



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

December 16, 2008

The Honorable Mike Marchand, Chairman
Colville Confederated Tribes
P.O. Box 150
Nespelem, WA 98155-0150

**Re: STB Finance Docket No. 34936, Port of Moses Lake –
Construction Exemption – Moses Lake, WA; Invitation to Participate
in Section 106 Process and the Preparation of a Programmatic
Agreement**

Dear Chairman Marchand:

As you know, the Surface Transportation Board (Board) and the Washington State Department of Transportation (WSDOT) are conducting an environmental review of a proposed rail line construction project called the Northern Columbia Basin Railroad Project. The project is located in the Moses Lake area of Grant County, Washington. In order to comply with the National Environmental Policy Act of 1969 (NEPA) and Section 106 of the NHPA, the Board's Section of Environmental Analysis (SEA) and WSDOT are evaluating the potential environmental effects of the proposed project, including any effects on archaeological and historic resources. We are writing to update you on the next steps in the Section 106 process for this proceeding.

Update on the Section 106 Process

Following the preparation of a Cultural Resources Survey and initial consultations with the Washington Department of Archaeology and Historic Preservation (State Historic Preservation Office or SHPO), 20 potentially historic resources were identified in the project area. One of those resources, the Columbia Basin East Low Canal Feeder Canals system, has been determined to be eligible for listing in the National Register of Historic Places (NRHP). However, the Board and WSDOT have preliminarily determined that the proposed project would not have an adverse effect on cultural, historic, or archaeological resources, including the NRHP-eligible canals. Pending completion of the Section 106 process, SEA and WSDOT are recommending that none of the NRHP-eligible sites in the project area be disturbed.

Programmatic Agreement

There are certain parcels of land in the project area that the project team was unable to evaluate, and the regulations implementing Section 106 allow for the development of a Programmatic Agreement (PA) when the effects on historic properties cannot be fully determined prior to approval of an undertaking (36 CFR 800.14). Accordingly, at the request of the SHPO, SEA and WSDOT are in the process of developing a PA for this undertaking because the potential impacts are not completely known at this time. The PA would ensure that cultural resources would be assessed on these parcels prior to initiation of construction, and it would govern the completion of the Section 106 process. Please advise SEA as to whether your tribe wishes to participate in the Section 106 process and the preparation of the PA.

Please send responses to:

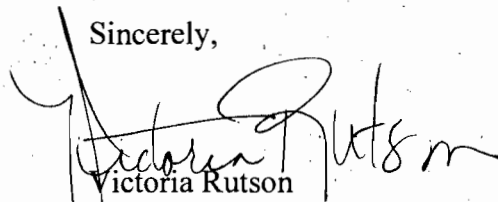
Surface Transportation Board
Section of Environmental Analysis
395 E Street, S.W., Room 1108
Attn: Christa Dean
Washington D.C. 20423-0001

Please send emails to:

christa.dean@stb.dot.gov

We look forward to working with you to ensure that any tribal concerns regarding the project are included as part of the Section 106 and environmental review processes. If you have any questions about the proposed project, please do not hesitate to contact Christa Dean with SEA at (202) 245-0299 or Elizabeth Phinney with WSDOT at (360) 705-7902, or phinnee@wsdot.wa.gov.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

Enclosure: December 8, 2008 Letter to the ACHP

cc: Allyson Brooks, Washington SHPO
Colleen Jollie, WSDOT Tribal Liaison
Elizabeth Phinney, WSDOT Rail

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Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

Charlene Dwin Vaughn, Assistant Director
Advisory Council on Historic Preservation
Office of Federal Agency Programs
1100 Pennsylvania Avenue, NW
Suite 809
Washington DC 20004

December 8, 2008

**Re: STB Finance Docket No. 34936, Port of Moses Lake –
Construction Exemption – Moses Lake, WA; Invitation to
Participate in Section 106 Process**

Dear Ms. Vaughn:

The Surface Transportation Board (Board) and the Washington State Department of Transportation (WSDOT) are serving as co-lead agencies for the environmental review of a proposed rail line construction project called the Northern Columbia Basin Railroad Project, located in the Moses Lake area of Grant County, Washington. I am writing to notify you that the undertaking described below may result in an adverse effect to historic properties and to invite the Advisory Council to participate in the Section 106 process for the undertaking (described in more detail below).

