

From:
To:

Subject: BNSF Bismarck Bridge Consulting Parties Meeting #11
Date: Thursday, August 01, 2019 3:49:53 PM
Attachments: [Transcript BNSF Bismarck Bridge CP Meeting 9.pdf](#)
[Meeting 10 transcript BNSF Bismarck Bridge.pdf](#)

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 on **Wednesday, August 20, 2019** from **6:00 – 8:00 pm** Central Time at the **North Dakota Heritage Center and Museum** located at **612 East Boulevard Avenue, Bismarck**. If you plan to join the meeting, please accept this invitation and respond by contacting:

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

The following meeting materials are attached to this meeting request:

- Consulting Parties Meeting #9 Transcript
- Consulting Parties Meeting #10 Transcript

The agenda for this meeting will be sent in a subsequent email. 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]

Aimee Ross Angel, MHP | Jacobs | Architectural Historian | Global Environmental Solutions | + [REDACTED] | [REDACTED] | www.jacobs.com

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

Agenda: Section 106 Consulting Parties Meeting #11

Wednesday, August 21, 2019

6:00 pm CST

Location:

North Dakota Heritage Center and Museum

612 East Boulevard Avenue, Bismarck

Dial-in information:

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

1. Roll-Call/Introductions
2. Minutes from Meeting #9 and #10
3. Ground Rules
4. Old Business
 - a. Review last consultation meeting
 - b. Review of stakeholder conferences
5. New Business
 - a. FORB proposed timeline for review of FEMA no rise determination
 - b. Programmatic Agreement Discussion
 - c. Project milestones for each party
 - d. Next steps

Next Scheduled Meetings:

- TBD

BNSF Bismarck ND Project

U.S. Coast Guard Section 106

Consultation Meeting

August 21, 2019



Agenda

- **November 2018 consultation meeting**
- **July 2019 FEMA teleconference**
- **FORB's Floodplain Rise Reevaluation: Proposed Timeline**
- **NEPA and Section 106 Process way forward**
- **Programmatic Agreement Discussion**
- **Project Milestones for each party**
- **Next steps**



November 2018 Consultation Meeting

- Section 106 Consulting parties meeting #10 (November 14, 2018)
 - ACTION ITEMS
 - List of Feasibility Study Members from FORB
 - Feasibility study to be completed
 - Summary of fund raising



July 2019 FEMA Teleconference

- Impacts of alternatives on floodplain rise
- FORB to arrange review of engineering model to test no-rise determination
- Potential Paths Forward



FORBs Floodplain Rise Reevaluation: Proposed Timeline

Aug 1,
2019

- FORB sends out RFP to water engineering firms

Sept 4-11

- FORB reviews proposals

Sept 12-24

- FORB works with selected engineer on a contract

Oct 31,
2019

- Draft Modeling Report



Coast Guard Bridge Permit Process

Draft NEPA
document and
Section 106
document

Obtain
comments
on draft
documents
from
agencies and
tribal nations

USCG issues
NOA for
NEPA/106
documents.
Starts Public
Comment
Period.

USCG
reviews
public
comments
received

USCG issues
final
NEPA/106
documents

Permit
Decision



Programmatic Agreements under Section 106 of the NHPA

- Used when the effects of an undertaking are not fully known
- Project-specific PAs allow parties to establish timeframes and procedures for review and dispute resolution, and a process tailored to the exact nature and requirements of a particular undertaking
- Must provide the public an opportunity to express views on the resolution of adverse effects



What is this document?

Programmatic Agreement

Who is involved?

among
Lead Agency
Other agency
SHPO/THPO
Native American Tribe
and
The Advisory Council on Historic Preservation
(if they are participating)

What is the background?

WHEREAS, identify agency and undertaking or program covered in the PA; and

WHEREAS, findings about effect of undertaking, legal authorities that apply, information about consultation with Council and SHPO/THPO;
and

WHEREAS, consultation with other parties, invitations to sign or concur; and

WHEREAS, any other pertinent information;

NOW THEREFORE, (list of signatories) agree that . . .

