



EO-1322

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SURFACE TRANSPORTATION BOARD
395 E Street, SW
Washington, DC 20423
Section of Environmental Analysis

October 22, 2009

Mr. Dennis Gimmestad
Government Programs and Compliance Officer
State Historic Preservation Office
Minnesota State Historical Society
345 Kellogg Boulevard, W.
St. Paul, Minnesota 55102-1903

RE: STB Finance Docket No. 33407, Dakota, Minnesota & Eastern Railroad Corporation's Construction into the Powder River Basin Project: Request for Review and Comment; MNSHPO Number 2002-0815PA; LBG-MN2

Dear Mr. Gimmestad:

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is pleased to submit the following report for your review and comment in accordance with the Section 106 Programmatic Agreement (PA) regarding the Powder River Basin Expansion Project (Project), Finance Docket No. 33407:

- Phase I and II Archaeological Investigations of the Minnesota Rehabilitation Segment of the Powder River Basin Expansion Project**

The enclosed report presents the results of Phase I and Phase II archaeological investigations conducted by the Two Pines Resource Group, LLC., (Two Pines) and Summit Envirosolutions, Inc. (Summit) for the proposed rehabilitation of the existing Dakota, Minnesota & Eastern Railroad (DM&E) line that extends from Winona, Minnesota west to the South Dakota border. This report was prepared as part of the cultural resources studies being completed to comply with the provisions of the PA executed in May 2003 (amended in May 2008) pursuant to 36 CFR 800.14 (b) for the above-referenced project. The Board requests your comments on the report pursuant to Section A.3.2 of the PA.

In 2007, Two Pines and Summit were contracted by DM&E to complete a cultural resource survey for the Minnesota rehabilitation segment of the project alignment. The fieldwork summarized in the enclosed report was conducted between June and November

2007. The consultants identified 49 archaeological sites within the project's Area of Potential Effects (APE) for direct impacts (see attached tables). STB has applied the National Register of Historic Places (National Register) evaluation criteria to 31 of these 49 properties in accordance with the terms of the PA and 36 CFR 800.4 (c)(1). Eighteen (18) archaeological sites located within the APE for direct effects remain unevaluated for listing on the National Register under one or more evaluation criteria (see attached site table). We do not request your feedback of these 18 unevaluated properties at this time. We do, however, request your concurrence with the following determinations of eligibility.

- A total of ten (10) identified archaeological sites located within the project's APE for direct effects are considered not eligible for listing in the National Register (21BE0066, 21BE0286, 21BW0099, 21BW0100, 21BW0101, 21BW0103, 21LY0127, 21OL0036, 21RW0069, 21WE0075).
- Four (4) prehistoric archaeological sites (21BE0036, 21BE0290, 21BE0291, 21BW0004) located within the project's APE for direct effects are considered eligible for listing in the National Register under Criteria A and D.
- A total of seventeen (17) archaeological sites located within the project's APE for direct effects are considered eligible for listing in the National Register under Criterion D. Two of these sites are associated with extant railroad depots in Sleepy Eye (BW-SLC-059) and New Ulm (BW-NUC-021). Fifteen other sites (21BE0292, 21BW0094, 21DO0009, 21DO0011, 21DO0012, 21LN0048, 21LN0049, 21LN0050, 21LY0124, 21LY0128, 21OL0037, 21RW0070, 21WE0076, 21WN0066, 21WN0072) represent the archaeological remains of former railroad stations that once existed at various locations along the historic railroad corridor. All 17 archaeological sites are considered contributing properties to the Winona & Saint Peter/Dakota Central Railroad Historic District.

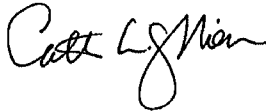
We will address the eligibility of the 18 unevaluated properties in one or more addendum reports for your review and comment at a future date. Additional field investigations will be conducted at several of these sites in accordance with the Procedural Clarification Statement we distributed and discussed with consulting parties (including your office's representative David Mather) during at the project meeting in Sioux Falls on December 2, 2008 (see attachments). Additional field investigations will also be required at as many as 45 locations specified in the report as having potential for buried archaeological sites within the construction right-of-way.

For your information, I have enclosed written comments that the Board received from interested tribes regarding important resources within the project corridor. In 2008, the Board received written comments from the Upper Sioux Community and the Crow Tribal Historic Preservation Office regarding the New Ulm segment of the project (see attached comment letters). The Crow confirmed that they have no concerns in this area. The Upper Sioux Community expressed concerns about the survey area's proximity to Site 21BW004, an important mound site. On April 7, 2009, in accordance with Section

A.3.1 of the PA, the Board distributed the enclosed report to all cooperating federal agencies and consulting tribes for their review and comment. We received comment forms from the Standing Rock Sioux Tribe, the Upper Sioux Community, and the Lower Sioux Indian Community requesting field visits to a number of sites to assist with their review of this report. Field visits were conducted to 10 unevaluated sites on October 14, 2009 with representatives from all three tribes participating, and we anticipate receiving additional comments regarding the eligibility of these sites from these three tribal governments no later than November 13, 2009. We will forward any additional comments we receive, along with our recommendations, to you at that time to further facilitate your review of this report.

In accordance with the PA, you have sixty (60) days from receipt of this letter to provide us with your comment. If you have any questions regarding this matter, please contact me at (202) 245-0293 or by email at (Catherine.Glidden@stb.dot.gov).

Sincerely,



Catherine Glidden
Section of Environmental Analysis

Enclosures: *Phase I and II Archaeological Investigations of the Minnesota Rehabilitation Segment of the Powder River Basin Expansion Project (MN2)*
Two Pines and Summit, March 2009
List of Evaluated Archaeological Sites
List of Unevaluated Archaeological Sites
Comment Letters from Interested Tribes (5)
Procedural Clarification for Resolving the Eligibility of Unevaluated Sites
Project Meeting Summary Letter (December 24, 2008)

**COMPILED LIST OF EVALUATED PROPERTIES
POWDER RIVER BASIN EXPANSION PROJECT
MINNESOTA REHABILITATION SEGMENT**

Site/Structure	MP	Report Code	Property Description	NRHP Eligibility Determination ¹	Likely Impact to Site & Effect
21BE0036	157.0	MN2 p. 6-86	Plains Village (Cambria Phase) Artifact Scatter (10 artifacts) & Earthworks/Mound Group	Eligible under Criteria A & D	No Direct Physical Impact/ No Adverse Effect
21BE0066	117.0	MN2 p. 6-12	Lithic Scatter (4 artifacts)	Not Eligible	No Direct Physical Impact/ No Effect
21BE0286	116.5	MN2 p. 6-10	Lithic Scatter (2 artifacts)	Not Eligible	No Direct Physical Impact/ No Effect
21BE0290	151.8	MN2 p. 6-56	Plains Village (Cambria Phase) Artifact Scatter	Eligible under Criteria A and D	No Direct Physical Impact/ No Adverse Effect
21BE0291	154.3	MN2 p. 6-73	Plains Village (Cambria Phase) Artifact Scatter	Eligible under Criteria A and D	No Direct Physical Impact/ No Adverse Effect
21BE0292	122.5	MN2 p. 8-57	Railroad Feature at Eagle Lake Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21BW0004	163.2	MN2 p. 6-95	Multicomponent (Archaic and Woodland) Artifact Scatter & Mound Group	Eligible under Criteria A and D	No Direct Physical Impact/ No Adverse Effect
21BW0094	193.5	MN2 p. 8-66	Railroad Features at Springfield Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21BW0099	198.5	MN2 p. 6-104	Lithic Scatter (4 artifacts)	Not Eligible	No Direct Physical Impact/ No Effect
21BW0100	198.6	MN2 p. 6-107	Lithic Scatter (2 artifacts)	Not Eligible	No Direct Physical Impact/ No Effect
21BW0101	198.8	MN2 p. 6-109	Lithic Scatter (5 artifacts)	Not Eligible	No Direct Physical Impact/ No Effect
21BW0103	200.3	MN2 p. 6-115	Isolated Find: Prehistoric (1 Flake)	Not Eligible	No Direct Physical Impact/ No Effect

¹ Unless listed as unevaluated, all National Register evaluation criteria have been applied.

