

APPENDIX B

INTERAGENCY CORRESPONDENCE

Coordination Timeline

December 17, 2002	MEETING 1 – Meeting with NPS and C&O Canal NPS. Attendees: NPS-MNB, <u>NPS-C&O</u> , Frederick Co., WR&A (minutes 2/14/03).
January 15, 2003	MHT provides comments on Frederick Co. Corridor Alignment Report.
January 30, 2003	WR&A distributes NPS Draft NEPA Introduction and Purpose/Need
March 11, 2003	NPS provides response to Draft NEPA Introduction and Purpose/Need.
April 1, 2003	MEETING 2 – Meeting to discuss lead agency roles, Section 106 NHPA compliance, Section 404 CWA permitting, and NEPA. Attendees: NPS-MNB, <u>NPS-C&O</u> , U.S. Army COE, MHT, Frederick Co., WR&A, and RCG (minutes 04/26/03).
April 7, 2003	MEETING 3 – Meeting to discuss NEPA development. Attendees: NPS-MNB, <u>NPS-C&O</u> , WR&A (minutes 04/23/03).
April 15, 2003	C&O NHP provides WR&A background and significance of C&O Canal.
May 22, 2003	USFWS responds to request for information regarding rare, threatened, and endangered species
June 6, 2003	Maryland DNR responds to request for information regarding rare, threatened, and endangered species
February 25, 2004	NPS issues Special Use Permit # NCR 3100-5700-067 to conduct survey work and environmental baseline data collection within C&O Canal NHP.
March 10, 2004	NPS issues Special Use Permit # NCR 3100-5700-023 to conduct survey work and baseline data collection in C&O Canal NHP
October 21, 2004	WR&A requests information from Maryland DNR regarding rare, threatened, and endangered species
October 21, 2004	WR&A requests information from USFWS regarding rare, threatened, and endangered species
October 27, 2004	MEETING 4 – Meeting to discuss the status of the New Design Raw Water Main/McKinney Treated Effluent Outfall project through the C&O Canal NHP. Attendees: NPS, Frederick Co., WR&A, RCG (minutes 11/2/04)
December 13, 2004	USFWS responds to request for updated information re: regarding rare, threatened, and endangered species

Coordination Timeline (continued)

December 22, 2004	WR&A provides C&O Canal NHP with 30% plans, Draft EA outline, and Special Use Permit request for property boundary surveys, topographical surveys, environmental investigations, subsurface investigations, and geotechnical investigations
January 5, 2005	Maryland DNR responds to request for updated information re: regarding rare, threatened, and endangered species
February 17, 2005	NPS issues Special Use Permit #NCR 3100-5700-05.017 to conduct environmental permitting, follow-up survey, utility testing, and geotechnical work in C&O Canal NHP
February 23, 2005	WR&A submits Joint Permit Application to MDE
April 8, 2005	MDE provides comments on Joint Permit Application submittal
April 13, 2005	NPS issues an amendment to Special Use Permit number NCR3100-5700-05.017 to conduct work in C&O Canal NHP
April 29, 2005	USACOE provides comments on Joint Permit Application submittal
May 6, 2005	WR&A receives correspondence from MHT regarding archeological sites within the project area
June 3, 2005	WR&A submits the Draft Environmental Assessment to the C&O Canal NHP
August 15, 2005	WR&A submits the revised Joint Permit Application responding to USACOE and MDE comments
October 20, 2005	WR&A receives comments from C&O Canal NHP on the Draft Environmental Assessment
November 8, 2005	MEETING 5 – Meeting to discuss the August 15, 2005 JPA submission. Attendees: WR&A, USACOE, MDE (minutes 11/29/05)
December 13, 2005	NPS issues an amendment to Special Use Permit to NCR3100-5700-05.017 to conduct work in C&O Canal NHP
December 13, 2005	WR&A receives an amendment to Special Use Permit to NCR3100-5700-023 to conduct work in C&O Canal NHP
January 30, 2006	R. Christopher Goodwin & Associates, Inc. submits the Cultural Resources Investigations Report to the Maryland Historical Trust
March 1, 2006	Maryland Historical Trust provides comments on the Cultural Resources Investigations Report
May 9, 2006	WR&A provides NPS with EO 1198 Statement of Findings Floodplain Management
May 11, 2006	WR&A submits the EA to the NPS

May 24, 2006	MEETING 6 – Meeting to discuss the project schedule. Attendees: NPS, WR&A, USACOE, RCG (minutes 6/6/06)
August 14, 2006	Frederick County submits letter to NPS requesting project advancement
August 16, 2006	WR&A receives comments from C&O Canal NHP on the Draft EA
August 25, 2006	WR&A submits the revised final Draft EA to C&O Canal NHP via hardcopy and email for posting on PEPC website
August 31, 2006	R. Christopher Goodwin & Associates submits revised Cultural Resources Investigations Report to NPS and MHT
September 21, 2006	C&O Canal NHP provides Frederick County with letter acknowledging receipt of revised final Draft EA and instructions for the public notice period and public meeting.
October 13, 2006	C&O Canal NHP and NPS Regional Office provide WR&A with comments on the revised final Draft EA
October 19, 2006	WR&A submits final EA to C&O Canal NHP for posting on PEPC website for public review



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MEMORANDUM OF MEETING

Date: February 14, 2003

Date of Meeting: December 17, 2002

Time: 1:30PM

Location: Gambrill Mansion, Monocacy National Battlefield Park

Project: McKinney Treated Effluent Outfall and Raw Water Main/C&O Canal Historic Park
New Design Water Transmission Main/Monocacy National Battlefield Park
WR&A W.O.: 13550

Attendees: Susan Trail, NPS, Monocacy National Battlefield Park (MNBP), Asst. Superintendent
Kevin Brandt, NPS, C&O Canal National Historic Park (C&O), Asst. Superintendent
Lynne Wigfield, NPS, C&O, Compliance Officer
Andrew Banasik, NPS, MNBP, Natural Resources Specialist
Kevin Demosky, Frederick County Division of Utilities and Solid Waste Management
Art Campbell, Frederick County Division of Utilities and Solid Waste Management
Dennis Hasson, P.E., Whitman, Requardt & Associates (WR&A)
✓ Aaron M. Keel, AICP, Whitman, Requardt & Associates (WR&A)

1. Dennis Hasson provided an overview of the past coordination efforts and status of the project. Three key issues for the meeting were: 1) Project definition and status, 2) Section 106 Archeological Study requirements/status, 3) Scoping the NPS NEPA standards and requirements. Previous meetings have been conducted with the MNBP staff outlining the alternatives affecting the park, previous Frederick County feasibility studies, and the identification of MNBP requirements. Recently, the Frederick County Division of Utilities and Solid Waste Management had asked WR&A to provide design services for the McKinney Treated Wastewater Effluent Outfall and New Design Raw Water Main. These projects will affect the C&O Canal National Historic Park (C&ONHP). Dennis Hasson referenced the previous studies that identify the project alternatives and requirements: New Design Water Transmission System Corridor Alignment Report, November 2001, and the Alternatives Analysis for the Effluent Conveyance report, 1999.
2. Dennis Hasson outlined the project schedule: Final Plans and Specifications for the New Design project are due by the end of summer 2003 with an advertise date immediately following. The construction Notice to Proceed is anticipated in December 2003. The project will be completed in three separate contracts, with a total construction duration of approximately one-year. Dennis Hasson stressed that it is very important to identify all of the NPS project requirements now so that the contractor can be given complete information when the project goes to construction.
3. Kevin Demosky expressed Frederick County's desire to solidify the NPS requirements for the project. Frederick County explained that they are preparing to present an extra funding request

to the Board of County Commissioners for the additional work associated with the NPS. It is anticipated that any future additional funding for this project will be very difficult to obtain. Kevin Brandt of the C&O NHP, noted that the National Environmental Policy Act (NEPA) and Section 106 National Historic Preservation Act (NHPA) cultural resources studies may yield new, previously unidentified, issues that will require further study. At present, the NPS can agree to the NEPA study processes that will define the requirements for the project to progress. NPS can not state that additional studies and measures will not be required, before the studies are completed. Susan Trail noted that in some instances, NPS needs are dictated by regulatory requirements beyond NPS control. Kevin Brandt added that typically NPS seeks cost recovery for their efforts associated with outside disturbance actions, but because Frederick County is a governmental agency, NPS can be flexible for this project.

4. Dennis Hasson identified the project's status with respect to selecting a subconsultant for archeological and Section 106 NHPA compliance. WR&A will be selecting the Section 106 firm in the near future. Immediately upon selection of the cultural subcontractor, they will transmit the archeological scope of work for the NPS properties to the NPS. NPS identified that Steven Potter will be the ultimate NPS approver of the Section 106 NHPA project for the MNBP and C&ONHP. Three sets of the scope of work for the cultural resources studies on NPS land should be forwarded to the NPS (Susan Trail, Kevin Brandt, and Steven Potter). WR&A requested a prompt review of the scope of work, as it is the intention to have an Archeological Research and Preservation Act (ARPA) permit application into the NPS by mid-January 2003. NPS stated that 1 ARPA permit application should be applied for both MNBP and C&ONHP.
5. Kevin Demosky noted that at a previous meeting, Dr. Potter had indicated that if the alignment is located between the Monocacy River and the existing utility, Phase I studies will likely be sufficient to address Section 106 NHPA requirements. Susan Trail responded that NPS now has better knowledge of the Best Farm area and that it may be most appropriate to skip Phase I studies and go directly to Phase II studies in that area. Susan Trail added that previous NPS guidance on where to focus the proposed alignment may not have adequately assessed deep resources. Kevin Demosky inquired whether some of the study areas could be eliminated based on the past utility construction and the similar footprint of this proposed action. Susan Trail responded that it will depend upon how the current proposal relates to the previous construction. Dennis Hasson noted that since the last meeting, the project has developed 30% plans that identify the project's footprint. Susan Trail noted that the 30% plans are important to the review of the ARPA permit.
6. The NPS requested any data on the previous utility construction project at the MNBP and C&ONHP, especially relating to limits of disturbance, easements, and existing locations of the original project. Dennis Hasson responded that WR&A can provide the NPS with plans of previous construction activities, 30% plans for the New Design Water Main, and Section 106 NHPA scopes of work.
7. The NPS clarified that the ultimate approval authority for Section 106 compliance on NPS land in Maryland is the Maryland Historic Trust (MHT) State Historic Preservation Office (SHPO). MHT-SHPO relies heavily on NPS recommendations on NPS land. On NPS land, we should continue to coordinate with the appropriate regional NPS staff. However, prior to issuance of the NPS Special Use permit, it is likely that a Memorandum of Agreement (MOA) between the SHPO, NPS and Frederick County will be required to resolve potential impacts to cultural resources. The MOA cannot be finalized until the Section 106 NHPA studies are completed.

