

**MEMORANDUM OF AGREEMENT
BETWEEN
THE FEDERAL RAILROAD ADMINISTRATION,
THE WISCONSIN DEPARTMENT OF TRANSPORTATION,
AND
THE WISCONSIN STATE HISTORIC PRESERVATION OFFICE**

Prepared pursuant to 36 CFR § 800.6(c)

Regarding
Wisconsin DOT Project ID 0385-57-03
WHS# 21-0308/MI
Muskego Yards Improvements
City of Milwaukee, Milwaukee County, WI

WHEREAS, the Federal Railroad Administration (FRA) plans to provide Fiscal Year 2019 Consolidated Rail Infrastructure and Safety Improvement Program grant funds to the Wisconsin Department of Transportation (WisDOT) for the Muskego Yards Improvements project (undertaking) and the United States Army Corps of Engineers (USACE) and the United States Coast Guard (USCG) will issue permits to WisDOT for the undertaking; and

WHEREAS, the undertaking consists of the construction of a new main line track through the Muskego Yards, signal and track upgrades, repairs to three bridges, and replacement of three bridges in the City of Milwaukee, Milwaukee County; and

WHEREAS, the FRA is the lead Federal agency on this undertaking with responsibility for completing the requirements of Section 106; and

WHEREAS, the FRA has established the undertaking's Area of Potential Effects (APE), as defined in 36 CFR § 800.16(d), to be all properties within and immediately adjacent to the proposed project corridor (see Appendix G); and

WHEREAS, the FRA, pursuant to 36 CFR § 800.4(c), has determined that the Burnham Canal Bridge and the Burnham Canal are eligible for inclusion in the National Register of Historic Places (see Appendix G); and

WHEREAS, the FRA has determined that the project will have an adverse effect upon the Burnham Canal Bridge and the Burnham Canal (see Appendix G); and

WHEREAS, the FRA has consulted with the SHPO in accordance with Section 106 of the National Historic Preservation Act, 54 U.S.C. § 306108 (NHPA), and its implementing regulations (36 CFR § 800) to resolve the adverse effect of the project on historic properties (see Appendix G); and

WHEREAS, the FRA intends to use the provisions of this Memorandum of Agreement (MOA) to address applicable requirements of Section 110(b) of NHPA, 54 U.S.C. § 306103; and

WHEREAS, the Wisconsin Department of Transportation (WisDOT) participated in the consultation and has been invited to sign this MOA as an Invited Signatory; and

WHEREAS, the City of Milwaukee participated in the consultation and has been invited to sign this MOA as a Concurring Party; and

WHEREAS, Milwaukee Preservation Alliance participated in the consultation and has been invited to sign this MOA as a Concurring Party; and

WHEREAS, the Forest County Potawatomi Community participated in the consultation and has been invited to sign this MOA as an Invited Signatory; and

WHEREAS, the U.S. Coast Guard designated FRA lead federal agency for Section 106, participated in the consultation and has been invited to sign this MOA as a Concurring Party; and

WHEREAS, the U.S. Army Corps of Engineers designated FRA lead federal agency for Section 106, was invited to participate in the consultation, but declined to sign this MOA; and

WHEREAS, no additional Consulting Parties have been identified to participate in the development of this MOA; and

WHEREAS, this undertaking is not on federal or tribal land as defined by the NHPA; therefore, all inadvertent human remain discoveries will be addressed in accordance with Wis. Stat. § 157.70 and the Proposed Final Inadvertent Discovery Protocol (see Appendix A).

NOW, THEREFORE, the FRA, and the Wisconsin SHPO agree that, upon execution of this MOA the FRA shall ensure that the following stipulations are implemented in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

I. DOCUMENTATION OF THE BURNHAM CANAL BRIDGE

A. Completion of HAER Documentation of Burnham Canal Bridge

WisDOT shall complete Level II HAER documentation of the Burnham Canal Bridge. All documentation will be completed in accordance with the *Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation: HABS/HAER Standards* [as originally published in the Federal Register, Vol. 48, No. 190, (September 29, 1983), pp. 44730-34 and updated in the Federal Register, Vol. 68, No. 139 (July 21, 2003), pp. 43159-43162] (Standards). Details regarding the HAER documentation process are included in Appendix B.

B. Completion of Photogrammetric Imaging of Burnham Canal Bridge

WisDOT will complete photogrammetric imaging of the Burnham Canal Bridge. The photogrammetric documentation will produce one or more 3-D digital images of the structure for submittal to SHPO, the City of Milwaukee, the Milwaukee Public Library, and the Milwaukee County Historical Society. Details regarding the photogrammetric documentation process are included in Appendix B.

II. SURVEY OF EXTANT HISTORIC RAILROAD BRIDGES OVER WATERWAYS IN MILWAUKEE COUNTY

WisDOT shall complete a survey of extant historic railroad bridges over waterways in Milwaukee County. Copies of the final survey report will be provided to SHPO, the City of Milwaukee, the Milwaukee Public Library, and the Milwaukee County Historical Society. WisDOT will ensure that all aspects of this stipulation shall be carried out by, or under the supervision of, a qualified consultant as defined in Stipulation IX Professional Qualifications. Details regarding the survey stipulation are included in Appendix C.

III. DEVELOPMENT AND IMPLEMENTATION OF A CONSTRUCTION ENVIRONMENTAL PROTECTION PLAN

WisDOT will develop a Construction Environmental Protection Plan (CEPP) for the project. The CEPP will include provisions for the protection of the Burnham Canal during construction of the new Burnham Canal Bridge. WisDOT will ensure that all aspects of this stipulation shall be carried out by, or under the supervision of, a qualified consultant as defined in Stipulation IX Professional Qualifications. Details regarding the development and implementation of the CEPP are included in Appendix D.

IV. PROTECTION AND MONITORING OF BURIED ARCHAEOLOGICAL RESOURCES

WisDOT will solicit the services of a qualified consultant (as defined in Stipulation IX) to develop a comprehensive monitoring plan to determine if any ground disturbing activities associated with the project will impact buried archaeological resources and to monitor any such resources during the course of construction. Details regarding the monitoring plan are included in Appendix E.

V. INADVERTENT OR POST-REVIEW DISCOVERIES

WisDOT will take protective steps to safeguard archaeological site(s) and/or human remains after working hours. Measures will include one or more of the following: fencing, signage, temporary backfilling of active excavation area(s) to conceal the location, and/or notification of local authorities to include the area in their patrol. WisDOT will ensure the following protocol is followed regarding inadvertent discoveries:

A. Burial-Related Discoveries

1. The on-site construction project manager shall immediately stop construction activities and protect the site area if any inadvertent burial related discoveries (human remains) are encountered. The treatment of burial-related discoveries shall comply with provisions contained in Wisconsin §157.70 and the *Proposed Final Inadvertent Discovery Protocol*.
2. The on-site construction project manager will immediately notify WisDOT CRT and WisDOT CRT will immediately notify FRA, the SHPO, consulting tribes, and interested concurring parties of the discovery(ies). WisDOT, FRA, and SHPO will consult with the Forest County Potawatomi Tribal Historic Preservation Office, and any traditional advisor the Tribe sees fit to appoint, regarding indigenous human remains prior to their removal from the discovery site.
3. In the event the human remains are found out of context (e.g., in the excavation screen, or a back-dirt pile associated with excavation, or construction) the remains must be placed back as close as possible to their original trench/unit and left in place until such time consultation and a treatment plan is completed.

B. Non-Burial-Related Discoveries

1. The on-site construction project manager shall immediately stop construction activities and protect the area of the discovery if any significant non-burial-related discoveries are encountered.
2. The on-site project manager will immediately notify WisDOT CRT. A professional archaeologist will be consulted to determine the significance of the discovery. The professional archaeologist will notify WisDOT CRT of findings.
3. WisDOT CRT will notify FRA, SHPO, and the Forest County Potawatomi Community of the discovery within 48 hours.
4. Through an expedited consultation process, FRA and WisDOT will consult with MOA Signatories, Invited Signatories, and Concurring Parties to determine an appropriate treatment to resolve adverse effects to historic properties. WisDOT will continue to protect the area until authorization to proceed is received from SHPO.

VI. ADMINISTRATIVE STIPULATIONS

A. Effective Date

This MOA will become effective immediately upon execution by all Signatories.

B. Timeframes, Communication, and Project Modifications

The Signatories, Invited Signatories, and Concurring Parties will adhere to the provisions regarding timeframes and communication and project modification identified in Appendix F.

C. Adoptability

In the event that a Federal agency, not initially a party to or subject to this MOA, receives an application for financial assistance, permits, licenses, or approvals for the

Project as described in this MOA, such Federal agency may become a Signatory to this MOA as a means of complying with its Section 106 responsibilities for its undertaking. To become a Signatory to this MOA, the agency official must provide written notice to the Signatories that the agency agrees to the terms of the MOA, specifying the extent of the agency's intent to participate in the MOA, and identifying the lead Federal agency for the undertaking. The participation of the agency is subject to approval by the Signatories. Upon approval, the agency must execute a signature page to this MOA, file the signature with the ACHP, and implement the terms of this MOA, as applicable. Any necessary amendments to the MOA will be considered in accordance with Stipulation VIII.

- D. The implementation of this MOA will be monitored by WisDOT with progress reported in the agency's MOA Annual Report (see Appendix F).

VII. DISPUTE RESOLUTION

Any Signatory (including Invited Signatories) or Concurring Party to this MOA may object at any time to any actions proposed or the manner in which the terms of this MOA are implemented by submitting its objection to FRA in writing. Upon receipt of the objection, FRA shall consult with the Signatories (including Invited Signatories) to resolve the objection. If FRA determines that such objection cannot be resolved, FRA will, within thirty 30 days of such objection:

- A. Forward all documentation relevant to the dispute, including the FRA's proposed resolution, to the Advisory Council on Historic Preservation (ACHP) (with a copy to the Signatories, Invited Signatories and Concurring Parties) and request that the ACHP provide FRA with its advice on the resolution of the objection within thirty (30) days.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day period, FRA will make a final decision on the dispute and proceed accordingly.
- C. FRA will document its decision in a written response that takes into account any timely comments regarding the dispute from ACHP, the Signatories, Invited Signatories and Concurring Parties to the MOA, and provide them with a copy of the response.
- D. FRA will then proceed according to its final decision.
- E. FRA and WisDOT remain responsible for carrying out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. AMENDMENTS

Any Signatory or Invited Signatory to this MOA may request that it be amended by providing a written request identifying the proposed scope of the amendment to the Signatories and Invited Signatories. The Signatories, Invited Signatories, and Concurring Parties will consult for no more than thirty (30) calendar days (or another time period agreed upon by the Signatories and Invited Signatories) to consider such amendment. The amendment will be effective immediately upon execution by all Signatories. FRA will file the executed amendment with the ACHP.

IX. PROFESSIONAL QUALIFICATIONS

WisDOT shall ensure that all historic preservation work carried out pursuant to agreement is carried out by or under the supervision of a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards in the field of architectural history or archaeology, as published in 36 CFR Part 61, and as relevant to the technical requirements of a given action (referred to in this MOA as a qualified consultant).

X. TERMINATION

If any Signatory to this MOA determines that its terms will not or cannot be carried out, that Signatory shall immediately consult with the other Signatories to attempt to develop an amendment per Stipulation VIII above. If within thirty (30) days (or another time period agreed to by all Signatories) an amendment cannot be reached, any Signatory may terminate the MOA upon written notification to the other Signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FRA must either (a) execute an MOA pursuant to 36 CFR 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. FRA shall notify the Signatories as to the course of action it will pursue.

XI. DURATION

This agreement shall be null and void if its terms are not carried out within ten (10) years from the date of the execution, unless the Signatories agree in writing to an extension of carrying out its terms.

XII. EXECUTION AND IMPLEMENTATION

Execution of this MOA by FRA and the Wisconsin SHPO, and implementation of its terms, evidences that FRA has complied with Section 106 for the Muskego Yards project, and that FRA has taken into account the effects of the undertaking on historic properties.

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SIGNATORY:

FEDERAL RAILROAD ADMINISTRATION

By: 
Amanda Murphy
Acting Federal Preservation Officer

Date: 9/9/2022

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SIGNATORY:

WISCONSIN STATE HISTORIC PRESERVATION OFFICER

By: 
Dr. Daina Penkiunas
State Historic Preservation Officer

Date: 9/1/2022

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INVITED SIGNATORY:

WISCONSIN STATE DEPARTMENT OF TRANSPORTATION

By:  _____
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Barry Paye, P.E.
Director, Bureau of Technical Services

Date: 18 August 2022 _____

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CONCURRING PARTY:

UNITED STATES COAST GUARD

By: 
Blair Stanifer
Branch Chief
USCG D9 Bridge Program

Date: 8/1/22

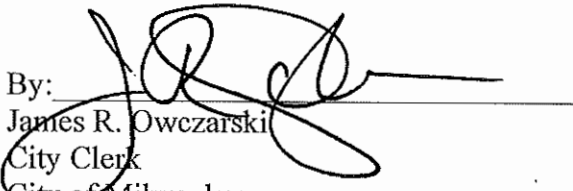
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CONCURRING PARTY:

CITY OF MILWAUKEE

By: 
James R. Owczarski
City Clerk
City of Milwaukee

Date: 5/31/22

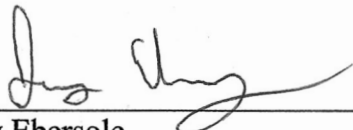
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CONCURRING PARTY:

MILWAUKEE PRESERVATION ALLIANCE

By: 

Jeremy Ebersole
Executive Director
Milwaukee Preservation Alliance

Date: 6/13/22

APPENDIX A – PROPOSED FINAL INADVERTENT DISCOVERY PROTOCOL*

Proposed Final Inadvertent Discovery Protocol

I) Human remains are inadvertently disturbed

II) Human Remains Identified as Native American

A) WHS shall contact Tribe(s) and WITRC within 24 hours of Identification (II above). Contacted Tribes shall be determined from NAGPRA Tribal Area of Interest Maps/other information.

[Special Caveat: Timing is a critical factor for closing inadvertently discovered graves, or for removing burials from graves. Any information related to timing shall be transmitted to Tribe(s) and/or WITRC, when WHS becomes aware of specifics. Such special-timing requirements may affect the respective notice provisions of this protocol.]

[***Special Note: WHS has need for Current Contact information for appropriate Tribe and WITRC representatives (including one alternate contact).] *

B) Tribe(s) and/or WITRC shall respond with information on: handling of remains; desire to observe or monitor; specific project contact person(s) w/contact information; other within 24 hours. [This Tribe/WITRC information is hereinafter referred to as "Treatment."]

1) If human remains and objects related to the burial are removed (through disturbance) from the grave, and Tribe(s) and/or WITRC transmit Treatment request, then WHS notifies parties to put in place Treatment plan.

2) If remains are left in grave, then no further involvement, unless Tribe(s) and/or WITRC transmit request for Treatment at grave site. Then, if such Grave-site treatment is requested, WHS shall notify all parties to put in place Treatment plan.

[NOTE: all subsequent contact with Tribe(s) and/or WITRC shall be made according to project-specific information as conveyed in "B" above; or, in the absence of such project specific information, pursuant to existing contact information of "A" above.]

C) If human remains and objects related to the burial must be excavated, then a Contract for such activity must be negotiated.

1) WHS shall contact Tribe(s) and/or WITRC of removal requirement.

2) Tribe(s) and/or WITRC, if desired, shall provide additional Treatment provisions for excavation and temporary curation of human remains and objects related to the burial.

[NOTE: WHS shall advise Tribe(s) and/or WITRC of decision to excavate human remains and objects related to the burial within 24 hours of notice of such decision. Tribe(s) and/or WITRC shall respond with Treatment request within 24 hours of such notice. In any event, all information exchange must take place prior to finalizing excavation Contract]

III) Disposition of human remains and objects related to the burial shall be undertaken pursuant to existing statutory and administrative code provisions.

*WITRC refers to the Wisconsin Intertribal Repatriation Committee; WHS refers to the Wisconsin Historical Society (SHPO)

APPENDIX B – DOCUMENTATION OF BURNHAM CANAL BRIDGE

1. HAER Documentation of Burnham Canal Bridge

- a. Within eighteen (18) months of the execution of this MOA, WisDOT will complete Level II HAER documentation of the Burnham Canal Bridge, prior to any bridge deconstruction activity.
- b. All work for this stipulation shall be carried out by, or under the supervision of, a qualified consultant as defined in Stipulation IX – Professional Qualifications.
- c. Level II HAER documentation of the Burnham Canal Bridge will consist of three (3) components: 1) written historical and descriptive data; 2) large format black and white photographs; and 3) select existing drawings executed between 1904 and 1914.
- d. The written historical and descriptive data will be printed on standard 8 ½ x 11” archival paper and will include citations following the Chicago Manual of Style. Content and formatting will follow guidelines established in the *HABS/HAER Standards* as well as the updated *HAER Guidelines for Historical Reports* (updated in 2017 and 2021).
- e. Views covered in the photographic documentation will include those specified in the *HABS/HAER Standards*, including general views of all sides of the bridge; detail views of portals, portal connections, upper chord connections, vertical members, traffic deck, and any identification plates or manufacturer’s marks; traffic deck support system if accessible; abutments and approach details.
- f. All photographs will be printed in a standard size (4” x 5”, 5” x 7”, or 8” x 10”) on archival photographic paper and will be produced from large-format, black-and-white film in compliance with the *HABS/HAER Standards*.
- g. An index to photographs will be produced and the photographs and negatives will be labeled according to *HABS/HAER Standards*.
- h. Select existing drawings of the Burnham Canal Bridge (on file at City of Milwaukee Department of Public Works, Central Drafting & Records Division) will be photographed with large-format negatives or photographically reproduced according to archival standards in a standard size as recommended in the *HABS/HAER Standards* (19” x 24”, 24” x 36”, or 34” x 44”). An additional reduced size (8 ½” x 11”) copy of the drawings will also be printed on archival paper.

- i. The qualified consultant will prepare a statement describing the location of the original drawings; this statement will accompany the select existing drawings upon submittal.
 - j. Prior to submittal of any documentation, the qualified consultant will notify the National Park Service of the pending HAER submittal.
 - k. One complete package of the full HAER Level II documentation will be submitted to the National Park Service following the HABS/HAER/HALS Documentation for Transmittal guidelines published by the National Park Service (<https://www.nps.gov/hdp/standards/Transmittal.pdf>).
 - l. One complete package of the full HAER Level II documentation will be submitted to each of the following organizations: SHPO, the City of Milwaukee, the Milwaukee Public Library (for inclusion in its Milwaukee Road archives), and the Milwaukee County Historical Society. Digital scans of the documentary photos will also be submitted to SHPO and the City of Milwaukee; all photo scans will result in digital images of 300-1200 dpi and will be submitted as uncompressed jpgs and/or TIFFs on CDs/DVDs following each agency's preferred standards. If requested, digital scans will also be sent to FRA.
 - m. Proof of submission, such as emailed confirmation of receipt from each organization, will serve as proof of completion of this stipulation. Once received, WisDOT will forward proof of submission to FRA.
2. Photogrammetric Imaging of Burnham Canal Bridge
- a. Within eighteen (18) months of the execution of this MOA, WisDOT will complete photogrammetric imaging of the Burnham Canal Bridge, prior to any bridge deconstruction activity.
 - b. The photogrammetric documentation will result in one (1) or more high quality 3-D digital images of the bridge. The digital image(s) will be manipulatable by users for viewing the structure in the round. All digital files will conform to the standards outlined by the Library of Congress for archival storage of 3-D digital images.
 - c. Prior to or within six (6) months of project completion, the digital image(s) will be submitted to SHPO on CD/DVD or on SHPO's preferred digital storage format for permanent storage.
 - d. Prior to or within six (6) months of project completion, the digital image(s) will be submitted to the City of Milwaukee on CD/DVD or on the city's preferred digital storage format for permanent storage.

- e. Prior to or within six (6) months of project completion, the digital image(s) will be submitted to the Milwaukee Public Library on CD/DVD or on the organization's preferred digital storage format for permanent storage within its publicly accessible Milwaukee Road archives.
- f. Prior to or within six (6) months of project completion, the digital image(s) will be submitted to the Milwaukee County Historical Society on CD/DVD or on the organization's preferred digital storage format for permanent storage.
- g. If requested, prior to or within six (6) months of project completion, the digital image(s) will be submitted to FRA on CD/DVD or on the organization's preferred digital storage format for permanent storage.
- h. This stipulation will be considered closed when proof that the digital image(s) have been submitted to SHPO, the City of Milwaukee, the Milwaukee Public Library, and the Milwaukee County Historical Society (such as emailed confirmation of receipt from each organization) has been submitted to WisDOT. Once received, WisDOT will forward proof of submission to FRA.

APPENDIX C – SURVEY OF EXTANT HISTORIC RAILROAD BRIDGES OVER WATERWAYS IN MILWAUKEE COUNTY

- 1. Within two (2) years of the execution of this MOA, WisDOT will conduct a reconnaissance survey of extant historic railroad bridges over waterways in Milwaukee County. All work will be completed by a qualified consultant as described in Stipulation IX.
- 2. The qualified consultant will submit 6-month progress reports to WisDOT outlining work completed in fulfillment of this stipulation.
- 3. The survey will be limited to moveable, through truss, deck truss, stone arch, concrete arch, and timber bridge types.
- 4. The qualified consultant will conduct a literature review of the Wisconsin Historic Preservation Database (WHPD) and the National Register of Historic Places (NRHP) to identify any previously surveyed or NRHP-listed railroad bridges over waterways in Milwaukee County; additional literature review will include a review of historic maps, aerial photographs, and relevant city and/or state records related to railroad and waterway transportation.

5. The qualified consultant will conduct site visits for each extant property identified during the literature review; those properties that are at least 40 years old and that retain a degree of historic integrity will be surveyed. Photographs of surveyed properties will be taken following guidance in the Wisconsin Historical Society's *Architecture History Survey Manual*.
6. The qualified consultant will create or update WHPD inventory records for all surveyed resources in accordance with SHPO standards; one or more digital photos meeting current WHPD standards will be uploaded to each record.
7. The qualified consultant will prepare a survey report following formatting as specified by SHPO. The survey report will include a detailed historic context relating to the development of rail transport in Milwaukee County as well as an engineering context relating to bridge types identified during the field survey. The survey report will also include an assessment of each surveyed resource for NRHP status or eligibility as well as a summary of WHPD actions performed for each surveyed resource. Before the report is finalized, SHPO will confirm the eligibility status of surveyed resources.
8. The WisDOT shall provide the parties to this MOA and the City of Milwaukee the opportunity to review and comment on a draft of the survey report in accordance with Stipulation VI – Administrative Stipulations and Appendix F.
9. WisDOT or its qualified consultant will submit electronic and print copies of the final survey report to SHPO (1 copy), the City of Milwaukee (3 copies), the Milwaukee Public Library (1 copy), and the Milwaukee County Historical Society (1 copy). If requested, electronic copies of the final survey report will be submitted to FRA.
10. Proof of submission to SHPO, the City of Milwaukee, the Milwaukee Public Library, and the Milwaukee County Historical Society (such as confirmation of receipt) will serve as proof of completion of this stipulation. Once received, WisDOT will forward proof of submission to FRA.

APPENDIX D – DEVELOPMENT AND IMPLEMENTATION OF A CONSTRUCTION ENVIRONMENTAL PROTECTION PLAN

1. WisDOT will develop a Construction Environmental Protection Plan (CEPP) for the project. This stipulation does not serve as mitigation for the adverse effect to the Burnham Canal Bridge, but will avoid construction impacts to the NRHP eligible Burnham Canal.

2. The CEPP will include provisions for the protection of the Burnham Canal during construction, hereafter the Burnham Canal Protection Plan.
3. The Burnham Canal Protection Plan will be developed by, or under the supervision of, a qualified consultant as defined in Stipulation IX Professional Qualifications.
4. The Burnham Canal Protection Plan will meet the guidelines set forth in the National Park Service's *Preservation Tech Notes, Temporary Protection #3: Protecting a Historic Structure during Adjacent Construction*.
5. WisDOT will submit the draft Burnham Canal Protection Plan to SHPO and Concurring Parties to this MOA for review in accordance with Stipulation VI – Administrative Stipulations and Appendix F. Comments from SHPO and Concurring Parties will be incorporated into the final Burnham Canal Protection Plan and submitted to SHPO.
6. The Burnham Canal Protection Plan will be provided to the USCG for review in accordance with Stipulation VI – Administrative Stipulations and Appendix F.
7. Proof of submission to SHPO will serve as proof of completion of this stipulation. Once received, WisDOT will forward proof of submission to FRA.

APPENDIX E – PROTECTION AND MONITORING OF BURIED ARCHAEOLOGICAL RESOURCES

1. WisDOT will solicit the services of a qualified consultant as defined in Stipulation IX – Professional Qualifications (hereafter referred to as the archaeologist) to provide the archaeological services outlined in this stipulation.
2. WisDOT will require the archaeologist, in consultation with WisDOT, SHPO, and the Tribal Historic Preservation Officer (THPO) for the Forest County Potawatomi Community, to develop a comprehensive monitoring plan determining if any ground disturbing activities associated with the undertaking will impact buried archaeological resources and to monitor any such resources. The monitoring plan will outline procedures should significant cultural deposits be identified during monitoring. The monitoring plan will also specify that WisDOT will follow the process in Stipulation V if the deposits contain human remains.
3. WisDOT will submit the draft monitoring plan to SHPO and the Forest County Potawatomi Community THPO for review in accordance with Stipulation VI – Administrative Stipulations and Appendix F. Comments from SHPO and Forest County Potawatomi Community THPO will be incorporated into the final monitoring plan;

WisDOT will submit the final monitoring plan to SHPO prior to any ground disturbing activities and will provide a copy of the final monitoring plan to FRA.

4. Within three months of completion of all ground-disturbing activities associated with the Undertaking, the archaeologist will submit a final monitoring report to WisDOT for review.
 - a. The final monitoring report will describe the monitoring program and its findings and results, and present a detailed professional description, analysis, and evaluation of any cultural resources that were encountered and evaluated during construction.
 - b. WisDOT will submit the final letter report to SHPO, FRA, Forest County Potawatomi Community, and Concurring Parties to this MOA documenting the monitoring efforts.

APPENDIX F – ADMINISTRATIVE PROVISIONS

1. Timeframes and Communications

The following timeframes and communication protocols apply to all Stipulations in this MOA unless otherwise specified:

- a. All time designations are in calendar days unless otherwise stipulated. If a review period ends on a Saturday, Sunday, or Federal holiday, the review period will be extended until the first following business day.
- b. Unless otherwise stipulated in this MOA, all review periods are thirty (30) calendar days, starting on the day a complete submission is provided by WisDOT to the relevant parties via the specified notification processes.
- c. WisDOT will consult with commenting parties, not including Tribes (see Item g below), as appropriate to ensure that all comments received within the 30 calendar-day review period are considered. If WisDOT does not receive comments within the 30 calendar-day review period, it is understood that the non-responding parties have no comments on the submittal, and WisDOT may proceed to the next step of the consultation process.
- d. WisDOT will include status updates on the implementation of this MOA in

its MOA Annual Report (this report provides annual status updates on the implementation of MOAs for which the agency is responsible). WisDOT will provide copies of the MOA Annual Report to Signatories of this MOA.

- e. All official notices, comments, requests for further information, documentation, and other communications will be sent by e-mail or other electronic means.
- f. FRA is responsible for all government-to-government consultation with Tribes.

2. Project Modification and Design Changes

If WisDOT proposes changes to the project that may result in additional or new effects on historic properties, WisDOT will notify FRA and SHPO of such changes within 15 calendar days. Before WisDOT takes any action that may result in additional or new effects to historic properties, Signatories, Invited Signatories, and Concurring Parties will consult to determine the appropriate course of action. If FRA determines that an amendment to the MOA is required, it will proceed in accordance with Stipulation VIII – Amendments.

APPENDIX G – DOCUMENTATION FOR CONSULTATION

(See following pages)

Advisory Council on Historic Preservation
Electronic Section 106 Documentation Submittal System (e106) Form
MS Word format
Send to: e106@achp.gov

I. Basic information

1. Name of federal agency (If multiple agencies, state them all and indicate whether one is the lead agency):

Federal Railroad Administration (FRA) - Lead Agency
US Army Corps of Engineers (USACE)
US Coast Guard (USCG)

2. Name of undertaking/project (Include project/permit/application number if applicable):

Project ID: 0385-57-03
WHS ID: 21-0308/MI
Canadian Pacific Railway, Muskego Yard Bypass
Milwaukee County, WI

3. Location of undertaking (Indicate city(s), county(s), state(s), land ownership, and whether it would occur on or affect historic properties located on tribal lands):

City of Milwaukee, Milwaukee County, WI;
Landownership for existing bridges is the Canadian Pacific Railway; landownership for right-of-way acquisitions consists of private ownership.
See Attachment 1 for project location map.

The undertaking will not occur on or affect historic properties located on tribal lands.

4. Name and title of federal agency official and contact person for this undertaking, including email address and phone number:

Melissa Hatcher
Federal Rails Administration
melissa.hatcher@dot.gov
202-493-6075

5. Purpose of notification. Indicate whether this documentation is to:

Notify the ACHP of a finding that an undertaking may adversely affect historic properties.

II. Information on the Undertaking

6. Describe the undertaking and nature of federal involvement (if multiple federal agencies are involved, specify involvement of each):

The proposed project consists of signalization improvements and track expansion and rehabilitation along the Canadian Pacific Railway corridor between the Kinnickinnic River and the western end of the Muskego Railyard. Traveling north from the Kinnickinnic River, the corridor currently consists of two operating main tracks leading to the Milwaukee Intermodal Station and one yard lead track to Muskego Yard. Between Kinnickinnic Avenue and National Avenue, an existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track will be constructed to the east on existing track roadbed within existing CP Railway right-of-way. Just south of Florida Street, the four tracks will begin to split, with two continuing north to the Intermodal Station (no further work planned in current project scope), and two continuing west towards the Muskego rail yard. Beginning west of 2nd Street, a third track will be constructed, and temporary easement and permanent right-of-way acquisitions will be required along portions of the corridor. The bridges over Florida Street, 1st Street and 2nd Street will be rehabilitated. The bridge over an alley between 2nd Street and 3rd Street will be removed. At the Burnham Canal, the existing 2-track swing bridge (referred to in this document as the Burnham Canal Bridge) will be removed and a new 3-track structure will be constructed. Within the Muskego rail yard, four existing tracks along the southern edge of the yard will be shifted and rehabilitated or reconstructed. At the western end of the yard, a new 8-track bridge replace existing structures over the Menomonee River. West of 27th Street, existing tracks will be reconstructed or rehabilitated within the existing right-of-way as they leave the yard and terminate into the existing mainline tracks, with the project corridor ending just west of 35th Street. Elements of the undertaking which have the potential to affect adjacent resources include the temporary easement and permanent right-of-way acquisition within a densely built urban area which will be required for additional track construction along some parts of the project corridor and the removal of the Burnham Canal Bridge. See Attachment 2 for proposed project plans.

The purpose of the project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies, and provide reliable train access in and around the Muskego Yard project area. The existing Burnham Canal Bridge is not wide enough to accommodate a third track and must be structurally capable of handling the 286kip loading capacity at 25 miles per hour that is desirable for safe and efficient operations.

The project will be funded in part by a federal agency (FRA) and will require federal permits, license, or approval (USACE and USCG).

The Section 106 Program Comment for Rail ROW was found to not to be applicable to the project as a whole, given the types of project activities that are not listed in the Program Comment's *Appendix A: Exempted Activities List*. A Property-Based approach type study has not been completed for the railway areas in the City of Milwaukee.

7. Describe the Area of Potential Effects:

Given the project description and its potential to impact the project area, an APE was established that considered all properties within and immediately adjacent to the proposed project corridor. All resources in the APE that were at least 40 years old and possessed a degree of historic integrity were examined for potential historical significance. See Attachment 1 for APE map.

8. Describe steps taken to identify historic properties:

A. Architectural/Historical Resources

1. Previously Recorded Properties

An archival and literature search of the Wisconsin Historic Preservation Database (WHPD) and the State and National Register of Historic Places (NRHP) was conducted to identify previously recorded architectural/historical properties within the Area of Potential Effects. A total of 57 previously surveyed properties were identified in the literature search. A total of 7 State or National Register listed, determined-eligible, or potentially eligible properties and historic districts were identified:

- **Florida and 3rd Industrial Historic District**, 234 W. Florida St., 222 W. Pittsburgh Ave., 212, 222, 305, 331 S. 3rd St., 400 S. 5th St., and 233 W. Oregon St. (NRHP# 08000656)
- **Walker's Point Historic District**, roughly bounded by the Freeway, Menomonee Canal, Scott St., 2nd St., and W. Virginia St. (NRHP# 78000120)
- **East Oregon and South Barclay Industrial Historic District**, 300 S. Barclay St., 139 and 221 E. Oregon St., and 214 E. Florida St. (NRHP# 14001112)
- **Lindsay-Bostrom Building**, 133 W. Oregon St. (NRHP# 02000417; AHI# 113458)
- **16th Street Viaduct**, N. 16th Street from W. Clybourn Ave. to W. Pierce St. (NRHP# 100003908; AHI# 110215)
- **Mitchell Park Domes**, 524 S. Layton Blvd. (AHI# 52569), previously determined eligible
- **Northwestern Malleable Iron Company**, 1640 W. Bruce St. (AHI# 99049, 99048, 232277, 232276, 241399, 214397), previously recommended as potentially eligible

2. Architectural/Historical Survey

All built resources within the project APE were reviewed for any apparent architectural and/or historical integrity that warranted survey. Of the 57 previously surveyed properties identified in the literature search, 22 were identified as no longer extant. The determined-eligible Mitchell Park Domes and the potentially-eligible Northwestern Malleable Iron Company were resurveyed; both were found to retain a sufficient level of integrity to ensure their continued eligibility for the NRHP. In addition to the 35 extant previously surveyed properties, 7 additional properties were identified as meeting survey criteria, 2 of which were identified as potentially eligible for listing in the NRHP:

- **Burnham Canal Bridge**, W. Florida St. over the Burnham Canal (AHI# 106686)
- **Burnham Canal**, north of Bruce Street between S. Muskego Avenue and South Menominee Canal (AHI# 242233)

Determination of Eligibility (DOE) reports were prepared for the Burnham Canal Bridge and the Burnham Canal. Both were recommended as eligible for NRHP listing. A DOE was not prepared for the Northwestern Malleable Iron Company due to the minimal nature of adjacent project activities which had no potential to affect the historic property.

The Wisconsin SHPO has concurred with the findings of the architecture/history survey and the Determination of Eligibility reports for the Burnham Canal Bridge and the Burnham Canal. See Attachment 3 for documentation of SHPO concurrence.

B. Archaeological Resources

1. Previously Recorded Properties

An archival and literature search of WHPD was conducted to identify previously recorded archaeological and burial sites within a one-mile radius of the project area. Sixty-five (65) previously recorded archaeological sites and thirty-six (36) cemeteries/burial sites were identified within one mile of the project area. Of these, two (2) of the previously recorded archaeological sites were identified within the project area: 47MI0109/BMI-0189 (campsite/village, cemetery/burial of indeterminate prehistoric and historic Euro-American affiliation), and 47MI0207 (campsite/village of historic Indian affiliation).

2. Archaeological Survey

In May 2020, a Phase I archaeological site identification survey of the Muskego Yard Bypass project corridor was completed, consisting of visual inspection. The entire project area has

been heavily impacted by the existing rail corridor and urban development. No evidence of the previously reported sites 47MI0109/BMI-0189 and 47MI0207 was identified in the project area. No newly reported sites were identified within the existing project area.

9. Describe the historic property (or properties) and any National Historic Landmarks within the APE (or attach documentation or provide specific link to this information):

Nine historic properties were identified within the APE through the archival/literature search and the field survey:

- The **Florida and Third Industrial Historic District**, 234 W. Florida St., 222 W. Pittsburgh Ave., 212, 222, 305, 331 S. 3rd St., 400 S. 5th St., and 233 W. Oregon St. (NRHP No. 08000656) is an intact grouping of large-scale industrial buildings constructed between 1891 and 1928. Nine of the 12 buildings contribute to the significance of the district, and are generally multi-story, brick, industrial lofts. They reflect the evolution of industrial loft design that took place during the late nineteenth and early twentieth centuries, from narrow brick and timber framed textile lofts, to larger, architecturally stylized lofts, to the brick and concrete daylight lofts in the 1920s which were devoid of ornamentation.

The historic district was listed in the National Register in 2008 as a locally significant district under *Criteria A* and *C*. Under *Criterion A*, the district is significant in industry because its resources span the development of Milwaukee's industry from 1891 to 1958. The district is significant under *Criterion C: Architecture* as an intact and visually distinct grouping of late nineteenth and early twentieth century industrial buildings that are united by physical development and architectural form. The period of significance encompasses both *Criteria A* and *C*, and spans 1891 to 1958.

- The **Walker's Point Historic District**, roughly bounded by the Freeway, Menomonee Canal, Scott St., 2nd St., and W. Virginia St. (NRHP No. 78000120) contains 480 contributing buildings that represent the residential, commercial, and industrial development of the neighborhood from roughly 1850 to 1910. The district has distinct residential, commercial, and industrial areas. Houses are most often in the Italianate style or derived from it. Commercial buildings are Romanesque or Classically inspired, while industrial complexes, generally concentrated at the northwest corner of the district, feature several architectural styles. Much of the historic fabric of the district constructed prior to 1900 has been largely maintained, providing a unique glimpse at early development in Milwaukee.

The historic district was listed in the NRHP in 1978 under *Criterion A: History* for its ethnic heritage and the development of industry on Milwaukee's south side, and *under Criterion C: Architecture* as a well-preserved mid nineteenth to early twentieth century group of residential, commercial, and industrial buildings in multiple architectural styles.

- The **East Oregon and South Barclay Industrial Historic District**, 300 S. Barclay St., 139 and 221 E. Oregon St., and 214 E. Florida St. (NRHP No. 14001112) is a collection of industrial loft buildings constructed during the first half of the twentieth century in various architectural styles. The evolution of local industry, architectural styles, and engineering methods are evident, beginning with the load-bearing masonry framed lofts of the late 1890s that display the three-part division of the Chicago Commercial style, and ending with the modern International style reinforced concrete structures with continuous ribbon windows. Several of the buildings in the district belonged to the Pittsburgh Plate Glass Company's paint and varnish division, a large employer in Milwaukee.