Site/Structure	MP	Report Code	Property Description	NRHP Eligibility Determination ¹	Likely Impact to Site & Effect
21DO0009	69.5	MN2 p. 8-46	Railroad Feature at Dodge Center Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21DO0011	64.0	MN2 p. 8-42	Railroad Features at Kasson Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21DO0012	76.5	MN2 p. 8-48	Railroad Features at Claremont Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21LN0048	261.5	MN2 p. 8-92	Railroad Features at Lake Benton Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21LN0049	267.8	MN2 p. 8-96	Railroad Feature at Verdi Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21LN0050	253.5	MN2 p. 8-89	Railroad Features at Tyler Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21LY0124	239.5	MN2 p. 8-85	Railroad Feature at Balaton Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21LY0127	226.6	MN2 p. 7-18	George D. Tracy Poultry & Produce Warehouse	Not Eligible	No Direct Physical Impact/ No Effect
21LY0128	227.0	MN2 p. 8-78	Railroad Features at Tracy Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21OL0036	49.5	MN2 p. 8-39	Rochester Station Turntable Pit	Not Eligible	No Direct Physical Impact/ No Effect
21OL0037	36.9	MN2 p. 8-36	Railroad Feature at Eyota Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21RW0069	220.0	MN2 p. 6-117	Lithic Scatter (2 artifacts)	Not Eligible	No Direct Physical Impact/ No Effect

Site/Structure	MP	Report Code	Property Description	NRHP Eligibility Determination ¹	Likely Impact to Site & Effect
21RW0070	202.0	MN2 p. 8-70	Railroad Features at Sanborn Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21WE0075	116.3	MN2 p. 6-7	Isolated Find: Prehistoric (1 Flake)	Not Eligible	No Direct Physical Impact/ No Effect
21WE0076	102.5	MN2 p. 8-51	Railroad Features at Waseca Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21WN0066	11.2	MN2 p. 8-27	Railroad Features at Stockton Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
21WN0072	18.5	MN2 p. 8-34	Railroad Feature at Lewiston Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
BW-NUC-021 (No Site No.)	165.0	MN2 p. 8-59	Railroad Passenger Depot at New Ulm Station	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect
BW-SLC-059 (No Site No.)	179.5	MN2 p. 8-62	Railroad Passenger Depot at Sleepy Eye	Eligible under Criterion D; Contributing Property to Historic District	No Direct Physical Impact/ No Adverse Effect

**COMPILED LIST OF UNEVALUATED SITES
POWDER RIVER BASIN EXPANSION PROJECT
MINNESOTA REHABILITATION SEGMENT**

Site/Structure	MP	Report Code	Property Description	Consultant's Recommendation	STB's Recommendation
21BE0161	157.8	MN2 p. 6-92	Lithic Scatter (4 artifacts)	Potentially Eligible for Criterion D; Area within ROW Destroyed	Unevaluated For Criterion D; Test Site Area Outside APE Per Procedural Clarification
21BE0276	149.8	MN2 p. 5-27	Judson Whistle Stop	Not Eligible; No features in ROW & No further work	Unevaluated; Consultant Needs to Provide Complete Site Description and Site Map
21BE0287	150.2	MN2 p. 6-18	Lithic Scatter	Eligible under Criterion D	Eligible under Criterion D Unevaluated for Criterion A pending Tribal Comment
21BE0288	150.5	MN2 p. 6-32 & p. 7-5	Plains Village (Cambria Phase) Artifact Scatter and Historic Artifact Scatter (Crisp Homestead)	Prehistoric Component: Eligible under Criterion D Historic Component: Eligible under Criteria A and D	Prehistoric Component: Eligible under Criterion D; Unevaluated for Criterion A pending Tribal Comment Historic Component: Eligible under Criteria A and D
21BE0289	150.7	MN2 p. 6-51	Plains Village (Cambria Phase) Artifact Scatter	Eligible under Criterion D	Eligible under Criterion D; Unevaluated for Criterion A pending Tribal Comment
21BW0102	197.0	MN2 p. 6-113	Isolated Find: Pipestone Elbow Pipe (unfinished pipe blank)	Unevaluated Pending Tribal Consultation & Additional Site Testing	Unevaluated for Criteria A & D pending Tribal Comment and Site Testing
21LN0073	261.1	MN2 p. 6-122	Late Woodland (Lake Benton Phase) Artifact Scatter (133 artifacts)	Eligible under Criterion D	Eligible under Criterion D; Unevaluated for Criterion A pending Tribal Comment

Site/Structure	MP	Report Code	Property Description	Consultant's Recommendation	STB's Recommendation
21LN0074	261.2	MN2 p. 6-135 & p 7-27	Multicomponent (Late Woodland-Lake Benton Phase & Archaic) Artifact Scatter (353 artifacts) and Historic Hobo Camp (377 artifacts)	Prehistoric Component: Eligible under Criterion D Historic Component: Eligible under Criterion D	Prehistoric Component: Eligible under Criterion D; Unevaluated for Criterion A pending Tribal Comment Historic Component: Eligible under Criterion D
21LY0123	233.7	MN2 p. 5-49	Garvin Whistle Stop	Not Eligible; Unconfirmed Railroad Features Present in ROW; No Further Work	Unevaluated; Consultant Needs to Provide Complete Site Description and Site Map
21LY0125	226.2	MN2 p. 5-47	Tracy Whistle Stop	Not Eligible; Unconfirmed Railroad Features Present in ROW; No Further Work	Unevaluated; Consultant Needs to Provide Complete Site Description and Site Map
21LY0126	246.5	MN2 p. 6-120 & p. 7-20	Isolated Find: Prehistoric (1 Flake) and Historic Farmstead/Artifact Scatter (289 artifacts)	Prehistoric Component: Not Eligible Historic Component: Potentially Eligible for Criterion D Pending Additional Testing outside ROW	Prehistoric Component: Not Eligible Historic Component: Potentially Eligible for Criterion D Pending Additional Site Testing
21OL0035	58.9	MN2 p. 5-13	Byron Whistle Stop	Not Eligible; No features in ROW & No further work	Unevaluated; Consultant Needs to Provide Complete Site Description and Site Map
21RW0066	219.1	MN2 p. 8-75	Railroad Feature at Walnut Grove Station	Potentially Eligible under Criterion D and Contributing Property to Historic District Pending Additional Research	Additional Research/Testing Needed to Confirm Railroad Association of Recorded Features
21WE0006	114.0	MN2 p. 6-2	Multicomponent (Woodland, Oneota, early historic) Artifact Scatter (2 flakes)	Potentially Eligible for Criterion D Pending Additional Site Testing Outside ROW; Portion within APE is Noncontributing	Potentially Eligible for Criteria A & D Pending Tribal Comment and Additional Site Testing Beyond ROW
21WN0063	28.5	MN2 p. 5-9	St. Charles Whistle Stop	Not Eligible; Unconfirmed Railroad Features Present in ROW; No Further Work	Unevaluated; Consultant Needs to Provide Complete Site Description and Site Map