The NPS Special Use permit cannot be finalized until the MOA is in place and the NEPA studies are completed.

8. Susan Trail stated that due to the park's designation as a National Historic Landmark, coordination with the Advisory Council on Historic Preservation (ACHP) may be required. Aaron Keel stated that the cultural resources consultant would perform ACHP coordination.
9. Lynne Wigfield of the C&ONHP, inquired about the exploratory studies that may be needed for this project. Aaron Keel noted that WR&A had already performed wetlands and tree studies within NPS land. Dennis Hasson noted that geotechnical investigations will be required in the near future. Lynne responded that geotechnical investigations on NPS land would require a separate Special Use permit. For NPS Special Use permits for the geotechnical studies, NPS requires a Special Use permit application and boring plans that identify boring locations and site access. Dennis Hasson responded that this will be provided to the NPS.
10. Aaron Keel discussed the format and scope of the NPS NEPA document that WR&A will prepare on behalf of Frederick County. Aaron Keel distributed a handout on the NPS recommended EA format, noting that the NEPA EA evaluation will follow the guidelines of the NPS DO-12 Handbook for NEPA Evaluations. The federal action requiring a separate NEPA evaluation is the NPS Special Use permit, and the NPS is the lead federal agency for this project. Kevin Brandt noted that recently the NPS has been coordinating uniform approaches to NEPA studies. For this project, the NPS NEPA analysis will address the following:
 - a. All direct natural and cultural resource impacts on NPS land (including easements),
 - b. Any impacts to NPS operations, park visitation/use and park user experience, and
 - c. Any direct impacts to Park Service resources (including easements) from off-site activities.
11. Aaron Keel distributed a NEPA Focus handout for discussion to clarify actions that are and are not appropriate environmental impacts for this NPS NEPA Evaluation. Copies of the agenda and NEPA focus are included with this correspondence. NPS DO-12 states, in Section 1.4.E., NEPA documents must be concise, clear, and to the point. NEPA documents should keep the discussion of resources that would be affected brief, and keep the length of all other discussions proportionate to the seriousness of the impact. "NEPA documents must concentrate on the issues that are truly significant (i.e., pivotal) to the action in question, rather than amassing needless details". For this project, the NEPA evaluation will focus on NPS resources/issues that will be impacted by this action, will briefly discuss NPS resources that are not pivotal, and NPS resources that will not be impacted by this action will be listed only.
12. Aaron Keel presented an outline for this project's NEPA documentation for NPS concurrence. The NPS confirmed that project's NEPA documentation for both parks could be evaluated in a single report. Aaron Keel added that due to the non-contiguous nature of the parks, each section of the report would describe the issues of each park separately.
13. Kevin Brandt stipulated that for this project, the NPS requests a Public Scoping Meeting. It was agreed that the public scoping meeting would not require intensive effort. Recordation is not required. The MNBPA was amenable to use their facilities for the meeting. Aaron Keel noted that because this NEPA process is an NPS requirement, the NPS must identify the appropriate outreach for public involvement. Generally, it was agreed that the 30% plans and graphics from

previous studies would satisfy the presentation materials. Frederick County will identify the degree of consultant utilization for this meeting. Aaron Keel requested NPS guidance on how to advertise and arrange the meeting, to satisfy NPS requirements. Frederick County was amenable to this meeting. The NPS also stipulated that approval of a NEPA EA Finding of No Significant Impact (FONSI) requires 30-day prior public notice period.

14. Susan Trail expressed concerns about the Baker Valley Road alternative. Susan Trail stated that the Baker Valley Road alignment should be included within the NEPA evaluation and is preparing comments regarding this alternative. Kevin Demosky noted that the Baker Valley Road alignment is not required within the 20-year timeframe of this project and it may be constructable entirely within the public right-of-way. Because the Baker Valley Road alignment would serve a forecasted population sometime beyond the 20-year timeframe of the current project, it will not be considered in this current NEPA evaluation.
15. The NPS wishes to review the alternatives at each park, before discussion of the affected environment is developed. Aaron Keel agreed that the NPS review of the Project Descriptions, Purpose and Need and Alternatives at each park is a good idea before proceeding into the deeper NEPA documentation. Kevin Brandt requested a brief summary/plans of the alternatives that are under consideration at the C&ONHP. Alternatives were briefly discussed:

At MNBPN the alternatives to be considered in the NEPA are: 1) No Build, 2) All NPS Avoid Alternative, 3) Preferred Alternative, 4) Pre-NPS Coordination Preferred Alternative, 5) Other Alternatives Previously Considered. (Baker Valley Road alignment will not be presented as a considered alternative in the NEPA document).

At C&ONHP alternatives are tied to specific locations. Alternatives to be considered in the NEPA are: 1) No Build, 2) Preferred Alternative

WR&A will develop a summary of the alternatives being considered for the two projects.

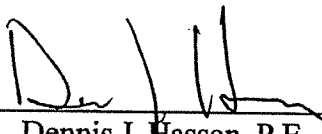
16. The NPS identified the following permitting documentation requirements for the project:
- 1 ARPA permit for both Parks
 - 1 Special Use permit for geotechnical study of both parks
 - 1 NEPA EA for both Parks
 - 1 MOA for both parks (Section 106 studies will be separate)
 - Each park will require a separate Special Use permit to construct the project.
17. The MNBPN provided mapping of a Bald Eagle nest site within the MNBPN (not for distribution). The MNBPN also provided a copy of the NEPA EA for the MNBPN Visitor Center Relocation Project.

ACTION ITEMS

- 1) WR&A will provide three copies of the scope of work for the archeological study to the NPS, as soon as possible (to Susan Trail, Kevin Brandt & Steven Potter).
- 2) WR&A will provide the MNBPN and the C&ONHP, respectively, with plans of the existing utilities within this project's study area (limits of construction, easements, locations), and 30% plans for the proposed activities.

- 3) In January 2003, after NPS approval of the ARPA permit, the cultural resources consultant will coordinate separately with the MHT-SHPO to ensure their involvement and to identify the path forward for resolution of the ACHP National Landmark issues. (Simultaneously they will be conducting on-going coordination with the NPS staff).
- 4) WR&A will provide geotechnical boring plans for the MNBP and the C&ONHP to the NPS for Special Use permits.
- 5) The NPS will provide a public outreach program for the Public Scoping Meeting (time/place, advertisement, and announcement) to Frederick County.
- 6) WR&A will develop a summary (w/ graphics) of the alternatives under consideration at the MNBP and C&ONHP.

The above is a memorandum of understanding between the parties regarding the topics discussed and the decisions reached. Any participants desiring to add to, or otherwise amend the minutes, are requested to put their comments in writing to the writer within seven (7) days; otherwise, the minutes will stand as written.


Dennis J. Hasson, P.E.

cc: Attendees
Mike Marschner
James A. Avirett, P.E.
P. Andrew Cooper, P.E.
Christopher Polglase
Colby Child
File No. 13472



**Monocacy National Battlefield Park/ New Design Water Transmission Main
and
C&O Canal National Historic Park / McKinney Wastewater Effluent and Water Intake**

**NPS NEPA SCOPING MEETING
AGENDA**

December 17, 2002, 1:30 PM
At Monocacy National Battlefield Park

I. PROJECT INTRODUCTION
Description of the Proposed Actions
Previous Coordination with NPS

II. NATIONAL PARK SERVICE NEPA STUDY
NPS is LEAD FEDERAL AGENCY

- NPS Special Use Permit and Section 106 Compliance on parkland
- USACOE, MDE, MHT-SHPO, USFWS supporting federal/state agencies
- WR&A/Frederick County will prepare the NEPA EA document on NPS behalf.

NPS DO-12 HANDBOOK

NPS NEPA FOCUS

- Issues that directly and indirectly affect national parklands, resources located on parklands, park visitor experience, and park operations
- In-Focus versus Out-Of-Focus Activities

INTEGRATING NEPA AND SECTION 404 CLEAN WATER ACT

- Awareness that environmental studies must also address larger project

LEVEL OF DOCUMENTATION

- Consensus for an Environmental Assessment (EA) level document

DEFINING PURPOSE AND NEED

- Two projects, Independent Utility, geographically non-contiguous activities, each affects a different NPS property
- NPS confirmation of "approvability" in a single NEPA document.

RELIANCE UPON PREVIOUS STUDIES

- Purpose, need and alternatives analysis will rely heavily upon previous Frederick County documentation efforts

III. CLOSING



NPS RECOMMENDED EA FORMAT

NPS DO-12 Handbook for NEPA Evaluation.

The EA will range in size from 8 to 20 pages. Maximum NEPA documentation goal is 23 pages per project, plus appendices.