As you know, the Board's Section of Environmental Analysis (SEA) is the office within the Board responsible for ensuring the agency's compliance with the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA). SEA has initiated the consultation process, pursuant to Section 800.14(b) of the regulations (36 CFR Part 800) implementing Section 106 of NHPA, with the SHPO and the Federal agencies involved in the Environmental Assessment. SEA and WSDOT have also initiated consultations with Native American tribes that may have ancestral ties to the project area or who may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the Area of Potential Effect or APE).

Description of the Undertaking

The proposed project includes the construction of two new rail line segments and the acquisition and rehabilitation of an existing rail line segment. Segment 1 consists of the construction of a new rail line from the area known as Wheeler to the area known as Parker Horn. Segment 1 also includes the crossing of Parker Horn or Crab Creek, just northeast of the existing SR 17 crossing. Segment 2 proposes to extend the existing Columbia Basin Railroad track to the industrial areas just east and northeast of the Grant County International Airport. Segment 3 proposes to improve the existing Northern Columbia Basin Railroad track between the area known as Parker Horn and the Grant County International Airport. A

more detailed description of the proposed project is provided in the November 7, 2008 Environmental Assessment. The project is expected to increase rail traffic by two trains (one round-trip) per week, and this traffic could potentially increase over time.

The Area of Potential Effect (APE) is the area within the proposed right-of-way. SEA and WSDOT determined that the APE extends 50 feet from the centerline of the proposed rail line for the entire length of the project. This 100-foot wide corridor takes into consideration the possibility of noise and vibration issues with regard to historic buildings or structures. The SHPO concurred with this APE determination in a letter dated October 31, 2007.

Section 106 Process

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Programmatic Agreement

There are certain parcels of land in the project area that the project team was unable to evaluate, and the regulations implementing Section 106 allow for the development of a Programmatic Agreement (PA) when the effects on historic properties cannot be fully determined prior to approval of an undertaking (36 CFR 800.14.). Accordingly, at the request of the SHPO, SEA and WSDOT are in the process of developing a PA for this undertaking because the potential impacts are not completely known at this time. The PA would ensure that cultural resources would be assessed on these parcels prior to initiation of construction and it would govern the completion of the Section 106 process. The Port will be required to participate in the PA as a signatory and will be required to adhere to the stipulations of the PA.

Implementation of the PA would enable the Board to make final determinations of eligibility for the NRHP and findings of effect to the SHPO for concurrence for those sites that are identified within the APE. All determinations of the effects of the undertaking would take into account the professional standards, guidance, and research of both the cultural resources and railroad design professions. Consistent with 36 CFR 800.4(d)(1), the Board could determine that there are historic properties within the APE, but that the undertaking would have no effect on them.

SEA and WSDOT have begun the consultation process and will be working with the SHPO; the Port; and other concerned or affected parties as needed. Please advise

SEA as to whether the ACHP wishes to participate in the Section 106 process and the preparation of the PA within 15 days of receipt of this letter.

The following documents are provided for your review: 1) the Cultural Resources Discipline Report and Survey; 2) the August 28, 2008 Petition for Exemption that describes the proposed action and contains information about the proposed rail line; 3) the Board's October 3, 2008 Decision instituting the proceeding; 4) the November 7, 2008 Environmental Assessment prepared by SEA and WSDOT; and 5) relevant correspondence. If you have any questions or require additional information regarding this proceeding, please do not hesitate to call me or Christa Dean at (202) 245-0299.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" written in a larger, more prominent script than the last name "Rutson".

Victoria Rutson
Chief
Section of Environmental Analysis

Attachments

cc: Allyson Brooks, Washington SHPO
Matthew Sterner, Washington SHPO
Elizabeth Phinney, Washington DOT