those that excavate soil – can disrupt, damage or break agricultural infrastructure including drainage tiles, grassed waterways, and drainage ditches. Study initiators have a duty to restore the agricultural landscape as near to pre-existing conditions as possible.

The Department recommends that WisDOT should monitor for potential drainage tile damage during construction and, if one is determined to have been impacted by construction, work with the landowner to identify a remedy.

The Department recommends *agricultural operations* consider the following to mitigate impacts to drain tiles and drainage:

- *Agricultural operations* should inform WisDOT about the existence and location of drainage systems or planned drainage systems that could be affected by the Study.
- Agricultural landowners should document field moisture conditions and the historic presence/absence of ponded water prior to the start of construction for post-construction comparisons.

#### ***5.6.5. Deicing & Traction Control***

Construction crews commonly apply various products to improve vehicle traction within the construction ROW to control for wet, slippery, or icy conditions. The application of chloride based deicing agents, such as rock salt, to temporary road matting within the construction ROW during the winter season can lead to chloride rich runoff that has potentially detrimental impacts to the health of nearby soils, ecosystems and surface waters (Richburg, 2001; Kelly *et al.*, 2008; Corsi *et al.*, 2010).

Ultimately the applicability of this mitigation practice depends upon the construction timeline. Alternative deicing products, which are less damaging to the health of soil, vegetation and ecosystems as compared to chloride, do exist. For example, county highway departments commonly apply sand or small lime chips (1/8" to 3/16" diameter), or a combination of the two as an alternative to rock salt, especially when surface temperatures are colder than 15°F when rock salt is less effective. However, chloride may still be required to mitigate situations that pose elevated safety risks.

If construction for the Study takes place during winter, the Department recommends WisDOT considers alternatives to chloride based deicing products based on the list of alternative deicing products contained within the University of Wisconsin Madison - Extension publication [A3877](#).

#### ***5.3.2. Construction Noise***

Landowners near the Study ROW may experience noises associated with construction techniques and the movement of heavy equipment. This noise may cause dairy, beef cattle and other grazing livestock to stampede, break through fences, and escape from the farm property. Fur animals, poultry, and other confined livestock may also be impacted by these sounds.

Nearby *agricultural operations* may also wish to consider the following recommendation:

- Livestock owners & operators within the Study ROW who are concerned about the noise potential for the Study should inform WisDOT or their representatives of their concerns and ask for advanced warning before noise generating construction activities begin.

### 5.3.3. Irrigation

Highway construction activities and the placement of new roadways or interchanges can interfere with the operation of linear or center pivot irrigation systems used to irrigate crops. Soil compaction from construction equipment may also impact or damage underground piping that supplies irrigation systems. Any interruption to irrigation systems cause by the Study can deprive crops from needed water and nutrients resulting in decrease crop yields.

The Department recommends that *agricultural operations* consider the following recommendation:

- Prior to construction, *agricultural operations* that use irrigation within or adjacent to the Study ROW should inform WisDOT of their irrigation system, how the Study may impact the system, irrigation schedules frequency of irrigation and weather conditions that may change the irrigation schedule.

### 5.3.4. Managed Forest Law, Trees and other Woody Vegetation

If approved, the Study will impact approximately 3.7 acres of MFL lands. An explanation of the state's MFL program and what that means for the woodlands enrolled within the program is provided in Section 3.2.2. Additional acres of unmanaged forest lands will also be impacted, but are beyond the scope of this AIS as unmanaged forest lands are not defined as an agricultural use according to [Wis. Stat. § 91.01\(2\)](#). Both managed and unmanaged woodlands can provide financial benefit to the landowner either directly through the sale of managed forest for timber, the sale of firewood, or the harvest of tree sap for the production and sale syrup. The removal of any trees from a property may also decrease the market value of the property.

The Department recommends that *agricultural operations* consider the following recommendations:

- Landowners who wish to obtain their own appraisal for MFL land impacts should also hire an appraiser who has experience and expertise in valuing trees.

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# DISTRIBUTION LIST

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# APPENDICES

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DATCP #4472

I-39/90/94 Corridor Study

Columbia, Dane, Juneau and Sauk Counties

**WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION**

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*PUBLISHED APRIL 29, 2024*

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## APPENDIX A: ACRONYMS AND TERMS

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### 1. ACRONYMS

AEA	Agricultural Enterprise Area
AIN	Agricultural Impact Notification
AIS	Agricultural Impact Statement
BMP	Best Management Practice
CREP	Conservation Reserve and Enhancement Program
CRP	Conservation Reserve Program
CTH	County Trunk Highway
DATCP	Department of Agriculture, Trade and Consumer Protection (the “Department”)
FP	Farmland Preservation Program
MFL	Managed Forest Law
PACE	Purchase of Agricultural Conservation Easement
ROW	Right-of-Way
STH	State Trunk Highway
USDA	U.S. Department of Agriculture
WisDNR	Wisconsin Department of Natural Resources



## 2. TERMS

<i>Agricultural Operation</i>	All owned and rented parcels of land, buildings, equipment, livestock, and personnel used by an individual, partnership, or corporation under single management to produce agricultural commodities.
<i>Easement</i>	Easements are contracts – bound to the property – which allow another party the right to use or enter a property without owning the property. Easements may be temporary (i.e. time limited) or permanent.
<i>Mitigation</i>	Avoiding, minimizing, rectifying (repairing), reducing, eliminating, compensating for, or monitoring environmental & agricultural impacts.
<i>Prime Farmland</i>	Defined by the U.S. Department of Agriculture as land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses.
<i>Right-of-Way (ROW)</i>	The right to cross another's property for transportation or transmission purposes, such as roads, powerlines, and pipelines.
<i>Severance</i>	Splitting an agricultural parcel into two or more smaller parcels
<i>Topsoil</i>	The thin, top layer of soil where the majority of nutrients for plants is found.
<i>Uneconomic Remnant</i>	The property remaining after a partial taking of property, if the property remaining is of such size, shape, or condition as to be of little value or of substantially impaired economic viability.
<i>Wasteland</i>	Small or irregularly shaped areas within a remnant agricultural field that are not able to be cultivated. These areas reduce the amount of tillable acres within a remnant field, which may also impact the economic viability of the remnant field.

