



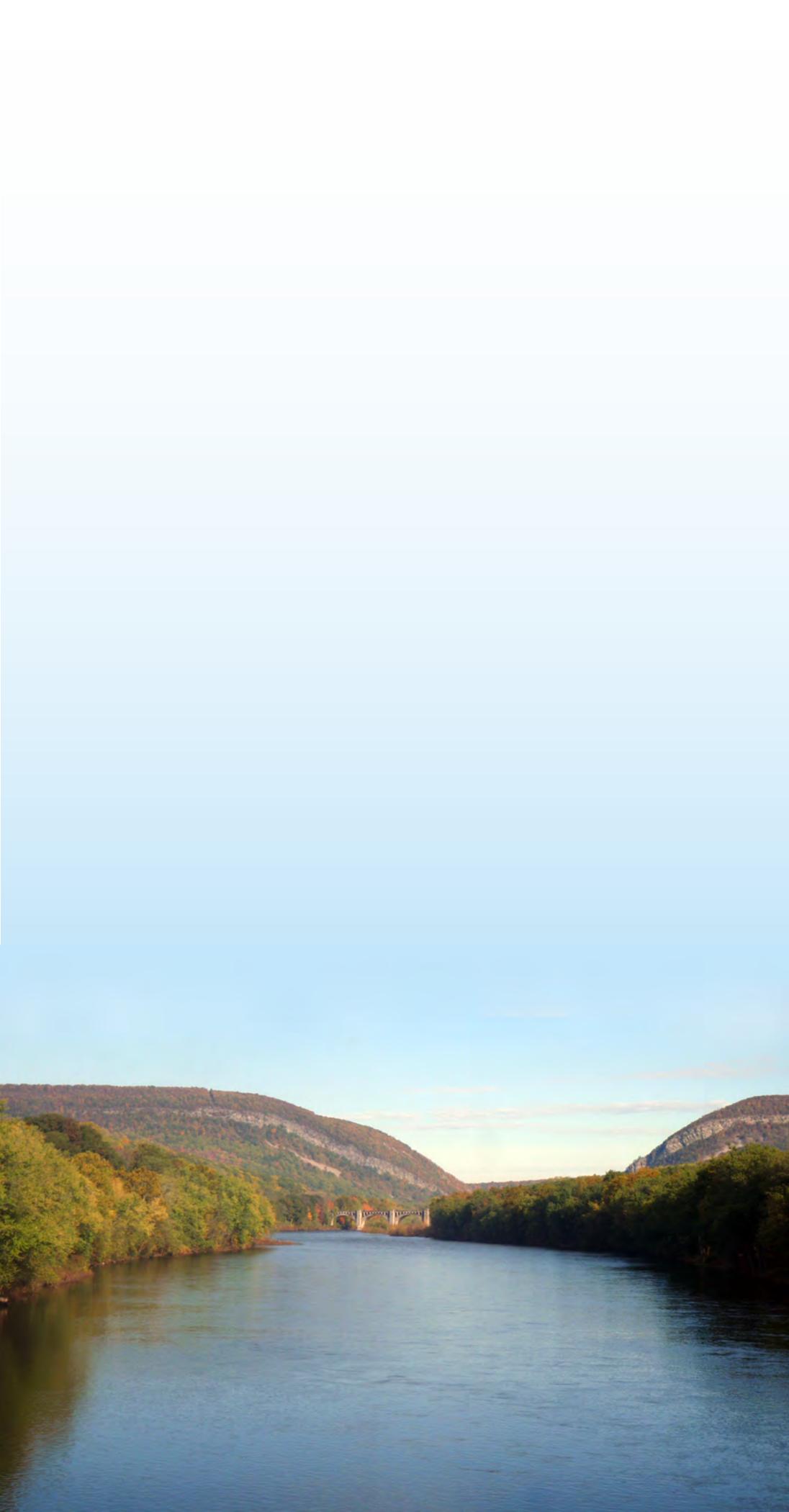
# Appalachian National Scenic Trail Delaware Water Gap National Recreation Area Middle Delaware National Scenic and Recreational River New Jersey and Pennsylvania



**Susquehanna to Roseland 500kV Transmission Line Right-of-Way  
and Special Use Permit Draft Environmental Impact Statement**

Volume 2  
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## **Appendix A**

Legislation Authorizing  
the Establishment of:

Delaware Water Gap  
National Recreation Area

Middle Delaware National  
Scenic and Recreational River

Appalachian National Scenic Trail



**APPENDIX A:  
LEGISLATION AUTHORIZING THE ESTABLISHMENT OF  
DELAWARE WATER GAP NATIONAL RECREATION AREA  
MIDDLE DELAWARE NATIONAL SCENIC AND  
RECREATIONAL RIVER  
APPALACHIAN NATIONAL SCENIC TRAIL**



**Public Law 89-158**  
**89th Congress H.R. 89**  
**September 1, 1965**

**An Act**  
**To authorize establishment of the Delaware Water Gap National Recreation Area,**  
**and for other purposes.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in order to further the purposes of the joint resolution approved September 27, 1961 (re Delaware River Basin compact; 75 Stat. 688), and to provide in a manner coordinated with the other purposes of the Tocks Island Reservoir project, for public outdoor recreation use and enjoyment of the proposed Tocks Island Reservoir and lands adjacent thereto by the people of the United States and for preservation of the scenic, scientific and historic features contributing to public enjoyment of such lands and waters, the Secretary of the Interior is authorized, as herein provided, to establish and administer the Delaware Water Gap National Recreation Area, hereinafter referred to as the "area", as part of the Tocks Island Reservoir project, hereinafter referred to as "the project".

SEC. 2. (a) The Secretary of the Army is authorized and directed to acquire, by such means as he may deem to be in the public interest, and as a part of this acquisition of properties for the project, lands and interests therein within the boundaries of the area, as generally depicted on the drawing entitled "Proposed Tocks Island National Recreation Area" dated and numbered September 1962, NRATI- 7100, which drawing is on file in the Office of the National Park Service Department of the Interior. In acquiring these lands, the Secretary of the Army may utilize such statutory authorities as are available to him for the acquisition of project lands: *Provided*, That the Secretary of the Army shall acquire no lands or interests in land by exchange for lands or interests in land in Federal ownership unless the latter are in the States of Pennsylvania, New Jersey, or New York. Periodically, and as soon as practicable after such lands and interests within the area are acquired, the Secretary of the Army shall transfer jurisdiction thereover to the Secretary of the Interior for the purposes of this Act

(b) Notwithstanding the provisions of subsection (a) of this section, the Secretary of the Interior is authorized, after consultation with appropriate public officials of the affected political subdivisions of the States of Pennsylvania or New Jersey, as the case may be, to designate not more than three hundred acres adjacent and contiguous to the Borough of Milford, Pennsylvania, and not more than one thousand acres in Sussex County, New Jersey, for omission from the Delaware Valley National Recreation Area and the lands so designated shall not be acquired, for said national recreation area under authority of this Act.

(c) The Secretary of the Interior shall investigate, study, and report to the President and the Congress on the feasibility and usefulness of extending the boundaries of the Delaware Water Gap National Recreation Area to include, in whole or in part, that portion of Tocks Island Reservoir which lies upstream from the northern terminus of the national recreation area as shown on the map hereinbefore referred to and lands adjacent to said portion of said reservoir. No such extension of boundaries, however, shall be made until authorized by Act of Congress.

(d) The beneficial owner, not being a corporation, of a freehold interest acquired before January 1, 1965, in improved residential property within the area to be acquired by the Secretary of the Army under authority of this Act, the continued use of which property for noncommercial residential purposes for a limited time will not, in the judgment of the Secretary of the Interior, unduly interfere with the development of public-use facilities for the national recreation area and will not, in the judgment of the Secretary of the Army/unduly interfere with the operation of the Tocks Island Reservoir project, may

retain a right of use and occupancy of such property for noncommercial residential purposes for, as said owner may elect, either (i) a period terminating upon his death or the death of his spouse, whichever occurs later, or (ii) a term of not more than twenty-five years: *Provided*, That in no case shall the period or term for which such right of use and occupancy is retained extend beyond the term of the freehold interest acquired by the United States. The price payable to the owner of such property shall be reduced by an amount equal to the value of the right retained. As used in this Act "improved residential property" means a single-family year-round dwelling, the construction of which was begun before January 21, 1963, which dwelling serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located which land the Secretary of the Interior or the Secretary of the Army, as the case may be, finds is reasonably necessary for the owner's continued use and occupancy of the dwelling.

