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**SURFACE TRANSPORTATION BOARD**  
**Washington, DC 20423**

EO-2403  
CN

*Office of Environmental Analysis*

November 17, 2014

Dr. Mark Baumler  
State Historic Preservation Officer  
Montana Historical Society  
225 North Roberts, P.O. Box 201201  
Helena, MT 59620-1201

Attn: Dr. Stan Wilmoth

Re: Docket No. FD 30186, Tongue River Railroad Company, Inc. - Rail Construction and Operation - in Custer, Powder River and Rosebud Counties, Montana: Project Updates

Dear Dr. Baumler:

The purpose of this letter is to update you on recent developments in our ongoing historic reviews for the Tongue River Railroad Construction Project. We begin with a summary of the fieldwork conducted this summer, followed by a status report on the draft Programmatic Agreement being developed for this project.

### **Summary of Field Work**

#### **A. Survey Areas**

The Surface Transportation Board's Office of Environmental Analysis (OEA) made a reasonable and good-faith effort to gain access and survey property within the right-of-way for portions of each build alternative. OEA was unable to gain access to some areas either because landowners would not allow entry or because some accessible areas were surrounded by inaccessible parcels. The resultant survey data will allow OEA to evaluate the potential impacts to historic properties within each of the alternatives and to weigh the potential impacts among the alternatives. Landowners in the project area granted access to approximately 51% of the archaeological and tribal resources Area of Potential Effects (APE) and OEA conducted pedestrian transect surveys on 72% of the accessible APE (Table 1). OEA was granted access to approximately 50% of the built resources APE and OEA conducted pedestrian and vehicular surveys or confirmed the absence of built resources on 96% of the accessible APE. Both APEs included buffer zones to capture indirect effects. The APE for the archaeological and tribal resources was expanded with a buffer zone of 200 feet on either side of the right-of-way or direct impact area, for a total of 400 feet. Similarly, the APE for the built resources was expanded by 1,500 feet outside of the right-of-way, for a total of 3,000 feet.

**Table 1.          Acres Surveyed**

| <b>APE</b>                          | <b>Total Acres</b> | <b>Accessible Acres</b> | <b>Percent Access Granted</b> | <b>Total Acreage Surveyed</b> | <b>Percent Accessible Surveyed</b> |
|-------------------------------------|--------------------|-------------------------|-------------------------------|-------------------------------|------------------------------------|
| Archaeological and tribal resources | 23,431             | 11,995                  | 51                            | 8,650                         | 72                                 |
| Built Resources                     | 96,116             | 48,274                  | 50                            | 46,578                        | 96                                 |

In response to Dr. Stan Wilmoth's letter to OEA dated March 19, 2014, Table A1 (attached) shows the total acres surveyed and the percentage coverage for each build alternative.

## B. Tribal and Archaeological Sites

Eight-member survey teams (teams A-G) with an equal number of archaeologist and tribal members, conducted pedestrian surveys to identify tribal and archaeological sites (members from 15 tribes were represented, see Table 2). The teams worked in seven 10-day increments over the summers of 2013 and 2014 (Table 3). They surveyed portions of all of the build alternatives and covered a total of 8,650 acres. Archeologists were members of ICF International, OEA's third party consultant for the Tongue River Railroad Proposal Environmental Impact Statement.

The chief archaeologist for each team met the Secretary of the Interior Professional Qualifications Standards (36 C.F.R. Part 61) for archaeology; all other crew members had a Bachelor's degree (BA or BS) or higher, in anthropology or a closely related field. Tribal members were not required to meet the Secretary of Interior Standards; OEA relied on their expertise to identify tribal sites.

**Table 2. Tribes Participating in Field Surveys**

| <b>Team A</b>                   | <b>Team B</b>                | <b>Team C</b>                 | <b>Team D</b>                                       |
|---------------------------------|------------------------------|-------------------------------|-----------------------------------------------------|
| Northern Arapaho                | Mandan, Hidatsa, and Arikara | Crow                          | Cheyenne and Arapaho                                |
| Northern Cheyenne               | Northern Cheyenne            | Northern Cheyenne             | Crow Creek Sioux                                    |
| Fort Peck Assiniboine and Sioux | Oglala Sioux                 | Standing Rock Sioux           | Northern Cheyenne                                   |
| Yankton Sioux                   | Rosebud Sioux                | Yankton Sioux                 | Sisseton Wahpeton Oyate<br>Turtle Mountain Chippewa |
| <b>Team E</b>                   | <b>Team F</b>                | <b>Team G</b>                 |                                                     |
| Cheyenne and Arapaho            | Crow Creek Sioux             | Cheyenne River Sioux          |                                                     |
| Crow                            | Fort Belknap                 | Northern Cheyenne (member #1) |                                                     |
| Northern Arapaho                | Mandan, Hidatsa, and Arikara | Northern Cheyenne (member #2) |                                                     |
| Northern Cheyenne               | Northern Cheyenne            | Standing Rock Sioux           |                                                     |
| Turtle Mountain Chippewa        | Rosebud Sioux                |                               |                                                     |

**Table 3. Survey Dates**

| <b>APE</b>                          | <b>Team A</b>                   | <b>Team B</b>                    | <b>Team C</b>                       | <b>Team D</b>                         |
|-------------------------------------|---------------------------------|----------------------------------|-------------------------------------|---------------------------------------|
| Archaeological and tribal resources | July 15, 2013–<br>July 24, 2013 | July 29, 2013–<br>August 7, 2013 | August 12, 2013–<br>August 21, 2013 | August 26, 2013–<br>September 4, 2013 |
| Built Resources                     | July 15, 2013–<br>July 24, 2013 | July 29, 2013–<br>August 7, 2013 | N/A                                 | N/A                                   |
| <b>APE</b>                          | <b>Team E</b>                   | <b>Team F</b>                    | <b>Team G</b>                       |                                       |
| Archaeological and tribal resources | May 12, 2014–<br>May 23, 2014   | June 2, 2014–<br>June 13, 2014   | July 7, 2014–<br>July 18, 2014      |                                       |
| Built Resources                     | N/A                             | June 2, 2014–<br>June 9, 2014    | N/A                                 |                                       |

During the surveys, individuals were spaced approximately 50 feet apart and walked at the same pace observing the ground for any indications of archaeological resources and/or tribal resources such as rock alignments, flaked stone (lithics), bone, historical debris, or other deposits. As resources were encountered, the entire crew stopped and recorded the resource, using a global positioning system

(GPS) device and iPad® to record the location and attributes, as appropriate. In response to requests made by tribal members during consultation for this undertaking, the crews did not perform any earthmoving or excavation, and all team members took care not to disturb any cultural resources observed. Archaeological site types were recorded using standard terminology, as described in the attachment to this letter. Team members kept field notes and took photos of all archaeological resources.

