

APPENDIX I

Draft Section 4(f) Evaluation

Draft
Section 4(f) Evaluation

Trunk Highway 169
Elk River to Zimmerman

State Project: 7106-73 (Elk River); 7106-71 (Zimmerman)
Minnesota Project: To Be Assigned

From: Trunk Highway 101/County State Aid Highway 39 interchange
To: 277th Avenue
in

Cities: Otsego, Elk River, and Zimmerman

Township: Livonia

Counties: Wright and Sherburne

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

Sections: 3-5, 8-10, 15-17, 27-29, 32-34; T35N; R26W

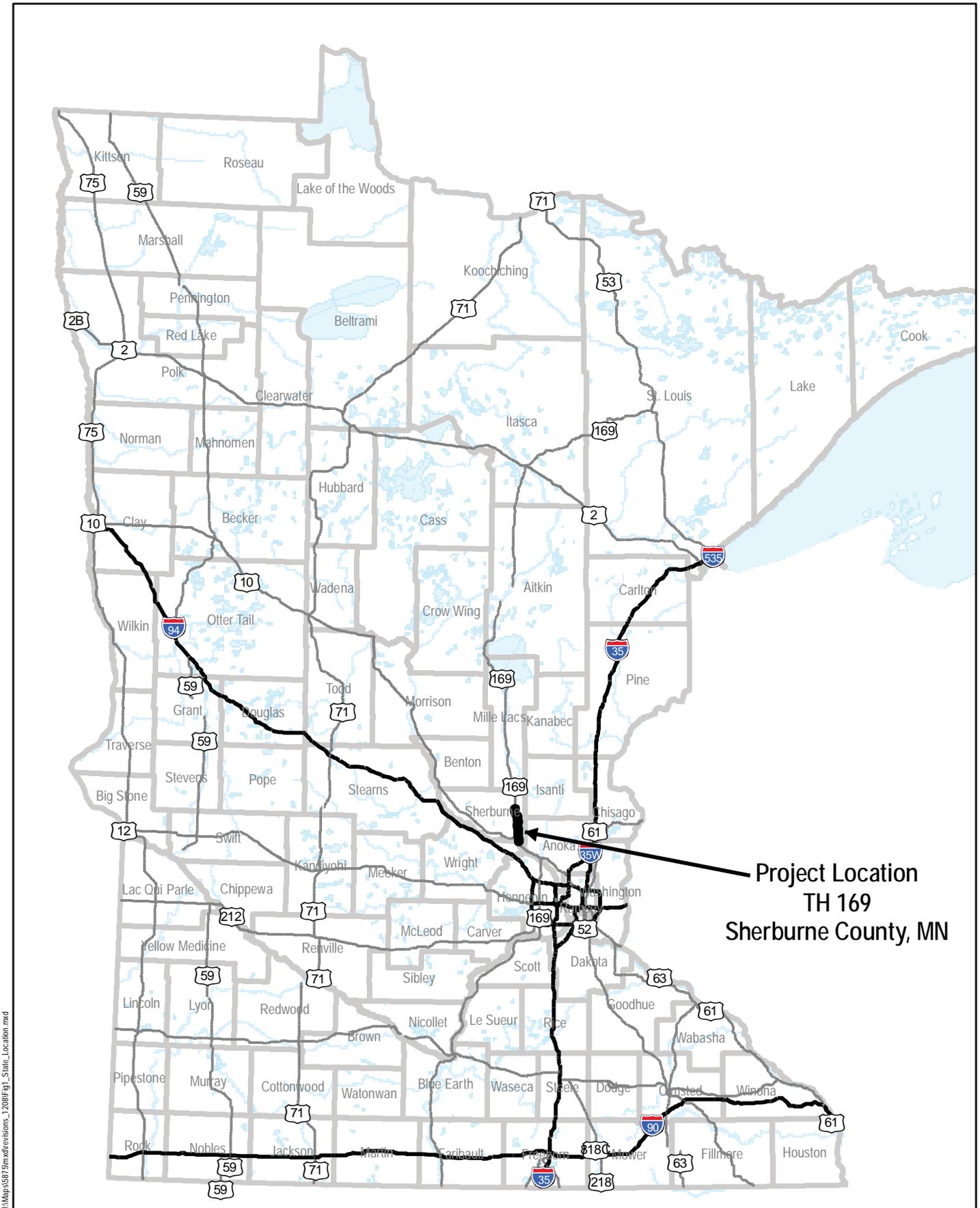
3-5, 8-10, 15-17, 20-22, 27-29, 32-34; T34N; R26W

