

Draft
Section 4(f) Evaluation

Trunk Highway 10
Elk River

State Project: 7102-123
Minnesota Project: To Be Assigned

From: Approximately 1,000 feet west of Highway 10/101/169 system interchange

To: Approximately 1,900 feet west of Upland Avenue

in

City: Elk River

County: Sherburne

Section(s), Township(s), Range(s):

Section: 3; T32N; R26W

Sections 33-34; T33N; R26W

Conversion of Trunk Highway 10 to a freeway facility within Elk River

This document is available in alternative formats to individuals with disabilities by calling the Minnesota Relay Service at 1-800-627-3529.

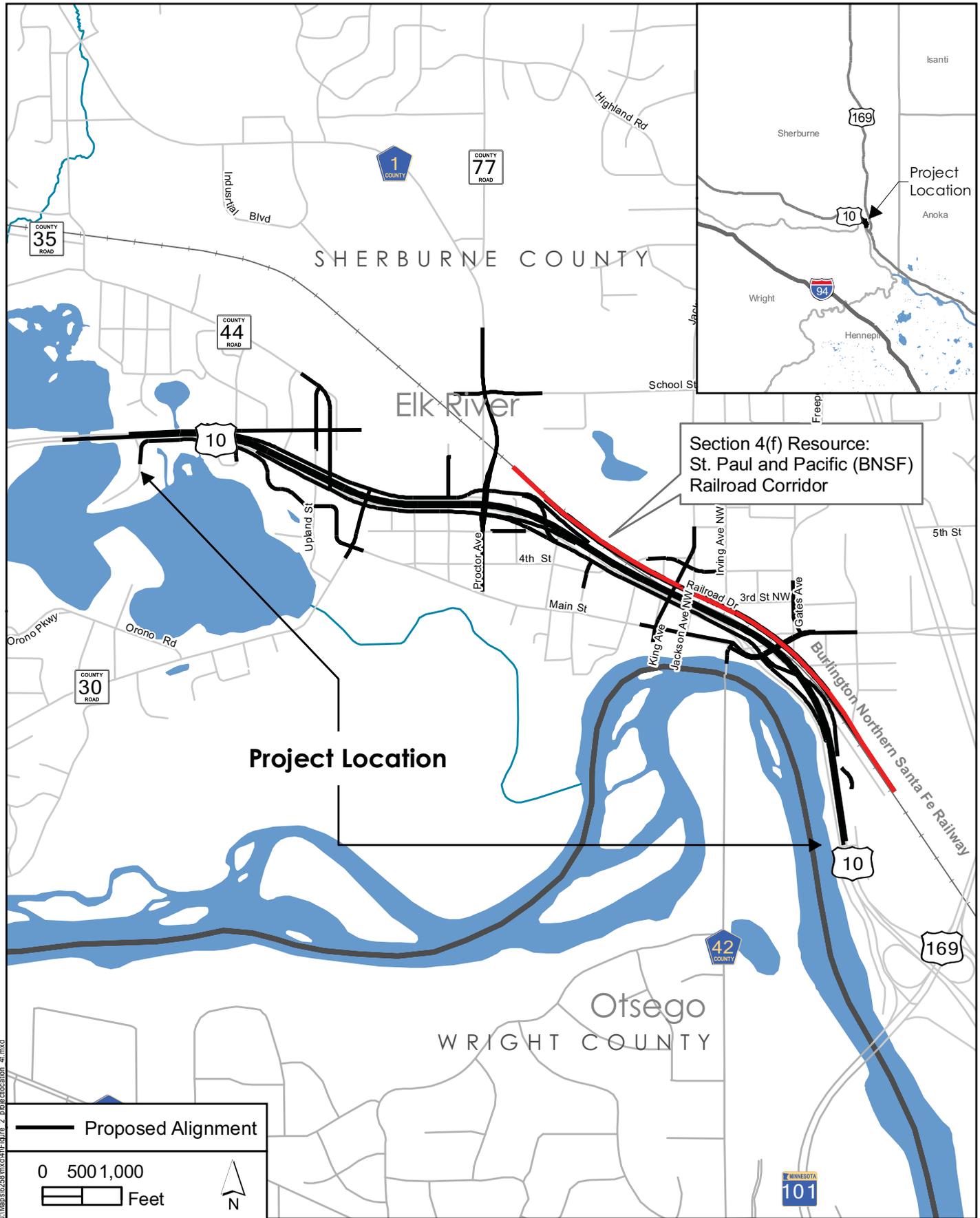


State Location Map

ENVIRONMENTAL ASSESSMENT
T.H. 10 - SP 7101-123

Figure 1

J:\Users\6256\OneDrive\EA\Environ_1_s\location_EA.mxd



Project Location

Draft Section 4(f) Evaluation
T.H. 10 - SP 7101-123

Figure 2

I. INTRODUCTION 1

II. PROPOSED ACTION 2

III. SECTION 4(F) PROPERTY 2

 MAP OF SECTION 4(F) PROPERTY/LOCATION..... 2

 DESCRIPTION OF ST. PAUL AND PACIFIC (BNSF) RAILROAD CORRIDOR..... 2

 OWNERSHIP OF SECTION 4(F) PROPERTY 3

 FUNCTION OF SECTION 4(F) PROPERTY 3

 DESCRIPTION AND LOCATION OF ALL EXISTING AND PLANNED FACILITIES 4

 ACCESS 4

 RELATIONSHIP TO OTHER SIMILARLY USED LANDS IN THE VICINITY 4

 APPLICABLE CLAUSES AFFECTING THE OWNERSHIP 4

 UNUSUAL CHARACTERISTICS REDUCING OR ENHANCING THE VALUE OF THE PROPERTY..... 4

IV. IMPACTS ON THE SECTION 4(F) PROPERTY 5

V. AVOIDANCE ALTERNATIVES 7

 NO BUILD/DO NOTHING ALTERNATIVE 7

 SLIGHT ALIGNMENT CHANGES 7

 BUILD ON ALTERNATIVE ALIGNMENT LOCATION 9

VI. MEASURES TO MINIMIZE HARM 10

VII. COORDINATION..... 10

I. INTRODUCTION

The Section 4(f) legislation as established under the Department of Transportation Act of 1966 (49 USC 303, 23 USC 138) and as revised in 2005 by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (which included moving the Section 4(f) regulations to 23 CFR 774) provides protection for publicly owned parks, recreation areas, historic sites, wildlife and/or waterfowl refuges from conversion to a transportation use. The Federal Highway Administration (FHWA) may not approve the use of land from a significant publicly owned park, recreation area, or wildlife and waterfowl refuge, or any significant historic site unless a determination is made that:

- There is no feasible and prudent alternative to the use of land from the property; and