## APPENDIX B: ADDITIONAL FIGURES

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Figures start on next page

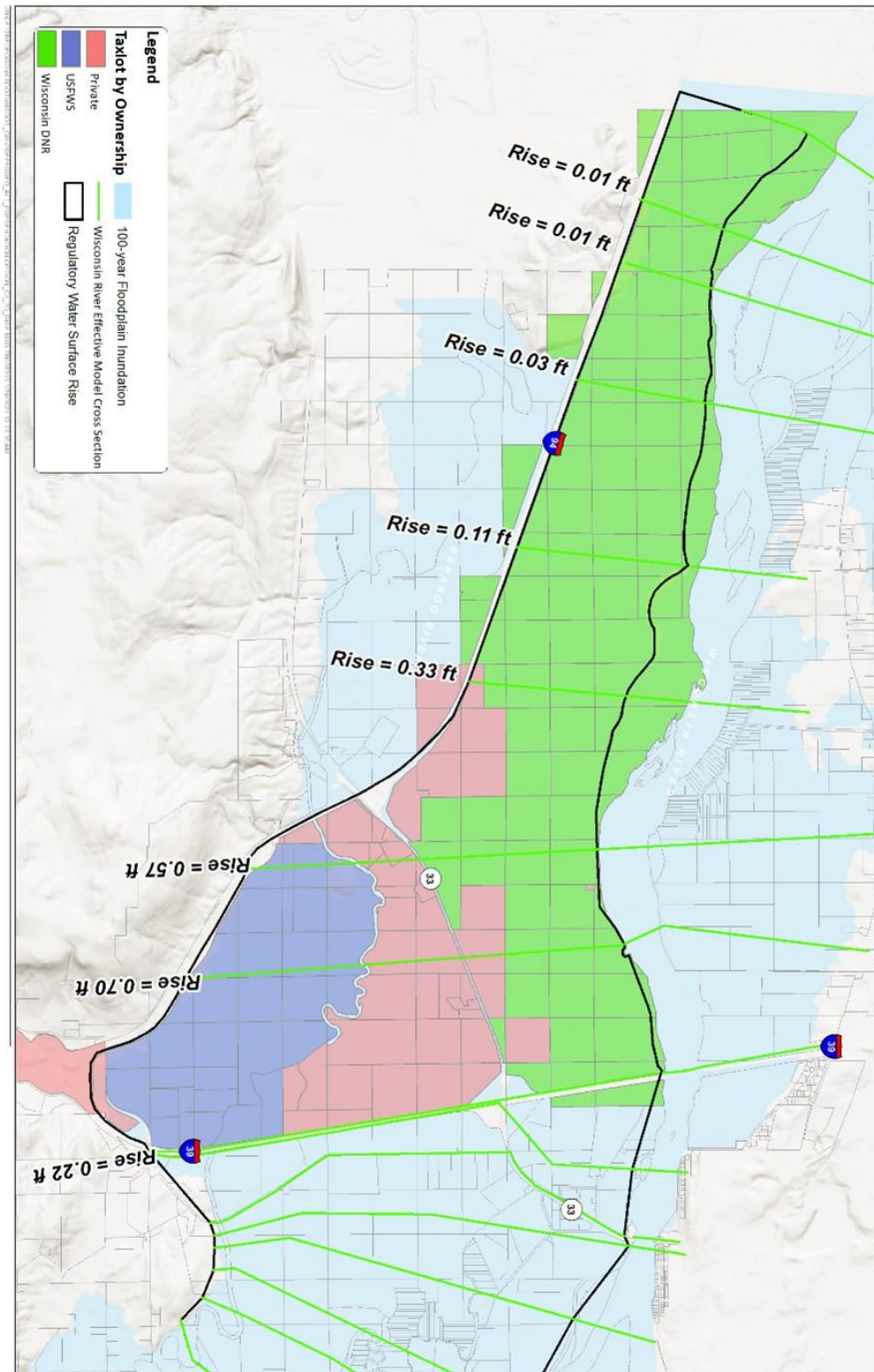


Figure 1: Wisconsin River and Baraboo River Floodplain Impact Map (WisDOT 2024a).



## APPENDIX C: APPRAISAL AND COMPENSATION PROCESS

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The acquisition of land by entities including but not limited to departments, municipalities, boards, commissions, public officers, and business with eminent domain authority in Wisconsin, is stipulated under [Wis. Stat. §32.06](#). If the entity (referred to as the condemnor) actualizes their powers of eminent domain by exercising condemnation, the condemnor shall first provide an appraisal of the affected property to each landowner prior to the start of land acquisition negotiations. An appraisal is an estimate of fair market value, additional information about the appraisal process and landowners rights can be found in the Wisconsin Department of Administration publication, "[The Rights of Landowners under Wisconsin Eminent Domain Law](#)," also listed in Appendix C.

The condemnor may conduct a market study to determine current area property values of affected property. If the landowner signs an appraisal waiver form, the market study will be the basis for the condemnor's offer of compensation and no individual property appraisal will be conducted. The condemnor may also offer additional compensation to landowners who choose to sign the appraisal waiver form.

Landowners have the right to obtain their own appraisal of their property under Wisconsin's eminent domain law ([Wis. Stat. §32.06](#)) and will be compensated for the cost of this appraisal if the following conditions are met:

- The appraisal must be submitted to the condemnor or its designated real estate contractor within 60 days after the landowner receives the initial appraisal
- The appraisal fee must be reasonable
- The appraisal must be a full, narrative appraisal
- The appraisal must be completed by a qualified appraiser

Through the process of condemnation, a jurisdictional offer made to the landowner in accordance with [Wis. Stat. §32.06\(3\)](#) will include an appraisal of the fair market value for the land acquisition or easement and any anticipated damages to the property. The fair market value means the price that a willing buyer would pay to a willing seller in the market. This will be based on at least one full narrative appraisal for each property the condemnor intends to acquire. The appraisal must be presented to the landowner. The amount of compensation is based on the appraisal(s) and is established during the negotiation process between condemnor and the individual landowners.

The condemnor is required to provide landowners with information about their rights in this process before negotiations begin. [Wis. Stat. § 32.035\(4\)\(d\)](#) additionally stipulates that if the condemnor actualizes their condemnation authority, the condemnor cannot negotiate with a landowner or make a jurisdictional offer until 30 days after the AIS is published.



## APPENDIX D: WISCONSIN'S AGRICULTURAL IMPACT STATEMENT STATUTE

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The Department of Agricultural, Trade and Consumer Protection (referred to as the Department) is required to prepare an AIS whenever more than five acres of land from at least one farm operation will be acquired for a public project if the agency/company acquiring the land has the authority to use eminent domain for property acquisitions. The Department has the option to prepare an AIS for projects affecting five or fewer acres from each farm if the proposed project would have significant effects on a farm operation. The entity proposing a construction project is required to provide the Department with the necessary details of the project so that the potential impacts and effects of the project on farm operations can be analyzed. DATCP has 60 days to make recommendations and prepare the AIS. DATCP shall publish the AIS upon receipt of the fee required to prepare the AIS. The Department provides the AIS to affected farmland owners, various state and local officials, local media and libraries, and any other individual or group who requests a copy. Thirty days after the date of publication, the project initiator may begin negotiating with the landowner(s) for the property.

[Wisconsin Statute § 32.035](#) is provided below and describes the Wisconsin Agricultural Impact Statement procedure and content.

**(1) DEFINITIONS.** In this section:

- (a) "Department" means department of agriculture, trade, and consumer protection.
- (b) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural commodities resulting from an agricultural use, as defined in s. 91.01 (2), for sale and home use, and customarily producing the commodities in sufficient quantity to be capable of contributing materially to the operator's support.

**(2) EXCEPTION.** This section shall not apply if an environmental impact statement under s. 1.11 is prepared for the proposed project and if the department submits the information required under this section as part of such statement or if the condemnation is for an easement for the purpose of constructing or operating an electric transmission line, except a high voltage transmission line as defined in s. 196.491(1) (f).