2-4, 9-11, 14-16, 21-23, 26-28, 33-35; T33N; R26W

3, 10, 11; T32N; R26W

Conversion of Trunk Highway (TH) 169 from an expressway facility to a freeway facility from Elk River through Zimmerman, including TH 101 lane addition in Otsego from County State Aid Highway (CSAH) 39 to the TH 10/101/169 system interchange and expansion of the TH 101 Mississippi River crossing between Otsego and Elk River.

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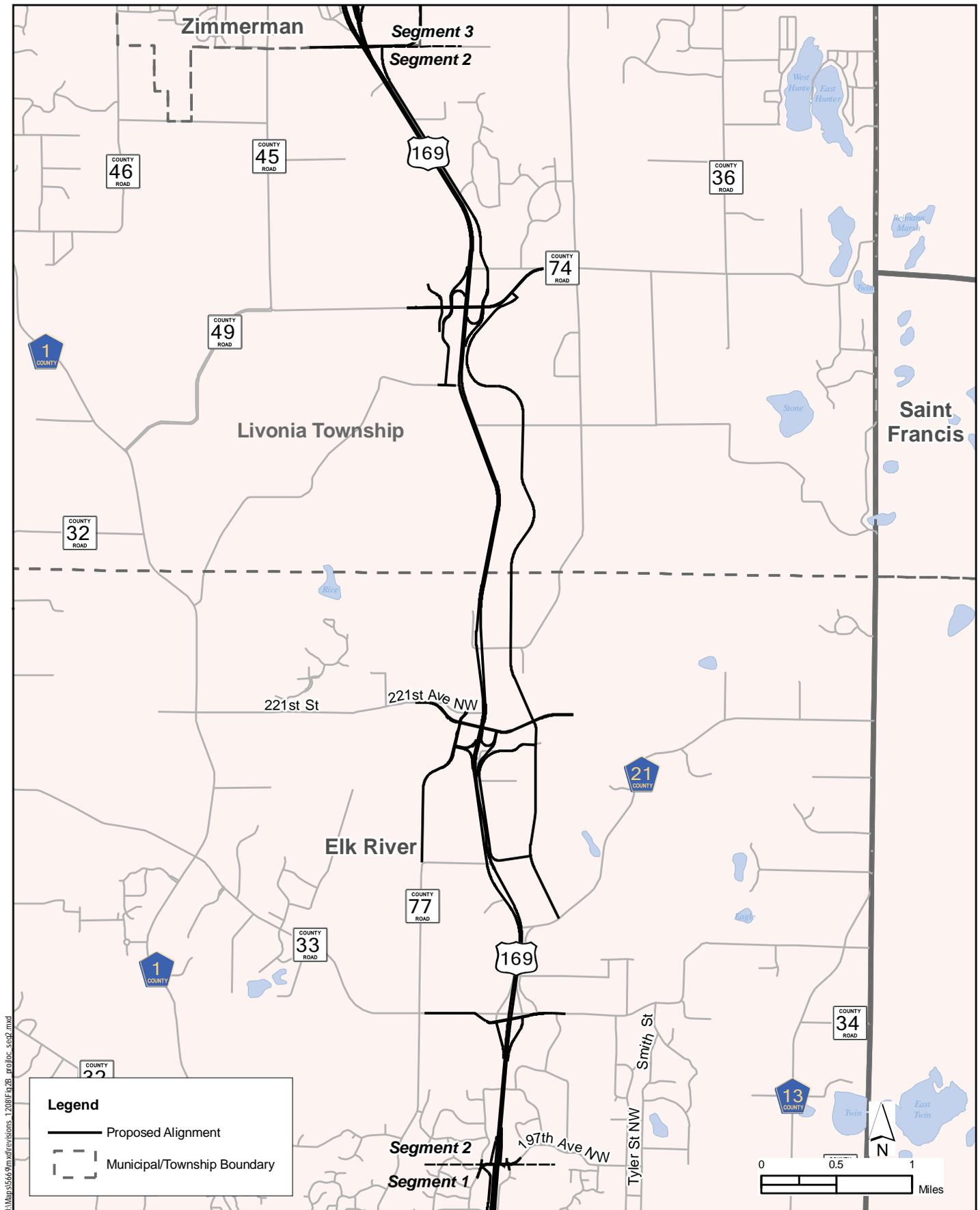