- The action includes all possible planning to minimize harm to the property resulting from such use (23 CFR 774.17).

Additional protection is provided for outdoor recreational lands under the Section 6(f) legislation (16 USC 4602-8(f) (3)) where Land and Water Conservation (LAWCON) funds were used for the planning, acquisition or development of the property. These properties may be converted to a non-outdoor recreational use only if replacement land of at least the same fair market value and reasonably equivalent usefulness and location is assured.

The purpose of this Section 4(f) Evaluation is to provide the information required by the Secretary of Transportation to make the decision regarding the use of properties protected by Section 4(f) and/or Section 6(f) legislation under the preferred alternative selected in the Trunk Highway (TH) 10 Elk River Environmental Assessment/Environmental Assessment Worksheet (EA/EAW).

This Section 4(f) Evaluation describes all identified Section 4(f) and/or Section 6(f) properties proposed to be “used” under the preferred alternative, potential impacts on those properties, and possible mitigation measures to minimize impacts. A “use” occurs (1) when land from a Section 4(f) site is acquired for a transportation project, (2) when there is an occupancy of land that is adverse in terms of the statute's preservationist purposes, or (3) when the proximity impacts of the transportation project on the Section 4(f) sites, without acquisition of land, are so great that the purposes for which the Section 4(f) site exists are substantially impaired (normally referred to as a constructive use).

The Section 4(f) process requires that any impacts from use of a park, recreation area, historic site, wildlife or waterfowl refuge for highway purposes be evaluated in context with the proposed highway construction/reconstruction activity. An inventory of these types of properties was completed for the TH 10 (Elk River) project area. Based on this inventory, a review of the proposed design, and assessment of the project's impacts, the realignment of the St. Paul and Pacific Railroad Corridor (BNSF Railway) constitutes a

Section 4(f) use. The St. Paul and Pacific (BNSF) Railroad Corridor was determined eligible for the National Register of Historic Places as an historic rail corridor. The Measures to Minimize Harm section (Section VI) below describes efforts made to avoid and minimize use of the Section 4(f) resource.

