

106 Tracking Sheet

Date Received 3/25/2009

Tracking Number: 200906227

Project Name: Pioneer Commander
Project Description: Final MOA - Pioneer Commander

Address: City Zip:

Agency Name: U.S. Department of Transportation

Second Agency

Jurisdiction: Federal

TAC Permit:

County: Jefferson

Other Counties: 0

Date Received: 3/25/2009

Date Entered: 3/31/2009

Date Due: 4/24/2009

Date Responded: 4/16/09

Lead Reviewer
Willie McWhorter

2nd Reviewer
Brad Patterson

3rd Reviewer

Reviewer Responses

Reviewer Codes

> NI, N40

> D40

>

>

>

>

Notes

LARRY OR MARK.
OK TO SIGN.
-BRAD

WILLIE, GREG, + I
WORKED W/ M. ARAD
ON THIS AGREEMENT.

interoffice or call
Willie

Sites

Eligible
Ineligible
Undetermined

Structures

Ineligible
Eligible

Acres

COMPLETED

APR 07 2009



TEXAS
HISTORICAL
COMMISSION

The State Agency for Historic Preservation

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWRENCE OAKS, EXECUTIVE DIRECTOR

April 6, 2009

Barbara A. Voulgaris
Program Historian
U.S. Department of Transportation
Maritime Administration
1200 New Jersey Avenue S.E.
Washington, D.C. 20590

Re: Memorandum of Agreement (MOA) between the Maritime Administration and the Texas Historical Commission (Texas State Historic Preservation Office) for the *Pioneer Commander*.

Dear Ms. Voulgaris:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission (THC).

Enclosed is a signed copy of the Memorandum of Agreement between the Maritime Administration and the Texas State Historic Preservation Officer concerning the *Pioneer Commander*, a vessel in the Maritime Administration's National Defense Reserve Fleet, currently located in Beaumont, Texas.

Thank you for your cooperation in the federal review process, and for your efforts to preserve the irreplaceable heritage of our nation. If you have any questions concerning this review or if we can be of further assistance, please contact William McWhorter at 512/463-5833

Sincerely,

William McWhorter

A handwritten signature in cursive script that reads "William McWhorter".

for: F. Lawrence Oaks
State Historic Preservation Officer

RECEIVED

MAR 25 2009 *km*



U.S. Department
of Transportation
**Maritime
Administration**

History Programs Division

1200 New Jersey Avenue S.E.
Washington, DC 20590

March 24, 2009

VIA FEDERAL EXPRESS

ATTN: WILLIAM McWHORTER
Mr. Lawrence Oaks
State Historic Preservation Officer
Texas Historical Commission
105 W. 16th Street
Austin, Texas 78701

RECEIVED
MAR 25 2009
THC-ADMIN

Subject: Memorandum of Agreement (MOA) for the *Pioneer Commander*

Enclosure: Two original signed copies of the MOA between the Maritime Administration and the Texas State Historic Preservation Officer regarding *Pioneer Commander*

Dear Mr. Oaks:

As discussed with William McWhorter and other members of your staff, enclosed are two original copies of the Memorandum of Agreement between the Maritime Administration and the Texas State Historic Preservation Officer concerning the *Pioneer Commander*, an obsolete vessel in the Maritime Administration's National Defense Reserve Fleet, currently located in Beaumont, Texas.

Would you please sign both copies, retain one copy for your files, and return the second copy to the Maritime Administration?

Thank you for your cooperation in our Federal review process. Please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Barbara A. Voulgaris
Federal Preservation Officer
Maritime Administration

Please email Barbara and me when you received this

Cynthia Ward

Thanks very much

**MEMORANDUM OF AGREEMENT
BETWEEN USDOT/MARITIME ADMINISTRATION AND
THE TEXAS STATE HISTORIC PRESEVATION OFFICER
REGARDING DISPOSITION OF THE
OBSOLETE VESSEL SS *PIONEER COMMANDER***

Whereas, the Maritime Administration (“Maritime Administration”), an agency of the U.S. Department of Transportation, maintains the National Defense Reserve Fleet (“NDRF”) of seagoing, primarily non-combatant vessels for use in national emergencies, to assist the U.S. military in meeting its needs, and for those other purposes described in the Merchant Ship Sales Act of 1946, as amended (50 U.S.C. App. 1735-1745); and

Whereas, the National Maritime Heritage Act, as amended (16 U.S.C. 5405), legally obligates the Maritime Administration to dispose of all non-retention vessels in the NDRF; and

Whereas, the *Pioneer Commander* is a non-retention vessel in the NDRF currently located at the Beaumont Reserve Fleet, Beaumont, Texas; and

Whereas, the Texas State Historic Preservation Officer (SHPO) is responsible for reviewing Federal undertakings concerning historic structures and other properties pursuant to the National Historic Preservation Act of 1966 16 U.S.C. §470 (NHPA); and

Whereas, in consultation with the Texas State Historic Preservation Officer (“SHPO”), the Maritime Administration has agreed that the *Pioneer Commander* is eligible for listing on the National Register of Historic Places; and

Whereas, since June 2005, the Maritime Administration has listed the *Pioneer Commander* as a vessel available for donation through the Maritime Administration’s Ship Donation Program by the authority granted in the Merchant Marine Act of 1936, as amended (46 U.S.C. 1271); and

Whereas, of the date of this agreement, the Maritime Administration has not received a donation request, business plan, or conveyance plan from a qualifying organization for the *Pioneer Commander*; and

Whereas, the Maritime Administration will procure the services of a ship scrapping contractor to completely dismantle the *Pioneer Commander* forthwith; and

Whereas, the Maritime Administration has determined that this undertaking will have an adverse effect upon those qualities of the *Pioneer Commander* that qualify it for listing on the NRHP; and

