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FD 33407

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

January 6, 2010

Mr. Richard Currit
Historic Preservation Specialist
Department of State Parks & Cultural Resources State Historic Preservation Office
2301 Central Avenue
Cheyenne, Wyoming 82002

RE: STB Finance Docket No. 33407, Dakota, Minnesota & Eastern Railroad Corporation Construction into the Powder River Basin: Request for Review and Comment on 21 Archaeological Sites

Dear Mr. Currit:

As you know, on April 9, 2009, the Surface Transportation Board (STB) provided you with the report, *A Class III Cultural resource Inventory of Dakota, Minnesota, and Eastern Railroad Corporation's Powder River Basin Expansion Project, Segments 3 and 4, Campbell and Converse Counties, Wyoming (WY2)*. In a letter that we submitted with the report, we noted that we needed additional tribal input prior determining National Register of Historic Places (National Register) eligibility for 21 of the sites described in the WY2 Report.* This letter sets forth that additional tribal input. We are now requesting your review and comment on the 21 sites. We would appreciate your comments within 60 days of receipt of this letter which we estimate to be March 8, 2010.

We are pleased to submit National Register determinations for the following 21 sites: 48CA97; 48CA98; 48CA211; 48CA1406/1719; 48CA1490/48CO726; 48CA1528/48CA2879/48CA2880; 48CA1709; 48CA1862; 48CA2291; 48CA3508; 48CA3527; 48CA3638; 48CA3652; 48CA3653; 48CA3655; 48CA3781; 48CA5490/5491; 48CA6123; 48CA6451; 48CA6453; and 48CA6704. STB has determined Site 48CA5490/5491 eligible for listing under Criterion A only; sites 48CA98; 48CA211; 48CA1406/1719; 48CA1528/48CA2879/48CA2880; 48CA1862; 48CA2291; 48CA3508; 48CA3527; 48CA3638; 48CA3652; 48CA3653; 48CA3655; 48CA6123; 48CA6451; 48CA6453; and 48CA6704 eligible for listing under Criteria A and D; sites 48CA1490/48CO726, 48CA1709, 48CA3781 eligible for

* Eleven archaeological sites described in the WY2 Report still remain unevaluated under one or more National Register criteria.

listing under Criteria A, C, and D; and Site 48CA97 “unevaluated” pending field confirmation of the site’s location.

I begin with a background section describing the nature of the tribal input and the use of this information by the STB in assessing the 21 sites. This section is followed by a discussion on how the STB has applied the National Register criteria at each site. The majority of the letter consists of site-by-site National Register evaluations.

A. Background

The enclosed National Register assessments have been made with extensive tribal participation. All 21 sites were viewed on the ground by at least one representative from one to eight tribes during two multi-day field trips; the first conducted in June 2009; the second in September 2009. The field trips were organized by the Louis Berger Group, STB’s third party consultant. Tribes that participated in one or more of the field visits include the Rosebud Sioux Tribe, the Sisseton Wahpeton Oyate, the Standing Rock Sioux Tribe, the Upper Sioux Community, the Fort Peck Assiniboine and Sioux Tribes, the Yankton Sioux Tribe, the Ponca Tribe of Nebraska, and the Northern Cheyenne Tribe. Following the on-site tribal inspections, we received National Register recommendations from all but the Ponca Tribe.

I have included copies of all National Register recommendations provided by the tribes as attachments to this letter, but request that your office keep these confidential pursuant to Section 304 of the National Historic Preservation Act. Tribes that submitted information to the STB stated that their confidentiality concerns are based, in part, on the existing spiritual importance of the sites. As a result, we will only be sharing some of the details regarding each of the sites in the text of this letter.

B. Criteria Applied in Evaluating Sites Important to Tribes

The Section 106 regulations require that Federal agencies consider adverse effects to historic properties that are eligible for listing or listed on the National Register. To be eligible for listing, an archaeological site or any other historic property must meet the criteria specified in the National Register’s Criteria for Evaluation (36 CFR 60.4) which require that a particular property possesses:

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and

(a) that are associated with events that have made a significant contribution to the broad patterns of our history; or

(b) that are associated with the lives of persons significant in our past; or

(c) that embody distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(d) that have yielded, or may be likely to yield, information important in prehistory or history.

1. Criterion A Eligible Sites: 48CA98; 48CA211; 48CA1406/1719; 48CA1490/48CO726; 49CA1528/48CA287; 48CA2880; 48CA1709; 48CA1862; 48CA2291; 48CA3508; 48CA3527; 48CA3638; 48CA3652; 48CA3653; 48CA3655; 48CA3781; 48CA5490/5491; 48CA6123; 48CA6451; 48CA6453; 48CA6704

The STB has determined the above 20 stone feature sites eligible for listing on the National Register under Criterion A for their ongoing and existing importance to tribes. We believe these sites exhibit a quality of significance which possesses integrity of feeling and association with events that have made a significant contribution to the broad patterns of Native American history. (Archaeological consultants had previously recommended site 48CA211 eligible for listing on the National Register under both Criterion A and D, but suggested additional tribal consultation to determine if the site warranted consideration as a traditional cultural property.)

According to the supporting documents submitted by the tribes, archaeological sites that include patterned arrangements of stone hold special significance with relevance to Criterion A and each of the sites evaluated in this letter includes one or more stone features. The information provided by the tribal representatives indicates that stone features have traditional cultural significance. Stone by itself holds traditional cultural significance to tribes. Stone figures prominently in creation and is respected as having special properties that make it essential for certain ritual or ceremonial activities and prayer. Information received from the Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes states that the stone is central to the belief system of the Lakota, Dakota, and Nakota as it possesses its own form of animation and unique energy.

The tribal participants explained to us verbally and through the attached documentation that the stone, in essence, represents the beginning and the end. Stone circles or “hoops,” linear alignments, and piles of stacked rock (cairns) created with stone have significant traditional value and typically mark the locations where specific rituals or ceremonies were conducted or where important events once occurred. Consequently, stone features are viewed as places where modern-day descendants may connect with their cultural past and perhaps gain spiritual knowledge that may benefit the well-being of tribal people.

All of the Criterion A-eligible stone feature sites are situated in remote locations with vistas that have remained virtually unchanged with very few intrusions. Thus, they also convey integrity of location and setting. Though some of the sites have been affected by nearby non-contributing ranching features or mining activities, the sites appear to retain their integrity of association with important rites and rituals. A number of the sites have been subject to erosion

and other effects; however, we believe, based on tribal input, that these effects have not altered the overall integrity of the sites. In terms of the spiritual integrity of these sites, tribes still revere them within their belief systems, thus the sites continue to hold ideological integrity within their cultural context.

2. Criterion B Eligible Sites: N/A

None of the sites have been determined eligible under Criterion B

3. Criterion C Eligible Sites: 48CA1490/48CO726, Site 48CA1709, 48CA3781

The STB has determined sites 48CA1490/48CO726, 48CA1709, and 48CA3781 eligible for listing on the National Register under Criterion C. In each case, the site was found to be unique based on the structure of building elements in the construction of stone features sites.

4. Criterion D Eligible Sites: 48CA98; 48CA211; 48CA1406/1719; 48CA1490/48CO726; 48CA1528/48CA2879/48CA2880; 48CA1709; 48CA1862; 48CA2291; 48CA3508; 48CA3527; 48CA3638; 48CA3652; 48CA3653; 48CA3655; 48CA3781; 48CA6123; 48CA6704; 48CA6451; 48CA6453

The STB has determined the above 19 the stone feature sites eligible for listing on the National Register under Criterion D. Archaeological consultants had previously recommended sites 48CA211; 48CA1490/48CO726, 48CA1709, 48CA3781, 48CA6123; 48CA6453 eligible under Criterion D for their potential to yield scientific archaeological information important to our understanding of Wyoming prehistory and/or history. Based on tribal input we have also determined sites 48CA0098; 48CA1406/1719; 48CA1528/48CA2879/48CA2880; 48CA1862; 48CA2291; 48CA3508; 48CA3527, 48CA3638; 48CA3652; 48CA3653; 48CA3655; 48CA6451; and 48CA6704 eligible under Criterion D for their potential to convey important information from the past (prehistory or history) to tribes.

