

termination before that date. The notice was published in the **Federal Register** on May 31, 2006. 71 FR 30925, May 31, 2006. The Bureau did not receive any oppositions to the termination of this proceeding within 30 days of **Federal Register** publication of the notice; therefore, the above-listed proceeding was terminated as of June 30, 2006.

**Authority:** 47 U.S.C. 152, 153, 154, 155, 44 FR 18501, 67 FR 13223, 47 CFR 0.291, 1.749.

Federal Communications Commission.

**Thomas J. Navin,**

*Chief, Wireline Competition Bureau.*

[FR Doc. E6-11900 Filed 7-25-06; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 02-237; DA 06-1447]

### Qwest Petition for Clarification of Verizon Physical Collocation Discontinuance Order

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice; termination of proceeding.

**SUMMARY:** This document is a notification of final termination of Qwest's petition for clarification of a 2003 Commission order, which granted Verizon authority to discontinue providing federally-tariffed physical collocation services pursuant to section 201 of the Communications Act. The petition for clarification has been withdrawn by the petitioner. No oppositions to the prior notice of termination were received; therefore, interested parties are hereby notified that this proceeding has been terminated.

**DATES:** This proceeding was terminated effective June 30, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418-1530.

**SUPPLEMENTARY INFORMATION:** On May 19, 2006, the Wireline Competition Bureau's Pricing Policy Division issued a Public Notice in the above-listed proceeding stating that the proceeding would be terminated effective 30 days after publication of the Public Notice in the **Federal Register**, unless the Bureau received an opposition to the termination before that date. The notice was published in the **Federal Register** on May 31, 2006. 71 FR 30926, May 31, 2006. The Bureau did not receive any oppositions to the termination of this proceeding within 30 days of **Federal**

**Register** publication of the notice; therefore, the above-listed proceeding was terminated as of June 30, 2006.

Federal Communications Commission.

**Thomas J. Navin,**

*Chief, Wireline Competition Bureau.*

[FR Doc. E6-11905 Filed 7-25-06; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Statement of Policy Regarding the National Historic Preservation Act

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Statement of Policy.

**SUMMARY:** The FDIC is revising its Statement of Policy Regarding the National Historic Preservation Act of 1966 (NHPA). The Statement of Policy clarifies and revises the NHPA Statement of Policy so that it reflects the statutory changes to the NHPA and its implementing regulations. The Statement of Policy is relevant to applications for deposit insurance for *de novo* institutions and applications by state non-member banks to establish a domestic branch and to relocate a domestic branch or main office.

**DATES:** This Statement of Policy is effective on July 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Kathryn M. Beach, Review Examiner, Risk Management and Applications Section, Division of Supervision and Consumer Protection (202) 898-6617, or Susan van den Toorn, Counsel, Legal Division (202) 898-8707; Federal Deposit Insurance Corporation, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:** On October 18, 2005, the FDIC issued a request for comment for a proposed Statement of Policy in the **Federal Register** concerning revisions to its Statement of Policy Regarding the NHPA (SOP). (70 FR 60523). The proposed SOP provided for more efficient processing and timely resolution of matters pertaining to the NHPA and its implementing regulations and incorporated the role of Tribal Historic Preservation Officers (THPOs) in the review process to take into account the responsibilities of the FDIC pursuant to a number of statutes relating to Indian Tribes and Native Hawaiian organizations.

The NHPA sets forth a national policy to promote the preservation of historic resources. It requires, in part, that all agencies of the Federal Government consider the effects of their

undertakings on historic properties. The Advisory Council on Historic Preservation (Advisory Council or ACHP) has adopted regulations that implement this requirement (36 CFR part 800). The FDIC considers applications for deposit insurance for *de novo* institutions and applications by state non-member banks to establish a domestic branch and to relocate a domestic branch or main office (collectively, "Covered Applications") to be undertakings for the purposes of section 106 of the NHPA. Because the NHPA has been amended and the Advisory Council has revised its regulations during the interim period, the FDIC is revising its SOP to conform to those amendments and revisions.

