



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

March 12, 2014

Dr. Mark Baumler
 State Historic Preservation Officer
 Montana Historical Society
 225 North Roberts, P.O. Box 201201
 Helena, MT 59620-1201

Attn: Stan Wilmoth

Re: Docket No. FD 30186, Tongue River Railroad Company, Inc. - Rail Construction and Operation - in Custer, Powder River and Rosebud Counties, Montana: Project Updates

Dear Dr. Baumler:

As you know, the Surface Transportation Board (Board) initiated consultation with your office regarding the proposed Tongue River Railroad Company, Inc. (TRRC) Rail Construction and Operation on October 22, 2012, pursuant to the National Environmental Policy Act (NEPA) and Section 106 regulations (36 CFR Part 800) of the National Historic Preservation (NHPA). The purpose of this letter is to summarize our historic preservation outreach, consultation, and fieldwork efforts to date, and to thank you for the input and guidance you have provided to the Board's Office of Environmental Analysis (OEA) thus far. We begin with our current list of Section 106 consulting parties.

Consulting Parties

Since October 2012, OEA has sent letters initiating consultation with the ACHP, affiliated federally recognized tribes, federal and state agencies, TRRC, and several historic preservation organizations, ranchers, and environmental groups, as follows:

36 CFR § 800.2 Participants in the Section 106 process:

§ 800.2(a) Agency Official

Surface Transportation Board, Office of Environmental Analysis

§ 800.2(a)(2)Lead Federal Agency

Surface Transportation Board

Other Federal Agencies include:

U.S. Army Corps of Engineers (USACE)

Bureau of Land Management (BLM)

U.S. Department of Agriculture (USDA)

National Park Service (NPS)

§ 800.2(b) Council

Advisory Council on Historic Preservation (ACHP)

§ 800.2(c) Consulting Parties

§ 800.2(c)(1) State Historic Preservation Officer

Montana State Historic Preservation Officer (SHPO)

§ 800.2(c)(2) Federally Recognized Tribes¹

Cheyenne & Arapaho Tribes	Rosebud Sioux Tribe of Indians
Cheyenne River Sioux Tribe	Santee Sioux Nation (Santee Sioux Tribe of Nebraska)
Crow Creek Sioux Tribe	Shakopee Mdewakanton Sioux
Crow Tribe of Indians	Shoshone Tribe of the Wind River Reservation
Flandreau Santee Sioux	Sisseton Wahpeton- Oyate
Ft. Belknap Indian Community	Spirit Lake Tribe
Ft. Peck Assiniboine and Sioux Tribes	Standing Rock Sioux Tribe
Lower Brule Sioux Tribe	Three Affiliated Tribes: Mandan, Hidatsa & Arikara Nation
Lower Sioux Indian Community ²	Turtle Mountain Band of Chippewa
Northern Arapaho Tribe	Upper Sioux Community ³
Northern Cheyenne Tribe	Yankton Sioux Tribe
Oglala Sioux Tribe	

§ 800.2(c)(3) Representatives of Local Governments

Montana Department of Natural Resources and Conservation
Montana Department of Transportation
Miles City Historic Preservation Office

§ 800.2 (c)(4) Applicants for Federal Assistance, Permits, Licenses, or Other Approvals

Tongue River Railroad Company

§ 800.2(c)(5) Additional Consulting Parties

Fix Ranch
Montana Preservation Alliance
National Wildlife Federation
National Trust for Historic Preservation
Northern Cheyenne Otter Creek Descendants
Northern Plains Resource Council
Rocker Six Cattle Company
Sierra Club

¹ The Blackfeet Nation declined to be a consulting party.

² The Lower Sioux Indian Community requested to continue to receive information about the undertaking, but declined consulting party status.

³ The Upper Sioux Community has been contacted, but has not expressed a preference to date.

We believe we had a productive meeting on January 23, 2014, with Stan Wilmoth of your office and Charlene Vaughn and Najah Duvall-Gabriel of the ACHP. The meeting provided us with an opportunity to discuss an appropriate strategy for completing our historic reviews for the TRRC project moving forward. The meeting included a discussion regarding our consultation efforts to date, as discussed below.

