

**Environmental Impact Statement for the Tongue River Railroad
Docket No. FD 30186**

National Historic Preservation Act, Section 106 Teleconference

April 8, 2013

DRAFT Meeting Summary

Attendees: (Note: Please see meeting agenda for list of invited parties)

800.2(a) Surface Transportation Board, Office of Environmental Analysis, Lead Agency Official

Catherine Nadals	Office of Environmental Analysis
Ken Blodgett	Office of Environmental Analysis
Danielle Gosselin	Office of Environmental Analysis

Other Federal Agencies

Joel Ames	Army Corps of Engineers
Shannon Johnson	Army Corps of Engineers
Matt McCullor	Army Corps of Engineers
Todd Tillinger	Army Corps of Engineers
Erica Jones	Department of Agriculture, Agriculture Research Station - Stoneville, MS
Mickey McGuire	Department of Agriculture, Agriculture Research Station - Fort Collins, CO
Mark Petersen	Department of Agriculture, Agriculture Research Station - Miles City, MT
Maribeth Wuertz	Department of Agriculture, Agriculture Research Station - Miles City, MT
Christine Whitacre	National Park Service

800.2(b) Advisory Council on Historic Preservation

Najah Duvall Gabriel	Advisory Council on Historic Preservation
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800.2(c) Consulting Parties

800.2(c)(1) MT SHPO

Stan Wilmoth	Montana State Historic Preservation Office
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800.2(c) (2) (ii) Indian Tribes, off Tribal lands

Conrad Fisher	Northern Cheyenne
Steve Brady	Northern Cheyenne
Andrew Wiley	Cheyenne & Arapaho
Waste'Win Young	Standing Rock Sioux
Dianne Desrosiers	Sisseton Wahpeton Oyate
Jim Whitted	Sisseton Wahpeton Oyate
Lana Gravatt	Yankton Sioux
Faith Spotted Eagle	Yankton Sioux

Steve Vance	Cheyenne River
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800.2(c) (3) Representatives of Local Governments

Lisa Axline	Montana Department of Natural Resources and Conservation
Jean Riley	Montana Department of Transportation

800.2 (c) (4) Applicants for Federal assistance, permits, licenses, or other approvals

Matt Jones	BNSF
Derin Warren	BNSF
David Coburn	Steptoe and Johnson, Attorney for Tongue River Railroad Company
Doug Dorsey	Hansen Professional Services, Consultant to Tongue River Railroad Company
Dan Hadley	Mission Engineering, Consultant to Tongue River Railroad Company

800.2(c) (5) Additional Consulting Parties

Betsy Merritt	National Trust for Historic Preservation
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800.2(d) The Public

Clint McRae	Landowner
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800.4(a) (3) Other parties likely to have knowledge or concerns with historic properties

Beth Kaeding	Northern Plains Resource Council
Natalie Snyders	Northern Plains Resource Council
Adriann Killnight	Contractor to Bureau of Land Management for Ecoregional Ethnographic Assessment

ICF International, Third-Party Contractor to the Surface Transportation Board

Colleen Davis	ICF International
Alisa Reynolds	ICF International
Mark Robinson	ICF International
Richard Starzak	ICF International
Alan Summerville	ICF International

Cathy Nadals welcomed participants to the monthly Section 106 teleconference for the Tongue River Railroad project and thanked the participants for joining the teleconference. Ms. Nadals introduced Ken Blodgett and Danielle Gosselin as the managers of the National Environmental Policy Act (NEPA) process for the Surface Transportation Board’s Office of Environmental Analysis (OEA). Ms. Nadals explained that the primary purpose of the call is to discuss the in-person meeting scheduled for April 16-18 on the Northern Cheyenne Reservation.

Ken Blodgett thanked all the participants for joining the teleconference. Mr. Blodgett offered an overview of the NEPA process and provided an update on what has occurred since the last

teleconference on March 11, 2013. He stated that on March 22, 2013, OEA served the Final Scope of Study for the Environmental Impact Statement (EIS), which includes a summary of the comments received. OEA is now preparing to begin the environmental review and a draft EIS. Mr. Blodgett informed the teleconference participants that maps of the proposed alternatives are attached to the Final Scope of Study and that additional maps can be found on the Tongue River EIS website (www.tonguerivereis.com). These maps provide a closer view of locations of the alternatives under study and consist of a Google Earth map and .kmz file. Mr. Blodgett expressed a hope that people will find them useful as a supplement to the maps in the Final Scope of Study. He said that efforts to obtain land access for conducting surveys to support the EIS are continuing. This effort has included sending letters and making follow-up phone calls. Since the last call, aerial survey work for big game and ground work for wildlife surveys has occurred. Mr. Blodgett invited questions.