SEC. 3. (a) As soon as practicable after the date of enactment of this Act and following the transfer to the Secretary of the Interior by the Secretary of the Army of jurisdiction over those lands and interests therein within the boundary generally depicted on the drawing described in section 2 hereof which, in the opinion of the Secretary of the Interior, constitute an efficiently administrable unit, the Secretary of the Interior shall declare establishment of the area by publication of notice thereof in the Federal Register. Such notice shall contain detailed description of the boundaries of the area which shall encompass, to the extent practicable, the lands and waters shown on said drawing. Prior to such establishment, the Secretary of the Interior shall administer such transferred lands and waters, consistent with the construction of the project, for purposes in contemplation of the establishment of the area pursuant to this Act.

(b) The Secretary of the Interior may subsequently make adjustments in the boundary of the area by publication of the amended description thereof in the Federal Register and acquire, by such means as he may deem to be in the public interest, including: an exchange of excluded for included lands or interests therein with or without the payment or receipt of money to equalize values, additional lands and interests therein included in the area by reason of the boundary adjustment: *Provided*, That the area encompassed by such revised boundary shall not exceed the acreage included within the detailed boundary first described pursuant to this section.

(c) On lands acquired pursuant to this Act for recreation purposes, the Secretary of the Army, with the concurrence of the Secretary of the Interior, may permit the continuance of existing uses consistent with the purposes of this Act.

SEC. 4. In the administration of the area for the purposes of this Act, the Secretary of the Interior may utilize such statutory authorities relating to areas of the national park system and such statutory authorities otherwise available to him for the conservation, management, or disposal of vegetative, mineral, or fish or wildlife resources as he deems appropriate to carry out the purposes of this Act. To assure consistent and effective planning, development, and operation for all purposes of the project, the Secretary of the Interior and the Secretary of the Army shall coordinate the administration of their respective responsibilities in the project; and such administration shall be consistent with the Joint resolution approved September 27, 1961 (re Delaware River Basin compact; 75 Stat. 688).

SEC. 5. In the administration of the area for the purposes of this Act the Secretary of the Interior, subject to provisions of section 4 hereof, shall adopt and implement, and may from time to time revise, a land and water use management plan, which shall include specific provision for, in order of priority—

- 1) public outdoor recreation benefits;
- 2) preservation of scenic, scientific, and historic features contributing to public enjoyment;

- 3) such utilization of natural resources as in the judgment of the Secretary of the Interior is consistent with, and does not significantly impair, public recreation and protection of scenic, scientific, and historic features contributing to public enjoyment.

SEC. 6. The Secretary of the Interior shall permit hunting and fishing on lands and waters under his jurisdiction within the area in accordance with the applicable laws and regulations of the States concerned and of the United States. The Secretary of the Interior may designate zones where, and establish periods when, no hunting shall be permitted for reasons of public safety, wildlife management, administration, or public use and enjoyment not compatible with hunting, and may, in his plan for the area, provide areas for intensive fish and wildlife management, including public hunting and fishing, and shall issue appropriate regulations after consultation with appropriate officials of the States concerned. The Secretary of the Interior shall encourage such officials to adopt uniform regulations applicable to the whole of the Delaware Water Gap National Recreation Area.

SEC. 7. Nothing in this Act shall be construed to deprive any State or political subdivision thereof, of its right to exercise civil and criminal jurisdiction over the lands and waters within the area or of its right to tax persons, corporations, franchises, or property on the lands and waters included in the area.

SEC. 8. There are hereby authorized to be appropriated to the Secretary of the Interior for the acquisition of lands and interests in land pursuant to the provisions of section 2 of this Act and for expenses incident thereto not more than \$37,412,000 which moneys shall be transferred to the Secretary of the Army. There are also authorized to be appropriated not more than \$18,200,000 for the cost of installing and constructing recreation facilities on the lands and interests in lands so acquired. The amounts herein authorized to be appropriated are supplemental to those authorized to be appropriated for the Tocks Island project and related facilities by the Flood Control Act of 1962 (76 Stat. 1182).

*Approved September 1, 1965*

**Legislative History:**

House Report No. 360 (Comm. on Interior & Insular Affairs)

Senate Report No. 598 (Comm. on Interior & Insular Affairs)

Congressional Record, Vol. 111 (1965):

July 12: Considered and passed House

Aug. 13: Considered and passed Senate, amended

Aug. 17: House concurred in Senate amendment

**Public Law 95-625**  
**95th Congress H.R. 95**  
**November 10, 1978**

Title VII – Wild and Scenic River Act Amendments  
Subtitle A – Addition of River Segments  
Addition of Middle Delaware River Segment

SEC7. 05. Section 3 (a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

“(20) Delaware, New York, Pennsylvania and New Jersey. – The segment from the point where the river crosses the northern boundary of the Delaware Water Gap National Recreation Area to the point where the river crosses the southern boundary of such recreation area; to be administered by the Secretary of the Interior. For purposes of carrying out this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary. Action required to be taken under subsection (b) of this section with respect to such segment shall be taken within one year from the date of enactment of this paragraph, except that, with respect to such segment, in lieu of the boundaries provided for in such subsection (b), the boundaries shall be the banks of the river. Any visitors facilities established for purposes of use and enjoyment of the river under the authority of the Act establishing the Delaware Water Gap National Recreation Area shall be compatible with the purposes of this Act and shall be located at an appropriate distance from the river.”

THE NATIONAL TRAILS SYSTEM ACT  
(P.L. 90-543)  
(16 U.S.C. 1241 et. seq.)  
as amended through P.L. 103-145, November 17, 1993

AN ACT  
To establish a national trails system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC 1. SHORT TITLE

This Act may be cited as the “National Trails System Act”.

SEC 2. STATEMENT OF POLICY

- a) In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation, trails should be established (i) primarily, near the urban areas of the Nation, and (ii) secondarily, within scenic areas and along historic travel routes of the Nation which are often more remotely located.
- b) The purpose of this Act is to provide the means for attaining these objectives by instituting a national system of recreation, scenic and historic trails, by designating the Appalachian Trail and the Pacific Crest Trail as the initial components of that system, and by prescribing the methods by which, and standards according to which, additional components may be added to the system.
- c) The Congress recognizes the valuable contributions that volunteers and private, nonprofit trail groups have made to the development and maintenance of the Nation's trails. In recognition of these contributions, it is further the purpose of this Act to encourage and assist volunteer citizen involvement in the planning, development, maintenance, and management, where appropriate, of trails.

SEC 3. NATIONAL TRAILS SYSTEM

- a) The national system of trails shall be composed of the following:
  - (1) National recreation trails, established as provided in section 4 of this Act, which will provide a variety of outdoor recreation uses in or reasonably accessible to urban areas.
  - (2) National scenic trails, established as provided in section 5 of this Act, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. National scenic trails may be located so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation.
  - (3) National historic trails, established as provided in section 5 of this Act, which will be extended trails which follow as closely as possible and practicable the original trails or routes

of travel of national historic significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous onsite. National historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. Only those selected land and water based components of a historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act are included as Federal protection components of a national historic trail. The appropriate Secretary may certify other lands as protected segments of an historic trail upon application from State or local governmental agencies or private interests involved if such segments meet the national historic trail criteria established in this Act and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.

- (4) Connecting or side trails, established as provided in section 6 of this Act, which will provide additional points of public access to national recreation, national scenic or national historic trails or which will provide connections between such trails.

The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker for the national trails system.

- b) For purposes of this section, the term 'extended trails' means trails or trail segments which total at least one hundred miles in length, except that historic trails of less than one hundred miles may be designated as extended trails. While it is desirable that extended trails be continuous, studies of such trails may conclude that it is feasible to propose one or more trail segments which, in the aggregate, constitute at least one hundred miles in length.
- c) On October 1, 1982, and at the beginning of each odd numbered fiscal year thereafter, the Secretary of the Interior shall submit to the Speaker of the United States House of Representatives and to the President of the United States Senate, an initial and revised (respectively) National Trails System plan. Such comprehensive plan shall indicate the scope and extent of a completed nationwide system of trails, to include (1) desirable nationally significant scenic and historic components which are considered necessary to complete a comprehensive national system, and (2) other trails which would balance out a complete and comprehensive nationwide system of trails. Such plan, and the periodic revisions thereto, shall be prepared in full consultation with the Secretary of Agriculture, the Governors of the various States, and the trails community.

