

Wayland, Joshua

From: Hansen, Karl <karl.hansen@stinson.com>
Sent: Wednesday, October 12, 2016 7:09 PM
To: Joshua Wayland
Subject: Fw: 160782111 Dakota Minnesota & Eastern Railway Corp STB Docket AB-337 (Sub No 9X) in Scott County

Josh,

Fyi- Just received.

Karl Hansen | Attorney | Stinson Leonard Street LLP
 150 South Fifth Street, Suite 2300 | Minneapolis, MN 55402
 T: 612.335.7088 | M: 612.802.2053 | F: 612.335.1657
 karl.hansen@stinson.com | www.stinson.com
 Legal Administrative Assistant: LAAteam@stinson.com | 612.335.1874

This communication (including any attachments) is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

From: Jones, Doug [DCA] [mailto:Doug.Jones@iowa.gov]
Sent: Wednesday, October 12, 2016 05:29 PM
To: Hansen, Karl
Cc: Wielenga, Libby [DCA] <Libby.Wielenga@iowa.gov>; SHPO106 [DCA] <SHPO106@iowa.gov>; Jones, Doug [DCA] <Doug.Jones@iowa.gov>; Andre, Sara [DCA] <Sara.Andre@iowa.gov>; Diana.Wood@stb.dot.gov <Diana.Wood@stb.dot.gov>
Subject: RE: 160782111 Dakota Minnesota & Eastern Railway Corp STB Docket AB-337 (Sub No 9X) in Scott County

October 12, 2016

Mr. Hansen,

We have received and reviewed the additional information that you recently provided to our office regarding the above referenced undertaking. We understand that this project will be a federal undertaking for the Surface Transportation Board (STB) and will need to comply with Section 106 of the National Historic Preservation Act and the National Environmental Policy Act. We make the following comments and recommendations based on our examination of this material and in accordance with Section 106 of the National Historic Preservation Act of 1966 and its implementing regulations, 36 CFR Part 800 (revised, effective August 5, 2004); the Advisory Council on Historic Preservation's Policy Statement on Affordable Housing and Historic Preservation (adopted November 9, 2006); and on The Advisory Council on Historic Preservation recently issued guidance in November 2011 on *Meeting the "Reasonable and Good Faith" Identification Standard in Section 106 Review*.

Based on your information, it appears that there are no previously recorded archaeological sites or other types of significant historic properties located within or immediately adjacent to the proposed Area of Potential Effect. Therefore, our office would concur with an agency's (STB) determination of **No Historic Properties Affected** for this undertaking if that determination was provided by the federal agency. Please forward a copy of the agency's letter

of determination to our office upon its publication so that we can issue our formal concurrence and conclude our consultation on this project.

Please reference the Review and Compliance Number provided above in all future submitted correspondence to our office for this project. We look forward to further consulting with you and the Surface Transportation Board on this project. If design changes are made for this project which would involve undisturbed new rights-of-way or easements, please forward additional information to our office for further comment along with the Agency Official's determination of effect.

We have provided this **technical assistance** according to our responsibility defined by Federal law. It remains the responsible **Federal agency's decision** on how you will proceed from this point for this project.

This is the official SHPO comment letter for the above-referenced project, provided in accordance with Section 106 of the National Historic Preservation Act of 1966 and its implementing regulations, 36 CFR Part 800 (revised, effective August 5, 2004). Please note that you will not receive a hard copy of this letter by mail. There is no need to reply to this email unless you have specific questions. If you have any further questions, please feel free to contact me.

Douglas W. Jones

Review & Compliance Program Manager and Archaeologist, State Historic Preservation Office
doug.jones@iowa.gov | 515.281.4358 | iowaculture.gov

Iowa Arts Council | Produce Iowa | State Historical Society of Iowa

Iowa Department of Cultural Affairs

Share your stories using #iowahistory

From: Jones, Doug [DCA]

Sent: Friday, August 05, 2016 4:12 PM

To: Hansen, Karl (karl.hansen@stinsonleonard.com)

Cc: Jones, Doug [DCA]; Wielenga, Libby [DCA]; SHPO106 [DCA]

Subject: 160782111 Dakota Minnesota & Eastern Railway Corp STB Docket AB-337 (Sub No 9X) in Scott County

August 5, 2016

Mr. Hansen,

We received your submittal regarding the above-referenced project. Thank you for providing the State Historic Preservation Office (SHPO) of Iowa with the opportunity to review this project. We understand this will be a federal undertaking for the Surface Transportation Board (STB) and will need to comply with among other environmental laws and regulations, Section 106 of the National Historic Preservation Act and its implementing regulations 36 CFR Part 800. We offer the following recommendations on this potential project as *technical assistance* for consideration to you and the responsible Federal agency.

