

From:

To:

Subject: Bismarck - BNSF Bridge CP Meeting #10, draft agenda

Start: Wednesday, November 14, 2018 4:00:00 PM

End: Wednesday, November 14, 2018 6:00:00 PM

Location: Dial-in information is included on the agenda

Attachments: [Agenda Meeting 10.docx](#)

In compliance with Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 306108), as amended (NHPA), the United States Coast Guard (USCG) invites you to participate in continuing consultation on the above-referenced project. The USCG has designated BNSF's consultant, CH2M/Jacobs, to contact parties on their behalf for the purposes of Section 106. In that role, we are contacting you regarding the upcoming Consulting Parties meeting.

As an identified Consulting Party, the USCG invites you to attend a Section 106 consulting parties meeting via teleconference on Wednesday, November 14, 2018 from 3:00 – 5:00 pm Central Time. If you plan to join the teleconference, please accept this invitation and respond by contacting:

Ms. Aimee Ross Angel, Architectural Historian, CH2M/Jacobs, via telephone: [REDACTED], or email: [REDACTED]
[REDACTED]

The following meeting materials are attached to this meeting request:

* Draft Agenda

If you would like to submit additional agenda items, please let us know. The Consulting Parties Meeting #9 Transcript will be sent in a subsequent email as soon as it is complete. We look forward to your response and to continuing consultation with you on this project. Should you have any questions, please contact Ms. Aimee Angel, CH2M/Jacobs or Mr. Rob McCaskey, USCG, via email at [REDACTED]
[REDACTED]

Proposed Bridge Replacement at Mile 1315.0 on the Missouri River near Bismarck/Mandan, North Dakota (ND SHPO Reference 16-0636)

Section 106 Consulting Parties Meeting #10 Agenda

Wednesday, November 14, 2018 at 3:00 pm CST

866-203-7023; PIN 5093-167-060 (meeting will be recorded via conference line)

1. Roll-Call/Introductions
2. Minutes from Meeting #9
3. Old Business
 - a. Responses for additional information
 - i. Fairview Lift Bridge, North Dakota – MOU – Chris Wilson
 - ii. Programmatic Agreement examples – Chris Wilson
4. New Business
 - a. Update on Feasibility Study
 - i. Discussion of engineering discussions with KLJ regarding feasibility study
 - ii. Scope change for feasibility study? What information is BNSF willing to share?
 - iii. FORB progress report.
 - b. Report on FORB community meetings
 - c. Potential mitigation measures for bridge removal –
 - i. The Coast Guard and ACHP agree with plan to do feasibility study and mitigation planning concurrently, to be stipulated in Programmatic Agreement
 - ii. Mitigation ideas brought up previously
 - iii. Present examples of mitigation solutions at other bridges. Can Kitty Henderson gather this information?
 - d. BNSF proposed bridge photo from Bismarck Tribune

Next Scheduled Meetings:

- December 4 (In-person meeting in Bismarck)

CH2M HILL COMPANIES, LTD.

**Moderator: Rob McCaskey
November 14th, 2018
3:43 p.m. ET**

OPERATOR: This is Conference # 488657318

Lori Price: Hi. This is Lori. Who joined?

Rob McCaskey: Hi Lori. It's Rob.

Lori Price: Hi Rob.

Fred Rios: Rob, can you hear me OK?

Rob McCaskey: Yes, I can sir. How are you?

Fred Rios: This is Fred Rios from Captains Landing Township.

Rob McCaskey: Absolutely. I know who are, my friend.

Fred Rios: Yes. One thing I would like to request before you have the meeting is to have a silent prayer for the people in California for the disaster that they're going through. Would you please?

Rob McCaskey: Yes. Let me work something out for that. I'll do something before we get started, Fred.

Fred Rios: Thank you.

Rob McCaskey: And all of you guys up in Bismarck, maybe you're worried about us? In St. Louis, we're looking at seven inches of snow. So, for people in St. Louis,

that's a pretty big deal. I know you guys in North Dakota are going to laugh at us.

Fred Rios: Yes. Thank you. I'll talk to you later. Bye.

Rob McCaskey: OK.

Cole Higlin: Cole Higlin with Mandan Park District.

Lori Price: Hey guys. This is Lori. Rob is on the line. We're just waiting for everybody to join and then we'll do our roll call.

Rob McCaskey: Didn't they get some snow down in Louisiana this week also?

Lori Price: It was very cold. I don't know if they had snow. But my mother said she was so cold that she didn't leave the house yesterday.

Rob McCaskey: It seems like I got some friends that relocated from Northern Michigan to there about six months ago. And they were laughing at the reactions of the dusting of snow that they got.

Lori Price: Oh, yes, if it snows at all, even if it's just ice, they pretty much just shutdown.

Rob McCaskey: Right.

Lori Price: They can't deal with it.

Rob McCaskey: But we don't usually get accumulation of snow in November. It can happen but it's kind of rare. This is going to be one of the earliest – soonest snow falls we've had.

Lori Price: Yes. I was there in St. Louis, but I think it was like in February. And they had a big snow like maybe two or three – three years ago maybe.

Rob McCaskey: We're accustomed to February snows. That's when we usually get most of our frozen precipitation. But November is pretty rare.

Lori Price: Well, I was in Fort Worth this weekend. They had an ice freeze warning Monday night. I was like, "Please let my plane get off the ground."

Rob McCaskey: They don't have the equipment to deal with that.

Lori Price: Yes. And they said that's really early for them too. It's usually – they haven't gotten that cold in November. So, they were like, "Oh, this is super early for this kind of weather."

Rob McCaskey: Right. Hello everyone. This is Rob McCaskey with the Coast Guard. We're going to wait just a few minutes. I'm going to give everyone the chance to log on before we get started.

Lori Price: Of course, it's sunny and, let's see, 84 in Florida.

Rob McCaskey: No thanks. Hurricane last month. I'd rather be up here.

Lori Price: Hey, Rob, did you get the minutes for meeting number nine? I don't think I ever got those back from you. Did you get them?

Rob McCaskey: Yes. I thought responded to Aimee that I had no corrections.

Lori Price: OK.

Rob McCaskey: I might be mistaken, if so, I apologize if I didn't.

Lori Price: OK. Well, we'll get them out then.

Aaron Barth: Hello. Aaron here.

Susan Wefald: Hello. And this is Susan here.

Rob McCaskey: Hey guys. It's Rob. We're going to probably give a couple more minutes to make sure everybody gets the chance to get on here before we start.

So, about a minute and a half, we'll be getting started. Somebody has their phone unmuted and they are rooting around next to the phone. If you can mute your phone if you're not talking, I'd appreciate it.

OK. I've got four minutes passed, coming up on five. So, let's go and get started.

My name is Rob McCaskey. I'm from United States Coast Guard. And I want to welcome everyone to the Number 10, Section 106 Consulting Parties Meeting.

And the first item on our agenda is roll call and introductions. So, everyone who's on the call, if you could please speak clearly and identify yourselves so we can record the fact that you're here.

Fred Rios: Fred Rios...

Randy Bina: Randy Bina, Bismarck Parks and Recreation.

Rob McCaskey: OK. We got the parks and recreation first. And who else was that?

Fred Rios: Fred Rios from the Captain's Landing Township.

Mandy Pearson: Mandy Pearson, Friends of the Rail Bridge.

Susan Wefald: Susan Wefald, Friends of the Rail Bridge.

Mark Zimmerman: Mark Zimmerman, Friends of the Rail Bridge.

David Mayer: David Mayer of Bismarck Parks and Recreation.

Aaron Barth: It's Aaron Barth, Fort Abraham Lincoln Foundation.

Joey Roberson-Kitzman: Joey Roberson-Kitzman, Bismarck-Mandan MPO.

Emily Sakariassen: Emily Sakariassen, Preservation North Dakota.

Amy Sakariassen: Amy Sakariassen, National Trust for Historic Preservation.

Erik Sakariassen: Erik Sakariassen, Fort Abraham Lincoln Foundation.

Betsy Merritt: I'm Betsy Merritt, National Trust. We're all sitting here together on a cellphone.

Rob McCaskey: Thanks for being amenable guys. Pleasure to have you here.

Kevin Klipfel: Kevin Klipfel, Bismarck Parks and Recreation

Mike Herzog: Mike Herzog, BNSF Railway.

Walt Bailey: Walt Bailey, Bismarck Historical Society.

Aimee Angel: Aimee Angel of Jacobs.

Amy McBeth: Amy McBeth, BNSF.

Susan Quinnell: Susan Quinnell, North Dakota SHPO.

Mike Schaefer: Mike Schaefer, BNSF.

Rob McCaskey: So, we have got some music playing, if you could turn that off.

Rob McCaskey: There we go. Please continue.

Lori Price: This is Lori Price with Jacobs. And just as reminder for everybody, we are recording the call.

Chris Wilson: Well, this is Chris Wilson at the ACHP. And I wanted to introduce to the group Alexis Clark. She is a new employee here at the ACHP. And I just want everyone to understand her role. So, Alexis, can you introduce yourself quickly since you are a newcomer to the consultation.

Alexis Clark: Yes. Hi. I've been helping out with the training programs here at the ACHP. I'm, well, doing triage on new cases.

Rob McCaskey: Welcome, Alexis.

Alexis Clark: Thank you.

Chris Wilson: So, it's such an interesting case. We thought we'd exposed her to this case because it's interesting. And it's good exposure for her.

Rob McCaskey: Right. Is there anyone else that hasn't checked in yet?

Kathye Spilman: This is Kathye Spilman with the Mandan Historical Society.

Susan Quinnell: It's Susan Quinnell, North Dakota SHPO.

Toni Erhardt: Toni Erhardt with the Army Corps of Engineers.

Rob McCaskey: OK, one last call for any one that hasn't checked in yet. OK. Hearing none, we'll move on.

Item number two is Minutes from Meeting Number Nine. It sounds like I was the person that didn't get that forwarded. I apologize. I looked at it and it looked fine. We'll get those forwarded out as soon as we can. We're returning to number three, old business, the responses for additional information on the Fairview Lift Bridge. Chris, we talked a little bit about this earlier. Is that something that you're not going to be able to find or did you have additional information on that?

Chris Wilson: Yes. I would like you to take that off the agenda for the next meeting because the attorney that helped Rails-to-Trails, and I talked to the general council and a couple of other people have sent a couple of emails. I can't find him. So, I don't know if he's retired and tired of Section of 106 or has moved to another country.

