



LAKE PEND OREILLE WATERKEEPER®

Our Lake for Life

Submitted via email to D13-PF-D13BRIDGES@uscg.mil

5/2/2018

Steven M. Fischer
U.S. COAST GUARD DISTRICT 13 BRIDGE PROGRAM ADMINISTRATOR
Thirteenth Coast Guard District
915 2nd Ave, Room 3510
Seattle, WA 98174

Re: Comments on Public Notice NWW-2007-01303 – BNSF Sandpoint Junction
Connector Project

Dear Mr. Fischer:

Pursuant to the United States Army Corps of Engineers' (hereinafter "USACE") public notice letter dated February 26, 2018, this comment letter is submitted by Lake Pend Oreille Waterkeeper (LPOW) on behalf of itself and its members, many of which reside on or near Lake Pend Oreille, as well as throughout the adjacent region, all of which is affected by the proposed rail bridge expansion project (hereinafter the "Project").

We understand the Project entails several significant actions and activities authorized and managed by several different federal and state resource agencies. As a water-focused advocacy organization our goal is to ensure decisionmakers take a hard look at the diverse effects the Project will cause or incite, and to ensure agencies utilize the proper legal framework and sound science in reviewing the Project. For these reasons we submit, first, this comment letter respectfully articulating USCG & USACE duties to thoroughly analyze Project effects under the NEPA. Insofar as USCG and USACE are sharing NEPA review duties, and to simplify our comments, we simply refer to "agencies" or "resource agency" throughout this letter.

Due to the Project's complexity we also strongly urge the action agencies here to create a specific web portal where all public notices and comment opportunities salient to the Project are listed. The status quo of differing agency comment period, lack of official notices, and general confusion surrounding the Project is a bad omen that unnecessarily risks losing meaningful public participation.

EXECUTIVE SUMMARY

As discussed below, we urge the agencies to reconsider the preliminary determination to develop an Environmental Assessment (EA) and not perform an EIS for the Project. The proposed railway Project entails significant direct, indirect, and cumulative impacts, and in context likewise entails a heightened level of significance to the local community and landscape. Furthermore, the Project contributes to and encourages other connected actions with cumulative effects that affect resources far beyond the identified project area; all of these impacts must be considered by the agency before any authorization may be issued.

As discussed in depth below, we urge the agency to reverse its preliminary determination to issue an EA and, moving forward, issue notice to the public of resource agency intent to perform the requisite hard look at the Project through an EIS process.

LEGAL STANDARD

A. NEPA Requires Both Accurate Disclosure and Meaningful Public Engagement

NEPA, 42 U.S.C. §§ 4321–4370f, is our “basic national charter for protection of the environment.” 40 C.F.R. § 1500.1(a). It makes environmental protection a part of the mandate of every federal agency. 42 U.S.C. § 4332(1). NEPA requires that federal agencies “take a ‘hard look’ at the environmental consequences before taking action.” Baltimore Gas & Elec., 462 U.S. at 97. One of NEPA’s purposes is to ensure that an agency, “in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts.” Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 349 (1989). NEPA requires agencies to disclose all potential adverse environmental impacts of its decisions before deciding to proceed, 42 U.S.C. § 4332(2)(C), and requires agencies to use accurate information and to ensure the integrity of the analysis. 40 C.F.R. §§ 1500.1(b), 1502.24.

Full and effective public participation in agency decision-making is a cornerstone of NEPA. 42 U.S.C. § 4332(2)(C); Robertson, 490 U.S. at 349 (NEPA “guarantees that the relevant information [concerning environmental impacts] will be made available to the larger audience,” including the public, “that may also play a role in the decisionmaking process and the implementation of the decision.”); 40 C.F.R. § 1500.1(b) (“NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.”). “Federal agencies shall to the fullest extent possible: . . . [e]ncourage and facilitate public involvement in decisions which affect the quality of the human environment.” *Id.* § 1500.2(d); *see also id.* § 1506.6(a) (“Agencies shall . . . [m]ake diligent efforts to involve the public in preparing and implementing their NEPA procedures.”).

If an agency action has adverse effects that are “significant,” they need to be analyzed in an EIS. 40 C.F.R. § 1501.4; Grand Canyon Trust v. FAA, 290 F.3d 339, 34 (D.C. Cir. 2002) (“If *any* significant environmental impacts might result from the proposed agency action then an EIS must be prepared *before* an agency action is taken”).

In Town of Cave Creek v. FAA, 325 F.3d 320, 327 (D.C. Cir. 2003), the D.C. Circuit laid out four factors to consider when evaluating a FONSI. A court must inquire whether the agency: (1) has “accurately identified the relevant environmental concern”; (2) has taken a “hard look” at those problems in preparing its EA; (3) is “able to make a convincing case for its finding” of no significant impact; and (4) has shown that even if there is an impact of true significance, an EIS is unnecessary because “changes or safeguards in the project sufficiently reduce the impact to a minimum.” *Id.*; Taxpayers of Michigan Against Casinos v. Norton, 433 F.3d 852, 860 (D.C. Cir. 2006) (court’s role in reviewing an agency’s decision not to issue an EIS is “to ensure that no arguably significant consequences have been ignored”).¹

The preliminary decision to perform an EA for BNSF’s Sandpoint Junction Connector Project runs afoul of these standards.

B. Federal Agencies Must Take a “Hard Look” at the Rail Project’s Impacts

Under NEPA, action agencies must fully assess and disclose the complete range of environmental consequences of the Project’s proposal to expand and significantly overhaul operations in and around Lake Pend Oreille. Such consequences include “ecological [effects] (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, social, [and] health [effects] . . . whether direct, indirect, or cumulative.” 40 C.F.R. § 1508.8; *see also id.* §§ 1502.16(a), (b).

Direct effects are “caused by the action and occur at the same time and place.” *Id.* § 1508.8(a). Indirect effects are caused by the action “later in time or farther removed in distance, but are still reasonably foreseeable.” *Id.* § 1508.8(b). Indirect effects may include “growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.” *Id.*

Cumulative impacts are “impact[s] on the environment which result[] from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.” *Id.* § 1508.7. As the regulations make clear, “[c]umulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” *Id.* Consideration of cumulative effects pursuant to NEPA requires “some quantified or detailed information,” because “[w]ithout such information, neither the courts nor the public, in reviewing the [agency’s] decisions, can be assured that the [agency] provided the hard look that it is required to provide.” Neighbors of Cuddy Mountain v. U.S. Forest Serv., 137 F.3d 1372, 1379 (9th Cir. 1998); *see also* Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt., 387 F.3d 989, 993-94 (9th Cir. 2004) (“A proper consideration of the cumulative impacts of a project

¹ “CEQ’s interpretation of NEPA is entitled to “substantial deference” because it is tasked with issuing binding NEPA interpretations. *Andrus v. Sierra Club*, 442 U.S. 347, 358 (1979).

requires some quantified or detailed information; general statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided.”) (internal quotation marks and citations omitted).

In addition, NEPA requires that agencies take a hard look at the ways to avoid or mitigate the Project’s impacts, *see id.* § 1508.20, and likewise requires consideration of all connected, cumulative, and similar actions. 40 C.F.R. §1508.25. Actions are connected if they: automatically trigger other actions which may require environmental impact statements; cannot or will not proceed unless other actions are taken previously or simultaneously; are interdependent parts of a larger action and depend on the larger action for their justification. *Id.* §1508.25(a)(1). The CEQ regulations define “similar actions” as those that “have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.” *Id.* The regulations also provide that agencies should analyze similar actions in a single impact statement “when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives is to treat them in a single impact statement.” *Id.* § 1508.25(a)(3).

Under NEPA, an agency must prepare an Environmental Impact Statement for any proposed major federal action “significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C) (emphasis added). An EIS must detail the full range environmental impact of the proposed action, any unavoidable adverse effects, alternatives to the proposed action, the relationship between short- term uses of the environment and long-term productivity, and any irreversible commitments of resources. *Id.* An agency must ensure that the adverse environmental effects of the proposed action are adequately identified and evaluated.

In evaluating the significance of a proposed action’s impact, an agency is to consider, *inter alia*, the effect on “public health or safety”; “[u]nique characteristics of the geographic area such as proximity to historic or cultural resources”; the extent to which the environmental effects “are likely to be highly controversial” or “are highly uncertain or involve unique or unknown risks”; “[w]hether the action is related to other actions with individually insignificant but cumulatively significant impacts”; and the degree to which the action “may cause loss or destruction of significant . . . cultural or historical resources.” 40 C.F.R. § 1508.27.

We acknowledge that NEPA allows an agency to draft an Environmental Assessment as part of its investigation of “significance” and “intensity.” See 40 C.F.R. § 1501.4(b). An EA is a “concise public document” that “[b]riefly provide[s] sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.” *Id.* § 1508.9(a). The EA must discuss the need for the proposal, the alternatives, the environmental impacts of the proposed action and alternatives, and the agencies and persons consulted. *Id.* § 1508.9(b). However, after preparing an EA and soliciting public comment, the agency must determine based on the information before it whether an EIS is necessary, or if not, it must prepare a Finding of No Significant Impact (FONSI) setting forth the reasons why the action will not have any significant impact on the environment. *Id.* §§ 1501.4(e), 1508.13; cf. Grand Canyon Trust v. FAA, 290 F.3d 339, 340 (D.C. Cir. 2002) (“If any ‘significant’ environmental impacts might result from the proposed agency action then an EIS must be

prepared before agency action is taken.”) (quoting Sierra Club v. Peterson, 717 F.2d 1409, 1415 (D.C. Cir. 1983)).

C. Available Information Indicates that the BNSF Sandpoint Junction Connector Project Will Have Significant, Diverse Impacts

Generally speaking, the public has been provided with marginal information concerning the Project. In addition to several resource agencies exercising different authorities over the Project with differing comment periods (some of which have not even officially begun), the small description of the Project provided by the USACE public notice and BNSF’s permit application to USACE/IDL only describes a very small array of actions related specifically to construction of new bridges across Lake Pend Oreille, and therefore only provides small notice of this Project’s need or conversely reasonable alternatives thereto.