Consultation Efforts

OEA has been holding its monthly calls with consulting parties since February 2013. OEA has also created a historic preservation page on the Tongue River Project website accessible to consulting parties and members of the public (http://www.tonguerivereis.com/sect_106.html). The website includes pertinent Section 106 correspondence, documents, and project maps. OEA held a consulting party meeting on the Northern Cheyenne Reservation in Lame Deer, Montana, from April 16th to 18th, 2013. The meeting included a one-day bus tour of portions of the study area. During the meeting, representatives from the Rosebud Sioux Tribe offered suggestions for OEA to consider in developing its archaeological methods for the project. These suggestions, which follow, were echoed by other tribal representatives at the meeting.

- Tribal members and archaeologists offer differing expertise, which should be considered in the identification of sites of religious and cultural significance to tribes.
- Tribal sites should be respected.
- Tribal members should have parity with archaeologists.

These suggestions were incorporated into the development of our field survey methods and the composition of our field crews, as described below.

OEA recently held a Section 106 consulting party meeting in Billings, Montana, February 13 to 14, 2014, and it was attended by Stan Wilmoth of your office. OEA provided an update on Section 106 to the consulting parties and solicited their comments, questions, and concerns about the progress to date and next steps. Several of the meeting attendees had recommended that we begin work on a PA right away. Consequently, after the meeting was formally adjourned on February 14th, the following consulting party representatives remained behind to work on redrafting the PA that we had developed for the old Tongue River project:

- Conrad Fisher, Northern Cheyenne Tribe, Tribal Historic Preservation Officer (THPO)
- Terry Clouthier, Standing Rock Sioux Tribe, tribal archaeologist
- Ben Rhodd, Rosebud Sioux Tribe, contract archaeologist
- Tamara St. John, Sisseton-Wahpeton Oyate, THPO office archivist
- Steve Vance, Cheyenne River Sioux Tribe, THPO
- Curley (Darrell) Youpee, Ft. Peck Assiniboine and Sioux Tribes, THPO
- Chris Jenkins, USACE, Regulatory Branch, Cultural Resources Program Manager
- David Coburn, Steptoe & Johnson, representing the TRRC.

OEA intends to further refine the old PA with the current project description. Once we have completed the administrative edits, we will send around the redrafted PA for your review and

comment. We also intend to add some language to the redrafted PA to incorporate recommendations made by the meeting participants on February 14th and 15th. However, OEA will not make any additional changes to the PA until you and the consulting parties have a chance to review the revised draft to ensure that you and the consulting parties are in agreement with these inclusions/changes to the PA.

Area of Potential Effects

Pursuant to 36 CFR § 800.4(a)(1), OEA established a preliminary Area of Potential Effect(s) (APE) to identify cultural and tribal resources in the study area. The preliminary APE for tribal and archaeological sites was defined as the right-of-way for each build alternative plus a 200-foot-wide buffer on either side of the right-of-way.

The preliminary APE for built resources (historic buildings, structures, objects and districts) was limited to the right-of-way with a maximum 1,500-foot buffer as defined above. This buffer was selected to allow for analysis of the full range of potential impacts on built resources, which could include demolition, construction and operation impacts, and impacts caused by changes to the visual and auditory setting of the resource. Areas within the 1,500-foot buffer but obscured by a butte or mountain were not included.

Previously Recorded Sites and Resources

Pursuant to 36 CFR § 800.4(a)(2), OEA reviewed existing information on historic properties within the APE. As you know, cultural resources in Montana are recorded on site forms that are retained in the State of Montana Cultural Resource Information System (CRIS) database, maintained by the Montana Historical Society (MHS). OEA obtained site records from the MHS for an area extending one mile from each side of the centerline for each build alternative, which is larger than the APE. This large records search area, because it yields many site forms describing previously found cultural resources, also provides a better context to describe the cultural environment of the study area. Reports of past surveys and analyses were also obtained from the MHS, indicating that *less than 10 percent* of the APE had been previously surveyed for archaeological sites. The records searches yielded 780 site forms: 170 from Custer County, 166 from Powder River County, 312 from Rosebud County, and 132 from Bighorn County. Of these 780 previously recorded cultural resources, 71 fell within the APE, including 44 archaeological sites (Table 1) and 27 built resources (Table 2).