NEPA EA FORMAT

- I. Cover Sheet**
- II. Statement of Project Purpose and Need**
 - Project Description
 - Project Purpose
 - Documentation of Public Need for the Project
 - Applicable Regulations
- III. Alternatives Discussion**
 - Descriptions – No Build and Feasible Considered Alternatives
 - Alternative Evaluation Criteria
- IV. Affected Environment – Environmental Baseline**
- V. Environmental Consequences**
 - Documentation of Environmental Effects
 - Mitigation
- VI. List of Preparers**
- VII. List of Agencies, Organizations and Person Consulted (including reference studies)**

APPENDIX A: NPS Environmental Screening Form

APPENDIX B: Supporting Documentation

NPS NEPA FOCUS GUIDANCE DOCUMENT

Natural and Cultural Resources within Parklands
Proposed actions within L-O-D within Parklands
Actions that may impact NPS scenic easements
Future infrastructure improvements on Parkland
Temporary staging, stockpile areas, construction access on Parkland
Permanent/Temporary Right-of-Ways on Parkland
Interruption of service to Park facilities
Construction traffic detours not affecting Parkland
Natural/Cultural resources impacts not on Parkland
Future infrastructure improvements not on Parkland
Regional population growth
Other projects not associated with this action
Community impacts not on Parkland



**Maryland
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*Division of Historical and
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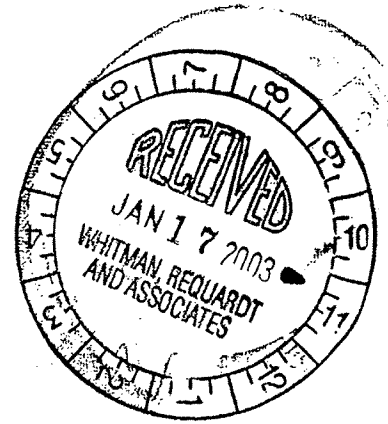
<http://www.dhcd.state.md.us>

Parris N. Glendening
Governor

Raymond A. Skinner
Secretary

Marge Wolf
Deputy Secretary

January 15, 2003



Mr. Aaron M. Keel
Whitman, Requardt and Associates, LLP
801 South Caroline Street
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Re: New Design Water Transmission Main and McKinney
Wastewater Treatment Plant Effluent Outfall
Frederick County, MD (Section 106 Review)

Dear Mr. Keel:

Thank you for recently providing the Maryland Historical Trust (Trust) with a copy of the *McKinney Wastewater Treatment Plant Effluent Outfall/New Design Water Transmission Main Corridor Alignment Report*, dated November 2001, (Report) for review and comment.

We are reviewing the project information in accordance with Section 106 of the National Historic Preservation Act and Article 83 B §§ 5-617 and 5-618 of the Annotated Code of Maryland, as appropriate, to assess the project's effects on historic and archeological properties. The Trust understands that Frederick County will be applying for a permit from the U.S. Army Corps of Engineers for this undertaking. Therefore, the entire alignment, not just the portion that may cross the Monocacy National Battlefield, needs to be assessed for its impacts to cultural resources. While the submittal initiates the consultation process, we are writing to request the additional information necessary to make a determination regarding effects on historic properties.

We understand that Frederick County is proposing to construct a new WWTP adjacent to the existing Brunswick WWTP and that an effluent outfall is needed for the new plant. The preferred alternative would convert the current 24" New Design water transmission main to a wastewater line, thus requiring the construction of a replacement water line. Existing water lines are also being replaced. As part of the system, a new water storage tank and booster pumping station are also proposed.

Several alignments for the outfall and water main corridor were evaluated in the Report. While the study seemed thorough in most areas, historic resources were only cursorily addressed. The Trust's comments on potential effects by the preferred alternative are below.



Historic Built Environment

As shown in figure 3-6 of the Report, the proposed alignment is adjacent to several inventoried historic sites, as well as the National Register listed Chesapeake and Ohio Canal National Historical Park. In addition, the corridor runs near the National Register eligible Lime Kiln Historic District. Although one alignment runs through the Buckeystown National Register Historic District, the preferred alignment skirts the town. Finally, several of the alignments run directly through the Monocacy National Battlefield a National Historic Landmark.

More information is needed before we can make an educated assessment of effects on historic properties. Please provide the following additional information.

- Detailed site plans for the alignment near the following properties listed in the Maryland Inventory of Historic Properties: Monocacy Mills (F-1-077), George Kephart House (F-1-094), Richard Dutrew Farmstead (F-1-193), and Talbott-Lamar House and Store (F-1-214).
- Site plan for the corridor near the Lime Kiln Historic District.
- Detailed site plan for the lines that run through or adjacent to Monocacy National Battlefield.
- More information on the water tank is needed. Please provide elevation drawings, including height indication. Please assess the potential visual effects of the tower on the Monocacy National Battlefield.

Once we receive this information, we will continue our review and assess the need for further historical investigations.

Archeology

The Trust's Maryland Inventory of Historic Properties records several archeological sites within, adjacent to, and in the vicinity of the proposed alignment. While much of the alignment will follow existing right of way and previously disturbed alignments, sections will traverse cross-country corridors or substantially expand the limits of existing utility alignments. Additional archeological sites that have not yet been identified may be located within the project area. We are particularly concerned about potential impacts to the prehistoric sites located along the Monocacy River and the Nolands Ferry site, situated surrounding the New Design WTP. The Nolands Ferry site (18FR17), a Late Woodland period village, is listed in the National Register of Historic Places. Previous investigations of the site revealed the presence of Native American burials. Every effort should be made to reduce and avoid any disturbance to this significant resource.

The Report states that Phase I archeological investigations will be conducted as part of project planning efforts. The Trust agrees that Phase I survey is warranted of those sections of the proposed alignment that contain or have a high potential for containing archeological resources. The purpose of the survey is to identify and evaluate any archeological resources that may be impacted by the project. The survey should be performed by a qualified professional archeologist, and conducted in accordance with the *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994). A copy of the draft survey report should be submitted to the Trust for review. Based upon the survey results, we will be able to determine whether or not the project will affect significant archeological resources and make appropriate recommendations regarding measures to avoid, reduce, or mitigate any effects. We will be happy to provide further guidance and assistance regarding the archeological survey, if desired.

Since the project has the potential to affect a variety of historic and archeological properties, including National Register listed properties and a National Historic Landmark, close coordination with the Trust and other involved

Mr. Aaron M. Keel
January 15, 2003
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parties is essential as planning proceeds. Once the cultural resources consultant is on board for this project, we suggest a meeting with the key players to discuss the identification and evaluation efforts, as well as the remaining information needed to make an informed assessment of effects for the undertaking. Submittal of detailed maps and plans of the currently proposed alignment, when available, will help facilitate the consultation process.

If you have questions regarding this matter, please contact me (archeology) at 410-514-7631/cole@dhcd.state.md.us or Tania Georgiou Tully (historic built environment) at 410-514-7636/tully@dhcd.state.md.us. Thank you for providing us this opportunity to comment and we look forward to continued consultation with all the involved parties to satisfactorily resolve the Section 106 issues for this undertaking.

Sincerely,



Elizabeth J. Cole
Administrator
Project Review and Compliance

EJC/TGT
200203666

cc: Kevin DeMosky (Frederick Co. DPW)
Joe DaVia (COE)
Amanda Sigillito (MDE)
Susan Trail (Monocacy Battlefield)
Doug Faris (C&O Canal)
Janet Davis (Frederick County HPC)
Nancy Bodmer (Buckeystown Preservation Society)



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MEMORANDUM

Date: January 30, 2003

To: Lynne Wigfield, C&O Canal National Historical Park &
Susan Trail, Monocacy National Battlefield

From: Aaron M. Keel, AICP, Project Planner

Project: Frederick County, Water and Wastewater Improvements Projects
WR&A W.O.: 13550

Subject: NPS Review of Draft NEPA EA, Introduction and Statements of Purpose and Need


Attached for your review is a rough draft of Sections 1.0 and 2.0 of the NEPA EA for the proposed Frederick County Water and Wastewater Improvement Projects. WR&A is developing this document on the behalf of Frederick County, for NPS approval, and would appreciate NPS feedback on this portion to support the project purpose and need.

The project purpose and need defines the range of acceptable alternatives. Concurrence on the needs for these projects, at this stage, will influence the alternatives that can be "retained for detailed consideration" in the NEPA EA, at the next stage.

A report cover and Table of Contents will be developed later. Feel free to offer any comments on the cover. If you would like the NPS logo on the report cover please email me an example.

To continue progress on the project and meet the County's aggressive schedules we would appreciate NPS comment on this submittal by February 21, 2003.

Each month we plan to sequentially provide NPS drafts of Section 3.0 Alternatives, Section 4.0 Affected Environment, Section 5.0 Environmental Consequences, and a complete Draft NEPA EA for NPS review and feedback. If there are any questions or concerns regarding this document please contact me at (410) 235-3450, ext. 1622, or email akeel@wrallp.com.


Aaron M. Keel, AICP, Project Planner

Enclosures

cc: Kevin Demosky, Frederick Co. DPW
Dennis Hasson, WR&A

United States Department of the Interior



NATIONAL PARK SERVICE

MONOCACY NATIONAL BATTLEFIELD

4801 Urbana Pike
Frederick, Maryland 21704

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D2215

March 11, 2003

Mr. Aaron M. Keel, AICP, Project Planner
Whitman, Requardt and Associates, LLP
801 South Caroline Street
Baltimore, MD 21231

Dear Mr. Keel:

We have completed our review of draft Section 1.0 Introduction and Section 2.0 Project Purpose and Statement of Need portions of the Environmental Assessment (EA) for the Frederick County Water and Wastewater Improvement Projects, dated January 27, 2003. The proposed project affects two federal properties, Monocacy National Battlefield (MNB) and Chesapeake and Ohio Canal National Historical Park (C&O Canal). This letter represents the combined comments from both parks.

As presently written, these two sections of the EA are written from the perspective of the Frederick County government, rather than the National Park Service (NPS), which is the sponsoring agency for this document. They need to be rewritten to reflect the NPS perspective. In addition, the EA states its purpose is to provide the necessary information for the NPS to render a decision on the proposed action. While this is true, the purpose and need of the document primarily is to evaluate the potential impacts to cultural and natural resources in both parks. We are not meriting the proposed project, but rather we are going to determine if the proposed project will have affects on park resources.

The EA needs to give background on both parks. A history of park legislation needs to be listed, and a description of each park, with its significant resources, needs to be provided to the reader. The reader needs to understand what resources are at stake with the construction of this project. Without a background of park resources, the reader of the EA will have nothing to use as a benchmark for impacts. In addition, the EA needs to include a short history of the project relative to the two parks, and why we are considering it in the first place. The EA needs to present an objective discussion of the proposed project.

In the draft EA, it is stated that only a small portion of the project will affect park lands. This statement seems to be a dismissal of the importance of federally managed lands. It is because of the impacts to federally administered lands that the National Environmental Policy Act (NEPA) evaluation must be undertaken. As outlined in NPS Director's Order #12 (DO-12), this proposed project does not fall under a categorical exclusion. Therefore, the undertaking of an environmental assessment is the proper course of action. We do need to state, however, that should this project have high levels of controversy or if the project will have significant adverse impacts to park resources, an environmental impact statement could be required. The requirements of NEPA would be invoked on any proposed project, government or private, that would have potential impacts to federally managed properties.

