



Office of Environmental Analysis

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

EO - 2414

10-27-14

October 27, 2014

Robert F. Bendus, State Historic Preservation Officer and Director of Historical Resources
Florida Division of Historical Resources
Bureau of Historic Preservation
R.A. Gray Building
500 South Bronough Street
Tallahassee, FL 32399

RE: Docket No. FD 35852, Canaveral Port Authority — Petition to Construct and
Operation a Rail Line Extension to Port Canaveral, Florida: Initiation of Section
106 Consultation for Undertaking.

Dear Mr. Bendus:

The purpose of this letter is to initiate consultations with you under Section 106 of the National Historic Preservation Act (NHPA) for the above-referenced project. The Canaveral Port Authority (CPA) plans to file a request with the Surface Transportation Board (Board) pursuant to 49 U.S.C. § 10502 for authority to the construct and operate approximately 11 miles of new rail line to Port Canaveral (Port) in Brevard County, Florida. The proposed Port Canaveral Rail Extension (PCRE) would also utilize approximately 17 miles of existing rail line at the National Aeronautics and Space Administration's (NASA) John F. Kennedy Space Center (KSC) to make a connection with a main line of the Florida East Coast Railway. The proposed PCRE would provide the Port with direct access to freight rail service. The new rail line would begin near the Port's North Cargo Area, extend west across the Banana River, enter KSC on Merritt Island south of Kars Park, and then turn north through KSC grounds where it would connect with KSC's existing rail line. The decision facing the Board whether or not to authorize the construction and operation of the rail extension is an undertaking subject to compliance with Section 106 of the NHPA and its implementing regulations at 36 C.F.R. Part 800. The Office of Environmental Analysis (OEA) is the office within the Board responsible for preparing the appropriate documentation for compliance with the National Environmental Policy Act (NEPA) as well as Section 106 of the NHPA.

As part of the NEPA and Section 106 processes, OEA is requesting your initial comments regarding the potential for the rail line to affect historical, architectural, archeological, tribal or other historic properties that may be in the project area.

Initiation of Section 106 Consultation

OEA would like to initiate consultation with you under Section 106 of the NHPA for the PCRE undertaking as currently proposed by CPA. OEA will be consulting with your office on the definition and documentation of the Area of Potential Effects (APE) and the level of effort for the identification of historic properties. OEA will send information on those topics under separate

cover for your review and comment. Attached to this letter as Attachment A, we are providing for your review and comment, a preliminary list of Section 106 consulting parties that have been invited to participate in this project. We welcome any suggestions you may have regarding consulting parties that you think should be added to our list.

For your reference, Attachment B to this letter includes a map of the project area including CPA's proposed alignments. Additional information on this project is available on a Board-sponsored project website at www.portcanaveralraileis.com and on the Board's website at www.stb.dot.gov, by placing your cursor on the "Environmental Matters" button, then clicking on the "Key Cases" button in the drop down menu and then selecting "Port Canaveral Rail Extension."

If you have any questions or would like to discuss the project in more detail please contact Dave Navecky of my staff at 202-245-0294 (david.navecky@stb.dot.gov). You may also contact Richard Starzak with ICF International (OEA's third party contractor) at 213-312-1751 (richard.starzak@icfi.com). Thank you for your time and efforts.

We look forward to consulting with you and your office on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" and last name "Rutson" clearly distinguishable.

Victoria Rutson
Director
Office of Environmental Analysis

cc: Richard Starzak, ICF International; Tim Parsons

Enclosures: Draft Consulting Party List; Map of the project area including CPA's proposed alignments

ATTACHMENT A: Preliminary List of Section 106 Consulting Parties

Surface Transportation Board (STB) Office of Environmental Analysis (OEA)

Proposed Port Canaveral Rail Extension: Preliminary List of Section 106 Consulting Parties

The regulations for complying with Section 106 of the National Historic Preservation Act at 36 C.F.R. Part 800 require the responsible Federal agency to involve consulting parties in findings and determinations made during the Section 106 process [§800.2(a)(4)]. To assist with identifying the consulting parties for the proposed Port Canaveral Rail Extension, the relevant text from the regulations explaining each category of participants in the Section 106 process, including consulting parties is provided in a text box, followed by a proposed list of consulting parties.

Participants

Federal Agencies

§800.2(a)(2) Lead Federal agency. If more than one Federal agency is involved in an undertaking, some or all the agencies may designate a lead Federal agency, which shall identify the appropriate official to serve as the agency official who shall act on their behalf, fulfilling their collective responsibilities under section 106. Those Federal agencies that do not designate a lead Federal agency remain individually responsible for their compliance with this part.

- STB, Responsible for the undertaking
- National Aeronautics and Space Administration (NASA), because the Kennedy Space Center is in the Area of Potential Effects (APE) and is a cooperating agency
- United States Army Corps of Engineers (USACE) is a cooperating agency
- United States Fish and Wildlife Service (USFWS) is a cooperating agency

Advisory Council on Historic Preservation (ACHP)

§ 800.2(b)(1) Council entry into the section 106 process. When the Council determines that its involvement is necessary to ensure that the purposes of section 106 and the act are met, the Council may enter the section 106 process. Criteria guiding Council decisions to enter the section 106 process are found in appendix A to [36 CFR Part 800].

[Note § 800.6(a)(1), requires the federal agency to notify the Council when there is an adverse effect finding on a historic property or on a National Historic Landmark, and several other considerations.]

- The ACHP is not participating at this early stage of the undertaking, but would be invited if a National Historic Landmark is in the Area Potential Effect or an adverse effect on historic properties is identified.

Consulting Parties

State Historic Preservation Officer (SHPO)

§ 800.2(c)(1) The State historic preservation officer (SHPO) reflects the interests of the State and its citizens in the preservation of their cultural heritage. In accordance with section 101(b)(3) of the act, the SHPO advises and assists Federal agencies in carrying out their section 106 responsibilities and cooperates with such agencies, local governments and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development.

- Florida SHPO

Indian Tribes

§ 800.2(c)(2)(ii) Section 101(d)(6)(B) of the [NHPA] requires the agency official to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking. This requirement applies regardless of the location of the historic property. Such Indian tribe or Native Hawaiian organization shall be a consulting party.

- Seminole Tribe of Florida
- Seminole Nation of Oklahoma
- Miccosukee Tribe of Indians
- Muscogee (Creek) Nation of Oklahoma
- Poarch Band of Creek Indians

Representatives of local governments

§ 800.2(c)(3) A representative of a local government with jurisdiction over the area in which the effects of an undertaking may occur is entitled to participate as a consulting party. Under other provisions of Federal law, the local government may be authorized to act as the agency official for purposes of section 106.

- City of Cape Canaveral City Manager
- Brevard County Historical Commission

Applicants for Federal assistance, permits, licenses and other approvals

§ 800.2(c)(4) An applicant for Federal assistance or for a Federal permit, license or other approval is entitled to participate as a consulting party as defined in this part.

- Canaveral Port Authority

800.2(c)(5) Additional consulting parties

§ 800.2(c)(5) Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties.

- National Trust for Historic Preservation
- Florida Trust for Historic Preservation
- Indian River Anthropological Society
- North Brevard Heritage Foundation

ATTACHMENT B: MAP OF PROJECT AREA and PROPOSED ALIGNMENTS