So, I don't think I'm going to be able to find that MOU, unless BNSF has a copy. It was many years ago. So, I think I'm going to not waste any more effort on that as an example. I also don't have a PA...

Lori Price: Okay. I'll take that off.

Chris Wilson: Go ahead. Yes, yes, because it's just not worth with our time.

Lori Price: Yes.

Chris Wilson: We have hundreds of PAs. I'm still trying to find one that's like this. And I'm not having a lot of luck. I'd like to get that on the agenda for next time. And maybe if I can just find something that's somewhat similar, maybe the SHPO

and Betsy, the Trust, maybe they can rack their brains as well. So nothing else to report from here.

Rob McCaskey: OK. Thanks, Chris. Then let's move on to new business, item number four. The first item I have is item A, Update on Feasibility Study. And I was going to let FORB take a lead on that initial discussion and then we can bring up whatever needs to be put out for my perspective or anyone else.

So, FORB, would you like to tell us what you've got going on with the feasibility study please.

Susan Wefald: Should I start first?

Rob McCaskey: Yes.

Susan Wefald: Should I start first, Mark? Who's agreed to be on the steering committee?

Mark Zimmerman: Yes, go ahead, Susan.

Susan Wefald: And then go from there? All right.

Mark Zimmerman: Yes, yes, yes.

Susan Wefald: Just one second, I'll get that list.

Rob McCaskey: Thank you.

Susan Wefald: We have approached the city of Bismarck. Jason Tomanek has agreed to be on the steering committee. Bismarck-Mandan Metropolitan Planning Organization, their designated person is Mike Herzog. North Dakota Parks and Rec, their designated person is Jesse Hanson. The North Dakota Historical Society, their designated person is Fern Swenson. Captain Landing Township, the designated person is Danette Welsh. Bismarck Parks and Recreation, designated person is Dave Mayer. Friends of the Rail Bridge, we will designate someone.

And we have not yet contacted Morton County Parks and Recreation. We have a meeting scheduled to do that at the end of November and then we'll be

able to tell you who their person is. Other than that, we have all the people that we have contacted for the steering committee, have agreed to participate and have appointed someone.

Rob McCaskey: OK. Thank you. This is Rob.

Susan Wefald: Sorry.

Rob McCaskey: I'm sorry. I didn't mean to step on somebody, but I want to ask a quick question. Is there anybody that can think of someone that should be included that is not? And I'm open to input from anyone.

OK. All right. And I apologize for the interruption. I just wanted to ask that question. Mrs. Wefald, go ahead and continue.

Susan Wefald: I'm going to turn this over to Mark Zimmerman as this point.

Rob McCaskey: OK. Mr. Zimmerman, can you hold on for just a minute. I think Amy has something she wanted to interject.

Amy McBeth: Sorry. It's Amy at BNSF. I just want to make sure Mike Herzog is representing BNSF. I think you had him with a different group, Susan. So, I just wanted to make sure we have that corrected.

Susan Wefald: Well, excuse me. I should have said BNSF, Mike Herzog.

Amy McBeth: Perfect. Thank you.

Susan Wefald: And Bismarck-Mandan Metropolitan Planning Organization is Steve Saunders.

Steve Bakken: And I apologize I'm late. Mayor Bakken with Bismarck.

Rob McCaskey: Welcome, Mr. Mayor. All right. Mr. Zimmerman, did you want to take over?

Mark Zimmerman: Yes.

Lori Price: Just one more comment, Rob. This is Lori Price. If we could please get the list of the steering committee people in writing so we can have that for the record, that would be very helpful.

Susan Wefald: Yes. I'll be glad to provide that to Mr. McCaskey.

Rob McCaskey: Thank you. I'm sorry. And Mr. Zimmerman, now again, you have the floor.

Mark Zimmerman: Thanks. OK, thank you. And welcome all. I wanted to take some time here to review two telephone conversations I had with the staff members from Kadrmas, Lee and Jackson. That's an engineering firm here in Bismarck that in a telephone call with me expressed some interest in consideration of undertaking the feasibility study.

At our last consulting party meeting, we discussed this feasibility study. I don't have all the notes of the meeting in front of me. But as I remember part of the agreement or an agreement was that to share – as I go into the minutes of the last consulting meeting, a letter that KLJ forwarded requesting some information from the Railway.

At the last consulting meeting, the Railway said that information was considered proprietary information and they had some concerns about releasing that.

So, the agreement was that the Railway would meet via telephone call with the staff from Kadrmas, Lee and Jackson. And that's what I want to address at this time for the agenda item about the update on that feasibility study.

I was in two telephone conversations, first with the staff members from Kadrmas, Lee and Jackson, their consideration and their thoughts on the initial conference call with the Burlington Northern Santa Fe as well as the United States Coast Guard. We had a lengthy discussion of their thoughts, reactions to that meeting.

And then, another time, I visited with one of the staff members from KLJ after they had visited with their next level of management at the firm as far as their continuation in the feasibility study.

So, let me present some information as to their comments of the conference call. Our concerns, FORB's concerns with the action of KLJ and moving forward, and certainly I would ask that maybe it would be best if we wait until I'm done with my comments and then we can address some specific issues.

Kadrmass, Lee and Jackson expressed their concerns with the inability to obtain the requested information from BNSF to use in determination of their company's ability to conduct the feasibility study.

Again, I'm referring to that initial letter that Kadrmass, Lee and Jackson that was read in at the last consulting party meeting. KLJ's comment to me was that Burlington Northern was not going to provide that information via that call between the two parties or in any context to that. And we had hoped that would be shared again between the professional groups, so it wouldn't necessarily be public. But according to KLJ, that was not going to be forthcoming. And perhaps we can clarify that in our discussion at the end of my comments.

They also expressed, the KLJ staff, expressed some concerns about the limited time in access for an in-bridge – or in person, excuse me, bridge inspection. Their staff person said, they discussed with BNSF an ability to go out and actually walk the bridge but there were some limitations. They felt, based on that exercise, that it wasn't all that beneficial to them to obtain the information they felt necessary to work on the feasibility study. So, they had some concerns about that moving forward with the feasibility study.

Then there was some discussion about that BNSF then requested of KLJ for the implementation of what was termed a placeholder in the possible feasibility study for the railway's insertion. If I understood this right, and hopefully BNSF will correct me – of cost estimates for the grading cost on the south or the Mandan side of the bridge project. And KLJ expressed some concerns that they took it now that that cost of getting material, dirt or other material to that side of the project and any cost involved in that would be inserted into the feasibility study. And they thought that would then be looked

at as a cost that whoever the eventual owner of the existing bridge is, that would be a cost that would have to be covered by them.

And I have some concerns with that. And again, I'm not the engineer but I know in our discussion and from discussion with the North Dakota Department of Transportation, there was discussion of the large amount of soil that would be needed to be hauled in to that south or Mandan side of the project.

And so, I'm hoping now we can get clarification on this aspect from BNSF at the end of my comments, how that fits in to ask for that would be – that that would then be inserted into the feasibility study and assessed as a cost to any group that might consider ownership of the bridge.

There was also a concern from Kadrmas, Lee and Jackson about BNSF's continued concern on the bonding for the demolition cost of the bridge. KLJ said, again, they were not given a price for the actual demolition cost, the hard, strong figure for that. And we continue to have concerns about that and what the responsibility would be for any potential owner to assess that cost in feasibility.

All said and done, they expressed some new reservations, some concerns about that telephone conference call with the BNSF and US Coast Guard. They felt for them to do an adequate job, they needed additional information. And they felt in the timeline being discussed, that was going to be very difficult to do and for them then to proceed with the feasibility study.

However, Kadrmas, Lee and Jackson said they would visit with their next level of management to see if this is something that these individual staff members could continue with. At the next phone call between myself and one member of the KLJ staff, he informed me that in light of the earlier discussion with BNSF and the US Coast Guard that Kadrmas, Lee and Jackson will not continue to consider putting – doing a feasibility study for the saving and repurposing of the bridge for a pedestrian and bike way.

So as an update, we, as FORB, what we're looking at, we're back to square one. I will say again, I was not a party to that conference call. I have worked

with at least one of these individuals at KLJ, both in my time served on the Bismarck (inaudible) and as director of North Dakota State Parks and Recreation for six years. And I value this gentleman's professional insight and professional considerations. And he was, I thought, quite honest in saying, "Mark, this is something we felt we can't do with the information we have and the timeline that we're given in this effort."

So again, I hope that today we can go through some of these issues with BNSF and the US Coast Guard and the other consulting parties to see – as one of the agenda items, is just what information BNSF is willing to provide? And how do we get that information that we need?

FORB, at one of our meetings, we're going to move forward with the feasibility study. We have reached out to some other possible interested parties. And we hope that in the near term we can have some response from those companies and see if they are in fact interested in undertaking a feasibility study.

So, I stand ready for any questions or comments. I know that's quite brief and I would guess certainly Mr. McCaskey and then folks from BNSF will certainly have their comments as to the tenor and outcome of that telephone conversation. Thank you.

Susan Wefald: Mr. McCaskey, this is Susan Wefald. Can I...

Rob McCaskey: Yes, ma'am?

Susan Wefald: May I ask Mark Zimmerman to clarify one item.

Rob McCaskey: Sure. Go ahead, ma'am.

Susan Wefald: Sure. Mark, would you please tell them how much time, if you're understanding, that BNSF was willing to give Kadrmas, Lee and Jackson on the bridge for inspection, to walk it and get information.

Mark Zimmerman: Thank you, Susan. I failed to mention that. My notes show that the comment or the statement from BNSF to the bridge engineer for Kadrmas, Lee and Jackson was they'd have about an hour walk on the bridge.

And my notes show, there would be no ability to take pictures, none of that information. And again, I understand BNSF has concerns. This is their private property. But the engineers said this – he just felt that wasn't going to give him a whole lot of information that they felt they needed. And so, I hope that answers you question, Susan.

Susan Wefald: Yes, it does. Thank you.

Rob McCaskey: OK. This is Rob from the Coast Guard. Is FORB – are you done with your brief there, Mr. Zimmerman?

Mark Zimmerman: I am, to the extent that I stand available for any questions.

Rob McCaskey: Okay. Yes. So, I definitely sat in on that meeting. And I have to tell you, I'm a little surprised that they backed out on things because with respect to the tenor of the meeting, at the end of it, I specifically remember asking, do these conditions meet the intents and purpose for what it is that you need to do. I'm paraphrasing. But I asked if they had what they needed.

