



December 15, 2015

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Re: Determination of Effects Report, S.R. 1012, Section BRC Headquarters Road  
Bridge Project MPMS 13716

Dear Ryan:

**The Determination of Effects Report, S.R. 1012, Section BRC, Headquarters Road Bridge Project** issued November 2015 for public review fails to provide the accurate information or detail necessary to inform PADOT decision making.

- The facts laid out in the introduction and other portions of the report fail to provide critical and accurate information. For example, the report fails to articulate the Exceptional Value status of the Tincum Creek or its inclusion in the Wild & Scenic Rivers program, both of which heighten the level of protection and regulatory requirements that must be complied with. In addition, the report totally misrepresents the accident data that PADOT collected from Tincum Township, manufacturing a concern about safety issues associated with rehabilitation of the existing one-lane structure. Furthermore, the report continues to assert safety issues associated with the structural status of the piers despite evidence provided by McMullen Associates and the examination of the borings undertaken by PADOT, both of which demonstrate the contrary.
- As PADOT's report states, "AASHTO states that existing bridges can remain in place without widening unless there is evidence of a site-specific safety problem related to the width of the bridge." There is no site specific safety problem that mandates widening of the Headquarters Road bridge – PADOT's claims to the

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contrary are knowingly false. While PADOT has deliberately shielded the crash data upon which it relies from public view, the Delaware Riverkeeper Network has secured the information from other public sources and was able to confirm that the historic width of the bridge has not in fact presented a safety hazard.<sup>1</sup> In fact, most of the crash data PADOT has relied upon in order to make this false assertion of a hazardous condition consisted of accidents that didn't even involve the bridge, let alone its width.

- Expert analysis demonstrates that the Alternative 6 series PADOT considered are the options with the most deleterious impacts on the stream and stream hydraulics. This means they are also the most damaging to downstream communities and ecological systems. In their rush to the pre-determined outcome they desire, PADOT's truncated review process fails to consider the very important water quality, erosion, and flooding impacts that could result.
- While the various alternatives put forth include a section with the subheading "Environmental and Cultural Resource Impacts" the information included in this category is extremely sparse in terms of environmental and cultural considerations. In addition, the information provided varies in scope and detail from alternative to alternative, providing no basis for comparison between the options.
- The Project alternatives all fail to consider environmentally beneficial strategies for addressing common problems across alternatives, such as the stream scour that happens around instream piers. In every instance PADOT suggests additional hardening protections around the piers which are detrimental to the aesthetics and historic integrity of the structures being considered and exacerbate environmental damage rather than mitigating, minimizing and avoiding harm. The Delaware Riverkeeper Network has repeatedly urged consideration of natural channel design strategies that could avoid and mitigate scour that result around and from the piers, and yet nowhere in this document or others does PADOT ever give this beneficial approach any consideration.
- Removal of the Headquarters Road Bridge and its impacts on the Ridge Valley Historic District are sorely understated by PADOT because, once again, PADOT views this destruction/construction project as a project in a vacuum. In fact, PADOT has been pursuing a systematic effort to remove and replace (with new construction) a series of historic bridges in Tinicum Township; the collected impact is far greater than the effect of each project independently. PADOT needs to do a comprehensive impact review of all of its bridge projects – past, proposed, and anticipated – on the Ridge Valley Historic District and the environment.

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<sup>1</sup> In response to FOIA requests filed by the Riverkeeper, FHWA produced some traffic-related records on December 11, 2015. Additional records were withheld pending review by personnel at FHWA's headquarters. As of the date of this letter, that review has not been completed.