**(3) PROCEDURE.** The condemnor shall notify the department of any project involving the actual or potential exercise of the powers of eminent domain affecting a farm operation. If the condemnor is the department of natural

resources, the notice required by this subsection shall be given at the time that permission of the senate and assembly committees on natural resources is sought under s. 23.09(2)(d) or 27.01(2)(a). To prepare an agricultural impact statement under this section, the department may require the condemnor to compile and submit information about an affected farm operation. The department shall charge the condemnor a fee approximating the actual costs of preparing the statement. The department may not publish the statement if the fee is not paid.

**(4) IMPACT STATEMENT.**

(a) *When an impact statement is required; permitted.* The department shall prepare an agricultural impact statement for each project, except a project under Ch. 82 or a project located entirely within the boundaries of a city or village, if the project involves the actual or potential exercise of the powers of eminent domain and if any interest in more than 5 acres from any farm operation may be taken. The department may prepare an agricultural impact statement on a project located entirely within the boundaries of a city or village or involving any interest in 5 or fewer acres of any farm operation if the condemnation would have a significant effect on any farm operation as a whole.

(b) *Contents.* The agricultural impact statement shall include:

1. A list of the acreage and description of all land lost to agricultural production and all other land with reduced productive capacity, whether or not the land is taken.
2. The department's analyses, conclusions, and recommendations concerning the agricultural impact of the project.

(c) *Preparation time; publication.* The department shall prepare the impact statement within 60 days of receiving the information requested from the condemnor under sub. (3). The department shall publish the statement upon receipt of the fee required under sub. (3).

(d) *Waiting period.* The condemnor may not negotiate with an owner or make a jurisdictional offer under this subchapter until 30 days after the impact statement is published.

**(5) PUBLICATION.** Upon completing the impact statement, the department shall distribute the impact statement to the following:

(a) The governor's office.

- (b) The senate and assembly committees on agriculture and transportation.
- (c) All local and regional units of government that have jurisdiction over the area affected by the project. The department shall request that each unit post the statement at the place normally used for public notice.
- (d) Local and regional news media in the area affected.
- (e) Public libraries in the area affected.
- (f) Any individual, group, club, or committee that has demonstrated an interest and has requested receipt of such information.
- (g) The condemnor.

## 1. STATUTES GOVERNING EMINENT DOMAIN

The details governing eminent domain as it relates to WisDOT projects are included in Wis. Stat. Ch. 32 (<http://docs.legis.wisconsin.gov/statutes/statutes/32.pdf>).

The Department recommends that farmland owners concerned about eminent domain powers and the acquisition of land should review this statute in its entirety. Landowners may also wish to consult with an attorney who should have expertise in eminent domain proceedings. In addition, any Wisconsin licensed appraiser that landowners employ regarding a project where eminent domain could be used should be knowledgeable in partial takings.

**Section 32.09 of the Wisconsin Statutes describes the compensation provided for property acquisition and certain damages:**

**(6)** In the case of a partial taking of property other than an easement, the compensation to be paid by the condemnor shall be the greater of either the fair market value of the property taken as of the date of evaluation or the sum determined by deducting from the fair market value of the whole property immediately before the date of evaluation, the fair market value of the remainder immediately after the date of evaluation, assuming the completion of the public improvement and giving effect, without allowance of offset for general benefits, and without restriction because of enumeration but without duplication, to the following items of loss or damage to the property where shown to exist:

- (a)** Loss of land including improvements and fixtures actually taken.
- (b)** Deprivation or restriction of existing right of access to highway from abutting land, provided that nothing herein shall operate to restrict the power of the state or any of its

subdivisions or any municipality to deprive or restrict such access without compensation under any duly authorized exercise of the police power.

**(c)** Loss of air rights.

**(d)** Loss of a legal nonconforming use.

**(e)** Damages resulting from actual severance of land including damages resulting from severance of improvements or fixtures and proximity damage to improvements remaining on condemnee's land. In determining severance damages under this paragraph, the condemnor may consider damages which may arise during construction of the public improvement, including damages from noise, dirt, temporary interference with vehicular or pedestrian access to the property and limitations on use of the property. The condemnor may also consider costs of extra travel made necessary by the public improvement based on the increased distance after construction of the public improvement necessary to reach any point on the property from any other point on the property.

**(f)** Damages to property abutting on a highway right of way due to change of grade where accompanied by a taking of land.

**(g)** Cost of fencing reasonably necessary to separate land taken from remainder of condemnee's land, less the amount allowed for fencing taken under par. (a), but no such damage shall be allowed where the public improvement includes fencing of right of way without cost to abutting lands.

**Section 32.19 of the Wisconsin Statutes outlines payments to be made to displaced tenant occupied businesses and farm operations.**

**(4m) BUSINESS OR FARM REPLACEMENT PAYMENT. (a)** Owner-occupied business or farm operation. In addition to amounts otherwise authorized by this subchapter, the condemnor shall make a payment, not to exceed \$50,000, to any owner displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to the initiation of negotiations for the acquisition of the real property on which the business or farm operation lies, and who actually purchases a comparable replacement business or farm operation for the acquired property within two years after the date the person vacates the acquired property or receives payment from the condemnor, whichever is later. An owner displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to the initiation of negotiations for the acquisition of the real property on which the business or farm operation lies may elect to receive the payment under par. (b) 1. in lieu of the payment under this paragraph, but the amount of payment under par. (b) 1. to such an owner displaced person may not exceed the amount the owner displaced person is eligible to

receive under this paragraph. The additional payment under this paragraph shall include the following amounts:

1. The amount, if any, which when added to the acquisition cost of the property, other than any dwelling on the property, equals the reasonable cost of a comparable replacement business or farm operation for the acquired property, as determined by the condemnor.
2. The amount, if any, which will compensate such owner displaced person for any increased interest and other debt service costs which such person is required to pay for financing the acquisitions of any replacement property, if the property acquired was encumbered by a bona fide mortgage or land contract which was a valid lien on the property for at least one year prior to the initiation of negotiations for its acquisition. The amount under this subdivision shall be determined according to rules promulgated by the department of administration.
3. Reasonable expenses incurred by the displaced person for evidence of title, recording fees and other closing costs incident to the purchase of the replacement property, but not including prepaid expenses.

**(b)** Tenant-occupied business or farm operation. In addition to amounts otherwise authorized by this subchapter, the condemnor shall make a payment to any tenant displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to initiation of negotiations for the acquisition of the real property on which the business or operation lies or, if displacement is not a direct result of acquisition, such other event as determined by the department of commerce, and who actually rents or purchases a comparable replacement business or farm operation within 2 years after the date the person vacates the property. At the option of the tenant displaced person, such payment shall be either:

1. The amount, not to exceed \$30,000, which is necessary to lease or rent a comparable replacement business or farm operation for a period of 4 years. The payment shall be computed by determining the average monthly rent paid for the property from which the person was displaced for the 12 months prior to the initiation of negotiations or, if displacement is not a direct result of acquisition, such other event as determined by the department of administration and the monthly rent of a comparable replacement business or farm operation and multiply the difference by 48; or
2. If the tenant displaced person elects to purchase a comparable replacement business or farm operation, the amount determined under subd. 1 plus expenses under par. (a) 3.

