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

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WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

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LETTER TO THE READER

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

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.

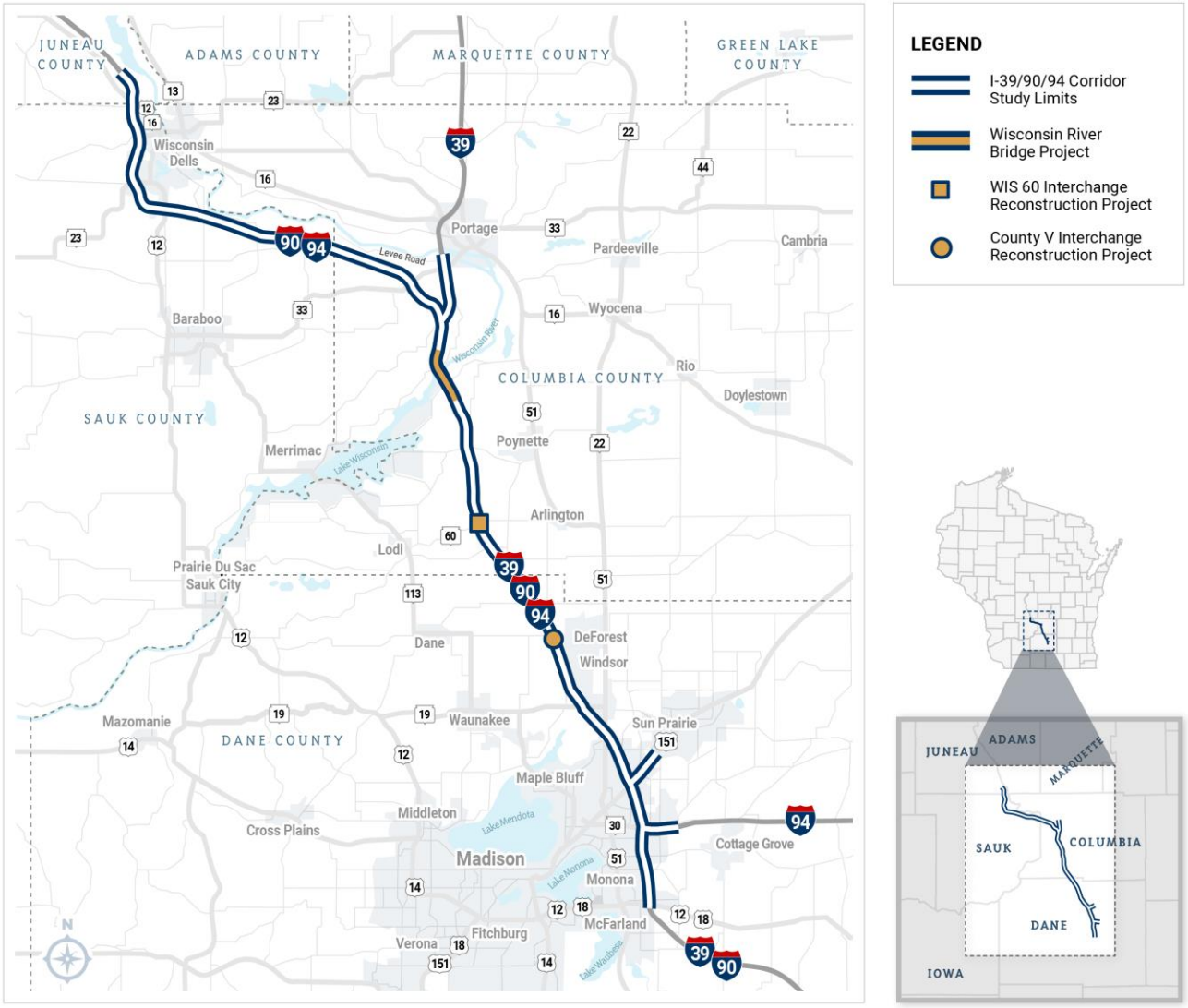

Figure 1: Location of the I-39/90/94 Corridor Study route, between City of Madison and City of Wisconsin Dells across Dane, Columbia, Sauk and Juneau Counties (WisDOT 2024b).