It appears that the draft EA is making the predetermination that the project, through all of its phases, will be approved and that the appropriate special use permits will be issued. It also appears that the document as presently written serves as a justification for the preferred option, which is something that DO-12 warns against. This document should not be viewed merely as a regulatory obligation that will have no impact upon the outcome of the proposed project.

We find that the discussion and statistics concerning water withdrawal, consumption and effluent release are very confusing. It appears that they have been inserted as justification for the project. We do not believe that such level of detail is necessary in an EA focused on park resources, but believe it is important to list the ultimate water withdrawal from the Potomac River. The C&O Canal recently had a project proposal in the same vicinity as the proposed Frederick County project. This earlier project proposed to withdraw 6 MGD of water from the Potomac River, and saw a huge public outcry against that amount of water withdrawal. Due to the concerns of area citizens, the C&O Canal considered evaluating the impacts of the 6 MGD withdrawal rate. Now, Frederick County is proposing to withdraw up to 33.0 MGD by the year 2020. The NPS may need to evaluate the impacts of this amount of water withdrawal. The C&O Canal likely will use the same criteria for the Frederick County project as was used for the previous project.

Without doubt Frederick County has fiscal constraints to deal with; however, a statement of budgetary constraints in the EA is not appropriate. It could be misconstrued as a means to get approval for the project.

The EA states that construction of the proposed system will allow for future construction of proposed outfall systems without impact to the C&O Canal. We cannot conclude that any future work would be exempt from further compliance evaluations.

In conclusion, I refer you to the EA that MNB prepared in conjunction with the relocation of its visitor center to a new site, of which I provided you a copy. I believe that this document does a good job of defining resources and impacts in the Purpose and Need section, and suggest that you may want to look at this example of a suitable NPS EA.

If you have questions concerning these comments, please do not hesitate to contact Lynne Wigfield, C&O Canal NHP Compliance Officer, at (301) 745-5802, or myself at (301) 662-6980.

Sincerely,

Susan W. Trail

Susan W. Trail
Superintendent

Cc: Dennis J. Hasson, P.E., WR&A, LLP
Kevin Demosky, Div. of Utilities and Solid Waste Management,
Frederick County
Kevin Brandt, C&O Canal NHP
Lynne Wigfield, C&O Canal NHP
Tina Orcutt, C&O Canal NHP



WHITMAN, REQUARDT AND ASSOCIATES, LLP
801 South Caroline Street
Baltimore, MD 21231

A. Keel

Engineers
Architects
and
Planners

Phone: (410) 235-3450
Fax: (410) 243-5716

MEMORANDUM OF MEETING

Date: April 26, 2003

Date of Meeting: April 1, 2003

Time: 1:00PM

Location: Gambrill Mansion, Monocacy National Battlefield Park
Frederick, Maryland

Project: McKinney Treated Effluent Outfall and Raw Water Main/C&O Canal Historic Park
New Design Water Transmission Main/Monocacy National Battlefield Park
WR&A W.O.: 13550

Attendees: Susan Trail, NPS, Monocacy National Battlefield Park (MNBP), Asst. Superintendent
Lynne Wigfield, NPS, C&O Canal Historic Park, Compliance Officer
James Perry, NPS, C&O Canal Historic Park
Diane Ingram, NPS, C&O Canal Historic Park
Tina Orcutt, NPS, C&O Canal Historic Park
Joseph DaVia, U.S. Army Corps of Engineers
Lynette Rhodes, U.S. Army Corps of Engineers
Beth Cole, Maryland Historic Trust
Tania Tully, Maryland Historic Trust
Kevin Demosky, Frederick County
Dennis J. Hasson, P.E., Whitman, Requardt & Associates
✓ Aaron M. Keel, AICP, Whitman, Requardt & Associates
Chris Polglase, R. Christopher Goodwin & Associates
Colby Child, R. Christopher Goodwin & Associates

Topic: Section 106 NHPA Coordination

1. Dennis J. Hasson provided an overview of the past coordination and status of the project. He provided a description of the elements of the entire New Design Water Transmission Main. The following are the pertinent points from the discussion:
 - a. 60% Design plans are due at the end of April.
 - b. Environmental studies have begun.
 - c. Historic/Archeology studies of the MNBP were awaiting the ARPA permit, issued March 31, 2003.
 - d. Geotechnical studies and survey stake-out of the alignment through MNBP are scheduled to begin within the next 30 days.
 - e. Frederick County is planning on dividing the entire 77,000 linear foot water transmission main into three separate contracts. The first two contracts would not affect NPS land.

- f. The project is scheduled for bid advertisement in August 2003.
 - g. Construction Notice to Proceed for the pipelines is scheduled for December 2003.
 - h. The Transmission main is scheduled to be in service by December 2004.
 - i. Work on the New Design Raw Water Intake through the C&O canal is awaiting authorization from Frederick County.
2. The overall Frederick County water program also involves the expansion of the New Design Water Treatment Plant. That project is not within the scope of the current efforts, and will not affect NPS land, and probably not affect Section 404 Clean Water Act (CWA) resources.
3. R. Christopher Goodwin (RCG) outlined their methodology for conducting the Section 106 NHPA studies for the entire New Design Water Transmission Main. The studies have already begun off NPS land. RCG is preparing to enter the battlefield in the near future. In areas not on NPS land, RCG is utilizing Shovel Test Pits (STUs) and surface surveys as the primary means of archeological data collection. Much of the area off NPS land has been analyzed through previously completed studies. RCG mentioned that some of the property owners along the alignment have refused to grant access for archeological testing. Beth Cole of the MHT stated that this would not prevent the project from being reviewed as complete, as long as a "good faith effort" to gain access to the properties was sufficiently documented.
4. On the NPS Battlefield, RCG will use six methods for shallow and deep archeological data collection:
 - a. Surface survey of 100% of the park (provided the area is disked prior).
 - b. Three lane coverage by metal detectors for approximately 4,500 lineal feet (LF) of the battlefield.
 - c. STUs along two transects at regular intervals.
 - d. Electrical total station mapping to produce 3-D maps of the metallic findings.
 - e. Test Excavations for deep archeological deposits as needed.
 - f. Backhoe trenching through deep deposits where warranted.

In addition, two previously identified areas on the Battlefield will undergo updated Phase I/II evaluations. RCG hopes to conclude the draft Section 106 NHPA findings report in May 2003.
5. MHT requested data on the depth of disturbance for the project. Dennis Hasson responded that the depth to the pipe invert would generally be between 7.5 to 10 feet deep.
6. Aaron Keel noted that the Section 404 Clean Water Act Joint Permit Application for the New Design Transmission Main would be formally submitted to the U.S. Army Corps of Engineers on April 2, 2003. The U.S. Army Corps of Engineers (COE) was informed that the permit application is for the entire 77,000-foot alignment. Based on a pending permit application for the entire alignment, of which the NPS is only a small portion, the COE indicated that they would take the "lead federal agency" role for the Section 106 NHPA coordination. The NPS and MHT will be consulting agencies to the COE, respective to their jurisdictions. The COE noted that this project will require an "individual permit" and when the application is complete it will require 30-days public comment period.
7. RCG opened discussion about pro-actively planning for a Programmatic Agreement (PA) versus a Memorandum of Agreement (MOA). The agencies explained that a PA is a more

flexible, process driven agreement, better suited to complex projects. An MOA is a clear specific agreement that is better suited to projects that can wholly define the potential impacts. The COE noted that issuance of any Section 404 Clean Water Act permit requires resolution of Section 106 NHPA requirements and that the PA could be a condition of the COE authorization. The signatories to the PA would be the COE, MHT, NPS (MNBP & C&O NHP), and Frederick County. NPS noted that because these parks are National Landmarks, the national Advisory Council for Historic Preservation (ACHP) must be given opportunity to comment (however ACHP involvement is not anticipated).

8. The NPS C&O noted that a PA could not be approved prior to completion of the Section 106 NHPA studies at the C&O canal. This prompted discussion of the idea of separating the New Design Transmission Main from the Raw Water/Effluent Outfall project. The COE inquired about the "independent utility" aspect of the projects. Aaron Keel responded that these projects satisfy the "independent utility" standard. The proposal for a single evaluation was generated through the NPS NEPA EA process. Aaron Keel noted that the Joint Permit Application would provide documentation to facilitate the COE's NEPA documentation and clarify the relationship between the two proposed projects. The situation was explained by Dennis Hasson as follows: The existing water transmission system has a capacity of approximately 7.0 Million Gallons per Day (MGD). With small upgrades to the existing New Design Treatment Plant finished water pumping and filtration and the completion of the proposed 42" water transmission main, system capacity could be increased to approximately 10.0 MGD, which will meet the immediate system requirements for Year 2005 demand projections. The proposed 42", 36", and 30" water transmission mains, along with the proposed raw water intake, upgrades to the New Design Water Treatment Plant, and proposed storage tank and booster pumping station will allow the system to deliver approximately 30.0 MGD of water, satisfying long term future demand projections (Year 2020). In summary, the New Design Water Transmission Main system currently under design can be implemented and provide additional water to the service area without the Raw Water Intake improvements through the C&O canal. The long term demand projections of 30.0 MGD cannot be met without the additional improvements to the raw water intake and upgrades at the New Design Water Treatment plant. It was agreed that the projects would proceed linked as they currently are, and a determination of whether the projects could be separated would be examined at a later date.
9. The C&O NPS was concerned about the lag between C&O work and Monocacy work. It was discussed that if Frederick County can issue the Notice to Proceed on the C&O effort by May 1, 2003, the ARPA permit could be issued and RCG could complete their work. Based on the current schedule, the earliest RCG could complete their work in the C&O canal would be July 2003.
10. Dennis Hasson inquired as to the ability to split the Frederick County elements of the New Design Transmission Main projects from the portions of the project that impacted NPS land. The COE responded that a phased permit approach could be used for this situation.
11. NPS C&O staff inquired about the public scoping that has occurred to date. Lynne Wigfield noted that previous County coordination may not satisfy NPS requirements due to variations in focus and authority. The C&O NPS indicated that based on the existing concept for the C&O, they can initiate public involvement. Frederick County and the NPS staff discussed how to arrange, advertise, and schedule the public scoping meeting. Frederick County offered the Ballenger Creek Elementary school to host the meeting. The NPS agreed to

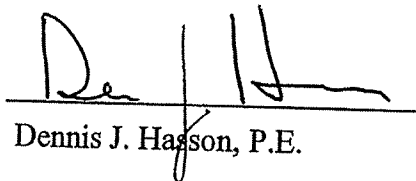
attempt to arrange the meeting on Wednesday, April 23 from 7PM to 9PM. The meeting will require general graphics of the projects and handouts describing the action.