**(5)** EMINENT DOMAIN. Nothing in this section or ss. 32.25 to 32.27 shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of damages.



**Section 32.25 of the Wisconsin Statutes delineates steps to be followed when displacing persons, businesses, and farm operations.**

**(1)** Except as provided under sub.(3) and s. 85.09 (4m), no condemnor may proceed with any activity that may involve the displacement of persons, business concerns or farm operations until the condemnor has filed in writing a relocation payment plan and relocation assistance service plan and has had both plans approved in writing by the department of administration.

**(2)** The relocation assistance service plan shall contain evidence that the condemnor has taken reasonable and appropriate steps to:

(a) Determine the cost of any relocation payments and services or the methods that are going to be used to determine such costs.

(b) Assist owners of displaced business concerns and farm operations in obtaining and becoming established in suitable business locations or replacement farms.

(c) Assist displaced owners or renters in the location of comparable dwellings.

(d) Supply information concerning programs of federal, state and local governments which offer assistance to displaced persons and business concerns.

(e) Assist in minimizing hardships to displaced persons in adjusting to relocation.

(f) Secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the implementation of the relocation program.

(g) Determine the approximate number of persons, farms or businesses that will be displaced and the availability of decent, safe and sanitary replacement housing.

(h) Assure that, within a reasonable time prior to displacement, there will be available, to the extent that may reasonably be accomplished, housing meeting the standards established by the department of administration for decent, safe and sanitary dwellings. The housing, so far as practicable, shall be in areas not generally less desirable in regard to public utilities, public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced and equal in number to the number of such displaced families or individuals and reasonably accessible to their places of employment.

(i) Assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable dwelling.

**(3)** (a) Subsection (1) does not apply to any of the following activities engaged in by a condemnor:

1. Obtaining an appraisal of property.
2. Obtaining an option to purchase property, regardless of whether the option specifies the purchase price, if the property is not part of a program or project receiving federal financial assistance.

## 2. STATUTES GOVERNING ACCESS

**Section 86.05 of the Wisconsin Statutes states that access shall be provided to land which abuts a highway:**

Entrances to highway restored. Whenever it is necessary, in making any highway improvement to cut or fill or otherwise grade the highway in front of any entrance to abutting premises, a suitable entrance to the premises shall be constructed as a part of the improvements, and if the premises are divided by the highway, then one such entrance shall be constructed on each side of the highway. Thereafter, each entrance shall be maintained by the owner of the premises. During the time the highway is under construction, the state, county, city, village or town shall not be responsible for any damage that may be sustained through the absence of an entrance to any such premises.

**Section 84.25 of the Wisconsin Statutes describes access restrictions concerning a controlled-access highway.**

**(3) CONSTRUCTION; OTHER POWERS OF DEPARTMENT.** In order to provide for the public safety, convenience and the general welfare, the department may use an existing highway or provide new and additional facilities for a controlled-access highway and so design the same and its appurtenances, and so regulate, restrict or prohibit access to or departure from it as the department deems necessary or desirable. The department may eliminate intersections at grade of controlled-access highways with existing highways or streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary line of such controlled-access highway and may divide and separate any controlled-access highway into separate roadways or lanes by raised curbing, dividing sections or other physical separations or by signs, markers, stripes or other suitable devices, and may execute any construction necessary in the development of a controlled-access highway including service roads or separation of grade structures.

**(4) CONNECTIONS BY OTHER HIGHWAYS.** After the establishment of any controlled-access highway, no street or highway or private driveway, shall be opened into or connected with any

controlled-access highway without the previous consent and approval of the department in writing, which shall be given only if the public interest shall be served thereby and shall specify the terms and conditions on which such consent and approval is given.

**(5) USE OF HIGHWAY.** No person shall have any right of entrance upon or departure from or travel across any controlled-access highway, or to or from abutting lands except at places designated and provided for such purposes, and on such terms and conditions as may be specified from time to time by the department.

**(6) ABUTTING OWNERS.** After the designation of a controlled-access highway, the owners or occupants of abutting lands shall have no right or easement of access, by reason of the fact that their property abuts on the controlled-access highway or for other reason, except only the controlled right of access and of light, air or view.

**(7) SPECIAL CROSSING PERMITS.** Whenever property held under one ownership is severed by a controlled-access highway, the department may permit a crossing at a designated location, to be used solely for travel between the severed parcels, and such use shall cease if such parcels pass into separate ownership.

### **3. STATUTES GOVERNING DRAINAGE**

**Section 88.87(2) of the Wisconsin Statutes describes regulations concerning rights of drainage:**

(a) Whenever any county, town, city, village, railroad company or the department of transportation has heretofore constructed and now maintains or hereafter constructs and maintains any highway or railroad grade in or across any marsh, lowland, natural depression, natural watercourse, natural or man-made channel or drainage course, it shall not impede the general flow of surface water or stream water in any unreasonable manner so as to cause either an unnecessary accumulation of waters flooding or water-soaking uplands or an unreasonable accumulation and discharge of surface water flooding or water-soaking lowlands. All such highways and railroad grades shall be constructed with adequate ditches, culverts, and other facilities as may be feasible, consonant with sound engineering practices, to the end of maintaining as far as practicable the original flow lines of drainage. This paragraph does not apply to highways or railroad grades used to hold and retain water for cranberry or conservation management purposes.

(b) Drainage rights and easements may be purchased or condemned by the public authority or railroad company having control of the highway or railroad grade to aid in the prevention of damage to property owners which might otherwise occur as a result of failure to comply with par. (a).

(c) If a city, village, town, county, or railroad company or the department of transportation constructs and maintains a highway or railroad grade not in accordance with par. (a), any property owner damaged by the highway or railroad grade may, within 3 years after the alleged damage occurred, file a claim with the appropriate governmental agency or railroad company. The claim shall consist of a sworn statement of the alleged faulty construction and a description, sufficient to determine the location of the lands, of the lands alleged to have been damaged by flooding or water-soaking. Within 90 days after the filing of that claim, the governmental agency or railroad company shall either correct the cause of the water damage, acquire rights to use the land for drainage or overflow purposes, or deny the claim. If the agency or company denies the claim or fails to take any action within 90 days after the filing of the claim, the property owner may bring an action in inverse condemnation under ch. 32 or sue for such other relief, other than damages, as may be just and equitable.

**WisDOT [specification 205.3.3](#) further describes its policies concerning drainage:**

- (1)** During construction, maintain roadway, ditches, and channels in a well-drained condition at all times by keeping the excavation areas and embankments sloped to the approximate section of the ultimate earth grade. Perform blading or leveling operations when placing embankments and during the process of excavation except if the excavation is in ledge rock or areas where leveling is not practical or necessary. If it is necessary in the prosecution of the work to interrupt existing surface drainage, sewers, or under drainage, provide temporary drainage until completing permanent drainage work.
- (2)** If storing salvaged topsoil on the right-of-way during construction operations, stockpile it to preclude interference with or obstruction of surface drainage.
- (3)** Seal subgrade surfaces as specified for subgrade intermediate consolidation and trimming in 207.3.9.
- (4)** Preserve, protect, and maintain all existing tile drains, sewers, and other subsurface drains, or parts thereof that the engineer judges should continue in service without change. Repair, at no expense to the department, all damage to these facilities resulting from negligence or carelessness of the contractor's operations.

