



## Roadside Vegetation Management Memorandum of Understanding

The state of Minnesota through its Department of Transportation and the Fond du Lac Band of Lake Superior Chippewa do hereby commit to work cooperatively together to manage the vegetation within the rights of way of state, U.S. and interstate roads located within the boundaries of the Fond du Lac Reservation, thus honoring FDL's control of the use of herbicides within their Reservation.

**Subject:** Vegetation management along Minnesota Department of Transportation (hereinafter "Mn/DOT") roads through the Fond du Lac Band of Lake Superior Chippewa Reservation (hereinafter "FDL").

**Problem:** Mn/DOT uses a combination of mechanical, biological and chemical techniques to control weeds and maintain vegetation on state, U.S. and interstate road rights of way throughout the state of Minnesota. FDL has expressed concern over the use of herbicides on the rights of way within its Reservation boundaries and the loss of culturally significant plants and plant habitat. Mn/DOT has responded to this concern by not applying herbicides within the Reservation boundary. New populations of invasive weeds have been found within the Reservation boundary on Mn/DOT rights of way. For Mn/DOT, the most efficient and cost-effective treatment of these small populations is herbicide treatment. Another issue with the rights of way is the encroachment of woody plants into the clear zone of the road and limiting drivers' reaction time to wildlife crossing the road. To keep woody plants from encroaching on the road, mowing must be performed several times during the growing season. This is less effective than one herbicide application, which lasts two to three years.

**Scope:** The areas of concern are state Highway 210 from reference post 203.329 to 215.674, U.S. Highway 2 from reference post 231.744 to 239.034 and Interstate 35 from reference post 235.479 to 236.722.

**Purpose of the MOU:** This MOU is not a legal contract. Its purpose is to define goals and agreements between Mn/DOT and FDL in regards to control of vegetation along Highways 2, 210 and I-35 within Reservation boundaries.

### Goals and Objectives:

#### FDL Goals

- Preserve heritage opportunities for gathering and harvesting culturally significant plants on and adjacent to Mn/DOT's rights of way.
- Limit the spread of invasive plants within Reservation boundaries through use of Early Detection Rapid Response.
- Monitor land within Reservation boundary for potentially invasive species.
- Protect culturally significant plants and resources.
- Limit amount of herbicide used within Reservation boundaries.
- Restrict use of soil sterilants and restricted use herbicides.
- Develop educational opportunities and public awareness for the community.

**Mn/DOT Goals**

- Provide a safe driving experience for all highway users by maintaining safety clear zones, sight lines and guardrails.
- Limit the spread of invasive plants on Mn/DOT roadsides through use of Early Detection Rapid Response and through the most efficient and cost-effective method.
- Control woody plants encroaching on clear zones of roads through use of the most efficient and cost-effective method.
- Effectively control weeds and woody plants around radio towers.
- Develop educational opportunities and public awareness for the community.

**Understandings, Agreements, Support and Resource Needs:**

**FDL Agreements**

- For protection purposes, share spatial information on culturally significant areas.
- Contact members with information about the location and timing of herbicide application.
- Share spatial information on wetlands and water bodies within the Reservation.
- Partner with Mn/DOT to re-evaluate the site of herbicide application after application.
- Partner with Mn/DOT to mechanically remove invasive plants in areas where the FDL does not want herbicides used.
- Notify Mn/DOT of invasive plant populations found by FDL personnel that are on Mn/DOT rights of way.

**Mn/DOT Agreements**

- Provide FDL Resource Management Division with list of herbicide labels and material safety data sheets commonly used.
- Provide map and coordinates of known locations of invasive plants within the Reservation to FDL Resource Management Division.
- All herbicide applications for road purposes within Reservation boundaries will be performed by a Mn/DOT employee who is a Minnesota Department of Agriculture Licensed Applicator in categories A and J.
- Apply for a Wetland Permit from FDL to comply with FDL Wetland Protection and Management Ordinance for any herbicide application that has the potential to reach a wetland or body of water within Reservation boundaries.
- Contact FDL Resource Management Division 10 working days prior to applying any herbicide within Reservation boundaries and provide herbicide name, target plant and location.
- Partner with FDL to re-evaluate the site of herbicide application after application.
- Provide FDL with copy of Pesticide Application Log after spraying.
- Partner with FDL to mechanically remove invasive plants in areas where the FDL does not want herbicides used.
- Continue to map invasive plant populations on Mn/DOT rights of way.

**Contractual Obligations:** This MOU is not a binding contract between Mn/DOT and FDL. Either party may, upon written notice, amend or discontinue its role outlined in the MOU. Because of this mutual desire to proceed, each party fully intends to make a good faith effort to achieve the goals described above including working together to find mutually beneficial solutions when problems arise. This MOU shall become effective on the date of the last signature and shall continue through January 2010 at which time the results of MOU will be reviewed by both Mn/DOT and FDL.

**THIS MEMORANDUM OF UNDERSTANDING IS HEREBY AGREED TO BY:**

**Minnesota Department of Transportation**

**Fond du Lac Band of Lake Superior Chippewa**

*/S/ Thomas K. Sorel*

*5/15/09*

*/S/ Karen R. Diver*

*5/15/09*

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Thomas K. Sorel  
Commissioner

Date

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Karen R. Diver  
Chairwoman

Date