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STATE LOCATION MAP

ENVIRONMENTAL ASSESSMENT
 T.H. 169 - SP 7106-73 and 7106-71

Figure 1



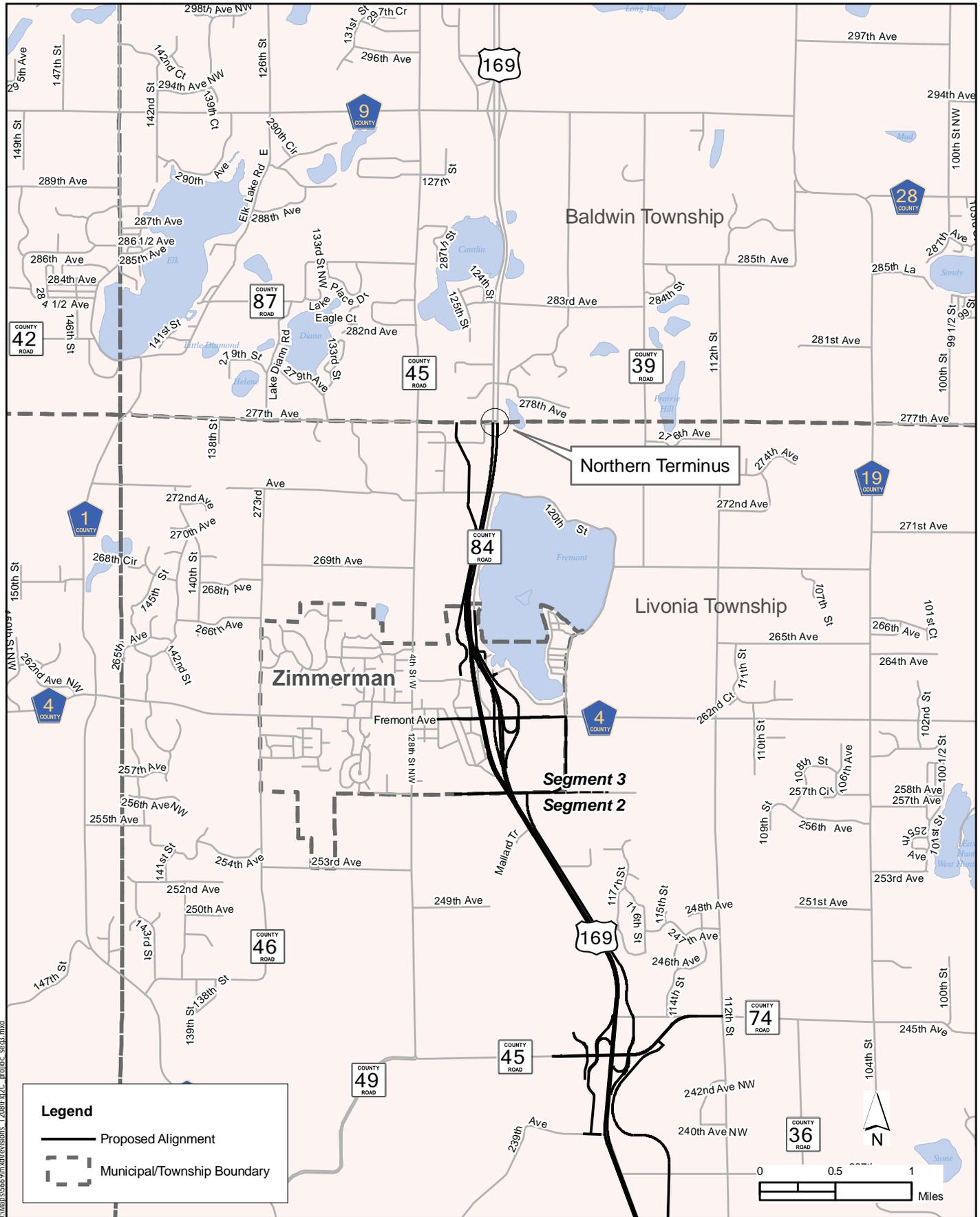
PROJECT LOCATION: SEGMENT TWO - RURAL ELK RIVER & S. LIVONIA TOWNSHIP

Figure 2B

Segment Two: 197th Avenue NW to Livonia Township/City of Zimmerman Boundary

ENVIRONMENTAL ASSESSMENT

T.H. 169 - SP 7106-73 and 7106-71



PROJECT LOCATION: SEGMENT THREE - ZIMMERMAN & N. LIVONIA TOWNSHIP

Figure 2C

Segment Three: City of Zimmerman municipal boundary to 277th Avenue in Livonia Township

ENVIRONMENTAL ASSESSMENT

T.H. 169 - SP 7106-73 and 7106-71

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I. INTRODUCTION

The Section 4(f) legislation as established under the Department of Transportation Act of 1966 (49 U.S.C. 303, 23 U.S.C. 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 U.S.C. 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) 169 Elk River to Zimmerman 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 169 (Elk River to Zimmerman) 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 (BNSF) Railroad Corridor 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 a historic railroad 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 169 (Elk River to Zimmerman) Project has been reviewed for potential Section 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, such as the Highway 10/101/169 interchange, and other portions retain the general historic characteristics.

The railroad crosses over Highway 169 to the north of the existing Highway 10/101/169 interchange. The railroad bridge is a steel deck girder bridge (four spans) constructed in 1961. Because the railroad bridge post-dates the period of significance described above, it is not a contributing element to the railroad corridor historic district.

Ownership of Section 4(f) property

