



U.S. Department
of Transportation
**Federal Highway
Administration**

Minnesota Division

October 21, 2010

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

651.291.6100
Fax 651.291.6000

www.fhwa.dot.gov/mndiv

Thomas K. Sorel
Commissioner of Transportation
Department of Transportation
MS 100, Transportation Building
St. Paul, Minnesota 55155

Re: Record of Decision
FHWA-MN-EIS-03-01-PS
Minnesota State Project Number 1116-22
Trunk Highway 371
From the Intersection with CSAH 18 in Nisswa
To County Road 2/42 in Pine River
In Crow Wing and Cass Counties, Minnesota

Dear Mr Sorel:

Please find an enclosed copy of the Record of Decision for the referenced Final Environmental Impact Statement that was approved on July 12, 2010. The project may be advanced, subject to required project approvals.

Please contact me at (651) 291-6110 or phil.forst@dot.gov if you have any questions.

Sincerely,

Philip Forst
Environmental Specialist



Enclosure

PJF/jmm

cc: 2 Mn/DOT
1 Mn/DOT – Ross, e-copy w/enclosure, jennie.ross@state.mn.us
1 FHWA - Forst w/enclosure
1 FHWA – Kliethermes, e-copy, Kevin.kliethermes@dot.gov
1 RF
DMS – TH 371 from Nisswa to Pine River – ROD Transmittal Letter to MnDOT

**FEDERAL HIGHWAY ADMINISTRATION
RECORD OF DECISION
FHWA-MN-EIS-03-01-PS**

On Trunk Highway 371
From the Intersection with CSAH 18
In Crow Wing County
To CSAH 42
In Cass County
State Project Number 1116-22

A. DECISION

The Selected Alternative for the reconstruction of Highway 371 from County State Aid Highway (CSAH) 18 in Nisswa to CSAH 42 in Pine River, Minnesota is Alternative 3MOD (Existing Alignment with a Pequot Lakes Bypass), as described in the SFEIS. The proposed improvements include a four-lane, divided, controlled access highway on existing alignment from Nisswa to County Road 168/107 in Pequot Lakes, an easterly bypass of Pequot Lakes from County Road 168/107 to approximately 1.5 miles south of CSAH 16, and back to a four-lane divided highway on existing alignment from 1.5 miles south of CSAH 16 to CSAH 42 in Pine River. The project length is approximately 16 miles.

Analysis contained in the SFEIS includes the area for right-of-way preservation associated with a future interchange at CSAH 11. It is anticipated that of the three cross-street connections proposed in conjunction with the new Pequot Lakes bypass, this location will be first to see traffic volumes increase beyond a level that can be safely controlled by a standard traffic signal system. Although an interchange at this location is not proposed during the initial construction of Alternative 3MOD, because of funding constraints, the environmental impacts associated with the right-of-way footprint of this future facility were documented in the SFEIS to facilitate future implementation of this interchange if/when it is determined to be necessary.

B. ALTERNATIVES CONSIDERED

The December 2003 DEIS, the January 2005 Final EIS, and the July 2010 SFEIS documents describe, in detail, the project build alternatives (all four-lane alternatives) and analyze the potential social, economic, and environmental impacts associated with each build alternative and the No Build Alternative. The alternatives considered and reasons for their dismissal in favor of the Selected Alternative (Alternative 3MOD) are discussed in detail in the Draft EIS, Final EIS and the SFEIS. This information is summarized below:

Alternative 1 – No-Build Alternative

The No-Build Alternative would involve no improvements being made to the existing Highway 371 corridor. Under the No-Build Alternate, Highway 371 would continue to operate as a two-lane highway between Nisswa and Pine River. The No-Build Alternate does not preclude ongoing maintenance work.

As noted in the Amended Scoping Decision Document, Alternative 1 is not a suitable solution for addressing the purpose and need objectives of this project. However, in accordance with federal and state regulations, the No-Build Alternative was retained throughout the EIS analysis process to serve as a baseline for comparison of the build alternatives.

Alternative 2 – Capacity Expansion on Existing Alignment

This build alternative, identified as the preferred alternative in 2005, would have reconstructed Highway 371 as a four-lane divided roadway on its existing alignment from CSAH 18 in Nisswa to CR 2/42 in Pine River.

After the ROD was signed, in-depth negotiations began with each of the affected communities in order to further develop the project details from conceptual level drawings, used in the FEIS, to detailed layouts suitable for use during the municipal consent process.

During these negotiations with the City of Pequot Lakes, it became increasingly difficult for the City and the Minnesota Department of Transportation (Mn/DOT) to agree on the details of the future through-town configuration of Highway 371. Most of the discussion related to 1) implementation of required access management controls and 2) safety concerns expressed by the City related to projected traffic levels of a through-town alignment.

In June 2006, the Pequot Lakes City Council adopted resolution 06-23 in support of re-routing Highway 371 to a corridor east of town (bypass) along an alignment similar to Alternative 3 identified in the DEIS. The issues of community cohesion, pedestrian safety, high traffic speeds through the City, loss of access, congestion, and local cost participation were identified by the City in Resolution 06-23 as their reason for objecting to Alternative 2.

The Council's Resolution 06-23 decision was in contrast to City resolution 04-002 adopted during the DEIS phase that identified Alternative 2 (through-town alternative) as the City's preference. Concerned by the two contrasting City resolutions, Mn/DOT asked the Pequot Lakes City Council to clarify their position regarding their preferred route of Highway 371. The City Council was asked to adopt another resolution that would rescind the previous two conflicting resolutions and provide Mn/DOT with a clear understanding of the City's intentions.