AGRICULTURAL IMPACT STATEMENT RECOMMENDATIONS

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 liaision.

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

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
Dane	Town	Blooming Grove
Dane	Town	Burke
Dane	Town	Vienna
Dane	City	Sun Prairie
Dane	City	Madison
Dane	Village	DeForest
Dane	Village	Windsor
Columbia	Town	Arlington

County	Municipality	Municipality Name
Columbia	Town	Caledonia
Columbia	Town	Dekorra
Columbia	City	Portage
Sauk	Town	Delton
Sauk	Town	Fairfield
Sauk	City	Wisconsin Dells
Sauk	Village	Lake Delton
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 (permenant 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.

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

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

- 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).

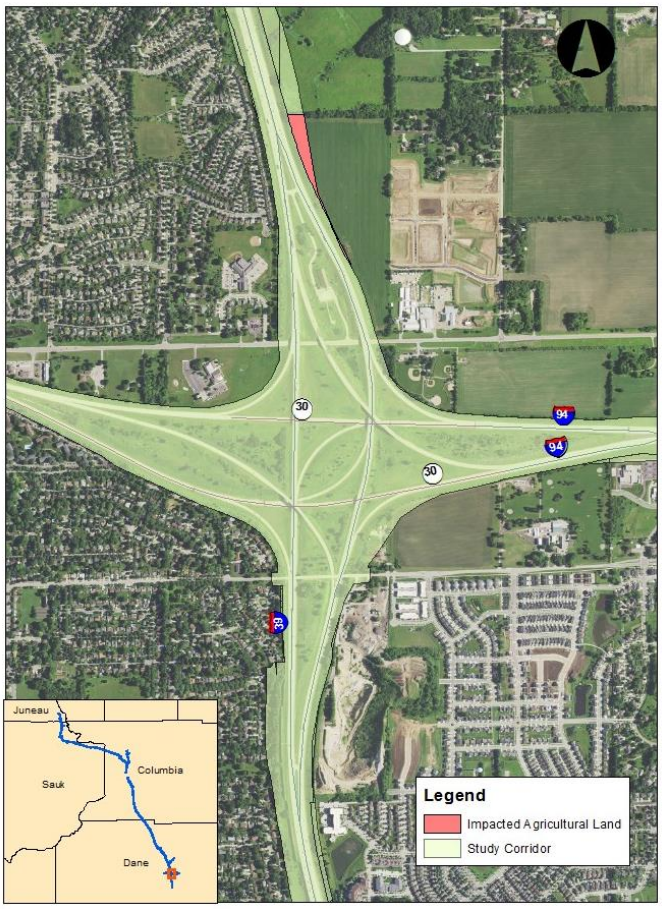

Figure 4: I-94/WIS 30 Interchange Alternative Selected for Further Study (WisDOT 2024c);
Figure 5: Proposed Agricultural Land to be Acquired for the I-94/WIS 30 Interchange Alternate Design, Credit: DATCP

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.