The St. Paul and Pacific Railroad Corridor is 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 west of 171st Avenue to a point located approximately 2,500 feet west of Highway 169. The existing railroad bridge over Highway 169 will be removed and replaced with a new structure over the highway. As noted above in Section II, the existing railroad bridge over Highway 169 is not a contributing element to the historic railroad corridor. This new structure would be located to the east of the existing bridge because the proposed Highway 169 alignment would be located to the east of the existing highway alignment at the crossing of the St. Paul and Pacific (BNSF) Railroad Corridor. New structures would also be constructed along the St. Paul and Pacific (BNSF) Railroad to accommodate interchange ramps from westbound Highway 10 to northbound Highway 169, and southbound Highway 169 to westbound Highway 10. The proposed railroad grade would be constructed approximately one to two 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 70 feet to the north of the existing centerline alignment. 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 TH 169 (Elk River to Zimmerman) Project for the following reasons:

- Construction Staging: The St. Paul and Pacific (BNSF) Railroad Corridor is part of the BNSF Staples Subdivision between the Twin Cities region and Fargo/Moorhead region. 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 Highway 169 capacity improvements (see discussion below, “Highway 169 Capacity”) and Highway 10/101/169 system interchange improvements (see discussion below, “Highway 10/101/169 Interchange”) across the existing St. Paul and Pacific (BNSF) Railroad Corridor alignment and maintain rail operations at the same time. Realignment of the railroad corridor would allow rail operations to continue on the existing tracks during railroad grade separation and highway construction. After the new railroad tracks and grade separations are constructed and in place, train traffic would shift to the new tracks and the existing tracks and bridge over Highway 169 would be removed.