In January 2007, the City Council commissioned the Highway 371 Alternate Route Study Group consisting of members of the City Council and the Planning Commission. This group was established for the expressed purpose of studying the issues and impacts of a Highway 371 bypass of Pequot Lakes. The Alternate Route Study Group considered thirty-one questions in their study process that were split into six categories that included technical issues, city engineering issues, design issues, financial issues, land use planning issues, and environmental issues.

This study group met ten times between February and August 2007 to hear expert testimony and receive public feedback regarding a community bypass alignment. During these proceedings, Mn/DOT participated by developing conceptual bypass alignments, providing general guidance related to highway design standards, and participating in a public forum to discuss a possible bypass alignment.

Following the City-initiated study of the bypass route, the Highway 371 Alternate Route Study Group issued its final report (September, 2007) to the City Council entitled "Highway 371 Alternate Route Study Group Report." This report captured the discussion and testimony that

occurred during the ten meeting sessions. The findings of the report stated “the Alternate Route Study Group identified no issues or impacts that would cause the City to alter the decision to route Highway 371 east of downtown and, in fact, found many factors that favor an alternate alignment.” Some of these findings are described in the discussion of Alternative 3MOD below. Appendix B of the SFEIS includes a copy of the Executive Summary from the Report. A full copy of the report (which is incorporated by reference into the SFEIS project record) is filed at the Mn/DOT District 3 Office in Baxter and at the Pequot Lakes City Hall.

As Mn/DOT considered the proposal to change the preferred alternative, it was determined that in order to make such a route acceptable, the original Pequot Lakes Bypass (Alternative 3) studied during the DEIS would have to be modified to reduce cost and provide other benefits. These modifications primarily related to the elimination of three grade-separated interchanges and their replacement with standard at-grade intersections.

The concept of removing the interchanges and limiting the number of access points was presented to the City Council in the fall of 2007. After some negotiation, the City accepted the removal of the interchanges and that only three access points would be allowed along the bypass route. On October 2, 2007 the City and Mn/DOT entered into an official Memorandum of Agreement (MOA) that established a clear understanding of the conditions under which Mn/DOT could consider changing the preferred alternative to the Pequot Lakes Bypass option. This MOA can be found in Appendix A of the SFEIS. Mn/DOT also advised the City Council that a change in the preferred alternative would require an official supplement to the already-completed environmental review and documentation process.

On December 18, 2007, the Pequot Lakes City Council passed resolution 07-32 that accepted the findings of the Highway 371 Alternate Route Study Group. It also rescinded previous resolutions 04-002 and 06-23 and reaffirmed the City’s preference for a Highway 371 bypass around Pequot Lakes. All three resolutions are included in Appendix C of the SFEIS.

Therefore, Alternative 2 has been dismissed from further consideration primarily because it lacked support from the Pequot Lakes City Council. Without City Council support, Mn/DOT would not be able to obtain Municipal Consent, required by state law prior to project implementation. Mn/DOT views Municipal Consent as a project endorsement that cannot be easily changed by shifts in City officials. This is an important consideration given the length of time it takes to develop large scale projects such as the Highway 371 North Improvement Project.

Alternative 3 – Existing Alignment with Pequot Lakes Bypass

This alternative would have reconstructed Highway 371 as a four-lane roadway on its existing alignment from CSAH 18 in Nisswa to approximately one mile north of CR 107/168 south of downtown Pequot Lakes. At that point, Highway 371 would have been reconstructed on a new alignment extending along the east edge of the downtown Pequot Lakes area; intersecting CSAH 11 approximately one-half mile east of the existing Highway 371/CSAH 11 intersection. The bypass would have continued north and crossed County Road 16 approximately one third of a mile east of the existing Highway 371/CSAH 16 intersection. The bypass alignment then would have returned to the existing Highway 371 corridor on the south edge of downtown Jenkins and continue along the existing alignment through the Jenkins and Pine River areas.

The Pequot Lakes Bypass segment of Alternative 3 from north of CR 107/168 to north of CSAH 16 would have been access controlled with interchanges planned at the south end of the bypass, CSAH 11, and CSAH 16. It is anticipated that this alternative would have included a turn-back of the existing Highway 371 alignment, through Pequot Lakes, to the jurisdiction of Crow Wing County.

This build alternative was not carried forward from the DEIS phase due to the projected high cost (including the interchanges), as well as lack of support by the Pequot Lakes City Council at the time of the 2005 FEIS.

Alternative 3MOD – Existing Alignment with Pequot Lakes Bypass – Selected Alternative

This build alternative proposes the expansion of Highway 371 to a four-lane divided roadway on its existing alignment from CSAH 18 in Nisswa to just south of CR 107/168 in Pequot Lakes. At that point, Highway 371 would be reconstructed on a new alignment extending along the east edge of the downtown Pequot Lakes area; intersecting CSAH 11 approximately one-half mile east of the existing junction of Highway 371 and CSAH 11. The bypass would continue north and converge with the existing Highway 371 alignment approximately 1.5 miles south of the existing Highway 371/CSAH 16 intersection and continue north along the existing alignment through Jenkins to CR 2/42 in Pine River.

The Pequot Lakes Bypass segment of Alternative 3MOD from south of CR 107/168 to approximately 1.5 miles south of CSAH 16 would be access controlled with only three at-grade access points planned for the entire length of the bypass. The proposed access points include the junctions of CR 107/168 at the south end of the bypass, CSAH 11, and CR 112. Only the CSAH 11 intersection is planned to be signalized at the time of construction.