Table 1. Previously Recorded Archaeological Sites—All Build Alternatives

Lithic Scatter	Lithic Scatter with Other Components	Stone Circle	Cairn	Historic Water – Associated Features	Historic Trail or Fence	Other ^a	TOTAL Archaeology Sites	Tribal Sites
16	23	2	1	0	0	2	44	0

Notes:

^a *Other* includes two railroad grades

Table 2. Previously Recorded Built Resources—All Build Alternatives

Barn	Bridge	Dam/ Levee	District^a	Homestead	Railroad	Ranch	Road/ Trail	Utility	Windmill	Other^b
0	2	0	2	3	2	11	2	0	0	5

Notes:

^aThe two *districts* included the Lee Community Historic District and the Main Street Historic District in Miles City,

^b *Other* includes schools, irrigation systems, and a grave marker.

In addition to the 27 built resources formally recorded in the State of Montana CRIS database, three other built resources were identified through literature review.

- Birney Ranching Rural Historic District: *Cultural Landscape of the Upper Tongue River Valley in Rosebud County, Montana* (Montana Preservation Alliance 2007).
- The Tongue River Valley Rural Historic District: *Cultural Landscape-Scale Overview of the High Potential Coal Bed Natural Gas Development Area* (Renewable Technologies, Inc. 2006).
- The Hogback Pasture: *A Study of the Hogback Pasture on the Fort Keogh USDA Agricultural Station* (Ethnoscience in press).

OEA also reviewed the inventory of properties listed in the National Register of Historic Places (National Register) through the National Park Service’s Focus digital library. Based on this search, OEA found that the Main Street Historic District in Miles City is the sole property in the APE that is currently listed in the National Register. The Wolf Mountains Battlefield, Bones Brothers Ranch, and Fort Keogh Historic District are not located in the APE.

Phased Identification

OEA is conducting a phased identification of historic properties allowable under 36 CFR § 800.4(b)(2) “where alternatives under consideration consist of corridors or large land areas, or where access to properties is restricted, the agency official may use a phased process to conduct identification and evaluation efforts....” This approach was deemed necessary because some landowners did not grant OEA access to portions of the APE for each build alternative. In a telephone call with Stan Wilmoth of your office on May 23, 2013, it was deemed that a phased identification effort was appropriate for this project given these circumstances. This approach to a phased identification and evaluation was reaffirmed twice by the ACHP, Mr. Wilmoth, and OEA: in a telephone call on October 28, 2013; and in a meeting on January 23, 2014.

If the Board approves a build alternative for construction and operation, OEA would complete any additional identification, apply the National Register criteria to each resource identified in the preliminary APE, and submit the determinations of eligibility to you for review and assessment. In accordance with 36 CFR § 800.14(b), OEA will develop a PA with the SHPO, federal agencies, ACHP, federally recognized tribes, and other consulting parties that would stipulate the measures and process for completing the identification and evaluation efforts and lay out steps to avoid, minimize, or mitigate any adverse effects.

In summer 2013, OEA conducted pedestrian surveys within the APE for each build alternative under consideration. OEA could not gain access in some areas due to landowner restrictions, as some parcels were surrounded by inaccessible parcels, or because weather and fire conditions prohibited safe access. Even so, tribal members and OEA archaeologists conducted pedestrian transect surveys of 4,464 acres in the preliminary APE. OEA historians and architectural historians also conducted vehicular or pedestrian surveys of 34,944 acres in the preliminary APE. However, due to concerns expressed by some participants at the consulting party meeting on February 13 to 14, 2014, OEA plans to undertake additional field surveys in spring 2014, with tribal members and OEA archaeologists, in areas where landowners provide access.

Tribal and Archaeological Sites

In summer 2013, OEA archaeologists organized four survey teams, designated A through D, to conduct field surveys on accessible property in the APE. Each team included four tribal members and four OEA archaeologists. The OEA chief archaeologist for each rotation met the Secretary of the Interior Standards (36 CFR § 61) for archaeology; all other OEA crew members had a Bachelor’s degree or higher in anthropology or a closely related field. In accordance with 36 CFR § 800.4(a)(4), all tribes who expressed interest and availability were able to participate in the field survey. Thirteen tribes participated in the field surveys (Table 3).

