

# Appendix D

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Revised Final Section 4(f) Evaluation

# **HIGHWAY 371 NORTH IMPROVEMENT PROJECT**

## **REVISED FINAL SECTION 4(f) EVALUATION**

February 2010

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## 1.0 PURPOSE OF SECTION 4(f) EVALUATION

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

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

Additional protection is provided for outdoor recreational lands under the Section 6(f) legislation (16 USC 4602-8(f) (30)) where Land and Water Conservation funds were used for the planning, acquisition, or development of the property. These properties may be converted to highway use, but only if replacement land of the same fair market value and equal usefulness is made available. No Section 6(f) properties have been identified within the Highway 371 project area.

The purpose of this Revised Final Section 4(f) Evaluation is to document the information ultimately required by FHWA to make a decision regarding the use of properties protected by Section 4(f) legislation proposed for acquisition.

This document describes all identified Section 4(f) properties which may be acquired or partially acquired for the proposed Trunk Highway (Highway) 371 North reconstruction project, potential impacts on those properties, and mitigation measures to minimize impacts.

The Section 4(f) process requires that any impacts from the use of a park, recreation area, historic site, or wildlife or waterfowl refuge for highway purposes be evaluated in context with the proposed highway construction/reconstruction activity.

An inventory of these property types was initially completed for the Draft Environmental Impact Statement (DEIS) and was based on a review of preliminary construction limits. A Final Section 4(f) Evaluation completed during the 2005 Final Environmental Impact Statement (FEIS) phase further documented effects associated with Alternative 2, the original preferred alternative.

## **Revised Section 4(f) Evaluation – February 2010**

Since the completion of the FEIS and Final Section 4(f) Evaluation in 2005, the preferred alternative for the Highway 371 project has changed in the Pequot Lakes area. A description of the revised preferred alternative (Alternative 3MOD) and discussion of the reasons for the revision are described in the 2010 Supplemental Final Environmental Impact Statement (SFEIS) document. The new preferred alternative includes an easterly bypass around Pequot Lakes, which will result in additional Section 4(f) impacts to two resources previously identified in the 2005 Final Section 4(f) Evaluation for the project. These impacts are discussed in Section 4.0.

A large portion of this Section 4(f) Evaluation document is unchanged from its original (2005) form. All findings contained in the 2005 Final Section 4(f) Evaluation remain valid unless specifically addressed in this document.

## **2.0 DESCRIPTION OF PROPOSED ACTION AND NEED FOR PROJECT**

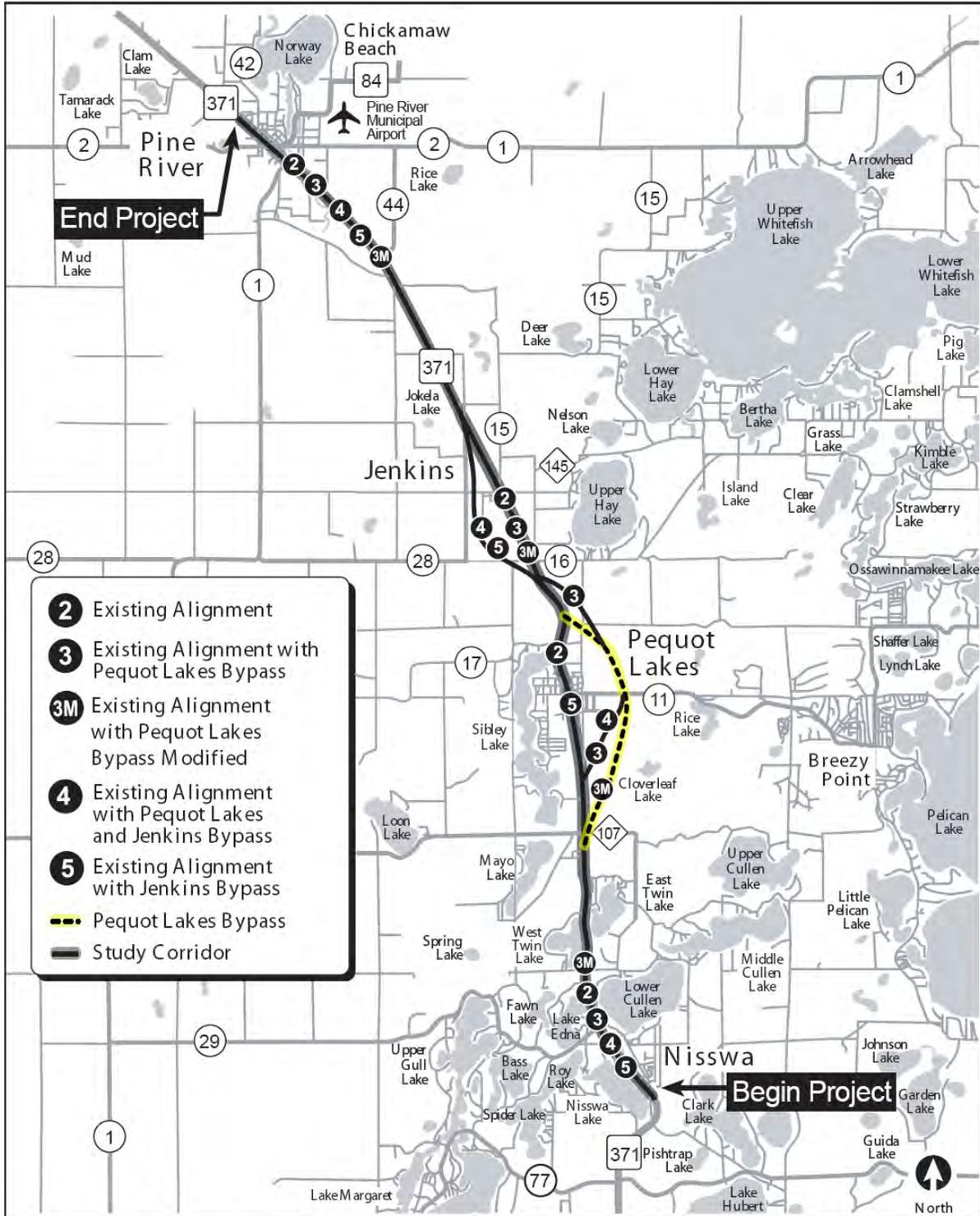
The Minnesota Department of Transportation (Mn/DOT) proposes improvements to Highway 371, in Cass County and Crow Wing County, Minnesota. The project limits extend from the intersection of Highway 371 and Crow Wing County State Aid Highway (CSAH) 18 in Nisswa to the intersection of Highway 371 and Cass County Road (CR) 2/42 in the City of Pine River, Minnesota (see Figure B-1 for an illustration of all the build alternatives considered in the EIS process).

