

APPENDIX D: AGENCY CONSULTATION LETTERS

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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, Maryland 21401
<http://www.fws.gov/chesapeakebay>



May 20, 2010

U.S. Department of the Interior
National Park Service
C&O Canal National Historical Park
1850 Dual Highway, Suite 100
Hagerstown, MD 21740

CJS
advis
Shirley Dymme (juv)
SB Scott

RE: Sharpsburg Water Intake Upgrade in the Chesapeake and Ohio Canal National Historic Park Washington County MD

Dear: Kevin D. Brandt

This responds to your letter, received, April 5, 2010, requesting information on the presence of species which are federally listed or proposed for listing as endangered or threatened within the vicinity of the above reference project area. We have reviewed the information you enclosed and are providing comments in accordance with section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

Except for occasional transient individuals, no federally proposed or listed endangered or threatened species are known to exist within the project impact area. Therefore, no Biological Assessment or further section 7 Consultation with the U.S. Fish and Wildlife Service is required. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

This response relates only to federally protected threatened or endangered species under our jurisdiction. For information on the presence of other rare species, you should contact Lori Byrne of the Maryland Wildlife and Heritage Division at (410) 260-8573.

Effective August 8, 2007, under the authority of the Endangered Species Act of 1973, as amended, the U.S. Fish and Wildlife Service (Service) removed (delist) the bald eagle in the lower 48 States of the United States from the Federal List of Endangered and Threatened Wildlife. However, the bald eagle will still be protected by the Bald and Golden Eagle Protection Act, Lacey Act and the Migratory Bird Treaty Act. As a result, starting on August 8, 2007, if your project may cause "disturbance" to the bald eagle, please consult the "National Bald Eagle Management Guidelines" dated May 2007.





United States Department of the Interior

NATIONAL PARK SERVICE
C&O Canal National Historical Park
1850 Dual Highway, Suite 100
Hagerstown, Maryland 21740

COPY

IN REPLY REFER TO
L54 (CHOH)

APR 05 2010

Lori A. Byrne, Environmental Review Specialist
Maryland DNR, Wildlife and Heritage Service
Tawes State Office Building, E-1
580 Taylor Avenue
Annapolis, Maryland 21401

Dear Ms. Byrne:

In accordance with the National Environmental Policy Act (NEPA) of 1969, the National Park Service (NPS) is preparing an Environmental Assessment (EA) for the proposed Sharpsburg Water Intake Upgrade in the Chesapeake and Ohio Canal National Historic Park (C&O Canal NHP/Park), Washington County, MD. The proposed project would address an aging municipal raw water pipeline by replacing it with new underground conduit. Also included would be the installation of an underground communication duct.

The existing raw water intake and pipeline system was installed in the late 1960's, by Washington County, Maryland, to supply water to the town of Sharpsburg, MD, located approximately 1 1/2 miles east of the C&O Canal NHP. The intake, on the Potomac River, is located at Mile 74.3 of the Park. At this time, it is anticipated that the water intake structure will remain in use and not be replaced or relocated.

The existing infrastructure, at Mile 74.3 of the Park, is approximately 1 1/2 miles upstream from Shepherdstown, WV. Construction access to the project area will be either from the Rumsey Bridge access area (MD Route 34) or from Snyder's Landing access area. As a result the area to be evaluated will be Mile 72.77 to 76.65 of the Park.

The EA will identify potential alignments for the new pipeline. One alternative would be to place the new line within the existing easement corridor. This existing easement is approximately 800 linear feet within the boundaries of the Park. The second area is a proposed right-of-way (ROW) approximately 200 feet in length within the boundaries of the Park. Both the easement and the proposed ROW are 30 feet in width. If the new ROW alternative is selected, the existing easement will be abandoned in place.

Construction of the proposed upgrades on the property of the C&O Canal NHP within either the existing easement or the proposed ROW would include placement of a borehole and use of the jack-and-bore technique to place the new pipeline underneath the C&O Canal prism and towpath. The pipe would rest at a minimum depth of 3.5 feet below the base of the canal prism. If construction occurred within the existing easement, it would likely consist of open-cut trenching along the pipe alignment beyond the canal prism and towpath area. All other

associated construction would occur on private property, outside of the boundaries of the C&O Canal NHP.

The purpose of this letter is to inform you of the proposed project, to request data or information you may have on resources potentially affected by the proposed project, and to request comments on the proposed action. We are requesting information on any state proposed or state listed rare, threatened, or endangered species or their critical habitats within the project area.

