

Appendix B
Board and Petitioner's Correspondence

- Exhibit 1 ICRRA's request for waiver of EIS requirements
- Exhibit 2 Board's response to ICRRA's request for waiver of EIS requirements
- Exhibit 3 ICRRA's request for waiver of the six month pre-filing notice and to
retain Burns & McDonnell as the third-party consultant
- Exhibit 4 Board's response to ICRRA's request for waiver of the six month pre-
filing notice and retention of the third-party consultant
- Exhibit 5 SEA's request for concurrence from USFWS regarding Canada lynx status
within the project area
- Exhibit 6 USFWS response to SEA regarding concurrence of Canada lynx status
within the project area

Exhibit 1

LAW OFFICES
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ORIGINAL

August 24, 2007

HAND DELIVERY

Ms. Victoria J. Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
395 E Street, SW - Room 1106
Washington, DC 20423-0001

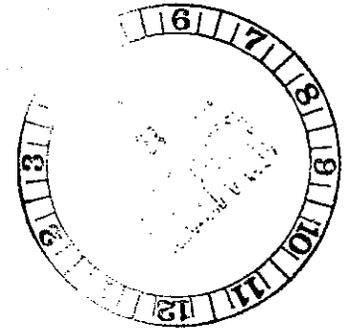
**RE: STB Finance Docket No. 34992, Itasca County Regional
Rail Authority - Construction of a Line of Railroad in
Itasca County, MN, Petition for Exemption**

Request from waiver of requirements of 49 CFR 1105.6(a).

Dear Ms. Rutson:

I am writing on behalf of the Itasca County Rail Authority ("Itasca"), in connection with the above-captioned proceeding. The purpose of this letter is to request a waiver of the requirements of 49 CFR 1105.6(a), requiring the preparation of an Environmental Impact Statement (EIS) for this railroad construction proposal. For the reasons stated below, Itasca believes that an Environmental Assessment (EA) should be adequate to address the impacts of the proposed construction. In support of this request, Itasca submits the following information:

On March 9, 2007, Itasca filed a Petition for Exemption with the Board from the requirements of 49 U.S.C. 10901, to permit it to construct a new line of railroad. The proposed line will extend approximately nine miles, starting at the connection with an existing railroad line at Taconite, MN, and continuing to the site of a new steel mill to be built by Minnesota Steel Industries, LLC ("Minnesota Steel") at the end of the line at Nashwauk, all located in Itasca County, MN.



Ms. Victoria J. Rutson
August 24, 2007
Page 2

While this new line will initially serve the Minnesota Steel facility, it will handle any additional traffic that any future customers that locate along or near the right-of-way generate.

On August 17, 2006, and again on February 5, 2007, Itasca representatives, including the undersigned, participated in a pre-filing meeting with you and members of your staff, to review the parameters of the proposed construction project and the applicable environmental review procedures and requirements. Subsequently, on January 29, 2007, Itasca petitioned SEA for waiver of the six months pre-filing notice required by the Board's environmental regulations and formally requested approval of its retention of Burns & McDonnell ("Burns & McDonnell") to act as the independent third party consultant for the preparation of the necessary environmental documentation for the project, under the Board's direction and supervision. By letters dated February 12, 2007, your office approved both requests.

Following Burns & McDonnell's approval by SEA and engagement by Itasca, Itasca, Burns & McDonnell, and SEA entered into a Memorandum of Understanding for handling the environmental and historic issues presented by this construction case. Burns & McDonnell under SEA's supervision will coordinate the National Historic Preservation Act Section 106 consultation with the State Historic Preservation Office and the Endangered Species Act Section 7 consultation with the US Fish and Wildlife Service. Burns & McDonnell under SEA's supervision will conduct a field survey of the region that would be affected by the proposed rail project, including in particular the routing that is preferred by Itasca and will most likely be presented as the proposed route for the new line.

On April 13, 2007, SEA sent a "consultation letter" to all affected federal, state, and local agencies seeking their comments on the proposed line construction. By mid June 2007, comments had been received from the affected agencies.

On May 1 and July 12, 2007, Steve Thornhill from Burns & McDonnell inspected the site. On July 12, Ken Blodgett visited the site.

Ms. Victoria J. Rutson
August 24, 2007
Page 3

The Board's regulations provide that an EIS normally is prepared in connection with a rail construction project. See 49 C.F.R. Part 1105.6(a). However, 49 C.F.R. Part 1105.6(d) provides for flexible exceptions to the general rule:

The Board may reclassify or modify these requirements for individual proceedings ... [I]n a rail construction, an applicant can seek to demonstrate (with supporting information addressing the pertinent aspects of 49 C.F.R. 1105.7(e)) that an EA, rather than an EIS, will be sufficient because the particular proposal is not likely to have a significant environmental impact.

Itasca respectfully submits that an EA is sufficient in this case under the standards of 49 C.F.R. Part 1105.6(d), because the subject construction project is not likely to have a significant environmental impact. By reference to the specific elements of 49 C.F.R. Part 1105.7(e), and supported by the results of the Burns & McDonnell field survey noted above, our reasons are as follows:

(1) Proposed action and alternatives

If built along Itasca's preferred alignment, the proposed line is 9 miles in length, and initially is expected to handle a total of two trains each day (one daily roundtrip) seven days per week between the junction of the proposed new line with the existing rail line at a point known as Taconite and the end of the line at the proposed Minnesota Steel facility at Nashwauk. The principal commodities that will be handled over the line initially include inbound miscellaneous chemicals and outbound steel slabs and taconite pellets.