Alternative 3MOD also includes the purchase of right-of-way needed for the construction of a future interchange at the junction of the bypass and Crow Wing CSAH 11.

Alternative 3MOD was developed and selected as the preferred alternative for the following reasons:

1) It meets the project purpose and need

- a) Increases Corridor Safety – Assessment of the projected safety benefits of the selected alternative (Alternative 3MOD) versus the through-city alternative (Alternative 2) and No Build was performed by comparing the current statewide average crash density statistics between Rural 4-Lane Expressway roadways (similar to Alternative 3MOD), Urban 4-Lane Expressway (similar to Alternative 2), and the existing 2-Lane section through Pequot Lakes (No Build). This assessment indicates substantial safety benefits would result from a Rural 4-Lane Expressway (see Table 1 below).

Table 1- Statewide Average Crash Density (2007- 2009)

Alternative	Typical Section	Crash Density (crashes/mile/year)
3MOD	Rural 4-Lane Expressway	3.5
2	Urban 4-Lane Expressway	16.9
No Build	Urban 2-Lane (ADT > 8,000)	10.3

The removal of Highway 371 through downtown Pequot Lakes under Alternative 3MOD would also improve bicycle/pedestrian mobility and safety within the existing highway alignment through Pequot Lakes by reducing the peak and through traffic volumes from the downtown corridor.

- b) Improve Mobility - The operation of Alternative 3MOD, including the Pequot Lakes Bypass, under 2030 traffic conditions is projected to reduce congestion and, therefore, improve mobility by decreasing travel delays along the Highway 371 corridor.

Table 2 shows the estimated 2030 total annual vehicle hours of travel and total annual delay within the Highway 371 EIS study corridor for Alternative 1 – No Build, Alternative 2, and Alternative 3MOD.

Table 2- Estimated 2030 Annual Vehicle Hours of Travel and Delay

Alternative	Annual Vehicle Hours of Travel (million hours)	Annual Delay (million hours)
Alternative 1 – No Build	4.91	2.21
Alternative 2	3.18	0.56
Alternative 3MOD (signal at CSAH 11)	3.03	0.44

By 2030, the estimated total annual travel time for Alternative 3MOD is expected to be 3.03 million hours, with 2.59 million hours being movement time and 0.44 million hours being delay time. These travel times represent a 35 percent decrease in total travel time compared to the No-Build Alternative. The delay component of the travel time shows about an 80 percent decrease in user delay can be achieved by building Alternative 3MOD compared to the No-Build Alternative.

2) *It has reduced costs compared to DEIS Alternative 3*, resulting to a benefit/cost ratio essentially equivalent to Alternative 2. Preliminary estimates show that the elimination of the three interchanges originally included in Alternative 3 would lower the cost of Alternative 3MOD to a level comparable to that of Alternative 2 (the 2005 preferred alternative). [Selection of Alternative 2 as the preferred alternatives in 2005 was based, partially, on the higher cost of Alternative 3, which included interchanges that increased the project cost.]

3) *It does not introduce substantial social, economic, or environmental impacts*. Although there are somewhat greater natural environment and property acquisition/relocation impacts associated with Alternative 3MOD compared to Alternative 2 (the previous preferred alternative), there have also been social and economic benefits identified by the City of Pequot Lakes with Alternative 3MOD that were taken into account in the current alternative selection. There were no unique or sensitive natural resources impacted by Alternative 3MOD that would preclude selection of it as the preferred alternative. The social benefits of Alternative 3MOD include eliminating the social/community cohesion impacts (e.g., dividing the city in half, creating safety

issues for pedestrians crossing Highway 371, closure of access points within the city, high traffic speed through the city) identified in Pequot Lakes Council Resolution 06-23. In addition, the Highway 371 Alternate Route Study found that ‘while there is certain to be impacts to individual businesses before, during and after the construction of the alternate route, compelling evidence exists that the overall impact to businesses and the City’s tax base would be positive. There were no indications that an alternate route would be destructive to the economic health of the City of Pequot Lakes, and substantial evidence to the contrary.’ The Study also found that the direct costs that the City would incur during the project would be substantially less for the alternate route than for the through-city alternative. For these and other reasons described in the Study, the City chose to support the alternative route alternative (Alternative 3MOD).

4) *It has local government support:* As noted previously, local government support (e.g., the Pequot Lakes Council resolutions and Memorandum of Agreement (MOA) with Mn/DOT) resulting in Municipal Consent is an important consideration given the length of time it takes to develop large scale projects such as the Highway 371 North Improvement Project.

Alternative 4 – Existing Alignment with Pequot Lakes and Jenkins Bypass

This build alternative would reconstruct Highway 371 North as a four-lane divided roadway on its existing alignment from just south of CSAH 18 in Nisswa to just north of County Road 107/168 intersection in Pequot Lakes. At that location, Highway 371 would be reconstructed on a new alignment extending along the east edge of the downtown Pequot Lakes area crossing CSAH 11 approximately 0.6 miles east of the existing Highway 371/CSAH 11 intersection. The bypass would continue northwest and cross CSAH 16 immediately west of the existing Highway 371/CSAH 16 intersection and extend around the west side of downtown Jenkins on a new alignment crossing County Road 15/115 approximately 0.3 miles west of the existing Highway 371/CSAH 15 intersection. The alignment then returns to the current Highway 371 corridor near the Crow Wing/Cass County line and continues along the existing alignment north through Pine River.

This alternative was dropped from further consideration because it required additional acquisition of right-of-way and a greater number of residential and commercial relocations, compared to the Selected Alternative and lacked support from the City of Jenkins. Additionally, this alternative is more costly compared to Alternative 3MOD, would result in increased environmental impacts including more impacts to wetlands, farmlands, and vegetation.