We believe the application of Criterion D is appropriate here based on the arguments provided by tribes which indicate that these sites hold important information, both spiritual and educational, that has and continues to yield, tribal information important in prehistory or history. Thus some sites may have been recommended not eligible under Criterion D for their archaeological research potential, but are nonetheless determined eligible under Criterion D for their importance to tribes.

The Rosebud Sioux Tribe, in collaboration with Standing Rock Sioux Tribe provided the STB with the following statement in support of the eligibility of stone features sites based on Criterion D:

Criterion D of the National Register of Historic Places has application to sites of Traditional Cultural importance. The implicit contextual use of the criteria has been to protect traditionally and conventionally determined site types authenticated by utility of archaeological methodology. This use has created a recordation value that does not provide criteria driven protections to those sites possessing features attributable to the non-tangible values of site attributes

within those site types as characterized by Native traditionalists. The employing of the criteria in this manner has limited its applicability to the continuum of generational knowledge possessed within the oral history, belief systems, art and life way of tribal peoples.

The traditional manifestation of belief practices in Native groups originates within and from the stone. The perpetuation of traditional belief is tied to sites possessing configurations, surface motif, and/or generated within landscape form(s). The stones are centric on a broad scale to those belief relationships still in use in the present day

The importance of sites containing configurations; effigy; surface motif; aspect and landform positioning; landscape(s) containing non-typical stone forms; and the prime expression of belief continuity, the circle cannot be fully characterized in non-Native terminology. These sites types referenced therefore yield substantial sentient knowledge still in use today and are important to the history of the cultures in this land.

The Yankton Sioux Tribe also submitted this statement regarding the eligibility of sites under Criterion D:

Some of the visited sites are opportunities to re-discover the past, especially places where ancestors had fasted, made prayers or offering for our people or utilized traditional medicines. The protection of these sites will allow for Indian people of all tribes of the surrounding areas to re-connect with parts of their traditional cultural and historic and consequently enrich their lives and vitality of their nations. If these sites are made available to visit by Indian people of these various tribes then further research into the way of life of the ancestors maybe gained and through repeating experiences in these sites (such as prayer fast/vision questing) the ancestors of the people that were once there will have an opportunity to enrich their cultural knowledge.

C. Site-by-Site National Register Determinations

The following are STB's National Register determinations for the 21 archaeological sites. Detailed National Register criteria justifications provided by tribes are attached along with updated site maps showing additional features identified by tribal representatives. Neither the maps nor the more detailed descriptions will be shared with those copied on this letter.

The updated site maps show the location of new archaeological features identified by tribal representatives. This new information is depicted in color while previous information reported by archaeological consultants is presented in black print. At each site, The Louis Berger Group (Berger) used sub-meter Global Positioning System (GPS) equipment (Trimble GeoXT) to verify the location of previously recorded features as well as new features identified by tribes. Berger's measurements found good correspondence between old and new GPS survey points at 18 of the 21 sites; however, they discovered GPS discrepancies at three sites (i.e., 48CA3527, 48CA6453, 48CA6704). In each instance, the newly recorded coordinates for

known features shifted to the east about 25 meters. Berger's examination of available landmarks indicates that the revised coordinates for these site features are accurate and we have adjusted the site boundaries accordingly. It is likely that this change is the result of Berger's use of more accurate GPS technology that allowed them to pin point targets to sub-meter accuracy.

Berger also noted that some of the earlier recorded sites that had been hand plotted on topographic maps (before the advent of GPS) appeared to have been mis-plotted. We note these discrepancies in the text where appropriate.

We request that the corresponding site files for the following sites be modified to include updated site boundaries (to encapsulate the newly identified features), but that specific features identified by tribes not be shown. This request comes from the Rosebud Sioux Tribe, Standing Rock Sioux Tribe, Yankton Sioux Tribe, Sisseton Wahpeton Oyate, and Northern Cheyenne Tribe as stated to STB at an October 27, 2009 meeting held in Pierre, SD as well as in an October 6, 2009 letter to the STB (letter attached with our November 10, 2009 response).

1. Site 48CA97

Previous National Register Status: Not eligible under Criterion B, C, D; Unevaluated under A pending tribal input

STB Determination: Unevaluated

We recommend that Site 48CA0097 remain unevaluated under all criteria considerations as archaeological survey teams were unable to identify archaeological features or other evidence of a site in the area where it was originally plotted by the Wyoming Archaeological Survey (WAS) in 1976. Site 48CA0097 was described by WAS as containing several stone circles and a lithic concentration containing artifacts that were collected. At the time the site was first recorded, no National Register eligibility recommendation was made. Subsequent survey groups (ACR in 2006, SWCA in 2007) were unable to relocate the site and then determined it not eligible for listing under any criteria as it could not be found. Berger staff and tribal representatives did identify a possible stone circle, a biface and several flakes 80 meters northwest from where the site was plotted by WAS. However, it is uncertain if these new finds represent the same site that was originally identified in 1976. Most of the participating tribes recommended that the site area be resurveyed. We agree.

2. Site 48CA98

Previous National Register Status: Not eligible

STB Determination: Eligible under Criteria A, D

Site 48CA98 was originally identified by WAS in 1976. The site was described as consisting of several stone circle features. No artifacts were identified at the time. The site was relocated by the Archaeological Laboratory of the University of South Dakota (ARCHLAB) in 1999 at which time they identified one stone circle, one rock cairn and one possible piece of porcellanite shatter. ARCHLAB recommended the site as potentially eligible pending tribal

consultation. A subsequent survey conducted by ACR Consultants Inc. (ACR) in 2006 could not relocate the site and it was therefore determined not eligible for listing under Criterion D.

Berger and tribal representatives relocated the site on June 9, 2009 and identified two cairns (the Northern Cheyenne Tribe said they found three cairns) and three stone circles on the crest of an upland ridge approximately 80 meters south of the purported site location. We believe the original site location was mis-plotted. Berger staff navigated to the coordinates listed on the site form and no site was identified at that location (the original plotted location was in a ravine and could not have supported a site). Representatives from the Rosebud Sioux Tribe identified other configurations at the site that they deemed of a spiritual nature.

The STB has determined Site 48CA98 eligible for listing on the National Register under Criteria A and D. The eligibility of the site under Criterion A is based upon verbal comments received from the Rosebud Sioux Tribe and written comments from the Upper Sioux Community who stated that “there is a ceremonial, and therefore, sacred purpose to the site.” The Fort Peck Assiniboine and Sioux Tribes also recommended that the site be found eligible under Criterion A. The Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes recommended the site eligible for listing under Criterion D.

The Northern Cheyenne Tribe recommended that the site be resurveyed. None of the other tribes provided comments about the site.

3. Site 48CA211

Previous National Register Status: Prehistoric Component Eligible under Criteria A, D; Historic Component Not Eligible

STB Determination: Prehistoric Component Eligible under Criteria A, D; Historic Component Not Eligible

Site 48CA211 is a large multi-component site that includes a variety of stone features as well as a historic debris scatter that appears to be associated with a 20th century herder’s camp. The site is located on a combination of private and Forest Service land.

Site 48CA211 was first identified in 1978 by the Office of the Wyoming State Archaeologist (OWSA) as a single stone circle with no associated artifacts. The site does not appear to have been formally evaluated at that time although the OWSA noted on its site form that no further work was needed.

In 1993, the site was revisited by GCM Services (GCM) who significantly expanded the site boundaries to include seven stone rings (Features 1, 2, 5, 6, 8, 9, and 11) a cairn alignment (Feature 7), two isolated cairns (Features 3 and 10), a small lithic scatter, and a historic debris scatter (Feature 4). Six shovel tests were excavated, but no artifacts were found in any of the test units. GCM interpreted Feature 7 as a possible game driveline and Feature 11 as a possible eagle trap or vision quest location. Based on the presence of unusual stone features and their qualities of integrity, GCM recommended that the site be considered eligible for listing on the National Register. The Wyoming SHPO concurred.

ACR revisited the site, relocated all 11 features reported by GCM, and expanded the site boundary to include five additional stone circles (Features 12 to 16). ACR also identified a second, smaller surface concentration of historic debris within the site limits defined by GCM.

SWCA conducted an assessment of the site in 2007 and endorsed GCM's previous recommendation that 48CA211 be considered eligible for listing on the National Register under Criterion A based on the presence of a possible driveline and vision quest location. SWCA also recommended that the site be considered eligible under Criterion D and that tribes be consulted to determine if the site could be a traditional cultural property. SWCA recommended that the historic period occupation be considered not eligible.