## APPENDIX E: ADDITIONAL INFORMATION SOURCES

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### Wisconsin State Statutes

- Wisconsin Statute Chapter 91: [Farmland Preservation](#)
  - Subchapter 91.46(4): [Conditional Uses](#)
- Wisconsin Statute Chapter 32: [Eminent Domain](#)
  - Subchapter 32.035: [Agricultural Impact Statement](#)

### Department of Agricultural, Trade and Consumer Protection Website Links

- [DATCP \(datcp.wi.gov\)](#)
- [Farmland Preservation](#)
- [Agricultural Impact Statements](#)
- [Wisconsin Farm Center](#) (Information on services provided to Wisconsin farmers including financial mediation, stray voltage, legal, vocational, and farm transfers)
- [Drainage Districts](#)

### Department of Administration (DOOA) Website Links

- [DOA \(doa.wi.gov\)](#)
- [Relocation Assistance](#) (Publications on landowner rights under Wisconsin's eminent domain law)
- [Wisconsin Relocation Rights Residential](#)
- [Wisconsin Relocation Rights for Businesses, Farm and Nonprofit Organizations](#)
- [The Rights of Landowners under Wisconsin Eminent Domain Law](#), Procedures under sec. 32.06 Wis. Stats. (Condemnation procedures in matters other than highways, streets, storm & sanitary sewers, watercourses, alleys, airports and mass transit facilities)

### Department of Natural Resources (facility plan) Website Links

- [DNR \(dnr.wi.gov\)](#)
- [Managed Forest Law](#)

### U.S. Department of Agriculture (USDA)

- [USDA \(usda.gov\)](#)
- [National Agricultural Statistics Service](#)
- [Web Soil Survey](#)
- [Soil Quality – Urban Technical Note No. 1, Erosion and Sedimentation on Construction Sites](#)



Wisconsin Department of Safety and Professional Services (DSPS)

- [DSPS \(dsps.wi.gov\)](https://dsps.wi.gov)
- [Real Estate Appraisers](#) (Look-up for state certification status of different types of real estate appraisers)

State Bar of Wisconsin

- [State Bar of Wisconsin \(www.wisbar.org\)](http://www.wisbar.org)

For general legal information and assistance in finding a lawyer

# APPENDIX F: WISDOT PREFERRED ROUTE RECOMMENDATIONS

## MEMO

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## I-39/90/94 Corridor Study

<b>Date:</b>	April 1, 2024
<b>Topic:</b>	I-39/90/94 Concurrence Point #2: Preferred Alternatives
<b>To:</b>	Cooperating and Participating Agencies
<b>From:</b>	David Schmidt, P.E., WisDOT Project Manager

### 1. Purpose

WisDOT requests agency concurrence on the recommended preferred alternatives that will be evaluated in the Draft Environmental Impact Statement for the I-39/90/94 Corridor Study. On January 12, 2024, WisDOT requested concurrence on the study purpose and need, range of alternatives and study schedule (Concurrence Point 1). As of February 29, 2024, WisDOT completed coordination on Concurrence Point 1.

This memo identifies WisDOT's recommended preferred alternatives and requests agency concurrence by May 1, 2024.

### 2. Summary of Recommended Preferred Alternatives

Table 1 summarizes the recommended preferred alternatives WisDOT developed from an alternatives screening analysis and ongoing agency and public coordination. The screening analysis evaluated alternatives based on purpose and need factors, environmental impacts, public and municipal input and relative construction cost. WisDOT's alternatives screening analysis provided to agencies during Concurrence Point 1 summarizes alternatives recommended for further study in the EIS. Where the screening analysis identified one alternative for further study in the Draft EIS, WisDOT recommends it as a preferred alternative.

WisDOT completed a flood minimization study to reduce flood risks where I-39 and I-90/94 travel through the Baraboo River and Wisconsin River floodplains. The analysis recommends raising portions of I-39 and I-90/94 and lengthening the I-39 Baraboo River bridge to reduce flood risks on the Interstate. The recommended preferred alternatives in this area of the study corridor include flood minimization strategies described in Section 3 of this memo.

The remainder of this analysis provides additional information on WisDOT's recommended preferred alternative where more than one alternative was identified for further study in the Draft EIS.

**Table 1: Summary of Recommended Preferred Alternatives**

Freeway/Interchange	Recommended Preferred Alternative
I-39/90/94 Freeway	Modernization Plus Added General-Purpose Lane
I-94/WIS 30 Interchange	Full Modernization Alternative #2

Milwaukee Street Interchange (Proposed new)	Partial Cloverleaf
US 151/High Crossing Boulevard Interchange	Directional
Hoepker Road Interchange (Proposed new)	Shifted Diamond
US 51 Interchange	Partial Cloverleaf
WIS 19 Interchange	U-Ramp
County V Interchange	No Build
County CS Interchange	Diamond
I-39 I-90/94 Split Interchange	Low Build
WIS 33 Interchange at I-39	Diamond
WIS 33 Interchange at I-90/94	Partial Cloverleaf
US 12 Interchange	Diverging Diamond
WIS 23 Interchange	Diamond
WIS 13 Interchange	Trumpet
US 12/WIS 16 Interchange	Diamond

## 2.1. Evaluation summary

The following sections briefly summarize recommended preferred alternatives where more than one alternative is evaluated in the Draft EIS.

### 2.1.1. I-39/90/94 Freeway

WisDOT is evaluating two freeway alternatives in the Draft EIS: Modernization Plus Added General-Purpose Lane and Modernization Hybrid. The primary difference between the Modernization Plus Added General-Purpose Lane and Modernization Hybrid alternatives is between US 12/18 and WIS 19. In that section, the Modernization Plus Added General-Purpose Lane alternative consists of a 12-foot inside shoulder and added 12-foot lane in each direction where the Modernization Hybrid consists of an 18-foot inside shoulder that could be utilized as a travel lane with a 6-foot shoulder during heaviest travel periods.

The environmental impacts of the two alternatives are similar. The projected construction costs of the two alternatives are also similar with the Modernization Plus Added General-Purpose Lane expected to cost more up front and the Modernization Hybrid costing more over time due to the additional staffing and technical

infrastructure maintenance required to operate the managed lane. WisDOT anticipates long term maintenance costs after 15 years will be greater than the Modernization Plus Added General-Purpose Lane alternative due to increased capital costs to replace managed lane infrastructure.

Safety is another variable between the two alternatives. The predicted crash reduction from the Modernization Hybrid compared to the No Build alternative is 1-3% while the predicted crash reduction from the Modernization Plus Added General-Purpose lane alternative is around 30%. The six-foot shoulders on the managed lane result in approximately 10% higher crash rates than 12-foot shoulders. WisDOT anticipates that 25% of the day when managed lanes are opened, they would subsequently be partially or full closed due to incidents, large snow events or other events limiting access. There is a higher risk of traffic diversion to other roadways during outages.