Alternative 5 – Existing Alignment with Jenkins Bypass

This build alternative would reconstruct Highway 371 North as a four-lane divided roadway on its existing alignment from just south of CSAH 18 in Nisswa to just south of the CSAH Road 16 intersection in Jenkins. At that location, Highway 371 would be reconstructed on a new alignment extending around the west side of downtown Jenkins on a new alignment crossing County Road 15/115 approximately 0.3 miles west of the existing Highway 371/CSAH 15 intersection. The alignment then returns to the current Highway 371 corridor near the Crow Wing/Cass County line and continues along the existing alignment north through Pine River.

This alternative was dropped from further consideration because it required a greater number of residential and commercial relocations compared to the Selected Alternative and lacked support from the City of Jenkins. Additionally, this alternative would result in increased environmental impacts including more impacts to wetlands, farmlands, and vegetation.

C. SECTION 4(f)

Title 49 Section 303 of U. S. Code, commonly referred to as Section 4(f), places responsibility on the Federal Highway Administration, and state agencies using federal transportation funds, to avoid Section 4(f) properties. These properties include parks, recreation areas, wildlife and waterfowl refuges, and historic sites. The Selected Alternative has been designed to avoid Section 4(f) resources, to the extent possible, and minimize harm where avoidance was not possible.

A Revised Final Section 4(f) Evaluation was prepared in conjunction with the SFEIS. The Revised Final Section 4(f) Evaluation identified ten Section 4(f) properties: Paul Bunyan Regional Trail, Brainerd and Northern Minnesota Railway Corridor, Molstad Property, Drew Cabins, Pequot Fire Lookout Tower, Bobberland Park, Jenkins Park, Edna Lake Boat Landing, East Twin Lake Boat Landing, and Pine River Depot. The Selected Alternative (Alternative 3MOD) will impact the following three Section 4(f) properties;

Paul Bunyan Regional Trail

The Paul Bunyan Regional Trail is a multi-purpose recreational trail located within the project corridor. The trail parallels Highway 371 throughout the entire project corridor and in several places is immediately adjacent to the highway. All of the build alternatives, including the preferred alternative, require shifting the trail and its right-of-way for the expansion of the highway. The preferred alternative results in direct impacts to five areas of the trail and requires approximately 21,080 feet of the trail be realigned. To mitigate these impacts, Mn/DOT is proposing to relocate the trail and maintain the recreational corridor throughout the project area including construction of a trail bridge structure that spans over the proposed Highway 371 alignment in the vicinity of County Road 107. The MNDNR has concurred with this mitigation approach. The correspondence letters between Mn/DOT and MNDNR staff are included in Appendix F in the SFEIS.

Pine River Depot

The Pine River Depot is located in the southwest quadrant of the Highway 371 and Highway 84 intersection in downtown Pine River. The depot structure is owned by Mn/DOT and located partially on Mn/DOT right-of-way, as well as right-of-way for the Paul Bunyan Trail. The depot was constructed to service the Brainerd and Northern Minnesota Railway and is currently not in use, but has been previously determined to be eligible for listing in the National Register of Historic Places. Each of the build alternatives considered require removal of the depot structure.

As part of the 2005 FEIS and Final Section 4(f) Evaluation, a Memorandum of Agreement (MOA) was executed that defined several mitigation stipulations associated with impacts to the depot. An Amendment to the original MOA has been executed that further defines the mitigation. The majority of these mitigation stipulations were carried out in 2009 including the relocation of the depot to a new site and restoration improvements to the structure. The completion of these stipulations was made possible, in part, through the use of federal Transportation History Network Funds that were secured by Cass County and Mn/DOT. A requirement of these funds and the MOA is that any transfer in ownership shall be to a party or parties able to maintain the building consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties.

As a result of the Pine River Depot's relocation onto a new site, the Pine River Depot will no longer be directly impacted by any alternative and, therefore, impacts to the Depot are not discussed in detail in the Revised Section 4(f) Evaluation.

Brainerd and Northern Minnesota Railway Corridor

The Brainerd and Northern Minnesota Railway Corridor (also known as the Burlington Northern Railroad grade) parallels Highway 371 throughout the entire project corridor and in several places is immediately adjacent to the highway. The railway corridor, which is currently occupied by the Paul Bunyan Regional Trail, was identified as eligible for the National Register of Historic Places. All of the build alternatives, including the preferred alternative, impact the railway corridor. Up to 21,080 feet of the railway corridor will be potentially impacted. Mn/DOT has worked with the SHPO to determine the extent of permanent and direct impacts on the railway corridor and developed a MOA that includes mitigation stipulations. The MOA is included in Appendix B of the Final EIS. The MOA requires that Mn/DOT implement a Brainerd and Northern Minnesota Railway interpretation strategy that documents the location of the historic railway.

Based upon the analysis of the project alternative, it is determined that there are no feasible and prudent alternatives to the use of land from the Paul Bunyan Regional Trail, the Pine River Depot, and the Brainerd and Northern Minnesota Railway Corridor, and that the proposed action includes all possible planning and design to minimize harm to the Section 4(f) resources.

D. MEASURES TO MINIMIZE HARM

A variety of measures have been identified to mitigate social, economic, and environmental impacts associated with the construction of the Selected Alternative. The specific elements of the proposed mitigation plan are detailed in the SFEIS. Commitments typically include components that will be incorporated in the final design of the Selected Alternative and mitigation measures that will be implemented as part of the construction project. This project will comply with all federal and state laws and regulations which are applicable at the time of permitting.