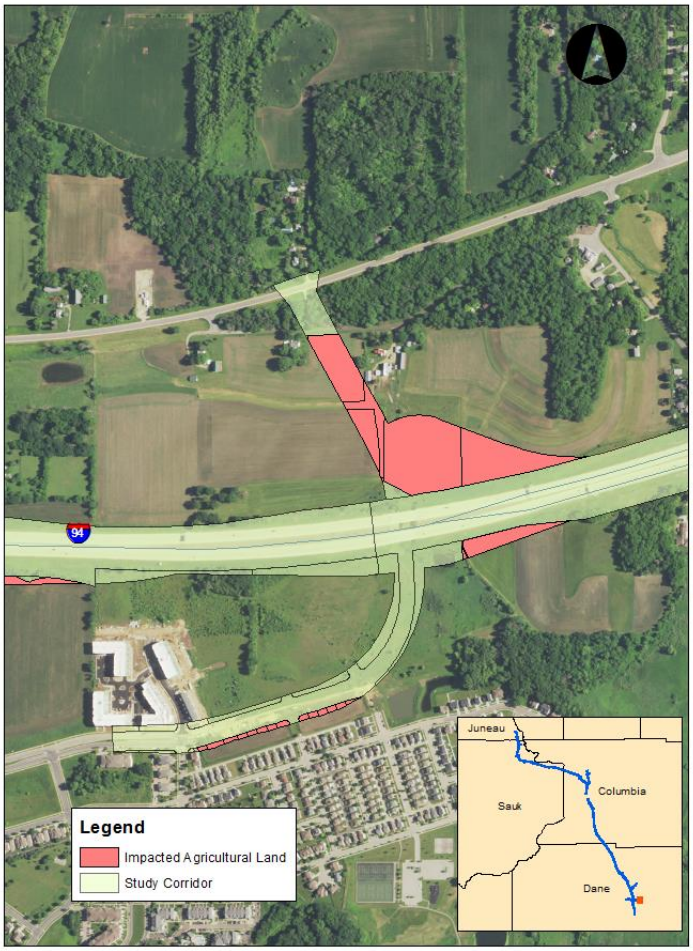

Figure 6: Milwaukee Street, Partial Clover Leaf Interchange (2024b); Figure 7: Proposed Agricultural Land to be Acquired by the Milwaukee Street Interchange Alternate Design, Credit: DATCP.

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).

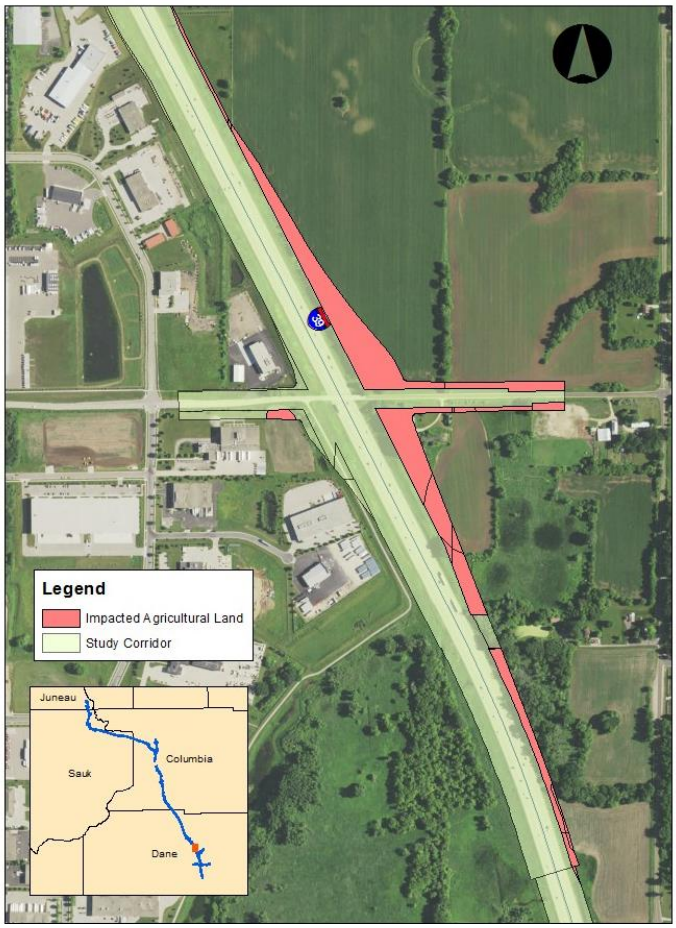

Figure 10: Hoepker Road Interchange - Shifted Diamond Design (WisDOT 2024c); Figure 11: Proposed Agricultural Lands to be Acquired by the Hoepker Road Interchange Alternate Design, Credit: DATCP

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.

