

#EO-2578



**RE: Consulting Party Status: STB Docket No. AB 1068 (Sub-No. 3X)
Missouri Central Railroad Company**

Diana Wood to: Zuzana Chovanec

06/16/2015 11:20 AM

Andrea Hunter, Stover City Hall, "Deel, Judith",
Cc: "ngabriel@achp.gov", "Brown, Sandra", "woodd@stb.dot.gov",
"Bryan, Mary"

3 attachments



MOA AB 1068X.pdf



Osage Nation.docx



Executed MOA 6-1-15.pdf

Dear Dr. Chovanec:

The attached executed MOA from another line segment of the same railroad included the Osage Nation as a concurring party, and we welcome your participation in that capacity. We based this decision - now and in the past - on the understanding that the rail line is not located on tribal lands and that the Osage Nation would not be assuming review of other responsibilities under the MOA (per ACHP guidance). We believe the stipulations below from the executed MOA adequately address the inadvertent discovery of any cultural resources and historic properties.

Please understand that as a concurring party, you will continue to receive information regarding the project but that your concurrence will not change the stipulations of the MOA or its date of execution. I have included a pdf of the executed MOA and also a signature and contact information page for you to complete and return. I will send out the revised MOA to all parties and ACHP once I receive your concurrence and contact information. In the interest of time, please provide the requested information no later than July 6, 2015.

I. UNANTICIPATED DISCOVERIES

A. Procedures for Unanticipated Discoveries of Cultural Resources and Historic Properties.

1. There are no known archaeological sites located within the 144.3-mile right-of-way. However, in the event that any unreported or unanticipated archaeological sites or cultural resources are discovered during salvage For abandonment proceedings, salvage activities may include removal of tracks and ties, removal of ballast, dismantling of any structures that may be present on the right-of-way, and regrading the right-of-way. Salvage may be performed within the right-of-way or, if necessary, via the construction of new access points to the right-of-way. activities, MCRR shall:

- a. immediately cease all work;
- b. clearly mark the area of discovery;
- c. implement interim measures to protect the discovery from looting and vandalism; and

d. notify OEA, federally-recognized Tribes, and the SHPO pursuant to 36 C.F.R. § 800.13(b)

2. Upon notification of the discovery, OEA shall consult with the SHPO, DNR/DSP, federally-recognized Tribes, MCRR, and other consulting parties, if any, to determine the NRHP eligibility of the discovery and whether appropriate mitigation measures, such as protection in place or archaeological data recovery plans, are necessary.

a. OEA, in consultation with the SHPO and appropriate federally-recognized Tribes, will have 30 calendar days following notification to determine the NRHP eligibility. OEA may assume the newly discovered property to be eligible for the NRHP.

b. If the find is determined to be potentially significant, OEA will consult with the SHPO and appropriate federally-recognized Tribes regarding appropriate measures for site treatment pursuant to 36 C.F.R. § 800.6(a). Once presented, the SHPO and the federally-recognized Tribes will have 30 calendar days to provide their objections or concurrence on the proposed actions. Mitigation measures may include:

i. formal archaeological evaluation of the site;

ii. visits to the site by the SHPO and/or appropriate Tribes; and/or

iii. preparation and implementation of a mitigation plan by OEA in consultation with federally-recognized Tribes for approval by the SHPO.

3. In the event that any human remains (other than from a crime scene) are discovered or excavated, they are subject to the immediate control, possession, custody, and jurisdiction of the SHPO, pursuant to the Missouri Unmarked Human Burials Sites Act (RSMo. 194.400-194.410). The excavation of human remains will follow guidance obtained through DNR/DSP, SHPO, and federally-recognized Tribes. The excavation, handling, and processing of any such human remains and associated funerary objects, sacred objects, or objects of cultural patrimony shall be in accordance with the SHPO instructions and pursuant to any provisions of the Native American Graves Protection and Repatriation Act (NAGPRA) applicable to such remains and artifacts found in the APE. This excludes any cemetery human remains that may be discovered or excavated in the APE. These finds would be regulated by local government and law enforcement agencies, pursuant to Chapter 214, Cemeteries.

B. In the event of any unanticipated discoveries, MCRR shall ensure that a report on the archaeological investigations conducted pursuant to this "Unanticipated Discoveries" section is provided to the SHPO and OEA, and upon request to other interested parties.