Site/Structure	MP	Report Code	Property Description	Consultant's Recommendation	STB's Recommendation
21WVN0064	22.8	MN2 p. 5-6	Utica Whistle Stop	Not Eligible; Unconfirmed Railroad Features Present in ROW; No Further Work	Unevaluated; Consultant Needs to Provide Complete Site Description and Site Map
21WVN0065	18.3	MN2 p. 5-5	Lewiston Whistle Stop	Not Eligible; Unconfirmed Railroad Features Present in ROW; No Further Work	Unevaluated; Consultant Needs to Provide Complete Site Description and Site Map
21WVN0071	15.0	MN2 p. 7-1	Stockton Limestone Quarry with Historic Artifact Scatter	Potentially Eligible for Criterion D Pending Additional Site Investigations	Potentially Eligible for Criterion D Pending Additional Site Investigations



SURFACE TRANSPORTATION BOARD
395 E Street, SW
Washington, DC 20423-0001
Section of Environmental Analysis

December 24, 2008

Herb Jones
Government Affairs Director
Dakota, Minnesota, & Eastern Railroad
140 North Phillips Avenue
Sioux Falls, SD 57101

**Re: STB Finance Docket No. 33407, Dakota, Minnesota & Eastern Railroad
Corporation Construction into the Powder River Basin: December 2, 2008 Meeting
Summary**

Dear Mr. Jones:

The Surface Transportation Board's (STB) Section of Environmental Analysis (SEA) is pleased to provide you with the following summary of its December 2, 2008 meeting with representatives of the State Historical Preservation Offices (SHPOs), cooperating Federal agencies, and the Dakota, Minnesota and Eastern Railroad (DM&E) held in Sioux Falls, South Dakota. The meeting was requested by DM&E to present its response to procedural issues and concerns expressed by the STB, as well as participating Federal agencies and SHPOs, regarding archaeological survey reports distributed for review. The meeting was planned and presented by DM&E, at its expense, to assist it in resolving those concerns.

There was a general consensus amongst the meeting participants on how to address three main issues of concern regarding the project survey reports. The issues involve: (1) the use of the term "unevaluated" for sites in project reports and the development of a plan on how to assess such sites; (2) the need to better establish the potential for the project to have indirect effects on historic properties located outside the area of potential effect for direct impacts; (3) the necessity for STB to better assess project impacts to previously unidentified buried or deeply buried sites. The following planned courses of action are proposed to resolve these and other procedural issues.

Unevaluated Sites

During the meeting, it was agreed that several actions will be taken to further assess sites that have been designated "unevaluated" in project reports. To begin with, STB will initiate a "traditional sites evaluation study" in January 2009 with a kickoff meeting between participating tribes and the STB on January 15th. The study will be conducted by STB and its third-party

contractor and will include tribal involvement to help resolve the National Register eligibility of unevaluated sites that may be eligible for listing as traditional cultural properties under criterion "a." This study is scheduled for completion by the end of May 2009 (a scope of work for this study is currently being prepared by SEA).

The completion of the traditional sites evaluation study will be followed by subsurface testing of any sites that remain unevaluated with regard to their National Register eligibility under criterion "d." Such testing will occur in instances where the traditional sites study concludes that sites are not otherwise eligible under criterion "a" and/or where tribes have no objection to testing sites deemed eligible under criterion "a."

Archaeological fieldwork is scheduled to begin as early as April 2009 at previously identified sites for which subsurface testing has not yet been conducted. Tribal monitors will be invited to be present when the archaeological evaluation work is initiated and may recommend against the continuation of such fieldwork at any point during the excavations. In addition, as part of its traditional sites evaluation study, the STB will work with tribal representatives and SHPOs to develop approaches to individual sites scheduled for such activity to resolve their eligibility under all applicable National Register criteria.

For sites that extend outside the project's right-of-way (ROW), DM&E will attempt to evaluate eligibility for the entire site wherever possible. In those instances where survey teams are denied access to part of the site, eligibility will be evaluated on the basis of information gathered from the portion of the site for which access is available. Unevaluated portions of such sites will be recommended "unevaluated" or "ineligible," depending on the outcome of consultations with the relevant SHPO(s).

Indirect Effects Area of Potential Effect (APE)

The assessment of potential indirect effects (visual, audible, and vibration) to historic properties located within the New Build section of the project area will be followed in accordance with the procedural clarification paper provided at the meeting (see attached statement). DM&E and its consultants have already completed a file search for listed and eligible properties in South Dakota and the file search for listed and eligible properties in Wyoming is currently underway as requested by Wyoming SHPO at the December meeting. The file search results will provide the data necessary for determining which National Register listed and eligible properties within a six-mile-wide corridor may be affected by project construction and operation through line-of-sight analyses. Visual and audible impacts will be assessed based on elevation and topographic information for those properties where integrity of setting contributes to their significance. DM&E will submit its findings of potential effects to STB for consultation with SHPOs and appropriate consulting parties.

Buried Archaeological Sites

DM&E and STB will develop a plan to identify and evaluate buried archaeological sites that may be located within the New Build portion of the project. This plan will be circulated to consulting parties for review and comment in February 2009 and will include copies of

geomorphological survey reports completed for the project as attachments. The plan is expected to make use of existing geomorphological information to assess the project area's potential to contain buried archaeological deposits. Areas with buried site potential will be sampled and tested for the presence or absence of archaeological deposits in order to model or predict where additional buried sites may exist within the New Build segment. The results of the predictive model will be circulated to the consulting agencies in the Spring or early Summer of 2009 for additional discussion and refinement. The predictive model will then be used to guide subsequent investigations conducted thereafter prior to construction. Additional opportunities to examine subsurface deposits are expected to continue through the construction monitoring program based on a construction monitoring plan that will be developed in consultation with the consulting parties.

Report Review Schedules

The information package distributed at the December 2nd meeting included a table entitled "PRB Report Review Schedule" (found under the tab labeled "Next Steps" and also attached to this letter). This table identifies each archaeological survey report prepared for this project by its report title and the date that it is scheduled to be distributed to the various consulting parties for review (or the date for which it has already been distributed). We expect to hold to the dates as indicated on that spreadsheet; in fact, we recently mailed four new reports associated with archaeological surveys conducted along the South Dakota Rehab/PRC Segment to Federal agencies and participating Tribes for review and comment.

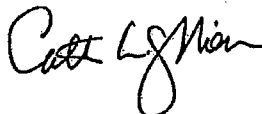
Follow-Up Meetings with SHPOs

DM&E will schedule meetings with the Wyoming and South Dakota SHPOs to review construction plan maps and profiles for all properties recommended as eligible or unevaluated within the New Build segment. These meetings will likely occur in middle to late January after the SHPOs have received associated reports for their review and comment.

Please feel free to contact me at 202-245-0293 (email gliddenc@stb.dot.gov) or Randy Withrow at 319-373-3043 (email rwithrow@louisberger.com) if you have any concerns regarding the meeting summary or our plans for moving ahead in addressing the issues discussed in this letter.

Best of wishes to you throughout the Holiday Season!

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine Glidden".

Catherine Glidden
Section of Environmental Analysis

Enclosures: Distribution List
Procedural Clarification For Resolving the Eligibility of Unevaluated Sites
Procedural Clarification For Assessing the Project's Direct and Indirect Impacts
to Historic Properties
PRB Report Review Schedule
CD: Copy of All Materials Distributed at December 2, 2008 Meeting
CD: December 2, 2008 Meeting Transcript

PROCEDURAL CLARIFICATION FOR RESOLVING THE ELIGIBILITY OF UNEVALUATED SITES

Issue

The Surface Transportation Board (STB) and the Dakota, Minnesota and Eastern Railroad (DM&E) have developed the following plan/clarification statement to help resolve and establish the National Register eligibility of archaeological sites located within the project's Area of Potential Effect (APE). This plan is intended to provide clear guidance to project participants regarding procedures for applying all evaluation criteria (as defined at 36 CFR 60.4) to previously unevaluated and newly recorded sites located within the APE.

