Appendix D. Agency Correspondence

Agency Correspondence

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Twin Cities Field Office
4101 American Blvd E.
Bloomington, Minnesota 55425-1665

June 8, 2017

Ms. Andrea Martin
Environmental Protection Specialist
Federal Railroad Administration
1200 New Jersey Avenue Southeast
Washington, D.C. 20590

RE: Request for concurrence
NLX High-Speed Passenger Rail Project
FWS TAILS No. 03E19000-2013-I-0001

Dear Ms. Martin:

This letter is in response to your request for an updated concurrence with the determination that activities associated with construction of the Northern Lights Express High Speed Passenger Rail Project (NLX) from Minneapolis to Duluth may affect, but are not likely to adversely affect gray wolf (*Canis lupis*) and Canada lynx (*Lynx canadensis*) and may affect, but will not cause prohibited incidental take of the northern long-eared bat (*Myotis septentrionalis,* NLEB).

The US Fish and Wildlife Service (Service) previously concurred on September 26, 2012, that proposed activities may affect, but were not likely to adversely affect Canada lynx. Since that time, gray wolf was relisted as threatened, and both the northern long-eared bat and rusty patched bumble bee (*Bombus affinis*) were added to the endangered species list, warranting a review and reinitiation of this consultation.

The Federal Railroad Administration has determined that construction within existing rights-of-way and operation of the high-speed passenger rail will result in insignificant or discountable impacts to gray wolf and Canada lynx. Further, impacts to the northern long-eared bat are covered by the final 4(d) rule (issued at the time of its listing as a threatened species), and are also being substantially reduced by clearing trees in the winter, when NLEB are not anticipated to be present. It was also determined that potential impacts to the rusty patched bumble bee are being avoided, since rail expansion is proposed outside designated high potential zones for the species.

We concur with your determination that the proposed project may affect, but will not likely adversely affect the gray wolf or Canada lynx. The proposed action area is outside designated critical habitat for both species, and individuals are not likely to be frequently encountered. Expansion of portions of the line to provide freight bypass and the construction of new facilities are not expected to remove a significant amount of available habitat that either species would

utilize. Mortality from rail collisions is not anticipated due to the lower population density near the proposed action area and the frequency of rail traffic.

This concludes consultation under Section 7 of the Endangered Species Act, as amended. Please contact our office if this project changes or new information reveals effects of the action to proposed or listed species or critical habitat to an extent not covered in your original request. If mortality of lynx or wolf occurs once this line is in operation, our office should be notified to review the potential for impacts to the species. If you have questions, please contact Mr. Andrew Horton, Fish and Wildlife Biologist, at 952-252-0092 (extension 208) or via email at *andrew_horton@fws.gov*.

Sincerely,

Peter Fasbender
Field Supervisor

From: Horton, Andrew [mailto:andrew_horton@fws.gov]
Sent: Wednesday, April 12, 2017 4:25 PM
To: Martin, Andrea (FRA) <andrea.martin@dot.gov>
Cc: Smith, Christopher E (DOT) <christopher.e.smith@state.mn.us>
Subject: Re: FW: Request for Concurrence – ESA (Section 7): Northern Lights Express – Update #1

Andrea,

Thanks for the reminder. It appears now that the project is no longer within the High Potential Zone where we anticipate the rusty patched bumble bee is present. Consultation for this species is no longer necessary. I will try to complete the NLAA concurrence for lynx and wolf by next week but let me know if there is any reason I should wait for additional details from the EA. Thanks again.

- Andrew

Andrew Horton
Minnesota/Wisconsin Field Office
U.S. Fish and Wildlife Service
4101 American Blvd East
Bloomington, MN 55425-1665
(952) 252-0092, ext. 208

On Mon, Apr 10, 2017 at 1:09 PM, Martin, Andrea (FRA) <andrea.martin@dot.gov> wrote:

Good afternoon Andrew; I am just following up on the informal consultation package sent to your office in January for the Northern Lights Express. Minnesota DOT sent updated information and project maps at the beginning of March (attached).