What have we agreed to do and who is going to do it?

Stipulations

(Lead Federal agency) shall ensure that . . .

1. Describe the process to be followed in logical order; include personnel qualifications, recording standards, reporting requirements,.
2. Attach documents such as protective covenants, marketing plans for historic structures, maps, etc.
- 3, 4, etc.

How are we going to handle administrative issues, unanticipated occurrences, and disputes?

Some or all of the following administrative stipulations may be needed:

- Public participation
- Monitoring and reporting on implementation
- Treatment of human remains
- Confidentiality
- Availability of records/data
- Disposition of archaeological collections
- Unanticipated discoveries



Milestones for Each Party – For Discussion

Coast Guard	FORB	BNSF
Develop NEPA document		Draft NEPA document. Include alternative for replacement bridge and existing + new bridge
Develop Programmatic Agreement Facilitate discussions with consulting parties	<p>Work with USCG/ACHP/SHPO/BNSF on mitigation in PA for both alternatives</p> <p>Finalize Floodplain Modeling Report</p> <p>If no net rise:</p> <ul style="list-style-type: none"> • Begin CLOMR process • Discuss lease agreement w/BNSF • Discuss costs w/BNSF associated with changing design to accommodate existing bridge • Resolutions of support • Apply for funding • Convert bridge to pedestrian bridge 	Work with USCG/ACHP/SHPO/FORB on requirements (funding, licenses, agreements, etc.) and mitigation in PA for both alternatives
Public Comment Period	Review NEPA document	
Permit Decision		Submit complete application

Next Steps



SECTION 106 CONSULTING PARTIES MEETING

<u>NAME</u>	<u>EMAIL</u>	<u>AFFILIATION</u>
Lori Price		Jacobs
Aimee Angel		Jacobs
Nancy Persen		FORB
AARON L. BARTH		Clark Riverboat
Chris Wilson		
Mark Zimmerman		FORB
Claudia Berg		SHSD - SHPO
Donald Knight		Capt's Landing twp
ERIK SAKARIASSON		LINCOLN FOUNDATION
Amy Guthrie Sakari		National Trust for Historic Preservation
Shelly Sugarman		USC
Brian Dunn		USC
Kelly Morgan		Lakota Consulting
MIKE HERZOG		BNSF
Dana Katala		BNSF
Freddie Rios		Supervisor Captain
Nick Bradbury		FORB
Steve Saunders		Bis-Mon MPO
Jimi Neubauer		City of Nandan
Amy McBeth		SF
Susan Quinnell		SD SHPO
Lorne Meidinger		SD SHPO
Alan Welford		FORB
J. Signe Supt. Honal		FORB
BEN ENFETA		of BISMARCK

<u>NAME</u>	<u>E-MAIL</u>	<u>AFFILIATION</u>
Emily Sakariassen		Preservation North Dakota
Henry Sundquist		Preservation North Dakota
Walter Bailey		Historical Society
David Meyer		Parks and Recreation District
Randy Bina		Parks and Recreation District

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 #11

Meeting Notes

Wednesday, August 21, 2019

6:00 pm CST

North Dakota Heritage Center and Museum

612 East Boulevard Avenue, Bismarck

Dial-in information:

866-203-7023; PIN 5093-167-060

Attendees: See sign in sheet

- Rob McCaskey (USCG) introduced the meeting and set ground rules.
- Participants introduced themselves.
- Rob McCaskey presented a general review of the last meeting and developments that have occurred since that time including:
 - Stakeholders meetings that have happened
 - Teleconference with FEMA July 19.
 - Attendees: BNSF, FORB, USCG, FEMA.
 - Conclusion: will allow FORB a chance to revisit calculations regarding potential rise of the river and hire someone to see if they can find a way to come to zero net rise. FORB requested minutes from this teleconference following the meeting.
 - FORB has sent out an RFP to hire a consultant to look at the FEMA issue (see PowerPoint presentation for proposed timeline.)
- Shelly Sugarman (USCG) asked if FORB could provide a summary of the scope in the RFP. Susan Wefald (FORB) said no, she did not bring it and could not summarize it.
- Amy McBeth (BNSF) asked if FORB could provide a fund-raising summary, from the previous meeting agenda. Susan Wefald said she would address that later in her remarks.
- Rob McCaskey reviewed the bridge permitting process (see PowerPoint presentation).
 - Shelly Sugarman - We are in the first step of the process, which is drafting the NEPA and Section 106 document. The CG typically allows 30 days for public comment.
 - For Section 106 we are in the “consulting phase.”