The USCG has yet to publicly notice the Project and will only do so upon receipt of a complete permit application from BNSF. Only then will the public have access to new information provided in a USCG public notice, including any preliminary EA provided by BNSF. While a copy of BNSF’s application, prepared by Jacobs Engineering, is embedded in BNSF’s permit application to USACE/IDL, starting on page 163 (out of 254 total pages), USCG does not consider this application complete as it lacks accompaniment of permits and approvals from the other federal and state agencies involved in the Project. This unnecessary confusion needs to be addressed. As discussed above we strongly urge the resource agencies to jointly create and manage a web portal that holistically describes the Project and opportunities for public engagement in each instance.

Regardless, as a matter of procedure we provide the agencies with the following identification of scoping issues, where these and other related impacts must be analyzed and discussed by the agencies in any resulting NEPA document.

Direct Impacts

- Impacts to the aquatic environment. The proposed Project would result in the permanent and temporary loss of more than 2,000 square feet of benthic habitat respectively. The proposed activities would also impact turbidity, chemical contamination, and fish mortality, behavior and predation.
- Impacts to the terrestrial environment. The proposed project would result in a loss of shoreline/riparian vegetation.
- Impacts to species of concern. The proposed Project is within the known or historic range of the bull trout and its critical habitat. Agencies must analyze the Project’s potential impact and how agencies will ensure a protected Endangered Species will not be harmed by the Project.
- Impacts to social/human health. The proposed Project is estimated to last 3 years (2018-2021), with the potential to disrupt local traffic, utilization of public recreational areas and impacts to the local economy from loss of tourism dollars.

- Impacts to tribal treaty rights and interests. The proposed Project would take place in an area recognized for its significance by five federally recognized American Indian Tribes including the Kalispel Tribe of Indians, Kootenai Tribe of Idaho, Coeur d'Alene Tribe, Confederated Salish and Kootenai Tribes, and the Spokane Tribe of Indians.

Indirect Impacts

- Increased train traffic. The proposed Project would provide the rail infrastructure (bridges and track) necessary to support steadily increasing rail traffic volume.

Cumulative Impacts

- Water quality. The proposed Project may result in increased rail transport of hazardous materials adjacent to and over Lake Pend Oreille.
- Air quality. The proposed Project may result in increased deposition of particulate material from diesel engines and the release of coal dust from uncovered coal cars.
- Noise pollution. The proposed Project may increase noise pollution from train whistles at crossings as well as track vibration.
- Traffic congestion. The proposed Project may increase train traffic through at-grade crossings, resulting in more "gate down" time.
- Delayed emergency response. The proposed Project may increase train traffic through at-grade crossings, delaying emergency responders from reaching patients in need of critical care.
- Impacts to local economy. The proposed Project may increase train traffic that will hamstring the local economy as a function of the other impacts listed above. Tourism, local business investment and the real estate market may all suffer losses.

Reasonably Foreseeable, Connected Impacts

- Climate change. The proposed Project may facilitate increase transport of coal and crude oil on the BNSF route through Sandpoint, ultimately contributing to climate change.
- Rail-side communities. The proposed Project in Sandpoint may contribute to rail traffic expansion (and all of its associated impacts) to our east and west, impacting all rail-side communities between the Midwest (Chicago Terminus) and the West Coast.

D. An EIS Should Be Prepared

Although, at a minimum, an EA must be prepared, it is likely that an EIS is required here.

In determining whether to prepare an EIS, the agency must look at the "direct, indirect, and cumulative impacts" of all "past, present, and reasonably foreseeable future actions" in the area. Any decision to issue a Finding of No Significant Impact (FONSI) (and thus not prepare an

EIS) cannot legally be based on an inadequate EA. “[I]f the EA is deficient under NEPA in one of the ways Plaintiff has previously argued, then the [agency’s] DN/FONSI is necessarily arbitrary and capricious because it relied on the 2012 EA.” Gifford Pinchot Task Force v. Perez, 2014 WL 3019165, *40 (D.Or. 2014). This follows a line of well-established Ninth Circuit precedent. See Native Ecosystems Council v. Tidwell, 599 F.3d 926, 937 (9th Cir. 2010) (USFS violated NEPA in issuing FONSI based on inadequate analysis); Center for Biological Diversity v. NHTSA, 538 F.3d 1172, 1223-24 (9th Cir. 2008)(When an EA fails to comply with NEPA requirements, it “do[es] not constitute a ‘hard look’ at the environmental consequences of the action as required by NEPA. Thus, the FONSI is arbitrary and capricious.”).

As the Ninth Circuit has repeatedly held, such refusal to prepare an EIS must be based on the required “hard look” at potential adverse impacts, baseline conditions, etc. “If an agency decides not to prepare an EIS, it must supply a convincing statement of reasons to explain why a project’s impacts are insignificant. The statement of reasons is crucial to determining whether the agency took a hard look at the potential environmental impact of a project.” Native Ecosystems Council v. Tidwell, 599 F.3d 926, 937 (9th Cir. 2010) (USFS violated NEPA in issuing FONSI based on inadequate analysis). “An agency cannot ... avoid its statutory responsibilities under NEPA merely by asserting that an activity it wishes to pursue will have an insignificant effect on the environment. Instead, an agency must provide a reasoned explanation of its decision.” Jones v. Gordon, 792 F.2d 821, 828 (9th Cir. 1986).

If the agency’s review is inadequate under NEPA, any FONSI cannot stand – regardless of the agency’s claims that the inadequately-reviewed project will not have significant impacts. A plaintiff seeking to show that an agency should have prepared an EIS instead of a FONSI “need not demonstrate that significant effects *will* occur,” but rather must show only that “there are *substantial questions* whether the project may have a significant effect of [sic] [on] the environment.” Anderson [v. Evans], 350 F.3d 815, 831 (9th Cir. 2003).

Western Land Exchange Project v. U.S. Bureau of Land Management, 315 F.Supp.2d 1068, 1087 (D. Nev. 2004) (emphasis in original). “If several actions taken together have a cumulatively significant effect, this must be analyzed in an EIS. Blue Mountains Biodiversity Project v. Blackwood, 161 F.3d 1208, 1214 (9th Cir. 1998).” Western Land Exchange Project, 315 F.Supp.2d at 1094. Federal courts have summarized the issues involved in determining whether the cumulative and other impacts may result in a significant effect to warrant preparation of an EIS:

The regulations also define “significantly” as involving “considerations of both context and intensity.” 40 CFR § 1508.27. In terms of context, “[s]ignificance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend on the effects in the locale rather than in the world as a whole.” 40 CFR § 1508.27(a). Both the short-term and long-term effects of an action are relevant to context. *Id.* With respect to intensity, the regulations set forth a number of factors to be considered in evaluating “the severity of the impact,” several of which are directly relevant here [among others]: ...

...Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

Id. at 1086-87, *quoting* 40 CFR § 1508.27(b). All of the “significance” factors in § 1508.27 must be properly applied.

Here, the fact that “the action [at hand] is related to other actions with individually insignificant but cumulatively significant impacts” warrants an EIS. At a minimum, because “there are *substantial questions* whether the project may have a significant effect of [sic] [on] the environment,” an EIS is needed. Western Land Exchange Project v. U.S. Bureau of Land Management, 315 F.Supp.2d 1068, 1087 (D. Nev. 2004) (emphasis in original). Whether the potential harm to protected endangered salmonids, increased vehicular traffic and congestion in and around Sandpoint, the growth-inducing nature of coal transport to climate change, the increased use of rail for hazardous substance transport through populated areas and adjacent to/over water resources, or the potential for localized negative impacts of noise, aesthetics, and loss of recreational opportunities – the Project entails many significant impacts, and several substantial questions remaining about how each impact’s effect on the human environment. Indeed, because the Project entails individually significant direct, indirect, and cumulative effects, the agencies should conserve valuable time and resources by collaboratively – and voluntarily – concluding that they will perform an EIS review.

E. Resource Agencies Must Include an Adequate Mitigation Plan, Including Analysis of the Effectiveness of Each Mitigation Measure

Under NEPA, the agency must have an adequate mitigation plan to minimize or eliminate all potential project impacts. NEPA requires the agency to: (1) “include appropriate mitigation measures not already included in the proposed action or alternatives,” 40 CFR § 1502.14(f); and (2) “include discussions of: . . . Means to mitigate adverse environmental impacts (if not already covered under 1502.14(f)).” 40 CFR § 1502.16(h). NEPA regulations define “mitigation” as a way to avoid, minimize, rectify, or compensate for the impact of a potentially harmful action. 40 C.F.R. §§1508.20(a)-(e). “[O]mission of a reasonably complete discussion of possible mitigation measures would undermine the ‘action-forcing’ function of NEPA. Without such a discussion, neither the agency nor other interested groups and individuals can properly evaluate the severity of the adverse effects.” Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 353 (1989).

NEPA requires that the agency discuss mitigation measures, with “sufficient detail to ensure that environmental consequences have been fairly evaluated.” Methow Valley, 490 U.S. at 352, 109 S.Ct. 1835.

An essential component of a reasonably complete mitigation discussion is an assessment of whether the proposed mitigation measures can be effective. Compare Neighbors of Cuddy Mountain v. U.S. Forest Service, 137 F.3d 1372, 1381 (9th Cir.1998) (disapproving an EIS that lacked such an assessment) with Okanogan Highlands Alliance v. Williams, 236 F.3d 468, 477 (9th Cir.2000)

(upholding an EIS where “[e]ach mitigating process was evaluated separately and given an effectiveness rating”). The Supreme Court has required a mitigation discussion precisely for the purpose of evaluating whether anticipated environmental impacts can be avoided. Methow Valley, 490 U.S. at 351–52, 109 S.Ct. 1835(citing 42 U.S.C. § 4332(C)(ii)). A mitigation discussion without at least some evaluation of effectiveness is useless in making that determination.

South Fork Band Council v. Dept. of Interior, 588 F.3d 718, 727 (9th Cir. 2009)(emphasis added)(rejecting EIS for failure to conduct adequate review of mitigation and mitigation effectiveness in mine EIS). “The comments submitted by [plaintiff] also call into question the efficacy of the mitigation measures and rely on several scientific studies. In the face of such concerns, it is difficult for this Court to see how the [agency’s] reliance on mitigation is supported by substantial evidence in the record.” Wyoming Outdoor Council v. U.S. Army Corps of Eng’rs, 351 F. Supp. 2d 1232, 1251 n. 8 (D. Wyo. 2005). See also Dine Citizens v. Klein, 747 F.Supp.2d 1234, 1258-59 (D. Colo. 2010) (finding “lack of detail as the nature of the mitigation measures” precluded “meaningful judicial review”). See also Gifford Pinchot Task Force v. Perez, 2014 WL 3019165, *38-39 (D. Or. 2014)(same).