The total length of the project corridor is approximately 16 miles. 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. A detailed description of the proposed improvements is presented in Section 3.0 of the Highway 371 North SFEIS.

The primary purpose for the Highway 371 North Improvement Project is to address the safety, traffic operation, and design deficiencies that characterize the existing highway corridor. A complete description of the project purpose and need was presented in Section 2.5 of the Highway 371 North DEIS.

A brief description of each alternative considered in the DEIS is provided below. A more detailed description of the alternatives is provided in Section 3.0 of the Highway 371 North DEIS and SFEIS.

Figure B-1 Build Alternatives



<p><b>Highway 371 North Improvement Project</b>  <b>Revised Final Section 4(f) Evaluation</b></p>	<p><b>Figure B-1</b>  <b>Build Alternatives</b></p>	 <p><b>February</b>  <b>2010</b></p>
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### **Alternative 1 – No-Build Alternative**

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

### **Alternative 2 – Existing Alignment – Original Preferred Alternative**

This alternative would reconstruct Highway 371 as a four-lane roadway primarily on its existing alignment from CSAH 18 in Nisswa to CR 2/42 in Pine River.

### **Alternative 3 – Existing Alignment with a Pequot Lakes Bypass**

This alternative would reconstruct Highway 371 as a four-lane roadway on its existing alignment from CSAH 18 in Nisswa to just north of CR 107/168. 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 0.5 miles east of the existing Highway 371/CSAH 11 intersection. The bypass would continue north and cross CSAH 16 approximately 0.3 miles east of the existing Highway 371/CSAH 16 intersection. The bypass alignment then returns to the existing Highway 371 corridor on the south edge of downtown Jenkins and continues along the existing alignment through the Jenkins and Pine River areas.

### **Alternative 3MOD – Existing Alignment with a Pequot Lakes Bypass – Preferred Alternative**

This build alternative would reconstruct Highway 371 as a four-lane roadway on its existing alignment from CSAH 18 in Nisswa to just south of CR 107/168. 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 0.5 miles east of the existing Highway 371/CSAH 11 intersection. Additional right-of-way will be purchased in the area of the Highway 371/CSAH 11 intersection for purposes of accommodating a future interchange. The bypass would continue north and converge back to the existing Highway 371 alignment approximately 1.5 miles south of the existing Highway 371/CSAH 16 intersection and continue along the existing alignment through Jenkins to CR 2/42 in Pine River.

### **Alternative 4 – Existing Alignment with a Pequot Lakes Bypass and Jenkins Bypass**

This alternative would reconstruct Highway 371 as a four-lane roadway on its existing alignment from CSAH 18 in Nisswa to just north of CR 107/168. 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 0.5 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 CR 15/115 approximately 0.3 miles west of the existing Highway 371/CR 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.

### **Alternative 5 – Existing Alignment with a Jenkins Bypass**

This alternative would reconstruct Highway 371 as a four-lane roadway on its existing alignment from CSAH 18 in Nisswa to just south of CSAH 16 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 CR 15/115 approximately 0.3 miles west of the existing Highway 371/CR 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.

## **3.0 POTENTIAL SECTION 4(f) RESOURCES IN THE PROJECT AREA**

The first step in completing the Section 4(f) Evaluation was to conduct a comprehensive review to determine all potentially affected Section 4(f) and Section 6(f) resources in the study area. Based on a field review, research of available databases and documents, and the results of the historical and archaeological evaluations, the following potential Section 4(f) resources were identified in the Draft Section 4(f) Evaluation. A determination as to whether the impacts of the proposed improvements would constitute a Section 4(f) use is also included in the description of each resource. There were no Section 6(f) properties identified in the project area.

### **Paul Bunyan Regional Trail**

The Paul Bunyan Regional Trail is a multi-purpose trail owned and operated by the Minnesota Department of Natural Resources (DNR) that follows the former Burlington Northern Railroad grade. The Trail parallels Highway 371 throughout the entire project corridor and in several places is immediately adjacent to the highway. Each of the five build alternatives would directly impact the trail property and as a result it is addressed as a Section 4(f) resource.

### **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 railroad corridor, which is currently occupied by the Paul Bunyan Regional Trail, was identified as eligible for the National Register of Historic Places (NRHP). Each of the five build alternatives would directly

impact the railroad corridor and as a result it is addressed as a Section 4(f) resource.

### **Molstad Property**

The Molstad property is located on the east shore of Nisswa Lake west of the Highway 371 corridor. The property, which is privately owned, was identified as eligible for the NRHP. Based on the assessment of the proposed highway improvements, the Molstad property would not be directly impacted by any of the alternatives.

### **Drew Cabins**

The Drew Cabins are located on the west shoreline of Lower Cullen Lake immediately east of the Paul Bunyan Regional Trail and the Highway 371 corridor. The property, which is privately owned, was identified as eligible for the NRHP. Based on the assessment of the proposed highway improvements, the Drew Cabins would not be directly impacted by any of the alternatives.

### **Pequot Fire Lookout Tower**

The Pequot Fire Lookout Tower is located approximately one-half mile east of downtown Pequot Lakes and immediately north of CSAH 11. The structure, which is owned by the DNR, has been identified as eligible for the NRHP. Based on the assessment of the proposed highway improvements, the Pequot Fire Lookout Tower would not be directly impacted by any of the alternatives including Alternative 3MOD.

### **Bobberland Park**

Bobberland Park is located in downtown Pequot Lakes along the east edge of Highway 371. The park, which is owned by the City of Pequot Lakes, was developed on the site of the former railroad lines and switching yards and is a focal point for community activities throughout the year. The Paul Bunyan Regional Trail also extends through the park and a trailhead parking lot and visitor center building is located in the southern portion of the park. Alternatives 2 and 5, from the DEIS, include expanding Highway 371 through downtown Pequot Lakes. However, the park property would not be directly impacted by any of the Highway 371 Build alternatives. Highway improvements associated with Alternative 3MOD will be located nearly 0.5 miles east of Bobberland Park.

### **Jenkins Park**

Jenkins Park is located in downtown Jenkins in the southeast corner of the Highway 371/CR 15 intersection. The Park, which is owned by the City of Jenkins, provides recreational opportunities including play equipment and picnic facilities for park users. Alternatives 2 and 3, from the DEIS, include expanding Highway 371 through downtown Jenkins. However, based on the assessment of the proposed highway improvements, the park property would not be directly impacted by either alternative.