- Flood Elevation, Railroad Profile and Clearance Requirements: The Mississippi River is located immediately to the south of the Highway 10/101/169 system interchange and the St. Paul and Pacific (BNSF) Railroad Corridor. Highway 10 currently runs east-west through the interchange; Highway 101/169 crosses over Highway 10. The flood elevation of the Mississippi River is approximately 863 feet. Highway 10 must be reconstructed through the system interchange such that it is located above the flood elevation. This design requirement increases the proposed profile elevation of Highway 169 through the Highway 10/101/169 system interchange to the St. Paul and Pacific (BNSF) Railroad alignment. In order to meet minimum clearance requirements between the Highway 169 roadway profile and the bottom of the proposed BNSF Railway bridge over Highway 169, the railroad grade must be raised by approximately one foot relative to existing conditions. Realignment of the railroad corridor would allow for rail operations to continue on the existing tracks while the new railroad corridor is constructed
- Highway 169 Capacity: As discussed in the project need, forecast traffic volumes on Highway 169 are projected to exceed the capacity of the existing facility, resulting in poor operations and delays. In order for Highway 169 to provide adequate capacity and levels of service for forecast traffic volumes, it must be expanded to a six-lane facility (three lanes in both the north- and southbound directions). The existing BNSF Railway bridge over Highway 169 is a four-span bridge, with bridge piers located along the outside shoulders of the north- and southbound travel lanes, and a pier located between the travel lanes in the center median. The existing bridge openings are not wide enough to accommodate the three through travel lanes in both the north- and southbound directions that is needed to provide adequate capacity for projected traffic volumes.
- Highway 10/101/169 Interchange: As discussed in the project need, the Highway 10/101/169 interchange currently operates at unacceptable levels during the p.m. peak hour, and is projected to operate at unacceptable levels of service in the future (year 2030 conditions) during the a.m. and p.m. peak hours as well. One of the goals of the project is to provide for acceptable traffic operations, consistent with current engineering standards. Reconstruction of the Highway 10/101/169 system interchange

to accommodate free-flow for all interchange movements between Highway 10, 101, and 169 are necessary to address mobility and traffic operations needs, and are consistent with conversion of Highway 169 to a freeway facility.

The distance between the north ramps of the existing interchange and the St. Paul and Pacific (BNSF) Railroad Corridor is approximately 550 feet. The Mississippi River is located immediately to the south of the Highway 10/101/169 interchange, and is a barrier to any alignment locations to the south (discussed in greater detail below, “Build on Alternative Alignment Location”). Because of this distance between the railroad and the interchange, and the Mississippi River to the south, proposed interchange ramps from westbound Highway 10 to northbound Highway 169, and southbound Highway 169 to westbound Highway 10, would merge to/from Highway 169 north of the St. Paul and Pacific (BNSF) Railroad Corridor. As such, new structures are needed along the St. Paul and Pacific (BNSF) Railroad Corridor to grade-separate these interchange movements from the railroad.

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 at-grade access along the Highway 169 corridor. The No Build Alternative does not correct the capacity and operational deficiencies associated with the existing Highway 169 corridor and the Highway 10/101/169 system interchange. 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 169 were considered. Highway 169 runs perpendicular to the St. Paul and Pacific (BNSF) Railroad Corridor. Because of the north-south alignment of Highway 169, and the east-west alignment of the St. Paul and Pacific (BNSF) Railroad Corridor, any Highway 169 alignment change will affect the St. Paul and Pacific (BNSF) Railroad Corridor. The proposed Highway 169 alignment is located approximately 300 feet east of the existing Highway 169 crossing under the St. Paul and Pacific (BNSF) Railroad Corridor. Moreover, slight alignment changes to the west of the existing Highway 169 alignment are not feasible because of impacts to the Great River Energy site and power plant (refuse-derived fuel power plant). Slight alignment changes to the east or west of the existing Highway 169 alignment would require a new grade-separation between Highway 169 and the railroad corridor, requiring construction of a new railroad alignment to maintain railroad operations during construction.

Build on Alternative Alignment Location

Reconstructing the Highway 10/101/169 interchange on an alternative alignment location to the south to permit the existing St. Paul and Pacific (BNSF) Railroad Corridor to remain was considered; however this alternative was not considered feasible because of physical constraints surrounding the interchange area (e.g., the Mississippi River is located directly south of the Highway 10/101/169 interchange). The avoidance alignment concept was developed maintaining the St. Paul and Pacific (BNSF) Railroad Corridor along its existing alignment, while also utilizing the existing the Highway 169 alignment under the railroad. The avoidance alignment location incorporated the same roadway geometrics and relationship between interchange components (e.g., distance between interchange ramps) as the Preferred Alternative design to provide the traffic operations and capacity necessary to address the purpose and need for the project. This avoidance alignment also assumed that is feasible to design a six-lane freeway section (three lanes in both the north- and southbound directions) on Highway 169 under the existing four-span railroad bridge over the highway.