#### SEC 4. NATIONAL RECREATION TRAILS

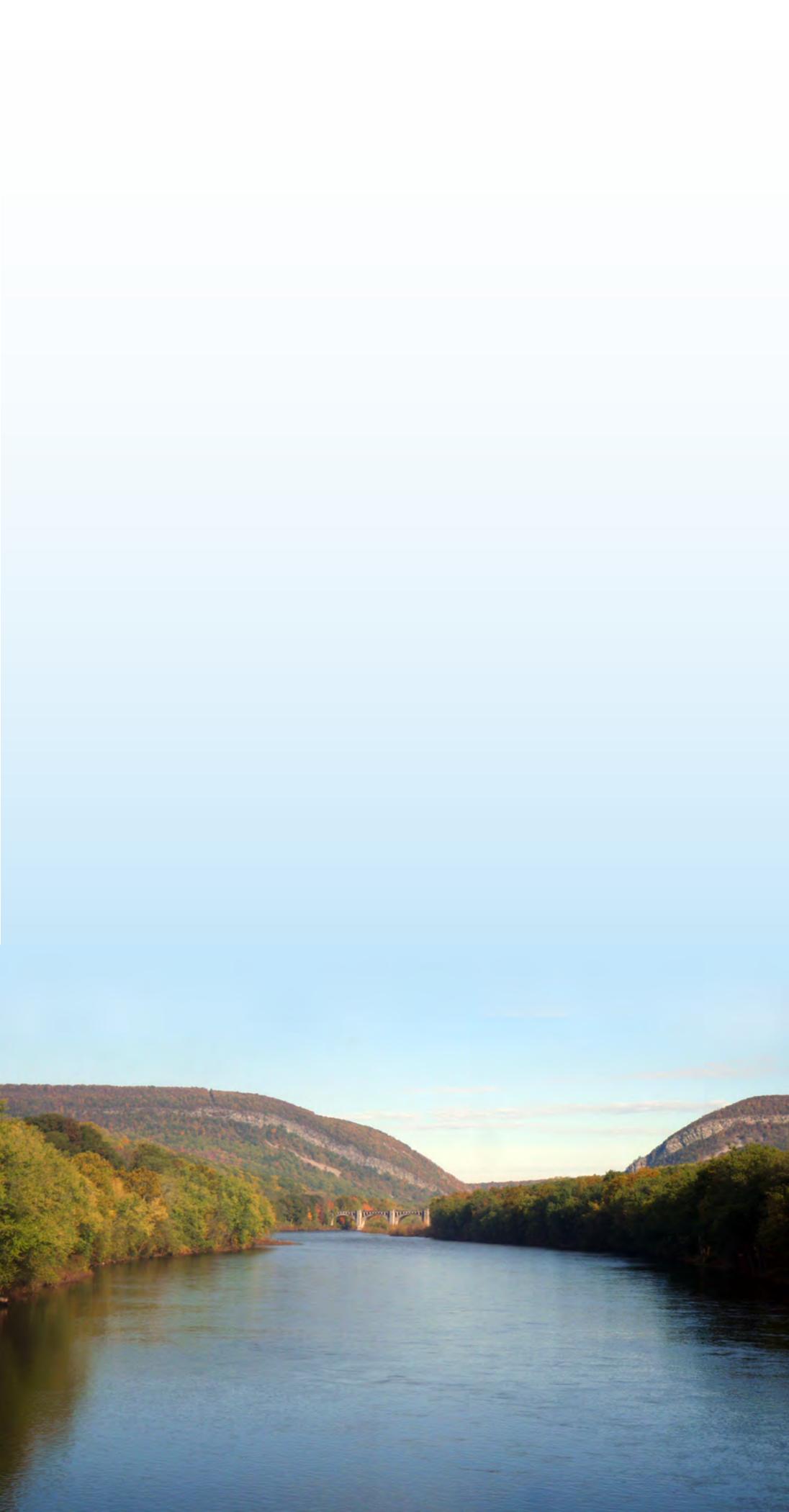
- a) The Secretary of the Interior, or the Secretary of Agriculture where lands administered by him are involved, may establish and designate national recreation trails, with the consent of the Federal agency, State, or political subdivision having jurisdiction over the lands involved, upon finding that--
  - (i) such trails are reasonably accessible to urban areas, and, or
  - (ii) such trails meet the criteria established in this Act and such supplementary criteria as he may prescribe.

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- b) As provided in this section, trails within park, forest, and other recreation areas administered by the Secretary of the Interior or the Secretary of Agriculture or in other federally administered areas may be established and designated as "National Recreation Trails" by the appropriate Secretary and, when no Federal land acquisition is involved—
- (i) trails in or reasonably accessible to urban areas may be designated as "National Recreation Trails" by the appropriate Secretary with the consent of the States, their political subdivisions, or other appropriate administering agencies;
  - (ii) trails within park, forest, and other recreation areas owned or administered by States may be designated as "National Recreation Trails" by the appropriate Secretary with the consent of the State; and
  - (iii) trails on privately owned lands may be designated 'National Recreation Trails' by the appropriate Secretary with the written consent of the owner of the property involved.

#### SEC. 5 NATIONAL SCENIC AND NATIONAL HISTORIC TRAILS

- a) National scenic and national historic trails shall be authorized and designated only by Act of Congress. There are hereby established the following National Scenic and National Historic Trails:
- (1) The Appalachian National Scenic Trail, a trail of approximately two thousand miles extending generally along the Appalachian Mountains from Mount Katahdin, Maine, to Springer Mountain, Georgia. Insofar as practicable, the right-of-way for such trail shall comprise the trail depicted on the maps identified as "Nationwide System of Trails, Proposed Appalachian Trail, NST-AT-101-May 1967", which shall be on file and available for public inspection in the office of the Director of the National Park Service. Where practicable, such rights-of-way shall include lands protected for it under agreements in effect as of the date of enactment of this Act, to which Federal agencies and States were parties. The Appalachian Trail shall be administered primarily as a footpath by the Secretary of the Interior, in consultation with the Secretary of Agriculture.





## **Appendix B**

Other Laws and Regulations



**APPENDIX B:  
OTHER LAWS AND REGULATIONS**



## INTRODUCTION

Various laws, policies, and regulations by NPS and the federal and state governments are described in this appendix to show the constraints within which this EIS will need to operate and the goals and policies it must meet. The NPS, in preparing this EIS, must conform to the federal laws, regulations, and policies described in this section. The parks planning documents are also presented in this section. A summary of federal, state and local laws, plans, regulations, and policies is presented. This list is not intended to be exhaustive and if a law is not listed it does not relieve the NPS from compliance with that directive.

## FEDERAL LAWS

**National Environmental Policy Act (NEPA) of 1969, as amended:** Section 102(2)(c) of NEPA (42 USC 4371 et seq.) requires that an EIS be prepared for proposed major federal actions that may significantly affect the quality of the natural and human environment. The EIS is to address the environmental impacts of the proposed action, any adverse environmental effects that cannot be avoided should the action take place, alternatives to the proposed action, the relationship between short-term uses of man's environment and maintenance of long-term productivity, and any irreversible and irretrievable commitments of resources needed should the project be implemented.

**Title 36, Code of Federal Regulations:** Title 36 provides the regulations “for the proper use, management, government, and protection of persons, property, and natural and cultural resources within areas under the jurisdiction of the National Park Service” (36 CFR 1.1[a]). NPS regulations governing issuance of rights-of-way for power transmission lines falls under 36 CFR part 5.

**Endangered Species Act (ESA):** ESA (16 USC 1531-1544, 87 stat. 884) provides for the protection of federally listed threatened or endangered species and their habitats. NPS policy also requires examination of the impacts on federal candidate species, as well as state-listed threatened, endangered, candidate, rare, declining, and sensitive species. Section 7 of ESA requires federal agencies, through consultation with USFWS, to ensure that any action authorized, funded, or carried out by them is not likely to jeopardize the continued existence of listed species or modify their critical habitat.

**Bald and Golden Eagle Protection Act (BGEPA) of 1940, as amended:** BGEPA (16 USC 668-668c), enacted in 1940 and amended several times since then, prohibits anyone without a permit issued by the Secretary of the Interior from taking bald eagles, including their parts, nests, or eggs. BGEPA provides criminal penalties for persons who “take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle... [or any golden eagle], alive or dead, or any part, nest, or egg thereof.” BGEPA defines “take” as “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb.”

The National Bald Eagle Management Guidelines, released by the USFWS, provide guidance for the implementation of the BGEPA. These guidelines include general recommendations and information for agencies on measures for adherence to the BGEPA. These guidelines provide information the natural history of bald eagles, as well as information on impacts of activities on bald eagles (USFWS 2007a, 1). According to these guidelines, “disturb” means “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.” (USFWS 2007a, 2).