The district was listed in the NRHP in 2014 under *Criterion C: Architecture* as a representation of the golden age of manufacturing in the City of Milwaukee. The district contains eight buildings which display the various industrial architectural styles that were prevalent in their decades of construction. The period of significance of the district is 1900 to 1948.

- The **Lindsay-Bostrom Building**, 133 W. Oregon St. (NRHP No. 02000417) is a five-story red brick and terra cotta warehouse built in 1904 in the Late Victorian/Romanesque style. The building was designed by architect Charles Crane, and constructed of heavy timber with brick veneer, or semi-mill construction. A two-story rock-face concrete block addition was added to the west elevation in 1920. The 1904 building is generally characterized by round-arched window surrounds and a polychromatic appearance. It was constructed by the Lindsay Brothers Company to house the shipping and warehousing operations for their implement and twine trade, as well as leasing space to other prominent local manufacturers. However, the building is most noted as the site of the invention of the Bostrom full-suspension tractor seat, an early industrial leader in ergonomic design.

The Lindsay-Bostrom Building was listed in the National Register in 2002 under *Criterion A: History* for its association with the invention and production of improvements to the field of agricultural technology. The Lindsay Brothers developed a self-feeder for threshers and separators and brought together various manufacturers and users of agricultural machinery, fostering improvements and innovations in the field. The period of significance is 1904 to 1951.

- The **16th Street Viaduct**, N. 16th Street from W. Clybourn Ave. to W. Pierce St. (NRHP No. 100003908) is a 4,000-foot long steel girder bridge constructed in 1929. Consisting of 79 spans, the bridge carries automobile and pedestrian traffic over the Menomonee Valley. During most of the twentieth century, the Menomonee Valley served as a dividing line between housing for Milwaukee's African American population to the north and white, European-American population to the south. Discriminatory housing practices by landlords, real estate agents, and financial institutions had kept the south side all white, perpetuating unequal housing conditions throughout the city. In 1967, the Youth Chapter of the local NAACP led marches across the bridge to protest inequality in housing access, led by advisor Father James Groppi, and were met with hostility and violence by the white residents on the south side. Continued protests and marches across the bridge continued for 200 days, eventually leading to a strong open housing ordinance passed by the City Council.

The 16th Street Viaduct was listed in the National Register in 2019 under *Criterion A: History* for its role in African American heritage and social history in the City of Milwaukee. The period of significance for the bridge is 1967 to 1968, the time period when these historic events took place.

- The **Mitchell Park Domes**, 524 S. Layton Blvd. (AHI 52569, determined-eligible) is a horticultural conservatory comprised of three conoidal glass panel domes joined by a Contemporary lobby. They were designed in a local competition by architect Donald Grieb. Begun in 1959, the first of the three domes opened in 1964, and the last was completed in 1967. They were intended as a replacement for an 1890 glass conservatory building that had deteriorated. Each dome contains 2,200 separate pieces of quarter inch-thick, wire-embedded glass, and houses a different environment within roughly an acre of interior space. The conservatory is part of the 63-acre Mitchell Park, which also contains an outdoor amphitheater, mid-century bathhouse, and a reproduction of Jacques Vieau's log cabin.

The Domes were determined potentially eligible for listing in the NRHP in 2016 by the Wisconsin Historical Society Resource Evaluation Committee, under *Criterion C* for its method of construction. The likely period of significance is 1967, the date construction was completed.

- The **Northwestern Malleable Iron Company**, 1640 W. Bruce St. (AHI 99049 and 99048, potentially eligible) is comprised of the Morris Miller Building and adjacent industrial production sheds. The Morris Miller building is a cream brick office building constructed in the Neoclassical style in 1900. It features a central classical entry portico with pediment and round arched third story windows. The production sheds located east of the Morris Miller Building are constructed of cream brick with shallow brick pilasters between segmental arched window bays. Between the office building and the production sheds, these buildings housed

all of the essential functions of an industrial facility and was one of the city's most important producers of malleable iron.

The Northwestern Malleable Iron Company was identified as potentially eligible for the NRHP in the 2016 City of Milwaukee Industrial Intensive Survey under Criterion A: History for its association with Milwaukee's foundry industry.

- The **Burnham Canal Bridge**, W. Florida St. over the Burnham Canal (AHI 106686) is a steel, Warren through-truss swing bridge spanning the Burnham Canal at the western entrance to the Muskego Yard. Constructed in 1903 for the Chicago, Milwaukee, and St. Paul Railroad, commonly known as the Milwaukee Road, the Burnham Canal Bridge is a relatively rare example of a "bobtail" swing bridge, in which the span is not symmetrically centered over a swing pier, but instead features a long end spanning the majority of the canal and a shorter end anchored by a counterweight. The bridge is of riveted steel construction with chords arranged diagonally to make the distinctive pattern of equilateral triangles that define the Warren truss type.

The Burnham Canal Bridge was recommended as potentially eligible for NRHP listing in a Determination of Eligibility completed in May of 2020. The bridge was identified as potentially eligible under *Criterion A: Transportation* for its association with the boom period of railroad transportation in the City of Milwaukee, and *Criterion C: Engineering* as an excellent example of a relatively rare early twentieth century bobtail swing bridge. The period of significance is 1903 to 1970, and the historic boundary is understood to be limited to the structure itself.

- The **Burnham Canal**, north of Bruce Street between S. Muskego Avenue and South Menomonee Canal (AHI 242233). The Burnham Canal was constructed between 1870 and 1872 as part of a large canal-building project designed to facilitate industry and commerce in Milwaukee's Menomonee Valley. The Burnham Canal was one of five throughout the valley that brought fuel and supplies to factories and processing plants and carried finished products out to Milwaukee Harbor for shipping to a national market; along with a vast network of railroad sidings, the canal system helped to turn the Menomonee Valley into the industrial center of Milwaukee. The Burnham Canal is recommended as eligible for the NRHP under *Criterion A: History* for its association with the history of industry and transportation in Milwaukee. The property's period of significance is c.1870, the year that the canal was constructed, to 1969, the year the segment of I-94 over the Menomonee Valley was completed, effectively signaling the end of the historic era of canal transport.

See Attachment 4 for representative photographs and historic boundary maps of listed and eligible properties.¹

10. Describe the undertaking's effects on historic properties:

Proposed project activities include track expansion and rehabilitation along the railway corridor, located between the Kinnickinnic River and the 35th Street Bridge. Between Kinnickinnic Avenue and National Avenue, existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track will be constructed to the east on the existing track roadbed within the existing CP Railway right-of way. Beginning where the line splits, with two tracks traveling north to the Milwaukee Intermodal Station and two tracks traveling west towards the Muskego Yard, tracks will shift and a third track will be newly constructed along the east-west portion of the corridor. To accommodate the shift and new construction, ROW and TLE are required at certain locations within a densely built urban area. Project activities also include the replacement of the existing Burnham Canal Bridge with a new structure.

Seven of the nine historic properties discussed in this document will not be adversely affected by project activities, as follows:

The **Florida and Third Industrial Historic District** is located just west of S. 2nd Street, crossing over the rail corridor at S. 3rd Street and continuing west along the south side of the tracks to S. 6th Street. The boundary of the district both spans and abuts the existing railway ROW. Contributing and non-contributing district buildings at 305-331 S. 3rd Street and 234-500 S. Florida Street are located adjacent to proposed project activities. Along this portion of the corridor, the east-west tracks leading to the Muskego Yard have just split from the tracks continuing north to the MIS, and a third track will begin approximately where 3rd Street dead-ends at the rail corridor. The new third track will be constructed north of the two tracks which currently exist, adjacent to the now-empty lot that formerly functioned as the Soo Line Railyard. Some portions of the two existing tracks will be rehabilitated, but most of the existing track in this part of the corridor will be replaced. At the western end of the historic district, near to the 6th Street bridge, the three tracks will shift slightly south within the existing ROW towards the Iron Horse Hotel (500 S. Florida St.).

Six of the seven Criteria for Adverse Effect (Criteria *i*, *ii*, *iii*, *iv*, *vi*, and *vii*) are not applicable to the Florida and Third Industrial Historic District, as project activities will not result in physical damage, destruction, removal, neglect, or alteration of the features and characteristics that make the district or any of its contributing resources eligible for inclusion in the NRHP. As a grouping of intact, cohesive, and visually distinctive large-scale industrial buildings, the alteration of an already-extant railway corridor within the historic boundary will not alter the district's use or setting. The temporary construction easement within the

¹ Historic boundary maps for bridges and viaducts are not available; boundaries coincide with the structures themselves. Boundary maps for the Mitchell Park Domes and the Northwestern Malleable Iron Company are not available as formal Determination of Eligibility reports have not been produced.

boundaries of the district or the shift of the tracks toward contributing resources will not affect the physical structures of the adjacent buildings, as any easements or shifts will be located to the rear of the buildings in areas reserved for parking and utilities. The Florida and Third Industrial Historic District is not now, nor has it ever been, under federal ownership or control.

The following Criteria of Adverse Effect must be considered with current project plans:

- v. Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features.*

Project activities involve the addition of a third track along an operational two-track railway corridor, resulting in increased freight capacity along the corridor and the likely introduction of increased noise for buildings within the district that border the corridor. A Noise and Vibration Technical Report for the project indicates a range of 0.7 to 2.3 decibel (dBA) increase for adjacent buildings as a result of track movement and capacity expansion. For reference, an increase of 3 dBA is barely perceptible to the human ear. Project activities will therefore not result in an appreciable increase in noise within the district. In addition, the Florida and Third Industrial Historic District is eligible for the NRHP for its association with Milwaukee industry and as a fine collection of various industrial loft forms, and its resources were historically located adjacent to a busy rail corridor. The Soo Line railyards formerly located immediately north and west of the historic district boundaries were removed circa 1995. An increase in rail traffic capacity and associated noise does not represent the introduction of new visual, atmospheric or audible elements within the district, and will not result in an adverse effect to the district or the features that render the district eligible for the NRHP.

The **Walker's Point Historic District** is a large district located mostly south of the railway corridor and east of the North-South Freeway. However, portions of the district that once belonged to the Pfister and Vogel Tannery and the Philip Best Brewing Company are located north of W. Virginia Street and south of the Menomonee Canal, through which the railway corridor passes. Contributing buildings north and south of the tracks include the buildings at 709-739 W. Oregon Street (now 625-747 Freshwater Way) and 649-749 W. Virginia Street (now 640-750 W. Virginia Street). Along this portion of the corridor, the two existing tracks have been expanded into three and the three tracks continue east-west between the S. 6th Street bridge and the Muskego Yard, approaching the Burnham Canal Bridge. Right-of-way acquisition in the Walker's Point Historic District includes approximately 0.19 acres in a long strip south of the tracks. Temporary Limited Easement in the district will consist of a gradually widening strip north of the tracks measuring approximately 0.29 acres. This portion of TLE, located immediately south of the western Pfister and Vogel Tannery buildings, is intended to accommodate both the northward shift of the tracks as well as the temporary lead into the Muskego Yard while the Burnham Canal Bridge is being replaced.

Six of the seven Criteria for Adverse Effect (Criteria *i*, *ii*, *iii*, *iv*, *vi*, and *vii*) are not applicable to Walker's Point Historic District, as project activities will not result in physical damage, destruction, removal, neglect, or

alteration of the features and characteristics that make the district or any of its contributing resources eligible for inclusion in the NRHP. As a large district including industrial, residential and commercial structures, Walker's Point's industrial properties that are clustered in the northwest corner of the district were historically and intentionally located near the subject railway corridor. A track increase within the historic boundary will therefore not alter the district's use or setting. The taking of ROW within the boundaries of the district or the shift of the tracks toward contributing resources will not affect the physical structures of the adjacent buildings, as any takings or shifts will be located to the rear of the buildings in areas reserved for parking and utilities. The Walker's Point Historic District is not now, nor has it ever been, under federal ownership or control.

The following Criteria of Adverse Effect must be considered with current project plans:

- v. Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features.*

Project activities involve the addition of a third track along an operational two-track railway corridor, resulting in increased freight capacity along the corridor and the likely introduction of increased noise for industrial buildings within the district that border the corridor. A Noise and Vibration Technical Report for the project indicates a range of 0.7 to 2.3 decibel (dBA) increase for adjacent buildings as a result of track movement and capacity expansion. For reference, an increase of 3 dBA is barely perceptible to the human ear. Project activities will therefore not result in an appreciable increase in noise within the district. In addition, the Walker's Point Historic District is eligible for the NRHP for its association with Milwaukee industry and ethnic development, as well as for the architectural and engineering characteristics of its contributing resources. Moreover, its resources were historically located adjacent to a busy rail corridor. An increase in rail traffic capacity therefore does not represent the introduction of new visual, atmospheric or audible elements within the district, and will not result in an adverse effect to the district or the features that render the district eligible for the NRHP.

The **East Oregon and South Barclay Industrial Historic District** is located north of E. Florida Street, just east of where the four tracks will split, with two continuing north to the Milwaukee Intermodal Station and two existing track curving west towards the Muskego Yard. The southwest corner of the district, including three contributing buildings along the west side of S. Barclay Street (139 E. Oregon St.), is directly adjacent to the north-bound tracks. Along this portion of the corridor, the northbound-southbound tracks will be reconstructed in kind, and two eastbound-westbound tracks will be constructed and continue towards the Muskego Yard. Construction will take place within the existing ROW, and existing above-ground bridges will be rehabilitated. Adjacent to the southwest boundary of the East Oregon and South Barclay Industrial Historic District, no ROW acquisition will be necessary.

Six of the seven Criteria for Adverse Effect (Criteria *i*, *ii*, *iii*, *iv*, *vi*, and *vii*) are not applicable to the East Oregon and South Barclay Industrial Historic District, as project activities will not result in physical damage, destruction, removal, neglect, or alteration of the features and characteristics that make the district or any of its contributing resources eligible for inclusion in the NRHP. As a distinct group of industrial buildings that uniquely represent the industrial loft building type as well as the evolution of industrial architectural style during the late nineteenth and early twentieth centuries, the resources of the East Oregon and South Barclay Industrial Historic District were historically located near the subject railway corridor. Project activities will not affect the physical structures of the district's buildings. A track increase adjacent to the historic boundary will not alter the district's use or historic setting. No ROW will be taken from the district, and the track increase will occur on the opposite side of the tracks from those abutting the historic boundary line. The East Oregon and South Barclay Industrial Historic District is not now, nor has it ever been, under federal ownership or control.

The following Criteria of Adverse Effect must be considered with current project plans:

- v. Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features.*

Project activities involve the splitting and shifting of tracks at the juncture of the east-west and north-south railway corridor. This will result in increased traffic along the corridor and the likely introduction of increased noise for industrial buildings within the district that border the corridor. However, the East Oregon and South Barclay Industrial Historic District is eligible for the NRHP for its examples of industrial architecture, and its resources were historically located adjacent to a busy rail corridor and remain industrial in function and use. An increase in rail traffic capacity and associated noise does not represent the introduction of new visual, atmospheric or audible elements within the district, and will not result in an adverse effect to the district or the features that render the district eligible for the NRHP.

The **Lindsay-Bostrom Building** is located immediately northwest of the juncture of the tracks traveling northbound towards MIS and the tracks traveling east-west towards the Muskego Yard. The building, consisting of a 1904 five-story industrial loft and a 1920 two-story warehouse addition, is bordered on the south and east façades by these rail corridors, which are raised above ground level. Adjacent to the east façade, the two northbound tracks will remain as-is, with no further work intended for that portion of the corridor leading to MIS. Adjacent to the south façade, the existing single track leading to the Muskego Yard will have just been expanded to two east-west tracks, with the southernmost track constructed over the existing track footprint and the second track newly constructed to the north. All construction will take place within the existing ROW.

Six of the seven Criteria for Adverse Effect (Criteria *i*, *ii*, *iii*, *iv*, *vi*, and *vii*) are not applicable to the Lindsay-Bostrom Building, as project activities will not result in physical damage, destruction, removal, neglect, or

alteration of the features and characteristics that make the building eligible for inclusion in the NRHP. Eligible for its historical associations with the field of agricultural inventions and technology, this industrial building was historically located adjacent to the subject railway corridor. Even though project activities will bring railway traffic in closer proximity to the rear facade of the building, no part of the building will be physically affected by the additional track, and the building's setting will not be altered. No ROW will be taken from the adjacent historic property. The Lindsay-Bostrom Building is not now, nor has it ever been, under federal ownership or control.

The following Criteria of Adverse Effect must be considered with current project plans:

- v. Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features.*

Project activities involve the construction of an additional railway track adjacent to the southern façade of the building. This will result in increased traffic along the corridor and the likely introduction of increased noise for all adjacent buildings. A Noise and Vibration Technical Report for the project indicates an increase of 1.2 decibel (dBA) increase for the building as a result of track movement and capacity expansion. For reference, an increase of 3 dBA is barely perceptible to the human ear. Project activities will therefore not result in an appreciable increase in noise for the building. In addition, the Lindsay-Bostrom Building is an industrial building eligible for the NRHP for its historic associations and was historically located adjacent to a busy rail corridor. An increase in rail traffic capacity and associated noise does not represent the introduction of new visual, atmospheric or audible elements, and will not result in an adverse effect to the characteristics that render the building eligible for the NRHP.

The **16th Street Viaduct** is located above the middle of the Muskego Railyard. The structure is a 4,000 foot long steel girder automobile and pedestrian bridge spanning the Menomonee Valley. Beneath the bridge, two existing tracks at the southern edge of the yard will be rehabilitated. All activities will take place within the railyard property and existing ROW.

None of the Criteria for Adverse Effect are applicable as project activities will not result in physical damage, destruction, removal, neglect, or alteration of the features and characteristics that make the 16th Street Viaduct eligible for inclusion in the NRHP. Eligible for its historical associations with Milwaukee's ethnic heritage and social history, the bridge has always been located above the subject railway corridor, and no portion of the 16th Street Viaduct structure such as its piers, abutments, or decking will be physically affected by the activities below. Because project activities involve rehabilitating existing tracks within the yard, no new audible or visual elements will be added to the structure's setting which would adversely affect those features which make the bridge eligible for the NRHP. The 16th Street Viaduct is not now, nor has it ever been, under federal ownership or control. Proposed project activities will have no effect on the 16th Street Viaduct.

The **Mitchell Park Domes** are located south of the western end of the Muskego Railyard. The horticultural conservatory, consisting of three conoidal glass domes joined by a central lobby, is situated in a large landscaped park that is immediately adjacent to the Muskego Railyard property. The entrance drive to the Muskego Railyard office and access to the rest of the yard is located north of the park. Project activities near to the Mitchell Park Domes include the rehabilitation of two existing tracks located at the southern edge of the railyard. All activities will take place within the railyard property and existing ROW.

None of the Criteria for Adverse Effect are applicable as project activities will not result in physical damage, destruction, removal, neglect, or alteration of the features and characteristics that make the Mitchell Park Domes eligible for inclusion in the NRHP. Determined eligible for listing in the NRHP for its method of construction, the Domes and the larger park in which it's situated has always been located south of the subject railyard, and construction activities will have no effect on the setting of the park or on the elements of the property that make it eligible for listing. Because project activities involve rehabilitating existing tracks within the yard, no new audible or visual elements will be added to the building's setting which would adversely affect those features which make the bridge eligible for the NRHP. The Mitchell Park Domes are not now, nor have they ever been, under federal ownership or control. Proposed project activities will have no effect on the Mitchell Park Domes.

The **Northwestern Malleable Iron Company** is located south of the center of the Muskego Railyard. The property consists of two buildings along W. Bruce Street, currently part of a larger industrial complex that reaches all the way to the southern edge of the Muskego Railyard. However, only two buildings at the southern edge of the parcel were previously identified as potentially eligible for listing for their historical association with Milwaukee's foundry industries and excluded those portions of the property that are directly adjacent to project activities. A Determination of Eligibility to identify district boundaries was deemed unnecessary in the architecture/history investigations for this project, as the buildings are not likely to be affected by project activities due to their distance from the project corridor. None of the Criteria for Adverse Effect are applicable as project activities will not result in physical damage, destruction, removal, neglect, or alteration of the features and characteristics that make the Northwestern Malleable Iron Company eligible for inclusion in the NRHP. The property is not now and has never been under federal ownership or control. Project activities will have no effect on the resources of the Northwestern Malleable Iron Company.

Two historic properties – the Burnham Canal Bridge and the Burnham Canal – will be adversely affected by project activities, as follows:

The existing **Burnham Canal Bridge** is a two-track, riveted steel Warren through-truss swing bridge, and an example of a bobtail swing bridge with its swing pier asymmetrically centered over the Burnham Canal waterway. The original bridge rails, intended to break at the landing joints on either side of the structure to allow the bridge to swing open, have been replaced by continuous track rails, as the swing function is no longer necessary. The Burnham Canal waterway has not been accessible to commercial traffic since 1987,

and the Burnham Canal Bridge is no longer required to open. The historic bridge will be replaced by a new three-track, five-span precast prestressed concrete box beam bridge on the existing alignment (two tracks are needed to accommodate the intended diversion of freight traffic through the Muskego Yard instead of routing freight traffic through the MIS as current operations require, and a third track is necessary to maintain access to railyard operations while providing separation from through-freight operations). The new structure will consist of five 50-foot spans, for an approximate length of 252 feet. The conceptual design conservatively assumes that each pile cap will be supported by steel piles, with substructure design subject to change pending geotechnical information. The existing truss and steel superstructure of the historic Burnham Canal Bridge will be removed in its entirety. Most existing substructure elements (backwall, beam seat, ring girder, etc.) will remain in place and removed as necessary to provide clearance for installation of the new bridge; the Burnham Canal below the bridge will not be filled, either in whole or in part, as part of the proposed project. A temporary bridge and approaches will be constructed immediately north of the existing alignment to accommodate rail traffic during the reconstruction.

The **Burnham Canal** was constructed between 1870 and 1872 and measures approximately 0.57 mile in total length and approximately 135 feet in width. The canal is L-shaped in form with the westernmost and longest leg running east-west and terminating just east of S. Muskego Avenue; the shorter leg runs northeast-southwest and terminates at its junction with the South Menomonee Canal. Large sections of the canal feature bank protection in the form of reinforced concrete walls, angled concrete lining, and metal sheet piling, with intermittent areas containing no visible barriers along the canal's shoreline. Trees and other foliage have grown along both sides of the canal throughout the majority of its length. The Burnham Canal is spanned by three bridges including the low, fixed-deck S. 11th Street Bridge (built in 1987); the I-94 overpass (built in 1969), and the movable Burnham Canal railroad bridge (built in 1903). West of S. 11th Street, the north bank of the canal is largely occupied by a concrete-paved storage yard. Industrial buildings line the canal's southern bank west of S. 11th Street with similar buildings continuing east of S. 11th Street. A number of the historic industrial buildings that abut the canal have been rehabilitated for commercial and office use with some continuing to serve industrial functions. Although the proposed project activities do not include physical alterations to the Burnham Canal, the replacement of the Burnham Canal Bridge with a new fixed deck structure will result in a significant change to the canal's historic setting as well as to the viewshed to and from the canal. This change in the property's setting constitutes an adverse effect to the Burnham Canal. See Attachment 5 for proposed project plans in relation to the Burnham Canal Bridge and the Burnham Canal.

See further discussion in Section 11 below.

11. Explain how this undertaking would adversely affect historic properties (include information on any conditions or future actions known to date to avoid, minimize, or mitigate adverse effects):

The project will result in an adverse effect to two properties: the **Burnham Canal Bridge** and the **Burnham Canal**.

For the Burnham Canal Bridge, the following Criterion of Adverse Effect applies to the proposed project activities:

- i. Physical destruction of or damage to all or part of the property.*

For the Burnham Canal, the following Criterion of Adverse Effect applies to the proposed project activities:

- v. Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features.*

The project activity involves the replacement of the Burnham Canal Bridge with a new fixed-deck structure along the existing alignment. The steel truss and superstructure elements of the historic bridge will be removed to allow for construction of the new bridge. The deconstruction of the Burnham Canal Bridge and the construction of a new fixed-deck structure over the Burnham Canal constitutes an adverse effect to both historic resources due to the loss of the Burnham Canal Bridge and the resulting change to the historic and existing setting of the Burnham Canal. Alternatives considered included continued use of the existing bridge with no modifications; continued use of the existing bridge with the addition of a second structure to accommodate a third track; retention and decommissioning of the existing bridge with the construction of a new three-track structure on a new alignment; replacing the existing bridge with a new three track through-truss swing bridge; replacing the existing bridge with a three-track box culvert; and replacing the existing bridge with a three-track precast prestressed concrete box beam bridge (preferred alternative). See Attachment 6 for a discussion of project alternatives.

Because the adverse effects to the Burnham Canal Bridge and the Burnham Canal could not be avoided while meeting the project's purpose and need, a Consultation Meeting was held on April 22, 2021 to discuss and determine appropriate mitigation options (see Section 12 below). A Memorandum of Agreement has been prepared to provide measures to mitigate the adverse effects to the Burnham Canal Bridge and the Burnham Canal.

12. Provide copies or summaries of the views provided to date by any consulting parties, Indian tribes or Native Hawai'ian organizations, or the public, including any correspondence from the SHPO and/or THPO.

The Wisconsin SHPO has concurred with the findings of the architecture/history survey and the Determination of Eligibility reports for the Burnham Canal Bridge and the Burnham Canal. Any

correspondence from SHPO following review of this Documentation for Consultation will be documented here and included as an attachment to this report.

Due to COVID-19 protocols in place during the course of this project, all consultation, public, and local officials meetings were conducted virtually.

On May 29, 2020, the Milwaukee County Historical Society, the Milwaukee Historic Preservation Commission; the Milwaukee County Historical Society; Historic Milwaukee, Inc.; Milwaukee Preservation Alliance; and the Milwaukee Road Historical Association were contacted to notify the organizations of the project activity and ask for any input or concerns regarding the project. The Milwaukee Historic Preservation Commission responded to request a proposed project map showing the project's Area of Potential Effect; in response, UWM-CRM submitted a project APE map and a description of the proposed APE to the Milwaukee Historic Preservation Commission on June 5, 2020. The Milwaukee Historic Preservation Commission also requested to be included as a consulting party to the Section 106 process and requested detailed project plans when available. The Milwaukee Road Historical Association responded to the May 2020 communication with brief information regarding the history of the Muskego Yard and asked to be kept informed of future project activities. The Milwaukee County Historical Society, Historic Milwaukee Inc., and the Milwaukee Preservation Alliance did not respond to this initial communication.

In March 2021, these organizations as well as the Wisconsin SHPO, the U.S. Army Corps of Engineers (USACE), the U.S. Coast Guard (USCG), and Native American Tribes were contacted to notify them of the proposed project activities, historic properties identified in the project APE, and an assessment of the proposed project's effects to historic properties and to formally request review and comment prior to a formal Consultation Meeting. Responses were received from SHPO, USACE, USCG, the Forest County Potawatomi Community, the Milwaukee Historic Preservation Commission, the Milwaukee Road Historical Association, and the Milwaukee Preservation Alliance. The Milwaukee County Historical Society and Historic Milwaukee, Inc. did not respond to this communication. See Attachment 7 for relevant correspondence with these agencies and organizations.

A virtual meeting for local officials was held on July 14, 2020. Representatives from the City of Milwaukee Department of Public Works, the City of Milwaukee Department of City Development, Milwaukee County, and the Milwaukee Metropolitan Sewerage District (MMSD) were invited via email. Information regarding the proposed project was provided via YouTube Live platform to provide local officials with project information in advance of the public notification of the project; the meeting was recorded and released to the public following the meeting. See Attachment 8 for information related to the local officials meeting.

Following the local officials meeting, WisDOT posted the YouTube Live presentation to the project website on July 17, 2020 for public review and comment. The presentation described the proposed project activity, the anticipated project schedule, and an overview of the environmental review process. The website also

included information for the public to submit comments either via email or postal mail. WisDOT emailed and mailed public notifications to over 2,000 recipients including the Milwaukee Historic Preservation Commission, the Walker's Point Association, the Historic Third Ward Association, Tribal groups, residents, and businesses in the area surrounding the project corridor. These notifications invited recipients to view the project's WisDOT website and solicited public comment. The public comment period was open until August 7, 2020. During the comment period, the project's WisDOT website had over 300 views. No comments were received regarding the historic significance of properties in the project area. As COVID-19 protocol prevented a traditional in-person Public Involvement Meeting (PIM), the informational website and mailer inviting public comment served to meet the project's PIM requirement. See Attachment 9 for information regarding this public outreach.

Meetings with staff from the Forest County Potawatomi Community were held in June 2019, August 2020, and February 2021 due to the proximity of the Potawatomi Hotel and Casino to the project area. The purposes of the meetings were to provide the Tribe with project information and updates. In addition to tribal representatives, representatives from FRA, WisDOT, and HNTB attended the 2019 and 2020 meetings with additional representatives from U.S. DOT (Volpe Center) and University of Wisconsin-Milwaukee Cultural Resource Management at the 2021 meeting. The Tribe expressed interest in obtaining soil data affiliated with sites 47MI0109/BMI-0189 and 47MI0207 to determine if potential burials in the area would be impacted by project construction activities. See Attachment 10 for information regarding meetings with the Forest County Potawatomi Community.

On March 9, 2021, FRA invited the following Federally-recognized Native American Tribes via mailed letters to participate in the Section 106 process as consulting parties: Bad River Band of Lake Superior Chippewa Indians of Wisconsin, Forest County Potawatomi Community of Wisconsin, Fond du Lac Band of Lake Superior Chippewa, Ho-Chunk Nation, Iowa Tribe of Oklahoma, Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, Lac Vieux Desert Band of Lake Superior Chippewa Indians, Menominee Indian Tribe of Wisconsin, Oneida Nation of Wisconsin, Prairie Band Potawatomi Nation, Prairie Island Indian Community, Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin, Sac and Fox Nation of Missouri in Kansas and Nebraska, Sac and Fox Nation of Oklahoma, Sac and Fox of the Mississippi in Iowa, Sokaogon Chippewa Community Mole Lake Band, St. Croix Band Chippewa Indians of Wisconsin, and Stockbridge Munsee Community of Wisconsin. The Tribes were notified of this project and provided with a description of the undertaking, a description of the Areas of Potential Effect, a summary of the architecture-history and archaeological investigations, and a summary of the effects assessment. The St. Croix Band Chippewa Indians of Wisconsin responded that the Tribe had no concerns regarding the proposed project. The Forest County Potawatomi Community of Wisconsin accepted FRA's invitation to participate in the Section 106 process, and has been invited to sign the MOA as a Signatory Party. None of the other Tribes responded to the invitation. See Attachment 11 for correspondence with Tribes.

A Consultation Meeting was held virtually on April 22, 2021. Attendees included representatives from SHPO, WisDOT, FRA, U.S. DOT (Volpe Center), HNTB, and UWM-CRM as well as those agencies and organizations who had expressed interest in participating in the consultation process in response to the March 9, 2020 letter; these parties included the City of Milwaukee, Milwaukee Preservation Alliance, and the Forest County Potawatomi Community. The Milwaukee Road Historical Association, Milwaukee County Historical Society, and Historic Milwaukee, Inc. declined or did not respond to FRA's invitation to participate in the consultation process. At the consultation meeting, impacts from the project to the NRHP-eligible properties were discussed and possible mitigation measures were outlined. These included HAER documentation of the Burnham Canal Bridge, public interpretation in the form of published article(s) on the history and significance of the historic bridge and canal, and a survey of comparable resources or the nomination of a similar resource to the National Register of Historic Places. See Attachment 12 for documentation from the Consultation Meeting.

WisDOT, SHPO, the City of Milwaukee, Milwaukee Preservation Alliance, and the Forest County Potawatomi Community reviewed a draft MOA in June 2021. Resulting comments are included as Attachment 13. Following receipt of these comments, additional mitigation strategies were considered and the MOA was revised accordingly.

The United States Army Corps of Engineers (USACE) and the United States Coast Guard (USCG) were contacted during the course of the preparation of the Memorandum of Agreement (MOA) for the subject project. The USACE responded via email on May 17, 2021 that they recognized FRA as the lead federal agency and indicated that their role as consulting party would be limited to review of the MOA. The USCG responded via email on May 24, 2021 that they had no objection to FRA assuming the role of lead federal agency and indicated that they would be a signatory to the MOA as a Concurring Party. See Attachment 14 for correspondence with USACE and USCG representatives.

On June 21, 2021, the Advisory Council on Historic Preservation (ACHP) declined to participate in the consultation for the subject project, but asked to be included in future correspondence as the project may benefit from ACHP's technical assistance. See Attachment 15 for ACHP correspondence.

III. Optional Information

13. Please indicate the status of any consultation that has occurred to date. Are there any consulting parties involved other than the SHPO/THPO? Are there any outstanding or unresolved concerns or issues that the ACHP should know about in deciding whether to participate in consultation?

As of August 2021, consultation is nearly complete. There are no outstanding or unresolved concerns or issues that would bear on the ACHP's decision to participate in consultation.

14. Does your agency have a website or website link where the interested public can find out about this project and/or provide comments? Please provide relevant links:

WisconsinDOT.gov/Muskego Yard

15. Is this undertaking considered a “major” or “covered” project listed on the Federal Infrastructure Projects Permitting Dashboard or other federal interagency project tracking system? If so, please provide the link or reference number:

No.