- Brian Dunn (USCG) says NEPA and Section 106 should be in “lock step.”
- Audience member asks if there has been an NOI. Shelly Sugarman – not yet. NOI is for EIS. USCG has not reached a decision on Environmental Assessment (EA) vs Environmental Impact Statement (EIS).
- Dava Kaitala (BNSF) notes that regulations allow concurrent NEPA and Section 106 process.
- Nick Bradbury (FORB) asks how public comments are incorporated?
- Shelly Sugarman – explains how public comments are put in a matrix and then separated into buckets by theme, then responses are prepared for each theme and included in the final environmental document. May reach out to other expertise agencies to assist with comment responses.
- Chris Wilson (ACHP) – NEPA and 106 inform each other.
- Discussion of NEPA.
 - Requirement to look at reasonable alternatives.
 - Reasonable alternatives were defined by USCG as:
 1. Keeping the existing bridge in place and constructing an adjacent bridge
 2. Replacing the existing bridge
 3. No action
 - A Programmatic Agreement (PA) would map out a timeline and provide milestones for consulting parties to work towards.
 - Shelly Sugarman explained that under the NEPA and Section 106 process, both alternatives 1 and 2 would be discussed until the process is complete.
- Rob McCaskey discussed the use of a PA (see PowerPoint presentation).
 - ACHP is actively participating in the process with Chris Wilson as the representative.
 - The use of a PA would allow the project to keep moving.
 - Chris Wilson discussed his role in the process.
 - PA will be project specific.
 - Shelly Sugarman and Chris Wilson discussed the use of a PA and its framework and that consulting parties will be involved in the development of the PA and its stipulations.
 - The PA will cover mitigation of all adverse effects
 - Chris Wilson stated that mitigation should be commensurate with adverse effects. Can be amended for unforeseen circumstances. Signatories would be ACHP, SHPO, and USCG. BNSF and FORB would be invited signatories. Amendment process only needs signatures of signatories.
 - Dava Kaitala pointed out that amendments to PAs are very rare. In 10 years, she’s only had one. Also noted that Inadvertent Discovery Plan would be included.
 - Chris Wilson clarified that amendments are mainly done for time/schedule issues.

- Susan Wefald requested sample PAs.
 - Chris Wilson will select a few relevant examples to send out but noted that each PA is specific to its situation.
- Mark Zimmerman (FORB) asked who is responsible for the PA?
- Rob McCaskey explained USCG is responsible as lead federal agency and has oversight over all documents produced by Jacobs.
- Jacobs will draft the PA and send it out for comment.
 - From now on, all documents will go to Rob McCaskey, Shelly Sugarman and Brian Dunn at USCG.
- USCG discussed milestones (see PowerPoint presentation for examples)
 - Amy McBeth (BNSF) – although the slides say FORB, does that mean all consulting parties? Yes.
 - Milestones on slide came from FORB's feasibility study. USCG is requesting milestones from all parties to incorporate into the PA.
 - Brian Dunn (USCG) – USCG is lead, but the applicant and consultants prepare the draft environmental document. The Coast Guard is responsible for evaluating the accuracy and completeness of the information provided.
- Discussion of Environmental Assessment (EA) v. Environmental Impact Statement (EIS)
 - Signe Snortland/FORB: For an EIS, USCG must select the consultant.
 - Shelly Sugarman - USCG will decide on EA or EIS; they haven't decided yet. They are still considering all the concerns and whether they can get to a finding of no significant impact. They are hoping to get more information about alternatives while still moving the process forward. Want to see NEPA and PA happen concurrently.
 - Chris Wilson pointed out this is a little different because it involves private property.
 - Emily Sakariassen (Preservation North Dakota) – Can you explain more how NEPA and Section 106 parallel? And how USCG decides on an EA v. an EIS?
 - Rob McCaskey – USCG makes the decision.
 - Shelly Sugarman – PA allows for two options, so maybe an EA will work. If there is a significant impact, then we will need an EIS. We don't have all the information yet. We don't want to go through an EA and then have a significant impact and THEN have to do an EIS. PA must be done before Finding of No Significant Impact (if an EA is pursued) or a Record of Decision (ROD) if an EIS is pursued.
 - Signe Snortland expressed concern that they would not be able to see the draft of an EA until it was released for public comment. EIS process is more transparent.
 - USCG responded that they have shared all information and documents thus far and will continue to share information on the alternatives. The USCG has the