Evaluating Significance to Tribes and Information Potential

A number of archaeological sites located within the project's APE currently remain unevaluated with regard to National Register eligibility. Many of these remain unevaluated due to the need for additional input from tribes regarding the association of suspected traditional religious and cultural values that could qualify these sites for listing in the National Register under Criterion "A". A majority of the sites in this group include surface features such as stone circles and/or rock cairns which were consistently identified as potentially sensitive areas by tribal monitors who accompanied the archaeological survey teams. In most cases, tribal monitors recommended against archaeological testing at these locations pending further consultation.

Most of the sites identified as sensitive areas by tribal monitors also remain unevaluated with respect to establishing their archaeological information potential under Criterion "D" due to restrictions imposed by STB on archaeological testing pending resolution of Criterion "A" eligibility. In a few instances, DM&E's contractors were able to offer recommendations in their survey reports regarding the eligibility of properties under Criterion "D" based on surface assessments and other observations which indicated no possibility that any subsurface cultural remains (or important scientific information) could exist. Consequently, in these rare instances, properties are recommended "not eligible" under Criterion "D", but remain unevaluated under Criterion "A" pending tribal input.

In their survey reports, DM&E's contractors referenced the comments of tribal monitors as part of their description of unevaluated sites to alert tribal reviewers of their presence so they could either notify STB if further field work (e.g., site visits by elders and traditional practitioners) might be necessary to determine whether any were of traditional religious or cultural importance, or to issue their comments to STB where information contained in the reports was sufficient to determine their traditional cultural values. To date, STB has received very few comments from tribes regarding the traditional significance of sites described in these reports; however, tribal representatives have provided STB with general information that emphasizes the traditional cultural

significance of places marked by stone features like those found at a number of archaeological sites located within the project's APE.

Recommendations

1. STB will continue to seek assistance from interested tribes who wish to accompany archaeological survey crews for the purpose of identifying places of traditional religious and cultural significance within the project's construction ROW. Sites identified by tribal representatives as having potential traditional value will not be tested to assess their scientific research potential if the representatives object or request a delay in archaeological testing pending an evaluation of eligibility under Criterion "A."
2. STB will continue to process survey reports for review by cooperating agencies, interested tribes and State Historic Preservation Officers (SHPOs) in accordance with the procedures specified in the Programmatic Agreement (PA). Sites that require additional tribal consultation or subsurface testing to resolve eligibility under one or more evaluation criteria will continue to be reported as "unevaluated" pending further investigations. In each instance, STB will ensure that DM&E's consultants provide clear recommendations regarding the nature of additional work needed to eventually apply all evaluation criteria. Reports submitted by STB to cooperating agencies and interested tribes where no comments are received within the review period specified in the PA (PA Stipulation A.3.1) will be forwarded to SHPOs for review. STB will provide clarification in its cover letter regarding STB's eligibility determinations, effect findings, and specifications for any subsequent procedural steps needed to resolve eligibility for all unevaluated sites.
3. STB will work with tribes to develop a cultural context to identify places within the project's APE that have potential traditional religious and cultural significance to interested tribes. The main purpose of this study will be to assist STB in determining the eligibility of prehistoric stone feature sites and other site types that have already been identified in the project area that may be significant to tribes. As part of the context development effort, STB will work with DM&E and participating tribes to arrange and schedule field visits by traditional leaders, identified by the tribes, to archaeological sites and other places of traditional religious and cultural importance to tribes that may be identified as a result of the context study.
4. DM&E will redeploy its archaeological contractors and tribal representatives to those archaeological sites where Criterion "A" does not apply to resolve the applicability of Criterion "D" through archaeological testing and to acquire sufficient information to formulate treatment plans (see PA's Identification Plan Section 3.2.6 and Section 3.4.4). In effect, the identification and evaluation of these sites will be conducted in two phases, with the first involving site visits by tribal representatives for the purpose of resolving Criterion "A" applicability and

the second phase focused on archaeological testing for the purpose of resolving Criterion "D" eligibility.

5. The results of traditional cultural and archaeological evaluations under Criterion "A" and Criterion "D" will be provided for review by consulting parties as addenda to the original archaeological survey reports in accordance with the terms of the PA (PA, Stipulation A.3.4). Some information regarding the basis for Criterion A eligibility may be withheld from these addenda in accordance with the confidentiality provisions of the PA (PA, Stipulation I).
6. Unevaluated sites eventually determined eligible under Criterion "A", or other criteria, as properties of traditional religious and cultural significance will be subject to consultation with relevant tribes to develop appropriate treatments to mitigate any potential impacts to such sites.
7. Tribes will continue to have opportunities throughout the PA process to issue comments and eligibility recommendations on properties described in future survey reports. Tribes may also offer information relevant to the reassessment of any property identified at any time during the implementation of the PA process.

Evaluating Sites Located Partially Within the Construction Right-of-Way

Sites situated partially within the project's construction right-of-way (ROW) and partially outside the ROW also remain "unevaluated" in the archaeological survey reports. This is due in part to lack of access to private property located adjacent to the existing or construction ROW or landowner refusal to allow subsurface testing. In such cases, National Register evaluations recommended in reports have been, and will continue to be, based on the best available information, including archival research, historic maps, aerial photography, and archaeological testing within the ROW to an appropriate level. In most cases, DM&E's consultants have not provided specific recommendations regarding National Register eligibility due to their inability to characterize or evaluate the site as a whole; instead, the portions of sites which extend into the ROW have been described as either "contributing" or "non-contributing" to indicate whether the archaeological deposits that extend into the ROW retain important information potential regardless of the overall eligibility of the partially accessible site.

Recommendations

1. DM&E and its consultants will attempt to gather sufficient information to fully evaluate the National Register eligibility of properties that extend outside the ROW. This will be accomplished "...to the extent that access from landowners is available" (PA Stipulation A.2). In instances where DM&E's consultants are unable to gain access to the entire site for purposes of evaluating National Register eligibility, and where DM&E is unable to avoid the site during construction, DM&E's consultants will attempt to estimate the boundaries of the site from within the ROW and will ensure that the unavoidable portion of the site

is evaluated and considered on its own merits using the best available information derived from background and archival research and direct observation. Properties will be considered to be eligible if the accessible portion of a property supports this finding. If eligible, the property will be considered in accordance with the terms of any treatment measures developed through consultation in accordance with the terms of the PA. Sites will not be recommended as eligible under any criteria unless available information supports such a finding. Inaccessible portions of sites will continue to be considered unevaluated until or unless additional information is obtained to indicate otherwise.

PROCEDURAL CLARIFICATION FOR ASSESSING THE PROJECT'S DIRECT AND INDIRECT IMPACTS TO HISTORIC PROPERTIES

Issue

The Surface Transportation Board (STB) and the Dakota, Minnesota and Eastern Railroad (DM&E) propose the following plan/clarification for assessing direct (ground disturbance) and indirect effects (noise, visual, vibration) of the project on properties listed on or eligible for listing on the National Register of Historic Places (National Register).

