

SHEPHERDSTOWN BATTLEFIELD

SPECIAL RESOURCE STUDY / BOUNDARY STUDY /
ENVIRONMENTAL ASSESSMENT

WEST VIRGINIA AND MARYLAND

National Park Service
U.S. Department of the Interior



FINDING OF NO SIGNIFICANT IMPACT



Botlers Mill ca. 1890

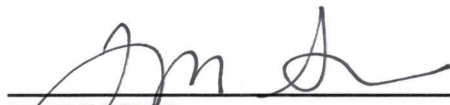


U.S. Department of the Interior
Shepherdstown Battlefield
West Virginia and Maryland
Special Resource Study / Boundary Study /
Environmental Assessment
Finding of No Significant Impact

FINDINGS

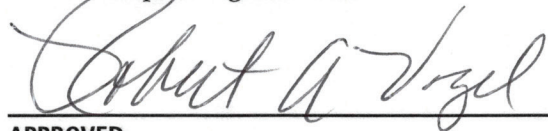
This special resource study and boundary study does not constitute an action that normally requires preparation of an environmental impact statement. The findings of the study will not have a significant effect on the human environment, and no major environmental impacts are foreseen. There are no significant adverse impacts on public health, public safety, threatened or endangered species, historic properties either listed or eligible for listing in the National Register of Historic Places, or other unique characteristic of the region. No highly uncertain or controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence were identified. Implementation of the action will not violate any federal, state, or local environmental protection law.

Based on the foregoing, it has been determined that an environmental impact statement is not required for this project and thus will not be prepared.



RECOMMENDED 1/9/15
DATE

Chief, Planning, Compliance & GIS
National Capital Regional Office



APPROVED 1/13/15
DATE

Regional Director
National Capital Regional Office





INTRODUCTION

The Department of the Interior, National Park Service (NPS), has prepared a special resource study / boundary study / environmental assessment to serve as a reference source for members of Congress, the National Park Service, and other persons interested in the potential inclusion of Shepherdstown battlefield within the national park system. As a result of the findings in this study, subsequent analysis and the selected alternative, the National Park Service has prepared this Finding of No Significant Impact (FONSI). Throughout this FONSI, the Shepherdstown battlefield special resource study / boundary study / environmental assessment will, for simplicity, be referred to as “the study.”

During the Civil War, the battle at Shepherdstown was the final engagement of the Maryland Campaign that included the battles of Harpers Ferry, South Mountain, and Antietam. The Shepherdstown battlefield area (the study area) encompasses roughly 5,000 acres in Jefferson County, West Virginia, and Washington County, Maryland. The Battle of Shepherdstown, also known as the Battle of Boteler’s Ford, was fought on September 19 and 20, 1862, and resulted in more than 600 casualties. The battle of Shepherdstown took place two days after the battle of Antietam.

The Shepherdstown battlefield lies approximately 1 to 2 miles south and east of Shepherdstown, West Virginia, roughly between Harpers Ferry National Historical Park (12.5 miles south) and Antietam National Battlefield (5.2 miles north). Other nearby national park system units include Monocacy National Battlefield, Catoctin Mountain Park, and Chesapeake and Ohio Canal National Historical Park.

On March 30, 2009, Congress directed the Secretary of the Interior to evaluate the national significance of the Shepherdstown battlefield for possible inclusion as a unit of the national park system (Public Law 1211-11, Title VII, Subtitle C, Section 7205). This legislation also directed the Secretary of the Interior to consider the suitability and feasibility of the Shepherdstown battlefield for inclusion within the boundaries of Harpers Ferry National Historical Park or Antietam National Battlefield. As directed, the Department of the Interior, National Park Service, has prepared the special resource study / boundary study / environmental assessment, to serve as a reference source for members of Congress, the National Park Service, and other persons interested in the potential inclusion of Shepherdstown battlefield within the national park system.

THE STUDY AREA

The Shepherdstown battlefield study area is approximately 5,000 acres, in Jefferson County, West Virginia, and Washington County, Maryland. The core battlefield is located approximately 1 to 2 miles east of Shepherdstown, West Virginia; 5.24 miles south of Antietam National Battlefield; and 12.5 miles north of Harper’s Ferry National Historical Park. The study area includes the approximately 1,500-acre core battlefield and associated battle movements including troop movements, artillery positions, and staging areas. The study area is located adjacent or near to the Chesapeake and Ohio Canal National Historical Park, Harpers Ferry National Historical Park, and Antietam National Battlefield.

EVALUATION OF SIGNIFICANCE

NPS *Management Policies 2006*, section 1.3.1., directs that proposed additions to the national park system must possess significance at the national level. The National Park Service evaluated the national significance of the battlefield at Shepherdstown and associated resources using NPS national historic landmark criteria for national significance and determined that the study area was not nationally significant. Therefore, the Shepherdstown battlefield and its associated resources do not qualify as a new unit of the national park system.

APPLICATION OF THE CRITERIA FOR BOUNDARY ADJUSTMENTS

The legislation authorizing this study also directed the National Park Service to evaluate whether the Shepherdstown battlefield would be a suitable and feasible addition to either Harpers Ferry National Historical Park or Antietam National Battlefield. While determined to not be nationally significant under national historic landmark criteria, the Shepherdstown battlefield is important due to its relationship with the Battle of Antietam and as the final engagement of the Maryland Campaign. The evaluation of the Shepherdstown battlefield under boundary study criteria (NPS *Management Policies 2006*, section 3.5) determined that a 510-acre area in the center of the battlefield would be a suitable addition to either Harpers Ferry National Historical Park or Antietam National Battlefield. As such, each of these boundary adjustment options is included in the study alternatives, with Antietam National Battlefield being the preferable option due to its historical and geographical connections to the Battle of Shepherdstown.



