

Chris,

I am providing these comments consistent with 36 CFR 800.9 and 800.6. While we agree a strong hand must be taken in the resolution of the Providence Viaduct Mitigation Agreement, we must ask the question if the intended termination will achieve the desired results? On its face the tribe will lose 400,000 dollars enacted by Congress for the expressed purpose of purchasing one of the properties covered by the agreement. Further, the tribe folded two (2) other impact mitigation MOA's into this agreement and accordingly these resolutions to section 106 matters from other projects would be lost too if the proper decision is not reached. Those agreements that would be lost are valued over 660,000 dollars and the tribal historic properties that were to be protected by said agreements will also continue to degrade and be ultimately will be lost.

We noticed in your letter that you mention the FHWA mediation was a failure. We state on its face there was no way to enforce the mediation. The agreements made with respects to the mediation and information gathered thereby could and can not be used in any other forum. So that is why the mediation was of no help or final substance or solution. The single meeting we had with ACHP on the Viaduct Agreement was not expected to be forthcoming. It was expected that there would be others, which have not taken place.

If the process is terminated with out specific instructions, the only entity that will lose is the Narragansett Indian Tribal Historic Preservation Office.

First we would ask that ACHP, in keeping with 36 CFR 800.6, to continue its efforts to request the State of Rhode Island to fulfill the terms of the agreement. And in the alternative, we would request that ACHP request to delay the termination until these matters can be discussed or join with us to request the enforcement of the agreement. The state has a history of not fulfilling their agreements with the tribe. It is clear to us that the state is dealing in bad faith. At this time NITHPO is working on a submission before the federal court to determine the liability of the state in failing to honor said Agreement.

We will also request FHWA give us the time to make said filing against the State.

Sincerely,

John Brown