And their only concerns, that I remember them verbalizing, was the timeline. They felt like they had until the end of December to complete their study and they weren't sure if they would be able to do that by the end of December.

So, I'll defer to BNSF to address something specifically but that's what I remember from that meeting. And so, it surprises me that they had such stark concerns that they backed out. I'll just say that.

Susan Wefald: Mr. McCaskey, this is Susan Wefald.

Rob McCaskey: Yes, ma'am.

Susan Wefald: Did Mr. Zimmerman properly – did he correctly – did you hear the same things being offered to Kadrmas, Lee and Jackson that Mr. Zimmerman reported in his report, one hour on the bridge, et cetera?

Rob McCaskey: I don't remember a specific timeline. I could be wrong. I did not take notes and I don't know if the meeting was recorded. I'm open to being corrected from BNSF. I don't remember a specific timeline. I do remember both sides discussing their concerns, and the engineers seem to understand BNSF's concerns. And when they offered the drawings of the similar bridge without being the exact same one, they seemed to understand that and find value in that.

So, I don't remember specifics about time in general. I also remember BNSF tried to setup a time for them to come this week to view the bridge in preparation for their study.

So, I think that was tentatively discussed but I don't think a specific timeframe – a time was setup. Is Mr. Swanson or Mr. Herzog on the call that they can comment and correct me if I'm wrong?

Mike Herzog: Yes, Rob. This is Mike Herzog. I can talk to that. Just to back up a second, like you, I'm more than just a little bit surprised with the number of concerns listed from KLJ.

I hung up from the conference call last Wednesday with KLJ and yourself and I thought it was a very productive call. We did talk through what information BNSF would be willing to provide. And before we started that conversation, I guess I should say we started out with what the end product looked like for the feasibility study.

And we pretty much came to consensus that this is a high-level document, not a detailed design, to essentially evaluate whether or not it's feasible to turn this existing rail bridge into a hiking/bike trail and then put some high-level numbers behind it as well.

So, once we came to that consensus, we did talk through the information they requested. And regarding the bridge plans, we talked through that, there was some understanding from Wade Frank, the KLJ structural engineer, that they were particularly interested in what a framing system would look like for a pedestrian deck going across the bridge. And we talked through providing

some typical sections showing stringer/floor beam configurations to give them an idea of what sort of framing would be required and what sort of fastening system would work to attach such a deck.

And after talking through that, my impression was they felt that would be sufficient for that exercise. Then, we moved on to discussions talking about the walking inspection of the bridge. And essentially, the way the conversation went, I did talk around an hour's worth of time, essentially the inspection we would be willing to permit and facilitate would be a walking inspection of the bridge where we would arrive on site, we would meet, we would walk across the bridge, we could stop and take measurements, we would have a positive form of protection against trains where we essentially own the track. So, if we need to stop, take measurements, take some pictures, not a problem.

What I did clearly lay out that BNSF would not be willing to allow would be any sort of inspection that required climbing of the truss or climbing up towards the top chords or down to the bearing levels. Other than that, I talked about around an hour timeline for that walking inspection to go essentially from one end of the bridge back to the other.

Susan Wefald: Did you...

Rob McCaskey: Go ahead, ma'am. Go ahead ma'am.

Susan Wefald: Mr. McCaskey, may I ask a question. This is Mrs. Wefald.

Rob McCaskey: Yes, ma'am, go ahead.

Susan Wefald: Yes. Did you talk to them about putting the information in this placeholder about materials that would need to be hauled in for the bridge?

Mike Herzog: We did talk about a placeholder and I'd be happy to clarify the way that part of the conversation went. I did ask that essentially a placeholder be included in this feasibility study for the Option Two that we are discussing as part of these meetings to move the first track 85 or 80 foot away and then the second track 105 foot away.

The design to construct that carries significantly more cost and a fair amount of risk. We're in the process of putting together exhibits to illustrate this and cost estimates to show what that premium cost is to construct this Option Two, instead of the preferred option that BNSF originally proposed.

So, it's more than just dirt when you get to the west end of the project where we are adjacent to the nature preserve in order to stay within right away. There is a fairly lengthy and tall retaining wall. And on the east side, there is significantly more excavation when you are looking at the large plot on the north side of the track that would be required to lay that back to a stable slope and everything that would be associated with that when you compare it to Option One being BNSF's preferred design that would not include that.

Mark Zimmerman: Mr. McCaskey, this is Zimmerman. Can you hear me?

Rob McCaskey: Yes, sir.

Mark Zimmerman: I would like to ask Mr. Herzog on that matter. Are you saying then that those costs for that additional work for Option Two that you would look at, saying then that that cost would be born by an eventual owner of the bridge.

Would that be a cost? Then you'd say, OK, well, if the plan is to save the bridge, now, you also assumed those costs for the construction of the new bridge? Am I understanding that correct?

Mike Herzog: As I've mentioned a couple of times on past calls, I referred to this cost as a premium cost because it is above and beyond the cost of our basic design. And to answer your question Mr. Zimmerman, yes, this premium cost, the expectation would be that the new owner of the bridge bear that expense.

Chris Wilson: This is Chris of ACHP. I got a couple of questions. Number one – and Kitty Henderson is not here, but Betsy is on the phone from San Francisco. I've never heard of an applicant transferring project costs to a non-profit in our 106 discussions. That's new to me.

The second thing I wanted to say is, Option One, the preferred option, can you explain why that is no longer feasible? OK. And I hate to reintroduce the whole scouring discussion and everything that we talked about maybe in three, four and five or whenever it was. But why is it again that with Option One you feel cannot move forward? So, if you could answer that first and then I'd like Betsy to weigh in on any experience about project cost being transferred to a non-profit.

Mike Herzog: Certainly. This is Mike Herzog with BNSF. I'd be happy to address those questions, Chris. And I'm going to – actually I'm going to answer just a bit of that second one where you talked about transfer and cost. Because the big portion of Option Two forces us to go against what we really try to do on our projects - that is staying within our right of way.

And going with Option Two pushes this new bridge further away from our existing alignment, which pushes us outside of our existing right of way.

And if you go to the west end to be able to stay in the right of way, we have to go to that significant expense to stay within our right of way.

And to get to your first question why is Option One no longer really feasible? Option One does – this works better with a picture but I understand we don't have it. Option One has the substructure for the second track in the footprint of the existing bridge. So, when we come through to put a second bridge in, the existing bridge would have to come out. We would have two bridges physically trying to occupy the same location. If you could paint or picture, that illustrates that.

Betsy Merritt: Isn't 130 feet – isn't that one in plan 130 feet north of the upper bridge? Are these the same bridge?

Mike Herzog: Hans Erickson, you're on the call. Help me out with some dimensions as far as the first track that we in-serviced. How far to the north is that?

Hans Erickson: Sure, Mike. So, yes, this is Hans of TKDA. And it's actually – Alternative Three from the EA that we're – I think just as a clarification point, it is the preferred alternative from BNSF's perspective.

So correct, the configuration for Alternative Three has the first track position 30 feet to the north or upstream of the existing bridge. The river piers then would be constructed to accommodate that second future track. And that second future track would be positioned essentially on the existing alignment as such in order to build out that full double-track configuration. The new bridge and the old bridge can't occupy the same space so that existing structure has to go. Did that clarify?

Mike Herzog: Yes, it does, Hans. Thank you for that help. And my apologies to the group for mixing up option numbers there. I was referring to the option, you said 3A, Hans?

Hans Erickson: Yes, just Option 3, Mike.

Mike Herzog: Option 3, OK.

Hans Erickson: Yes, I think just 3. Yes.

Amy McBeth: And this is Amy from BNSF. We shared, I think, a slide early on in the consulting parties process that we can certainly circulate again to provide some of this, if that would be helpful.

Rob McCaskey: This is Rob from the Coast Guard. We'd sure appreciate it. Send that out again just to refresh everybody's memory on what we're talking about. So, if we could get that sometime the next couple of days, we'll send it out with the notes from this meeting.

Mayor Steve Bakken: This is Mayor Bakken. And you've mentioned some of it being easier with a visual. And one of the things I have not seen yet, whether in conceptual form or something a little bit more concrete, is what a configuration would look like with both bridges side by side as far as the visual effect. I guess from a conceptual perspective, having a little bit better handle on what we're talking about, I think would be beneficial.

Mike Herzog: This is Mike Herzog with BNSF to clarify. Mayor, you're talking about if we left the old bridge in place and we constructed the new bridge for Option Two that we were discussing, an illustration that shows that in place/situation?

Mayor Steve Bakken: Yes sir. I mean, I think it'd be beneficial to kind of have the visual as we're working on this process.

Mike Herzog: And I agree. We do have TKDA working on that since our last call. We had similar discussions with Hans with TKDA. He has been working with a subgroup within TKDA to produce that.

Hans, just so we get the timeline correct, can you educate the group here on the timeline we're looking at to produce that, please?

Hans Erickson: Sure. We were targeting.

Mayor Steve Bakken: Oh, go ahead. I'm sorry.

Hans Erickson: Yes. Sorry. This is Hans of TKDA. Yes, we're targeting at a maximum four-week delivery for the rendering.

Mayor Steve Bakken: Excellent. Thank you.

Susan Wefald: Excuse me this is – Mr. McCaskey, this is Susan Wefald. May I ask a clarifying question?

Rob McCaskey: Yes, ma'am.

Susan Wefald: We have a picture that was sent out today with the agenda meeting materials of the proposed new bridge. That picture shows the new bridge with no – not the existing bridge in place. I'm assuming – but I don't know for sure if that's the bridge that would be 30 feet north of the existing bridge. I think everyone has that picture. Can you all take a look at that?

And then, it does not show any second track. If it does, it shows the second track, it would be on the new bridge. So, I do not – I don't understand the business about the second track, the new bridge would go in where the existing bridge is - that isn't shown anywhere.

Amy McBeth: This is Amy from BNSF. We've talked about this in the past but the current bridge is a single track. And we've talked about when we build new infrastructure, we want to be able to have the infrastructure in place, to in the future then add a second track.

So, the substructure of the new bridge would provide the ability to come in and do that at a later date, when that's needed. Again, I think we have some of that material that we've shared before. But we can resend that, too, Susan.

Susan Wefald: Yes. Thank you. And so, when you say the substructure, are you saying – are you talking about the pillars that are – for the new pillars that would be in place, that they would be wide enough to accommodate another track?

