

**FEDERAL HIGHWAY ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT**

**MISSISSIPPI RIVER BRIDGE CROSSING AT LANSING
Iowa State Highway 9 and Wisconsin State Highway 82
Allamakee County, Iowa and Crawford County, Wisconsin
Iowa DOT BRF-009-9(73)--38-03**

The Federal Highway Administration (FHWA) has determined that this project will have no significant impact on the human and natural environment. This Finding of No Significant Impact (FONSI) is based on the attached Environmental Assessment (EA) which has been independently evaluated by FHWA and determined to adequately and accurately discuss the need, environmental issues, impacts of the proposed project and appropriate mitigation measures. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required. The FHWA takes full responsibility for the accuracy, scope, and content of the attached EA.

**SEAN KEITH
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For the FHWA

Description of the Proposed Action

The Iowa Department of Transportation (Iowa DOT) in partnership with the Wisconsin Department of Transportation (Wisconsin DOT) is proposing to improve the existing crossing of Iowa State Highway 9 (IA 9) and Wisconsin State Highway 82 (WI 82) over the Mississippi River at Lansing, Iowa. The proposed improvements include construction of a new bridge spanning the main channel of the Mississippi River and construction of new or improvement of existing roadways, minor bridges, and intersections connecting the new river bridge to IA 9 and IA 26 on the Iowa bank and WI 82 on the Wisconsin bank of the Mississippi River.

The purpose of the proposed action is to improve the river crossing that carries IA 9 and WI 82 across the Mississippi River at Lansing. A reliable vehicular river crossing connecting northeastern Iowa and southwestern Wisconsin is needed that reduces hazards for barge traffic while minimizing disturbances to the natural and built environment. The bridge in place is nearly 90 years old and poses functional problems for vehicular traffic.

Environmental Assessment Availability

The Environmental Assessment (EA) was signed on March 24, 2021. The electronic version of the EA was made available to selected federal, state, and local resource agencies for review and comment on April 2, 2021, at the following link:

<https://iowadot.gov/ole/NEPA-Compliance/NEPA-documents/iowa-9-Wisconsin-82-Black-Hawk-Bridge>

A written notice of the availability (NOA) of the EA and public hearing was mailed to local officials and property owners on May 24, 2021, and emailed to individuals on the project mailing list on May 25, 2021. The same combined notice was placed on the Iowa DOT's website on June 4, 2021, at:

news.iowadot.gov/newsandinfo/2021/06/public-hearing-to-be-held-for-proposed-replacement-of-the-iowa-9-wisconsin-82-black-hawk-bridge-in-a.html

The notices indicated the public hearing was to be conducted both via a live online meeting starting at 5:30 pm on Tuesday, June 15, 2021; and through an "at your own pace" meeting accessible online anytime between June 15, 2021, and June 30, 2021, using the connection information provided in the notice. A paper copy of the EA was made available for public review at the Meehan Memorial Lansing Public Library, 515 Main Street, in Lansing, Iowa starting on June 4, 2021. The link to the electronic version of the EA (shown above) was also included in the notice. The notice was also published in the legal section of the Waukee, Iowa *The Standard* on May 26, 2021.

Review and Comment Period

The review and comment period for the EA extended through June 30, 2021. The public hearing was conducted virtually via a live online meeting hosted by the Iowa DOT on June 15, 2021. The public hearing included a narrated presentation followed by a live question and answer session with Iowa DOT personnel. An "at your own pace" meeting hosted online, contained the same information presented during the live online meeting and was accessible during the same comment period. A written record of the public hearing was prepared and is available upon request from the Iowa DOT.

Agency Comments

Three agencies submitted responses during the EA and public hearing comment period. Copies of the responses are included in Appendix A of the FONSI.

Table 1. Summary of Agency Comments

Date	Agency & Comment	Response from Iowa DOT
July 2, 2021	EPA Region 7 (Joe Summerlin) – EPA has no comments at this time	No response needed.
July 2, 2021	FAA Central Region – need to file an airspace notice prior to initiating construction of the project	Requested action noted and will be added to the project commitments.
July 9, 2021	USFWS Upper Mississippi River National Wildlife and Fish Refuge – Preferred/Blue Alternative would require renewal and/or acquisition of right-of-way from the Refuge according to the governing regulations and procedures. Provided Refuge point of contact to continue right-of-way renewal/acquisition process and National Wildlife Refuge System Legal and Policy Guidance Document.	Iowa DOT appreciates the information provided and we will continue coordination with the USFWS and Refuge personnel as the project progresses into right-of-way acquisition and final design.

Public Hearing

A public hearing was held on June 15, 2021, via a live online meeting hosted by the Iowa DOT initiated at 5:30 PM and concluded after all attendees had an opportunity to provide comments at approximately 7:00 PM. The purpose of the public hearing was to discuss the proposed replacement of the IA 9/WI 82 (Black Hawk) bridge in Lansing over the Mississippi River. The bridge is eligible for listing on the National Register of Historic Places (NRHP). The project would include improvements to IA 9, IA 26, and WI 82, the acquisition of property (right-of-way) from parcels in Lansing, and the acquisition of approximately 5.9 acres of easement and fee title from the Upper Mississippi River National Wildlife and Fish Refuge (Refuge), owned and managed by the US Fish and Wildlife Service (USFWS) to accommodate the proposed bridge and roadway improvements. The Iowa Division of the Federal Highway Administration (FHWA) intends to make a *de minimis* impact finding in accordance with 23 CFR 774 (Section 4(f)) for the unavoidable use of Refuge lands as the project is not expected to adversely affect the activities, features, or attributes of the Refuge that make it eligible for protection under Section 4(f).

After a brief introduction, a narrated presentation commenced providing an overview of the purpose of the public hearing, previous public involvement activities and agency coordination conducted to date, the purpose and need for the project, the environmental constraints considered in developing alternatives, the alternatives considered including no build and rehabilitation/re-use of the existing bridge, the proposed use of Refuge lands (Section 4(f)), and identification of the Preferred Alternative – Blue Alternative which would provide a new bridge crossing north of and adjacent to the existing crossing and remove the existing Black Hawk Bridge. The proposed new bridge design, and options for pier and retaining wall design concepts were also presented. The next steps in the study, design, and construction process were outlined, and links were provided for the attendees to provide comments during the live online question and answer session following the presentation and after the public hearing during the comment period.

According to the Iowa DOT's June 15, 2021, *Public Hearing Summary Booklet*, 112 people attended the live online meeting, and 49 people participated in the “at your own pace” meeting hosted at www.iowadot.gov/pim “Iowa 9 (Black Hawk) Bridge Meeting Online”. Thirty-two (32) total comments (written and verbal) were submitted during the live online meeting (see Table 2). These comments are indicated in the hearing transcript and in the written comments received through the PIMA system on the date of the hearing (see the *Public Hearing Summary Booklet*). Two written comments were received before the public hearing and 26 comments (written/PIMA, email, phone) were received after the public hearing (see Table 3). The Iowa DOT provided responses to all commenters that requested a response.

Table 2. Summary of Verbal Comments During Live Online Public Hearing

General Topic	Commenter	Comments/Questions
Schedule	Project area resident/property owner	Is there a let date determined for the project?
	Project area resident/property owner	The old bridge will be closed for 2 months at the end of construction – which 2 months?
Property Acquisition	Project area resident/property owner	When will property acquisition begin?
	Two project area residents/property owners	How many homes /what properties will be acquired/removed?
	Project area resident/property owner	What is the latest date for occupancy of a home proposed for removal?
	Project area resident/property owner	if offers made this fall, I will not have access to property in the summer of 2022, correct?
	Adjacent property owner	Property immediately north of the new bridge location – what steps will be taken to make sure there is no damage to our house? Is there someone we can contact during the process?
	Adjacent property owner/Bed & Breakfast Owner	Property “next house up” from the bridge after James Swinney, not sure if I am being acquired? The bridge will be on my lot line or just over it, will I be compensated for that? My business may close because I will lose on-street parking.
Project Location & Design	2 Project area residents/property owners	Has a final design and location been chosen for the project? Blue Plan (50’ north of the existing bridge)?
	Project area resident/property owner	Will new bridge accommodate pedestrians?
	Project area resident/property owner	What is the proposed road surface on the new bridge? Is the frequency difference between pile designs from wind going through them?
	Project area resident/property owner	Will the bridge need to be flagged during service inspections or will it be of adequate width to provide one open travel lane in each direction along with a snooper truck?
	Project area resident/property owner	What will the speed limit be on the new bridge?
Bridge-Specific Design	6 Project area residents/property owners	Proposed bridge design – good combination of old and new; good job replicating the current bridge
	3 Project area residents/property owners	In favor of the Historic Aesthetic Pier Design
	Project area resident/property owner	Will there be any piers in the main channel? Isn’t part of the reason to rebuild the bridge is to keep barges from hitting it?
	2 Project area residents/property owners	Will the Lion’s Club be able to reestablish the memorial lights on the bridge? Will there be nighttime lighting on the bridge
	Project area resident/property owner	What will happen to the old/current bridge?
	2 Project area residents/property owners	What will the name of the new bridge be? Is there any reason “Black Hawk Bridge” can’t be retained?
	Project area resident/property owner	Will the bottom of the bridge be graded like it is now?
	Project area resident/property owner	Will the pillars of the old bridge be removed and if so, to what depth?
	Project area resident/property owner	What measures will be taken to incorporate redundancy that is not typically found in trusses?
	Project area resident/property owner	What color will the bridge be?

General Topic	Commenter	Comments/Questions
Various Topics	Project area resident/property owner	Will there be excavation on the east hillside that may affect homes above the current bridge that site on the hill?
	Project area resident/property owner	Information clear and informative.
	Project area resident/property owner	Will the memorial stones under the bridge remain or be moved elsewhere?
	Project area resident/property owner	Missed the public hearing - is the presentation available on YouTube?

Table 3. Summary of Written Comments Received Before and After the Public Hearing

Timeline	Type of Comment	Comment
Before	Project area resident/Lansing Bridge Historical Committee Member	Lansing has a Comprehensive Plan, adopted on June 21, 2010. Printed copies are available at the city library and the City Clerk's Office.
	Project area resident/property owner	Looking forward to the public hearing – has the location been chosen?
After	Interested citizen	Support the preferred alternative and believe the Section 4(f) mitigation is appropriate for a <i>de minimis</i> finding.
	2 Project area resident/property owner	New bridge must be similar in design (peaked truss) to the existing bridge.
	Project area resident/property owner	Glad to hear the bridge is being replaced to maintain connectivity in the tri-state area.
	7 Project area residents/property owners	The Modern Aesthetic/Driftless Inspired pier design preferred. Although the new bridge is going to repeat the design of the old, aspects of the new are important.
	5 Project area residents/property owners	The Historic Aesthetic/Existing Bridge pier design preferred.
	Project area resident/property owner	It was mentioned the cost of lighting the bridge was not included in the project cost and that City would have to pay for it. Is there an estimate for how much that would cost – lighting for special occasions? Would that have to be done during bridge construction?
	2 project area residents/property owners	Please work w/City/interested community members to establish requirements and costs for lighting the new bridge in a manner similar to the existing Black Hawk Bridge.
	2 Project area residents/property owners	Can you explain why pedestrian accommodations cannot be provided on the new bridge? Was it considered? What would be needed to have it included in the project – it is an important aspect.
	Interested citizen, Bridgehunter photographer	Existing Black Hawk Bridge, as a NRHP-eligible resources should be preserved. The bridge draws visitors to Lansing and destroying and replacing it will hurt tourism. There are several possible ways to preserve the historic bridge: <ul style="list-style-type: none"> No-Build Alternative is strongly preferred – by 2044 refurbishment or preservation techniques may be available that have not been thought of along with funding, and the ADT does not warrant an entirely new bridge. There is no guarantee a new bridge would last longer, there are recent examples of new bridge failures. Closure period is a non-issue, just close and fix the historic bridge. Two-bridge solution – keep the existing bridge and build the new bridge adjacent – successful examples in Winona MN and La Crosse WI. Dredge a new shipping channel in Wisconsin and build a new bridge over it – smaller watercraft would use the existing channel under the preserved bridge and the new straighter

Timeline	Type of Comment	Comment
		channel would better accommodate larger vessels, and would minimize washouts along WI 82.
	Interested citizen, Bridgehunter photographer	Proposed truss replacement bridge “with a hump” is a bland and unsatisfactory mitigation under Section 106; it also lacks the top chord of the existing bridge, which is unique to it. As one of the most distinctive bridges across the length of the Mississippi River, that aspect significantly increases its cultural and historic value.
	Project area resident/property owner	Is it for sure that the marina dike will be enlarged to serve as a staging area for construction of the new bridge? Will this affect boat slip rentals?
	Project area resident/property owner	Concerns about the 90-degree turn at 2 nd and Main Street – is there any way this intersection can be expanded without affecting historic buildings?
	Project area resident/property owner	What period of time will the crossing be closed to traffic (between Iowa and Wisconsin) during construction?
	Former Allamakee County Engineer	People of Lansing are extremely pleased with the old look of the new bridge. The Iowa DOT went out of their way to work around the issue of a conventional bridge.
After	Project area resident/property owner	Thank you for your due diligence and commitment and doing the right thing for the Lansing community.
	Project area resident/property owner	Thank you for this presentation.
	Project area resident/property owner	Very informative, answered a lot of questions. The placement and design seem to be what people were expecting and the timeline was explained fully.