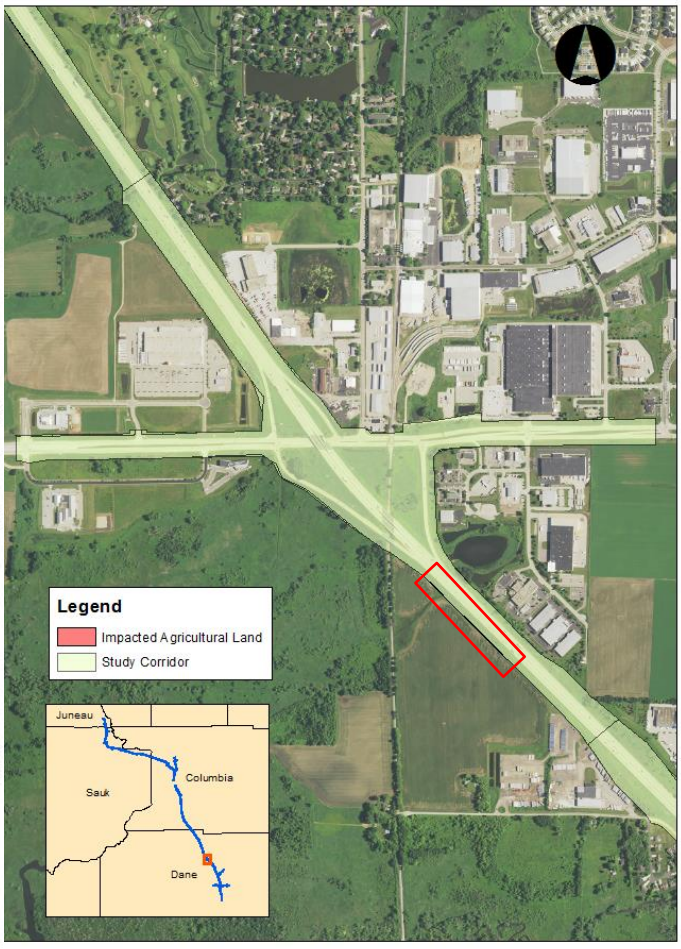

Figure 12: WIS 19 Interchange U-ramp design (WisDOT 2024c); Figure 13: Proposed Agricultural Lands to be Acquired by the WIS 19 Interchange Alternate Design, Credit: DATCP.

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.

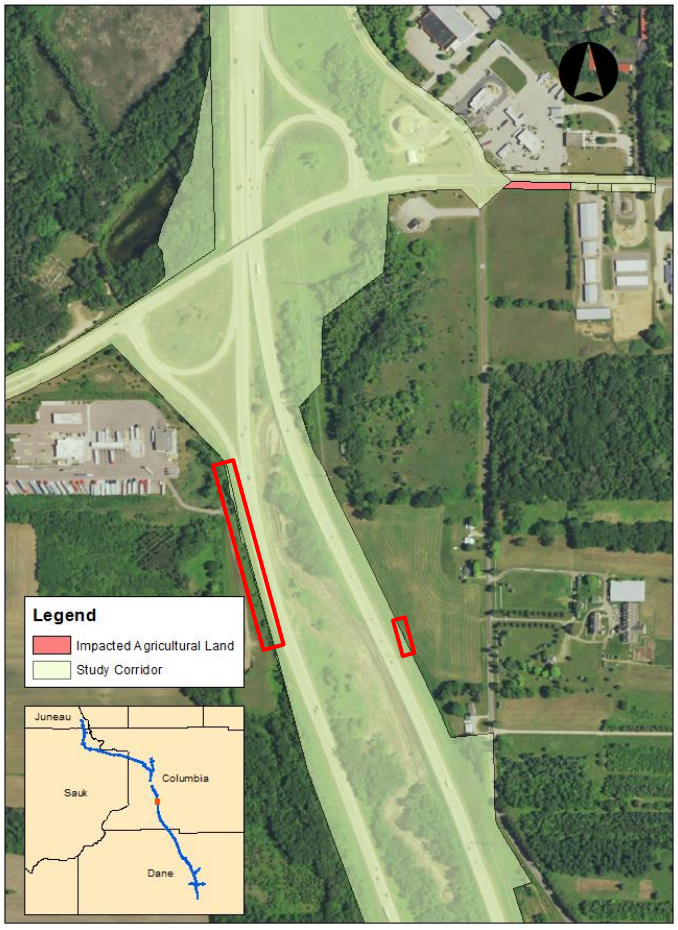

Figure 14: County CS Interchange – Diamond Design (WisDOT 2024c); Figure 15: Proposed Agricultural Land to be Acquired for the County CS Interchange Alternate Design, Credit: DATCP

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.