The project team anticipates issuing the Environmental Assessment shortly; your office will have an additional 30 days to provide additional information including conservation measures, or next steps for Section 7 consultation.

Please let Chris Smith at Minnesota DOT or myself know if you have any question.

Thank you, Andrea

ANDRÉA E. MARTIN

Environmental Protection Specialist

Federal Railroad Administration

(d) 202.493.6201

From: Martin, Andrea (FRA)
Sent: Thursday, January 19, 2017 10:18 AM
To: 'andrew_horton@fws.gov' <andrew_horton@fws.gov>
Cc: 'Smith, Christopher E (DOT)' <Christopher.E.Smith@state.mn.us>
Subject: Request for Concurrence – ESA (Section 7): Northern Lights Express – Update #1

Good Morning Andrew:

Attached is an updated **request for concurrence** for a project that may affect, but is not likely to adversely affect the rusty-patched bumble bee. The original request for concurrence was sent to Phil Delphey in the last couple of weeks. Updated language is hightlighted red.

The Northern Lights Express (NLX) Project would operate on 152 miles of existing BNSF Railway track in Minnesota and Wisconsin. The project crosses Anoka, Carlton, Hennepin, Isanti, Kanabec, Pine, and St. Louis counties in Minnesota, and Douglas County in Wisconsin. The Minnesota Department of Transportation (MnDOT) is leading the project in consultation with the Federal Railroad Administration (FRA) and in cooperation with the Wisconsin Department of Transportation (WisDOT).

The NLX Project would operate four passenger round-trips (8 trains) per day at speeds up to 90 miles per hour (mph), and includes stations at Target Field, Coon Rapids, Cambridge, Hinckley, Superior (Wisconsin), and Duluth. Travel time between Minneapolis and Duluth would be about 2.5 hours. The NLX passenger trains would operate primarily on existing track owned by BNSF Railway for freight rail service. Track and signal infrastructure improvements would occur within existing BNSF Railway right of way. Some grade crossing reconstruction improvements may require additional roadway right of way where pavement widths need to be increased to accommodate upgraded warning device installations.

FRA recognizes that specific details about areas of disturbance, tree removal impacts and timing, and bridge work are unavailable at this time making detailed evaluation of project impacts difficult. FRA commits to reinitiate consultation with the Service prior to authorizing final plans, specifications, and estimates (PS&E) for this project to more fully address endangered species impacts.

Thank you, Andrea

ANDRÉA E. MARTIN

Environmental Protection Specialist

Federal Railroad Administration

(d) 202.493.6201

---------- Forwarded message ----------
From: "Martin, Andrea (FRA)" <andrea.martin@dot.gov>
To: "phil_delphey@fws.gov" <phil_delphey@fws.gov>
Cc: "Peterson, Garneth (DOT)" <garneth.peterson@state.mn.us>
Bcc:
Date: Thu, 5 Jan 2017 15:56:35 +0000
Subject: Request for Concurrence – ESA (Section 7): Nothern Lights Express

Good morning Mr. Delphey;

Attached is request for concurrence for a project that may affect, but is not likely to adversely affect Canada lynx and gray wolf. Also included is my determination for NLEB that this project may affect, but will not cause prohibited incidental take. The Northern Lights Express (NLX) Project would operate on 152 miles of existing BNSF Railway track in Minnesota and Wisconsin. The project crosses Anoka, Carlton, Hennepin, Isanti, Kanabec, Pine, and St. Louis counties in Minnesota, and Douglas County in Wisconsin. The Minnesota Department of Transportation (MnDOT) is leading the project in consultation with the Federal Railroad Administration (FRA) and in cooperation with the Wisconsin Department of Transportation (WisDOT).

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FRA recognizes that specific details about areas of disturbance, tree removal impacts and timing, and bridge work are unavailable at this time making detailed evaluation of project impacts difficult. FRA commits to reinitiate consultation with the Service prior to authorizing final plans, specifications, and estimates (PS&E) for this project to more fully address endangered species impacts.