### **Edna Lake Boat Landing**

The Edna Lake boat landing is located west of Highway 371 on the northeast corner of Edna Lake. The landing, which is owned by the DNR, provides lake access for area residents and tourists. Based on the assessment of the proposed highway improvements, the Edna Lake boat landing would not be directly impacted by any alternative.

### **East Twin Lake Boat Landing**

The East Twin Lake boat landing is located east of Highway 371 on the northwest corner of East Twin Lake. The landing, which is owned by the DNR, provides lake access for area residents and tourists. Based on the assessment of the proposed highway improvements, the East Twin Lake boat landing would not be directly impacted by any alternative.

### **Pine River Depot**

The Pine River Depot was located at the intersection of Highway 371 and Highway 84 in downtown Pine River. The Depot was constructed to service the Brainerd and Northern Minnesota Railway and was previously determined to be eligible for listing in the NRHP. As documented in the DEIS, each of the five build alternatives considered would have directly impact the Depot and as a result it was addressed as a Section 4(f) resource.

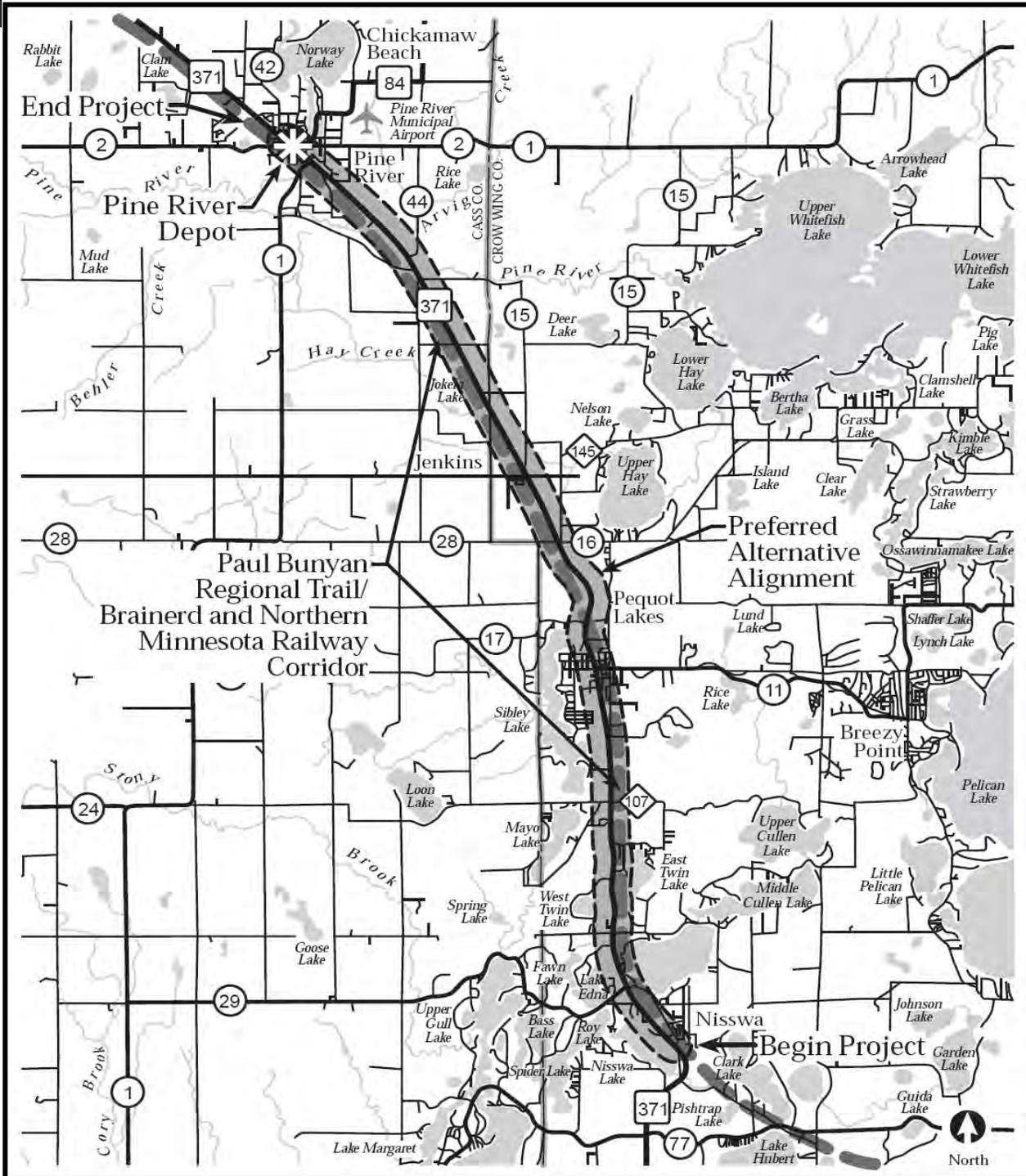
As part of the 2005 FEIS and Final Section 4(f) Evaluation, a Memorandum of Agreement (MOA) was executed that defined several mitigation stipulations associated with impacts to the depot. An amendment to the original MOA has also been executed that further defines the mitigation. The majority of these mitigation stipulations have been 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 already having been relocated to a new site, the Pine River Depot would no longer be directly impacted by any alternative and, therefore, impacts to the Depot are not discussed in detail in this Section 4(f) Evaluation.

## **4.0 ASSESSMENT OF AFFECTED SECTION 4(f) RESOURCES**

Of the resources described above, the Paul Bunyan Regional Trail and Brainerd and Northern Minnesota Railway Corridor are the only Section 4(f) resources that will be directly impacted by the proposed project. As stated above, the Pine River Depot is no longer considered a Section 4(f) use because the depot has been relocated to a new site that would not be directly impacted by the project. These resources are shown in Figure B-2 and further discussed in this section.

Figure B-2 – Section 4(f) Resources Impacted by Alternative 3MOD



**Highway 371 North Improvement  
Project Revised Section 4(f) Evaluation**

**Figure B-2  
Section 4(f) Resources  
Impacted by Alternative 3MOD**

  
**February  
2010**

## **Paul Bunyan Regional Trail**

The Paul Bunyan Trail is a multi-purpose trail that parallels Highway 371 throughout the entire project corridor and in several places is immediately adjacent to the highway. The trail primarily follows the former Burlington Northern Railroad grade (see Figure B-3 and Figures A1 through A14 in Appendix I of the SFEIS).