In addition to immediate impacts, this definition also covers impacts that result from human-induced alterations initiated around a previously used nest site during a time when eagles are not present, if, upon

the eagle's return, such alterations agitate or bother an eagle to a degree that interferes with or interrupts normal breeding, feeding, or sheltering habits and causes injury, death, or nest abandonment.

**Migratory Bird Treaty Act (MBTA) of 1918:** MBTA (16 USC 703-711) implements various treaties and conventions between the United States and Canada, Japan, Mexico, and the former Soviet Union for the protection of migratory birds. Under this act it is prohibited, unless permitted by regulations, to “pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention ... for the protection of migratory birds ... or any part, nest, or egg of any such bird” (16 USC 703). Subject to limitations in this act, the Secretary of the Interior may adopt regulations determining the extent to which, if at all, hunting, taking, capturing, killing, possessing, selling, purchasing, shipping, transporting, or exporting any migratory bird, part, nest, or egg will be allowed, having regard for temperature zones, distribution, abundance, economic value, breeding habits, and migratory flight patterns.

**National Historic Preservation Act (NHPA) of 1966 as amended:** Section 106 of NHPA (16 USC 470 et seq.) requires federal agencies to consider the effects of their undertakings on properties listed or potentially eligible for listing on the NRHP. All actions affecting the parks’ cultural resources must comply with this law, which is implemented through the Advisory Council on Historic Preservation (36 CFR 800).

**Wild and Scenic Rivers Act (WSRA):** This act calls for the protection of specific U.S. rivers that “possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values” (16 USC 1271, 1526). This policy is to preserve selected rivers “in their freeflowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes” (16 USC 1271, 1526). These rivers are to be protected “for the benefit and enjoyment of present and future generations” (16 USC 1271, 1526). This part of the act echoes the NPS Organic Act, which states that the purpose of the NPS is to conserve park resources “and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations” (16 USC 1). The WSRA identifies MDSR and the land adjacent to it as a component of the national wild and scenic rivers system to be administered by the Department of the Interior, specifically, the NPS (16 USC 1274, 1530 and 1281(c), p. 1572).

In addition Section 1278(a), *Restrictions on water resources projects (a) Construction projects licensed by Federal Energy Regulatory Commission (FERC)*, prohibits construction of transmission lines on rivers included in the wild and scenic rivers system (16 USC 1278(a), 1278). Although the act does not define “water resources project,” it specifically lists transmission lines under that discussion and prohibits federal agencies from individually authorizing a water resources project that would directly and adversely affect designated rivers without consulting Congress (16 USC 1271-1287, 1278). However, transmission lines can be constructed upstream or downstream of rivers included in the wild and scenic rivers system. The WSRA states “Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area...” (16 USC 1278(a), 1278).

**Noise Control Act of 1972 and the Quiet Communities Act of 1978:** These acts instituted federal laws relating to noise control. However, in 1981, it was determined that noise regulations were best administered at the state and local levels, thus allocating federal funding to state and local governments for the development of noise regulations. While these acts currently remain in effect, federal funding for the Noise Control Act of 1972 and The Quiet Communities Act of 1978 has terminated (USEPA 2009).

The Federal Noise Control Act authorizes states to enforce noise rules, codes, and regulations, and allows municipalities to adopt noise control ordinances that usurp the state code. There are no noise regulations at the state level in Pennsylvania; local townships are responsible for developing their own noise ordinances.

**Energy Policy Act of 2005:** This act states just compensation shall be provided for any ROW acquired for electric transmission facilities on private property. Just compensation is defined as an amount equal to the fair market value of the property taken on the date of the exercise of eminent domain authority (Title XII – Electricity, Subtitle B, section 1221[e]).

**Magnuson-Stevens Fishery Management and Conservation Act:** This act, as amended by the Sustainable Fisheries Act of 1996 (PL 104-267), requires all federal agencies to consult with NOAA Fisheries on all actions or proposed actions allowed, funded, or undertaken by the agency that may adversely affect essential fish habitat. Essential fish habitat is defined as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.”

**Federal noxious and invasive weed laws:** Several federal laws pertain to noxious and invasive weeds, including the Lacey Act as amended (18 USC 42), the Federal Plant Pest Act (7 USC 150aa et seq.), the Federal Noxious Weed Act of 1974, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990 (“Management of Undesirable Plants on Federal Lands,” 7 USC 2814), and the Carlson-Fogey Act of 1968 (PL 90-583).

**Clean Water Act (CWA):** Section 404 of the CWA established a program to regulate the discharge of dredged or fill material into waters of the United States. The CWA does not allow for the filling of wetlands if there is another practicable alternative that would be less damaging to aquatic resources or if significant degradation would occur. Permits for work in wetlands are issued by USACE and state agencies. USACE encourages agencies to avoid and/or minimize impacts on wetlands, and requires mitigation if unavoidable impacts on wetlands occur.

**The Rivers and Harbors Act of 1899:** This act defined navigable waters of the United States as “those waters that are subject to the ebb and flow of the tides.” The CWA built on this definition and defined the waters of the United States to include tributaries to navigable waters and wetlands adjacent to other waters of the United States.

**Fish and Wildlife Coordination Act of 1934 (as amended):** This act authorizes Agriculture and Commerce Secretaries to provide assistance to state and federal agencies to protect, rear, stock, and increase the supply of game and fur-bearing animals, as well as to study the effects of sewage, trade wastes, and other polluting substances on wildlife. The act also authorizes the transfer of funds to USFWS to conduct investigations, and the transfer of project lands. Amendments in 1946 require consultation with USFWS and state fish and wildlife agencies where waters of any stream or water body are proposed or authorized to be impounded or diverted, or controlled in some manner under a federal permit or license, for the protection of wildlife resources.

**Paleontological Resource Preservation Act of 2009 (P.L. 111-011):** This act was passed under the Omnibus Public Land Management Act of 2009, and provides directives for the management of paleontological resources, and the development of inventory and monitoring plans, as well as the use of paleontological resources in science and education. It introduced permit requirements for the collection of paleontological resources on federal lands. This act also set criminal penalties for the illegal collection, exchange or sale of paleontological resources on federal lands, as well as the false labeling of such resources illegally collected on federal lands.

EOs are those orders issued by the president to alert federal agencies to new guidelines or practices. A complete listing of EOs can be found on the National Archives website (<http://www.archives.gov/federal-register/executive-orders/disposition.html>).

Along with *NPS Management Policies 2006*, the director of NPS may issue additional directives in DOs containing additional information or clarification of NPS practices. A complete list of NPS DOs can be found on the U.S. Department of the Interior National Park Service Office of Policy website (<http://www.nps.gov/applications/npspolicy/DOrders.cfm>).

The following sections present applicable EOs and DOs. This section is not intended to be an exhaustive list of all orders that may apply:

**EO 11988, “Floodplain Management”:** EO 11988 directs all federal agencies to avoid both long- and short-term adverse effects associated with occupancy, modification, and development in the 1 percent annual chance floodplain, when possible. All federal agencies are required to avoid building in a 1 percent annual chance floodplain unless no other practicable alternative exists.

**EO 11990, “Protection of Wetlands”:** EO 11990 directs federal agencies to avoid, to the extent possible, the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. NPS complies with this executive order through the guidance outlined in DO 77-1.

**EO 13112, “Invasive Species”:** This executive order directs all federal agencies to prevent and control introductions of invasive non-native species in a cost-effective and environmentally sound manner to minimize their economic, ecological, and human health impacts.

**EO 13186, “Responsibilities of Federal Agencies to Protect Migratory Birds”:** EO 13186 was established on the premise that migratory birds contribute to biological diversity, bring enjoyment to millions of Americans, and are of great ecological and economic value to this country and to other countries. Under this order, federal agencies taking actions that have, or are likely to have, a measurable negative effect on the migratory bird population are directed to develop and implement a memorandum of understanding with USFWS that promotes the conservation of migratory bird populations. This EO also requires that the environmental analysis of federal actions required by NPS or other established environmental review processes evaluate the effects of the action and agency plans on migratory birds, with an emphasis on species of concern. A *2010 Memorandum of Understanding (MOU) Between the U.S. Department of Interior National Park Service and the U.S. Fish and Wildlife Service to Promote the Conservation of Migratory Birds* that sought to strengthen agency coordination on the protection of migratory birds. The MOUs meet the requirements outlined in EO 13186, section 3, which regards the responsibilities of federal agencies in protecting migratory bird species. These responsibilities include studies of migratory birds, the development of BMPs and conservation measures, and educational programs and training programs to promote ongoing education on migratory birds and integrated management for bird conservation across the agencies. The MOU also requires identifying actions that impact migratory birds and their habitats, and developing measures to mitigate these impacts. The MOU also requires that NPS implement measures to prevent or mitigate intentional and unintentional take of migratory birds as a result of authorized activities (NPS and USFWS 2010).