Thank you, Andrea

ANDRÉA E. MARTIN

Environmental Protection Specialist

Federal Railroad Administration

(d) 202.493.6201

Section 106 Consultation

August 31, 2017

Marlys Osterhues
Chief, Environment and Corridor Planning
Federal Railroad Administration
1200 New Jersey Avenue SE
Washington DC 20590

RE: Northern Lights Express (NLX) Passenger Rail
Minneapolis to Duluth/Superior, Multiple Counties
MnHPO Number: 2012-1289 PA

Dear Ms. Osterhues,

Thank you for continuing consultation on the above-referenced project. Information received in our office on 7 August 2017 has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act of 1966, as amended, implementing regulations at 36 CFR § 800, and the 2013 Programmatic Agreement (PA) for the Northern Lights Express High Speed Rail Project.

We have completed our review of your letter dated 1 August 2017 and its accompanying report entitled *Northern Lights Express: Section 106 Assessment of Effects and Final Determination of Effect for Historic Properties* (July 2017). We appreciate the thoroughness of your agency's narrative analysis and the supporting documentation provided in the effects assessment report which we find meets the requirements of 36 CFR 800.11(e).

Based upon our understanding of the undertaking and documentation submitted to our office up to this point in time, we concur with your agency's finding that the construction and operation of the passenger rail project, as it is currently proposed at a preliminary engineering phase, will have **no adverse effect** on historic properties, as identified on Table 1 of your August 1st letter, located within the currently defined area of potential effect (APE), provided that the conditions outlined in this letter are met by your agency upon availability of funding for the passenger rail project's design and construction. Our understanding of these conditions is summarized below:

- As allowed pursuant to Stipulation VII (C) and consistent with 36 CFR 800.5(b) and (d)(1) for the historic properties identified on Table 2 of your letter, additional future consultation with, and subsequent review by our office and other consulting parties shall take place to ensure that the project is designed in conformance with the Secretary of the Interior's *Standards for the Treatment of Historic Properties* in order ensure validity of this "no adverse effect" determination and to avoid additional adverse effects; and
- We additionally clarify that, following issuance of funding for design and construction of this undertaking, especially if several years pass from the date of this finding of effect but before the PA expires in August 2023, at the time that your agency restarts consultation with our office and others per the above condition, your agency shall review and assess the validity of "no adverse

effect" determinations made at this time for all historic properties within the current APE as listed on Table 1, as well as the appropriateness of previously determined areas of potential effects (APEs), the need for additional historic property identification efforts, and the need for additional assessment of effect.

We appreciate the high level of effort and attention to detail that your agency and staff at the Minnesota Department of Transportation's Cultural Resources Unit have put into all stages of the Section 106 consultation process for this undertaking. Feel free to contact at 651-259-3456 or by e-mail at sarah.beimers@mnhs.org me if you have any questions regarding this comment letter.

Sincerely,

Sarah J. Beimers, Manager
Government Programs and Compliance

Cc via email only:

Kim Cook, Wisconsin State Historic Preservation Office
Jason Kennedy, Wisconsin Department of Transportation
Lynn Cloud, Wisconsin Department of Transportation
Kenneth Blodgett, Surface Transportation Board
Frank Loetterle, Northern Lights Express Project Manager
Andrea Martin, Federal Railroad Administration
Garneth Peterson, Minnesota Department of Transportation - Cultural Resources Unit

U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

August 1, 2017

Sarah J. Beimers, Manager
Government Programs and Compliance
State Historic Preservation Office
Minnesota Historical Society
345 Kellogg Blvd. W.
St. Paul, MN 55102

RE: Northern Lights Express (NLX) from Minneapolis to Duluth/Superior (Anoka, Carlton, Hennepin, Isanti, Kanabec, Pine and St. Louis Counties, Minnesota and Douglas County, Wisconsin)
FINAL DETERMINATION OF EFFECT; MnSHPO No.: 2012-1289 (original number—2010-0080)

Dear Ms. Beimers:

The Federal Railroad Administration (FRA) is writing to continue the consultation process for the Northern Lights Express (NLX) Passenger Rail Project (Project). This letter transmits our final determination of effect (DOE) for the Project.

