



E1-17871

Preserving America's Heritage

March 23, 2009

Mr. Dave Navecky
Section of Environmental Analysis
Surface Transportation Board
395 E. Street SW
Washington, DC 20423-0001

*RE: Proposed Alaska Railroad Corporation construction and operation of rail line
STB Finance Docket No. 34658
Between North Pole and Delta Junction, Alaska*

Dear Mr. Navecky:

This is a follow up to the March 6, 2009, consultation teleconference held by the Surface Transportation Board (STB) for the referenced undertaking. During the teleconference, the STB requested comments from The Advisory Council on Historic Preservation (ACHP) and Alaska State Historic Preservation Officer on the draft Programmatic Agreement (PA) for the Northern Rail Extension project.

The teleconference was helpful in providing a history and context for this undertaking. We support the execution of a PA for the construction and management of this portion of the Alaska Railroad. In general, the PA draft would be improved by greater specificity about how its terms apply to the ongoing identification, effects assessment, and treatment needs of this undertaking and about the procedural steps that will accomplish these goals. We offer the following general observations to assist STB in revising the draft PA for circulation to all consulting parties:

- The Area of Potential Effects should be described in the preamble and/or incorporated in map form by reference.
- The preamble should clarify whether any other federal agencies will use this PA to satisfy their compliance responsibilities for this undertaking under Section 106 and, if so, their status as signatories. Similarly, the agreement title should reference only those agencies that are signatories to the PA.
- Please ensure the use of the term "historic properties" consistent with §800.16(I)(1) rather than "cultural resources."
- The information contained in Stipulation II is better summarized in the preamble, as it captures background information about the undertaking and the need for the PA.

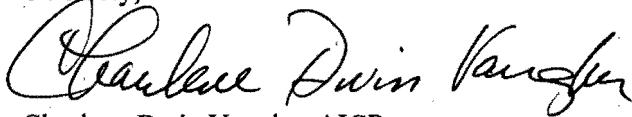
ADVISORY COUNCIL ON HISTORIC PRESERVATION

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- Rather than deferring the development of protocols for review timeframes, response expectations, and other mechanics of ongoing review under the terms of the PA until an Agency Consultation and Coordination Plan (ACCP) is developed, the STB and all consulting parties should negotiate these procedures now so that they may be incorporated into the body of this PA and made available to the public.
- Remove "Assessment of Effects" from the title of Stipulation IV and revise to provide greater specificity about the review procedure pursuant to the previous bullet.
- Mention notification and consultation with tribes in accordance with the Tribal Consultation Plan in Stipulation VI, "Treatment of Human Remains." Further, Stipulation VI appears to be appropriately consolidated with or located immediately following Stipulation X, containing procedures for unanticipated discoveries.
- Add ACHP to the annual meeting of signatories in Stipulation IX.A.
- A description of the methods of communication allowable during implementation of the PA, currently under Stipulation XII, Procedures for Consultation, should be formalized in Stipulation I, Administrative Considerations, and Stipulation XII then deleted.
- Please correct the first reference to our regulations in Stipulation XIII.A, Dispute Resolution, to read §800.7, and delete the second reference. This stipulation should also specify that STB will provide a copy of its written response to ACHP comments or final decision on any dispute to all parties to the agreement before proceeding.

We look forward to working with STB to continue the Section 106 consultation process for this undertaking and to reviewing a revised draft of the PA in the near future. Should you have any questions or wish to discuss this matter further, please contact Blythe Semmer at (202) 606-8552 or via email at bsemmer@achp.gov.

Sincerely,



Charlene Dwin Vaughn, AICP
Assistant Director
Office of Federal Agency Programs
Federal Permitting, Licensing, and Assistance Section