Mike Herzog: This is Mike Herzog. Yes, that is correct, Susan.

Susan Wefald: All right. And so those – so that's why it's difficult for me to understand. Since you're going to be putting that in and the existing bridge will still be standing, why we can't have a feasibility study done of the existing bridge next to the new bridge.

Mike Herzog: So the – this is Mike Herzog. Again, the rendering that was in the meeting invite was a rendering from very early on. And I am not sure that that illustrated this plan.

But to best understand what we're talking about and put a visual to it, we need to send that exhibit to Rob so it could be distributed. Because as I mentioned, and Hans mentioned, that the substructure that would support that future second track is on the same alignment as the existing bridge. So when we came in to put in that second track, you would have two bridges trying to physically occupy the same space which obviously can't take place.

Chris Wilson: This is Chris Wilson of the ACHP. Is that essentially a placeholder for a second track that at some point in the future will be put in place? Or you're envisioning putting the second track in at the same time when the new facility is built?

Mike Herzog: So, I will be – to answer that, that is somewhat variable. Right now, there is no immediate plan to install the second set of spans for the second track. Now, the timeline associated with that, when that would go in, is variable. It really gets driven by need as to when we would do that.

And to expand a bit on what Amy McBeth was talking about, the primary reason we do this when we are making such large investments in our infrastructure is to minimize our footprint on disruption and impact to the environment.

Because if we waited to come in later and just simply add a second bridge, you're more than doubling that impact on the environment. So, we're trying to be good stewards by maximizing our opportunities while we are building the bridge.

Chris Wilson: Thank you.

Rob McCaskey: Go ahead.

Mark Zimmerman: No, go ahead. I want – because I want to get back to a couple of other questions. So, if you're asking regarding this, please go ahead.

Chris Wilson: Yes. I just wanted to see if I can draw Betsy out, out in San Francisco just because she's got a knowledge depth.

Betsy Merritt: OK. This is the...

Chris Wilson: Betsy, do you have any recollection of an applicant asking a non-profit on a bridge transfer or bridge lease or whatever this has been, transferring project costs to another entity? I haven't heard of that.

Betsy Merritt: I cannot think of a single example, even going beyond the bridge context. But if there's anybody else who can think of an example, I'd be interested to hear. But no, I can't think of an example. But as long as I have the speaker, can I ask another question? I wanted to circle back and I have a follow-up question from when you guys were talking about the logistics of the engineering firm going on the bridge to inspect it from the feasibility study. And I thought I

heard – OK, I heard that there's going to be a time limit of one hour. And so, one question is for anybody who has talked with the engineering firm, would they – what is the time window that they would prefer? Or is that enough time for them? But I also thought I heard somebody say that no photographs were going to be allowed? Did I hear that right?

Mike Herzog: So, this is Mike Herzog with BNSF Railway. I did hear Mr. Zimmerman say that in his opening statement. And I did not say that on my call with KLJ. When we spoke about what a walking inspection would look like, we did talk about the target of an hour. And when we talked about time, we have to understand when we are requesting the track for essentially owning that section of track by workers on the ground. You have to request that in specific blocks of time. So, it's a matter of specifics. We're going to request it so trains can properly be staged in position to know when they can run again.

And when we concluded that discussion on the walking inspection as far as what it would look like, how would it take place, I recall at no time that KLJ ever raised any objection or said, "You know what guys, that really needs be like two or three hours." That dialogue never came from KLJ from my recollection. And I'd like to ask Rob if I'm just remembering this incorrectly. Did you hear something to the counter?

Rob McCaskey: This is Rob from Coast Guard. I absolutely didn't. And just to reiterate, I did pass the question to KLJ. If it does this, do these stipulations meet your purposes? And they did not state that they did not. So, I think it's yes. So, I confirm what Mike says.

Betsy Merritt: OK. So, the hour is resolved. Now, about the photographs, you said you didn't bring that up in the call with the team and – but could you clarify whether that's your intention. And if so, what on earth is the rationale for that?

Mike Herzog: So, this is Mike Herzog again. When we're talking about the walking inspection as far as what would be allowed, what would not be allowed, the only restriction that I placed on the walking inspection is it would essentially be that walking inspection from one end to the other, we would not be

climbing up towards the top chord of the truss, we would not be climbing down towards the bearings. Other than that, we can walk. We will own the track, so we can follow the track coming from the walkway or we could take measurements. If anyone had to take pictures, that would fine.

Betsy Merritt: OK.

Mike Herzog: I'm not really sure where that came from.

Betsy Merritt: OK.

Rob McCaskey: I confirm that I heard Mike say that as well. He did allow pictures also.

Betsy Merritt: Yes, somebody else said that pictures would be prohibited. But as long as we all understand, and you can confirm for everybody on the phone that photographs would be allowed, that's very important.

Mike Herzog: Yes ma'am, I understand. And I don't understand that either.

Betsy Merritt: Thank you for clarifying.

Mike Herzog: I don't understand why that – that's not a problem.

Mark Zimmerman: This is Mark Zimmerman from Friends of the Rail Bridge. That's what my notes show. And again, I wasn't on the call. I do know that the staff from KLJ said they felt that it was a good discussion at the meeting or the phone call. But again, when they – we didn't talk about how much time is needed. They said, well, an hour certainly was not sufficient.

But, to me, the overwriting tenor or aspect here was that they felt, there just were a whole lot of questions and there wasn't a whole lot of, they felt, cooperation in moving forward. And I understand this, scheduling the time of the track. That's always amazed me of how the trains move; that you keep in contact to move the train down the track. But I want to get back, if I may, again, to this assessing costs of a project back to the non-profit. And perhaps Mr. McCaskey could engage me in discussing, if we were to get to that point, that yes, the existing bridge was going to remain and BNSF, in this effort to

obtain the permit under the 106 process, would then need to look at and build the bridge under one of these alternatives.

It seems to me then if the cost of getting your bridge is going to be to have to allow the existing one to stay, then you're going to, if you want to build a new bridge for increased traffic and increased business, which is terrific for North Dakota.

It seems to me, I don't understand how can you say if that's – if we get to that point of a memorandum of agreement that this is always going to go then that that cost, those additional premium costs come back to the non-profit. It would seem to me, now, you would agree that's – that was a fine agreement, that, all right, we'll build a new bridge so the old one can stay. I guess I was hoping there would be more discussion on how that – you can assign that cost to the nonprofit. I don't quite understand that.

Rob McCaskey: Sure. This is Rob from...

Mike Herzog: OK. I'll defer to whoever wants to speak there before I answer Mr. Zimmerman's question. Who is that? Is that you, Amy?

Lori Price: No. This is Lori Price. I just want to say...

Rob McCaskey: Go ahead, Lori Price.

Lori Price: ...a little bit of clarification. This is a feasibility study. One of the things that needs to be determined is if this is feasible or not and what the additional costs would be to build a bridge that is not the bridge alternative that BNSF identified as their preferred alternative because it has – it's less expensive, it's in the right of way, all the things that might Mike Herzog was discussing earlier.

Part of those costs associated with building a different kind of bridge that would retain the historic bridge is that there are a lot of additional costs such as the retaining wall at the conservation area, the grading that would have to be done on the Mandan side. These are additional costs that would have to be

factored in to whether or not it is, in fact, feasible to build a different kind of bridge in a different location.

So, as part of a feasibility study, what BNSF was asking was that those costs also be factored into the feasibility study as part of whether or not it's actually feasible to build a bridge in a different location that retains the historic bridge. So, I think that's the key point of that conversation.

Mark Zimmerman: This is Mr. Zimmerman. I wanted to clarify our feasibility study's scope was the feasibility of retaining and repurposing the existing bridge as a pedestrian bikeway. Maybe we're splitting hairs here, but I don't see it as our responsibility here to – certainly, we hope BNSF will come forward with those figures. But our original scope of the feasibility was, is it feasible to repurpose that bridge for a pedestrian bikeway? Again, unless I'm understanding all of this Section 106 incorrectly, is that if it got to that point and that was the agreement that the bridge stays and BNSF will construct a new bridge in order to get a permit, well, again, it seems to me then those costs, and I would hope BNSF will be forthcoming in bringing forward those actual costs. I've not seen them if they were provided at very early meetings and shame on me for not having that information. But for several meetings, we – in my opinion, we seem to dance around those costs of this bridge.

So, again, we say, I just made a note to you that there will be a – we'll have that four-week delivery of the renderings. And in a four-week timeframe, again, that puts us now into December and there seems to be this constant concern of how long do we prolong this, how long is it protracted out. And here we are today on 14th of November and there's a lot of unanswered questions and concerns. So, I appreciate the comments.

But, again, I have just a concern here that if – whatever the final memorandum of agreement is, is that BNSF is saying to a potential non-profit, now, you have to bear those costs too, even though we would agree that this is a way we're going to get our new bridge, this is how we're going to get our permit. But, you would – you bear those costs, I don't quite understand that.

Rob McCaskey: So, this is a Rob from the Coast Guard. In addition, just to, you know, as on a side, if you heard earlier, we also asked from the Coast Guard that a part of the feasibility study be the costs associated with future demolition of the bridge were that to become necessary. That doesn't – that does not decide who pays for that at the time. Adding this particular information into this feasibility study does not determine who pays that cost.

What it does is it gives us situational awareness on exactly what the additional cost and the different options might be. And at the end, where we to decide on one option or another, we can negotiate or decide based upon the expertise that a lot of people are offering here. What is in and what is not. It isn't a final decision, it isn't a final number but it does give us, again, situational awareness on what the additional cost to BNSF might be, what the additional cost might be to FORB or the people that eventually take possession of this bridge or take ownership of it.

It's not a final thing; it's a situational awareness to tell us what's exactly going on. Chris, if you want to guide me for ...

Chris Wilson: Yes, I appreciate that information, OK.

Rob McCaskey: Let me let Chris have a shot at this first.

Chris Wilson: Well, so I just want to echo what Rob said. I mean, the whole point is just sort of to shed some light on 106. So, 106 is a – is really an element of the National Historic Preservation Act.

The whole point of this feasibility study is – and the reason why BNSF, I think, and it's a good thing that they're part of this, is they can provide some information. But the feasibility study, and we said this at the last meeting and I think I made it really clear, I think it's really important not to duplicate efforts for this study.