In accordance with 36 CFR § 800.4(a)(4), if a tribal member observed sites of tribal significance (sites containing attributes beyond or in addition to archaeological data), the team recorded a single GPS point for that resource, along with a brief description that protected confidentiality. Archaeologists only collected any information if all four tribal participants agreed that the resource should be recorded.

The field survey resulted in the identification of 386 newly recorded archaeological and tribal resources in the APE, including 350 archaeological and 36 tribal resources (Table 4).

**Table 4. Numbers of Newly Recorded Tribal and Archaeological Resources**

| Lithic Scatter | Lithic Scatter with other components | Stone Circle/Tipi Rings | Cairn | Historic Water Associated | Historic Trail or Fence | Other | Isolate | Total Archaeology Sites | Tribal Resources |
|----------------|--------------------------------------|-------------------------|-------|---------------------------|-------------------------|-------|---------|-------------------------|------------------|
| 83             | 27                                   | 12                      | 39    | 6                         | 6                       | 51    | 126     | 350                     | 36               |

### C. Built Resources

Three teams of two federally qualified (36 CFR § 61) architectural historians or historians conducted field survey work for built resources from July 15 to July 24, 2013, from July 29 to August 7, 2013, and from June 2 to June 9, 2014. Their methods involved reviewing geographic information system (GIS) maps using Google Earth Pro satellite imagery (Google Earth 2013); reviewing previously recorded site forms; interviewing land owners or managers who offered to provide information; conducting a windshield survey along public roads; and conducting a pedestrian or all-terrain vehicle field survey along private roads, trails, or cow paths, where available. Our letter to you dated March 12, 2014, included a list of local repositories and organizations the architectural historians contacted to seek information of built resources in the APE in accordance with 36 CFR § 800.4(a)(3). The architectural historians recorded buildings, structures, objects, and districts that appeared to be 50 years of age or older—the general threshold for consideration under the National Register. The field survey resulted in recording 51 newly identified built resources in the preliminary APE for all build alternatives (Table 5).

**Table 5. Newly Recorded Built Resources**

| Barn | Bridge | Dam/Levee | District <sup>a</sup> | Homestead | Irrigation Ditch | Railroad | Ranch | Road/Trail | Utility | Windmill | Other <sup>b</sup> | Total Built Resources |
|------|--------|-----------|-----------------------|-----------|------------------|----------|-------|------------|---------|----------|--------------------|-----------------------|
| 3    | 3      | 4         | 1                     | 4         | 3                | 3        | 4     | 5          | 3       | 6        | 10                 | 51                    |

Notes:

<sup>a</sup> District includes the newly identified Eastern Montana Fairgrounds Historic District

<sup>b</sup> Other includes a pump house, fish hatchery, school, culvert, cattle pen, park facilities, pasture, storage shed, corrals, and a residence.

## **D. Further Information**

The attachment to this letter summarizes previously recorded and newly identified archaeological resources, tribal resources, and built resources in the APE by alternative in Tables A-2 and A-3, and shows their approximate locations on Figure 1. The information on the archaeological resources and built resources has been reported to you in greater detail on site forms under separate cover, and information on resources identified by tribal members will be coordinated with the tribes. Dr. Wilmoth stated in his letter dated March 19, 2014, “some assessment of eligibility whether it is preliminary or otherwise will be useful.” Therefore, the attachment to this letter provides a general description of the resource types identified, and presents our reasoning for their potential eligibility for the National Register.

### **Programmatic Agreement Development**

OEA held a Section 106 consulting party meeting in Billings, Montana, February 13 and 14, 2014, and several of the meeting attendees recommended that work on a Programmatic Agreement begin immediately. Since that meeting, OEA has worked with the consulting parties on a regular basis to develop the draft Programmatic Agreement. In April 2014, upon the advice of ACHP, OEA provided the consulting parties with the justification for developing a Programmatic Agreement. In June through July 2014, OEA worked with the consulting parties to develop the recitals, or WHEREAS clauses of the draft Programmatic Agreement. From August 2014 through the present time, OEA continues to work with the consulting parties to develop the other sections of the draft Programmatic Agreement, including the stipulations and appendices.

The draft Programmatic Agreement stipulates measures that would be taken to complete the identification and evaluation efforts in accordance with C.F.R. Part 800.4(b)(2) and to phase the application of the criteria of adverse effect in accordance with 36 C.F.R. Part 800.5(a)(3). It also outlines measures that would be taken to avoid, minimize, or mitigate the effects on historic properties and tribal sites of significance in accordance with 36 C.F.R. Part 800.6(a). The draft Programmatic Agreement will be attached to the Draft EIS for further review and comment by the consulting parties and the public.

In a letter dated September 8, 2014, the Advisory Council on Historic Preservation asked that two stipulations be added to the draft Programmatic Agreement:

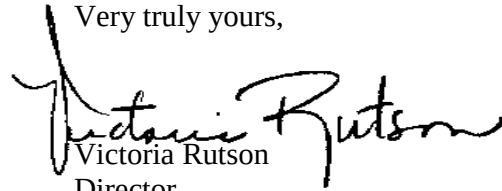
- 1) Roles and responsibilities of key consulting parties, and
- 2) Analysis of alternatives considered under NEPA and how that analysis is informed by the historic properties review process in the draft Programmatic Agreement, including the selection of a preferred alternative.

OEA has established a working group to regularly revise the draft Programmatic Agreement. Deputy SHPO Dr. Wilmoth has participated in the working group, and joined our first teleconference held on September 26, 2014. Other members of the working group represent the U.S. Army Corps of Engineers, the Department of the Interior-Bureau of Land Management, the Northern Cheyenne, the Rosebud Sioux, the Standing Rock Sioux, the National Trust on Historic Preservation, and TRRC (the applicant). The working group meets twice a month, and the group’s revisions have been circulated to the rest of the consulting parties before each monthly call for discussion, review and comment.

At this time, OEA would appreciate any comments you may have, including but not limited to 1) the level of effort to identify archaeological, tribal, and built resources conducted during the analysis of alternatives being considered in the EIS and 2) the involvement of the consulting parties in the development of the draft Programmatic Agreement. We look forward to continuing work with Dr. Wilmoth on the draft Programmatic Agreement.

Thank you for the consistent input and guidance your office has provided to OEA regarding the proposed Tongue River Railroad Construction Project. As before, Catherine Nadals of my staff will be working on the Section 106 compliance aspects of the project. Please feel free to contact me or Ms. Nadals at 202-245-0293 ([Catherine.Nadals@stb.dot.gov](mailto:Catherine.Nadals@stb.dot.gov)). You may also contact Rick Starzak with ICF International (our third-party contractor) at 213-312-1751 ([Richard.Starzak@icfi.com](mailto:Richard.Starzak@icfi.com)). We look forward to your comments and appreciate your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with a large initial "V" and "R".