Berger and representatives from the Oglala Sioux, Rosebud Sioux, Standing Rock Sioux, and Sisseton Wahpeton Oyate tribes visited Site 48CA211 on September 2, 2009. The group was able to relocate the 12 stone circles, two stone cairns, and artifact concentrations.

Tribal representatives also identified two additional stone circles south of Features 14, 15, and 16 on the east side of the fence line in the northeast portion of the site. Representatives from the Rosebud Sioux, Standing Rock Sioux, and Sisseton Wahpeton Oyate tribes described Feature 11, which was identified by archaeologists as a "stone circle" and possible eagle catch or vision quest location, as a cairn rather than a stone circle. Representatives from the Rosebud Sioux, Standing Rock Sioux, and Sisseton Wahpeton Oyate tribes reported that hilltops, such as the one where Features 10 and 11 are located, are known to have been used by the Lakota, Dakota, and Nakota for burials and memorials to deceased members of the tribe. They also noted that cairns with apparent indentations or depressions in the center, like Feature 11, represent individual fasting locations.

The group saw evidence of ongoing archaeological excavations at the site with white-painted wooden stakes labeled with mapping grid coordinates and feature numbers and several backfilled 1 x 2-meter test units excavated within two stone rings at the southwest portion of the site (Features 1 and 2). The northernmost of these excavated stone rings (Feature 2) had been completely disturbed by the excavations. Tribal representatives expressed concern that this excavation appeared to have been done without consideration of Native interest.

The Rosebud Sioux and Sisseton Wahpeton Oyate tribes recommended that Site 48CA211 be considered eligible under Criteria A and D. The Standing Rock Sioux Tribe stated that it concurred with the existing eligibility recommendations for the site. The Oglala Sioux Tribe participated in the site visit, but provided no written comment or recommendations. The Yankton Sioux Tribe did not visit this site but stated that it would concur with the recommendations provided by the other tribes.

Current construction plans entail a cut through the center of the site that would impact three stone circles (Features 5, 6 and 12), a 40-meter segment of the cairn alignment identified as a possible drive line or boundary marker (Feature 7), and the two localized historic artifact scatters.

The STB has determined that Site 48CA211 is eligible for listing on the National Register under Criteria A and D based on both the archaeological and tribal recommendations.

4. Site 48CA1406/1719

Previous National Register Status: Recommended not eligible under Criteria B, C, D; Unevaluated pending tribal input

STB Determination: Eligible under Criteria A, D

Site 48CA1406/1719 was originally identified by Western Cultural Resources Management (WCRM) in 1981. The site was reinvestigated in 1982 by J. Greer and then again in 2006 by ACR. When the site was first identified, it included a large lithic scatter (including a possible Early Archaic Hawken side-notched projectile point), one stone circle and historic material. WCRM did not make any recommendations regarding eligibility. Greer followed up with a recommendation of “not eligible” due to poor site integrity. ACR rerecorded the site and found an additional stone circle (two, total) as well as a lithic scatter. ACR excavated nine shovel tests at the site and all tests were negative for cultural material. ACR recommended the site not eligible under Criterion D, but potentially eligible under Criterion A pending tribal consultation.

Berger and tribal representatives visited the reported site location on June 4, 2009. The group was able to relocate the previously identified stone circles. Tribal representatives also identified four additional stone features at the northwest margin of the site boundary. The newly identified features consisted of two stone circles, an “S” alignment, and one stone arc (these were mapped with a GPS). These newly identified features are located just within the project right-of-way (see map). A newly identified stone cairn was also identified outside the eastern boundary of the project ROW. The cairn appeared to be modern or historic, although several pieces of chipped-stone debitage were noted by the feature.

We have determined Site 48CA1406/1719 eligible for listing on the National Register under Criterion A as a property of traditional religious and cultural significance. This recommendation is based upon written comments provided by the Upper Sioux Community who stated that “the “S” alignment and stone circles should be considered and recorded as one feature as a traditional cultural place. We have also determined the site eligible for listing under Criterion D based on the recommendations of the Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes who have stated that the site is important for the information it conveys from the past (prehistory or history) about tribal spirituality and as it has the potential to serve as an important educational tool from the spiritual guidance that it provides.

The Upper Sioux Community requested that the “S” shaped alignment, in particular, be avoided if possible. We note that this feature is located just within the western edge of the new construction right-of-way (see map).

5. Site 48CA1490/48CO726

Previous National Register Status: Eligible Criteria C, D

STB Determination: Eligible under Criteria A, C, D

Site 48CA1490/48CO726 is a large multi-component habitation site. The site was found by WCRM in 1981 who identified 11 stone circles, two stone cairns, 15 hearths, and 13 lithic localities. A radiocarbon sample established that the site was in use between AD 1060 and AD 1200. WCRM recommended the site eligible for listing under Criterion D. The SHPO concurred.

ARC (2007) returned to the site area but did not identify any features; only one flake.

SWCA resurveyed the site (also in 2007) and recorded 16 separate features including six stone circles, a stone cairn, a stone alignment, and seven hearths. SWCA recommended that the site be considered eligible under Criteria C and D as the site possesses distinctive features pertaining to structural technology of prehistoric peoples (Criterion C) and embodies distinctive characteristics of a type, period, or method of construction that included many intact features. The site was also recommended eligible under Criterion D for its archaeological potential to yield important data. STB concurs with the recommendations provided by SWCA. We have also determined the site eligible for listing on the National Register under Criterion A, based on tribal input.

It has been expressed to the STB that this site is of particularly high significance to the tribes. The Upper Sioux Community, Yankton Sioux Tribe, Rosebud Sioux Tribe, Standing Rock Sioux Tribe, Sisseton Wahpeton Oyate and the Fort Peck Assiniboine and Sioux Tribes all described the site as having newly identified features within a large sandstone outcrop that, while not archaeological in nature, has medicinal significance and is sacred. The outcrop was plotted by Berger staff and was found to be located outside the direct construction impact area (to the south; see map).

The STB has determined that Site 48CA1490/48CO726 is eligible for listing under Criterion D based both on the archaeological data and recommendations of the Rosebud Sioux, Sisseton Wahpeton Oyate and Standing Rock Sioux tribes who have stated that the site is important for the information it conveys from the past (prehistory or history) about tribal spirituality and as it has the potential to serve as an important educational tool from the spiritual guidance that it provides. We believe that the site is also eligible for listing under Criterion A due to its association with events and cultural practices that have made significant contributions to the broad patterns of Native American history and culture. Due the sensitive nature of these traditional associations, we will not provide further details about the tribal significance of the site here; however, in recognition of its strong traditional religious and cultural significance to tribes,

we believe that Site 48CA1490/48CO726 also merits consideration as a traditional cultural property.

The site as whole would be bisected by the project. However, none of the features identified by the tribes are located within the direct impact Area of Potential Effect (APE).

6. Site 48CA1528/48CA2879/48CA2880

Previous National Register Status: Recommended not eligible under Criteria B, C, D, Unevaluated under Criterion A pending tribal input

STB Determination: Eligible Criteria A, D

Site 48CA1528/48CA2879/48CA2880 was initially identified by WCRM in 1982 as Site 48CA1528. As originally defined, Site 48CA1528 was found to consist of four stone circles and a lithic scatter. GCM revisited the site in 1994 but could not locate any of the stone features. GCM recommended the site be considered not eligible. The SHPO concurred.

GCM returned to the site in 1997 and relocated three features (a stone arc, a stone circle and a stone alignment) and a lithic scatter. GCM excavated six shovel tests at the site and found nothing. Based on the recommendations provided by GCM, the SHPO concurred that the site was not eligible.

ARCHLAB revisited Site 48CA1528 in 1999 and combined this site with the south half of Site 48CA2879 and all of Site 48CA2880 where they located two partial stone circles, 16 lithic artifacts, pigment stones, and historic debris. ARCHLAB conducted no subsurface testing pending tribal input.

ACR returned to the site in 2006 and recorded three stone circles and one stone arc and identified lithics.

In 2007, SWCA fully recorded Site 48CA1528/2879/2880 as one site. SWCA believed that two of the features identified by ACR were of natural origin and recommended the site overall as not eligible. The SHPO concurred, but suggested tribal consultation regarding the site.

