



SURFACE TRANSPORTATION BOARD
395 E Street, SW
Washington, DC 20423-0001
Section of Environmental Analysis

December 15, 2008

Michael B. Jandreau, Chairman
Lower Brule Sioux Tribe
187 Oyate Circle
Lower Brule, SD 57548-8500

**Re: STB Finance Docket No. 33407, Dakota, Minnesota & Eastern Railroad Corporation
Construction into the Powder River Basin Project**

Dear Chairman Jandreau:

I am responding to your letter about the lack of tribal participation in a recent meeting jointly held by the Surface Transportation Board (STB) and the Dakota, Minnesota and Eastern Railroad (DM&E) in Sioux Falls, South Dakota on December 2, 2008.

The meeting was requested by the DM&E to present its response to some procedural issues and concerns expressed by the STB, as well as participating Federal agencies and State Historic Preservation Officers, regarding archaeological survey reports distributed for review. The meeting was planned and presented by DM&E, at its expense, to assist it in resolving those concerns. Tribes were not invited to the meeting as they provided no specific comments in response to the survey reports. However, we will ensure that the meeting minutes and other meeting outcomes will be shared with the Lower Brule Sioux Tribe and other participating tribes.

The STB is committed to continuing to ensure the full participation of interested tribes in the Section 106 process for the DM&E Project as specified in the Programmatic Agreement (PA). As a signatory to the PA, the participation of the Lower Brule Sioux Tribe is of particular importance to STB as we continue to implement the provisions of the PA.

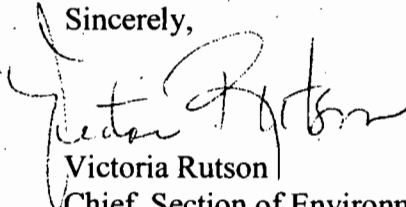
As you know, Randy Withrow with the Louis Berger Group, our third-party contractor, met last week with Clair Green of the Lower Brule Sioux Tribe and other tribal members in Pierre, SD to give them a full briefing of the December 2nd meeting. Randy also discussed our preliminary draft tribal evaluation scope of work with the participating tribes. The scope will be used to outline a tribal study to assist us in determining the National Register of Historic Places status of sites that may be of tribal value but are currently listed as "unevaluated" in project reports.

The STB will continue to view the participation of tribes as a critical and fundamental part of our PA and trust responsibilities as we further implement the provisions of the PA.

Please do not hesitate to call me at (202) 245-0295 if you have any continued concerns. Catherine Glidden, of my staff, is also available to discuss the project with you. She can be reached at (202) 245-0293.

My best to you over the Holiday Season!

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson", written over a horizontal line.

Victoria Rutson
Chief, Section of Environmental Analysis

cc: Clair Green
Randy Withrow