### Overview of Comments Received

The FDIC received 11 comments on the proposed Statement of Policy. Comments were received from the Advisory Council, state historic preservation offices, the Department of Natural Resources of the Confederated Tribes of the Umatilla Indian Reservation, financial institutions and individuals. While a number of commenters supported the proposed SOP, others did not. Commenters generally requested that terminology used in the SOP conform to the terminology used in the Advisory Council's implementing regulations. In addition, commenters also suggested clarifying the consultation process, streamlining consultation with state and national organizations, and educating applicants regarding the availability of additional resources valuable to assessing proposed undertakings. Commenters also requested that the SOP be amended to make clear that Applicants and the FDIC will consult with tribes regarding Historic Properties and the identification and evaluation of such properties, including those of traditional religious and cultural importance where tribes are located or were traditionally located. A commenter suggested that when there may be an adverse effect on an Historic Property that additional background information be included in the Covered Applications.

### Advisory Council Comment

The Advisory Council's comment stated that, "In its present format the ACHP cannot endorse the proposal \* \* \* since it does not comport with our regulations." The Advisory Council suggested that the FDIC delay revising the SOP "pending further consultation with the ACHP, the National Conference of State Historic Preservation Officers (NCSHPO), Indian tribes, and a review

of the public comments received in response to the **Federal Register** notice." As an overall issue, the Advisory Council believes that the process described in the proposed SOP did not reflect all the steps outlined in, or the information required by, its regulations. Instead, it believes the proposals included in the SOP modify the process in a manner that may compromise the FDIC's ability to demonstrate that it followed those regulations. The Advisory Council suggested that the modifications to the SOP required the approval of the ACHP through one of the alternatives set forth in its regulation. In particular, it commented that the proposed SOP modifies the coordination of the initial step of the review process, which requires the FDIC to specify if the process is being coordinated with other applicable reviews, identify consulting parties, and develop a plan to involve the public. As such, the ACHP noted that the FDIC must issue delegations of authority letters to applicable State Historic Preservation Officers (SHPOs) and THPOs authorizing Applicants to act on the FDIC's behalf to initiate the consultative process. The Advisory Council also commented on its concern about Applicants altering properties prior to considering the NHPA issues and requirements. The Advisory Council raised the issue of "anticipatory demolition" or the modification of a property by an Applicant prior to the determination that no Historic Property was affected. Section 110(k) of the NHPA provides that a Federal agency cannot approve a license (in this case a "Covered Application") if the Applicant intentionally altered an Historic Property in order to avoid the requirements of the NHPA unless the Federal agency, after consulting with the Advisory Council, makes a finding that the circumstances justify granting the license. The Advisory Council requested that a warning to Applicants relative to section 110(k) of the NHPA be incorporated into the SOP. The Advisory Council also suggested that additional background information be required of the Applicant when an Historic Property may be affected.

In order to clarify the concerns raised by the Advisory Council, the FDIC initiated follow-up discussion with the Advisory Council telephonically and requested that they provide clarification regarding their initial comments. The Advisory Council suggested that with regard to Applicants initiating the Section 106 process, "36 CFR 800.2(c)(4) allows for a blanket delegation of authority to all applicants.

The publication of this SOP in the **Federal Register** and placement of it in FDIC's Web site constitutes a valid blanket delegation and notice thereof." The Advisory Council also provided further comments relating to clarification language regarding the issue of "anticipatory demolition," and additional clarification regarding terminology used in the SOP.

#### Revisions to the Statement of Policy

After a review of the comments, the FDIC has modified the proposed SOP. In response to concerns raised by the Advisory Council, the SOP has been amended to state expressly that the purpose is to provide guidance that supplements, but does not alter, FDIC regulations and those of the Advisory Council. The SOP has also been amended so that it is consistent with the regulations implementing section 106 of the NHPA promulgated by the ACHP as amended in 2000. Cross-references have been added to relevant statutes, regulations, and executive orders, but those materials have not been reproduced or extensively summarized in the SOP. In this regard, several areas that could have been viewed as more than general guidance were eliminated or modified. Terminology was conformed to language in the Advisory Council's regulations; most notably, the SOP now references "consultation" with the state and tribal entities, rather than "clearance" from such entities. In addition, the SOP has been revised to specify that the FDIC and Applicants will consult with Indian tribes that may attach religious and cultural significance to sites located off of tribal lands. The SOP also has been modified to clarify when the consultative process may not be required and notes that Applicants must consult with the appropriate Regional Office to confirm that consultation is not required. In response to the comment regarding background information, the SOP now requires that Applicants submit additional information with the Covered Application relating to alternative activities in cases when the proposed undertaking may otherwise result in an adverse effect on an Historic Property.