Here, resource agencies must thoroughly analyze any proposed mitigation measures and provide substantial discussion for the public concerning each measures’ support, reasoned basis, and efficacy. Because of the Project’s diverse, significant impacts and potential intensity this analysis is best performed in a revised EIS process.

F. Resource Agencies Must Review All Reasonable Alternatives

NEPA requires the agency to “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources.” 42 U.S.C. § 4332(E); 40 CFR § 1508.9(b). It must “rigorously explore and objectively evaluate all reasonable alternatives” to the proposed action. City of Tenakee Springs v. Clough, 915 F.2d 1308, 1310 (9th Cir. 1990). The alternatives analysis –is considered the heart of a NEPA analysis. 40 C.F.R. § 1502.14.

The alternatives analysis should present the environmental impacts in comparative form, thus sharply defining important issues and providing the public and the decisionmaker with a clear basis for choice. Id. The lead agency must “rigorously explore and objectively evaluate all reasonable alternatives” including alternatives that are “not within the [lead agency’s] jurisdiction.” Id. See also Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1228-1229 (9th Cir. 1988). “While a federal agency need not consider all possible alternatives for a given action in preparing an EA, it must consider a range of alternatives that covers the full spectrum of possibilities.” Ayers v. Espy, 873 F.Supp. 455, 473 (D. Colo. 1994).

Here, the public cannot determine, at any level, the true effects of the Project or reasonable alternatives because the marginal public notice fails to provide any meaningful discussion. Moving forward in its NEPA review, resource agencies must thoroughly analyze the Project and

describe alternatives that mitigate – or avoid – significant impacts (listed above, among others) and provide a meaningful opportunity for public comment thereon.

Sincerely,

Shannon Williamson, Ph.D.
Executive Director
Lake Pend Oreille Waterkeeper

CC

United States Army Corps of Engineers
United States Fish and Wildlife Service
Idaho Fish and Game
Idaho Department of Lands
Idaho Department of Environmental Quality

From: [Ben Olson](#)
To: [Comments](#)
Subject: Public comment for BNSF second rail bridge over Lake Pend Oreille
Date: Tuesday, February 27, 2018 1:16:01 PM

To Whom it May Concern,

I am writing to express my opposition to a proposal by Burlington Northern Sante Fe to build a second rail bridge over Lake Pend Oreille.

Here are my reasons for not wanting this second rail bridge:

1. There have been so many derailments around the nation lately, be they through infrastructure issues, personnel problems or human error. Just in the Northwest, we had three derailments last year - one with a train carrying coal which spilled into the Clark Fork River. The BNSF site managers explained that coal wasn't a hazardous substance, therefore the derailment and spill wasn't a big deal. While the coal sat there for several weeks awaiting cleanup, it spontaneously combusted several times. If this would have been during the high fire risk season, it would have undoubtedly started a wildfire, not to mention the pollution to our river and lake from the spillage. It's not a question of if it will happen, it's a question of when. I'm not ready to sacrifice our lake's health and our economic dependence on tourism just so BNSF can squeeze a few more trains through per day.

2. The second rail bridge would mean more trains coming through Sandpoint. I am not anti-rail - I believe rail traffic is necessary, but we do not need to increase the amount of trains coming through our region. We already average 50-60 trains per day - which amounts to 2 trains per hour.

3. A derailment and spillage of oil or any other hazardous chemical into our lake with two trains passing over the lake would cause a catastrophic failure to our lake, which Sandpoint and the surrounding areas depend on for tourism dollars, for recreation and for fishing. A hazardous spill would ruin our town for at least a decade, if not more.

4. Gov. Inslee in Washington recently denied the permit for the Longview coal/oil terminal, which BNSF said was the initial reason for their second rail bridge. If there won't be an additional number of these oil/coal cars coming through Sandpoint, the reason for the second rail bridge is now moot.

5. BNSF also claims that waiting times at the crossings near the bridge will be reduced because trains will no longer have to sit idle while another train passes over the bridge. Wait times are not that bad now, and they certainly don't warrant building another bridge.

I urge you to not award this second rail bridge permit. I was born and raised in Sandpoint and love this area so much - to jeopardize our lake's health and our town's economy is not worth it.

NO to the second rail bridge.

Ben Olson

From: [Howard Stoddard](#)
To: [Comments](#)
Subject: No Train bridge
Date: Tuesday, February 27, 2018 3:30:53 PM

Last summer a BNSF train crashed on the banks of the pend Oreille river. It took over a month to clean it up. This shows they don't care about our beautiful lake.

Screw BNSF!
Howard Stoddard

Sent from my iPhone

From: [State of Idaho WebMaster](#)
To: [Comments](#)
Subject: IDL Comment
Date: Wednesday, February 28, 2018 3:28:44 PM

Name:

Contact Phone number:

E-mail address:

Mailing address:

City:

State: ID

Records Request Description: Please do not approve of the second proposed railway bridges over Pend Orielle. There is absolutely no value to our community in adding a second bridge. Any value it may bring does not even come close to outweighing the negative effects it will have- more rail traffic, more pollution, more noise and more risk to our natural resources. More Rail traffic means more stopping at rail crossings for vehicle traffic- this means people will be taking more risks to avoid being stuck at a train, this will hinder emergency vehicles...everyone.Be

From: Shannon Williamson
To: [Comments: Tom Flear](#)
Subject: Letter to USACE requesting a public comment period extension and public hearing(s) for the proposed second rail bridge over Lake Pend Oreille
Date: Friday, March 02, 2018 2:37:04 PM
Attachments: [Lake Pend Oreille Second Rail Bridge Extension and Public Hearing Request LPOW.pdf](#)

Dear Mr. Flear,

Lake Pend Oreille Waterkeeper and other community stakeholders in Sandpoint, Idaho are requesting an extension of the public comment period and a series of public hearings regarding the proposed second rail bridge over Lake Pend Oreille (USACE Application #NWW-2007-01303).

The public notice indicated that the Idaho Department of Lands issued its own separate public notice and is reviewing the proposed project, known as the "BNSF Sandpoint Junction Connector" under its authority.

We wanted to share a copy of the letter we submitted to USACE requesting an extension and public hearing(s). Please let me know if you have any questions.

Sincerely,

Shannon Williamson, Ph.D.
Executive Director
Lake Pend Oreille Waterkeeper





LAKE PEND OREILLE WATERKEEPER®

Our Lake for Life

March 2nd, 2018

Shannon Williamson, Ph.D.
Lake Pend Oreille Waterkeeper
Executive Director
P.O. Box 732, Sandpoint, ID 83864
208-597-7188

TO: U.S. Army Corps of Engineers
CC: U.S. Coast Guard
U.S. Fish and Wildlife Service
Idaho Department of Lands
Idaho Department of Environmental Quality
Kalispel Tribe of Indians
Kootenai Tribe of Idaho
Coeur d'Alene Tribe
Confederated Salish and Kootenai Tribes
Spokane Tribe of Indians

RE: Application NO. NWW-2007-01303; Proposed rail bridge over Lake Pend Oreille

Dear Mr. Slate,

On behalf of Lake Pend Oreille Waterkeeper, our members and constituents, I am writing to request an extension to the public comment period for the proposed second rail bridge over Lake Pend Oreille. A 30 day comment period is not long enough to solicit meaningful public comment for a project of this magnitude.

I respectfully request that the public comment period last a total of 120 days, with the public comment period ending on June 26th, 2018. This extended period of time will allow both year-round and seasonal residents of the Lake Pend Oreille region enough opportunity to thoroughly review the 250+ page permit application, formulate meaningful comments and share them with permitting agencies.

In addition, I respectfully request that at least 3 public hearings are held in Sandpoint to consider the proposed project. Ideally, two public hearings would be held prior to the development of the Environmental Assessment (EA) and one public hearing held after the release of the draft EA. These opportunities would allow the public to thoroughly vet the proposal, share their concerns and suggest alternatives.

The proposed project has the potential to significantly impact the people and environment of North Idaho and deserves a public hearing(s).

Environmental concerns:

Hazardous materials are transported along the shores and over Lake Pend Oreille every day via the existing rail bridge in Sandpoint. With respect to transport of volatile crude oil and coal, transport of these commodities could increase if export terminals, refineries and other related infrastructure are built along the west coast.

Transport of coal and crude oil threatens the water quality of Lake Pend Oreille and the downstream Pend Oreille River. Coal and coal dust released from open rail cars introduces heavy metals such as mercury, lead and arsenic into our waterways. Oil spills are notoriously difficult to contain. Our communities are not prepared to address the environmental fall out from a coal or oil train derailment into Lake Pend Oreille.

Lake Pend Oreille and the Pend Oreille River provide potable drinking water to thousands of residents and visitors. A public water treatment facility on Lake Pend Oreille serves residents of Kootenai, Ponderay, Sandpoint and parts of unincorporated Bonner County. An additional 3 public water systems on the Pend Oreille River serve residents of Dover, Laclede and Priest River. There are at least 88 additional water lines that draw directly from the Pend Oreille River that serve individual properties for domestic water use and irrigation.

A derailment of a train carrying hazardous materials adjacent to or over Lake Pend Oreille would pose a significant risk to those that depend on these waterbodies for a source of clean water. Derailments of crude oil trains have impaired waterbodies across the country, including rivers and wetlands, and pose a serious threat to public safety.

Furthermore, the U.S. Department of Transportation has predicted that trains carrying crude oil or ethanol will derail an average of 10 times per year over the next two decades, causing up to \$4.5 billion in damages and killing hundreds of people if the derailment were to occur in a populated area.¹ While the City of Sandpoint, the largest of the lake-side communities (population approximately 8,000), may not be considered a densely populated area, the potential damages to the environment and public safety will be realized just the same.