The purpose of the proposed action is to provide rail service access to the Minnesota Steel facility. Initially, Itasca examined several different right-of-way alignments but rejected all but the proposed alignment for various reasons. It rejected the alternative alignments as undesirable from the perspectives of transportation policy, property acquisition requirements, and construction engineering and environmental impacts.

Ms. Victoria J. Rutson
August 24, 2007
Page 4

(2) Transportation system

The proposed action will provide the Minnesota Steel facility with the only available rail service. The proposed alignment would not cross any public roads but would cross five private roads.

The one daily roundtrip operated over the proposed line represents entirely new traffic, all of which would otherwise move by highway. However, the principal area highways, specifically Highways 169 and 65, do not have the capacity to handle the additional truck traffic that the Minnesota Steel plant would generate. There will be no diversions of existing freight or passenger traffic either to or from other transportation systems or modes.

(3) Land use

Major land uses in the affected area include agricultural uses, logging, mining, and tourism. Much of the area that would be affected by the proposed action is woodland, and the proposed action is not expected to adversely affect or conflict with existing land use plans.

Between 100 and 120 acres of land would be required for the right-of-way. The right-of-way width is anticipated to be at least 100 feet.

(4) Energy

The proposed action will result in new rail traffic and, thus, a modest net increase in energy use for train operations. Based on an average of one roundtrip per day, seven days per week, it is estimated that 350 trains would operate over the proposed line each year.

Any natural gas or petroleum pipelines or major transmission lines crossed by the new track would be protected using a combination of land bridges, encasements and relocations in accordance with established industry standards. The proposed action will have no adverse effect on recyclable commodities, and may have a positive impact if recycled rail or crossties are used in the construction

Ms. Victoria J. Rutson
August 24, 2007
Page 5

process. No diversions of existing traffic from rail to motor carriage are expected to occur.

(5) Air

No significant impact to local or regional air quality is expected. According to 40 C.F.R. Part 81.344 and the Minnesota Department of Natural Resources, Itasca County and the region encompassing the proposed line currently are in attainment under the Clean Air Act.

(6) Noise

Anticipated traffic volume can be expected to lead to a corresponding increase in noise levels. However, there do not appear to be any sensitive noise receptors located in areas immediately adjacent to the proposed rail line.

(7) Safety

As noted above, the proposed right-of-way will not cross any public highways and the area it traverses is very sparsely settled. Consequently, safety impacts are not a major consideration.

A preliminary database search performed in accordance with ASTM Standard E1527-00 for Phase I Environmental Site Assessments indicated no hazardous waste sites in the vicinity of Itasca's proposed alignment.

(8) Biological resources

The majority of land in the area affected by the proposed action is either woodlands or the site of abandoned mining activity. A review of National Wetland Inventory (NWI) maps identified only minimal mapped wetlands that could be affected by Itasca's proposed alignment. SEA is coordinating with the Army Corps of Engineers to delineate jurisdictional waters and to address jurisdictional issues and/or Clean Water Act permit requirements, and Itasca will pursue and secure any permit that may be needed. (see Water resources below)

There are no wildlife sanctuaries or refuges, national or state parks or forests that would be affected by the proposed action. A broad search of databases containing

Ms. Victoria J. Rutson
August 24, 2007
Page 6

federal and state-listed endangered or threatened species known to occur in habitats similar to those found along Itasca's proposed alignment yielded a schedule of one federally listed animal and three state listed plant species that would be investigated during the EA preparation phases. However, no substantial impacts to these species from the proposed project are expected due to only minimal habitat for these species occurring along the proposed rail alignment. The area is not a designated critical habitat for any wildlife species. If and to the extent any sensitive species are found along the rail alignment and would be adversely affected by the proposed action, mitigation measures will be developed in coordination with the U.S. Fish and Wildlife Service and the Minnesota Department of Natural Resources.

No rare or sensitive native habitats were shown by preliminary review to be significantly affected by the proposed action.

(9) Water resources

The proposed line crosses no Waters of the U.S. and only minimal wetlands could be affected by the proposed project. The preliminary field survey conducted by Burns & McDonnell under SEA supervision indicated that the proposed action would not appear to have a lasting, adverse impact on surface or groundwater resources within the affected region.

(10) Cultural Resources

The proposed line will traverse an area with a long history of human disturbance from mining and logging activities. Burns & McDonnell under SEA supervision reviewed the site files of the Minnesota State Historic Preservation Office and determined no known historic or archaeological sites occur along or in the vicinity of the proposed rail alignment. No significant cultural resources are expected to occur within the project area due to the extensive previous disturbance of the area. Additionally, no historic structures or other potential historic or archaeological resources were observed during site visits. SEA will consult with the Minnesota State Historic Preservation Office (SHPO) to seek concurrence on appropriate measures to avoid or minimize potential Project

Ms. Victoria J. Rutson
August 24, 2007
Page 7

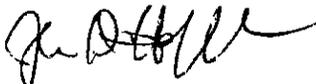
impacts to any cultural resources that may be discovered during project construction.

