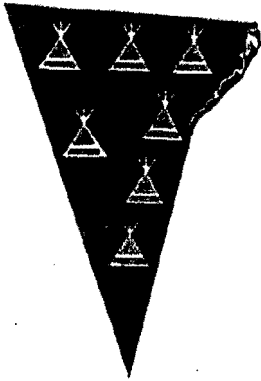


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Tribal Historic Preservation Office



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August 17, 2009

**Ms. Catherine Glidden
Surface Transportation Board
Washington, DC**

RE: Letter of protest regarding site exclusion along the DM&E New Build Railroad.

Dear Ms. Glidden,

Greetings. We have two issues with recent correspondence and occurrences regarding the New Build Section of the proposed DM&E Railroad line. We have received your notice of intent to exclude ten (10) sites from the recorded database along the Dakota, Minnesota, and Eastern Railroad in South Dakota and Wyoming. However, we are not aware of which sites that your office is excluding from the database nor the reason or purpose of this exclusion.

The exclusion of any sites that Native monitors have reviewed, visited, and made recommendation on should not be excluded on any level from the database. Each site, within the purview of Native concept, is important to the continuity and maintenance of Native connection to their homelands. Indigenous sites continue to influence family bundles, spiritual practices, and the connection between the original ancestors who set the site on the landscape to their descendents.

We are not aware within the law(s) that a federal agency can exclude any site from consideration for recommendation of eligibility and/or nomination to the National Register of Historic Places without an Advisory Council on Historic Preservation review. A federal agency may make a recommendation of exclusion but cannot arbitrarily exclude a site without review.

Secondly, we have concern regarding the Standing Rock Sioux Tribe (SRST) not being allowed to continue to participate in visitation of sites along the DM&E without assistance or compensation for their time and expertise. We bring to your attention that an Environmental Impact Statement or any other environmental evaluation document is an incomplete document for all intents and purposes without Native review and participation. The SRST has unique knowledge and information within their tribal history that applies to their presence at sites within the APE.

It is noted that the issue of compensation for tribal representatives, consultants, spiritual leaders, and monitors is being discussed. Again, federal licensing agencies and those corporations proposing projects need to be aware that while EIS's and EA's may be conducted, those documents will be incomplete and not in compliance within the intent of the National Environmental Policy Act without Native participation.

In this instance, the SRST monitors were informed that a meeting between all the tribal monitors involved in the DM&E site visitation would occur. The SRST monitors waited to be informed of when this meeting would be called. No meeting was scheduled or notice sent that a meeting was organized so monitors could collaborate. The lack of communication between Louis-Berger, the Surface Transportation Board, and the SRST resulted in the SRST not providing comment of the sites the monitors had visited during the site review periods.

The lack of communication on the part of the parties involved is not suitable grounds for exclusion of the SRST from continued review of those sites at risk within the proposed APE of the New Build segment of the DM&E Railroad. An incomplete assessment of significance of those sites will be the end result, should the SRST not be included or compensated for their time and expertise in future visitations.

Thank you for your attention to this correspondence.

Sincerely,



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