ALTERNATIVES CONSIDERED

Alternatives considered for evaluation in the study include alternative 1, the no-action alternative, and alternative 2, boundary adjustment. Alternative 1 is the no-action alternative and discusses existing and potential future site conditions if the battlefield resources are not included in a proposed boundary adjustment. Because the legislation authorizing this study directed the National Park Service to evaluate whether the Shepherdstown battlefield would be a suitable and feasible addition to either Harpers Ferry National Historical Park or Antietam National Battlefield, the action alternative (Alternative 2: Boundary Adjustment) includes two options: boundary adjustment of Antietam National Battlefield (option A) and boundary adjustment of Harpers Ferry National Historical Park (option B).

Alternative 2, option A, describes a boundary adjustment option for including the battlefield resources as part of Antietam National Battlefield and alternative 2, option B, describes a boundary adjustment option for including the battlefield resources as part of Harpers Ferry National Historical Park. A complete description of the alternatives and the boundary study criteria applied to the alternatives is found in chapter 4 of the study.

Actions Common to Options A and B

If Congress were to authorize a legislative boundary that would encompass the Shepherdstown battlefield as part of Harpers Ferry National Historical Park or Antietam National Battlefield, there would be no immediate change to existing landownership and the National Park Service would not carry out any actions that would affect the battlefield lands. Uses of battlefield lands would continue as they were before the legislative boundary adjustment. Any changes to land ownership or use would be in the future as the National Park Service is able to acquire battlefield land from willing sellers and donors. Scenic or conservation easements could also be purchased from willing sellers and donors both within and adjacent to the boundary, in order to provide additional viewshed and resource protection.

Once the legislative boundary is authorized, the National Park Service would update the land protection plan for either Harpers Ferry National Historical Park or Antietam National Battlefield to identify specific priorities for land interests and land acquisitions. It is anticipated that protection of battlefield resources in the expanded boundary would occur through a mix of fee simple acquisition and conservation easements from willing sellers and donors. Fee simple acquisition would be the preferred acquisition tool for highly sensitive resource areas and critical visitor access points.

Once land is under NPS ownership, future actions may include maintenance, protection, monitoring, and additional interpretation of the battlefield through cooperative management between Antietam National Battlefield and Harpers Ferry National Historical Park. To the greatest extent possible, the use of existing nearby NPS infrastructure, such as the Ferry Hill site managed by the Chesapeake and Ohio Canal National Historical Park, could be used to provide interpretation of the battlefield. This would be achieved in accordance with the Chesapeake and Ohio Canal National Historical Park's existing general management plan, long-range interpretive plan, and park foundation document. Additionally, the National Park Service could seek opportunities to work with state and local governments and interested nonprofit organizations to provide additional assistance with the maintenance, protection, and interpretation of the battlefield.

Detailed costs for management of lands the National Park Service might acquire would be identified through future management planning activities. However, potential costs for managing an area similar in size and resource type to the battlefield are discussed in general terms within the feasibility analysis contained in chapter 4 of the study.

Proposed Legislative Boundary

An acceptable boundary adjustment to a unit of the national park system should provide for the inclusion and protection of primary resources, sufficient surrounding area to provide a proper setting for the resources or to inter-relate a group of resources, and sufficient land for appropriate use and development. The legislative boundary proposed in this action alternative, which is common to both options A and B, was developed through careful consideration of these factors, which are discussed in greater detail as part of the feasibility evaluation portion of the study, "Boundary Size and Configuration." The proposed legislative boundary is shown in figure 1.