The SOP has been revised to include language regarding section 110(k) of the NHPA and now requires a discussion of alternatives when proposed undertakings would result in an adverse effect on an Historic Property. In response to the Advisory Council's comment regarding the initiation of the section 106 process, the FDIC has amended the SOP so that the SOP is the requisite authorization pursuant to 36 CFR 800.2(c)(4) for Applicants to

initiate consultation with the SHPOs/THPOs and others under the ACHP's regulations and notice of such to all SHPOs/THPOs.

After review of all the comments received and for the reasons set forth above, the Board of Directors of the FDIC hereby adopts the Statement of Policy Regarding the National Historic Preservation Act of 1966, as set forth below.

#### Statement of Policy Regarding the National Historic Preservation Act of 1966

This Statement of Policy (SOP) provides general guidance regarding the FDIC's compliance with the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.* (NHPA), with respect to certain applications submitted to the FDIC in accordance with governing regulations at 12 CFR part 303. The SOP is intended to supplement, but not alter, the procedures detailed in FDIC regulations and the regulations implementing Section 106 of the NHPA at 36 CFR part 800. Those statutes and regulations will be followed by the FDIC regardless of whether they are highlighted in this SOP. This guidance addresses applications for deposit insurance for *de novo* institutions and applications by state non-member banks to establish a domestic branch and to relocate a domestic branch or main office (collectively, "Covered Applications").

##### A. Relevant Laws, Executive Orders and Regulations

The NHPA and its implementing regulations are the primary Federal historic preservation laws and regulations affecting Covered Applications and outline the historic preservation responsibilities of the FDIC. Among these responsibilities, the FDIC must consider the effects of the Covered Application on Historic Properties and afford the Advisory Council on Historic Preservation (Advisory Council or ACHP) a reasonable opportunity to comment on such undertakings before they occur. The NHPA and other applicable statutes, regulations, and guidance are as follows:

- National Historic Preservation Act of 1966, as amended through 2000, (16 U.S.C. 470 *et. seq.*).
- National Environmental Policy Act of 1969 (NEPA), (42 U.S.C. 4321–4347).
- Archeological and Historic Preservation Act of 1974, (AHPA), (16 U.S.C. 469–469c).
- Archeological Resources Protection Act of 1979 (ARPA), (16 U.S.C. 470aa–mm).

- Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), (25 U.S.C. 3001).

- American Indian Religious Freedom Act of 1978 (AIRFA), (42 U.S.C. 1996 and 1996a).

- Executive Order 12898: Environmental Justice (see 59 FR 2935, January 20, 1994).

- Executive Order 13007: Indian Sacred Sites (see 61 FR 28721, June 5, 1996).

- 12 CFR part 303.

- 36 CFR part 68.

- 36 CFR part 800

### B. Covered Applications

In assessing Covered Applications, the FDIC must consider the effects an Applicant's proposed undertaking may have on an historic property. "Proposed undertaking," as that term is used in this SOP, refers to any property associated with a Covered Application. An historic property is defined in the NHPA as "any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion on, the National Register of Historic Places (National Register), including artifacts, records, and material remains related to such a property or resource"<sup>1</sup>; hereafter, referred to as "Historic Property." Proposed undertakings that may potentially affect historic properties include those that may impact the properties associated with Covered Applications in which the land and structures are of historical, architectural, archeological, religious, or cultural significance, by virtue of the significance of the structure or land itself or its location within an area with historic, architectural, archeological, religious, or cultural significance. The FDIC must consider the impact of the proposed undertaking relative to properties that not only are owned, or to be owned, by the financial institution but also those that are leased, or will be leased, from a third party.

Applicants should consult with the FDIC, appropriate State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), Native Hawaiian organizations and other interested parties prior to, or in conjunction with, the filing of a Covered Application, to determine if the proposed undertaking may have a potential effect on an Historic Property. Such consultations are particularly important if there is a question as to whether the proposed undertaking involves an Historic Property, or whether the proposed undertaking may

have an adverse effect on the Historic Property. To the extent an Applicant or a particular SHPO/THPO relies upon independent third-parties to review Historic Properties or perform other studies or assessments, such third parties should satisfy the Secretary of the Interior's professional qualification standards. The appropriate Indian tribe or Native Hawaiian organization is to be consulted in situations involving proposed undertakings that may affect historic properties of cultural or religious significance. THPO consultation may be required for properties that are located on tribal lands as well as for those that are located on non-tribal lands but with which Indian tribes may attach a significant religious or cultural meaning.