### Location and Size

At the south end of the project corridor, the trail runs through downtown Nisswa and is located east of Highway 371. Between Nisswa and Pequot Lakes, the distance the trail is set back away from the highway varies from being immediately adjacent to the highway to being several hundred feet east of the highway. The trail crosses over Highway 371 on a bridge at the north end of Pequot Lakes. From this point, the trail parallels the west side of the highway to the northern limits of the proposed improvement project in Pine River. The width of right-of-way for the trail varies depending on if the trail is located in a rural area versus an urban area. Through the project area, the Paul Bunyan Regional Trail has generally a 100 foot wide right-of-way.

### Ownership and Type of Section 4(f) Property

The trail corridor was purchased by the DNR using state funds.

### Function of Available Activities on the Property

The trail provides an array of recreational opportunities, including bicycling, in-line skating, walking, and snowmobiling. Plans are currently underway to connect the Paul Bunyan Trail to the Heartland State Trail, which runs between Park Rapids and Cass Lake.

### Description and Location of All Existing and Planned Facilities

The approximately 100-mile long trail includes 54 miles of paved surface between Baxter and Hackensack and 5.5 miles between Lake Bemidji State Park and Beltrami County Road 20. The remaining portions are undeveloped with variable surface material.

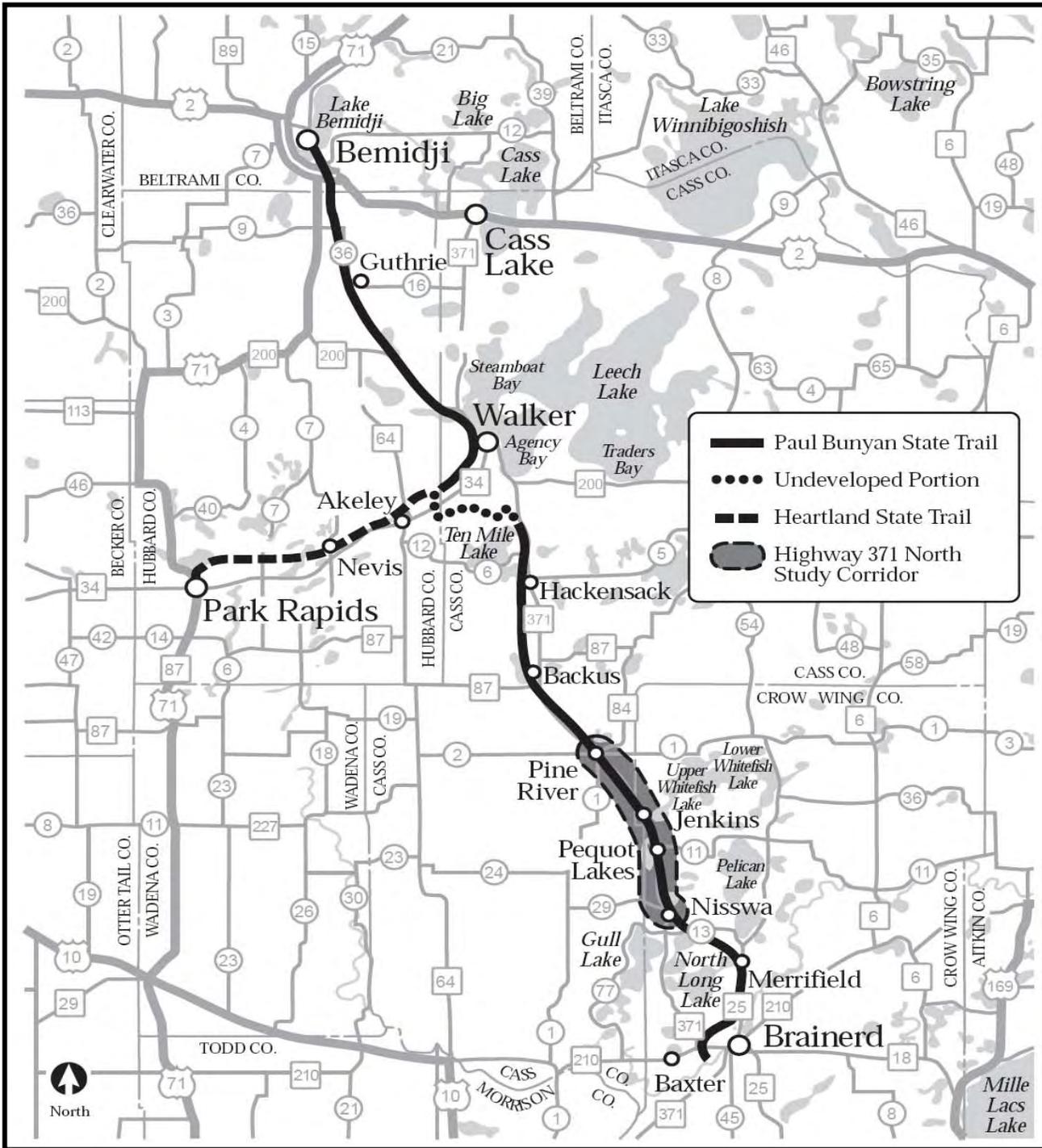
### Access

Currently, there is access to the trail at crossings with public roads and at trailheads located within the cities of Nisswa, Pequot Lakes and Pine River.

### Relationship to Other Similarly Used Lands in the Vicinity

Several local trail systems are located throughout the Brainerd Lakes Area. However, the Paul Bunyan Trail is the only regional trail that provides connections between several towns. The Paul Bunyan Regional Trail is planned to be connected to the Heartland Regional Trail in the City of Walker (see Figure B-3), which is located approximately 30 miles north of Pine River.

Figure B-3 – Paul Bunyan Regional Trail Location Map



**Highway 371 North Improvement Project  
Revised Section 4(f) Evaluation**

**Figure B-3  
Paul Bunyan  
Regional Trail**



### Applicable Clauses Affecting the Ownership

The Paul Bunyan Regional Trail corridor is owned by the DNR.

### Unusual Characteristics of the Section 4(f) Property That Either Reduce or Enhance the Value of All or Part of the Property

The Paul Bunyan Regional Trail is an unusual property in that it is a large resource that provides a variety of recreational opportunities on a regional basis.

### **Impacts to the Paul Bunyan Regional Trail**

Throughout the Highway 371 project corridor, portions of right-of-way from the Paul Bunyan Regional Trail will be encroached upon and impacted by the expansion of the highway and/or reconfiguration of local roadways. Table 1 lists the approximate lengths of trail that would be impacted by alternative.

