

FILE

06-1142-6A-BIN

MEMORANDUM TO: Office of the Secretary

FROM: Ellen Saint Onge, OEP/DG2E/Gas 1

SUBJECT: Rockies Express East Pipeline
Docket No. CP07-208-000

DATE: March 21, 2008

Please place the following items into the public file for the above docket:

- Letter from property owner John Forman dated March
- Record of phone communication of 3-13-08

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Technician SM Date Processed 3/31/08

CP07-208

RECORD OF COMMUNICATION: Telephone conference

DATE: March 13, 2008

REC'D
COMMUNICATIONS
MAR 27 AM 9:02

PARTICIPANTS:

- John Forman - property owner (the Hunt-Forman Farm)
- George Gleason - Historic Consultant for Mr. Forman
- Alisa Lykens - FERC, Office of Energy Projects (OEP) Chief, Gas Branch 2
- Ellen Saint Onge - FERC, OEP, Cultural Resources Specialist

Ms. Alisa Lykens and Ms. Ellen Saint Onge called Mr. John Forman, returning his earlier call to Alisa Lykens regarding concerns he had about the REX project. Mr. George Gleason then joined the call. Mr. Forman had several questions, many procedural, about the environmental review and section 106 National Historic Preservation Act (NHPA) processes. He had previously sent a written request to be a consulting party for the section 106 process, based on the fact that his property is listed on the National Register of Historic Places (NRHP), and the Rockies Express East (REX East) pipeline, as proposed, would traverse the property. Mr. Forman mentioned that his property was the only property on the pipeline that was listed on the NRHP and that should influence whether he was included as a consulting party.

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Ms. Ellen Saint Onge indicated that typically the FERC does not include individual property owners as signatories of compliance documents. The FERC uses the NEPA process to take into consideration the issues/concerns identified by affected landowners and addresses them in the environmental review and Commission's proceedings.

Ms. Saint Onge also explained that any property in the project area that is found eligible for listing will be treated in the same manner as one that is listed. On large projects such as REX East there could be a number of historic properties that could be adversely affected, and including all of those property owners as signatories to a section 106 document such as a Memorandum of Agreement, could make it difficult to finalize that document.

Ms. Lykens indicated that since Mr. Forman formally requested to be signatory, that it would be appropriate to respond to Mr. Forman in writing of our decision regarding his status as a consulting party, and that possibly could be done after the FERC staff has a chance to review the evaluation report, currently being prepared for his property and other documented sites.

Mr. Forman indicated that this would be acceptable.

Additionally, Mr. Forman wanted to know the agency official with legal and financial responsibility for the project as described in 36 CFR 800.2. Ms. Saint Onge indicated that she was the resource analyst on staff for cultural resources. She explained that since

the FERC is not a federal land managing agency, the implementing regulations (36 CFR 800) for the NHPA provide that we can require the applicant to perform the cultural resources survey, to submit the resulting survey and evaluation reports to the State Historic Preservation Office (SHPO) and to the FERC for review. As the reviewer, she would take into consideration the results of the survey and evaluation reports and the comments of the Ohio SHPO before making recommendations of eligibility and effects to historic properties. Her recommendations are reviewed by the project manager, Branch Chief, and by the Division's Director. Mr. Forman asked again who had ultimate legal and financial responsibility for those determinations. Ms. Saint Onge was not certain, and informed Mr. Forman that she would find out and clarify it. (The Office of Energy Projects Director, Mark Robinson, is the Agency Official with legal and financial responsibility for the recommendations.)

Mr. Gleason asked about process of cultural resources survey and where in the process REX was regarding his property. Ms. Saint Onge explained the process, and indicated that archival/background research has been conducted for the Hunt-Forman property, but the evaluation of the impacts to the property had not been completed due to denied access. Mr. Forman indicated that he was granting access for the evaluation. He also expressed concern that the evaluation of above ground resources should include an assessment not just of buildings, but of the character and setting of the whole property. Ms. Saint Onge agreed that an adequate investigation would look at more than just the buildings, and include the feeling, association, and setting.

Mr. Forman expressed an interest in seeing what has been written about the Hunt-Forman property in the Phase I report. He also indicated that a FOIA request was requested, and Alisa Lykens acknowledged that fact.

Some of the procedural questions asked included, whether the FERC or Rockies Express was responsible for producing the EIS, and what was DOT's involvement with the EIS, did that agency need to review it per DOT's 4(f) procedure.

Ms. Lykens replied that the FERC as the federal agency was responsible for producing the EIS and briefly explained the EIS process. Ms. Lykens indicated that since the DOT was not the project proponent she did not believe that those regulations would apply, but for more specific information on the DOT's role, Mr. Forman should speak with someone in the DOT's Office of Pipeline and Hazardous Materials Safety Administration (PHMSA). Ms. Lykens provided him with the phone number of Community Assistance and Technical Services within the PHMSA.

Mr. Forman also brought up the subject of reroute options. He stated that REX's Feb 19th response regarding the collocation of pipelines contained some incorrect information. REX stated that there are existing structures that would restrict ability to avoid buildings. Mr. Forman states that his proposed reroute to the south would avoid any existing buildings.

Cp07-208

HUNT - FORMAN FARM
WARREN COUNTY OHIO
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REGULATORY
COMMISSION

08 MAR 27 AM 9:02

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March 14, 2008

Ms. Kimberly D. Bose
Ms. Alisa M. Lykens
Ms. Ellen Saint Onge

Dear Ms. Bose:

This is to follow up on the telephone conference of March 13, 2008 and my letter of March 5, 2008 requesting 1) participating consulting party status and 2) the name of the agency official taking legal and financial responsibility for Section 106 compliance for the Rockies Express Pipeline undertaking.

Based on comments during the telephone conference it was indicated that I would be receiving an answer in writing to my requests. It is essential, due to the nature of my legal and economic relation to the undertaking to understand when I can expect this letter from the agency official concerning any determination as to my status as a consulting party.

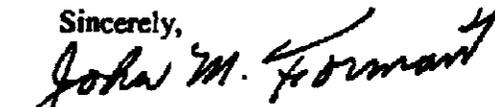
Please email me as soon as possible a short note with FERC's expected date/timing when this written response will be sent to me. john.forman@wright.edu

In addition, I have another request/question: Is the FERC for the Rockies Express Pipeline undertaking pursuing or considering pursuing the federal agency program alternatives or alternate procedures outline in 36 CFR Part 800 Subpart C §800.14 ?

Please provide an answer to these three questions in your response letter: 1) consulting party status; 2) the name of the agency official and 3) FERC's intentions relative to §800.14.

Thank you

Sincerely,


John M. Forman

CC: See attached

ORIGINAL

Mr. Michael Smith
Assistant General Counsel
National Trust for Historic Preservation

Mr. Reid Nelson
Assistant Director
Advisory Council on Historic Preservation

Mr. Tom McCulloch
Program Analyst
Advisory Council on Historic Preservation

Mr. Tom Mayes
Deputy General Counsel
National Trust for Historic Preservation

Mr. Matthew W. Fellerhoff
Manley Burke, A Legal Professional Organization

Mr. Dave M. Snyder
Archaeology Reviews Manager
Ohio Historic Preservation Office

Ms. Nancy H. Campbell
History/Architecture Transportation Reviews Manager
Ohio Historic Preservation Office

Ms. Barbara A. Powers
Department Head of Inventory and Registration
Ohio Historic Preservation Office

Ms. Heather Campbell
FERC