Lake Pend Oreille and the Pend Oreille River are also extremely popular with all types of recreationalists, including anglers and hunters, and the waterways serve as important habitat for a diverse array of wildlife. The increase in capacity of trains carrying hazardous material that a second rail bridge will enable will directly threaten recreational activities and sensitive wildlife habitat. Furthermore, if the project is approved, the driving of piles would create disturbances that could damage or kill bull trout, which are listed as a threatened species under the Endangered Species Act.²

Public Interest:

Health and Safety –

¹ <http://beniciaindependent.com/wp-content/uploads/2015/02/PHMSA-Draft-Regulatory-Impact-Analysis-opt.pdf>

² <http://www.fws.gov/pacific/bulltrout/>

A second rail bridge over Lake Pend Oreille could result in a doubling of current rail traffic. Rail traffic in the region expected to almost double by 2035³, resulting in 114 trains crossing over Lake Pend Oreille every day. Increased rail traffic has been demonstrated to cause an increase in accidents at crossings. According to data collected by the U.S. Department of Transportation, the number of accidents significantly increases when the number of trains exceeds 30.⁴ Increased traffic will also result in significant delays at crossings. The City of Sandpoint has estimated that an approximate doubling of rail traffic would result in traffic delays of up to 6 hours per day, causing economic losses of \$575,000, which is an increase of \$300,000 attributed to current traffic delays.

Increased rail traffic will also delay emergency response. Emergency responders and residents currently experience extended delays at crossings, which puts the person requiring medical attention in a potential life-threatening situation. Monitoring devices that alert emergency responders to a blocked crossing can cost up to a million dollars for a comprehensive system, a cost that the City of Sandpoint and smaller communities cannot afford. Adding new emergency response infrastructure, like a satellite fire station on the north side of Sandpoint, could cost up to \$1.5 million. Similarly, the cost of other rail infrastructure improvements, such as overpasses or underpasses, are not the responsibility of the railroad (outside of 5% - 10%) with the burden falling on taxpayers.

The risk of derailment and subsequent spills of toxic materials, such as Bakken crude oil, also increases with additional rail traffic. As previously mentioned, oil train derailments continue to occur across the United States with disastrous consequences for the affected communities. Emergency responders within the Lake Pend Oreille region admittedly do not have the resources or the “man power” needed to adequately address an oil train disaster. With the cost of an oil train derailment disaster estimated in the billions of dollars⁵, communities like Sandpoint would face the possibility of financial ruin.

Noise and air pollution are also of concern. According to the EPA, problems related to noise include stress related illnesses, high blood pressure, speech interference, hearing loss, sleep disruption, and lost productivity.^{6,7} A doubling of rail traffic will undoubtedly exacerbate problems and citizen complaints that are the result of increased rail traffic.

Air pollution can stem from multiple sources. For example, health dangers associated with inhalation of coal dust include exposure to toxic heavy metals and increased asthma, wheezing and coughing in children.⁸ Furthermore, toxic pollution from diesel exhaust is linked to stunted lung development, increased probability of heart attacks, lung cancer, worsening asthma and infant mortality.⁹ Inhalation of particulate matter such as coal dust and diesel exhaust can also increase the risk of cardiovascular disease and events including heart attacks, heart failure, arrhythmias and strokes.¹⁰

In conclusion, for the reasons stated above, I respectfully request the following:

³ <http://www.spokesman.com/stories/2018/feb/26/bnsf-to-double-track-on-line-linking-spokane-valle/>

⁴ http://safety.fhwa.dot.gov/xings/com_roaduser/07010/sec02.cfm#fig2

⁵ <http://daily.sightline.org/2014/12/18/what-do-oil-train-explosions-cost/>

⁶ <http://www.epa.gov/air/noise.html>

⁷ <http://www.coaltrainfacts.org/docs/appendix-D.pdf>

⁸ <http://www.coaltrainfacts.org/docs/appendix-A.pdf>

⁹ <http://www.coaltrainfacts.org/docs/appendix-A.pdf>

¹⁰ <http://www.coaltrainfacts.org/docs/appendix-C.pdf>

1. The public comment period last a total of 120 days, ending on June 26th, 2018.
2. At least 3 public hearings are held in Sandpoint to consider the proposed project. Ideally, two public hearings would be held prior to the development of the EA and one public hearing held after the release of the draft EA.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Shannon J. Williamson". The signature is written in a cursive style with a large initial 'S'.

Shannon Williamson, Ph.D.
Executive Director
Lake Pend Oreille Waterkeeper

From: Dorothy Starshine
To: [Comments](#)
Subject: Comment
Date: Tuesday, March 06, 2018 3:26:26 PM

I am concerned that the U.S. Coast Guard can significantly determine how clean the water will be during and after a 2nd Bridge is built by BSNF over some of Lake Pend Oreille with only 30 days notice. Please extend the comment period.

D. Starshine
406-788-2299
Great Falls, MT

--

[Love is all there is.](#)

March 7, 2018

U.S. Army Corps of Engineers (ACOE)
Department of Lands (DOL)

Re: Burlington Northern Santa Fe Railway's application to construct a "2.2-mile-long, second, mainline track west of the existing, BNSF mainline

To whom it may concern:

This application's intent to build a second bridge over Sand Creek and almost one mile over Lake Pend Oreille is of such importance that the public and other governing agencies need more time than 30 days.

It is obvious to all those concerned with the application that BNSF is intending to "push" it through as fast as possible. Therefore I must demand there be from ACOE and DOL a comment period extension of 90 days for public hearings, and a full environmental impact statement.

There are many valid concerns with BNSF's proposal and each must be addressed. The public, Coast Guard, Fish and Wildlife Service, Idaho departments of Environmental Quality, Historic Preservation, Lands, and Water Resources, and the Coeur d'Alene, Kalispel, Kootenai, Salish, and Spokane tribes) require additional opportunities, time, and documentation to responsibly share information and analyze this largest construction project in decades.

It is my hope that the public can trust your agency to give us the time to have our say in this important application.

Regards,

Sue Koller

124 Benjamin Lane
Cocolalla, Idaho 83813
vulcanrider.sue@gmail.com

000291

From: Molly McCahon
To: [Amidy Fuson](#)
Subject: Re: BNSF Application ERL-96-S-0096E
Date: Wednesday, March 07, 2018 8:56:25 AM

Oh good to know. Thank you. The next Lakes Commission meeting is on April 6th in Priest River. Will you be able to attend?

On Wed, Mar 7, 2018 at 7:30 AM, Amidy Fuson <AFuson@idl.idaho.gov> wrote:

Good Morning Molly,

We will be excepting comments at the hearing, which we are trying to schedule in mid-May. So really, everyone will have almost 90 days to get the comments in. The comments that we except at the hearing will have the same weight as the ones excepted in the 30-day comment period. The hearing officer will have to review all comments from the 30 day comment period and the hearing.

As for the Coast Guard application, I do not have a copy of their stuff. We are trying to get them involved with the hearing we are holding but they have not fully committed.

Hope this helps. Let me know if you have any further questions.

Amidy Fuson

Resource Specialist Sr. - Navigable Waters

Pend Oreille Supervisory Office

[2550 Highway 2](#) West

Sandpoint ID 83864

Phone: [\(208\) 263-5104](tel:(208)263-5104)

Fax: [\(208\) 263-0724](tel:(208)263-0724)

From: Molly McCahon [mailto:lakescommission@gmail.com]
Sent: Tuesday, March 06, 2018 3:02 PM
To: Amidy Fuson <AFuson@idl.idaho.gov>
Subject: Re: BNSF Application ERL-96-S-0096E

Hello Amidy!

I wonder if you could advise me on the correct avenue/process for extending the public comment period for this application. And do you have a link to the Coast Guard Application?

Thanks!

On Mon, Feb 26, 2018 at 8:58 AM, Amidy Fuson <AFuson@idl.idaho.gov> wrote:

Good Morning,

Please review the attached application for the second rail road bridge across Sand Creek and Lake Pend Oreille. You will find a link to our website <https://www.idl.idaho.gov/lakes-rivers/lake-protection/index.html> that when then allow you to view the full application.

Please have all comments in by March 30, 2018. These comments can be submitted to myself or to comments@idl.idaho.gov.

Please also note that the Director of IDL has determined it would be in the public's interest to hold a public hearing. The date, time and location will be sent to you at a later date.

Thanks,

Amidy Fuson

Resource Specialist Sr. - Navigable Waters

Pend Oreille Supervisory Office

[2550 Highway 2](#) West

Sandpoint ID 83864

Phone: [\(208\) 263-5104](#)

Fax: [\(208\) 263-0724](#)

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Molly McCahon
Lakes Commission

Executive Director
[\(208\) 263-5310 x 107](#)

[\(208\)255-9675](#)

lakescommission@gmail.com

lakes-commission.com

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Molly McCahon
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Executive Director
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lakescommission@gmail.com
lakes-commission.com

Amidy Fuson

From: Matt Nykiel <mnykiel@idahoconservation.org>
Sent: Wednesday, March 07, 2018 10:49 AM
To: Amidy Fuson
Subject: Re: NWW-2007-01303: ICL Request for Comment Period Extension and Hearings

Hi Amidy,

Thanks for letting me know. I'm glad IDL is considering a hearing in mid-May. Of course, I would encourage IDL to consider our request for a 120-day comment period and at least 3 public hearings. This project will significantly impact the people in our community and for a very long time into the future, and I think our community needs more than one public hearing and as much time as is reasonable to learn about and consider this complex proposal.

Thanks again for writing back and keeping me in the loop.

Best,
Matt

On Wed, Mar 7, 2018 at 10:38 AM, Amidy Fuson <AFuson@idl.idaho.gov> wrote:

Hello Matt,

Thank you for this email and it will be considered.

I did want you to know that although the comment period may only seem like 30 days, but we will be excepting comments at the hearing as well. We are working on the exact date but it is looking like mid-May. Therefore this is more like a 90 day time frame.

As soon as I know more, I will be releasing this info.

Thanks,

Amidy Fuson

Resource Specialist Sr

Lands & Waterway - Public Trust

Pend Oreille Lake Supervisory Area

2550 Highway 2 West

Sandpoint, ID 83864

(208)263-5104

From: Matt Nykiel [mailto:mnykiel@idahoconservation.org]

Sent: Wednesday, March 07, 2018 9:11 AM

To: NWW_BNSF_Pendoreille@usace.army.mil; D13-FP-D13BRIDGES@uscg.mil; Comments <comments@idl.idaho.gov>; june.bergquist@deq.idaho.gov; McCauley, Margaret <mccauley.margaret@epa.gov>

Cc: sid_smith@risch.senate.gov; Karen_Roetter@crapo.senate.gov; Judy.Morbeck@mail.house.gov; Slate, Shane P CIV USARMY CENWW (US) <shane.p.slate@usace.army.mil>; Amidy Fuson <AFuson@idl.idaho.gov>

Subject: NWW-2007-01303: ICL Request for Comment Period Extension and Hearings

Dear Agency Representatives:

On behalf of the Idaho Conservation League, please accept my Request for Comment Period Extension and Hearings re BNSF Sandpoint Junction Connector. (attached below along with related attachments).

