

Preserving America's Heritage

December 6, 2011

Ms. Renee Sigel
Division Administrator
Pennsylvania Division
Federal Highway Administration
228 Walnut Street, Room 536
Harrisburg, PA 17101-1720

Ref: *Memorandum of Agreement for the Pond Eddy Bridge Project*
S.R. 1011, Section 470
Shohola Township, Pike County, Pennsylvania and
Lumberland Township, Sullivan County, New York

Dear Ms. Sigel:

The enclosed Memorandum of Agreement (MOA) regarding replacement of the Pond Eddy Bridge has been executed by the Advisory Council on Historic Preservation (ACHP). This action constitutes the comments of the ACHP required by Section 106 of the National Historic Preservation Act and the ACHP's regulations "*Protection of Historic Properties*" (36 CFR Part 800). FHWA should provide copies of the fully executed MOA to the other signatories and concurring parties for their records.

The execution of this MOA will allow the Pennsylvania Department of Transportation (PennDOT) to proceed with this undertaking, which has had a protracted environmental review. As you know, the replacement of the historic Pond Eddy Bridge, which spans the Delaware River between New York and Pennsylvania, was the subject of intense disagreement among the Section 106 consulting parties. During the early stages of the Section 106 review, in May 2004, the New York State Historic Preservation Officer (NYSHPO) expressed disbelief that a bridge of such limited use could not be rehabilitated to meet the needs of the small community of Pond Eddy. In addition, the NYSHPO questioned the need for a new bridge with a 40- ton load capacity. Eight years later, the NYSHPO and several other consulting parties continue to have the same views. Nevertheless, the NYSHPO has signed the MOA so that the New York State Department of Transportation (NYSDOT) could conclude its environmental review process. It should be noted, however, that the NYSHPO in its letter to FHWA of October 28, 2011, indicated that she remains convinced that the "*demolition of the historic resource was a foregone conclusion and all efforts were directed at demolishing the bridge without regard to possibly retaining it in any form.*"

The ACHP shares the NYSHPO's concerns about the loss of the National Register-listed Pond Eddy Bridge, one of only four surviving Pennsylvania or Petit truss bridges remaining in the state of New York. Although the SHPOs and ACHP were kept informed of the status of the project through monthly conference calls, the consulting parties were left out of these conversations and were infrequently

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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informed about whether, or how, their historic preservation concerns were being addressed. The Friends of Pond Eddy, National Trust for Historic Preservation, and the Historic Bridge Foundation all object to replacement of the historic bridge and therefore, have declined to sign the MOA as concurring parties. The Preservation League of New York State, Preservation Pennsylvania, the Upper Delaware Preservation Coalition, and Pike County Preservation Trust have raised similar concerns about the project.

We understand the need for PennDOT to provide safe and reliable access to all of its citizens. The fact that the crossing at Pond Eddy is the only improved access to the small community of Pond Eddy, Pennsylvania, was critical to our decision to execute this MOA. We would be remiss, however, not to consider this matter in a broader context. Therefore, of larger concern to the ACHP is a pattern that appears to have emerged about PennDOT's coordination of bridge replacement projects in smaller, more rural communities. Specifically, we have been asked to intervene in nine (9) bridge replacement projects in Pennsylvania in the last two years. A significant proportion of the requests are from citizens concerned about the demolition of small, locally significant bridges. The affected bridges are located in Bucks, Chester, Lycoming, Crawford, and Snyder Counties. Similar to the Pond Eddy Project, alternatives to replacing these bridges appear to have been vetted internally and rejected before Section 106 consultation began. The Section 106 review thus appears to be a review process used to defend the bridge owner's decision to build a new bridge, and to mitigate the adverse effect of demolition of the existing historic bridge.

To address these issues in a more systematic manner, we share with you the following principles which we believe could improve the consideration of historic preservation issues early in project planning.


1. The consideration of alternatives is a fundamental part of NEPA, Section 4(f), and Section 106. FHWA must do better at ensuring that the Section 106 review process is coordinated with the consideration of alternatives carried out under other environmental reviews. To that end, consulting parties, including the SHPO and the ACHP, should be included in the analysis of alternatives to replace historic bridge sooner rather than later.
2. FHWA should monitor the effectiveness of the current administrative procedures and ProjectPATH to ensure that local governments and preservation organizations are informed about proposals to replace historic bridges, and have the opportunity to participate in the evaluation of these bridges for local significance. Until a new statewide bridge inventory can be completed, opportunities for local input on the significance of highway bridges should remain open.
3. By initiating Section 106 reviews early; improving communication with consulting parties; and learning to better manage conflict, FHWA and PennDOT can more efficiently conclude review, even when managing complex and contentious consultations. As a rule, we find that objections can be more quickly and satisfactorily resolved with a coordination strategy that is inclusive, responsive to objections, and promotes a collaborative approach to decision-making. Certainly, some PennDOT staff are skilled in this area. However, targeted training, such as that offered by the National Highway Institute in its "*Practical Conflict Management Skills for Environmental Issues*," course could assist staff that are challenged in managing contentious consultations.
4. FHWA should make it a priority to fund PennDOT's efforts to update the historic bridge inventory. Along with this effort, a historic bridges management plan, such as that recently completed in Indiana, would be useful. Such a plan would allow FHWA and PennDOT to reach decisions about rehabilitation vs. replacement in a larger context which considers a variety of

factors including the views of preservation advocates concerned about Pennsylvania's historic bridges. Further, it would promote transparency in decision-making and allow most bridge replacement projects to conclude without protracted Section 106 review.

5. FHWA should develop a more systematic approach to decision-making for historic bridges, including establishing alternative design standards for bridges on low volume roads. This will enable FHWA to better meet the goals of "*Every Day Counts*," by managing Section 106 reviews with greater efficiency and predictability. In addition, such a process will enable PennDOT to continue its efforts to streamline Section 106 reviews consistent with the provisions of the Programmatic Agreement (PA), executed in March 2010.

Should you have any questions or require the additional assistance of the ACHP, please contact Carol Legard at (202)606-8522 or by e-mail at clegard@achp.gov.

Sincerely,



Charlene Dwin Vaughn, AICP
Assistant Director, FPLAS
Office of Federal Agency Programs

Enclosure