Maintaining the existing St. Paul and Pacific (BNSF) Railroad Corridor and existing rail crossing location under Highway 169 under this scenario would allow for rail operations to be maintained on the existing rail line during project construction. The avoidance alignment concept is illustrated in the attached Figure 3. Impacts as a result of this avoidance alignment concept are summarized below.

- Highway 10/ 101/169 Interchange: Build on an alternative alignment location to permit the the existing St. Paul and Pacific (BNSF) Railroad Corridor to remain places the Highway 10/ 101/169 system interchange on a new location to the southwest of the existing interchange. As previously noted, a system interchange to accommodate free-flow for all interchange movements between Highways 10, 101, and 169 are necessary to address mobility and traffic operations needs of the proposed project, and are consistent with conversion of Highway 169 to a freeway facility. Transportation improvements in this area are constrained by the Mississippi River to the south, the St. Paul and Pacific (BNSF) Railroad Corridor to the north, and the Great River Energy (GRE) Site (refuse-derived powerplant) to the northwest. The Mississippi River is a state-designated Wild and Scenic River. The segment of the Mississippi River within the project area is designated by the Minnesota Department of Natural Resources (DNR) as “recreational.”

Maintaining the existing St. Paul and Pacific (BNSF) Railroad Corridor and existing railroad crossing location over Highway 169 would result in substantial shift in the interchange location. This is because of roadway geometrics and relationships between interchange features. In order for the proposed Highway 169 travel lanes to utilize the existing rail line crossing location, the interchange ramp from westbound Highway 10 to northbound Highway 169 must merge with Highway 169 south of the St. Paul and Pacific (BNSF) Railroad Corridor. In addition, the ramps west- and eastbound Highway 10 must also exit from southbound Highway 169 south of the St.

Paul and Pacific (BNSF) Railroad Corridor. Locating the entrance and exit points for these interchange ramps south of the St. Paul and Pacific (BNSF) Railroad Corridor to utilize the existing crossing under the rail line forces the location of the system interchange to the southwest.

The existing Highway 169 alignment is on a tangent section under the the St. Paul and Pacific (BNSF) Railroad Corridor. The proposed Highway 169 alignment is on a curve under the St. Paul and Pacific (BNSF) Railroad Corridor alignment. The proposed highway alignment transitions to a tangent section north of the St. Paul and Pacific (BNSF) Railroad Corridor. Maintaining the existing rail line alignment and utilizing the existing rail crossing over Highway 169 requires that the proposed roadway tangent section north of the rail line match the existing roadway tangent section under the St. Paul and Pacific (BNSF) Railroad Corridor. As a result, this constraint would also force the location of the system interchange to the southwest.

Shifting the Highway 10/ 101/169 interchange to the southwest to permit the the existing St. Paul and Pacific (BNSF) Railroad Corridor and existing railroad crossing location over Highway 169 to remain would place the system interchange within the Mississippi River, resulting in extensive impacts to the Mississippi River and surrounding environment.

- Highway 10: It is not feasible to relocate Highway 10 on a new alignment to accommodate the Highway 10/101/169 system interchange location describe above. Locating the system interchange to the south would place Highway 10 on a new alignment within the Mississippi River.
- Highway 101: It is not feasible to maintain the existing Highway 101 alignment to accommodate the Highway 10/101/169 system interchange location described above. Locating the Highway 10/101/169 system interchange to the southwest of its existing location would require substantial realignment and reconstruction of Highway 101 to the south of the Mississippi River in Otsego, resulting in extensive impacts to the surrounding community.

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 CRU, Mn/DOT District 3, 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.