Please let me know if you have any questions. And, please notify us of any updates to the permitting procedure at your earliest convenience.

Thank you for your time and consideration.

Sincerely,

Matt

--
Matthew Nykiel

Conservation Associate

Idaho Conservation League

PO Box 2308, Sandpoint, ID 83864

208.265.9565

<http://www.idahoconservation.org>

Twitter: @idconservation

Facebook: /idahoconservationleague

Instagram: @idahoconservationleague

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--
Matthew Nykiel

Conservation Associate

Idaho Conservation League

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Facebook: /idahoconservationleague

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208.265.9565 • PO Box 2308, Sandpoint, ID 83864 • www.idahoconservation.org

March 7, 2018

U.S. Army Corps of Engineers
U.S. Coast Guard
U.S. Environmental Protection Agency
Idaho Department of Lands
Idaho Department of Environmental Quality

RE: BNSF Application for Sandpoint Junction Connector

Dear Agency Representatives:

Since 1973, the Idaho Conservation League has been Idaho's voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho's largest state-based conservation organization, we represent over 25,000 supporters, many of whom have a deep personal interest in protecting our clean water, clean air, special places and quality of life.

On behalf of the Idaho Conservation League, please accept my request for a comment period extension and public hearings regarding BNSF's permit application for the Sandpoint Junction Connector Project.

Thank you for your consideration of this request. If you have any questions, please contact me at (208) 265-9565 or at mnykiel@idahoconservation.org.

Sincerely,

Matthew Nykiel
Conservation Associate

Introduction

On February 26, 2018, the U.S. Army Corps of Engineers (ACOE) issued a public notice that BNSF Railway (BNSF) submitted an application for a Department of Army permit for work in Waters of the United States (33 U.S.C. 1344) and an application requesting approval from the Thirteenth Coast Guard District (USCG) for construction of new bridges over navigable waterways of the United States (33 U.S.C. 525 et seq.). These submittals relate to BNSF's Sandpoint Junction Connector proposal to construct a series of new railroad bridges and associated infrastructure to accommodate a second railroad track across Lake Pend Oreille. In addition, BNSF also submitted related applications for permit approval of this proposal from the Idaho Department of Lands (IDL) and the Idaho Department of Environmental Quality (IDEQ).

Both the probable impacts and substantial public interest associated with BNSF's proposal merit an extension to the public comment period and the scheduling of public hearings. Specifically, Bonner County would likely experience a wide range of significant direct, indirect, and cumulative impacts associated with this proposal. So too, could the Pacific Northwest region, through which BNSF's rail line also travels, anticipate significant indirect and cumulative impacts from this proposal. Moreover, public concern regarding activities affecting rail infrastructure, traffic, and safety has been acute in Bonner County over the past 5 years, as the County, its municipalities, and its residents have passed resolutions and submitted comments directly related to similar proposals likely to increase the transport of volatile substances by rail through north Idaho.¹

Based on the probable impacts and public interest in BNSF's proposal, along with the more detailed basis we provide below, we respectfully request the ACOE, USCG, IDL, and IDEQ:

1. Extend their respective public comment periods for BNSF's Sandpoint Junction Connector Proposal by 120 days from the date of public notice (February 26, 2018); and
2. Provide at least (3) public hearings, according to the following requested parameters:
 - a. All hearings should be scheduled to begin no earlier than 5 p.m. PST;
 - b. A minimum of one hearing should occur in each of the following months – April, May, and June;
 - c. At least one hearing should occur during the development of the Environmental Assessment (EA) or Environmental Impact Statement (EIS) and at least one public hearing should occur after the EA or EIS is publicly released;
 - d. A minimum of three public hearings should occur in the City of Sandpoint; and
 - e. A representative from each of the permitting agencies and BNSF should be present and respond to questions raised by the public at each public hearing.²

¹ See Attachment A.

² Given the complex permitting process related to BNSF's proposal, we recommend the permitting agencies coordinate together on extending the comment period and scheduling public hearings. Extending the comment period in unison would facilitate better coordination and perhaps allow the agencies to agree on three or more public hearing dates, where a representative from each agency could be available to accept comment and answer questions regarding each agency's particular permitting evaluation.

Legal Standard

The legal standards applicable to determining comment period and public hearing procedure include the following:

U.S. Army Corps of Engineers

As the ACOE evaluates whether to grant or deny BNSF's application for a Section 404 permit under the Clean Water Act (33 U.S.C. 1344), the Regional Administrator (RA) must provide a comment period of not less than 30 or more than 60 days following the date of public notice. 40 CFR 231.4(a). However, the Administrator or RA may, upon a showing of good cause, extend the time requirements in these regulations. 40 CFR 231.8.

In addition, the Regional Administrator must hold a public hearing, if the RA finds a significant degree of public interest in the ACOE's decision in this case or if it would otherwise be in the public interest to hold a hearing. 40 CFR 231.4(b). The RA must also hold a public hearing if an affected landowner or permit applicant or holder requests a hearing. *Id.*

U.S. Coast Guard

As the USCG evaluates whether or not to issue a bridge permit to BNSF under the General Bridge Act of 1946 (33 U.S.C. 525 et seq.), the USCG must hold public meetings when there are substantial issues concerning the effect that the proposed bridge will have on the reasonable needs of navigation. 33 CFR 115.60(b)(1).

Idaho Department of Lands

As IDL evaluates whether or not to issue an encroachment permit to BNSF under the Lake Protection Act (Title 58, Chapter 13 et seq, Idaho Code), IDL must hold a public hearing, if a hearing is requested. Idaho Code 58-1306(c).

Idaho Department of Environmental Quality

As IDEQ evaluates whether to grant, deny, or waive BNSF's application for a Section 401 Certification from the State of Idaho according to Section 401 of the Clean Water Act (33 U.S.C. 1341), the federal permitting agency (the ACOE, in this case) may set the certification response time limit to any "reasonable period of time (which shall not exceed one year)." 33 U.S.C. 1341(a)(1). In addition, IDEQ must open its draft 401 certification to public comment for at least 21 days. Idaho Section 401 Certification Guidance at 8.³

³ Idaho Section 401 Certification Guidance (*available at* <http://www.deq.idaho.gov/media/516305-401-certification-guidance-0912.pdf>).

As the Detailed Basis of Request shows below, there is both good cause for extending the comment period and significant public interest in BNSF's proposal and BNSF's applications for associated permits that warrant, if not require, an extension to the comment period and public hearings.

Furthermore, there is no applicable regulatory or statutory provision limiting the comment period-setting authority of any of the federal or state agencies listed above, besides the Clean Water Act provision, which allows the ACOE to set the Section 401 response time to no longer than one year. The applicable regulations and statutes also do not limit the number of public hearings that may be set by any of the federal or state agencies listed above. In other words, each one of the permitting agencies in this case has the authority to grant our request.

Therefore, according to the basis of our request provided below, the ACOE, USCG, IDL, and IDEQ are authorized to extend the public comment period for BNSF's Sandpoint Junction Connector proposal and schedule related public hearings per the specifics of our request.

Detailed Basis of Request

Project Complexity

BNSF projects that development of the Sandpoint Junction Connector will cost at least \$108 million and construction will last 3 to 3.5 years. Given the enormity of such a project, BNSF submitted a Joint Application for Permits that is over 250 pages long, not including associated attachments and other submittals. Accordingly, 30 days is not a sufficient length of time to allow the public, its elected representatives, and emergency responders to fully analyze, evaluate, and comment on how this proposal could affect the protection and utilization of important natural resources.

Community Demographics

The population of Bonner County and the City of Sandpoint is roughly 42,000 and 8,000, respectively. However, hundreds of residents do not reside in the County and City year-round, in addition to the thousands of tourists that visit every year intermittently, many with an interest in Lake Pend Oreille.⁴

Every member of our community deserves a reasonable opportunity to fully review BNSF's proposal, whether they reside here in the summer or the entire year. And, each community member deserves an opportunity to attend a public hearing, where the permitting agencies and BNSF are available to take comment and answer public concerns. Due to the seasonal nature of our community, we believe extending the public comment period by 120 days from the date of the public notice and scheduling a minimum of three public hearings (one in April, May, and June) is reasonable and appropriate.

⁴ Bonner County Workforce Trends, January 2018, Idaho Department of Labor (*available at* <https://labor.idaho.gov/publications/lmi/pubs/BonnerProfile.pdf>).

Local Vulnerabilities

Rail activity and infrastructure already pose significant risks to our community, as recognized in the most recent 2017 Geographic Response Plan.⁵ That document, authored in coordination with multiple state and local agencies, identified several vulnerabilities in the region's capacity to respond to an oil train derailment, including:

1. Between mid-October and mid-May, most boat ramps around Lake Pend Oreille are unusable because of low lake elevation, severely restricting hazardous material spill response. The only two boat ramps that are reliably suitable for year-round response deployment are located at Priest River and Hope Basin, roughly 22 miles and 10.45 miles, respectively, away from the north end of BNSF's existing bridge across Lake Pend Oreille; and
2. The seven primary fire districts in this area are largely staffed by volunteers, but most of the volunteers have not yet received boom deployment training, limiting the region's capacity to respond to a hazardous material or oil spill near the bridge proposal.⁶

The 2017 Geographic Response Plan also identified the present state of hazardous material transport by rail through Bonner County, which raises concerns, especially given the community's vulnerabilities, including:

1. At least three significant derailments occurred in Bonner and Boundary Counties near waterways in the spring of 2017;⁷
2. Between 1995 and 2014, the Federal Rail Administration reported 37 unique accidents in Bonner County;
3. Currently, approximately 24 unit trains per week carrying crude oil travel through Sandpoint; and
4. The three railroads that operate through Sandpoint move significantly more than 300,000 rail cars or tank cars containing various forms of hazardous materials and crude oil.⁸

In addition, data obtained by the Associated Press in 2017 show government inspectors found nearly 24,000 defects on rail lines used to haul crude oil throughout the country.⁹

Given these challenges, we request that before granting BNSF permission to add rail infrastructure to an area already lacking sufficient resources to respond to an oil train derailment, these agencies grant a 120-day extension to the public comment period and schedule at least 3 public hearings, so that our emergency response agencies and departments can adequately evaluate the potential impacts of BNSF's proposal on emergency response and cleanup.