The Modernization Hybrid alternative operates most effectively with a large percentage of familiar drivers (local commuters). This corridor is characterized by high truck volumes present on all days and high volumes of recreational drivers present on the high traffic Fridays and Sundays. These drivers are typically unfamiliar with local lane configurations and subsequently managed lanes may be underutilized. The Modernization Plus Added General-Purpose Lane meets driver expectations in a corridor used by a substantial amount of through traffic with destinations beyond the Madison metropolitan area.

WisDOT recommends the Modernization Plus Added General-Purpose Lane as the preferred alternative. Because of high local interest in the Modernization Hybrid alternative, WisDOT recommends both the Modernization Plus Added General-Purpose Lane and Modernization Hybrid alternatives for further study in the Draft EIS.

### 2.1.2. County V

WisDOT is evaluating two alternatives for the County V interchange in the Draft EIS: the Diamond alternative and No Build alternative. The Diamond alternative can accommodate future traffic demands as currently forecasted by regional travel models.

As noted in the screening analysis, a private development to the west of the interchange may complete a separate environmental document and reconstruct the interchange before construction could occur for a potential project through the I-39/90/94 Corridor Study. Should the development occur, WisDOT recommends the No Build alternative as the preferred alternative. If the development west of the interchange does not move forward, WisDOT recommends the Diamond alternative as the preferred alternative.

### 2.1.3. WIS 13 Interchange

WisDOT is evaluating two alternatives at the WIS 13 Interchange in the Draft EIS: the Split Diamond alternative and the Trumpet alternative. Both alternatives generally meet purpose and need but differ on how well they meet safety needs. The Trumpet alternative performs better than the Split Diamond alternative for safety because it has fewer conflict points, which reduces the risk of crashes. The Split Diamond alternative creates a County H connection to the WIS 13 Interchange but requires about 0.8 acres of new right of way at the Hulburt Creek



Fishery Area, a property subject to Section 4(f) evaluation.<sup>1</sup> The Trumpet alternative does not require permanent right of way at the fishery. The Trumpet alternative requires 2.7 acres less right of way compared to the Split Diamond alternative and has 0.1 acres of wetland impacts compared to 0.5 acres under the Split Diamond alternative.

WisDOT recommends the Trumpet as the preferred alternative because of its added safety benefits compared to the Split Diamond alternative. The Trumpet alternative's environmental impacts are similar or slightly lower compared to the Split Diamond alternative. WisDOT continues to study both the Trumpet and Split Diamond alternatives in the Draft EIS because of continued public interest in both alternatives.

### 3. Flood Minimization Study

Both I-39 and I-90/94 are in the floodplains of the Wisconsin and Baraboo rivers. Flooding has caused extensive infrastructure damage and road closures. WisDOT evaluated a range of options to reduce flood risks on I-39 and I-90/94 near the I-39 I-90/94 Split Interchange. All the options would raise I-39 about 4 feet from the I-39 I-90/94 Split Interchange to just south of Levee Road (about 3 miles). The options would also raise I-90/94 about 4 feet for about 3.5 miles in the vicinity of the WIS 33 Interchange at I-90/94. The key difference among the options revolves around bridge configurations on I-39 to convey Baraboo floodwaters and the resulting impacts to 100-year water surface elevations upstream of I-39. Table 2 summarizes the options WisDOT considered.

WisDOT used two models to analyze flood minimization options. The 1-dimensional Federal Emergency Management Agency regulatory floodplain model (HEC-RAS v4.3) developed for the National Flood Insurance Program (NFIP), and a 2-dimensional (2D) unsteady (or dynamic) hydrodynamic modeling (SRH2D)<sup>2</sup> internally developed by WisDOT. The 2D model can observe downstream impacts that are not detected under the 1D regulatory model. Any change to the 1D regulatory model floodplain elevations requires a conditional letter of map revision, including a mitigation plan for all insurable structures with a flood elevation change greater than 0.005 feet. The 2D model, which provides more detailed hydraulic outputs (water depth and velocity) is the primary tool used to minimize impacts to properties near I-39 and I-90/94.

Based on results summarized in Table 2, WisDOT recommends implementing Option C4 as part of the preferred alternatives. Option A does not increase the 100-year surface water elevation in the regulatory floodplain but increases the surface water elevation to a substantial number of properties downstream of I-39. Option C2 increases downstream water surface elevations in both the 100-year event and more frequent flood events. Option C4 and C3 have nearly identical benefit cost analysis (BCA) ratios, 2.27 and 2.28, respectively. Option C3 increases the flood elevation to at least 24 properties downstream of I-39 during more frequent storms, such as the 10- and 25-year events on the Wisconsin River, this is not reflected in the BCA. Additionally, Option C4 reduces the flood elevation at 24 properties compared to C3, another benefit not reflected in the BCA. The 500-foot bridge span included in Option C4 also allows for more of the geomorphic and ecological benefits previously

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<sup>1</sup> Section 4(f) is a term that refers to any park, recreation area, wildlife or waterfowl refuge or historic site that is protected under Section 4(f) of the 1966 US Department of Transportation Act. Section 4(f) law states that federal funds may not be approved for projects that use land from a significant publicly owned park, recreation area, wildlife or waterfowl refuge or any significant historic site, unless it is determined that there is no feasible and prudent avoidance alternative to the use of land from such properties.

<sup>2</sup> Bureau of Reclamation. SRH-2D (Sediment and River Hydraulics). <https://www.usbr.gov/tsc/techreferences/computer%20software/models/srh2d/index.html>. Accessed January 30, 2024.

described by reconnecting a portion of the floodplain to the main channel through the bridge structure. The Draft EIS will include a detailed analysis of the flood minimization study.

Table 2: Summary of Flood Minimization Option

Option	Description	Features	Residences and Businesses with Increased Flood Elevation Regulatory (1D Model)	Residences and Businesses with Increased Flood Elevation Non-Regulatory (2D Model)	Residences and Businesses with Reduced Flood Elevation Non-Regulatory (2D model)	Benefit/Cost Analysis
A	Raise I-39 and I-90/94 Constructs 3 2,000-foot bridges	Conveys floodwater with no upstream surface water rise in 100-year event. Increases downstream flooding.	0	23 Residences 7 Businesses (incl. 2 vacant)	1 Residence 1 Business (vacant)	0.58
C2	Raise I-39 and I-90/94 Lengthen existing I-39 bridge over Baraboo River from 150 feet to 250 feet. Add a second 250-foot bridge about 2,000 feet north of existing I-39 Baraboo River bridge.	Increases upstream 100-year surface water elevation between 0.5 foot to 0.01 foot Increases downstream flooding to properties on County U. Impacted properties would experience flooding at lower frequency flow events, which they do not currently experience	1 Residence 2 Businesses (incl. 1 vacant) 2 USFWS Maintenance/Storage Buildings 2 Buildings on WDNR Property 1 AT&T structure	12 Residences 6 Businesses (incl. 2 vacant) 2 USFWS Maintenance/Storage Buildings 1 Building on WDNR Property	26 Residences 3 Businesses	2.19
C3	Raise I-39 and I-90/94 Lengthen existing I-39 bridge over Baraboo River from 150 feet to 250 feet. Add a second 250-foot bridge north of the WIS 33/I-39 interchange	Increases upstream 100-year surface water elevation between 1 foot to 0.01 foot. Increases downstream flooding to properties on County U and WIS 33, east of I-39. Impacted properties would experience flooding at lower frequency flow events, which they do not currently experience.	1 Residence 2 Businesses (incl. 1 vacant) 2 USFWS Maintenance/Storage Buildings 2 Buildings on WDNR Property 1 AT&T structure	6 Residences 6 Businesses (incl. 3 vacant) 2 USFWS Maintenance/Storage Buildings	2 Residences	2.28
C4 (Recommended)	Raise I-39 and I-90/94 Lengthen existing I-39 bridge over Baraboo River from 150 feet to 500 feet.	Increases upstream 100-year surface water elevation between 1.5 feet to 0.01 foot. Increased downstream flooding localized to historic Baraboo River floodplain in both the 100-year event and more frequent flood events	1 Residence 2 Businesses (incl. 1 vacant) 2 USFWS Maintenance/Storage Buildings 2 Buildings on WDNR Property 1 AT&T structure	9 Residences 6 Businesses (incl. 3 vacant) 2 USFWS Maintenance/Storage Buildings 1 Building on WDNR Property	26 Residences 3 Businesses	2.27