Cathy Nadals introduced Rick Starzak of ICF International and asked him to review details and logistics for the upcoming in-person meeting in Lame Deer, Montana. Mr. Starzak explained that April 15 and 19 are intended as travel days with meetings and tour scheduled for April 16-18. Accommodations have been arranged in Sheridan, Wyoming and Colstrip, Montana for those who wish to attend. A draft agenda for the meetings was included on the meeting invitation for today's teleconference. Topics for Day 1 of the meeting include an overview of the project, methodology, and questions/comments. After lunch, time has been allotted for tribal caucus and planning for the tour. Day 2 is scheduled to be a tour of alternatives. Some of the alternatives are far from roads, but the tour will review the terrain. Day 3 would involve more meetings, informed by what was observed on the tour. The agenda for the in-person consultation meeting is in draft form and Mr. Starzak asked that people please review it and provide their comments.

Cathy Nadals requested that people submit suggestions regarding the in-person consultation meeting agenda. Ms. Nadals invited questions.

Dianne Desrosier asked when the agenda was sent. Rick Starzak replied that the draft agenda was sent with the meeting invitation and that he had forwarded it to her. Additionally, Ms. Desrosier asked if it would possible to see rock art/pictographs during the tour. She suggested that landowners likely know if such sites are present on their properties. Ms. Nadals asked Conrad Fisher if he knows of rock art/pictograph locations. Mr. Fisher asked Clint McRae if he is aware of any sites. Mr. McRae responded that he is aware of activity along the Colstrip alternative route and will discuss access with his neighbors. He plans to attend the meetings in Lame Deer and can discuss this topic in more depth on Day 1 of the in-person meeting. He explained that there are cultural sites and burial grounds that are relevant.

Cathy Nadals asked Mr. McRae if he is inviting the participants in the Section 106 consulting meetings to tour his property. Mr. McRae responded that Section 106 meeting participants and tribal members are welcome. He clarified that these sites are located on private land and stated that access will not be granted to representatives of BNSF, Arch Coal, Tongue River Railroad Company (including attorneys), and railroad survey teams. ICF, OEA, and tribal members are welcome. Shannon Johnson asked if agency personnel on the tour would be permitted to view the cultural sites. Mr. McRae expressed that

it would be acceptable for representatives from the Army Corps of Engineers to tour his property and that there are water issues to which the Army Corps of Engineers should be made aware.

Dianne Desrosier expressed a concern that diesel exhaust could impact pictographs and rock art and these impacts should be analyzed in the EIS. Ms. Nadals assured her that this issue would be addressed.

Steve Brady said that the proposed Ashland to Colstrip route intersects with the historic Sioux and Cheyenne trail to Little Bighorn, and the cavalry route/trail. Ms. Nadals thanked him for this information. Dianne Desrosier reiterated Mr. Brady's comment regarding the Sioux and Cheyenne trail. Ms. Desrosier explained that such sites are spiritual in nature because ceremonies were performed prior to the Battle of the Little Bighorn. Ms. Desrosier continued by stating that rock art is related to the ceremonials and that rock art tells history. Ms. Nadals reassured her that tribal concerns will be carefully considered and incorporated. Rick Starzak expressed that this type of information is particularly useful at this stage of the analysis because it helps in comparing the alternatives. Mr. Starzak requested that people share any other information of this nature.

Conrad Fisher thanked Clint McRae for sharing access to the sites on his land. Mr. Fisher expressed that it is very important to see this pristine area. Although this is a Section 106 meeting, local people will be curious about the meeting and may attend. He suggested that the agenda should include a discussion of meeting ground rules and stated that many tribal representatives will want to hear Mr. Blodgett explain the process and status. Ms. Nadals responded that these are all great points and suggested that she and Mr. Fisher discuss them offline.

Rick Starzak indicated that side meetings, discussions, and working sessions can be scheduled in the evenings. Conrad Fisher expressed that it is important that tribes have an opportunity to share their comments and questions with the lead federal agency in an official capacity and voice their opinions about what is important. Ms. Nadals agreed and said that a court reporter would transcribe the meeting. She invited Mr. Fisher to discuss specifics of the agenda and to make revisions.

Ms. Nadals asked if anyone had specific concerns they wished to address. Ms. Nadals indicated that she provided maps to everyone via email.

Jean Riley requested shapefiles. Ms. Riley said she would like to superimpose them over her maps of roads so she can assess impacts. Ms. Nadals replied that she would contact Ms. Riley directly to coordinate.

Clint McRae asked if maps will be available on the tour of the Colstrip alternative. Ms. Nadals said they would be available on the first day of meeting. Rick Starzak explained that in addition to the hard copies of maps, the team is developing iPad technology that will use GPS. Mr. McRae responded that a binder with maps would be sufficient.

