DATE: January 19, 2001

TO: J. Guinan, Office of Passenger & Freight Transportation, 5-502 0502

FROM: G. McVoy, Environmental Analysis Bureau, 5-303 0473

SUBJECT: MEMORANDUM OF AGREEMENT
REMSEN/LAKE PLACID TRAVEL CORRIDOR
REGIONS 1, 2 & 7

Attached is a finalized Memorandum of Agreement (MOA) between the Department, the NYS Office of Parks, Recreation and Historic Preservation (OPRHP) and the Federal Highway Administration (FHWA) which sets forth the process the NYSDOT should follow to satisfy the requirements of Section 106 and 110(f) of the National Historic Preservation Act for the rehabilitation and reactivation of the Remsen/Lake Placid Travel Corridor. This MOA identifies the projects that will not effect the National Register of Historic Places listed New York Central Railroad Adirondack Division Historic District.

All signatures have been obtained from the OPRHP, FHWA and our Department. FHWA has notified the Advisory Council on Historic Preservation by providing them a copy of the MOA.

Any questions regarding implementing this MOA should be directed to the Regional Cultural Resource Coordinators.

GRM/LHO
Attachment

cc: A. Graham Bailey, FHWA
Ruth Pierpont, Office of Parks, Recreation and Historic Preservation
Regional Design Engineer, Regions 1, 2 & 7
Regional Cultural Resource Coordinators, Regions 1, 2 & 7
D. D'Angelo, Design Qual. Assur. Bur., 5-410 0750
J. D. Cartin, Freight & Economic Development, 7-A-300
A. Torre, Corridor Manager, 7-A 0876
J. Church, Proj. & Letting Mgmt., 5-520 0520
M. Ivey, Environmental Analysis Bureau, 5-303 0473
K. D. McCann, Environmental Analysis Bureau, 5-303 0473
File
MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION,
THE NEW YORK DEPARTMENT OF TRANSPORTATION
AND THE
NEW YORK STATE HISTORIC PRESERVATION OFFICER
REGARDING THE REHABILITATION AND REACTIVATION OF THE
REMSEN/LAKE PLACID TRAVEL CORRIDOR

WHEREAS, the Federal Highway Administration (FHWA) proposes to administer the Federal Aid Program through the New York State Department of Transportation (NYSDOT) for the rehabilitation and reactivation of the Remsen/Lake Placid Travel Corridor (Corridor) which is listed on the State and National Registers of Historic Places (S/NRHP) as the New York Central Railroad Adirondack Division Historic District (District); and

WHEREAS, within the existing Corridor right-of-way, a comprehensive survey of historic properties contributing to the District have been identified; and

WHEREAS, historic properties are defined as prehistoric and historic archeological sites, buildings, structures, districts, objects, landscapes, and traditional cultural properties included in or eligible for listing in the S/NRHP; and

WHEREAS, NYSDOT, in its role to gain compliance with the National Environmental Policy Act and the National Historic Preservation Act (NHPA) seeks to coordinate historical and archeological investigations, reviews, and consultations as a single process; and

WHEREAS, NYSDOT has a staff of qualified cultural resource specialists who meet the professional qualifications in 36 CFR Part 61 in the fields of archeology, architectural history, and history, to carry out its historic preservation programs and responsibilities; and

WHEREAS, FHWA has determined that certain types of these projects typically will have No Effect upon the District, and has consulted with the NYSDOT and the New York State Historic Preservation Officer (NYSHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f), as amended; and

WHEREAS, the FHWA, NYSDOT and NYSHPO agree that the Corridor should be addressed as a single historic resource with a Memorandum of Agreement (MOA) that considers the collective positive and negative impacts of the projects to be undertaken; and
1. **FHWA Responsibilities:**

   a. **Purpose and Applicability.** This MOA sets forth the process by which FHWA will meet its responsibilities under Sections 106 and 110 (f) of NHPA, with the assistance of NYSDOT, for the rehabilitation and reactivation of the Corridor. This agreement establishes the bases for NYSDOT’s internal review of individual minor projects and establishes how FHWA will be involved throughout the process.

   b. **Roles of FHWA and NYSDOT.** In compliance with its responsibilities under NHPA and as a condition of its award of any assistance for the rehabilitation and reactivation of the Corridor, FHWA shall require NYSDOT to carry out the requirements of 36 CFR Part 800 for all Corridor projects that receive federal assistance. FHWA will participate in the process as specified in subsequent stipulations.