The following are attached to this form (check all that apply):

- Section 106 consultation correspondence
- Maps, photographs, drawings, and/or plans
- Additional historic property information
- Other: Description of project alternatives

Prepared By:

Name & Company:	Gail Klein, UWM-Cultural Resource Management		
Address:	PO Box 413	Phone:	414-229-3078
City:	Milwaukee	State:	WI
Email:	grklein@uwm.edu	Zip:	53201
		Date:	July 29, 2021

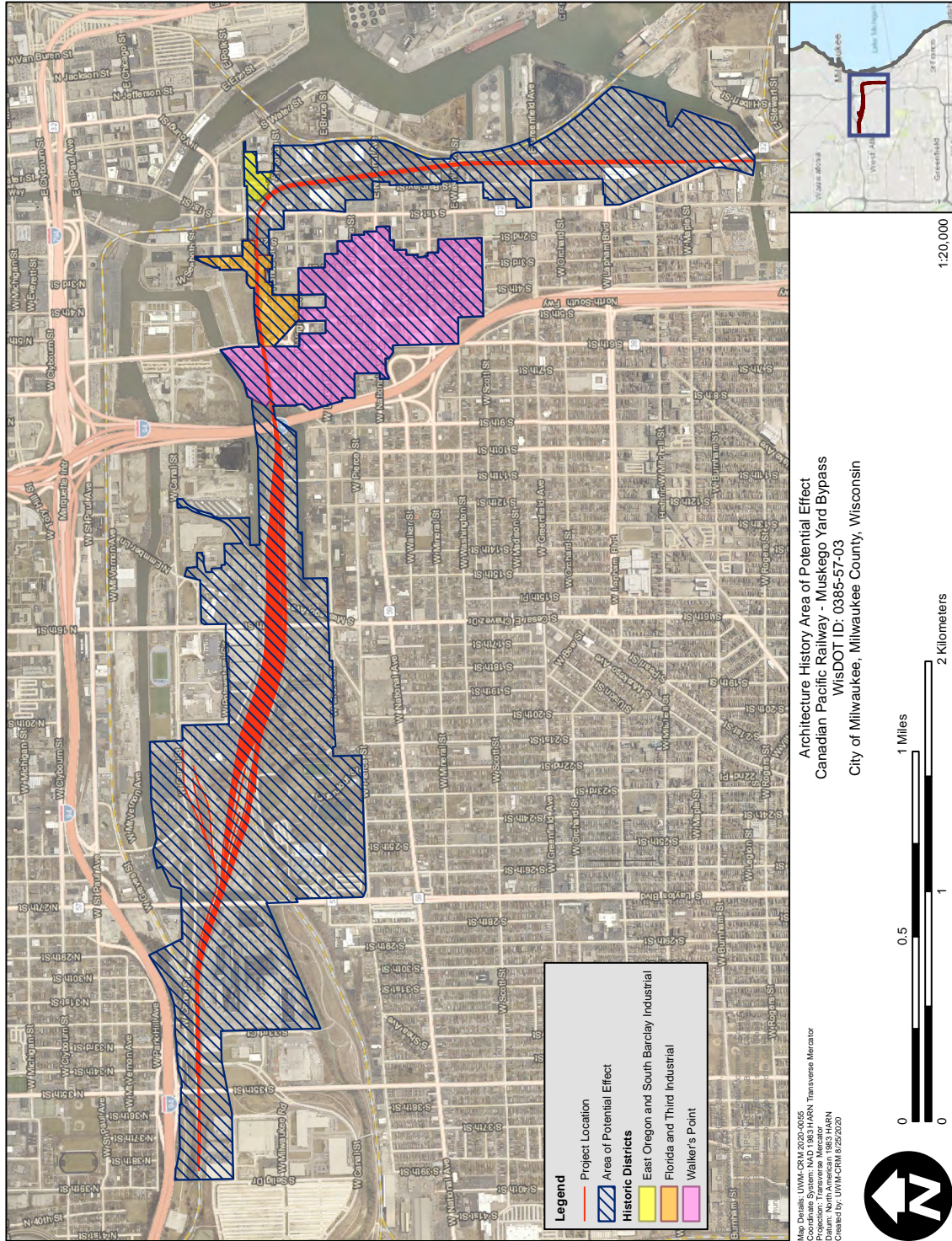
Sub-contracting to:

Address:	_____	Phone:	_____
City:	_____	State:	_____
Email:	_____	Zip:	_____
		Date:	_____

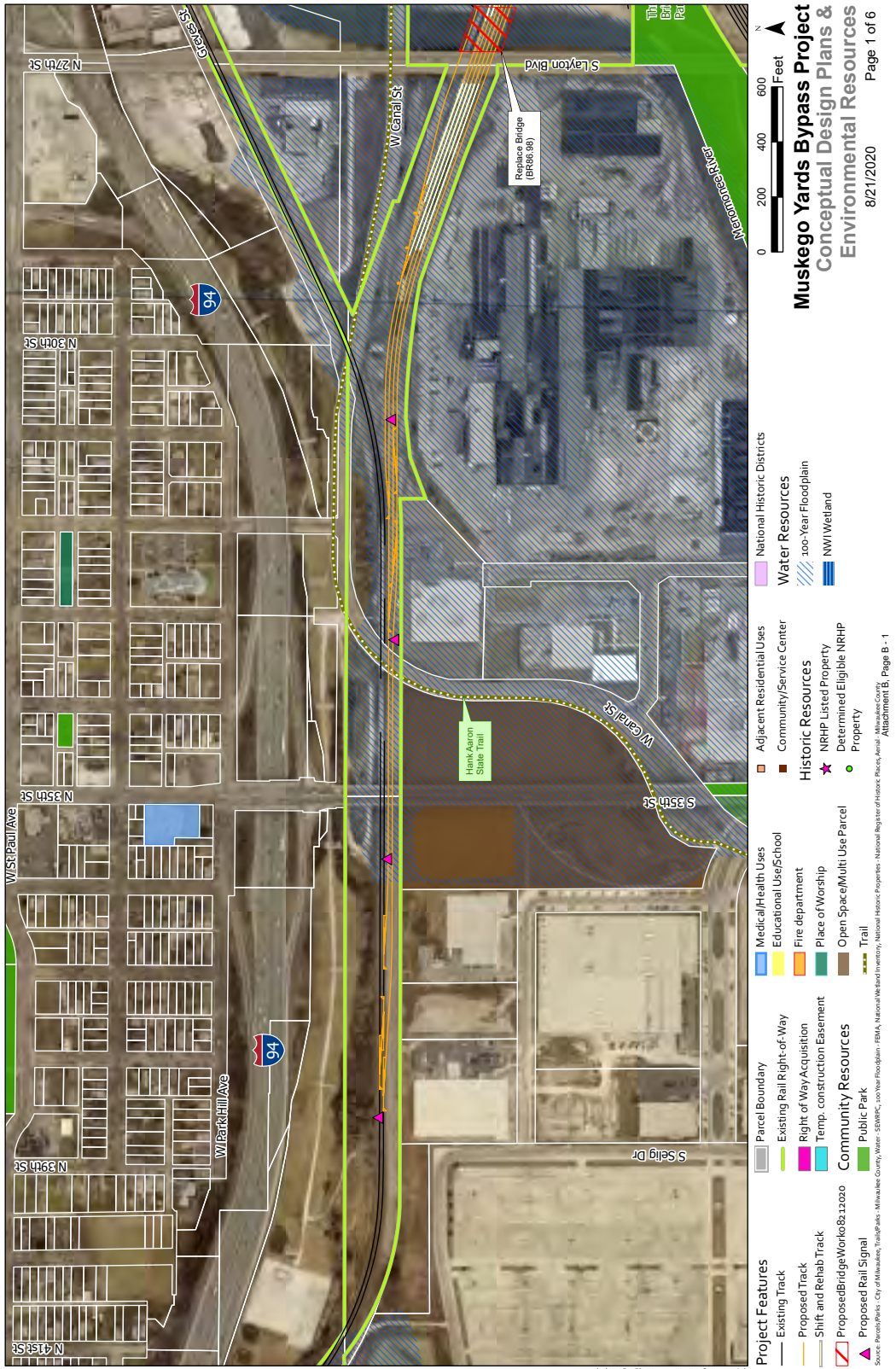
List of Attachments

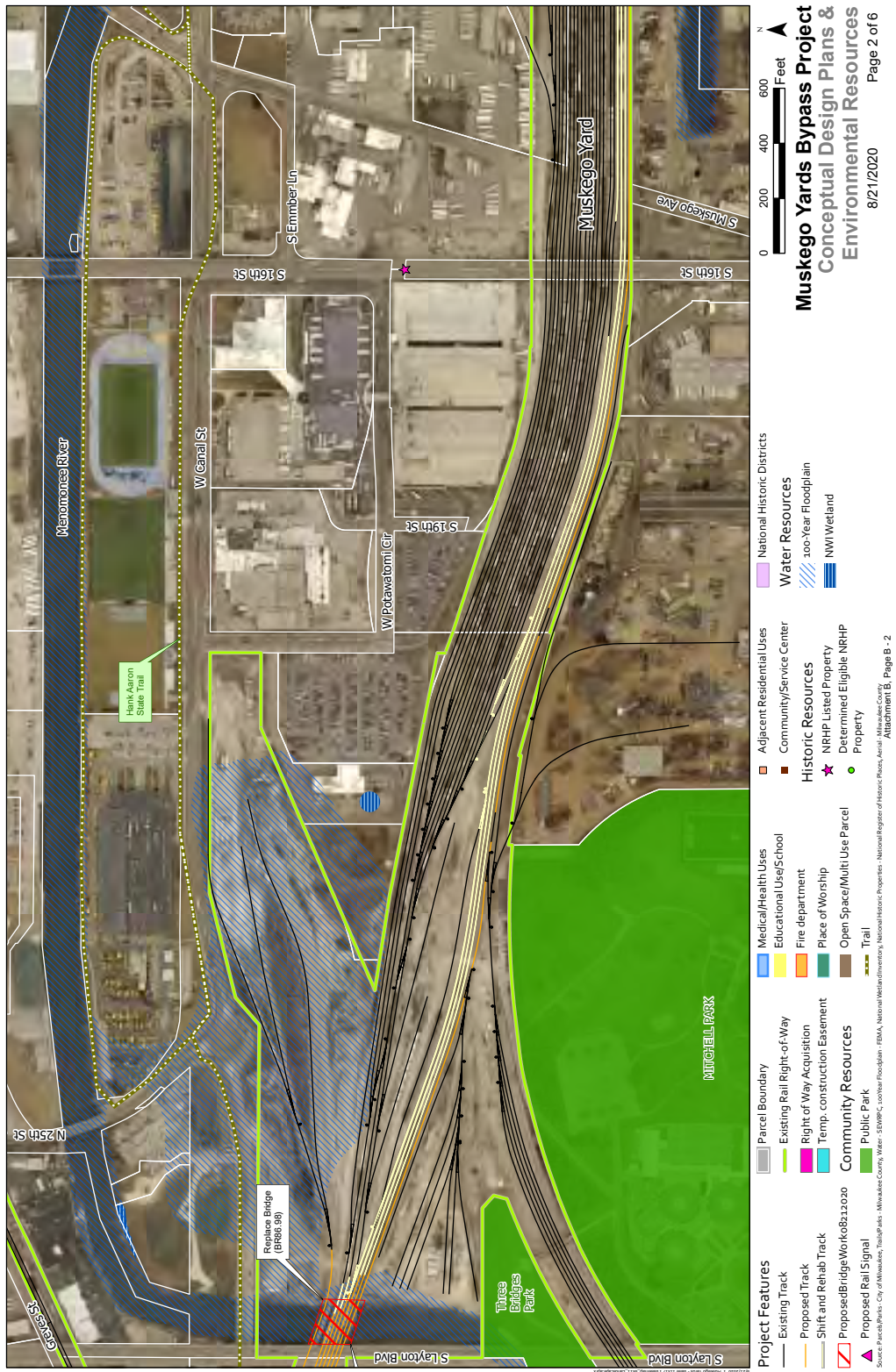
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Attachment 1: Project Location and APE

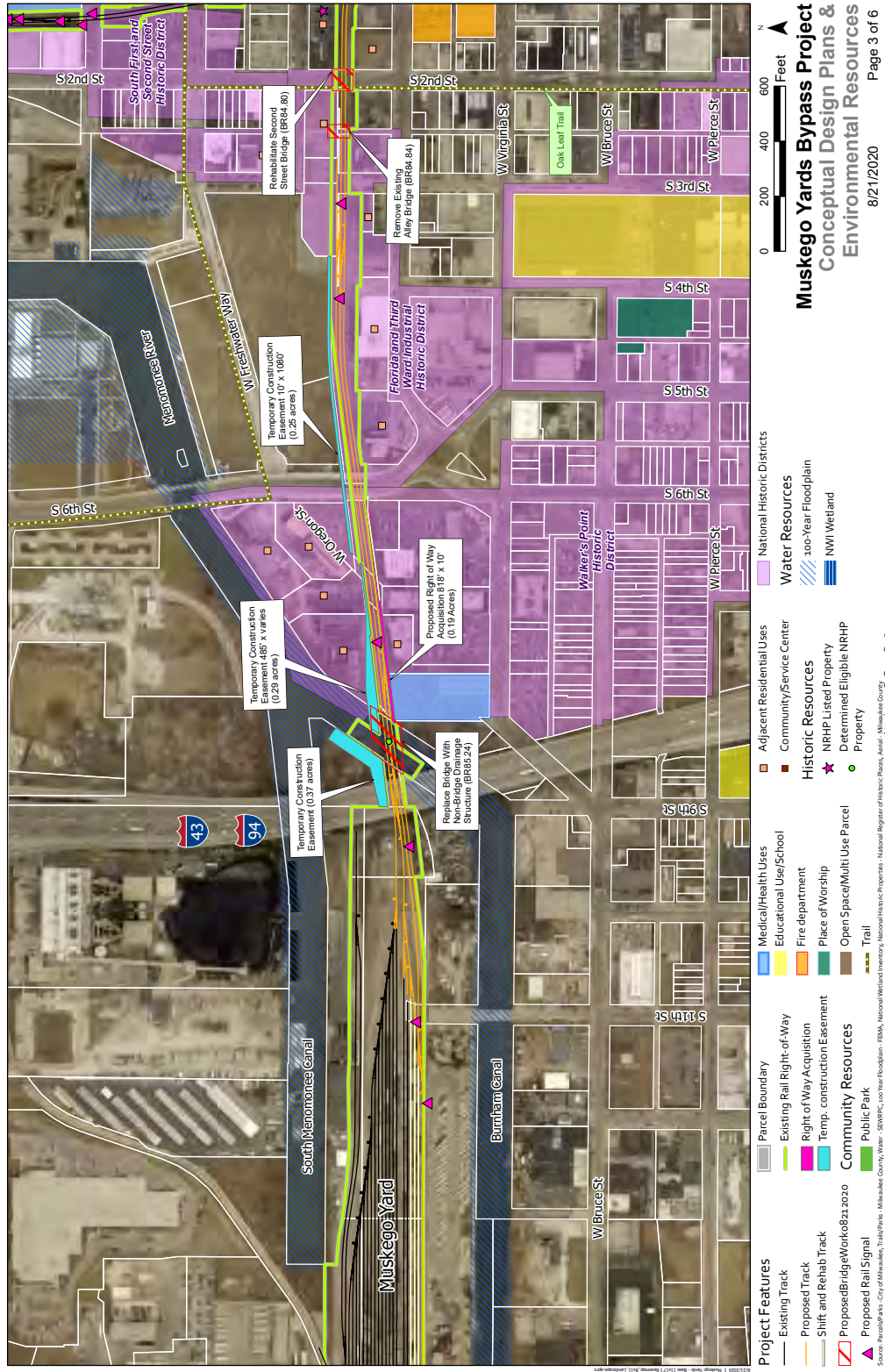


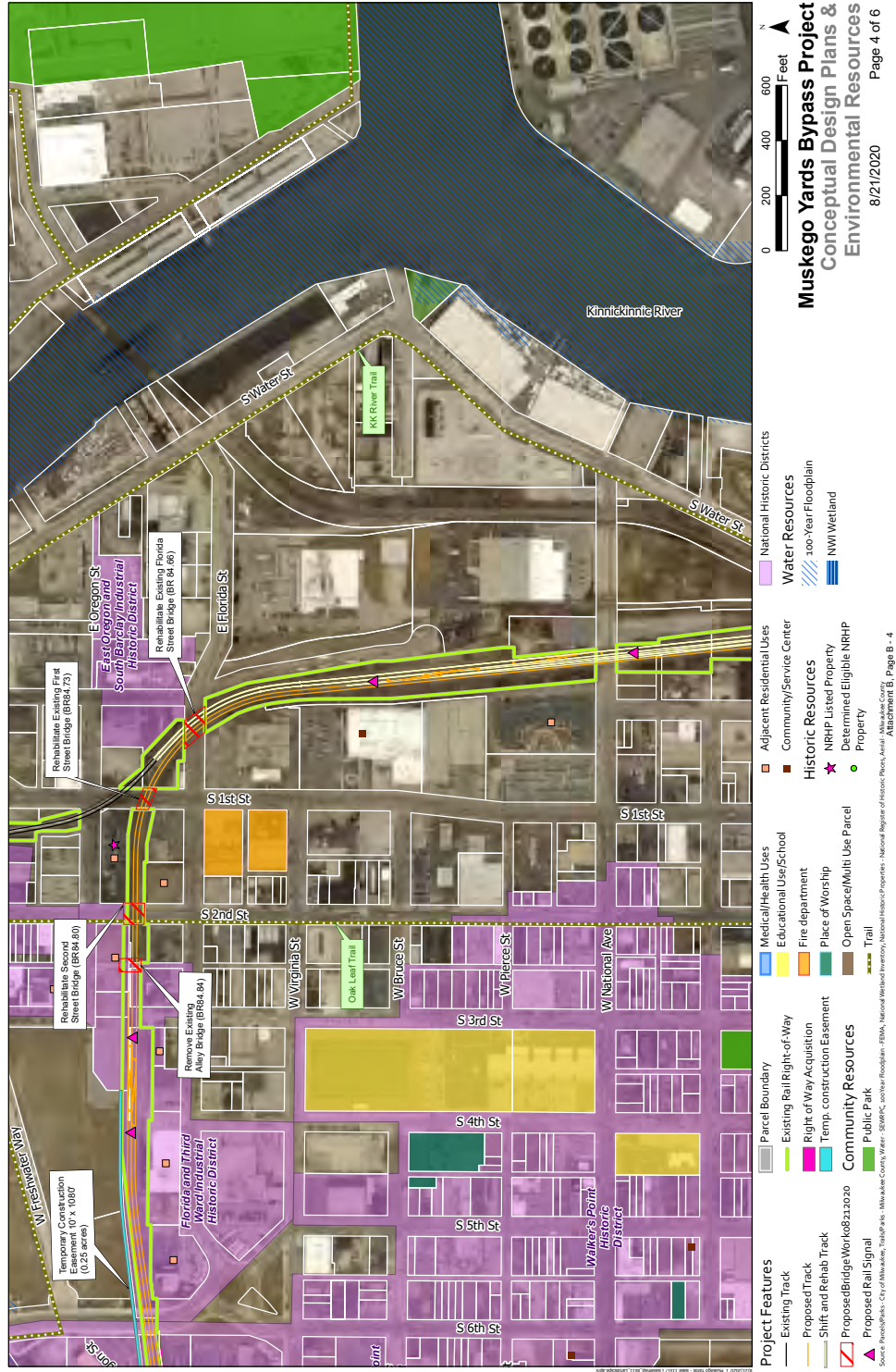
Attachment 2: Project Plans

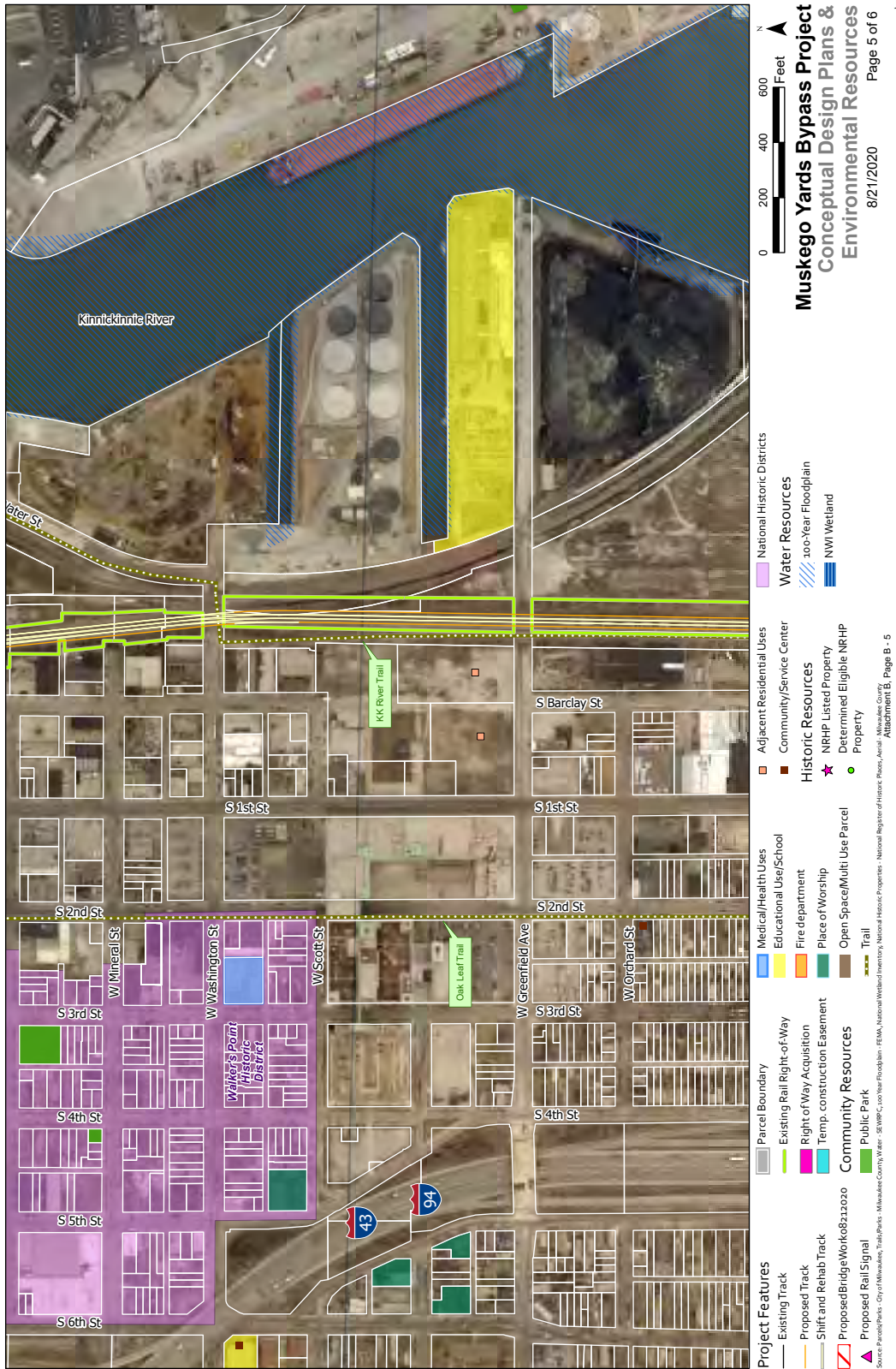




Source: Parcel Data - City of Muskego; Trails - Muskego County; Water - WisDOT; Aerial Imagery - FEMA; National Wetland Inventory; National Historic Properties - National Register of Historic Places; Aerial Imagery - Microsoft; Attachment B, Page B - 2









Attachment 3: SHPO Concurrence

FW: SHPO Review: 21-0308/MI - Muskego Yard Bypass

Caron Kloser <CKloser@HNTB.com>

Fri 4/23/2021 2:18 PM

To: Jennifer R Haas <haasjr@uwm.edu>; Gail Rae Klein <grklein@uwm.edu>

From: kimberly.cook@wisconsinhistory.org <kimberly.cook@wisconsinhistory.org>

Sent: Friday, April 9, 2021 1:36 PM

To: Caron Kloser <CKloser@HNTB.com>

Cc: derek.manning@dot.gov

Subject: SHPO Review: 21-0308/MI - Muskego Yard Bypass

Dear Ms. Caron Kloser,

We have completed review of WHS #21-0308, the Muskego Yard Bypass and we concur that the project as proposed will adversely effect one or more eligible/listed historic properties within the project area.

We also concur that both the Burnham Canal and the Burnham Canal Bridge are eligible for the National Register.

As we begin consultation to resolve the adverse effect, the first question will be regarding alternatives and minimization. Is there any part of the project that can be redesigned to avoid impacting the Burnham Canal Bridge? Have you considered alternatives that might avoid the bridge? Please submit a document or memo that discusses alternatives considered and feasibility (or lack thereof) of those alternatives.

We look forward to continuing to work with you in this project and to the swift conclusion of the 106 process.

Thank you,

Kimberly Cook

State Historic Preservation Office

Wisconsin Historical Society
816 State Street, Madison, WI 53706

kimberly.cook@wisconsinhistory.org

Wisconsin Historical Society

[Collecting, Preserving, and Sharing Stories Since 1846](#)

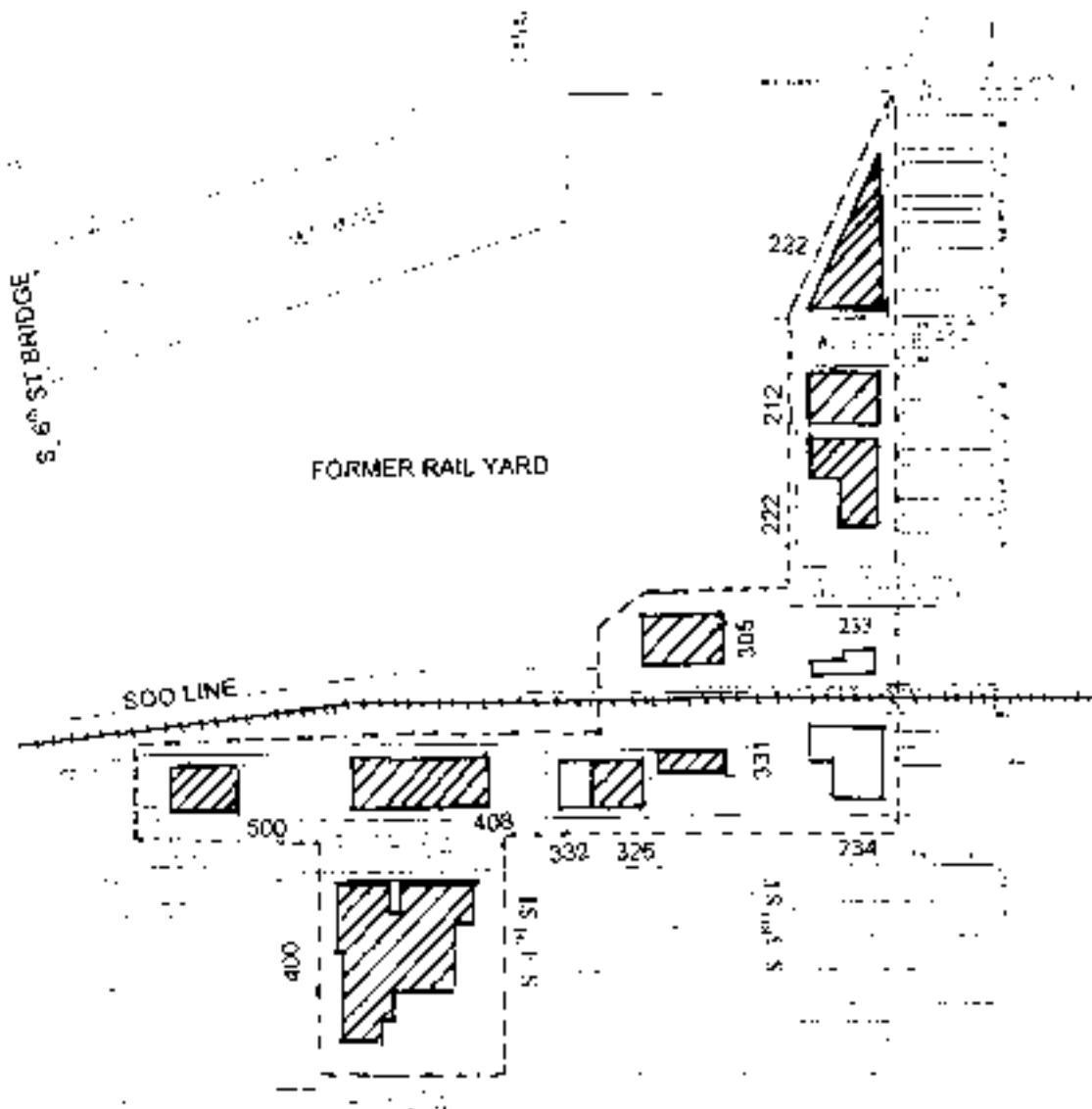

This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. If you are NOT the intended recipient and receive this communication, please delete this message and any attachments. Thank you.

Attachment 4: Historic Boundary Maps and Property Photographs

KEY: Florida & Third Industrial Historic District
Milwaukee, Milwaukee County, WI

▨ Contributing
□ Non-contributing
- - - Boundary

Scale: 1" = 200'



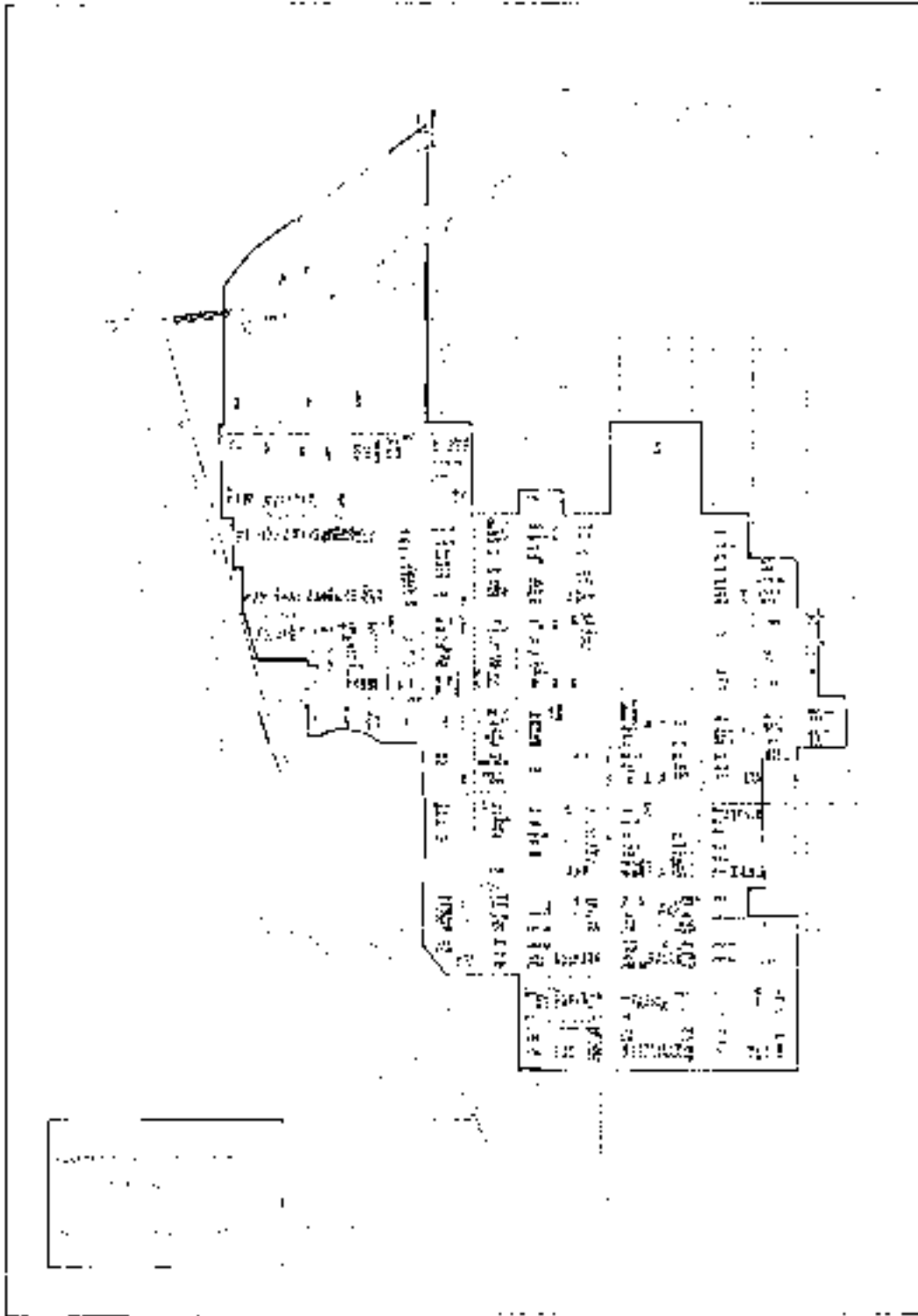
Florida and Third Industrial Historic District (NRHP# 08000656)
Historic Boundary Map



Looking NE from Florida Street and S. 4th Street (Source: Google Earth, 2019)



Looking SW from W. Pittsburg Avenue/W. Freshwater Way and S. 3rd Street across former
railyard (Source: Google Earth, 2019)



Walker's Point Historic District (NRHP# 078000120)
Historic Boundary Map



Looking NE from W. National Avenue and S. 6th Street (Source: Google Earth, 2019)



Looking SE from W. Walker Street and S. 3rd Street (Source: Google Earth, 2019)

Site map: Map showing proposed East Oregon and South Barclay Industrial Historic District boundary and contributing buildings.



REFERENCE MAP
SCALE: 1:200





Looking S from E. Oregon Street and S. Barclay Street (Source: Google Earth, 2019)



Looking NW from E. Florida Street and S. Barclay Street (Source: Google Earth, 2019)

Milwaukee County Land Information Parcel Report

TAXKEY: 4280324000

Report generated 7/20/2021 1:37:35 PM



Parcel location within Milwaukee County



Selected parcel highlighted

Tax parcel/historic boundary

Parcel Information

TAXKEY: 4280324000

Record Date:

Owner(s): WALKERS POINTE APARTMENT
 HOMES LLC, C/O CPM PROPERTY
 MANAGEMENT SERVICES

Address: 103 W OREGON ST

Assessed Value: \$6,201,500

Municipality: Milwaukee

Land Value: \$702,300

Acres: 0.00

Improvement Value: \$5,499,200

Parcel Description: RESIDENTIAL

Zoning Description: Planned Development

Legal Description: WALKER'S POINT IN NE 1/4 SEC 32-7-22 BLOCK 17 LOTS 1 & 2 EXC R O W - N
 100' (LOTS 3 4 & 5) & N 98' (LOTS 6 & 7) NID #08

*Physical address is currently recorded as 103 W. Oregon St.



Looking south (Source: WHPD)



Two-story warehouse addition, looking southeast

Lindsay-Bostrom Building, 133 W. Oregon St. (NRHP# 02000417)
Property Photos



Looking southeast



Looking northwest

16th Street Viaduct (NRHP# 100003908)
Property Photos



Looking northeast



Looking east

Mitchell Park Domes, 524 S. Layton Blvd. (AHI# 52569)
Property Photos



Looking northeast



Looking northwest

Northwestern Malleable Iron Company, 1640 W. Bruce St. (AHI# 99048)
Property Photos

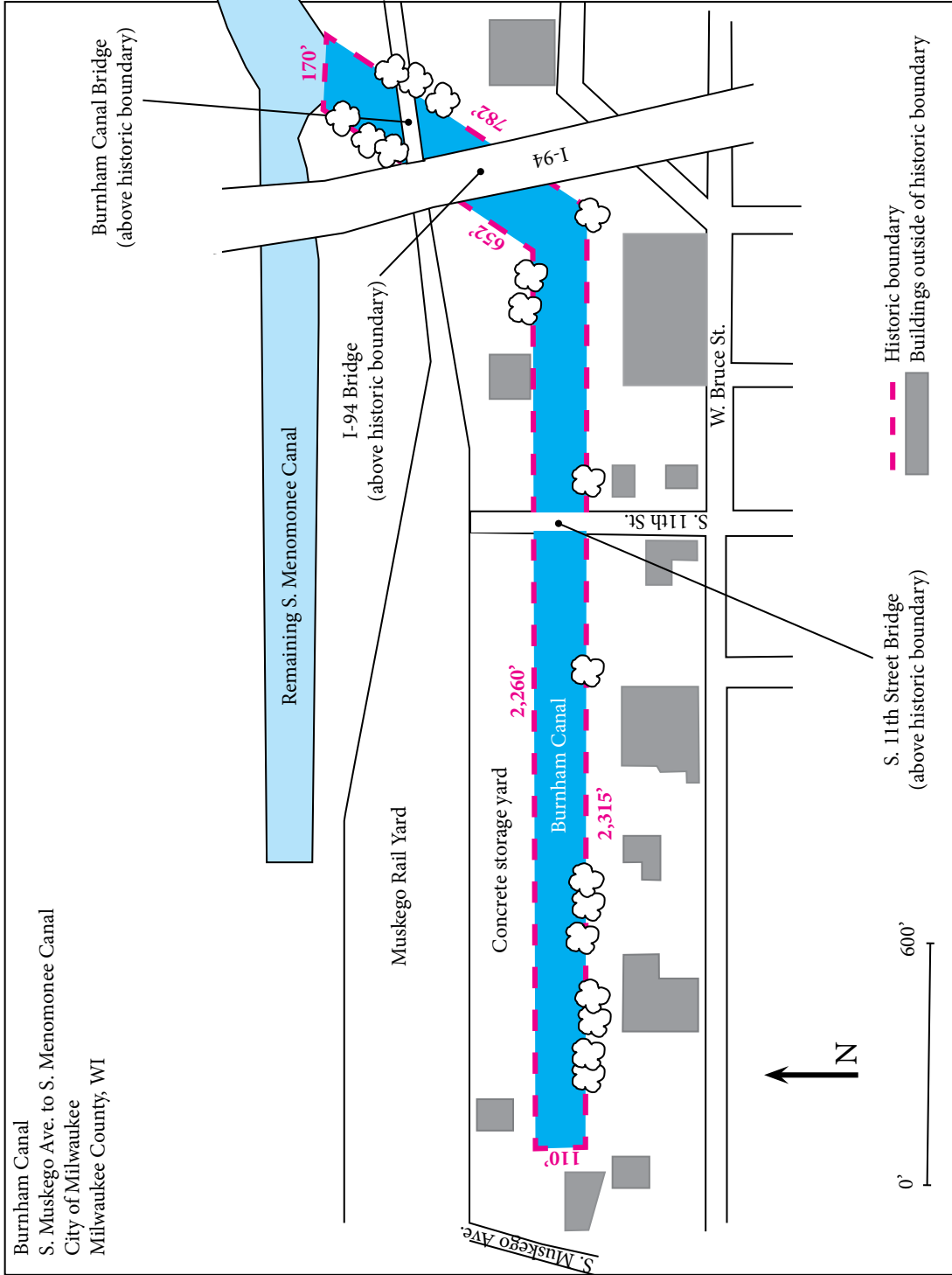


Looking north



Looking west

Burnham Canal Bridge (AHI# 106686)
Property Photos



Burnham Canal (AHI# 242233)
 Historic Boundary Map

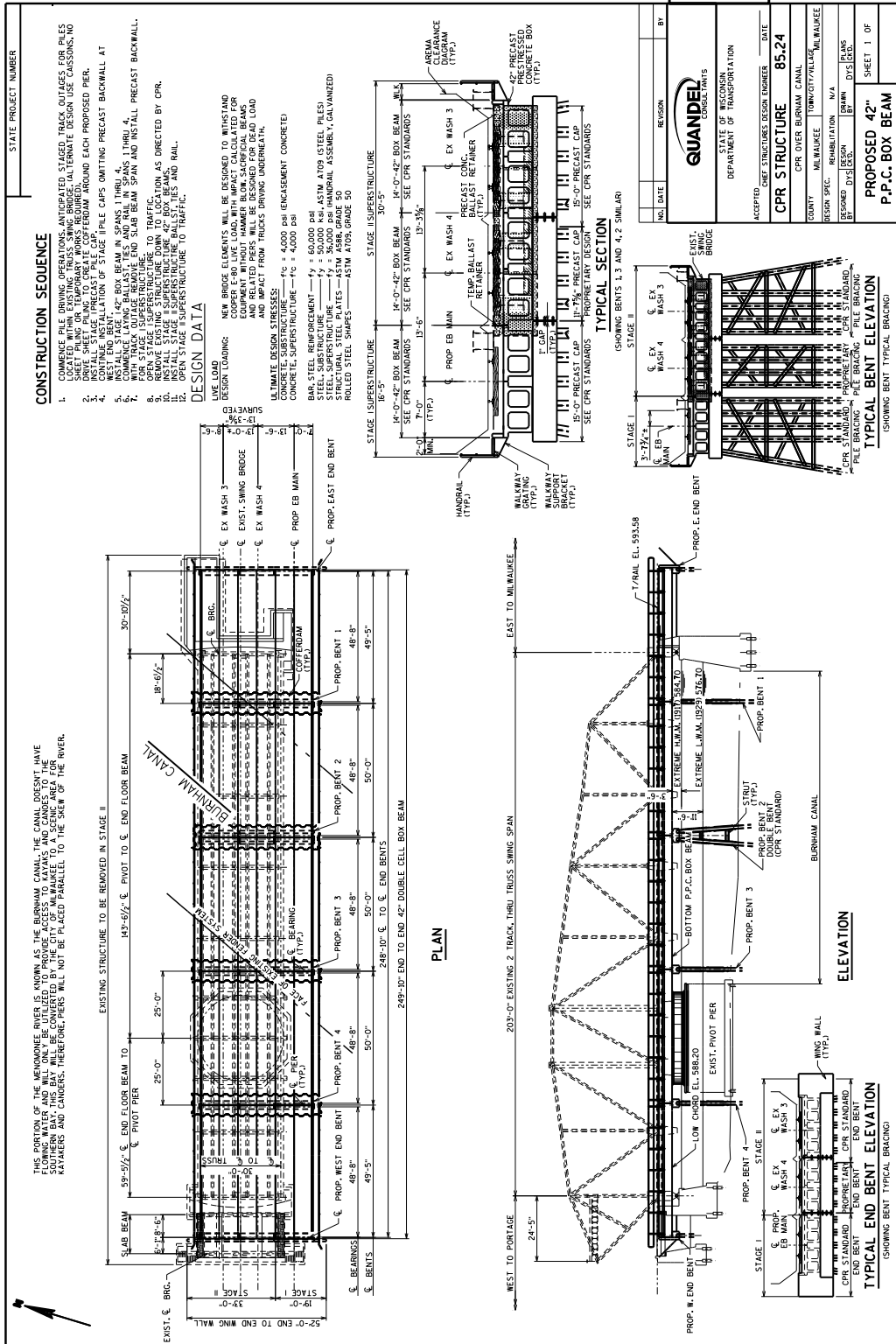


Looking east from the S.11th Street bridge.



Looking west from the S.11th Street bridge.