Victoria Rutson  
Director  
Office of Environmental Analysis

Attachment

cc: Charlene Dwin Vaughn, ACHP  
Najah Duvall-Gabriel, ACHP

## ATTACHMENT

**Identified Archaeological  
Resources, Tribal Resources, and Built Resources Identified within the APE by Alternative  
Surface Transportation Board  
Field Survey for Tongue River Railroad EIS – 2013-2014  
Docket No. FD 30186**

As requested in your letter dated March 19, 2014, Table A1 provides the percentage coverage of OEA's identification effort for each alternative. The results include the:

- Total number of acres of the Area of Potential Effects (APE) for archaeological resources and tribal resources,
- Accessible number of acres of the APE,
- Number of acres surveyed, and
- Percent surveyed of the APE that was accessible.

***Table A1. Coverage of Identification Effort for Archaeological and Tribal Resources***

| <b>Alternative</b>                | <b>Total Acres in the APE<sup>a</sup></b> | <b>Total Acreage Accessible</b> | <b>Percent Access Granted</b> | <b>Total Acreage Surveyed</b> | <b>Percent of APE Surveyed</b> | <b>Percent Accessible Surveyed</b> |
|-----------------------------------|-------------------------------------------|---------------------------------|-------------------------------|-------------------------------|--------------------------------|------------------------------------|
| Tongue River                      | 7,921                                     | 4,226                           | 53                            | 2,674                         | 34                             | 63                                 |
| Tongue River East                 | 8,097                                     | 4,353                           | 54                            | 3,080                         | 38                             | 71                                 |
| Colstrip                          | 4,133                                     | 2,913                           | 71                            | 2,124                         | 51                             | 73                                 |
| Colstrip East                     | 4,369                                     | 3,156                           | 72                            | 2,590                         | 59                             | 82                                 |
| Tongue River Road                 | 8,368                                     | 3,641                           | 44                            | 2,493                         | 30                             | 68                                 |
| Tongue River Road East            | 8,491                                     | 3,714                           | 44                            | 2,834                         | 33                             | 76                                 |
| Moon Creek                        | 8,086                                     | 4,299                           | 53                            | 2,456                         | 30                             | 57                                 |
| Moon Creek East                   | 8,262                                     | 4,426                           | 54                            | 2,862                         | 35                             | 65                                 |
| Decker                            | 5,420                                     | 2,555                           | 47                            | 1,699                         | 31                             | 66                                 |
| Decker East                       | 5,229                                     | 2,560                           | 49                            | 1,683                         | 32                             | 66                                 |
| Unique Segment Total <sup>b</sup> | 23,431                                    | 11,995                          | 51                            | 8,650                         | 37                             | 72                                 |

Notes:

<sup>a</sup> APE includes a 200-foot buffer zone on either side of the right-of-way edge.

<sup>b</sup> Some alternatives share common segments; the total is for unique segments.

Table A2 tallies and categorizes the archaeological resources and tribal resources that were identified by OEA's survey effort in 2013 and 2014 within the accessible areas of the APE of each alternative.

**Table A2. Number of Archaeological and Tribal Resources identified within Alternative APEs**

|                                           | Lithic Scatter | Lithic Scatter with other components | Stone Circle/<br>Tini Rinos | Cairn | Historic Water Associated | Historic Trail or Fence | Other | Isolate | TOTAL Archaeological Resources | TOTAL Tribal Resources | TOTAL |
|-------------------------------------------|----------------|--------------------------------------|-----------------------------|-------|---------------------------|-------------------------|-------|---------|--------------------------------|------------------------|-------|
| <b>Tongue River Alternative</b>           |                |                                      |                             |       |                           |                         |       |         |                                |                        |       |
| Within or intersected by the right-of-way | 19             | 9                                    | 2                           | 5     | 2                         | 2                       | 3     | 16      | 58                             | 5                      | 63    |
| Within 200-foot buffer zone               | 9              | 0                                    | 0                           | 1     | 0                         | 0                       | 8     | 17      | 35                             | 5                      | 40    |
| TOTAL                                     | 28             | 9                                    | 2                           | 6     | 2                         | 2                       | 11    | 33      | 93                             | 10                     | 103   |
| <b>Tongue River East Alternative</b>      |                |                                      |                             |       |                           |                         |       |         |                                |                        |       |
| Within or intersected by the right-of-way | 20             | 8                                    | 2                           | 7     | 2                         | 0                       | 5     | 17      | 61                             | 6                      | 67    |
| Within 200-foot buffer zone               | 10             | 0                                    | 3                           | 2     | 0                         | 0                       | 11    | 24      | 50                             | 8                      | 58    |
| TOTAL                                     | 30             | 8                                    | 5                           | 9     | 2                         | 0                       | 16    | 41      | 111                            | 14                     | 125   |
| <b>Colstrip Alternative</b>               |                |                                      |                             |       |                           |                         |       |         |                                |                        |       |
| Within or intersected by the right-of-way | 8              | 1                                    | 4                           | 6     | 2                         | 2                       | 13    | 10      | 46                             | 3                      | 49    |
| Within 200-foot buffer zone               | 4              | 4                                    | 0                           | 7     | 0                         | 0                       | 6     | 13      | 34                             | 12                     | 46    |
| TOTAL                                     | 12             | 5                                    | 4                           | 13    | 2                         | 2                       | 19    | 23      | 80                             | 15                     | 95    |
| <b>Colstrip East Alternative</b>          |                |                                      |                             |       |                           |                         |       |         |                                |                        |       |
| Within or intersected by the right-of-way | 16             | 5                                    | 4                           | 10    | 2                         | 2                       | 15    | 14      | 68                             | 4                      | 72    |
| Within 200-foot buffer zone               | 8              | 4                                    | 3                           | 8     | 0                         | 0                       | 10    | 22      | 55                             | 5                      | 60    |
| TOTAL                                     | 24             | 9                                    | 7                           | 18    | 2                         | 2                       | 25    | 36      | 123                            | 9                      | 132   |
| <b>Tongue River Road Alternative</b>      |                |                                      |                             |       |                           |                         |       |         |                                |                        |       |
| Within or intersected by the right-of-way | 14             | 11                                   | 3                           | 2     | 0                         | 3                       | 5     | 13      | 51                             | 4                      | 55    |
| Within 200-foot buffer zone               | 8              | 3                                    | 0                           | 4     | 0                         | 0                       | 8     | 13      | 36                             | 3                      | 39    |
| TOTAL                                     | 22             | 14                                   | 3                           | 6     | 0                         | 3                       | 13    | 26      | 87                             | 7                      | 94    |