Indirect Effects

The Environmental Impact Statement (EIS) prepared by STB's Section of Environmental Analysis (SEA) for the DM&E Project included information regarding potential noise and vibration impacts to historic properties within the project area. In the Draft EIS, SEA determined that "structures within 100 feet of a new rail line of the type contemplated as part of this project could experience some damage by project-related vibration." In the Final EIS, however, SEA concluded that "...structures would likely need to be within 50 feet of the rail line to potentially be damaged by rail vibration (Final EIS, Volume 1, Chapter 3 at page 3-65)."

SEA also assessed potential audible impacts to the project area in the EIS. SEA concluded that audible impacts would not be adverse. However, STB included Conditions 86-96 in its 2006 Decision to assure that if noise levels increase due to increased haul tonnage levels, mitigation measures would be imposed to address any potential adverse effects including consultations with the appropriate State Historic Preservation Officer (SHPOs) for impacts that could affect historic properties. In Condition 95:¹

...Should noise mitigation be required at locations identified as containing structures that are potentially eligible for listing on the National Register of Historic Places, Applicant shall consult with the appropriate State Historic Preservation Officer to assess effects and implement appropriate mitigation measures...

The Wyoming (WY) and South Dakota (SD) SHPOs have requested that STB assess potential visual or audible adverse effects on historic properties extending three miles on either side of the construction corridor or New Build Segment. The WY SHPO asked that STB conduct a file search to locate all properties within the 6-mile corridor currently listed on the National Register while the SD SHPO requested an inventory of properties that are both listed and considered eligible for listing on the National Register. Preliminary site file searches conducted by DM&E indicate that approximately 35 sites are located within the six-mile corridor encompassing the New Build Segment in WY and SD.

¹ See 2006 Decision at page 39.

Recommendations

1. DM&E will analyze the results of its site file search to determine what qualities of each individual site contribute to its historic significance and what kinds of indirect impacts could potentially affect the integrity of each site. DM&E will also conduct an analysis to determine which of these sites is situated within the viewshed of the rail corridor and which may be visually or audibly adversely affected by the project.
2. DM&E will prepare a report consolidating the site file searches and viewshed analyses and provide it to STB for review and consideration in accordance with the terms of the Section 106 Programmatic Agreement (PA).
3. Depending on the results provided in the above report, DM&E recognizes that further consultation may be necessary under the terms of the PA to assess any adverse effects and discuss the development of treatment measures intended to avoid, minimize or mitigate such effects.

Construction Impacts/New Build - Direct Effects

DM&E has prepared detailed project maps showing the location of planned cut and fill activity within the construction right-of-way. DM&E provided examples of these maps in recent meetings it held with the SD and WY SHPOs. The SD SHPO suggested that information regarding project impacts and determination of effect could be submitted as a separate companion volume. The maps will be provided as part of that volume.

Recommendation

1. DM&E will prepare large-scale maps that show the construction ROW and the proximity of proposed cut & fill activity within the construction ROW to all historic properties. These maps will be provided to SHPOs following comment on STB's determinations of eligibility and as supporting information accompanying STB's determinations of adverse effect.

PRB Report Review Schedule

Report Title	Submittal to Cooperating Agencies and Tribes for Review and Comment	Submittal to SHPO for Review and Comment
Minnesota - Rehab		
Phase Ia Overview and Phase I Survey Methodology for Cultural Resources for the Minnesota Rehabilitation Segment and Mankato South Alignment Two Pines Resource Group (2006) SHPO #2002-0815PA	21-Jan-08	21-Jan-08
Phase I and II Archaeological Investigations of the Minnesota Rehabilitation Segment Two Pines Resource Group (2007) SHPO #2002-0815PA	16-Jan-09	27-Mar-09
Phase I Archaeological and Geomorphological Survey for the New Ulm Yard Project, MN Rehabilitation Segment Two Pines Resource Group (2007) SHPO #2002-0815PA	23-Jun-08	19-Dec-08
Historic District Treatment Plan for DM&E's PRB Expansion Project HDR (2007) SHPO #080515042F	23-Jun-08	23-Jun-08

PRB Report Review Schedule

Report Title	Submittal to Cooperating Agencies and Tribes for Review and Comment	Submittal to SHPO for Review and Comment
South Dakota - New Build Segment		
A Level III Cultural Resource Inventory of the DM&E's PRB Expansion Project, Custer, Fall River, and Pennington Counties, South Dakota SWCA/ARCHLAB (1999/2007) SHPO #99223006F	22-Feb-08	9-Jan-09
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, Custer, Fall River, And Pennington Counties, South Dakota Addendum 1 (SWCA/ARCHLAB) ALAC (2007) SHPO #99223006F	6-Jun-08	9-Jan-09
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, Custer, Fall River, and Pennington Counties, South Dakota Addendum 2 (SWCA/ARCHLAB) SWCA (2007) SHPO #99223006F	1-Jul-08	9-Jan-09
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, Custer, Fall River, and Pennington Counties, South Dakota Addendum 3 (SWCA/ARCHLAB) SWCA (2007) SHPO #99223006F	19-Dec-08	27-Feb-09
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, Custer, Fall River, and Pennington Counties, South Dakota Addendum 4 TRC ARCHLAB USD (2007) SHPO #99223006F	19-Dec-08	27-Feb-09
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, Custer, Fall River, and Pennington Counties, South Dakota ALAC (2006-2007) SHPO #990223006F	30-May-08	9-Jan-09
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, Custer, Fall River, and Pennington Counties, South Dakota Addendum 1 ALAC (2007) SHPO #990223006F	30-May-08	9-Jan-09

PRB Report Review Schedule

Report Title	Submittal to Cooperating Agencies and Tribes for Review and Comment	Submittal to SHPO for Review and Comment
South Dakota - Rehab/PRC		
Level I and II Cultural Resource Survey & Site Testing/Evaluation for 317 miles of Railroad Reconstruction from the MN Border to Wall, SD:DM&E's Proposed PRB Expansion Project Burns & McDonnell (1999) SHPO #080515042F	21-Jan-08	12-May-08
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, PRC Segment 1, Haakon, Jones, and Stanley counties, South Dakota ALAC PRC Segment 1 (2007) SHPO #080515042F	6-Jun-08	27-Feb-09
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, PRC Segment 1, Haakon, Jones, and Stanley counties, South Dakota SWCA (2008)	19-Dec-08	27-Feb-09
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, PRC Segment 2, Haakon and Stanley Counties, South Dakota ALAC PRC Segment 2 (early draft 2007) SHPO #080515042F	30-Jan-09	10-Apr-09
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, PRC Segment 3, Pennington, Jackson, And Haakon Counties, South Dakota SWCA PRC Segment 3 (2007) SHPO #080515042F	6-Jun-08	27-Feb-09
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, PRC Segment 3, Pennington, Jackson, And Haakon Counties, South Dakota Addendum 1 SWCA (2008) SHPO #080515042F	19-Dec-08	27-Feb-09
A Level III Cultural Resource Inventory of DM&E's PRB Expansion Project, Huron Yard Locale, Beadle County, South Dakota ALAC Huron Yard (2007) SHPO #080515042F	21-Jan-08	12-May-08

PRB Report Review Schedule

Report Title	Submittal to Cooperating Agencies and Tribes for Review and Comment	Submittal to SHPO for Review and Comment
Wyoming - New Build Segment		
A Class III Cultural Resource Inventory of Eight Portions of Segments 1 And 2, Campbell, Niobrara, And Weston Counties, WY TRC (2006)	21-Jan-08	19-Dec-08
A Class III Cultural Resource Inventory of the Seven Remaining Portions of Segments 1 and 2, Campbell, Niobrara, and Weston Counties, WY TRC (2007)	21-Jan-08	19-Dec-08
A Class III Cultural Resource Inventory of DM&E's PRB Expansion Project, Segments 3 and 4, Campbell and Converse Counties, Wyoming SWCA/ACR (2007)	27-Feb-08	19-Dec-08
A Class III Cultural Resource Inventory of Three Wetland Mitigation Sites for the PRB, Converse County, Wyoming TRC (2008) SHPO #0608JRD008	8-Apr-08	2-Jun-08