New Information

Iowa DNR Flood Plain Permit and Sovereign Lands Permit Approvals – The Iowa Department of Natural Resources (Iowa DNR) issued a Flood Plain Development Permit (IDNR Project Tracking Number 2020-1385) on February 19, 2021; and a Sovereign Lands Constriction Permit 2020-1385SL-01 on April 1, 2021, for the project.

Lansing Comprehensive Plan – a commenter identified the City of Lansing does have a comprehensive plan – formally adopted by the City Council on June 21, 2010. Additional amendments were prepared in 2012 but have not been incorporated into a new printed document. A copy of the 2010 Comprehensive Plan was obtained and reviewed by Iowa DOT following the public hearing. The Plan references the following regarding the Black Hawk Bridge:

- *A powerful element of heritage is the city’s transportation connection across the Mississippi River represented by the scenic Black Hawk Bridge. The Black Hawk Bridge is a landmark, not only for Lansing but also for the Upper Mississippi Valley. Its preservation is a key to the city’s welfare and its future. (2. Community Heritage and Vision)].*
- *Lansing’s connection to the rest of the region and the nation is dependent upon good highway transportation;...the most vital connection being the eastward connection across the Mississippi River to Wisconsin [the Black Hawk Bridge]. (4. Regional Context for Community Planning)*
- *Importance of the Black Hawk Bridge – concerns have developed over the years regarding the effect of barge hits on the bridge. A 2003 study concluded the bridge was adequate to continue service for many years with continued, regular maintenance. The continuation of this transportation linkage...is vital to the economy, health, and social viability of Lansing and much of Allamakee County;...with much of the labor force, retail customers, and residents traveling across the bridge. (8. Public Infrastructure)*

- *Top Transportation Goal - maintain a permanent Mississippi River highway crossing at Lansing (8. Public Infrastructure)*
- *Top Transportation Policy – Black Hawk Bridge and IA 9 – Maintain proactive efforts to assure a bridge crossing of the river at Lansing; including maintaining the existing Black Hawk Bridge in a safe condition to enable its preservation of as many years as possible; including the slough bridges connecting to WI 35. This Plan incorporates the recommendations of the 2004 Black Hawk Bridge Feasibility Study. (8. Public Infrastructure)*

USFWS Section 4(f) de minimis Concurrence– As an Official with Jurisdiction over the Refuge, the USFWS concurred with the Section 4(f) *de minimis* finding on September 3, 2021. The USFWS agreed that the project will not adversely affect the activities, features, or attributes that make the Refuge eligible for protection under Section 4(f). The USFWS concurrence letter is included in Appendix A of the FONSI.

FHWA Programmatic Section 4(f) Approval - FHWA has determined the use of the *Programmatic Section 4(f) Evaluation for FHWA Projects that Necessitate the Use of Historic Bridges* is applicable to the proposed action. A Programmatic Section 4(f) Evaluation applies only when the FHWA Division Administrator:

- Determines the proposed project meets the applicability requirements of the programmatic evaluation;
- Determined all of the alternatives set forth in the Findings section have been fully evaluated;
- Determines the finding in the document that there are no feasible and prudent alternatives to the use of the historic bridge is clearly applicable;
- Determines the proposed project complies with the Measures to Minimize Harm section of this document;
- Assures that implementation of the Measures to Minimize Harm is completed; and
- Documents the project file documents that the Programmatic Section 4(f) Evaluation applies to the project on which it will be used.

The *Programmatic Section 4(f) Evaluation for FHWA Projects that Necessitate the Use of Historic Bridges* approved by FHWA on November 4, 2021, is included in Appendix A of the FONSI.

Concurrence Point #4 Meeting – Concurrence Point #4 Agency Meeting on the Preferred Alternative was conducted on August 24, 2021. Comments and discussion focused primarily on the other alternatives considered, including rehabilitation of the existing bridge, and the reasons they were eliminated from further consideration; right-of-way acquisition, particularly from the Refuge and the disposal of any excess right-of-way; and ongoing coordination with USFWS regarding federally listed species. The nine agencies in attendance concurred with selection of the Preferred Alternative.

Section 106 MOA – A Section 106 Memorandum of Agreement (MOA) was executed on October 28, 2021, to resolve the adverse effect determination for the Black Hawk Bridge dated March 11, 2021. The signatories included the: FHWA, Iowa Historic Preservation Officer (Iowa SHPO), Wisconsin State Historic Preservation Officer (Wisconsin SHPO), the Iowa DOT, and the Wisconsin DOT. The Allamakee County Historic Preservation Commission, the Lansing Historic Working Group, and historicbridges.org were concurring parties to the MOA.

The MOA requires the completion of four stipulations summarized below in order to fulfill all terms of the agreement.

- I. The Iowa DOT and the Wisconsin DOT shall construct a steel truss bridge to provide similar design (proportions and profile), materials, associations, setting, location, and feeling as the existing historic bridge (FHWA # 13520 (03-00147)).
- II. The Iowa DOT and the Wisconsin DOT shall produce a short documentary type video focused on the history of the bridge, stakeholders, and project process for public education. Both entities shall continue to work with stakeholders and ensure their participation is documented in the for-public effort.

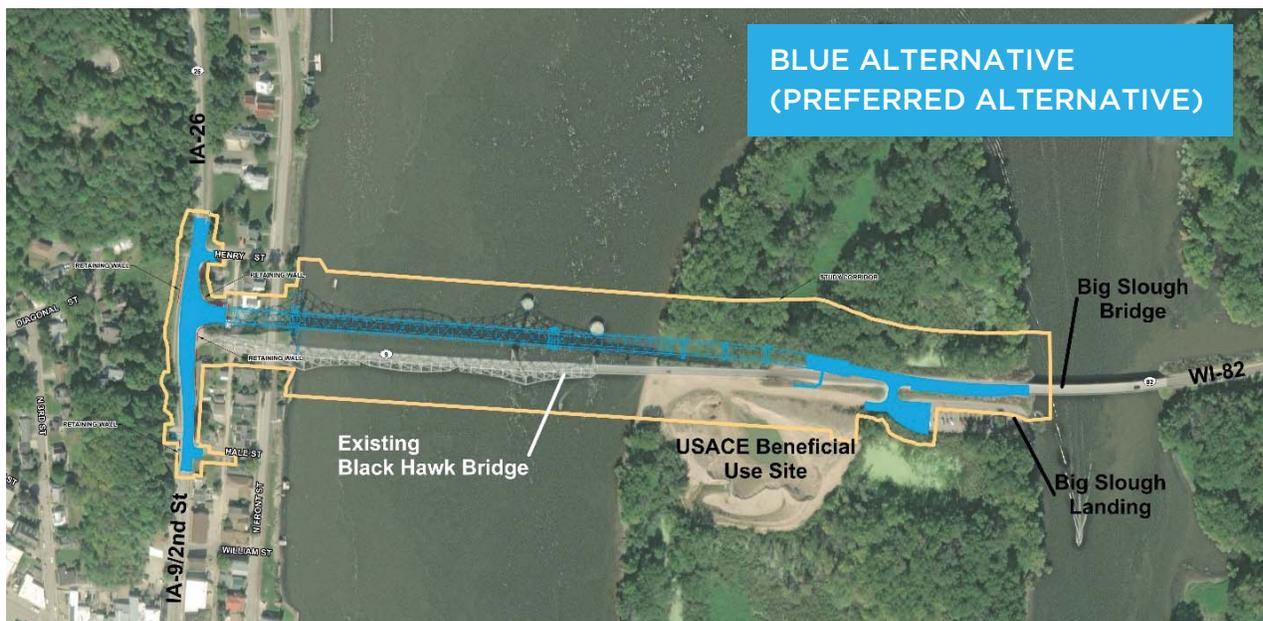
- III. The Iowa DOT and the Wisconsin DOT shall provide a summary document that addresses the four, 1995 Historic American Engineering Record (HAER) document research questions. The summary documentation will be made available to the Iowa SHPO and Wisconsin SHPO, all stakeholders, and concurring parties, as well as any interested archival institutions.
- IV. A select few members/items from the bridge shall be retained and provided to any stakeholders upon reasonable request.

The MOA is included in Appendix A of the FONSI.

Section 7 Consultation – Iowa DOT completed mussel surveys within the proposed project area in 2019, and within areas associated with the candidate construction staging areas in 2020 and 2021. Surveys indicated the presence of the federally endangered Higgins-eye mussel (*Lampsilis higginsii*), and three other Iowa and Wisconsin state-listed mussel species. Suitable habitat for the northern long-eared bat (*Myotis septentrionalis*), a federally listed threatened species, is also present in the project area. Based on the results of the biological and habitat surveys, and under the delegated authority provided by the FHWA, on August 31, 2021, the Iowa DOT determined the project may affect federally or state-listed species but is not likely to adversely affect or result in the destruction or modification of federally designated critical habitat. Iowa DOT is preparing a Biological Assessment (BA) to facilitate consultation with the USFWS under Section 7 of the Endangered Species Act. The USFWS will review the findings presented in the BA and issue their Biological Opinion (BO) which will stipulate any required mitigation for effects on federally listed species.

NEPA Clearance Area and Right-of-Way Acquisitions – Minor adjustments were made to the NEPA Clearance Area (shown in yellow on Figure 1) to account for properties to be acquired in total as well as temporary easements. Three (3) properties are anticipated to be purchased in their entirety (two have residences, the third is a vacant lot), with temporary easements acquired from nine additional properties. The EA noted four properties would be displaced/relocated. Based on the updated right-of-way information, only two residences would be displaced.

Figure 1: Blue Alternative - Preferred Alternative



Noise Impacts – Based on the updated right-of-way information presented above, the two displaced residences would correspond to noise receivers 8 and 10 shown in Figure 5-8 of the EA and listed in Table 5-7 of the EA. Both receivers were shown as being displaced in the EA. Noise receivers 9 and 16 would not be displaced based on the updated right-of-way plans. The table below shows that receivers 9 and 16 would not experience noise levels that would exceed the noise abatement criteria (NAC) for Activity Category B, which includes residential uses, and would not experience an increase in noise levels of more than 10 dB(A) with implementation of the project. Therefore, no noise abatement for these properties is considered.

Table 1: Predicted Noise Levels at Modeled Receptors – Updated Receivers 9 and 16

Receiver	Activity Category	Noise Abatement Criteria Leq(h) (dB(A))	Distance from Existing Centerline (feet)	Modeled Noise Levels Leq (dB(A))				
				2019 Existing Noise Level	2039 Proposed Project Noise Level	Increase over Existing Noise Level?	≥10 dB(A) Increase over Existing Noise Level?	≥Iowa DOT NAC?
8	B	66	89	50.5	This receptor will be displaced as part of this project.			
9	B	66	38	57.8	60.3	2.5	No	No
10	B	66	47	56.9	This receptor will be displaced as part of this project			
16	B	66	47	57.5	59.5	2.0	No	No

Source: Noise Study Report, September 2019

Table 2 summarizes the updated impacts of the Preferred Alternative.