All practicable measures to minimize environmental harm have been incorporated into the decision. These measures include the following:

Right-of-Way and Relocation

Relocation assistance will be offered to residential displacees in accordance with governing federal and state regulations. Mn/DOT has a relocation and right-of-way acquisition process that assures all right-of-way and relocation concerns are addressed in accordance with the U.S. Uniform Relocation and Real Property Acquisition Act of 1970, as amended (42 USC 4601).

Paul Bunyan Regional Trail

As stated above, the Paul Bunyan Trail will be impacted as a result of the Selected Alternative. Mn/DOT and Mn/DNR have agreed on the proposed use of portions of the existing trail and proposed mitigation strategies. The two agencies will continue to actively coordinate through the final design phase to define specific mitigation for each impact area to ensure the trail will be "made whole" as part of the highway reconstruction project.

Utilities

As the development of this project progresses, minimization measures will be considered to reduce potential impacts to local and regional utility systems. These efforts may include minor shifts in the alignment or alterations to the typical roadway cross-section.

Coordination is ongoing between Mn/DOT and the design team from Minnesota Power for the final configuration of a proposed 115 KV transmission line. This will ensure that the location and arrangement of the support structures are placed in such a way to not cause a major service disruption during construction or compromise the proposed Pequot Lakes Bypass alignment (e.g. minimize overlap of the road right-of-way and utility blow down zones).

Mitigation measures associated with the City's waste water spray irrigation system will be the responsibility of Pequot Lakes. On October 2, 2007 the City and Mn/DOT entered into an MOA that established that Pequot Lakes will be responsible for all relocation, reorientation or other mitigation measures required to maintain the function and capacity of this system. The details of this mitigation plan will be developed closer to the final design phase of this project and must be implemented prior to construction of the Pequot Lakes Bypass (see SFEIS Appendix A).

Historic Properties (Section 106)

Mn/DOT will carry out the commitments stipulated in the Section 106 Memorandum of Agreement for the Pine River Depot, Pequot Lakes Lookout Tower, and the Brainerd and Northern Minnesota Railway corridor.

Contaminated Properties

During the final design process, properties to be acquired will be investigated further for potential contaminated materials and to determine the extent and magnitude of contaminated soil or groundwater in the areas of concern. Evidence of contamination will be reported to MPCA and the current property owner. In addition, coordination and consultation with the MPCA VIC Unit, the Voluntary Petroleum Investigation and Cleanup Unit, the Petroleum Remediation Unit, and the Minnesota Department of Agriculture Voluntary Cleanup/Technical Assistance Program will take place as appropriate, to obtain assurances that contaminated site cleanup work, and/or contaminated site acquisition, will not result in long-term environmental liability for the contamination, and to obtain contaminated soil and/or groundwater handling and cleanup plan approval.

Excess Materials

The construction contractor(s) will adhere to state and local regulations and special provisions to ensure protection of wetlands and waterways in disposing unusable excavated material.

Surface Water Management and Water Quality

A detailed storm water pollution prevention plan (SWPPP) will be developed during the final design phase. This plan will be completed in accordance with the National Pollutant Discharge Elimination System (NPDES) Phase II permit requirements. Short-term and long-term best management practices will likely include: grassed swales with berms, wet swales, vegetated filter strips, rock ditch checks, rapid revegetation of exposed areas, infiltration basins, detention ponds, and curb and catch basins in urban design segments. These mitigation strategies will be used to provide water quality treatment of storm water runoff before it is discharged into receiving water bodies. Furthermore, construction in or near waterways and wetlands will be undertaken in accordance with Mn/DOT's Standard Specifications for Road and Bridge Construction and other

special provisions identified in the SWPPP and NPDES Phase II permit to minimize erosion and sedimentation.

Floodplains

The reconstruction of TH 371 North over Cullen Brook, Hay Creek, the unnamed flowage south of downtown Jenkins, the unnamed flowage north of downtown Jenkins, the Pine River, and Norway Brook will be designed to accommodate the 100-year flood stage by ensuring an acceptable clearance of road structures above the calculated 100-year flood elevation. Additional design features such as steeper side slopes and guardrail will be considered to minimize impacts to the above mentioned floodplains.

Wetlands

Wetland impacts will continue to be avoided or minimized through the final design phase to the extent possible, as mandated by both federal and state law. Compensatory replacement of wetland impacts will comply with federal guidelines under Section 404 of the Clean Water Act, as well as the replacement criteria described under the rules of the Minnesota Wetland Conservation Act.

Vegetation

Native plant communities have been identified within the project area. If there are unavoidable impacts to sites of concern, collection of native seeds from the sites or transplant options will be explored, along with use of harvested seeds and native prairie seed mixes for re-vegetation of disturbed areas in the right-of-ways of the highway and the Paul Bunyan Regional Trail.

Threatened and Endangered Species

The final design of the preferred alternative will include mitigation commitments in accordance with the USFWS Biological Opinion, as documented in the SFEIS.

E. MONITORING OR ENFORCEMENT PROGRAM

The proposed project is subject to further review by federal and state agencies and local units of government during final design and permitting. Several permits will be required prior to the commencement of construction. The review and permit processes will be implemented in cooperation with the appropriate regulatory agencies.

Additional specific monitoring and enforcement that will occur for the Highway 371 North Improvement Project includes:

- Erosion prevention, stormwater treatment, and dewatering monitoring, inspection, and reporting will be required during construction as part of the National Pollutant Discharge Elimination System permit requirements.
- In accordance with current requirements of the Section 404 permit and the Wetland Conservation Act approval process, Mn/DOT would be required to monitor project specific wetland restoration sites for a minimum of five years after restoration is complete. The purpose of wetland replacement monitoring is to ensure that the replacement wetland achieves the goal of replacing lost functions and values.

