



EO-1022
CC

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

August 25, 2008

Herb Jones, Director of Government Affairs & Tribal Liaison
Dakota, Minnesota & Eastern Railroad
140 N. Phillips
Sioux Falls, SD 57104

RE: STB Finance Docket No. 33407, Dakota, Minnesota & Eastern Railroad
Corporation (DM&E) Construction into the Powder River Basin Project:
SHPO Information Needs

Dear Mr. Jones:

As you know, the Surface Transportation Board's Section of Environmental Analysis (SEA) has submitted several archaeological survey reports to the South Dakota State Historic Preservation Officer (SHPO) for review of survey adequacy and determinations of eligibility and effect in accordance with Stipulation A.3.2 of the Programmatic Agreement (PA). SEA received written comments from the SHPO on two of these reports earlier this year both requesting additional information and clarification on matters of National Register of Historic Places (National Register) eligibility and project impacts to sites (see attachments).

Prompted by our review of these comments, SEA requested a meeting with the SHPO to discuss their expectations prior to submitting any additional survey reports for review. Catherine Glidden of my staff met with the SHPO on July 24, 2008. The discussion covered a variety of topics, but the SHPO expressed particular concern regarding:

- the need to apply all evaluation criteria (as defined at 36 CFR 60.4) to unevaluated and newly recorded sites located within the Area of Potential Effects (APE);
- the need to explain how sites located within the project APE will be impacted by the project, including indirect effects (e.g., visual, auditory) on properties listed on or considered eligible for listing on the National Register; and
- the need to account for the project's potential to impact buried archaeological sites that may be located within the construction right-of-way.

More recently, in response to your request that DM&E be included in discussions with the SHPO, a telephone conference was held on August 15, 2008 to further discuss

some of these topics. Based on this conference, the SHPO provided additional written recommendations to SEA on August 18, 2008 (see attachments), specifically recommending:

- that each archaeological resource located within the APE be evaluated as an individual property as opposed to assuming eligibility for a group of sites;
- that an ethnographic and/or TCP study be conducted to ensure that each property is evaluated using the appropriate National Register criteria; and
- that the ethnographic and/or TCP study be conducted as part of the identification phase of the project.

SEA requests that DM&E provide it with a written response outlining its plan to address these specific information needs and recommendations. I understand that Ms. Glidden and Mr. Randy Withrow, representing our third-party contractor, will be meeting with you in Minnesota later this week and are prepared to discuss these matters with you in more detail at that time. Meanwhile, if you have any questions or comments regarding any of the above, please contact me at 202-245-0295.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" and last name "Rutson" clearly distinguishable.

Victoria Rutson, Chief
Section of Environmental Analysis

Attachments (3)

Cc: Catherine Glidden, SEA
Randy Withrow, LBG
Paige Hoskinson-Olson, SD SHPO

REC'D MAY 23 2008



Department of Tourism and State Development

May 20, 2008

Ms. Catherine L. Glidden
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington DC 20423-0001

SECTION 106 PROJECT CONSULTATION – IDENTIFICATION/EVALUATION

Project: 080515042F – Dakota, Minnesota and Eastern Railroad Corporation Powder River Basin Expansion Project Corridor - Huron Yard Locale (Project No. SD3D)
Location: Beadle County
(STB)

Dear Ms. Glidden:

Thank you for the opportunity to comment on the above referenced project pursuant to Section 106 of the National Historic Preservation Act of 1966 (as amended). The South Dakota Office of the State Historic Preservation Officer (SHPO) is currently unable to comment on the effect of your proposed undertaking on the non-renewable cultural resources of South Dakota.

On May 15, 2008, we received your letter and the survey report entitled "A Level III Cultural Resources Evaluation of the Proposed Dakota, Minnesota & Eastern Railroad Corporation Powder River Basin Expansion Project Corridor, Huron Yard Locale, Beadle County, South Dakota," prepared by Archeology Laboratory, Augustana College. Based on the information provided in the report we do not concur with the determination of non-contributing for site 39BE2003. Please explain if the railroad grade is intact and if the context "South Dakota's Railroads" was used to assess the eligibility of this site. Finally, explain how the proposed project will impact this site.

Should you require additional information, please contact Paige Hoskinson Olson, Review and Compliance Coordinator, at (605) 773-6004. Your concern for the non-renewable cultural heritage of our state is appreciated.