Cathy Nadals thanked Clint McRae for providing access to his land. Clint McRae expressed the opinion that it is helpful for decision makers to see issues in addition to hearing comments at scoping meetings.

Conrad Fisher offered that the 15 minutes scheduled on the draft agenda for the opening is not sufficient and suggested that it would take an hour. Local council people and the Tribal President will be present. Cathy Nadals responded that the agenda may be too busy and suggested continuing the agenda discussion after the teleconference. Conrad Fisher invited Steve Brady, Adriann Killsnight, and other tribal members to participate in the agenda discussion.

Cathy Nadals invited any final questions, closed the formal portion of the teleconference, and invited interested participants to continue discussing the agenda.

Steve Vance and Faith Spotted Eagle both expressed their intention to attend the in-person meeting April 16-18.

Discussion of the draft agenda for the in-person meeting in Lame Deer

Cathy Nadals returned to the topic of the draft agenda. She asked if everyone had received the agenda. Rick Starzak forwarded the agenda to Adriann Killsnight and Steve Brady.

Cathy summarized Conrad Fisher's earlier comment regarding the agenda: Day 1 is ambitious and the opening portion needs to be at least one hour. Conrad Fisher explained that local media have been contacted, including the Billings Gazette. Some media with cameras might be present. The Northern Cheyenne consider the event to be very significant because it is bringing many tribes with ancestral ties to the areas back to the area to discuss important issues. As the host tribe, the Northern Cheyenne wish to welcome the other tribes. This welcome includes cultural activities and remarks offered by a few people who will speak on behalf of the Northern Cheyenne Tribe. The honor guard will be present. He predicted that the meeting will be well attended, and the room will be crowded. Recently, scoping meetings on the Otter Creek mine were held and were well attended. There is a lot of local interest in the project. There may be protests outside.

Cathy Nadals asked about ground rules. Conrad Fisher responded that local people will likely attend the meeting, including elders who have high status and rank in the community. Mr. Fisher suggested that ground rules are needed to establish order and understanding. He expressed that OEA's job is to ensure everyone understands the purpose of the meeting. The Northern Cheyenne will provide a traditional whipper, which is a traditional law enforcement technique, to give order to the meeting.

Cathy Nadals suggested that, perhaps, the entire morning of Day 1 be devoted to tribal welcome and project update and question/answer period be moved to the afternoon. Conrad Fisher suggested that the overview and purpose of the meeting, along with the update in the EIS process, should be covered in the morning. He explained that there will be a lot of discussion during this topic because there will be some attendees who are not familiar with the project.

Cathy Nadals asked Mr. Fisher to establish the meeting ground rules. Mr. Fisher said that the Northern Cheyenne does not want to dominate the meeting, but that it is important for attendees to understand that the purpose of the meeting is to cover Section 106 topics. Ms. Nadals suggested some agenda modifications in response to Mr. Fisher's concerns. Mr. Fisher offered that the tribes may want to

caucus after the purpose/overview section of the meeting. He suggested that time be planned for this. Ms. Nadals agreed. She added that maps will be available on Day 2 for the tour, per Mr. McRae's suggestions.

Conrad Fisher reported that Northern Cheyenne members are continuing to hold planning meetings. The Northern Cheyenne may be able to provide packed lunches for the Day 2 tour. Mr. Fisher broached the subject of the tour route. Mr. Fisher and Ms. Nadals discussed the need for maps. Mr. Fisher suggested including Mr. McRae, and his property. Cathy Nadals expressed the importance of providing an overview of all the alternatives. Mr. McRae suggested meeting the tour at the Cow Creek turn-off from Highway 39 and looking at cultural sites along the Colstrip alternative, creek crossings, access to cattle, and cultural sites around Ashland. He suggested it might be possible to eat in Ashland.

Alan Summerville explained that the original plan was to cover non-Section 106 issues at Mr. McRae's ranch. Perhaps now Section 106 issues can be covered there, and then the groups can split off, some to continue discussing Section 106 issues and others to discuss other NEPA issues. Conrad Fisher said it is important to for visiting tribes to see rock art as that is culturally significant and important to them. Mr. Fisher and Mr. McRae agree to discuss on another call.

Lana Gravatt asked if the Northern Cheyenne have been consulting on the other environmental issues. Mr. Fisher replied that there have been scoping meetings. The Northern Cheyenne have submitted comments on the railroad project and the Otter Creek mine.

Cathy Nadals stated that although there is still work to do on the agenda, the meeting is coming together. Ms. Nadals said a new agenda would be sent out once the revisions were made.

Conrad Fisher suggested that Monday might be spent on preparing the tribal chambers and doing a dry run of the meeting. Cathy Nadals suggested testing the phone system. Ms. Nadals and Mr. Starzak said they would try to arrange their travel to allow them to arrive early on Monday.