Consultation with the SHPO/THPO may not be necessary if the proposed undertakings are located in recently constructed supermarkets or shopping centers, are properties that have been newly constructed and the Applicant had no ownership interest prior to or during construction, or are newly constructed properties whose immediate prior usage was that of a financial institution and no ground disturbing activities will take place. Consultation may also not be necessary for applications involving messenger services where no new physical location is necessary or temporary or seasonal branches which do not involve permanent structures that will alter the location or surrounding areas. These examples are intended to provide general guidance for Covered Applications where the proposed location does not exhibit historic characteristics that would require a more complex review. The Applicant must consult with the appropriate FDIC Regional Office to confirm that further consultation with the SHPO/THPO is not required.

If the proposal may affect an Historic Property, the Applicant should provide the FDIC with information relevant to the Historic Property. This information will facilitate the FDIC's review of the proposal, and should include:

- Locational details, such as appropriate maps and photographs;
- Description of the historical use of the Historic Property;
- Previous ownership, to the extent known;
- Plans for destruction or alteration of all or any part of the Historic Property;
- Plans for isolation from or alteration of the surrounding environment;
- Plans for the introduction of visual, audible, or atmospheric elements;

- Details regarding any restrictions or conditions affecting the long-term preservation of the property's historic significance;

- An analysis of alternatives for activities that may otherwise result in an adverse affect on the Historic Property;

- Information received from the SHPO/THPO, as applicable; and

- Such other details as appropriate for the proper evaluation of the proposal.

Section 110(k) of the NHPA prohibits a Federal agency from granting a license to an applicant who, with the intent to avoid the NHPA's requirements, intentionally significantly adversely affects the historic property, unless the Federal agency makes a finding, after consultation with the ACHP, that the circumstances justify granting the license. This means that any action regarding the property prior to the FDIC making a finding could potentially jeopardize the approval of the application. As a result, it is very important that assessment of the property occur prior to the Applicant taking any action with respect to the proposed undertaking relevant to the Covered Application, especially when such actions include:

- Demolition of existing buildings or any change to the external or internal physical structure or use of the property, or of physical features within the property's settings;
- Excavation of the land, construction of any new structures, or the introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features;
- Neglect of a property that causes its deterioration; or
- The transfer, lease, or sale of a property or any portion of the property by the applicant without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance.

The Applicant may not take any action, as defined above, with respect to the property associated with the Covered Application prior to one of the following: (1) Confirmation from the appropriate Regional Office that the proposed undertaking, based upon the characteristics of the property, does not require further consultation, (2) submission to the appropriate Regional Office of documented evidence from the appropriate SHPO, THPO, or other relevant party stating that the SHPO, THPO, or other relevant party has reviewed the proposed undertaking and determined that it will have no adverse

<sup>1</sup> National Historic Preservation Act of 1966 section 301(5).

effect on historic properties, (3) the receipt of documented evidence from the FDIC that the proposed undertaking will have no adverse effect on historic properties, or (4) the implementation of an alternate resolution with the FDIC and, as applicable, the appropriate SHPO or THPO, and the Advisory Council. Resolution of the historic preservation aspects of a Covered Application does not constitute approval of the application.

#### C. Authorization To Initiate Section 106 Consultation

Pursuant to 36 CFR 800.2(c)(4), the FDIC authorizes Applicants to initiate the consultation process with the appropriate SHPOs/THPOs and others to identify historic properties within the area of potential effects. However, the FDIC remains legally responsible for all findings and determinations.

#### D. Other Consulting Parties

At its discretion, the FDIC may also solicit participation from parties other than the Applicant and appropriate SHPO/THPO at any time while a Covered Application is pending. Further, the FDIC may, in its discretion, designate such third parties as Consulting Parties.

#### E. FDIC Determinations and Resolution of Potential Adverse Effects

Pursuant to the provisions of the NHPA and 36 CFR part 800, the FDIC will make a determination as to whether the proposed undertaking has an effect on a Historic Property. If the FDIC determines that the proposed undertaking may affect an Historic Property, the FDIC will work closely with the Applicant, the SHPO/THPO, and designated consulting parties to determine whether the proposed undertaking will have an adverse effect on the Historic Property. If there is no adverse effect, the FDIC will proceed with consideration of the Covered Application and any agreed-upon conditions. If there is an adverse effect, the FDIC, pursuant to the ACHP's regulations, will begin consultation to seek ways to avoid, minimize, or mitigate the adverse effects. Consultation may result in a Memorandum of Agreement, which outlines agreed-upon measures the FDIC, Applicant, and other consulting parties may take to avoid, minimize, or mitigate the adverse effects. If consultation proves ineffective, the FDIC will proceed pursuant to the ACHP's regulations, including by obtaining, considering, and responding to the ACHP's formal comments on the undertaking.