Table 2: Impact Comparison of the No Build and Preferred (Blue) Alternative

Resource	No Build Alternative	Blue Alternative (Preferred) as presented in the EA (based on study area)	Blue Alternative (Preferred) as presented at Agency Concurrence Point #4
Parklands and Recreational Facilities	none	5.9 acres Refuge area	5.2 acres Refuge area 9.5 acres Beneficial Use Site and open water
Wetlands (Waters of the US)	none	4.3 acres	4.1 acres
Rivers/Streams (Waters of the US)	none	24.66 acres / 1,389 linear feet	381.3 linear feet
Floodplain	none	20.4 acres	20.8 acres
Woodlands	none	3.5 acres	3.4 acres
Threatened and Endangered Species	none	2 federally listed mussel species and the northern long-eared bat	1 federally listed mussel species and the northern long-eared bat
Architectural Resources	none	1 resource (Black Hawk Bridge)	1 resource (Black Hawk Bridge)
Archaeological Resources	none	0 resources affected	0 resources affected (4 sites/0.4 acres)
Section 4(f) Properties	none	2 resources (Black Hawk Bridge and Refuge)	2 resources (Black Hawk Bridge and Refuge)
Right-of-Way Acquisitions	none	4 total property acquisitions, plus temporary easement acquisitions (undetermined)	3 total property acquisitions, 9 temporary easement acquisitions
Displacements/Relocations	none	2 residences	2 residences
Noise	none	6 receptors exceeding the NAC, no abatement required	6 receptors exceeding the NAC, no abatement required
Utilities (major)	none	0 crossings (major)	787.7 feet (local sanitary sewer, water, and dredge pipeline); no major utilities

Basis for Finding of No Significant Impact

A few human and natural environment resources were not present in the project study area and others required only a summary review to confirm that there would be no significant impacts. The following resources were evaluated in detail in the EA and were determined to incur no significant impacts as a result of the project:

- Land Use
- Community Cohesion
- Parklands and Recreational Areas
- Scenic Byways and Bicycle and Pedestrian Facilities
- Right-of-Way and Displacements
- Transportation
- Wetlands and Waters of the US
- Surface Waters and Water Quality
- Floodplains
- Wildlife and Habitat including Woodlands
- Threatened and Endangered Species
- Cultural Resources – Historical Sites and Districts and Archaeological Sites
- Section 4(f) and Section 6(f) Properties
- Noise
- Visual
- Cumulative Effects

Only Practicable Alternative Finding for Impacts to Floodplains

Executive Order (EO) 11988 *Floodplain Management*, and 23 CFR 650 require federal agencies to avoid, to the extent practicable, impacts to natural floodplain values and incompatible floodplain development. USDOT Order 5650.2, *Floodplain Management and Protection*, outlines DOT policies and procedures for implementing EO 11988. The following information sets forth the basis for a finding of no practicable alternative to floodplain encroachment associated with the proposed improvements of the IA 9/WI 82 crossing of the Mississippi River at Lansing, and demonstrates that the proposed improvements will include all practicable measures to minimize harm to floodplains which may result from such use.

The proposed replacement of the existing bridge carrying IA 9/WI 82 over the Mississippi River and the associated floodplain is unavoidable given the nature of the crossing and its function of connecting Iowa and Wisconsin across the river. Chapter 4.0 of the EA discussed the alternatives developed and evaluated to meet the project purpose and need. Alternatives in addition to the Preferred Alternative were considered, but removed from further consideration because they did not satisfy the identified needs. The Preferred Alternative was identified as the most practicable alternative based on its ability to meet the design criteria required for the crossing (both for vehicles over the bridge and vessels under the bridge), agency comments and concurrence, evaluation of environmental and socioeconomic impacts, and consideration of public input.

The preliminary design of the new crossing was conducted during the NEPA process, concluding with the recommendation of a new bridge structure, a peaked-truss design emulating the existing historic Black Hawk Bridge, to both mitigate the adverse effect of removal of the National Register Historic Places (NRHP) eligible bridge and address community input. Coordination with the US Coast Guard (USCG) established a new minimum navigation span length of at least 750 feet to provide both the required horizontal and appropriate vertical clearance to support river navigation.

Final design of the new Mississippi River crossing is underway. The proposed location of the Preferred Alternative (alignment and bridge type) has been hydraulically modeled to determine potential floodplain impacts resulting from the construction of the new bridge and removal of the existing bridge and the protective dolphins. The project limits begin at IA 9 along the bluff at the Iowa bank and extend into Wisconsin to the west end of the

existing Big Slough Bridge on WI 82. The 100-year floodplain and regulatory floodway are the same within the project limits and are bounded by the bank on both sides of the river.

A 1-D hydraulic model was used to analyze potential effects of the proposed bridge type on water levels during a 100-year flood event. Data from the Upper Mississippi River Flow Frequency Study (UMFFS) model was the main basis for the hydrologic/hydraulic estimates at the project site. The study, completed by the USACE in 2004, provides the basis for the hydrologic and hydraulic modeling for most approved flood insurance studies along the Upper Mississippi River. The analysis and results are presented in a technical memorandum entitled *IA-9 Bridge Replacement over the Mississippi River Hydrologic/Hydraulic Site Report* (November 2020). The ultimate build condition (proposed bridge in place and existing bridge removed) was modeled in order to determine whether the configuration of the new bridge and approaches would increase water levels as compared to the existing condition. In order to meet federal and state requirements, the activities in the river must not increase water levels by more than 0.01 foot over existing conditions for the ultimate condition. This requirement to increase current 100-year flood water levels by no more than 0.01 foot is known as zero rise.

Based on the analysis completed, the zero-rise condition can be met for the ultimate build condition for the 100-year flood. In September 2021, the ultimate build condition was modified for a change at Pier 2 for the foundation configuration and a shift in Pier 2 location. It was determined that a zero-rise condition can still be met under this ultimate build condition. The analysis is included in the memorandum entitled *IA-9 Bridge over the Mississippi River - Pier 2 Revision Hydraulic Memo* (September 2021).

The temporary construction conditions model includes both the existing and the proposed bridges in place simultaneously with the existing protective dolphins removed. For a summary of the hydraulic analysis for the temporary construction condition, see the memorandum entitled *IA-9 Bridge over the Mississippi River - Construction Condition Hydraulic Memo* (December 2020). During the temporary construction condition, the analysis indicated a 0.01-foot rise for the 100-year flood. The model does not include any additional blockage areas to determine effects from temporary causeways, berms, or trestles constructed to provide river access during construction. The construction conditions model may be used in future permitting efforts to model temporary works based on the selected contractor's means and methods of construction. There is not a documented limit for water surface elevation rise during a temporary construction phase in Iowa or Wisconsin. It is recommended the Iowa DOT and contractor discuss and select a reasonable amount of potential temporary condition rise before designing, modeling, and implementing any temporary river access.

Based on the above considerations, it is determined that there is no practicable alternative to the proposed construction in floodplains and that the proposed action includes all practicable measures to minimize harm to floodplains which may result from such use.

Only Practicable Alternative Finding for Impacts to Wetlands

The proposed replacement of the existing bridge carrying IA 9/WI 82 over the Mississippi River and construction of the associated roadway improvements would impact forested wetlands located within the floodplain of the Mississippi River. The impacts are unavoidable given the nature of the existing and proposed river crossing connecting Iowa and Wisconsin across the Mississippi River and the island formation within the river channel. The alternatives developed and evaluated to meet the project purpose and need (discussed in Chapter 4.0 of the EA) included rehabilitation/re-use of the existing bridge and other build alternatives in addition to the Preferred Alternative. The other alternatives were removed from further consideration because they did not satisfy the identified needs. The No-Build Alternative was also eliminated from consideration because it failed to meet the project's purpose and needs. The Preferred Alternative was identified as the most practicable alternative based on its ability to meet the design criteria required for the crossing (both for vehicles over the bridge and vessels under the bridge), agency comments and concurrence, evaluation of environmental and socioeconomic impacts, and consideration of public input.

The Preferred Alternative would place fill material within approximately 4.3 acres of wetlands (a combination of emergent, forested, and scrub-shrub) to support construction of the new roadway embankment adjacent to the

existing alignment of WI 82 at the east end of the new bridge. Complete avoidance of wetland impacts is not possible due to the orientation of the proposed crossing of the river. Wetland impacts were minimized by selecting a Build Alternative that minimized impacts to the extent practicable while also avoiding impacts to archaeological sites on the Iowa bank, historic structures other than the Black Hawk Bridge, and minimizing the number of displacements. As the design and permitting process continues, consideration will be given to providing compensation in accordance with federal and state requirements.

The Preferred Alternative satisfies the transportation needs identified in Chapter 3.0 of the EA. Measures to minimize harm to wetlands will be developed during final design as the construction footprint is defined and actual impacts by wetland type are determined. Both permanent and temporary impacts will be assessed and minimized in consultation with the USACE as part of the Section 404 permitting process.

Based upon the above factors and considerations, it is determined that there is no practicable alternative to the proposed construction in wetlands, and that the Preferred Alternative includes all practicable measures to minimize harm to the wetlands that may result from such use.

This Finding of No Significant Impact (FONSI) documents compliance with the National Environmental Policy Act of 1969 (NEPA) and all other applicable environmental laws, Executive Orders, and related requirements.

Special Conditions for Location Approval

Several conditions, noted below, were identified for approval and will be implemented during the design process prior to construction.

- Properties would be acquired in accordance with the Uniform Real Property Acquisition and Relocation Assistance Policies Act as amended (49 CFR 24), referred to as the Uniform Act; amendments made to the Uniform Act pursuant to Section 1521 of the Moving Ahead for Progress in the 21st Century Act (MAP-21), and the Iowa DOT Local Public Agency Manual (Iowa DOT, 2018). Iowa DOT will continue to coordinate with USACE/USFWS to modify existing or define new easements for improvement of WI 82 and the Big Slough Landing.
- The State of Iowa will coordinate with business and property owners during the ROW acquisition process to negotiate compensation for ROW acquired. Relocations will be conducted in accordance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and Iowa Code 316, the “Relocation Assistance Law”.
- As design advances, efforts will be made to avoid and minimize impacts to Waters of the U.S. including wetlands. A Clean Water Act Section 404 permit will be acquired from the U.S. Army Corps of Engineers (USACE) and a Section 401 water quality certification obtained from the Wisconsin DNR. Any unavoidable wetland impacts will be offset through the development of wetland mitigation approved by the regulatory agencies through the Section 404 Permit process. All disturbed areas will be seeded with native grasses, forbs, or other plants in accordance with USFWS guidance, and appropriate erosion control measures will be implemented. Clearing of vegetation will be limited to that which is absolutely necessary for construction of the project.
- Section 10 (Rivers and Harbors Act) permit from the USACE for the construction of the bridge may be required in tandem with the Section 404 permit.
- Section 9 (Rivers and Harbors Act) permit from the U.S. Coast Guard is required to construct the new bridge.
- A National Pollutant Discharge Elimination System (NPDES) General Stormwater Discharge Permit for Construction will be obtained from both the Iowa DNR and the Wisconsin DNR by the contractor prior to initiating land clearing and construction activities. Impacts on surface waters from stormwater runoff will be minimized in accordance with the conditions of the NPDES permits and a Stormwater Pollution Prevention Plan (SWPPP) will be prepared and implemented by the contractor in compliance with the permits.

- Coordination with utility providers will be required during design and construction to relocate and replace any utilities within the potential new right-of-way of the Blue Alternative.
- An Air Quality Construction Permit will be acquired from the Iowa DNR.
- Iowa DOT's Standard Note 232-9 will be included in project plans and require tree removal after September 30th and before April 1st.
- Information collected during the study process and survey results for the two candidate construction staging areas will be provided to the selected contractor for their use in determining if either site is suitable for use during construction of the proposed project. The selected contractor will be required to obtain the required agreements, approvals, and permits for use of either site. The contractors may select their own off-site construction area; where they will be responsible for all agreements, approvals, and permits for its use.
- Coordination with the Iowa DNR Fisheries Biologist will begin in advance of initiating construction in compliance with the conditions of the Sovereign Lands Construction Permit issued for the project. Coordination should be conducted in tandem with Section 7 consultation with the USFWS as the permit requires submittal of mussel surveys, outlines mussel survey guidelines, and stipulates other responsibilities of the contractor during construction.

APPENDIX A - AGENCY CORRESPONDENCE

Agency Comments:

- EPA – July 2, 2021
- FAA – July 2, 2021
- USFWS -July 9, 2021

USFWS Section 4(f) *de minimis* Concurrence Letter -September 3, 2021

Programmatic Section 4(f) Evaluation for FHWA Projects that Necessitate the Use of Historic Bridges
– approved November 4, 2021

Memorandum of Agreement Between the FHWA, Iowa SHPO, and the Wisconsin SHPO Regarding the Replacement of the Iowa 9/Wisconsin 82 Bridge (Black Hawk Bridge – FHWA #13520), Allamakee County, Iowa/Crawford County, Wisconsin; executed October 28, 2021

Cannon-Mackey, Shari

Subject: FW: Notice of Environmental Assessment Availability- Black Hawk Bridge over the Mississippi River (Allamakee County, IA and Crawford County, WI)

From: Summerlin, Joe <summerlin.joe@epa.gov>

Sent: Monday, July 12, 2021 8:03 AM

To: Ebel, Shelby <Shelby.Ebel@iowadot.us>

Subject: RE: Notice of Environmental Assessment Availability- Black Hawk Bridge over the Mississippi River (Allamakee County, IA and Crawford County, WI)

EPA does not have any comments at this time. Thank you.

joe

From: Ebel, Shelby <Shelby.Ebel@iowadot.us>

Sent: Friday, July 02, 2021 7:29 AM

To: Ebel, Shelby <Shelby.Ebel@iowadot.us>

Cc: MICHAEL LaPietra <Mike.LaPietra@dot.gov>; FHWA, Ames [DOT Contact] <iowa.fhwa@dot.gov>; Vetsch, Stephan - DOT <Stephan.Vetsch@dot.wi.gov>; THOMAS KRATT <thomas.kratt@dot.wi.gov>

Subject: RE: Notice of Environmental Assessment Availability- Black Hawk Bridge over the Mississippi River (Allamakee County, IA and Crawford County, WI)

Good Morning-

I wanted to send you all a reminder that comments on the EA for the Black Hawk Bridge project were due two days ago (Wednesday, June 30th). If you were planning on submitting comments, please do that as soon as possible so that your comments will be addressed as part of the NEPA process. I also wanted to note that for a couple of you, this may be your first time seeing this because the previous email was sent to your predecessor.