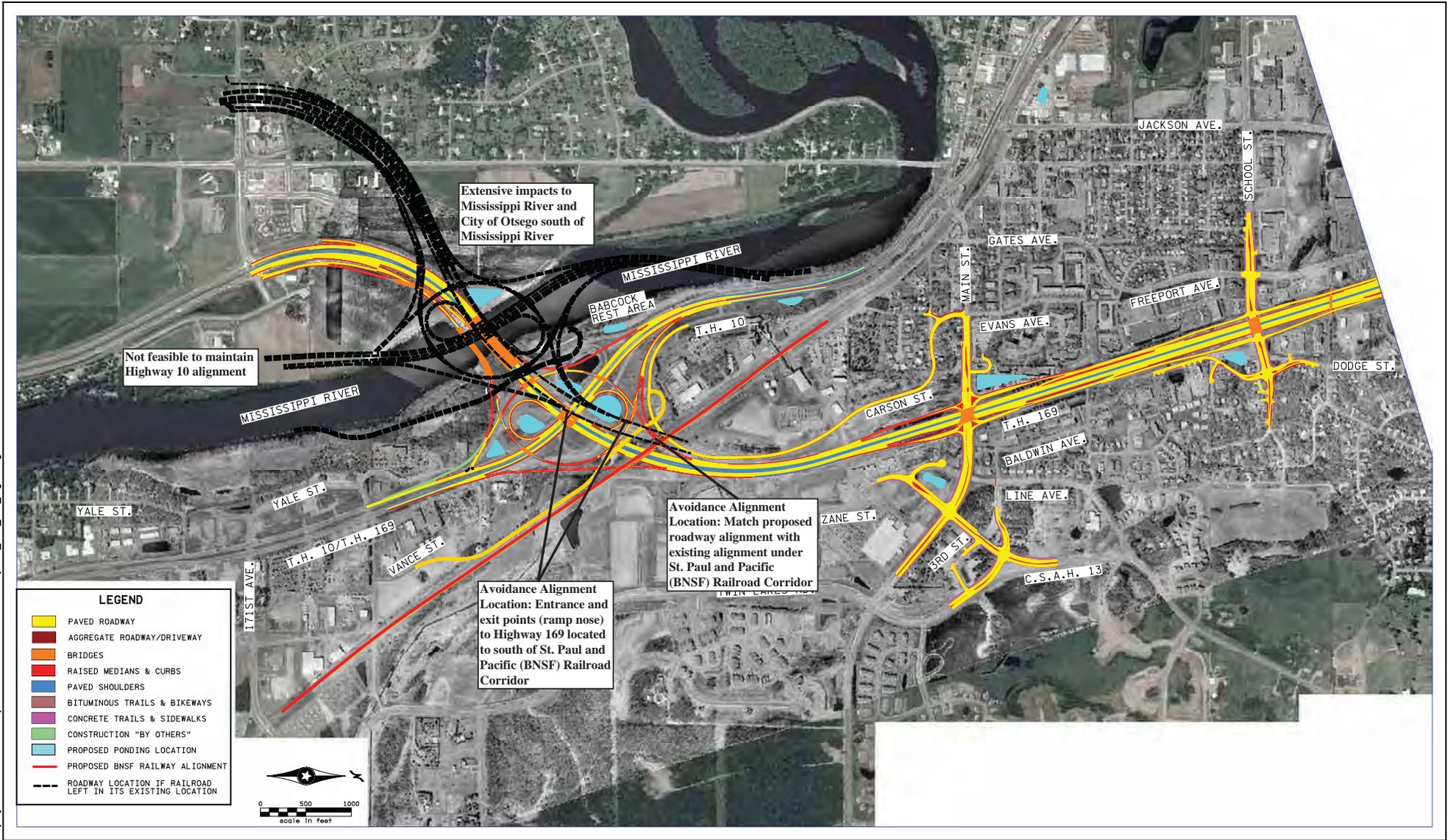
The proposed project is not funded for construction. Timing of implementation of this mitigation measure will be dependent upon project construction funding. Implementation of mitigation will occur in the future concurrent with project implementation.