Enclosed is a copy of the information issued for the EA's public scoping. It contains graphics and photographs pertaining to the project location. Additionally, the project location can be found on U.S. Geological Survey, 7½ minute Topographic Quadrangle Map entitled "Shepherdstown, W. VA.-MD., 1994."

Your response within 30 days from the date of receipt of this letter will be greatly appreciated. Please forward written comments to Lynne Wigfield, Compliance Officer, Chesapeake and Ohio Canal NHP, 1850 Dual Highway, Suite 100, Hagerstown, MD 21750. Thank you for your assistance.

Sincerely,



Kevin D. Brandt
Superintendent

Enclosure

Cc: Fred Frederick, President, Frederick Seibert and Associates 128 South Potomac Street,
Hagerstown, MD 21740
Scott Scibel, Archeology Division Manager, Environmental Services, Inc.
524 S. New Hope Road | Raleigh, NC 27610

Bcc: Compliance Officer, CHOH
Chief Resource Management, CHOH
Natural Resources Program Manager, CHOH



United States Department of the Interior

NATIONAL PARK SERVICE
C&O Canal National Historical Park
1850 Dual Highway, Suite 100
Hagerstown, Maryland 21740

COPY

IN REPLY REFER TO:
LS4 (CHOH)

APR 05 2010

Mr. Leopoldo Miranda,
Field Supervisor
U.S. Fish and Wildlife Service
177 Admiral Cochrane Drive
Annapolis, Maryland 21401

Dear Mr. Miranda:

In accordance with the National Environmental Policy Act (NEPA) of 1969, the National Park Service (NPS) is preparing an Environmental Assessment (EA) for the proposed Sharpsburg Water Intake Upgrade in the Chesapeake and Ohio Canal National Historic Park (C&O Canal NHP/Park), Washington County, MD. The proposed project would address an aging municipal raw water pipeline by replacing it with new underground conduit. Also included would be the installation of an underground communication duct.

The existing raw water intake and pipeline system was installed in the late 1960's, by Washington County, Maryland, to supply water to the town of Sharpsburg, MD, located approximately 1½ miles east of the C&O Canal NHP. The intake, on the Potomac River, is located at Mile 74.3 of the Park. At this time, it is anticipated that the water intake structure will remain in use and not be replaced or relocated.

The existing infrastructure, at Mile 74.3 of the Park, is approximately 1½ miles upstream from Shepherdstown, WV. Construction access to the project area will be either from the Rumsey Bridge access area (MD Route 34) or from Snyder's Landing access area. As a result the area to be evaluated will be Mile 72.77 to 76.65 of the Park.

The EA will identify potential alignments for the new pipeline. One alternative would be to place the new line within the existing easement corridor. This existing easement is approximately 800 linear feet within the boundaries of the Park. The second area is a proposed right-of-way (ROW) approximately 200 feet in length within the boundaries of the Park. Both the easement and the proposed ROW are 30 feet in width. If the new ROW alternative is selected, the existing easement will be abandoned in place.

Construction of the proposed upgrades on the property of the C&O Canal NHP within either the existing easement or the proposed ROW would include placement of a borehole and use of the jack-and-bore technique to place the new pipeline underneath the C&O Canal prism and towpath. The pipe would rest at a minimum depth of 3.5 feet below the base of the canal prism. If construction occurred within the existing easement, it would likely consist of open-cut trenching along the pipe alignment beyond the canal prism and towpath area. All other associated construction would occur on private property, outside of the boundaries of the C&O Canal NHP.

Species offered federal protection that have ranges considered by the U.S. Fish and Wildlife Service (USFWS) to extend into Washington County include the following: Indiana bat (*Myotis sodalis*), harperella (*Ptilimnium nodosum*), and northeastern bulrush (*Scirpus ancistrochaetus*). Suitable

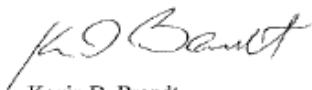
foraging habitat for Indiana bat is present within the project study area, but no suitable winter habitat, such as caves or abandoned mines, is present for this species. Suitable habitat for harperella and northeastern bulrush is not present within the project study area.

The purpose of this letter is to inform you of the proposed project, to request data or information you may have on resources potentially affected by the proposed project, and to request comments on the proposed action. In accordance with Section 7(c)(1) of the Endangered Species Act, we are requesting written concurrence regarding the above listed species, or other information on any proposed or listed species or their critical habitats within the project area.