Thank you,
Shelby



SHELBY EBEL, AICP
TRANSPORTATION PLANNER
PROGRAM MANAGEMENT

iowadot.gov

 Iowa Department of Transportation

Office: 515-239-1351

 @iowadot

 @iowadot

From: Ebel, Shelby

Sent: Friday, April 2, 2021 1:06 PM

To: Ebel, Shelby <Shelby.Ebel@iowadot.us>

Cc: 'Mike.LaPietra@dot.gov' <Mike.LaPietra@dot.gov>; FHWA, Ames [DOT Contact] <iowa.fhwa@dot.gov>; Vetsch, Stephan - DOT <Stephan.Vetsch@dot.wi.gov>; Kratt, Thomas J - DOT <Thomas.Kratt@dot.wi.gov>

Subject: Notice of Environmental Assessment Availability- Black Hawk Bridge over the Mississippi River (Allamakee County, IA and Crawford County, WI)

Subject: Black Hawk Bridge on IA 9/WI 82 over the Mississippi River

Allamakee County, Iowa and Crawford County, Wisconsin
Project Number: BRF-009-9(73)--38-03

The Iowa Department of Transportation (Iowa DOT), in coordination with the Wisconsin Department of Transportation (WisDOT) and the Federal Highway Administration (FHWA), has completed the Environmental Assessment (EA) for the construction of a new bridge over the Mississippi River between Lansing, IA and DeSoto, WI. The proposed improvements include construction of a new bridge spanning the main channel of the Mississippi River and construction of new or improvement of existing roadways, minor bridges, and intersections connecting the river bridge to IA 9 and IA 26 on the Iowa bank and WI 82 on the Wisconsin bank of the Mississippi River.

The EA can be viewed and downloaded on the Iowa DOT website at the link below (if you wish to receive a paper copy of the document, please contact me):

<https://iowadot.gov/ole/NEPA-Compliance/NEPA-documents/Iowa-9-Wisconsin-82-Black-Hawk-Bridge>

A public hearing will be conducted on June 15, 2021. The hearing will be held utilizing an online format with a formal presentation which will begin at 5:30pm. The presentation will be followed by a live question and answer session with the project team. Questions submitted can only be typed into the chat box and will be read by the moderator and answered by the project team. Plans, displays, and related information will be available on the [Iowa DOT's public involvement website](#) closer to the time of the hearing (approximately 2 weeks prior to the hearing).

We are soliciting comments on the document during the comment period which ends June 30, 2021. Please return your email comments to Tamara.Nicholson@iowadot.us by that date, or if you prefer to send your comments by mail, please postmark them by that date and send them to:

Tamara Nicholson
Iowa DOT - Location & Environment Bureau
800 Lincoln Way
Ames, Iowa 50010

Thank you,
Shelby Ebel



SHELBY EBEL, AICP
TRANSPORTATION PLANNER
PROGRAM MANAGEMENT BUREAU

iowadot.gov

[f](#) Iowa Department of Transportation

Office: 515-239-1351

[t](#) @iowadot

[i](#) @iowadot

Cannon-Mackey, Shari

Subject: FW: Notice of Environmental Assessment Availability- Black Hawk Bridge over the Mississippi River (Allamakee County, IA and Crawford County, WI)

From: Tener, Scott (FAA) <scott.tener@faa.gov>

Sent: Friday, July 2, 2021 8:45 AM

To: Ebel, Shelby <Shelby.Ebel@iowadot.us>

Subject: RE: Notice of Environmental Assessment Availability- Black Hawk Bridge over the Mississippi River (Allamakee County, IA and Crawford County, WI)

Thank you for the opportunity to provide additional comments. We provided comments on May 16, 2017 regarding the need to file an airspace notice which is included in the agency coordination appendix. We have no further comments.

Please let me know if you have any questions,

Scott Tener
Environmental Specialist

FAA Central Region Airports Division
901 Locust St., Room 364
Kansas City, Missouri 64106-2325
T 816.329.2639 | F 816.329.2611
<http://www.faa.gov/airports/central/>

From: Ebel, Shelby <Shelby.Ebel@iowadot.us>

Sent: Friday, July 2, 2021 7:29 AM

To: Ebel, Shelby <Shelby.Ebel@iowadot.us>

Cc: LaPietra, Mike (FHWA) <Mike.LaPietra@dot.gov>; FHWA, Iowa (FHWA) <iowa.FHWA@dot.gov>; Vetsch, Stephan - DOT <Stephan.Vetsch@dot.wi.gov>; THOMAS KRATT <thomas.kratt@dot.wi.gov>

Subject: RE: Notice of Environmental Assessment Availability- Black Hawk Bridge over the Mississippi River (Allamakee County, IA and Crawford County, WI)

Good Morning-

I wanted to send you all a reminder that comments on the EA for the Black Hawk Bridge project were due two days ago (Wednesday, June 30th). If you were planning on submitting comments, please do that as soon as possible so that your comments will be addressed as part of the NEPA process. I also wanted to note that for a couple of you, this may be your first time seeing this because the previous email was sent to your predecessor.

Thank you,
Shelby



SHELBY EBEL, AICP
TRANSPORTATION PLANNER
PROGRAM MANAGEMENT

iowadot.gov

 Iowa Department of Transportation

Office: 515-239-1351

 @iowadot

 @iowadot

From: Ebel, Shelby
Sent: Friday, April 2, 2021 1:06 PM
To: Ebel, Shelby <Shelby.Ebel@iowadot.us>
Cc: 'Mike.LaPietra@dot.gov' <Mike.LaPietra@dot.gov>; FHWA, Ames [DOT Contact] <iowa.fhwa@dot.gov>; Vetsch, Stephan - DOT <Stephan.Vetsch@dot.wi.gov>; Kratt, Thomas J - DOT <Thomas.Kratt@dot.wi.gov>
Subject: Notice of Environmental Assessment Availability- Black Hawk Bridge over the Mississippi River (Allamakee County, IA and Crawford County, WI)

Subject: Black Hawk Bridge on IA 9/WI 82 over the Mississippi River
Allamakee County, Iowa and Crawford County, Wisconsin
Project Number: BRF-009-9(73)--38-03

The Iowa Department of Transportation (Iowa DOT), in coordination with the Wisconsin Department of Transportation (WisDOT) and the Federal Highway Administration (FHWA), has completed the Environmental Assessment (EA) for the construction of a new bridge over the Mississippi River between Lansing, IA and DeSoto, WI. The proposed improvements include construction of a new bridge spanning the main channel of the Mississippi River and construction of new or improvement of existing roadways, minor bridges, and intersections connecting the river bridge to IA 9 and IA 26 on the Iowa bank and WI 82 on the Wisconsin bank of the Mississippi River.

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<https://iowadot.gov/ole/NEPA-Compliance/NEPA-documents/Iowa-9-Wisconsin-82-Black-Hawk-Bridge>

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We are soliciting comments on the document during the comment period which ends June 30, 2021. Please return your email comments to Tamara.Nicholson@iowadot.us by that date, or if you prefer to send your comments by mail, please postmark them by that date and send them to:

Tamara Nicholson
Iowa DOT - Location & Environment Bureau
800 Lincoln Way
Ames, Iowa 50010

Thank you,
Shelby Ebel



iowadot.gov  Iowa Department of Transportation
Office: 515-239-1351  @iowadot  @iowadot

Cannon-Mackey, Shari

Subject: Official notice of intent to pursue a de minimis determination for the Upper Mississippi River National Wildlife and Fish Refuge
Attachments: Section 4(f) de minimis agreement - USFWS Lansing Bridge - signed.pdf

From: Yager, Timothy <timothy_yager@fws.gov>
Sent: Friday, September 3, 2021 12:04 PM
To: Ebel, Shelby <Shelby.Ebel@iowadot.us>
Cc: Pednault, Kendra <Kendra.Pednault@fws.gov>; Woyczik, Wendy <wendy_woyczik@fws.gov>
Subject: Re: [EXTERNAL] FW: Official notice of intent to pursue a de minimis determination for the Upper Mississippi River National Wildlife and Fish Refuge

Hi Shelby -

Attached is a signed letter from Refuge Manager, Sabrina Chandler agreeing with the de minimis determination. I will put a hard copy of this letter in regular mail to you next Tuesday. Thanks.

Tim Yager
Deputy Refuge Manager
Upper Mississippi River National
Wildlife and Fish Refuge

Office: (507) 494-6219
Cell: (507) 450-3283
e-mail: timothy_yager@fws.gov

From: Ebel, Shelby <Shelby.Ebel@iowadot.us>
Sent: Monday, August 30, 2021 2:27 PM
To: Yager, Timothy <timothy_yager@fws.gov>
Subject: RE: [EXTERNAL] FW: Official notice of intent to pursue a de minimis determination for the Upper Mississippi River National Wildlife and Fish Refuge

Hi Tim-

It just needs to happen prior to the FONSI being signed which will complete the NEPA process. I'm trying to get that wrapped up by the middle or end of October so we've got a little time to figure this out. If there is anything I can help with, or any information that you need, please feel free to contact me.

Thanks,
Shelby

From: Yager, Timothy <timothy_yager@fws.gov>
Sent: Monday, August 30, 2021 2:23 PM
To: Ebel, Shelby <Shelby.Ebel@iowadot.us>
Subject: Re: [EXTERNAL] FW: Official notice of intent to pursue a de minimis determination for the Upper Mississippi River National Wildlife and Fish Refuge

Shelby -

I'll need to determine who will sign the de minimis determination. It will likely be my supervisor, Sabrina Chandler who is the Refuge Manager or it may need to be signed by the Chief of Refuges in legacy Region 3, Suzanne Baird.

I'll also need to investigate how the de minimis determination is sequenced with our compatibility determination and finding. As I've previously mentioned, regardless of how minimal the impacts may be, realignment and expansion of a right-of-way cannot be permitted until the action is determined to be compatible with the Refuge's purpose (see attached legal and policy overview). I need to ensure that the de minimis determination isn't predecisional and may be signed prior to completion of the compatibility review.

That being said, what is your timeline for having the de minimis finding signed and returned?

Tim Yager
Deputy Refuge Manager
Upper Mississippi River National
Wildlife and Fish Refuge

Office: (507) 494-6219
Cell: (507) 450-3283
e-mail: timothy_yager@fws.gov

From: Ebel, Shelby <Shelby.Ebel@iowadot.us>
Sent: Friday, August 27, 2021 2:58 PM
To: Yager, Timothy <timothy_yager@fws.gov>
Subject: [EXTERNAL] FW: Official notice of intent to pursue a de minimis determination for the Upper Mississippi River National Wildlife and Fish Refuge

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good Afternoon-

The comment period for the public, with respect to the impacts to the Upper Mississippi River National Wildlife and Fish Refuge as a result of the bridge replacement project on IA 9/WI 82, has ended. There was one comment received from Tim Thoreen of St Paul, MN who stated that he "believe[s] that the section 4(f) impacts and mitigation are appropriate for a de minimis finding." The next step in this process is to get concurrence from the Official with Jurisdiction over the Upper Mississippi River National Wildlife and Fish Refuge for the de minimis finding. I've attached a letter (the Word document) for you that needs to have your name, title, and signature added and then returned to me. The letter just puts in writing that you, as the official with jurisdiction, agree that the impacts to the refuge are minimal. The attached "Info for USFWS" pdf that is attached was originally sent with the email below to Mr. Jones. I have also attached the "D05_SheetD4" pdf which shows our latest plan sheet with the impacts to the refuge. These still are not our final plans and are subject to modification, but you'll see that there is less impact to the refuge parking area than originally thought in that first informational packet that was sent. If you have any questions or concerns, please let me know.

Thank you,
Shelby

 **Shelby Ebel, AICP**
Program Management
(515) 239-1351

From: Ebel, Shelby
Sent: Monday, April 13, 2020 11:27 AM
To: Jones, Brandon <brandon_jones@fws.gov>
Subject: Official notice of intent to pursue a de minimis determination for the Upper Mississippi River National Wildlife and Fish Refuge

Mr. Jones-

I am writing to inform you of potential impacts to the Upper Mississippi River National Wildlife and Fish Refuge ("Refuge") due to the bridge replacement project on IA 9/WI 82 over the Mississippi River. I've attached a pdf file that includes a project map and the preliminary plans that have been developed thus far. At this time, the impact area includes 5.9 acres of impacts to the refuge, a smaller portion of which will need to be acquired and converted to ROW to accommodate the new bridge tying into the existing WI 82 roadway. It's important to note a few things about that 5.9 acre figure. Firstly, it includes land that is currently used by the US Army Corps of Engineers as a storage area for dredged material. Secondly, the impact area is a rough guess of where the project may take place and we have used a 350'-400' wide area around the bridge (it does change size once it gets on land on the Iowa side). Finally, during final design the amount will likely decrease as every effort is being made to minimize impacts to the refuge. As we have discussed previously, the Refuge is protected under Section 4(f) and the Iowa DOT, in cooperation with the Wisconsin DOT, wishes to pursue a de minimis determination regarding impacts to the Refuge in accordance with Section 4(f). The de minimis process includes a public comment portion which we intend to combine with the public hearing on the Environmental Assessment being prepared for this project. It is anticipated that the public hearing will be held sometime this summer, likely August 2020. Notice of the public hearing and comment period for the de minimis will be published in local newspapers as well as on the DOT's website. After the public hearing, we will ask for your formal concurrence with the de minimis determination. You can find more information about Section 4(f) and the de minimis process [here](#). If you have any questions or comments about Section 4(f), the de minimis determination and process, or about the project in general, please feel free to contact me.