12. A follow-up meeting was scheduled for June 4, 2003 at 9:30 AM at the Monocacy National Battlefield. The purpose of this meeting will be to discuss the archeological report completed by RCG and evaluate the project status with respect to 106 permitting requirements.
13. Aaron Keel and the NPS staff arranged to meet to discuss the NPS NEPA comments on Monday, April 7, 2003, at 2:00 p.m. in Hagerstown MD.
14. After the meeting, Susan Trail provided WR&A a Special Use permit to conduct survey and geotechnical investigations on Monocacy Battlefield.

ACTION ITEMS

- 1) WR&A/NPS will meet on April 7, 2003 to discuss NPS NEPA comments on Draft Introduction and Statement of Public Need.
- 2) Frederick County and NPS will coordinate and arrange Public Scoping meeting for April 23, 2003.
- 3) WR&A will adhere to conditions of Special Use permit for geotechnical and survey work.
- 4) RCG will initiate Section 106 NHPA studies on the Monocacy Battlefield.
- 5) In May 2003, the Section 106 findings report and draft NEPA EA will be provided to the NPS.
- 6) On June 4, 2003, a meeting will be held at the Gambrill Mansion to discuss NEPA FONSI requirements, Section 106 PA, and COE authorization issues.

The above is a memorandum of understanding between the parties regarding the topics discussed and the decisions reached. Any participants desiring to add to, or otherwise amend the minutes, are requested to put their comments in writing to the writer within seven (7) days; otherwise, the minutes will stand as written.


Dennis J. Hasson, P.E.

cc: Attendees
Mike Marschner
Art Campbell
James A. Avirett, Jr., P.E.
P. Andrew Cooper, P.E.
File No. 13550



Engineers
Architects
and
Planners

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MEMORANDUM OF MEETING

Date: April 23, 2003

Date of Meeting: April 7, 2003

Time: 2:00 PM

Location: C&O Canal HQ, 1850 Dual Highway, Hagerstown, MD

Project: Frederick County Water/Wastewater Improvements
WR&A W.O.: 13550

Attendees: Susan Trail, NPS, Monocacy National Battlefield (Monocacy NB)
Lynne Wigfield, NPS, C&O Canal National Historical Park (NHP)
James Perry, NPS, C&O NHP
Diane Ingram, NPS, C&O NHP
Aaron M. Keel, WR&A

The format of the meeting was an informal discussion about the NEPA EA being developed for the NPS for the New Design Water Transmission Main (at Monocacy NB) and McKinney Treated Effluent Outfall/New Design Raw Water Intake (at C&O NHP) projects. The focus of the meeting was the NPS comments on the Draft NEPA EA Introduction and Purpose & Need, dated March 11, 2003.

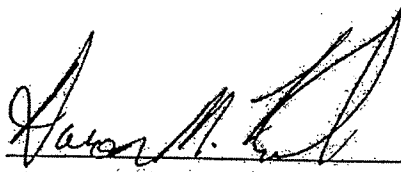
- We discussed the requirement that the NEPA document adopt the perspective of the NPS, not Frederick County as presented. The NPS is developing this EA in response to a request by Frederick County, to support NPS authorization to construct the project. The EA will be revised accordingly.
- There was discussion of the scope/focus of the NPS NEPA EA. The U.S. Army Corps of Engineers has taken a lead agency role for the entire undertaking and must address issues for the "whole & complete" project. Attendees agreed that the NPS EA should focus only on those resources within the jurisdiction of the NPS (resources/impacts on NPS land).
- The EA "Introduction" should include discussion of the "Purpose and Significance" of the parks. The best party to develop this text are the NPS park staff. NPS will provide WR&A boilerplate discussions of the Purpose and Significance for the Monocacy NB and C&O Canal NHP. WR&A will insert these within the EA.
- The technical system requirements information will be moved to an appendix of the EA. The discussion of the Alternatives will be reduced to the minimum to describe the key elements of the alternative. The EA should be written in layman's terms to the extent practicable. We agreed that some technical details are important to define the range of feasible options.
- We discussed the NPS comment of page 2, on the March 11 letter regarding a perception of predetermination within the EA. Redrafting to the EA to adopt the NPS perspective and focusing on statements of fact (quantitative statements versus qualitative interpretation) should eliminate this. Cost considerations should be eliminated from "Purpose and Need" discussion and is only relevant in the Alternatives section.

- NPS noted that the opening to the EA should identify why the NPS is considering this action. They also noted that although schedule is important, the schedule is overstressed for an NPS perspective (schedule is not as important to the NPS as it is to Frederick County).
- The importance of the public involvement process was also discussed. Public feedback at the upcoming NPS public information meeting may influence decisions about the NEPA process.
- A discussion of the NPS right-of-way (ROW) process ensued. NPS noted that the existing utility ROW within C&O is specific to the size of pipe and its use. Any shifts/changes to the ROW will require new right-of-way agreements. Also, at Monocacy NB it was noted that a few small ROW "wedges" will be needed for the New Design Main. NPS noted that their ROW/Easement process can take up to 12 months to complete. NPS encouraged coordination to identify any easement change/right-of-way requirements as soon as possible.
- The current plan is to prepare a single NPS EA document for both parks. The team concurred that, if necessary, the NEPA EA can be split into two documents (Monocacy NB & C&O NHP).

Summary of process requirements:

- NPS Special Use permit for Monocacy NB requires NEPA EA FONSI.
 - NPS FONSI requires a thorough NEPA EA evaluation of both parks.
 - NEPA EA cannot be approved until Section 106 compliance is attained for both parks.
 - After the studies, Section 106 compliance may require a Programmatic Agreement to resolve archeological issues.
 - Section 106 studies will likely require 60 days to complete.
 - If significant archeological concerns are discovered, both the NPS approvals and the Section 404 CWA permits may be adversely affected.
 - WR&A is currently awaiting Frederick County authorization to begin work in the C&O.
- NPS observed that if C&O Canal studies cannot be completed within the schedule of the Monocacy NEPA EA, the project must either split the NEPA documentation into two studies or the Monocacy NEPA EA may not be approvable within the project timetables.

The above is a memorandum of understanding between the parties regarding the topics discussed and the decisions reached. Any participants desiring to add to, or otherwise amend the minutes, are requested to put their comments in writing to the writer within seven (7) days; otherwise, the minutes will stand as written.



Aaron M. Keel, AICP, Project Planner
Whitman, Requardt & Associates, LLP

Enclosures

cc: Attendees
Dennis Hasson, WR&A
Kevin Demosky, Frederick County



United States Department of the Interior

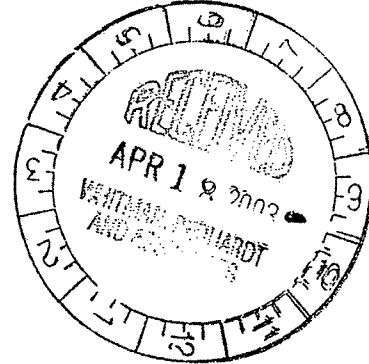
NATIONAL PARK SERVICE
C&O Canal National Historical Park
1850 Dual Highway, Suite 100
Hagerstown, Maryland 21740

IN REPLY REFER TO:

H14 (CHOH)

April 15, 2003

Mr. Aaron M. Keel, AICP
Whitman, Requardt, and Associates, LLP
801 South Caroline Street
Baltimore, Maryland 21231



Dear Mr. Keel:

I hope the enclosed materials will be helpful in reviewing the historic background of the Chesapeake and Ohio Canal and its designation as a unit of the National Park Service, as well as relevant management plans and objectives.

Excerpts from *C & O Canal: The Making of a Park*, by Barry Mackintosh include a succinct summary of the canal's significance (pages 1-3), *Executive Order 3391* issued by President Dwight D. Eisenhower in establishing Chesapeake and Ohio Canal National Monument (from Seneca to Cumberland) in 1961 (page 188), and the park's "enabling legislation," enacted in 1971 (pages 189-191). Subsequent legislative actions, designating the canal and towpath as a memorial to Justice William O. Douglas (1977) are also included (page 192).

General Plan Chesapeake & Ohio Canal National Historical Park clearly states both the purpose and management objectives of the park (pages 1-2). This general plan also establishes a zoned land use and management plan (pages 21-23), and the areas potentially impacted in the Frederick County project are summarized on pages 54-57. You will see that the area from Lock 27 to Nolands Ferry is designated as "Zone B – Cultural Interpretive Zone," and the area from Nolands Ferry to Brunswick is classified as "Zone D – Short-Term Remote Zone."

The park today preserves 184.5 miles of historic towpath and canal prism, including 11 aqueducts, 180 culverts, 74 lift locks, 52 lock houses, a tunnel 3,118 feet in length, and 50 waste weirs. There are a total of 1,364 structures managed as cultural resources in the park's

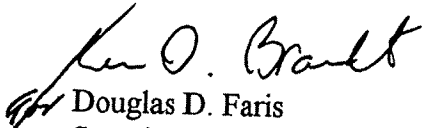
Mr. Aaron M. Keel

2

"List of Classified Structures." To date, 215 archeological sites have been identified in the park, despite the fact that only 6 percent of the lands have been surveyed. The museum collection numbers 6,928 historic artifacts, 650 natural history specimens, and 131,558 archeological objects.

Please feel free to contact James Perry, Park Historian, (301) 714-2218, if you require any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas D. Faris".

Douglas D. Faris
Superintendent

Enclosures

cc:

CHOH—Compliance Officer

CHOH—Chief, Resources Management

C & O CANAL
THE MAKING OF A PARK

Barry Mackintosh

History Division
National Park Service
Department of the Interior
Washington, D.C.