Berger and tribal representatives visited the site on June 9, 2009. The group relocated all the stone circles and arcs as well as previously unidentified features including two new stone circles, a stone cairn and two prayer locations. All but one of the newly identified features was found outside the current site boundary (90 meters to southwest; see map).

In the field, the Yankton Sioux Tribe identified these newly identified features as significant to them and suggested the site eligible under Criterion A. The Upper Sioux Community noted that the cairn likely represented a vision/dreaming/fasting place and also recommended that the site be considered eligible under Criterion A.

The Fort Peck Assiniboine and Sioux Tribes recommended the site eligible under Criterion A. The Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes recommended the site eligible under Criteria A and D.

The site is located entirely outside of the current direct impact APE. However, the Upper Sioux Community noted that the stone cairn was very close to the cut for the new construction right-of-way and requested that this be set back.

The STB has determined Site 48CA1528/48CA2879/48CA2880 eligible for listing on the National Register under Criteria A and D, based on the above tribal recommendations.

7. Site 48CA1709

Previous National Register Status: Eligible under Criteria C, D; Unevaluated under Criterion A pending tribal input

STB Determination: Eligible under Criteria A, C, D

Site 48CA1709 was originally identified by Guenther, Peterson and Manao (OWSA) in 1982 as consisting of 16 stone circles and one unidentified stone feature. Three shovel tests were excavated, but nothing was found. The site was recommended as not eligible for listing on the National Register with no SHPO review.

ACR returned to the site in 2006 and identified seven features, rather than 17. As a result, they reduced the site boundaries and eliminated the south half of the site. ACR could not relocate the unidentified stone feature and found a new lithic scatter. No subsurface testing was completed. ACR recommended the site not eligible for listing on the National Register stating that the site lacked integrity.

SWCA returned to the site in 2007 and recorded 10 stone circles, one stone arc, one C-shaped stone alignment and one possible hearth (13 features). No associated artifacts were found and no subsurface testing was completed. SWCA recommended the site eligible under Criterion C because it possesses distinctive features pertaining to the structural technology of prehistoric peoples (possible hunting blind or ceremonial feature) and may be characteristic of a type, period, or method of construction. SWCA also recommended the site eligible for the National Register under Criterion D stating that “although the site consists of a surface component with little to no possibility for subsurface deposits, the surface component retains notable structural integrity with potential to contribute information significant to the prehistory of the Powder River Basin.” SWCA also suggested that the site might be eligible under Criterion A as a traditional cultural property pending Native American consultation.

Berger and tribal representatives visited Site 48CA1709 on June 3, 2009 and relocated nine features. They also identified a new cairn feature that tribes suggested was likely a human burial. The tribes also identified two additional stone circles. The possible burial was mapped using a GPS unit (see map).

The Rosebud Sioux, Standing Rock Sioux, and Sisseton Wahpeton Oyate tribes recommended the site eligible for listing under Criterion D based on the site’s potential to yield important information in history and prehistory and for the information the site conveys from the past (prehistory or history) about tribal spirituality. The Northern Cheyenne Tribe indicated that

the site may have been used for ceremonies and determined that the site was significant though they did not recommend any specific eligibility criteria. Based on the comments of the Northern Cheyenne Tribe, we also believe the site is eligible under Criterion A.

Most of the site is located outside the direct impact APE aside from the two newly identified stone circles which tribes requested be avoided.

STB has determined Site 48CA1709 eligible under Criteria A, C, and D based on the above archaeological and tribal recommendations.

8. Site 48CA1862

Previous National Register Status: Not Eligible

STB Determination: Eligible under Criteria A and D

Site 48CA1862 is a multi-component site that includes a prehistoric lithic scatter, petroglyphs and stone features and a possible historic herder's camp with historic inscription panels.

Site 48CA1862 was first identified in 1982 by Greer and Greer as a sandstone outcrop that included a prehistoric petroglyph described as a Late Prehistoric shield figure motif and 18 panels of historic inscriptions. In addition to the rock inscriptions, the site was reported to include a temporary historic habitation, a possible prehistoric stone circle, a hearth, and two shallow depressions. No subsurface testing was performed although some exploration was done with a probe to assess the potential for soil depth and to sample the depressions. The site's lithic assemblage includes four projectile points which indicate a probable late prehistoric period cultural association. Greer and Greer recommended the site eligible based on the presence of features and the potential for subsurface cultural deposits.

In 2002, the site was revisited by the US Forest Service and GCM Services. The hearth and stone circle could not be relocated and the shield figure motif appeared to have been largely eroded or spalled off. No subsurface testing was performed. The Forest Service recommended the site not eligible for the National Register under any criteria. The SHPO concurred with this recommendation.

In 2006, ACR visited the site and relocated the petroglyph and the historic inscription panels. The petroglyph was described as a design made up of several closely spaced inscribed vertical lines. The inscription panels included the initials, names, and dates recorded by Greer and Greer (1982).

Berger and tribal representatives from the Oglala Sioux, Rosebud Sioux, Standing Rock Sioux, Sisseton Wahpeton Oyate, Northern Cheyenne Sioux, Yankton Sioux, and Fort Peck Assiniboine and Sioux tribes visited Site 48CA1862 on September 1, 2009. The group relocated the petroglyph on the north face of the sandstone outcrop along with the other historic inscription panels.

Tribal representatives saw a previously unrecognized petroglyph on the south face of the sandstone outcrop consisting of three vertical lines. The group also identified three stone circles at the site along with two adjoining arc-shaped alignments. An arc positioned at the north side of one circle was specifically interpreted as a prayer or fasting place. The hearth feature and two shallow depressions described by Greer could not be relocated.

The Rosebud Sioux, Standing Rock Sioux and Sisseton Wahpeton Oyate tribes noted that planned construction would avoid the petroglyph location, which was identified as a significant feature, but that construction as currently designed would likely destroy the location of the stone circles and other associated stone features present at the site. The Yankton Sioux expressed concern about impacts to the site, stating that: “We believe that there is a possible star constellation or cosmology at work at this location.”

The Rosebud Sioux, Standing Rock Sioux and Sisseton Wahpeton Oyate tribes recommended Site 48CA1862 eligible for listing on the National Register under Criteria A and D. No comments were received from the Oglala, Northern Cheyenne, or Fort Peck tribes.

The STB has determined Site 48CA1862 eligible for listing in the National Register under Criteria A and D, based on the above tribal recommendations.

9. Site 48CA2291

Previous National Register Status: Unevaluated pending tribal input

STB Determination: Eligible under Criteria A and D

Site 48CA2291 was first identified in 1986 by Greer and Greer (1986) as a single stone circle of closely spaced clinker blocks. No subsurface testing was completed.

ACR revisited the site in 2006, but could not relocate the stone circle. They noted large clinker boulders and outcrops. No shovel tests were excavated.

SWCA surveyed the site in 2007 and located a stone circle. However, this may not be the same stone circle reported by Greer and Greer. SWCA suggests that construction of a well pad may have resulted in destruction of the stone circle reported in 1986. No shovel tests were excavated by SWCA.

Berger and the tribal representatives visited Site 48CA2291 on June 10, 2009. The group identified a stone circle in the location originally plotted by Greer and Greer. Three other stone circles were identified between 125 and 160 meters east of the site. The location of the three new stone circles was recorded with the GPS unit (see map). The group also identified a hole in the natural outcrop to the east of the stone ring.

The Northern Cheyenne noted the proximity of Site 48CA2291 to a nearby site (Site 48CA325) that archaeologists had identified as a historic period “corral” associated with a farmstead. However, Northern Cheyenne representatives hypothesized that the corral was first

used as a Native American impound or traditional hunting feature that was later converted into a livestock corral.

Tribal representatives speculated that the corral may have been used in conjunction with the stone features present at Site 48CA2291 as a part of a communal strategy for “calling” or hunting antelope and/or buffalo. The Northern Cheyenne representatives deemed both sites to be significant in this respect although they did not recommend a specific criterion. The Rosebud Sioux, Standing Rock Sioux, and Sisseton Wahpeton Oyate tribes also noted a relationship between the two sites and recommended the site eligible under Criteria A and D.

No recommendation was provided by the Fort Peck Assiniboine and Sioux Tribes or the Upper Sioux Community.