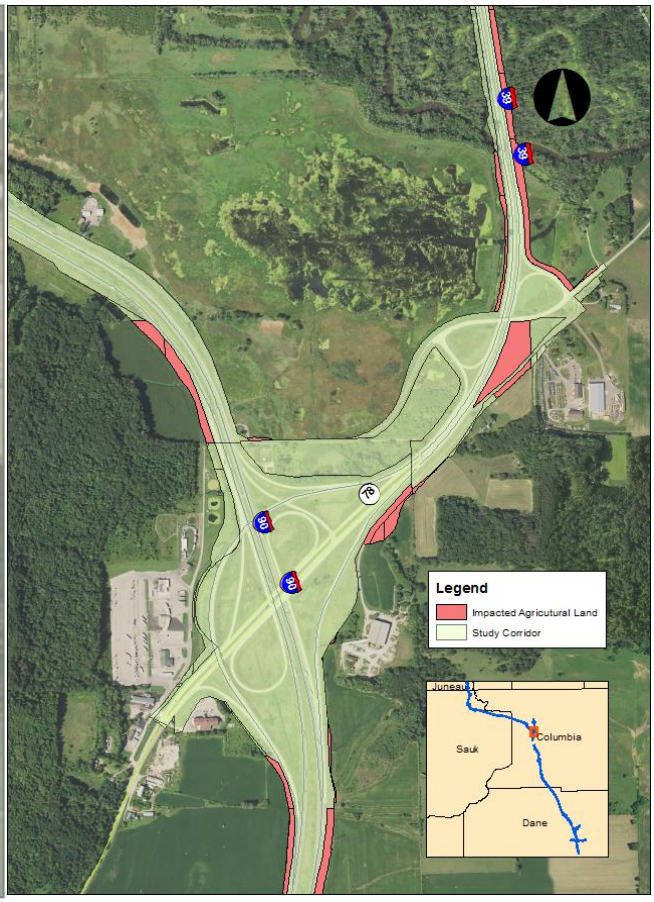

Figure 16: I-39 I-90/94 Split Low Build Design Alternative (WisDOT 2024c); Figure 17: Proposed Agricultural Land To Be Acquired for the I-39 I-90/94 Split Low Build Design Alternative, credit: DATCP.

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.