C. Any report on unanticipated discoveries shall follow (1) procedures for the processing, analysis, and curation of collected materials as described in the Advisory Council's Handbook Treatment of Archaeological Properties, Part 111 of the Secretary of the Interior's Guidelines, and (2) currently accepted standards for the analysis and curation of archaeological remains. (DNR/DSP shall curate at Rock Bridge).

Diana F. Wood
Office of Environmental Analysis
Surface Transportation Board
395 E Street SW Room 1110
Washington, DC 20423
202-245-0302 (phone)
202-245-0454 (fax)

From: Zuzana Chovanec <zchovanec@osagenation-nsn.gov>
To: "Diana.Wood@stb.dot.gov" <Diana.Wood@stb.dot.gov>
Cc: Andrea Hunter <ahunter@osagenation-nsn.gov>, "woodd@stb.dot.gov" <woodd@stb.dot.gov>, "Deel, Judith" <judith.deel@dnr.mo.gov>, "Brown, Sandra" <Sandra.Brown@thompsonhine.com>, "ngabriel@achp.gov" <ngabriel@achp.gov>, Stover City Hall <cityofstover@windstream.net>
Date: 06/11/2015 10:06 AM
Subject: RE: Consulting Party Status: STB Docket No. AB 1068 (Sub-No. 3X) Missouri Central Railroad Company

Dear Ms. Wood,
Thank you for your email, for detailing the situation, and providing options for the Osage Nation's involvement. Our preferred path would be included as an invited signatory. Please let me know if this would be possible.

Kind regards,

Zuzana Chovanec, Ph.D.
Archaeologist
Osage Nation Historic Preservation Office

From: Diana.Wood@stb.dot.gov [Diana.Wood@stb.dot.gov]
Sent: Tuesday, June 09, 2015 10:19 AM
To: Zuzana Chovanec
Cc: Andrea Hunter; woodd@stb.dot.gov; Deel, Judith; Brown, Sandra; Diana.Wood@stb.dot.gov; ngabriel@achp.gov; Stover City Hall
Subject: Re: Consulting Party Status: STB Docket No. AB 1068 (Sub-No. 3X) Missouri Central Railroad Company

Dear Dr. Chovanec:

I am in receipt of your request below to participate in the Section 106 consulting process and development of an MOA in the above referenced proceeding. Unfortunately, the invitation letter (see attached) I sent to all potential Section 106 parties was dated March 27th and had a 30-day response

time. Since I did not hear anything back within the time specified, the MOA was developed with only those parties who responded back. The MOA has since been executed and sent to the ACHP. I have, however, discussed this situation with Najah Duvall-Gabriel at the ACHP, and she said that it is up to the agency to decide if it wants to amend an MOA to allow for additional concurring parties. Najah suggested that I first contact you and ask if, in lieu of becoming an official concurring party, it would be acceptable to receive all the documents that will be prepared per the MOA stipulations, as if you were a concurring party, but not officially be part of the MOA. If this is acceptable, then I will include you in all future correspondence. If not, then I will have to begin the process of amending the MOA with the ACHP and other parties to include you in the process.

I've attached the MOA for your review. Please let me, and others cc'ed here, know which path you wish to take.

Thanks!

Regards,
Diana

Diana F. Wood
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From: Zuzana Chovanec <zchovanec@osagenation-nsn.gov>
To: "woodd@stb.dot.gov" <woodd@stb.dot.gov>
Cc: Andrea Hunter <ahunter@osagenation-nsn.gov>, Zuzana Chovanec <zchovanec@osagenation-nsn.gov>
Date: 06/08/2015 11:46 AM
Subject: Consulting Party Status: STB Docket No. AB 1068 (Sub-No. 3X) Missouri Central Railroad Company

Dear Ms. Wood,

The Osage Nation Historic Preservation Office has received notification and accompanying information for the STB Docket No. AB 1068 (Sub-No. 3X) Missouri Central Railroad Company - Abandonment and Discontinuance of Service Exception - In Cass, Pettis, Benton, Morgan, Miller, Cole, Osage, Maries, Gasconade, and Franklin Counties, Mo.

The Osage Nation has a vital interest in protecting its historic and ancestral cultural resources. We appreciate and accept your invitation to participate as a consulting party in the Section 106 process and in the development of a Memorandum of Agreement.

Please feel free to contact us with any questions or further information. Thank you for consulting with the Osage Nation on this matter.

Zuzana Chovanec, Ph.D.
Archaeologist
Osage Nation Historic Preservation Office