Enclosed is a copy of the information issued for the EA's public scoping. It contains graphics and photographs pertaining to the project location. Additionally, the project location can be found on U.S. Geological Survey, 7½ minute Topographic Quadrangle Map entitled "Shepherdstown, W. VA.-MD., 1994."

Your response within 30 days from the date of receipt of this letter will be greatly appreciated. Please forward written comments to Lynne Wigfield, Compliance Officer, Chesapeake and Ohio Canal NHP, 1850 Dual Highway, Suite 100, Hagerstown, MD 21750. Thank you for your assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kevin D. Brandt", is written over a horizontal line.

Kevin D. Brandt
Superintendent

Enclosure

Cc: Fred Frederick, President, Frederick Seibert and Associates 128 South Potomac Street,
Hagerstown, MD 21740
Scott Seibel, Archeology Division Manager, Environmental Services, Inc.
524 S. New Hope Road | Raleigh, NC 27610

Bcc: Compliance Officer, CHOH
Chief Resource Management, CHOH
Natural Resources Program Manager, CHOH



Martin O'Malley, Governor
 Anthony G. Brown, Lt. Governor
 John R. Griffin, Secretary
 Eric Schwaab, Deputy Secretary

December 16, 2009

Mr. Robert Turnbull
 Environmental Services, Inc.
 524 S. New Hope Road
 Raleigh, NC 27610

RE: Environmental Review for Sharpsburg Water Intake Upgrade - Chesapeake & Ohio Canal National Historic Park, Washington County, Maryland.

Dear Mr. Trumbull:

The Wildlife and Heritage Service's database indicates that there is a record for a population of state-listed threatened Arbor-vitae (*Thuja occidentalis*) located on, or within very close proximity to, the project site. We would not have concerns for this species from the proposed work unless there is undisturbed naturally vegetated habitat within the limits-of-disturbance.

In response to your specific request, the Wildlife and Heritage Service has the following records of rare, threatened and endangered plant and animal species within 3 miles of the project site:

<u>Scientific Name</u>	<u>Common Name</u>	<u>State Status</u>
<i>Dirca palustris</i>	Leatherwood	Threatened
<i>Galium boreale</i>	Northern Bedstraw	Endangered
<i>Oryzopsis racemosa</i>	Black-fruited Mountainrice	Threatened
<i>Asplenium resiliens</i>	Black-stem Spleenwort	Endangered
<i>Hendersonia occulta</i>	Cherrydrop Snail	In Need of Conservation
<i>Bromus latiglumis</i>	Broad-glumed Brome	Endangered
<i>Lanius ludovicianus</i>	Loggerhead Shrike	Endangered
<i>Erythronium albidum</i>	White Trout Lily	Threatened
<i>Stygobromus gracilipes</i>	Shenandoah Cave Amphipod	Endangered
<i>Stygobromus allegheniensis</i>	Allegheny Cave Amphipod	In Need of Conservation
<i>Juglans cinerea</i>	Butternut	Rare
<i>Hydrastis canadensis</i>	Goldenseal	Threatened
<i>Carex careyana</i>	Carey's Sedge	Endangered
<i>Carex hitchcockiana</i>	Hitchcock's Sedge	Endangered
<i>Liparis lilifolia</i>	Large Twayblade	Rare
<i>Liparis loeselii</i>	Loesel's Twayblade	Rare
<i>Hasteola suaveolens</i>	Sweet-scented Indian-plantain	Endangered
<i>Hydrophyllum macrophyllum</i>	Large-leaved Waterleaf	Threatened
<i>Alasmidonta varicosa</i>	Brook Floater	Endangered
<i>Quercus shumardii</i>	Shumard's Oak	Threatened

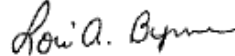
Tawes State Office Building • 580 Taylor Avenue • Annapolis, Maryland 21401

410.260.8DNR or toll free in Maryland 877.620.8DNR • www.dnr.maryland.gov • TTY users call via Maryland Relay

Page 2

Thank you for allowing us the opportunity to review this project. If you should have any further questions regarding this information, please contact me at (410) 260-8573.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori A. Byrne".