The Minnesota Department of Transportation (MnDOT) has received federal funding for the NLX Project from FRA; therefore, the Project must comply with Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended (54 U.S.C. § 306108) (Section 106) and its implementing regulations, 36 CFR Part 800. FRA has delegated certain Section 106 responsibilities to MnDOT, including the identification of the Area of Potential Effects (APE), identification of historic resources, and conducting consultation with your office and the public. This Section 106 review also fulfills MnDOT's responsibilities under the Minnesota Historic Sites Act (MS 138.665-666) and the Private Cemeteries Act (MS 307.08, Subd. 9 and 10).

FRA is the lead Federal agency for compliance with Section 106 as well as with the National Environmental Policy Act (42 U.S.C. §4321 et seq.) (NEPA). In compliance with NEPA, FRA issued a Tier 1 Finding of No Significant Impact (FONSI) on August 21, 2013 and a Tier 2 Project Level Environmental Assessment (EA) on April 12, 2017. Consistent with 36 CFR § 800.8, FRA has coordinated compliance with Section 106 and NEPA.

In 2013, a Programmatic Agreement (PA) was prepared and signed by FRA, the Surface Transportation Board, MnDOT, WisDOT, the Minnesota State Historic Preservation Office (MnSHPO) and the Wisconsin State Historic Preservation Office (WisSHPO). The PA is established for a 10-year period. It describes how Section 106 activities are conducted and guides the cultural resources review process for this

Project. The PA guides further cultural resources work, including further survey, adjustment of APEs, or other project design changes that will occur after completion of this DOE.

Pursuant to 36 CFR § 800.3, in December 2011, FRA initiated consultation with the affected Indian tribes in Minnesota and Wisconsin. No tribes indicated concerns or interest in participating in the process at that time. In June 2016, FRA again sent letters to affected Indian tribes in Minnesota and Wisconsin. No tribes expressed concerns or interest in participating in the process at that time.

In September 2016, MnDOT Cultural Resources Unit (CRU), on behalf of FRA, notified local governments and heritage preservation commissions in the cities in which station would be located and invited them to participate in consultation. Further invitations were issued by telephone in April 2017. The following groups, agencies and organizations participated in one or both, of the conference calls held on April 25 and May 23, 2017, to discuss historic properties and potential effects in the NLX corridor: FRA, Surface Transportation Board (STB), MnSHPO, Pine County Historical Society, and the cities of Askov, Fridley, Minneapolis, Cambridge and Isanti. Minutes of both meetings were provided to participants and agencies and cities that were invited but unable to participate. MnDOT CRU staff met with Duluth city staff on May 17, 2017, to brief them on historic properties. Consultation with these groups will be ongoing as work is carried out under the PA for the NLX Project.

FRA defined the APE for the Project and received concurrence from MnSHPO on March 15, 2012, and WisSHPO on April 19, 2012. In accordance with 36 CFR § 800.4 and through the Section 106 consultation process, FRA has identified 34 historic properties that are eligible for or listed on the National Register of Historic Places (NRHP) that could be potentially affected by the Project. MnSHPO concurred with the identification of historic properties on June 14, 2014 and WisSHPO concurred on June 18, 2014. No historic properties were identified in the Wisconsin portion of the APE.

The Phase IA archaeology survey conducted in 2013 was a preliminary study and received concurrence of no further work was required for the Tier 1 EA by MnSHPO on January 17, 2014, and WisSHPO on January 16, 2014. The Phase I archaeology survey, reflecting the refined Tier 2 NLX Project, was conducted in 2016. FRA determined that there were no archaeological resources listed, or eligible for listing on the NRHP within the surveyed NLX APE. This finding received concurrence from the MnSHPO on May 1, 2017, and WisSHPO on May 2, 2017.

