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Idaho Conservation League

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208.265.9565

April 23, 2015

Deputy District Engineer, Alan W. Feistner
Walla Walla District
201 North Third Ave.
Walla Walla, WA 99362-1876

RE: Proposed BNSF bridge across Lake Pend Oreille

Dear Mr. Feistner,

I am writing on behalf of the Idaho Conservation League regarding a proposal by BNSF to build a large railroad bridge across Lake Pend Oreille. 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.

As press reports and statements by BNSF Railway have made clear in recent months, BNSF is planning to build a second railroad bridge by 2018 across Lake Pend Oreille from Sandpoint to the southeastern shore of the lake at the base of Gold Hill.¹ At 4,800 feet in length, the bridge would span nearly one mile of water and sit on more than 100 concrete supports and steel piers sunk up to 150 feet into the lake. The bridge would accommodate increased rail traffic across the Rockies, including shipments of coal and oil to West Coast ports.

We are writing to request that you exercise your authority to require BNSF to apply for an individual Section 404 Clean Water Act permit – instead of a streamlined general 404 permit – due to potential detrimental impacts to the welfare of the people and environment of North Idaho. It is likely that the bridge construction will exceed the half-acre threshold that would trigger an individual permit, rendering this request unnecessary. Regardless of the precise footprint, a project of this scale will create intense public interest and highlight concerns about impacts to water quality, public safety and the economy of the greater Sandpoint region. For that

¹ See, e.g., Maben, Scott, "BNSF seeks second bridge at Sandpoint", *The Spokesman-Review*, Sep. 17, 2014 (available at <http://www.spokesman.com/stories/2014/sep/17/bnsf-seeks-second-bridge-at-sandpoint/>) (Attachment A).

reason, this project deserves the full Army Corps review, as well as public review and input that would be provided through the standard individual permit process.

You have authority under the Army Corps's regulations at 33 C.F.R. 330 to require BNSF to apply for an individual 404 permit due to environmental and public interest concerns. You should exercise this authority here, because building the bridge would have more than minimal individual or cumulative adverse effects on the people and environment of North Idaho (33 C.F.R. 330.4(e)), and it may affect threatened bull trout and its habitat (33 C.F.R. 330.4(f)(2)).

Here are details on why requiring an individual Section 404 permit is appropriate for BNSF's large-scale project:

- The construction of a second bridge will accommodate the anticipated dramatic increase rail traffic of oil and coal shipments through our communities. More than five full and empty Bakken oil unit trains pass through North Idaho each day, and that number could increase to 32 trains per day (full and empty) with the construction and expansion of terminals and refineries in Washington and Oregon.²
- Even without the West Coast expansions, Bakken crude oil traffic has nearly doubled through North Idaho in the past year. Similarly, proposed West Coast export terminals for coal could increase coal trains by more than 50 mile-long trains per day.³
- The bridge construction will hasten this doubling of existing traffic, worsen delays at at-grade crossings in Sandpoint and beyond, and increase the risk of a hazardous materials derailment along a waterway or in one of our communities in North Idaho;
- The Federal Department of Transportation has studied the increase of Bakken crude oil production and shipments by rail and predicted that trains hauling crude oil or ethanol will derail an average of 10 times per year over the next two decades, causing an estimated \$4.5 billion in damages, and causing massive loss of life if a derailment occurs in an urban area;⁴
- If a spill were to occur over or along Lake Pend Oreille, the results would be disastrous. Thousands of people rely on this waterway for their domestic water supply, and thousands more rely on it for its many other beneficial uses. Emergency response professionals have admitted they currently are unprepared for a crude oil derailment, and are developing a geographic response plan to deal with such an eventuality.⁵
- In addition, with deep winter drawdowns of Lake Pend Oreille, emergency response crews currently have no boat launch capable of providing immediate response to contain

² See Washington State 2014 Marine and Rail Oil Transport Study-Preliminary Findings and Recommendations, Washington State Department of Ecology, p. 25, (Available at <http://www.ecy.wa.gov/programs/spills/OilMovement/index.html>)(Summary Attachment B)

³ See Whiteside, Terry C. and Fauth, G.W., *Heavy Traffic Still Ahead*, Western Organization of Resource Councils, February 2014, (Available at <http://www.heavytrafficahead.org/pdf/Heavy-Traffic-Still-Ahead-web.pdf>) (Summary Attachment C)

⁴ See Brown, Matthew and Funk, Josh, "AP Exclusive: Fuel-hauling trains could derail at 10 a year", Feb. 22, 2015, *Associated Press*, (Available at <http://www.spokesman.com/stories/2015/feb/23/fuel-hauling-trains-could-derail-about-10-times-a/>) (Attachment D)

⁵ See Kinnaird, Keith, "Hoping for the Best Planning for the Worst", Sept. 5, 2014, *Bonner County Daily Bee*, (Available at http://www.bonnercountydailybee.com/news/local/article_e54fe830-34bf-11e4-a96f-0019bb2963f4.html). (Attachment E)

an oil spill or other spill if one were to occur in the vicinity of the proposed railroad bridge;

- 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. Meanwhile, there is virtually no direct benefit from this increased traffic to the local communities;⁶
- 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. These improvements will cost the city at a minimum \$1 million for the least expensive option.

These are just a handful of the public interest issues to be considered regarding the potential impacts from this railroad bridge. In addition, there are likely adverse environmental impacts from the bridge construction itself. For instance, the project is in an area designated as critical habitat for bull trout, an ESA-listed species, and pile-driving can create sediment plumes and noise levels that harm fish.⁷

Lake Pend Oreille is also a dearly loved recreational resource by local residents and visitors alike. Lake Pend Oreille is Idaho's largest lake and one of the largest lakes in the western United States. The Lake supports a world-famous fishery and is an important stopping point for migratory birds. Any adverse impacts of the construction of this large bridge to water quality, fisheries, wildlife, navigation, recreation, and tourism will be of great public interest to all who care about Lake Pend Oreille and the local economy.

BNSF's proposed bridge is a massive infrastructure project. It is not the type of small-scale project with minimum, well-understood impacts that would be suitable for approval under the streamlined general permit process. Through the Clean Water Act's standard individual permit process, the Army Corps can involve the public and other agencies (including the U.S. Environmental Protection Agency and U.S. Fish and Wildlife Service) to flesh out concerns specific to this project, identify additional issues, and add all appropriate conditions to minimize adverse impacts and ensure compliance with applicable laws before approving any permit.

For these reasons, we urge you to use your discretionary authority to require an individual permit for BNSF's proposal to build a second bridge across Lake Pend Oreille. We are not aware of whether BNSF has initiated the permitting process with you yet, but we respectfully request that you notify BNSF at the earliest opportunity that an individual permit will be required. This project clearly has the potential to be detrimental to the public interest and environment and the public deserves an opportunity to provide the U.S. Army Corps of Engineers with more information to help guide your decision.

⁶ See *Economic Impact of Increased Rail Traffic through Sandpoint, Idaho*, City of Sandpoint, January 2015. (Attachment F)

⁷ Halvorsen, M. B., Casper, B. M., Woodley, C. M., Carlson, T. J., and Popper, A. N. (2012). Threshold for onset of injury in Chinook salmon from exposure to impulsive pile driving sounds. *PLoS ONE*, 7(6) e38968. doi:10.1371/journal.pone.0038968.

Thank you for your consideration of this request. If you have any questions, feel free to contact me at (208) 265-9565.

Regards,

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cc: Lt. Col. Timothy R. Vail, Walla Walla District Commander
U.S. Sen. Mike Crapo; U.S. Sen. James Risch; U.S. Rep. Raul Labrador