F. COMMENTS ON FINAL ENVIRONMENTAL IMPACT STATEMENT

Minnesota Rule 4410.2800, Subd. 2, establishes a ten day comment period for a Final EIS, to allow interested persons to submit written comments on the adequacy of the Final EIS. During

this comment period, a total of thirty one written comments (including letters and e-mails) from regulatory agencies, local governments, interest groups, elected officials, and private citizens were received. Twenty eight letters and e-mail messages were received from private citizens and three letters from regulatory agencies (the Minnesota Pollution Control Agency, U.S.Environmental Protection Agency, and the U.S. Department of Interior). Copies of all written comments received have been reviewed by Mn/DOT and FHWA and retained in the project files.

The substantive comments specific to the adequacy of the SFEIS content or process are summarized and responses provided below. No response is provided for comments consisting of statements of preference, statements of fact, general opinions, or comments agreeing with the project information. Many of the comments received addressed similar aspects of the SFEIS content or process. These have been summarized below and are responded to in common. Where appropriate, responses have been provided to specific, substantive comments.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

AUG 17 2010



ER 10/646

Mr. James Hallgren
Project Manager
Department of Transportation
7694 Industrial Park Road
Baxter, Minnesota 56425

Dear Mr. Hallgren:

As requested, the Department of the Interior (Department) has reviewed the Supplemental Final Environmental Impact Statement (SFEIS), with a revised final Section 4(f) Evaluation dated February 2010, for **improvements to TH-371, between Crow Wing County Road 19 in Nisswa to Cass County Road 2142 in the City of Pine River, Minnesota**. The Department offers the following comments and recommendations for your consideration.

Section 4(f) Comments

The Federal Highway Administration (FHWA) and the Minnesota Department of Transportation (MnDOT) propose improvements to Trunk Highway 371 (TH-371), Cass and Crow Wing Counties, Minnesota. The Preferred Alternative (Alternative 3MOD) generally follows the existing alignment with the exception of the Pequot Lakes Bypass. The new roadway will be a combination of urban and rural four-lane divided highway sections. The primary purpose for the project is for safety, traffic operation, and to address design deficiencies that characterize the existing highway corridor. The total length of the project corridor is approximately 16 miles.

An inventory of property types eligible to be considered under Section 4(f) of the Department of Transportation Act of 1966 (48 U.S.C. 1653(f)) was initially completed for the Draft EIS and was based on a review of preliminary construction limits. A final Section 4(f) Evaluation associated with the original Preferred Alternative, Alternative 2, was completed with the 2005 Final EIS. Since 2005, the Preferred Alternative for the project has changed in the Pequot Lakes area. The new Preferred Alternative (Alternative 3MOD) includes an easterly bypass around the city of Pequot Lakes, resulting in additional Section 4(f) impacts to two resources previously identified in the 2005 Section 4(f) Evaluation. These directly impacted resources are the Paul Bunyan Regional Trail and the Brainerd and Northern Minnesota Railway Corridor.

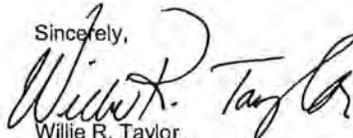
The Paul Bunyan Trail is a multi-purpose trail (bicycling, in-line skating, walking, and snowmobiling) that parallels the highway through the project area. The trail follows the former Burlington Northern Railroad grade, which has a 100-foot wide right-of-way, and is owned by the Minnesota Department of Natural Resources (MnDNR). The current Preferred Alternative will affect approximately four miles of the trail. Because the trail crosses the current highway and parallels the highway throughout the project area, any modification of the highway will affect the trail. In addition to the trail, the Brainerd and Northern Minnesota Railway Corridor (Burlington Northern Railroad grade), currently occupied by the Paul Bunyan Regional Trail, was determined to be eligible for the National Register of Historic Places. It represents a remnant of the railroad era that accelerated the expansion of the logging industry in northern Minnesota, promoted agriculture, enhanced tourism, and created a corridor for the growth of many small towns. The Department would concur with the determination that there are no feasible or prudent avoidance alternatives.

Several mitigation measures were proposed that would impact the Paul Bunyan Regional Trail. MnDOT agreed to relocate the trail corridor within the area impacted by the project to maintain the trail continuity throughout the project area. MnDNR has informally concurred with this mitigation approach. Other mitigation includes shifting the highway alignment or moving impediments to the existing trail to maintain the continuity. In addition, FHWA and MnDOT have determined that the project will have an adverse effect on the Brainerd and Northern Minnesota Railway Corridor. A Memorandum of Agreement (MOA) with the State Historic Preservation Officer (SHPO) was executed on the original impacts in January of 2005; and an amendment to the MOA was executed in July 2010 for the additional impacts associated with the new Preferred Alternative. The Department would concur that all possible planning needed to minimize potential harm to this resource has been employed.

The Department has a continuing interest in working with FHWA and MNDOT to ensure impacts to resources of concern to the Department are adequately addressed. For continued consultation and coordination with the issues concerning Section 4(f) resources, please contact Regional Environmental Coordinator Nick Chevance, Midwest Regional Office, National Park Service, 601 Riverfront Drive, Omaha, Nebraska 68102-4226; telephone 402-661-1844. We appreciate the opportunity to provide these comments.

1.