As part of its detailed flood studies, WisDOT met with affected property owners, including the Wisconsin Department of Natural Resources (WDNR), the US Fish and Wildlife Service (USFWS) and private property owners. Table 3 summarizes outreach activities. Both WDNR and USFWS own and manage substantial properties in the affected area: the Pine Island State Wildlife Area (5,499 acres) and the Baraboo River Waterfowl Production Area (950 acres), respectively.

WisDOT also met with Columbia County, the local floodplain zoning administrator. WDNR is the agency responsible for the floodplain management program mandated by state statutes. WDNR also partners with FEMA, through the Cooperating Technical Partners program, on the implementation of the NFIP Program. WisDOT will continue coordination with WDNR through the design process as updated flood maps are developed and finalized. WisDOT will request a formal Conditional Letter of Map Revision from FEMA. After construction, WisDOT will submit plans of the Interstate and interchanges, as built, along with the final flood map and request a Letter of Map Revision from FEMA. WisDOT will continue coordination with property owners affected by potential flood elevation changes and finalize measures to mitigate property impacts, if required.

**Table 3: Summary of Floodplain Minimization Coordination**

Agency or Stakeholder	Date
WDNR	June 29, 2023 January 24, 2024
Columbia County	June 29, 2023
Town of Caledonia	January 10, 2024
USFWS	December 6, 2023
Private Property Owners	January 29, 2024

## 4. Next Steps

WisDOT requests agency concurrence on the recommended preferred alternatives by May 1, 2024.

WisDOT and FHWA will continue to develop and finalize the Draft EIS for public review and comment. Below is the anticipated schedule for the remainder of the study.

Draft EIS available for 45-day public review:	June 28, 2024
Public hearing:	July 30-31 and August 1, 2024
45-day public review ends:	August 12, 2024
Final EIS/Record of Decision:	December 6, 2024

## **APPENDIX G: WISDOT RESPONSE TO DATCP RECOMMENDATIONS**

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# Agricultural Impact Statement (AIS) Program: Project Initiator Response to AIS Recommendations

Respondent's Name	<u>WisDOT</u>	Project Name	<u>I-39/90/94 Corridor Study</u>
Date of Respondent's Response	<u>April 26, 2024</u>	Project Initiator	<u>WisDOT</u>
Date of DATCP Response	<u>April 29, 2024</u>	AIS #	<u>4472</u>

AIS Recommendation to Project Initiator	Project Initiator Response / Comments / Objections	AIS Program Response / Action
1. The Department recommends WisDOT consult the Department in the year preceding construction regarding the status of effective FP agreements within the project corridor.	During the design phase, WisDOT will coordinate with DATCP, in the year preceding construction, to resolve matters involving FP agreements.	
2. Where the Study compels the release of land from an effective FP agreement, WisDOT should coordinate with agricultural landowners and the Department in accordance with Wisconsin Department of Transportation Facilities Development Manual, Chapter 5, Section 10, Provision 30.2.2 (FDM 5-10-30.2.2). If the study compels the release of land from an effective FP Agreement and requires a landowner to pay a conversion fee under Wis. Stat. § 91.66(1)(c), DOT should consider compensating the landowner for said release.	During the design phase, WisDOT would compensate landowners that incur a fee under Wis. Stat. § 91.66(1)(c) as part of the real estate acquisition process.	
3. WisDOT should provide the Sauk County Land Conservation Department with selected route information affecting the Fairfield AEA when available.	At the conclusion of the Final EIS, WisDOT will provide the Sauk County Land Conservation Department with project route information impacting the Fairfield AEA.	
4. The Department recommends WisDOT work with landowners to identify effective CREP agreements prior to any construction or site disturbance activities.	During the design phase, WisDOT will ask impacted agricultural landowners to self-identify if the impacted portion of their land is currently enrolled within an active CREP agreement.	



# Agricultural Impact Statement (AIS) Program: Project Initiator Response to AIS Recommendations

5. The Department recommends WisDOT make a Freedom of Information Act (FOIA) request to USDA-FSA (FSA) within 12 months of expected construction or site disturbance activities for information regarding the location of effective CREP agreements to facilitate planning for how to mitigate impacts to enrolled lands and if termination to any part of an effective contract (CRP-1) is necessary.	<p>During the design phase, WisDOT will consult with FSA to determine appropriate means to identify landowners with effective CRP and/or CREP contracts impacted by the project.</p> <p>On April 23, 2024, DATCP agreed to remove the FOIA request from recommendation #5. They will add more general language about coordinating with FSA.</p>	<p>Altered phrasing to be:</p> <p><b>The Department recommends that WisDOT coordinate with the appropriate Wisconsin CRP contact regarding effective CRP contracts within the project area and coordinate with FSA regarding impact mitigation to enrolled lands and/or potential contract (CRP-1) releases within 12 months of expected construction or site disturbance activities.</b></p>
6. WisDOT should consult with the Department in the year preceding construction or site disturbance activities to determine if any CREP easements with expired federal contracts will be impacted by the project corridor.	During the design phase, WisDOT will coordinate with DATCP, in the year preceding construction, to determine if CREP easements with expired federal contracts would be impacted by the project.	
7. As improvements proposed by the Study would impact the Lower Baraboo Drainage District, WisDOT is required by Wis. Stat. § 88.67(3) to inform and consult with the drainage board having jurisdiction. WisDOT should contact the Department's State Drainage Engineer for additional information related to the jurisdiction of the Lower Baraboo Drainage District.	WisDOT has initiated coordination with local drainage districts. WisDOT will fulfill its responsibilities under Wis. Stat. § 88.67(3).	
8. Department recommends WisDOT inform agricultural operations at least 30 days prior to when they will lose access to the impacted farm fields and indicate when access will be lost and for how long. WisDOT should also work with agricultural landowners and any agricultural tenant operators to determine safe new access points to adjoining or remnant fields.	During the design phase, WisDOT agrees to provide agricultural operations at least 30 days notice prior to loss of access, when the loss would occur and duration. Should access be lost, WisDOT will fulfill its responsibilities under Wis. Stat. § 86.05 to provide a suitable new entrance.	