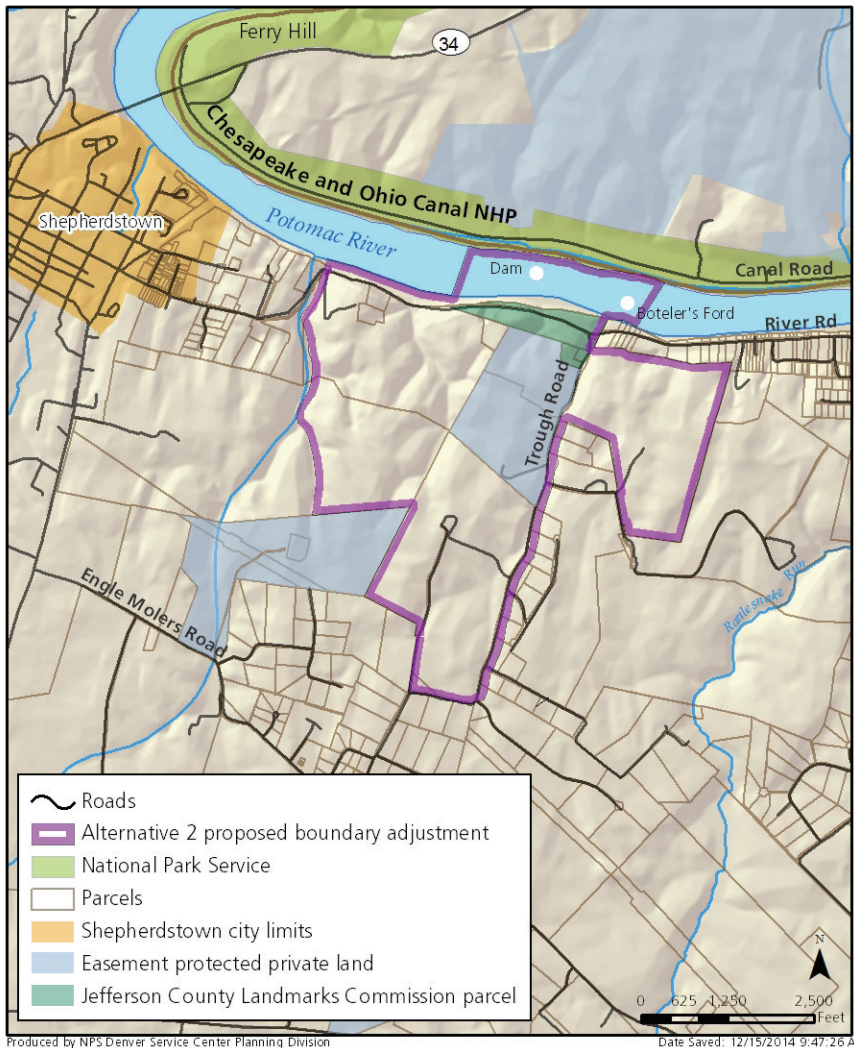


FIGURE 1.
Proposed Legislative
Boundary

Actions Specific to Option A: Antietam National Battlefield

Option A proposes a boundary adjustment of Antietam National Battlefield to include the Shepherdstown battlefield. Only after the acquisition of battlefield lands from willing sellers and donors would Antietam National Battlefield take a lead role in the management, protection, and interpretation of any battlefield land owned by the National Park Service, with support from Harpers Ferry National Historical Park. Antietam National Battlefield may also work with the Chesapeake and Ohio Canal National Historical Park to provide visitor services at the Ferry Hill site. Any future ownership of land within the legislative boundary would require park staff to travel approximately 5.4 miles from the headquarters at Antietam National Battlefield to the Shepherdstown battlefield for on-site interpretation, regular maintenance, resource monitoring, and patrol activities.

The inclusion of the Shepherdstown battlefield into Antietam National Battlefield would provide visitors the opportunity to have an expanded understanding of the events directly following the Battle of Antietam and the culmination of the Maryland Campaign. The park would provide this expanded understanding by extending its existing interpretive themes to include additional interpretation of the Shepherdstown battlefield. Through the expansion of these existing themes, the visitor would be provided with an understanding of not only how the Battle of Shepherdstown occurred, but also its direct relationship to the Battle of Antietam. The enabling legislation for Antietam National Battlefield directs the park to provide interpretation of the Battle of Shepherdstown; the inclusion of the Shepherdstown battlefield within the boundary of Antietam National Battlefield would protect resources critical to fulfilling the park purpose. Additionally, the Battle of Antietam and the subsequent Battle of Shepherdstown are historically linked and both battles were dependent upon and impacted many of the same landscape features and terrain.



Actions Specific to Option B: Harpers Ferry National Historical Park

Option B proposes a boundary adjustment of Harpers Ferry National Historical Park to include the Shepherdstown battlefield. Only after the acquisition of battlefield lands from willing sellers and donors would Harpers Ferry National Historical Park take a lead role in the management, protection, and interpretation of any battlefield land owned by the National Park Service, with support from Antietam National Battlefield. Harpers Ferry National Historical Park may also work with the Chesapeake and Ohio Canal National Historical Park to provide visitor services at the Ferry Hill site. Any future ownership of land within the legislative boundary would require park staff to travel approximately 12.5 miles from the headquarters at Harpers Ferry National Historical Park to the Shepherdstown battlefield for on-site interpretation, regular maintenance, resource monitoring, and patrol activities.

The inclusion of the Shepherdstown battlefield into Harpers Ferry National Historical Park would allow the latter to expand its Civil War interpretive theme by providing visitors with a complete overview of General Lee's first invasion of the North and the Maryland Campaign. Harpers Ferry is the site of the first battle of the Maryland Campaign and Shepherdstown the last, so visitors could develop a broader understanding of the significance of the Shepherdstown battlefield to the campaign and to the Civil War.

ALTERNATIVES CONSIDERED BUT DISMISSED

There were two additional alternatives considered and dismissed from further consideration, including a "Boundary Adjustment of Chesapeake and Ohio Canal National Historical Park" and a "Legislative Boundary Encompassing all Troop Movements."

The "Boundary Adjustment of Chesapeake and Ohio Canal National Historical Park" alternative was initially considered and dismissed due to the inconsistent purposes and themes at the historic park and the Shepherdstown battlefield. This alternative was dismissed because it failed to meet NPS criteria for boundary adjustments and NPS criteria for reasonable alternatives as described in Director's Order 12: *Conservation Planning, Environmental Impact Analysis, and Decision-making*.

The "Legislative Boundary Encompassing All Troop Movements" alternative was also initially considered. This alternative would have expanded the boundary to include the core battlefield, artillery positions on the north bluffs above the Potomac and Confederate staging areas on the southern extremity of the battlefield. Factors that led to the dismissal of this alternative include: the existence of areas within the boundary that exhibit a lack of historic integrity, areas that are nonessential for interpretation and resource protection, parcels that are sufficiently protected through existing conservation easements, and areas that would be unreasonably expensive to acquire. Also, this alternative failed to meet the feasibility criteria within NPS criteria for boundary adjustments and NPS criteria for reasonable alternatives, as described in Director's Order 12.

