

EXHIBIT-9

AFFIDAVIT OF CONFEDERACY OF NIPMUC TRIBE RECOGNIZING JAMES P LAMOUNTAIN AS HUGUENOT FARMER CONDUCTING AGRICULTURE AND PRESERVATION IN OXFORD AND HOLLAND. REQUEST OF NIPMUC TO INVOKE MASSACHUSETTS EXECUTIVE ORDER 126 TO INTERVENE IN SUPPORT OF THE FARM.

- A. SIGNED AFFIDAVIT NIPMUC, NIPMUCK CONFEDERACY SIGNED BY SPOTTED CROW AND TALL PINE OF NIPMUC CONFEDERACY COUNCIL.
- B. UNITED STATES DEPARTMENT OF THE INTERIOR RECOGNIZING SPOTTED CROW
- C. REQUEST FOR COMMENT OF SPOTTED CROW IN COMPLIANCE WITH FEDERAL LAW
- D. NATIONAL HISTORIC PRESERVATION ACT

COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

Worcester and Hampden Counties

CIVIL ACTION NO.

08 1948B

08 1123

AFFIDAVIT

NOW COMES THE CONFEDERACY OF NIPMUC NIPMUCK TRIBES
ABORIGINAL INHABITANTS OF THE TERRITORY NOW KNOWN AS
CENTRAL MASSACHUSETTS ENCOMPASSING ALL LANDS BETWEEN THE
CHARLES AND THE CONNECTICUT RIVERS EAST TO WEST AND FROM THE
SOUTH AT THE CT SAFFREY LINE TO WHAT IS NOW NEW HAMPSHIRE TO
THE NORTH.

We Hereby Extend our Formal Greetings to this Honorable Court.

Our Tribal Council is comprised of representatives of the Chaubunugungamaug Band of Nipmuck Indian People, The Historical Nipmuc Tribe Salmon Clan, and the Hassanamisco Nipmuck Nation. Our Confederacy is open to any and all Nipmuck Nipmuc Indian people whose territory falls within the bounds as described above.

We recognize James P LaMountain and Michael Leduc as the Huguenot Farms @ Bondet Hill circa 1687.

This Farm and its relationship to our People is described in a 19th Century book entitled "The Huguenot Immigration to America" by Charles Baird chapter called "the settlement Oxford" page 282 refers to our people as ye Indians at Keekamoochunk.

We continue the bond described in Bairds book to this day with the Huguenot Farms @ Bondet Hill.

Sacred Land in Oxford returned to our people by the LaMountain's and the Farm at the Summit of Bondet Hill described in the attached deed has been pledged as collateral for land in Holland known as Mashapaug that abuts the Nipmuck State Forest.

We have learned the Holland Land of the Farm has an attachment placed on it as ordered by the Honorable Hamden Superior Court.

This puts our Sacred Land at risk.

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We Hereby Respectfully invoke Massachusetts Executive order 126, and ask the Court to consider our "special status" according to that order, when considering this case.

We would ask this Court to consider this affidavit as a request for intervention by our people in defense of the Huguenot Farms.

We consider the Farmers to be thoughtful spiritual caretakers of the land they are entrusted with and have joined with the farm to preserve property for agricultural purposes and Historical Preservation.

Their work enhances the environment we all share.

We are Honored to have addressed this Honorable Court.

Respectfully,

David "Tall Pine" White, Tribal Council, Chaubunagungamaug Nipmuck Indian People.
Language Consultant, Tribal Council, Confederacy of Nipmuck ,Nipmuc Indians.

A handwritten signature in dark ink, appearing to read "David Tall Pine White". The signature is fluid and cursive, with a small mark at the end that looks like a stylized arrow or a small figure.

Larry "Spotted Crow" Mann ,Traditional Leader, Historical Nipmuc Tribe, Salmon Clan, Tribal Council, Confederacy of Nipmuc, Nipmuck Indian People.

A large, handwritten signature in dark ink, appearing to read "Larry Spotted Crow". The signature is very fluid and cursive, with a large, sweeping loop at the end.



United States Department of the Interior

NATIONAL PARK SERVICE
Boston Harbor Islands National Recreation Area
408 Atlantic Avenue, Suite 228
Boston, Massachusetts 02110-3349

January 26, 2009

Mr. Larry Spotted Crow Mann
The Historical Nipmuc Tribe
106 Lake Street
Webster, MA 01570

Dear Mr. Mann,

In July, you expressed interest in meeting to discuss Native American consultation on the management of Boston Harbor Island national park area. If you would like to schedule a meeting with me please contact Tara Weaver, tara_weaver@partner.nps.gov. In any event, your interest in consultation has been documented in our records.