One stone circle feature is located within the direct impact APE, but outside the cut and fill line. The Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes requested that this feature be fenced off during construction. The remainder of the site (with the three newly identified stone circles) is located well east of the direct impact APE.

The STB has determined Site 48CA2291 eligible under Criteria A and D based on the above tribal recommendations.

10. Site 48CA3508

Previous National Register Status: Recommended not eligible under Criteria B, C, D; Unevaluated pending tribal input

STB Determination: Eligible under Criteria A, D

Site 48CA3508 was first recorded by ARCHLAB in 1999 as a prehistoric site composed of three rock cairns, a possible rock alignment and a lithic scatter. ARCHLAB recommended the site as potentially eligible pending tribal consultation.

ACR returned to the site location in 2006 but did not record any features or conduct subsurface testing.

In 2006, SWCA relocated the three cairns and suggested that the cairns were historic in nature. SWCA did not conduct shovel tests due to the lack of subsurface soil deposition. SWCA recommended the site not eligible under Criterion D and recommended tribal consultation to determine the site’s eligibility under Criterion A.

Berger and tribal representatives visited the site on June 11, 2009 and identified the three cairns as well as a stone circle just west of the site boundary. Most of the site is located within the direct impact APE (one rock cairn is located outside the right-of-way at the south end; see map).

The Rosebud Sioux, Standing Rock Sioux, and Sisseton Wahpeton Oyate tribes recommended the site eligible for listing under Criterion D. The tribes suggested that the cairn

located at the south end of the site could be a burial feature and stated that, based on its location, the site was used repeatedly or continuously over time as a memorial or prayer location. Although these tribes did not recommend the site eligible under Criterion A, its successive use over time would suggest that it is eligible under Criterion A. It is also significant with regard to Criterion A by virtue of its likely association with burial practices significant to Plains Indian history and culture.

The Upper Sioux Community and Fort Peck Assiniboine and Sioux Tribes recommended the site eligible for listing under Criterion A. The Upper Sioux Community stated that the site had a spiritual and sacred use due, in part, to its elevation and isolation. The above tribes also recommended that the entire site be avoided due to the presence of the possible burial feature.

The Northern Cheyenne provided no recommendations regarding the site. However, they recommended that the site be remapped.

The STB has determined Site 48CA3508 eligible for listing on the National Register under Criteria A, and D based on the above tribal recommendations.

11. Site 48CA3527

Previous National Register Status: Recommended not eligible under Criteria C, D; Unevaluated pending tribal input

STB Determination: Eligible under Criteria A, D

Site 48CA3527 was identified in 1999 by ARCHLAB as four stone circles, one stone crescent, and three pieces of lithic debitage. No subsurface testing was performed. However, ARCHLAB recommended the site as potentially eligible pending tribal input.

ACR revisited the site in 2006 and relocated the five features, but no artifacts. No subsurface testing was completed by ACR as they were concerned that the site might be significant to tribes. ACR left the site unevaluated pending tribal input.

SWCA returned to the site in 2007 and relocated the original five features. However, SWCA redefined one of the original stone features as two distinct partial circles or arc features. In all, SWCA identified three stone circles and three stone arcs. SWCA excavated three shovel tests at the site but found no subsurface cultural deposits. SWCA recommended the site not eligible for listing under Criteria C and D (no mention of B), but suggested that the site be further evaluated by tribes to determine the site's eligibility under Criterion A.

Berger and the tribal representatives visited the site on June 3, 2009. The six originally identified features were relocated and 16 additional features were found, many of them outside the original site boundary. Six new features were identified near the original site boundary consisting of one new stone circle, an "S" shaped alignment, a stone arc, and three stone circles. A group of four stone circles was also identified about 73 meters east of the direct impact APE. Five more stone circles and an arc were identified in pairs about 160 meters east of this area. The locations of all of the new features were recorded with the GPS. These additional features are

well east of the original site location and outside of the direct impact APE. However, we have expanded the site boundaries to encompass these new features (see map).

The Fort Peck Assiniboine and Sioux Tribes provided no comment on the site. The Northern Cheyenne indicated that the site was of no significance to them. The Rosebud Sioux, Standing Rock Sioux, and Sisseton Wahpeton Oyate tribes recommended the site eligible for listing under Criterion D based on the site's potential to convey important information from the past (prehistory or history) about tribal spirituality and as it has the potential to serve as an important educational tool from the spiritual guidance that it provides. The Upper Sioux Community recommended the site eligible under Criterion A. The Upper Sioux Community recommended that Feature 4, a stone circle located in the southwest portion of the site be avoided (see map). This portion of the site is located within the direct impact APE.

The STB has determined Site 48CA3527 eligible for listing under Criterion A and D based on the recommendations provided by the above tribes.

12. Site 48CA3638

Previous National Register Status: Not eligible

STB Determination: Eligible under Criteria A, D

Site 48CA3638 was first identified by ARCHLAB in 1999. At the time, the site was described as consisting of one stone circle, a stone cairn, a biface fragment and a flake. ARCHLAB left the site unevaluated. ACR revisited the reported site location in 2006 but could not relocate the site. As a result, they recommended the site not eligible for listing on the National Register under any criteria.

Berger and tribal representatives relocated the site on June 6, 2009. The site is located entirely within the direct impact APE. In addition to relocating the previously reported stone ring and cairn (identified by tribes as a possible burial), the group also identified one additional stone circle. The previously reported stone circle was identified as having two concentric rings and an opening to the southeast while the newly identified stone circle had three concentric rings and a similar orientation to the southeast.

Several tribal representatives noted the presence of a lithic scatter at the site. Faith Spotted Eagle, the tribal representative from the Yankton Sioux Tribe, also noted a small triangular arrangement of three cobbles near the south margin of the previously reported site boundary which she deemed important in a verbal statement to Berger staff while in the field (this feature is shown as a generic point on the map). According to the Rosebud Sioux, Sisseton Wahpeton Oyate and Standing Rock Sioux tribes, the presence of the lithic scatter indicates that the site may have been used as a temporary habitation camp as well as burial area. They recommended the site eligible for listing under Criterion D. They also suggested that the site undergo additional testing to determine the degree of subsurface deposits but asked that the cairn/burial be avoided during testing and construction. The Upper Sioux Community recommended the site eligible under Criterion A and noted a relationship between this site and nearby Site 48CA1709 to the east.

The Fort Peck Assiniboine and Sioux Tribes also recommended the site eligible under Criterion A. The Northern Cheyenne deemed the site not significant.

The STB has determined Site 48CA3638 eligible for listing under Criterion D based on the recommendations of the Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes who have stated that the site is important for the information it conveys from the past (prehistory or history) about tribal spirituality and as it has the potential to serve as an important educational tool from the spiritual guidance that it may provide. We have also determined the site eligible for listing under Criterion A, for its association with important events, based on the recommendations of tribes.

13. Site 48CA3652

Previous National Register Status: Recommended not eligible under Criteria B, C, D; Unevaluated pending tribal input

STB Determination: Eligible under Criteria A, D

The site was first identified by ARCHLAB in 1999 as two rock cairns possibly connected by an alignment and situated on a ridge. At the time, ARCHLAB postulated that the site might actually be natural in origin. However, tribal monitors at the site suggested that the site could be spiritual in nature and requested that the site not be disturbed and no subsurface testing was completed. No artifacts were observed in the area. The site was thus determined potentially eligible pending additional research and tribal consultation.

GCM revisited the site in 2000 and determined that the site was not eligible for listing. According to the Wyoming Cultural Properties Form, they evidently identified no features.

US Forest Service archaeologists returned to the site location in 2001 and relocated the features first identified by ARCHLAB. The Forest Service determined that the site might be significant to tribes and recommended the site remain unevaluated pending tribal input. The SHPO agreed.

SWCA returned to the site area in 2007 and determined that the original plotted coordinates were inaccurate and provided updated mapping. The site is located entirely within the direct impact Area APE. They identified a large stone cairn and a stone alignment. No artifacts were found. SWCA recommended the site not eligible for listing under Criteria B, C, and D and potentially eligible under Criterion A pending tribal consultation.

Berger and tribal representatives visited the site on June 6, 2009 and relocated a cairn and alignment. The Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes and the Upper Sioux Community suggested that the two features are connected and should be viewed as one feature. These tribes also suggested that the site has ritual/spiritual qualities stating that the cairn could be a burial and/or the site could be a directional marker relating to the movement of game and/or location of plants.

The Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes recommended the site eligible under Criteria A, and D. The Upper Sioux Community recommended the site eligible under Criterion D only. All four of the above tribes asked that the site be fenced off during construction and be protected. The Fort Peck Assiniboine and Sioux Tribes recommended the site eligible under Criterion A. The Northern Cheyenne Tribe provided no opinion regarding eligibility of the site.

The STB has determined Site 48CA3652 eligible for listing under Criteria A and D based on the recommendations provided by the above tribes.

14. Site 48CA3653

Previous National Register Status: Recommended not eligible under Criterion D; Unevaluated pending tribal input

STB Determination: Eligible under Criteria A, D

Site 48CA3653 was recorded in 1999 by ARCHLAB as two rock cairns, one other possible cairn and a lithic scatter consisting of two grey porcellanite flakes. A historic survey marker was also found consisting of a cairn and center wooden stake. Tribal monitors who accompanied ARCHLAB recommended the site as potentially significant; no subsurface testing was completed.

GCM revisited the site in 2000 and recommended that it be not eligible for listing under any criteria. US Forest Service archaeologists went to the site in 2001 and recommended that the site remain unevaluated pending tribal input. They noted that the site may be associated with a nearby prehistoric hunting site (i.e., 48CA1618/48CA3654).

SWCA recorded the site in 2007 and suggested that the features that were originally identified were in fact natural in origin. Based on this, they suggested that the site be considered not eligible for listing under Criterion D. However, they too recommended that the site remain unevaluated pending tribal input.

Berger and tribal representatives returned to the site on June 6, 2009 and identified three rock cairns. Tribal representatives also identified a vision quest/fasting site (*hanblecheya*) with a circle of stones just west of the site boundary along with a lithic scatter. Part of the site is located within the direct impact APE (two of the cairns). The vision quest site was plotted by Berger staff using a GPS unit (see map).

The Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes recommended the site eligible for listing under Criteria A and D. Vision quest sites are considered important to the spiritual traditions of Native spiritual practitioners and to tribal practices.

The STB has determined Site 48CA3653 eligible for listing under Criterion D based on the recommendations of the Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes who have stated that the site is important for the information it conveys from the past

(prehistory or history) about tribal spirituality and as it has the potential to serve as an important educational tool from the spiritual guidance that it provides. We have also determined the site eligible for listing under Criterion A, for its association with important events, based on the recommendations of tribes.

15. Site 48CA3655

Previous National Register Status: Recommended not eligible under Criterion D; Unevaluated pending tribal input

STB Determination: Eligible under Criteria A, D

Site 48CA3655 was first recorded by ARCHLAB in 1999. The site was described as three stone cairns and a historic survey marker. ARCHLAB recommended the site as potentially eligible and recommended consultation with tribes. GCM Services revisited the site in 2000 at which time they identified one cairn and recommended the site not eligible. ACR attempted to relocate the site in 2006 but found nothing. ACR recommended the site not eligible but suggested consultation with tribes.

Berger staff and tribal representatives relocated the site on June 9, 2009 and identified the three rock cairns recorded by previous investigators. They also identified several additional features including a “V” shaped alignment and a stone circle with a stone in the center. Berger staff plotted the additional features using a GPS. All three cairns and the newly identified stone circle are situated within the direct impacts APE while the “V” shaped alignment is located just outside the eastern boundary of the direct impacts APE. Tribal representatives also observed fragments of bison bone along an eroded stream terrace embankment approximately 140 meters south of the reported site (see map). The location of these bone fragments was recorded with GPS equipment and was later confirmed to be part of Site 48CA1618/48CA3654, which has not yet been fully evaluated.

The Rosebud Sioux, Standing Rock Sioux, and Sisseton Wahpeton Oyate tribes recommended the site eligible for listing under Criteria A and D. The Fort Peck Assiniboine and Sioux Tribes recommended the site eligible under Criterion A. The Northern Cheyenne Tribe did not provide comment regarding the site’s significance. The Upper Sioux Community recommended that the site be considered eligible under Criterion A.

The STB has determined Site 48CA3655 eligible for listing under Criterion A and D based on the recommendations provided by the above tribes.

16. Site 48CA3781

Previous National Register Status: Prehistoric Component: Eligible under Criteria C, D; recommend tribal consultation; Historic Component: Eligible under D

STB Determination: Prehistoric Component: Eligible under Criteria A, C, D; Historic Component: Eligible Criterion D

Site 48CA3781 was originally identified by GCM in 2000. The site was revisited by ACR in 2006 and then again by SWCA in 2007. GCM recorded the site as a large lithic scatter with hundreds of artifacts, five stone features (two stone arcs, and two stone circles and an alignment) and three historic inscription panels. Four shovel tests were excavated, all of which lacked cultural material below 10 centimeters below ground surface. GCM recommended the site not eligible for listing on the National Register.

ACR divided the site into three localities and recorded 41 features: 19 stone circles; one stone concentration; seven rock piles; one hearth; one rock art panel; 11 historic inscription panels; and one “spy hole.” The rock piles were interpreted as possible burials. Prehistoric artifacts indicated Paleoindian (two Clovis projectile points in Locality 2) through early historic periods (one small blue trade bead in Locality 3). No subsurface tests were excavated because of the possibility of burials. ACR recommended Site 48CA3781 eligible for listing on the National Register under Criterion D.

SWCA recorded 46 features: 24 stone circles; one stone arc; four stone cairns; three stone alignments; one prehistoric rock art panel; 11 historic inscription panels; one hearth; and one “spy hole.” Three features (a historic inscription panel, the L-shaped alignment, and the small stone circle) were not relocated. Three shovel tests were excavated, each of which was negative for cultural materials. SWCA recommended the prehistoric component eligible for listing in the National Register under Criteria C and D and possibly eligible under Criterion A pending tribal consultation. The historic component was recommended eligible under Criterion D.

Berger and tribal representatives visited Site 48CA3781 on June 2, 2009. In addition to relocating the features previously reported at the site, the Northern Cheyenne representatives identified a previously unrecognized prayer or fasting place about 60 meters west of the features in Locality 3 which was mapped using a GPS. A Duncan or Yonkee (Archaic) point base was identified at the southwestern margin of Locality 3. Three Late Prehistoric, Plains Village point bases were also identified in the northeastern part of Locality 2.

The Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes recommend the site eligible for listing on the National Register under Criterion A as they view the petroglyph at the site to be “a sacred remnant of a dream and event in the life of an ancestor” and is “considered important to the continued cultural continuity of the Native peoples of the Great Plains.” The Upper Sioux Community observed that the cairns are probably associated with burials. The Northern Cheyenne identified plants used in ceremonies and reported that a ceremonial circle or prayer location lies at the base of the hill west of where the main site is recorded.

The Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes recommended the prehistoric component of the site be considered eligible under Criterion D. The Upper Sioux Community recommended that the area be resurveyed.

The STB has determined Site 48CA3781 eligible for listing on the National Register under Criterion A for its association with past events that have made significant contributions to

the broad patterns of Native American history and under Criterion D for its potential to yield information important to prehistory.

The proposed centerline for the railroad passes between Localities 2 and 3 in the southern half of Site 48CA3781. The tribes recommend avoidance of Features 26, 44, and 46 as well as the newly recorded ceremonial circle or prayer location. The Upper Sioux Community recommends that a tribal monitor be present during excavation of the cut and during construction of the railroad.

17. Site 48CA5490/5491

Previous National Register Status: Unevaluated pending tribal input

STB Determination: Eligible under Criterion A; Potentially Eligible under Criterion D

Site 48CA5490/5491 is a multi-component site located on a broad alluvial terrace situated on the west side of School Creek. The site consists of two prehistoric stone circles, a cairn, hearth, lithic scatter and the remains of an early 20th century homestead and associated historic artifact scatter.

Site 48CA5490/48CA5491 was first identified in 2005 by GCM Services as two separate sites. Site 48CA5490 consisted of sparse lithic and historic scatters and 48CA5491 was associated with the historical Elwood Hester Homestead with a large structure-related depression and the remains of a corral. At the time the Bureau of Land Management (BLM) determined that both sites were not eligible for the National Register.

