



Preserving America's Heritage

October 18, 2010

Robert Davies
Upstate Team Leader
Federal Highway Administration
Leo W. O'Brien Federal Building, Suite 719
Clinton Avenue & North Pearl Street
Albany, NY 12207

**REF: *Peace Bridge Expansion Project, Alternative IB-5R
City of Buffalo, Erie County, New York and
Town of Fort Erie, Ontario, Canada
PIN 5753.85/05PR00930***

Dear Mr. Davies:

The National Trust for Historic Preservation (NTHP) recently expressed, in writing, its objection to the Memorandum of Agreement (MOA) for the Peace Bridge Expansion Project. This objection was contained in a letter transmitted to the Advisory Council on Historic Preservation (ACHP), Federal Highway Administration (FHWA), and State Historic Preservation Officer (SHPO) on August 11, 2010. The basis for the objection was NTHP's concern that FHWA had failed to fully consult with the Section 106 consulting parties to consider alternatives or modifications to the project that would avoid and minimize its adverse effects, pursuant to the requirements of the Section 106 regulations at 36 CFR 800.6(a). The NTHP also indicated that the mitigation measures contained in the MOA inadequately address the major threat to the National Register-eligible Prospect Hill Historic District and other properties (the visitor center, duty-free shop, parking garage and surface lots) and that FHWA has not responded to earlier recommendations that it could avoid or dramatically reduce this impact if the agencies made an effort to develop creative solutions and compromises. We also received copies of written objections to the MOA from the Buffalo Olmstead Parks Conservancy, the Niagara Gateway Columbus Park Association, Landmark Society of the Niagara Frontier, and Ms. Cody and Ms. DeTine, two property owners within the historic Prospect Hill neighborhood. All of these parties express similar concerns about the consultation process and the sufficiency of the measures contained in the MOA to mitigate the project's effects on historic properties.

The ACHP received the draft MOA and supporting documentation from FHWA for this project on January 22, 2009, and based on that information provided FHWA with our comments on March 5, 2010. Although the ACHP had agreed with the other signatories that FHWA could circulate the final MOA for signature without additional review by the consulting parties, our awareness of the level of interest among the consulting parties in further consultation and their views regarding the mitigation contained in the MOA has led us to conclude that additional consultation with these parties prior to executing the MOA is appropriate.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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FHWA last met with the consulting parties on June 4, 2008, and the NYSDOT notified consulting parties of its finding of adverse effect and solicited input on its proposed mitigation in May of 2009. FHWA has already incorporated design modifications into the preferred alternative (Alternative 1B-R5), which have helped considerably in avoiding and minimizing the effect of the project on historic properties. FHWA has also worked closely with the ACHP, SHPO and the NYSDOT to formalize agreed upon mitigation measures into a MOA. It is clear now, however, that there was insufficient input from consulting parties or transparency in these final stages of consultation. We request, therefore, that prior to execution of the MOA by the ACHP, FHWA meet with consulting parties to ensure that their views are fully considered. In particular, consultation should focus on clarifying the current proposed project, and providing a forum for discussing possible ways to further reduce the size or configuration of the visitor center, duty free shop, and parking garage to reduce impacts. To the extent that further changes to the customs plaza and the connecting roadway system require the approval of other agencies, those agencies should be represented at the table.

Upon completion of this meeting, the ACHP will work with FHWA and SHPO to make any needed revisions so that the MOA may be executed without further delay. If you have any questions, please feel free to contact Carol Legard at 202-606-8522 or via email at clegard@achp.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Reid J. Nelson", with a long horizontal flourish extending to the right.

Reid J. Nelson
Director
Office of Federal Agency Programs