Table 3. Tribes Participating in Field Surveys

Team A <i>July 15–24, 2013</i>	Team B <i>July 29–August 7, 2013</i>	Team C <i>August 12–21, 2013</i>	Team D <i>August 26–Sept. 4, 2013</i>
Northern Arapaho	Mandan, Hidatsa, and Arikara	Crow	Cheyenne and Arapaho
Northern Cheyenne	Northern Cheyenne	Northern Cheyenne	Crow Creek Sioux
Fort Peck Assiniboine and Sioux	Oglala Sioux	Standing Rock Sioux	Northern Cheyenne
Yankton Sioux	Rosebud Sioux	Yankton Sioux	Sisseton Wahpeton Oyate Turtle Mountain Chippewa

During each rotation, all eight survey team members conducted the survey as one team. Individuals were spaced approximately 49 feet apart and walked at the same pace observing the ground for any indications of cultural and tribal resources such as rock alignments, flaked stone (lithics), bone, historical debris, or other deposits or feature types. As potential resources were encountered, the entire crew stopped and recorded the resource using a global positioning system (GPS) device and iPad® to record the location and attributes, as appropriate. The crew did not perform any earthmoving or excavation, and all team members took care not to disturb any cultural resources they observed. Archaeological site types were recorded using standard types based on the CRIS form. Team members kept field notes and took photos of archaeological resources.

In accordance with 36 CFR § 800.4(a)(4), if a tribal member observed tribal sites (sites containing attributes beyond or in addition to archaeological data), the team recorded a single GPS point for that resource, along with a brief description that protected confidentiality. In all cases, all four tribal participants agreed that the resource should be recorded before OEA archaeologists collected any information.

The field survey in the summer of 2013 resulted in the identification of 198 new sites in the preliminary APE, including 162 archaeological and 36 tribal resources (Table 4).

Table 4. Newly Recorded Tribal Sites and Archaeological Sites

Lithic Scatter	Lithic Scatter with Other Components	Stone Circle/Tipi Rings	Cairn	Historic Water-Associated Features	Historic Trail or Fence	Other	Total Archaeology Sites	Tribal Sites
107	9	3	6	6	7	24	162	36

These archaeological sites are summarized in Table A-1 and their approximate locations shown on Figure 1 in the attachment to this letter. The information on the archaeological sites will be reported to you in greater detail under separate cover. The confidential information gathered on tribal sites was sent to the primary contacts at the tribes via certified mail on November 19, 2013, in person on February 13, 2014, and is available to you upon request. OEA considers the newly identified tribal and archaeological sites potentially eligible for listing in the National Register.

Built Resources

Two teams of two federally qualified (36 CFR § 61) architectural historians conducted field survey work for built resources from July 15 to 24, 2013, and from July 29 to August 7, 2013. Their methods involved reviewing geographic information system (GIS) maps using Google Earth Pro satellite imagery (Google Earth 2013); reviewing previously recorded site forms; interviewing land owners or managers; conducting a windshield survey along public roads; and conducting a pedestrian or all-terrain vehicle field survey along private roads, trails, or cow paths, where available. In accordance with 36 CFR § 800.4(a)(3), the architectural historians made contact with the following various local repositories and organizations to determine if they have knowledge of the significance of built resources in the preliminary APE and to seek information from them. The groups are:

- | | |
|---|---|
| American Prairie Foundation | Montana Live |
| Billings Preservation Alliance | Montana Preservation Alliance |
| Bureau of Land Management Research Center | Montana State Historic Preservation Office |
| Custer County Art and Heritage Center and Waterworks Art Museum | Montana State Historic Preservation Office |
| Frontier Heritage Alliance | Montana State University Billings - Library |
| Frontier Montana Museum | Montana State University Bozeman - Library |
| Hardin, Big Horn County, Certified Local Government | Museums Association of Montana |
| Miles City, Certified Local Government | Range Riders Museum |
| Miles City Public Library | Sheridan (Wyoming) Fulmer Public Library |
| Montana Heritage Commission | USDA Agricultural Research Center |
| Montana Historical Society Research Center | Western Heritage Center |

The architectural historians recorded buildings, structures, objects, and districts that appeared to be 50 years of age or older—the general threshold for consideration under the National Register. The field survey resulted in the recording of 35 new built resources in the preliminary APE for all build alternatives (Table 5).