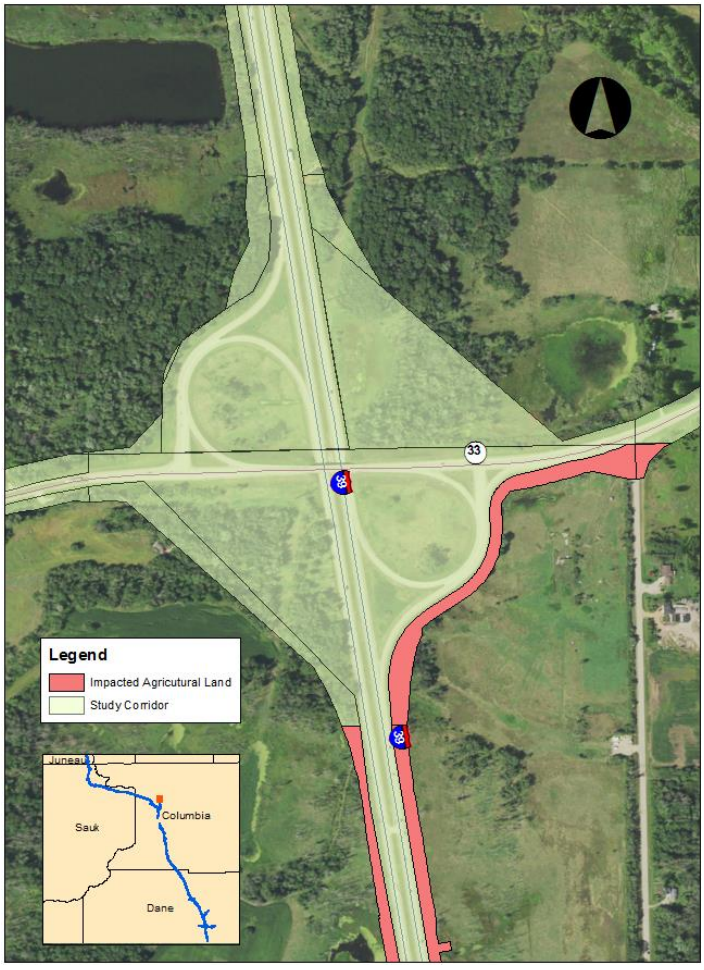

Figure 18: WIS 33 Interchange at I-39 diamond interchange alternative design (WisDOT 2024c); Figure 19: Proposed Agricultural Land to be Acquired for the WIS 33 Interchange At I-39 Alternate Design, Credit: DATCP

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).

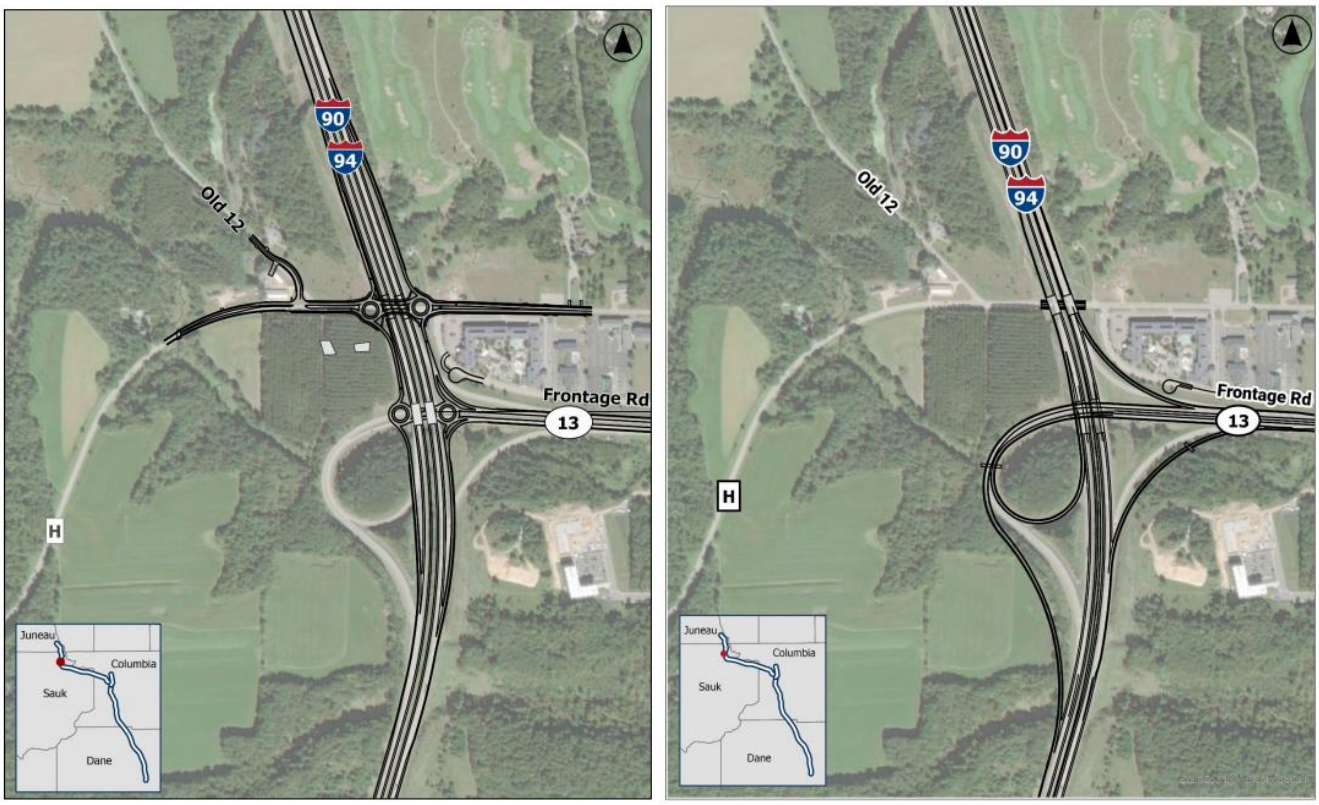

Figure 22: WIS 13 Interchange Split Diamond Design (WisDOT 2024c); Figure 23: WIS 13 Interchange Trumpet Design (WisDOT 2024c)

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.