Thank you,
Shelby

 **SHELBY EBEL, AICP**
PROGRAM PLANNER III
LOCATION AND ENVIRONMENT BUREAU- NEPA SECTION

iowadot.gov  Iowa Department of Transportation
Office: 515-239-1999  @iowadot
Shelby.Ebel@iowadot.us

County: Allamakee
PIN: 16-03-009-010
Project Number: BRF-009-9(73)--38-03
Location: Mississippi River Bridge in Lansing
Type of Work: Preliminary Engineering
Project Directory: pw:\ProjectWise.dot.int.lan:pwmain\documents\projects\0300901016



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Upper Mississippi River National Wildlife and Fish Refuge
102 Walnut Street – Suite 204
Winona, Minnesota 55987

July 9, 2021

Tamara Nicholson
Iowa DOT - Location & Environment Bureau
800 Lincoln Way
Ames, Iowa 50010

Dear Ms. Nicholson:

Thank you for the opportunity to offer comment on the Environmental Assessment (EA) for the construction of a new bridge over the Mississippi River between Lansing, IA and DeSoto, WI. The preferred alternative (blue alternative) as described in the EA would require renewal and/or acquisition of right-of-way from the U.S. Fish and Wildlife Service, Upper Mississippi River National Wildlife and Fish Refuge (Refuge).

The general regulations governing rights-of-way across National Wildlife Refuge System lands can be found in Title 50 of the Code of Federal Regulations (CFR) Part 29 section 29.21. These regulations prescribe the procedures for filing applications and the terms and conditions under which rights-of-way over and across the lands administered by the U.S. Fish and Wildlife Service may be granted.

The administrative provisions governing management of National Wildlife Refuges are found in 50 CFR Part 25. Compatible use and compatibility determinations are defined and the application of these guiding principles to public access and use are discussed. Section 25.21 (paragraphs “h” and “i”) specifically address the re-authorization of an existing right-of-way. Section 26.41 describes the process for determining if a use of a national wildlife refuge is compatible.

Finally, the enclosed document titled “Rights of Way and Other Construction Projects: NWRS Legal and Other Policy Considerations” provides an overview of the major legal and policy considerations associated with rights-of-way on national wildlife refuges.

Tim Yager, Deputy Refuge Manager, will be your point of contact for right-of-way renewal and/or acquisition from the Refuge. He can be reached by telephone at 507/450-3283 or by email at timothy_yager@fws.gov.

Sincerely,

Sabrina Chandler
Refuge Manager

Enclosure

Rights of Way and other Construction Projects: NWRS Legal and Policy Considerations

Background

National wildlife refuges are occasionally approached by transportation agencies, utilities, energy companies, municipalities, or other parties interested in constructing rights-of-way (ROW) or other projects on or through the refuges. Relevant law and policy provide ample reasons to discourage such interests from spending time and money seriously pursuing many of these types of projects on refuges. The purpose of this write up is to briefly highlight some of the major legal and policy considerations associated with such projects.

NWRS Administration Act (16 U.S.C. 668dd-668ee and House Report 105-106)

Almost 100 years after its establishment, the National Wildlife Refuge System (NWRS) received organic legislation which provided policy direction and management standards applicable to all refuges. This statute, the National Wildlife Refuge System Improvement Act of 1997, amended the National Wildlife Refuge System Administration Act of 1966.

Included in the NWRS Improvement Act is the first statutory mission statement for the NWRS: “The mission of the [National Wildlife Refuge] System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.” Importantly, the mission discusses a national network of lands and waters; and states that its purpose is conservation, management, and restoration of fish, wildlife, plants, and their habitats. In sharp contrast to other Federal land management systems (e.g., USFS’ National Forests and BLM’s Public Lands), the NWRS is not a multiple-use management system, and is not to be managed for commodity production, or on a sustained-yield basis. The NWRS has more units and more acreage than the better-known National Park System. It is unique in the Nation and World in its scope and its primary-purpose management orientation. Refuges are to be managed first and foremost for fish, wildlife, plants, and their habitats (House Report 105-106, sec. 5). This is referred to as the “Wildlife First” management mandate.

The NWRS Improvement Act also established a three-tiered hierarchy for management of the NWRS.

- Every refuge is to be managed first to fulfill the purpose(s) for which it was established and the NWRS mission, including the conservation, management, and restoration of fish, wildlife, plants, and their habitats.
- The second management priority is for wildlife-dependent public uses. There are six of these congressionally identified uses: hunting, fishing, wildlife observation and photography, and environmental education and interpretation. When on a refuge-specific basis one or more of these uses are determined compatible with the refuge purpose(s) and the NWRS mission, the refuge is to strongly encourage (facilitate) the use(s).
- The third or lowest NWRS management priority is for everything else. This would include other types of recreation, economic uses, and other public uses, including ROWs and construction projects.

Rights of Way and other Construction Projects: NWRS Legal and Policy Considerations

Very few refuges have adequate funding, staff, facilities, equipment, and supplies to fully achieve their first two management priorities.

Compatibility (603 FW 2; and 50 C.F.R. 25, 26, and 29)

Another important, bedrock concept for managing units of the NWRS is that (with a few exceptions for waterfowl production areas and refuges in Alaska) refuges are, by law, closed to all public access and use unless and until they are formally opened (603 FW 2.3). The U.S. Fish and Wildlife Service (FWS) follows a refuge-specific, public process to open a refuge to a use or program of uses. This includes conducting a scientific and technical analysis, and making a legal decision called a compatibility determination. A proposed use, including an ROW or a construction project, can only be allowed on a refuge if it is determined compatible.

A compatible use is one which, in the “sound professional judgment [of the Refuge Manager], will not materially interfere with or detract from” fulfilling the NWRS mission or the refuge’s purpose(s) (603 FW 2.6 B.). Among other things, a compatibility determination involves evaluation of a proposed use’s effects upon refuge fish, wildlife, plants, and their habitats; potential conflicts with other refuge uses, especially wildlife-dependent public uses; indirect, future, and cumulative effects; precedence-setting implications; maintenance and monitoring costs; and off-refuge opportunities to site an ROW or construction project. Because refuges are closed until opened, if we do not have adequate information to find a proposed use compatible, it can not be officially determined compatible and therefore can not be allowed (603 FW 2.11 E.). There are no administrative appeal provisions for compatibility determinations (603 FW 2.16).

Appropriateness (603 FW 1)

In July of 2006, FWS adopted new policy on appropriate uses of the NWRS. This policy is based in part on language in the NWRS Improvement Act which states that, “...it is the policy of the United States that...compatible wildlife-dependent recreation is a legitimate and appropriate general public use of the System...compatible wildlife-dependent recreational uses are the priority general public uses of the System and shall receive priority consideration in refuge planning and management; and...when the Secretary determines that a proposed wildlife-dependent recreational use is a compatible use within a refuge, that activity should be facilitated...the Secretary shall...ensure that priority general public uses of the System receive enhanced consideration over other general public uses in planning and management within the System...” (16 U.S.C. 668dd (a)). The appropriateness policy created a process for pre-screening uses prior to determining compatibility. Now, a proposed use can only be allowed on a refuge if it is initially found to be appropriate and then determined compatible.

An appropriate use is one which meets at least one of the following four conditions:

- It is a wildlife-dependent recreational use;
- It is a use which contributes to fulfilling the refuge purpose, the Refuge System mission, or goals or objectives described in a refuge management plan approved after October 9, 1997;
- It is a use which involves the take of fish and wildlife under State regulations; or

Rights of Way and other Construction Projects: NWRS Legal and Policy Considerations

- It is a use which has been found to be appropriate when evaluated against 10 specific criteria included in NWRS policy.

Among other questions, the 10 evaluation criteria ask:

- Is the use consistent with goals and objectives in an approved management plan or other document? and
- Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?

The policy then states that if the answer is no to these questions, we will generally not allow the use" (603 FW 1, 1.11 B.).

An appropriateness finding is developed internally by the Refuge Manager. There are no administrative appeal provisions for appropriateness findings.

Biological Integrity, Diversity, and Environmental Health (601 FW 3)

The NWRS Improvement Act of 1997 mandates the maintenance of the NWRS' biological integrity, diversity, and environmental health. Consistent with its purpose(s), each refuge is required to protect and, where appropriate, restore natural, historic ecological conditions, including associated processes (such as hydrology and fire). Historic conditions are those which were present prior to substantial, human-related changes to the landscape (601 FW 3.6 D.). By their nature, ROWs and some construction projects can cause habitat fragmentation; reduce habitat quantity; degrade habitat quality through introduction of contaminants; disrupt migration corridors; alter hydrology; facilitate introduction of alien, including invasive species; and disturb wildlife. Proposed refuge uses which would conflict with the legal requirement to maintain biological integrity, diversity, and environmental health are not compatible (603 FW 2.5 A.).

Mitigation (603 FW 2 and 64 FR 49229-49234)

Replacement of lost habitat and other compensatory mitigation may not be used to make compatible a refuge use which is otherwise not compatible. Instead, each proposed use of a refuge is evaluated on its face, and proposed ROWs and construction projects will be evaluated for compatibility without consideration of any proposed compensatory mitigation (603 FW 2.11 C.).

In some instances, proponents of an ROW or other construction project are interested in building off refuge and using a refuge for mitigation. Except in "limited and exceptional circumstances," FWS does not allow compensatory mitigation on refuges for off-refuge projects (64 FR 49229-49234). This FWS policy addresses mitigation associated with permits under section 404 of the Clean Water Act (33 U.S.C. 1251-1376) and section 10 of the Rivers and Harbors Act (33 U.S.C. 403).

Rights of Way and other Construction Projects: NWRS Legal and Policy Considerations

Other Compliance

Proposed refuge ROWs and other construction projects often trigger additional procedural and substantive compliance requirements associated with the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347); section 7 of the Endangered Species Act (16 U.S.C. 1531-1544); section 404 of the Clean Water Act; section 10 of the Rivers and Harbors Act; section 106 of the National Historic Preservation Act (16 U.S.C. 470); and, specific to transportation projects, section 4(f) of the Department of Transportation Act (49 U.S.C. 303).

As noted earlier, the NWRS is inadequately funded to fully achieve its top two management priorities; therefore, it frequently is unable to address relevant compliance requirements in the timeframe desired by proponents of proposed ROWs or construction projects. In such cases (assuming the applicant wants to proceed), the project proponent can fund a third party (e.g., a consultant) to conduct much of the work necessary to satisfy procedural and substantive compliance requirements (some inherently governmental actions and decisions must be undertaken by FWS). To support its own decision-making, FWS would need to legally adopt the work accomplished by the third party. Therefore, it is imperative that the qualifications, independence, and performance of the consultant be satisfactory to FWS. This routinely requires substantial, upfront coordination to ensure that consultants being considered are qualified to perform the work, the scope of work is adequate and addresses all relevant procedural and substantive legal and policy requirements, and interim and final work products are acceptable to FWS.

Relative to NEPA compliance, this would include, for example, appropriate public involvement processes (e.g., notice, scoping, meetings, and review and comment); adequate scientific and other technical analyses; and adequate consideration of a reasonable range of alternatives and their effects. If NEPA-related procedural or substantive requirements were not adequately satisfied, FWS might not be able to adopt the documents or might need to perform additional work to supplement the documents and/or processes. If the information contained in the NEPA and/or other compliance documents, or other available information was not adequate to determine that a proposed use would be compatible, the use could not be allowed on the refuge.

ROW-Specific Regulations and Policies (50 C.F.R. 25.21, 29.21, and 29.22; 340 FW 3; and 603 FW 2)

FWS regulations address opening refuges and allowing uses (50 C.F.R. 25.21); and ROWs crossing refuges, including application procedures; nature of interest granted; terms and conditions; disposal, transfer, or termination of interest; payments; and appeals (50 C.F.R. 29.21 and 29.22). FWS policy states that, "It is the policy of the Service to discourage the types of uses embodied in right-of-way requests (340 FW 3.3). All new and reauthorized refuge uses - for periods longer than 10 years - must include terms and conditions which allow for future modifications to those terms and conditions to ensure compatibility (603 FW 2.11 H. (3)).