The State Historic Preservation Office does not have staffing, nor is it the SHPO's responsibility, to conduct extensive background research for:

- **Federal Undertakings** Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR § 800).
- **Section 110 of the National Historic Preservation Act**
- **National Environmental Policy Act and its implementing regulations (40 CFR § 1500 - 1508).**

We encourage agencies, applicants, organizations, or hired consultants to conduct the cultural resource background research on projects. The State Historic Preservation Office (SHPO) contains many sources of information concerning cultural resources within the state of Iowa. Included among these sources of information are

- Files with information on over 133,000 standing structures, objects, and historic districts in the Iowa Site Inventory which includes the National Register of Historic Places listings for Iowa;
- Historical and architectural surveys and thematic reports;
- Over 12,000 archaeological survey records and reports;

SHPO staff members are available to assist people in learning about and utilizing our resources. There is no charge for using our records unless you are requesting copies. Copies or Digital Scans are 25¢ a page. If SHPO staff makes the copies and/or does research which takes longer than 15 minutes, a charge of \$30/hour will be assessed with a minimum charge of 1 Hour.

Information on cultural resources can also be found at local libraries, county engineer's office, universities and colleges, county historical societies and museums. The Office of the State Archaeologist (OSA) at the University of Iowa maintains the official Iowa Archaeological site records, and we encourage applicants, agencies, organizations and hired consultants to either check with the Site Records Clerk at the OSA ((319) 384-0735) or go on-line to I-Sites at the Office of the State archaeologist's website at <https://archaeology.uiowa.edu/i-sites> for updated information on previously recorded cultural resources.

We recommend to you that the best way to determine whether this proposed project will affect any significant historic properties is to consider conducting a Cultural Resource Assessment of the known historic properties within the study corridor.

We will provide recommendations on this undertaking when the following information is provided to our office :

- Information on what types of cultural resources are or may be located in the Area of Potential Effect (APE) ((36 CFR Part 800.4). The information provided should constitute adequate documentation in accordance with 36 CFR Part 800.11(d). The information provided should also meet the guidance issued in November 2011 by the Advisory Council on Historic Preservation entitled *Meeting the "Reasonable and Good Faith" Identification Standard in Section 106 Review*.
- The significance of cultural resources in the APE (if any) in consideration of the National Register of Historic Places Criteria [36 CFR Part 800.4(c)(1)].
- An assessment of the effects this undertaking might have on any historic properties within the APE (36 CFR Part 800.5).

All human remains are legally protected in Iowa under the Iowa Code. Chapters 263B and 716 of the Iowa Code legally protect human burials or remains. If the human remains are older than 150 years in age, they are considered to be ancient human burials or remains and fall under the jurisdiction of the Office of the State Archaeologist. If the human remains are less than 150 years of age, the human remains fall under the jurisdiction of the Iowa Department of Public Health.

If any prehistoric burial mounds or other types of previously unidentified ancient human mortuary sites are located either within or immediately adjacent to the proposed route, we recommend that you should consult with Office of the State Archaeologist. Consultation with American Indian tribes that may attach religious and cultural significance to historic properties which may be affected by this proposed undertaking is also mandated under the Act and 36 CFR 800..

We have provided this **technical assistance** according to our responsibility defined by Federal law. It remains your **decision** on whether or not you need to provide additional information to our office or whether or not you should proceed with the project without the concurrence of this office. It also remains your **decision** on how you will proceed from this point for this project.

When adequate documentation (as referenced above) for this undertaking is provided to our office, we will be able to initiate the review process under Section 106 of the National Historic Preservation Act and provide further recommendations. Please reference the Review and Compliance (R&C) Number provided above in all future correspondence submitted to our office for this project.

Do not hesitate to contact me at (515) 281-4358 or doug.jones@iowa.gov if you have any questions or require further technical assistance in this matter.

Sincerely,

Douglas W. Jones

Review & Compliance Program Manager and Archaeologist, State Historic Preservation Office
doug.jones@iowa.gov | 515.281.4358 | iowaculture.gov

Iowa Arts Council | Produce Iowa | State Historical Society of Iowa

Iowa Department of Cultural Affairs

Share your stories using #iowahistory