So, I know there's a disconnect between the engineering firm and BNSF and I know you guys can work that out. But, if there is information that BNSF already has, why would an engineering firm duplicate that effort and then spend money to provide it?

So, I'm hoping that the two groups can share information. The last point I want to make is, the feasibility study is not an extension of just the engineering analysis that BNSF is already sort of doing right now. The whole point of the feasibility study is to look at repurposing of the bridge. But the additional cost that BNSF may or may not have to incur should be in the study.

So as Rob said, there's a whole picture of, all right, whatever option is chosen, that feasibility study will help in making that decision. Does that make sense or is that clear as mud?

Erik Sakariassen: This is Erik Sakariassen – I would like to speak, thank you. This is Erik Sakariassen from the Fort Abraham Lincoln Foundation. And I think that we're missing the boat on this feasibility study. We have a nonprofit organization. It came about only as a way to try to save the bridge

This nonprofit is in need of information. And I think what the nonprofit wants to do is hire a consultant to do a study on what it would take for this nonprofit to take on ownership of the bridge or to facilitate ownership of the bridge by a public-private partnership. And I think the whole – the public entities that would be involved in this would also need to have that kind of information.

But I don't think that FORB was interested in trying to figure out how BNSF was going to have to alter their plans or change the bridge. It complicates the purpose for FORB to learn if this is something they can take on. So, I think FORB needs to scale back that feasibility study to determine those things that FORB would be involved with so they know if they can proceed on this thing. And I hope that that makes some sense.

I think all the expertise that BNSF has about how to make a different bridge that's compatible with saving the other bridge is stuff that they do all the time and they know how – they know the bridge plans. We don't – we don't tell a KLJ or some other engineering firm how to do BNSF's work, they do that themselves.

So that piece of that – and we found out, yes, we can convert this to a trail. We know how to make the connections on the west side or the east side. We know what that does for the parks. We know what it does for the city, what it does for the county and what those kinds of associated costs are.

So, we've got that, we say yes, it is possible to turn it into a pedestrian trail. Now what do we have to do on the BNSF side to make it compatible?

Lori Price: This is Lori Price. I guess I wasn't clear earlier. We're not planning on having a duplicate effort. What Mike asked was that there be a placeholder so that the information on the additional expense for a different kind of bridge could be included. But that would be BNSF. As you said, they're working on that now, supplying that information.

They asked for placeholder that they could add information to. They're not asking for a duplicate effort or asking KLJ to come up with that information, so I apologize that that was not clear earlier. But there's no duplication of effort being contemplated.

Mayor Steve Bakken: This is Mayor Bakken, so, if we're looking at preservation of the bridge, within the scope of a feasibility study, shouldn't that feasibility study also look at potential locations? So, whether or not the bridge stays in its current place or if there's a potential to move sections of the bridge as it's deconstructed, shouldn't we look at the entire scope of bridge preservation rather than just in that fixed location?

We're just – that'd be the time for this feasibility ...

Amy Sakariassen: This is Amy Sakariassen and I would like to respond to that Mayor Bakken. It isn't actually completely historic preservation if it is not in its original location.

Chris Wilson: Let me just weigh in real quick from the ACHP. So, what the mayor was talking about would be something that would be discussed at a later date because that really represents mitigation. So, in 106, we look at avoidance first, minimization second, and mitigation third.

And so, I think SHPO representatives at the last meeting or two meetings ago clarified that. And that basically, while that's something we could look at at a later date, that's not something we're looking at right now.

Mayor Steve Bakken: OK, thank you for that clarification.

Rob McCaskey: This is Rob with the Coast Guard. So, let's bring it back to what we're talking about. Are there any other questions or clarification on the purpose? I think we were basically discussing the scope of the feasibility study. Someone correct me if I'm wrong on that. I think that's where we were in the discussion.

Nick Bradbury: Hello, may I speak? This is Nick Bradbury, Friends of the Rail Bridge.

Rob McCaskey: Yes, Mr. Bradbury, go ahead.

Nick Bradbury: So, speaking about the scope of the feasibility study as we were, I did have a few questions. And as much as there is – right now, the scope of our feasibility study as we present it to either to KLJ or to a different engineering firm next time that we go to find somebody to ask to do a feasibility study, we'll include this placeholder that BNSF has offered that will describe additional costs that could be incurred. But I had a couple of questions about those additional costs.

I've been listening fairly closely to the consulting party's meetings for the past 10 months. Today is the first that I've heard about a retaining wall that would be required on the west side of the river. And then also, Hans, I'm wondering to what extent for you is the EA a working document?

You mentioned the EA and I wonder if the retaining wall is a feature from that document because we haven't discussed it in these meetings. But one of the things that FORB would like to pursue and, Mike Herzog, you can answer this is – would it ameliorate BNSF costs if FORB and other municipal leaders could petition the DOT for an expanded right of way on the west side of the river to eliminate that retaining wall?

We had kind of touched on this previously about a potential like land swap or – so that DOT would allow a little bit of land north of the existing right of way, which would be traded for some land to the south or in some way traded so that you could expand your right of way and hopefully ameliorate your cost that way.

You know, one of the things as far as funding this whole project goes, one of the ways that we've seen to help save cost is that for these public entities who represent, you know, the public good in general like the DOT, is maybe that they would be amenable to something like that where we'd be able to expand the right of way if that would ameliorate your cost in building on the west side of the river.

On the east side of the river, I am aware of – at least on that north side embankment, I wonder, you know, if there are already significant maintenance or improvement obligations to that embankment north of the track on the east side of the river. There are safety flags on stakes adjacent to very large holes in the ground that are a sign to me and the professional engineers I've spoken with, of rapid ongoing erosion involving that slope, including holes the size of large SUVs that have, you know, clear water funnels at the bottom or waters just falling and eroding down into the hillside there.

So, I wonder if we're talking about a placeholder in the feasibility study, is there – has there already been a study of the current status of that hillside and something to address the current erosion issues and whether that hillside already needs a significant update to meet modern standards for a slope such as it is.

So, I just mentioned a lot and I – hopefully we'll probably bring several people into the conversation with this question. But I guess – and finally the last thing I'll say for this meeting today is I really appreciate the opportunity to share with everybody about this.

And I hope that especially for those who don't live here in Bismarck, I hope we can carry out this conversation with real reference for the historical and

cultural significance of that bridge in our community. It really is part of our cultural bedrock. So, thanks for listening.

Rob McCaskey: Mr. Herzog. I'll let you answer those, I think there are kind of three questions.

Mike Herzog: OK, I'll tell you I'm going to need help remembering the questions.

So, I do recall the first one. I do remember the dialogue in past meetings where the discussion focused on the nature preserve on the north side, at the west end of the bridge, about how could that possibly be allowed to sort of expand the right of way there.

That is cheaper than a retaining wall is the short answer. So, though in the absence of having a clear path forward on being able to expand right of way into a nature preserve, because from my experience on many projects when you're looking at a nature preserve, that usually doesn't happen.

So in the absence of a solid path forward to show that that is possible, that's why we would be showing the retaining wall at this time.

Nick Bradbury: If we look at ...

Mike Herzog: Now, if there was ...

Nick Bradbury: ... on that land, I mean ...

Mike Herzog: Now ...

Nick Bradbury: ... nobody has even tried.

Mike Herzog: Actually, we have investigated that.

Nick Bradbury: I have not heard any reports of that in these consulting parties meetings. So, Lori, Hans, can you help with that?

Amy McBeth: Are you talking about the area ...

Nick Bradbury: Yes.

Amy McBeth: This is Amy. Are you talking about the area that the DOT has set aside as mitigation from Interstate 94?

Mike Herzog: Yes.

Amy McBeth: We have addressed that in previous meetings multiple times.

Nick Bradbury: So a proposal has been made to DOT and they have rejected a proposal to allow expansion of the right of way on the west side of the river?

Amy McBeth: No, there are very specific covenants that come on. If Jesse Hanson is on, he can refer to that more specifically. I don't have it in front of me. There are very specific covenants about the lack of development and what that land is for.

Susan Wefald: However – this is Susan Wefald. Aren't you going to be using an acre and a half of that land even for your existing plans? And so, have you made application to them for that acre and a half that you're going to have the impact?

Mike Herzog: No, I am not sure with that acre and a half would be. My understanding is our preferred option maintains right of way lands as far as being able to be constructed within.

Hans Erickson: Yes. This is Hans of TKDA. I can confirm that the altimetry with the new alignment 30 feet north of existing was developed intentionally to keep all construction activities within existing BNSF right of way.

With regard to the retaining wall, digging back to my notes here, I have it in meeting number five. We put together an exhibit showing impacts to the west approach embankment where we've shown, you know, if we were to just construct with embankment configuration, what impacts to that property to the north would be.

And then, also on that exhibit we show an ultimate configuration with a retaining wall to maintain construction limits within existing right of way, so.

Susan Wefald: Did you sent us out pictures of this or drawings?

Hans Erickson: Yes. So, I believe they were issued with meeting number five.

Emily Sakariassen: Excuse me, this is Emily with Preservation North Dakota. I believe somebody from the Army Corps is on. And if that's the meeting I recall – I recall that the Army Corps had very constructive criticism on that design - if they wanted to remind us what that opinion was.

Rob McCaskey: This is Rob. It got really quiet here. Am I still on the call?

Emily Sakariassen: Yes.

Male: You're on Rob.

Rob McCaskey: Is anyone from the Army Corps still listening or here to offer an opinion or comment?

Emily Sakariassen: Is the retaining wall... I think we just need to clarify what we're talking about here. Is the retaining wall something that is going along the river because I remember we did discuss something like that in number five? But, I thought you were talking about some type of a retaining wall.

You had said that would not be necessary unless that was the plan three, however, I thought we're talking about a different plan now and we'd still need some type of a retaining wall for dirt on the west end – of the far west end of the bridge. So, are we talking about two different things here?

Hans Erickson: I think – this is Hans again and hopefully I can clarify. So, the intent of the retaining wall is – or the alignment of the retaining wall is – would parallel the existing track alignment. OK. So, it would run normal or 90 degrees to the river alignment. The intent of the retaining wall was to hold the embankment required for new track construction completely within existing BNSF right of way.

As a result, we would not be encroaching on the property north of the right of way within the existing property – excuse me, not the existing property but the nature property north of the embankment.

Betsy Merritt: This is Betsy Merritt. So, I request that an image of this retaining wall and its location be circulated to everyone because there's a lot of confusion about where it would be and what it would look like. If you could circulate an image or a map or something, that'll be helpful, thanks.