|                                                 | Lithic Scatter | Lithic Scatter<br>with other<br>components | Stone Circle/<br>Tini Rines | Cairn | Historic Water<br>Associated | Historic Trail<br>or Fence | Other | Isolate | TOTAL<br>Archaeological<br>Resources | TOTAL Tribal<br>Resources | TOTAL |
|-------------------------------------------------|----------------|--------------------------------------------|-----------------------------|-------|------------------------------|----------------------------|-------|---------|--------------------------------------|---------------------------|-------|
| <b>Tongue River Road East Alternative</b>       |                |                                            |                             |       |                              |                            |       |         |                                      |                           |       |
| Within or<br>intersected by the<br>right-of-way | 14             | 10                                         | 3                           | 4     | 0                            | 1                          | 7     | 14      | 53                                   | 5                         | 58    |
| Within 200-foot<br>buffer zone                  | 9              | 3                                          | 3                           | 5     | 0                            | 0                          | 11    | 20      | 51                                   | 2                         | 53    |
| TOTAL                                           | 23             | 13                                         | 6                           | 9     | 0                            | 1                          | 18    | 34      | 104                                  | 7                         | 111   |
| <b>Moon Creek Alternative</b>                   |                |                                            |                             |       |                              |                            |       |         |                                      |                           |       |
| Within or<br>intersected by the<br>right-of-way | 23             | 8                                          | 2                           | 6     | 3                            | 2                          | 2     | 17      | 63                                   | 3                         | 66    |
| Within 200-foot<br>buffer zone                  | 6              | 1                                          | 0                           | 2     | 0                            | 0                          | 3     | 15      | 27                                   | 2                         | 29    |
| TOTAL                                           | 29             | 9                                          | 2                           | 8     | 3                            | 2                          | 5     | 32      | 90                                   | 5                         | 95    |
| <b>Moon Creek East Alternative</b>              |                |                                            |                             |       |                              |                            |       |         |                                      |                           |       |
| Within or<br>intersected by the<br>right-of-way | 23             | 7                                          | 2                           | 8     | 3                            | 0                          | 4     | 18      | 65                                   | 4                         | 69    |
| Within 200-foot<br>buffer zone                  | 7              | 1                                          | 3                           | 3     | 0                            | 0                          | 6     | 22      | 42                                   | 5                         | 47    |
| TOTAL                                           | 30             | 8                                          | 5                           | 11    | 3                            | 0                          | 10    | 40      | 107                                  | 9                         | 116   |
| <b>Decker Alternative</b>                       |                |                                            |                             |       |                              |                            |       |         |                                      |                           |       |
| Within or<br>intersected by the<br>right-of-way | 18             | 5                                          | 0                           | 7     | 0                            | 2                          | 4     | 18      | 54                                   | 8                         | 62    |
| Within 200-foot<br>buffer zone                  | 9              | 0                                          | 0                           | 1     | 0                            | 1                          | 2     | 5       | 18                                   | 6                         | 24    |
| TOTAL                                           | 27             | 5                                          | 0                           | 8     | 0                            | 3                          | 6     | 23      | 72                                   | 14                        | 86    |
| <b>Decker East Alternative</b>                  |                |                                            |                             |       |                              |                            |       |         |                                      |                           |       |
| Within or<br>intersected by the<br>right-of-way | 17             | 6                                          | 0                           | 6     | 0                            | 0                          | 4     | 16      | 49                                   | 8                         | 57    |
| Within 200-foot<br>buffer zone                  | 9              | 1                                          | 0                           | 1     | 0                            | 1                          | 2     | 9       | 23                                   | 5                         | 28    |
| TOTAL                                           | 26             | 7                                          | 0                           | 7     | 0                            | 1                          | 6     | 25      | 72                                   | 13                        | 85    |

Table A3 tallies and categorizes the built resources that were identified by OEA's survey effort in 2013 and 2014 within the accessible areas of the APE of each alternative.

**Table A3. Number of Built Resources surveyed within the APE**

|                                           | Barn | Bridge | Dam/Levee | District | Homestead | Irrigation Ditch | Railroad | Ranch | Road/Trail | Utility | Windmill | Other | TOTAL |
|-------------------------------------------|------|--------|-----------|----------|-----------|------------------|----------|-------|------------|---------|----------|-------|-------|
| <b>Tongue River Alternative</b>           |      |        |           |          |           |                  |          |       |            |         |          |       |       |
| Within or intersected by the right-of-way | 0    | 0      | 0         | 1        | 1         | 0                | 1        | 0     | 1          | 0       | 0        | 3     | 7     |
| Within 1,500-foot buffer zone             | 2    | 3      | 0         | 2        | 3         | 0                | 1        | 6     | 2          | 3       | 1        | 3     | 26    |
| TOTAL                                     | 2    | 3      | 0         | 3        | 4         | 0                | 2        | 6     | 3          | 3       | 1        | 6     | 33    |
| <b>Tongue River East Alternative</b>      |      |        |           |          |           |                  |          |       |            |         |          |       |       |
| Within or intersected by the right-of-way | 0    | 0      | 0         | 0        | 0         | 0                | 1        | 0     | 1          | 0       | 0        | 3     | 5     |
| Within 1,500-foot buffer zone             | 2    | 2      | 0         | 2        | 0         | 0                | 0        | 4     | 2          | 3       | 1        | 2     | 18    |
| TOTAL                                     | 2    | 2      | 0         | 2        | 0         | 0                | 1        | 4     | 3          | 3       | 1        | 5     | 23    |
| <b>Colstrip Alternative</b>               |      |        |           |          |           |                  |          |       |            |         |          |       |       |
| Within or intersected by the right-of-way | 0    | 0      | 2         | 2        | 1         | 2                | 0        | 0     | 0          | 0       | 0        | 1     | 8     |
| Within 1,500-foot buffer zone             | 0    | 1      | 1         | 0        | 4         | 0                | 3        | 2     | 0          | 0       | 1        | 2     | 14    |
| TOTAL                                     | 0    | 1      | 3         | 2        | 5         | 2                | 3        | 2     | 0          | 0       | 1        | 3     | 22    |
| <b>Colstrip East Alternative</b>          |      |        |           |          |           |                  |          |       |            |         |          |       |       |
| Within or intersected by the right-of-way | 0    | 0      | 2         | 1        | 0         | 2                | 0        | 0     | 0          | 0       | 0        | 1     | 6     |
| Within 1,500-foot buffer zone             | 0    | 0      | 1         | 0        | 1         | 0                | 2        | 0     | 0          | 0       | 1        | 1     | 6     |
| TOTAL                                     | 0    | 0      | 3         | 1        | 1         | 2                | 2        | 0     | 0          | 0       | 1        | 2     | 12    |
| <b>Tongue River Road Alternative</b>      |      |        |           |          |           |                  |          |       |            |         |          |       |       |
| Within or intersected by the right-of-way | 0    | 0      | 0         | 1        | 1         | 1                | 1        | 0     | 1          | 0       | 0        | 3     | 8     |
| Within 1,500-foot buffer zone             | 2    | 4      | 0         | 2        | 5         | 1                | 1        | 4     | 2          | 3       | 1        | 5     | 30    |
| TOTAL                                     | 2    | 4      | 0         | 3        | 6         | 2                | 2        | 4     | 3          | 3       | 1        | 8     | 38    |