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## NATIONAL PARK SERVICE LAWS AND POLICIES

**Organic Act:** The Organic Act (16 USC 1) commits NPS to making informed decisions that perpetuate the conservation and protection of NPS resources unimpaired for the benefit and enjoyment of future generations. In the Organic Act of 1916, Congress directed the U.S. Department of the Interior and NPS to manage units of the national park system “to conserve the scenery and the natural and historic objects and wild life therein and to provide for the enjoyment of the same in such a manner and by such a means as will leave them unimpaired for the enjoyment of future generations” (16 USC 1). Congress reiterated this directive to protect park system units from outside interests in the Redwood National Park Expansion Act, as amended, of 1978.

In addition, the Organic Act allows NPS “to grant an easement for rights of way, for a period not exceeding fifty years from the date of issuance of such grant, over, across and upon public lands and reservations of the United States for electrical poles and lines for the transmission and distribution of electrical power ... to the extent of two hundred feet on each side of the center line of such lines and poles” (16 USC 5).

The Organic Act and its amendments afford NPS latitude when making resource decisions about visitor use and resource preservation. Despite this discretion, courts consistently interpret the Organic Act and its amendments to elevate resource conservation above visitor use. One case, *Michigan United Conservation Clubs v. Lujan*, 949 F.2d 202, 206 [6th Cir. 1991], holds that in enacting the Organic Act, “Congress placed specific emphasis on conservation.” Another case, *The National Rifle Association of America v. Potter*, 628 F. Supp. 903, 909 [DDC 1986] states, “In the Organic Act of 1916 Congress speaks of but a single purpose, namely, conservation.” By these acts, Congress “empowered [the NPS] with the authority to determine what uses of park resources are proper and what proportion of the park’s resources are available for each use” (*Bicycle Trails Council of Marin v. Babbitt*, 82 F.3d 1445, 1453 [9th Cir. 1996]). NPS *Management Policies 2006* also recognizes that resource conservation takes precedence over visitor use. NPS policy dictates, “When there is a conflict between conserving resources and values and providing for enjoyment of them, conservation is to be predominant” (NPS 2006a, section 1.4.3). The Organic Act speaks to enjoyment and use but never speaks to recreation.

While some actions and activities cause impacts, NPS cannot allow an adverse impact that constitutes resource impairment (NPS 2006a, section 1.4.3; *Southern Utah Wilderness Alliance v. Dabney*, 7 F. Supp 2d 1205 [DC Utah 1998]). The Organic Act prohibits actions that permanently impair park resources unless a law directly and specifically allows for the action (16 USC 1a-1). An action constitutes an impairment when its impacts “harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values” (NPS 2006a, section 1.4.5). To determine impairment, NPS must evaluate “the particular resources and values that would be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts” (NPS 2006a, section 1.4.5). The EIS that is being prepared, therefore, must analyze the effects of the alternatives on the parks’ resources and values and determine whether these effects would cause impairment.

**General Authorities Act of 1970:** The General Authorities Act was an amendment to the Organic Act. The law sought to improve the management and administration of the national park system as a unified by resources and purpose. This united the management of all NPS properties, regardless of the resources found at each park. This act also aided in allowing the Secretary of the Interior to undertake certain actions, including the formation of an advisory committee, equipment purchase, and purchase or sell land (16 USC 1a-5).

**NPS Management Policies 2006, Section 1.4: Prohibition on Impairment of Park Resources and**

**Values:** By enacting the NPS Organic Act of 1916 (Organic Act), Congress directed the U.S. Department of Interior and the NPS to manage units “to conserve the scenery and the natural and historic objects and wildlife therein and to provide for the enjoyment of the same in such a manner and by such a means as will leave them unimpaired for the enjoyment of future generations” (16 USC § 1). Congress reiterated this mandate in the Redwood National Park Expansion Act of 1978 by stating that NPS must conduct its actions in a manner that will ensure no “derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress” (16 USC 1a-1).

In addition to determining the environmental consequences of implementing the preferred and other alternatives, *NPS Management Policies 2006* (section 1.4) requires analysis of potential effects to determine whether or not proposed actions would impair a park’s resources and values. The prohibited impairment is an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values (NPS 2006a). Whether an impact meets this definition depends on the particular resources that would be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts. *NPS Management Policies 2006, Section 1.4.4*, explains the prohibition on impairment of park resources and values:

While Congress has given the Service the management discretion to allow impacts within parks, that discretion is limited by the statutory requirement (generally enforceable by the federal courts) that the Park Service must leave park resources and values unimpaired unless a particular law directly and specifically provides otherwise. This, the cornerstone of the Organic Act, establishes the primary responsibility of the Nation Park Service. It ensures that park resources and values will continue to exist in a condition that will allow the American people to have present and future opportunities for enjoyment of them.

The NPS has discretion to allow impacts on Park resources and values when necessary and appropriate to fulfill the purposes of a Park (NPS 2006 sec. 1.4.3). However, the NPS cannot allow an adverse impact that would constitute impairment of the affected resources and values (NPS 2006 sec 1.4.3). An action constitutes an impairment when its impacts “harm the integrity of Park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values” (NPS 2006 sec 1.4.5). To determine impairment, the NPS must evaluate “the particular resources and values that would be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts” (NPS 2006 sec 1.4.5). A determination on impairment for the preferred alternative evaluated in this EIS is provided in appendix B.

***NPS Management Policies 2006:*** *NPS Management Policies 2006* requires an analysis of potential effects to determine whether actions would impair park resources (NPS 2006a). The fundamental purpose of the national park system is to conserve park resources and values for the use and enjoyment of future generations. NPS managers have the discretion to allow impacts on park resources and values when necessary and appropriate to fulfill the purposes of a park, as long as the impacts do not constitute impairment of the affected resources and values. That discretion to allow certain impacts within the park is limited by the statutory requirement that NPS must leave park resources and values unimpaired, unless a particular law directly and specifically provides otherwise. The prohibited impairment is an impact that, in the professional judgment of the responsible manager, would harm the integrity of park resources or values.

Several sections from the NPS *Management Policies 2006* (NPS 2006a) are relevant to processing applications for electrical power transmission ROWs at the parks, such as section 4, “Resource Management”; section 5, “Cultural Resource Management”; section 8.2.5, “Visitor Safety and Emergency Response”; and section 8.6.1.1, “Requests for Permits.” The sections mentioned above are just a few of the NPS *Management Policies 2006* sections that would be reviewed and analyzed for consistency during the environmental review of the proposed S-R Line.

**Authority for Authorizing Construction Permit:** The Supreme Court has repeatedly held that the power of Congress over public lands under the Property Clause of the Constitution is “without limitations” (U.S. Const., art. IV, section 3, cl.2; see, e.g., *Kleppe v. New Mexico*, 426 U.S. 529, 539 [1976]). That power over lands owned by the federal government is expressed, with respect to the national park system, in the Organic Act, which grants to the Secretary of the Interior the power to make such rules and regulations for the use and management of the national park system as he may deem necessary and proper for its use and management (16 USC 2). Pursuant to that delegated authority, the regulations of the NPS are made generally applicable to lands within the national park system in which the United States owns a partial interest or a fee interest subject to an easement (36 CFR 1.2). Construction within the national park system is generally forbidden without a permit (36 CFR 5.7, 1.6).

**Park Service Resource Protection Act (PSRPA):** The PSRPA holds liable anyone who destroys or otherwise injures any resource found within the park service system for the response costs and damages resulting from the destruction or loss of the resource.

## **OTHER APPLICABLE PARK SERVICE EXECUTIVE ORDERS AND DIRECTOR ORDERS**

**DO 12: *Conservation Planning, Environmental Impact Analysis, and Decision Making:*** DO 12 directs the way NPS complies with NEPA, including all aspects of environmental analysis, public involvement, and resource-based decisions. NPS must follow all sources of NEPA guidance, including, but not limited to, 40 CFR 1500–1508 and 516 DM. DO 12 outlines the responsibilities of the parties accountable for ensuring compliance with NEPA, from the director to project managers and contracting officers (NPS 2001a).