**Table 1- Potential Paul Bunyan Trail Impact by Alternative**

<b>Alternative</b>	<b>Length of Trail Impact (feet)</b>
Alternative 1 – No Build	0
Alternative 2 – Existing Alignment	19,550 <sup>1</sup>
Alternative 3 – Existing Alignment with a Pequot Lakes Bypass	32,930
Alternative 3 MOD – Existing Alignment with a Pequot Lakes Bypass	21,080 <sup>1</sup>
Alternative 4 – Existing Alignment with Pequot Lakes and Jenkins Bypasses	25,460
Alternative 5 – Existing Alignment with Jenkins Bypass	26,110

<sup>1</sup>Since the FEIS was released in 2005, direct impacts to the existing trail alignment have been better defined through the development of more detailed geometric layouts. The layouts for Alternative 2 and Alternative 3MOD have been developed to this level of detail; contributing to the large impact difference noted in Table 1. The remaining alternatives were not carried forward from the DEIS and have not been developed beyond the conceptual level.

Trail impacts related specifically to the new configuration of the Pequot Lakes bypass include an additional 1,530 feet of realignment over those identified in the original (2005) preferred alternative (Alternative 2). Alternative 2 proposed no direct impacts to the trail in the Pequot Lakes bypass area. The total length of trail impacts associated with the entire alignment of Alternative 3MOD is 21,080 feet. The following list provides a detailed breakdown of impact areas associated with the preferred alternative (Alternative 3MOD):

- Wilderness Ridge Road to East Twin Lake – The trail is shifted east for approximately 5,430 feet to accommodate the realignment of Highway 371 to improve the sub-standard curve at the CR 29/107 intersection. The trail will continue to travel parallel to the Highway 371 alignment

west of the wetland immediately south of CR 107. (See Figure A3 in Appendix I of the SFEIS)

- CR 107 Intersection with Pequot Lakes Bypass – Alternative 3MOD includes the realignment of Highway 371 in an easterly direction in order to create the Pequot Lakes bypass. By doing so, the new highway alignment will intersect the existing trail alignment and result in the need for 1,530 feet of trail realignment at this location. [This realignment was not needed for Alternative 3.] However, the overall use of the trail facility would not be affected, since the trail corridor at this location will be perpetuated by the trail re-alignment, including construction of a trail-bridge structure that spans over the proposed Highway 371 alignment. (See Figure A4 in Appendix I of the SFEIS)
- CSAH 16 to CR 15 – In order to accommodate the widened highway and trail through downtown Jenkins, approximately 11,420 feet of the trail will be shifted to the west. (See Figures A8 through A10 in Appendix I of the SFEIS)
- Pine River Crossing – The trail will be realigned slightly for approximately 1,000 feet near the crossing of the Pine River. The alignment will continue to utilize the existing trail bridge. (See Figure A12 in Appendix I of the SFEIS)
- Downtown Pine River/Highway 84 intersection – A minor shift in the trail alignment will be required for approximately 1,700 feet to maintain a minimal setback from the highway and provide a safe crossing at the Barclay Avenue intersection. (See Figure A14 in Appendix I of the SFEIS)

### **Paul Bunyan Regional Trail Avoidance Alternatives**

Section IV of the Highway 371 North Scoping Document considered a full range of alternatives to address existing and forecasted Highway 371 issues and needs. The document included an assessment of alternatives that would include capacity expansion on a new highway corridor, which would have provided partial or complete avoidance of impacting the Paul Bunyan Regional Trail. These new highway corridor alternatives were dismissed from further consideration in Section V of the Scoping Decision Document because they failed to address the project purpose and need objectives of improving capacity, safety, design deficiencies, and mobility and connectivity concerns associated with the existing Highway 371 alignment.

Alternative 1 (No-Build), as presented in the DEIS, would avoid any impacts to the Paul Bunyan Regional Trail. However, this alternative does not address the project purpose and need objectives. Due to physical constraints associated with lakes, wetlands, residences and businesses throughout the study corridor, it was determined that none of the build alternatives could completely avoid direct impacts to the trail corridor. Therefore, there are no practical avoidance measures.

## **Measures to Minimize Harm to the Paul Bunyan Regional Trail**

During the final design phase, efforts will be made to further minimize impacts to the trail. However the wetlands, steep slopes, and developments along the entire corridor will limit the feasibility for substantial minimization efforts beyond that currently included in the preferred alternative.

To mitigate impacts to the Section 4(f) property, Mn/DOT is proposing to relocate the trail corridor within the area impacted by the project and immediately adjacent to disturbed sections of the trail. This will maintain the continuity of the recreational trail corridor throughout the project area. The DNR has informally concurred with this mitigation approach. (See correspondence in Appendix F of the SFEIS)

Since completion of the Draft Section 4(f) Evaluation, efforts have been made to design the preferred alternative in a manner that further minimizes impacts to the Paul Bunyan Regional Trail. Locations of trail impact minimization efforts include:

- Lower Cullen Lake Area; removed a portion of a frontage road that previously impacted the trail.
- Downtown Jenkins; shifted the highway alignment east to enable the trail to remain adjacent to the highway and not require a trail bypass route.
- South of Norway Brook; shifted highway alignment east to allow trail to maintain its existing alignment.
- Downtown Pine River; shifted the highway alignment east to reduce length of trail realignment near the intersection of Highway 371 and Barclay Avenue.

The presence of wetlands, steep slopes, residences and businesses along the entire corridor limit the feasibility for substantial minimization beyond what has been included in the preferred alternative.

## **Paul Bunyan Regional Trail Coordination**

To minimize harm and mitigate impacts to the Section 4(f) property, Mn/DOT has been working with the DNR to ensure the trail and its function are replaced in whole by Mn/DOT at no cost to the DNR.

On June 30, 2004, Mn/DOT prepared a Paul Bunyan Trail Impact and Mitigation Letter of Understanding. The purpose of the letter was to document the process to be followed by Mn/DOT and the DNR in addressing impacts to the trail as a result of the preferred alternative. In response, the DNR issued a letter of concurrence stating the DNR is in agreement with Mn/DOT on the proposed Section 4(f) use of the Paul Bunyan Trail facility as part of the Highway 371 North Improvement Project.