Report Review & Comment Form Powder River Basin Expansion Project

Report Information

Report Title:	<i>Phase I and II Archaeological Investigations of the Minnesota Rehabilitation Segment of the Powder River Basin Expansion Project (MN2)</i>
Author(s):	Two Pines Resource Group/Summit Envirosolutions
Project Segment:	Minnesota Rehabilitation Segment
Date Submitted for Review:	April 7, 2009
Please Return By:	May 10, 2009

List of Identified Resources within APE

Sites		STB Recommends		Tribe Recommends (please check one)		
Site #	Site Type	Eligibility	Project Effect/APE Location	Eligible	Not Eligible	Needs Further Tribal Input
21BE0036	Precontact (Woodland-Cambria Phase) Artifact Scatter & Earthwork/Mound Group	Eligible (D)	Adverse Effect/ Inside APE			X
21BE0066	Precontact Lithic Scatter	Not Eligible	No Effect/ Inside APE			
21BE0161	Precontact Lithic Scatter	Potentially Eligible (D)	Undetermined/ Inside APE			
21BE0276	Judson Whistle Stop	Not Eligible	No Effect/ Outside APE			
21BE0286	Precontact Lithic Scatter	Not Eligible	No Effect/ Inside APE			
21BE0287	Precontact Lithic Scatter	Eligible (D)	Adverse Effect/ Inside APE			X
21BE0288	Precontact (Woodland-Plains Village Period) Artifact Scatter & Historic Artifact Scatter	Precontact: Eligible (D) Historic: Eligible (A, D)	Adverse Effect/ Inside APE			
21BE0289	Precontact (Woodland-Plains Village Period) Artifact Scatter	Eligible (D)	Adverse Effect/ Inside APE			X
21BE0290	Precontact (Woodland-Cambria Phase) Artifact Scatter	Eligible (D)	Adverse Effect/ Inside APE			X
21BE0291	Precontact (Woodland-Cambria Phase) Artifact Scatter	Eligible (D)	Adverse Effect/ Inside APE			X

21BE0292	Eagle Lake Station Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
21BW0004	Precontact (Archaic, Woodland) Artifact Scatter & Earthwork/Mound Group	Eligible (D)	Adverse Effect/ Inside APE			X
21BW0094	Springfield Station Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
21BW0099	Precontact Lithic Scatter	Not Eligible	No Effect/ Inside APE			
21BW0100	Precontact Lithic Scatter	Not Eligible	No Effect/ Inside APE			
21BW0101	Precontact Lithic Scatter	Not Eligible	No Effect/ Inside APE			
21BW0102	Pipestone Isolate (Unfinished Elbow Pipe)	Unevaluated	Undetermined/ Inside APE			
21BW0103	Precontact Lithic Isolated Find	Not Eligible	No Effect/ Inside APE			
21DO0009	Dodge Center Station Tool House	Eligible (D)	Adverse Effect/ Inside APE			
21DO0011	Kasson Station Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
21DO0012	Claremont Station Well Surround, Water Tank Base, Settling Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
21LN0048	Lake Benton Station Well Surround & Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
21LN0049	Verdi Station Cistern	Eligible (D)	Adverse Effect/ Inside APE			
21LN0050	Tyler Station Depot Foundation & Coaler Base	Eligible (D)	Adverse Effect/ Inside APE			
21LN0073	Precontact (Woodland-Lake Benton Phase) Artifact Scatter	Eligible (D)	Adverse Effect/ Inside APE			X
21LN0074	Precontact (Archaic, Woodland) Artifact Scatter & Historic Artifact Scatter	Precontact: Eligible (D) Historic: Eligible (D)	Adverse Effect/ Inside APE			X
21LY0123	Garvin Whistle Stop	Not Eligible	No Effect/ Inside APE			
21LY0124	Balaton Station Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
21LY0125	Tracy Whistle Stop	Not Eligible	No Effect/ Inside APE			

21LY0126	Precontact Lithic Isolated Find & Historic Farmstead/ Artifact Scatter	Precontact: Not Eligible Historic: Potentially Eligible	Undetermined/ Inside APE			
21LY0127	George D. Tracy Company Warehouse Foundation	Not Eligible	No Effect/ Inside APE			
21LY0128	Tracy Station Roundhouse Foundation & Turntable Pit	Eligible (D)	Adverse Effect/ Inside APE			
21OL0035	Byron Whistle Stop	Not Eligible	No Effect/ Inside APE			
21OL0036	Rochester Station Turntable Pit	Not Eligible	No Effect/ Inside APE			
21OL0037	Eyota Station Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
21RW0066	Walnut Grove Station Well Surround	Eligible (D)	Adverse Effect/ Inside APE			
21RW0069	Precontact Lithic Scatter	Not Eligible	No Effect/ Inside APE			
21RW0070	Sanborn Station Water Tank Bases & Direct Coaler Bases	Eligible (D)	Adverse Effect/ Inside APE			
21WE0006	Precontact (Woodland & Oneota) Artifact Scatter	Potentially Eligible (D)	Undetermined/ Inside APE			X
21WE0075	Precontact Lithic Isolated Find	Not Eligible	No Effect/ Inside APE			
21WE0076	Waseca Station Extant Depot & Roundhouse Foundation	Eligible (D)	Adverse Effect/ Inside APE			
21WN0063	St. Charles Whistle Stop	Not Eligible	No Effect/ Inside APE			
21WN0064	Utica Whistle Stop	Not Eligible	No Effect/ Inside APE			
21WN0065	Lewiston Whistle Stop	Not Eligible	No Effect/ Inside APE			
21WN0066	Stockton Station Pump House, Tool Shed, Water Tank Bases	Eligible (D)	Adverse Effect/ Inside APE			
21WN0071	Stockton Quarry	Potentially Eligible (D)	Undetermined/ Inside APE			
21WN0072	Lewiston Station Turntable Pit	Eligible (D)	Adverse Effect/ Inside APE			
BW-NUC-021	New Ulm Station Extant Depot	Eligible (D)	Adverse Effect/ Inside APE			
BW-SLC-059	Sleepy Eye Station Extant Depot	Eligible (D)	Adverse Effect/ Inside APE			

*If Tribe recommends eligibility, please specify which criteria apply.

Additional Comments (attach separate documentation if needed)

We would like to have the opportunity to have a tribal representative visit the checked sites.