1991

THE OPERATING CANAL

Before railroads and highways, water was the only good way to transport heavy cargoes over long distances. As American settlement grew rapidly beyond the Alleghenies in the early 19th century, eastern commercial interests promoted the construction of canals to link the western hinterlands with seaboard markets. The success of New York's Erie Canal, built between 1817 and 1825, spurred other such ventures, among them the Chesapeake and Ohio Canal.

George Washington had been among the first to envision water-borne trade between the Chesapeake region and the Ohio country. In 1785 he helped organize the Potomac Company to build skirting canals around falls and clear other obstacles in the Potomac River above tidewater. After these attempts to improve river navigation proved inadequate, Congress in 1825 chartered the Chesapeake and Ohio Canal Company to build a canal alongside the Potomac from Washington, D.C., to Cumberland, Maryland, thence over the mountains to the headwaters of the Ohio. The company began work on July 4, 1828, with President John Quincy Adams turning the first spadeful of earth at Little Falls, Maryland. By fateful coincidence, a similar ceremony at Baltimore that same day inaugurated the nation's first major commercial railroad, the Baltimore and Ohio.

From the beginning, the canal was plagued with problems. Unforeseen rock formations hampered excavation. Lumber, stone, lime, and other building materials were often less available and more expensive than anticipated. Labor shortages and disputes slowed work progress, as did a protracted legal battle with the B & O Railroad over use of the narrow right-of-way above Point of Rocks. By 1839 the canal company had built and opened 134 miles of canal from Georgetown to near Hancock, but serious financial difficulties delayed completion of the remaining fifty miles to Cumberland until 1850. Easily outpacing the C & O, the B & O had reached Cumberland eight years earlier on its route westward. The canal, its builders heavily in debt, went no farther.

The 184.5-mile canal encompassed 74 lift locks to accommodate the 605-foot difference in elevation between Georgetown and Cumberland, seven dams to impound river water and feed it into the ditch, eleven stone aqueducts over major Potomac tributaries and hundreds of culverts for lesser streams and road underpasses, and a great assortment of water control devices, river locks, bridges, and lockhouses. Its two most impressive engineering features were undoubtedly the Monocacy Aqueduct, spanning 560 feet atop seven arches, and the 3,117-foot Paw Paw Tunnel, dug through a mountain to shortcut two bends in the river. By the

slackwaters above Dams 4 and 5 no ditch was built; there the mule-drawn barges entered the river, being pulled from the towpath along the bank.

Rendered obsolescent by the railroad, the canal nevertheless plied a respectable trade for several decades. Coal, agricultural products, lumber, and building stone descended the waterway; lesser westward cargoes included fish, salt, fertilizer, and iron ore. In 1875, the peak year of its operation, the canal carried nearly a million tons. But the lucrative coal trade shifted increasingly to the railroad. During all but a few years the canal, which had cost more than \$11 million to build, operated at a loss.

Recurring floods added to the canal company's woes. Damage from flooding in 1886 forced the unrestrained sale of repair bonds, which carried a preferred mortgage on the physical property of the canal. In the spring of 1889 the rains that caused the infamous Johnstown Flood also devastated the Potomac Valley, leaving the canal in ruins. The B & O Railroad, which acquired most of the canal company's construction and repair bonds, had courts in Maryland and Washington appoint its representatives as receivers or trustees for the company. They restored the canal to operation by September 1891 and organized the Chesapeake and Ohio Transportation Company, a shadow corporation enabling the canal to show a profit and avoid its forced sale to a possible competitor.¹

Low-volume traffic continued until May 14, 1924, when a relatively minor flood again halted canal navigation. The receivers repaired the lower five miles from the river inlet at Lock 5 to Georgetown, where the company profited from supplying canal water to several mills. But they took no action to repair damage and restore navigation to the remaining 180 miles. The era of canal commerce in the Potomac Valley had ended.

To avoid foreclosure, the company had to assure the courts that the canal was not abandoned. According to Walter S. Sanderlin, author of the principal C & O Canal history: "The court accepted the position of the receivers, and ruled that the canal had not forfeited its rights by non-operation, but that the 'other' aspect of its business, the maintenance of a canal for purposes of navigation, was merely suspended temporarily in the absence of remunerative business. Both the receivers and the court continued to maintain the ludicrous contention that the canal was not abandoned, and could easily and quickly be put into navigable condition if trade were offered--even after the dams and feeders filled up and washed out, locks and lockhouses deteriorated into a hopelessly unusable condition,

¹Walter S. Sanderlin, *The Great National Project: A History of the Chesapeake and Ohio Canal* (Baltimore: Johns Hopkins Press, 1946), pp. 254-67.

and saplings two, three, and four inches in diameter grew in the trunk, destroying the puddling and often obscuring the canal itself."²

Of course, the B & O Railroad had no desire to return the obsolete, unprofitable canal to operation. Its primary concern was that the potentially valuable right-of-way not fall into the hands of a competitor, such as the Western Maryland Railway. If the property could be sold with assurance that it would not be used for commercial transportation, the railroad would be delighted.

How else could an old canal be put to use?

²Ibid., pp. 277-78. The surviving trustee's report to the court for 1935 was typical: "Although to the casual observer the Canal may seem to be in a serious condition, this is not the fact, and, upon resumption of the canal trade traffic sufficient to justify putting the Canal in operation, this would quickly be done, and the cost of doing it would not be very great." (Report to Circuit Court of Washington County, Md., filed June 10, 1936, copy in file 1460/C & O Canal, Chesapeake and Ohio Canal National Historical Park.)

Title 3—THE PRESIDENT

Proclamation 3391

ESTABLISHING THE CHESAPEAKE AND OHIO CANAL NATIONAL MONUMENT, MARYLAND

By the President of the United States
of America
A Proclamation

WHEREAS by deed of September 23, 1938, the United States acquired from the Receivers of the Chesapeake and Ohio Canal Company certain lands, together with all appurtenances thereunto belonging, known as the Chesapeake and Ohio Canal; and

WHEREAS since September 23, 1938, such lands have been administered and protected by the Department of the Interior through the National Park Service; and

WHEREAS, by section 2 of the act of Congress approved June 8, 1906 (34 Stat. 225), the President of the United States is authorized "in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected"; and

WHEREAS the Chesapeake and Ohio Canal is of historic and scientific interest, and historic structures and objects of scientific interest are situated upon the lands thereof:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, by virtue of the authority vested in me by section 2 of the act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431), do proclaim that, subject to valid existing rights, there is hereby reserved and set apart as a national monument, to be known as the Chesapeake and Ohio Canal National Monument, that portion of the property now owned by the United States and acquired by it under the said deed of September 23, 1938, which extends from Cumberland, Maryland, to a location 100 feet downstream from the first culvert above the Seneca aqueduct, the monu-

ment hereby established containing approximately 4,800 acres.

The said deed of September 23, 1938, is recorded in the land records of the County of Allegany, Maryland, in Book R.J. No. 181 at Folio 603, of the County of Washington, Maryland, in Book No. 207 at Folio 575, of the County of Frederick, Maryland, in Book No. 414 at Folio 245 *fc.*, and of the County of Montgomery, Maryland, in Book No. 638 at Folio 76. Detailed maps of the Chesapeake and Ohio Canal property, consisting of 15 rolls prepared by B. F. Mackall, are on file with the Director, National Park Service, Washington, D.C., and the Superintendent of the Chesapeake and Ohio Canal Project in Hagerstown, Maryland.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, deface, or remove any feature of this monument and not to locate or settle upon any of the lands reserved by this proclamation.

The Chesapeake and Ohio Canal National Monument shall be supervised, managed, and controlled in accordance with the act of Congress entitled "An Act To Establish a National Park Service, and for Other Purposes," approved August 25, 1916 (39 Stat. 535), and acts supplementary thereto and amendatory thereof, including the act of September 22, 1950 (64 Stat. 905), and the act of August 1, 1953 (67 Stat. 359).

Nothing in this proclamation is intended to prejudice the use of the Chesapeake and Ohio Canal National Monument for such works as the Congress may hereafter authorize for municipal and domestic water supply, navigation, flood control, drainage, recreation, or other beneficial purposes.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this eighteenth day of January in the year of our Lord nineteen hundred and [SEAL] sixty-one and of the Independence of the United States of America the one hundred and eighty-fifth.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTZ,
Secretary of State.

[P.R. Doc. 61-694. Filed, Jan. 23, 1961;
10:36 a.m.]



Public Law 91-664
91st Congress, H. R. 19342
January 8, 1971

An Act

To establish and develop the Chesapeake and Ohio Canal National Historical Park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Chesapeake and Ohio Canal Development Act".

Chesapeake and
Ohio Canal
Development
Act.

DEFINITIONS

SEC. 2. As used in this Act—

- (a) "Park" means the Chesapeake and Ohio Canal National Historical Park, as herein established.
- (b) "Canal" means the Chesapeake and Ohio Canal, including its towpath.
- (c) "Secretary" means the Secretary of the Interior.
- (d) "State" means any State, and includes the District of Columbia.
- (e) "Local government" means any political subdivision of a State, including a county, municipality, city, town, township, or a school or other special district created pursuant to State law.
- (f) "Person" means any individual, partnership, corporation, private nonprofit organization, or club.
- (g) "Landowner" means any person, local government, or State owning, or on reasonable grounds professing to own, lands or interests in lands adjacent to or in the vicinity of the park.

ESTABLISHMENT OF PARK

SEC. 3. (a) In order to preserve and interpret the historic and scenic features of the Chesapeake and Ohio Canal, and to develop the potential of the canal for public recreation, including such restoration as may be needed, there is hereby established the Chesapeake and Ohio Canal National Historical Park, in the States of Maryland and West Virginia and in the District of Columbia. The park as initially established shall comprise those particular properties in Federal ownership, containing approximately five thousand two hundred and fifty acres, including those properties along the line of the Chesapeake and Ohio Canal in the State of Maryland and appurtenances in the State of West Virginia designated as the Chesapeake and Ohio Canal National Monument, and those properties along the line of the Chesapeake and Ohio Canal between Rock Creek in the District of Columbia and the terminus of the Chesapeake and Ohio Canal National Monument near the mouth of Seneca Creek in the State of Maryland. The boundaries of the park shall be as generally depicted on the drawing entitled "Boundary Map, Proposed Chesapeake and Ohio Canal National Historical Park," in five sheets, numbered CHOH 91,000, and dated October 1969, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior: *Provided*, That no lands owned by any State shall be included in the boundaries of the park—

Boundaries.