(11) Geology and Soils

In preliminary geotechnical evaluations, the Project area was found not to include potential geologic hazards, such as areas of subsidence, giant desiccation cracks, landslides, or surface faults. The Project will incorporate features and measures to mitigate for potential seismic activity that is possible in the region.

We believe that the foregoing information should be sufficient under 49 C.F.R. Part 1105.6(d) to justify reclassification of the Itasca rail project as one requiring only an EA. However, if your office believes that any additional information is needed in order to make that determination, please contact the undersigned.

Respectfully submitted,



John D. Heffner

cc: Mr. Ronald Dicklich
Mr. David McKenzie
Mr. Steve Thornhill
Mr. Ken Blodgett
Jack Muhar, Esq.

Exhibit 2

E0-622

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SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

September 6, 2007

Mr. John D. Heffner, PLLC
1750 K Street, N.W.
Suite 350
Washington, DC 20006

Re: Finance Docket No. 34992, Itasca County Regional Rail Authority - Construction and Operation Exemption - Itasca County, Minnesota; Grant of EIS Waiver Request

Dear Mr. Heffner:

Pursuant to 49 CFR 1105.6(d), the Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is granting your request of August 24, 2007, for a waiver of 49 CFR 1105.6(a), which generally provides for the preparation of an Environmental Impact Statement (EIS) for a rail line construction and operation proposal. SEA is granting the requested waiver based on available information gathered to date, including materials filed by the applicant, SEA's consultation with Federal, state and local agencies, and a site visit on July 12, 2007, to the project area.

By petition filed on March 9, 2007, Itasca County Regional Rail Authority (Itasca) seeks an exemption from the Board under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for authority to construct and operate a rail line in Itasca County, Arizona. The proposed line would extend approximately nine miles, starting at the connection with an existing railroad line at Taconite and continuing to the site of a new steel mill to be built by Minnesota Steel Industries, LLC (Minnesota Steel) at the end of the line at Nashwauk. Principal commodities to be handled include miscellaneous chemicals, outbound steel slabs, and taconite pellets. The proposed rail line would initially serve the Minnesota Steel facility, but would handle any additional traffic that future customers that may locate along the right-of-way generate.

Based on the information available to date, we believe that the proposed action would not result in significant environmental impacts and that any impacts could most likely be addressed through appropriate mitigation measures. Therefore, for the reasons listed below, SEA believes

that the preparation of an Environmental Assessment (EA) is the appropriate level of environmental documentation.

- The proposed alignment would not cross any public roads, and would only have 5 private road crossings. The area is not heavily populated, and therefore safety impacts are not expected to be significant.
- There would be no diversion of existing freight traffic to or from other transportation systems or modes. The one daily roundtrip operated over the proposed line represents entirely new traffic, all of which would otherwise move by highway. Highway 169 and 65, principal area highways, do not have the capacity to handle the additional truck traffic that Minnesota Steel will generate.
- The proposed action is not expected to adversely affect or conflict with existing land use plans. Much of the area that would be affected by the proposed action is woodland, with between 100 and 120 acres of land required for the right-of-way.
- Only a modest net increase in energy use for train operations is anticipated based on an average of one roundtrip per day, seven days per week. It is estimated that 350 trains would operate over the proposed line each year.
- Any natural gas or petroleum pipelines or major transmission lines crossed by the rail line would be protected using a combination of land bridges, encasements and relocations in accordance with established industry standards.
- No significant impact to local or regional air quality is expected. Itasca County is currently in attainment for national ambient air quality standards under the Clean Air Act.
- There does not appear to be any sensitive noise receptors located in areas immediately adjacent to the proposed rail line.
- SEA is coordinating with the U.S. Army Corps of Engineers (Corps) to address jurisdictional issues and/or Clean Water Act permit requirements. Itasca will pursue and secure any necessary permits required by the Corps. Based on preliminary field surveys and review of National Wetland Inventory maps, it does not appear that the proposed action would have a lasting, adverse impact on surface or groundwater resources within the affected region.
- There are no wildlife sanctuaries, refuges, or national or state parks or forests that would be affected by the proposed action. One Federally-listed and three state-listed endangered or threatened species are known to occur in habitats similar to those found along Itasca's proposed rail alignment. The area is not a designated critical habitat for any wildlife species. To the extent that any sensitive species

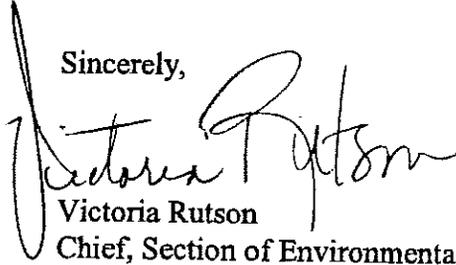
would be adversely affected by the proposed action, mitigation measures will be developed in coordination with the U.S. Fish and Wildlife Service and the Minnesota Department of Natural Resources.

- A review of site files of the Minnesota State Historic Preservation Office (MN SHPO) indicates that no known historic or archaeological sites occur along or in the vicinity of the proposed rail alignment. The project area has been extensively disturbed previously due to extensive mining and logging activities. No historic structures or other potential historic or archaeological resources were observed during site visits. SEA will consult with the SHPO to seek concurrence on appropriate measures to avoid or minimize potential impacts to any cultural resources that may be discovered during project construction.