The TH 10 (Elk River) Project has been reviewed for potential 6(f) involvement. No Section 6(f) involvement exists on this project.

II. PROPOSED ACTION

A description of the proposed project, and an explanation of the purpose and need for the project, are in the Environmental Assessment/Environmental Assessment Worksheet document. Please refer to the Alternatives section of that document for a description of the proposed action (Section IV.B.2 of the EA/EAW), and the Purpose and Need section of that document (Section III) for the purpose and need of the project.

III. SECTION 4(f) PROPERTY

Map of Section 4(f) Property/Location

The project map on page ii (Figure 2A) illustrates the location of the Section 4(f) resource (St. Paul and Pacific Railroad Corridor) relative to the project area.

Description of St. Paul and Pacific (BNSF) Railroad Corridor

The St. Paul and Pacific (BNSF) Railroad Corridor runs in a northwesterly direction parallel to Highway 10. The St. Paul and Pacific (BNSF) Railroad Corridor crosses Highway 169 just north of the Highway 10/101/169 interchange, runs through downtown Elk River, and separates from the Highway 10 corridor as the Highway turns to the west. The railroad corridor is double tracked. The railroad corridor bridges over Highway 169, and is at-grade with local street crossings in downtown Elk River and to the east of Highway 169. The railroad right of way is generally 100 feet wide, but expands to approximately 200 feet in downtown Elk River, in the area that historically accommodated the Elk River Station.

A Phase I Architectural History Survey and Phase II Architectural History Evaluation conducted for this project determined that the former St. Paul and Pacific Railroad Corridor constitutes a railroad corridor historic district. The St. Paul and Pacific (BNSF) Railroad Corridor District is eligible for listing in the National Register of Historic Places (NRHP). Contributing elements to the railroad corridor historic district are the double-tracked railroad corridor and associated ditches within the right of way.

The corridor is significant for its association with the St. Paul and Pacific railroad, which built the first railroad in Minnesota in 1862 between St. Paul and St. Anthony Falls. The

corridor through Elk River was built in 1864 and reached the Sauk Rapids area by 1867. Portions of the railroad corridor's setting have been redeveloped with modern buildings and other transportation infrastructure, and other portions retain the general historic characteristics.

Ownership of Section 4(f) property

The St. Paul and Pacific Railroad Corridor is currently owned and operated by the BNSF Railway Corporation.

Function of Section 4(f) property

Historic Function

The historical function of the corridor, as described in the Phase I Architectural History Survey and Phase II Architectural History Evaluation is summarized below.

The St. Paul and Pacific Railroad built the first railroad in Minnesota in 1862 between St. Paul and St. Anthony Falls. The corridor through Elk River was built in 1864 and reached the Sauk Rapids area by 1867. The railroad was an important early transportation corridor, providing the first railroad access to the communities and sawmills along the Mississippi River north of Minneapolis. The corridor also served the Northern Pacific, the St. Paul Minneapolis and Manitoba (Manitoba) and the Great Northern Railroads. The corridor provided the Northern Pacific with its only northwest route into and out of Minneapolis from 1870, when it gained control of the St. Paul and Pacific, through the end of the historic period... For the Manitoba/Great Northern, the corridor was also critical from 1879, when the Manitoba gained control of the St. Paul and Pacific and gained access to Duluth, albeit in a roundabout fashion, until 1898, when the Great Northern built the Coon Creek cutoff south of Anoka.

The St. Paul and Pacific Railroad Corridor historic district was previously determined eligible for listing in the NRHP. Prior to the Phase I and Phase II cultural resource studies completed for the proposed TH 10 Project, the segment within Elk River had not been previously surveyed. The St. Paul and Pacific Railroad Corridor within Elk River constitutes a railroad corridor historic district, is significant for its association with the St. Paul and Pacific Railroad, and is eligible for listing in the NRHP.

Current Function

The BNSF Railway Corporation currently operates the St. Paul and Pacific (BNSF) Railroad Corridor as a rail transportation facility. BNSF Railway refers to this rail line as the Staples Subdivision, which extends from Moorhead, Minnesota to Minneapolis, Minnesota.