discretion to allow agencies and other parties to review the draft environmental document before the public comment period. The USCG sees no reason why it shouldn't be able to allow FORB to review the draft environmental document before it goes out for public comment. Need to make sure we have all alternatives considered.

- Brian Dunn – PA allows us to look at all alternatives. Milestones in the PA can extend beyond the permit decision date such as those related to funding for the pedestrian bridge, etc.
 - Chris Wilson assured consulting parties that a PA at this stage is legal according to General Counsel. Negotiating on milestones and time frames hasn't happened yet. Focus on the process. ACHP is an advocate for the process not the resource.
- Discussion about alternatives and the 80' design considered in December 2017.

Nick Bradbury, Amy Sakariassen (NTHP), and Signe Snortland expressed concerns about the number of alternatives that had been considered, the engineering of the new bridge, whether or not a bridge could be designed to result in no net rise and whether other designs that may alter the number or size of piers, and/or the distance between piers have been considered. Additionally, the question of exploring a land swap for the preserve was posed.

Mike Herzog (BNSF) responded by stating that:

- BNSF's preferred alternative meets no net rise. BNSF has evaluated what can be built and the issue of flood rise, and have provided that to the Feasibility Study.
- There are other issues that must be considered – hydraulics, the adjacent nature preserve, embankment/reservoir issues. There is no simple fix.
- Piers are angled under the water, so new piers need to be far enough away from existing piers to not impact their stability.

Brian Dunn added that there is no mandate to look at every alternative as that could go on *ad infinitum*. He further stated that USCG can look at whether or not alternatives are reasonable but does not have to look at alternatives that are "outside reasonable." NEPA looks to see if alternatives are reasonable and why alternatives are removed from further consideration. Alternatives that BNSF looked at and did not choose should be outlined in the NEPA document along with a discussion of why those alternatives were removed from further consideration.

- Amy McBeth added that BNSF prepared an estimate of costs for City Council but that they did not do an in-depth engineering study. USCG asked, "Why spend resources on an alternative that is not going to be built?"

The discussion continued regarding the "alternatives"; what are the alternatives, what is a feasible alternative, are there only two alternatives – build a bridge 30' north and remove existing bridge and there is no feasible alternative. Nick Bradbury stated that he believes that there are other feasible alternatives. FORB asked was whether there are other models to reach no flood plain rise and whether USCG engineers have looked at the building design?

Mike Herzog responded by saying that there is no net rise with removing bridge. BNSF has not found any hydraulic modeling that results in no net rise when keeping the bridge and constructing a new one.

Brian Dunn stated:

- USCG agreed to let FORB look at whether there were other models for the Preferred Alternative.
- If there is there a model that will show no net rise with both bridges, then that opens up the option to retain the bridge.
- BNSF has also looked at that and USCG has discussed it.
- USCG does not review the engineering for bridge designs.

Amy McBeth and Mike Herzog stated:

- BNSF has looked at other options and shared those options, along with reasons why those were not advanced.
- BNSF made clear that they did make an effort to look at options and that they couldn't get to no net rise.
- Mike Herzog explained why BNSF is replacing the bridge and stated that BNSF has done everything asked of them.

Brian Dunn stated that BNSF should present the alternatives and engineering and that if we are being told that CPs haven't received it, then it should be provided again.