The previous compatibility discussion addressed proposed ROWs and all other proposed refuge uses. Other policy provisions specifically address existing ROWs.

Rights of Way and other Construction Projects: NWRS Legal and Policy Considerations

FWS will routinely monitor existing uses authorized for periods longer than 10 years (e.g., ROWs) to ensure that those uses remain in compliance with the terms and conditions of their authorizations (603 FW 2.11 H. (3)). FWS will request modification to terms and conditions if necessary to ensure uses remain compatible. In addition, at least once per decade, FWS will formally reevaluate long-term uses, however those reevaluations will be limited to ensuring that the uses are operating consistent with the terms and conditions of their authorizations, and will not include reevaluations of the authorizations themselves.

Long-term refuge uses will only be reevaluated for compatibility upon the expiration of their authorizations. At such times, FWS will base analyses associated with new compatibility determinations on existing conditions with the uses in place, not upon conditions present prior to the uses being allowed.

There are also specific policy provisions associated with “maintenance” of existing ROWs (603 FW 2.11 D.). For this purpose, maintenance includes minor expansion or minor realignment to meet safety standards (e.g., expanding the width of a road shoulder to reduce the angle of the slope, expanding the area for viewing on-coming traffic at an intersection, and realigning a road section to reduce the amount of curve). In such cases, we will not make a compatibility determination and may allow the maintenance request if the following conditions are met: (1) the design adopts appropriate measures to avoid resource impacts and includes provisions to ensure no net loss of habitat quantity and quality; (2) restored or replacement habitat areas identified in the design are afforded permanent protection as part of the national wildlife refuge or wetland management district affected by the maintenance; and (3) all restoration work is completed by the applicant prior to any title transfer or recording of the easement, if applicable.

References Cited

Following are full references and internet addresses for the core laws, regulations, and policies cited above.

Laws

- National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd-668ee) – <http://www.fws.gov/refuges/policyMakers/mandates/16USCSec668dd.html>.
- National Wildlife Refuge System Improvement Act of 1997 (P.L. 105-57) - <http://www.fws.gov/refuges/policyMakers/mandates/HR1420/index.html>.
- U.S. House of Representatives Report on the National Wildlife Refuge System Improvement Act of 1997 (House Report 105-106) – <http://www.fws.gov/refuges/policyMakers/mandates/HR1420/part1.html>.
- National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347) - <http://ceq.eh.doe.gov/Nepa/regs/nepa/nepaeqia.htm>.
- Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544) - <http://www.fws.gov/endangered/esa.html>.

Rights of Way and other Construction Projects: NWRS Legal and Policy Considerations

- Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. 1251–1387) - <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/sec404.htm>.
- Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. 403) - <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/rhsec10.htm>.
- Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) - http://www.law.cornell.edu/uscode/html/uscode16/usc_sec_16_00000470---f000-.html.
- Section 4(f) of the Department of Transportation Act of 1966, as amended (49 U.S.C. 303) - http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+49USC303.

Regulations

- National Wildlife Refuge System regulations, Administrative Provisions (50 C.F.R. 25) - http://www.access.gpo.gov/nara/cfr/waisidx_05/50cfr25_05.html.
- National Wildlife Refuge System regulations, Public Entry and Use (50 C.F.R. 26) - http://www.access.gpo.gov/nara/cfr/waisidx_05/50cfr26_05.html.
- National Wildlife Refuge System regulations, Land Use Management (50 C.F.R. 29) - http://www.access.gpo.gov/nara/cfr/waisidx_05/50cfr29_05.html.

Policies

- National Wildlife Refuge System Compatibility policy (603 FW 2) - <http://www.fws.gov/policy/603fw2.html>.
- National Wildlife Refuge System Appropriate Refuge Uses policy (603 FW 1) - <http://www.fws.gov/policy/603fw1.html>.
- National Wildlife Refuge System Biological Integrity, Diversity, and Environmental Health policy (601 FW 3) - <http://www.fws.gov/policy/601fw3.html>.
- National Wildlife Refuge System Rights of Way and Road Closings policy (340 FW 3) - <http://www.fws.gov/policy/340fw3.html>.
- Final Policy on the National Wildlife Refuge System and Compensatory Mitigation Under the Section 10/404 Program (64 FR 49229-49234) - http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1999_register&docid=99-23627-filed.pdf.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Upper Mississippi River National Wildlife and Fish Refuge
102 Walnut Street – Suite 204
Winona, Minnesota 55987



September 3, 2021

Shelby Ebel
800 Lincoln Way
Ames, IA 50010

RE: Official with Jurisdiction of Section 4(f) Property's Agreement with Decision
Black Hawk Bridge Replacement (Allamakee County, IA and Crawford County, WI)
BRF-009-9(73)—38-03

Dear Mrs. Ebel:

The public was given the opportunity for review and comment from May 26, 2021 through June 30, 2021 concerning the effects of the Black Hawk Bridge replacement project on IA 9/WI 82 over the Mississippi River in Allamakee County, IA and Crawford County, WI on the protected activities, features, or attributes of the Upper Mississippi River National Wildlife and Fish Refuge. FHWA has informed us, the U.S. Fish and Wildlife Service, of its intent to make a de minimis impact finding.

As the official having jurisdiction over the Section 4(f) resource, it is agreed that the project will not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection.

If you have any questions, please feel free to contact me at (507) 494-6218 or Deputy Refuge Manager, Tim Yager at (507) 450-3283.

Sincerely,

**SABRINA
CHANDLER**

Sabrina Chandler
Refuge Manager

Digitally signed by
SABRINA CHANDLER
Date: 2021.09.03 11:29:11
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IOWA DEPARTMENT OF TRANSPORTATION

To: Federal Highway Administration
Attention: Timothy Marshall, Division Administrator
From: Angela Poole, Director
Bureau: Location and Environment
Subject: Programmatic Section 4(f) Approval for the Use of Historic Bridges
Black Hawk Bridge (FHWA #13520) on IA 9/WI 82 over the Mississippi River

Date: November 4, 2021
Ref. No.: BRF-009-9(73)-38-03
Counties: Allamakee, IA & Crawford, WI

The referenced project (removal of the National Register of Historic Places Eligible Black Hawk Bridge [FHWA # 13520] on IA 9/WI 82 over Mississippi River in the counties of Allamakee, IA and Crawford, WI) has completed the Section 4(f) process. This project fits the standard for a Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges.

The following determinations have been met:

1. The Do Nothing (No Build) alternative was evaluated but was determined to be not feasible and prudent because the bridge has a sufficiency rating of 22.3 on the National Bridge Inventory Scale out of 100. A detailed conditions assessment of the bridge determined its sufficiency rating could only be improved incrementally through repairs, and improvements to meet current safety, capacity, and clearance standards were determined to be impractical. As a result, the Do Nothing alternative would not meet the Purpose and Need of the project. Specifically, it does not fully address identified structural and roadway deficiencies, would not maintain or improve system linkages, and would not maintain modal relationships.
2. The Build on New Location Without Using the Old Bridge alternative was evaluated during early project planning but was determined to be not feasible and prudent. Due to the current bridge's location and status as the only crossing of the Mississippi River in this area, residential and commercial development in Lansing has expanded around the structure. Relocating the crossing would impede mobility and result in impacts to other historic properties, right-of-way acquisitions resulting in residential and commercial relocations, and other economic and community issues, increasing public controversy. In Wisconsin, environmental constraints, including a national wildlife refuge, limit construction location options on the east bank, and additional in-water impacts from new piers and other substructure components would be a concern from a navigability and environmental impacts perspective beyond those associated with other alternatives. Finally, leaving the existing bridge in place would not meet the Purpose and Need of the project. As a result, the Build on New Location Without Using the Old Bridge option was not carried forward as a viable alternative.
3. The Rehabilitation Without Affecting the Historic Integrity of the Bridge alternative was thoroughly evaluated but determined to be not feasible and prudent. The Iowa DOT and their engineering consultant conducted substantial studies of the bridge to evaluate the possibility of its rehabilitation and continued use. Rehabilitation options for the existing truss bridge are contingent on meeting the defined Purpose and Need for the project. To accomplish this, rehabilitation efforts would have to bring the structure up to current standards and load capacity; however, the substandard roadway width of the bridge is constrained by the truss geometry and cannot be substantially improved without some means of widening the existing roadway. Rehabilitating the existing truss without widening the roadway does not meet the project's Purpose and Need.

Furthermore, retained and repaired elements of the bridge would still exhibit section loss and isolated areas of active corrosion, particularly areas such as gusset plates and between the upper chord eyebars. As riveted connections and eyebars have a low threshold for fatigue stresses, it is unlikely that the eyebars could meet the threshold stress for fatigue under the current standards for truck weights and loads. Additionally, with material strength of the existing steel unknown, the yield stress could not be assumed higher than about 30 kilo-pound per square inch (ksi), in accordance with the American Association of State Highway and Transportation Officials (AASHTO) Manual for Bridge Evaluation. Attempting to strengthen every member to meet current design loadings is not feasible. The existing truss, with possible strengthening of a few members, could be serviceable, but would not meet the current standards for truck weights and loads. As the rehabilitation option would not fully address the

identified structural and navigation deficiencies, the Rehabilitate/Reuse Alternative was not carried forward for further consideration.

The potential adaptive reuse of the existing bridge as a pedestrian/bicycle-only facility in combination with other new construction options was also evaluated. The existing bridge would need to be modified to include a solid surface deck and railings in compliance with Iowa DOT and AASHTO design standards. The total cost of these improvements is estimated at \$5.3 million, in 2019 dollars. To support its possible use as a pedestrian/bicycle-only structure, maintenance and repairs would still need to be made to keep the bridge structurally sound even to support a much lighter load. If the bridge was to be used in this way, ownership and ongoing maintenance of the bridge would need to be transferred to another entity. At this time no public or private entity has inquired about taking over ownership of the bridge. As a result, adaptive reuse is not considered a viable alternative and was not carried forward for further consideration.

4. The proposed action includes all possible planning to minimize harm to the historic structure. The FHWA, Iowa State Historic Preservation Officer (Iowa SHPO), Wisconsin State Historic Preservation Officer (Wisconsin SHPO), the Iowa DOT, and the Wisconsin DOT executed a Section 106 Memorandum of Agreement on October 28, 2021 (attached). The terms of the MOA shall be fulfilled in order to resolve the adverse effect determination made by the Iowa SHPO on March 11, 2021 (attached).

Bryan Bradley for Angela Poole
Angela Poole, Director
Location and Environment Bureau

Date: 11/4/2021

Concur: MICHAEL G LA PIETRA

Digitally signed by MICHAEL G LA PIETRA
Date: 2021.11.05 15:42:15 -05'00'

Date: _____

For the Federal Highway Administration



SMARTER | SIMPLER | CUSTOMER DRIVEN

www.iowadot.gov

Location and Environment Bureau

800 Lincoln Way | Ames, Iowa 50010

Phone: 515.239.1795 | Email: brennan.dolan@iowadot.us

March 11, 2021

Iowa DOT Ref. BRF-009-9(73)--38-03

Wisconsin DOT Ref. 5170-16-00

Primary System

Allamakee County

Iowa SHPO R&C: 20170703041

Ms. Sara André and Mr. Dan Higginbottom
State Historic Preservation Office
600 East Locust
Des Moines, Iowa 50319

RE: Black Hawk Bridge; Iowa 9/Wisconsin 82; Potential Rehabilitation/Removal, Allamakee County, IA [FHWA 013520] [Iowa SHPO 03-00147]; Crawford County, WS; T99N-R3W Section 29; **Adverse Effect Notice**

Dear Sara and Dan:

As you know our early consultation for this project dates to July of 2017. In the years that we have been working on this project we have recorded numerous standing structures, archaeological sites, and historic districts, many of which meet eligibility criteria under the National Register of Historic Places (NRHP). Following lots of public meetings and comments, stakeholder discussions, and project analyses we will soon be presenting our NEPA document and I am writing today to let you know that the results of our work have led to the selection of the blue alternative (immediately north of the existing bridge) as our preferred alternative (see enclosed supporting documents).

The reasons for the selection of the blue alternative are many. We have balanced the needs of the citizens of Lansing and the surrounding area, addressed safety concerns, assessed constructability and considered effects to the natural and human environment as well as effects to historic properties. The blue alternative is the only alternative that limits effects to the bridge itself. Other alternatives would impact the Lansing Main Street Historic District (03-00696), the Turner House Historic District (03-00745), the Schierholz-Brockhausen Historic District and associated archaeology (03-00188/00189/13AM486/13AM628) as well as numerous other individually eligible standing structures.

With regard to the four archaeology sites that have been determined eligible for nomination to the NRHP we are hoping to avoid all effects to these sites. We are working with the design team to hold project limits away from these sites and to have them identified as **Restricted Areas** on the project plans (enclosed). We know this will take some work throughout the project, but we feel that avoidance can be achieved. As we discussed at our 11/14/2018 onsite meeting we knew early in the project development process that we would need to thread-the-needle so to speak with this undertaking, and we plan to deliver a well-planned and well-balanced project that does just that.