Description and location of all existing and planned facilities

Historic Context (Railroads and Agricultural Development)

As described above, St. Paul and Pacific Railroad Corridor within Elk River constitutes a railroad corridor historic district and is significant for its association with the St. Paul and Pacific Railroad. The railroad was an important early transportation corridor, providing the first railroad access to the communities and sawmills along the Mississippi River north of Minneapolis. Within the context of agricultural development, railroad corridors, including the St. Paul and Pacific, hauled crops and animal products from farm to market facilitating a transition to diversified agriculture by connecting commodity producers with processors, as well as facilitating industrial crop production, large-scale milling, and mass marketing of food products.

Current Railroad Operations

The existing railroad corridor is described in the Description section above. According to information from BNSF Railway, more than 40 freight trains travel on this rail line through Elk River each day.

In addition to freight services, the Northstar Commuter Rail operates on the St. Paul and Pacific (BNSF) Railroad Corridor from Big Lake, Minnesota to downtown Minneapolis, Minnesota. A park-and-ride facility and rail station is located along the St. Paul and Pacific (BNSF) railroad corridor in Elk River, east of the TH 169 (Elk River to Zimmerman) project area at 171st Street and Twin Lakes Road.

Future Railroad Expansion

The addition of a third track by BNSF Railway parallel to the existing tracks is planned for the future.

Access

The St. Paul and Pacific (BNSF) railroad corridor is owned by a private company. BNSF Railway maintains access roads parallel to the railroad tracks for maintenance activities. There are several at-grade crossings to the west of Highway 169 (Proctor Avenue, Jackson Street, Main Street) and to the east of Highway 169 in Elk River.

Relationship to other similarly used lands in the vicinity

Not applicable to this railroad corridor historic district.

Applicable clauses affecting the ownership

None. This property is owned by BNSF Railway and is used for transportation purposes.

Unusual characteristics reducing or enhancing the value of the property

None.

IV. IMPACTS ON THE SECTION 4(f) PROPERTY

The proposed project would include realigning the St. Paul and Pacific (BNSF) Railroad Corridor to the north of its existing alignment from the Great River Energy (GRE) site to a point located approximately 750 feet east of Proctor Avenue. The existing at-grade railroad crossings at Proctor Avenue, Jackson Avenue and Main Street would be removed and replaced with grade separated crossings. Proctor Avenue would bridge over the St. Paul and Pacific (BNSF) Railroad Corridor, whereas the railroad would bridge over Jackson Avenue and Main Street. The proposed railroad grade will be constructed approximately up to three feet higher than the existing railroad corridor grade.

Total length of the St. Paul and Pacific (BNSF) Railroad Corridor reconstruction is approximately 6,000 feet. The centerline of the proposed double track alignment is located approximately 100 feet to the north of the existing centerline alignment at Main Street in downtown Elk River. The proposed railroad right of way width in the realigned section is approximately 100 feet. The proposed alignment would accommodate construction of a future third track by BNSF Railway at a later time.

Realignment and impacts to the St. Paul and Pacific (BNSF) Railroad Corridor and are necessary as part of the Highway 10 (Elk River) Project for the following reasons:

- Grade Separations (Safety): The St. Paul and Pacific (BNSF) Railroad Corridor runs northwesterly parallel to Highway 10, bisecting downtown Elk River. At-grade crossings are located at Proctor Avenue, Jackson Avenue and Main Street. The at-grade crossings present safety concerns for vehicular traffic as well as non-motorized traffic (e.g., bicyclists and pedestrians) as described in the need for the project.

Grade-separations from the railroad corridor are needed to address safety concerns for both motorized and non-motorized traffic (bicyclists and pedestrians). Grade separations eliminate conflicts between train traffic and vehicular traffic, and train traffic and non-motorized traffic. Raising the railroad corridor elevation through downtown Elk River is necessary to accommodate the the minimum vertical clearance requirements at the proposed grade-separations at Jackson Avenue and Main Street. Realigning the St. Paul and Pacific (BNSF) Railroad Corridor to the north of its existing alignment would allow for the proposed grade separations to be constructed while maintaining train operations along the existing tracks during construction (discussed in greater detail below, “Construction Staging”).