VII. COORDINATION

The development process for this project included coordination between the Minnesota Department of Transportation (Mn/DOT) Cultural Resources Unit (CRU), the Minnesota State Historic Preservation Office (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**
- **Minnesota State Historic Preservation Office Concurrence Letter**
- **Section 106 Memorandum of Agreement**



DRAFT SECTION 4(f) EVALUATION: AVOIDANCE ALTERNATIVE

ENVIRONMENTAL ASSESSMENT
T.H. 169 - SP 7106-73 and 7106-71

Figure 3



State Historic Preservation Office

February 5, 2009

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

Re: S.P. 7106-71 & 7106-73, T.H. 169
Grade-separated interchanges & overpasses at various locations
Zimmerman & Elk River, Sherburne County
SHPO Number: 2009-0776

Dear Mr. Johnson:

Thank you for the opportunity to review and comment on the above project. It has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800), and to the responsibilities given the Minnesota Historical Society by the Minnesota Historic Sites Act and the Minnesota Field Archaeology Act.

Based on our review of the survey reports submitted, we have the following comments on this project at this time:

1. We concur with the determination that there are no National Register eligible archaeological properties on the parcels surveyed. We note that additional survey is yet to be completed.
2. We concur with the determination that the St. Paul and Pacific Railroad corridor District meets National Register criteria.
3. The submittal recommends that a portion of the Vernon Cemetery and the Farmers and Merchants Bank of Zimmerman both meet National Register criteria. We do not feel that there is adequate justification for the significance of either of these properties, and recommend that they are not eligible to the Register.

We look forward to working with you to complete this review after the remaining survey work has been completed. Contact us at 651-259-3456 with questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dennis A. Gimmestad'.

Dennis A. Gimmestad
Government Programs & Compliance Officer

cc: Andrew Schmidt, Summit EnviroSolutions
Michael Justin, HDR
Michael Kolb, Strata Morph
Tom Cinadr, SHPO



Minnesota
Historical Society

STATE HISTORIC PRESERVATION OFFICE

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. 7106-71 & 7106-73, T.H. 169
Grade-separated interchanges and overpasses at various locations
Zimmerman & Elk River, Sherburne County
SHPO Number: 2009-0776

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,

A handwritten signature in black ink, appearing to read 'Dennis A. Gimmestad'.

 Dennis A. Gimmestad
Government Programs & Compliance Officer



U.S. Department
of Transportation
Federal Highway
Administration

Minnesota Division

October 28, 2009

380 Jackson Street
Gallier Plaza, Suite 500
St. Paul, MN 55101-4802

651.291.6100
Fax 651.291.6000

www.fhwa.dot.gov/mndiv

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 7106-71 & 7106-73, TH-169 Freeway Conversion Project City of Otsego, Wright
County & Cities of Elk River & Zimmerman & Livonia Township, 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



TJA/jer

cc: 1 Mn/DOT – Craig Johnson, MS 620
1 SHPO – Dennis Gimmestad
1 RF
1 Anderson

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 169 FREEWAY CONVERSION PROJECT
(S.P. 7106-71 AND S.P. 7106-73)
IN
OTSEGO, WRIGHT COUNTY, MINNESOTA
ELK RIVER, SHERBURNE COUNTY, MINNESOTA
LIVONIA TOWNSHIP, SHERBURNE COUNTY, MINNESOTA
ZIMMERMAN, SHERBURNE COUNTY, MINNESOTA

WHEREAS, the Minnesota Department of Transportation (Mn/DOT) plans to reconstruct Trunk Highway (TH) 169 as a freeway facility from the TH 10/101/169 system interchange in Elk River to County State Aid Highway (CSAH) 4 in Zimmerman. The project also includes reconstruction of TH 101 from the CSAH 39 interchange in Otsego to the TH 10/101/169 system interchange, including reconstruction of the TH 101 bridge over the Mississippi River; and

WHEREAS, the Federal Highway Administration (FHWA) is providing Federal-Aid highway funds to Mn/DOT for preliminary engineering and design for interchange construction at CSAH 4 and TH 169 in the City of Zimmerman (S.P. 7106-71); and

WHEREAS, the Project is not funded for construction within the 2009-2028 planning period for Mn/DOT District 3. The TH 169 freeway conversion from TH 10 in Elk River to Zimmerman is identified in the *Draft District 3 Highway Investment Plan 2009-2028* (February 2009) as an unfunded high priority 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 an approximately one-mile long segment of the St. Paul and Pacific (BNSF) Railroad Corridor Historic District on a new alignment located approximately 75 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;

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 10 freeway facility project in Elk River (S.P. 7102-123), 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 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
for 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. Blaasberg, 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