#### F. Information Requests

Public involvement through the comment period for a Covered Application (as provided for in 12 CFR part 303) is an important part of the consultation process. Inquiries by interested parties regarding specific Covered Applications should be directed to the appropriate Regional Director of the FDIC's Division of Supervision and Consumer Protection.

Dated at Washington, DC, this 11th day of July 2006.

By order of the Board of Directors, Federal Deposit Insurance Corporation.

**Valerie Best,**

*Assistant Executive Secretary.*

[FR Doc. E6-11898 Filed 7-25-06; 8:45 am]

**BILLING CODE 6714-01-P**

### FEDERAL MARITIME COMMISSION

#### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202-523-5793 or [tradeanalysis@fmc.gov](mailto:tradeanalysis@fmc.gov)).

*Agreement No.:* 011654-016.

*Title:* Middle East Indian Subcontinent Discussion Agreement.

*Parties:* A.P. Moller-Maersk A/S; China Shipping Navigation Co., Ltd. d/b/a Indotrans; CMA CGM S.A.; Hapag-Lloyd Container Linie GmbH; MacAndrews & Company Limited; The National Shipping Company of Saudi Arabia; and United Arab Shipping Company (S.A.G.).

*Filing Party:* Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

*Synopsis:* The amendment adds Emirates Shipping Line FZE; Shipping Corporation of India, Ltd.; and Zim Integrated Shipping Services, Ltd. as parties to the agreement. The amendment also changes Hapag-Lloyd's corporate name to Hapag-Lloyd AG.

*Agreement No.:* 011666-003.

*Title:* West Coast North America/Pacific Islands Vessel Sharing Agreement.

*Parties:* Hamburg-Süd and Polynesia Line Ltd.

*Filing Party:* Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

*Synopsis:* The amendment revises the number of vessels provided by Hamburg-Süd under the agreement.

*Agreement No.:* 011741-009.

*Title:* U.S. Pacific Coast-Oceania Agreement.

*Parties:* A.P. Moller-Maersk A/S; Australia-New Zealand Direct Line; CP Ships USA, LLC; and Hamburg-Süd.

*Filing Party:* Wayne R. Rohde, Esq.; Sher & Blackwell; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

*Synopsis:* The amendment deletes FESCO Ocean Management Limited ("FOML") as a party, adds a trade name for Hamburg-Süd, and revises the vessel provision and space allocations of the agreement to reflect the acquisition of FOML's assets in the trade by Hamburg Süd.

*Agreement No.:* 011741-010.

*Title:* U.S. Pacific Coast-Oceania Agreement.

*Parties:* A.P. Moller-Maersk A/S; Hamburg-Süd; and Hapag-Lloyd AG.

*Filing Party:* Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

*Synopsis:* The amendment deletes Australia-New Zealand Direct Line and CP Ships USA, LLC as parties to the agreement, adds Hapag-Lloyd AG as a party, and makes corresponding revisions to the agreement where necessary.

*Agreement No.:* 011777-002.

*Title:* CP Ships/CCNI Slot Charter Agreement.

*Parties:* CP Ships USA, LLC and Compania Chilena de Navegacion Interoceania S.A.

*Filing Party:* Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

*Synopsis:* The amendment deletes CP Ships USA, LLC as a party to the agreement, adds Hapag-Lloyd AG, makes corresponding changes to the agreement where necessary, and restates the agreement.

*Agreement No.:* 011966.

*Title:* West Coast USA-Mexico & Canada Vessel Sharing Agreement.

*Parties:* Compania Sud Americana de Vapores S.A.; Hamburg-Süd; Compania Chilena de Navegacion Interoceania, S.A.; and Maruba S.C.A.

*Filing Party:* Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

*Synopsis:* The agreement would authorize the parties to operate a service between the U.S. West Coast and the Pacific Coasts of Mexico and Canada and engage in a limited range of cooperative activities.

*Agreement No.:* 011967.

*Title:* CSAV/NYK Venezuela Space Charter Agreement.