Sincerely,



Willie R. Taylor
Director, Office of the Environmental
Policy and Compliance

cc: (next page)

Mr. Derrell Turner

3

Mr. Derrell Turner
Division Administrator
Federal Highway Administration
380 Jackson Street, Suite 500
St. Paul, Minnesota 55101-4802

Response to comments by the United States Department of the Interior

1. Minnesota Department of Transportation will work with the Federal Highway Administration and Department of the Interior as this project moves toward implementation.

General Comments received from individuals:

Process/Procedural (7 Comments)

1. Several comments were submitted regarding the rationale that resulted in a change of preferred alternative since the 2005 FEIS/ROD.

Response: The Supplemental Final Environmental Impact Statement describes the process and rationale that led to Alternative 3MOD being selected as the preferred alternative, including: SFEIS Sections 1.1-Background Information: Process Leading to the Creation of This Document, 1.5- Reasons for Changing the Preferred Alternative, and 2.2 Purpose of Additional information is also found in SFEIS Appendix's A- Pequot Lakes Memorandum of Agreement with Mn/DOT, B- Highway 371 Alternative Route Study Group Report Executive Summary, and C- Pequot Lake City Council Resolutions. Section B of this ROD also summarizes the rationale for selecting Alternative 3MOD as the selected alterantive.

2. Comment regarding the participants of the Highway 371 Alternate Route Study Group.

Response: In January 2007, the Pequot Lakes City Council commissioned the Highway 371 Alternate Route Study Group consisting of members of the City Council and the Planning Commission. This group was established for the expressed purpose of studying the issues and impacts of a Highway 371 bypass of Pequot Lakes.

This study group met ten times between February and August 2007 to hear expert testimony and receive public feedback regarding a community bypass alignment. During these proceedings, Mn/DOT participated by developing conceptual bypass alignments, providing general guidance related to highway design standards, and participating in a public forum to discuss a possible bypass alignment. The process received excellent media coverage with at least one, and often two, local newspapers in attendance at each meeting. Throughout the process, the City made current information available on-line at www.highway371.info and provided routine email updates and reminders to anyone who signed up for them at this site. The Study Group received written comments and, at nearly every meeting, set aside time to receive feedback from stakeholders.

The results of this effort are documented in the Highway 371 Alternate Route Study Group Report.

3. One comment raised an issue with the public notification process followed for this project.

Response: Public notification and meetings for the EIS and SEIS processes (documented in the Draft EIS, Final EIS, SFEIS and previous ROD) have been provided consistent with state and federal environmental review process requirements. In addition, the project has been the subject of exceptional local newspaper coverage and controversy, further increasing public awareness of the project and opportunities for comment. Most recently, a draft version of the SFEIS was released for public review and comment in February/March 2010. The comment period for the draft SFEIS officially closed on April 16, 2010. Public Hearings were held on March 29, 2010 in Pequot Lakes and March 30, 2010 in Pine River. Legal Notices were published in the Brainerd Dispatch on March 9, 2010 and the Pine River Journal on March 11, 2010. There have been numerous articles in the Pine River Journal, Lake Country Echo, and Brainerd Dispatch. The final version of the SFEIS was released for public review and comment on July 26, 2010. Legal Notices were published in the Brainerd Dispatch on July 24, 2010. There were also numerous

articles regarding the SFEIS in the Pine River Journal, Lake Country Echo, and Brainerd Dispatch. The draft SFEIS comment period closed on August 9, 2010.

In addition to the EIS process, there was a public involvement component to the 2007 "Highway 371 Alternate Route Study Group Report," as described in the response to the previous comment/issue.

Right-of-Way/Property Impacts (3 Comments)

1. Comments regarding partial or full property acquisition included property owners against acquisition and general concern regarding the acquisition process of residential and commercial property. This includes access to adjacent property.

Response: Where possible, the preferred alternative has been modified to reduce right-of-way impacts. The properties that have been identified for acquisition are either directly impacted by the reconstruction project or are parcels where reasonable access cannot be maintained. Right-of-way acquisition will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and 49 CFR Part 24. Persons interested in obtaining additional information can contact the Mn/DOT District 3 Right-of-Way Engineer at 218.828.5801.

Statements of Preference (24 Comments)

1. Numerous comments were received stating a preference for whether or not the preferred alternative should remain on its existing alignment (Alternative 2) or should bypass the downtown district for the City of Pequot Lakes (Alternative 3 MOD).

Response: No response necessary for statements of preference.

Roadway Design (1 Comment)

1. One comment proposed a "compromised solution that would involve slowing traffic down to 30 mph, applying for federal funds to beautify downtown and holding Mn/DOT accountable for the City's portion of the infrastructure costs that would be incurred by the expansion project."

Response: The existing posted speed limit is 35mph. The 30 mph proposal would be counterproductive to one of the stated purpose and need components (facilitate traffic flow and reduce congestion).

Beautification of downtown Pequot Lakes is not an element of the purpose and need for the project.

Mn/DOT's ability to expend trunk highway funds for construction projects is limited to the State of Minnesota Constitution, Article XIV, section 2 and section 6, and by Minnesota Statutes 161.20 related to the construction, improvement and maintenance of the trunk highway system. Based on these legal limitations, a large portion of the infrastructure cost identified under Alternative 2(expansion on the existing alignment) are the city's responsibility.

Traffic and Safety (7 Comments)

1. Several comments expressed concern over the safety conditions of the existing roadway.

Response: The primary purpose for the Highway 371 North project is to address the safety issues, congestion, and design deficiencies that characterize the existing corridor. The proposed improvements will better serve the current and forecast traffic volumes and improve safety by reducing the number of direct access points onto the highway, improving roadway geometrics, and adding roadway capacity.