- Grade Separations (Traffic Operations): Traffic operations are expected to deteriorate along Highway 10 under future (year 2030) conditions, with key intersections operating at an unacceptable LOS F in the p.m. peak hour. Both regional and local traffic are experiencing these intersection delays. The BNSF Railway influences

traffic operations along Highway 10 and intersecting local roadways. Every time a train passes through Elk River along the BNSF Railway, it interrupts traffic flow on and off of Highway 10 at Main Street, Jackson Avenue, and Proctor Avenue. These events result in increased delay and long vehicular queues on the Main Street, Jackson Avenue, and Proctor Avenue approaches to Highway 10 that requires several traffic signal cycles to recover, contributing to poor traffic operations in downtown Elk River.

The proposed grade separations would address traffic operations problems by removing the congestion and delays created by train operations along the St. Paul and Pacific (BNSF) Railroad Corridor. The proposed grade separations would improve local north-south traffic circulation and cohesion between downtown Elk River and land uses north of the St. Paul and Pacific (BNSF) Railroad Corridor by eliminating the railroad as a barrier to these movements.

- Local Connectivity (Traffic Operations): There is currently no continuous frontage road system parallel to Highway 10 in downtown Elk River. Because of existing development south of Highway 10 and the St. Paul and Pacific (BNSF) Railroad Corridor north of Highway 10, it is not physically feasible to construct an east-west roadway parallel to Highway 10 without affecting either downtown Elk River or the St. Paul and Pacific (BNSF) Railroad Corridor. As a result, a large number of local trips within Elk River are diverted to Highway 10, conflicting with through, regional trips. This results in disruptions to both local and regional traffic, and impacts traffic operations on Highway 10 (discussed in Section III.B of the EA/EAW, “Need for the Project”).

In order to construct a local roadway/frontage road parallel to Highway 10 through downtown Elk River, the Highway 10 alignment must move to the north so that the local roadway can utilize the existing highway right of way and avoid impacts to downtown businesses and residences (discussed in greater detail in Section V, “Slight Alignment Changes”). Subsequently, moving the Highway 10 alignment to the north places it along the St. Paul and Pacific (BNSF) Railroad Corridor alignment, requiring the realignment of the railroad corridor described above.

- Construction Staging: The St. Paul and Pacific (BNSF) Railroad Corridor is part of the BNSF Railway main line between the Twin Cities and Fargo/Moorhead and beyond. This BNSF Railway line currently carries approximately 46 freight trains per day. The St. Paul and Pacific (BNSF) Railroad Corridor also carries the Northstar Commuter Rail between Big Lake and Minneapolis (additional 12 trains per day). Because of the importance of this corridor for freight movement and commuter rail, maintaining operations on this railroad line during project construction was a key consideration during project development. It is not feasible to construct the proposed grade separations along the existing St. Paul and Pacific (BNSF) Railroad Corridor alignment and maintain rail operations at the same time. Realignment of the St. Paul and Pacific (BNSF) Railroad Corridor would allow rail operations to continue on the existing tracks during construction of grade separations between the railroad and local roadways. After the new railroad tracks and railroad bridges at Jackson Avenue

and Main Street are constructed and in place, train traffic would shift to the new tracks, the existing tracks would be removed, and construction of proposed Highway 10 would proceed.

V. AVOIDANCE ALTERNATIVES

No Build/Do Nothing Alternative

The No Build Alternative would avoid any impacts to the BNSF Railway. However, the No Build Alternative would not adequately address safety concerns related to the existing Highway 10 corridor within Elk River, and safety concerns associated with the existing at-grade crossings within downtown Elk River. The No Build Alternative does not correct the capacity and operational deficiencies associated with the existing Highway 10 corridor in downtown Elk River, and does not address local connectivity and accessibility. The No Build Alternative does not meet the Purpose and Need for the project; therefore, it is not a feasible and prudent alternative.

Slight Alignment Changes

Slight alignment changes in Highway 10 and the parallel frontage road were considered to permit the St. Paul and Pacific (BNSF) Railroad Corridor to remain along its existing alignment; however, a slight alignment change in Highway 10 and the parallel frontage road is not feasible because of the proximity among the existing St. Paul and Pacific (BNSF) Railroad Corridor, the existing highway alignment, and existing development along the highway within Elk River. The existing Highway 10 right of way is located south of and parallel to the St. Paul and Pacific (BNSF) Railroad Corridor right of way (see the attached Figure 3, Existing Conditions). Because the St. Paul and Pacific (BNSF) Railroad Corridor and existing Highway 10 corridor are located adjacent to one another, the only way that the St. Paul and Pacific (BNSF) Railroad Corridor can remain is if the Highway 10 corridor also remains along its existing alignment. Any alignment shift in the Highway 10 corridor to the north would affect the St. Paul and Pacific (BNSF) Railroad Corridor.