In 2006, ACR revisited the area and combined the two sites into one. ACR examined both site areas and recorded a total of eight features. Five historic features included: a large depression (Feature 1), a sandstone walk (Feature 2), a possible outhouse depression (Feature 3), and two dugout depressions (Features 4 and 5). Three prehistoric features were identified at the extreme north end of the site including: a stone circle (Feature 6), and two hearths (Features 7 and 8). The lithic scatter associated with the prehistoric component included two Late Prehistoric projectile points and 62 other pieces of chipped stone. ACR excavated nine shovel tests, all of which were negative for cultural materials; however, the results also indicated that portions of the site along School Creek revealed potential for subsurface cultural deposits. ACR concluded that the historic component at Site 48CA5490/CA5491 was not eligible, but recommended that the prehistoric component of the site be considered potentially eligible under Criterion D based on its potential to contain subsurface cultural deposits. ACR recommended additional testing to more fully evaluate the site.

SWCA revisited the site in June 2007 and was unable to verify the prehistoric features identified by ACR. SWCA concluded that the stone circle and hearth features were natural arrangements of stone eroded from the adjacent upland slope north of the features. SWCA examined the exposed cut banks along School Creek and observed no buried cultural deposits. No additional subsurface testing was conducted. SWCA suggested that the site was not eligible under Criterion D but recommended it remain unevaluated under Criterion A pending consultation with tribes.

Berger and representatives from the Oglala Sioux, Rosebud Sioux, Standing Rock Sioux, and Sisseton Wahpeton Oyate tribes went to Site 48CA5490/48CA5491 on September 2, 2009 and relocated the stone circle (Feature 6) and one of the hearths (Feature 8) situated at the north end of the site. (No effort was made to relocate any of the features associated with the site's historic component.) The group also identified a second stone circle near Feature 6, a 1977 BLM survey marker located along the seasonal drainage, and two previously unidentified cairns located on higher ground at the east edge of the proposed railroad right-of-way in the northwest portion of the site. Representatives also located two additional projectile points on the terrace south of the seasonal drainage, both of which were identified by tribes as Middle Archaic types. The Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes recommended that additional testing be conducted at the site. The tribes also recommended that the site be considered eligible under Criterion A and that the impacts to the cairn features be avoided. No comments were received from the Oglala Sioux Tribe regarding this site.

The proposed construction would not directly impact any of the prehistoric or historic archaeological deposits identified at the site. However, two of the newly recorded cairns are situated at the eastern edge of the proposed right-of-way. Temporary fencing at the time of construction could protect these features during project construction.

The STB has determined Site 48CA5490/48CA5491 eligible for listing on the National Register under Criterion A based on the above information. Additional subsurface testing is needed to further evaluate the eligibility of the site's prehistoric component in accordance with recommendations provided by ACR and participating tribes.

18. Site 48CA6123

Previous National Register Status: Eligible Criterion D; Historic Component Not Eligible

STB Determination: Prehistoric Component Eligible under Criteria A and D; Historic Component Not Eligible

Site 48CA6123 is a multi-component site that includes stone features, Middle Archaic period lithic scatters, and a historic debris scatter that appears to be associated with a late 19th century or early 20th century herder's camp.

Site 48CA6123 was first identified in 2005 by GCM Services as having four complete stone circles (Features 3, 4, 5, and 6) and two incomplete circles or stone arcs (Features 1 and 2). A fire hearth (Feature 7) and a scatter of chipped stone artifacts including an end scraper and 25 unmodified flakes were identified down-slope to the north of the stone features. GCM excavated four shovel tests at the site. No artifacts were recovered from the shovel tests, but burned soil and wood charcoal was observed in a test excavated adjacent to the suspected hearth feature. GCM concluded that the site had potential for buried archaeological deposits and recommended additional testing to fully evaluate the site.

In 2006, GCM and Archaeo-Physics LLC performed a magnetic field gradient survey across the down-slope portion of the site. Eight magnetic anomalies were identified and six of

the eight anomalies were investigated using small 50 x 50-centimeter or 1 x 1-meter test units. One of the anomalies was identified as a hearth (Feature 8) buried five to 25 centimeters below the ground surface. The five other anomalies were inconclusive or determined to be intrusive items (i.e., metal fence posts). Test units were also excavated within two of the stone rings present at the site (Features 4 and 5). No artifacts were recovered, but the excavation recorded the presence of possible fire-burned scoria rock in Feature 5. GCM recommended the site eligible under Criterion D and further testing of the geophysical anomalies and site features.

ACR revisited the site in September 2006 and relocated Features 2, 3, and 4. ACR also completed a careful surface survey of the site, locating 16 chipped-stone tools and 377 pieces of chipping debris dispersed across the site in two lithic concentrations (LC1 and LC2). Associated culturally diagnostic tools, including three Middle Archaic period projectile points, were found. No additional subsurface testing was conducted by ACR. ACR recommended that the historic component be considered not eligible for the National Register, but considered the site to have potential for additional buried prehistoric features. ACR recommended that the site's prehistoric component remain unevaluated pending additional testing.

SWCA revisited the site in June 2007 and confirmed the location of the six stone features identified by GCM and ACR (Features 1-6), but could not relocate the two hearth features identified by GCM as Features 7 and 8. SWCA recorded one previously unidentified stone circle at the south margin of the site which they erroneously identified as Feature 8. SWCA excavated five additional shovel tests across the southern half of the site to help evaluate its depositional potential. No artifacts or other archaeological materials were recovered from any of the five subsurface tests, but SWCA concluded that the site has sufficient soil to contain buried cultural deposits. SWCA recommended that the prehistoric component at Site 48CA6123 be eligible for the National Register under Criterion D, citing the presence of features and its potential to contain buried cultural materials. SWCA recommended that the historic component at 48CA6123 be considered non-contributing to the site's eligibility. SWCA further recommended tribal consultation to determine the site's potential eligibility under Criterion A as a traditional cultural property.

Berger and representatives from the Sisseton Wahpeton Oyate, Oglala Sioux, Rosebud Sioux, and Standing Rock Sioux tribes visited Site 48CA6123 on September 2, 2009. The group relocated six of the seven stone circles defined by SWCA (Features 2, 3, 4, 5, 6, 8). The stone circle identified as Feature 1 was not relocated, nor were the two hearth features identified by GCM as Features 7 and 8. Tribal representatives identified Feature 6 as a possible U-shaped stone effigy and an associated alignment of stone as opposed to a stone circle or ring as it was identified and described by archaeologists. A stone arc with its open portion oriented to the west was identified approximately 70 meters west of Feature 2. Participants speculated that this might correspond with the stone feature that archaeologists identified as Feature 1, but its GPS-plotted location confirms that it is actually a newly identified stone feature. Two previously unreported cairns were also identified on high ground at the southwest margin of the site.

A newly identified lithic scatter, measuring approximately 20 x 20 meters in size, was also observed about 50 meters east of the reported site boundary. One small projectile point, tentatively identified as a Middle Archaic Duncan type, was associated with this newly identified

lithic artifact concentration. Representatives from the Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes have recommended that Site 48CA6123 be considered eligible for listing on the National Register under Criterion D. The Oglala Sioux Tribe's representative participated in the site visit, but provided no written comment or recommendations regarding the site. The Yankton Sioux Tribe's representative did not visit the site, but stated that they agreed with the recommendations provided in the archaeological report.

Project construction would include a cut through the east central portion of the site that will impact one stone circle (Feature 2) and portions of lithic artifact concentrations LC1 and LC2. Tribes have recommended that the site be avoided by project construction and have provided specific recommendations with regard to avoiding impacts to Feature 2.

The STB has determined Site 48CA6123 eligible for listing on the National Register under Criterion D based on tribal recommendations as well as previous archaeological recommendations. We also believe that the site is eligible under Criterion A based on the information provided by the Rosebud Sioux Tribe who state that the site is a commemorative memorial used over a period of time.

19. Site 48CA6451

Previous National Register Status: Not eligible

STB Determination: Eligible under Criteria A, D

Site 48CA6451 was originally identified by ACR in 2006 and revisited by SWCA in 2007. ACR recorded a stone cairn and a large lithic scatter that included three projectile point fragments, four biface fragments, three scrapers, and over 100 flakes. ACR interpreted the site as a short-term lithic reduction and resource procurement area. The stone cairn (Feature 1) consisted of 19 sandstone cobbles. ACR excavated six shovel tests at the site. All were negative for cultural materials. ACR recommended the site not eligible.