The discussion then focused on the issue of "rise" and FEMA regulations. Eric Sakariassen questioned how less than 0.25 inch in rise could really be impactful and reiterated that he believes BNSF engineers should be able to design a bridge with no net rise and that both bridges can exist without any rise.

BNSF talked about their responsibility to follow FEMA approved models and FEMA rules. Dava Kaitala explained that FEMA allows a temporary rise during construction.

Chris Wilson asked about the role of the Flood Plain Administrator. Dava Kaitala explained that the Flood Plain Administrator can only issue waiver if there are no structures impacted. She stated that there are 550 structures (with the 30-foot alternative) impacted that are eligible for the National Flood Protection Program. Chris Wilson asked that this analysis be shared with the group. It was noted that BNSF bridge inspection reports cannot be shared due to Homeland Security regulations. Susan Wefald said FORB had not received any information and believes sensitive information can be redacted and reports released. Rob McCaskey asked what information she had not received. Susan Wefald replied she didn't know but would put together a list of all the information that they want.

The discussion then focused on the FORB RFP. Shelly Sugarman suggested that the RFP have FORB engineers talk to BNSF engineers. Susan Wefald and Signe Snortland expressed concern that the current timeline proposed by USCG does not allow enough time for engineers to conduct the study and inquired as to why USCG cannot do the study themselves or hire a contractor to do it for them.

Shelly Sugarman and Brian Dunn responded as follows:

- Requested FORB see how many responses to the RFP they get back and if, at that time, it is determined that more time is needed that can be considered. USCG will ask how much more time is needed and require a justification.
- Explained that they do not have the capability to conduct independent studies on every application they receive.
- Explained they don't have the funding to hire a consultant and that it would take too long to go through the contracting process.
- They will look at both studies (BNSF and FORB) and work through it, if the FORB study comes back with no net rise.
- Susan Wefald explained how FORB got involved in project:
 - They did a Feasibility Study with a steering committee, using NDSU.
 - Expressed concern that the BNSF engineering study sent to Bismarck City Council on June 25, 2019 for the alternative that would construct the bridge 80 feet from the existing bridge (80-foot Alternative) did not have a steering committee or FORB representation.
 - FORB sent timeline for flood rise study to USCG July 24. USCG did not approve of end date of 12/31, and said 10/31 instead. Said 30' north alternative is current alternative, and is only alternative, and that FORB study should stay with that alternative. Why not the 80-foot north alternative? Should be part of NEPA. Believes USCG should do independent study instead of FORB having to pay for it.
 - Susan Wefald read a prepared statement to the group. Copy of Statement provided by Susan Wefald and forwarded on September 5th.
 - Shelly Sugarman responded that the USCG reviews bridge permit applications and does not require independent studies that are not relevant to the proposal presented by the applicant. Time and scope of the RFP were limited by what the applicant was proposing. USCG will not use its resources or those of expertise agencies to review alternatives that will never be built by the applicant. Although BNSF is using a contractor to assist with their application, the USCG reviews all of the documentation presented and will not make NEPA or Section 106 documents final until those reviews are completed. . BNSF presented models that are approved by FEMA and designs by licensed professional engineers. USCG is not going to contest valid engineering. The 80-foot alternative was not submitted to the USCG for review or consideration, but the reasons for it being removed from further consideration should be addressed in the environmental review.
- Fred Rios (Captain's Landing Township) asked if the USCG could guarantee that there will be no flood issues with two bridges in place? I love the bridge, BUT can we be promised we won't flood?
- Chris Wilson pointed out that debating these issues in the press does not move the ball forward. He asked people to trust in the process and not assume the "other side" is being dishonest. There is only so much USCG can do. Under NEPA, there is a document that you respond to. Section 106 is consultation. We need to start developing the PA.