|                                           | Barn | Bridge | Dam/Levee | District | Homestead | Irrigation Ditch | Railroad | Ranch | Road/Trail | Utility | Windmill | Other | TOTAL |
|-------------------------------------------|------|--------|-----------|----------|-----------|------------------|----------|-------|------------|---------|----------|-------|-------|
| <b>Tongue River Road East Alternative</b> |      |        |           |          |           |                  |          |       |            |         |          |       |       |
| Within or intersected by the right-of-way | 0    | 0      | 0         | 0        | 0         | 1                | 1        | 0     | 1          | 0       | 0        | 3     | 6     |
| Within 1,500-foot buffer zone             | 2    | 3      | 0         | 2        | 2         | 1                | 0        | 2     | 2          | 3       | 1        | 4     | 22    |
| TOTAL                                     | 2    | 3      | 0         | 2        | 2         | 2                | 1        | 2     | 3          | 3       | 1        | 7     | 28    |
| <b>Moon Creek Alternative</b>             |      |        |           |          |           |                  |          |       |            |         |          |       |       |
| Within or intersected by the right-of-way | 0    | 0      | 0         | 1        | 1         | 0                | 1        | 0     | 2          | 0       | 0        | 0     | 5     |
| Within 1,500-foot buffer zone             | 1    | 1      | 1         | 0        | 3         | 0                | 1        | 5     | 2          | 0       | 3        | 2     | 19    |
| TOTAL                                     | 1    | 1      | 1         | 1        | 4         | 0                | 2        | 5     | 4          | 0       | 3        | 2     | 24    |
| <b>Moon Creek East Alternative</b>        |      |        |           |          |           |                  |          |       |            |         |          |       |       |
| Within or intersected by the right-of-way | 0    | 0      | 0         | 0        | 0         | 0                | 1        | 0     | 2          | 0       | 0        | 0     | 3     |
| Within 1,500-foot buffer zone             | 1    | 0      | 1         | 0        | 0         | 0                | 0        | 3     | 2          | 0       | 3        | 1     | 11    |
| TOTAL                                     | 1    | 0      | 1         | 0        | 0         | 0                | 1        | 3     | 4          | 0       | 3        | 1     | 14    |
| <b>Decker Alternative</b>                 |      |        |           |          |           |                  |          |       |            |         |          |       |       |
| Within or intersected by the right-of-way | 0    | 0      | 0         | 2        | 0         | 0                | 1        | 0     | 0          | 0       | 0        | 0     | 3     |
| Within 1,500-foot buffer zone             | 0    | 1      | 0         | 0        | 1         | 0                | 0        | 2     | 1          | 0       | 1        | 0     | 6     |
| TOTAL                                     | 0    | 1      | 0         | 2        | 1         | 0                | 1        | 2     | 1          | 0       | 1        | 0     | 9     |
| <b>Decker East Alternative</b>            |      |        |           |          |           |                  |          |       |            |         |          |       |       |
| Within or intersected by the right-of-way | 0    | 0      | 0         | 2        | 0         | 0                | 1        | 0     | 0          | 0       | 0        | 0     | 3     |
| Within 1,500-foot buffer zone             | 0    | 0      | 0         | 0        | 0         | 0                | 0        | 0     | 1          | 0       | 1        | 0     | 2     |
| TOTAL                                     | 0    | 0      | 0         | 2        | 0         | 0                | 1        | 0     | 1          | 0       | 1        | 0     | 5     |

Figure 1 presents the information contained in Tables A2 and A3 on a map of the project area. We are happy to provide more detailed maps upon request.