In January 2008, the DNR was presented the changes and trail impacts associated with Alternative 3MOD. On July 23, 2008 the DNR issued a letter of concurrence regarding changes associated with Alternative 3MOD. The

letter also stated the explicit condition that the intersection of the Paul Bunyan Trail and the Highway 371 bypass alignment must be grade separated. (See Appendix F of the SFEIS) This has been incorporated into the project design (see Figure A5 in Appendix I of the SFEIS).

The two agencies will continue to actively coordinate during final design to define specific mitigation for each impact area to ensure the trail facility continuity will be maintained as part of the highway reconstruction project.

### **Conclusion**

Based upon the above considerations, it is determined that there is no feasible and prudent alternative to the use of land from the Paul Bunyan Trail, and the proposed action includes all possible planning to minimize harm to the Paul Bunyan Regional Trail resulting from such use.

### **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. The railway corridor, which is currently occupied by the Paul Bunyan Regional Trail, was identified as eligible for the NRHP under Criterion A in the area of transportation.

#### Location and Size

The Railway corridor is illustrated on Figure B-2 and Figures A1 through A15 in Appendix I of the SFEIS. At the south end of the project corridor, the railway corridor runs through downtown Nisswa and is located east of Highway 371. Between Nisswa and Pequot Lakes, the distance the railway corridor is set back away from the highway varies from being immediately adjacent to the highway to being several hundred feet east of the highway. The railway corridor crosses over the highway at the north end of downtown Pequot Lakes. From this point, the railway corridor parallels the west side of the highway to the northern project limits in the City of Pine River. Currently, there is access to the railway corridor and regional trail via the existing Highway 371 alignment and at trailheads located within the cities of Nisswa, Pequot Lakes and Pine River. The width of right-of-way for the corridor varies considerably depending on location (rural area versus urban areas). Through the project area, the corridor has generally a 100 foot wide right-of-way.

#### Ownership and Type of Section 4(f) Property

The railway corridor is owned by the DNR and used as a regional trail.

#### Function of Available Activities on the Property

The railway corridor is currently occupied by the Paul Bunyan Regional Trail, which provides an array of recreational opportunities, including bicycling, in-line skating, walking, and snowmobiling. Plans are currently underway to connect the Paul Bunyan Trail to the Heartland State Trail, which runs between Park Rapids and Cass Lake.

### Description and Location of All Existing and Planned Facilities

The Paul Bunyan Trail that occupies the Brainerd and Northern Minnesota Railway Corridor is approximately 100-mile long and includes 54 miles of paved surface between Baxter and Hackensack and 5.5 miles between Lake Bemidji State Park and Beltrami County Road 20. The remaining portions are undeveloped with variable surface material.

### Access

Access to the trail (railway corridor) at crossings with public roads and at trailheads located within the cities of Nisswa, Pequot Lakes and Pine River.

### Relationship to Other Similarly Used Lands in the Vicinity

The Brainerd and Northern Minnesota Railway Corridor is the only historic railroad corridor within the project area. An abandon Great Northern Railway corridor is located approximately 30 miles north near the City of Walker and is currently occupied by the Heartland State Trail.

### Applicable Clauses Affecting the Ownership

The Brainerd and Northern Minnesota Railway Corridor is owned by the DNR.

### Unusual Characteristics of the Section 4(f) Property That Either Reduce or Enhance the Value of All or Part of the Property

The railway corridor is owned by the DNR and is used as a regional trail.

### **Impacts to the Brainerd and Northern Minnesota Railway Corridor**

Throughout the project corridor, portions of right-of-way from the Brainerd and Northern Minnesota Railway Corridor, which is occupied by the Paul Bunyan Trail, will be encroached upon and impacted by the expansion of the highway. Impacts to the railway corridor have been determined to be an adverse effect on the historic property. Table 2 lists the approximate length of the railway corridor that would be impacted for each build alternative.

**Table 2 - Potential Brainerd & Northern Minnesota Railway Corridor Impact by Alternative**

<b>Alternative</b>	<b>Length of Railway Corridor Impact (ft)</b>
Alternative 1 – No Build	0
Alternative 2 – Existing Alignment	19,550 <sup>1</sup>
Alternative 3 – Existing Alignment with a Pequot Lakes Bypass	32,930
Alternative 3 MOD – Existing Alignment with a Pequot Lakes Bypass	21,080 <sup>1</sup>
Alternative 4 – Existing Alignment with Pequot Lakes and Jenkins Bypasses	25,460
Alternative 5 – Existing Alignment with Jenkins Bypass	26,110

<sup>1</sup>Since the FEIS (2005), direct impacts to the existing trail alignment have been better defined through the development of a detailed geometric layout. The layouts for Alternative 2 and Alternative 3MOD have been developed to this level of detail; contributing to the large impact difference noted in Table 1. The remaining alternatives were not carried forward from the DEIS and have not been developed beyond the conceptual level.

The Brainerd and Northern Minnesota Railway Corridor impacts related specifically to the new configuration of the Pequot Lakes bypass include impacts to an additional 1,530 feet of existing corridor over those identified in the original (2005) preferred alternative (Alternative 2). Alternative 2 proposed no direct impacts to the corridor in the Pequot Lakes bypass area. The impacts associated with the entire alignment of Alternative 3MOD are 21,080 feet. These impacts correlate directly to the impacts to the Paul Bunyan Regional Trail. The following list provides a detailed breakdown of impact areas associated with the preferred alternative:

- Wilderness Ridge Road to East Twin Lake – The railway corridor will be impacted for approximately 5,430 feet to accommodate the realignment of Highway 371 to improve the sub-standard curve at the CR 29/107 intersection. The trail and railway corridor will continue to travel parallel to the Highway 371 alignment west of the wetland immediately south of County Road 107. (See Figure A3 in Appendix I of the SFEIS)
- CR 107 Intersection with Pequot Lakes Bypass - Alternative 3MOD includes the realignment of Highway 371 in an easterly direction in order to create the Pequot Lakes bypass. By doing so, the new highway alignment will intersect the existing railway corridor and result in an additional 1,530 feet of impact over those identified by the original preferred alternative (Alternative 2).
- CSAH 16 to CR 15 – In order to accommodate the widened highway and trail through downtown Jenkins, approximately 11,420 feet of the railway corridor will be impacted. (See Figures A8 through A10 in Appendix I of the SFEIS)
- Pine River Crossing – The railway corridor will be affected for approximately 1,000 feet near the crossing of the Pine River. The railway corridor will continue across the existing trail bridge. (See Figure A12 in Appendix I of the SFEIS)
- Downtown Pine River/Highway 84 intersection – A minor impact to the railway corridor will occur for approximately 1,700 feet to maintain a minimal trail setback from the highway and provide a safe crossing of Barclay Avenue.