Sincerely,

Jay D. Vogt
State Historic Preservation Officer

Paige Hoskinson Olson
Review and Compliance Coordinator

Cc: Mr. David Bibler, The Louis Berger Group Inc.
Mr. Randy Withrow, The Louis Berger Group Inc.

Office of Tourism
Governor's Office of Economic
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South Dakota Arts Council
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sdhda.org





REC'D JUN 17 2008

Department of Tourism and State Development

June 10, 2008

Ms. Catherine L. Glidden
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington DC 20423-0001

SECTION 106 PROJECT CONSULTATION – IDENTIFICATION/EVALUATION
Project: 080515042F – Dakota, Minnesota and Eastern Railroad Corporation Powder River Basin Expansion Project Corridor – Burns & McDonnell Report (Project No. SD3)
Location: Multiple Counties
(STB)

Dear Ms. Glidden:

Thank you for the opportunity to comment on the above referenced project pursuant to Section 106 of the National Historic Preservation Act of 1966 (as amended). The South Dakota Office of the State Historic Preservation Officer (SHPO) is currently unable to comment on the effect of your proposed undertaking on the non-renewable cultural resources of South Dakota.

On May 15, 2008, we received your letter and the survey report entitled "Level I and II Cultural Resource Survey and Site Testing and Evaluation for 317 Miles of Railroad Reconstruction From the Minnesota Border to Wall, South Dakota: DM&E Proposed Power River Expansion Project," prepared by Burns & McDonnell. To assess the potential impacts of this project we request the following information be provided.

- Given that the report was prepared in July 2001, explain if an updated record search was completed for the project area of potential effects (APE), and if not why?
- Explain how all of the National Register Criteria were applied to the unevaluated and newly recorded sites. Sites containing unevaluated resources outside the project APE should be considered unevaluated for listing to the National Register of Historic Places.

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- Explain how the sites located within the project APE will be impacted by the project.
- Provide a determination of effect for National Register listed site 39HU0005.
- Five sites were identified as isolated finds in the table entitled "List of Identified Resources with Determinations of NRHP Eligibility and Effect". These sites should be represented by the assigned Smithsonian Number. In addition, our records indicate that site 39HU0052 is listed on the National Register of Historic Places and site 39HU0097 is considered eligible for listing.
- Provide comments submitted by other consulting parties regarding the identification of historic properties and any concerns about the impacts of the project on those properties.
- Provide larger maps of the project APE including all known sites. The report indicates that 20 sites have been identified outside the project APE. Provide the approximate distance of each site from the project area.
- Explain what happened to the material collected by Burns & McDonnell.

Should you require additional information, please contact Paige Hoskinson Olson, Review and Compliance Coordinator, at (605) 773-6004. Your concern for the non-renewable cultural heritage of our state is appreciated.

Sincerely,

Jay D. Vogt
State Historic Preservation Officer



Paige Hoskinson Olson
Review and Compliance Coordinator

Cc: Mr. David Bibler, The Louis Berger Group Inc.
Mr. Randy Withrow, The Louis Berger Group Inc.

Withrow, Randy

From: Paige.HoskinsonOlson@state.sd.us
Sent: Monday, August 18, 2008 10:36 AM
To: Catherine.Glidden@stb.dot.gov; Withrow, Randy
Cc: Jason.Haug@state.sd.us; Amy.Rubingh@state.sd.us
Subject: DM&E Project

Cathy,

Based on Friday's conference call, the SD SHPO now believes that each property located within the APE should be evaluated for listing on the National Register instead of assuming eligibility. Although each approach has its benefits, we believe the former is more appropriate given the apparent lack of flexibility in the engineering design. In addition, we recommend an ethnographic and/or TCP study be conducted to ensure that each property is evaluated using the appropriate National Register criteria. Finally, during Friday's discussion it was mentioned that the ethnographic study was part of the treatment plan. It is my understanding that no treatment plans have been developed, at least for South Dakota. Therefore, it is unclear why an ethnographic and/or TCP study can not be conducted during the identification phase.

Thank you,

Paige Hoskinson Olson
Review and Compliance Coordinator
South Dakota State Historical Society
900 Governors Drive
Pierre SD 57501
(605) 773-6004