THE SELECTED ALTERNATIVE

The selected or preferred alternative or combination of alternatives is selected by the NPS National Capital Region Director. By law and policy the regional director selects the preferred alternative based on the most effective and efficient method to protect resources and provide for the enjoyment of visitors.

The study found that "Alternative 2, Option A, Antietam National Battlefield Boundary Adjustment" would provide the most efficient and effective alternative and provide for the greatest visitor experience. The study process contributed to the development of the preferred alternative.

Alternative 2, option A would propose to adjust the existing boundary of Antietam National Battlefield to include areas of the Shepherdstown battlefield that contribute to an understanding of the significance of the Battle of Antietam and the Maryland Campaign. The long-term significance of the Battle of Antietam is directly tied to the outcome of the combat along the banks of the Potomac River at Shepherdstown. It is also noted that the resources associated with Shepherdstown Battlefield, including Boteler's Ford, are also closely tied to the Battle of Antietam and its significance.



ENVIRONMENTALLY PREFERABLE ALTERNATIVE

The environmentally preferable alternative, as identified in the environmental assessment, is alternative 2, either option A or B. Either option of alternative 2 would better protect the biological and physical environment and historical and cultural resources of Shepherdstown battlefield than would the no-action alternative. The boundary adjustment provided by both options in alternative 2 will allow for the acquisition of conservation easements, land in fee, and the development of land protection plans and strategies to further protect and interpret battlefield resources. Protection of natural and cultural resources would be afforded by the boundary adjustment, along with reduction and control of unauthorized access, vandalism and looting of cultural resources, while providing for the public enjoyment.

Evaluation of Feasibility and Need for NPS Management

Based on the feasibility analysis contained in chapter 4 of the study, the study team determined that adjusting the boundary of Antietam National Battlefield to include the Shepherdstown battlefield would provide opportunities to protect cultural resources, as well as public access, interpretation, and educational opportunities.

Although the majority of the lands within the proposed legislative boundary are privately owned, there may be an immediate opportunity to partner with the Jefferson County Landmarks Commission to identify strategies for resource protection, interpretation, and public access on their recently purchased 13-acre parcel near the center of the battlefield if the boundary of Antietam National Battlefield were to be adjusted.

Public interest in and support for NPS protection of the battlefield is strong, as is evidenced by existing grassroots efforts to protect the battlefield. A proposed residential development on the 120-acre parcel in the core battlefield area has served as a catalyst for much of this community support. The development of this parcel into a residential subdivision would fragment a critical component of the battlefield landscape. If Congress were to authorize a boundary adjustment of Antietam National Battlefield or Harpers Ferry National Historical Park to include the Shepherdstown battlefield it may provide a means to acquire this and other key parcels within the legislated boundary from willing sellers or donors.

The existing zoning within the proposed legislative boundary does not guarantee the indefinite protection of battlefield resources, and the ability of other organizations, communities, and agencies to provide for long-term protection and interpretation is limited. Therefore, it appears that adjusting the boundary of either Harpers Ferry National Historical Park or Antietam National Battlefield is the most feasible means of guaranteeing indefinite protection of the Shepherdstown battlefield.

WHY THE SELECTED ALTERNATIVE WILL NOT HAVE A SIGNIFICANT EFFECT ON THE QUALITY OF THE HUMAN ENVIRONMENT

If Congress were to authorize an adjustment to the boundary of Antietam National Battlefield (alternative 2, option B), this action would positively enhance and improve all aspects of the natural and human environment. Providing additional resource protection and management of the resource would greatly increase the ability of the National Park Service to provide a more complete interpretation of the Battle of Antietam and the Civil War.

As defined in 40 CFR §1508.27, significance is determined by examining the following 10 criteria:

1. *Impacts that may be both beneficial and adverse. A significant effect may exist even if the federal agency believes that on balance the effect will be beneficial.*

Historical and Prehistoric Resources

The actions proposed are broad management alternatives that will not specifically impact historic or prehistoric resources. If Congress adjusts the boundary of Antietam National Battlefield, the National Park Service will become the managing agency for a legislated boundary but will not own any of the resources until they are purchased from willing sellers or donated. If lands are brought into NPS ownership, the National Park Service will manage those lands under the rules and regulations that govern NPS management and operation, with all due protection afforded. Any future actions related to the identification of national register-eligible or national register-listed properties will involve compliance with 36 CFR 800 and the Advisory Council on Historic Preservation's regulations for compliance with section 106 of the National Historic Preservation Act.



Ethnographic Resources

Some ethnographic research has been conducted to varying degrees at Shepherdstown battlefield and areas associated with the Maryland Campaign. The selected alternative contains broad management actions that will not impact current efforts to conduct ethnographic work that has been used to assist in the protection of cultural resources at the site. Any future actions impacting national register-eligible or national register-listed properties will involve compliance with 36 CFR 800 and the Advisory Council on Historic Preservation's regulations for compliance with section 106 of the National Historic Preservation Act.

Socioeconomic Environment

Modifying the boundary of an existing unit of the National Park Service to include the Shepherdstown battlefield, as proposed in the selected alternative, would have an overall beneficial impact on the socioeconomic environment of surrounding communities. Providing additional information and landscape experience associated with the final engagements of the Maryland Campaign could increase tourism levels, which in turn could affect local employment, traffic, local businesses, and government receipts.