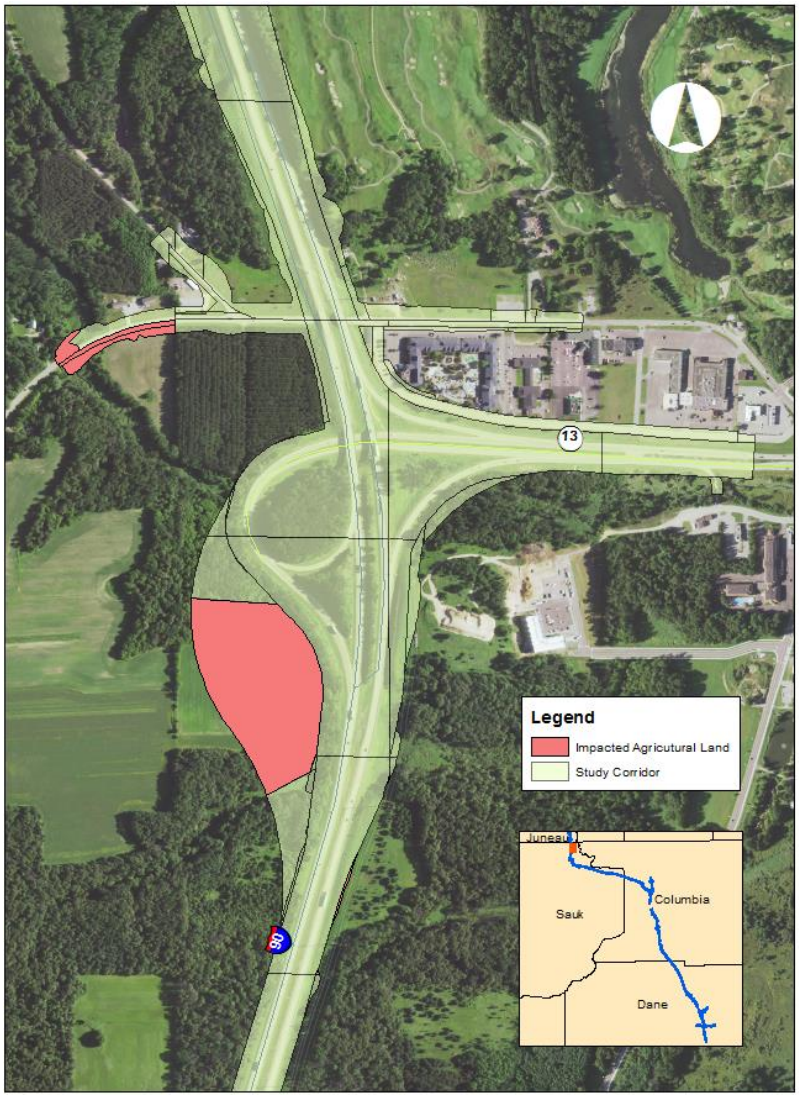

Figure 24: All Proposed Agricultural Lands to be Acquired by Both of the WIS 13 Design Alternatives, Credit: DATCP - showing approximately 16.82 acres of agricultural land and 4 different agricultural landowners.

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 know 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.

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
Total				**3.7**

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.