### **Brainerd and Northern Minnesota Railway Corridor Avoidance Alternatives**

Section IV of the Highway 371 North Scoping Document considered a full range of alternatives to address existing and forecasted Highway 371 issues and needs. The document included an assessment of alternatives that would include capacity expansion on a new highway corridor, which would have provided partial or complete avoidance of impacting the Brainerd and Northern Minnesota Railway corridor. These new highway corridor alternatives were dismissed from further consideration in Section V of the Scoping Decision Document because they failed to address the project

purpose and need of improving capacity, safety, design deficiencies, and mobility and connectivity concerns associated with existing Highway 371.

Alternative 1 (No-Build), as presented in the DEIS, would avoid any impacts to the railway corridor. However, this alternative also does not address the project purpose and need objectives. Due to physical constraints associated with lakes, wetlands, residences and businesses throughout the study corridor, it was determined that none of the build alternatives considered could completely avoid direct impacts to the railway corridor. Therefore, there are no practical avoidance measures.

### **Potential Measures to Minimize Harm to the Brainerd and Northern Minnesota Railway Corridor**

During the final design phase, efforts will be made to further minimize impacts to the railway corridor to the extent practical. However, the presence of wetlands, steep slopes, residences and businesses along the entire corridor will limit the feasibility for substantial minimization efforts beyond what has already occurred.

Mn/DOT and FHWA have worked with SHPO and Heritage Group North (a local citizen's group) to determine the extent of permanent and direct impacts on the railway corridor and developed a MOA that includes mitigation stipulations. (see Appendix G of the SFEIS) The MOA requires that Mn/DOT implement a Brainerd and Northern Minnesota Railway interpretation strategy that documents the location of the historic railway.

### **Brainerd and Northern Minnesota Railway Corridor Coordination**

Mn/DOT, SHPO, and FHWA staff have met several times over the course of the project development process to discuss the Brainerd and Northern Minnesota Railway Corridor, define the impacts and determine appropriate mitigation measures.

A MOA was executed in 2004 by the appropriate state and federal agencies that describes the impacts to the historical rail corridor and the agreed upon mitigation (see stipulation 4 in the MOA in Attachment B of the Final Section 4(f) Evaluation, included in the 2005 FEIS). The agreed-upon mitigation included preparation of a historical narrative about the Brainerd and Northern Railroad that would be made available to county and local historical societies for their use in the interpretation of the railroad's importance to transportation history. This historical narrative has been prepared, completing the mitigation requirements for impacts to the railroad corridor.

### **Conclusion**

Based upon the above considerations, it is determined that there is no feasible and prudent alternative to the use of land from the Brainerd and Northern Minnesota Railway Corridor, and the proposed action includes all possible planning to minimize harm to the Brainerd and Northern Minnesota Railway Corridor resulting from such use.

## 5.0 LEAST OVERALL HARM ANALYSIS

During the DEIS, four build alternatives were studied related to the expansion of Highway 371 to a four-lane facility. Refer to Section 2.0 for a detailed description.

- Alternative 1 – No-Build Alternative
- Alternative 2 – Existing Alignment
- Alternative 3 – Existing Alignment with a Pequot Lakes Bypass
- Alternative 4 – Existing Alignment with Pequot Lakes and Jenkins Bypasses
- Alternative 5 – Existing Alignment with a Jenkins Bypass

The following Section 4(f) properties were identified as potentially impacted by the build alternatives studied in the DEIS. Refer to Section 3.0 for a detailed description of these resources.

- Paul Bunyan Regional Trail
- Brainerd and Northern Minnesota Railway Corridor
- Molstad property
- Drew Cabins
- Pequot Fire Lookout Tower
- Bobberland Park
- Jenkins Park
- Pine River Depot
- Edna Lake Boat Landing
- East Twin Lake Boat Landing

During the Final EIS, Alternative 2 was identified as the original preferred alternative. A Final Section 4(f) Evaluation was completed in January 2005 that identified only three properties to be directly impacted associated with Alternative 2; The Paul Bunyan Regional Trail, Brainerd and Northern Minnesota Railway Corridor and Pine River Depot. These resources are shown in Figure B-2.

In 2005 the Final EIS was completed and the Record of Decision issued by the FHWA identifying Alternative 2 as the preferred alternative. In June 2006, a new build alternative (Alternative 3MOD) was introduced. This was at the request of the City of Pequot Lakes after Alternative 2 was determined to be unacceptable to the Pequot Lakes City Council. Alternative 3MOD is a modification of Alternative 3 identified in the DEIS and has been identified as the new preferred alternative. Refer to Section 2.0 for a detailed description of Alternative 3MOD.

The identification of Alternative 3MOD as the preferred alternative would not result in impacts to any additional Section 4(f) resources described in the 2005 Final Section 4(f) Evaluation. However, Alternative 3MOD does increase the amount of impacts to the Paul Bunyan Regional Trail and the Brainerd and Northern Minnesota Railway Corridor in one location in the vicinity of CR 107 in Pequot Lakes. These impacts are related to the realignment of the trail to accommodate a grade separated crossing over the proposed Highway 371

alignment. Impacts to the Pine River Depot remain the same for all the build alternatives and mitigation stipulations from the original MOA have been carried out including the relocation of the depot to a new site.

The Paul Bunyan Regional Trail and Brainerd and Northern Minnesota Railway Corridor occupy the same physical property and run concurrently throughout the entire project area. The recreational trail is located exclusively within the railway corridor and the amount of impact on both resources is essentially identical.

### **Ability to Mitigate Adverse Impacts**

The ability to completely avoid impacts to the Paul Bunyan Regional Trail and the Brainerd and Northern Minnesota Railway Corridor is nearly impossible due to the constrained conditions within the existing highway corridor. The abundance of lakes, wetlands and other natural features in this region of Minnesota, presents a unique challenge when considering the expansion of a two-lane rural highway to a four-lane rural expressway.

Wherever possible, impacts to the Paul Bunyan Regional Trail and Brainerd and Northern Minnesota Railway Corridor will be minimized by expanding the roadway width to the opposite side of the highway. Mitigation of unavoidable impacts to the trail will be accomplished through the reconstruction of the trail facility on an adjacent alignment, including providing a trail corridor similar to the existing width, where practical. This will be accomplished in accordance with the DNR Letter of Understanding contained in Appendix F of the SFEIS.