Visitor Use and Experience

Providing for visitor interpretation and high-quality visitor experiences are fundamental to the mission of the National Park Service. Under the selected alternative, the public may gain access to an additional battlefield associated with the Maryland Campaign and be provided an improved visitor experience of that resource.

NPS Operations and Facilities

Under the selected alternative, the National Park Service may protect battlefield resources through easements or purchase of lands from willing sellers and donors. No additional facilities are likely to be leased for office space as the site would be managed from Antietam operational facilities, under the selected alternative. The selected alternative would provide a recognizable NPS presence at the battlefield where the site would be interpreted and maintained for visitor enjoyment and resource protection. The operational requirements associated with these activities would have adverse impacts on NPS operations, mainly in the form of increased logistical challenges and operational inefficiencies. It is not anticipated that these impacts would be significant.

2. *The degree to which the proposed action affects public health or safety.*

The proposed action is likely to have a beneficial effect on public health and safety. If a boundary adjustment were to be authorized, and the National Park Service were to acquire lands from willing sellers and donors, certain measures and practices can be put into place that would minimize risk to public health and safety. Currently, access to the battlefield is limited with few safeguards established for the safe access and use by the visiting public.

3. *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

The Shepherdstown Battlefield has predominantly remained as open farm land, upholding a similar appearance as before the Maryland Campaign of September 1862. Should Congress authorize a boundary adjustment, and if lands were acquired from willing sellers and donors, those lands would be managed according to NPS law, policies, and regulations to support the preservation and interpretation of the site.



4. *The degree to which effects on the quality of the human environment are likely to be highly controversial.*

There were no highly controversial effects identified during public scoping, the preparation of the environmental assessment, or the public review period.

5. *The degree to which the possible effects on the quality of the human environment are highly uncertain or involve unique or unknown risks.*

There were no highly uncertain, unique, or unknown risks identified during either public scoping, preparation of the environmental assessment, or the public review period.

6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

The selected alternative neither establishes an NPS precedent for future actions with significant effects nor represents a decision in principle about a future consideration.

7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.*

Other past, present, or reasonably foreseeable actions were analyzed for the potential to contribute to cumulative impacts in association with implementation of the preferred alternative. No significant cumulative impacts were identified. Actions that may contribute to cumulative impacts include ongoing planning at NPS units, the Jefferson County and Shepherdstown Comprehensive Plan, zoning within Jefferson County, and the potential for single-family residential development under that zoning. The ability to predict the exact type and intensity of impacts associated with all these actions is limited.

Cumulative impacts on cultural and natural resources and on visitor use and experience under the preferred alternative would be beneficial. The overall impact on park operations would be minor to moderate, long-term and adverse. No conclusive determination can be made as to whether the overall impacts on the socioeconomic environment are beneficial or adverse, because these impacts may be viewed as favorable by some members of the community and unfavorable by others.

The adverse and beneficial effects of the preferred alternative would be a very small component of any cumulative impact. The preferred alternative would also encourage a higher degree of protection for Shepherdstown battlefield than currently exists, which is consistent with the goals of NPS, city, and county planning efforts.

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.*

The National Park Service has identified historic properties listed in or eligible for listing in the National Register of Historic Places within the proposed legislative boundary. However, due to the general nature of the study and the relative uncertainty of the nature of the actions that may stem from it, the National Park Service cannot yet assess the potential effects of these actions on historic properties. State historic preservation offices in Maryland and West Virginia were notified by letter in February 2012 of the special resource study. In response to this letter, both offices expressed support for the study. These offices were also invited to comment on the final study. The West Virginia State Historic Preservation Officer commented on the study and provided concurrence with its findings. The Maryland office indicated in April 2012 that the study itself is not considered an undertaking under section 106, and thus did not provide further comment on the study (see attached correspondence).



This study is part of the “nondestructive project planning” for these prospective actions and as such does not “restrict the subsequent consideration of alternatives to avoid, minimize, or mitigate [a specific] undertaking’s adverse effects on historic properties” in accordance with 36 CFR 800.1(c). Accordingly, the National Park Service finds that no historic properties will be affected by the study in accordance with 36 CFR 800.4(d) (1). Further, the National Park Service commits in this decision to complete the section 106 review for each undertaking that may stem from the study in accordance with the Programmatic Agreement among the National Park Service, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers for Compliance with Section 106 of the National Historic Preservation Act (2008) and Advisory Council on Historic Preservation regulations.

9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.*

The U.S. Fish and Wildlife Service field office in Elkins, West Virginia, was notified by letter in February 2012 of the study with regard to threatened and endangered species. At that time the U.S. Fish and Wildlife Service determined there would be no effects on federally listed threatened or endangered species. The field office was contacted again in November 2014 for further informal consultation related to the four federally listed or proposed species within the proposed boundary of the Shepherdstown battlefield (see attached correspondence).

Field office staff indicated that before any disturbance of the project area occurs, surveys must be done for limestone caves with water, northeastern bulrush, and the summer use by the northern long-eared bat and Indiana bat. If any of the species are found, the National Park Service must continue section 7 informal consultation to determine if formal consultation is required.

Additionally, field office staff indicated that before any disturbance of the project area occurs, the area will be surveyed for bald eagle nesting and use. Any activities will follow the recommendations within the National Bald Eagle Management Guidelines, which provides monitoring and management guidance for bald eagles.