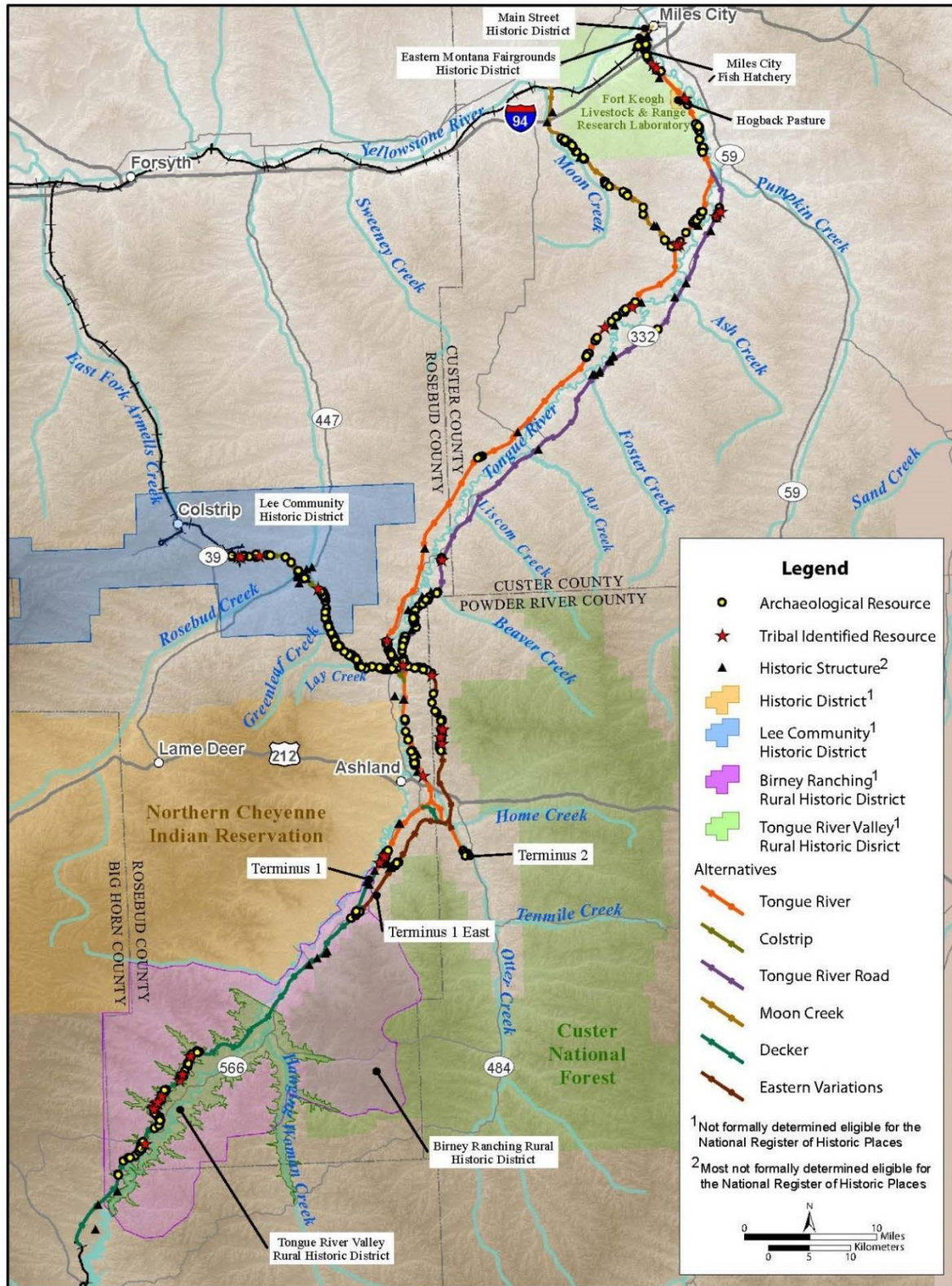


Figure 1. Newly and Previously Identified Cultural Resources in Tongue River Railroad APE

The following text provides a general description of the types of tribal resources, archaeological resources, and built resources identified by tribal members and OEA's archaeologists, architectural historians, and historians and our reasoning regarding their potential eligibility for the National Register.

### ***Tribal Resources***

Tribal members that participated in the field surveys used the following terms to describe resources significant to the tribes: cairns, depressions, stone circles, and ceremonial, cosmological, faunal, or spirit track sites. Many of these resources are also considered archaeological resources or resource types as described below.

### **Potential Eligibility of Tribal Resources**

Tribal resources include locations with religious and cultural significance to tribes. OEA acknowledges that tribes possess special expertise identifying cultural resources with religious and/or cultural significance. OEA presumes all of the newly identified tribal resources as eligible for listing in the National Register for the purposes of the EIS. The evaluation of these resources for the National Register would not be undertaken unless the Board licenses a build alternative, and would follow the procedures set forth in the Programmatic Agreement, which would involve participation by the tribes.

### ***Archaeological Resources***

#### **Lithic Scatters**

Lithic scatters are by far the most common site type (precontact or historic) in the APE. These sites consist of culturally modified stone tool materials, including projectile points (e.g., spear tips, atlatl dart tip, arrowheads), tools (e.g., scrapers, choppers, hammerstones), tested cobbles, waste flakes (associated with cobble testing, and projectile point or tool manufacture), and ground stone artifacts (e.g., manos, metates). Tongue River Silicified Sediment (arenaceous chert) was the principal material represented in chipped stone assemblages, with small quantities of various cryptocrystalline silicates (chert, jasper, chalcedony) and quartzites also present.

#### **Lithic Scatters with Other Components**

Lithic scatters, as defined above, are often found associated with other types of precontact cultural features. These often include stone circles and cairns, as described below. Other features often associated with lithic scatters in the APE included quarry sites, bedrock milling features, and historic-period petroglyphs. Quarry sites are, in essence, lithic scatters whose implied origin is that of lithic tool source material extraction and testing. These sites occur at bedrock outcrops or areas of abundant surface cobbles and gravels. By nature, quarry sites are typically fairly large and contain a much higher percentage of primary reduction material and tested cobbles when compared with general lithic scatters. Petroglyphs are rock art created by physical removal of material from natural stone, done by incising and/or pecking. Petroglyphs are found on bedrock exposures that form cliffs, bedrock outcrops, rockshelters, and caves. Bedrock milling features are expanses of natural bedrock that have been used to process plant foods or hides. The bedrock surfaces are worn smooth by these activities.

#### **Stone Circles**

This site type includes circular or semicircular stone alignments, typically using cobbles, and is one of the most common site types in the APE. These alignments are associated with habitation, fasting and spiritual activities; smaller structures were likely used for a variety of different functions such as hide tanning.

## Cairns

Cairns are piles of rocks of various sizes, typically ranging from several stones to larger stacks of rocks (Figure 2). Cairns may be associated with ceremonial or other important functions such as burials, commemoration of people or events, and directional references such as trail marking.

**Figure 2. View of a Cairn**



## Historic Water-Associated Structures

These types of features consist of human-made structures used to direct or retain water. Dams—earthen and made of wood or stone—are a common example of this site type, in addition to canals and water-retention basins. These features are most often constructed through some scale of excavation and piling of local sediment.

## Historic Trail or Fence

These are linear human-made features on the landscape. Trail and road sites are linear alignments used for movement of individuals and material. Trails are unimproved alignments and often associated with pedestrian, equestrian, and wagon movement. Roads are typically associated with motorized vehicle use. Both trails and roads may consist of simple dirt alignments. Fences are constructed alignments usually used for partitioning land and/or enclosing livestock. Milled wood, local trees and brush, and barbed-wire are the most common materials used for fence construction.

Other archaeological resources found in small numbers in the APE include stone alignments, rockshelters, depressions, historic period refuse scatters, building remains, survey markers, and hillcuts.

## Stone Alignments

Stone alignment sites are generally linear straight to curving arrangements of piles and/or intentionally aligned stone. Alignments may be associated with bison drive lines, trail alignments, effigies, or ceremonial practices, among others. Figure 3 shows an alignment for a fasting circle.

## Rockshelters

Rockshelters are natural rock formations, typically semi-enclosed, associated with cultural activities. These activities include general habitation, lithic tool procurement, petroglyphs/pictographs, quarries, and burials.

## Depressions

Depressions are areas that may be associated with lookout or hunting activities, both by Native Americans and/or European Americans.

### Refuse Scatters

This site type consists of general waste material generated through cultural activities. Refuse scatters can range in density from very sparse to highly concentrated dumps. Typically material present at this type of site are from the historic era and include cans, bottles, domestic ceramics, clothing (e.g., boots, shoes), construction material (e.g., nails, milled wood), among other items.

### Building Remains

Building remains refers to foundations or other features associated with a once-standing structure. These resources are historical and may also include chimney remnants, historic debris, privies, collapsed walls, or other structural elements associated with the structure.

### Survey Markers

Historic survey markers are typically small metal posts purposefully set in the ground during land surveys to act as a geographic reference and evidence of surveying activities. The posts are set in the ground until flush with ground level, and almost always contain inscribed information about the location and survey (date and responsible party/agency for the survey) on the visible cap.

### Hillcuts

Hillcuts are areas where sediment has been physically removed from a slope, by manual and/or mechanical means.

### Potential Eligibility of Archaeological Resources

OEA presumes all of the newly identified archaeological resources as eligible for listing in the National Register for the purposes of the EIS. The evaluation of these resources for the National Register would not be undertaken unless the Board licenses a build alternative, and would follow the procedures set forth in the Programmatic Agreement. However, previous excavation and evaluation of precontact archaeological resources indicates in general terms which resource types are more likely to yield important scientific information, and thus to be eligible for the National Register.