   NYSDOT shall continue to employ personnel trained and qualified in the fields of architectural history and archeology whose duties shall include implementing this agreement.

   c. **Guidelines, Standards, and Regulations Relevant to This MOA.**
      
      i. Secretary of the Interior’s Standards and Guidelines for Historic Preservation Projects
      
      ii. 36 CFR Part 800: Protection of Historic Properties
      
      iii. Secretary of the Interior’s Standards and Guidelines for Archeology (48 FR 44734-37)
      
      iv. New York State Education Department Cultural Resources Survey Program Work Scope Specifications for Cultural Resource Investigations on New York State Department of Transportation Projects, January 1998

2. **Project Review and Findings of No Effect:** The majority of projects are unlikely to have any impact on historic properties. In general, these projects involving the rehabilitation and reactivation of the Corridor, often have limited areas of potential effects, and unlikely to contain historic properties. They occur largely at grades either within the existing Corridor right-of-way or with minimal new right-of-way, do not introduce new structural or visual elements, and do not require substantial ground disturbance. These projects include:

   a. **Bridges:**
      
      i. Cleaning, repairing, or conducting regular maintenance operations including replacement of individual components
      
      ii. Cleaning, painting, or greasing bearings
      
      iii. Stone fill scour protection
      
      iv. Steel deck and girder repair/painting
      
      v. Inkind bridge timber replacement and with extended members
vi. Concrete rehabilitation including piers, abutments and curbs
vii. Deck replacement including addition of sidewalks and railings (see attached typical sheet)
b. Culverts: Cleaning, repairing or conducting regular maintenance operations
c. Track:
i. Repairing or replacing railroad ties and track
ii. Repairing or replacing ballast around railroad ties and rails
iii. Resurfacing or alignment corrections
iv. Repairing or replacing track bed area
v. Installing short segments of new track within Corridor (commonly referred to as sidings, leads and turntables) where track previously existed to facilitate train movements within train yard areas and at various main line locations.
d. At-Grade Crossings:
i. Installing automatic flasher/gate systems at public crossings
ii. Installing railroad cross-bucks and stop signs at public crossings
e. Signs: In-kind repair/replacement
f. Septic Systems: In-kind repair/replacement
Underground Utility Lines: Repairing or replacing within existing trench
g. Vegetation Removal: Removing vegetation within 100' right-of-way corridor to open up scenic vistas, reestablish minimum clearance, and applying herbicides for vegetation control
h. Erosion Control:
i. Placing culvert scour protection (use of stone fill and/or pipe end sections)
ii. Ditch cleaning and/or reshaping (use of stone fill or rip-rap)
iii. Protecting embankments along water courses or flood prone areas (use of stone fill or rip-rap)
iv. Using standard measures during construction or maintenance activities (hay bales, siltation fencing, turbidity curtains, jute mesh, turf establishment, etc.)
i. Historic Buildings/Structures
i. Replacing roofs in-kind
ii. Rebuilding wheelchair ramps
iii. Caulking
iv. Replacing gutter systems (if color matches color of building)
v. Installing furnaces
vi. All electrical and plumbing work
vii. Replacing siding in-kind
viii. Installing missing screens & glass
ix. Cleaning or repointing of brick or stone exteriors providing that, non-ionic cleaners and non-ferrous brushes are used, new mortar matches original in color, texture, hardness, joint width and profile and water pressures do not exceed 150 psi. Sandblasting is strictly prohibited.
x. Repointing all structures where new mortar matches original in color, texture, hardness, joint width and profile. The use of silicone sealers or other non-breathable coatings is specifically excluded.
Painting with traditional color schemes, or complementary colors, removable oil base or latex paint of previously painted surfaces provided that appropriate surface preparation is undertaken, including washing, scraping, and priming all exposed areas with oil base primer.