As noted in our earlier consultation FHWA #013520 (the Black Hawk Bridge) was first determined eligible for the NRHP following our 1994 statewide bridge survey (FrasierDesign). The 1994 study recommended the bridge

eligible under Criteria A and C. Iowa SHPO agreed with the consultant's opinion and noted that "We concur...that the bridge is eligible for listing in the National Register of Historic Places under Criterion 'A' as being 'historically significant for its role in the development of northeast Iowa.'" Also, under Criterion C, "although its design and dimensions fit within the mainstream of bridge technology at the time, the structure is technologically significant as an uncommon, large-scale example of cantilevered truss design." The significance of the bridge was re-affirmed by Jan Olive-Nash, who began our most recent cultural resources efforts back in 2016 when we started work on the current project.

Following your review and concurrence, it looks as though we will be working through an **Adverse Effect** scenario and the mitigation process under the NRHP (36 CFR 800.5-6). Again, we are limiting the adverse effects to just the bridge through the selection of the blue alternative. Next steps will be to notify stakeholders (including the ACHP), formalize mitigation of the historic bridge and review a draft memorandum of agreement. If you concur with this approach, please sign below and add any comments that you may have. We anticipate continued consultation with the Allamakee County Historic Preservation Commission, the Lansing History Working Group, the Historic Bridge Foundation as well as others for this project. We also understand that the Wisconsin SHPO will now be able to begin their normal review process.

Lastly, it is important to note at this time that we do anticipate some additional project stipulations to avoid additional adverse effects that include but are not limited to vibration monitoring, plan notes and use of physical barriers (fencing/fill/etc.). Should you have any questions please feel free to give me a call at 515-239-1795 or email at brennan.dolan@iowadot.us.

Sincerely,



Brennan J. Dolan
Location and Environment Bureau

BJD:Enclosures

Cc: Mike LaPietra – FHWA, Iowa Division
Tom Kratt/Katherine Kaliszewski/Steve Vetsch – Wisconsin DOT
Jon Ranney/Nick Humpal/Krista Billhorn – District 2, Iowa DOT
Bryan Bradley/Shelby Ebel – LEB, Iowa DOT
Derva Burke/Bruce Palmberg – Lansing Historic Working Group
Gloria Payne – Allamakee County Historic Preservation Commission
Kitty Henderson – Historic Bridge Foundation
Nancy Komulainen-Dillenburg – U.S. Army Corps of Engineers (St. Paul)
James Myster – U.S. Fish & Wildlife Service
Eric Washburn – U.S. Coast Guard
Leah Rogers – Tallgrass Archaeology LLC

Concur: _____ Date: _____

SHPO Historian

Comments:

MEMORANDUM OF AGREEMENT BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION, THE IOWA STATE HISTORIC
PRESERVATION OFFICER, AND THE WISCONSIN STATE HISTORIC
PRESERVATION OFFICER, REGARDING REPLACEMENT OF THE IOWA
9/WISCONSIN 82 BRIDGE (BLACK HAWK BRIDGE - FHWA # 13520),
ALLAMAKEE COUNTY, IOWA/CRAWFORD COUNTY, WISCONSIN.

IOWA SHPO REVIEW AND COMPLIANCE NO. 20170834055
WISCONSIN SHPO CASE NUMBER 19-0649
IOWA DOT PROJECT NO. BRF-009-9(73)--38-03
WISCONSIN DOT PROJECT NO. 5170-16-00

WHEREAS, in accordance with Section 106 of the National Historic Preservation Act of 1966, 54 U.S.C. § 306108 (the Act), and its implementing regulations (36 CFR§ 800) the Federal Highway Administration (hereafter “FHWA”) proposes to assist with replacement of the Iowa 92/Wisconsin 82 bridge, a.k.a. Black Hawk Bridge (FHWA # 13520 (03-00147)) in Lansing, Iowa, (hereafter “Undertaking”); and

WHEREAS, the FHWA has defined the undertaking’s area of potential effects (hereafter “APE”) in Appendix A; and

WHEREAS, the FHWA has received a funding request for the undertaking from the Iowa Department of Transportation (hereafter “Iowa DOT”) and the Wisconsin Department of Transportation (hereafter “Wisconsin DOT”) and these entities have chosen to enter into this Memorandum of Agreement (hereafter “MOA”) to fulfill their project obligations; and

WHEREAS, the FHWA has determined that this undertaking will have an adverse effect on the historic bridge FHWA # 13520 (03-00147) which has been determined eligible for listing on the National Register of Historic Places, and have consulted with the Iowa State Historic Preservation Officer (hereafter Iowa SHPO) and Wisconsin State Historic Preservation Officer (hereafter Wisconsin SHPO) pursuant to 36 CFR § 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, in accordance with 36 CFR§ 800.2(c) the FHWA has identified and consulted with federally recognized tribes that may attach cultural or religious significance on Historic Properties (hereafter “Tribes”) and the list of Tribes is set forth in Appendix B, and has invited the Tribes to sign this MOA as concurring parties; and

WHEREAS, in accordance with 36 CFR§ 800.2(c) the FHWA has identified and consulted with “representatives of local governments,” “additional consulting parties,” and the public including but not limited to the Allamakee Historic Preservation Commission (hereafter “Allamakee HPC”), Lansing History Working Group (“LHWG”), Crawford County Historical Society (hereafter “CCHS”), Historicbridges.org, the Historic Bridge Foundation and have invited the parties to sign this MOA as concurring parties; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen *not to* participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the FHWA has consulted with the University of Iowa Office of the State Archaeologist (OSA) Bioarchaeology Program, regarding the effects of the undertaking on historic properties and OSA has chosen not to participate; and

NOW, THEREFORE, the FHWA, the Iowa SHPO, the Wisconsin SHPO, the Iowa DOT, and the Wisconsin DOT agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

STIPULATIONS

- I. The Iowa DOT and the Wisconsin DOT shall construct a steel truss bridge that provides similar design (proportions and profile), materials, associations, setting, location, and feeling as the existing historic bridge (FHWA # 13520 (03-00147)). Appendix C provides preliminary plans.
- II. The Iowa DOT and the Wisconsin DOT shall produce a short documentary type video (minimum 15 minutes in length) that focuses on history of the bridge, stakeholders, project process for public education. The Iowa DOT and the Wisconsin DOT shall continue to work with stakeholders and ensure that their participation is documented in the for-public effort. Minimally, the video shall be made available to the public via social media.
- III. The Iowa DOT and the Wisconsin DOT shall provide a summary document that addresses the following: assessment of the four, 1995 HAER document research questions; technical documentation of the character defining features (e.g., cantilevered towers, cantilevered truss-center span connection, lattice work, and decking) - this effort will merge information the historic plans with contemporary documentation; research the 1916 charter requirements for this public-private undertaking, provide overview summary of maintenance/rehab and incorporate inspection reports - including bridge closures related to these events; summary of barge strikes on the bridge; and shall conclude with a detailed summary of earlier documentation sources. This summary documentation will be made available to Iowa and Wisconsin SHPO, all stakeholders and concurring parties, as well as any interested archival institutions.
- IV. A select few members/items from the bridge shall be retained, and shall be provided to any stakeholders upon reasonable request. Appendix D contains the retention plan.
- V. Any additional historical research for this project will be completed by a Secretary of the Interior (SOI) qualified historian (48 FR 44738-9).
- VI. The Iowa Code protects all human burials in the state of Iowa. Ancient remains are protected under Chapter 263B, 523I.316(6), and 716.5 of the Iowa Code. The Iowa DOT shall ensure the *Treatment of Human Remains* procedures located in the 2018 Section 106 Programmatic Agreement for Federal Aid Highway Program in Iowa shall be followed upon the *unlikely* event of that human remains are discovered during construction.
- VII. Wisconsin State Statute protects human burials, and discovery of such remains will be treated in accordance with Wisconsin State Statute §157.70.

- VIII. If post-review discoveries (architectural remains, archaeological features, artifacts, etc.) are identified (e.g. under pavement or structures), the Iowa DOT and the Wisconsin DOT shall ensure the *Post-Review Discoveries* procedures located in the 2018 Section 106 Programmatic Agreement for Federal Aid Highway Program in Iowa shall be followed upon the *unlikely* event of that historic resources are discovered during construction.
- IX. Duration - This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below.
- X. Monitoring and Reporting - Each year following the execution of the MOA, in January, until it expires or is terminated, the Iowa DOT shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the FHWA's efforts to carry out the terms of this MOA.
- XI. Dispute Resolution - Should any signatory, invited signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the FHWA shall consult with such party to resolve the objection. If the FHWA determines that such objection cannot be resolved, the FHWA will:
- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide the FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories, and concurring parties, and provide them with a copy of this written response. The FHWA will then proceed according to its final decision.
 - B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA and provide them and the ACHP with a copy of such written response.
 - C. The FHWA's responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.
- XII. Amendments - This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.
- XIII. Termination - If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation IX 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, the FHWA must either (a) execute a 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. The FHWA shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the FHWA, the Iowa SHPO, the Wisconsin SHPO and implementation of its terms is evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment. This agreement is binding upon the signatories hereto not as individuals, but solely in their capacity as officials of their respective organizations and acknowledges proper action of each organization to enter into the same.

MEMORANDUM OF AGREEMENT BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION, THE IOWA STATE HISTORIC
PRESERVATION OFFICER, AND THE WISCONSIN STATE HISTORIC
PRESERVATION OFFICER, REGARDING REPLACEMENT OF THE IOWA
9/WISCONSIN 82 BRIDGE (BLACK HAWK BRIDGE - FHWA # 13520),
ALLAMAKEE COUNTY, IOWA/CRAWFORD COUNTY, WISCONSIN;

IOWA SHPO REVIEW AND COMPLIANCE NO. 20170834055
WISCONSIN SHPO CASE NUMBER 19-0649
IOWA DOT PROJECT NO. BRF-009-9(73)--38-03
WISCONSIN DOT PROJECT NO. 5170-16-00

SIGNATORY: FEDERAL HIGHWAY ADMINISTRATION – IOWA DIVISION

Michael La Pietra

Date 10/28/21

Mike LaPietra, Environment and Realty Manager

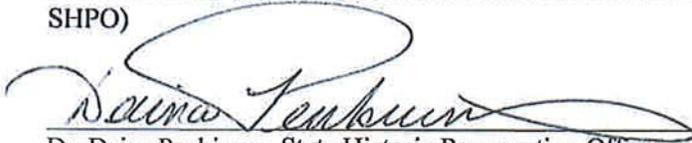
SIGNATORY: IOWA STATE HISTORIC PRESERVATION OFFICER (IOWA SHPO)



Date October 28, 2021

Susan Kloewer, State Historic Preservation Officer

SIGNATORY: WISCONSIN STATE HISTORIC PRESERVATION OFFICER (WISCONSIN SHPO)


Dr. Daina Penkiunas, State Historic Preservation Officer

Date 10/27/2021

INVITED SIGNATORY: IOWA DEPARTMENT OF TRANSPORTATION (IOWA DOT)

Bryan Bradley Date 10/28/2021
Bryan Bradley, Deputy Director, Location and Environment Bureau

INVITED SIGNATORY: WISCONSIN DEPARTMENT OF TRANSPORTATION
(WISCONSIN DOT)

DocuSigned by:

Scott J. Lawry

28 October 2021

Date

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Scott J. Lawry, Director, Bureau of Technical Services