Signature: W Young Date: April 14 2009

Printed Name: WASTÉWIN YOUNG Title: SRST THPO

Return Completed Form to:

Randy Withrow
The Louis Berger Group
950 50th Street
Marion, IA 52302-3853

Report Review & Comment Form Powder River Basin Expansion Project

Report Information

Report Title:	<i>Phase I and II Archaeological Investigations of the Minnesota Rehabilitation Segment of the Powder River Basin Expansion Project (MN2)</i>
Author(s):	Two Pines Resource Group/Summit Envirosolutions
Project Segment:	Minnesota Rehabilitation Segment
Date Submitted for Review:	April 7, 2009
Please Return By:	May 10, 2009

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21BE0066	Precontact Lithic Scatter	Not Eligible	No Effect/ Inside APE			✓
21BE0161	Precontact Lithic Scatter	Potentially Eligible (D)	Undetermined/ Inside APE			✓
21BE0276	Judson Whistle Stop	Not Eligible	No Effect/ Outside APE			✓
21BE0286	Precontact Lithic Scatter	Not Eligible	No Effect/ Inside APE			
21BE0287	Precontact Lithic Scatter	Eligible (D)	Adverse Effect/ Inside APE			✓
21BE0288	Precontact (Woodland-Plains Village Period) Artifact Scatter & Historic Artifact Scatter	Precontact: Eligible (D) Historic: Eligible (A, D)	Adverse Effect/ Inside APE			✓
21BE0289	Precontact (Woodland-Plains Village Period) Artifact Scatter	Eligible (D)	Adverse Effect/ Inside APE			✓
21BE0290	Precontact (Woodland-Cambria Phase) Artifact Scatter	Eligible (D)	Adverse Effect/ Inside APE			✓
21BE0291	Precontact (Woodland-Cambria Phase) Artifact Scatter	Eligible (D)	Adverse Effect/ Inside APE			✓

21BE0292	Eagle Lake Station Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			✓
21BW0004	Precontact (Archaic, Woodland) Artifact Scatter & Earthwork/Mound Group	Eligible (D)	Adverse Effect/ Inside APE			✓
21BW0094	Springfield Station Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			✓
21BW0099	Precontact Lithic Scatter	Not Eligible	No Effect/ Inside APE			✓
21BW0100	Precontact Lithic Scatter	Not Eligible	No Effect/ Inside APE			✓
21BW0101	Precontact Lithic Scatter	Not Eligible	No Effect/ Inside APE			✓
21BW0102	Pipestone Isolate (Unfinished Elbow Pipe)	Unevaluated	Undetermined/ Inside APE			✓
21BW0103	Precontact Lithic Isolated Find	Not Eligible	No Effect/ Inside APE			✓
21DO0009	Dodge Center Station Tool House	Eligible (D)	Adverse Effect/ Inside APE			✓
21DO0011	Kasson Station Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
21DO0012	Claremont Station Well Surround, Water Tank Base, Settling Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
21LN0048	Lake Benton Station Well Surround & Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
21LN0049	Verdi Station Cistern	Eligible (D)	Adverse Effect/ Inside APE			
21LN0050	Tyler Station Depot Foundation & Coaler Base	Eligible (D)	Adverse Effect/ Inside APE			
21LN0073	Precontact (Woodland-Lake Benton Phase) Artifact Scatter	Eligible (D)	Adverse Effect/ Inside APE			✓
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BW-SLC-059	Sleepy Eye Station Extant Depot	Eligible (D)	Adverse Effect/ Inside APE			

*If Tribe recommends eligibility, please specify which criteria apply.

Additional Comments (attach separate documentation if needed)

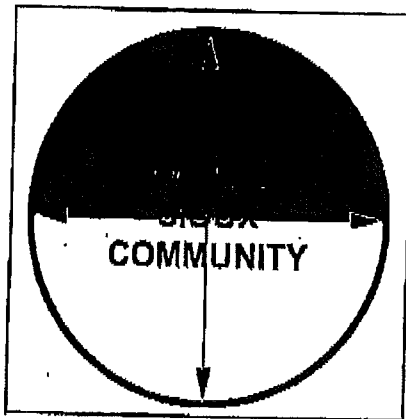
all LSDA-THPO has requested TAP Study on
the Minnesota Line that belongs to DNF.

Signature: [Signature] LSDA-THPO Date: _____

Printed Name: Sam Halverson LSDA Title: Lower Sioux Indian
Community Probly
Historic Preservation
Officer.

Return Completed Form to:

Randy Withrow
The Louis Berger Group
950 50th Street
Marion, IA 52302-3853



BOARD OF TRUSTEES

CHAIRMAN — KEVIN JENSOLD
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 POST OFFICE BOX 147
 5722 TRAVERS LANE
 GRANITE FALLS, MN 56241
 320.564.3853
 320.564.4482 - FAX

May 15, 2009

Environmental Protection Specialist
 Surface Transportation Board
 Section of Environmental Analysis
 Attn: Catherine Glidden
 Washington, DC 20423

Dear Ms. Glidden,

These are the questions and concerns I have to the report on the Review and Comment Form for the Powder River Basin Expansion Project.

Potentially eligible and eligible sites

Will Phase III surveys be done? We think this is necessary.

Eligible potentially eligible sites that extend out of "right of way"

These should be surveyed as well to determine size, age, etc. DM & E found itself difficulty by sticking strictly to the right of way; thus is demonstrated by the destroyed mound from borrow pit in the 80's.

Work plans: both DM & E and archaeology (Borrow pits, access roads, etc.)

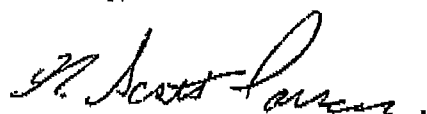
Were there tribal monitors on the Phase I and Phase II?

TCP's: Are hard to define in terms of continually use. The tribe have not had access and because until the passage of the "American Indian Freedom of Religion Act" passed in the mid 70's we could not practice our spiritual beliefs—one only needs to look at the Courts of Indian Offenses.

How are you going to mitigate an eligible site?

Thank you and we look forward to working with S.T.B./DM & E on such an important project to the Dakota peoples of the Pezihutazizi.

Sincerely,



N. Scott Larsen
Member at Large
Upper Sioux Community
Board of Trustees

Report Review & Comment Form Powder River Basin Expansion Project

Report Information

Report Title:	<i>Phase I and II Archaeological Investigations of the Minnesota Rehabilitation Segment of the Powder River Basin Expansion Project (MN2)</i>
Author(s):	Two Pines Resource Group/Summit Envirosolutions
Project Segment:	Minnesota Rehabilitation Segment
Date Submitted for Review:	April 7, 2009
Please Return By:	May 10, 2009

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21BE0276	Judson Whistle Stop	Not Eligible	No Effect/Outside APE			X
21BE0286	Precontact Lithic Scatter	Not Eligible	No Effect/Inside APE			
21BE0287	Precontact Lithic Scatter	Eligible (D)	Adverse Effect/Inside APE			X
21BE0288	Precontact (Woodland-Plains Village Period) Artifact Scatter & Historic Artifact Scatter	Precontact: Eligible (D) Historic: Eligible (A, D)	Adverse Effect/Inside APE			X
21BE0289	Precontact (Woodland-Plains Village Period) Artifact Scatter	Eligible (D)	Adverse Effect/Inside APE			X
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21BE0291	Precontact (Woodland-Cambria Phase) Artifact Scatter	Eligible (D)	Adverse Effect/Inside APE			X

21BE0292	Eagle Lake Station Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
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21LN0074	Precontact (Archaic, Woodland) Artifact Scatter & Historic Artifact Scatter	Precontact: Eligible (D) Historic: Eligible (D)	Adverse Effect/ Inside APE			X
21LY0123	Garvin Whistle Stop	Not Eligible	No Effect/ Inside APE			
21LY0124	Balaton Station Water Tank Base	Eligible (D)	Adverse Effect/ Inside APE			
21LY0125	Tracy Whistle Stop	Not Eligible	No Effect/ Inside APE			