- PADOT continues to fail to follow regulatory guidance to ensure the most efficient and appropriate decision-making process and outcome. PADOT's continuing failure to adhere to applicable guidance on the process, as evidenced by this most recent report, is further evidence of its goal to reach a pre-determined outcome rather than a well-informed and most beneficial outcome.
  - ✗ PADOT should coordinate the NEPA and Section 106 reviews in order to encourage public participation in the Section 106 process, and accurately assess the impacts to all cultural and natural resources. The Section 106 implementing regulations strongly encourage this coordination (36 C.F.R. § 800.8(a)(1)); and the Advisory Council on Historic Preservation and the Council on Environmental Quality have published a handbook on NEPA and Section 106 integration.<sup>2</sup>
  - ✗ In addition, PADOT should coordinate the Section 106 review with the Section 4(f) review, because the Section 4(f) process can greatly affect the outcome of the Section 106 process.<sup>3</sup> The agency should familiarize participants in the Section 106 process with the mandates of Section 4(f) so that all project participants will understand how 4(f) will influence the project decisions.
- PADOT's report uses every opportunity to try to skew the picture it paints. For example, Table 4 provides detailed bullet points of early meetings about the project, but fails to include a similar level of detail in the most recent set of meetings— where a significant amount of expert data has been brought to bear on the discussion and there were well-informed requests for consideration of a rehabilitation alternative. Examples of omissions that help demonstrate this point are (1) at a meeting of the Tinicum Township Supervisors on March 1, 2011, the Township rejected the chance to own a new fake-historic, one lane bridge with no funding from the state; (2) in apparent reaction, PADOT crews closed the bridge permanently the next day, on March 2, 1011 ; (3) dates of the multiple meetings where the Delaware Riverkeeper Network urged an appropriate combined section 106 and NEPA process; (4) the multiple meetings where members of the public spoke firmly for restoration of the historic structure and expert reports and materials were brought forth to support the appropriateness and achievability of this request.

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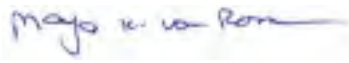
<sup>2</sup> See COUNCIL ON ENVTL. QUALITY & ADVISORY COUNCIL ON HISTORIC PRES., NEPA AND NHPA: A HANDBOOK FOR INTEGRATING NEPA AND SECTION 106 (2013), [http://www.achp.gov/docs/NEPA\\_NHPA\\_Section\\_106\\_Handbook\\_Mar2013.pdf](http://www.achp.gov/docs/NEPA_NHPA_Section_106_Handbook_Mar2013.pdf).

<sup>3</sup> See AM. ASS'N OF STATE HIGHWAY TRANSP. OFFICIALS, PRACTITIONER'S HANDBOOK: CONSULTING UNDER SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT (2006), <http://environment.transportation.org/pdf/PG06.pdf>.

- In the report discussion, PADOT states that there has been “coordination” with other regulatory agencies, suggesting that they have been involved in the review and design of alternatives. Right to Know and Freedom of Information Act documents, however, do not support such a characterization.
- With respect to Section 9.0, Application of Definition of Effect and Criteria of Adverse Effect:
  - X The Report notes, “The project results in a permanent change in use of approximately 0.014 of the 575 acres (0.002 percent)” (p. 45). While this math may be accurate, the statistic appears to be designed to understate the impact of losing this 200-year-old Bridge, one of the last of its kind. This statistic is also misleading because it includes only land within the Historic District (see p. 46). The Bridge, which crosses over Tincum Creek, presumably is not included in that acreage.
  - X The Report also states that “There will be permanent land acquisition from two contributing properties within the historic district” (p. 45). The Report does not reveal that the affected landowners have indicated they will not agree to an easement for a 2-lane bridge. FHWA and the Consulting Parties should be aware of this challenge; it may influence the outcome, in light of the high costs typically involved in eminent domain proceedings.
  - X PADOT admits in a footnote on page 47 that the removal and replacement of the Bridge will adversely affect the Ridge Valley Rural Historic District. PADOT goes to say, however, that the removal and replacement “will not cause the historic district to be delisted from the National Register.” That decision is the Keeper’s to make, not PADOT’s. PADOT cannot state with certainty that the Bridge’s removal will not cause delisting of the District. It is important to note that PADOT is targeting a growing number of the historic bridges in Tincum for destruction and replacement. As more and more bridges are destroyed, the many designations, historic and environmental (such as Wild & Scenic), become increasingly at risk from the individual and cumulative harm.
  - X Finally, the Report says, “The new structure will incorporate design elements that will complement and blend with the historic district’s setting” (p. 47). PADOT has proved many times that it is unwilling or unable to honor this promise. Many local residents and Consulting Parties have personally witnessed PADOT’s failure to consider Bucks County’s rural and historic setting when rebuilding a bridge. In fact, experience with PADOT has been that it doesn’t even implement the construction and design practices committed to in advance of construction, such as reuse of stone or fundamental designs. For example, the construction of the bridge at Cafferty Road bore no resemblance to the much less intrusive design PADOT committed to before demolition.

In addition to the above concerns, the Delaware Riverkeeper Network submits the attached reports to expand upon and support these comments.

Respectfully,

A handwritten signature in blue ink that reads "Maya K. van Rossum".

Maya K. van Rossum  
the Delaware Riverkeeper

Enclosures