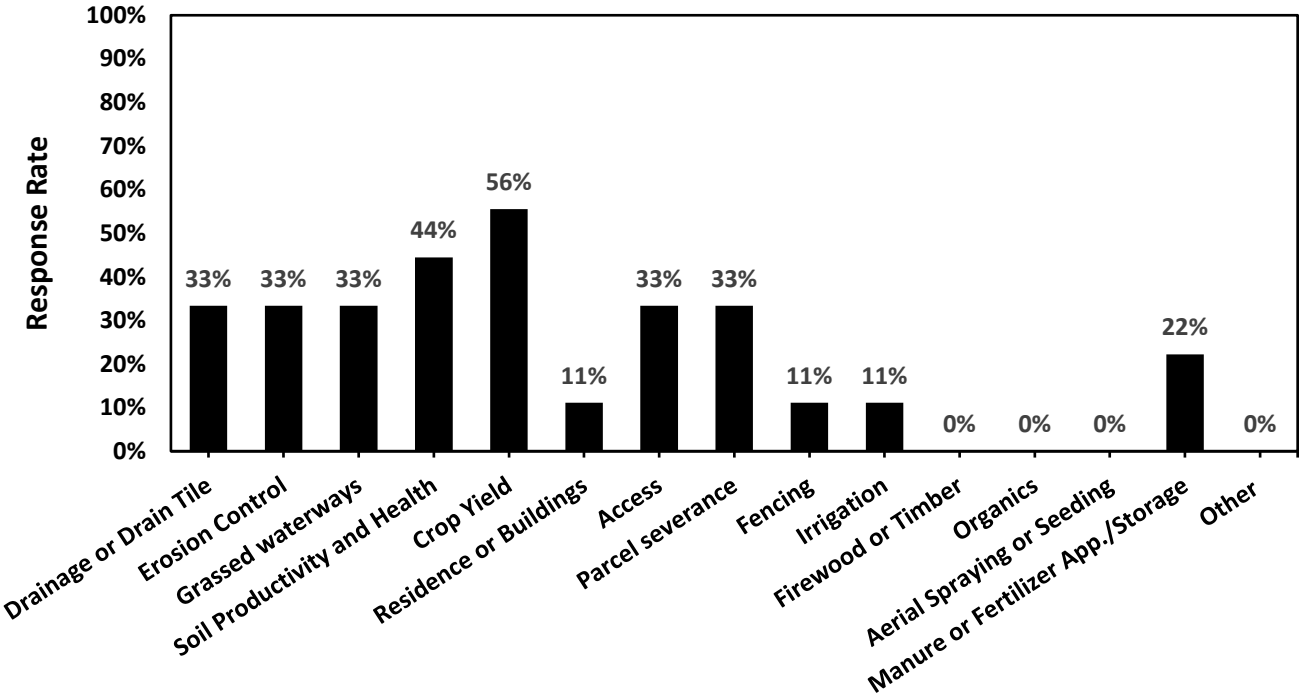

Figure 25: Generalized concerns reported to the Department from agricultural landowners and operators regarding the proposed Wisconsin Reliability Study.

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 ETTEN	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.

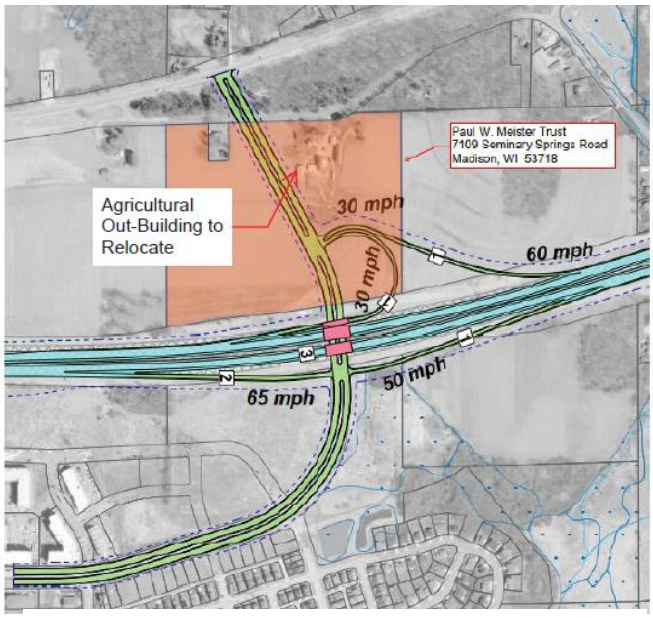

Figure 26: Relocation proposed due to Milwaukee St. Interchange Alternate Design

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 course-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◊** (acre)	**Farmland of Statewide Importance‡** (acre)	**Not Prime Farmland◊** (acre)	**Total** (acre)
Segment PL-2					
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
				Project Total	**177.8**

*__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.

ŦFarmlands 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.
Φ__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 constructions 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 he 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 extend 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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