*Isolated artifacts* by their nature as single items or a very sparse collection of items are rarely considered eligible. Very rare artifact types, such as fluted projectile points, may be an exception to this rule. Similarly, *lithic scatters* are usually not eligible. However, test excavations at a small percentage of sites recorded as lithic scatters would uncover subsurface features and components and significant archaeological materials.

Sites recorded as *lithic scatters with other components*, especially habitation-related components such as hearths or tipi rings, are almost always eligible under Criterion D. For example, one type of important information that can be gained at sites of this type is datable material recovered in hearths, with radio carbon dates adding important information to scientific understanding of the region. As noted above, some small number of lithic scatters would be determined to be sites of this

**Figure 3. Rocks Aligned for a Fasting Circle**



types, and likely eligible. Similarly, *stone circles* often prove to indicate habitation sites, and these are, in turn, considered eligible under Criterion D. However, some stone circles would be excavated, and no other archaeological artifacts or features would be found in association. Archaeologically, these circles would not yield further scientific information being isolated single-use features, and thus would not be considered eligible under Criterion D. However, if tribes viewed the circles as sacred or of a spiritual nature, these features would be eligible as tribal resources under Criterion A and, or D.

*Rock cairns* and *rock alignments* are feature types that can be eligible under Criterion D depending on what other archaeological artifacts or features are found in association with the cairns or alignments, in a manner similar to stone circles. A cairn marking human remains would obviously be eligible, while an isolated trail marker might not be. Similarly, *rock shelters and depressions* may be eligible depending on what archaeological items and information could be recovered from them, if any. However, again, if this use is of a spiritual nature, any features of these types may be eligible as tribal resources.

Historical archaeological resources also fall into broad categories in terms of eligibility for the National Register. *Refuse scatters and building remains* are typically not eligible but can be eligible under Criterion D if sufficient new information can be gathered from the site. Sparse refuse or very fragmentary remains would be not eligible. *Historic water-associated structures* and *historic trail or fence* sites are usually not eligible under Criterion D. However, some trails and irrigation structures would be eligible under Criterion A, associated with events that have made a significant contribution to the broad patterns of history. *Survey markers* and *hillcuts* on the other hand, are almost always considered not eligible under Criterion D.

In summary, while all archaeological sites identified are presumed eligible for listing in the National Register, none have been formally evaluated. However, there are some indications—such as possible burial remains or other indications noted previously—that suggest some sites may address research issues and meet Criterion D or Criterion A, including the following.

- Lithic scatters with other components
- Stone circles/tipi rings
- Rock cairns and rock alignments
- Rock shelters and depressions

## **Built Resources**

The field survey team of architectural historians and historians observed built resources in the survey areas for all build alternatives that fall within the following categories.

### **Ranches**

Previously documented ranches are reflected in the records search and additional examples were recorded during the field survey. A ranch is an existing group of related buildings and/or structures that represent the primary residence and operations of a working ranch. The grouping most often consists of a farmstead with a main house and multiple outbuildings, such as barns, equipment sheds, and livestock corrals. A ranch might also contain the remnants of an original homestead or log cabin and be the amalgamation of multiple periods of development.

### **Homesteads**

Previously documented homestead cabins and sites are reflected in the records search and additional examples were recorded during the field survey. A homestead is an extant building or group of buildings (and/or structures) in a single location associated with the early settlement of the Tongue

River region. Most often characterized by a log cabin, a homestead could also include a dugout, barn, or other related structures of this early time period. These elements would have been constructed by a settler attempting to homestead a tract of land, and may represent the development of this land over time. Some elements of a homestead are sometimes found in close proximity to, or exist as a part of, an active ranch or farm. Figure 4 shows an example of a homestead in the APE.

**Figure 4. Example of a Homestead in the APE**



#### **Transportation and Water Conveyance**

A variety of resources including roads, trails, bridges, dams, levees, windmills, pumphouses, and park facilities have been identified in the Tongue River Valley. Figure 5 depicts a windmill in the APE.

**Figure 5. Example of a Windmill in the APE**



## Potential or Designated Historic Districts

Historic districts possess a significant concentration of built resources united historically or aesthetically by plan, design, or physical development. Seven potential or designated Historic Districts are present in the Project Area, and are described below. At this time, only the Main Street Historic District (Miles City) has been determined eligible and is listed on the National Register.

### ***Fish Hatchery (Potential Historic District)***

The Miles City Fish Hatchery was established in late 1958 by the U.S. Fish and Wildlife Service (Figure 1). The Montana Department of Fish, Wildlife & Parks (Montana FWP) became the operator of the hatchery in the early 1980s. It is accessible from Main Street via Fish Hatchery Road. The geography is generally flat, although there is a low butte to the east of the buildings and ponds. There are two 1-story, midcentury residences situated parallel to the road and west of the main entrance to the facility. There is a midcentury concrete block building, the Administration Building, with an attached one-and-a-half-story, two-bay garage just north of the entrance. Behind the Administration Building are several large garages with gable roofs, and smaller outbuildings, mostly used for equipment storage. Northeast of the Administration Building on a small rise are two large ponds with metal platforms extending out from the banks on the southern end. There is some additional utility equipment in this area. Northwest of the Administration Building are three rows of smaller, rectangular ponds lined up generally on a northeast-southwest axis. Three additional ponds are located northwest of this set. Most of the ponds are not visible from the Administration building area, and are only accessed by a series of internal gravel roads.

### ***Eastern Montana Fairgrounds (Potential Historic District)***

The Eastern Montana Fairgrounds (Figure 1) are bounded by Garryowen Road on the west, Pacific Avenue on the south, Tongue River on the east, and Miles City Main Street on the north. The geography is flat. The fairgrounds have been operating at this location since at least 1928. The fairgrounds are accessed via three primary entrances, one from each road, and identified by two-story-high masonry pillars. This is a large property, encompassing approximately 0.12 square mile with buildings clustered in the center. At the center of the property is an oval dirt racetrack with a grandstand on the southwest corner. In addition to the racetrack, the site includes a grandstand, an exhibition hall, stables, an office, possible residence, a variety of barns, and more than 20 buildings and structures on the site of varying sizes and uses. Most of these are clustered on either side of an interior road that leads in from Pacific Avenue.

**Figure 6. Eastern Montana Fairgrounds, Miles City**



### ***Hogback Pasture (Under Evaluation by USDA as a National Register-Eligible Historic District)***

Hogback Pasture is located on the USDA Agricultural Research Service facility at Fort Keogh (Figure 1). The pasture is associated with experimental techniques developed on site that have been widely adopted across the country. The most significant feature of Hogback Pasture is the unique arrangement of pastures around a central feeding area. Otherwise, the site is almost entirely undeveloped, except for gravel roads, transmission lines, windmills, corrals, and fences. USDA is currently preparing a study to determine if Hogback Pasture is eligible for listing in the National Register.