If Congress were to authorize the boundary adjustment, and the National Park Service were to acquire land within that boundary, further consultation with the U.S. Fish and Wildlife Service would occur prior to any actions that may affect endangered or threatened species or its habitat.

10. *Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.*

None of the alternatives violates federal, state, or local environmental protection laws.

PUBLIC INVOLVEMENT

The official public scoping comment period for this study opened on February 13, 2012, and closed on March 13, 2012. Comments were received via the Planning, Environment and Public Comment website, comment cards, flip chart / comment stations set up at the public meetings, and through mailed correspondence. Two public meetings were held during the comment period—one in Harpers Ferry, West Virginia, during the late afternoon and evening of Thursday, February 23, 2012, and the second during the morning and early afternoon of Saturday, February 25, 2012, in Shepherdstown, West Virginia. In total, approximately 136 people attended the scoping meetings. A letter describing the study process and potential implications for landowners, along with a newsletter describing the study process and scope was sent to approximately 140 landowners in the vicinity of the battlefield in both West Virginia and Maryland. The newsletter was also sent directly to approximately 45 federal, state, and nongovernmental agencies and organizations. A press release providing a brief overview of the study; the dates, times, and locations of the public meetings; and the link to the project website was picked up by a variety of local and regional media outlets.

Public response received by the National Park Service was predominately supportive of the study and enthusiastic concerning the interpretation and protection of the Shepherdstown battlefield. A summary of the public scoping process and the comments received is included in chapter 7 of the study.

A formal public review of the study was initiated between August 8, 2014, and October 3, 2014.



During the public review period, a total of 334 individual correspondences were received. Approximately 93 people attended two public open houses held during the late afternoon/evening of September 9, 2014, at the Antietam National Battlefield Visitor Center in Sharpsburg, Maryland, and during the late afternoon/evening of September 11, 2014, at the Clarion Hotel and Conference Center in Shepherdstown, West Virginia.

In order to reach a broad audience, a newsletter and information about the public review period was shared with the public in a variety of ways. Paper copies of the newsletter were mailed to individuals signed up for the project contact list (72 contacts). In addition, approximately 42 contacts from federal, state, and nongovernmental agencies and organizations were sent paper copies of the newsletter along with hard copies of the study. A letter describing the study process and potential implications for landowners, along with the newsletter, was sent to approximately 140 landowners in the vicinity of the battlefield in both West Virginia and Maryland. A press release was created announcing the public review period and meetings, which received coverage from a variety of local and regional news media and advocacy organizations. Harpers Ferry National Historical Park also posted the press release on their park websites and Antietam posted it to the park's Facebook page.

Commenters expressed overwhelming support for management options proposed under alternative 2, option A, Antietam National Battlefield Boundary Adjustment as the most effective and efficient way to preserve the Shepherdstown battlefield. Many commenters felt protection under either park unit would be fine but the majority of commenters stated the management options under alternative 2, option A, allowed for a "natural association" with the historical events and interpretation of Antietam National Battlefield. A number of commenters expressed concern and in some cases opposition to NPS management of the battlefield for a variety of reasons. Substantive concerns raised by the public are addressed below in the attached Errata sheet. For a complete analysis and discussion of public comments received from the review of the study refer to the public comment summary document available on the project website, <http://parkplanning.nps.gov/shba>.

ERRATA SHEET

SHEPHERDSTOWN BATTLEFIELD SPECIAL RESOURCE STUDY / BOUNDARY STUDY / ENVIRONMENTAL ASSESSMENT

Corrections and revisions to the *Shepherdstown Battlefield Special Resource Study / Boundary Study / Environmental Assessment* are listed in this section. Revisions were made in response to comments from public and agency review of the study. These revisions have not resulted in substantial modification of the preferred alternative. It has been determined that the revisions do not require additional environmental analysis. The page numbers referenced are from the *Shepherdstown Battlefield Special Resource Study / Boundary Study / Environmental Assessment*.

Comment:

A commenter requested a consultants name be corrected in the environmental assessment to ensure accuracy. The commenter also stated this consultant has now retired from the university.

NPS Response:

On page 95, under Consultants, Dr. Thomas Snell is being changed to Dr. Mark A. Snell. Though he is currently retired, he was working for the university while consulting on this study. The line in the study is changed to read:

Dr. Mark A. Snell, Historian, Department of History, Shepherd University

Comment:

A commenter requested that references to the cement kiln(s) be corrected in the document where it was incorrectly identified as a brick kiln(s). The commenter indicates that these were actually cement kilns.

NPS Response:

On pages 12, 24, 33, 35, and 39 any reference to brick kiln(s) is changed to read lime kiln(s). Local limestone rock was burned in these lime kilns and then taken to the cement mill to be ground into a fine powder.



Comment:

A number of commenters questioned whether Trough Road and the associated right-of-way were included in the proposed boundary. If not, they suggested adding it to the proposed boundary because troop movements and engagements occurred on both sides of the road.

NPS Response:

Although not visible at the scale at which the maps within the study were produced, the NPS study team intended for Trough Road to be within the proposed boundary. The relevant sentence within the first paragraph of page 31 of the study document is revised to read “The eastern boundary follows the eastern edge of the public right-of-way to include Trough Road (County Route 31/1) with the exception of a 94-acre tract east of the road.” The depiction of this portion of the boundary in the map above (figure 1) has been modified to better display the boundary in this area.

SUMMARY OF SUBSTANTIVE COMMENTS AND RESPONSES

Comment:

One commenter who supported the proposed boundary questioned how the section of the Potomac River will be protected and asked if it would be under state or federal jurisdiction if the boundary adjustment passed.