Whereas, the Maritime Administration has consulted with the SHPO pursuant to the Advisory Council on Historic Preservation’s (ACHP) regulations (36 CFR Part 800)

implementing Section 106 of the NHPA to seek ways to reduce, minimize, or mitigate any adverse effects of this undertaking, and

Whereas, in accordance with 36 CFR 800.6(a)(1), the Maritime Administration has notified the ACHP of the adverse effect and requested ACHP participation and the ACHP has declined to participate, and

NOW, THEREFORE, the Maritime Administration and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The Maritime Administration shall ensure that the following stipulations are implemented:

Stipulation I

Consideration of a Donation for Preservation Purposes

The Maritime Administration shall continue to accept and to evaluate proposals for the preservation of the *Pioneer Commander* through its Ship Donation Program (the "Program") for a period of 45 days after the execution of this agreement. The Maritime Administration shall advertise the availability of *Pioneer Commander* for donation through the Federal Register, the National Park Service's National Maritime Initiative, and professional associations involved in preserving our nation's maritime history. The advertisement will include a narrative that describes the vessel's role in the 1975 evacuation of thousands of American and South Vietnamese civilians and military personnel from Saigon as North Vietnamese forces closed in on that city. Based on the requirements of the Program, the Maritime Administration shall give reasonable consideration to any proposals received before or during this forty-five (45) day time period. Prior to soliciting contracts for the dismantling of this vessel, the Maritime Administration shall notify the SHPO of any proposals received through the Program and the Maritime Administration's justification for accepting or rejecting the proposal.

Stipulation II

Documentation and Curation of Artifacts

Attachment 1 lists available artifacts from the *Pioneer Commander*. The Maritime Administration will loan these artifacts from *Pioneer Commander* to the Vietnam Center and Archive at Texas Tech University in Lubbock, Texas for interpretation and public display.

Stipulation III

Monitoring and Reporting

Each year following the execution of this MOA until it expires or is terminated, the Maritime Administration shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the Maritime Administration's efforts to carry out the terms of this MOA.

Stipulation IV

MOA Amendments, Disputes, and Termination

A. *Amendments.* Any signatory to this MOA may propose to the other signatory that it be amended, whereupon the signatories will consult in accordance with § 800.6(c)(7) to consider such an amendment.

B. *Disputes.* Should the SHPO object to any action carried out or proposed by the Maritime Administration with respect to the implementation of this MOA, the Maritime Administration shall consult with the SHPO to resolve the objection. If the Maritime Administration after initiating such consultation determines that the objection cannot be resolved the Maritime Administration shall forward documentation relevant to the objection to the ACHP, including the Maritime Administration's proposed response to the objection. Within forty-five (45) days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:

1. Advise the Maritime Administration that the ACHP concurs in the Maritime Administration's proposed final decision, whereupon the Maritime Administration shall respond accordingly;
2. Provide the Maritime Administration with recommendations, which the Maritime Administration shall take into account in reaching a final decision regarding its response to the objection; or
3. Notify the Maritime Administration that the objection will be referred to the ACHP membership for formal comment and proceed to refer the objection and comment within forty-five (45) days. The resulting comment shall be taken into account by the Maritime Administration in accordance with 36 CFR § 800.7(c)(4).
4. Should the ACHP not exercise one of the above options within forty-five (45) days after receipt of all pertinent documentation, the Maritime Administration may assume the ACHP's concurrence in its proposed response to its objections.
5. The Maritime Administration shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the Maritime Administration's responsibility to carry out all actions under this MOA that are not the subjects of the objection shall remain unchanged.

C. *Termination of MOA.* Either party to this MOA may terminate it by providing sixty (60) days notice to the other party, provided that the parties will consult during the period prior to the termination to seek agreement on amendments or other actions that will avoid termination. In the event of termination of this MOA by the SHPO, the Maritime Administration shall comply with the provisions of § 800 Subpart B.

Stipulation V
Termination of Consultation

If, after consulting to resolve adverse effects pursuant to Stipulation IV of this MOA, the Maritime Administration or SHPO determines that further consultation will not be productive, then either party may terminate consultation in accordance with the notification requirements and process prescribed by § 800.7.

Stipulation VI
Duration

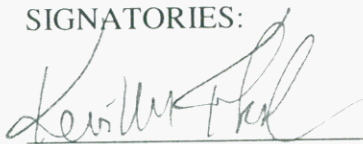
This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the Maritime Administration may consult with the SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation IV A.

EXECUTION of MEMORANDUM OF AGREEMENT

Execution of this Agreement by the Maritime Administration and the SHPO and implementation of its terms evidences that the Maritime Administration has taken into account the effects of the project on historic properties and afforded the ACHP an opportunity to comment. The MOA shall become effective on the date of the last signatory to sign this Agreement.

In Witness whereof, the parties hereto have caused their respective names to be signed by their duly authorized officers:

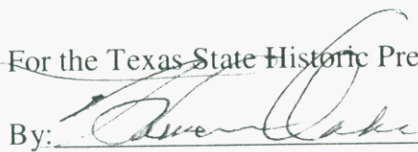
SIGNATORIES:



Kevin Tokarski, Associate Administrator
for National Security
USDOT/Maritime Administration

Date March 20, 2009

~~For the Texas State Historic Preservation Officer:~~



By: _____
F. Lawrence Oaks, State Historic Preservation Officer

Date 4-1-09

Attachment 1

Artifacts from *Pioneer Commander* available for donation to the Vietnam Center and Archive at Texas Tech University in Lubbock, Texas.

1. Builders Plate
2. Ship's Wheel
3. Azimuth Circle
4. Brass clock
5. Name Board
6. Call letters
7. Engine Order Telegraph
8. Binnacle
9. Bell