**DO 28: *Cultural Resource Management:*** DO 28 (NPS 1998a) directs the NPS to protect and manage cultural resources in its custody through effective research, planning, and stewardship in accordance with the policies and principles contained in the NPS *Management Policies 2006*. This DO is carried out through NPS-28: *Cultural Resource Management Guideline*, which provides the fundamental concepts of cultural resource management for the NPS. The cultural resource management guidelines address cultural landscapes, stating: “preservation practices [should be implemented] to enable long-term preservation of a resource’s historic features, qualities, and materials [of a cultural landscape]” (NPS 1998a).

**DO 47: *Soundscape Preservation and Management:*** DO 47 provides guidance for “the protection, maintenance, or restoration of the natural soundscape resource in a condition unimpaired by inappropriate or excessive noise sources” (NPS 2000b). Director’s Order 47 notes that NPS has authority to “determine the nature, extent, and acceptability of impacts on park resources and visitors. This includes determining the type, magnitude, duration, and frequency of occurrence of noise that is compatible or incompatible with protecting the resources or the visitor experience for which the park was established and planned, as well as determining the significance of noise levels or impacts. This may also include determining whether certain noise sources are necessary or appropriate” (NPS 2000b).

**DO 53: *Special Park Uses:*** This Director’s Order and the manual derived from it contain internal NPS policy concerning the processes for issuing permits for special park uses, including right-of-way permits.

Special park uses are not initiated by the park; do not necessarily benefit the park or the public; and are managed by the park, to a degree, in order to protect the park resources and public interest. According to this policy, a ROW permit may be issued by the park when no other alternative is feasible and upon a finding that the use is not incompatible with the public interest. Special guidance in issuing right-of-way permits is found in RM-53, Appendix 5.

**DO 77-1:** NPS adopted a goal of “no net loss of wetlands.” DO 77-1 states that for new actions where impacts to wetlands cannot be avoided, proposals must include plans for compensatory mitigation that restores wetlands on NPS lands, where possible, at a minimum acreage ratio of 1:1. DO 77-1 emphasizes: 1) exploring all practical alternatives to building on, or otherwise adversely affecting, wetlands; 2) reducing impacts to wetlands whenever possible; and 3) providing direct compensation for any unavoidable wetland impacts by restoring degraded or destroyed wetlands on other NPS properties. If a preferred alternative would have adverse impacts on wetlands, a Statement of Findings (SOF) must be prepared that documents the above steps and presents the rationale for choosing an alternative that would have adverse impacts on wetlands.

**DO 77-2:** NPS policy dictates guidelines to restore and maintain natural floodplains. Guidelines also require avoidance of the environmental impacts of development within floodplains, or modification of floodplains. The guidelines also require that, where practicable alternatives exist, Class I action be avoided within a 100-year floodplain. Class I actions include the location or construction of administration, residential, warehouse, and maintenance buildings, non-excepted parking lots, or other man-made features that by their nature entice or require individuals to occupy the site.

**Reference Manual #77: *Natural Resource Management Guideline (1991)*:** The *Natural Resource Management Guideline (1991)* provides guidance on implementing laws and regulations relevant to natural resources to park managers for all planned and ongoing natural resource management activities. This document provides the guidance for park management to design, implement, and evaluate a comprehensive natural resource management program in accordance with relevant laws.

## **NATIONAL PARK SYSTEM UNIT PLANNING DOCUMENTS**

The following plans occurring at DEWA, MDSR, and APPA were considered during the development of this EIS. MDSR is contained entirely within DEWA and is managed through DEWA’s plans and policies.

### **DELAWARE WATER GAP NATIONAL RECREATION AREA**

**Delaware Water Gap National Recreation Area, General Management Plan, 1987:** The DEWA GMP guides the overall management and use of the park’s resources and helps to ensure the perpetuation of its natural and cultural resources and the scenic setting for present and future public enjoyment (NPS 1987a). The plan also provides the foundation for subsequent detailed implementation plans, programs, and operations. The GMP outlines the following strategies:

- Public outdoor recreation benefits
- Preservation of scenic, scientific, and historic features contributing to public enjoyment
- Such use of natural resources as in the judgment of the Secretary of the Interior is consistent with, and does not significantly impair, public recreation and protection of scenic, scientific, and historic features contributing to public enjoyment

**Delaware Water Gap National Recreation Area Resource Management Plan, 1997:** The DEWA Resource Management Plan (RMP) documents the park’s natural and cultural resources, provides

direction and continuity, and establishes priorities for the protection and preservation of these resources (NPS 1997). It defines resource management issues and describes current management, research, and monitoring actions as well as issues or problems that require future action or research to protect park resources, to implement recommendations, or to restore damaged resources. In some cases, this plan recognizes the need for preparation of action plans that deal with specific resource management issues. One of the goals of the plan is to preserve the scenic, scientific, and historic features contributing to public outdoor recreation use and enjoyment and to use these natural resources as long as the primary values of the park are not impaired.

**Delaware Water Gap National Recreation Area Business Plan of 2003:** The DEWA Business Plan is a tool for the park to communicate its financial status with principal stakeholders. The business plan provides information on the business of the park unit and the funding necessary to operate the park unit within appropriate standards. Funding (park staff needed for S-R Line monitoring during construction and operation) for the S-R Line was not included in the 2003 DEWA Business Plan.

**Delaware Water Gap National Recreation Area, Research and Resource Planning Strategic Plan, 2006–2010:** The DEWA strategic plan outlines primary work elements currently undertaken by the Division of Research and Resource Planning (R&RP) at DEWA and the role and function of R&RP for projects to be worked on for the duration of the plan, from 2006 to 2010 (NPS n.d.a). The plan identifies goals, objectives and work targets that support overall park management and operations. The R&RP staff collectively synthesized existing management documents to form a logical basis for developing this strategic plan in order to refocus staff time and energy. This plan does not supersede or take the place of any other required document for the management of the park's resources. Planning of park staff needed for S-R Line monitoring during construction and operation was not included in this plan. T

**Delaware Water Gap Fire Management Plan, 2003–2004:** The fire management plan (FMP) for DEWA is a subsection of the DEWA RMP and will help achieve resource management and fire protection goals as defined in the GMP and the RMP (NPS 1997). The original FMP for DEWA, which was approved in 1992, was revised from 2003 through 2004 to incorporate the revised Wildland Fire Management Terminology (adopted By National Wildfire Coordinating Group 1997) as well as revised NPS wildland fire management policy and guidelines as set forth in the current versions of DO 18 and Reference Manual 18. DO 18: *Wildland Fire Management* mandates that

Each park with vegetation capable of burning will prepare a fire management plan to guide a fire management program that is responsive to the park's natural and cultural resource objectives and to safety considerations for park visitors, employees, and developed facilities. (NPS 2008a)

The FMP is designed to help meet the objectives of the GMP and RMP by protecting and/or perpetuating the existing natural, cultural, and historic resources; by protecting park structures; and by protecting the health and safety of park visitors and employees.

**Delaware Water Gap Landscape-scale Connectivity Proposal, 2009:** In many areas of the country there are NPS-administered lands that are geographically and ecologically related to nearby lands owned or administered by other federal, state, county, municipal, or nonprofit organizations. While these various units may have different missions, jurisdictions, ownership patterns, and uses, their overall contiguous nature creates a much greater ecological whole than the sum of their individual parts. This biological principle is well understood and accepted in the scientific community. Overarching goals in this effort include identifying and designing resiliency networks and corridors through collaborative efforts that enhance ecological integrity and biodiversity, increasing native species capacity to recover and retain native biodiversity, and determining how to define success (NPS 2009b).

**Delaware Water Gap National Recreation Area Land Protection Plan of 1984 and its 1992 revision:**

The DEWA Land Protection Plan (LPP) details the minimum actions needed to assure resource protection and provide essential public access to and use of federal lands within DEWA and determines priorities for those actions. Some of the S-R Line alternatives may not meet the goals of the plan.

**APPALACHIAN NATIONAL SCENIC TRAIL**

**Comprehensive Plan for the Protection, Management, Development, and Use of the Appalachian National Scenic Trail: 1981, Abridged Version Published in 1987:**

The comprehensive plan describes the unique management approach to maintaining the scenic and recreational aspects of APPA. One of the main goals of this plan is to provide Congress with the information it needs to adhere to its oversight responsibility for APPA. Further, the plan organizes policy directions and guidelines in relation to the administration of APPA regarding private, state, and federal organizations that manage the operation of APPA (NPS 1987b). The management approach set forth in the comprehensive plan has many management philosophies, including managing the trail in such a way as to “lie lightly on the land” (NPS 1987b); to maintain APPA as a simple footpath, preserving the natural environment; and to discourage any activities that would degrade APPA’s natural or cultural resources or social values.