# Agricultural Impact Statement (AIS) Program: Project Initiator Response to AIS Recommendations

9. The Department recommends WisDOT to work within the bounds of Wis. Stat. § 88.87 to build adequate ditches, culverts, and other facilities to prevent obstruction of drainage, protect property owners from damage to lands caused by unreasonable diversion or retention of surface water, and maintain, as nearly as possible, the original drainage flow patterns to ensure stormwater and drainage impacts are mitigated on the remnant fields.	During the design phase, WisDOT will fulfill its responsibilities under Wis. Stat. § 88.87.	
10. As the proposed construction of the Study holds the potential for numerous agricultural impacts, the Department recommends WisDOT to help mitigate by hiring an AI (Agricultural Inspector) or appointing a current staff person to function in a capacity as an AI or agricultural liaison.	During the design phase, WisDOT region environmental coordinator would oversee communication with agricultural landowners, in addition to other landowners, as well as with DATCP as required.	
11. The Department recommends that WisDOT should monitor for potential drainage tile damage during construction and, if one is determined to have been impacted by construction, work with the landowner to identify a remedy.	During construction, WisDOT will monitor potential construction related damage to drainage tile and work with landowners to resolve damage, should it occur.	
12. The Department recommends that WisDOT consider alternatives to chloride based deicing products, such as ones listed within the University of Wisconsin Madison - Extension publication A3877, if construction will occur during winter months.	WisDOT contracts with county highway departments to provide routine maintenance services such as plowing and salting along the federal Interstate and state highway systems. WisDOT encourages all counties to use salt efficiently by making use of best practices such as anti-icing, prewetting and direct liquid applications.	

**Other Comments from the Project Initiator**

AIS Document (Section Number, Page Number, Paragraph Number)	Project Initiator Response / Comments	AIS Program Response / Action
Entire Document	WisDOT has identified recommended preferred alternatives as described in the April 1, 2024 Concurrence Point #2 memo.	Altered text to include that there are preferred alternatives and reasoning for why they are still included due to concurrence occurring after May 1.
Entire Document	WisDOT minimum agricultural impact is 160.2 acres	Adjusted with the updated data received from WisDOT.
Entire Document	Please refer to interchange and mainline alternative by their proper name, for example Full Modernization #2”	Updated Accordingly
Entire Document	Please avoid the word “take”, “taken” or “taking” as this implies WisDOT would first use condemnation to take property. WisDOT first attempts to acquire land or easements via voluntary acquisition not by condemnation.	Adjusted language from taken/taking to acquired/acquisitions
Summary, pdf pg 8/AIS pg 5, paragraph #2	As noted in the Concurrence Point #2 memo, the Study evaluated two alternatives for the County V Interchange: No-Build and Diamond. If the expected private development occurs, WisDOT will move forward with the No-Build alternative. Should the development not occur, WisDOT would move forward with the Diamond alternative. Both alternatives have identical agricultural impacts.	Included discussion of County V and discussion of why analysis was not included as it was not included with AIN data, additionally that re-notification to DATCP would be necessary if more agricultural impacts occur than discussed in the AIS
2.4, pdf pg 16/AIS pg 13, paragraph #3	Consider deleting the first sentence and lead in for sentence two of paragraph #3, “In the data provided to the Department, segments of the study corridor were separated differently in the northern aspect of the corridor (after WIS 60) and the southern half (after WIS 60). Due this inconsistency,” The second sentence can stand on its own without introducing confusion about data.	Updated accordingly

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2.4.1, pdf pg 18/AIS pg 15	Based on the Concurrence Point #2 memo, WisDOT anticipates having concurrence on recommended preferred alternatives. There is still value in discussing the two alternatives, but please denote the recommended preferred alternative.	Noted within the AIS for the interchange/freeway that had two alternatives previously and on AIS page 15
2.4.2, pdf pg 20/AIS pag 17, paragraph #2	Consider listing the interchanges not mentioned in the AIS that are part of the Study, which include: County V (No-Build), US 51, WIS 33 at I-39, WIS 23, US 12/WIS 16.	Kept the list as is but added a the following line after: "The County V Interchange (no build), US 51 Interchange, WIS 33 at I-39, WIS 23 Interchange, US 12/WIS16 Interchange will not be discussed within this AIS as they did not have agricultural data provided within the AIN." All interchanges from the Study were also listed within Table 2
2.4.2, pdf pg 22/AIS pg 19, paragraph #1	Consider deleting this sentence, "In 2010's, WisDOT previously reconstructed I-94 with bridges that would serve as an overpass for a future Milwaukee Street extension." The sentence reads as WisDOT was planning for Milwaukee Street in 2010.	The sentence has been removed.
2.4.2, pdf pg 32/AIS pg 29, paragraph #3	Consider deleting this sentence, "leading to potential severance issues that will be further discussed in section 4: Agricultural Impacts." Section 4.3.1 doesn't mention this property in the severance discussion. Furthermore, the impacted parcel would not be severed as WisDOT would retain lands to the east of the new south-bound trumpet on ramp.	This sentence has been deleted
3.1.1, pdf pg 34,/AIS pg 31, paragraph #2	WisDOT has multiple exemptions from various classifications of local zoning ordinance. Consider shortening or softening this sentence, "WisDOT should consult with all applicable local zoning authorities to identify if additional restrictions apply. (delete "and to ensure compliance with local zoning regulations)."	Updated to say that "The Department suggests that WisDOT consults with..." and removed the suggested deletion.
3.1.1, pdf pg 35/AIS pg 32, paragraph 1	Please describe in the text how the landowner would still pay the conversion fee, given WisDOT is exempt from paying the fee.	Updated the language to: "If the Project compels the release of land from an effective FP agreement, and the land is not owned by

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		WisDOT, WisDOT should consider offering to pay all FP conversion fees incurred by agricultural landowners."
4.7.1, pdf pg 48/AIS pg 45, paragraph #2	Could the sentence referenced to the personal communication be revised as follows, "WisDOT stated they would design drainage improvements, as needed, after design alternatives are finalized. Initial plans consider using a range of potential drainage improvements, including but not limited too: ponds, swales and retention basins, which would be located within currently held ROW.	Updated accordingly
4.7.6, pdf pg 50/AIS pg47, paragraph #1	Consider a different word than sever and severance. "Sever" implies WisDOT is acquiring a strip of land down the middle of the parcel, like with Milwaukee street. In this case DOT is acquiring the eastern half of the parcel and converting the eastern side to a new land use.	Updated "sever with bisect and removed "severance"
5.2, pdf pg 54/AIS pg 51	WisDOT did not mention an interest in a dual role AI/EI, please revise. Meeting minutes show that "WisDOT would likely have environmental designers/liaisons that would communicate with agricultural landowners, in addition to other landowners, as well as with DATCP as required."	Updated accordingly

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TRADE AND CONSUMER PROTECTION**

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