Effects Findings

Utilizing the preliminary engineering developed for the NLX Project Tier 2 EA, and in accordance with 36 CFR 800.5(a), FRA has made a finding of effect for each historic property within the NLX Project's APE.

Two properties have been removed from the effects determination due to replacement and loss of integrity.

- Bridge No. 90664 in Minneapolis (HE-MPC-9002) has been replaced. The historic property has been removed and there will be no effects from the NLX Project.

- The Northern Pump Co./Northern Ordnance Plant site in Fridley (AN-FRC-177) has been redeveloped, with removal of buildings and alteration of remaining buildings. The property is no longer eligible due to loss of buildings and loss of integrity and no assessment of effects from the NLX Project has been conducted.

The effects assessments and the finding for each historic property are described in the attached report entitled *Section 106 Assessment of Effects and Final Determination of Effects for Historic Properties July 2017*. Table 1 provides a summary of the final effect determination for each property.

FRA has found that the Project will have **No Adverse Effect** on any historic properties. Future consultation is anticipated for six properties when the NLX Project is funded for final design and construction and is discussed following TABLE 1.

TABLE 1: Finding of Effects on Historic Properties

MnSHPO Inventory No.	Property Name	Effect Finding
Hennepin County		
HE-MPC-0441	Minneapolis Warehouse Historic District (listed)	No Adverse Effect; Future Consultation (see Table 2)
	St. Anthony Falls Historic District (listed)	No Adverse Effect
HE-MPC-2137	Minneapolis Fire Department Repair Shop (listed) (in St. Anthony Falls Historic District)	No Adverse Effect
HE-MPC-3788	Northrup, King & Company Complex (eligible)	No Adverse Effect
HE-MPC-3792	Northwestern Casket Company (eligible)	No Adverse Effect
HE-MPC-16387	St. Paul, Minneapolis and Manitoba/Great Northern Railroad Corridor, Minneapolis Jct. to Breckenridge (eligible)	No Adverse Effect
HE-MPC-17264	Minneapolis & Pacific Railway Co/Mpls/SP & Sault Ste. Marie/Soo Line/Canadian Pacific Railway, Minneapolis to the Minnesota/North Dakota state line west of Tenney, MN (eligible)	No Adverse Effect
HE-MPC-17694	St. Paul & Northern Pacific Railway/Northern Pacific Railway, Minneapolis to St. Paul Railroad Corridor Historic District (eligible)	No Adverse Effect
XX-RRD-001	St. Paul & Pacific Railroad (St. Vincent Extension)/St. Paul, Mpls & Manitoba Railway/Great Northern Railway (Willmar Div., 1st	No Adverse Effect

	Sub.)/Burlington Northern RR/ Burlington Northern Santa Fe Railway, Mpls. To St. Vincent (eligible)	
XX-RRD-003	St. Paul & Northern Pacific Railway/Northern Pacific Railway (St. Paul Div, 1st Sub)/Burlington Northern RR/Burlington Northern Santa Fe Railway, Minneapolis to Sauk Rapids (eligible)	No Adverse Effect
XX-RRD-011	Great Northern and Northern Pacific Railway, Minneapolis Junction to Sauk Rapids Railroad Corridor Overlay Historic District (eligible)	No Adverse Effect
HE-MPC-9002	Bridge No. 90664- St. Anthony Boulevard over BNSF (eligible)	*Bridge Replaced; no effect determination*
Anoka County		
AN-FRC-178	Fridley Water Filtration Plant/Minneapolis Water Works – Fridley Plant (eligible)	No Adverse Effect
AN-FRC-177	Northern Pump Co./Northern Ordnance Plant (eligible)	*No longer eligible; no effect determination*
AN-OKG-005	Cedar Potato Warehouse (eligible)	No Adverse Effect Future Consultation (see Table 2)
Isanti County		
IA-ISC-002	Isanti Farmers Creamery Cooperative (eligible)	No Adverse Effect
IA-BRC-006	Oscar Olson House (listed)	No Adverse Effect
Pine County		
PN-SSC-011	Minneapolis Trust Company Building (listed)	No Adverse Effect
PN-SSC-008	Kettle River Sandstone Company Quarry (listed)	No Adverse Effect Future Consultation (see Table 2)
PN-ASC-005	Askov Great Northern Passenger Depot (eligible)	No Adverse Effect Future Consultation (see Table 2)