Table 5. Newly Recorded Built Resources

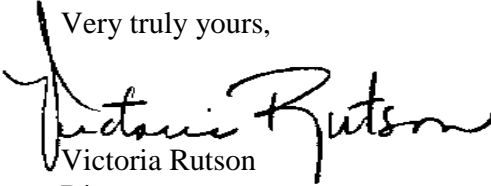
Barn	Bridge	Dam/ Levee	District	Homestead	Railroad	Ranch	Road/Trail	Utility	Windmill	Other^a
3	3	2	1	4	2	3	4	3	4	6

Notes:
^a *Other* includes a pump house, fish hatchery, culvert, cattle pen, park facilities, and a residence

These built resources are summarized in Table A-2 and their approximate locations shown on Figure 2 in the attachment to this letter. The information on the built resources will be reported to you in greater detail under separate cover. OEA considers these built resources potentially eligible for listing in the National Register.

At this time, OEA would appreciate your comments on the following areas: (1) please let us know if there are other consulting parties that should be included in our outreach; (2) we would also value your opinion regarding the preliminary APE(s); (3) our ongoing identification efforts; (4) results of our records searches and field surveys; and (5) the level of tribal involvement in the project thus far. In addition to the field work planned for this spring, more intensive identification and National Register evaluation of historic properties would be completed if and when the Board approves construction and operation of a railroad line along one or more of the selected alternatives according to the procedures and stipulations set forth in a PA for this undertaking.

As before, Catherine Nadals of my staff will be working on the Section 106 compliance aspects of the project. Please feel free to contact me or Ms. Nadals at 202-245-0293 (Catherine.Nadals@stb.dot.gov). You may also contact Rick Starzak with ICF International (our third-party contractor) at 213-312-1751 (Richard.Starzak@icfi.com). We look forward to your comments and appreciate your assistance.

Very truly yours,

Victoria Rutson
Director
Office of Environmental Analysis

Attachment

cc: Charlene Dwin Vaughn, ACHP
Najah Duvall-Gabriel, ACHP

ATTACHMENT

Newly and Previously Identified Archaeological Resources Identified within the Study Area Surface Transportation Board Field Survey for Tongue River Railroad EIS - 2013 Docket No. FD 30186

Table A1. Archaeological Resources^a within Study Area

Archaeological Resources	Build Alternative					Grand Total
	Ashland East	Colstrip	Decker	Moon Creek	Tongue River	
Lithic Scatter	3	2	35	22	60	129
Lithic Scatter with other components			1	1	7	9
Cairn			3	1	2	6
Stone Circle			1	1	3	5
Historic Trail or Fence		1	1		4	7
Historic Water Resource				3	2	5
Other ^b		1	6		15	26
Grand Total	3	4	47	28	93	187

Notes:

^a Includes newly identified resources and record search results but does not include tribally-identified resources.

^b Includes historic refuse features, building remains, survey markers, a buffalo jump, and historic petroglyphs.

Lithic Scatters

These sites, from both pre-contact and historic periods, consist of culturally-modified stone tool materials including refuse and fully formed tools such as projectile points. Lithic scatters are by far the most common site type in the study area.

Lithic Scatters with Other Components

Lithic scatters, as defined above, are often found associated with other types of cultural features. These include quarry sites, bedrock milling features, and historic period petroglyphs.

Stone Circles

This site type includes circular or semi-circular stone alignments typically made of cobbles.

Cairns

Cairns are piles of rocks of varying sizes. Cairns may have functioned for ceremonial purposes and may mark the location of burials.

Figure 1 presents the information contained in Table A1 on a map of the project area.