- Nick Bradbury asked could a design that doesn't put additional piers in the water be used to achieve no net rise? Quoted the new bridge at Sibley as an example.
 - Brian Dunn responded that it is hard to answer all questions in a meeting like this. Rather than answer that tonight, we should use the PA process to address the questions. We're still at beginning of consultation. The group needs to go on record with questions and answers.
 - Mark Zimmerman agreed with working on PA. He had two calls today from TV and radio. Community wants to know what's going on with bridge. Asked USCG to provide a statement for the press describing the process and where we are in the process. Wants the statement to be issued from USCG. Public needs to know it's not done yet, not a done deal. Suggests that USCG be point of contact.
 - Brian Dunn said USCG would consult their public affairs department and consider putting something together.
 - Amy McBeth – as the person who is responsible for comments, we always say we're in the process. But we can't control the press.
- Discussion returned to the PA and milestones.
 - Aaron Barth (Lewis and Clark Riverboat) – How do we submit milestones?
 - Shelly Sugarman – Everyone should send in their mitigation and milestones.
 - Send in an email to USCG.
 - USCG suggested we start developing/discussing mitigation for both alternatives.
- Kelly Morgan (Lakota Consulting) spoke at length about the impacts to archaeology, tribes, and the history of Native Americans. She believes that the bridge is a national treasure and that we should be more considerate of the history. Sees this as an opportunity for BNSF to show what can be done when you preserve a historic bridge. People will come up against you if you take down the bridge. Cultural sites will be destroyed. It's a mistake to not include the people in the community. Seems like end result has already been chosen. She appreciates being included, and says there are tribal people who are interested. Relates to taking of the land to build the bridge originally.
- Fred Rios stated he is not in favor of using the bridge as a pedestrian trail. Too expensive. He suggested running a coal train or historic locomotive on the bridge and preserving it *in situ*, modeled on another historic rail line in New Mexico.
- Kelly Morgan – We can include that piece but I completely disagree that it shouldn't be a trail. Chance to bring together the communities with signage, etc. Would be expensive but rewarding, and could bring tourism.
- Emily Sakariassen – Preservation is about embracing opportunity. We should explore these opportunities together.
- Next Steps
 - Shelly Sugarman - Each party should work on preparing milestones for their respective group for both alternatives. Milestones are those steps that your agency or group needs to follow in order to participate in this project. These milestones could incorporate time to have your leadership review what you

plan to submit with regard to comments, time needed for additional studies, etc. These will help USCG set dates/timeline.

- Each party should email their milestones to Rob McCaskey.
- At Signe Snortland's request, the two alternatives were defined as:
 - Building a new bridge and removing the old bridge.
 - Building a new bridge and retaining the old bridge.
 - Brian Dunn - USCG has not ruled out this option. Key is flood plain. If a model can show no net rise, then retention of bridge may be possible. If both models (BNSF and FORB) show flood rise, then local flood plain administrators would have to determine what the local impacts would be and then that information would be presented to FEMA to determine whether or not those impacts are acceptable.
- We are only looking at the 30-foot Bridge design – that's what's in the application.
- Emily Sakariassen - We are a statewide organization made up of volunteers. Why do milestones if the alternative is not feasible?
- Brian Dunn – USCG is retaining both alternatives. If the flood plain issue cannot be addressed, then it's not feasible. Can it be mitigated? We also need to think about milestones if the bridge is retained, like: Who will operate the bridge? Who will be responsible for maintenance? Liability insurance? Fund raising, etc.
- Signe Snortland – Are these milestones or PA stipulations?
- Chris Wilson – yes.
- Shelly Sugarman – Refer back to the Feasibility Study – things such as lease agreement, maintenance agreement, etc. Then we can figure out timelines later.
- Amy Sakariassen – How can we do milestones for something that might not happen? Too nebulous.
- Brian Dunn – Milestones can be long term, what might happen.
- Chris Wilson – How long will it take to build the bridge?
- Mike Herzog – Two to three years.
- Chris Wilson – Donors like to have something concrete. Can refund donations if bridge is demolished.
- Shelly Sugarman - Deadline for milestones is three weeks (September 11, 2019). By then, RFP will be responded to and we'll have shared sample PAs.

Meeting concluded.