Hans Erickson: Certainly.

Mike Herzog: So, this is Mike Herzog with BNSF. As part of the information we're compiling on the premiums associated with constructing this option, we have prepared exhibits and we are preparing those cost estimates and we will have essentially, a complete package ready for Thanksgiving that we would be incorporating into that feasibility study and we would be happy to get that out ahead of time prior to the feasibility study being ready.

Rob McCaskey: This is Rob with the Coast Guard. And I believe we've addressed one of the questions from earlier but I think we're still short two. If someone would remind us where – how to get back on track answering those questions please.

Nick Bradbury: It's Nick Bradbury, I asked those questions. I guess the – a short answer to the question, would it ameliorate the cost if the DOT would agree to give additional right of way on the west side of the river to avoid the retaining wall? Next, for TKDA and Hans, to what extent is the EA a working document that you're making plans and decisions on? And then, is there already a significant obligation to modernize the slope on the east side of the river north of the tracks?

Mike Herzog: This is Mike Hertzog. I'll take the last question there regarding the slope on the north side of track at the east end.

So, I've been out there myself. There is some ongoing erosion. When we talk about orders of magnitude as far as remediation for erosion compared to the amount of excavation that would be required to accommodate this alternate design, there is a drastic difference, with the alternate alignment requiring much more excavation.

And with that excavation, getting into that slope, raising the potential risk to – or risk associated with the city reservoirs on top of the slope.

So, short version. Yes, I acknowledge we have some erosion on that slope and I do not feel that is anywhere remotely comparable to the amount of excavation that'd be required for the alternate bridge construction.

Nick Bradbury: This is Nick Bradbury. Beyond that conjecture, do you have – have you personally seen how large these holes are? They're very large with soil actively falling into them almost like sinkholes. Has there been any analysis of what the cost to take care of that erosion problem? Because – and we're talking about a margin between one project and another. We aren't talking about an absolute custom project.

We're talking about – OK, there's already a problem of erosion that's not our modern slope. What would it cost to modernize the slope in place versus what would it cost to modernize the slope with the new track 80 feet north of the existing track?

Mike Herzog: So, we do have some ongoing efforts looking at stabilization of the slope and that segues into an excellent point that I'm glad you raised. The slope there on the east end, the east end of the bridge has from day one had a slope that has caused problems. And that is one of the primary risks associated with getting into that further by having to excavate the – excuse me, excavate further, that you are disturbing that slope and the risk associated with how that reacts afterwards.

And that is one of those unknowns that carries significant risk and significant potential cost. It starts to move again. And to your first question, yes, I've been out there and I've walked that slope personally from top to bottom.

Aaron Barth: Hey, this is Aaron Barth with the Fort Lincoln Foundation. Mr. Herzog, based on impacting that and just for clarification too, when you say “day one,” you mean, all the way back to 1883 when George Shattuck Morison, and researching the history of the bridge, that slope has been problematic, you mean day one from 1883 forward, right?

Mike Herzog: Yes.

Aaron Barth: OK. Thank you.

Rob McCaskey: And then Mr. Herzog I think there was a question about if the additional land was granted would that reduce your cost. I don't know if you responded to that, yet.

Mike Herzog: OK. I thought I had, but maybe I didn't. That could've been just in my head. So, if the right of way was expanded there on the west end or where the embankment was able to be constructed, then yes, the dirt would be cheaper than constructing the retaining walls.

So, while there would be an added expense, it would be less than the cost of the retaining wall.

Aaron Barth: Thank you.

Mike Herzog: So, then the third question regarding the EA, I am not quite sure what the question is.

Hans Erickson: Yes, this is Hans. So, as I gather – or as I understand, the EA, it's still in its draft format. I believe its still in for review with our lead agencies and as I understand, it's still in that status.

Nick Bradbury: OK. You had referred to it as if it were something that the consulting parties would understand.

Hans Erickson: My apologies.

Nick Bradbury: OK, thanks for the clarification.

Chris Wilson: I think at one of the previous meetings we made it clear that it would just, to reiterate, the 106 has to be concluded before the final NEPA document, a record of decision or whatever that may be. And I know the Coast Guard and BNSF are fully aware of it.

So, the whole point of that is the 106 process needs to inform the final NEPA analysis or it becomes just a rubber stamp which it is not designed to do. So, I

think everyone pretty much understands that this process has to be completed before a final record of decision or anything and a final NEPA document.

Rob McCaskey: And thanks for that clarification, Chris. OK, we are still talking about the feasibility study. What else do we need to cover? What else that any other questions that people have with respect to the feasibility study?

Amy Sakariassen: So this is Amy. I guess I'm wondering how to resolve what seems to be conflicting information from the contact that was made with KLJ between FORB and Mike Herzog and sort of what the next steps are then for how that moves forward?

Rob McCaskey: So, this is Rob from the Coast Guard. I was there. I can tell you two things that they say happened. Or what they communicated that happened did not happen. So, it's either miscommunication or someone was confused.

I don't know that it matters at this point if they've decided to not participate. Whoever is leading this effort from FORB, I guess the next step is to try and find a different consultant to step in and assume the job, is that right?

Amy Sakariassen: That would be correct or else we can go back to KLJ and ask them what else they would need and see if they want to have another telephone conversation with BNSF?

Rob McCaskey: I would be willing to participate in any ongoing discussions of conditions. I'm sure BNSF would. And I'm sure at some point, we'll reach a wall where BNSF is going to say, no, we're not going to do that. But we certainly didn't reach that on any of those three points that they have problems with in our last call. Is that correct, Mr. Herzog?

Mike Herzog: I agree. I felt that we had reached consensus and they were going to be able to produce a feasibility study from the information and access we were going to grant.

Rob McCaskey: And I think a fair response to that would be if there is something additional that's needed, you know, come back to BNSF, I'll be glad to mediate that conversation and see if we reach consensus.

Female: Thank you ...

(Inaudible)

Rob McCaskey: I'm sorry guys, we had three people talking there. Let's have Mr. Zimmerman first please.

Mark Zimmerman: Thank you. In my conversations with KLJ, their upper management just made it quite clear that meeting with their staff, just their thought was they're not going to be involved.

Again, if there is a miscommunication from that first call, that's regrettable. But I think in my conversation with Kadrmas, Lee and Jackson is they're not – they just feel it's not going to work out. They just felt they, again, if it was miscommunication that's, again, unfortunate but I will suggest to our FORB group that we look at other, you know, other agencies, other firms that might be interested in this and we'll move forward.

That's regrettable what came from that meeting. But, again, I can only speak to what their comments were to me. I don't know that it's worth our time to go back to KLJ and I think we'll look at accessing, contacting other firms and/or other entities and see if there is any interest.

Rob McCaskey: OK. Thank you, Mr. Zimmerman. Is this – I think Amy was next up or was it Lori. I'm sorry if I'm confusing your voices.

Amy McBeth: That's OK, this is Amy. I just think Rob, I just wanted to make sure that it was communicated that we want to ensure that we're providing information and didn't want to leave folks with the impression that we weren't. So, whatever the next step was, you know, we could certainly facilitate further and do that, so I don't have anything else to comment on.

Rob McCaskey: And this is Rob with the Coast Guard. I will be there in those meetings and I'll confirm if that happens. I'll make sure that this process is open and fair and moving forward. And if I feel that BNSF is withholding information and

not being open with contacts and anybody else, and I'm certainly going to say so and vice versa.

Amy Sakariassen: Rob, this is Amy Sakariassen. And I do commend you for making your comments just now about being there to make sure that this continuing process is, in fact, open. I have to admit I'm a child of the '60s, and so every once in a while, I still have concern about things being less than open. So I appreciate your dedication to this.

Rob McCaskey: As a child of the '70s I don't have (inaudible). I'm not perfect but I'll do my very best, ma'am.

Chris Wilson: So let me just jump on the bandwagon too, and having dealt with a few hundred of these projects, I've got full confidence in the Coast Guard and I feel like they're an honest worker. And so we'll get there. We'll get to – we'll finish this project and we'll get to the end of it, one way or the other.

Rob McCaskey: Thanks Chris. I'm not sure and I'm open to input, is there any more discussion of the feasibility study, short of an acknowledgment that it's time to perhaps select a new contractor? Or is there something else we need to discuss?

Mike Herzog: Rob, this is Mike Herzog. So, the point that I do want to get on the table is originally, when the topic of the feasibility study came up and BNSF agreed to fund a portion of the feasibility study, one of the primary requirements or concerns, however a person wants to label it, is the timeline associated with producing that.

I felt the original timeline that was communicated by FORB was reasonable and I was certainly willing to accept it. We followed through with the request from the last call to meet with KLJ and I felt it was a very transparent conversation, that we reached – that I felt we reached consensus. I later understand there's some different perceptions here.

I just want to reiterate that I still have questions or I have concerns about timeline if we're having to go shop around for a consultant to perform a feasibility study. I feel it's still – we should still be pushing to maintain a reasonable timeline to keep this moving forward.

Rob McCaskey: And Mike, I can say I'm committed to a reasonable timeline. I think we all can recognize that if we're starting, not from scratch but we're certainly starting new with the new contract, so that might affect that. I think that's a fair, you know, and I don't like it any more than you do. I'm sure FORB doesn't like it.

We don't like this to not move forward and have progress, but I think it's fair to understand that since we're starting with a new contractor and a new process, it may adjust this timeline slightly.

Aaron Barth: Hey, this is Aaron Barth with Fort Abraham Lincoln Foundation. I just want to say that I totally understand and appreciate what you're talking about, Mr. Herzog, as far as timelines, and we do have lines in the water for, you know, for finding that new contractor. It's nothing that we can mention right now because, you know, there isn't any proposals or paperwork or anything like that signed. But we do have lines in the water.

So, we aren't just, you know, totally starting from scratch. There's interested – very interested parties that we've been in contact with and once we have something more firmed up, would be able to report back.

Rob McCaskey: I appreciate that. This is Rob with the Coast Guard. And I think ACHP will back me up and it's certainly from the Coast Guard's perspective. I'm sure FORB agrees, I'm sure BNSF agrees this is not an indeterminate or whatever process. We certainly are all interested in going forward. And at the same time, we're interested in going forward in a responsible way that does everything we can to look at everybody's side. And I think that's what we're trying to do here is be careful and considerate and do this the right way. So, thanks for letting us know that you guys are moving forward.