Thus, in order to permit the existing St. Paul and Pacific (BNSF) Railroad Corridor to remain along its existing alignment, the proposed Highway 10 improvements (i.e., conversion to a freeway facility) would also remain along its existing alignment, and the proposed east-west frontage road would be located to the south of the existing Highway 10 right of way. As previously noted, an east-west frontage road parallel to Highway 10 would address Highway 10 traffic operations needs by reducing the number of local trips being diverted to Highway 10, and minimizing conflicts between through, regional trips and local traffic. The distance between this frontage road alignment and the existing Highway 10 right of way at Jackson Street (centerline to edge of existing right of way) is approximately 50 feet. A sketch of the Highway 10 avoidance alignment location is illustrated in relation to the proposed improvements in the attached Figure 4.

Reconstructing Highway 10 on its existing alignment and constructing the proposed east-west frontage road to the south of the existing Highway 10 alignment to permit the existing St. Paul and Pacific (BNSF) Railroad Corridor to remain was considered; however this alternative was not considered feasible and prudent for the following reasons:¹

- Impacts to the Mississippi River: The Mississippi River is a state-designated Wild and Scenic River. This segment of the Mississippi River is designated by the Minnesota Department of Natural Resources (DNR) as “recreational.” Recreational rivers are those rivers that may have undergone some impoundment or diversion in the past and that may have adjacent lands which are considerably developed, but that are still capable of being managed so as to further the purposes of the State Wild and Scenic Rivers Act.

Maintaining the St. Paul and Pacific (BNSF) Railroad Corridor on its existing alignment would shift the Main Street alignment to the south, resulting in the Main Street/frontage road intersection being located on the bluff overlooking the Mississippi River. The Main Street connection under Highway 10 and to CSAH 42 would impact the river bluff and result in fill impacts to the Mississippi River and 100-year floodplain. The entrance ramp from Main Street and the frontage road to eastbound Highway 10 would also result in fill impacts to the Mississippi River and associated floodplain.

- Main Street (Commercial and Residential Relocations): The Main Street alignment to the west of the Main Street/CSAH 42 intersection would need to be realigned to the south of its existing alignment. This realignment would result in the acquisition and relocation of The Bluffs of Elk River, a mixed used development that includes a 67 unit condominium building located along the Mississippi River bluff .
- Frontage Road (Commercial and Residential Relocations): The downtown Elk River business district currently includes 36 businesses between the Highway 10/Main Street intersection and Lowell Avenue. A mixed use development that includes retail and residential uses was recently constructed in the southeast quadrant of the Highway 10/Jackson Street intersection. Locating the frontage road alignment south of the existing Highway 10 right of way would result in the relocation of businesses that are currently located adjacent to Highway 10, from Morton Avenue to Main Street. This frontage road would also result in the relocation of residential condominiums and apartments above the commercial uses at Highway 10 and Jackson Street (e.g., Jackson Place Apartments).
- Impacts to Downtown Elk River (Community Cohesion): Maintaining Highway 10 along its existing alignment and locating the parallel frontage road alignment to the south, permitting the St. Paul and Pacific (BNSF) Railroad Corridor to remain, would

¹ The avoidance alignment concept was developed based on horizontal alignments only. It is likely that additional impacts would be observed if vertical profiles were considered.

result in a severe disruption to historic downtown Elk River and its established business community.

When a project affects the physical, social and economic factors that provide the people in a community with a sense of place or perception of common interest, it is considered to have affected the community's cohesion. Downtown Elk River is identified as the central business district (CBD) for the City. Although the properties within the downtown CBD are not considered eligible for the National Register of Historic Properties (NRHP), the downtown area is locally referred to as historic downtown Elk River. Downtown Elk River and its commercial uses date back to the late nineteenth century, as settlement and commerce centered around the St. Paul and Pacific (BNSF) Railroad Corridor and areas around Main Street and Jackson Street.