After the EA is prepared, SEA will make the document available for public review and comment. Once the comment period concludes, SEA will prepare a Post EA discussing the comments received and including any additional analysis or appropriate modifications to its existing analysis. The Post EA will also set forth SEA's final recommended mitigation measures for the Board. The Board will then consider the EA, the public comments, and SEA's Post EA recommendations before making its final decision in this proceeding.

Please be aware that should the environmental process disclose unanticipated impacts that are significant, we will require the preparation of an EIS at that time. If you have any questions, please do not hesitate to contact me or Kenneth Blodgett of my staff at (202) 245-0305.

Sincerely,



Victoria Rutson

Chief, Section of Environmental Analysis

Exhibit 3

JOHN D. HEFFNER, PLLC
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WASHINGTON, D.C. 20036
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ORIGINAL



January 30, 2007

Ms. Vitoria Rutson
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

**RE: STB Finance Docket No. 34992, Itasca County Regional
Rail Authority, Petition for waiver under 49 CFR
1105.10 (a).**

Dear Ms. Rutson:

Pursuant to 49 CFR 1105.10(c)(2) I am writing on behalf of the Itasca County Regional Rail Authority ("Itasca"), to request a waiver of the six months pre-filing notice required by the Board's environmental regulations at 49 CFR 1105.10(a)(1). Within the next several weeks, Itasca plans to petition the Board for an individual exemption under 49 U.S.C. 10502 from the requirements of 49 U.S.C. 10901 to permit it to construct a new line of railroad, approximately 9 miles in length to serve a customer [Minnesota Steel Industries, LLC] at Nashwauk, 15 miles east of Grand Rapids, MN. Itasca submits that a waiver of the 6 months' advance notice requirement is consistent with the regulations of the Section of Environmental Analysis ("SEA") and the Board's policies. Because Minnesota Steel requires that the rail line be constructed and ready for operation by the time its plant is ready in early 2009, a grant of this waiver is critical to meeting Minnesota Steel's service needs.

For your information, Itasca is a regional rail authority and political subdivision established in Itasca County under Minnesota law for the purpose of owning, constructing, and operating railroads in Itasca County. Minnesota Statutes 2006, chapter 398A. Itasca County is a rural, economically depressed area in the "iron range" area

of northern Minnesota located approximately 80 miles northwest of Duluth and approximately 205 miles northwest of Minneapolis. With the county seat located at Grand Rapids, MN, Itasca County has a population of approximately 44,000 people. Itasca County's principal economic activity consists of logging, iron mining, farming, and tourism. Itasca does not currently own or operate any rail lines or facilities of any type.

Should the Board grant Itasca's construction petition, it intends to build a new rail line from the vicinity of Nashwauk to a point near Taconite, MN, to handle inbound raw materials and outbound steel products to be produced at a new mill which Minnesota Steel intends to build at the end of the line at Nashwauk. Upon completion of the line's construction, Itasca intends to contract with a common carrier short line railroad to provide service over the line in its own name and for its own account. Itasca has issued a short line railroad request for proposal and has narrowed to two the number of short line operator candidates under consideration. The successful short line railroad will then seek authority from the Board to operate the subject rail line as a common carrier in its own name with Itasca County retaining just a "residual" common carrier obligation. The rail line owned by Itasca and served by its designated short line railroad will connect with an existing railroad line that extends between Grand Rapids and Forbes, MN, via Hibbing. This line is owned in part by BNSF Railway, Inc., and in part by the Canadian National Railway Company, with both carriers operating over the line. Itasca and its short line operator will have access to both class I railroads.

Minnesota Steel is a newly established company that is in the process of designing a vertical integrated steel facility to be located and built at the end of the line at Nashwauk. This plant is located adjacent to a supply of taconite ore. The rail line will be used to import miscellaneous chemicals to be used in the manufacturing process and to handle outbound steel slabs and taconite pellets. Minnesota Steel's facility is currently the subject of a draft environmental impact study expected to be released around mid-February 2007. Construction will begin around July 2007 with completion of the facility projected for early 2009.

The waiver provisions of the Board's environmental

rules require a party seeking a waiver to describe as completely as possible the environmental effects and timing of the proposed action and to show that all or part of the six month lead period is not appropriate. Moreover, the regulations require a party seeking a waiver to indicate (1) whether the area affected is a nonattainment area, (2) the number of trains per day that would be involved and the commodities and tonnage that would be handled, and (3) the impacts, if any, on endangered species.

In response to these inquiries, Itasca anticipates that the environmental effects of its proposed construction project will be minimal. Regarding the questions identified above, the subject area is an attainment area. Based on information supplied by Minnesota Steel, Itasca anticipates that the line would handle about 30,000 carloads and three million tons annually. Itasca's designated short line railroad will move this traffic utilizing one train making a single daily roundtrip, at 70-90 carloads per trip, 7 days per week. Commodities handled will include inbound miscellaneous chemicals and outbound steel slabs and taconite pellets. This traffic represents new business, which, but for the railroad, would move by truck over local roads.