Attachment 5: Plan Details for the Burnham Canal Bridge



STATE PROJECT NUMBER		
8		
NO. DATE	REVISION	BY
GUANDELI CIVIL ENGINEERS DEPARTMENT OF TRANSPORTATION		
ACCEPTED	DATE	
CHIEF STRUCTURES DESIGN ENGINEER	85-24	
CPR STRUCTURE 85-24		
COUNTY	CITY/TOWN/VILLAGE	
DESIGN SPEC.	DESIGNER	
DESIGNED BY	DATE	
DRAWN BY	CHECKED BY	
PROPOSED 42" P.P.C. BOX BEAM		
		SHEET 1 OF

Attachment 6: Alternatives Analysis

1. Project Overview

The Muskego Yard Bypass Project (Project) is a freight rail improvement project located in Milwaukee, Wisconsin along the Canadian Pacific Railway (CPR) route in the Menomonee Valley, south of I-94 and east of I-94/I-43.

The purpose of the Project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies and provide reliable train access in and around the Muskego Yard Project area.

The Project creates a new double track mainline through Muskego Yard that will become the primary route for freight trains traveling through Milwaukee. This will allow freights to bypass the MIS to travel through Milwaukee more efficiently via Muskego Yard, reduce interactions between freight and passenger trains, and minimize interactions between trains and vehicles via at-grade rail crossings. The re-routing of freight traffic through Muskego Yard required evaluating the existing bridges, including the bridge carrying trains over the Burnham Canal.

The Burnham Canal bridge currently carries two tracks into the east end of Muskego Yard for yard switching movements. With the conversion of the two existing tracks to mainline tracks for through-train movements, a third track is required for yard switching movements.

An architectural survey of the Project identified the Burnham Canal bridge as eligible for listing on the National Register of Historic Places. The Project proposes replacing the Burnham Canal bridge with a new prestressed precast concrete (PPC) box beam bridge, which results in an adverse effect on the historic bridge.

The purpose of this technical memorandum is to present the analysis of options WisDOT considered to avoid or minimize the adverse effect on the Burnham Canal bridge.

2. Existing Configuration

The existing Burnham Canal Bridge is a riveted-steel, Warren through-truss swing bridge, measuring approximately 234 feet long. Constructed in 1903 by the American Bridge Company for the Chicago, Milwaukee, and St. Paul Railroad, the bridge carries two railroad tracks into the Muskego Yard. The bridge rotates on a circular drum placed atop evenly spaced rollers and is an example of a "bobtail" swing bridge in which the bridge is not symmetrically centered over a swing pier, but instead has a longer end spanning the majority of the channel, and a shorter end anchored with a counterweight.¹

The Burnham Canal waterway has not been accessible to commercial traffic since 1987, the same year the city of Milwaukee replaced a movable truss bridge with a fixed vehicular bridge across the canal at 11th Street, located west of the CPR crossing. The Water Resources Reform and Development Act of

¹ <https://bridgehunter.com/wi/milwaukee/cp-menomonee-river/>

WHS#21-0308

June 2021

**Muskego Yard Bypass
Burnham Canal Bridge
Alternatives Analysis**

2014 decommissioned the canal and it is no longer maintained as a navigable waterway. The DNR and MMSD are also jointly engaged in developing a wetland restoration project in the Burnham Canal, located west of the CPR crossing. The canal will be partially filled to restore wetlands that were filled during industrial development. Thus, the Burnham Canal Bridge is no longer required to open.

3. Avoidance and Minimization Alternatives

WisDOT evaluated alternatives that would avoid or minimize impacts to the Burnham Canal bridge.

3.1. Alternative A-1: Use Existing Bridge

Under Alternative A-1, the existing structure would remain in place and all freight traffic would use the two tracks on the existing bridge structure. Once primary freight operations are routed through Muskego Yard, the two-track configuration over the Burnham Canal prohibits simultaneous freight through movements and conducting yard switching operations at the east end of the yard. Alternative 1 does not support the project purpose to separate through freight movements and improve freight access and yard operations within the yard. Retaining the existing bridge would not allow for two freight mainlines to operate bi-directionally while switching movements operate at the east end of the yard. A third track for yard movements is required. The existing structure currently provides for bi-directional mainline capacity for through train operations for train speeds at 10 mph but is not rated to support rail traffic moving at 25 mph. Leaving the existing structure in place would require speed restrictions that would create operational bottlenecks. In addition, the existing 22'-0" vertical clearance is below the 23'-6" standard for double stacked intermodal operations. Further, the cost to repair the existing 100+-year old bridge for proposed freight operations and on-going maintenance would be high over its life cycle.

3.2. Alternative A-2: Retain Existing Bridge and Add Structure for Third Track

Alternative A-2 retains the existing two-track bridge and builds a new single-track bridge adjacent to it. Under Alternative A-2, CPR would have an independently supported third track in place for yard switching operations and the existing two-span bridge for freight movements. This option does not support the project purpose to reduce freight travel times through Milwaukee. It does not provide adequate freight access and reliability within the primary route to accommodate variabilities in railroad operations. Similar to Alternative A-1, Alternative A-2 does not address the 10 mph speed restriction of the existing bridge and has insufficient vertical clearance and high repair and maintenance costs over the structure's life cycle.

3.3. Alternative A-3: Leave Existing Bridge in Place; Construct a New Three-Track Structure

Alternative A-3 would leave the existing truss bridge in place but would no longer be used for freight train operations. A new three-track structure would be constructed on a new alignment. The alternative is neither feasible nor prudent. The east approach to the canal is located between several buildings that are also within the Walker's Point Historic District. Moving the track to cross the canal at a new location would require substantial building acquisitions and associated residential and business acquisitions

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**Muskego Yard Bypass
Burnham Canal Bridge
Alternatives Analysis**

occupying the buildings. The track shift and acquisitions would substantially impact the historic district and introduce a new visual element impacting the NRHP-eligible Burnham Canal. A new alignment would also require substantial infrastructure changes and cost to rebuild track and signals west of the canal to operate through freight movements and switching operations in the yard.

4. Replacement Alternatives

WisDOT considered the following replacement alternatives since leaving the existing bridge in place is not feasible or prudent.

4.1. Alternative R-1: Replace Existing Bridge “In-Kind” as a Three-Track Structure

Alternative R-1 minimizes impacts by replacing the existing bridge with a new three track through-truss swing bridge. CPR will own and maintain the bridge upon completion of the construction. Replacement design must also take into consideration long term maintenance requirements. Replacing the bridge in-kind is not a prudent alternative as a swing bridge is no longer needed on the canal for navigational purposes and would be very high cost to build and maintain. The CPR design standard no longer allows for in-kind truss bridge replacements where not required for navigable purposes.

4.2. Alternative R-2: Replace Existing Bridge with a Three-Track Box Culvert

Replacing the existing bridge with a box culvert structure was considered since the canal is no longer used for commercial navigation and a swing bridge is no longer required. The culvert would be constructed to allow for recreational craft to pass under the three track structure. WisDOT determined this alternative is not prudent because it would require filling in the NRHP-eligible Burnham Canal, which would impact the canal’s historic character. The alternative also raised stakeholder concerns about watercraft access through the structure and potential impacts to aquatic species passage and water flows.

4.3. Alternative R-3: Replace Existing Bridge with a 3-Track PPC Box Beam Bridge

Alternative R-3 replaces the existing bridge with a five-span precast prestressed concrete box beam bridge. The structure would consist of five 50-foot spans, for an approximate length of 252 feet. The conceptual design conservatively assumes that each pile cap would be supported by steel piles, with substructure design subject to change pending geotechnical information. In this option, the existing truss and steel superstructure would be removed in its entirety. Most existing substructure elements (backwall, beam seat, ring girder, etc.) would remain in place and removed as necessary to provide clearance for installation of the new bridge. This alternative avoids filling the NRHP-eligible Burnham Canal, as well as other historic resources east of the canal. Alternative R-3 meets the project purpose and

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Muskego Yard Bypass

Burnham Canal Bridge

Alternatives Analysis

need and minimizes impacts to historic resources. It is being carried through for additional evaluation and Section 106 consultation.

5. Conclusion

WisDOT evaluated avoidance and minimization and replacement alternatives to replacing the Burnham Canal bridge. The selected Alternative R-3 is a new five span 3-track PPC box beam bridge. The avoidance and minimization and other replacement alternatives noted above were not selected because they do not meet the Project's purpose and need, add substantially higher long term maintenance costs and do not meet current design standards. Maintaining the bridge replacement on the existing track alignment also avoids impacts to surrounding structures in a historic district east of the Burnham Canal and avoids filling impacts in the canal.

**Attachment 7: Correspondence with Milwaukee Historic Preservation Commission,
Milwaukee Preservation Alliance, Milwaukee County Historical Society, Milwaukee Road
Historical Association, and Historic Milwaukee, Inc., SHPO, USACE, USCG, and Tribes**

Local Historical Society and Historic Preservation Agency Correspondence:
May-June 2020

Fw: Muskego Railyard Project

Kelly Jo Blaubach <kjblaub@uwm.edu>

Mon 7/19/2021 8:15 AM

To: Gail Rae Klein <grklein@uwm.edu>

1 attachments (3 MB)

2020-0055_Architecture_LitReview_Aerial.pdf;

UWM-CRM 3030-XXXX

Kelly Blaubach, M.A.

Architectural Historian, Cultural Resource Management

Archaeological Research Laboratory Center

University of Wisconsin-Milwaukee

PO Box 413

Milwaukee, WI 53201

Office (414) 229-3078 | Direct (414) 251-7361

From: Kelly Jo Blaubach <kjblaub@uwm.edu>

Sent: Friday, June 5, 2020 8:44 AM

To: Historic Preservation Commission <HPC@milwaukee.gov>

Subject: Re: Muskego Railyard Project

Hi Tim,

Attached is a preliminary APE map for the survey. Please note that the APE was refined down further in the field, to include only those parcels that are directly adjacent to the project corridor. Also, in areas where project activities called for the rehabilitation of an existing track, we limited the APE to the existing ROW only (seen on the map as the project corridor south of National Ave). Where an additional track was being constructed and ROW was going to be taken, the APE included adjacent properties (much of the east-west tracks that travel through the Walker's Point HD, the Florida and 3rd HD, and the Oregon and Barclay HD). The Burnham Canal Bridge (AHI 106686) has been recommended as potentially eligible as a result of our survey.

I've forwarded the HPC's request to be a consulting party to our client.

Thanks!

Kelly Blaubach

Architectural Historian

UWM-Cultural Resource Management

Sabin Hall 290

PO Box 413

Milwaukee, WI 53201

414.229.3078

From: Historic Preservation Commission <HPC@milwaukee.gov>
Sent: Monday, June 1, 2020 1:01 PM
To: Kelly Jo Blaubach <kjblaub@uwm.edu>
Subject: RE: Muskego Railyard Project

Kelly,

Thank you for this information. Please consider this a request for the Milwaukee HPC to be formally regarded as a consulting party. Can you please supply a preliminary APE map as soon as possible?

Tim Askin, Senior Planner
Historic Preservation Commission
City of Milwaukee
414-286-5712
Tim.Askin@Milwaukee.gov

From: Kelly Jo Blaubach [mailto:kjblaub@uwm.edu]
Sent: Friday, May 29, 2020 10:11 AM
To: Historic Preservation Commission
Subject: Muskego Railyard Project

Dear Milwaukee Historic Preservation Commission,

I am emailing to notify you of a planned rail improvement project involving the Muskego Railyard in Menomonee Valley and the capacity expansion of the Canadian Pacific Railroad tracks leading to the yard from the east/southeast. Project plans in addition to signaling improvements along the line include the intermittent taking of right-of-way to accommodate the construction of a third track, located roughly between National Avenue and the Burnham Canal Bridge.

UWM-CRM has been contracted to complete the architecture/history survey for the project corridor. Potential effects of the project are currently being assessed for the NRHP-listed Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, and the potentially-eligible Burnham Canal Bridge. More information regarding these effects will be provided to the HPC in the coming weeks. In addition to our own research of historic properties, we would be interested in any information the HPC would like to share about any other properties along the project corridor which may hold historical significance.

If you are aware of any properties which fit that description, please don't hesitate to reach out. Please feel free to also reach out with any questions or concerns about the project.

Thank you,

Kelly Blaubach
Architectural Historian

UWM-Cultural Resource Management
Sabin Hall 290
PO Box 413
Milwaukee, WI 53201

414.229.3078

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Fw: Muskego Railyard Pproject

Kelly Jo Blaubach <kjblaub@uwm.edu>

Mon 7/19/2021 8:15 AM

To: Gail Rae Klein <grklein@uwm.edu>

~~UWM-CRM 20XX-XXXX~~

Kelly Blaubach, M.A.

Architectural Historian, Cultural Resource Management
Archaeological Research Laboratory Center
University of Wisconsin-Milwaukee
PO Box 413
Milwaukee, WI 53201
Office (414) 229-3078 | Direct (414) 251-7361

From: Kelly Jo Blaubach <kjblaub@uwm.edu>

Sent: Thursday, July 9, 2020 9:52 AM

To: Hatala, Carlen <chatal@milwaukee.gov>

Cc: Caron Kloser <CKloser@HNTB.com>; Jennifer R Haas <haasjr@uwm.edu>

Subject: Re: Muskego Railyard Pproject

Hi Carlen,

Thanks for your email! I have identified the HPC as a consulting party in our documentation for the Federal Rails Administration. As the lead federal agency for the project, the FRA prefers to take the lead on the Section 106 consultation efforts. The HPC can expect further information on project activities from them in the future, but unfortunately I don't have any more detailed plans to share with you at this time.

Thanks, and please let me know if you have any more questions!

Kelly Blaubach
Architectural Historian

UWM-Cultural Resource Management
Sabin Hall 290
PO Box 413
Milwaukee, WI 53201
414.251.7361
414.229.3078 (office)

From: Hatala, Carlen <chatal@milwaukee.gov>

Sent: Monday, June 29, 2020 5:06 PM

To: Kelly Jo Blaubach <kjblaub@uwm.edu>

Subject: Muskego Railyard Pproject

Hi Kelly,

In order to determine other historic or potentially historic properties along the project corridor I will need a detailed map of the project area.

I look forward to receiving any additional information you have.

Carlen

Carlen Hatala
Senior Planner
Historic Preservation City of Milwaukee
841 North Broadway Room B-1
Milwaukee, WI 53202
(414) 286-5722
Carlen.hatala@milwaukee.gov

The City of Milwaukee is subject to Wisconsin Statutes related to public records. Unless otherwise exempted from the public records law, senders and receivers of City of Milwaukee e-mail should presume that e-mail is subject to release upon request, and is subject to state records retention requirements. See City of Milwaukee full e-mail disclaimer at www.milwaukee.gov/email_disclaimer

Re: Muskego Railyard Project, Milwaukee

Kelly Jo Blaubach <kjblaub@uwm.edu>

Mon 6/1/2020 10:55 AM

To: Bob Storozuk <museum@mrha.com>

Hi Bob,

Thanks for your response and the informaon about the Musk ego Yard. More informaon about the potenal e ffects of the project to historic resources will be provided in the coming weeks.

Thank you,

Kelly Blaubach
Architectural Historian

UWM-Cultural Resource Management
Sabin Hall 290
PO Box 413
Milwaukee, WI 53201
414.229.3078

From: Bob Storozuk <museum@mrha.com>

Sent: Monday, June 1, 2020 7:48 AM

To: Kelly Jo Blaubach <kjblaub@uwm.edu>

Subject: Fw: Muskego Railyard Project, Milwaukee

Kelly

These notes are from a former employee who worked in the "Valley" for the Milwaukee Road. Just for your info.

Bob Storozuk
Milwaukee Road Historical Associaion

From: linda sukup <lsukup@a .net>

Sent: Sunday, May 31, 2020 5:18 PM

To: Bob Storozuk

Subject: Re: Muskego Railyard Project, Milwaukee

The yard leads beyond Burnham bridge were Wash 3 & 4. One of these were taken out so there was only one left. They should put that one back before adding more. These were the freight leads from Muskego to the main line At National Ave. There were no railroad buildings in the area--just tracks. Privately owned buildings hemmed in the tracks so I don't think there is enough room for three--just two. Larry

Linda Sukup
Former MRHA National President
Former WISE Division Superintendent
Educator of the Year, Ashford Radio

Who's Who in Education
Who's Who in Cambridge
Life Time Member Girl Scouts
Thanks I and II Badge Girl Scouts

On Sunday, May 31, 2020, 09:23:48 AM CDT, Bob Storozuk <museum@mrha.com> wrote:

Larry and Linda,
Do you have any idea if there are any historical buildings (or anything else of significance) in the area of this project?

Let me know if you think of anything.
Thanks,
Bob

From: Bob Storozuk
Sent: Sunday, May 31, 2020 9:18 AM
To: Kelly Jo Blaubach
Subject: Re: Muskego Railyard Project, Milwaukee

Good Morning Kelly,
Thank you for your letter about the improvement project in the Menomonee Valley.
I am going to contact a couple of former employees and the Milwaukee Road archives to see if there are any items of significance that we can add to your research. Please keep us informed of the progress of this project and any related activities.

Thank you for contacting us and sharing the information about this project.

Bob Storozuk
Milwaukee Road Historical Association

From: Kelly Jo Blaubach <kjblaub@uwm.edu>
Sent: Friday, May 29, 2020 10:25:58 AM
To: Bob Storozuk
Subject: Muskego Railyard Project, Milwaukee

Dear Milwaukee Road Historical Association,

I am emailing to notify you of a planned rail improvement project involving the Muskego Railyard in Menomonee Valley and the capacity expansion of the Canadian Pacific Railroad tracks leading to the yard from the east/southeast. This yard and connected rail lines historically belonged to the Milwaukee Road. Project plans in addition to signaling improvements along the line include the intermittent taking of right-of-way to accommodate the construction of a third track, located roughly between Naional Avenue and the Burnham Canal Bridge.

UWM-CRM has been contracted to complete the architecture/history survey for the project corridor. In addition to our own research of historic properties, we would be interested in any information the

Milwaukee Road association would like to share about any other properties along the project corridor which may hold historical significance, including the Burnham Canal Bridge and the Muskego Yard itself.

If you are aware of any resources which fit that description, please don't hesitate to reach out. Please feel free to also reach out with any questions or concerns about the project.

Thank you,

Kelly Blaubach
Architectural Historian

UWM-Cultural Resource Management
Sabin Hall 290
PO Box 413
Milwaukee, WI 53201
414.229.3078

Muskego Railyard Project

Kelly Jo Blaubach <kjblaub@uwm.edu>

Fri 5/29/2020 10:22 AM

To: info@milwaukeehistory.net <info@milwaukeehistory.net>; Historic Milwaukee, Inc. <stacy@historicmilwaukee.org>; mpa@milwaukeepreservation.org <mpa@milwaukeepreservation.org>

To whom it may concern,

I am emailing to notify you of a planned rail improvement project involving the Muskego Railyard in Menomonee Valley and the capacity expansion of the Canadian Pacific Railroad tracks leading to the yard from the east/southeast. Project plans in addition to signaling improvements along the line include the intermittent taking of right-of-way to accommodate the construction of a third track, located roughly between National Avenue and the Burnham Canal Bridge.

UWM-CRM has been contracted to complete the architecture/history survey for the project corridor. Potential effects of the project are currently being assessed for the NRHP-listed Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, and the potentially-eligible Burnham Canal Bridge. More information regarding these effects will be provided to our historical community partners in the coming weeks. In addition to our own research of historic properties, we would be interested in any information our community partners would like to share about any other properties along the project corridor which may hold historical significance.

If you are aware of any properties which fit that description, please don't hesitate to reach out. Please feel free to also reach out with any questions or concerns about the project.

Thank you,

Kelly Blaubach
Architectural Historian

UWM-Cultural Resource Management
Sabin Hall 290
PO Box 413
Milwaukee, WI 53201
414.229.3078

Pre-Consultation Meeting Correspondence:
March 2021



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 9, 2021

Daina Penkiunas
State Historic Preservation Officer
Wisconsin Historical Society
816 State Street
Madison, WI 53706-1482

RE: Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI
Initiation of Section 106 Consultation and Finding of Adverse Effect

Dear Ms. Penkiunas:

The Federal Railroad Administration (FRA) is providing funding to the Wisconsin Department of Transportation (WisDOT) through the Consolidated Rail and Infrastructure and Safety Improvements (CRISI) grant. These funds will be used to make infrastructure improvements in and around the Canadian Pacific Railway (CPR) Muskego Yard in the City of Milwaukee, Wisconsin. This project constitutes an Undertaking pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) "Protection of Historic Properties" (Section 106). While this Undertaking will require permits from the U.S. Army Corps of Engineers and the U.S. Coast Guard, FRA is acting as the lead federal agency for Section 106.

This letter is being transmitted to initiate the Section 106 consultation process for the Undertaking and to seek concurrence from your office with FRA's findings of National Register of Historic Places (NRHP) eligibility for specified properties in the Area of Potential Effects (APE) and FRA's finding of adverse effect.

Description of Undertaking

The purpose of the project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies, and provide reliable train access in and around the Muskego Yard project area. The proposed project consists of signalization improvements and track expansion and rehabilitation along the CPR corridor between the Kinnickinnic River and the western end of the Muskego Railyard. Full plans for the project are provided at Attachment A.

Traveling north from the Kinnickinnic River, the corridor currently consists of two operating main tracks leading to the Milwaukee Intermodal Station and one yard lead track to Muskego Yard. Between Kinnickinnic Avenue and National Avenue, an existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track

will be constructed to the east on existing track roadbed within existing CPR Railway right-of-way. Just south of Florida Street, the four tracks will begin to split, with two continuing north to the MIS (no further work planned in current project scope), and two continuing west towards the Muskego rail yard. Beginning west of 2nd Street, a third track will be constructed, and temporary easement and permanent right-of-way acquisitions will be required along portions of the corridor. The bridges over Florida Street, 1st Street and 2nd Street will be rehabilitated. The bridge over an alley between 2nd Street and 3rd Street will be removed. At the Burnham Canal, the existing 2-track swing bridge (referred to in this document as the Burnham Canal Bridge) will be removed and a new 3-track replacement bridge will be constructed. Within the Muskego rail yard, four existing tracks along the southern edge of the yard will be shifted and rehabilitated or reconstructed. At the western end of the yard, a new 8-track bridge will replace existing structures over the Menomonee River. West of 27th Street, existing tracks will be reconstructed or rehabilitated within the existing right-of-way as they leave the yard and terminate into the existing mainline tracks, with the project corridor ending just west of 35th Street.

Area of Potential Effects

Given the nature of the project and its potential to impact the project area, two APEs were established - an archaeological APE that considers potential effects related to ground disturbance and an architectural APE that considers indirect visual and auditory effects that considered all properties within and immediately adjacent to the proposed project corridor. All resources in the APE that were at least 40 years old and possessed a degree of historic integrity were examined for potential historical significance. The APE maps are provided in Attachment B.

Identification of Historic Properties

In accordance with 36 CFR 800.4(b), FRA has made a good faith effort to identify historic properties within the APE. FRA has completed both an architectural and an archaeological survey of the APE. Both of these surveys consisted of archival and literature search of the Wisconsin Historic Preservation Database and the State and National Registers of Historic Places (NRHP) to identify previously recorded historic properties. This work was followed by field work to verify the presence or absence of previously identified properties as well as to identify any properties that had not been previously identified or surveyed.

The architectural survey included the evaluation of several previously unrecorded properties. FRA has determined that two of these properties, the Burnham Canal and the Burnham Canal Bridge, are eligible for listing on the NRHP. An additional seven properties that are listed in or eligible for listing on the NRHP were identified within the APE. A full list and description of the historic architectural properties within the APE is provided in the Architectural History Report found in Attachment D. The determinations of NRHP eligibility for the Burnham Canal and the Burnham Canal Bridge are provided at Attachment E and F respectively.

FRA also identified and conducted site visits at historic properties that were immediately adjacent to the project area. These properties include: the Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, 16th Street Viaduct, Mitchell Park Domes, the Northwestern Malleable Iron Company, and an additional 55 previously surveyed individual properties. The results of this resurvey effort are outlined in Architectural History Report found in Attachment D. FRA has determined that the undertaking will not result in adverse physical, auditory, visual, or vibration effects to any of these properties. FRA is providing updated

information on these historic properties for informational purposes only and is not requesting concurrence on eligibility recommendations made in the report.

The archaeological survey determined that the entire project area has been heavily disturbed by grading, fill, and development activities. Two archaeological sites were identified immediately adjacent to the APE - 47MI0109 and 47MI0207. Site 47MI0109 has an association with prehistoric burials and is codified as an uncatalogued burial site per Wisconsin Statute §157.70. Both sites have been determined ineligible for NRHP listing. A full summary of the archaeological resources adjacent to the APE can be found in the archaeological survey provided at Attachment G.

Assessment of Effects

In accordance with 36 CFR 800.5(a), FRA has applied the criteria of adverse effects to the Undertaking. FRA finds that the majority of the activities within the undertaking are consistent with the historic use and setting of the Muskego Rail Yard. In accordance with 36 CFR 800.4(c)(2), FRA has determined that the First Street, Alley, Second Street, Florida Street, and Menominee River Bridges are not eligible for listing in the NRHP and that the renovation of the First, Second, Florida Street bridges and replacement of the alley and Menominee river bridges will not affect historic properties. Therefore, the undertaking will have No Adverse Effect on historic architectural resources within the APE, except as noted below.

FRA has determined that the removal and replacement of the NRHP eligible Burnham Canal Bridge constitutes an adverse effect (36 CFR 800.5(a)(2)(i)). FRA has determined replacement of the Burnham Canal Bridge with a new bridge would not cause indirect effects to the NRHP eligible Burnham Canal. FRA will require WisDOT to develop a Construction Environmental Protection Plan (CEPP) to prevent inadvertent damage to the canal during construction of the replacement bridge, and this requirement will be captured in the Memorandum of Agreement.

FRA has determined that the APE has been heavily impacted by previous ground disturbing and fill activities and that there is little potential for the presence of intact archaeological resources. The archaeological survey noted that prehistoric burials were located within the bounds of archaeological site 47MI0109. Because site 47MI0109 is classified as an *uncatalogued burial* site disturbance within the site boundary will require review by the Wisconsin Historical Society in accordance with *Wisconsin Statute Part 157.70*. During the course of the consultation process the Forest County Potawatomi raised concerns that burials may be present under the layers of fill material at site 47MI0109 and 41MI0207. As the consultation process for this undertaking continues, FRA will develop appropriate procedures to determine if previously undisturbed soil layers will be impacted by construction and to minimize the potential for inadvertent disturbance of deeply buried archaeological resources or remains during the course of construction. These requirements will also be captured in the Memorandum of Agreement.

Consulting Parties

FRA has identified Consulting Parties and initiated consultation with the City of Milwaukee and the historic preservation organization in Milwaukee as listed in Attachment C. Copies of this correspondence will be provided to each of these groups under separate letter. In order to inform the public, FRA plans to post an online presentation of the project on the WisDOT website for public review and comment.

Tribal Consultation

On March 12, 2020, FRA and WisDOT initiated consultation with tribes with an interest in Milwaukee County projects. In light of the challenges faced by numerous tribes during the Covid-19 emergency, WisDot has implemented a policy of contacting all tribes associated with the state. FRA will consult with the tribes listed in Attachment C under separate letters.

On August 19, 2020, the Forest County Potawatomi Community of Wisconsin requested soil data related to sites 47MI0109 and 47MI0207 to determine if potential burials would be impacted by construction activities. FRA will work with the Forest County Potawatomi Community of Wisconsin to address their concerns as consultation continues on this undertaking.

Request for Review and Comment

FRA respectfully requests that your office provide comments and concurrence on FRA's findings which are:

- The following properties are not eligible for NRHP listing: Bridge BR84.73 – First Street, Bridge BR84.84 – Alley, Bridge BR84.80 – Second Street, Bridge BR84.66 – Florida Street, Bridge BR 86.98 Menominee River, and archaeological sites 47MI0109 and 47MI0207.
- The following properties are eligible for the NRHP: Burnham Canal and Burnham Canal Bridge.
- The project will result in an Adverse Effect to the Burnham Canal Bridge. As discussed above, all other NRHP-eligible or listed properties will not be adversely affected including the Burnham Canal for which adverse effects will be avoided through appropriate bridge design and implementation of a CEPP.

An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses. Any comments provided on FRA's finding of Adverse Effect will be included the FRA's notification to the Advisory Council on Historic Preservation of this finding (36 CFR 800.6(a)(1)). FRA will reach out to your office and all consulting parties to discuss possible methods for avoiding, minimizing, and/or mitigating the adverse effects through the development of a Memorandum of Agreement.

If you have any questions or wish to discuss this undertaking please contact Derek Manning, at 857-998-1779 or derek.manning@dot.gov

Sincerely,



Katherine Zeringue
Federal Preservation Officer
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Melissa Hatcher, FRA
Arun Rao, WisDOT

Enclosures:

- Attachment A – Project Plans
- Attachment B – Area of Potential Effects Map
- Attachment C – Tribal and Consulting Party List
- Attachment D – Architecture/History Survey
- Attachment E – Determination of Eligibility: Burnham Canal
- Attachment F – Determination of Eligibility: Burnham Canal Bridge
- Attachment G – Phase I Archeological Survey

From: kimberly.cook@wisconsinhistory.org
To: [Caron Kloser](#)
Cc: derek.manning@dot.gov
Subject: SHPO Review: 21-0308/MI - Muskego Yard Bypass
Date: Friday, April 9, 2021 1:35:47 PM

Dear Ms. Caron Kloser,

We have completed review of WHS #21-0308, the Muskego Yard Bypass and we concur that the project as proposed will adversely effect one or more eligible/listed historic properties within the project area.

We also concur that both the Burnham Canal and the Burnham Canal Bridge are eligible for the National Register.

As we begin consultation to resolve the adverse effect, the first question will be regarding alternatives and minimization. Is there any part of the project that can be redesigned to avoid impacting the Burnham Canal Bridge? Have you considered alternatives that might avoid the bridge? Please submit a document or memo that discusses alternatives considered and feasibility (or lack thereof) of those alternatives.

We look forward to continuing to work with you in this project and to the swift conclusion of the 106 process.

Thank you,

Kimberly Cook

State Historic Preservation Office

Wisconsin Historical Society
816 State Street, Madison, WI 53706

kimberly.cook@wisconsinhistory.org

Wisconsin Historical Society
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U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 9, 2021

Sally Peltz, Chair
Milwaukee Historic Preservation Commission
Zeidler Municipal Building
841 N. Broadway, Room B-1
Milwaukee, WI 53202

RE: Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI
Finding of Adverse Effect and Invitation to be a Consulting Party

Dear Chair Peltz,

The Federal Railroad Administration (FRA) is providing funding to the Wisconsin Department of Transportation (WisDOT) through the Consolidated Rail and Infrastructure and Safety Improvements (CRISI) grant. These funds will be used to make infrastructure improvements in and around the Canadian Pacific Railway (CPR) Muskego Yard in the City of Milwaukee, Wisconsin. This project constitutes an Undertaking pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) "Protection of Historic Properties" (Section 106). While this Undertaking will require permits from the U.S. Army Corps of Engineers and the U.S. Coast Guard, FRA is acting as the lead federal agency for Section 106.

This letter is being transmitted to notify you of FRA's findings of National Register of Historic Places (NRHP) eligibility for specified properties in the Area of Potential Effects (APE) and FRA's finding of adverse effect.

Description of Undertaking

The purpose of the project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies, and provide reliable train access in and around the Muskego Yard project area. The proposed project consists of signalization improvements and track expansion and rehabilitation along the CPR corridor between the Kinnickinnic River and the western end of the Muskego Railyard. Full plans for the project are provided at Attachment A.

Traveling north from the Kinnickinnic River, the corridor currently consists of two operating main tracks leading to the Milwaukee Intermodal Station and one yard lead track to Muskego Yard. Between Kinnickinnic Avenue and National Avenue, an existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track will be constructed to the east on existing track roadbed within existing CPR Railway right-of

way. Just south of Florida Street, the four tracks will begin to split, with two continuing north to the MIS (no further work planned in current project scope), and two continuing west towards the Muskego rail yard. Beginning west of 2nd Street, a third track will be constructed, and temporary easement and permanent right-of-way acquisitions will be required along portions of the corridor. The bridges over Florida Street, 1st Street and 2nd Street will be rehabilitated. The bridge over an alley between 2nd Street and 3rd Street will be removed. At the Burnham Canal, the existing 2-track swing bridge (referred to in this document as the Burnham Canal Bridge) will be removed and a new 3-track replacement bridge will be constructed. Within the Muskego rail yard, four existing tracks along the southern edge of the yard will be shifted and rehabilitated or reconstructed. At the western end of the yard, a new 8-track bridge will replace existing structures over the Menomonee River. West of 27th Street, existing tracks will be reconstructed or rehabilitated within the existing right-of-way as they leave the yard and terminate into the existing mainline tracks, with the project corridor ending just west of 35th Street.

Area of Potential Effects

Given the nature of the project and its potential to impact the project area, two APEs were established - an archaeological APE that considers potential effects related to ground disturbance and an architectural APE that considers indirect visual and auditory effects that considered all properties within and immediately adjacent to the proposed project corridor. All resources in the APE that were at least 40 years old and possessed a degree of historic integrity were examined for potential historical significance. The APE maps are provided in Attachment B.

Identification of Historic Properties

In accordance with 36 CFR 800.4(b), FRA has made a good faith effort to identify historic properties within the APE. FRA has completed both an architectural and an archaeological survey of the APE. Both of these surveys consisted of archival and literature search of the Wisconsin Historic Preservation Database and the State and National Registers of Historic Places (NRHP) to identify previously recorded historic properties. This work was followed by field work to verify the presence or absence of previously identified properties as well as to identify any properties that had not been previously identified or surveyed.

The architectural survey included the evaluation of several previously unrecorded properties. FRA has determined that two of these properties, the Burnham Canal and the Burnham Canal Bridge, are eligible for listing on the NRHP. An additional seven properties that are listed in or eligible for listing on the NRHP were identified within the APE. A full list and description of the historic architectural properties within the APE is provided in the Architectural History Report found in Attachment D. The determinations of NRHP eligibility for the Burnham Canal and the Burnham Canal Bridge are provided at Attachment E and F respectively.

FRA also identified and conducted site visits at historic properties that were immediately adjacent to the project area. These properties include: the Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, 16th Street Viaduct, Mitchell Park Domes, the Northwestern Malleable Iron Company, and an additional 55 previously surveyed individual properties. The results of this resurvey effort are outlined in Architectural History Report found in Attachment D. FRA has determined that the undertaking will not result in adverse physical, auditory, visual, or vibration effects to any of these properties. FRA is providing updated

information on these historic properties for informational purposes only and is not seeking SHPO concurrence on eligibility recommendations made in the report.

The archaeological survey determined that the entire project area has been heavily disturbed by grading, fill, and development activities. Two archaeological sites were identified immediately adjacent to the APE. Both sites have been determined ineligible for NRHP listing.

Assessment of Effects

In accordance with 36 CFR 800.5(a) FRA has applied the criteria of adverse effects to the Undertaking. FRA finds that the majority of the activities within the undertaking are consistent with the historic use and setting of the Muskego Rail Yard. In accordance with 36 CFR 800.4(c)(2), FRA has determined that the First Street, Alley, Second Street, Florida Street, and Menominee River Bridges are not eligible for listing in the NRHP and that the renovation of the First, Second, Florida Street bridges and replacement of the alley and Menominee river bridges will not affect historic properties. Therefore, the undertaking will have No Adverse Effect on historic architectural resources within the APE, except as noted below.

FRA has determined that that the removal and replacement of the NRHP eligible Burnham Canal Bridge constitutes an adverse effect (36 CFR 800.5(a)(2)(i)). FRA has determined replacement of the Burnham Canal Bridge with a new bridge would not cause indirect effects to the NRHP eligible Burnham Canal. FRA will require WisDOT to develop a Construction Environmental Protection Plan (CEPP) to prevent inadvertent damage to the canal during construction of the replacement bridge, and this requirement will be captured in the Memorandum of Agreement.

FRA has determined that the APE has been heavily impacted by previous ground disturbing and fill activities and that there is little potential for the presence of intact archaeological resources. As the consultation process for this undertaking continues, FRA will develop appropriate procedures to determine if previously undisturbed soil layers will be impacted by construction and to minimize the potential for inadvertent disturbance of deeply buried archaeological resources or human remains during the course of construction. These requirements will also be captured in the Memorandum of Agreement.

Summary of Findings and Determinations

FRA findings are:

- The following properties are not eligible for NRHP listing: Bridge BR84.73 – First Street, Bridge BR84.84 – Alley, Bridge BR84.80 – Second Street, Bridge BR84.66 – Florida Street, Bridge BR 86.98 Menominee River, and archaeological sites 47MI0109 and 47MI0207.
- The following properties are eligible for the NRHP: Burnham Canal and Burnham Canal Bridge.
- The project will result in an Adverse Effect to the Burnham Canal Bridge. As discussed above, all other NRHP-eligible or listed properties will not be adversely affected including the Burnham Canal for which adverse effects will be avoided through appropriate bridge design and implementation of a CEPP.

In accordance with 36 CFR Part 800.2(c), FRA has identified your organization as one that may be interested in the proposed Project and FRA's determination of adverse effects. Please notify

FRA if you have any comments on its findings or determinations and notify FRA of your interest to participate as a consulting party to discuss possible methods for avoiding, minimizing, and/or mitigating the adverse effects through the development of a Memorandum of Agreement. FRA requests a response within 30 days of receipt of this letter.

An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses. Any comments provided on FRA's finding of Adverse Effect will be included the FRA's notification to the Advisory Council on Historic Preservation of this finding (36 CFR 800.6(a)(1)). If you have any questions or wish to discuss this undertaking please contact Derek Manning, at 857-998-1779 or derek.manning@dot.gov.

Sincerely,



Katherine Zeringue
Federal Preservation Officer
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Melissa Hatcher, FRA
Arun Rao, WisDOT

Enclosures:

- Attachment A – Project Plans
- Attachment B – Area of Potential Effects Map
- Attachment C – Tribal and Consulting Party List
- Attachment D – Architecture/History Survey
- Attachment E – Determination of Eligibility: Burnham Canal
- Attachment F – Determination of Eligibility: Burnham Canal Bridge

From: [Manning, Derek \(Volpe\)](#)
To: [Hatala, Carlen](#)
Cc: [Caron Kloser](#); [arun.rao dot.wi.gov](#); [Hatcher, Melissa \(FRA\)](#); [Schmidt, Jonathan \(Volpe\)](#); [Aaron Bowe](#); [lisa.stern@dot.wi.gov](#)
Subject: RE: Section 106 Muskego Yard project
Date: Wednesday, March 10, 2021 2:41:37 PM

Carlen,

Thank you for the quick response. We will add you to the formal consulting parties list.