Therefore, the projects, so defined by this paragraph subsections a. through i. inclusive, will be reviewed for Section 106 purposes within NYSDOT by its cultural resource specialists without further review by NYSHPO, provided that NYSDOT finds that there are no properties that will be affected by the undertaking or that the undertaking by its nature will have no effect on historic or archeological properties.

3. NYSDOT Review Process:
   a. Internal Review: For project types listed in Stipulation 2, a NYSDOT qualified Cultural Resource Specialists, will employ a multi-disciplinary approach to implement the following internal review process, as appropriate to the project:
      i. Determine the project’s Area of Potential Effects (APE);
      ii. Review existing information on inventoried properties in the APE;
      iii. Assess the likelihood that unidentified properties exist in the APE;
      iv. Determine the degree of existing disturbance within the APE, performing a field inspection where warranted;
      v. Conduct a field survey in conformance with the applicable standards in Stipulation 1c., where warranted;
      vi. Determine whether there are properties in the APE; and
      vii. Assess the project’s effects on any historic properties, by applying the Criteria of Effect and Adverse Effect (36 CFR 800.5).

   b. Eligibility Evaluations: NYSDOT will make no eligibility determinations of properties for the S/NRHP without consulting with the NYSHPO pursuant to 36 CFR 800.4(c)(2).

   c. Notification and Coordination: For projects that do not include properties within the APE or that by their nature will have No Effect on historic properties, NYSDOT will notify the NYSHPO of its effect findings accompanied by a brief project description and a map showing the project location and extent. Unless the NYSHPO objects within 30 days of receiving the notification, NYSDOT is not required to take any further action in the Section 106 process. FHWA will be copied on this decision.

   If NYSDOT review suggests that a project will affect properties, NYSDOT will seek coordination on the project in accordance with 36 CFR 800.4 through 36 CFR 800.6 and in consultation with the NYSHPO.

   d. Project Review and Findings Where There is Potential to Effect: If NYSDOT internal reviews suggests that a project has a potential to affect historic properties, NYSDOT through their established process, will seek coordination with the NYSHPO and other consulting parties on a project-by-project basis in accordance with 36 CFR 800.4 through 36 CFR 800.6.
4. **Annual Review and Monitoring:**
NYSHPO and FHWA will monitor activities carried out pursuant to this MOA.

5. **Amendment:**
Any parties to this MOA may request that it be amended, whereupon the parties will consult to consider such amendment.

6. **Termination:**
Any party to this MOA may terminate by providing 30 days notice to other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

7. **Dispute Resolution:**
Should any consulting parties to this agreement object within 30 days to any documents or plans provided for review or any actions proposed pursuant to this agreement, NYSDOT, NYSHPO and FHWA shall meet, discuss and agree or elevate to executive management level in both agencies.

8. **Coordination with Section 14.09 of the Parks, Recreation and Historic Preservation Law:**
NYSDOT and NYSHPO agree that fulfillment of the terms of this agreement for rehabilitation and reactivation of the Corridor as defined in Stipulations 1 through 8 will satisfy NYSDOT's responsibilities under the requirements of Part 428 of the Parks, Recreation and Historic Preservation Law, Section 14.09.

Execution of this Memorandum of Agreement and implementation of its terms evidence that the NYSDOT has afforded the FHWA and NYSHPO an opportunity to comment on the undertaking and its effects on historic properties, and that the NYSDOT has taken into account the effects of the undertaking on historic properties.

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION**

By: [Signature] Date: 2/3/00
JAMES B. CANTWELL, ASSISTANT COMMISSIONER & CHIEF COUNSEL

**NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION OFFICE**

By: [Signature] Date: 16 March '00
J. WINTHROP ALDRICH, DEPUTY COMMISSIONER FOR HISTORIC PRESERVATION

**FEDERAL HIGHWAY ADMINISTRATION**

By: [Signature] Date: 4/4/00
HAROLD J. BROWN, DIVISION ADMINISTRATOR