Regarding environmental impacts, movement of this traffic by rail instead of truck will be very beneficial due to reduced highway congestion and associated air and noise pollution and energy consumption. The line will be built on land owned in large part by Minnesota Steel. The project will be located in a designated industrial corridor of Itasca County. The proposed track alignment will traverse an area of abandoned iron ore mines, overburden piles, and tailing basins. There will be no crossings of any public highways. Itasca anticipates that the line will have five private crossings. The line does not cross any nonnavigable waterways. It is currently unknown whether there are any animal or plant species potentially affected by this project.

Regarding other matters, Itasca has decided to pursue this construction project in one step, involving its entire length, instead of breaking it into two small discrete projects. Moreover, Itasca has issued a Request for Qualification for an independent third party environmental consultant to assist the Board's Section of Environmental Analysis (SEA) on this project and has recently selected

the firm of Burns & McDonnell as the consultant. Itasca understands that Burns & McDonnell is on the SEA's "pre-approved" list of consultants. With that selection, Itasca is ready to move ahead aggressively on this project and will be ready to submit to the Board its petition for exemption for construction authority within the next few weeks.

Because Itasca believes that the environmental impacts of this project will be negligible, preparation of a full environmental impact statement should not be necessary. Accordingly, the six month lead time is unnecessary and should be waived.

Please date stamp and return one copy of this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John D. Helfner", with a long, sweeping horizontal line extending to the right.

John D. Helfner

cc: Mr. Ron Dicklich
Mr. David McKenzie
John Muhar, Esq.
Mr. Steve Thornhill
Mr. Kenneth Blodgett

Exhibit 4



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

February 12, 2007

Mr. John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, DC 20036

Re: Finance Docket No. 34992, Itasca County Regional Rail Authority - Construction and Operation Exemption - Itasca County, Minnesota; Waiver of Six-Month Prefiling Notice

Dear Mr. Heffner:

Pursuant to 49 CFR 1105.10(c), we are granting your request of January 30, 2007, for waiver of the six-month prefiling notice generally required for construction projects under 49 CFR 1105.10 (a)(1).

The Surface Transportation Board's Section of Environmental Analysis (SEA) has met and consulted with Itasca County Regional Rail Authority (Itasca Rail) representatives regarding the proposed environmental impacts associated with the construction and operation of a new rail line in Itasca County, Minnesota. At a meeting on August 17, 2006, Itasca Rail's representatives provided SEA with an overview of the project. Additionally, in a letter dated January 30, 2007, you supplied additional information on behalf of Itasca Rail regarding the proposed project and its potential environmental consequences.

Itasca Rail is a regional rail authority and political subdivision established in Itasca County under Minnesota law for the purpose of owning, constructing, and operating railroads in Itasca County. Itasca County is a rural, economically depressed area in the "iron range" area of northern Minnesota. Itasca County's principal economic activity consists of logging, iron mining, farming, and tourism. Itasca Rail proposes to construct a rail line of approximately nine miles in length to serve a new mill which Minnesota Steel Industries, LLC, (Minnesota Steel) intends to build at Nashwauk, Minnesota. The proposed rail line would handle inbound raw materials and outbound steel products, connecting to an existing rail line at a point near Taconite, Minnesota. Minnesota Steel is a newly established company that is in the process of designing a steel facility to be located and built at the end of the line at Nashwauk adjacent to a supply of taconite ore. The proposed rail line would be used to import miscellaneous chemicals used in the manufacturing process and to handle outbound steel slabs and taconite pellets. Minnesota Steel's

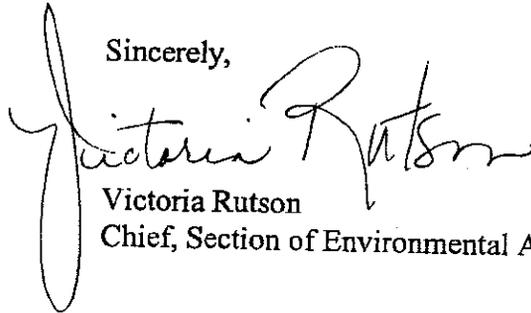
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facility is currently the subject of a draft environmental impact statement. Construction of the facility is anticipated to begin around July 2007 with completion of the facility projected for early 2009.

The preceding information provided by Itasca Rail, and the fact that members of SEA have explained in detail the Surface Transportation Board's environmental review process to Itasca Rail's representatives, lead SEA to believe that it has adequate information, and that Itasca Rail is sufficiently aware of the environmental review process, to grant this request.

If we can be of further assistance, please contact me or Kenneth Blodgett of my staff at (202) 565-1554.

Sincerely,

A handwritten signature in cursive script, appearing to read "Victoria Rutson". The signature is written in black ink and is positioned above the printed name and title.

Victoria Rutson
Chief, Section of Environmental Analysis



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

February 12, 2007

Mr. John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, DC 20036

Re: Finance Docket No. 34992, Itasca County Regional Rail Authority - Construction and Operation Exemption - Itasca County, Minnesota; Approval of Third-Party Consultant

Dear Mr. Heffner:

Your request for approval under 49 CFR 1105.10(d) and 40 CFR 1506.5 for retention of Burns & McDonnell (B&M) as an independent third-party consultant for the above referenced project is approved. B&M will prepare the appropriate environmental document on behalf of the Board in connection with a proposed project by Itasca County Regional Rail Authority to construct a rail line of approximately nine miles in length to serve a new mill which Minnesota Steel Industries, LLC, intends to build at Nashwauk, Minnesota. The proposed rail line would handle inbound raw materials and outbound steel products, connecting to an existing rail line at a point near Taconite, Minnesota.