21LY0126	Precontact Lithic Isolated Find & Historic Farmstead/Artifact Scatter	Precontact: Not Eligible Historic: Potentially Eligible	Undetermined/Inside APE			
21LY0127	George D. Tracy Company Warehouse Foundation	Not Eligible	No Effect/Inside APE			
21LY0128	Tracy Station Roundhouse Foundation & Turntable Pit	Eligible (D)	Adverse Effect/Inside APE			
21OL0035	Byron Whistle Stop	Not Eligible	No Effect/Inside APE			
21OL0036	Rochester Station Turntable Pit	Not Eligible	No Effect/Inside APE			
21OL0037	Eyota Station Water Tank Base	Eligible (D)	Adverse Effect/Inside APE			
21RW0066	Walnut Grove Station Well Surround	Eligible (D)	Adverse Effect/Inside APE			
21RW0069	Precontact Lithic Scatter	Not Eligible	No Effect/Inside APE			X
21RW0070	Sanborn Station Water Tank Bases & Direct Coaler Bases	Eligible (D)	Adverse Effect/Inside APE			
21WE0006	Precontact (Woodland & Oneota) Artifact Scatter	Potentially Eligible (D)	Undetermined/Inside APE			X
21WE0075	Precontact Lithic Isolated Find	Not Eligible	No Effect/Inside APE			
21WE0076	Waseca Station Extant Depot & Roundhouse Foundation	Eligible (D)	Adverse Effect/Inside APE			
21WN0063	St. Charles Whistle Stop	Not Eligible	No Effect/Inside APE			
21WN0064	Utica Whistle Stop	Not Eligible	No Effect/Inside APE			
21WN0065	Lewiston Whistle Stop	Not Eligible	No Effect/Inside APE			
21WN0066	Stockton Station Pump House, Tool Shed, Water Tank Bases	Eligible (D)	Adverse Effect/Inside APE			
21WN0071	Stockton Quarry	Potentially Eligible (D)	Undetermined/Inside APE			
21WN0072	Lewiston Station Turntable Pit	Eligible (D)	Adverse Effect/Inside APE			
BW-NUC-021	New Ulm Station Extant Depot	Eligible (D)	Adverse Effect/Inside APE			
BW-SLC-059	Sleepy Eye Station Extant Depot	Eligible (D)	Adverse Effect/Inside APE			

Crow Tribal Historic Preservation Office
POB 159
Crow Agency, MT 59022

DATE: August 1, 2008

ADDRESS: Mr. Dave Bibler
The Louis Berger Group
950 50th Street
Marion, IA 52302-3853

RE: Phase I Archaeological and Geomorphological Survey for the New Ulm Yard Project, Minnesota Rehabilitation Segment.

Dear : Mr. Bibler:

We have reviewed your Consultation Request under Section 106 of the National Historic Preservation Act regarding Phase I Archaeological and Geomorphological Survey for the New Ulm Yard Project, Minnesota Rehabilitation Segment and offer the following response as indicated by the box that is checked.

☐ NO INTEREST

We have determined that there is not a likelihood of eligible properties of religious or cultural significance to the Crow Tribe of Indians.

☐ REQUEST FOR ADDITIONAL INFORMATION

We request the additional information in order to provide a finding of effect for this proposed undertaking.
Please see attached form.

☒ NO EFFECT

We have determined that there are no properties of religious and cultural significance to the Crow Tribe of Indians that are listed on the National Register within the area of potential effect or that the proposed project will have no effect on any such properties that may be present.

☐ NO ADVERSE EFFECT

We have identified properties of cultural and religious significance within the area of effect that we believe are eligible for listing in the National Register, for which there would be no adverse effect as a result of the proposed project.

☐ ADVERSE EFFECT

We have identified properties of cultural and religious significance within the area of potential effect that are eligible for listing in the National Register. We believe the proposed project would cause an adverse effect on these properties.

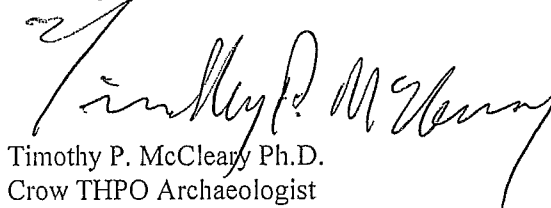
We appreciate your office contacting us concerning this undertaking and for your support of historic and cultural preservation. Please keep us informed and updated about this project or any others you feel need our attention.

Sincerely,

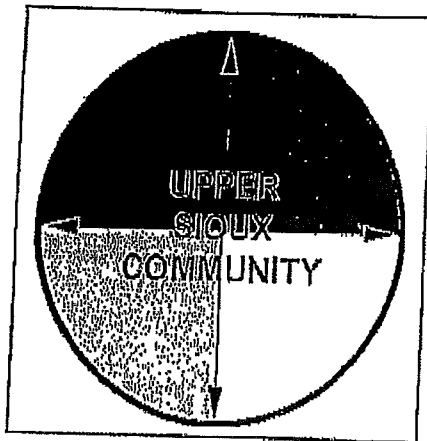


Dale D. Old Horn
Crow THPO Director

Sincerely,



Timothy P. McCleary Ph.D.
Crow THPO Archaeologist



CHAIRMAN — KEVIN JENSVOLD
VICE CHAIRMAN — TRAVIS J. LEENERTS
TRIBAL SECRETARY — ELITTA GOUGE
TRIBAL TREASURER — SHARON ODEGARD
MEMBER AT LARGE — N. SCOTT LARSEN
POST OFFICE BOX 147
2511 565TH STREET
GRANITE FALLS, MN 56241
320.564.3853
320.564.4482 — FAX

Fax Transmittal Cover Sheet

Direct To:

Dave Bisher

Company:

Number:

319-373-3045

Date:

5.05.08

Number of Pages:

2

INCLUDING COVER SHEET

From:

Richard Ross

Comments:

If you have not received all of the intended pages, please contact our offices immediately.

NOTICE: The document(s) within this transmittal may contain confidential information that is privileged. This information is intended only for the recipient named above. It is intended only for the use of the individual or entity to which it is sent. If you are not the intended recipient, or an employee or agent responsible to deliver these documents to the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance of the tele-copied information except its direct delivery to the intended recipient are strictly forbidden. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the U.S. Postal Service.

MN³

Dave Bibler

Ref: Brian - 21BW004

Info: Taken from (American Aborigine) Winchells

Surveyed - September 7, 1883

Mounds on the Cottonwood River near New Ulm: E $\frac{1}{2}$, SE $\frac{1}{4}$, Section 33 and S $\frac{1}{2}$, SW $\frac{1}{4}$, Section 34, T110-30 along bluffs of the Cottonwood River. Twenty-seven (27) mounds scattered loosely along the north side of the river of which only three (3) are elongated. Several are large in size: visual 70foot by 4 $\frac{1}{2}$ feet by 6 feet, by 3 $\frac{1}{2}$ feet by 80 feet and 70 feet by 3 $\frac{1}{2}$ feet.

Final note of survey Section 33 - Section 34:

There are probably numerous other mounds in these counties of which there is no information.

The descriptions of the mounds are similar to what Ben and I seen in Section 34. This is the only mention of Section 34, the rest are for the area in Section 33.

Richard D. Raso

File
1204

Attn: Dave Bibler

I have some concerns on one site just east of New Ulm, possible mound site east of T110-M1703.

This small tracked road of where an archeological pre-contact is my concern is the possibility on a burial mound. If this mound is not mapped, it is not protected.

Although half is on private land and half is on DMB also private land, but the land is being cultivated. So, I feel further investigation is needed.

If this is not done and if remains are accidentally unearthed, a possibility of a clash between cultures will ultimately follow. As a monitor, it is my job to bring these concerns to light to avoid problems in the future.

Note: 307.8 may apply or 138.

Richard D. Ross

John P. Ross member at large
board of trustees 3-25-
upper St. Louis community