PN-ASC-006	Partridge Township Hall (listed)	No Adverse Effect
PN-ASC-056	Askov American (eligible)	No Adverse Effect
PN-KEC-003	Louis Hultgren House and Sand Pit (listed)	No Adverse Effect
PN-KEC-002	Kerrick Cheese Factory & Creamery (eligible)	No Adverse Effect Future Consultation (see Table 2)
St. Louis County		
SL-DUL-0009	Grassy Point Railroad Bridge (eligible)	No Adverse Effect
XX-RRD-025 (Field No. 1864 in Wis.)	Duluth Short Line Railway/St. Paul & Duluth RR/Northern Pacific Railway "Grassy Point Line"/Burlington Northern RR/BNSF /LST&T Jct. to West Duluth Jct. (eligible)	No Adverse Effect
SL-DUL-0012	North Western-Hanna Coal Dock No. 5 (eligible)	No Adverse Effect
SL-DUL-0014	Duluth, Missabe & Iron Range Ore Docks (eligible)	No Adverse Effect
SL-DUL-2499	Duluth, Missabe & Iron Range Railway (eligible)	No Adverse Effect
SL-DUL-2500	Portion of Lake Superior & Mississippi Railroad mainline (eligible)	No Adverse Effect
SL-DUL-0191	Great Northern Power Co/MN Power & Light Co/Mn Power Substation (eligible)	No Adverse Effect
SL-DUL-0658	Duluth Union Depot (listed)	No Adverse Effect Future Consultation (see Table 2)
SL-DUL-2465	William Crooks Locomotive (listed) (housed in Depot)	No Adverse Effect
AHI#30666; moved from Wisconsin/housed in Depot	Soo Line Locomotive#2719 (listed) (housed in Depot)	No Adverse Effect

All architecture history properties located in Minnesota.
An asterisk (*) indicates that the NLX Project would operate on the railroad line.

Next Steps

The determination of effects presented in this report finds that the NLX Project will have **no adverse effect** on historic properties from either operations or construction activities. No historic properties will be physically impacted or altered by NLX Project elements.

This determination of effects report has been prepared at the preliminary engineering stage of project design to indicate commitments under Section 106 for project planning and engineering as discussions continue with BNSF and MnDOT seeks funding for final design and construction. Plans for many Project improvements, including station and facilities plans, construction staging areas, or fencing alignments have not been specifically developed and await funding and agreements with BNSF before final design can be undertaken, or consultation to confirm avoidance of adverse effects, can occur.

Consultation with MnSHPO, WisSHPO and other consulting parties will continue in accordance with Stipulation VII (C) of the PA, which states that FRA may determine that there is no adverse effect on historic properties when conditions agreed upon by the SHPO are imposed, such as subsequent review of plans to ensure consistency with the Secretary's Standards for the Treatment of Historic Properties (36 CFR Part 68) to avoid adverse effects.

When funding is available for final design and construction of the NLX Project, FRA will continue to consult with MnSHPO to avoid, minimize, or mitigate any potential adverse effect from new construction when plans are developed for the Target Field Station (located within the Minneapolis Warehouse District) and at the Duluth Station (adjacent to the National Register-listed Duluth Union Depot).