84 STAT. 1978
84 STAT. 1979

- (1) unless they are donated to the United States, or
- (2) until a written cooperative agreement is negotiated by the Secretary which assures the administration of such lands in accordance with established administrative policies for national parks, and

Pub. Law 91-664

- 2 -

January 8, 1971

(3) until the terms and conditions of such donation or cooperative agreement have been forwarded to the Committees on Interior and Insular Affairs of the United States House of Representatives and Senate at least sixty days prior to being executed. The exact boundaries of the park shall be established, published, and otherwise publicized within eighteen months after the date of this Act and the owners of property other than property lying between the canal and the Potomac River shall be notified within said period as to the extent of their property included in the park.

(b) Within the boundaries of the park, the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, or exchange, but he shall refrain from acquiring, for two years from the date of the enactment of this Act, any lands designated on the boundary map for acquisition by any State if he has negotiated and consummated a written cooperative agreement with such State pursuant to subsection (a) of this section.

COOPERATIVE AGREEMENTS

SEC. 4. The Secretary shall take into account comprehensive local or State development, land use, or recreational plans affecting or relating to areas in the vicinity of the canal, and shall, wherever practicable, consistent with the purposes of this Act, exercise the authority granted by this Act in a manner which he finds will not conflict with such local or State plans.

ACCESS

SEC. 5. (a) The enactment of this Act shall not affect adversely any valid rights heretofore existing, or any valid permits heretofore issued, within or relating to areas authorized for inclusion in the park.

(b) Other uses of park lands, and utility, highway, and railway crossings, may be authorized under permit by the Secretary, if such uses and crossings are not in conflict with the purposes of the park and are in accord with any requirements found necessary to preserve park values.

(c) Authority is hereby granted for individuals to cross the park by foot at locations designated by the Secretary for the purpose of gaining access to the Potomac River or to non-Federal lands for hunting purposes: *Provided*, That while such individuals are within the boundaries of the park firearms shall be unloaded, bows unstrung, and dogs on leash.

84 STAT. 1979

84 STAT. 1980

ADVISORY COMMISSION

Establishment.

SEC. 6. (a) There is hereby established a Chesapeake and Ohio Canal National Historical Park Commission (hereafter in this section referred to as the "Commission").

(b) The Commission shall be composed of nineteen members appointed by the Secretary for terms of five years each, as follows:

(1) Eight members to be appointed from recommendations submitted by the boards of commissioners or the county councils, as the case may be, of Montgomery, Frederick, Washington, and Allegany Counties, Maryland, of which two members shall be appointed from recommendations submitted by each such board or council, as the case may be;

(2) Eight members to be appointed from recommendations submitted by the Governor of the State of Maryland, the Governor

January 8, 1971

- 3 -

Pub. Law 91-664

84 STAT. 1980

of the State of West Virginia, the Governor of the Commonwealth of Virginia, and the Commissioner of the District of Columbia, of which two members shall be appointed from recommendations submitted by each such Governor or Commissioner, as the case may be; and

(3) Three members to be appointed by the Secretary, one of whom shall be designated Chairman of the Commission and two of whom shall be members of regularly constituted conservation organizations.

(c) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) Members of the Commission shall serve without compensation, as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this Act.

(e) The Secretary, or his designee, shall from time to time but at least annually, meet and consult with the Commission on general policies and specific matters related to the administration and development of the park.

(f) The Commission shall act and advise by affirmative vote of a majority of the members thereof.

(g) The Commission shall cease to exist ten years from the effective date of this Act.

ADMINISTRATION AND APPROPRIATIONS

SEC. 7. The Chesapeake and Ohio Canal National Historical Park shall be administered by the Secretary of the Interior in accordance with the Act of August 25, 1916 (30 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented. 39 Stat. 535.

SEC. 8. (a) Any funds that may be available for purposes of administration of the Chesapeake and Ohio Canal property may hereafter be used by the Secretary for the purposes of the park.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, not to exceed \$20,400,000 for land acquisition and not to exceed \$17,000,000 (1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

Approved January 8, 1971.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 91-1553 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 91-1512 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 116 (1970):

Oct. 5, considered and passed House.
Dec. 22, considered and passed Senate.

An Act to dedicate the canal and towpath of the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas, and for other purposes. (91 Stat. 21) (P.L. 95-11)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the canal and towpath of the Chesapeake and Ohio Canal National Historical Park are hereby dedicated to Justice William O. Douglas in grateful recognition of his long outstanding service as a prominent American conservationist and for his efforts to preserve and protect the canal and towpath from development.

SEC. 2. In order to carry out the provisions of this Act, the Secretary of the Interior is authorized and directed to provide such identification by signs, including, but not limited to changes in existing signs, materials, maps, markers, interpretive programs or other means as will appropriately inform the public of the contributions of Justice William O. Douglas.

SEC. 3.; The Secretary of the Interior is further authorized and directed to cause to be erected and maintained, within the exterior boundaries of the Chesapeake and Ohio Canal National Historical Park, an appropriate memorial to Justice William O. Douglas. Such memorial shall be of such design and be located at such place within the park as the Secretary shall determine.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved March 15, 1977.

Legislative History:

House Report No. 95-38 (Comm. on Interior and Insular Affairs).
Congressional Record, Vol. 123 (1977):
Feb. 24, considered and passed Senate.
Mar. 2, considered and passed House.

An Act to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho. (92 Stat. 3467) (P.L. 95-625)

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

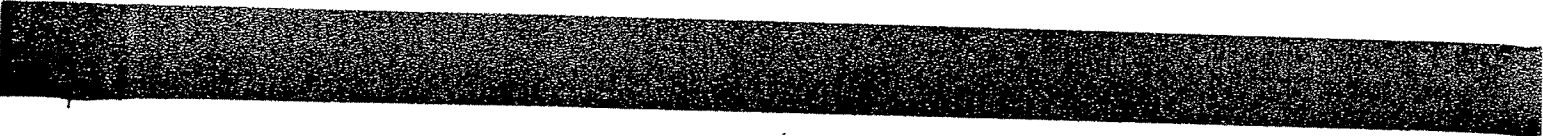
TITLE III—CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

* * * * *

SEC. 320. Section 8(b) of the Act of January 8, 1971 (84 Stat. 1978) is amended by changing "\$20,400,000" to "\$28,400,000". The boundaries of the park are revised to include approximately 600 additional acres: *Provided, however,* That such additions shall not include any properties located between 30th Street and Thomas Jefferson Street in the northwest section of the District of Columbia.

* * * * *

Approved November 10, 1978.



CHESAPEAKE & OHIO CANAL

National Historical Park

District of Columbia/Maryland

General Plan

Prepared by:

John G. Parsons, Chief, Urban Coordination
and Environmental Impact Division

Recommended by:

Richard L. Stanton
Associate Director, Cooperative Activities

Approved by:

Manus J. Fish, Director
National Capital Parks

January 30, 1976

2nd Printing

August 31, 1981

Introduction

Pursuant to Public Law 91-664, which established the Chesapeake and Ohio Canal National Historical Park in January 1971, the National Park Service began a new management era for this 184-mile historical resource. With a boundary expanded from 5,257 to 20,239 acres, a mandate to provide for the enjoyment of the park's resources in such a manner as to leave them unimpaired for future generations, and the advice of a 19-member citizen's advisory commission, the National Park Service set out to prepare a plan for the park. This general plan for managing the park is the result of a planning process which began when the advisory commission was established in December 1971, and is based on earlier studies.

It is not the purpose of this plan to spell out specific development proposals for the park. Rather it establishes an overall management philosophy which will be followed by more specific action plans.

This plan for the Chesapeake and Ohio Canal National Historical Park calls for the stabilization and partial restoration of the historic canal and its structures, the preservation of its charming natural setting, the interpretation of the rich array of historical and natural values found along the canal, and provisions for as much outdoor recreation as will not intrude upon or impair the resources which the park was established to protect. The initial task is to clarify the purpose of the park and establish management objectives for it.

The Purpose of the Park

In order to recognize the potential of the park resources, the purpose of the Chesapeake and Ohio Canal National Historical Park is to provide, in perpetuity, the opportunity for mankind

- ... to understand the canal's reason for being, its construction, its role in transportation, economic development and westward expansion, the way of life which evolved upon it, the history of the region through which it passes and to gain an insight into the era of canal building in the country.

- ... to appreciate the setting in which it lies and the natural and human history that can be studied along its way; and

- ... to enjoy the recreational use of the canal, the parklands and the adjacent Potomac River.