Mike Herzog: This is Mike Herzog, I do have one more question for FORB.

Chris Wilson: Can I interrupt first before you jump in?

Rob McCaskey: Yes, go ahead.

Chris Wilson: Yes. So, you know, we're looking at legal sufficiency, right. We want to make sure that once we get to this, through this process, that it's iron clad and if it's ever challenged, it'll hold up. And so that's what we're trying to do and that's having worked on many, many of these cases.

And the last attempt I'll make of being funny here today is tell any prospective engineering firm if they sign up to assist FORB and work with BNSF, I'll work very hard to give them some sort of award here in D.C. and we'll dress them up and take them to the ball.

Female: Sounds good.

Rob McCaskey: Thanks Chris.

Chris Wilson: Go ahead Mike.

Mike Herzog: OK, the one question I did have and I want to say thank you. I appreciate FORB's effort to have the lines in the water, actively looking for another consultant. Should you get a bite and land one, I would be curious to hear about FORB's ability to execute a contract with a consultant and the funding available to fund the other portion of the feasibility study.

Female: Yes.

Mark Zimmerman: Gentlemen, this is Mark Zimmerman from FORB. We have – we are ongoing with fund raising efforts and we do have some sources identified. We have had some commitments of funds. Again, we feel that is information we don't need to share until we have a cost of a feasibility study.

I mean, we are actively seeking out financial partners. We are actively looking at executing an agreement for a feasibility study. One entity we visited with is comfortable with working with FORB and they have a strong interest in looking at doing the feasibility study. So, I can assure you that we are, you know, we want this to move forward as well.

We are well aware of everything involved in a 106 process but Mike, I think you could be assured we're looking at all fronts, fund raising, execution of a

contract, and we hope that we can get this done in a good timeline. But I hope that we're not, you know, boxing ourselves in here to say, OK, BNSF is ready to have their renderings here by Thanksgiving and then to say well, OK FORB, you need to have yours here in a week. You know, I would hope that we again discuss this. Keep the communication open.

We're working to get this done as well. But we hope that, you know, everybody will work together. So that's my two cents here.

Rob McCaskey: And this is Rob from the Coast Guard. And, you know, I guess I'm ultimately in charge of the timeline here and I certainly haven't thrown out anything like that. So that's all I'm going to say about that.

Who was – who else wanted to speak?

Nick Bradbury: This is Nick Bradbury from Friends of the Rail Bridge. And I just wanted to add on to Mark Zimmerman's comment that this feasibility study is not exclusively of interest to FORB. You know, the ability to get the study done and, you know, to be able to execute a contract, it really is – it should be, in my mind, of interest to all of the consulting parties.

However this feasibility study turns out and however this process goes, we will gain a lot of valuable information that will either be critical in saving the bridge or in planning mitigation and understanding the scope and scale of costs associated with any of the alternatives that we arrive at.

So, whether we are a historic preservation foundation or a national heritage area or FORB or BNSF, everybody has a vested interest in this feasibility study because its results will be very valuable to this process.

Rob McCaskey: Coast Guard agrees with that. I believe there was one other person that wanted the speaker on that - I heard talking. Did I skip someone else?

Kathye Spilman: This is Kathye Spilman, with the Mandan Historical Society.

Rob McCaskey: Yes Kathye?

Kathye Spilman: I got a couple of really quick questions. I'm still way back in trying to get my head around the two masses occupying the same space at the same point in time. So, I just got some really quick questions that maybe to help clarification purposes.

Just to make sure I'm correct, when BNSF and their engineering consultant is referring to different alternatives with the relative locations of the bridge relative to each other, you guys are always referring to a center line to center line measurement, correct?

Mike Herzog: Yes.

Kathye Spilman: So like if a bridge is 30 feet apart, and the new bridge would be 30 feet apart from the old bridge, you're actually talking center line of the track to center line of the track measurement, correct?

Mike Herzog: Yes, ma'am.

Kathye Spilman: OK. And then so, what is a typical deck width for a single track bridge? You know, 25 feet or something, 24 feet?

I guess my point is that the alternative that BNSF prefers, back to this inner lane thing, appears at one point in time, the preferred alternative, whether it's number three or number four or number one, essentially you've got the two bridge structures once the second bridge would be completed. This pretty much butts up against the adjacent bridge, assuming this goes forward and the current bridge is torn down.

And so to accommodate saving the current bridge, additional spacing would be required because we're looking at not being able to live with a 30 foot track spacing because they would literally be bumping up against each other, which would make it infeasible for the current bridge that'd be used for pedestrian or I'll say, civilian use rather than railroad bridge use, right?

And that's what's forcing you guys to go to at least an 80-foot center line to center line spacing, which is really not 80 feet apart. You're probably closer

to, even in that case, you're looking at 60 feet apart from one bridge edge to the next bridge edge.

Mike Herzog: Yes. And I almost want to say this is probably a discussion that would be better deferred until our next in-person meeting to where we can have an exhibit on the wall when we all are talking from the same picture.

Kathye Spilman: OK.

Mike Herzog: I'm more than happy to try but pictures do me a lot of good.

Kathye Spilman: OK, but this is – but the picture exhibits or rendering that you guys are having your engineer prepare, that should be available within the next four weeks?

Mike Herzog: The rendering is a picture. An illustration like somebody took a snapshot. So, this is taking efforts to superimpose the proposed new bridge with the existing bridge in place. The pictures I'm talking about talking from, we have available. It would be more from our plan set that would be easier to talk from.

Kathye Spilman: OK. So, like an overhead view?

Mike Herzog: I'm going to say like a cross section view. Overhead or cross section, either way would work, yes. The one I've got pictured in my head is a cross section but it's communicating the same information.

Kathye Spilman: OK. I mean, I guess what I – I think I understand the need. You can't leave both bridges within a few feet of each other for many different reasons; you have to have some separation which is supporting you guys to move the track and put in a retaining wall that you would otherwise not have to do.

Mike Herzog: That is correct.

Kathye Spilman: Thank you.

Lori Price: And Kathye, we do have those drawings and we are going to distribute those – we'll send them out tomorrow.

Chris Wilson: So, Rob, I'd like to make a suggestion on the – on your agenda. I don't think that C2 or 3 are really appropriate to talk about at this point in time. Because mitigation is only something we will go into once – or if a decision is made at some point to remove the bridge. So C2 and 3 are really not appropriate.

Now, we talked about this last month. If BNSF on its own wants to develop some mitigation strategies, they are certainly free to do that. And there's lots of examples out there. I mean really many, many examples of mitigation. But in the context of these meeting at this point, it's not appropriate to talk about C2 and 3 during the consultation.

Mike Herzog: This is Mike Herzog. I don't have the agenda in front of me. I do recall from our last conversation though that specifically Mr. Swanson raised the request and the consensus was that we agreed that we would be able to work through discussions, not only on the feasibility study but also mitigation at the same time and not having it necessarily limited to BNSF developing its own strategy.

Lori Price: That's right.

Chris Wilson: So, I was wrong. I'd like to admit that that was a misstep on my part and that's one of the reasons why the SHPO pointed that out. So, I just wanted to say that was my fault and from a regulatory standpoint, it's not appropriate to talk about C2 and 3.

Again, if FORB wants to develop a list and think about things that you could possibly do in the future, if that step is something we want to do. But, I'll take full responsibility for that. I did give that impression and I was mistaken.

Lori Price: Hey, Chris. So – this is Lori, I need some clarification because based on what we had discussed last time, we talked about doing a programmatic agreement that we'd look at during the feasibility study and ...

(Inaudible)

Lori Price: Hello? Hello? I'm sorry.

Female: Somebody needs to mute their line. Please mute your lines.

(Inaudible)

Lori Price: OK. So we had talked about doing a programmatic agreement that would look at the feasibility study and then look at both outcomes of the feasibility study. Here's what we would do if the feasibility study said yes, it's feasible to retain the bridge. And here's what we would do if the feasibility study said, no it's not feasible to retain the bridge and we need to go to mitigation.

So we started – based on that conversation of last meeting, we started putting together an outline for a programmatic agreement that had that very approach that we had discussed last time. So that's why this is on the agenda. Am I now to understand that we are not doing a programmatic agreement that would cover those outcomes and we should just ...

Chris Wilson: OK. So I think the issues are being conflated. Number one, it's the Coast Guard's responsibility to develop a draft of the programmatic agreement, number one.

Number two, mitigation at this point in time, it's not appropriate to start putting that on the table. It doesn't mean that BNSF can't start developing some mitigation ideas that could potentially be in a programmatic agreement.

But 106 is a sequential process. And so, we need to get through avoidance measures, so that's first before we look at mitigation. So, I apologize and I made a misstep at the last meeting.

Lori Price: OK. So, we don't need a programmatic agreement, we just need an MOA. Is that what you're saying?

Chris Wilson: No, I think we'll still be developing a programmatic agreement but we're not ready to start drafting it yet.

Again, if BNSF wants to develop some mitigation strategies, they are free to do so. And I do think that this is such a complex project we'll end up with a PA. Again, MOAs and PAs are simply the same kind of document but a PA is dealing with more complicated cases like this where there could be potential unknowns.

And we can set the agenda for the next time.

Amy McBeth: Hey Chris?

Chris Wilson: Yes?

Amy McBeth: This is Amy – sorry.

Lori Price: Go ahead.

Amy McBeth: This is Amy from BNSF. I'm just a little confused and looking for a little more clarification. I thought at the top of the meeting Chris, you said you were looking for programmatic agreements. So, are you not or did I misunderstand that?

Chris Wilson: OK. So, this project will ultimately end up with some type of programmatic agreement. I don't know how more clear I can be. And in the programmatic agreement are going to be elements that are being discussed and agreed upon.

So right now, we're looking at consensus on developing an avoidance of adverse effects. And that's ...

Amy McBeth: Right. No. That was clear. I was just trying to get clarification on your earlier comment. I thought you said you were looking for a similar programmatic agreement.

Chris Wilson: Yes, yes. We are looking for something – I think finding something that is exactly like this case might be – it might not be possible, but yes, looking at sample agreements. That's on the table from day one until we're done but the whole point of 106, is it's a sequential process.

And if – I did give the impression though at the last meeting and I apologize that we could simultaneously be looking at avoidance but then also mitigation. That was my mistake. I think we should look at mitigation if and when that becomes part of the consultation.

