



U.S. Department  
of Transportation  
Federal Highway  
Administration

Minnesota Division

October 28, 2009

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Mr. Don Kilma  
Director  
Office of Federal Agency Programs  
Advisory Council on Historic Preservation  
Old Post Office Building  
1100 Pennsylvania Avenue, NW Suite 809  
Washington, D.C. 20004

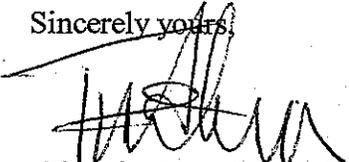
Re: Section 106 Memorandum of Agreement  
SP 7102-123, TH-10 Freeway Conversion Project  
City of Elk River, Sherburne County, Minnesota

Dear Mr. Klima:

We have consulted with the Minnesota State Historic Preservation Officer and the Minnesota Department of Transportation, and we have agreed on measures to mitigate the effects on the historic property for the above referenced project; as documented in the enclosed executed Memorandum of Agreement (MOA). By copy of this letter, a copy of the fully executed MOA is being provided to all the signatories of the MOA.

If you have any questions about the project or the enclosed MOA, please contact me at (651) 291-6126.

Sincerely yours,



Timothy J. Anderson, PE  
Highway Engineer

Enclosure



SECTION 106 MEMORANDUM OF AGREEMENT  
BETWEEN  
THE FEDERAL HIGHWAY ADMINISTRATION (FHWA)  
AND THE  
MINNESOTA STATE HISTORIC PRESERVATION OFFICE (SHPO)  
PURSUANT TO 36 CFR 800.6 (B) (IV)  
REGARDING THE TRUNK HIGHWAY 10 FREEWAY CONVERSION PROJECT  
(S.P. 7102-123)  
IN  
ELK RIVER, SHERBURNE COUNTY, MINNESOTA

WHEREAS, the Minnesota Department of Transportation (Mn/DOT) plans to reconstruct Trunk Highway (TH) 10 as a freeway facility in Elk River from a point located approximately 1,000 feet west of the TH 10/101/169 system interchange to a point located approximately 1,900 feet west of Upland Avenue; and

WHEREAS, preliminary engineering, design, and environmental documentation is being completed using local funds provided by the City of Elk River. It is anticipated that construction of the proposed project would likely use future Federal-Aid highway funds to be provided by the Federal Highway Administration (FHWA); and

WHEREAS, the Project is not funded for construction within the 2009-2028 planning period for Mn/DOT District 3. The TH 10 freeway conversion through Elk River from its junction with TH 169 to Upland Avenue is identified in the *Draft District 3 Highway Investment Plan 2009-2028* (February 2009) as a high priority unfunded need; and

WHEREAS, the FHWA, in consultation with the Minnesota State Historic Preservation Office (SHPO), identified the St. Paul and Pacific (BNSF) Railroad Corridor Historic District as a historic property eligible for the National Register of Historic Places; and

WHEREAS, the FHWA, in consultation with the SHPO, has determined that reconstruction of an approximately one-mile long segment of the St. Paul and Pacific (BNSF) Railroad Corridor Historic District on a new alignment located approximately 100 feet to the north of the existing alignment will have adverse effects to the property under Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800); and

WHEREAS, the FHWA has consulted with the SHPO and the Minnesota Department of Transportation (Mn/DOT) pursuant to 36 CFR 800.6(b)(1) to resolve the adverse effects of the undertaking on historic properties; and

WHEREAS, the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its finding of adverse effect in accordance with 36 CFR 800.6(a)(1), and has provided the documentation specified in 36 CFR 800.11(e) and the ACHP has declined to participate in the consultation; and

WHEREAS, the FHWA, in consultation with the SHPO, has invited Mn/DOT to sign this MOA as an invited signatory in accordance with 36 CFR 800 (c) (4); and

WHEREAS, since this project has the same adverse effect on the St. Paul and Pacific (BNSF) Railroad Corridor Historic District as the TH 169 reconstruction project in Elk River and Zimmerman (S.P. 7106-71 & 7106-73), the mitigation to resolve the adverse effect is the same for both projects and require separate MOA's; and

NOW, THEREFORE, the FHWA, the SHPO, and Mn/DOT agree that upon the FHWA's approval of the undertaking, the FHWA will ensure that the following stipulations shall be implemented in order to take into account the effect of the undertaking on historic properties.

### **STIPULATIONS**

The FHWA will ensure that the following measures are carried out:

#### **STIPULATION I. INTERPRETIVE DISPLAY**

A. The Mn/DOT will develop an interpretive display (e.g., kiosk) for the St. Paul and Pacific (BNSF) Railroad Corridor Historic District. This interpretive display will focus on the role of the St. Paul and Pacific (BNSF) Railroad Corridor Historic District in the development of the Elk River area and the importance of the railroad corridor in providing railroad access to communities along the Mississippi River. The interpretive display will be placed on Mn/DOT-owned property at the Elk River Northstar Commuter Rail Park and Ride facility (north of the St. Paul and Pacific [BNSF] Railroad Corridor). The placement of the interpretive display on Mn/DOT property at the Northstar Commuter Rail Park and Ride facility will be coordinated with the State Historic Preservation Office (SHPO).

B. Mn/DOT will submit a draft of the interpretive display content and draft design of the interpretive display, including how it relates to the Park and Ride facility and Northstar Commuter rail station to the SHPO for review and concurrence.

C. Mn/DOT will construct and install the interpretive display at the Elk River Northstar Commuter Rail Park and Ride facility within one (1) year of project letting.

#### **STIPULATION II. AMENDMENTS**

Any signatory to this Memorandum of Agreement (MOA) may request in writing to the FHWA that it be amended, whereupon the parties shall consult to consider the proposed amendment. The regulations at 36 CFR 800 shall govern the execution of any such amendment.

#### **STIPULATION III. DISPUTE RESOLUTION**

Disputes regarding the completion of the terms of this agreement shall be resolved by the signatories. If the signatories cannot agree, any one of the signatories may request the participation of the ACHP to assist in resolving the dispute.

#### **STIPULATION IV. TERMINATION**

Any signatory to this MOA may terminate the agreement by providing thirty (30) days' written notice to the other signatories, provided the signatories consult during the period prior to termination to agree on amendments or other actions that would avoid termination.

#### **STIPULATION V. DURATION**

If the terms of this agreement have not been completed within two (2) years from the date the project is let, this agreement will be considered null and void. If the FHWA anticipates that the agreement will not be implemented within this timeframe, it will notify the signatories in writing at least thirty (30) days prior to the agreement becoming invalid. The agreement may be extended by the written concurrence of the signatories. If the agreement becomes invalid and the FHWA elects to continue with the undertaking, the FHWA will reinstate review of the undertaking in accordance with 36 CFR 800.

Execution of this MOA by the FHWA and the SHPO and implementation of its terms evidence that the FHWA has taken into account the effects of its undertaking on historic properties and has afforded the ACHP opportunity to comment.

FEDERAL HIGHWAY ADMINISTRATION (FHWA)

By: Cheryl B. Martin  
Derrell Turner, Division Administrator

10/22/09  
Date

MINNESOTA STATE HISTORIC PRESERVATION OFFICE (SHPO)

By: Nina Archibal  
Nina Archibal, State Historic Preservation Officer  
Britta L. Bloomberg, Deputy SHPO

9/28/09  
Date

Invited Signatories:

MINNESOTA DEPARTMENT OF TRANSPORTATION (Mn/DOT)

By: Thomas K. Sorel  
Thomas K. Sorel, Commissioner

9/30/09  
Date