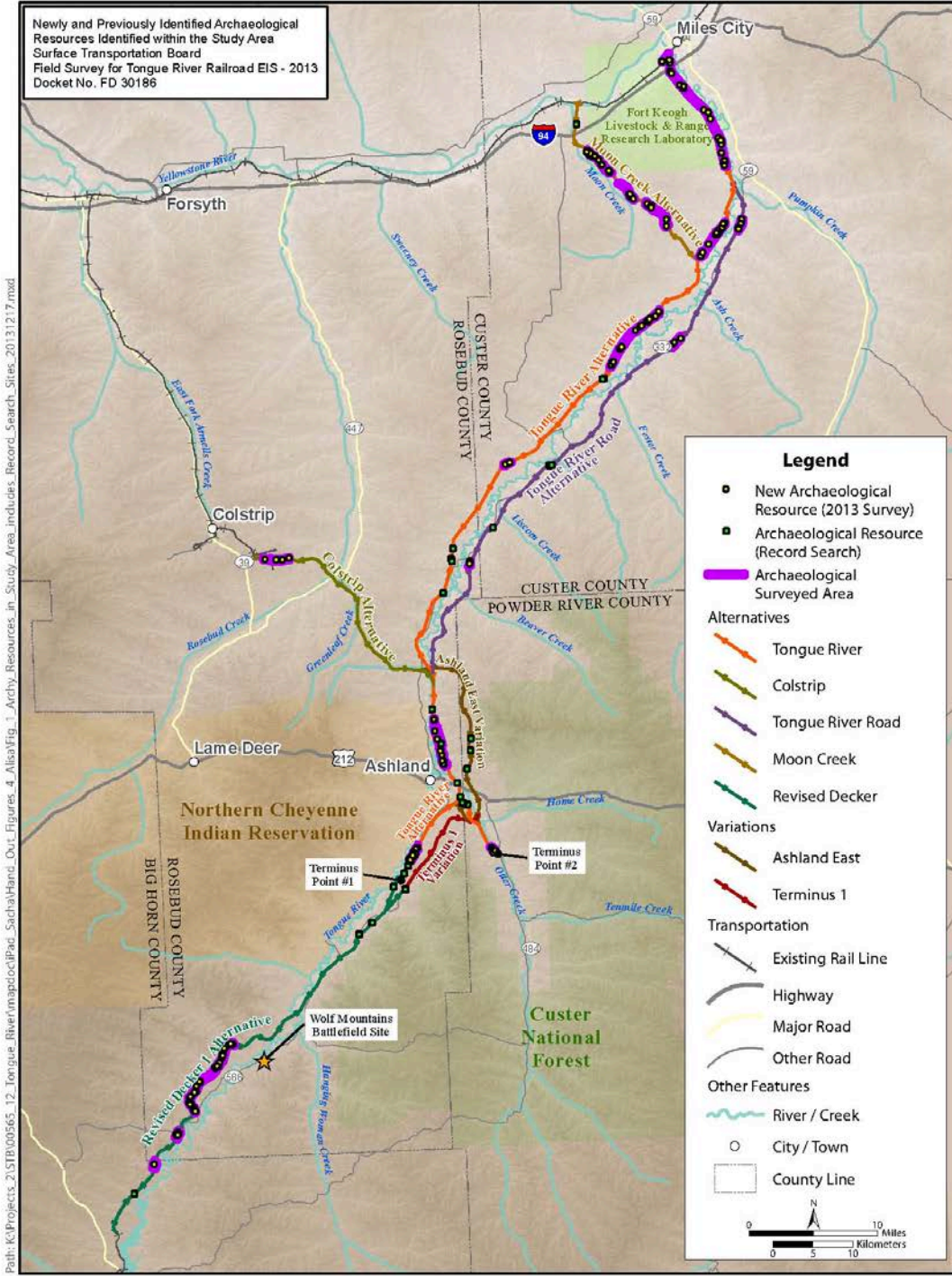


Figure 1. Newly and Previously Identified Archaeological Resources in 2013 Tongue River Railroad EIS Study Area

**Newly and Previously Identified Built Resources
Identified within the Study Area
Surface Transportation Board
Field Survey for Tongue River Railroad EIS - 2013
Docket No. FD 30186**

Table A-2. Built Resources^a within Study Area

Built Environment Resources	Build Alternative						Grand Total ^b
	Ashland East	Colstrip	Decker	Moon Creek	Tongue River	Tongue River Road	
Barn				1	2		3
Bridge				1	3	1	5
Dam/Levee				1	1		2
Historic District		1	2		3		6 ^b
Homestead	1		1		4	1	7
Other ^c		1	1	1	7	3	12 ^b
Railroad		2	1	1	1		4 ^b
Ranch		2			7	5	14
Road/Trail			1	3	2	1	7
Utility					3		3
Windmill			1	2	1		4
Grand Total	1	6	7	10	34	11	69^b

Notes:

^a Includes newly identified built resources and literature/record search results.

^b There are a total of 65 discrete built resources. Some of these built resources are located in the study area for more than one alternative so they are counted more than once. Therefore, the grand total numbers may exceed the actual number of discrete built resources.