⁵ See Lake Pend Oreille and Pend Oreille River Geographic Response Plan, Northwest Area Committee 2017 (available at <https://evogov.s3.amazonaws.com/media/136/media/60622.pdf>).

⁶ See Lake Pend Oreille and Pend Oreille River Geographic Response Plan.

⁷ See Attachment B.

⁸ See Lake Pend Oreille and Pend Oreille River Geographic Response Plan.

⁹ Brown, Matthew, "Thousands of defects found on oil train routes," *The Spokesman-Review*, Apr. 5, 2017 (available at <http://www.spokesman.com/stories/2017/apr/05/thousands-of-defects-found-on-oil-train-routes/>).

Agency Analysis of BNSF Proposal and Public Comment

BNSF's Sandpoint Junction Connector proposal is associated with a wide range of probable direct, indirect, and cumulative impacts that warrant significant public review. Realistically, adequate public review demands the comment period extension and public hearings we have requested.

The ACOE appears to be the lead agency preparing the National Environmental Policy Act review of BNSF's proposal, while the USCG is the lead agency conducting review of the proposal according to the National Historic Preservation Act and the Endangered Species Act. These agencies have not yet completed or publicly released the final review documents required by the laws mentioned above, so any new information concerning the potential impacts of BNSF's proposal brought to light by these reviews may not be publicly available within the current 30-day public comment period.

As such, we request the public comment period be extended to allow the public to comment on and inform the development of these review documents, as well as allow the public an opportunity to submit comments on the proposal after these review documents are finalized and released. Likewise, public hearings should be scheduled so that at least one hearing occurs during the agency development of the review documents and at least one hearing occurs after the review documents are publicly released.

To convey the extent of impacts that will be reviewed under such laws as NEPA, NHPA, and ESA and the importance of providing the public an opportunity to inform the development of these reviews and learn from the final review documents, we summarized below some of the most relevant and concerning impacts the BNSF proposal would present to Bonner County and the region.

Scope of Impacts

Adding an entire new rail line impacts a community and region in many ways and over time. For example, just the projected 3- to 3.5-year construction period of the rail line may create logistical impediments and inconveniences in the City and County, due to construction traffic, construction noise, restrictions to car and boat traffic, and more. The on-the-water construction operations and infrastructure may also impede or reduce County or City emergency responders' ability to effectively navigate the waters of Lake Pend Oreille, in order to respond to a train derailment or spill should one occur during the construction period.

Beyond the construction time period, an additional rail line will also facilitate and promote an increase in rail traffic through the region. BNSF currently anticipates rail traffic on this line to nearly double by 2035.¹⁰ Increasing train traffic will result in its own impacts in the City,

¹⁰ Edelen, Amy, "BNSF to double track on line linking Spokane Valley to Hauser, Idaho," *The Spokesman-Review*, Feb. 26, 2018 (available at <http://www.spokesman.com/stories/2018/feb/26/bnsf-to-double-track-on-line-linking-spokane-valle/>).

County, and region, including traffic delays, noise pollution, water pollution,¹¹ increased derailment risk, among other impacts. Some of these impacts are expected to affect the local economy and emergency response.

In 2015, the City of Sandpoint analyzed the impacts of increased rail traffic on the local economy. Even with conservative forecasts of future rail traffic, Sandpoint can expect six hours of traffic delays every day and annual economic losses of \$575,000 by 2020, according to the city's analysis.¹²

Those traffic delays will impact emergency services, forcing the city to consider costly solutions such as a separated grade crossing, a new fire station or monitoring devices to tell emergency service providers when a crossing is blocked. By some estimates, these improvements would cost the city well into the millions of dollars.

BNSF's existing rail bridge across Lake Pend Oreille took its present form in 1905. Therefore, it is reasonable to presume BNSF's proposed rail bridge will last at least 113 years and likely many decades more. As a result, the impacts of this proposal to the City of Sandpoint, Bonner County, and the Pacific Northwest region will also be long-lasting and essentially permanent. Indeed these impacts will burden not only the people who reside in this area now but also the generations of people who will grow up or move to this area over the next 150 years. And, there is no doubt the impacts associated with BNSF's proposal would be extensive over this time. The wide range of impacts along with the long timescale over which these impacts will be experienced merits the comment period extension and public hearing we request below.

Request

According to the basis provided above, we respectfully request the ACOE, USCG, IDL, and IDEQ:

1. Extend their respective public comment periods for BNSF's Sandpoint Junction Connector Proposal by 120 days from the date of public notice (February 26, 2018); and
2. Provide at least (3) public hearings, according to the following requested parameters:
 - a. All hearings should be scheduled to begin no earlier than 5 p.m. PST;
 - b. A minimum of one hearing should occur in each of the following months – April, May, and June;
 - c. At least one hearing should occur during the development of the Environmental Assessment (EA) or Environmental Impact Statement (EIS) and at least one public hearing should occur after the EA or EIS is publicly released;
 - d. A minimum of three public hearings should occur in the City of Sandpoint; and
 - e. A representative from each of the permitting agencies and BNSF should be present and respond to questions raised by the public at each public hearing.

¹¹ A BNSF study found that each rail car carrying coal loses on average 500 to 2000 pounds of coal dust or 30 to 120 tons of coal dust per 120-car train. BNSF Railway Inc. Vice President Gregory Fox's testimony before the Surface Transportation Board (STB), Arkansas Electric Cooperative Petition for Declaratory Order, FD 35305, July 29, 2010, at 42:8-13 (*available at* <https://www.stb.gov/TransAndStatements.nsf/8740c718e33d774e85256dd500572ae5/9e49ebf2fea431f1852578460066c5cb?OpenDocument>).

¹² See *Economic Impact of Increased Rail Traffic through Sandpoint, Idaho*, City of Sandpoint, January 2015.

Certificate of Service

Idaho Conservation League delivered its Request for Comment Period Extension and Hearings re BNSF Sandpoint Junction Connector to the following persons via electronic mail:

Shane Slate
U.S. Army Corps of Engineers
Walla Walla District
Coeur d'Alene Regulatory Office
1910 Northwest Boulevard, Suite 210
Coeur d'Alene, ID 83814
NWW_BNSF_Pendoreille@usace.army.mil

Steven M. Fischer
U.S. Coast Guard
Thirteenth Coast Guard District
915 2nd Avenue, Room 3510
Seattle, WA 98174
D13-PF-D13BRIDGES@uscg.mil

Amidy Fuson
Idaho Department of Lands
Pend Oreille Supervisory Area
2550 Highway 2 West
Sandpoint, ID 83864
comments@idl.idaho.gov

June Bergquist
Idaho Department of Environmental Quality
Coeur d'Alene Regional Office
2110 Ironwood Parkway
Coeur d'Alene, ID 83814
june.bergquist@deq.idaho.gov

Margaret McCauley
U.S. EPA Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
McCauley.Margaret@epa.gov

CC:
Sid Smith
Office of Senator James E. Risch
Coeur d'Alene Regional Director
sid_smith@risch.senate.gov

Karen Roetter
Office of Senator Mike Crapo
Coeur d'Alene Regional Director
Karen_Roetter@Crapo.senate.gov

Judy Morbeck
Office of Congressman Raul Labrador
Coeur d'Alene Regional Director
Judy.Morbeck@mail.house.gov

No: 12-22
Date: April 18, 2012

RESOLUTION
OF THE CITY COUNCIL
CITY OF SANDPOINT

**TITLE: CONCERNS REGARDING INCREASED COAL TRAIN TRAFFIC IN THE
CITY OF SANDPOINT**

WHEREAS: Coal companies are proposing to increase the number of coal trains that travel through Sandpoint in order to reach their new and existing export terminals in Washington state, with mining currently taking place in the Powder River Basin in Montana and Wyoming;

WHEREAS: The City of Sandpoint recognizes the potential for economic, public health, and environmental impacts on Lake Pend Oreille, the City, its visitors and residents;

WHEREAS: Coal is commonly transported in open top rail cars attached to diesel locomotives;

WHEREAS: Coal dust, which contains heavy metals, and diesel exhaust are known to pose a threat to public health;

WHEREAS: The rail line runs adjacent to and across Lake Pend Oreille, and coal dust, along with particulates from diesel locomotives, will have potential negative impact on the water quality of Lake Pend Oreille;

WHEREAS: Increased train traffic threatens emergency response times and pedestrian safety, can cause traffic circulation issues, and increases the likelihood of derailment; and

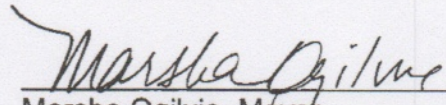
WHEREAS: An increase in the amount of rail traffic threatens property values and has no economic benefit to the City of Sandpoint.

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDPOINT, BONNER COUNTY, IDAHO, THAT:

1. The City Council of the City of Sandpoint, charged by law with protecting the health and safety of its citizens, is deeply concerned about potential hazards increased train traffic and coal effects will have on the City of Sandpoint, its residents, and visitors.

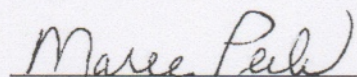
2. The City of Sandpoint urges the Army Corps of Engineers to prepare a Programmatic Environmental Impact Statement—in accordance with NEPA and the U.S. Supreme Court ruling of *Kleppe v. Sierra Club* (1976)—that includes Bonner County.
3. The City of Sandpoint urges the Army Corps of Engineers to host a scoping hearing within Sandpoint in order to determine the scope of an environmental review, explore alternatives and allow for public comment.
4. The City of Sandpoint urges development and adoption of an emergency environmental cleanup plan in the event of a derailment along the shores of Lake Pend Oreille.
5. This Resolution shall be effective upon its passage and approval and shall be forwarded to the U.S. Army Corps of Engineers, the City's legislative representatives, Bonner County Commissioners, Idaho Department of Environmental Quality, Washington State Department of Ecology, and any other agencies having jurisdiction in the permitting process.

BE IT FURTHER RESOLVED THAT: The Sandpoint City Council hereby adopts this Resolution.