Downtown Elk River, including adjacent residential land uses to the north and west, are referred to in the City's Comprehensive Plan as "Old Town"². According to the Comprehensive Plan, the Old Town "is an essential part of Elk River's heritage and identity. The Old Town land use seeks to preserve and enhance the commercial districts and residential neighborhoods in this area". The current focus of the Comprehensive Plan is on the CBD, with future emphasis placed on surrounding residential land uses. The Comprehensive Plan goes on to state that the Old Town area offers the greatest opportunity for connection and access to the Mississippi River, which is also an important component of the City's character and identity. Since completion of the Comprehensive Plan, the City has developed Rivers Edge Commons Park in downtown Elk River along the Mississippi River at Jackson and Main Streets. Rivers Edge Commons Park includes a gazebo along the river, an outdoor amphitheater, and a street-level plaza.

As noted above, the commercial uses in downtown Elk River and connection to the Mississippi River are important components of the City's character and identity. Relocating a substantial number of the businesses located adjacent to existing Highway 10 within downtown Elk River would have substantially negative impacts on community cohesion and the identity of downtown Elk River as central business district of the City.

Build on Alternative Alignment Location

Build on an alternative alignment location to permit the St. Paul and Pacific (BNSF) Railroad Corridor to remain on its existing alignment was considered; however, this alternative was determined to not be feasible as this is an existing trunk highway facility. Build on an alternative alignment location would not address the project need, including safety (motorized and non-motorized traffic), capacity and traffic operations, and access considerations. Additionally, the existing Highway 10 alignment is located in downtown Elk River, a fully-developed, urbanized area. South of downtown Elk River is the Mississippi River and associated floodway. An avoidance alignment concept that

² *City of Elk River Comprehensive Plan. Building the Future of Elk River.* August 2004.

maintains the existing St. Paul and Pacific (BNSF) Railroad Corridor with an alignment shift in the local frontage road is described above.

Conclusion

Because none of the avoidance alternatives were found to be feasible and prudent, the only remaining alternative was the preferred alternative.

VI. MEASURES TO MINIMIZE HARM

To mitigate the unavoidable impacts to the Section 4(f) resource – St. Paul and Pacific (BNSF) Railroad Corridor– resulting from the preferred alternative, measures to minimize harm/mitigate were jointly developed between the Mn/DOT Cultural Resources Unit (CRU), Mn/DOT District 3, State Historic Preservation Office (SHPO) and FHWA. The MOA in the Attachments describes the agreement reached among these parties.

As previously described, St. Paul and Pacific (BNSF) Railroad Corridor is also used as a commuter rail facility. A park-and-ride facility and commuter rail station (under construction) is located to the east of Highway 169 at 171st Avenue and Twin Lakes Road. Mitigation for impacts to the St. Paul and Pacific Railroad Corridor includes future construction of an interpretive display on Mn/DOT property at the park and ride facility. The details of this interpretive display, such as content and design, will be subject to SHPO review prior to design and construction.

The proposed project is not funded for construction. Timing of implementation of this mitigation measure will be dependent upon project construction funding. Implementation of mitigation will occur in the future concurrent with project implementation.