CONCURRING PARTY: ALLAMAKEE COUNTY HISTORIC PRESERVATION
COMMISSION

Gloria Payne

Date 10-28-2021

Gloria Payne, Chair, Allamakee County Historic Preservation Commission

CONCURRING PARTY: HISTORICBRIDGES.ORG

Nathan K Holth

Date 10/28/2021

Nathan Holth, Author & Webmaster

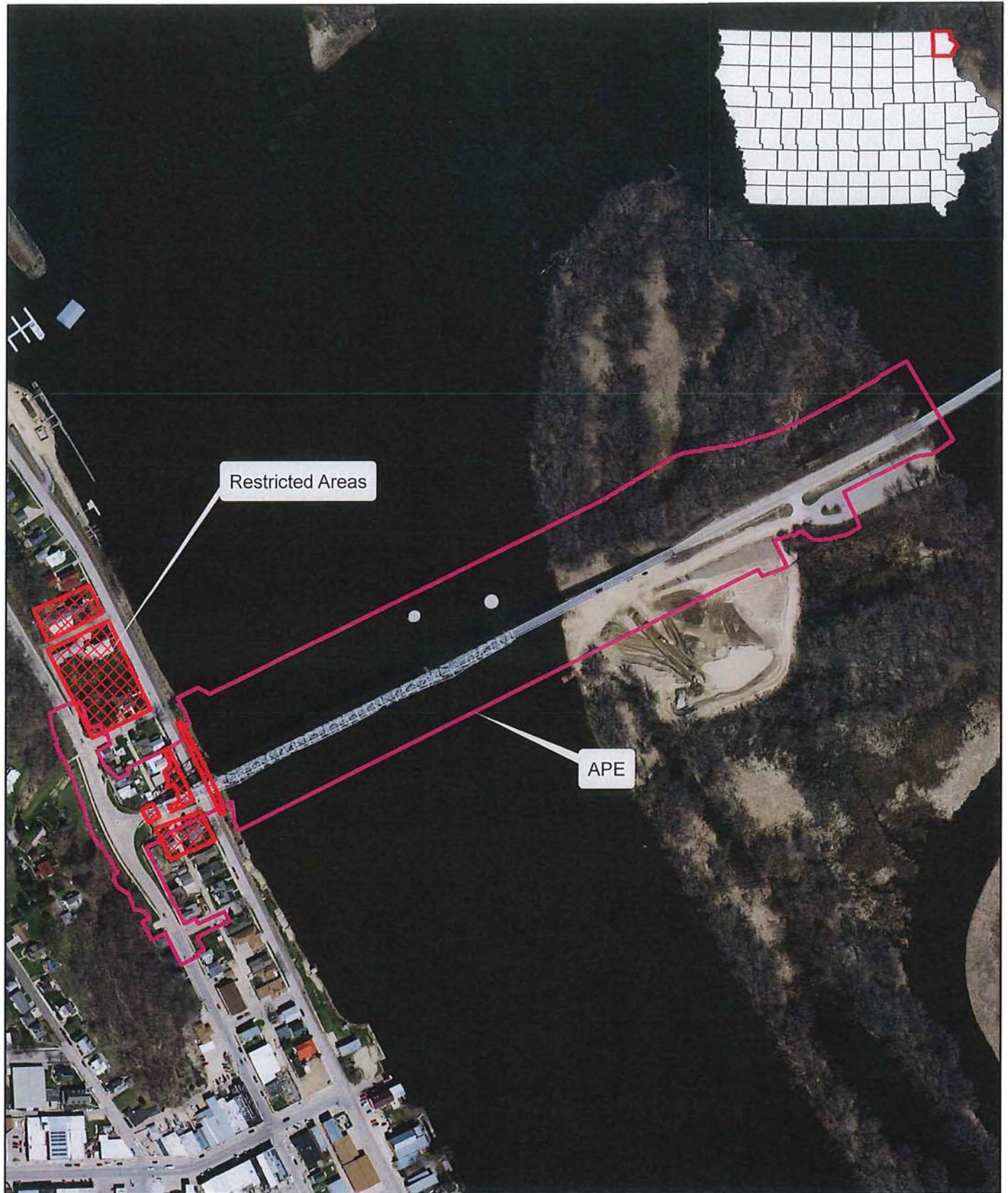
CONCURRING PARTY: LANSING HISTORIC WORKING GROUP

Derva Burke

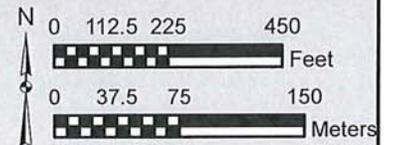
Date 10-28-21

Derva Burke, Member of the Public

Appendix A
Area of Potential Effects



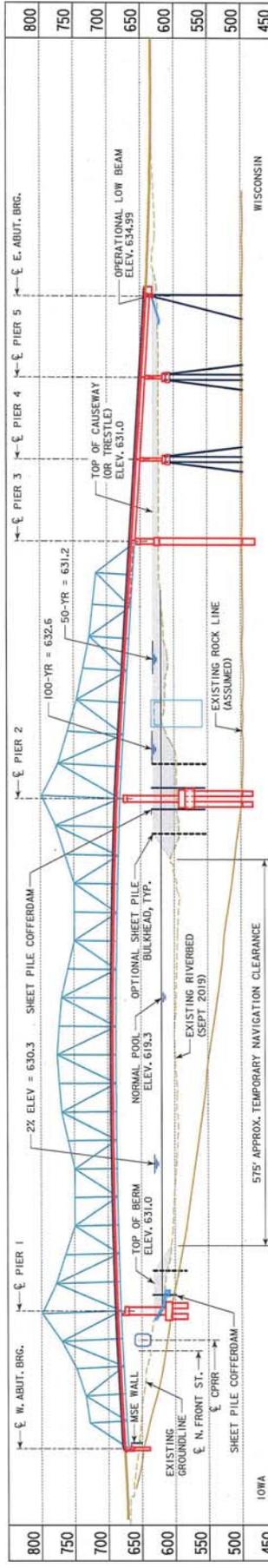
Area of Potential Effects
 BRF-009-9(73)--38-03
 Allamakee County, IA & Crawford County, WI



Appendix B
List of Tribes/Nations

Bad River Band of Lake Superior Tribe of Chippewa
Flandreau Santee Sioux
Forest County Potawami Community of Wisconsin
Ho-Chunk Nation
Iowa Tribe of Kansas and Nebraska
Iowa Tribe of Oklahoma
Lac Vieux Desert Band of Lake Superior Chippewa Indians
Miami Tribe of Oklahoma
Omaha Tribe of Nebraska
Otoe-Missouria Tribe
Peoria Tribe of Indians of Oklahoma
Ponca Tribe of Nebraska
Prairie Band Potawatomi Nation
Prairie Island Indian Community
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
Sac and Fox Nation of Oklahoma
Sac and Fox Nation of the Missouri in Kansas and Nebraska
Sac and Fox Tribe of the Mississippi in Iowa
Santee Sioux Nation
Sisseton - Wahpeton Oyate
Spirit Lake Tribe
Three Affiliated Tribes - Mandan, Hidatsa & Arikara
Upper Sioux Community
Winnebago Tribe of Nebraska
Yankton Sioux Tribe

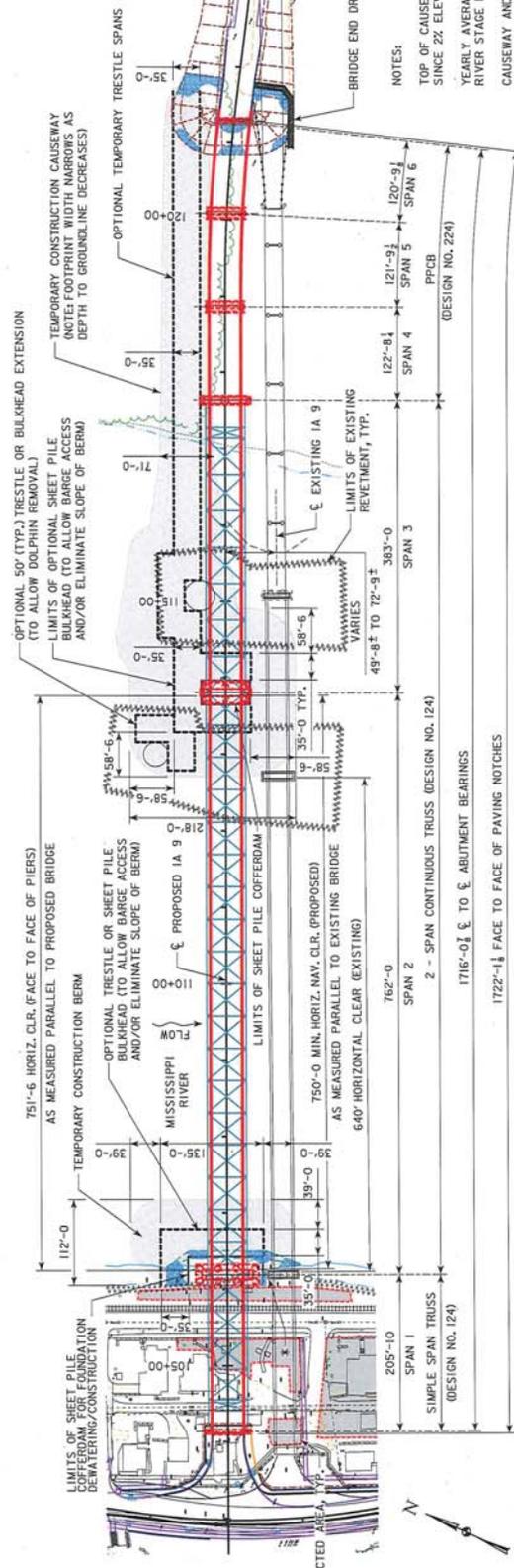
Appendix C
Preliminary Bridge Plans



LONGITUDINAL SECTION ALONG CL IA 9

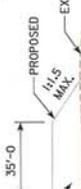
NOTE: ELEVATIONS SHOWN IN NAVD88 DATUM
 NAVD88 + 0.7' = MSL 1912

LOCATION
 IA 9 OVER MISSISSIPPI RIVER
 TOWN OF LANSING, IA
 SECTION 29
 ALLAMAKEE COUNTY, IA
 CRAWFORD COUNTY, IA
 FRA NO. 376230E
 LATITUDE: 43.385689° N
 LONGITUDE: 91.21400° W
 FHWA NO. 13521
 BRIDGE MAINT. NO. 036115009



GENERAL PLAN

* LIMITS OF EXISTING FOOTINGS UNKNOWN.
 CONTRACTOR TO VERIFY CLEARANCE OF
 SHEET PILE COFFERDAM TO EDGE OF
 EXISTING PIER 1 FOOTING.



TYPICAL SECTION - CAUSEWAY



BURNS & McDONNELL
 BURNS & McDONNELL ENGINEERING CO., INC.
 9400 WARD PARKWAY
 KANSAS CITY, MISSOURI 64114
 816-333-9400
 BMD PROJECT NO. 98920

APPROX. QUANTITIES
 PIER 1:
 TEMPORARY BERM FILL = 8,473 CY
 TEMPORARY SHEET PILE COFFERDAM FILL = 4,485 CY (INCL. IN BERM QTY)
 TEMPORARY SHEET PILE COFFERDAM AT PIER 1 = 176 LIN. FT.
 (OPTIONAL) TEMPORARY SHEET PILE BULKHEAD = 243 LIN. FT.
 (OPTIONAL) NO. OF 3" DIA. PIPE PILES FOR TEMPORARY TRRESTLE SPANS = 37
 EAST APPROACH:
 TEMPORARY BERM FILL = 65,072 CY
 (OPTIONAL) TEMPORARY BULKHEAD FILL = 35,694 CY (INCL. IN CAUSEWAY QTY)
 (OPTIONAL) TEMPORARY SHEET PILE COFFERDAM AT PIER 2 = 200 LIN. FT.
 (OPTIONAL) TEMPORARY SHEET PILE BULKHEAD = 2,152 LIN. FT.
 (ABOVE INCLUDES 250 LIN. FT. FOR BULKHEAD EXTENSIONS AT WEST DOLPHIN)
 (OPTIONAL) NO. OF 3" DIA. PIPE PILES FOR TEMPORARY TRRESTLE SPANS = 235

APPROX. QUANTITIES

NOTES:
 TOP OF CAUSEWAY/BERM ELEVATION ASSUMED AT 631.0'
 SINCE 2% ELEV. = 630.3' AND 100-YR ELEV. = 632.6'
 YEARLY AVERAGE HIGH WATER IS APPROX. 625.0' (SEE
 RIVER STAGE HYDROGRAPH FOR LANSING, IA).
 CAUSEWAY AND BERM TO ADHERE TO DETAILS SHOWN ON
 IOWA DOT STANDARD ROAD PLAN EW-401.

PRELIMINARY

**IA-9 OVER THE MISSISSIPPI
 RIVER AT LANSING, IOWA
 CONSTR. PHASE TEMP. WORKS
 BERM/CAUSEWAY/TRRESTLE
 RIVER MILE 663.4
 FEBRUARY 2021
 ALLAMAKEE COUNTY**

IOWA DEPARTMENT OF TRANSPORTATION - HIGHWAY DIVISION
 DESIGN CONSULTANTS: BURNS & McDONNELL
 BRP-009-9173--38-03
 SHEET NUMBER 1 OF 2

Appendix D
Bridge Element Retention Plan

The following items shall be retained by the contractor for the appropriate party listed below:

- All four center span connection pins (two to Iowa, two to Wisconsin; Various)
- End of a select eye bar; approximately 24" (Iowa DOT; Bridge Bureau)
- McClintic-Marshall 1931 date plaque (Iowa DOT Bridge Bureau)

- West portal – City of Lansing (awaiting discussion with the City; non-committal)
- Cantilevered/Center span panel – City of Lansing/Allamakee County (awaiting discussion with the City; non-committal)
- select gusset plate (Iowa DOT; Bridge Bureau; non-committal)
- small section of vertical member with baton plate(s); approximately 24" (Iowa DOT; Bridge Bureau; non-committal)

"Non-committal" in this document means that at this point we don't have a home or a formal plan for a particular element, therefore the agencies are non-committal, but at least one stakeholder asked about it. All other elements represent items that will be retained by us or a stakeholder.