Marsha Ogilvie, Mayor

ATTEST:



Maree Peck, City Clerk

City Council Members:

	YES	NO	ABSTAIN	ABSENT
1. Logan	X			
2. Brunner	X			
3. Schuck	X			
4. Qualls Second	X			
5. Eddy	X			
6. Rognstad Motion	X			

No: 13-34
Date: August 7, 2013

RESOLUTION
OF THE CITY COUNCIL
CITY OF SANDPOINT

TITLE: CONCERNS REGARDING INCREASED COAL TRAIN TRAFFIC IN THE CITY OF SANDPOINT AS A RESULT OF THE BOARDMAN, OREGON, TERMINAL

WHEREAS: Coal companies are proposing to increase the number of coal trains that travel through Sandpoint in order to reach their new and existing export terminals in the states of Oregon and Washington, with mining currently taking place in the Powder River Basin in Montana and Wyoming;

WHEREAS: The City of Sandpoint recognizes the potential for economic, public health, and environmental impacts on Lake Pend Oreille, the City, its visitors and residents;

WHEREAS: Coal is commonly transported in open top rail cars attached to diesel locomotives;

WHEREAS: Coal dust, which contains heavy metals, and diesel exhaust are known to pose a threat to public health;

WHEREAS: The proposed Coyote Island terminal in Boardman, Oregon, is being designed to annually export up to 8.8 million metric tons of coal to Asia;

WHEREAS: Coal is known to escape open top rail cars and has been identified in multiple water bodies along the route from the Powder River Basin;

WHEREAS: The rail line runs adjacent to and across Lake Pend Oreille, and coal dust, along with particulates from diesel locomotives, will have potential negative impact on the water quality of Lake Pend Oreille;

WHEREAS: Increased train traffic threatens emergency response times and pedestrian safety, can cause traffic circulation issues, and increases the likelihood of derailment;

WHEREAS: An increase in the amount of rail traffic threatens property values and has no economic benefit to the City of Sandpoint; and

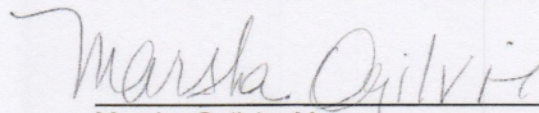
WHEREAS: The Oregon Department of Environmental Quality has air quality, storm water and water quality permitting responsibility for the proposed Coyote Island terminal.

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDPOINT, BONNER COUNTY, IDAHO, THAT:

1. The City Council of the City of Sandpoint, charged by law with protecting the health and safety of its citizens, is deeply concerned about potential hazards increased train traffic and coal effects will have on the City of Sandpoint, its residents, and visitors.

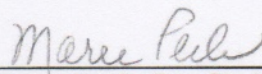
2. The City Council urges the Oregon Department Environmental Quality to scrutinize the impact of the proposed Coyote Island terminal, mindful of the full range of human and environmental hazards expanded shipping will have on Bonner County.
3. The City of Sandpoint urges the Army Corps of Engineers to prepare a Programmatic Environmental Impact Statement—in accordance with NEPA and the U.S. Supreme Court ruling of *Kleppe v. Sierra Club* (1976)—that includes Bonner County.
4. The City of Sandpoint recognizes that, due to local topography, Burlington Northern/Montana Rail Link and Union Pacific rail service is funneled through the City of Sandpoint on single tracks. If a Programmatic Environmental Impact Statement is not prepared for the project, the City of Sandpoint requests that a point specific Environmental Impact Statement be prepared for the City of Sandpoint.
5. The City of Sandpoint urges the Army Corps of Engineers to host a scoping hearing within Sandpoint in order to determine the scope of an environmental review, explore alternatives and allow for public comment.
6. The City of Sandpoint urges development and adoption of an emergency environmental cleanup plan in the event of a derailment along the shores of Lake Pend Oreille.
7. This Resolution shall be effective upon its passage and approval and shall be forwarded to the Oregon Department of Environmental Quality, U.S. Army Corps of Engineers, the City's legislative representatives, Bonner County Commissioners, Idaho Department of Environmental Quality, members of the Idaho State Legislature, members of the U.S. Congress representing the State of Idaho, and any other agencies having jurisdiction in the permitting process.

BE IT FURTHER RESOLVED THAT: The Sandpoint City Council hereby adopts this Resolution.



 Marsha Ogilvie, Mayor

ATTEST:



 Maree Peck, City Clerk

City Council Members:

	YES	NO	ABSTAIN	ABSENT
1. Logan	X			
2. Brunner				X
3. Schuck	X			
4. Qualls Motion	X			
5. Eddy				X
6. Rognstad Second	X			

No: 13-46
Date: September 4, 2013

RESOLUTION
OF THE CITY COUNCIL
CITY OF SANDPOINT

TITLE: CONCERNS REGARDING INCREASED COAL TRAIN TRAFFIC IN THE CITY OF SANDPOINT AS A RESULT OF THE LONGVIEW, WASHINGTON, MILLENNIUM BULK TERMINAL

WHEREAS: Coal companies are proposing to increase the number of coal trains that travel through Sandpoint in order to reach their new and existing export terminals in the states of Oregon and Washington, with mining currently taking place in the Powder River Basin in Montana and Wyoming;

WHEREAS: The City of Sandpoint recognizes the potential for economic, public health, and environmental impacts on Lake Pend Oreille, the City, its visitors and residents;

WHEREAS: Coal is commonly transported in open top rail cars attached to diesel locomotives;

WHEREAS: Coal dust, which contains heavy metals, and diesel exhaust are known to pose a threat to public health;

WHEREAS: The proposed Millennium Bulk terminal in Longview, Washington, is being designed to annually export up to 44 million metric tons of coal to Asia;

WHEREAS: Coal is known to escape open top rail cars and has been identified in multiple water bodies along the route from the Powder River Basin;

WHEREAS: The rail line runs adjacent to and across Lake Pend Oreille, and coal dust, along with particulates from diesel locomotives, will have potential negative impact on the water quality of Lake Pend Oreille;

WHEREAS: Increased train traffic threatens emergency response times and pedestrian safety, can cause traffic circulation issues, and increases the likelihood of derailment;

WHEREAS: An increase in the amount of rail traffic threatens property values and has no economic benefit to the City of Sandpoint; and

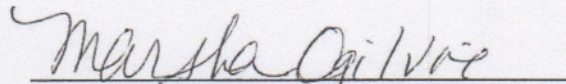
WHEREAS: The Washington State Department of Ecology has air quality, storm water and water quality permitting responsibility for the proposed Millennium Bulk terminal.

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDPOINT, BONNER COUNTY, IDAHO, THAT:

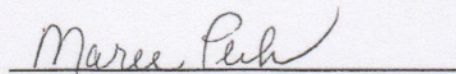
1. The City Council of the City of Sandpoint, charged by law with protecting the health and safety of its citizens, is deeply concerned about potential hazards increased train traffic and coal effects will have on the City of Sandpoint, its residents, and visitors.

2. The City Council urges the Washington State Department of Ecology to scrutinize the impact of the proposed Millennium Bulk terminal, mindful of the full range of human and environmental hazards expanded shipping will have on Bonner County.
3. The City of Sandpoint urges the Army Corps of Engineers to prepare a Programmatic Environmental Impact Statement—in accordance with NEPA and the U.S. Supreme Court ruling of *Kleppe v. Sierra Club* (1976)—that includes Bonner County.
4. The City of Sandpoint recognizes that, due to local topography, Burlington Northern/Montana Rail Link and Union Pacific rail service is funneled through the City of Sandpoint on single tracks. If a Programmatic Environmental Impact Statement is not prepared for the project, the City of Sandpoint requests that a point specific Environmental Impact Statement be prepared for the City of Sandpoint.
5. The City of Sandpoint urges the Army Corps of Engineers to host a scoping hearing within Sandpoint in order to determine the scope of an environmental review, explore alternatives and allow for public comment.
6. The City of Sandpoint urges development and adoption of an emergency environmental cleanup plan in the event of a derailment along the shores of Lake Pend Oreille.
7. This Resolution shall be effective upon its passage and approval and shall be forwarded to the Washington State Department of Ecology, U.S. Army Corps of Engineers, the City's legislative representatives, Bonner County Commissioners, Idaho Department of Environmental Quality, members of the Idaho State Legislature, members of the U.S. Congress representing the State of Idaho, and any other agencies having jurisdiction in the permitting process.

BE IT FURTHER RESOLVED THAT: The Sandpoint City Council hereby adopts this Resolution.

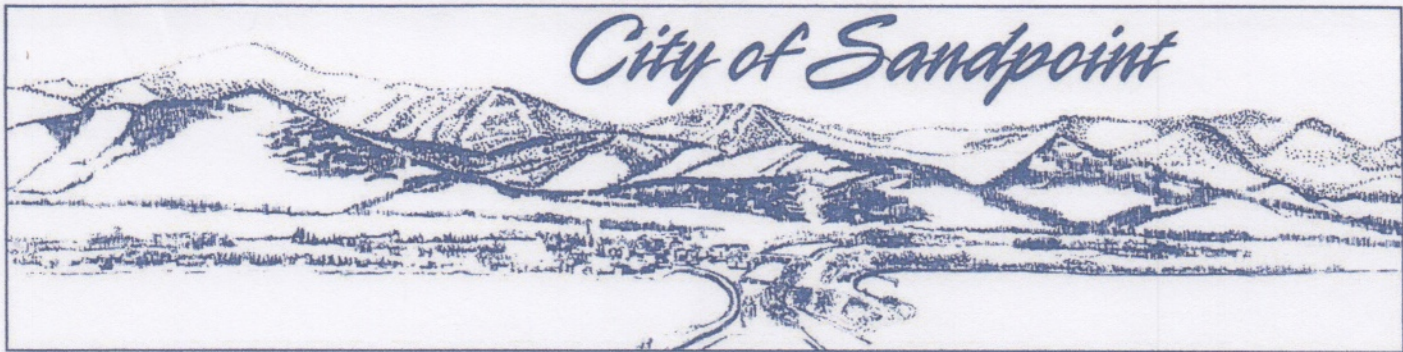

 Marsha Ogilvie, Mayor

ATTEST:


 Maree Peck, City Clerk

City Council Members:

		YES	NO	ABSTAIN	ABSENT
1.	Logan	X			
2.	Brunner				X
3.	Schuck			X	
4.	Qualls	Motion X			
5.	Eddy	Second X			
6.	Rognstad				X



September 9, 2013

Diane Butorac, Regional Planner
Washington Department of Ecology
Millennium Bulk Terminals – Longview EIS
c/o ICF International
701 S. Avenue, Suite 550
Seattle, WA 98104

Re: Proposed Millennium Bulk Terminals, Longview, Washington

Dear Ms. Butorac:

The City of Sandpoint is a small north Idaho community that was recently named the most beautiful small town in America by USA Today and Rand McNally. The City is bounded by mountains on one side and Lake Pend Oreille on the other. As a result of the spectacular topography, the City has two major rail lines that pass through. Whether coal is shipped on the Burlington Northern/Montana Rail Link or the Union Pacific rail line, Sandpoint is concerned about the proposed increase in coal trains passing through our City and adjacent to our pristine lake.