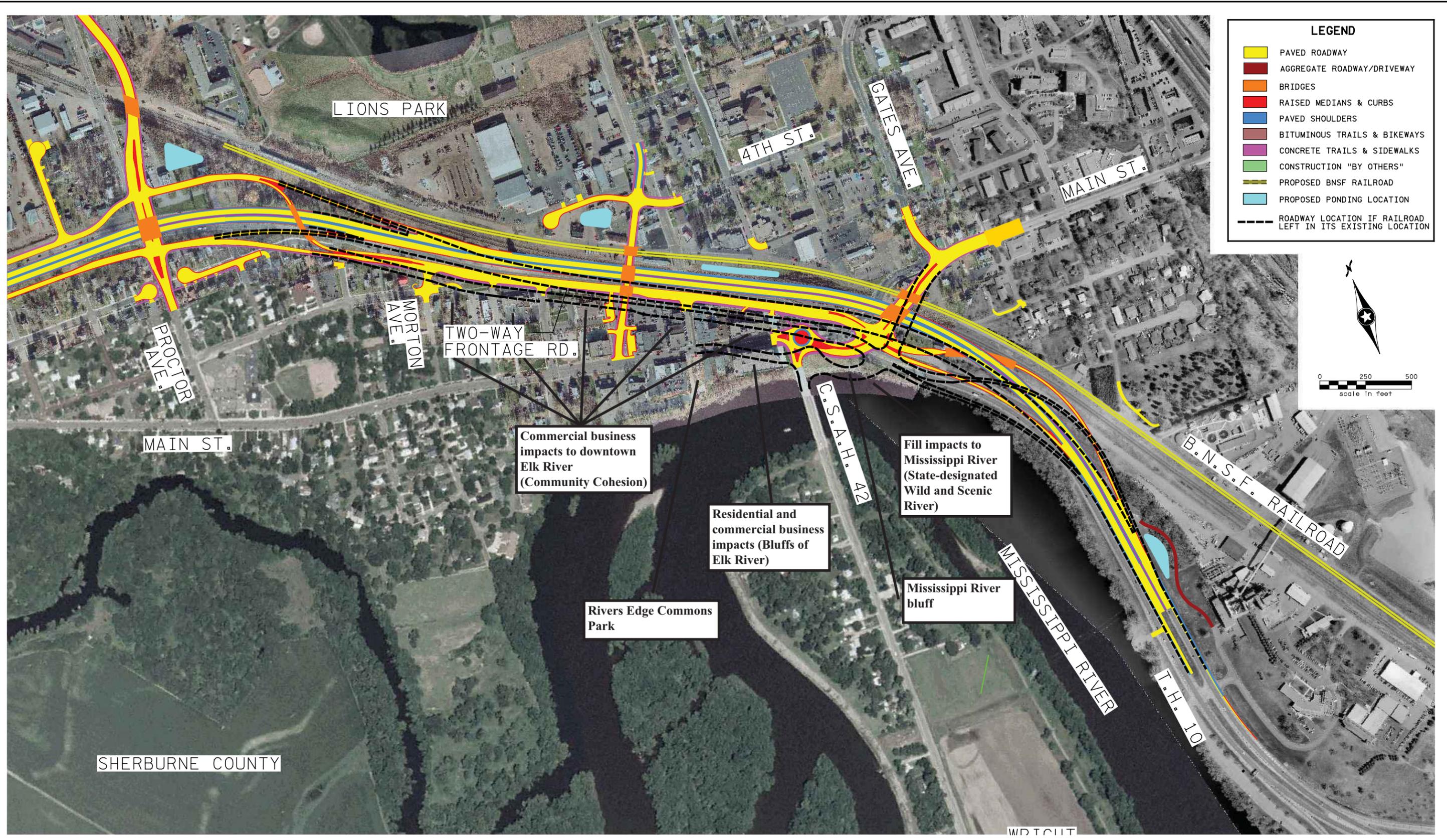
VII. COORDINATION

The development process for this project included coordination between the Mn/DOT CRU, the Minnesota SHPO, and the FHWA. As a result of the Phase I and Phase II studies, CRU determined, and SHPO concurred, that there would be an adverse effect to the St. Paul and Pacific Railroad Corridor. A consensus was reached regarding the impacts and the proposed mitigation of Section 4(f) resources. A copy of correspondence between CRU and SHPO is attached. A copy of the Memorandum of Agreement between the FHWA, Mn/DOT and Minnesota SHPO is also attached.

ATTACHMENTS

- **Avoidance Alternative Location (Figure 3)**
- **Minnesota State Historic Preservation Office Concurrence Letter**
- **Section 106 Memorandum of Agreement**

n:\projects\15669\HI-MU\Graphics\TH10 GRAPHICS FIGURES\15669_railroad_figure.dgn



DRAFT SECTION 4(f) EVALUATION: AVOIDANCE ALTERNATIVE
 ENVIRONMENTAL ASSESSMENT
 T.H. 10 - SP 7102-123

Figure 3

June 19, 2009

Mr. Craig Johnson
Cultural Resources Unit
MN Dept. of Transportation
Transportation Building, Mail Stop 620
395 John Ireland Blvd.
St. Paul, MN 55155-1899

RE: S.P. 7102-123, T.H. 10
Grade-separated intersections, realignment, and frontage roads
SHPO Number: 2009-0777

Dear Mr. Johnson:

Thank you for your letter regarding the above-referenced project.

We concur with your assessment that the project will have an adverse effect on the St. Paul and Pacific Railroad Historic District.

We note that your letter acknowledges that an archaeological survey of this project is yet to be completed. We will not be able to reach a determination of effect for the project as a whole until that survey is reviewed.

Contact us at (651) 259-3456 with questions or concerns.

Sincerely,



er Dennis A. Gimmestad
Government Programs & Compliance Officer

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