From: McCaskey, Rob E
To: [REDACTED]
Subject: [EXTERNAL] FW: FORB comments at July 21 Consulting Party Meeting
Date: Thursday, September 05, 2019 10:47:48 AM

From: Susan Wefald <[REDACTED]>
Sent: Thursday, September 5, 2019 9:36 AM
To: McCaskey, Rob E <[REDACTED]>
Cc: Mark Zimmerman <[REDACTED]>
Subject: [Non-DoD Source] FORB comments at July 21 Consulting Party Meeting

To: Mr. Rob McCaskey, USCG
From: Susan Wefald, Friends of the Rail Bridge (FORB)
Re: FORB Comments Susan Wefald read at July 21 consulting party meeting

Good evening, I would like to take a few minutes to review how FORB became involved in this request for engineering proposals for a hydraulic study. Last fall FORB discussed at consulting party meetings the idea of doing a feasibility study of converting the existing rail bridge to a pedestrian bridge. The proposed study was in response to questions from local government officials about costs, connections, etc. FORB chose a steering committee that included BNSF, even before USCG suggested that we include them on the steering committee for this study. FORB chose NDSU to do the study, and paid for the study, which was completed in July 2019.

Also, last fall BNSF stated at a consulting party meeting that they wanted to do a study of problems that would be encountered if they pursued the option of constructing their new rail bridge 80 feet north of the existing bridge. FORB was not a part of the steering committee for that study. Was there a steering committee for the BNSF study? BNSF did their study, which was completed and made available to Bismarck City Commission and others in June 2019. (See BNSF Railway document provided to the Bismarck City Commission, June 25, 2019)

However, as requested at the June 12 USCG meeting, FORB prepared a timeline for a Hydraulic Floodway Review and Analysis. USCG officials stated at the meeting that the FORB timeline should be sent to USCG officials for approval. The timeline was sent to USCG officials on July 24, asking for a response by July 30. US Coast Guard officials did not approve FORB's proposed timeline, which asked for Draft Product Delivery on December 31, 2019. US Coast Guard told FORB to use a October 31 date for final delivery instead of December 31, 2019. When FORB protested and indicated that FORB had asked for flood impacts and hydraulic modeling including such modeling on a new bridge with tracks positioned 80 feet north of the existing bridge, USCG officials stated in an e-mail dated July 31:

"the current BNSF application, received by the Coast Guard, is for a replacement bridge 30 feet north of the existing bridge. As part of the NEPA and Section 106 process, we are analyzing other reasonable alternatives which might include retaining the existing bridge and building a new bridge adjacent to it. It was our understanding, during the FEMA teleconference that you participated in, that this would be the only alternative analyzed by FORB through a different

FEMA-approved model. The RFP, which is designed to validate this analysis and allay any misconceptions about the process, should stay within the boundaries of that alternative.”

It appears, at this time, US Coast Guard is only looking at a replacement bridge 30 feet north, and not at other reasonable alternatives.

Therefore, the timetable FORB is currently using for the RFP is not the timetable FORB proposed, it is the timetable the US Coast Guard “approved.” Also, the scope of the RFP is not the scope proposed by FORB, but the scope approved by the US Coast Guard.

FORB is now wondering why the US Coast Guard did not commission a study of costs, water engineering hydraulics, and environmental issues connected with constructing a new rail bridge 30 feet and 80 feet north of the existing bridge, so that these issues could be explored independently and without bias, and the results available to consulting parties. The USCG should have conducted such a study as part of NEPA, (“If reasonable alternatives exist, NEPA requires agencies to rigorously explore and objectively evaluate them.” Page 13, *NEPA and NHPA*)) Instead, in June 2019, the USCG gave FORB the choice of funding their own hydraulic study or using the BNSF data at public FEMA hearings. FORB is not a “cooperating agency.” FORB is a “consulting party.” **If the US Coast Guard had commissioned their own independent and objective study of costs and environmental issues connected with constructing a new rail bridge 30 feet and 80 feet north of the existing bridge as NEPA requires, FORB would not need to ask and pay for this important information. It would already be on the record and available to us as a consulting party.**

--

-Mandy Persson