Economic/Business Impacts (7 Comments)

1. Several comments were concerned about the local economic impacts associated with a bypass of downtown Pequot Lakes.

Response: The potential economic impacts of a by-pass versus a through-city Highway 371 alternative were evaluated as part of the studies summarized in the Highway 371 Alternative Route Study Group Report commissioned by the City of Pequot Lakes. The findings of the studies indicate the proposed Pequot Lakes Bypass has the potential to result in both beneficial and adverse effects to the local economy of Pequot Lakes. These impacts will occur primarily as a result of changes in traffic patterns and right-of-way acquisitions.

The bypass alignment – identified by the City of Pequot Lakes Council resolution as the preferred alternative (see Section 1.1 of the SFEIS) – would remove a large portion of the through traffic from the downtown area where the Highway 371 currently exists. The Study noted that the potential economic impacts to the business community are dependent on several factors including:

- *Location of the existing business*
- *Type of business (traffic-serving vs. destination oriented)*
- *Future community land use decisions*
- *The community and individual business action to proactively address changes*

The Study indicated that adverse economic impacts associated with the Pequot Lakes Bypass may include the potential loss of property tax revenue for the City, school district, and Crow Wing County, through the conversion of private property to non-taxable public property. A complete tax-base analysis was included in the September, 2007 “Alternate Route Study Group Report.”

The Study also concluded that long-term positive economic effects may include opportunities for implementation of planned development adjacent to the bypass and improved traffic flow. The reduction of truck traffic and overall congestion in downtown Pequot Lakes would provide a more accessible and pedestrian-friendly environment that may result in economic benefits.

The Highway 371 Alternate Route Study also found that ‘while there is certain to be impacts to individual businesses before, during and after the construction of the alternate route, compelling evidence exists that the overall impact to businesses and the City’s tax base would be positive. There were no indications that an alternate route would be destructive to the economic health of the City of Pequot Lakes, and substantial evidence to the contrary.’

The Study also found that the direct costs that the City would incur during the project would be substantially less for the alternate route than for the through-city alternative.

2. Numerous comments suggested constructing Highway 371 as a four-lane divided highway on the existing alignment would further divide the Pequot Lakes business district.

Response: The preferred alternative does not include expansion of the existing alignment through the Pequot Lakes business district.

Environmental/Natural Resource (3 Comments)

1. One comment, including pictures, claimed the presence of a pond (not identified in the SFEIS) that may be affected by the proposed project.

Response: Mn/DOT was not granted access to the property to verify the size and/or features of the pond noted in this comment. However, based on a review of the photos provided by the commenter, the basin appears to be approximately 0.05 acre in size and vegetated with mostly watercress, red canary grass and some tussock sedge, although species identification is very difficult from a picture. Mn/DOT will inventory and map the location of wetlands/water bodies on this property to determine impacts and explore avoidance, minimization, and mitigation measures when access to this property can be obtained.

2. One comment claimed the presence of Blanding's Turtle, a Threatened Species in Minnesota, on their property.

Response: Blanding's turtles are a state Threatened Species. Mn/DOT was not granted access to the property to verify the presence of Blanding's turtles. Some areas of the State have been designated as priority protection areas where large populations exist. This project is not in or near a priority area. The MnDNR guidelines and recommendations to protect turtles during construction will be followed.

3. One comment identified potential impacts to management activities on forested and open space land that would be bisected by the proposed bypass.

Response: The proposed bypass will bisect a few forested parcels. Based on available information, large tracts of managed forest land would not be affected. Some of the land is currently in young plantation, agricultural or equestrian uses. Issues related to access to bisected properties will be addressed through the right of way acquisition process.

Costs (3 Comments)

1. Several comments questioned the cost effectiveness of the preferred alternative.

Response: Mn/DOT assesses project cost effectiveness through a benefit-cost ratio analysis process, where a benefit-cost ratio of 1.0 indicates a 'break-even' point, and values greater than 1.0 indicating greater benefits. The SFEIS (Section 1.7 and Appendix R) included the results of the benefit-cost analysis for Alternative 3MOD, indicating a positive benefit-cost ratio of 3.5 for the entire corridor from Nisswa to Pine River.

Pedestrian Safety (1 Comment)

1. One comment raised concerns regarding a safe crossing of the Paul Bunyan Trail where it would cross the proposed Highway 371 bypass alignment.

Response: The proposed Highway 371 crossing of the Paul Bunyan Trail will be grade separated as agreed to with the MNDNR.

Miscellaneous Comments (4 Comments)

1. Several comments expressed concern regarding construction impacts including noise, utilities, and traffic delays.

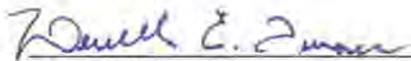
Response: Construction activities can create short-term adverse impacts on local streets, intersections, and surrounding properties. Measures will be taken to limit impacts connected with construction activities including preparation of a construction-staging plan.

2. Several comments suggested constructing Highway 371 as a four-lane divided highway on the existing alignment would adversely affect community events at the park.

Response: The preferred alternative does not include expansion of the existing alignment through the Pequot Lakes.

CONCLUSION

The selection of Alternative 3MOD (Existing Alignment with a Pequot Lakes Bypass), to construct an approximately 16-mile, four-lane divided, controlled-access highway that bypasses the City of Pequot Lakes was made after careful consideration of all social, economic, and environmental factors, with input from the municipalities; local, state and Federal agencies; and the public.



Derrell Turner
Division Administrator
Federal Highway Administration

10/21/10
Date