### ***Lee Community Historic District (Potential Historic District)***

The Lee Community Historic District is identified in the records search as a homesteading community defined by historic school district number 19 as constituted in 1920 and encompassing approximately 248 square miles (Figure 1). Located south of the town of Colstrip, the period of significance spans the 1880s to the 1930s. The site record only nominally recorded the district and describes it as “temporarily defined as including those homesteads, community buildings, travel routes, which were located within Lee School District 8 (later District 19), and or were served by the Lee Post Office. This description is generalized; further research may result in a more refined boundary for the historic district.” The site record does not identify specific contributors. (Ferguson 2002)

### ***Tongue River Valley Rural Historic District (Potential Historic District)***

The Tongue River Valley Rural Historic District covers a large area along the Tongue River Valley extending just north of the town of Birney to the Tongue River Reservoir (Figure 1). This district includes contributing buildings, structures, and clusters and consists of homestead sites, ranches, ranching-related resources, transportation, and water resources. Ranches included in this district include Diamond Cross, 4D Ranch, and Quarter Circle Ranch (Renewable Technologies 2006:109–133). The Tongue River Valley Rural Historic District and Birney Ranching Rural Historic District, discussed below, boundaries overlap. (Renewable Technologies 2006)

### ***Birney Ranching Rural Historic District (Potential Historic District)***

The Birney Ranching Rural Historic District covers a large area centered on the Town of Birney (Figure 1). It is bisected by the Tongue River and includes at least eight significant contributing ranches including the Knobloch Ranch, U Cross Nance Ranch, Three Circle Ranch, Quarter Circle Ranch, 4D Ranch, and Diamond Cross Ranch (Montana Preservation Alliance 2007).

### ***Main Street Historic District (Miles City) (National Register-Listed Historic District)***

The Main Street Historic District in Miles City, listed on the National Register on July 21, 1989, consists predominantly of two-story commercial buildings constructed between 1882 and 1940 (Figure 1). As one of the oldest cities in the Yellowstone River Valley, Miles City was developed as an important hub for commerce in the area. Serving as the city’s central business district during this important period of its development, the Main Street Historic District reflects a variety of architectural styles popular during the three main growth periods: 1882 to 1887, 1905 to 1920, and 1935 to 1940. In addition to the commercial buildings lining Main Street and its side streets, Riverside Park is an important landscape feature of the district (McDaniel and Sanford 1989).

### **Potential Eligibility of Built Resources**

OEA presumes all of the newly identified built resources are eligible for listing in the National Register for the purposes of the EIS. The evaluation of these resources for the National Register would not be undertaken unless the Board licenses a build alternative, and would follow the procedures set forth in the Programmatic Agreement. However, to meet National Register criteria, built resources need to demonstrate quality of significance within an important historic context and retain the characteristics and integrity necessary to convey that significance. A formal evaluation of each

resource is necessary to determine eligibility under National Register Criteria A, B, or C. However, it is possible to make general statements for some categories of property types.

*Homesteads*, which consist of one or more elements (such as log homes and cabins) built by original homesteaders and settlers, are becoming increasingly rare resources, as they succumb to purposeful removal or natural deterioration. Most of the homesteads identified in the APE are likely eligible under Criteria A and C. A finding of National Register eligibility would likely apply to most homesteads erected prior to 1950, but particularly those built in the late 19th and early 20th centuries, a significant period of tribal resettlement and European-American settlement in the region.

*Roads, trails, and bridges* are other transportation-related resources identified in the APE. The identified roads and trails primarily consist of road traces and former road alignments that often related to existing highways and routes. The identified bridges consist of existing road bridges over the Tongue River or existing railroad lines. Most of these resources are considered not eligible for the National Register, either due to lack of significant association or as common examples of engineering or bridge type. The several *railroad lines* that pass through the APE are generally considered not eligible for listing in the National Register, due to loss of integrity or a lack of significant association. Exceptions to this conclusion would be mainline routes that were a part of or associated with the transcontinental railroad, or routes that were particularly important to the development of a local community. Remnants of the North and South Railway, which exist in the APE between Miles City and Birney, exemplify the latter. However, the remnants' loss of integrity likely prevents them from meeting the National Register thresholds as an eligible resource.

Extant *irrigation ditches* and *dam/levee* structures are generally considered not eligible for listing in the National Register, unless associated with the early management and conveyance of water in the region.

*Ranches* are complex properties that may be eligible for the National Register when they have associations with important historic events or personages, or retain a good representation of historic-era buildings, structures, and objects. When isolated, individual ranch structures, such as *cattle corrals, barns, and other ancillary ranch structures* are generally considered not eligible for the National Register. If these resources have significant associations with the history of ranching in the region or are good representations of a significant property type, they could be considered eligible under Criteria A or C if they retain integrity.

Several electricity *transmission lines* are located in the APE. Transmission lines are commonplace structures and typically subject to frequent maintenance and changes in materials. These are generally considered not eligible for listing in the National Register, unless they are associated with a historically significant hydroelectric or other type of power-generating project.

Most of the *windmills* identified in the APE are of a similar type, design, and construction and were erected circa 1920 to 1940. Many were reportedly produced by the same company and installed by the same individuals or vendors operating out of Colstrip, Miles City, or another local community. Given their commonplace occurrence, the windmills identified in the APE would generally not be considered for the National Register unless they have a unique design or retain a remarkably high level of integrity.

Finally, several *districts* described above are located in or immediately adjacent to the APE. These include the Lee Community Historic District, the Eastern Montana Fairgrounds, the Tongue River Valley Rural Historic Landscape District, and the proposed Birney Ranching Historic Rural District. Each of these resources have associations with the history and development of the region or individual communities; however, integrity is a factor. The Eastern Montana Fairgrounds, for example, is likely eligible for the National Register under both Criteria A and C, because it is a cohesive collection of buildings with a unique use built in a similar historic time period. The Miles City Main Street Historic District is already listed in the National Register. The Lee Community District,

however, is likely not eligible for the National Register because it does not appear to retain a cohesive collection of contributing buildings, and lacks physical integrity.

In summary, while all built resources identified are presumed eligible for listing in the National Register, none have been formally evaluated. More research and field survey would be needed to adequately apply the National Register criteria and determine their eligibility. However, based on the above discussions, the following categories of built resources are more likely to be eligible for the National Register under Criteria A, B, or C.

- Homesteads
- Irrigation ditches with important historic associations
- Ranches with important historic associations or many historic-era components
- Districts with cohesion and integrity
- Other properties with unique historic associations, such as the Hogback Pasture

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