^c *Other* includes schools, irrigation systems, a grave marker, hogback pasture, fish hatchery, culvert, residence, pump house, park facilities, and cattle pen.

Figure 2 presents the information contained in Table A-2 on a map of the project area.

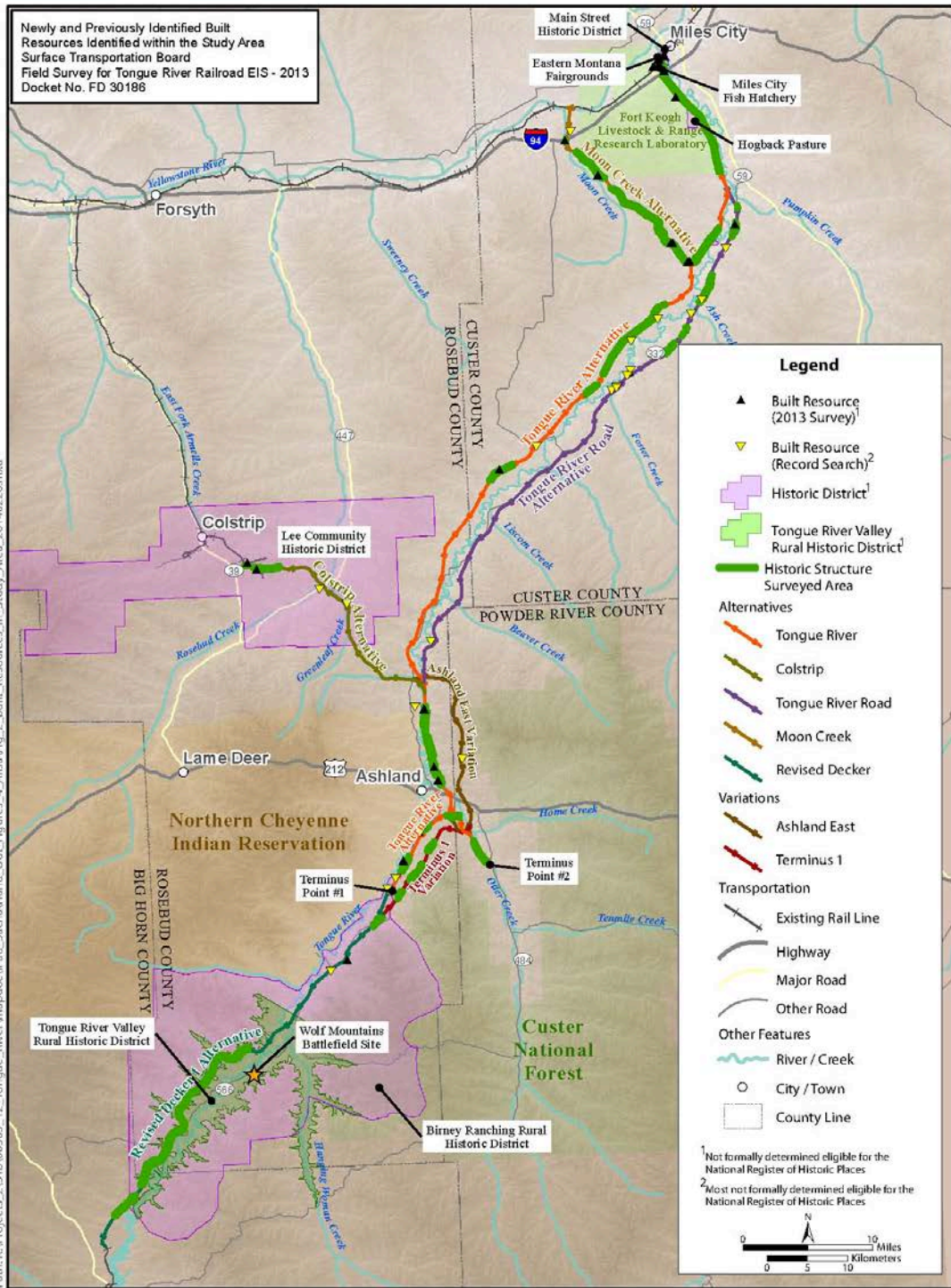


Figure 2. Newly and Previously Identified Built Resources in 2013 Tongue River Railroad EIS Study Area