NPS Response:

If Congress were to authorize a boundary adjustment of Antietam National battlefield that included an area of the Potomac River, the water column of the river would continue to be under the jurisdiction of the state of Maryland.

Comment:

One commenter noted that the study’s comparison of trips generated by the potential boundary adjustment to trips from the approved residential development is misleading since the access routes to the development would probably differ from those used to access the battlefield. The commenter also felt that the impacts of increased traffic volumes on River Road were understated. The commenter also questioned the validity of the traffic data used by the National Park Service to establish the baseline traffic volume on River Road, as well as the determination that local roads in the area would be able to maintain an acceptable level of service with a potential increase in traffic volumes.

NPS Response:

Traffic data were obtained from the West Virginia Department of Transportation’s Planning and Research Division¹ website and analyzed by the National Park Service with support from the U.S. Department of Transportation’s Volpe Center. This is further described on page 48 of the study. Based on maps and GIS data produced by the West Virginia Department of Transportation, the estimate of 1,156 vehicles per day was derived from a traffic counter located approximately at the intersection of German Street and College Street.

1. http://www.transportation.wv.gov/highways/programplanning/preliminary_engineering/traffic_analysis/trafficvolume/dists_4_5_6/Documents/dist456/Jefferson111.pdf



No traffic data were available on River Road; however, German Street, which leads into River Road, was anticipated by the study team to be a logical route for many visitors to take into the battlefield area. The phrase “acceptable levels of service” refers to a qualitative measure of roadway traffic flow based on its performance as related to speed and congestion. While the roadways in question may still be able to maintain an acceptable level of service from a traffic engineering perspective with a potential increase in traffic, this same increase may be viewed unfavorably by those living adjacent to the affected roadways. This adverse impact was acknowledged on page 62 of the study.

The comparison between traffic volume associated with the proposed development and anticipated volumes from a potential boundary adjustment was used to provide readers who may be unfamiliar with traffic metrics a sense of scale for the level of increased traffic on the roadways.

If Congress were to adjust the boundary of Antietam National Battlefield to include the Shepherdstown battlefield, future plans and studies would be prepared to identify a range of alternatives for site-specific development and management of the site. Potential safety hazards and the impacts of traffic would be fully analyzed as a part of these National Environmental Policy Act-compliant planning processes.

Comment:

A commenter expressed concern that the National Park Service did not factor in the significance of the Boteler Mill, dam, lime kilns, and associated structures in making the national significance determination contained in the study. The commenter indicates that the National Park Service is mandated to include all of the national significant resources within the study scope.

NPS Response:

In the legislation authorizing this study (Public Law 111-11, Title VII, Subtitle C, Section 7205) Congress directed the Secretary of the Interior to evaluate “the national significance of the Shepherdstown battlefield and sites relating to the Shepherdstown battlefield.” The study team followed this directive by focusing the study’s scope primarily on those sites related to the battle of Shepherdstown. It was recognized however that the Boteler Mill, dam, kilns, and associated structures are important in their own right, which was taken into

consideration by the National Park Service’s National Historic Landmark Program in making their determination of national significance. As noted on page 15 of the study, it was determined that these resources do not retain the high degree of integrity required for national significance. If Congress were to authorize a boundary adjustment to include the Shepherdstown Battlefield, future site plans would consider opportunities for interpreting these resources and their significance.



AGENCY CONCURRENCE LETTERS

Per section 106 of the National Historic Preservation Act and section 7 of the Endangered Species Act, the National Park Service is required to consult with state historic preservation offices and U.S. Fish and Wildlife Service offices. Copies of this correspondence can be found in appendix F of the study. Letters received in response to the National Park Service request for section 106 consultation are included below, along with a memo documenting informal section 7 compliance.





*Maryland Department of Planning
Maryland Historical Trust*

*Martin O'Malley
Governor*

*Anthony G. Brown
Lt. Governor*

*Richard Eberhart Hall
Secretary*

*Matthew J. Power
Deputy Secretary*

April 11, 2012

David Hayes
Regional Planner
National Park Service
National Capital Region
1100 Ohio Drive, S.W.
Washington, DC 20242

Re: Shepherdstown Battlefield
Special Resource and Boundary Study
Washington County, Maryland

Dear Mr. Hayes: *David*

Thank you for contacting the Maryland Historical Trust (MHT) regarding the special resource and boundary study being performed for Shepherdstown Battlefield.

As the State Historic Preservation Office, MHT reviews projects in Maryland that are undertaken, assisted, or permitted by a federal or state agency, and the Trust comments on proposed actions pursuant to Section 106 of the National Historic Preservation Act and the Maryland Historical Trust Act of 1985. According to your February 13 letter, the study will primarily focus on battlefield lands in West Virginia, but parts of the battlefield are located in Maryland on both public and private land. Maryland sections include the Ferry Hill Plantation (WA-II-0035) as well as resources within the C&O Canal (WA-VI-045). While the study itself is not considered an "undertaking" that requires consultation under Section 106, it will produce important information related Section 110 of the National Historic Preservation Act and public history in general. We commend the National Park Service for undertaking this important work and thank you for keeping MHT abreast of the project.

Thank you for providing us this preliminary opportunity to comment. If you have any questions or we may be of assistance, please contact me (regarding archeology) at 410-514-7631 \ bcole@mdp.state.md.us or Jonathan Sager (regarding historic buildings and landscapes) at 410-514-7636 \ jsager@mdp.state.md.us.