Lori A. Byrne
Environmental Review Coordinator
Wildlife and Heritage Service
MD Dept. of Natural Resources

ER # 2009.1911.wa
Cc: E.L. Thompson, DNR

ENVIRONMENTAL SERVICES, INC.
524 S. NEW HOPE ROAD
RALEIGH, NORTH CAROLINA 27610
919-212-1760 • FAX 919-212-1707
www.environmentalservicesinc.com

November 5, 2009

Ms. Lori Byrne
DNR Wildlife & Heritage Service
580 Taylor Avenue
Tawes Office Bldg. E-1
Annapolis, MD 21401

**Re: Sharpsburg Water Intake Upgrade
Chesapeake & Ohio Canal National Historic Park
Environmental Review Request
Washington County, Maryland**

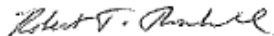
Dear Ms. Byrne:

The Department of Water Quality Control of Washington County, Maryland, is proposing to upgrade a raw water intake pipeline across the Chesapeake & Ohio Canal National Historic Park. The project study area is a 30-foot wide corridor located adjacent to the east side of the Potomac River, west of the City of Sharpsburg. Environmental Services, Inc. (ESI) and Frederick, Seibert, & Associates, Inc. (FSA) have been tasked to prepare an Environmental Assessment for the National Park Service, which includes an evaluation of potential impacts to Threatened and Endangered species.

We are submitting this letter to request an environmental review of the project study area for the proposed water intake pipeline as shown on the attached USGS 7.5-minute topographic map (Shepherdstown, WV quadrangle) and aerial photograph. To ensure that this project will have no detrimental effects on rare species, please provide us with the species names and locations of any records of rare plant and animal species within 3.0 miles of the project study area.

If you have any questions or need any further information concerning this project, please feel free to contact me at (919) 212-1760 or rturnbull@esinc.cc. Thank you for your assistance with this project.

Sincerely,
ENVIRONMENTAL SERVICES, INC.



Robert Turnbull
Senior Scientist

FLORIDA • GEORGIA • NORTH CAROLINA • SOUTH CAROLINA • MARYLAND • OHIO



B Cole
<BCole@mdp.state.md.us>
10/14/2009 01:55 PM

To "Lynne_Wigfield@nps.gov" <Lynne_Wigfield@nps.gov>
cc
bcc
Subject: WA Co. pipeline

Hi Lynne,

Thanks for your recent letter (9/23/09) regarding Washington County's proposed new raw water pipeline across the C&O Canal at Mile 74.3. According to your letter, we understand that NPS intends to combine its NEPA/NHPA consultation for this project. We look forward to further consultation with NPS to complete the Section 106 review of this undertaking, as planning proceeds.

I hope you're doing well and are back safely on your feet.

Beth

Beth Cole
Administrator, Project Review & Compliance
Maryland Historical Trust
100 Community Place
Crownsville, MD 21032
410-514-7631
410-987-4071 (fax)
bcole@mdp.state.md.us
<http://mht.maryland.gov>
Please consider the environment before printing.



United States Department of the Interior

NATIONAL PARK SERVICE
C&O Canal National Historical Park
1850 Dual Highway, Suite 100
Hagerstown, Maryland 21740

IN REPLY REFER TO:

D2215(CHOH)

September 23, 2009

Rodney J. Little, Director
Division of Historical-Cultural Programs
100 Community Place
Crownsville, Maryland 20132-2023

Dear Mr. Little:

The National Park Service, Chesapeake and Ohio Canal National Historical Park, will undertake environmental and cultural resource evaluations pertaining to a proposed utility project, as submitted by the Washington County, MD government. The proposed project applicant has applied for a new raw water pipeline right-of-way, connecting their existing Potomac River water intake to their Sharpsburg water treatment plant. The intake is located at Mile 74.3 of the park. Our park legislation specifies that utility crossings may be permitted as long as there are not impacts from the action to the park resources.

The existing pipeline is experiencing failures due to age. The project applicant is proposing to abandon the existing line and install a new line outside of the existing right-of-way. The applicant is proposing to use directional drilling to cross underneath the historic towpath and canal prism.

We would like to produce a single document for both the National Environmental Policy Act and the National Historic Preservation Act requirements. We are initiating our work with a contractor and anticipate agency and public scoping to commence in October.

Enclosed are three items for your review and a more detailed explanation of the project. Included are the proposed alignment diagram, the environmental screening form, and a copy of the existing right-of-way.

Thank you for the time to review this project. If you have any questions at this time, please contact Lynne Wigfield, Compliance Officer, at 301-745-5802.