The comprehensive plan does not specifically describe how projects should be carried out or prioritized and is not intended to be a substitute for more detailed plans, nor does it dictate precisely what other plans must cover. Rather, it is the one document that bridges management and protection topics related to APPA.

**The Future Protection of Trailway Values:** The comprehensive plan discusses the concern for the continued protection of future trail values. The isolated and scenic character of APPA will be threatened in the future. Extending the length of the eastern seaboard, within a third-day’s drive of a third of the nation’s populace, the now wild or pastoral areas through which the trail passes will be continuously under pressure for many kinds of development, including recreational homes, ski areas, mining and industrial operations, communications facilities, highways, and energy projects. For example, impacts of major second-home developments on ridgetop land have been averted in more than a dozen cases through federal acquisition, and more such development proposals are probable near the trail. Plans for energy-producing windmills in the high ridges of the Appalachian Mountains are in progress.

The comprehensive plan further states that it is not only the quality of the landscape and visible land uses that affect the Appalachian Trail experience, but noise pollution, degradation of air quality, and the various effects of the human community along APPA all affect the enjoyment of users. Even where APPA seems securely enveloped in national parks, national forests, and state park and forest land, activities on lands adjacent to or within these units may adversely affect APPA.

Long-term protection of APPA rests not so much with acquiring tracts of wild land as with the relationships established with national forests and parks, state and local agencies, and the people who own land or reside along APPA. The APPA values to be perpetuated include more than a narrow footpath, and the scheme for protecting those values must thus be broader than simple ownership of land. Only through the continued and growing recognition of APPA as a valued resource, with actions and policies backing that recognition, will APPA values be perpetuated.

**Appalachian National Scenic Trail: Resource Management Plan:** The RMP documents the natural and cultural resources of APPA and describes and sets priorities for management, monitoring, and research programs intended to ensure the best use for those resources. This plan provides a 10-year guide to resource management activities conducted by the NPS-Appalachian Trail Park Office (ATPO) and ATC, as well as other organizations who wish to participate. Further, the plan addresses ways to establish

priorities for project funding and the need for preparation of future actions regarding specific resource management issues (NPS 2008b). Management objectives are consistent with the Appalachian Trail Comprehensive Plan, the Appalachian Trail Statement of Significance, and the Appalachian Trail Strategic Plan (NPS 1987b, 2000d, 2005c). The plan also presents the current status of resources, including geology and soils, biological resources, air resources, water resources, and cultural resources. The plan describes current resource management capabilities, issues, threats, and program needs for trailwide resource management programs and site-specific resource management needs and issues of land administered by NPS-ATPO (NPS 2008b). Resource monitoring that will be needed for the S-R Line was not included in this RMP.

**Appalachian Trail Park Office Strategic Plan:** Developed by NPS-ATPO, this plan focuses on the four NPS service goal categories:

- Preserve park resources.
- Provide for the public enjoyment and visitor experience of parks.
- Strengthen and preserve natural and cultural resources and enhance recreational opportunities managed by partners.
- Ensure organizational effectiveness (NPS 2005c).

The NPS-ATPO mission and long-term goals focus on the cooperative management system partner satisfaction. This goal tracks the overall satisfaction of federal, state, local, and private organizations that support NPS-ATPO. NPS continues to collect information related to partners' satisfaction with the cooperative management system. Planning of park staff needed for S-R Line monitoring during construction and operation was not included in this strategic plan.

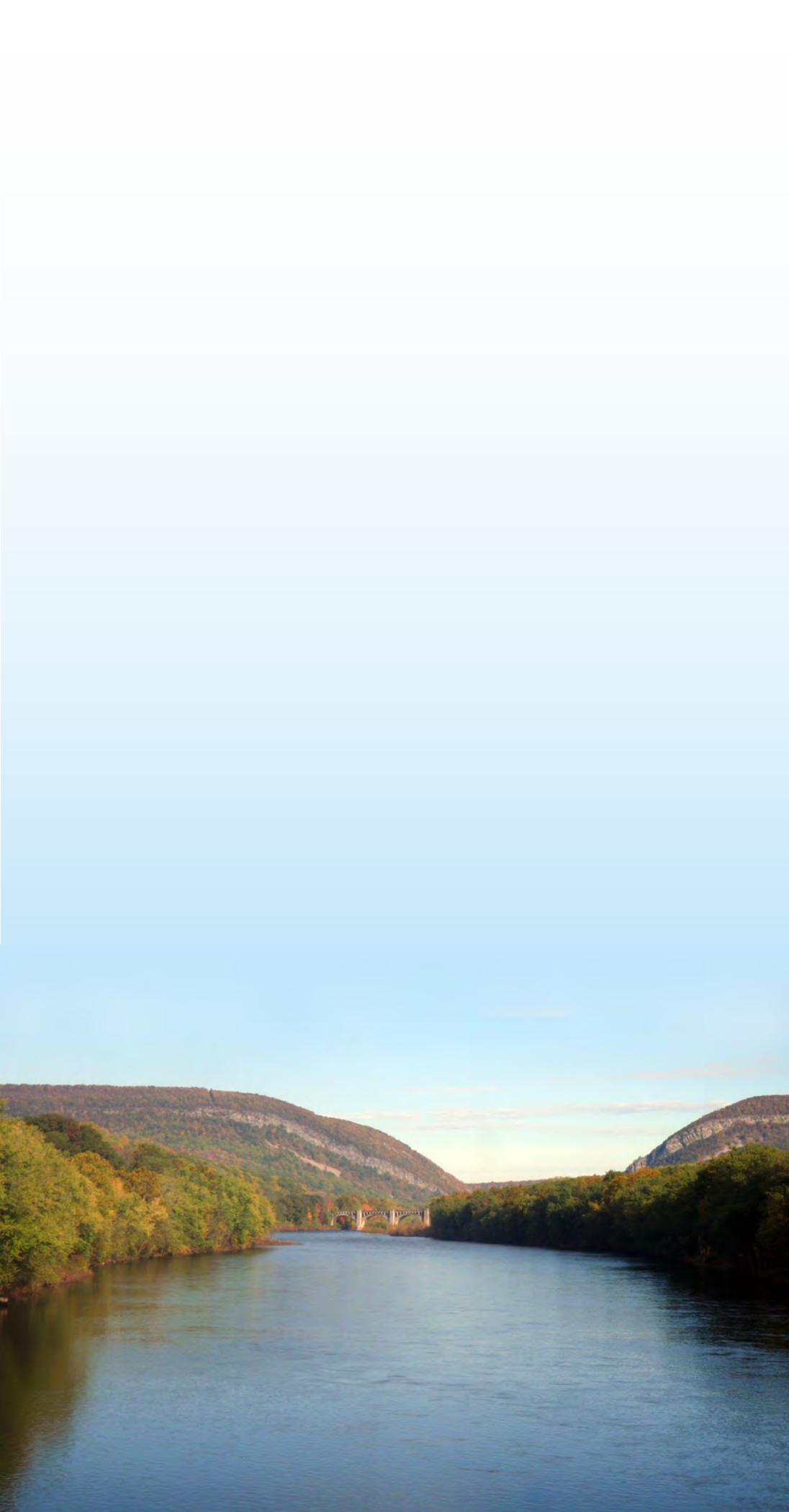
**Appalachian Trail Conservancy: 2009 Local Management Planning Guide, Chapter 4(f), "Roads and Utilities":** In 1983, the Forest Roads Task Force convened and produced a one-page statement—the first ATC policy on roads. In November 1988, the ATC board of managers adopted a policy statement on utilities and communications facilities. That policy was first amended in 1992 to address utility-line maintenance practices, amended again in April 1994 to include criteria for proposed utility-line crossings of APPA, and amended a third time in April 1996 to address the more specific impacts of communications sites, airport beacons, wind-generation towers, and other mountaintop facilities. In 2000, the ATC board adopted a policy on roads and utility developments that replaces both previous policies, but retains many of the previous provisions. It is the policy of ATC to oppose construction of any such facilities on APPA corridor lands or those facilities on adjacent lands that could have an adverse impact on the viewshed of APPA, unless they meet all the following criteria:

- The proposed development represents the only prudent and feasible alternative to meet an overriding public need, as demonstrated in a thorough and detailed analysis of alternatives;
- Any new impacts associated with the proposed development shall coincide with existing major impacts to the Appalachian Trail experience;
- Any proposed development of linear facilities shall be limited to a single crossing of the APPA corridor;
- Any adverse impacts of a proposed development shall be sufficiently mitigated so as to result in no net loss of recreational values or the quality of the recreation experience provided by APPA. To the extent practicable, mitigation shall occur on site; and

- The proposed development shall avoid, at a minimum: (a) wilderness or wilderness study areas; (b) NPS natural areas; (c) U.S. Forest Service semi-primitive non-motorized or designated backcountry areas; (d) natural heritage sites; (e) cultural resource sites; (f) Trail-related facilities such as shelters and campsites; and (g) alpine zones, balds, and wetlands.