We have attached a disclosure statement that we ask you to forward to B&M to complete. Once the statement is signed by B&M, we request that B&M send it directly to us. As we discussed in our meeting in August 2006, the Board's Section of Environmental Analysis will directly supervise, review, and approve all environmental documents prepared by the independent third-party contractor.

If we can be of further assistance, please do not hesitate to contact me or Kenneth Blodgett of my staff at (202) 565-1554.

Sincerely,

Victoria Rutson
Chief, Section of Environmental Analysis

Enclosure

ED-420
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Exhibit 5



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

ED-653
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Office of Economics, Environmental Analysis and Administration

October 5, 2007

Mr. Paul Burke
U.S. Fish & Wildlife Service
Twin Cities Field Office E.S.
4101 East 80th Street
Bloomington, MN 55425-1665

Re: **Request for Project-Related Information**
STB Finance Docket No. 34992, Itasca County Regional Rail Authority –
Construction and Operation Exemption – Itasca County, Minnesota
Endangered Species Act Section 7 Consultation

Dear Mr. Burke:

This letter is a follow-up to correspondence I sent to your office dated April 13, 2007, requesting your comments on a railroad construction project being proposed by the Itasca County Regional Rail Authority (ICRRA) that is the subject of an environmental review by the Surface Transportation Board (Board). The Board is an independent agency housed within the United States Department of Transportation that has jurisdiction over railroad construction and operation. This letter requests your comments on the status of, and possible impacts to, the Canada lynx (*Lynx canadensis*) as it relates to the proposed railroad construction project which is before the Board.

ICRRA seeks authority from the Board to construct approximately nine miles of new rail line that would connect an existing rail line at Taconite, Minnesota, to the site of a new steel mill to be constructed by Minnesota Steel Industries, LLC (Minnesota Steel) in Nashwauk, Minnesota. The proposed rail line is listed as a connected action with the Minnesota Steel Project as noted in the Final Environmental Impact Statement (FEIS) released in June, 2007, by the U.S. Army Corps of Engineers (Corps) and the Minnesota Department of Natural Resources (MNDNR).

As noted in the Corps FEIS and in their August, 2007, Record of Decision (ROD) for the Minnesota Steel Project, the Corps has made a determination that the proposed project may affect, but is not likely to adversely affect the Canada lynx, a Federally-listed threatened species. This determination is presented in the ROD (page 6) and is based on information contained in both the Draft and Final Environmental Impact Statements and a Biological Assessment of the

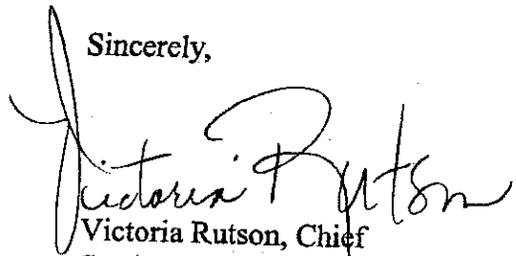
Canada Lynx (2007 Canada Lynx Assessment or BA) prepared in 2007 by ENSR Corporation. The BA, as part of the Corps FEIS, determines that the project area lies in an area of marginally suitable lynx habitat (page 5-3). As presented in the BA (page 5-3), suitable lynx habitat within the project area is patchy, and these patches are separated from each other and are not large enough to support permanent, reproducing populations of lynx. As noted in the BA (page 3-10), a 2-day lynx survey was conducted during late March and early April 2006. The BA (page 3-10) determines that no lynx, or sign of lynx, was found during this survey. The U.S. Fish & Wildlife Service (USFWS), in its response to the determination made by the Corps in the FEIS, issued concurrence with the Corps concerning the Canada lynx in a letter dated August 23, 2007.

ICRRA's proposed rail line alternatives are all included within the survey boundary for the BA (see Figure 4, attached), and are also considered a part of the project as referenced by the Corps in their FEIS (page 6-45) for the Minnesota Steel Project. The proposed route alternatives are located in Township 56 North Range 24 West, Township 56 North Range 23 West, and Township 57 North Range 23 West. These townships are among those that fall within the study area for the BA, and were surveyed for lynx as part of the BA (see Figure 8, attached). Written discussion on habitat suitability for lynx for each township is discussed on page 5-4 of the BA. These townships provide very little suitable lynx habitat, as noted in the BA (page 5-3 and 5-4).

We have reviewed the findings from the Corps FEIS and BA along with the USFWS environmental response. In addition, we have reviewed the ROD and the Corps determination for the Canada lynx. In conjunction with ICRRA's own assessment and involvement in the project and our independent review of the proposed project and project area, the STB's Section of Environmental Analysis has determined the proposed rail line may affect, but is not likely to adversely affect the Canada lynx. I would appreciate your comments concerning this determination by November 5, 2007.