Yes, there will be a consulting parties meeting to discuss the project and proposed mitigations. We will reach out to consulting parties in the next few weeks to schedule that meeting. With the ongoing Covid emergency the meeting will be held over zoom or similar platform.

Derek

From: Hatala, Carlen <chatal@milwaukee.gov>
Sent: Wednesday, March 10, 2021 3:27 PM
To: Manning, Derek (Volpe) <Derek.Manning@dot.gov>
Subject: Section 106 Muskego Yard project

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Mr. Manning,

The City of Milwaukee Historic Preservation Section is interested in being a consulting party on this project.

I have a question: will there be scheduled meetings (zoom meetings) in which the consulting parties will have an opportunity to discuss and ask questions and go over any needed mitigation? Such meetings had taken place, and new ones will come up, regarding the reconstruction of I-94.

Carlen

Carlen Hatala
Senior Lanner
Historic Preservation
City of Milwaukee
841 North Broadway Room B-1
Milwaukee, WI 53202
(414) 286-5722
Carlen.hatala@milwaukee.gov

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April 30, 2021

Mr. Derek Manning
Environmental Protection Specialist
U.S. Department of Transportation—Volpe Center
55 Broadway
Cambridge, MA 02142

RE: C&P Railway Muskego Yard Bypass, WisDOT Project ID 0385-57-03

Dear Mr. Derek Manning:

The City of Milwaukee (City), in its capacity as a Certified Local Government, invokes its right to comment on the Federal Railroad Administration's (FRA) undertaking involving the Muskego Railyard. The following comments and recommendations are intended to address the adverse effects of the proposed undertaking to the newly identified historic resources and the adjacent landmarks and historic districts, as well as to propose beneficial methods of mitigation.

Determinations and Findings of Effect

Firstly, the City does concur with the Determinations of Eligibility on the for both the Burnham Canal and Burnham Canal Bridge. The City does not concur with the consultant's findings of effect nor with the evaluation of some of the resources.

On the matter of resource identification, the consultants correctly note that the APE cuts through three National Register Historic Districts. However, they looked at the surrounding areas strictly within the context of the outdated text of the nominations. A modern cultural landscape view is required to properly evaluate the resources in the district and nominations as old as these, particularly Walker's Point have significant blind spots in their recognition of structures and cultural landscapes. Had these districts been established under current understandings of cultural landscapes (rather than looking strictly at buildings without considering the full associated industrial context) the railroad overpasses and bridges on the project route that are either adjacent to the Florida and Third National Register Historic District (NRHD) and those within the boundary of the Walker's Point (NRHD) should have been included as contributing resources in the district. These are all high-integrity resources that contribute to the character of the district. The buildings there would not have survived



long enough to become a NRHD but for the rail infrastructure. Therefore, the bridges and overpasses on 1st and 2nd Streets need to be evaluated in the context of contributing to a district. They clearly do contribute to a district, regardless of their potential individual eligibility.

The demolition of the bridge over the Burnham Canal is, by definition, an adverse effect. However, the bridge and the Canal are a system and, again, integral components of a connected, industrial cultural landscape. But for the earlier Canal, there would not necessarily have been a need to run railroad tracks on their present alignment through the Menomonee River Valley at all. With the canal being an *artificial* waterway, it induced the need for rail connections to the industrial zone it created, therefore the Bridge and Canal constitute portions of a highly integrated cultural landscape. Therefore, removal and replacement of the historic bridge creates an adverse effect on the cultural landscape and thus on the Burnham Canal itself.

Additionally, the Burnham Canal, in its original function as a navigable industrial waterway is impaired by the proposed project. Replacement of the current swing bridge with a fixed, inoperable bridge permanently impairs use of the Canal for its original purpose. Any replacement bridge that does not even have the *appearance* of operability compromises the Canal's integrity of setting, feeling, and association. The appearance of operability is vital to these components of integrity, as the Canal cannot even be perceived in its original function without the appearance of access for navigability. Therefore, the proposed replacement bridge constitutes an adverse effect on the Canal. Regardless of appearance, actual operability is required to avoid a section 4(f) use of the Canal. The new bridge is larger than the original and permanently incorporates more of the Canal's airspace and sidewalls than the existing bridge. A fixed bridge substantially impairs the associated activities for which the Canal is eligible, namely industrial navigation. Use of more Canal walls and air rights appear to constitute a 4(f) use of the permanent incorporation type. Use of the airspace is certainly constructive use whether air rights exist.

Alternatives Analysis

The City requested formal consulting party status in May 2020. It is unfortunate that the FRA and its consultants failed to consult with the City since then regarding project alternatives or mitigation until April 2021, two weeks before the project comment deadline. The FRA's foregone conclusion is that bridge demolition is necessary.

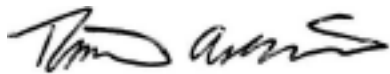
However, the FRA has meaningfully proposed only one potential project at this site. Alternatives have been verbally discussed, but there no documentation of them has been provided nor to do they appear to have been given sufficient design effort to evaluate and compare properly. They were clearly dismissed as non-viable prior to consultation. Due to the adverse effects that the proposed project would have upon both the Burnham Canal and the Burnham Canal Bridge, the City recommends a thorough alternatives analysis be completed. Currently, the City is unaware of any substantial exploration of alternative approaches to accomplishing the FRA's objectives while avoiding or reducing adverse effects on the above-mentioned historic resources. Once an alternatives analysis is made available to consulting parties, the City can meaningfully consult on preferred project approaches and, as necessary, comment upon mitigation strategies.

Mitigation

Having comments due without having any proposed mitigation offered in writing for the sole proposed project is a true challenge. However, the City offers to following comments upon the currently proposed mitigation measures.

The overall proposed mitigation package is woefully disproportionate to the project's budget even in the case of finding only an adverse effect on the bridge and on no other features. We understand that the mitigation proposed during the consultation meeting on April 22, 2021 was HAER documentation of the bridge, an Environmental Protection Plan to minimize effects on the Canal, publication of an academic article regarding the bridge, and taking care not to disturb the Canal walls as much as possible during construction. The City believes that the bridge may be of sufficiently unique construction and design to merit HAER documentation and that this might meaningfully advance knowledge, at least among preservation professionals. The offer of an academic article on top of HAER recording is redundant and would not engage the surrounding neighborhoods, the city, nor even the populace of the state in preservation efforts in any way. Useful mitigation would be something that goes beyond these tired and ineffective "document and destroy" efforts. The City's preference would be a survey effort recording surviving buildings and structures of CP's predecessor entity, the Milwaukee Road, a Milwaukee County railroad historic context study, or a broader survey of surviving railroad non-track infrastructure and buildings. The best use of mitigation funds and efforts would be to identify what remains so that further destruction can be avoided with better planning, consultation, and foreknowledge.

Sincerely,



Tim Askin, Senior Planner
Historic Preservation Commission

CC: Wisconsin Historical Society—Compliance Division
Milwaukee Preservation Alliance
UWM-CRM
HNTB Corporation (CKloser@hntb.com)



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 9, 2021

Jeff Goutcher, President
Milwaukee Road Historical Association
P.O. Box 307
Antioch, IL 60002

RE: Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI
Finding of Adverse Effect and Invitation to be a Consulting Party

Dear Mr. Goutcher,

The Federal Railroad Administration (FRA) is providing funding to the Wisconsin Department of Transportation (WisDOT) through the Consolidated Rail and Infrastructure and Safety Improvements (CRISI) grant. These funds will be used to make infrastructure improvements in and around the Canadian Pacific Railway (CPR) Muskego Yard in the City of Milwaukee, Wisconsin. This project constitutes an Undertaking pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) "Protection of Historic Properties" (Section 106). While this Undertaking will require permits from the U.S. Army Corps of Engineers and the U.S. Coast Guard, FRA is acting as the lead federal agency for Section 106.

This letter is being transmitted to notify you of FRA's findings of National Register of Historic Places (NRHP) eligibility for specified properties in the Area of Potential Effects (APE) and FRA's finding of adverse effect.

Description of Undertaking

The purpose of the project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies, and provide reliable train access in and around the Muskego Yard project area. The proposed project consists of signalization improvements and track expansion and rehabilitation along the CPR corridor between the Kinnickinnic River and the western end of the Muskego Railyard. Full plans for the project are provided at Attachment A.

Traveling north from the Kinnickinnic River, the corridor currently consists of two operating main tracks leading to the Milwaukee Intermodal Station and one yard lead track to Muskego Yard. Between Kinnickinnic Avenue and National Avenue, an existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track will be constructed to the east on existing track roadbed within existing CPR Railway right-of way. Just south of Florida Street, the four tracks will begin to split, with two continuing north to

the MIS (no further work planned in current project scope), and two continuing west towards the Muskego rail yard. Beginning west of 2nd Street, a third track will be constructed, and temporary easement and permanent right-of-way acquisitions will be required along portions of the corridor. The bridges over Florida Street, 1st Street and 2nd Street will be rehabilitated. The bridge over an alley between 2nd Street and 3rd Street will be removed. At the Burnham Canal, the existing 2-track swing bridge (referred to in this document as the Burnham Canal Bridge) will be removed and a new 3-track replacement bridge will be constructed. Within the Muskego rail yard, four existing tracks along the southern edge of the yard will be shifted and rehabilitated or reconstructed. At the western end of the yard, a new 8-track bridge will replace existing structures over the Menomonee River. West of 27th Street, existing tracks will be reconstructed or rehabilitated within the existing right-of-way as they leave the yard and terminate into the existing mainline tracks, with the project corridor ending just west of 35th Street.

Area of Potential Effects

Given the nature of the project and its potential to impact the project area, two APEs were established - an archaeological APE that considers potential effects related to ground disturbance and an architectural APE that considers indirect visual and auditory effects that considered all properties within and immediately adjacent to the proposed project corridor. All resources in the APE that were at least 40 years old and possessed a degree of historic integrity were examined for potential historical significance. The APE maps are provided in Attachment B.

Identification of Historic Properties

In accordance with 36 CFR 800.4(b), FRA has made a good faith effort to identify historic properties within the APE. FRA has completed both an architectural and an archaeological survey of the APE. Both of these surveys consisted of archival and literature search of the Wisconsin Historic Preservation Database and the State and National Registers of Historic Places (NRHP) to identify previously recorded historic properties. This work was followed by field work to verify the presence or absence of previously identified properties as well as to identify any properties that had not been previously identified or surveyed.

The architectural survey included the evaluation of several previously unrecorded properties. FRA has determined that two of these properties, the Burnham Canal and the Burnham Canal Bridge, are eligible for listing on the NRHP. An additional seven properties that are listed in or eligible for listing on the NRHP were identified within the APE. A full list and description of the historic architectural properties within the APE is provided in the Architectural History Report found in Attachment D. The determinations of NRHP eligibility for the Burnham Canal and the Burnham Canal Bridge are provided at Attachment E and F respectively.

FRA also identified and conducted site visits at historic properties that were immediately adjacent to the project area. These properties include: the Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, 16th Street Viaduct, Mitchell Park Domes, the Northwestern Malleable Iron Company, and an additional 55 previously surveyed individual properties. The results of this resurvey effort are outlined in Architectural History Report found in Attachment D. FRA has determined that the undertaking will not result in adverse physical, auditory, visual, or vibration effects to any of these properties. FRA is providing updated information on these historic properties for informational purposes only.

The archaeological survey determined that the entire project area has been heavily disturbed by grading, fill, and development activities. Two archaeological sites were identified immediately adjacent to the APE. Both sites have been determined ineligible for NRHP listing.

Assessment of Effects

In accordance with 36 CFR 800.5(a) FRA has applied the criteria of adverse effects to the Undertaking. FRA finds that the majority of the activities within the undertaking are consistent with the historic use and setting of the Muskego Rail Yard. In accordance with 36 CFR 800.4(c)(2), FRA has determined that the First Street, Alley, Second Street, Florida Street, and Menominee River Bridges are not eligible for listing in the NRHP and that the renovation of the First, Second, Florida Street bridges and replacement of the alley and Menominee river bridges will not affect historic properties. Therefore, the undertaking will have No Adverse Effect on historic architectural resources within the APE, except as noted below.

FRA has determined that the removal and replacement of the NRHP eligible Burnham Canal Bridge constitutes an adverse effect (36 CFR 800.5(a)(2)(i)). FRA has determined replacement of the Burnham Canal Bridge with a new bridge would not cause indirect effects to the NRHP eligible Burnham Canal. FRA will require WisDOT to develop a Construction Environmental Protection Plan (CEPP) to prevent inadvertent damage to the canal during construction of the replacement bridge, and this requirement will be captured in the Memorandum of Agreement.

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Summary of Findings and Determinations

FRA findings are:

- The following properties are not eligible for NRHP listing: Bridge BR84.73 – First Street, Bridge BR84.84 – Alley, Bridge BR84.80 – Second Street, Bridge BR84.66 – Florida Street, Bridge BR 86.98 Menominee River, and archaeological sites 47MI0109 and 47MI0207.
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In accordance with 36 CFR Part 800.2(c), FRA has identified your organization as one that may be interested in the proposed Project and FRA's determination of adverse effects. Please notify FRA if you have any comments on its findings or determinations and notify FRA of your interest to participate as a consulting party to discuss possible methods for avoiding, minimizing, and/or

mitigating the adverse effects through the development of a Memorandum of Agreement. FRA requests a response within 30 days of receipt of this letter.

An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses. Any comments provided on FRA's finding of Adverse Effect will be included in the FRA's notification to the Advisory Council on Historic Preservation of this finding (36 CFR 800.6(a)(1)). If you have any questions or wish to discuss this undertaking please contact Derek Manning, at 857-998-1779 or derek.manning@dot.gov.

Sincerely,



Katherine Zeringue
Federal Preservation Officer
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Melissa Hatcher, FRA
Arun Rao, WisDOT

Enclosures:

- Attachment A – Project Plans
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- Attachment C – Tribal and Consulting Party List
- Attachment D – Architecture/History Survey
- Attachment E – Determination of Eligibility: Burnham Canal
- Attachment F – Determination of Eligibility: Burnham Canal Bridge

From: [Manning, Derek \(Volpe\)](#)
To: [Caron Kloser](#); [Schmidt, Jonathan \(Volpe\)](#); [Hatcher, Melissa \(FRA\)](#); [arun.rao.dot.wi.gov](#); [Aaron Bowe](#)
Subject: FW: Muskego Yard Bypass
Date: Monday, April 5, 2021 6:32:47 AM

FYI

From: bwlfx64@aol.com <bwlfx64@aol.com>
Sent: Saturday, April 3, 2021 11:45 AM
To: Manning, Derek (Volpe) <Derek.Manning@dot.gov>
Subject: Muskego Yard Bypass

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

The Milwaukee Road Historical Association has no objections to the following proposed improvement:

Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI

As a result of this consideration we will not need to be a Consulting Party to the Adverse Effect Finding Group

Sincerely,

Carolyn A. Helms, Secretary
Milwaukee Road Historical Association



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 9, 2021

Jeremy Ebersole, Executive Director
Milwaukee Preservation Alliance
1100 S. 5th Street
Suite 319
Milwaukee, WI 53204

RE: Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI
Finding of Adverse Effect and Invitation to be a Consulting Party

Dear Mr. Ebersole,

The Federal Railroad Administration (FRA) is providing funding to the Wisconsin Department of Transportation (WisDOT) through the Consolidated Rail and Infrastructure and Safety Improvements (CRISI) grant. These funds will be used to make infrastructure improvements in and around the Canadian Pacific Railway (CPR) Muskego Yard in the City of Milwaukee, Wisconsin. This project constitutes an Undertaking pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) "Protection of Historic Properties" (Section 106). While this Undertaking will require permits from the U.S. Army Corps of Engineers and the U.S. Coast Guard, FRA is acting as the lead federal agency for Section 106.

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The archaeological survey determined that the entire project area has been heavily disturbed by grading, fill, and development activities. Two archaeological sites were identified immediately adjacent to the APE. Both sites have been determined ineligible for NRHP listing.

Assessment of Effects

In accordance with 36 CFR 800.5(a) FRA has applied the criteria of adverse effects to the Undertaking. FRA finds that the majority of the activities within the undertaking are consistent with the historic use and setting of the Muskego Rail Yard. In accordance with 36 CFR 800.4(c)(2), FRA has determined that the First Street, Alley, Second Street, Florida Street, and Menominee River Bridges are not eligible for listing in the NRHP and that the renovation of the First, Second, Florida Street bridges and replacement of the alley and Menominee river bridges will not affect historic properties. Therefore, the undertaking will have No Adverse Effect on historic architectural resources within the APE, except as noted below.

FRA has determined that the removal and replacement of the NRHP eligible Burnham Canal Bridge constitutes an adverse effect (36 CFR 800.5(a)(2)(i)). FRA has determined replacement of the Burnham Canal Bridge with a new bridge would not cause indirect effects to the NRHP eligible Burnham Canal. FRA will require WisDOT to develop a Construction Environmental Protection Plan (CEPP) to prevent inadvertent damage to the canal during construction of the replacement bridge, and this requirement will be captured in the Memorandum of Agreement.

FRA has determined that the APE has been heavily impacted by previous ground disturbing and fill activities and that there is little potential for the presence of intact archaeological resources. As the consultation process for this undertaking continues, FRA will develop appropriate procedures to determine if previously undisturbed soil layers will be impacted by construction and to minimize the potential for inadvertent disturbance of deeply buried archaeological resources or human remains during the course of construction. These requirements will also be captured in the Memorandum of Agreement.

Summary of Findings and Determinations

FRA findings are:

- The following properties are not eligible for NRHP listing: Bridge BR84.73 – First Street, Bridge BR84.84 – Alley, Bridge BR84.80 – Second Street, Bridge BR84.66 – Florida Street, Bridge BR 86.98 Menominee River, and archaeological sites 47MI0109 and 47MI0207.
- The following properties are eligible for the NRHP: Burnham Canal and Burnham Canal Bridge.
- The project will result in an Adverse Effect to the Burnham Canal Bridge. As discussed above, all other NRHP-eligible or listed properties will not be adversely affected including the Burnham Canal for which adverse effects will be avoided through appropriate bridge design and implementation of a CEPP.

In accordance with 36 CFR Part 800.2(c), FRA has identified your organization as one that may be interested in the proposed Project and FRA's determination of adverse effects. Please notify

FRA if you have any comments on its findings or determinations and notify FRA of your interest to participate as a consulting party to discuss possible methods for avoiding, minimizing, and/or mitigating the adverse effects through the development of a Memorandum of Agreement. FRA requests a response within 30 days of receipt of this letter.

An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses. Any comments provided on FRA's finding of Adverse Effect will be included the FRA's notification to the Advisory Council on Historic Preservation of this finding (36 CFR 800.6(a)(1)). If you have any questions or wish to discuss this undertaking please contact Derek Manning, at 857-998-1779 or derek.manning@dot.gov.

Sincerely,



Katherine Zeringue
Federal Preservation Officer
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Melissa Hatcher, FRA
Arun Rao, WisDOT

Enclosures:

- Attachment A – Project Plans
- Attachment B – Area of Potential Effects Map
- Attachment C – Tribal and Consulting Party List
- Attachment D – Architecture/History Survey
- Attachment E – Determination of Eligibility: Burnham Canal
- Attachment F – Determination of Eligibility: Burnham Canal Bridge

From: [Jeremy Ebersole](#)
To: [Caron Kloser](#)
Cc: mpa@milwaukeepreservation.org
Subject: Re: Section 106 Consultation - Muskego Railyard Bypass - Milwaukee WI
Date: Monday, March 15, 2021 9:37:01 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Ms. Kloser,

The Milwaukee Preservation Alliance is interested in participating as a consulting partner. Please keep us in the loop and let us know when consultation meetings will be held. Are you the correct person to notify of this interest, or would we want to contact Mr. Manning? Thanks very much!

Jeremy T. Ebersole (he/him/his)
Executive Director
Milwaukee Preservation Alliance
1100 S. 5th Street, Suite 319, Milwaukee, WI 53204
(414) 220-0530 * milwaukeepreservationalliance.org
[Facebook](#) * [Instagram](#) * [Twitter](#)

MPA is a 501(c)(3) non-profit organization devoted to promoting stewardship and awareness of the historic, cultural and economic value of Milwaukee's built heritage.



On Wed, Mar 10, 2021 at 1:02 PM Caron Kloser <CKloser@hntb.com> wrote:

Hello,

I am submitting the attached package on behalf of the Federal Railroad Administration (FRA). The FRA is funding a project to make various rail improvements in and around the Muskego Railyard in Milwaukee, Wisconsin. These improvements will allow freight trains to bypass the passenger rail station when traveling through the city.

Please find attached the Section 106 consultation letter for this undertaking. All of supporting documentation is available at:

<https://app.box.com/s/76x08nn2wnjnbnmu7okqopo5jbyuu1uds>

If you have any questions, please contact Derek Manning at Derek.Manning@dot.gov.

Regards,

Caron Kloser

Caron Kloser AVP, AICP

Urban Development and Planning

Tel (414) 410-6776 Cell (414) 975-2030 Email ckloser@hntb.com

HNTB CORPORATION

250 E. Wisconsin Avenue, Suite 2000 | Milwaukee, WI 53202 | hntb.com

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This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. If you are NOT the intended recipient and receive this communication, please delete this message and any attachments. Thank you.



May 26, 2021

Derek Manning
Environmental Protection Specialist
U.S. Department of Transportation
Volpe Center
55 Broadway
Cambridge, MA 02142

1100 S. 5th Street, Ste. 319
Milwaukee, WI 53204
P: 414.220.0530

RE: Muskego Yard Bypass, WisDOT Project ID 0385-57-03

Dear Mr. Manning,

As a consulting party to Section 106 proceedings, Milwaukee Preservation Alliance (MPA) wishes to formally comment on the Federal Railroad Administration's (FRA) Muskego Yard Bypass undertaking. We submit these comments and recommendations to encourage a more holistic approach to Findings of Effect, clarify avoidance alternatives, and recommend alternative mitigation measures appropriate to the magnitude of Adverse Effects on identified historic resources.

Findings of Effect

While MPA concurs with the Determination of Eligibility for both the Burnham Canal and Burnham Canal Bridge, we do not concur with the FRA's determination that "replacement of the Burnham Canal Bridge with a new bridge would not cause indirect effects to the NRHP eligible Burnham Canal." The bridge and canal must be seen and evaluated as a linked system of industrial transportation infrastructure that form a cultural landscape. The Menomonee River Valley has a long history as an industrial landscape. Canals like the Burnham Canal helped create this landscape, which was then perpetuated with the coming of the railroad. In addition, the bridge was built as a rare example of a bobtail swing bridge specifically because of the design challenges of crossing the canal. We believe that the integrity of setting, feeling, and association for the canal would be diminished without the presence of the bobtail swing bridge, and the bridge's removal would therefore constitute an adverse effect on the canal.

Avoidance/Minimization Alternatives

We would be interested in more conclusive explanations for why avoidance alternatives are infeasible. Avoiding or minimizing adverse effects on identified historic resources is preferable to mitigation, and we would like to better understand how these options were creatively explored to identify solutions that avoid or minimize adverse effects while still meeting project goals before the decision was made to replace the Burnham Canal Bridge. We would therefore request a more thorough written explanation of alternatives that might avoid or minimize adverse effects on the identified historic resources.

Mitigation

MPA does not believe the proposed mitigation measures are compensatory with the loss of the Burnham Canal Bridge and what we believe to be an Adverse Effect on the Burnham Canal.

- We support the proposal to create HAER documentation on the Burnham Canal Bridge.

- We do not believe the public interpretation plan is sufficient as it stands and may be redundant to the HAER documentation. If public interpretation is included as a mitigation measure, there must be methods built in to guarantee the public is able to access the interpretation. Since the site does not allow for direct public access and acceptance for publication in a public journal or magazine is difficult to guarantee, we believe this mitigation measure would be difficult to achieve in a substantive way.
- While we support the inclusion of a Construction Environmental Protection Plan to minimize effects on the canal, we do not believe this rises to the level of mitigation and instead should simply be standard procedure to minimize damage to an identified historic resource.
- MPA believes a better mitigation strategy adequate to address the Adverse Effects is a historic resources survey and context statement of similar resources in the region. This could include railroad infrastructure in Milwaukee County, which would be a valuable tool to helping future historians understand the historic rail resources that helped develop the region as well as prevent future loss of significant resources. At a minimum, this should include all railroad bridges in the City of Milwaukee. A less desirable alternative would be the National Register designation of similar resources, for example the remaining bobtail swing bridges in the City.

Thank you for your time and consideration. We look forward to working together toward a mutually agreeable solution.

Respectfully,

Jeremy Ebersole
Executive Director

CC: Wisconsin Historical Society
City of Milwaukee Historic Preservation Office
HNTB Corporation



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 9, 2021

Mame Croze McCully, Executive Director
Milwaukee County Historical Society
910 N. Old World Third Street
Milwaukee, WI 53203

RE: Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI
Finding of Adverse Effect and Invitation to be a Consulting Party

Dear Ms. Croze McCully,

The Federal Railroad Administration (FRA) is providing funding to the Wisconsin Department of Transportation (WisDOT) through the Consolidated Rail and Infrastructure and Safety Improvements (CRISI) grant. These funds will be used to make infrastructure improvements in and around the Canadian Pacific Railway (CPR) Muskego Yard in the City of Milwaukee, Wisconsin. This project constitutes an Undertaking pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) "Protection of Historic Properties" (Section 106). While this Undertaking will require permits from the U.S. Army Corps of Engineers and the U.S. Coast Guard, FRA is acting as the lead federal agency for Section 106.

This letter is being transmitted to notify you of FRA's findings of National Register of Historic Places (NRHP) eligibility for specified properties in the Area of Potential Effects (APE) and FRA's finding of adverse effect.

Description of Undertaking

The purpose of the project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies, and provide reliable train access in and around the Muskego Yard project area. The proposed project consists of signalization improvements and track expansion and rehabilitation along the CPR corridor between the Kinnickinnic River and the western end of the Muskego Railyard. Full plans for the project are provided at Attachment A.

Traveling north from the Kinnickinnic River, the corridor currently consists of two operating main tracks leading to the Milwaukee Intermodal Station and one yard lead track to Muskego Yard. Between Kinnickinnic Avenue and National Avenue, an existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track will be constructed to the east on existing track roadbed within existing CPR Railway right-of way. Just south of Florida Street, the four tracks will begin to split, with two continuing north to

the MIS (no further work planned in current project scope), and two continuing west towards the Muskego rail yard. Beginning west of 2nd Street, a third track will be constructed, and temporary easement and permanent right-of-way acquisitions will be required along portions of the corridor. The bridges over Florida Street, 1st Street and 2nd Street will be rehabilitated. The bridge over an alley between 2nd Street and 3rd Street will be removed. At the Burnham Canal, the existing 2-track swing bridge (referred to in this document as the Burnham Canal Bridge) will be removed and a new 3-track replacement bridge will be constructed. Within the Muskego rail yard, four existing tracks along the southern edge of the yard will be shifted and rehabilitated or reconstructed. At the western end of the yard, a new 8-track bridge will replace existing structures over the Menomonee River. West of 27th Street, existing tracks will be reconstructed or rehabilitated within the existing right-of-way as they leave the yard and terminate into the existing mainline tracks, with the project corridor ending just west of 35th Street.

Area of Potential Effects

Given the nature of the project and its potential to impact the project area, two APEs were established - an archaeological APE that considers potential effects related to ground disturbance and an architectural APE that considers indirect visual and auditory effects that considered all properties within and immediately adjacent to the proposed project corridor. All resources in the APE that were at least 40 years old and possessed a degree of historic integrity were examined for potential historical significance. The APE maps are provided in Attachment B.

Identification of Historic Properties

In accordance with 36 CFR 800.4(b), FRA has made a good faith effort to identify historic properties within the APE. FRA has completed both an architectural and an archaeological survey of the APE. Both of these surveys consisted of archival and literature search of the Wisconsin Historic Preservation Database and the State and National Registers of Historic Places (NRHP) to identify previously recorded historic properties. This work was followed by field work to verify the presence or absence of previously identified properties as well as to identify any properties that had not been previously identified or surveyed.

The architectural survey included the evaluation of several previously unrecorded properties. FRA has determined that two of these properties, the Burnham Canal and the Burnham Canal Bridge, are eligible for listing on the NRHP. An additional seven properties that are listed in or eligible for listing on the NRHP were identified within the APE. A full list and description of the historic architectural properties within the APE is provided in the Architectural History Report found in Attachment D. The determinations of NRHP eligibility for the Burnham Canal and the Burnham Canal Bridge are provided at Attachment E and F respectively.

FRA also identified and conducted site visits at historic properties that were immediately adjacent to the project area. These properties include: the Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, 16th Street Viaduct, Mitchell Park Domes, the Northwestern Malleable Iron Company, and an additional 55 previously surveyed individual properties. The results of this resurvey effort are outlined in Architectural History Report found in Attachment D. FRA has determined that the undertaking will not result in adverse physical, auditory, visual, or vibration effects to any of these properties. FRA is providing updated information on these historic properties for informational purposes only and is not seeking SHPO concurrence on eligibility recommendations made in the report.

The archaeological survey determined that the entire project area has been heavily disturbed by grading, fill, and development activities. Two archaeological sites were identified immediately adjacent to the APE. Both sites have been determined ineligible for NRHP listing.

Assessment of Effects

In accordance with 36 CFR 800.5(a) FRA has applied the criteria of adverse effects to the Undertaking. FRA finds that the majority of the activities within the undertaking are consistent with the historic use and setting of the Muskego Rail Yard. In accordance with 36 CFR 800.4(c)(2), FRA has determined that the First Street, Alley, Second Street, Florida Street, and Menominee River Bridges are not eligible for listing in the NRHP and that the renovation of the First, Second, Florida Street bridges and replacement of the alley and Menominee river bridges will not affect historic properties. Therefore, the undertaking will have No Adverse Effect on historic architectural resources within the APE, except as noted below.

FRA has determined that the removal and replacement of the NRHP eligible Burnham Canal Bridge constitutes an adverse effect (36 CFR 800.5(a)(2)(i)). FRA has determined replacement of the Burnham Canal Bridge with a new bridge would not cause indirect effects to the NRHP eligible Burnham Canal. FRA will require WisDOT to develop a Construction Environmental Protection Plan (CEPP) to prevent inadvertent damage to the canal during construction of the replacement bridge, and this requirement will be captured in the Memorandum of Agreement.

FRA has determined that the APE has been heavily impacted by previous ground disturbing and fill activities and that there is little potential for the presence of intact archaeological resources. As the consultation process for this undertaking continues, FRA will develop appropriate procedures to determine if previously undisturbed soil layers will be impacted by construction and to minimize the potential for inadvertent disturbance of deeply buried archaeological resources or human remains during the course of construction. These requirements will also be captured in the Memorandum of Agreement.

Summary of Findings and Determinations

FRA findings are:

- The following properties are not eligible for NRHP listing: Bridge BR84.73 – First Street, Bridge BR84.84 – Alley, Bridge BR84.80 – Second Street, Bridge BR84.66 – Florida Street, Bridge BR 86.98 Menominee River, and archaeological sites 47MI0109 and 47MI0207.
- The following properties are eligible for the NRHP: Burnham Canal and Burnham Canal Bridge.
- The project will result in an Adverse Effect to the Burnham Canal Bridge. As discussed above, all other NRHP-eligible or listed properties will not be adversely affected including the Burnham Canal for which adverse effects will be avoided through appropriate bridge design and implementation of a CEPP.

In accordance with 36 CFR Part 800.2(c), FRA has identified your organization as one that may be interested in the proposed Project and FRA's determination of adverse effects. Please notify FRA if you have any comments on its findings or determinations and notify FRA of your interest to participate as a consulting party to discuss possible methods for avoiding, minimizing, and/or

mitigating the adverse effects through the development of a Memorandum of Agreement. FRA requests a response within 30 days of receipt of this letter.

An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses. Any comments provided on FRA's finding of Adverse Effect will be included in the FRA's notification to the Advisory Council on Historic Preservation of this finding (36 CFR 800.6(a)(1)). If you have any questions or wish to discuss this undertaking please contact Derek Manning, at 857-998-1779 or derek.manning@dot.gov.

Sincerely,



Katherine Zeringue
Federal Preservation Officer
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Melissa Hatcher, FRA
Arun Rao, WisDOT

Enclosures:

- Attachment A – Project Plans
- Attachment B – Area of Potential Effects Map
- Attachment C – Tribal and Consulting Party List
- Attachment D – Architecture/History Survey
- Attachment E – Determination of Eligibility: Burnham Canal
- Attachment F – Determination of Eligibility: Burnham Canal Bridge



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 9, 2021

Stacy Swadish, Executive Director
Historic Milwaukee
235 E. Michigan Street
Milwaukee, WI 53202

RE: Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI
Finding of Adverse Effect and Invitation to be a Consulting Party

Dear Ms. Swadish,

The Federal Railroad Administration (FRA) is providing funding to the Wisconsin Department of Transportation (WisDOT) through the Consolidated Rail and Infrastructure and Safety Improvements (CRISI) grant. These funds will be used to make infrastructure improvements in and around the Canadian Pacific Railway (CPR) Muskego Yard in the City of Milwaukee, Wisconsin. This project constitutes an Undertaking pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) "Protection of Historic Properties" (Section 106). While this Undertaking will require permits from the U.S. Army Corps of Engineers and the U.S. Coast Guard, FRA is acting as the lead federal agency for Section 106.

This letter is being transmitted to notify you of FRA's findings of National Register of Historic Places (NRHP) eligibility for specified properties in the Area of Potential Effects (APE) and FRA's finding of adverse effect.

Description of Undertaking

The purpose of the project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies, and provide reliable train access in and around the Muskego Yard project area. The proposed project consists of signalization improvements and track expansion and rehabilitation along the CPR corridor between the Kinnickinnic River and the western end of the Muskego Railyard. Full plans for the project are provided at Attachment A.

Traveling north from the Kinnickinnic River, the corridor currently consists of two operating main tracks leading to the Milwaukee Intermodal Station and one yard lead track to Muskego Yard. Between Kinnickinnic Avenue and National Avenue, an existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track will be constructed to the east on existing track roadbed within existing CPR Railway right-of way. Just south of Florida Street, the four tracks will begin to split, with two continuing north to

the MIS (no further work planned in current project scope), and two continuing west towards the Muskego rail yard. Beginning west of 2nd Street, a third track will be constructed, and temporary easement and permanent right-of-way acquisitions will be required along portions of the corridor. The bridges over Florida Street, 1st Street and 2nd Street will be rehabilitated. The bridge over an alley between 2nd Street and 3rd Street will be removed. At the Burnham Canal, the existing 2-track swing bridge (referred to in this document as the Burnham Canal Bridge) will be removed and a new 3-track replacement bridge will be constructed. Within the Muskego rail yard, four existing tracks along the southern edge of the yard will be shifted and rehabilitated or reconstructed. At the western end of the yard, a new 8-track bridge will replace existing structures over the Menomonee River. West of 27th Street, existing tracks will be reconstructed or rehabilitated within the existing right-of-way as they leave the yard and terminate into the existing mainline tracks, with the project corridor ending just west of 35th Street.

Area of Potential Effects

Given the nature of the project and its potential to impact the project area, two APEs were established - an archaeological APE that considers potential effects related to ground disturbance and an architectural APE that considers indirect visual and auditory effects that considered all properties within and immediately adjacent to the proposed project corridor. All resources in the APE that were at least 40 years old and possessed a degree of historic integrity were examined for potential historical significance. The APE maps are provided in Attachment B.

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The architectural survey included the evaluation of several previously unrecorded properties. FRA has determined that two of these properties, the Burnham Canal and the Burnham Canal Bridge, are eligible for listing on the NRHP. An additional seven properties that are listed in or eligible for listing on the NRHP were identified within the APE. A full list and description of the historic architectural properties within the APE is provided in the Architectural History Report found in Attachment D. The determinations of NRHP eligibility for the Burnham Canal and the Burnham Canal Bridge are provided at Attachment E and F respectively.

FRA also identified and conducted site visits at historic properties that were immediately adjacent to the project area. These properties include: the Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, 16th Street Viaduct, Mitchell Park Domes, the Northwestern Malleable Iron Company, and an additional 55 previously surveyed individual properties. The results of this resurvey effort are outlined in Architectural History Report found in Attachment D. FRA has determined that the undertaking will not result in adverse physical, auditory, visual, or vibration effects to any of these properties. FRA is providing updated information on these historic properties for informational purposes only and is not seeking SHPO concurrence on eligibility recommendations made in the report.

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mitigating the adverse effects through the development of a Memorandum of Agreement. FRA requests a response within 30 days of receipt of this letter.

An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses. Any comments provided on FRA's finding of Adverse Effect will be included in the FRA's notification to the Advisory Council on Historic Preservation of this finding (36 CFR 800.6(a)(1)). If you have any questions or wish to discuss this undertaking please contact Derek Manning, at 857-998-1779 or derek.manning@dot.gov.

Sincerely,



Katherine Zeringue
Federal Preservation Officer
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Melissa Hatcher, FRA
Arun Rao, WisDOT

Enclosures:

- Attachment A – Project Plans
- Attachment B – Area of Potential Effects Map
- Attachment C – Tribal and Consulting Party List
- Attachment D – Architecture/History Survey
- Attachment E – Determination of Eligibility: Burnham Canal
- Attachment F – Determination of Eligibility: Burnham Canal Bridge



U. S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

May 4, 2021

A.J. Kitchen
U.S. Army Corps of Engineers
St. Paul District, Regulatory Branch
Via email: Anthony.J.Kitchen@usace.army.mil

RE: Section 106 Lead Agency Designation and Consulting Party Invitation
Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI

Dear Mr. Kitchen:

The Federal Railroad Administration (FRA) is providing funding to the Wisconsin Department of Transportation (WisDOT) to make infrastructure improvements in and around the Canadian Pacific Railway (CPR) Muskego Yard in the City of Milwaukee, Wisconsin. This project constitutes an Undertaking pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) "Protection of Historic Properties" (Section 106).

