

EI-18957

CG



RE: Hojack Swing Bridge, STB Docket No. AB 167 (Sub-No. 1162X)
Bonafide, John (PEB)

to:
'Catherine.Glidden@stb.dot.gov'
08/30/2012 08:01 AM

Cc:
"Kenneth.Blodgett@stb.dot.gov", Melanie Yasbin

Hide Details

From: "Bonafide, John (PEB)" <John.Bonafide@parks.ny.gov>

To: "'Catherine.Glidden@stb.dot.gov'" <Catherine.Glidden@stb.dot.gov>

Cc: "Kenneth.Blodgett@stb.dot.gov" <Kenneth.Blodgett@stb.dot.gov>, Melanie Yasbin
<Melanie@lgrailaw.com>

History: This message has been replied to.

Ms. Glidden,

We too would like to resolve this action as expeditiously as possible understanding that the US Coast Guard has left no alternative to the removal of the structure. I think our discussion today will need to walk through were exactly the 1996 Section 106 process ended. Our file was closed at that time and under our retention schedule was destroyed several years ago.

John A. Bonafide

Director
Technical Preservation Services Bureau
Division for Historic Preservation
Peebles Island State Park
P.O. Box 189
Waterford, NY 12188-0189

☎: 518-237-8643, ext.3263 | 📠: 518-233-9049 | ✉: john.bonafide@parks.ny.gov

Web Site: <http://mysparks.com/shpo>

From: Catherine.Glidden@stb.dot.gov [<mailto:Catherine.Glidden@stb.dot.gov>]

Sent: Thursday, August 30, 2012 7:50 AM

To: Bonafide, John (PEB)

Cc: Kenneth.Blodgett@stb.dot.gov; Melanie Yasbin

Subject: RE: Hojack Swing Bridge, STB Docket No. AB 167 (Sub-No. 1162X)

Hi Mr. Bonafide:

In advance of my call, I just wanted to be clear that we would prefer to resolve the Section 106 process for this undertaking as quickly and as expeditiously as possible. My thought, laid out in brief in my last email to you, is that we could determine that the action is a conditional "No Adverse Effect" action under Section 106 pursuant to 36 CFR 800.5(b). As you know, this section of the regulations states that, "the agency official, in consultation with the SHPO/THPO, may proposed a finding of no adverse effect when the undertaking's effects do not meet the criteria of paragraph (a)(1) of this section or the undertaking is modified, or conditions are imposed, such as the subsequent review of plans for rehabilitation by the SHPO/THPO to ensure consistency with the Secretary's Standards for the Treatment of Historic Properties (36 CFR Part 68) and applicable guidelines, to avoid adverse effects."

The STB was unaware until very recently that the abandonment action was being consummated. This is why we did not assume our role as a federal agency with authority under Section 106. I think that given our late arrival to the process, that we can simply agree that sufficient mitigation has occurred (even though it was agreed upon under your state law) to determine that this undertaking is no longer an adverse effect per Section 106.

I'll talk with you soon.

Catherine Glidden
Environmental Protection Specialist
Office of Environmental Analysis
Surface Transportation Board
Washington, DC 20423
(202) 245-0293

"Bonafide, John (PEB)" <John.Bonafide@parks.ny.gov> wrote on 08/27/2012 03:07:04 PM:

> From: "Bonafide, John (PEB)" <John.Bonafide@parks.ny.gov>
> To: "'Catherine.Glidden@stb.dot.gov'" <Catherine.Glidden@stb.dot.gov>
> Cc: "Kenneth.Blodgett@stb.dot.gov" <Kenneth.Blodgett@stb.dot.gov>,
> Melanie Yasbin <Melanie@lgrailaw.com>
> Date: 08/27/2012 03:05 PM
> Subject: RE: Hojack Swing Bridge, STB Docket No. AB 167 (Sub-No. 1162X)
>
> Ms. Glidden:
>
> Thank you for the information. This is the first time that our
> office has been made aware of STB's involvement in this undertaking.
> Both the US Coast Guard (with the support of the ACHP) and the Army
> Corps have determined that the removal is not an undertaking under
> Section 106 for their agencies. These actions resulted in the
> review falling to NYS DEC and our state Historic Preservation Act.
> If STB is asserting that the removal is a Section 106 reviewable
> action for your agency then our state law is not in force and a full
> Section 106 review with the involvement consulting parties and the
> ACHP would need to be undertaken by the STB. I will be out of the
> office tomorrow but available the remainder of the week to discuss
> how your agency would like to proceed. Please let me know when we
> might be able to set up a call.
>
> John A. Bonafide
> Director
> Technical Preservation Services Bureau
> Division for Historic Preservation
> Peebles Island State Park
> P.O. Box 189

> Waterford, NY 12188-0189
 >
 > (:518-237-8643, ext.3263| 7:518-233-9049| *:john.bonafide@parks.ny.gov
 > Web Site: <http://nysparks.com/shpo>
 >
 > From: Catherine.Glidden@stb.dot.gov [<mailto:Catherine.Glidden@stb.dot.gov>]
 > Sent: Monday, August 27, 2012 1:23 PM
 > To: Bonafide, John (PEB)
 > Cc: Kenneth.Blodgett@stb.dot.gov; Melanie Yasbin
 > Subject: Hojack Swing Bridge, STB Docket No. AB 167 (Sub-No. 1162X)
 >
 > Dear Mr. Bonafide,
 >
 > I am contacting you regarding the Hojack Swing Bridge, a National
 > Register of Historic Places eligible resource located in Monroe
 > County, NY (see attached map).
 >
 > I understand that the Hojack Swing Bridge has been under review by
 > your office and that you recently were party to a Letter of
 > Resolution (LOR) regarding the bridge, signed by the New York State
 > Department of Environmental Conservation, the New York State Office
 > of Parks, Recreation and Historic Preservation and CSX
 > Transportation Inc. (CSX). As you may already know, this historic
 > resource is on a line of railroad (the Ontario Running Track) for
 > which the Surface Transportation Board (STB) provided abandonment
 > approval to Conrail, the former owner of the line, on July 18, 1996.
 > That STB approval (the undertaking) included the Section 106
 > condition, as amended, that required the railroad to: "retain its
 > interest in and take no steps to alter the historic integrity of the
 > swing bridge at milepost 94.0 of the Ontario Industrial Track until
 > completion of the Section 106 process of the National Historic
 > Preservation Act, 16. U.S.C. 470f." I have attached the May 8, 1997
 > STB Decision that included this condition below.
 >
 > The bridge has been the subject of extensive mitigation by CSX
 > including measures stipulated in the LOR (see attached). Although
 > we were not a party to the LOR, we feel that the measures that have
 > been undertaken by CSX, and that are outlined in the LOR, will
 > mitigate any adverse effects that would result from removal of the
 > bridge. We are therefore providing you with our "No Adverse
 > Effect" determination for the undertaking pursuant to 36 CFR Part 800.
 >
 > Both the Coast Guard and Army Corps of Engineers have informed CSX
 > that the bridge poses a hazard. Moreover, CSX needs to begin
 > removal of the bridge by the beginning of November so that it will
 > not be in contempt of a Coast Guard order requiring its removal. We
 > therefore request your concurrence regarding our "No Adverse Effect"
 > determination for the abandonment in STB Docket No. AB 167 (Sub-No.
 > 1162X). Once the we have completed the Section 106 process, CSX
 > will be free to initiate its Coast Guard order.
 >
 > I will be follow up with you by phone to ensure that you are in
 > receipt of this email. Your prompt attention to this matter is appreciated.
 >
 > All the best,
 >
 > Catherine Glidden
 > Environmental Protection Specialist
 > Office of Environmental Analysis

> Surface Transportation Board
> Washington, DC 20423