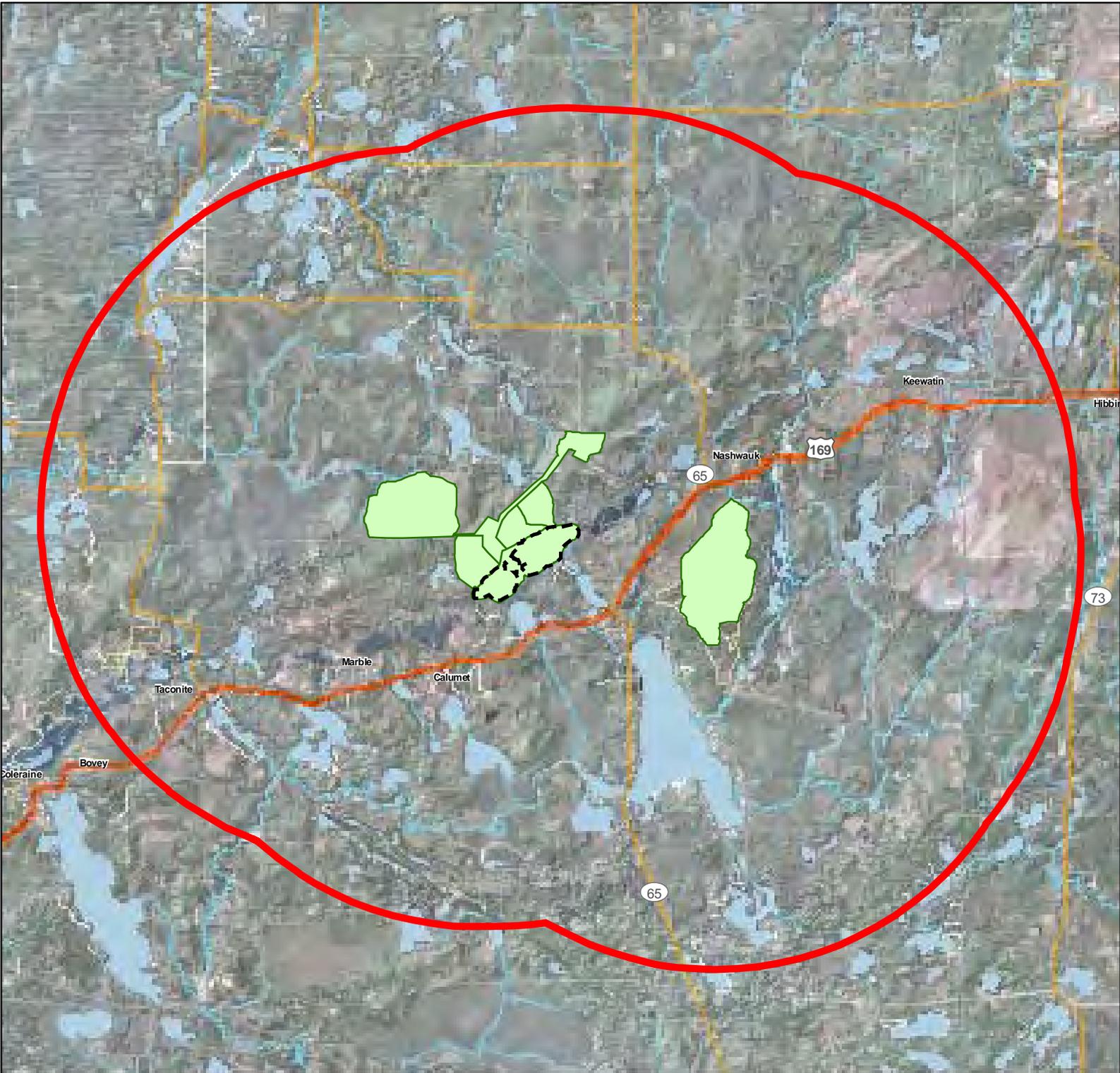
I appreciate your assistance on this project. If you have any questions, please do not hesitate to contact Ken Blodgett of my staff at (202) 245-0305 or Steve Thornhill of Burns & McDonnell Engineering at (816) 822-3851. Thank you for your assistance.