Sincerely,

Beth Cole

Beth Cole
Administrator, Project Review and Compliance
Maryland Historical Trust

EJC \ JES \ 201200792

cc: Susan Trail (NPS – Antietam)
Kevin Brandt (NPS – C&O Canal)

100 Community Place • Crownsville, Maryland 21032-2023
Telephone: 410.514.7600 • Fax: 410.987.4071 • Toll Free: 1.800.756.0119 • TTY Users: Maryland Relay
Internet: <http://mht.maryland.gov>





The Culture Center
1900 Kanawha Blvd., E.
Charleston, WV 25305-0300

Randall Reid-Smith, Commissioner

Phone 304.558.0220 • www.wvculture.org
Fax 304.558.2779 • TDD 304.558.3562
EEO/AA Employer

September 29, 2014

Regional Director, National Capital Region
C/O Mr. Jordan Hoaglund – Planning
National Park Service
Denver Service Center
12795 West Alameda Parkway
PO Box 25287
Denver, CO 80225-0287

Re: Shepherdstown Battlefield
FR# 14-1197-JF

Dear Mr. Hoaglund:

We have received the National Park Service's request for comments on the special resource and boundary study of the Shepherdstown Battlefield. We welcome this opportunity to comment. Your questions and our comments are as follows:

1. What do you think about the management options proposed in the alternatives?

The study found that Alternative 2, Option A, Antietam National Battlefield Boundary Adjustment, would be the most effective and efficient alternative. This alternative would not only protect significant resource, but will protect resources critical to fulfilling Antietam National Battlefield's purpose.

2. What do you think about the proposed boundary?

The proposed boundary includes only the core battlefield area where significant loss of life occurred and/or where important battle actions took place. It excludes parcels lacking historic integrity such as those with recent development just south of the proposed boundary.

As the study explains, an acceptable boundary adjustment should provide for the inclusion and protection of primary resources, sufficient surrounding area for setting, and sufficient land for appropriate use and development. However, three primary resources fall outside of the proposed boundary; Ferry Hill, Maryland Bluffs, and the Chesapeake and Ohio Canal.

Though much of this area appears to be protected through easements or as part of National Park Service property, we strongly encourage scenic and/or conservation easements of these primary resources as well as adjacent lands to provide additional protection.

3. Do you have any other ideas or comments you would like to share with us?

We concur that no historic properties will be affected by the study in accordance with 36 C.F.R. § 800.4(d)(1). We look forward to working with you in the future for each undertaking that may result from the study.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact us. We can be reached at 304.558.0240.

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer





United States Department of the Interior NATIONAL PARK SERVICE

National Capital Region
Natural Resources & Science
4598 MacArthur Blvd, NW
Washington, D.C. 20007

Memorandum

25 November 2014

To: Chief, Planning, Compliance, and GIS, National Capital Region

From: T&E Coordinator, Natural Resources & Science, National Capital Region

Subject: **Special Resource Study: Battle of Shepherdstown, WV Project Area**
Endangered Species Act, 1973, as amended, Section 7
Informal Consultation & Technical Assistance

I contacted the West Virginia Field Office, Ecological Services because the ECOS database (Consultation Tracking Number: 05E2WV00-2015-SLI-0099) listed four federally listed or proposed species within the proposed boundary of the Battle of Shepherdstown: Madison Cave isopod (*Antrolana lira*) LT; northeastern bulrush (*Scirpus ancistrochaetus*) LE; Indiana bat (*Myotis sodalis*) LE; and northern long-eared bat (*Myotis septentrionalis*) proposed endangered. I spoke with Tiernan Lennon, US Fish & Wildlife Service, West Virginia Field Office, Ecological Services, 694 Beverly Pike, Elkins, WV 26241 (tiernan_lennon@fws.gov/ 304-636-6586 x12).

Endangered Species Act, 1973, as amended, Section 7

Tiernan Lennon stated that there were no known summer use of forest for Indiana bats found within the project area. There are no known occurrences of northeastern bulrush within the project area. There are no known flooded limestone caves and so no Madison Cave isopod within the project area.

There is no report of northern long-eared bat within the project area, but there is a high probability that it may occur in the forest within the boundary. There is potential summer and roosting habitat. This species is likely to be listed as endangered on 2 April 2015. If the FONSI is not signed when the status changes, NPS is required to reinitiate informal consultation on the project.

Before any disturbance of the project area occurs, surveys must be done for limestone caves with water, northeastern bulrush, and the summer use by the northern long-eared bat and Indiana bat. If any of the species are found, NPS must continue Section 7 informal consultation to determine if formal consultation is required.

Bald and Golden Eagle Protection Act, 1940, USC 16 Chpt 5A, II Sect. 668

There is no known bald eagle nests within the project area; however, there a nest downstream along the Potomac River. It is likely that bald eagles use the project area for fly-overs, night roosting, and foraging. Before any disturbance of the project area occurs, the area will be surveyed for bald eagle nesting and use. Any activities will follow the recommendations within the National Bald Eagle Management Guidelines (USFWS 2007), which provides monitoring and management guidance for bald eagles.

USFWS – U.S. Fish and Wildlife Service, Midwest Region. 2007. National Bald Eagle Management Guidelines. Online at <http://www.fws.gov/Midwest/eagle/guidelines/guidelines.html>





National Park Service
U.S. Department of the Interior