Amy McBeth: Right, I understand that. And I mean, that makes total sense and good clarification. I was just trying to understand if we were waiting for samples of programmatic agreements from you based on what you had said earlier. But then now said we wouldn't work on a programmatic agreement. So, I'm just trying to get clarity.

Chris Wilson: So yes. I mean, yes, we'll look at samples and we'll start developing a draft if and when that becomes part of the consultation.

I think that we explored and looked at – I don't know, about a dozen different examples of bridges that were converted. And finding one that's exactly like this case, meaning, there's an active rail line. It's a private sector group like BNSF that owns it as an applicant. Transferring ownership, all those kinds of things.

I don't know if I can find a PA that's exactly like this one, but we can certainly find one that it can be based on – a bridge which is being converted to a pedestrian use.

So, we looked at the one example at Harpers Ferry, that's the closest I can find so far. So, I'm still waiting for the Park Service to give us some documentation where it's an active rail line, there's a pedestrian component and there's two – there's a federal agency, NPS, and then there's – I don't think it was BNSF, it was another private sector group.

Betsy Merritt: Hey Chris, this is Betsy, Betsy Merritt. I would like to recommend that you forward them the James River agreement. Because even though it's not a railroad or historic bridge project, it does contain a lot of creative mitigation ideas and a mitigation package, and it's a situation where the applicants, in that case, it was an applicant for an Army Corps permit. The applicant came up with on their own with this kind of mitigation package with all these different components.

Chris Wilson: OK.

Betsy Merritt: So, it might be useful for you to forward that agreement to them, you know, as an example of some ideas.

Chris Wilson: Good idea. What I'll do is I'll send that to Rob for him to distribute to everybody. But that is – it's apples and oranges but it's a federal agency with an applicant as an example. So, I'll give that to Rob and he can distribute that before the next meeting. Thanks, Betsy.

Mike Herzog: This is Mike Herzog ...

Rob McCaskey: Yes, go ahead, Mike. Go ahead, Mike.

Mike Herzog: I'll try and make this quick because I know we're running out of time. So, I appreciate that clarification and BNSF will certainly be brainstorming on potential mitigation strategies.

My question, just to make sure we're all working above the board, if BNSF is asked to share the strategy with anyone, what's the expectation here?

Chris Wilson: So, I think that from the timing perspective, it is sort of putting the cart before the horse. Does that make sense? Mitigation ...

Mike Herzog: Oh, I get it. It's not as though we're going to be ...

Chris Wilson: ... when it's the appropriate time. So, I it's like herding cats and all of us are all over the country, you know, when we're not in the same place at the same time. But mitigation like Betsy said, it's very creative. It's a very creative process and every case is different. It's just that right now, we're not at the point where it's appropriate to discuss the strategies.

If someone asks you if you have any ideas or you have strategies that you developed, you know – I mean, that's up to you if you want to share or not. But in the context of 106 consultation, we are not ready to do that at this point.

Mike Herzog: So, I understand we wouldn't discuss it in these meetings. Though if a group or party came to us asking about it, I'm hearing you say that would be fine to have those discussions.

Chris Wilson: Yes, there's no way anyone ...

Mike Herzog: Because I ...

Chris Wilson: ... could stop you. I just think that when you're looking at ...

Susan Wefald: I have a question then about that.

Chris Wilson: When you're looking at the allocation of your time and labor, what if we don't get to the point where mitigation is relevant? Why would you waste your time doing it? So, it's totally up to you whether you want to gather strategies.

So Betsy's idea is a good one. The sample PA from the Dominion project in James River will sort of give you an idea of the complexity of a project that's not similar but we have a federal agency with an applicant. So that would be something worth looking at.

Susan Wefald: Mr. McCaskey? Mr. McCaskey?

Rob McCaskey: Yes, Miss Wefald, we're – I think Chris was done there. Chris, were you done sir?

Chris Wilson: Yes.

Rob McCaskey: OK. Yes, and what can I do for you?

Susan Wefald: Well, it's just seems like if BNSF is going to go around talking to people and parties about mitigation at this point and we don't all know what they're saying to these parties, that just as you've been very concerned about FORB having conversations that everyone's not a part of, it seems like that would be really doing something that the rest of us aren't aware of. None of the consulting parties except a few would be aware then of what BNSF wants to do for mitigation.

Rob McCaskey: That seems like a fair point. And it seems in contrary to what Chris just said.

Chris, would you like to clarify it for me, please?

Chris Wilson: Sure. I mean, the sample PA that we're going to distribute is something that everyone will have in their hand by the time there's the next meeting.

It doesn't really serve any purpose right now to develop a high level of detail for mitigation because we don't know if we're going to get to that point. So, I think what Mrs. Wefald is talking about is sidebar conversations with other entities about potential mitigation before it's really appropriate to do so.

Now, we can't – you know, the 106 process is flexible, I can't – we can't force entities to not have sidebar conversations. I guess my point is, it's kind of a waste of time right now because we don't know if we're going to get to the point of mitigation being part of a PA.

I do think this will end up in some kind of programmatic agreement. What's in the agreement, we don't know yet. So, Mrs. Wefald I, you know, there's no preservation police here. I just think it would be a waste of time to spend a lot of time and effort in developing a creative mitigation strategy when we don't know if that would be ever put in place.

Does that answer your question?

Susan Wefald: Can we say though that we encourage them, there's no police for any of us, but in other things the Coast Guard has asked that all conversations happen so that all parties are present. Can we encourage people to not share mitigation strategies except if everyone knows what they are?

Chris Wilson: I mean, think of it this way. When FORB is having its listening sessions in the community ...

Susan Wefald: And BNSF staff is there.

Chris Wilson: Right. Or talking to your engineering firm, there's a mechanism in 106 that Rob has provided so you could report back to the group and discuss the results of those meetings. The whole – the mitigation strategies right now I think

would be maybe be sort of a waste of effort because we don't know if we're going to be implementing those in a PA. So, I don't know what else I can do to clarify.

Susan Wefald: Thank you.

Amy McBeth: This is Amy. I don't know, Rob, at this point on the agenda, but it seems like it falls into that. Can FORB give us a little more information on what your North Dakota DOT presentation is going to be at your next community listening session?

Rob McCaskey: Guys, hold on. Hold on just a minute, Mrs. Wefald. I got a couple of things I want to cover. There's one thing in particular and this will only take just a moment.

We've had a request from someone on the board to take a moment to remember the people in California and the firefighters. If we could just have a moment of silence to remember them in just a second and it'll make someone on the board happy. So, let's just take one moment please and think about them.

OK, thank you. And moving on, if you could answer Mrs. Wefald, please?

Susan Wefald: Yes. The meeting was supposed to be held this morning at 11:30 until 1:00. We found that a great number of our people are in California and that there are a number of people who were not able to come because of this consulting party meeting today.

So that meeting was canceled for today. And I'm not certain if we're going to re-schedule that or not or go straight to our November 28th meeting.

Amy McBeth: I'm sorry, I was just asking. This is Amy, what the – what you're looking to hear or what the DOT is presenting, if you could give us some idea of that?

Susan Wefald: No, we do not know if DOT will be presenting at all.

Amy McBeth: OK, but they have been scheduled to present.

Susan Wefald: Today. Today. But they were – we canceled that meeting because people were not able to attend.

Amy McBeth: I'm just asking was it on how to make a park, a trail. I mean, can you provide some context to what you would ask them to talk about?

Susan Wefald: We asked them to talk about whether they would – what they had, what they knew about the BNSF project from talks – their talks with BNSF as far as it's related to the property on the west side of the river.

Amy McBeth: Right, thank you.

Mark Zimmerman: Rob, this is Zimmerman for Friends of the Rail Bridge. And I guess I would like to address this to both you and Chris. I appreciate the clarification here on the mitigation.

I personally have the sense as we continue to move this project forward, I would hope we'll be and I think Chris Wilson, you made this clear to me that, you know, we're going to come to a time here that mitigation might be the main topic of discussion.

I have a little concern that in a crunch of a timeline that we don't get pushed into a corner to say, well, now we don't have a lot of time for mitigation. You know, let's just come up with something quickly here and move forward.

I'm sensing you're assuring us that that's not the case. If it comes to mitigation, we're not going to be concerned with, OK, now we have to do this in a week or two. That there'll be ample time to have all the input if it gets to mitigation. Is that ...

Chris Wilson: You are correct. I mean, this is ...

Mark Zimmerman: Thank you.

Chris Wilson: ... a complicated project with a very important resource with a lot of public interest. And remember the ACHP

Mark Zimmerman: Thank you so much.

Chris Wilson: ... doesn't get involved in cases unless it meets our Appendix A criteria and we adhere to that pretty strictly. But this is a very important case, and so if we get to the point where mitigation is a discussion, I would hope that we'll spend enough time to deal with it adequately.

Mark Zimmerman: Thank you for that clarification.

Rob McCaskey: OK. So, we kind of left the update on the feasibility study behind. We've got the reports of the FORB community meeting was canceled. And we decided and put out that mitigation measures are not appropriate to discuss at this time.

Is there anything else that we need to discuss on this meeting before we start talking about scheduling the next?

OK. I hear none. And so the final topic tonight will be the discussion of the next meeting which I have listed on December 4th, in-person in Bismarck, beautiful Bismarck in December.

Susan Wefald: Actually it's 50 degrees here today. So it's looking better.

Rob McCaskey: Wow, it's 17 in St. Louis.

Male: My only request is that, for December 4th, it can't be below 20 degrees.

Susan Wefald: We'll do it.

Rob McCaskey: And so I believe we're looking at December 4th, in-person. The exact time and location will come out. I assume everyone is going to want a meeting time like we did before. Open the floor to discussion of that, 6:00 say on December 4th.

Emily Sakariassen: This is Emily Sakariassen with Preservation North Dakota. Evening in-person is best for me anyway. I'm a professional, I have a 9:00 to 5:00, so that makes it a lot easier for me. So, if there's so many of our conference calls then, during office hours, so I know that there's time to strike a balance and I appreciate that. So, evening is what's best for me.

Rob McCaskey: Thank you. Any other comments for discussion?

OK, I'm hearing none. That's where we're going to leave this for now. You will see further e-mails and communication with respect to the exact time and location.

I am prepared to finish the meeting. Is there anyone that objects?

Hearing no objection, I will call this meeting closed. Thank you for your participation, everyone.

Female: Thank you all.

Female: Thanks Rob.

END