Mitigation of unavoidable impacts to the Railway corridor will be provided consistent with the 2004 Section 106 MOA for this project. Agreed-upon mitigation includes preparation of a historical narrative about the Brainerd and Northern Railroad that would be made available to county and local historical societies for their use in the interpretation of the railroad's importance to transportation history. This historical narrative has been prepared, completing the mitigation requirements for impacts to the railroad corridor.

Impacts to the Pine River Depot were also determined to be unavoidable due to its close proximity to the existing highway alignment and location of several businesses and residences on the opposite side of Highway 371.

Mitigation measures for impacts to the Pine River Depot are presently being implemented and are scheduled to be completed in 2010. All mitigation activities will be accomplished in accordance with the amended Section 106 MOA contained in Appendix G of the SFEIS.

### **Severity of Remaining Harm After Mitigation**

All the build alternatives would create unavoidable impacts to the Paul Bunyan Regional Trail, Brainerd and Northern Minnesota Railway Corridor

and the Pine River Depot. However, mitigation measures have been identified in cooperation with the agencies, with jurisdiction over the Section 4(f) resources, to minimize the severity of harm to the activities, attributes and features of the affected resources.

Approximately 21,080 linear feet of trail and railway corridor are anticipated to be directly impacted associated with Alternative 3MOD. The relocation of the trail to an adjacent corridor will maintain the use of this facility.

Preparation of a historical narrative about the Brainerd and Northern Railroad was determined in a 2004 Section 106 MOA to be appropriate mitigation for impacts to the historic railroad corridor. This historical narrative has been prepared, and is available to county and local historical societies for their use in the interpretation of the railroad's importance to transportation history. This completes the mitigation requirements for impacts to the historic railroad corridor.

The Pine River Depot has already been relocated from its historic location and remains in close proximity to its original setting. This will not detract from the historic nature of this resource. In addition to the relocation, the depot has undergone scheduled restoration improvements such as a new foundation, improved platform, walkways, and roofing.

### **Significance of Section 4(f) Property**

Relative significance of the Section 4(f) properties was not a factor in determining the extent of impact to each resource. The Paul Bunyan Regional Trail is a public facility operated and maintained by the DNR. It provides an array of recreational opportunities, including bicycling, in-line skating, walking and snowmobiling. The trail has a paved surface for approximately 54 miles between the cities of Brainerd and Hackensack, including Nisswa, Pequot Lakes, Jenkins and Pine River.

The Brainerd and Northern Minnesota Railway Corridor and the Pine River Depot have been determined to be eligible for listing on the National Register of Historic Places. Both resources are remnants 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.

### **Views of Officials with Jurisdiction**

The DNR operates and maintains the Paul Bunyan Regional Trail and the Northern Minnesota Railway Corridor throughout the entire length of the project area. Mn/DOT has ongoing coordination with representatives from the DNR and has received two letters of concurrence regarding potential impacts and mitigation strategies affecting these facilities. See Appendix F of the SFEIS.

The relocation and the restoration of the Pine River Depot have been endorsed by the City of Pine River and Cass County. In 2008, the County

agreed to act as the sponsor of a federal Transportation History Network Grant funds that helped facilitate the relocation and restoration of this resource. The City has agreed to assume ownership and maintenance of this structure after the work is completed.

### **Degree to Which the Alternative Meets the Purpose and Need**

The Highway 371 North Improvement Project is being proposed to provide transportation system improvements designed to solve critical travel safety and capacity problems. Identified transportation needs include:

- Improve safety
- Reduce congestion
- Correct design deficiencies

All the build alternatives would address these concerns. Alternative 3MOD accomplishes all of these goals and creates some additional user benefits over the original preferred alternative (Alternative 2). Alternative 3MOD incorporates a bypass of the downtown portion of Pequot Lakes. The existing alignment through this segment of Highway 371 has a number of access points that contribute to elevated crash rates, increased travel times and increased congestion. Although construction of Alternative 2 (Existing alignment through Pequot Lakes) would help minimize these effects, the proposed Pequot Lakes bypass preferred alternative would create greater benefits to the highway user by decreasing travel times, eliminating a number of conflict points and reducing congestion on the area transportation system.

### **Magnitude of Adverse Impacts to Non-Section 4(f) Resources After Mitigation**

No non-Section 4(f) resources protected by federal regulations (e.g., wetlands, threatened/endangered species, farmland, etc.) would be impacted by this project as a result of Section 4(f) avoidance alternatives; and, therefore, magnitude of impacts to other federally-protected resources was not a consideration minimizing harm to Section 4(f) resources.

As shown in Table 1 – Potential Paul Bunyan Regional Trail Impact by Alternative, the SFEIS preferred alternative (Alternative 3MOD) would result in approximately 1,530 feet of additional realignment of the Paul Bunyan Trail/Brainerd and Northern Minnesota Railway Corridor Section 4(f) resource, compared to Alternative 2 – Existing Alignment alternative [21,080 feet of impact vs. 19,550 feet of impact, respectively.] Although the preferred alternative has a greater Section 4(f) impact, this alternative was selected as the preferred (over Alternative 2) due to the determination of the City of Pequot Lakes that Alternative 2 would result in unacceptable impacts to the City, primarily with respect to the City's downtown area, as described in the introduction to Section 5.0.

## **Cost Differences**

The DEIS provided relative cost estimates for the Highway 371 alternatives, ranging from \$65,300,000 (Alternative 2 – through Pequot Lakes) to \$74,200,000 (Alternative 4 – Pequot Lakes and Jenkins Bypasses) [not including interchange construction costs]. However, avoidance/mitigation of Section 4(f) impacts was not a substantial factor in the cost differences among alternatives; therefore, cost was not a factor in determining the magnitude of Section 4(f) impacts among the DEIS alternatives.

## **Least Overall Harm Alternative**

The abundance of lakes, streams, wetlands and other natural communities adjacent to Highway 371 creates a unique challenge when considering the expansion of the existing corridor to accommodate a four-lane rural expressway. The avoidance and mitigation strategies employed on this project are the result of a careful balance between minimizing impacts to the natural environment and the need to protect/minimize impacts to important man-made features, including local communities.

Although Alternative 3MOD proposes impacts to three Section 4(f) resources, the parties with jurisdictional or other interests in the resources have agreed that adequate measures were taken to minimize harm to the resources (to the extent possible), and that the mitigation measures are acceptable compensation for impacts to the resources.

Based upon the above analysis, Alternative 3MOD has been determined to best meet the purpose and need for the proposed project and to cause the least overall harm when considering impacts to Section 4(f) properties (including mitigation) as well as other social, economic and environmental resources.