As part of the Boston Harbor Islands Native American consultation I have agreed to send project notifications to all interested groups and tribes. This is the first of these notifications. It is to inform you that The Boston Harbor Islands national park area is preparing an environmental assessment for the proposed replacement of the existing pier facility on Georges Island.

The pier facility at Georges Island, managed by the Massachusetts Department of Conservation & Recreation, serves as a water transportation hub for visitors exploring the Boston Harbor Islands by ferry, charter boat, or private vessel. The timber pier is more than 50 years old, and the associated piles and submerged members are in poor condition. In accordance with the National Environmental Policy Act (NEPA), an environmental assessment is being prepared to analyze and disclose potential impacts of alternatives for replacing the pier.

In November and December the public was invited to participate in a scoping meeting and comment period regarding potential issues and concerns for the planning process. Materials from the meeting can be viewed by visiting <http://parkplanning.nps.gov/> and following these directions: In the "Choose Your Park" drop-down menu, select "Boston Harbor Islands NRA," and press "Go." At the following screen, click on the title "Georges Island - Evaluate and

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Design Hub Island Pier." Click on the "Document List" link on the left side of the following page; available documents will be listed in alphabetical order.

To date no potential impacts have been identified regarding Native American use associated with the project area. If you have any questions or concerns about the new pier construction please send them to me by mail or by email, bruce_jacobson@nps.gov. If I do not hear from you by February, 15, I will assume you have read over this information and have no comment

Sincerely,



Bruce Jacobson
Superintendent

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January 19, 2009

Mr. Larry Spotted Crow, Traditional Leader
Historical Nipmuc Tribe
Email: crowshield@hotmail.com

Subject: Invitation to Comment
482/ Westminster
Mile Hill Road, Westminster, Worcester County, Massachusetts 01473
EBI Project #61087051

Dear Mr. Spotted Crow:

Pursuant to Section 106 of the National Historic Preservation Act, the regulations promulgated thereunder and interagency agreements developed thereto, EBI Consulting, Inc., on behalf of AT&T Mobility, LLC, provides this notice of a proposed telecommunications facility installation at the address listed above.

EBI would like to inquire if you would be interested in commenting on this proposed project. Please refer to the attached Project Summary Form for complete details regarding this proposed project.

Please note that we are requesting your review of the attached information as part of the Section 106 process only and not as part of the local zoning process. We are only seeking comments related to the proposed project's potential effects on historic properties, including archaeologically sensitive sites and Traditional Cultural Properties.

Please submit your comments regarding the proposed project's potential effects on historic properties to my attention c/o EBI Consulting, 21 B Street, Burlington, MA 01803 or contact me via telephone at the number listed below. Please reference the EBI project number in all correspondence. We would appreciate your comments as soon as possible within the next 30 days. Please do not hesitate to contact me if you have any questions or concerns about the proposed project.

Respectfully Submitted,



Ms. Maureen A. Taylor
Architectural Historian
Phone: 781-418-2325
E-Fax: 781-418-2375
Email: mtaylor@ebiconsulting.com

Attachment A - Project Summary Form
Attachment B - Figures, Drawings, and Maps
Attachment C - Archeological Assessment

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UNITED STATES
DEPARTMENT OF VETERANS AFFAIRS

OFFICE OF CONSTRUCTION & FACILITIES MANAGEMENT:
HISTORIC PRESERVATION

**Section 106 of the National Historic Preservation Act
Regulations Codified: 36 CFR Part 800**

Advisory Council on Historic Preservation Site: Full Regulations and Flow Chart

Brief Explanation:

Requires Federal agencies to take into account the effects of their activities and programs on historic properties and provide the President's Advisory Council on Historic Preservation, an independent federal agency with a reasonable opportunity to comment with regard to such undertaking. It states:

"The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under Title II of this Act a reasonable opportunity to comment with regard to such undertaking."

Purpose of the Section 106 Process: The Council seeks through the Section 106 process to balance historic preservation concerns with the needs of Federal undertakings. It is designed to identify potential conflicts between the two and to help resolve such conflicts in the public interest.

What is Section 106 review? This term refers to the federal review process designed to ensure that historic properties are considered during federal project planning and execution. The review process is administered at the Federal level, by the President's Advisory Council on Historic Preservation, and at the state level by the State Historic Preservation Office.

Who established Section 106? The Congress did, as part of the National Historic Preservation Act of 1966 (NHPA). NHPA, strengthened and expanded by several subsequent amendments, today has become the cornerstone of this country's historic preservation policy.