This Undertaking will require permits from the U.S. Army Corps of Engineers (USACE) and the U.S. Coast Guard (USCG). FRA proposes to serve as lead federal agency for Section 106 in accordance with 36 CFR 800.2(a)(2). As lead federal agency, FRA would fulfill FRA's, USACE's and USCG's collective responsibilities under Section 106.

This letter is being transmitted to notify you of FRA's finding of adverse effect and proposal to serve as lead federal agency for Section 106. FRA is also inviting your agency to be a consulting party in the development of a Memorandum of Agreement (MOA) to resolve the adverse effects.

Description of Undertaking

The purpose of the project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies, and provide reliable train access in and around the Muskego Yard project area. The proposed project consists of signalization improvements and track expansion and rehabilitation along the CPR corridor between the Kinnickinnic River and the western end of the Muskego Railyard. Full plans for the project are provided at Attachment A.

Traveling north from the Kinnickinnic River, the corridor currently consists of two operating main tracks leading to the Milwaukee Intermodal Station and one yard lead track to Muskego Yard.

Between Kinnickinnic Avenue and National Avenue, an existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track will be constructed to the east on existing track roadbed within existing CPR Railway right-of-way. Just south of Florida Street, the four tracks will begin to split, with two continuing north to the MIS (no further work planned in current project scope), and two continuing west towards the Muskego rail yard. Beginning west of 2nd Street, a third track will be constructed, and temporary easement and permanent right-of-way acquisitions will be required along portions of the corridor. The bridges over Florida Street, 1st Street and 2nd Street will be rehabilitated. The bridge over an alley between 2nd Street and 3rd Street will be removed. At the Burnham Canal, the existing 2-track swing bridge (referred to in this document as the Burnham Canal Bridge) will be removed and a new 3-track replacement bridge will be constructed. Within the Muskego rail yard, four existing tracks along the southern edge of the yard will be shifted and rehabilitated or reconstructed. At the western end of the yard, a new 8-track bridge will replace existing structures over the Menomonee River. West of 27th Street, existing tracks will be reconstructed or rehabilitated within the existing right-of-way as they leave the yard and terminate into the existing mainline tracks, with the project corridor ending just west of 35th Street.

Area of Potential Effects

Two APEs were established - an archaeological APE that considered potential effects related to ground disturbance and an architectural APE that considered indirect visual and auditory effects that accounted for all properties within and immediately adjacent to the proposed project corridor. All resources in the APE that were at least 40 years old and possessed a degree of historic integrity were examined for potential historical significance. The APE maps are provided in Attachment B.

Identification of Historic Properties

FRA completed both an architectural and an archaeological survey of the APEs. Both surveys consisted of archival and literature search of the Wisconsin Historic Preservation Database and the State and National Registers of Historic Places (NRHP) to identify previously recorded historic properties. This work was followed by field work to verify the presence or absence of previously identified properties as well as to identify any properties that had not been previously identified or surveyed.

The architectural survey included the evaluation of several previously unrecorded properties. FRA determined that two of these properties, the Burnham Canal and the Burnham Canal Bridge, are eligible for listing on the NRHP. An additional seven properties that are listed in or eligible for listing on the NRHP were identified within the APE. A full list and description of the historic architectural properties within the APE is provided in the Architectural History Report found in Attachment D. The determinations of NRHP eligibility for the Burnham Canal and the Burnham Canal Bridge are provided at Attachment E and F respectively.

FRA also identified and conducted site visits at historic properties that were immediately adjacent to the project area. These properties included: the Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, 16th Street Viaduct, Mitchell Park Domes, the Northwestern Malleable Iron Company, and an additional 55 previously surveyed individual properties. The results of this resurvey effort are outlined in Architectural History Report found in Attachment D. FRA determined that the undertaking will not result in adverse physical, auditory, visual, or vibration effects to any of these properties.

The archaeological survey determined that the entire project area has been heavily disturbed by

grading, fill, and development activities. Two archaeological sites were identified immediately adjacent to the APE - 47MI0109 and 47MI0207. Site 47MI0109 has an association with prehistoric burials and is codified as an uncatalogued burial site per Wisconsin Statute §157.70. Both sites have been determined ineligible for NRHP listing. A full summary of the archaeological resources adjacent to the APE can be found in the archaeological survey provided at Attachment G.

Assessment of Effects

In accordance with 36 CFR 800.5(a) FRA applied the criteria of adverse effects to the Undertaking and found that the majority of the activities within the undertaking are consistent with the historic use and setting of the Muskego Rail Yard. In accordance with 36 CFR 800.4(c)(2), FRA determined that the First Street, Alley, Second Street, Florida Street, and Menominee River Bridges are not eligible for listing in the NRHP and that the renovation of the First, Second, Florida Street bridges and replacement of the alley and Menominee river bridges will not affect historic properties. Therefore, the undertaking will have No Adverse Effect on historic architectural resources within the APE, except as noted below.

FRA determined that the removal and replacement of the NRHP eligible Burnham Canal Bridge constitutes an adverse effect (36 CFR 800.5(a)(2)(i)). FRA has determined replacement of the Burnham Canal Bridge with a new bridge would not cause indirect effects to the NRHP eligible Burnham Canal. FRA will require WisDOT to develop a Construction Environmental Protection Plan (CEPP) to prevent inadvertent damage to the canal during construction of the replacement bridge, and this requirement will be captured in the MOA.

FRA determined that the APE has been heavily impacted by previous ground disturbing and fill activities and that there is little potential for the presence of intact archaeological resources. The archaeological survey noted that prehistoric burials were located within the bounds of archaeological site 47MI0109. Because site 47MI0109 is classified as an *uncatalogued burial* site, disturbance within the site boundary will require review by the Wisconsin Historical Society in accordance with *Wisconsin Statute Part 157.70*. During the course of the consultation process the Forest County Potawatomi raised concerns that burials may be present under the layers of fill material at site 47MI0109 and 41MI0207. As the consultation process for this undertaking continues, FRA will develop appropriate procedures to determine if previously undisturbed soil layers will be impacted by construction and to minimize the potential for inadvertent disturbance of deeply buried archaeological resources or remains during the course of construction. These requirements will also be captured in the MOA.

Tribal Consultation

On March 12, 2020, FRA and WisDOT initiated consultation with tribes with an interest in Milwaukee County projects. In light of the challenges faced by numerous tribes during the Covid-19 emergency, WisDot has implemented a policy of contacting all tribes associated with the state. FRA will continue to consult with the tribes listed in Attachment C.

On August 19, 2020, the Forest County Potawatomi Community of Wisconsin requested soil data related to sites 47MI0109 and 47MI0207 to determine if potential burials would be impacted by construction activities. FRA will continue to work with the Forest County Potawatomi Community of Wisconsin to address their concerns as consultation continues on this undertaking.

Summary of Findings and Determinations

FRA findings are:

- The following properties are not eligible for NRHP listing: Bridge BR84.73 – First Street, Bridge BR84.84 – Alley, Bridge BR84.80 – Second Street, Bridge BR84.66 – Florida Street, Bridge BR 86.98 Menominee River, and archaeological sites 47MI0109 and 47MI0207.
- The following properties are eligible for the NRHP: Burnham Canal and Burnham Canal Bridge.
- The project will result in an Adverse Effect to the Burnham Canal Bridge. As discussed above, all other NRHP-eligible or listed properties will not be adversely affected including the Burnham Canal for which adverse effects will be avoided through appropriate bridge design and implementation of a CEPP.

Because your agency will have federal permit jurisdiction, FRA respectfully requests that your office provide a response in 30 days to our proposal for FRA to serve as lead federal agency for Section 106 compliance and our invitation to participate as a consulting part in the development of the MOA to resolve the adverse effects. As part of your response please indicate what, if any, role your agency would like to have in the development of the MOA and what, if any, signature status your agency would request on that document (concurring party or Invited Signatory). If we do not hear from your office, we will assume that your agency will act independently to fulfill its requirements under Section 106.

An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses. Any comments provided on FRA's finding of Adverse Effect will be included the FRA's notification to the Advisory Council on Historic Preservation of this finding (36 CFR 800.6(a)(1)).

If you have any questions or wish to discuss this undertaking please contact Derek Manning, at 857-998-1779 or derek.manning@dot.gov.

Sincerely,



Katherine Zeringue
Federal Preservation Officer
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Melissa Hatcher, FRA
Arun Rao, WisDOT

Enclosures:

Attachment A – Project Plans
Attachment B – Area of Potential Effects Map
Attachment C – Tribal and Consulting Party List
Attachment D – Architecture/History Survey

Attachment E – Determination of Eligibility: Burnham Canal
Attachment F – Determination of Eligibility: Burnham Canal Bridge
Attachment G – Phase I Archeological Survey

From: [Kitchen, Anthony J CIV \(USA\)](#)
To: [Manning, Derek \(Volpe\)](#)
Cc: [Schmidt, Jonathan \(Volpe\)](#); [Caron Kloser](#); [Hatcher, Melissa \(FRA\)](#); [arun.rao dot.wi.gov](mailto:arun.rao.dot.wi.gov); [Aaron Bowe](mailto:Aaron.Bowe); Lynn.Cloud@dot.wi.gov; Kaliszewski, Katherine N - DOT; [Komulainen-Dillenburg, Nancy S CIV USARMY CEMVP \(USA\)](mailto:Komulainen-Dillenburg, Nancy S CIV USARMY CEMVP (USA))
Subject: RE: Section 106 Consultation for Railway Improvements at Muskego Yards
Date: Monday, May 17, 2021 2:18:36 PM

Good afternoon,

Thank you for consulting with the Corps of Engineers on the proposed railway improvements at Muskego Yard in Milwaukee, WI. We have reviewed the Consulting Party Invitation letter with attachments and offer the following response:

The Corps recognizes and agrees that the Federal Railway Administration (FRA) is the lead Federal agency for the proposed undertaking and therefore is responsible for Section 106 compliance. We request no direct participation in the development of the MOA to resolve adverse effects and we do not need to be a signatory (Invited or Concurring) to the Agreement. However, we request the opportunity to review the Whereas language within the draft MOA associated with our recognition of FRA as the lead Federal agency and the Department of the Army permit language that would trigger our regulatory involvement (regulated activities within waters of the U.S.), so that we can ensure correct language of our Program/authorities. If the FRA is comfortable with providing us this information for our review and records then we do not need to be a signatory.

Please let me know if you need anything further from the Corps. Thank you again for sending us the information.

A.J. Kitchen, Project Manager
U.S. Army Corps of Engineers
St. Paul District, Regulatory Division
Brookfield Field Office
250 N. Sunnyslope Road, Suite 296
Brookfield, Wisconsin 53005
Office: 651-290-5729 | Anthony.J.Kitchen@usace.army.mil

From: Manning, Derek (Volpe) <Derek.Manning@dot.gov>
Sent: Wednesday, May 5, 2021 3:13 PM
To: Kitchen, Anthony J CIV (USA) <Anthony.J.Kitchen@usace.army.mil>
Cc: Schmidt, Jonathan (Volpe) <Jonathan.Schmidt@dot.gov>; Caron Kloser <CKloser@HNTB.com>; Hatcher, Melissa (FRA) <melissa.hatcher@dot.gov>; [arun.rao dot.wi.gov](mailto:arun.rao.dot.wi.gov) <arun.rao@dot.wi.gov>; Aaron Bowe <abowe@HNTB.com>; Lynn.Cloud@dot.wi.gov; Kaliszewski, Katherine N - DOT <katherinen.kaliszewski@dot.wi.gov>
Subject: [Non-DoD Source] Section 106 Consultation for Railway Improvements at Muskego Yards

Mr. Kitchen,

The Federal Railway Administration (FRA) proposes to provide funding to the Wisconsin Department

of Transportation (WisDOT) to make infrastructure improvements to the Canadian Pacific Railway Muskego Yard in Milwaukee, WI. The project includes replacement of two bridges and will require permits from the US Army Corps of Engineers and the US Coast Guard.

FRA is inviting the USACE to participate as a consulting party for the Section 106 compliance for this undertaking (see attached letter). The attachments referenced in the letter are available at:
<https://app.box.com/s/070dkncvsb0jrps0bn76c9zfec4s0qn>

If you have any questions regarding this project please do not hesitate to contact me.

Very respectfully
Derek

Derek Manning

Environmental Protection Specialist | Environmental Science and Engineering Division, V-326
Volpe, The National Transportation Systems Center | U.S. Department of Transportation
55 Broadway, Cambridge MA 02142 | Web: www.volpe.dot.gov
Office: 617-494-2475 | Fax: 617-494-2789 | Cell: 857-998-1779 | Email: derek.manning@dot.gov



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

May 4, 2021

William B. Stanifer
Ninth Coast Guard District
Via email: william.b.stanifer@uscg.mil

RE: Section 106 Lead Agency Designation and Consulting Party Invitation
Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI

Dear Mr. Stanifer:

The Federal Railroad Administration (FRA) is providing funding to the Wisconsin Department of Transportation (WisDOT) to make infrastructure improvements in and around the Canadian Pacific Railway (CPR) Muskego Yard in the City of Milwaukee, Wisconsin. This project constitutes an Undertaking pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) "Protection of Historic Properties" (Section 106).

This Undertaking will require permits from the U.S. Army Corps of Engineers (USACE) and the U.S. Coast Guard (USCG). FRA proposes to serve as lead federal agency for Section 106 in accordance with 36 CFR 800.2(a)(2). As lead federal agency, FRA would fulfill FRA's, USACE's and USCG's collective responsibilities under Section 106.

This letter is being transmitted to notify you of FRA's finding of adverse effect and proposal to serve as lead federal agency for Section 106. FRA is also inviting your agency to be a consulting party in the development of a Memorandum of Agreement (MOA) to resolve the adverse effects.

Description of Undertaking

The purpose of the project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies, and provide reliable train access in and around the Muskego Yard project area. The proposed project consists of signalization improvements and track expansion and rehabilitation along the CPR corridor between the Kinnickinnic River and the western end of the Muskego Railyard. Full plans for the project are provided at Attachment A.

Traveling north from the Kinnickinnic River, the corridor currently consists of two operating main tracks leading to the Milwaukee Intermodal Station and one yard lead track to Muskego Yard. Between Kinnickinnic Avenue and National Avenue, an existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track

will be constructed to the east on existing track roadbed within existing CPR Railway right-of-way. Just south of Florida Street, the four tracks will begin to split, with two continuing north to the MIS (no further work planned in current project scope), and two continuing west towards the Muskego rail yard. Beginning west of 2nd Street, a third track will be constructed, and temporary easement and permanent right-of-way acquisitions will be required along portions of the corridor. The bridges over Florida Street, 1st Street and 2nd Street will be rehabilitated. The bridge over an alley between 2nd Street and 3rd Street will be removed. At the Burnham Canal, the existing 2-track swing bridge (referred to in this document as the Burnham Canal Bridge) will be removed and a new 3-track replacement bridge will be constructed. Within the Muskego rail yard, four existing tracks along the southern edge of the yard will be shifted and rehabilitated or reconstructed. At the western end of the yard, a new 8-track bridge will replace existing structures over the Menomonee River. West of 27th Street, existing tracks will be reconstructed or rehabilitated within the existing right-of-way as they leave the yard and terminate into the existing mainline tracks, with the project corridor ending just west of 35th Street.

Area of Potential Effects

Two APEs were established - an archaeological APE that considered potential effects related to ground disturbance and an architectural APE that considered indirect visual and auditory effects that accounted for all properties within and immediately adjacent to the proposed project corridor. All resources in the APE that were at least 40 years old and possessed a degree of historic integrity were examined for potential historical significance. The APE maps are provided in Attachment B.

Identification of Historic Properties

FRA completed both an architectural and an archaeological survey of the APEs. Both surveys consisted of archival and literature search of the Wisconsin Historic Preservation Database and the State and National Registers of Historic Places (NRHP) to identify previously recorded historic properties. This work was followed by field work to verify the presence or absence of previously identified properties as well as to identify any properties that had not been previously identified or surveyed.

The architectural survey included the evaluation of several previously unrecorded properties. FRA determined that two of these properties, the Burnham Canal and the Burnham Canal Bridge, are eligible for listing on the NRHP. An additional seven properties that are listed in or eligible for listing on the NRHP were identified within the APE. A full list and description of the historic architectural properties within the APE is provided in the Architectural History Report found in Attachment D. The determinations of NRHP eligibility for the Burnham Canal and the Burnham Canal Bridge are provided at Attachment E and F respectively.

FRA also identified and conducted site visits at historic properties that were immediately adjacent to the project area. These properties included: the Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, 16th Street Viaduct, Mitchell Park Domes, the Northwestern Malleable Iron Company, and an additional 55 previously surveyed individual properties. The results of this resurvey effort are outlined in Architectural History Report found in Attachment D. FRA determined that the undertaking will not result in adverse physical, auditory, visual, or vibration effects to any of these properties.

The archaeological survey determined that the entire project area has been heavily disturbed by grading, fill, and development activities. Two archaeological sites were identified immediately adjacent to the APE - 47MI0109 and 47MI0207. Site 47MI0109 has an association with

prehistoric burials and is codified as an uncatalogued burial site per Wisconsin Statute §157.70. Both sites have been determined ineligible for NRHP listing. A full summary of the archaeological resources adjacent to the APE can be found in the archaeological survey provided at Attachment G.

Assessment of Effects

In accordance with 36 CFR 800.5(a) FRA applied the criteria of adverse effects to the Undertaking and found that the majority of the activities within the undertaking are consistent with the historic use and setting of the Muskego Rail Yard. In accordance with 36 CFR 800.4(c)(2), FRA determined that the First Street, Alley, Second Street, Florida Street, and Menominee River Bridges are not eligible for listing in the NRHP and that the renovation of the First, Second, Florida Street bridges and replacement of the alley and Menominee river bridges will not affect historic properties. Therefore, the undertaking will have No Adverse Effect on historic architectural resources within the APE, except as noted below.

FRA determined that the removal and replacement of the NRHP eligible Burnham Canal Bridge constitutes an adverse effect (36 CFR 800.5(a)(2)(i)). FRA has determined replacement of the Burnham Canal Bridge with a new bridge would not cause indirect effects to the NRHP eligible Burnham Canal. FRA will require WisDOT to develop a Construction Environmental Protection Plan (CEPP) to prevent inadvertent damage to the canal during construction of the replacement bridge, and this requirement will be captured in the MOA.

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Tribal Consultation

On March 12, 2020, FRA and WisDOT initiated consultation with tribes with an interest in Milwaukee County projects. In light of the challenges faced by numerous tribes during the Covid-19 emergency, WisDot has implemented a policy of contacting all tribes associated with the state. FRA will continue to consult with the tribes listed in Attachment C.

On August 19, 2020, the Forest County Potawatomi Community of Wisconsin requested soil data related to sites 47MI0109 and 47MI0207 to determine if potential burials would be impacted by construction activities. FRA will continue to work with the Forest County Potawatomi Community of Wisconsin to address their concerns as consultation continues on this undertaking.

Summary of Findings and Determinations

FRA findings are:

- The following properties are not eligible for NRHP listing: Bridge BR84.73 – First Street, Bridge BR84.84 – Alley, Bridge BR84.80 – Second Street, Bridge BR84.66 – Florida

Street, Bridge BR 86.98 Menominee River, and archaeological sites 47MI0109 and 47MI0207.

- The following properties are eligible for the NRHP: Burnham Canal and Burnham Canal Bridge.
- The project will result in an Adverse Effect to the Burnham Canal Bridge. As discussed above, all other NRHP-eligible or listed properties will not be adversely affected including the Burnham Canal for which adverse effects will be avoided through appropriate bridge design and implementation of a CEPP.

Because your agency will have federal permit jurisdiction, FRA respectfully requests that your office provide a response in 30 days to our proposal for FRA to serve as lead federal agency for Section 106 compliance and our invitation to participate as a consulting part in the development of the MOA to resolve the adverse effects. As part of your response please indicate what, if any, role your agency would like to have in the development of the MOA and what, if any, signature status your agency would request on that document (concurring party or Invited Signatory). If we do not hear from your office, we will assume that your agency will act independently to fulfill its requirements under Section 106.

An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses. Any comments provided on FRA's finding of Adverse Effect will be included the FRA's notification to the Advisory Council on Historic Preservation of this finding (36 CFR 800.6(a)(1)).

If you have any questions or wish to discuss this undertaking please contact Derek Manning, at 857-998-1779 or derek.manning@dot.gov.

Sincerely,



Katherine Zeringue
Federal Preservation Officer
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Melissa Hatcher, FRA
Arun Rao, WisDOT

Enclosures:

- Attachment A – Project Plans
- Attachment B – Area of Potential Effects Map
- Attachment C – Tribal and Consulting Party List
- Attachment D – Architecture/History Survey
- Attachment E – Determination of Eligibility: Burnham Canal
- Attachment F – Determination of Eligibility: Burnham Canal Bridge
- Attachment G – Phase I Archeological Survey

From: [Stanifer, William B CIV](#)
To: [Manning, Derek \(Volpe\)](#)
Cc: [Schmidt, Jonathan \(Volpe\)](#); [Caron Kloser](#); [Hatcher, Melissa \(FRA\)](#); [arun.rao dot.wi.gov](#); [Aaron Bowe](#); [Lynn.Cloud@dot.wi.gov](#); [Kaliszewski, Katherine N - DOT](#); [Walker, Michael O CIV](#); [Soule, Lee D CIV](#)
Subject: RE: Section 106 Consultation for Railway Improvements at Muskego Yards
Date: Monday, May 24, 2021 12:23:03 PM

Mr. Manning,

The USCG has no objections to the Federal Rail Administration (FRA) assuming the role of Lead Federal Agency (LFA) for the purposes of Section 106 in accordance with 36 CFR 800.2(a)(2) in regards to the proposed Muskego Yard Bypass project, City of Milwaukee, Milwaukee County, WI. Based on our review of the provided documentation we concur with FRA's finding and determination that the project as proposed would result in an Adverse Affect to the Burnham Canal Bridge at mile 1.74 across Burnham Canal, WI.

In general, the USCG has no jurisdictional or enforcement authority under Section 106 outside of those allocated to the LFA when the USCG assumes that role. As such we as a Federal Agency tend to shy away from developing language and/or stipulations in regards to MOAs and MOUs unless acting as LFA. Where we would like to provide input is in Wisconsin DOT's development of the Construction Environmental Protection Plan (CEPP). We have a long history of working with WisDOT in this capacity.

For signatory status we would prefer being a concurring party to the MOA. Please use my name, with the title Branch Chief – USCG D9 Bridge Program, for the signature page.

Thank you for the opportunity to review the documentation and FRA's eventual fulfillment of the USCG's responsibilities under Section 106 for the proposed Meskego Yard Bypass project. Please let me know if you have any questions or concerns. Take care.

Blair Stanifer
Chief, D9 Bridge Branch
Ninth Coast Guard District
(216) 902-6086

From: Manning, Derek (Volpe) <Derek.Manning@dot.gov>
Sent: Wednesday, May 5, 2021 4:14 PM
To: Stanifer, William B CIV <William.B.Stanifer@uscg.mil>
Cc: Schmidt, Jonathan (Volpe) <Jonathan.Schmidt@dot.gov>; Caron Kloser <CKloser@HNTB.com>; Hatcher, Melissa (FRA) <melissa.hatcher@dot.gov>; arun.rao dot.wi.gov <arun.rao@dot.wi.gov>; Aaron Bowe <abowe@HNTB.com>; Lynn.Cloud@dot.wi.gov; Kaliszewski, Katherine N - DOT <katherinen.kaliszewski@dot.wi.gov>
Subject: [Non-DoD Source] Section 106 Consultation for Railway Improvements at Muskego Yards

Mr. Stanifer,

The Federal Railway Administration (FRA) proposes to provide funding to the Wisconsin Department of Transportation (WisDOT) to make infrastructure improvements to the Canadian Pacific Railway Muskego Yard in Milwaukee, WI. The project includes replacement of two bridges and will require permits from the US Army Corps of Engineers and the US Coast Guard.

FRA is inviting the USCG to participate as a consulting party for the Section 106 compliance for this undertaking (see attached letter). The attachments referenced in the letter are available at:

<https://app.box.com/s/070dkncvsb0jrps0bn76c9zfec4s0qn>

If you have any questions regarding this project please do not hesitate to contact me.

Very respectfully

Derek

Derek Manning

Environmental Protection Specialist | Environmental Science and Engineering Division, V-326
Volpe, The National Transportation Systems Center | U.S. Department of Transportation
55 Broadway, Cambridge MA 02142 | Web: www.volpe.dot.gov
Office: 617-494-2475 | Fax: 617-494-2789 | Cell: 857-998-1779 | Email: derek.manning@dot.gov

Attachment 8: Local Officials Meeting Information

From: [DOT Muskego Yard](#)
To: [DOT Muskego Yard](#)
Subject: INVITE: WisDOT Muskego Yard Freight Rail Bypass Project local officials meeting – YouTube Live, July 14 @ 2 p.m.
Date: Thursday, July 2, 2020 4:45:11 PM

Good afternoon,

The Wisconsin Department of Transportation (WisDOT) invites you to attend an on-line local official meeting regarding the Muskego Yard Bypass Project in Milwaukee, WI. The meeting will be held on **July 14, 2020 from 2 to 3 p.m.** Project staff will give a live presentation and provide an opportunity for local officials to ask questions. This meeting will preview a recorded presentation that will be available on the WisDOT website for public viewing starting July 16, 2020. A separate notice will be sent for the public presentation.

To join the YouTube Live meeting, visit: <https://youtu.be/p2QCiHxing0>. You will be able to share your questions or comments during the meeting via YouTube Live or submit questions via email to Muskego.Yard@dot.wi.gov to be answered by WisDOT staff following the presentation.

If you are unable to access or participate in the YouTube Live presentation, please contact Arun Rao, Passenger Rail Manager, at 608-266-3015 or Muskego.Yard@dot.wi.gov, and arrangements will be made to share the information in another format.

Project Description: The project is located along the Canadian Pacific Railway (CPR) tracks from just north of the Kinnickinnic River to just west of 35th Street.

- The project proposes to reconfigure and upgrade existing rail and yard facilities to create a new two-track mainline through CPR's Muskego Yard in the Menomonee Valley.
- This project will improve the safety and efficiency of freight rail movement through Milwaukee.
- Improvements will allow up to 11 daily freight trains to bypass the Milwaukee Intermodal Station.
- This project also will improve safety and reduce travel time delays by reducing at-grade rail crossings at 2nd Street, 13th Street and Greves Street.

Completion of the project will benefit passenger rail service between Milwaukee and Chicago by freeing up capacity at the Milwaukee Intermodal Station for potential Hiawatha Service increases.

Website: WisconsinDOT.gov/MuskegoYard has a project map and other project details.

Submit Your Comments: Please submit your comments by August 7, 2020 to: Arun Rao, WisDOT Passenger Rail Manager via Email: Muskego.Yard@dot.wi.gov or Mail: P.O. Box 7913, Madison, WI 53707.

Muskego Yard Freight Rail Bypass Project

Local Officials Meeting

Tuesday, July 14th, 2020

<https://www.youtube.com/watch?v=p2QCIHxing0&feature=youtu.be>

Question: How will traffic control look for 1st and 2nd Streets?

Response (Aaron): Freight trains using double main line through the yard diverted from at-grade crossing at 1st St. Reduced gate crossing closures. Measures taken during rehabilitation. No planned closures.

Question: What do you anticipate will be done to bridges?

Response (Aaron):

- Menomonee River bridge
 - Replaced in-kind
- Burnham Canal bridge
 - Two options under consideration

Option 1) Removal of swing span and addition of a box culvert

Option 2) Removal of structure and replaced with a bridge

- Alley bridge
 - Complete removal and replacement with fill embankment
- 1st, 2nd, & Florida bridges
 - Will appear the same as they are today with the exception of crash barriers and steel work under the deck on 2nd street bridge

Question: Will floodplain conditions be analyzed as part of Environmental Review?

Response (Caron): Coordination with DNR and MMSD underway and detailed analysis will occur as part of final design.

Question: How will the Burnham Canal bridge be accessed during construction?

Response (Aaron): Construction access from the west through the Yard and under the I-43/US 41 bridge. Equipment for removal and construction work to access the bridge from the north as much as possible.

Question: Will the structures protecting the embankment be removed?

Response (Aaron):

Menomonee River bridge Wood piers and abutments will be removed as part of the project

Burnham Canal: No abutments or piers, but structures related to the movable bridge will be removed (fender system).

Attachment 9: Public Outreach

From: DOT Muskego Yard
To: [DOT Muskego Yard](#)
Subject: WisDOT seeks feedback: Muskego Yard Freight Rail Bypass Project
Date: Friday, July 17, 2020 5:49:46 PM
Attachments: [image004.emz](#)
[image001.png](#)
[image002.png](#)

The Wisconsin Department of Transportation (WisDOT) is seeking your input on proposed improvements to the Muskego Yard Freight Rail Bypass in Milwaukee, WI. [A recorded presentation is available on the WisDOT website](#) that describes the project schedule, anticipated work and the environmental review process.

Presentation Details

The presentation is posted at: WisconsinDOT.gov/MuskegoYard

Special Accommodations

If you are unable to access the presentation and need a printed copy, please contact Kia Her at Kia.Her@dot.wi.gov, (608) 267-7350, or via Telecommunications Relay Systems (Dial 711).

Project Description

The project is located along the Canadian Pacific Railway (CPR) tracks from just north of the Kinnickinnic River to just west of 35th Street.

- The project proposes to reconfigure and upgrade existing rail and yard facilities to create a new two-track mainline through CPR's Muskego Yard in the Menomonee Valley.
- This project will improve the safety and efficiency of freight rail movement through Milwaukee.
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Completion of the project will benefit passenger rail service between Milwaukee and Chicago by freeing up capacity at the Milwaukee Intermodal Station for potential Hiawatha Service increases.

Submit Your Comments

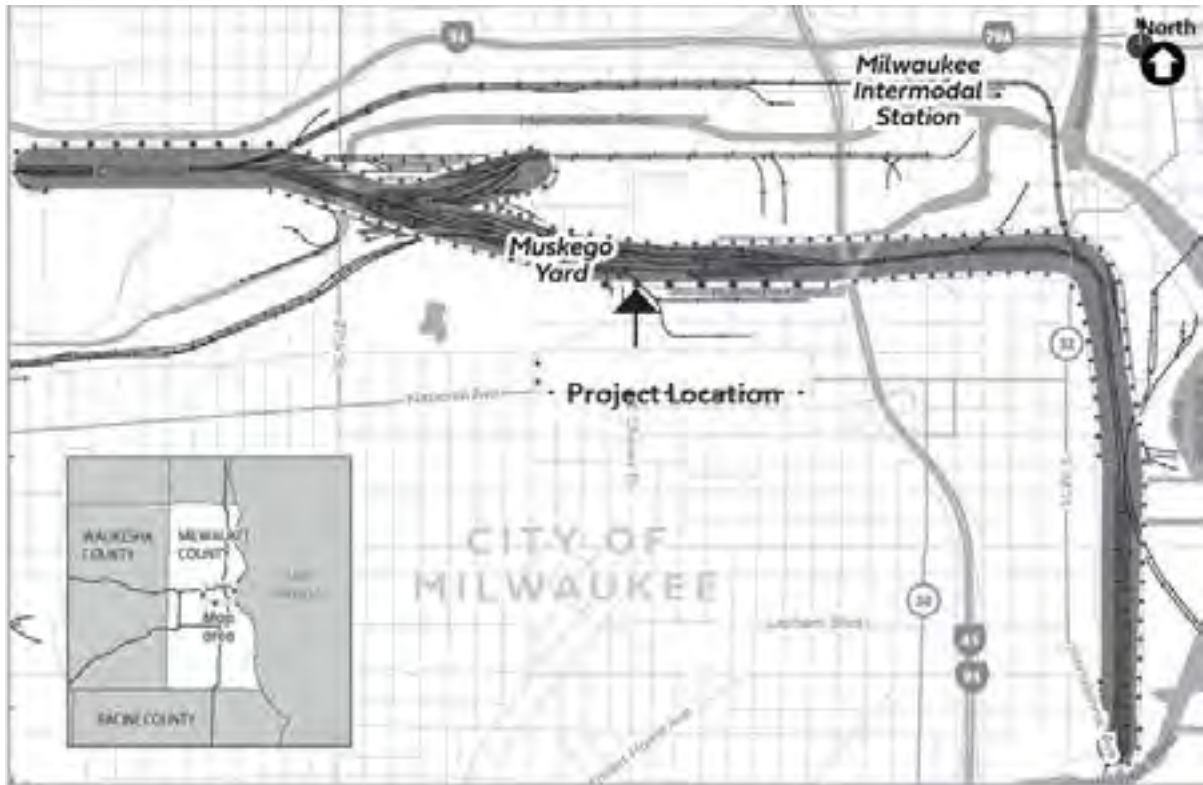
Please submit your comments by August 7, 2020 to:

Arun Rao, WisDOT Passenger Rail Manager

Email: Muskego.Yard@dot.wi.gov

Mail: P.O. Box 7913, Madison, WI 53707

Project Map:





WisDOT seeks feedback: Muskego Yard Freight Rail Bypass Project, Milwaukee County

The Wisconsin Department of Transportation (WisDOT) is seeking your input on proposed improvements to the Muskego Yard Freight Rail Bypass in Milwaukee, WI. A recorded presentation is available on the WisDOT website that describes the project schedule, anticipated work and the environmental review process.

Presentation Details

A recorded presentation will be posted on July 16 at: [WisconsinDOT.gov/MuskegoYard](https://wisconsinDOT.gov/MuskegoYard)

Special Accommodations:

If you are unable to access the presentation and need a printed copy, please contact Kia Her at Kia.Her@dot.wi.gov, (608) 267-7350, or via Telecommunications Relay Systems (Dial 711).

Project Description

The project is located along the Canadian Pacific Railway (CPR) tracks from just north of the Kinnickinnic River to just west of 35th Street.

- The project proposes to reconfigure and upgrade existing rail and yard facilities to create a new two-track mainline through CPR's Muskego Yard in the Menomonee Valley.
- This project will improve the safety and efficiency of freight rail movement through Milwaukee.
- Improvements will allow up to 11 daily freight trains to bypass the Milwaukee Intermodal Station.
- This project also will improve safety and reduce travel time delays by reducing at-grade rail crossings at 2nd Street, 13th Street and Greves Street.

Completion of the project will benefit passenger rail service between Milwaukee and Chicago by freeing up capacity at the Milwaukee Intermodal Station for potential Hiawatha Service increases.

Submit Your Comments

Please submit your comments by August 7, 2020 to:

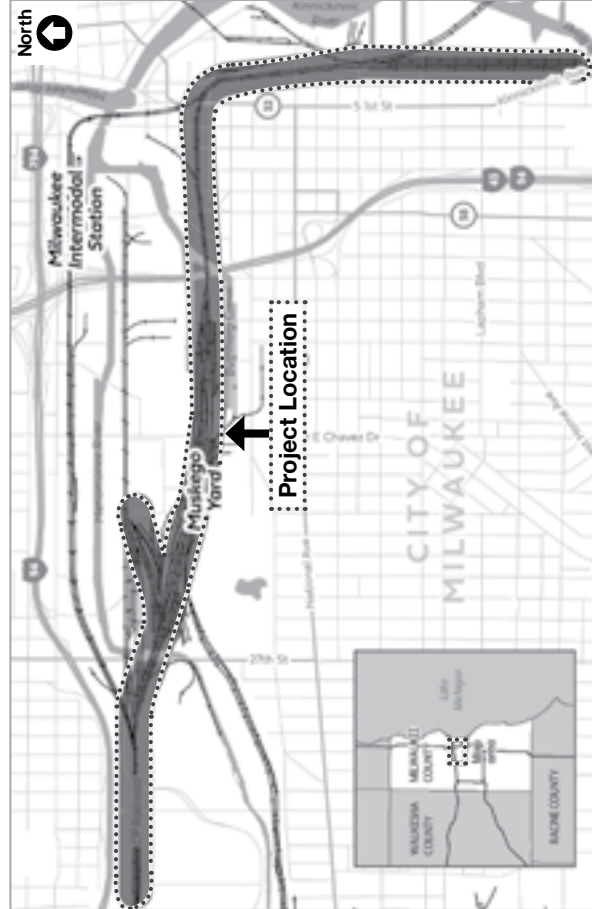
Arun Rao, WisDOT Passenger Rail Manager
Email: MuskegoYard@dot.wi.gov
Mail: P.O. Box 7913, Madison, WI 53707

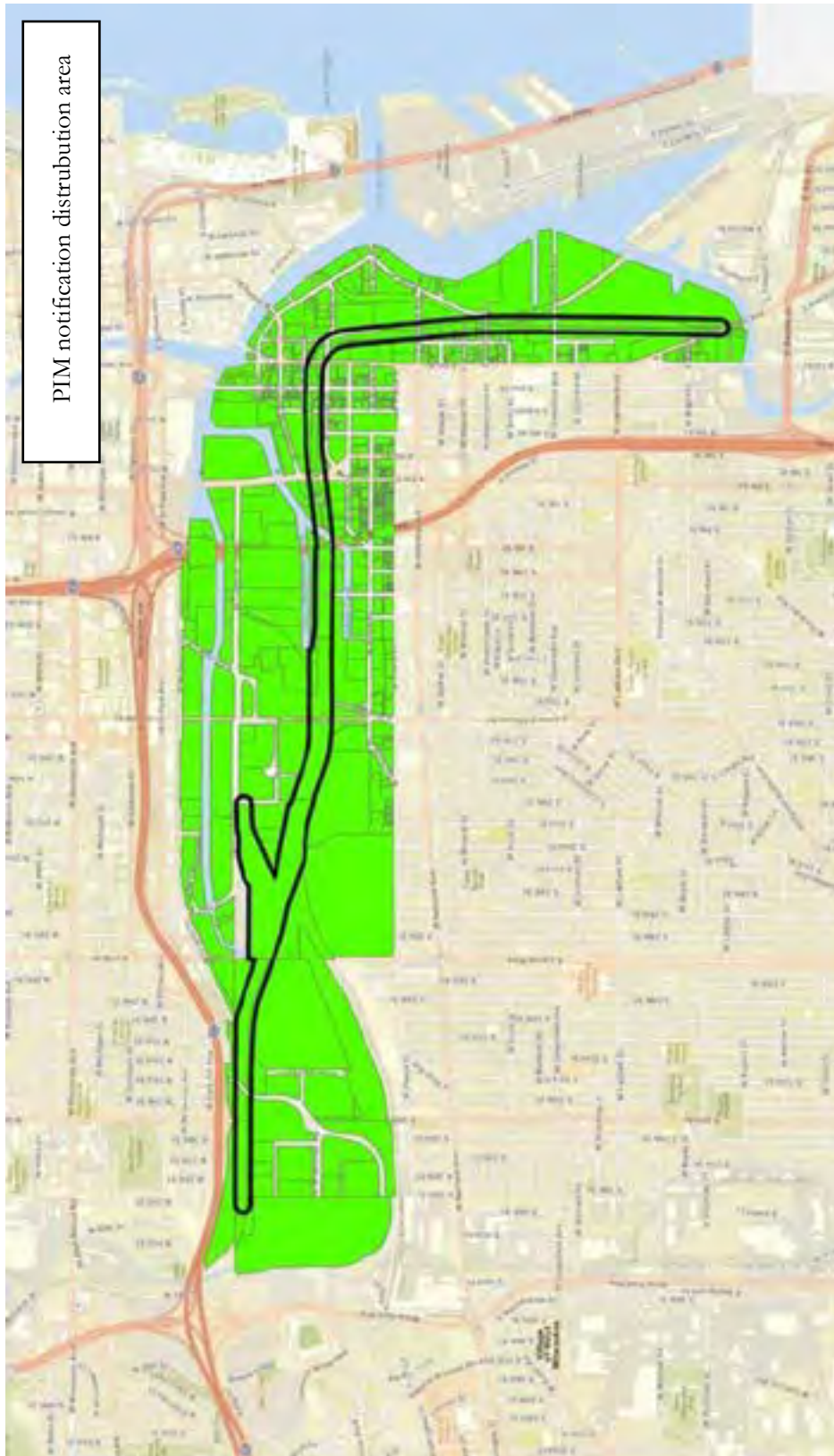
WisDOT seeks feedback: Muskego Yard Freight Rail Bypass Project, Milwaukee County



WISDOT DTIM S631
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RAILROADS AND HARBORS
4822 MADISON YARDS WAY
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Attachment 10: Summary of Meetings with Forest County Potawatomi Community



MEETING NOTES

Date: June 5, 2019

HNTB Project No. 72877

Muskego Yards - meeting with Potawatomi Tribe representatives

Location: Potawatomi Casino

Purpose: Project overview and coordination

Attending:

David Brien, Potawatomi Tribe
Sara Drescher, Potawatomi Tribe
Michael LaRonge, Potawatomi Tribe
Arun Rao, WisDOT
Lisa Stern, WisDOT
Aaron Bowe, HNTB
Caron Kloser, HNTB

Caron provided introductions/roles and gave a project background and overview of Muskego Yard project. The purpose of the project is to identify infrastructure improvements in Muskego Yard to allow trains to make through movements in Muskego Yard and reduce through movements through Milwaukee Intermodal Station and potential conflicts with passenger rail service.

