

Sugarman, Shelly CIV

Subject: FW: Coments on BNSF EA
Attachments: 401 cert of NW Permits 2007.pdf

From: June Bergquist
Sent: Tuesday, August 28, 2018 10:27 AM
To: steven.m.fischer3@uscg.mil
Cc: June Bergquist
Subject: Coments on BNSF EA

Hi Steven,

Here are comments on the EA from Idaho DEQ regarding the BNSF proposed bridge over Pend Oreille Lake. [Our air quality section is reviewing and if they have comments they will be sent under separate cover]:

1. Page 25 indicates the surface flow speed of the lake in the vicinity of the BNSF bridge is 1 to 3 knots. The reference does not reference any study or source of this data. Since this could be a key piece of data used by others for purposes such as spill response, it would be prudent to cite a study or source of data that is guided by a sampling analysis plan and quality assurance plan. It is also an important item to know when deploying silt curtains and other containment measures. DEQ certification conditions require that manufacturer specifications for deployment of curtains be followed. Typically one of these limitations is water velocity. In Pend Oreille Lake this varies widely depending on season. Velocity data must be reliable in order to select the correct BMP.
2. To clarify, the BNSF Bridge 3.9 North/South Pier Replacement Projects in 2007 and 2008 were not guided by individual 401 certifications but rather under a 401 certification dated May 11, 2007 for the nationwide permits program. This 401 certification, which applied to all but 4 of the approximately 50 nationwide permits, required monitoring to evaluate BMP effectiveness but did not specify the type of monitoring (visual or instrument) and did not provide details on where to monitor nor notification to DEQ if water quality standards were exceeded. A records search does not indicate we received a record of the monitoring for these projects. Details on how to conduct instrument monitoring may have been provided by DEQ upon inquiry by the applicant. Also, DEQ regional office would not have received notice of this proposed project from the Corps if it met conditions of a nationwide permit covered by the May 11, 2007 certification. However, BNSF conducted coordination with agencies including DEQ, and DEQ was notified of the project by Idaho Department of Lands as part of their Lake Encroachment Permit process and provided comment to that agency through their process.
3. Page 30 should better describe the construction permit. The Construction General Permit (CGP) is a federal permit issued by the U.S. Environmental Agency to protect waters of the U.S. from polluted runoff from construction sites. The CGP applies to land and does not overlap with 404 jurisdictional waters. So where the Corps' 404 authorities end (such as ordinary high water mark and edge of jurisdictional wetlands) the CGP begins. This detail should be confirmed by EPA but I mention it because the EA indicates that the project will disturb 20 acres. I think it is important for the public to understand how these jurisdictions are not overlapping and necessary to address pollutant sources from both construction on land and in water. Page 30 mixes them together in the discussion and makes it somewhat confusing. We suggest a rewrite of this paragraph.
4. Page 44 and 45 invasive species discussion should include DEQ's draft certification condition #39 related to steam cleaning equipment of oils, grease and invasive species unless the intent of the EA was to portray just the application materials.
5. Page 50 indicates that the area impacted by turbidity would be small relative to the entire lake. This "measure of success" has no basis in rule and is a poor ruler of success for minimization of turbidity as it assumes the rest of the lake has no human caused turbidity impacts. Similarly, the statement on page 51 indicates that the area of lakebed occupied by new piles will be an insignificant loss of benthic invertebrates when compared to the rest of

the lake. However, this does not take into account the various types of benthic habitats that exist throughout the lake due to substrate, depth, water velocity, clarity, temperature, disturbance, and many other factors that affect survival of benthic invertebrates. It also assumes that other benthic habitats are fully functioning.

6. Page 70 discusses coal dust as the EA does in various locations of the document. We do not see a discussion of incidental coal spillage from railcars, particularly that expected to spill during a crossing of a bridge of this age. There have been some recent court cases that could inform this issue. To be clear, DEQ does not have significant concerns related to this project and historical incidental coal spillage at the existing bridge crossing due to the likely scenario that seasonal high flows wash some of the coal downstream. However, if coal spillage as dust is examined, it seems to be logical to address this other source of spillage. More importantly, due to the proximity of construction to the existing rail bridges, a list of spills from the bridges as recorded by BNSF would be helpful, if such records are kept. This information could be used to anticipate any potential sediment contamination prior to disturbance by pile driving, or inversely, remove this concern if record keeping was diligent. Records kept by agencies do not span the timeframe this bridge has been in use and the materials spilled, if any, may not have been in a category to be included in public records.
7. Page 85 indicates that there is a stakeholder group formed to determining mitigation for nearshore fills. DEQ is not part of this group although we develop and implement TMDLs (recovery plans for impaired waterbodies such as Pend Oreille Lake and River). It would be helpful to learn what this group is focused on and what sideboards the mitigation must satisfy and the lead agency.
8. Page 88 Table 11 June Bergquist is a Compliance Officer not a Water Quality Specialist.

Thank you for the opportunity to comment.

June

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