Sincerely,

Kevin D. Brandt
Superintendent

Enclosures

cc:

David Hayes, NCR Planner

Perry Wheelock, Chief of Cultural Resources, NCR

bcc:

Chief of Resources, CHOH

Chief of Maintenance, CHOH

Compliance Officer, CHOH

Natural Resources Program Manager, CHOH

Cultural Resources Program Manager, CHOH



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, Maryland 21401
<http://www.fws.gov/chesapeakebay>



December 29, 2010

Michelle Carter
Chesapeake and Ohio Canal NHP
1850 Deal Highway Suite 100
Hagerstown, MD 21740-6620

RE: Historic Dams 4 and 5 Eelway Passage Project. Restoration of Canal Operations at Williamsport. Proposed water access by Stonnill Hall Turf Farm Poolesville, MD and Sharpsburg Water Intake in Washington county MD

Dear Michelle Carter:

This responds to your letter, received, November 8, 2010, requesting information on the presence of species which are federally listed or proposed for listing as endangered or threatened within the vicinity of the above reference project area. We have reviewed the information you enclosed and are providing comments in accordance with section 7 of the Endangered Species Act (37 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

Except for occasional transient individuals, no federally proposed or listed endangered or threatened species are known to exist within the project impact area. Therefore, no Biological Assessment or further section 7 Consultation with the U.S. Fish and Wildlife Service is required. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

This response relates only to federally protected threatened or endangered species under our jurisdiction. For information on the presence of other rare species, you should contact Lori Byrne of the Maryland Wildlife and Heritage Division at (410) 260-8573.

Effective August 8, 2007, under the authority of the Endangered Species Act of 1973, as amended, the U.S. Fish and Wildlife Service (Service) removed (delisted) the bald eagle in the lower 48 States of the United States from the Federal List of Endangered and Threatened Wildlife. However, the bald eagle will still be protected by the Bald and Golden Eagle Protection Act, Lacey Act and the Migratory Bird Treaty Act. As a result, starting on August 8, 2007, if your project may cause "disturbance" to the bald eagle, please consult the "National Bald Eagle Management Guidelines" dated May 2007.

**TAKE PRIDE
IN AMERICA** 



Martin O'Malley, Governor
 Anthony G. Brown, Lt. Governor
 John R. Griffin, Secretary
 Joseph R. Gill, Deputy Secretary

June 29, 2010

Mr. Kevin D. Brandt
 US DOI - NPS
 C & O Canal National Historical Park
 1830 Dual Highway, Suite 100
 Hagerstown, MD 21740

Handwritten notes:
 Chris
 Anne
 SE
 Scott

RE: Environmental Review for Proposed Sharpsburg Water Intake Upgrade in Chesapeake and Ohio Canal National Historic Park, Washington County, Maryland.

Dear Mr. Brandt:

The Wildlife and Heritage Service has determined that there are no State or Federal records for rare, threatened or endangered species within the boundaries of the project site as delineated. We would also like to point out that our initial evaluation of this project should not be interpreted as meaning that it is not possible for rare, threatened or endangered species to be present. Certain species could be present without documentation because adequate surveys may not have been conducted in the past. Although we are not requiring any surveys, we would like to bring to your attention that Wildlife and Heritage Service's Natural Heritage database records do indicate that the species listed below are known to occur within close proximity to the project site. If the appropriate habitat is present for these species they could potentially occur on the project site itself. They are:

<u>Scientific Name</u>	<u>Common Name</u>	<u>State Status</u>
<i>Dryas palustris</i>	Leatherwood	Threatened
<i>Gallium boreale</i>	Northern Bedstraw	Endangered
<i>Oryzopsis racemosa</i>	Black-fruited Mountainrice	Threatened
<i>Asplenium resiliens</i>	Black-stem Spleenwort	Endangered
<i>Bromus laevis</i>	Broad-glumed Brome	Endangered
<i>Hemionia occulta</i>	Cherrydrop Snail	In Need of Conservation

These species are all documented as occurring in close proximity to the project site, in limestone cliff habitat along the Potomac River. If there is any disturbance proposed for this habitat, such as that related to accessing the project site, equipment staging, etc., then we would have potential concerns for these important native species.

It is also important to note that this portion of the Potomac River has been identified as supporting rare species of freshwater mussels. Freshwater mussels require fish hosts for part of their life cycle, and are filter feeders. Therefore the maintenance of water quality is crucial to their continued existence. Another concern we have is for the possible entrainment of host fish larvae in the water intake structure itself.

Towson State Office Building – 580 Taylor Avenue – Annapolis, Maryland 21401
 410-260-80NR or toll free in Maryland 877-620-80NR – www.dnr.maryland.gov – TTY Users Call via the Maryland Relay

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