The group discussed ongoing floodplain studies and remapping that MMSD is completing. Per discussion with tribal representatives, MMSD, SEWRPC and FEMA have an interest in floodplain mapping and planning. FEMA wants no delays in mapping that is now underway, and the remapping process must be followed. New projects potentially affecting mapping could be delayed until mapping is complete. Completing mapping is estimated to be 1 to 2 years out yet.

Issues important to the Tribe:

- Negative impacts to the floodplain that would impact tribal lands
- It was noted there are discrepancies in data outlining what is in the floodplain or flood fringe
- Tribe requested to be a Cooperating Agency should the project move into an EA process.
 - FRA has not decided on NEPA Class of Action, which will depend on infrastructure improvements agreed to with CP Rail.
- Concern regarding materials transported on trains requiring potential "Shelter in Place" advisories.
 - Is the risk higher with through trains moving through Muskego Yard vs through the MIS

There were Native American encampments/villages in the Muskego Yard project area, but likely heavily damaged or buried by historic filling in the area.

This is our understanding of items discussed and decisions reached. Please contact us if there are changes or additions.

Submitted by,

HNTB CORPORATION

Caron Kloser
Project Manager

MEETING NOTES



Date: August 19, 2020

HNTB Project No. 72877

Muskego Yard Bypass - meeting with Potawatomi Tribe representatives

Location: WebEx

Purpose: Project status update

Attending:

David Brien, Potawatomi Tribe
Sara Drescher, Potawatomi Tribe
Nate Guldán, Potawatomi Tribe
Michael LaRonge, Potawatomi Tribe
Todd Mulvey, Potawatomi Tribe
Melissa Hatcher, FRA
Lynn Cloud, WisDOT

Katie Kaliszewski, WisDOT
Arun Rao, WisDOT
Dana Shinnars, WisDOT
Sandy Stankevich, WisDOT
Lisa Stern, WisDOT
Aaron Bowe, HNTB
Caron Kloser, HNTB

Arun provided introductions and gave a project background and overview of Muskego Yard project. The purpose of the project is to improve infrastructure in Muskego Yard allowing trains to make through movements in Muskego Yard and reduce through movements through Milwaukee Intermodal Station and potential conflicts with passenger rail service. The project will upgrade historic rail infrastructure, improve train signals, rehabilitate bridges over Florida Street, 1st Street and 2nd Street, and replace the Burnham Canal and Menomonee River bridges (note: the existing bridge over an abandoned alley between 2nd and 3rd Street will be removed).

The project is still in early phases of project development and plans discussed today are still conceptual and subject to modifications as design and coordination progresses.

The Burnham Canal bridge will be replaced with a non-bridge drainage structure since the canal is no longer maintained for commercial navigation. The Menomonee River bridge, which consists of two bridges would be replaced with one 8-track structure. The Menomonee River bridge replacement will remove existing piers below the flow line and construct fewer piers in the river. WisDOT will complete hydraulics and hydrology analysis on both structures as design is more refined.

Discussion points:

- Flooding
 - The design team expects the proposed Menomonee River bridge will improve hydraulics due to the reduced number of piers in the river and removal of abandoned piers.
 - The Tribe, City of Milwaukee and MMSD have made heavy investment in flood studies and don't want to go backward with this project.
 - Tribe will not comment further on the proposed bridge and hydraulics without reviewing studies.
 - Concern was expressed about Burnham Canal as a chokepoint for flooding. Any proposed drainage structure cannot make it worse. Also, a box culvert as currently proposed is inconsistent with other efforts to improve waterways in the region.
 - Note: WisDOT is reviewing the proposed replacement in response to other stakeholder comments.
 - Waterway flow cannot be restricted by temporary structures during construction.
- Three prehistoric sites were noted: MI-109, MI-136 (distant from project), MI-207. The tribe would like to have a better understanding of the soil column to verify 50 feet of fill over native

- soil (which would avoid burials, if present). MI-207 approaches Area of Potential Effect and 4 burials were located at the north end of the site. The tribe wants to understand the depth of the railbed and if there are intact A and B soil horizons. The site is too disturbed to verify at this stage, but investigations should be factored into subsequent geotechnical investigations.
- Vehicular traffic disruption during construction - The design team will prepare a maintenance of traffic plan (MOT) as part of final design.
 - Construction noise impacts at the hotel - the hotel is fairly removed from construction area and doesn't anticipate impacts. The project would likely follow local noise ordinances during construction.
 - The project is immediately adjacent to Trust property and the Tribe has interests as a sovereign government. The Tribe wants more detail on the project and schedule and is concerned that without an understanding of the options are before going too far down the road with detailed analyses and design.
 - Among information the Tribe would like to know include the number of added freight trains, what are they carrying, what are the hydrologic impacts.
 - The project team conveyed that the bypass project would allow approximately 11 freight trains that currently travel through the MIS to divert through the Muskego Yard to connect to CP mainline west of the yard. The trains would operate and carry the same freight as they do today. The track improvements include rehabilitating two tracks in the yard to enable through freight movements on the southern side of the yard.
 - WisDOT conveyed the project is still early in the project development process and a detailed schedule would be developed in final design.
 - FRA also conveyed that the agency will start NEPA as soon as project data is provided to them to determine a NEPA class of action. WisDOT will provide information on the alternatives considered as part of the NEPA determination.
 - FRA will follow up with the Tribe to make them aware of timing.
 - The Tribe requested Cooperating Agency status to adequately review the impacts.

This is our understanding of items discussed and decisions reached. Please contact me if there are changes or additions.

Submitted by,

HNTB CORPORATION

Caron Kloster
Project Manager

MEETING NOTES



Date: February 18, 2021 (2:30-3 p.m.)

HNTB Project No. 72877

Muskego Yard Bypass - meeting with Potawatomi Tribe staff

Location: Teams call

Purpose: Project status update

Attending:

Lynlee DeLeeuw, Potawatomi Tribe
Ben Koski, Potawatomi Tribe
Michael LaRonge, Potawatomi Tribe
Frank Shepard, Jr., Potawatomi Tribe
Melissa Hatcher, FRA
Derek Manning, Volpe/FRA
Jonathan Schmidt, Volpe/FRA

Crystal DuPont, WisDOT
Arun Rao, WisDOT
Dana Shinnars, WisDOT
Lisa Stern, WisDOT
Jennifer Haas, UWM
Aaron Bowe, HNTB
Caron Kloser, HNTB

The purpose of the call was to provide a Muskego Yard project update with Potawatomi Tribe staff.

Project Updates

Section 106

- The historic survey completed for the project identified both the Burnham Canal bridge and the Burnham Canal as eligible for listing on the National Register of Historic Places
- To avoid impacts to the historic significance of the canal, WisDOT and CP Rail agreed to replace the Burnham Canal bridge with a multiple span concrete girder bridge. A culvert originally anticipated for the bridge replacement is no longer under consideration.
- The Burnham Canal bridge replacement will have an adverse effect. There are no adverse effects to other historic structures.
- Archeological surveys noted heavy disturbance by past development activities, but archeological sites are in the immediate area. The Tribe reiterated it would like to see soil columns to confirm depth of burials. FRA will continue working with the Tribe to provide information on soil columns as information becomes available. This commitment will be carried through into the NEPA document.
- FRA will be initiating Section 106 consultation with consulting parties, including the Tribe the week of February 22, 2021. FRA will provide the tribe results of surveys, including historic soil borings in the area.
- FRA will prepare a Memorandum of Agreement for the adverse effect on the Burnham Canal bridge, which will be routed to the Tribe (Tribal Chair, Ned Daniels Jr. will be the Tribe's signatory).

NEPA

- The bridge replacement at Burnham Canal will remove the existing structure. The new bridge would maintain flow in the canal and would allow recreational watercraft passage.
- The Menomonee River bridge will be replaced with a single structure and will have fewer piers in the water compared to the existing 2 structures.
- A detailed bridge design will be determined during the final design phase when hydraulics and hydrology analyses will be completed.
- The bridge designs will comply with DNR's regulatory requirements for floodplain management and will take into consideration the latest flood studies prepared by MMSD.
- FRA is in the process of completing the NEPA evaluation.

Project Timeline

- Section 106 consultation complete by July 2021
 - Includes MOA draft, reviews, revisions and final execution
- NEPA ongoing with Section 106 consultation, complete by July 2021
- Final design (est.): Fall 2021-Spring 2023 (approx. 18 months)
- Construction (est.): Summer 2023-Winter 2024 (approx. 18 months)

This is our understanding of items discussed and decisions reached. Please contact me if there are changes or additions.

Submitted by,

HNTB CORPORATION

Caron Kloser
Project Manager

Attachment 11: Correspondence with Tribes

The following letter (with recipient's name and address updated as appropriate) was sent to the following federally recognized Native American tribes:

Bad River Band of Lake Superior Chippewa Indians of Wisconsin, Forest County Potawatomi Community of Wisconsin, Fond du Lac Band of Lake Superior Chippewa, Ho-Chunk Nation, Iowa Tribe of Oklahoma, Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, Lac Vieux Desert Band of Lake Superior Chippewa Indians, Menominee Indian Tribe of Wisconsin, Oneida Nation of Wisconsin, Prairie Band Potawatomi Nation, Prairie Island Indian Community, Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin, Sac and Fox Nation of Missouri in Kansas and Nebraska, Sac and Fox Nation of Oklahoma, Sac and Fox of the Mississippi in Iowa, Sokaogon Chippewa Community Mole Lake Band, St. Croix Band Chippewa Indians of Wisconsin, and Stockbridge Munsee Community of Wisconsin



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 9, 2021

Mike Wiggins
Chairman
Bad River Band of Lake Superior Chippewa Indians of Wisconsin
P.O. Box 39
Odanah, WI 54861

RE: Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI
Initiation of Section 106 Consultation and Finding of Adverse Effect

Dear Chairman Wiggins,

The Federal Railroad Administration (FRA) is providing funding to the Wisconsin Department of Transportation (WisDOT) through the Consolidated Rail and Infrastructure and Safety Improvements (CRISI) grant. These funds will be used to make infrastructure improvements in and around the Canadian Pacific Railway (CPR) Muskego Yard in the City of Milwaukee, Wisconsin. This project constitutes an Undertaking pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) "Protection of Historic Properties" (Section 106). While this Undertaking will require permits from the U.S. Army Corps of Engineers and the U.S. Coast Guard, FRA is acting as the lead federal agency for Section 106.

This letter is being transmitted to initiate the Section 106 consultation process for the Undertaking and to seek comments from your office with FRA's findings of National Register of Historic Places (NRHP) eligibility for specified properties in the Area of Potential Effects (APE) and FRA's finding of adverse effect.

Description of Undertaking

The purpose of the project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies, and provide reliable train access in and around the Muskego Yard project area. The proposed project consists of signalization improvements and track expansion and rehabilitation along the CPR corridor between the Kinnickinnic River and the western end of the Muskego Railyard. Full plans for the project are provided at Attachment A.

Traveling north from the Kinnickinnic River, the corridor currently consists of two operating main tracks leading to the Milwaukee Intermodal Station and one yard lead track to Muskego Yard. Between Kinnickinnic Avenue and National Avenue, an existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track

will be constructed to the east on existing track roadbed within existing CPR Railway right-of-way. Just south of Florida Street, the four tracks will begin to split, with two continuing north to the MIS (no further work planned in current project scope), and two continuing west towards the Muskego rail yard. Beginning west of 2nd Street, a third track will be constructed, and temporary easement and permanent right-of-way acquisitions will be required along portions of the corridor. The bridges over Florida Street, 1st Street and 2nd Street will be rehabilitated. The bridge over an alley between 2nd Street and 3rd Street will be removed. At the Burnham Canal, the existing 2-track swing bridge (referred to in this document as the Burnham Canal Bridge) will be removed and a new 3-track replacement bridge will be constructed. Within the Muskego rail yard, four existing tracks along the southern edge of the yard will be shifted and rehabilitated or reconstructed. At the western end of the yard, a new 8-track bridge will replace existing structures over the Menomonee River. West of 27th Street, existing tracks will be reconstructed or rehabilitated within the existing right-of-way as they leave the yard and terminate into the existing mainline tracks, with the project corridor ending just west of 35th Street.

Area of Potential Effects

Given the nature of the project and its potential to impact the project area, two APEs were established - an archaeological APE that considers potential effects related to ground disturbance and an architectural APE that considers indirect visual and auditory effects that considered all properties within and immediately adjacent to the proposed project corridor. All resources in the APE that were at least 40 years old and possessed a degree of historic integrity were examined for potential historical significance. The APE maps are provided in Attachment B.

Identification of Historic Properties

In accordance with 36 CFR 800.4(b), FRA has made a good faith effort to identify historic properties within the APE. FRA has completed both an architectural and an archaeological survey of the APE. Both of these surveys consisted of archival and literature search of the Wisconsin Historic Preservation Database and the State and National Registers of Historic Places (NRHP) to identify previously recorded historic properties. This work was followed by field work to verify the presence or absence of previously identified properties as well as to identify any properties that had not been previously identified or surveyed.

The architectural survey included the evaluation of several previously unrecorded properties. FRA has determined that two of these properties, the Burnham Canal and the Burnham Canal Bridge, are eligible for listing on the NRHP. An additional seven properties that are listed in or eligible for listing on the NRHP were identified within the APE. A full list and description of the historic architectural properties within the APE is provided in the Architectural History Report found in Attachment D. The determinations of NRHP eligibility for the Burnham Canal and the Burnham Canal Bridge are provided at Attachment E and F respectively.

FRA also identified and conducted site visits at historic properties that were immediately adjacent to the project area. These properties include: the Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, 16th Street Viaduct, Mitchell Park Domes, the Northwestern Malleable Iron Company, and an additional 55 previously surveyed individual properties. The results of this resurvey effort are outlined in Architectural History Report found in Attachment D. FRA has determined that the undertaking will not result in adverse physical,

auditory, visual, or vibration effects to any of these properties. FRA is providing updated information on these historic properties for informational purposes only.

The archaeological survey determined that the entire project area has been heavily disturbed by grading, fill, and development activities. Two archaeological sites were identified immediately adjacent to the APE - 47MI0109 and 47MI0207. Site 47MI0109 has an association with prehistoric burials and is codified as an uncatalogued burial site per Wisconsin Statute §157.70. Both sites have been determined ineligible for NRHP listing. A full summary of the archaeological resources adjacent to the APE can be found in the archaeological survey provided at Attachment G.

Assessment of Effects

In accordance with 36 CFR 800.5(a), FRA has applied the criteria of adverse effects to the Undertaking. FRA finds that the majority of the activities within the undertaking are consistent with the historic use and setting of the Muskego Rail Yard. In accordance with 36 CFR 800.4(c)(2), FRA has determined that the First Street, Alley, Second Street, Florida Street, and Menominee River Bridges are not eligible for listing in the NRHP and that the renovation of the First, Second, Florida Street bridges and replacement of the alley and Menominee river bridges will not affect historic properties. Therefore, the undertaking will have No Adverse Effect on historic architectural resources within the APE, except as noted below.

FRA has determined that the removal and replacement of the NRHP eligible Burnham Canal Bridge constitutes an adverse effect (36 CFR 800.5(a)(2)(i)). FRA has determined replacement of the Burnham Canal Bridge with a new bridge would not cause indirect effects to the NRHP eligible Burnham Canal. FRA will require WisDOT to develop a Construction Environmental Protection Plan (CEPP) to prevent inadvertent damage to the canal during construction of the replacement bridge, and this requirement will be captured in the Memorandum of Agreement.

FRA has determined that the APE has been heavily impacted by previous ground disturbing and fill activities and that there is little potential for the presence of intact archaeological resources. The archaeological survey noted that prehistoric burials were located within the bounds of archaeological site 47MI0109. Because site 47MI0109 is classified as an *uncatalogued burial* site disturbance within the site boundary will require review by the Wisconsin Historical Society in accordance with *Wisconsin Statute Part 157.70*. During the course of the consultation process the Forest County Potawatomi raised concerns that burials may be present under the layers of fill material at site 47MI0109 and 41MI0207. As the consultation process for this undertaking continues, FRA will develop appropriate procedures to determine if previously undisturbed soil layers will be impacted by construction and to minimize the potential for inadvertent disturbance of deeply buried archaeological resources or remains during the course of construction. These requirements will also be captured in the Memorandum of Agreement.

Request for Review and Comment

FRA's findings are:

- The following properties are not eligible for NRHP listing: Bridge BR84.73 – First Street, Bridge BR84.84 – Alley, Bridge BR84.80 – Second Street, Bridge BR84.66 – Florida Street, Bridge BR 86.98 Menominee River, and archaeological sites 47MI0109 and 47MI0207.

- The following properties are eligible for the NRHP: Burnham Canal and Burnham Canal Bridge.
- The project will result in an Adverse Effect to the Burnham Canal Bridge. As discussed above, all other NRHP-eligible or listed properties will not be adversely affected including the Burnham Canal for which adverse effects will be avoided through appropriate bridge design and implementation of a CEPP.

FRA requests that 1) you review the enclosed materials and provide any comments or information you may have regarding historic properties of religious or cultural significance to your Tribe that may be present in the APE, and 2) that you notify FRA within 30 days of receipt of this letter whether you accept or decline this invitation to be a consulting party in the development of the Memorandum of Agreement. You may meet with FRA or WisDOT for the purpose of sharing information. FRA offers Government-to-Government consultation on this project, if that is your Tribe's preference.

An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses. Any comments provided on FRA's finding of Adverse Effect will be included in the FRA's notification to the Advisory Council on Historic Preservation of this finding (36 CFR 800.6(a)(1)). FRA will reach out to your office and all consulting parties to discuss possible methods for avoiding, minimizing, and/or mitigating the adverse effects through the development of a Memorandum of Agreement.

If you have any questions or wish to discuss this undertaking please contact Derek Manning, at 857-998-1779 or derek.manning@dot.gov

Sincerely,



Katherine Zeringue
Federal Preservation Officer
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Melissa Hatcher, FRA
Arun Rao, WisDOT
Edith Leoso, THPO

Enclosures:

Attachment A – Project Plans
Attachment B – Area of Potential Effects Map
Attachment C – Tribal and Consulting Party List
Attachment D – Architecture/History Survey
Attachment E – Determination of Eligibility: Burnham Canal
Attachment F – Determination of Eligibility: Burnham Canal Bridge
Attachment G – Phase I Archeological Survey

From: [Manning, Derek \(Volpe\)](#)
To: [Caron Kloser](#); [Schmidt, Jonathan \(Volpe\)](#); [Hatcher, Melissa \(FRA\)](#); [arun.rao dot.wi.gov](#); [Aaron Bowe](#)
Subject: FW: Section 106 Consultation - Muskego Railyard Bypass - Milwaukee WI
Date: Tuesday, March 30, 2021 8:53:03 AM

FYI

From: Wanda McFaggen <wandam@stcroixojibwe-nsn.gov>
Sent: Tuesday, March 30, 2021 9:47 AM
To: Manning, Derek (Volpe) <Derek.Manning@dot.gov>
Subject: RE: Section 106 Consultation - Muskego Railyard Bypass - Milwaukee WI

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

The St. Croix Tribe has no concerns.
Thank you,

Wanda McFaggen, Director/THPO
Tribal Historic Preservation
St. Croix Chippewa Indians of Wisconsin
24663 Angeline Avenue
Webster, Wisconsin 54893
715-349-2195 x 5238

"A real Native person feels the obligation and interconnection with their tribe. You contribute to the tribe: the tribe is almost first because you are aware of your responsibilities to help the tribe."
Ada Deer, Menominee Nation

From: Manning, Derek (Volpe) [<mailto:Derek.Manning@dot.gov>]
Sent: Tuesday, March 30, 2021 8:25 AM
To: Wanda McFaggen
Cc: [arun.rao dot.wi.gov](#); [Caron Kloser](#); [Aaron Bowe](#); [Hatcher, Melissa \(FRA\)](#); [Schmidt, Jonathan \(Volpe\)](#); lisa.stern@dot.wi.gov
Subject: RE: Section 106 Consultation - Muskego Railyard Bypass - Milwaukee WI

Ms. McFaggen,

I am reaching out to follow-up on the above referenced Section 106 compliance action and to ask if you were able to access all of the files or if you had any questions about the project.

Very respectfully
Derek

From: Manning, Derek (Volpe)
Sent: Wednesday, March 10, 2021 12:36 PM
To: susanl@stcroixtribalcenter.com; thpo@stcroixtribalcenter.com
Cc: arun.rao dot.wi.gov <arun.rao@dot.wi.gov>; Caron Kloser <CKloser@HNTB.com>; Aaron Bowe <abowe@HNTB.com>; Hatcher, Melissa (FRA) <melissa.hatcher@dot.gov>; Schmidt, Jonathan (Volpe) <Jonathan.Schmidt@dot.gov>; lisa.stern@dot.wi.gov
Subject: Section 106 Consultation - Muskego Railyard Bypass - Milwaukee WI

Chairwoman Lowe,

The Federal Railroad Administration is funding a project to make various rail improvements in and around the Muskego Railyard in Milwaukee, Wisconsin. These improvements will allow freight trains to bypass the passenger rail station when traveling through the city.

Please find attached the Section 106 consultation letter for this undertaking. All of supporting documentation is available at: <https://app.box.com/s/pmwg3u2kfg2ed365101zia9ejf63cdem>

Please don't hesitate to contact me if you have any questions.

Very respectfully.

Derek Manning

Environmental Protection Specialist | Environmental Science and Engineering Division, V-326
Volpe, The National Transportation Systems Center | U.S. Department of Transportation
55 Broadway, Cambridge MA 02142 | Web: www.volpe.dot.gov
Office: 617-494-2475 | Fax: 617-494-2789 | Cell: 857-998-1779 | Email: derek.manning@dot.gov

Advancing transportation innovation for the public good



From: [Michael LaRonge](#)
To: [Caron Kloser](#)
Subject: RE: Muskego Yard project follow up
Date: Wednesday, September 30, 2020 8:39:24 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Thank you Caron. I look forward to working through the details soon.

Michael LaRonge
Tribal Historic Preservation Officer
Cultural Preservation Division
Forest County Potawatomi Community
8130 Mish ko Swen Drive
P.O. Box 340
Crandon, Wisconsin 54520
Phone: 715-478-7354
Email: Michael.LaRonge@FCPotawatomi-nsn.gov

From: Caron Kloser <CKloser@HNTB.com>
Sent: Wednesday, September 30, 2020 8:04 AM
To: Michael LaRonge <Michael.LaRonge@fcpotawatomi-nsn.gov>; Sara Drescher <Sara.Drescher@fcpotawatomi-nsn.gov>; Schmidt, Jonathan (Volpe) <Jonathan.Schmidt@dot.gov>; Mast, Travis (Volpe) <Travis.Mast@dot.gov>
Cc: Hatcher, Melissa (FRA) <melissa.hatcher@dot.gov>; arun.rao dot.wi.gov <arun.rao@dot.wi.gov>; Kaliszewski, Katherine N - DOT <katherinen.kaliszewski@dot.wi.gov>; Cloud, Lynn - DOT <Lynn.Cloud@dot.wi.gov>; Shinnars, Dana M - DOT <dana.shinnars@dot.wi.gov>; Levy, Andrew J - DOT <Andrew.Levy@dot.wi.gov>
Subject: Muskego Yard project follow up

Hello Michael and Sara,

This is a follow up to our conversations regarding the Muskego Yard project. By way of this email, I wanted to introduce you to Jonathan Schmidt and Travis Mast from the FRA team who will be conducting Section 106 consultation and coordination. Jon will be following up with you to set up a call to discuss the project updates.

Regards,
Caron

Caron Kloser AVP, AICP
Urban Development and Planning
Tel (414) 410-6776 Cell (414) 975-2030 Email ckloser@hntb.com

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This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. If you are NOT the intended recipient and receive this communication, please delete this message and any attachments. Thank you.

Attachment 12: Consultation Meeting Documentation

From: [Caron Kloser](#)
To: [Michael LaRonge](#); ["Sara Drescher"](#); ["ned.danielsjr@fcpotawatomi-nsn.gov"](#); ["stacy@historicmilwaukee.org"](#); ["info@milwaukeehistory.net"](#); ["MMcCully@milwaukeehistory.net"](#); [Historic Preservation Commission](#); ["chatal@milwaukee.gov"](#); [mpa@milwaukeepreservation.org](#); ["museum@mrha.com"](#); ["compliance@wisconsinhistory.org"](#); ["daina.penkiunas@wisconsinhistory.org"](#); ["Manning, Derek \(Volpe\)"](#); ["Schmidt, Jonathan \(Volpe\)"](#); ["Hatcher, Melissa \(FRA\)"](#); ["arun.rao dot.wi.gov"](#); [Stern, Lisa - DOT](#); [Aaron Bowe](#); [dana.shinners@dot.wi.gov](#); ["andrew.levy@dot.wi.gov"](#); [Jennifer Haas - University of Wisconsin Milwaukee](#) ([haasjr@uwm.edu](#)); [Gail Rae Klein](#)
Subject: Muskego Yard Section 106 Consulting Party Meeting
Start: Thursday, April 22, 2021 1:00:00 PM
End: Thursday, April 22, 2021 2:30:00 PM
Location: Teams Call
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.jpg](#)

Hello, on behalf of Federal Railroad Administration and WisDOT, I am sending out this invitation for an online Consulting Party meeting for April 22, 1-2:30 p.m. We will review the project, FRA's finding of effects on historic and archeological resources, proposed mitigations for adverse effects and timeline for next steps. If you have any questions, please contact Derek Manning at Derek.Manning@dot.gov <<mailto:Derek.Manning@dot.gov>> . We look forward to meeting you on April 22.

Regards,

Caron Kloser

Caron Kloser AVP, AICP

Urban Development and Planning

Tel (414) 410-6776 Cell (414) 975-2030 Email ckloser@hntb.com <<mailto:ckloser@hntb.com>>

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MEETING NOTES

Date: April 22, 2021

HNTB Project No. 72877

Muskego Yards - Consulting Party Meeting

Location: MS Teams call

Purpose: Section 106 Consultation

Attending:

Michael LaRonge, Potawatomi Tribe
Kimberly Cook, Wisconsin Historical Society
Tim Askin, City of Milwaukee Historic
Preservation Commission
Jeremy Ebersole, Milwaukee Preservation
Alliance
Melissa Hatcher, Federal Railroad
Administration
Derek Manning, Volpe Center

Jon Schmidt, Volpe Center
Crystal DuPont, WisDOT
Arun Rao, WisDOT
Dana Shinnors, WisDOT
Lisa Stern, WisDOT
Jennifer Haas, UWM
Aaron Bowe, HNTB
Caron Kloser, HNTB

The project team provided an overview of the Muskego Yard project and results of historic and archeological surveys, project effects and proposed mitigation. FRA determined the Burnham Canal and Burnham Canal Bridge are eligible for listing in the National Register of Historic Places. Through Section 106 consultation, FRA determined the project will have no adverse effect on seven previously listed or eligible historic properties, as well as the Burnham Canal. The project involves replacing the Burnham Canal Bridge, which would result in an adverse effect finding.

Two archaeological sites have been identified, of which one is associated with prehistoric burials. One archaeological site is within the APE while the other is adjacent, though it is reasonable to assume the site extends into the APE. The two archeological sites are not eligible for the NRHP. However, FRA is committed to having a qualified archeologist develop a plan to determine and monitor if ground-disturbing activities have the potential to impact buried resources and identify appropriate protocols should cultural deposits or human remains be discovered.

WisDOT considered avoidance and minimization alternatives to replacing the Burnham Canal Bridge and found leaving the bridge in place or replacing in-kind are not reasonable. The alternatives would not meet the project purpose and need or impact long-term operations and maintenance costs. Replacing the structure in-kind with a new swing bridge is not reasonable, as the canal is no longer maintained for commercial navigation. The Canadian Pacific design standard does not allow for in-kind truss bridge replacements where they are not required for navigational purposes.

The group discussed the potential for leaving the bridge in place and relocating a new bridge off-alignment. This alternative would not be practicable because the rail alignment approaching from the east is between several buildings in a historic district. Relocating the alignment would require removing buildings, resulting in a greater impact to historic resources.

The group discussed potential mitigation for the adverse effect:

- Consider the bridge and canal as a system when developing mitigations
- HABS/HAER documentation of the bridge
- Public interpretation; do not limit publication of an article to one magazine in stipulations, which maintains flexibility to submit an article to a variety of magazines (one suggestion included Industrial Archeology)
 - The lack of public space in and around the project area limits opportunities for placing an historical marker.
- Alternative mitigation: complete a survey of similar resources that have not already been surveyed or nominating a similar resource to the National Register.

Actions:

- FRA to prepare rough draft of MOA for early SHPO review and comment.

- FRA to invite ACHP to consult on adverse effect.

This is our understanding of items discussed and decisions reached. Please contact me if there are changes or additions.

Submitted by,

HNTB CORPORATION

Caron Kloser
Project Manager

Attachment 13: Comments Received from Consulting Parties on Draft MOA

SHPO Comments

RE: Further Coordination: 21-0308/MI - Muskego Yard Bypass

Caron Kloser <CKloser@HNTB.com>

Wed 7/7/2021 10:50 AM

To: kimberly.cook@wisconsinhistory.org <kimberly.cook@wisconsinhistory.org>; Manning, Derek (Volpe) <Derek.Manning@dot.gov>; Schmidt, Jonathan (Volpe) <Jonathan.Schmidt@dot.gov>; Hatcher, Melissa (FRA) <melissa.hatcher@dot.gov>; Jennifer R Haas <haasjr@uwm.edu>; Gail Rae Klein <grklein@uwm.edu>
Cc: katherinen.kaliszewski@dot.wi.gov <katherinen.kaliszewski@dot.wi.gov>

Thank you Kimberly. I am copying FRA and UWM so they also have your comments and we'll follow up.
Regards,
Caron

From: kimberly.cook@wisconsinhistory.org <kimberly.cook@wisconsinhistory.org>

Sent: Wednesday, July 7, 2021 10:30 AM

To: Caron Kloser <CKloser@HNTB.com>

Cc: katherinen.kaliszewski@dot.wi.gov

Subject: Further Coordination: 21-0308/MI - Muskego Yard Bypass

Dear Ms. Caron Kloser,

Thank you for the opportunity to review the draft Documentation for Consultation and Memorandum of Agreement. Our comments are as follows:

D for C:

The document does not contain any figures. Please add figures to aid in understanding the project and the alternatives considered. Include clear project plans, photos, graphics that clearly show each of the alternatives, mock ups of what preferred alternatives will look like, maps showing each alternative's impact on the historic resources. Talk to your consultant about the kinds of things they typically provide in these documents.

As we've mentioned before, the bridge and the canal are a system. The project will adversely affect both.

If there were changes to the "updated" June D for C, they are not apparent.

Move all concurrence information from the MOA to this document. This is a more appropriate place for that.

MOA:

We highly recommend taking a look at the ACHP MOA template and the WisDOT MOA toolkit (though this one is a bit outdated) for format and standard whereas clauses. Please work with the consultant - they have done many successful MOAs and understand what works well.

We like to see MOAs as a reference document for process, not as a summary of the compliance effort. The D for C is a far more appropriate place for a discussion on the history of concurrence. It is certainly appropriate to list consulting and invited parties in the Where as clauses, but the rest of the coordination can be recorded in the D for C.

Stipulation 1A - Identify which level of HAER.

Stipulation 1A(5) - The WI SHPO requires digital copies of the photos as well. Please include a copy of our digital standards as an appendix. WisDOT uses it as a standard Appendix so they should have a copy.

Stipulation 1B - We would need to know exactly how many resources this includes, as well as a definition of transportation related resource before agreeing to the boundary of this stipulation. It is possible that the survey will need to be larger than the Menomonee Valley. Work with your consultant to figure out an appropriate survey size.

Stipulation 1B (4) - add that WHPD records will be created/updated in accordance with SHPO standards.

Stipulation 1B (5) - add that SHPO will need to confirm eligibility status before the report is considered final.

Stipulation 1C - We are not opposed to the inclusion of this stipulation and agree consulting parties will want to be informed of the efforts to protect adjacent historic properties, but it should be clear that this is a matter of due diligence and not mitigation. Please include interested parties in the review of the Protection Plan.

Stipulation II D - Add that the agency must Request to Disturb a Human Burial site and receive Authorization from the SHPO per Wis Stat 157.70 prior to construction. We recommend approximately 3-5 months prior.

Stipulation II E - There is an approved Inadvertent Discovery Protocol, please include it as an appendix.

Stipulation IV C delegates consultation to WisDOT but G identifies FRA as responsible for tribal consultation. This needs to be clarified.

Stipulation VII - This duplicates content in Stipulation II. Consider combining them and adding process in an appendix. Make sure this protocol does not contradict what is in the law and the Inadvertent Discovery Protocol.

Appendices - work with your consultant on appropriate appendices. Much of what is included here is more appropriate for the D for C. These should be useful quick-reference guides to completing the work laid out in the above stipulations.

Thank you for the opportunity to have an early look at these documents. We recommend sending an additional draft prior to signature.

Thank you,

Kimberly Cook
State Historic Preservation Office

Wisconsin Historical Society
816 State Street, Madison, WI 53706

kimberly.cook@wisconsinhistory.org

Wisconsin Historical Society

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WisDOT Comments

Summary of Comments on Muskego Section 106 Draft MOA_060321_FRA_WisDOT CRT Comments .pdf

Author: KALISZEWSKI, KATHERI

Page: 1 Date: 7/6/2021 12:33:00 PM

Please add WisDOT ID and WHS Number at the end of the title block

Page: 1 Date: 7/6/2021 12:39:00 PM

I personally would switch the order of these 2 stipulations following the ACHP template and current WisDOT guidance for MOAs

Page: 3 Date: 7/6/2021 12:53:00 PM

Previous dealings with USACE and WisDOT have suggested that the Corps will not sign an MOA that it does not have any stipulations that it is not responsible for. Have you reached out to the Corps and made sure that they do want to sign? Otherwise, we should remove their signature page.

Page: 3 Date: 7/6/2021 12:47:00 PM

Please add stipulation:

WHEREAS, this undertaking is not on federal land or tribal land as defined by the NHPA; therefore, all inadvertent human remain discoveries will be addressed in accordance with Wisconsin State Statute §157.70 (and the Proposed Final Inadvertent Discovery Protocol (attachment #x))

Additionally, we have an inadvertent discovery protocol already, and typically we would include a statement about that here at the end. I included that language in the parenthesis. See the MOAs that I attached as examples

Page: 5 Date: 7/6/2021 12:51:00 PM

What HAER level are you proposing be completed for this project. That should be made very clear here. That would make the bullets more clear on what is required for the project. Additionally, typically in WisDOT MOAs we move a lot of the required steps for completing the MOA to an appendix. I will include a copy in my response.

I would move 1-5 to an appendix.

Page: 5 Date: 7/6/2021 12:56:00 PM

Even if the Milwaukee County Historical Society is not a consulting party, they are the depository of record for the county and any documentation should be sent to them for their retention.

Page: 5 Date: 7/6/2021 12:58:00 PM

Again, I would move bullets 2-7 in an appendix, where additional detail could be included

Page: 6 Date: 7/6/2021 12:59:00 PM

This is not a good timeframe, WisDOT will not be able to complete the necessary contracting and the consultants would not be able to complete the survey within one year of execution. I would recommend that this should be extended to within 2 years of execution.