Why was Section 106 created? NHPA was enacted because of public concern that so many of our Nation's historic resources were not receiving adequate attention as the Government sponsored public works projects. In the 1960's, federal preservation law applied only to a handful of nationally significant properties, and Congress recognized that new legislation was needed to protect the many other historic properties that were being harmed by federal activities.

What does NHPA say? Section 106 of NHPA requires that every federal agency "take into account" how each of its undertakings could affect historic properties. An agency must also afford the Council a reasonable opportunity to comment on the agency's project. This is in order to balance the federal undertaking and mission of the agency against the historic properties to best represent the public interest and to prevent arbitrary destruction of historic resources with federal funds.

What is a federal undertaking? This term includes a broad range of federal activities: construction, rehabilitation, and repair projects; licenses, permits, loans, loan guarantees, and grants; leases; federal property transfers; and many other types of federal involvement. Whenever one of these activities affects an historic property, the sponsoring agency is obligated to seek Council comments.

What is historic property? For the Purposes of Section 106, any property listed in or eligible for listing in the National Register of Historic Places is considered historic. The National Register of Historic Places is this country's basic inventory of historic resources and is maintained by the Secretary of the Interior and managed by the National Park Service. The List includes buildings, structures, objects, sites, districts, and archaeological resources. The listed properties are not just of nationwide importance; most are significant primarily at the State or local level. It is important to note that the protections of Section 106 extend to properties that possess significance but have not yet been listed or formally determined eligible for listing. Even properties that have not yet been discovered (such as archaeological properties), but that possess significance, are subject to Section 106 review.

How does Section 106 Work? The standard review process is spelled out in federal regulations issued by the Advisory Council on Historic Preservation, entitled "Protection of Historic Properties." The regulations appear in the U.S. Code of Federal Regulations at 36 CFR Part 800.

The process involves 5 basic steps:

Step 1: Identify and evaluate historic properties. The Federal agency responsible for an undertaking begins by identifying the historic properties the undertaking may affect. To do this, the agency first reviews background information and consults with the State Historic Preservation Office (SHPO) and others who may know about historic properties in the area. Based on this review, the agency determines what additional surveys or other field studies may be needed, and conducts those studies. If properties are found that may be eligible for inclusion in the National Register of Historic Places, but have not yet been included, the agency evaluates them against criteria published by the National Park Service, which maintains the Register. This evaluation is carried out in consultation with the SHPO, and if questions arise about the eligibility of a given property, the agency may seek a formal determination of eligibility from the Secretary of the Interior.

Step 2: Assess effects. If historic properties are found, the agency then assesses what effect its undertaking will have on them. Again, the agency works with the SHPO, and considers the views of others. The agency makes its assessment based on criteria found in the Council's regulations and can make one of three determinations:

No effect: the undertaking will not affect historic properties;

No adverse effect: the undertaking will affect one or more historic properties, but the effect will not be harmful;

Adverse effect: the undertaking will harm one or more historic properties.

Step 3: Consultation. If an adverse effect will occur, the agency consults with the SHPO and others in an effort to find ways to make the undertaking less harmful. Others who are consulted, under various circumstances, may include local governments, Indian tribes, property owners, other members of the public, and the Council. Consultation is designed to result in a Memorandum of Agreement (MOA), which outlines measures agreed upon that the agency will take to reduce, avoid, or mitigate the adverse effect. In some cases, the consulting parties may agree that no such measures are available, but that the adverse effect must be accepted in the public interest.

If consultation proves unproductive, the agency or SHPO, or the Council itself, may terminate consultation. The agency must submit appropriate documentation to the Council and request the Council's written comments.

Step 4: Council Comment: The Council may comment during Step 3 of the process by participating in consultation and signing the resulting MOA. Otherwise, the agency obtains Council comment by submitting the MOA to the Council for review and acceptance. The Council can accept the MOA, request changes, or opt to issue written comments. If consultation was terminated, the council issues its written comments directly to the agency head, as the agency head had requested.

Step 5: Proceed: If an MOA is executed, the agency proceeds with its undertaking under the terms of the MOA. In the absence of an MOA, the agency head must take into account the Council's written comments in deciding whether and how to proceed.

Alternative approaches:

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Programmatic Agreements among an agency, the Council, SHPO(s), others;

Counterpart regulations developed by an agency and approved by the Council;

An agreement between the council and a State, which substitutes a State review system for the standard Section 106 review process.

Send inquiries about this page to kathleen.schamei2@va.gov

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Reviewed/Updated Date: May 1, 2006

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