When funding is available for final design and construction, FRA will consult with MnSHPO to avoid any indirect construction impacts to the Cedar Potato Warehouse and the Kerrick Cheese Factory and Creamery, due to their locations near crossing improvements. MnDOT and FRA will include provisions so that fencing is appropriately placed to avoid impacts to the Cedar Potato Warehouse, along the Sandstone Quarry/NLX track in Sandstone, near the Askov Depot, and near the Kerrick Cheese Factory. Potential locations for fencing have been identified in the NLX Project Proposed Infrastructure Improvements (April 25, 2017).

Both fencing locations and construction staging areas are subject to future discussion with BNSF and cannot be confirmed until MnDOT receives additional funding for the Project and develops agreements with BNSF for final design. Consultation with MnSHPO and other interested parties, including BNSF, will occur to confirm that these measures will be carried out to avoid potential adverse effects. These commitments are documented in this submission to the MnSHPO and also documented along with other environmental commitments in the NLX Tier 2 EA FONSI.

Table 2. Future Consultation on Historic Properties

Property Name and MnSHPO Inventory No.	**Reason for Future Consultation**	**Timing of Future Consultation**
Minneapolis Warehouse Historic District (listed) HE-MPC-0441	Consultation to avoid Adverse Effect from station construction within historic district	When funding is available for construction and final design
Duluth Union Depot (listed) SL-DUL-0658	Consultation to avoid Adverse Effect from station construction adjacent to historic Union Depot	When funding is available for construction and final design

Cedar Potato Warehouse (eligible) AN-OKG-005	Consultation to avoid Adverse Effect from construction staging or fencing	When funding is available for construction and final design
Kerrick Cheese Factory & Creamery (eligible) PN-KEC-002	Consultation to avoid Adverse Effect from construction staging or fencing	When funding is available for construction and final design
Kettle River Sandstone Company Quarry (listed) PN-SSC-008	Consultation to avoid Adverse Effect from fencing adjacent to track	When funding is available for construction and final design
Askov Great Northern Passenger Depot (eligible) PN-ASC-005	Consultation to avoid Adverse Effect from fencing adjacent to track	When funding is available for construction and final design

In summary, FRA has found that the Project will have **No Adverse Effect** on any historic properties.

Future consultation by FRA is anticipated for six properties identified in Table 2 to ensure consistency with the Secretary's Standards for the Treatment of Historic Properties (36 CFR 68) to avoid adverse effects. Consultation will occur in accordance with the Programmatic Agreement (PA) per Stipulation VII (C), which states that FRA may determine that there is no adverse effect on historic properties when conditions agreed upon by the SHPO are imposed.

The documentation of commitments in this transmittal and in the NLX Tier 2 EA FONSI, as well as the PA established for this Project, will provide guidance for consultation. The PA would also guide further cultural resources work, including further survey, adjustment of APEs, or other project design changes that may occur as the NLX Project advances.

Based on the commitments provided by the FRA in the DOE report and in the NLX Tier 2 EA FONSI, FRA requests that MnSHPO concur with FRA's findings of effect and Final DOE Effect for the NLX Project within 30-days receipt of this letter.

If you have any questions, please contact Andrea Martin at (202) 493-6201 or andrea.martin@dot.gov or Garneth Peterson at MnDOT CRU at (651)366-3615 or garneth.peterson@state.mn.us.

Sincerely,

Marlys Osterhues
Chief, Environment and Corridor Planning
Federal Railroad Administration

Enclosure: *Section 106 Assessment of Effects and Final Determination of Effects for Historic Properties July 2017*

CC:

PA Signatories

Kim Cook, WisSHPO
Jason Kennedy, WisDOT
Lynn Cloud, WisDOT
Kenneth Blodgett, STB
Frank Loetterle, NLX Project Manager
Garneth Peterson, MnDOT CRU

Consulting party meeting participants

Arla Bud, Pine County Historical Society
Margaret Keeler, Pine County Historical Society
Kathy Morris, City of Askov
Stan Gustafson, City of Cambridge
Sean Sullivan, City of Isanti
Julie Jones, City of Fridley
Thavisack Silaphet, City of Minneapolis/Heritage Preservation Commission
Ben Van Tassel, City of Duluth