Sincerely,


Victoria Rutson, Chief
Section of Environmental Analysis

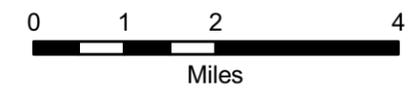
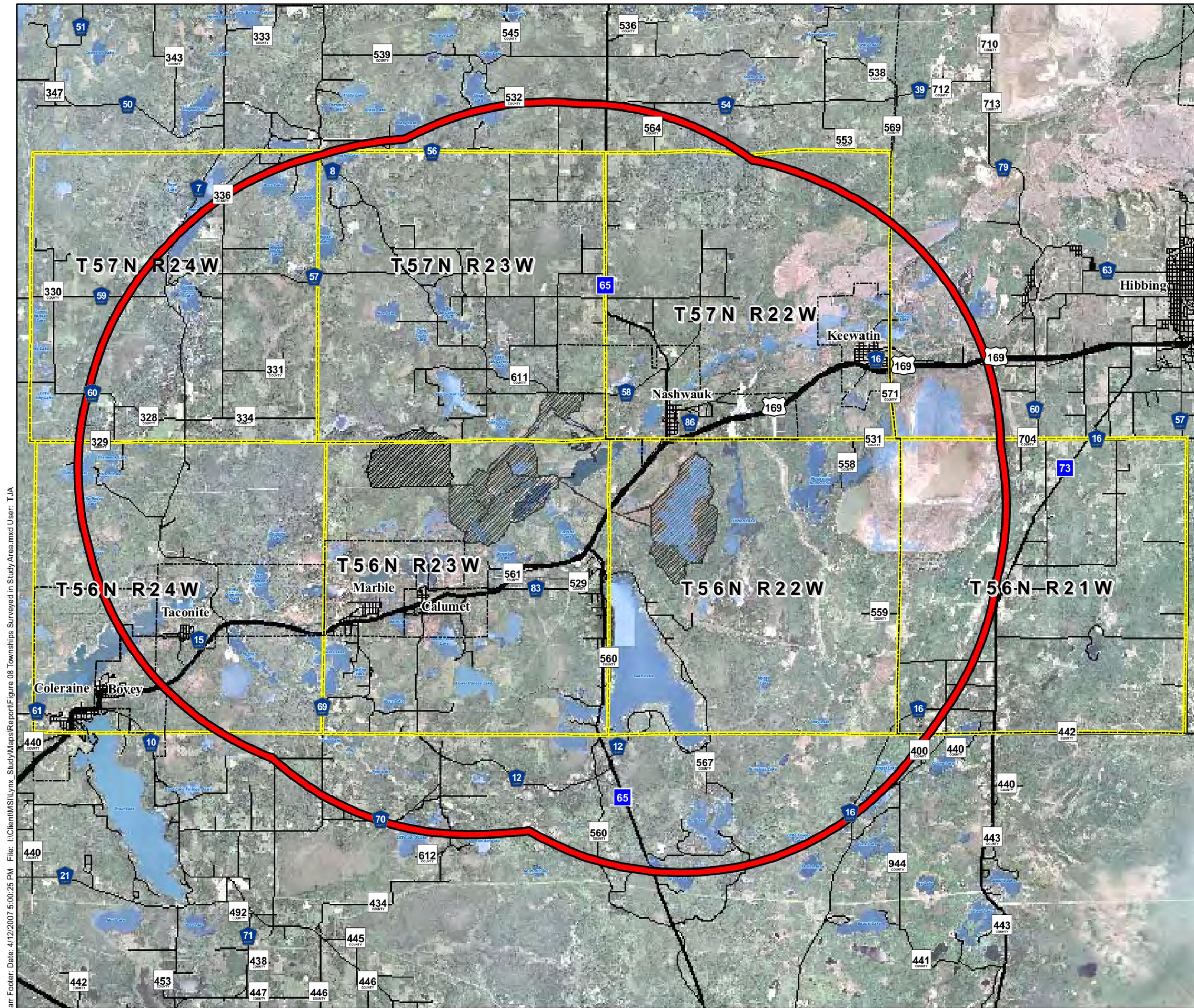
Attachment

cc: John K. Ahlness, U.S. Army Corps of Engineers
Stephen G. Thornhill, Burns & McDonnell Engineering



-  Proposed Mine Pits
-  Project Area
-  Study Area

Figure 4
STUDY AREA
Minnesota Steel Industries



- Study Area
- Study Townships
- Minnesota Steel Industries Project Areas

Barr Footer: Date: 4/12/2007 5:00:25 PM File: I:\Client\MSI\llynx_Study\Map\Report\Figure 08 Townships Surveyed in Study Area.mxd User: TJA

Figure 8
TOWNSHIPS SURVEYED IN STUDY AREA
Minnesota Steel Industries

Exhibit 6



United States Department of the Interior

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

FEB 29 2008

Ms. Victoria Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423

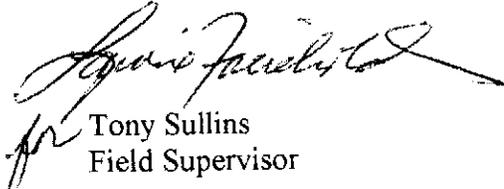
Dear Ms. Rutson:

This responds to your request for comments regarding the Surface Transportation Board (STB) Finance Docket No. 34992, Itasca County Regional Rail Authority-Construction and Operation Exemption, in Itasca County, Minnesota. Specifically, you requested our comments on the status of, and possible impacts to the Canada lynx (*Lynx canadensis*) as it relates to the proposed railroad construction project. The Itasca County Regional Rail Authority is seeking authority from the STB to construct approximately nine miles of new rail line connecting an existing rail line at Taconite, Minnesota, to the site of a new steel mill to be constructed by Minnesota Steel Industries in Nashwauk, Minnesota.

The STB has determined the proposed rail line may affect, but is not likely to adversely affect the Canada lynx. In August 2007, the Corps of Engineers determined that the construction of a new steel mill by Minnesota Steel was not likely to adversely affect the Canada lynx. In a letter dated August 23, 2007, we concurred with that determination. Because the current project is closely associated within the project area of the Minnesota Steel mill project and because there have been no changes in Canada lynx status within the project area, we concur with your determination that the project is not likely to adversely affect the Canada lynx.

If you have questions, please call Mr. Nick Rowse of my staff at 612-725-3548 x210 or by email at nick_rowse@fws.gov.

Sincerely,



for Tony Sullins
Field Supervisor