SWCA interpreted the cairn (Feature 1) as possibly historic. No subsurface testing was performed by SWCA. SWCA concurred with ACR's recommendation that the site was not eligible for listing on the National Register.

Berger and tribal representatives visited Site 48CA6451 on June 11, 2009. Feature 1, which was located at the northwest margin of the site, was relocated. The representative from the Upper Sioux Community considered Feature 1 to more likely be a hearth than a cairn. A previously unreported stone circle was also identified in the southern part of the site.

Tribal representatives identified three additional features outside the reported boundaries of Site 48CA6451 including two possible human burials. A cairn was identified about 95 meters west-northwest of Feature 1. Two possible burials, marked by cairns, were identified about 205 meters and 200 meters northwest of Feature 1. The first potential burial was about 60 meters north of the proposed centerline, but west of the site. The second was about 90 meters north-northeast of the first burial. The locations of the four new features were recorded with a GPS unit (see map).

The Fort Peck Assiniboine and Sioux Tribes recommended that the site be considered eligible under Criterion A. The Northern Cheyenne Tribe suggested that the sites should be subject to additional investigation, but did not comment on the eligibility of the site.

STB has determined Site 48CA6451 eligible for listing in the National Register under Criterion A for its association with past events that have made significant contributions to the broad patterns of Native American history and under Criterion D for its potential to yield information important to prehistory.

The site lies completely within the proposed project right-of-way. Cairn Feature 1 is situated north of the fill line, but the southern fill line crosses through the location of the newly recorded stone circle. The Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes recommend that a temporary fence be erected along the fill line to control where heavy equipment is allowed and that the project plans be redesigned to avoid direct adverse impact to the stone circle.

20. Site 48CA6453

Previous National Register Status: Eligible under Criteria D; recommend tribal consultation for further evaluation

STB Determination: Eligible under Criteria A, D

Site 48CA6453 was first identified in 2006 by ACR. At the time, the site was described as a stone alignment located on the east flank of a low bluff. The stone alignment consisted of five small rock piles and two single stones arranged north to south. No function was provided for the site. No diagnostic artifacts were noted.

The site was revisited by SWCA in June 2007. The site was identified by SWCA as an alignment consisting of seven stone cairns. SWCA excavated two shovel tests and found cultural deposits in one of the tests. SWCA recommended the site eligible under Criterion D and said that the site could be eligible under Criterion A pending tribal input.

Berger and tribal representatives visited the site on June 6, 2009 and relocated it approximately 20 meters east of where it had been plotted by SWCA. Seven stone cairns were identified. The Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes also identified two prayer locations approximately 70 meters to the west of the cairns. These prayer locations were further described as part of a larger cultural landscape feature that “is important to traditional cultural practitioners of Native spirituality” and “is associated with a living spiritual practice and tradition.” According to these three tribes, the cairns are directional markers and a burial locale. They recommended the site eligible for listing under Criteria A and D. The Upper Sioux Community described the site as an *Inyan Kaga*, a place where stones used in ceremonies are made and also recommended the site eligible for listing under Criteria A and D. The Fort Peck Assiniboine and Sioux Tribes recommended the site eligible under Criterion A. These participating tribes recommended that the site be avoided to the extent feasible. The Northern Cheyenne Tribe deemed the site not significant.

Berger staff provided updated GPS locations for the site including the cairns and two prayer locations. Most of the site is located within the APE for direct impacts. However, one prayer location is just outside the northern boundary for the direct impact APE (see map).

The STB has determined Site 48CA6453 eligible for listing under Criterion D based on the recommendations of the Rosebud Sioux, Sisseton Wahpeton Oyate, and Standing Rock Sioux tribes, and the Upper Sioux Community who have stated that the site is important for the information it conveys from the past (prehistory or history) about tribal spirituality and as it has the potential to serve as an important educational tool from the spiritual guidance that it provides. We have also determined the site eligible for listing under Criterion A, for its association with important events, based on the recommendations of tribes.

21. Site 48CA6704

Previous National Register Status: Recommended not eligible Under Criterion C; Unevaluated pending tribal input

STB Determination: Eligible under Criterion A and D

Site 48CA6704 is a prehistoric site that includes a variety of stone features including stone circles, cairns, and alignments. It is located on the crest of a north-south trending upland ridge overlooking the School Creek Valley.

Site 48CA6704 was first identified in June 2007 by SWCA as having six stone cairns (Features 1 to 6) and nine stone circles (Features 7 to 15). No artifacts were observed on the surface of the site and no subsurface testing was performed. SWCA recommended that Site 48CA6704 remain unevaluated pending consultation with tribes regarding its potential traditional cultural significance.

Berger and representatives from the Standing Rock and Sisseton Wahpeton Oyate tribes visited Site 48CA6704 on September 2, 2009. The group relocated all 15 stone features mapped by the archaeological survey team. Tribal representatives also identified one new cairn near Features 4 and 5 at the north end of the site and one new stone alignment/altar/stone arrangement approximately 10 meters west (down slope) from the stone circle identified as Feature 12.

No specific eligibility recommendations regarding this site were provided by the tribes. However, written comments provided by the Standing Rock Sioux Tribe state that Site 48CA6704 possesses stone features of significance to the tribe and that stone features in general: “mark areas where one could seek spiritual guidance and vision making them tangible aspects of Plains Indian culture and spirituality” Based on this information, we believe the site is eligible for listing under Criteria A and D.

GPS locations recorded by Berger indicate that the entire site is 20 meters closer to the proposed project centerline than reported by SWCA. Although current information regarding the location of the project’s proposed cut and fill limits indicates that the proposed construction

would not directly impact any of the prehistoric features identified at this site, it appears that some cut areas may encroach to within five meters or less of the site boundary.

The STB has determined Site 48CA6704 eligible for listing on the National Register under Criteria A and D based on the above tribal and consultant recommendations.

D. Conclusions and Follow-Up

In summary, the STB has determined that 20 of the archaeological sites discussed herein are eligible for listing on the National Register. Sixteen sites: 48CA98; 48CA211; 48CA1406/1719; 48CA1528/48CA2879/48CA2880; 48CA1862; 48CA2291; 48CA3508; 48CA3527; 48CA3638; 48CA3652; 48CA3653; 48CA3655; 48CA6123; 48CA6451; 48CA6453; and 48CA6704 are eligible for listing under Criteria A and D. Three sites: 48CA1490/48CO726, 48CA1709, 48CA3781 are eligible for listing under Criteria A, C, and D. And 48CA5490/5491 is eligible for listing under Criterion A only. We recommend that 48CA97 remain unevaluated pending field confirmation of the site's location. Although not all of the sites would be directly impacted by the proposed construction project, we believe that all of the 20 evaluated sites would be subject to adverse effects.

We request that you provide us with your response regarding our National Register determinations within (60) days from receipt of this letter. Copies of this letter are being provided to Section 106 consulting parties for a 30-day review period. Attached are comments that we previously received from the US Forest Service in response to the WY2 Report as well as their comments on the WY1 Report (some of the WY1 comments pertain to the New Built Project Area as a whole and thus are included). No other consulting party comments were submitted regarding the WY2 Report. Any comments we receive from consulting parties in response to this letter will be forwarded to you.

If you have any questions regarding any of our National Register determinations, or the justifications for our decisions, please contact Catherine Glidden, SEA's Project Manager, at (202) 245-0293 or Randy Withrow of The Louis Berger Group, Project Manager for SEA's third-party contracting team, at (319) 373-3043.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

Enclosures (SHPO only):

- 1) Documentation Received from Participating Tribes (Fort Peck Assiniboine and Sioux Tribes, Northern Cheyenne Tribe, Rosebud Sioux Tribe, Sisseton-Wahpeton Oyate, Standing Rock Sioux Tribe, Upper Sioux Community, Yankton Sioux Tribe) – Confidential
- 2) Updated Site Maps – Confidential
- 3) Wyoming Site Forms
- 4) Research Context for the Interpretation and Evaluation of Stone Features and Stone Feature Sites (The Louis Berger Group, Inc.)
- 5) October 6, 2009 letter from Rosebud Sioux Tribe to STB
- 6) November 10, 2009 letter from STB to Rosebud Sioux Tribe
- 7) Consulting party comments on WY2 Report