The City is particularly concerned about the cumulative impacts on the citizens of Sandpoint and the water quality of the lake due to a significant daily increase of train traffic. As a result, the City of Sandpoint is requesting that the Washington State Department of Ecology, in considering the proposed new coal export terminal, host a scoping hearing that includes the City of Sandpoint and Bonner County and prepare a Programmatic Environmental Impact Statement. In the alternative, the City is requesting that a point specific Environmental Impact Statement be prepared for the City of Sandpoint.

In response to community concerns, the City of Sandpoint adopted the enclosed Resolution expressing concerns regarding increased coal train traffic in the City of Sandpoint. The City urges the Washington State Department of Ecology to take the City of Sandpoint's concerns into consideration before making any decision on coal train permit applications.

Sincerely,

Marsha Ogilvie
Mayor

Enclosure

c: Idaho Governor C.L. "Butch" Otter
Idaho State Senator Shawn Keough
Idaho State Representative Eric Anderson
Idaho State Representative George Eskridge
Bonner County Commissioners
Idaho Department of Environmental Quality
Lake Pend Oreille Waterkeeper

U.S. Army Corps of Engineers
Environmental Protection Agency, Washington
Environmental Protection Agency, Idaho
Ambre Energy
U.S. Senator James E. Risch
U.S. Senator Mike Crapo
U.S. Representative Raúl Labrador

No: 14-05
Date: March 5, 2014

RESOLUTION
OF THE CITY COUNCIL
CITY OF SANDPOINT

TITLE: A RESOLUTION TO PROTECT THE HEALTH, SAFETY, AND ECONOMIC WELL BEING OF LOCAL CITIZENS AND SANDPOINT'S DRINKING WATER SUPPLY AND NATURAL RESOURCES FROM THE POTENTIAL IMPACT OF INCREASED CRUDE OIL RAIL TRAFFIC PASSING THROUGH THE CITY OF SANDPOINT AND ADJACENT TO LAKE PEND OREILLE, RESULTING FROM PROPOSED TERMINAL PROJECTS

WHEREAS: The City of Sandpoint is committed to the protection of its citizens, as well as the natural resources on which the City depends;

WHEREAS: Rail infrastructure in northern Idaho runs adjacent to land resources and Lake Pend Oreille and its aquatic resources, as well as the City's major source of drinking water;

WHEREAS: The City is uniquely situated between mountains and Lake Pend Oreille, where multiple rail lines converge and come into close proximity of the City and the lake;

WHEREAS: Increased train traffic threatens emergency response times and pedestrian safety, can cause traffic circulation issues, and increases the likelihood of derailment;

WHEREAS: Rail transportation through the Sandpoint region includes both ground level and elevated tracks through the City;

WHEREAS: The City Council is concerned about the potential impacts on public safety and economic disruption from a possible derailment and increased rail traffic;

WHEREAS: An increase in the amount of rail traffic threatens property values and has no economic benefit to the City of Sandpoint;

WHEREAS: The Federal Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a major safety alert on January 2, 2014, declaring oil obtained in the Bakken Shale is more explosive than other oils;

WHEREAS: On July 6, 2013, a train carrying crude oil derailed in Lac Megantic, Quebec, killing over 40 people, destroying thirty buildings, and requiring the evacuation of over 1,000 people;

WHEREAS: On November 8, 2013, a train carrying crude oil derailed in Aliceville, Alabama, causing explosions, fire, and contamination of a wetland environment;

WHEREAS: On December 30, 2013, a train carrying crude oil derailed in Casselton, North Dakota, causing violent explosions and a hazardous plume of smoke;

WHEREAS: On January 7, 2014, a train carrying crude oil derailed in Plaster Rock, New Brunswick, forcing dozens of evacuations;

WHEREAS: On January 20, 2014, a train carrying crude oil derailed on a bridge over the Schuylkill River in Philadelphia, Pennsylvania;

WHEREAS: On December 24, 1991, a train derailed, dropping a freight car 80 feet onto an interstate highway just west of downtown Spokane above Latah Creek; and

WHEREAS: More oil was spilled from trains in 2013 than the previous four decades.

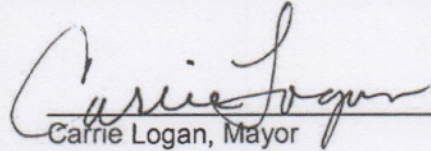
NOW, THEREFORE, BE IT RESOLVED THAT: The Sandpoint City Council strongly requests the potential impacts to Sandpoint's public safety, environment, economy, and traffic be studied by the agencies conducting all environmental reviews and requests that Sandpoint be included in any environmental studies or impact statements pertaining to any project that may cause an increase in associated oil rail traffic travelling via Sandpoint.

BE IT FURTHER RESOLVED THAT: The Sandpoint City Council supports the creation of clear Federal guidelines for tracking the chemical composition of transported fuels so that local governments, citizens and first responders can better understand and plan for the risks associated with the specific type of fuel flowing through or to their communities.

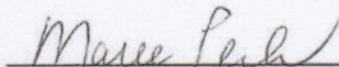
BE IT FURTHER RESOLVED THAT: The Sandpoint City Council requests the Federal Government immediately implement safety regulations regarding older tank cars, train speeds, and other identified hazards associated with flammable crude oil.

BE IT FURTHER RESOLVED THAT: The Sandpoint City Council requests the Emergency response and evacuation plans pertaining to the derailment of an oil train, which have been or will be developed by the Federal Government and/or railroad companies responsible for developing such emergency plans, be reviewed and that the City of Sandpoint be included and participate in any review of such plans.

BE IT FURTHER RESOLVED THAT: The Sandpoint City Council hereby adopts this Resolution.


Carrie Logan, Mayor

ATTEST:


Maree Peck, City Clerk

City Council Members:

		YES	NO	ABSTAIN	ABSENT
1.	Rognstad	Motion	X		
2.	Eddy		X		
3.	Aitken		X		
4.	Williamson	Second	X		
5.	Camp		X		
6.	Fragoso		X		



Bonner County

Board of Commissioners

Cary Kelly

Mike Nielsen

Glen Bailey

May 13, 2014

U.S. Sen. Mike Crapo
239 Dirksen Senate Office Building
Washington, DC 20510

U.S. Sen. James E. Risch
483 Russell Senate Office Building
Washington, DC 20510

U.S. Rep. Raul Labrador
1523 Longworth HOB
Washington, DC 20515

Dear Senators Crapo and Risch, and Rep. Labrador,

We are writing to share our concern about proposals to dramatically increase rail traffic through our communities. Many communities in North Idaho were born with the railroads and have embraced railroads as an integral part of our regional identity. Pending proposals, however, to export coal and increase rail transport of oil could dramatically increase rail traffic through our communities. We are concerned about the magnitude of potential coal and oil train traffic and what this could mean for our families and businesses.

The U.S. Army Corps of Engineers is the permitting authority for three coal-export terminal projects: the Gateway Pacific Terminal at Cherry Point, Washington; the Coyote Island Terminal at the Port of Morrow, Oregon; and the Millennium Bulk Logistics Terminal in Longview, Washington. The primary rail line to feed coal to the terminals passes through Bonner County in North Idaho.

Collectively, the announced capacity of all of these projects is approximately 105 million tons of coal per year. A recent report by the Western Organization of Resource Councils estimated this amount of coal could result in up to 60 coal trains per day traveling through the 78-mile "funnel" between Sandpoint and Spokane. In addition, this line may also see another 22 oil trains carrying highly volatile crude oil from North Dakota if proposed Northwest oil facilities also are approved.

Our communities deserve an opportunity to understand the potential impacts of this increased traffic. Among our concerns are:

- Safety concerns raised by the increased traffic congestion at crossings and the delay of emergency vehicles;
- Potential increased tax burden on local communities needing to improve crossings and prepare for potential spills, derailments and other emergencies. Currently railroads only contribute 5% of the cost when an at-grade crossing is

replaced by an under or overpass.

- Potential issues caused by fugitive coal dust and/or diesel particulates that may contribute to public health impacts, derailments, and pollution of Idaho waters by coal falling from railcars;

Idaho does not have a voice in the review of these rail proposals. For two of the three terminal proposals, the Corps is producing an Environmental Impact Statement pursuant to the National Environmental Policy Act. But to date the Corps insists they will only consider the impacts at the export terminal sites and not the impacts to railroad communities along the route. We are concerned the Corps may authorize the export terminals without considering how this traffic will affect our communities.

We urge you to:

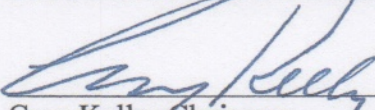
1. Request the U.S. Army Corps of Engineers conduct a comprehensive, cumulative programmatic EIS of the coal export facility proposals under their review that examines the impacts to communities all along the rail lines;
2. Urge the Surface Transportation Board to exercise its jurisdiction to examine conflicts with other rail users and ensure the cost of mitigating the impacts of the unprecedented coal traffic does not fall on the local communities, other rail users and taxpayers;
3. Support strict new federal standards on new tankers that haul crude oil and other hazardous materials, and a requirement that existing tankers be brought up to those standards or retired;
4. Support the recommendations of the National Transportation Safety Board to the Federal Railroad Administration issued Jan. 23, 2014, that would improve the safety of oil transport by rail.
5. Urge the U.S. Senate to pass a veto proof bill for construction of the Keystone Pipeline to reduce the risk of oil train derailment and hazardous material contamination.

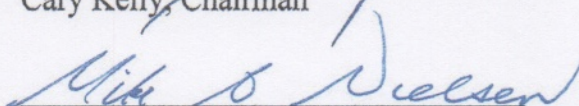
Idaho families, communities and businesses are relying on you to look out for our health and welfare in this national issue. Idaho currently has no voice in this process. We have nothing to gain, and everything to lose if these proposals go through without proper review.

Thank you for your attention to our concerns.

Very Respectfully,

BONNER COUNTY BOARD OF COMMISSIONERS


Cary Kelly, Chairman


Mike Nielsen, Commissioner


Glen Bailey, Commissioner