After construction, all impacted areas would be restored to the extent feasible. Restoration measures could include installation of permanent erosion control measures and planting of native vegetation.

**Fire Management Plan for the Appalachian National Scenic Trail:** The FMP for APPA is guided by DO 18, which requires that all parks with vegetation capable of sustaining fire develop an FMP. Appalachian National Scenic Trail Office management will work with partner agencies to aggressively suppress all wildland fires, taking into account the safety of firefighting personnel, the visiting public, and protection of all resources at risk in the park unit (NPS 2005d). The APPA FMP covers only those portions of the trail corridor that are managed by the NPS-ATPO. These lands total approximately 80,000 acres and are frequently interspersed with lands administered by other agencies (NPS 2005d).



## Appendix C

Descriptions of the Alternatives  
Outside of the Study Area



**APPENDIX C:  
DESCRIPTIONS OF THE ALTERNATIVES OUTSIDE  
OF THE STUDY AREA**



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## **ALTERNATIVES OUTSIDE THE STUDY AREA OVERVIEW**

The alternative routes described below are only hypothetical since the applicant does not have to follow these routes; they can choose any route outside the boundaries of park lands. The routing described below was done by NPS purely to determine if construction on a route beyond the study area was possible, not an attempt to determine the actual location, except for alternative 2, the applicant's proposal, for which the entire route has been proposed by the applicant. The applicant's proposed route, and all other alternatives presented follow existing ROW corridors, and would utilize existing river crossings outside of the study area.

### **ALTERNATIVE 2: APPLICANT'S PROPOSED ROUTE**

#### **From the Western VSL to Berwick, Pennsylvania**

The proposed route for alternative 2 is the existing 230 kV line ROW. Outside of the study area, alternative 2 would pass through Pike, Wayne, Lackawanna, and Luzerne counties in Pennsylvania (figure 2). From the Western VSL in Pennsylvania to Berwick, Pennsylvania, the alignment would travel north through Pike County. North of I-84, the alignment could turn west and head toward Wayne County, traveling north of Lake Wallenpaupack. In Lackawanna County, the alignment would turn southwest to the Susquehanna Substation located in Luzerne County.

#### **From the Eastern VSL to Roseland, New Jersey**

The proposed route for alternative 2 is the existing 230 kV line ROW. From the Eastern VSL to Roseland, New Jersey, alternative 2 would pass through and Warren, Sussex, and Morris counties. The alignment would generally travel southeast, passing between Lake Mohawk and Lake Hopatcong. In Morris County, the alignment would turn and head due south to the Roseland Substation, located east of Parsippany.

### **ALTERNATIVE 2b: APPLICANT'S ALTERNATE PROPOSAL**

#### **From the Western VSL to Berwick, Pennsylvania**

The proposed route for alternative 2b is the existing 230 kV line ROW. Outside of the study area, alternative 2b could pass through Pike, Wayne, Lackawanna, and Luzerne counties in Pennsylvania (figure 2). From the VSL in Pennsylvania, the alignment could travel north through Pike County. North of I-84, the alignment could turn west and head toward Wayne County, traveling north of Lake Wallenpaupack. In Lackawanna County, the alignment could turn southwest to the Susquehanna Substation located in Luzerne County.

#### **From the Eastern VSL to Roseland, New Jersey**

The proposed route for alternative 2b is the existing 230 kV line ROW. In New Jersey, alternative 2b could pass through Warren, Sussex, and Morris counties. The alignment could generally travel southeast, passing between Lake Mohawk and Lake Hopatcong. In Morris County, the alignment could turn and head due south to the Roseland Substation, located east of Parsippany.

### **ALTERNATIVE 3**

#### **From the Western VSL to Berwick, Pennsylvania**

Outside the study area, alternative 3 would travel the same route as alternative 2 crossing Pike, Monroe, Wayne, Lackawanna, and Luzerne counties in Pennsylvania (figure 2). Beyond the western VSL in Pennsylvania, the route could head northeast to the Bushkill Substation, and then follow the alternative 2 alignment.

#### **From the Eastern VSL to Roseland, New Jersey**

From the Eastern VSL on the New Jersey portion, the route would pass through Warren, Sussex, and Morris counties. Alternative 3 would trend northeast, on the east side of Upper and Lower Yards Creek Reservoirs, paralleling the DEWA boundary and APPA for approximately six miles (figure 7, inset box 2). The distance between the trail and the route could vary between about 0.25 mile and 1.0 mile along this six mile stretch. For nearly two miles of this stretch, the route could follow the DEWA boundary. Continuing about two miles north, the route could then reconnect with alternative two, continuing east to the Roseland Substation.

### **ALTERNATIVE 4**

#### **From the Western VSL to Berwick, Pennsylvania**

Outside of the study area, alternative 4 would follow nearly the same route as alternative 2 crossing Pike, Monroe, Wayne, Lackawanna, and Luzerne counties in Pennsylvania. Outside of the Western VSL, alternative 4 could travel northeast, generally paralleling the DEWA boundary to the Bushkill Substation. In the portion between the VSL and the Bushkill Substation, alternative 4 could traverse approximately 1.4 miles of Cherry Valley NWR, areas with existing ROWs, and forested areas without existing ROWs outside of DEWA (figure 8). Portions of the alternative 4 alignment come within 50 to 250 feet of houses and businesses. From the substation, the alignment could follow the alternative 2 alignment.

#### **From the Eastern VSL to Roseland, New Jersey**

Beyond the Eastern VSL to Roseland, New Jersey, the alignment would pass through Warren, Sussex, and Morris counties. The alignment would turn east, crossing the Delaware River at an existing river crossing. On the east side of the Delaware River in New Jersey, alternative 4 would parallel a railroad corridor with a ROW width of 80 feet with a cleared distinctive path. The ROW has a small clearing, but a distinctive path. Alternative 4 would follow this railroad corridor for 21 miles before turning and traveling a heavily forested path, where houses are 20 to 100 feet from the route. After traveling 2.25 miles in this segment, alternative 4 would reconnect with the alternative 2 route approximately 3.5 miles east of Highway 517, and follow that route to the Roseland Substation in Morris County.

### **ALTERNATIVE 5**

#### **From the Western VSL to Berwick, Pennsylvania**

Outside the study area, the alternative 5 alignment would generally follow the I-80 corridor through Monroe, Carbon, Luzerne counties in Pennsylvania (figure 2). From the Susquehanna Substation, alternative 5 would follow an existing transmission line ROW of approximately 150 to 200 feet. The route would proceed south for about 2.5 miles along this existing transmission line corridor and then cross

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farmland for 1.6 miles. The route would then parallel a roadway for 0.4 miles to meet an existing transmission line with a 125-foot ROW. Alternative 5 would follow this existing transmission line 2.4 miles to the south to I-80, continuing east adjacent to the interstate ROW to within approximately 1.0 mile of DEWA. Just west of the DEWA boundary, the transmission line would veer off of the I-80 ROW and follow the same route proposed under alternative 4 around the southern end of DEWA, crossing through Cherry Valley NWR.

#### **From the Eastern VSL to Roseland, New Jersey**

Beyond the Eastern VSL to Roseland, New Jersey, alternative 5 could pass through Warren, Sussex, and Morris counties. Beyond the southern VSL, the alignment could turn east, crossing the Delaware River at an existing river crossing. On the east side of the Delaware River in New Jersey, the alignment could follow I-80 to the Roseland Substation, crossing large parts of Warren and Morris counties and a small portion of Sussex County. The alignment could follow the I-80 ROW approximately 17 miles after leaving DEWA, where it could leave I-80 to travel over a heavily forested area for 2 miles with no existing ROW. The route could then reconnect with I-80, paralleling the interstate to the intersection with I-280, where it could turn in a southerly direction. This 3.2 mile stretch could follow an existing transmission line ROW with a width of 100 feet, ending at the Roseland Substation.