Page: 6 Date: 7/6/2021 1:00:00 PM

When this is moved to an appendix, it should also include a list of all the property types in WHPD that would fall under this very general resource type. That way WisDOT and SHPO have some sort of review over what property types should be included. That would also make it easier to any consultant bidding this project.

Page: 6 Date: 7/6/2021 1:02:00 PM

I think we also need to make clear what the survey report will look like. Previous surveys completed for WisDOT project mitigation have followed the WisDOT survey forms and submittal. How does SHPO want this sent to them?

Page: 6 Date: 7/6/2021 1:04:00 PM

While the Milwaukee County Historical Society has not participated in consultation, they are the repository for the history of the city and county. Please plan to send one to them also.

Page: 7 Date: 7/6/2021 1:03:00 PM

See comment in stipulations. Unsure this stipulation is needed.

Page: 9 Date: 7/6/2021 1:05:00 PM

WisDOT already has a MOA Annual Report which is sent out to parties in the first quarter of the year. Please update to say that it will be included in that document. WisDOT CRT does not have the time to draft separate updates for projects.

Page: 9 Date: 7/6/2021 1:06:00 PM

The MOA has several other stipulations? Including the drafting of the CEPP and a monitor report? WisDOT (and FHWA for that matter) would not close an MOA until all stipulations are completed

Page: 9 Date: 7/6/2021 1:08:00 PM

Please see example MOAs I have sent in how WisDOT typically covers these items

Page: 9 Date: 7/6/2021 1:07:00 PM

See the example MOAs I attached.

City of Milwaukee Comments

FW: Muskego Yard Bypass

Caron Kloser <CKloser@HNTB.com>

Thu 7/15/2021 5:11 PM

To: Jennifer R Haas <haasjr@uwm.edu>; Gail Rae Klein <grklein@uwm.edu>

Here are city's comments.

From: Askin, Tim <Tim.Askin@milwaukee.gov>

Sent: Thursday, July 15, 2021 5:02 PM

To: Caron Kloser <CKloser@HNTB.com>

Cc: Kaliszewski, Katherine N - DOT <katherinen.kaliszewski@dot.wi.gov>; Laronge, Michael - DNR <michael.laronge@fcpotawatomi-nsn.gov>; Manning, Derek (Volpe) <Derek.Manning@dot.gov>; Cook, Kimberly A - WHS <Kimberly.Cook@WisconsinHistory.org>; Jeremy Ebersole <jebersole@milwaukeepreservation.org>; Compliance WHS <compliance@wisconsinhistory.org>; Ned Daniels Jr. <Ned.DanielsJr@fcpotawatomi-nsn.gov>; Intern-2, HPC <HINTERN2@milwaukee.gov>; Intern, HPC <hintern@milwaukee.gov>; Kitchen, Anthony J CIV (USA) <Anthony.J.Kitchen@usace.army.mil>; Stanifer, William B CIV <William.B.Stanifer@uscg.mil>; alopez@achp.gov
Subject: Muskego Yard Bypass

Dear Ms. Kloser:

The City of Milwaukee offers the following the comments on the draft Memorandum of Agreement.

Overall Comments

1. City of Milwaukee concurs with all of WHS's comments
2. There continues to be an unacknowledged 4(f) use of the canal. This needs to be explained, justified, and mitigated. Analysis based on the "feasible and prudent" standard is required. As stated in our prior comments, only the railroad lines in active use have a 4(f) exemption. The canal is a historic resource subject to 4(f) protections. It is not exempt; it is a waterway and not an active railroad line.
3. Why was the railroad corridor itself not evaluated as a potential historic resource?
4. Why were the railroad corridor and its related infrastructure not evaluated as resources that could contribute to the pre-existing Walkers Point NRHD?
5. The City was not provided archaeological data even beyond the existence of reportedly ineligible sites. We cannot fully participate without knowing what led to that determination. This is concerning because of the proximity of the APE to known wetlands and known prehistoric and historic period Native occupation and settlement. Therefore there appears to be significant potential for adverse effects to underground resources.

Whereas Clauses

1. A public meeting for "officials" is not a public meeting, especially when mandatory consulting parties were apparently not invited. Who was invited? Who attended?
2. Please refer to our participation simply as the City of Milwaukee. We have been authorized to represent the city in this consultation. The entity that is the Commission has a request I have added under Stipulation IA comments.

3. Project alternatives: there is a 4(f) use. The standard is therefore “feasible and prudent,” not “reasonable and prudent.” There has been no documentation regarding any attempt to meet this standard. Alternatives analysis was completed after the fact and not all feasible alternatives were considered or proceeded to even the most minimal design phases.

4. As the city is taking on and requesting obligations, including providing materials and reviewing documents drawings to FRA/WisDOT and having a review period, the City would prefer to be an invited signatory, not a concurring party.

Stipulation IA:

- City has provided digital scans sufficient for HAER Level II and requests HAER Level II.
- HAER standards were significantly updated in 2003. Please do not reference the 1983 standards alone. See *Federal Register*, Vol. 68, pp 43159-43162 (July 21, 2003)
- As with WHS, the City requires a digital version of the photographs. 1200 DPI uncompressed TIF is preferred.
- NPS and LOC need to be notified to accept documentation. “Voluntary” submittals that do not go to LOC are invariably lost to the public and never seen again. This is a known phenomenon in Illinois where these “voluntary” submittals are sent to the state library, microfilmed, and then the originals are destroyed, defeating the entire purpose of high resolution documentation. As consultants have described the bridge as a “rare type,” there should be no objection to receipt of this HAER documentation.
- Milwaukee Public Library, Humanities Division should receive a set of the photos for the Milwaukee Road Archives. Milwaukee County Historical Society (MCHS) is not the preferred local repository in this case, because of the Milwaukee Road connection. A set should be offered to MCHS, but their acceptance is not vital. (https://www.mpl.org/archives/milwaukee_road_archives.php)
- The Historic Preservation Commission, as a body, formally requested laser scanning of the bridge prior to demolition. UWM-CRM has access to these capabilities through UWM’s School of Architecture and Urban Planning and can consult with faculty there on appropriate language for implementing this. This should be added to this stipulation and included in the HAER record.

Stipulation IB

- Few railroad structures of any apparent significance remain in the Menomonee Valley. The majority of the Milwaukee Road facilities were demolished decades ago. This includes most bridges of any possible National Register significance. Knowing this, a Menomonee Valley survey would be a waste of effort. As the mitigation is for loss of a bridge, a survey of railroad bridges over waterways within the region would be the most appropriate response. This should include abandoned crossings with extant piers. The City would propose an initial scope area of Milwaukee County. If a reduced scope proves necessary, limiting this to former Milwaukee Road bridges within the County or City may be a reasonable approach.
- The 4(f) exemptions granted to railroads make survey and documentation of any surviving historic properties a vital resource for planning.
- The City requests a 30-day review period on the survey draft. Review by local experts is necessary for a quality product.

- If WisDOT's preferred timeline of two years is adopted, then 6-month progress reports should be provided. These reports should not exceed one typed, double-spaced page.
- The City requires 3 printed copies of the final survey report.

Stipulation II

- Tribal archaeological monitoring is strongly recommended for all excavation work, particularly in the main railyard.
- The City endorses any archaeological recovery and monitoring requests the FCPC feel are appropriate.

Signatures

According ACHP training on 7/15/2021, ACE and USCG are not required signatories and do not need to occur. Only the lead federal agency is required to sign. They also cannot both be on the same signature. Finally, as with WisDOT's comments, it makes no sense to include them since they have no assigned responsibilities under the agreement and have not contributed to the consultation.

Tim Askin, Senior Planner
Historic Preservation Commission
City of Milwaukee
414-286-5712
Tim.Askin@Milwaukee.gov

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Milwaukee Preservation Alliance Comments

July 29, 2021

Derek Manning
Environmental Protection Specialist
U.S. Department of Transportation
Volpe Center
55 Broadway
Cambridge, MA 02142



1100 S. 5th Street, Ste. 319
Milwaukee, WI 53204
P: 414.220.0530

RE: Muskego Yard Bypass, WisDOT Project ID 0385-57-03

Dear Mr. Manning,

Thank you for the opportunity to formally comment on the Federal Railroad Administration's (FRA) Muskego Yard Bypass undertaking and the proposed MOA. The Milwaukee Preservation Alliance wishes to concur with comments submitted by the City of Milwaukee. We would similarly like to see a more thoughtful approach to potential historic resource identification including a consideration of the railroad corridor as a resource and the possibility of this resource contributing to the existing NRHD. We also believe a 4(f) use of the canal needs to be acknowledged and analyzed based on the "feasible and prudent" standard. While the bridge itself is exempt in this case, the canal is not.

MPA also supports HAER Level II documentation including digital photographs distributed to the parties noted in the City response, which will ensure that they are as accessible as possible. This public access is important to meet the purpose of the documentation. Laser scanning would also provide further depth of understanding of this rare bridge type and is requested as well.

We would also reiterate our previous comment about the value of a survey extending beyond the Menomonee Valley to focus on rail resources. This approach of surveying similar resources (rail bridges over waterways, for example) over a larger geographic area will be more meaningful than the proposed approach to survey broader transportation resources within the more limited geographic area of the Valley. We concur with the City in this respect.

Finally, we further support requests determined appropriate by the Forest County Potawatomi Community related to recovery and monitoring. This is especially important considering the location of the APE relative to known Native occupation and the potential for adverse effects to underground resources.

Thank you for your time and consideration.


Respectfully,


Jeremy Ebersole
Executive Director


Forest County Potawatomi Community Comments

Summary of Comments on Muskego Section 106 Draft MOA_060321_FCPC-THPO_comments.pdf


Page: 2

 Author: Manning, Derek (Volpe) Date: 6/3/2021 8:04:00 AM
NOTE TO REVIEWERS: WisDOT has also prepared an alternatives analysis which was shared with Consulting Parties concurrent submittal of the Draft MOA. This clause will be revised accordingly.


 Author: Michael LaRonge Date: 6/6/2021 9:30:00 PM
Has this been fixed now?

 Author: Michael LaRonge Date: 6/6/2021 9:34:00 PM
FCPC would prefer signing as an invited signatory due to the affiliation of the two archaeological sites with the Tribe.

Page: 3

 Author: Michael LaRonge Date: 6/6/2021 9:31:00 PM
Missing space, sorry track changes redline is not working for some reason.

Page: 16

 Author: Michael LaRonge Date: 6/6/2021 9:39:00 PM
See comment above.

 Author: Michael LaRonge Date: 6/6/2021 9:38:00 PM
FOREST COUNTY POTAWATOMI COMMUNITY

Attachment 14: USACE and USCG Correspondence



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

May 4, 2021

A.J. Kitchen
U.S. Army Corps of Engineers
St. Paul District, Regulatory Branch
Via email: Anthony.J.Kitchen@usace.army.mil

RE: Section 106 Lead Agency Designation and Consulting Party Invitation
Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI

Dear Mr. Kitchen:

The Federal Railroad Administration (FRA) is providing funding to the Wisconsin Department of Transportation (WisDOT) to make infrastructure improvements in and around the Canadian Pacific Railway (CPR) Muskego Yard in the City of Milwaukee, Wisconsin. This project constitutes an Undertaking pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) "Protection of Historic Properties" (Section 106).

This Undertaking will require permits from the U.S. Army Corps of Engineers (USACE) and the U.S. Coast Guard (USCG). FRA proposes to serve as lead federal agency for Section 106 in accordance with 36 CFR 800.2(a)(2). As lead federal agency, FRA would fulfill FRA's, USACE's and USCG's collective responsibilities under Section 106.

This letter is being transmitted to notify you of FRA's finding of adverse effect and proposal to serve as lead federal agency for Section 106. FRA is also inviting your agency to be a consulting party in the development of a Memorandum of Agreement (MOA) to resolve the adverse effects.

Description of Undertaking

The purpose of the project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies, and provide reliable train access in and around the Muskego Yard project area. The proposed project consists of signalization improvements and track expansion and rehabilitation along the CPR corridor between the Kinnickinnic River and the western end of the Muskego Railyard. Full plans for the project are provided at Attachment A.

Traveling north from the Kinnickinnic River, the corridor currently consists of two operating main tracks leading to the Milwaukee Intermodal Station and one yard lead track to Muskego Yard.

Between Kinnickinnic Avenue and National Avenue, an existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track will be constructed to the east on existing track roadbed within existing CPR Railway right-of-way. Just south of Florida Street, the four tracks will begin to split, with two continuing north to the MIS (no further work planned in current project scope), and two continuing west towards the Muskego rail yard. Beginning west of 2nd Street, a third track will be constructed, and temporary easement and permanent right-of-way acquisitions will be required along portions of the corridor. The bridges over Florida Street, 1st Street and 2nd Street will be rehabilitated. The bridge over an alley between 2nd Street and 3rd Street will be removed. At the Burnham Canal, the existing 2-track swing bridge (referred to in this document as the Burnham Canal Bridge) will be removed and a new 3-track replacement bridge will be constructed. Within the Muskego rail yard, four existing tracks along the southern edge of the yard will be shifted and rehabilitated or reconstructed. At the western end of the yard, a new 8-track bridge will replace existing structures over the Menomonee River. West of 27th Street, existing tracks will be reconstructed or rehabilitated within the existing right-of-way as they leave the yard and terminate into the existing mainline tracks, with the project corridor ending just west of 35th Street.

Area of Potential Effects

Two APEs were established - an archaeological APE that considered potential effects related to ground disturbance and an architectural APE that considered indirect visual and auditory effects that accounted for all properties within and immediately adjacent to the proposed project corridor. All resources in the APE that were at least 40 years old and possessed a degree of historic integrity were examined for potential historical significance. The APE maps are provided in Attachment B.

Identification of Historic Properties

FRA completed both an architectural and an archaeological survey of the APEs. Both surveys consisted of archival and literature search of the Wisconsin Historic Preservation Database and the State and National Registers of Historic Places (NRHP) to identify previously recorded historic properties. This work was followed by field work to verify the presence or absence of previously identified properties as well as to identify any properties that had not been previously identified or surveyed.

The architectural survey included the evaluation of several previously unrecorded properties. FRA determined that two of these properties, the Burnham Canal and the Burnham Canal Bridge, are eligible for listing on the NRHP. An additional seven properties that are listed in or eligible for listing on the NRHP were identified within the APE. A full list and description of the historic architectural properties within the APE is provided in the Architectural History Report found in Attachment D. The determinations of NRHP eligibility for the Burnham Canal and the Burnham Canal Bridge are provided at Attachment E and F respectively.

FRA also identified and conducted site visits at historic properties that were immediately adjacent to the project area. These properties included: the Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, 16th Street Viaduct, Mitchell Park Domes, the Northwestern Malleable Iron Company, and an additional 55 previously surveyed individual properties. The results of this resurvey effort are outlined in Architectural History Report found in Attachment D. FRA determined that the undertaking will not result in adverse physical, auditory, visual, or vibration effects to any of these properties.

The archaeological survey determined that the entire project area has been heavily disturbed by

grading, fill, and development activities. Two archaeological sites were identified immediately adjacent to the APE - 47MI0109 and 47MI0207. Site 47MI0109 has an association with prehistoric burials and is codified as an uncatalogued burial site per Wisconsin Statute §157.70. Both sites have been determined ineligible for NRHP listing. A full summary of the archaeological resources adjacent to the APE can be found in the archaeological survey provided at Attachment G.

Assessment of Effects

In accordance with 36 CFR 800.5(a) FRA applied the criteria of adverse effects to the Undertaking and found that the majority of the activities within the undertaking are consistent with the historic use and setting of the Muskego Rail Yard. In accordance with 36 CFR 800.4(c)(2), FRA determined that the First Street, Alley, Second Street, Florida Street, and Menominee River Bridges are not eligible for listing in the NRHP and that the renovation of the First, Second, Florida Street bridges and replacement of the alley and Menominee river bridges will not affect historic properties. Therefore, the undertaking will have No Adverse Effect on historic architectural resources within the APE, except as noted below.

FRA determined that the removal and replacement of the NRHP eligible Burnham Canal Bridge constitutes an adverse effect (36 CFR 800.5(a)(2)(i)). FRA has determined replacement of the Burnham Canal Bridge with a new bridge would not cause indirect effects to the NRHP eligible Burnham Canal. FRA will require WisDOT to develop a Construction Environmental Protection Plan (CEPP) to prevent inadvertent damage to the canal during construction of the replacement bridge, and this requirement will be captured in the MOA.

FRA determined that the APE has been heavily impacted by previous ground disturbing and fill activities and that there is little potential for the presence of intact archaeological resources. The archaeological survey noted that prehistoric burials were located within the bounds of archaeological site 47MI0109. Because site 47MI0109 is classified as an *uncatalogued burial* site, disturbance within the site boundary will require review by the Wisconsin Historical Society in accordance with *Wisconsin Statute Part 157.70*. During the course of the consultation process the Forest County Potawatomi raised concerns that burials may be present under the layers of fill material at site 47MI0109 and 41MI0207. As the consultation process for this undertaking continues, FRA will develop appropriate procedures to determine if previously undisturbed soil layers will be impacted by construction and to minimize the potential for inadvertent disturbance of deeply buried archaeological resources or remains during the course of construction. These requirements will also be captured in the MOA.

Tribal Consultation

On March 12, 2020, FRA and WisDOT initiated consultation with tribes with an interest in Milwaukee County projects. In light of the challenges faced by numerous tribes during the Covid-19 emergency, WisDot has implemented a policy of contacting all tribes associated with the state. FRA will continue to consult with the tribes listed in Attachment C.

On August 19, 2020, the Forest County Potawatomi Community of Wisconsin requested soil data related to sites 47MI0109 and 47MI0207 to determine if potential burials would be impacted by construction activities. FRA will continue to work with the Forest County Potawatomi Community of Wisconsin to address their concerns as consultation continues on this undertaking.

Summary of Findings and Determinations

FRA findings are:

- The following properties are not eligible for NRHP listing: Bridge BR84.73 – First Street, Bridge BR84.84 – Alley, Bridge BR84.80 – Second Street, Bridge BR84.66 – Florida Street, Bridge BR 86.98 Menominee River, and archaeological sites 47MI0109 and 47MI0207.
- The following properties are eligible for the NRHP: Burnham Canal and Burnham Canal Bridge.
- The project will result in an Adverse Effect to the Burnham Canal Bridge. As discussed above, all other NRHP-eligible or listed properties will not be adversely affected including the Burnham Canal for which adverse effects will be avoided through appropriate bridge design and implementation of a CEPP.

Because your agency will have federal permit jurisdiction, FRA respectfully requests that your office provide a response in 30 days to our proposal for FRA to serve as lead federal agency for Section 106 compliance and our invitation to participate as a consulting part in the development of the MOA to resolve the adverse effects. As part of your response please indicate what, if any, role your agency would like to have in the development of the MOA and what, if any, signature status your agency would request on that document (concurring party or Invited Signatory). If we do not hear from your office, we will assume that your agency will act independently to fulfill its requirements under Section 106.

An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses. Any comments provided on FRA's finding of Adverse Effect will be included the FRA's notification to the Advisory Council on Historic Preservation of this finding (36 CFR 800.6(a)(1)).

If you have any questions or wish to discuss this undertaking please contact Derek Manning, at 857-998-1779 or derek.manning@dot.gov.

Sincerely,



Katherine Zeringue
Federal Preservation Officer
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Melissa Hatcher, FRA
Arun Rao, WisDOT

Enclosures:

- Attachment A – Project Plans
- Attachment B – Area of Potential Effects Map
- Attachment C – Tribal and Consulting Party List
- Attachment D – Architecture/History Survey
- Attachment E – Determination of Eligibility: Burnham Canal
- Attachment F – Determination of Eligibility: Burnham Canal Bridge
- Attachment G – Phase I Archeological Survey

From: [Kitchen, Anthony J CIV \(USA\)](#)
To: [Manning, Derek \(Volpe\)](#)
Cc: [Schmidt, Jonathan \(Volpe\)](#); [Caron Kloser](#); [Hatcher, Melissa \(FRA\)](#); [arun.rao dot.wi.gov](#); [Aaron Bowe](#); [Lynn.Cloud@dot.wi.gov](#); [Kaliszewski, Katherine N - DOT](#); [Komulainen-Dillenburg, Nancy S CIV USARMY CEMVP \(USA\)](#)
Subject: RE: Section 106 Consultation for Railway Improvements at Muskego Yards
Date: Monday, May 17, 2021 2:18:36 PM

Good afternoon,

Thank you for consulting with the Corps of Engineers on the proposed railway improvements at Muskego Yard in Milwaukee, WI. We have reviewed the Consulting Party Invitation letter with attachments and offer the following response:

The Corps recognizes and agrees that the Federal Railway Administration (FRA) is the lead Federal agency for the proposed undertaking and therefore is responsible for Section 106 compliance. We request no direct participation in the development of the MOA to resolve adverse effects and we do not need to be a signatory (Invited or Concurring) to the Agreement. However, we request the opportunity to review the Whereas language within the draft MOA associated with our recognition of FRA as the lead Federal agency and the Department of the Army permit language that would trigger our regulatory involvement (regulated activities within waters of the U.S.), so that we can ensure correct language of our Program/authorities. If the FRA is comfortable with providing us this information for our review and records then we do not need to be a signatory.

Please let me know if you need anything further from the Corps. Thank you again for sending us the information.

A.J. Kitchen, Project Manager
U.S. Army Corps of Engineers
St. Paul District, Regulatory Division
Brookfield Field Office
250 N. Sunnyslope Road, Suite 296
Brookfield, Wisconsin 53005
Office: 651-290-5729 | Anthony.J.Kitchen@usace.army.mil

From: Manning, Derek (Volpe) <Derek.Manning@dot.gov>
Sent: Wednesday, May 5, 2021 3:13 PM
To: Kitchen, Anthony J CIV (USA) <Anthony.J.Kitchen@usace.army.mil>
Cc: Schmidt, Jonathan (Volpe) <Jonathan.Schmidt@dot.gov>; Caron Kloser <CKloser@HNTB.com>; Hatcher, Melissa (FRA) <melissa.hatcher@dot.gov>; arun.rao dot.wi.gov <arun.rao@dot.wi.gov>; Aaron Bowe <abowe@HNTB.com>; Lynn.Cloud@dot.wi.gov; Kaliszewski, Katherine N - DOT <katherinen.kaliszewski@dot.wi.gov>
Subject: [Non-DoD Source] Section 106 Consultation for Railway Improvements at Muskego Yards

Mr. Kitchen,

The Federal Railway Administration (FRA) proposes to provide funding to the Wisconsin Department

of Transportation (WisDOT) to make infrastructure improvements to the Canadian Pacifica Railway Muskego Yard in Milwaukee, WI. The project includes replacement of two bridges and will require permits from the US Army Corps of Engineers and the US Coast Guard.

FRA is inviting the USACE to participate as a consulting party for the Section 106 compliance for this undertaking (see attached letter). The attachments referenced in the letter are available at: <https://app.box.com/s/070dkncvsb0jrps0bn76c9zfec4s0qn>

If you have any questions regarding this project please do not hesitate to contact me.

Very respectfully
Derek

Derek Manning

Environmental Protection Specialist | Environmental Science and Engineering Division, V-326
Volpe, The National Transportation Systems Center | U.S. Department of Transportation
55 Broadway, Cambridge MA 02142 | Web: www.volpe.dot.gov
Office: 617-494-2475 | Fax: 617-494-2789 | Cell: 857-998-1779 | Email: derek.manning@dot.gov



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

May 4, 2021

William B. Stanifer
Ninth Coast Guard District
Via email: william.b.stanifer@uscg.mil

RE: Section 106 Lead Agency Designation and Consulting Party Invitation
Muskego Yard Bypass
WisDOT I.D. 0385-57-03
City of Milwaukee, Milwaukee County, WI

Dear Mr. Stanifer:

The Federal Railroad Administration (FRA) is providing funding to the Wisconsin Department of Transportation (WisDOT) to make infrastructure improvements in and around the Canadian Pacific Railway (CPR) Muskego Yard in the City of Milwaukee, Wisconsin. This project constitutes an Undertaking pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) "Protection of Historic Properties" (Section 106).

This Undertaking will require permits from the U.S. Army Corps of Engineers (USACE) and the U.S. Coast Guard (USCG). FRA proposes to serve as lead federal agency for Section 106 in accordance with 36 CFR 800.2(a)(2). As lead federal agency, FRA would fulfill FRA's, USACE's and USCG's collective responsibilities under Section 106.

This letter is being transmitted to notify you of FRA's finding of adverse effect and proposal to serve as lead federal agency for Section 106. FRA is also inviting your agency to be a consulting party in the development of a Memorandum of Agreement (MOA) to resolve the adverse effects.

Description of Undertaking

The purpose of the project is to update and reconfigure existing rail and yard facilities along CPR's corridor between approximately 35th Street and the Kinnickinnic River Bridge to improve freight rail operations through Milwaukee, increase capacity at the Milwaukee Intermodal Station (MIS) to accommodate additional passenger train frequencies, and provide reliable train access in and around the Muskego Yard project area. The proposed project consists of signalization improvements and track expansion and rehabilitation along the CPR corridor between the Kinnickinnic River and the western end of the Muskego Railyard. Full plans for the project are provided at Attachment A.

Traveling north from the Kinnickinnic River, the corridor currently consists of two operating main tracks leading to the Milwaukee Intermodal Station and one yard lead track to Muskego Yard. Between Kinnickinnic Avenue and National Avenue, an existing west track will be rehabilitated to mainline standards, the two existing main tracks will be shifted east and an additional track

will be constructed to the east on existing track roadbed within existing CPR Railway right-of-way. Just south of Florida Street, the four tracks will begin to split, with two continuing north to the MIS (no further work planned in current project scope), and two continuing west towards the Muskego rail yard. Beginning west of 2nd Street, a third track will be constructed, and temporary easement and permanent right-of-way acquisitions will be required along portions of the corridor. The bridges over Florida Street, 1st Street and 2nd Street will be rehabilitated. The bridge over an alley between 2nd Street and 3rd Street will be removed. At the Burnham Canal, the existing 2-track swing bridge (referred to in this document as the Burnham Canal Bridge) will be removed and a new 3-track replacement bridge will be constructed. Within the Muskego rail yard, four existing tracks along the southern edge of the yard will be shifted and rehabilitated or reconstructed. At the western end of the yard, a new 8-track bridge will replace existing structures over the Menomonee River. West of 27th Street, existing tracks will be reconstructed or rehabilitated within the existing right-of-way as they leave the yard and terminate into the existing mainline tracks, with the project corridor ending just west of 35th Street.

Area of Potential Effects

Two APEs were established - an archaeological APE that considered potential effects related to ground disturbance and an architectural APE that considered indirect visual and auditory effects that accounted for all properties within and immediately adjacent to the proposed project corridor. All resources in the APE that were at least 40 years old and possessed a degree of historic integrity were examined for potential historical significance. The APE maps are provided in Attachment B.

Identification of Historic Properties

FRA completed both an architectural and an archaeological survey of the APEs. Both surveys consisted of archival and literature search of the Wisconsin Historic Preservation Database and the State and National Registers of Historic Places (NRHP) to identify previously recorded historic properties. This work was followed by field work to verify the presence or absence of previously identified properties as well as to identify any properties that had not been previously identified or surveyed.

The architectural survey included the evaluation of several previously unrecorded properties. FRA determined that two of these properties, the Burnham Canal and the Burnham Canal Bridge, are eligible for listing on the NRHP. An additional seven properties that are listed in or eligible for listing on the NRHP were identified within the APE. A full list and description of the historic architectural properties within the APE is provided in the Architectural History Report found in Attachment D. The determinations of NRHP eligibility for the Burnham Canal and the Burnham Canal Bridge are provided at Attachment E and F respectively.

FRA also identified and conducted site visits at historic properties that were immediately adjacent to the project area. These properties included: the Florida and 3rd Industrial Historic District, the Walker's Point Historic District, the East Oregon and South Barclay Industrial Historic District, the Lindsay-Bostrom Building, 16th Street Viaduct, Mitchell Park Domes, the Northwestern Malleable Iron Company, and an additional 55 previously surveyed individual properties. The results of this resurvey effort are outlined in Architectural History Report found in Attachment D. FRA determined that the undertaking will not result in adverse physical, auditory, visual, or vibration effects to any of these properties.

The archaeological survey determined that the entire project area has been heavily disturbed by grading, fill, and development activities. Two archaeological sites were identified immediately adjacent to the APE - 47MI0109 and 47MI0207. Site 47MI0109 has an association with

prehistoric burials and is codified as an uncatalogued burial site per Wisconsin Statute §157.70. Both sites have been determined ineligible for NRHP listing. A full summary of the archaeological resources adjacent to the APE can be found in the archaeological survey provided at Attachment G.

Assessment of Effects

In accordance with 36 CFR 800.5(a) FRA applied the criteria of adverse effects to the Undertaking and found that the majority of the activities within the undertaking are consistent with the historic use and setting of the Muskego Rail Yard. In accordance with 36 CFR 800.4(c)(2), FRA determined that the First Street, Alley, Second Street, Florida Street, and Menominee River Bridges are not eligible for listing in the NRHP and that the renovation of the First, Second, Florida Street bridges and replacement of the alley and Menominee river bridges will not affect historic properties. Therefore, the undertaking will have No Adverse Effect on historic architectural resources within the APE, except as noted below.

FRA determined that the removal and replacement of the NRHP eligible Burnham Canal Bridge constitutes an adverse effect (36 CFR 800.5(a)(2)(i)). FRA has determined replacement of the Burnham Canal Bridge with a new bridge would not cause indirect effects to the NRHP eligible Burnham Canal. FRA will require WisDOT to develop a Construction Environmental Protection Plan (CEPP) to prevent inadvertent damage to the canal during construction of the replacement bridge, and this requirement will be captured in the MOA.

FRA determined that the APE has been heavily impacted by previous ground disturbing and fill activities and that there is little potential for the presence of intact archaeological resources. The archaeological survey noted that prehistoric burials were located within the bounds of archaeological site 47MI0109. Because site 47MI0109 is classified as an *uncatalogued burial* site, disturbance within the site boundary will require review by the Wisconsin Historical Society in accordance with *Wisconsin Statute Part 157.70*. During the course of the consultation process the Forest County Potawatomi raised concerns that burials may be present under the layers of fill material at site 47MI0109 and 41MI0207. As the consultation process for this undertaking continues, FRA will develop appropriate procedures to determine if previously undisturbed soil layers will be impacted by construction and to minimize the potential for inadvertent disturbance of deeply buried archaeological resources or remains during the course of construction. These requirements will also be captured in the MOA.

Tribal Consultation

On March 12, 2020, FRA and WisDOT initiated consultation with tribes with an interest in Milwaukee County projects. In light of the challenges faced by numerous tribes during the Covid-19 emergency, WisDot has implemented a policy of contacting all tribes associated with the state. FRA will continue to consult with the tribes listed in Attachment C.

On August 19, 2020, the Forest County Potawatomi Community of Wisconsin requested soil data related to sites 47MI0109 and 47MI0207 to determine if potential burials would be impacted by construction activities. FRA will continue to work with the Forest County Potawatomi Community of Wisconsin to address their concerns as consultation continues on this undertaking.

Summary of Findings and Determinations

FRA findings are:

- The following properties are not eligible for NRHP listing: Bridge BR84.73 – First Street, Bridge BR84.84 – Alley, Bridge BR84.80 – Second Street, Bridge BR84.66 – Florida

Street, Bridge BR 86.98 Menominee River, and archaeological sites 47MI0109 and 47MI0207.

- The following properties are eligible for the NRHP: Burnham Canal and Burnham Canal Bridge.
- The project will result in an Adverse Effect to the Burnham Canal Bridge. As discussed above, all other NRHP-eligible or listed properties will not be adversely affected including the Burnham Canal for which adverse effects will be avoided through appropriate bridge design and implementation of a CEPP.

Because your agency will have federal permit jurisdiction, FRA respectfully requests that your office provide a response in 30 days to our proposal for FRA to serve as lead federal agency for Section 106 compliance and our invitation to participate as a consulting part in the development of the MOA to resolve the adverse effects. As part of your response please indicate what, if any, role your agency would like to have in the development of the MOA and what, if any, signature status your agency would request on that document (concurring party or Invited Signatory). If we do not hear from your office, we will assume that your agency will act independently to fulfill its requirements under Section 106.

An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses. Any comments provided on FRA's finding of Adverse Effect will be included the FRA's notification to the Advisory Council on Historic Preservation of this finding (36 CFR 800.6(a)(1)).

If you have any questions or wish to discuss this undertaking please contact Derek Manning, at 857-998-1779 or derek.manning@dot.gov.

Sincerely,



Katherine Zeringue
Federal Preservation Officer
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Melissa Hatcher, FRA
Arun Rao, WisDOT

Enclosures:

Attachment A – Project Plans
Attachment B – Area of Potential Effects Map
Attachment C – Tribal and Consulting Party List
Attachment D – Architecture/History Survey
Attachment E – Determination of Eligibility: Burnham Canal
Attachment F – Determination of Eligibility: Burnham Canal Bridge
Attachment G – Phase I Archeological Survey

From: [Stanifer, William B CIV](#)
To: [Manning, Derek \(Volpe\)](#)
Cc: [Schmidt, Jonathan \(Volpe\)](#); [Caron Kloser](#); [Hatcher, Melissa \(FRA\)](#); [arun.rao dot.wi.gov](#); [Aaron Bowe](#); [Lynn.Cloud@dot.wi.gov](#); [Kaliszewski, Katherine N - DOT](#); [Walker, Michael O CIV](#); [Soule, Lee D CIV](#)
Subject: RE: Section 106 Consultation for Railway Improvements at Muskego Yards
Date: Monday, May 24, 2021 12:23:03 PM

Mr. Manning,

The USCG has no objections to the Federal Rail Administration (FRA) assuming the role of Lead Federal Agency (LFA) for the purposes of Section 106 in accordance with 36 CFR 800.2(a)(2) in regards to the proposed Muskego Yard Bypass project, City of Milwaukee, Milwaukee County, WI. Based on our review of the provided documentation we concur with FRA's finding and determination that the project as proposed would result in an Adverse Affect to the Burnham Canal Bridge at mile 1.74 across Burnham Canal, WI.

In general, the USCG has no jurisdictional or enforcement authority under Section 106 outside of those allocated to the LFA when the USCG assumes that role. As such we as a Federal Agency tend to shy away from developing language and/or stipulations in regards to MOAs and MOUs unless acting as LFA. Where we would like to provide input is in Wisconsin DOT's development of the Construction Environmental Protection Plan (CEPP). We have a long history of working with WisDOT in this capacity.

For signatory status we would prefer being a concurring party to the MOA. Please use my name, with the title Branch Chief – USCG D9 Bridge Program, for the signature page.

Thank you for the opportunity to review the documentation and FRA's eventual fulfillment of the USCG's responsibilities under Section 106 for the proposed Meskego Yard Bypass project. Please let me know if you have any questions or concerns. Take care.

Blair Stanifer
Chief, D9 Bridge Branch
Ninth Coast Guard District
(216) 902-6086

From: Manning, Derek (Volpe) <Derek.Manning@dot.gov>
Sent: Wednesday, May 5, 2021 4:14 PM
To: Stanifer, William B CIV <William.B.Stanifer@uscg.mil>
Cc: Schmidt, Jonathan (Volpe) <Jonathan.Schmidt@dot.gov>; Caron Kloser <CKloser@HNTB.com>; Hatcher, Melissa (FRA) <melissa.hatcher@dot.gov>; arun.rao dot.wi.gov <arun.rao@dot.wi.gov>; Aaron Bowe <abowe@HNTB.com>; Lynn.Cloud@dot.wi.gov; Kaliszewski, Katherine N - DOT <katherinen.kaliszewski@dot.wi.gov>
Subject: [Non-DoD Source] Section 106 Consultation for Railway Improvements at Muskego Yards

Mr. Stanifer,

The Federal Railway Administration (FRA) proposes to provide funding to the Wisconsin Department of Transportation (WisDOT) to make infrastructure improvements to the Canadian Pacific Railway Muskego Yard in Milwaukee, WI. The project includes replacement of two bridges and will require permits from the US Army Corps of Engineers and the US Coast Guard.

FRA is inviting the USCG to participate as a consulting party for the Section 106 compliance for this undertaking (see attached letter). The attachments referenced in the letter are available at:

<https://app.box.com/s/070dkncvsb0jrpjs0bn76c9zfec4s0qn>

If you have any questions regarding this project please do not hesitate to contact me.

Very respectfully

Derek

Derek Manning

Environmental Protection Specialist | Environmental Science and Engineering Division, V-326
Volpe, The National Transportation Systems Center | U.S. Department of Transportation
55 Broadway, Cambridge MA 02142 | Web: www.volpe.dot.gov
Office: 617-494-2475 | Fax: 617-494-2789 | Cell: 857-998-1779 | Email: derek.manning@dot.gov

Attachment 15: ACHP Correspondence



June 21, 2021

Ms. Katherine Zeringue
Federal Preservation Officer
U.S. Department of Transportation
Federal Railroad Administration
Office of Railroad Policy and Development
1200 New Jersey Avenue, SE
Washington, DC 20590

Ref: *Muskego Yard Bypass Project*
City of Milwaukee, Milwaukee County, Wisconsin
ACHP Project Number: 016976

Dear Ms. Zeringue:

On June 3, 2021, the Advisory Council on Historic Preservation (ACHP) received notification and supporting documentation from the Federal Railroad Administration regarding the referenced undertaking within the City of Milwaukee, Wisconsin. Based upon the information provided, we have concluded that Appendix A, Criteria for Council Involvement in Reviewing Individual Section 106 Cases, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking.

While we have determined that Appendix A does not apply at this time, we recognize this consultation may raise questions that would benefit from ACHP's technical assistance. Accordingly, please include the ACHP in future teleconferences and emails, and ensure that we receive all future correspondence and meeting materials. As consultation progresses, we may reconsider our participation decision.

As a reminder, pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Section 106 agreement document (Agreement) developed in consultation with the Wisconsin State Historic Preservation Officer (SHPO), Indian tribes, and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the Agreement and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the notification of adverse effect. If you have any questions or require further assistance, please contact Mr. Anthony Guy Lopez at 202-517-0220 or via e-mail at alopez@achp.gov.

Sincerely,

Jaime Loichinger
Assistant Director
Federal Permitting, Licensing, and Assistance Section
Office of Federal Agency Programs

ACHP
1017 Constitution Avenue, NE
Washington, DC 20002
202-517-0220
www.achp.gov