Management Objectives

The objectives for management of the park, which will be administered in the historical category of the National Park System, are:

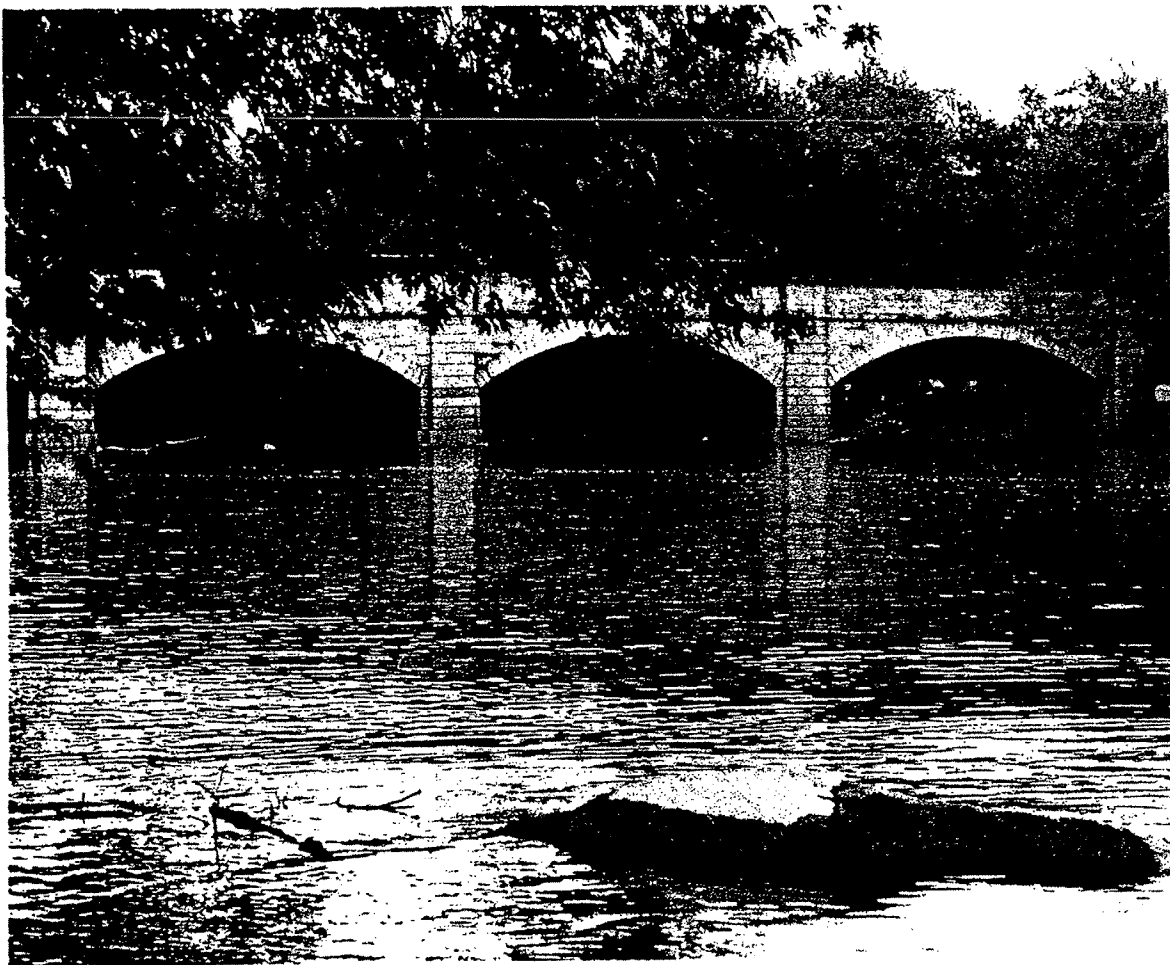
- ... Preserve the atmosphere of past times and enduring natural beauty and safeguard historic remains and natural features.

... Impart to visitors an understanding and appreciation of an historic way of life blended into the natural setting of the Potomac Valley.

... Develop the potential of the park's recreation resources for safe yet stimulating enjoyment by the visitors within limits compatible with the other two management objectives.

It will be difficult to maintain the Park's atmosphere and other values while providing a minimum of recreation opportunities along the way. Although the lengthiness of the park will make possible a linear spreading of the park use, the very absence of any significant lateral dimension will ultimately make the canal and its already popular towpath trail a parkway filled with recreational travelers. Protecting for public enjoyment a historical park which will, more and more, become an outlet for urban seekers after outdoor recreation will be the difficult task facing the National Park Service in its stewardship of this limited resource.

The urban need for manmade playgrounds which provide structured recreational facilities can not be met by the Chesapeake and Ohio Canal National Historical Park. Instead, the role of this park is to provide its visitors with a natural and historic environment in which to enjoy such pursuits as hiking, biking, canoeing, camping, horseback riding, fishing, and boating.



The General Plan

The Land Use Plan

In analyzing the park's role in the National Park System, as well as the Potomac River Valley, it becomes apparent that there is a wide variety of visitors who can be expected to visit the park. The analysis of the visitation patterns indicates that the national visitor or tourist, the short-term recreationist, the long-term towpath user, and the users of the Potomac River, all place demands on the park. When we combine these visitor uses with the analysis of the cultural and natural resources, the available land areas within the park boundaries, the access to these land areas, the adjacent land use patterns as declared by local zoning or inherent uses, and the facilities available outside the park in adjacent communities, it can be seen that the park lends itself to sectional delineation for the various user groups.

The land use plan is a result of this analysis and is the method which will ensure that a variety of visitor experiences will be provided along this 184-mile park. It will be managed in the form of a zoning system. The zoning system contains five zones which range from complete restoration, with high density visitor activity, to remote natural areas with a very low density of visitor use. The five zones have been devised to recognize the values which various sections of the park contain. In applying these five zones to the park, the plan designates 32 sections as shown below.

Zone A – National Interpretive Center Zone

This zone defines areas containing major historic restoration opportunities where the park visitor will be able to see a functioning canal in a historic setting. The areas were also selected for accessibility, availability of parklands for development of visitor facilities, and the compatibility of the surrounding environment outside the park. These interpretive centers are expected to support the largest density of visitor use. Most of that use is considered to be short-term (1 to 2 hours). The concept of development of these areas is that of an outdoor living museum. Historical accuracy is imperative in these re-creations of historic scenes. Where appropriate, people in period costume will serve as interpreters of these museums in an effort to convey the construction, maintenance, function, purpose, shortcomings, commerce, and way of life on the Chesapeake and Ohio Canal.

Each of the selected areas represents a different setting and, therefore, would have a different theme. The proposed areas are:

	Length (miles)
Georgetown - urban	1.1
Great Falls - rural with tavern and 6 locks	4.2
Seneca - industrial stone quarrying and Seneca Aqueduct	1.6
Williamsport - a canal town	1.6
Four Locks - four locks cutting across Praetners Neck	.7
North Branch - the last three locks	<u>1.2</u>
Total Zone A	10.4

Zone B – Cultural Interpretive Zone

This zone identifies sections of the park containing historic resources but the higher density of Zone A is deemed to be incompatible with the desired mood of the area. In most cases, the historic resources are not as accessible by road as those in the Zone A category. Further, most of these areas do not have adequate parkland around them upon which to construct adequate visitation facilities for a Zone A designation. The historic resources are often spread along the canal, producing a longer-term visitation than in Zone A. This is estimated at 1 to 3 hours.

These areas will not necessarily be completely restored, as the objective here is to introduce the visitor to towpath use with a lesser degree of historic interpretation. Rewatering of portions of all these sections is proposed. The extent of rewatering will be the subject of future engineering feasibility studies.

	<u>Length (miles)</u>
Lock 8 to Anglers Inn	4.0
Whites Ferry	1.5
Lock 27 to Nolands Ferry	3.1
Brunswick	1.0
Harpers Ferry	2.1
Antietam Creek to Rumsey Bridge	3.5
Hancock	2.0
Paw Paw Tunnel, Lock 62 to Md. rt. 51	2.2
Old Town	3.0
The terminus	1.0
Total Zone B	<hr/> 23.4

Zone C – Short-Term Recreation Zone

These sections are designated to serve the general towpath user seeking a leisurely stroll of 2 to 6 hours in a natural setting. These areas are limited in historic resources and available land for visitor facilities. The sections are short and often are links between two zones of higher density where cross traffic is considered desirable. The objective here is to ensure a leisurely recreational experience in a natural setting.

	<u>Length (miles)</u>
Alexandria Aqueduct to Lock 8	7.2
Swains Lock to Violets Lock	5.6
Whites Ferry Granary to Lock 27	6.0
Hagerstown Filtration Plant to Lock 47	7.7
Level 50 Waste Weir to Big Pool	4.7
Lock 75 to the Terminus	7.9
Total Zone C	<hr/> 39.1

Zone D -- Short-Term Remote Zone

Due to limited access, these sections can retain a remoteness which produces a low density use. Through proper management, the park visitor can be assured of finding solitude in a natural setting. The objective here is to provide those who desire it with an undisturbed day in a natural setting.

	<u>Length (miles)</u>
Seneca Quarries to Whites Ferry	10.3
Nolands Ferry to Brunswick Town Park	9.4
Brunswick to Lock 32	5.2
Lock 36 to Antietam Creek	7.0
Dam 4 to Lock 44	14.9
Big Pool to Lock 44	8.6
Slatecut to Lock 72	6.4
Total Zone D	<u>61.8</u>

Zone E -- Long-Term Remote Zone

These sections provide the opportunity for a long-term primitive hiking, biking, or horseback experience. With limited access, high quality natural surroundings, and little development, these sections are for those who seek a near wilderness involvement with the environment. The objective is to ensure that these sections retain their wild character and continue to provide this type of experience.

Parking for towpath users will not be provided in Zone E as adjacent sections will be designed to provide access. If appropriate, parking for river users will be provided at carefully selected locations in Zone E sections.

	<u>Length (miles)</u>
Rumsey Bridge to Dam 4	11.6
Paw Paw Bends, Hancock to Lock 62	29.5
Maryland Route 51 to Old Town	8.5
Total Zone E	<u>49.6</u>

Development Standards

Sectional Development Plans

A plan will be devised for each of the 32 sections in this general plan. These plans will determine the number and locations of visitor facilities for each section. Complete public involvement which will include public workshops, meetings and/or hearings as appropriate will occur during the planning process. The plans will be accompanied by environmental assessments in compliance with the National Environmental Policy Act of 1969. Particular attention will be paid to potential impacts of Park developments on adjacent land use, communities, transportation systems and waste disposal systems.

Group camping areas would be available for overnight outings by cabin occupants and towpath users. Sufficient acreage exists to provide campgrounds for individual towpath hikers and bikers as well. Chilton Wood is not seen as a general public access point to the canal. Rather, it will serve as a self-contained unit making little impact on the towpath.

If Mason Island, opposite Chilton Wood, can be acquired by the state, the study of flood plain agricultural usage which would take place on the Island, would add to the comparative studies between natural systems which are planned for the environmental education laboratory. This, of course, would have to be arranged by a cooperative agreement.

10. Lock 27 to Noland's Ferry: 41.5 - 44.6 = 3.1 miles; Zone B

The Resources

Dominated by the 516-foot-long Monocacy Aqueduct, this section contains many historical resources. Lock 27, a fine culvert over Little Monocacy River, remains of Boyds Mill, the Old Monocacy Basin and Granary, a prehistoric archeological site, and the area where the historic crossing of the Potomac at Noland's Ferry took place make up a wealth of historic interpretive possibilities.

Rewatering of the Monocacy Aqueduct is not envisioned under Zone B management at this time. If rewatering of the aqueduct is considered in the future, the conflict between towpath users and visitors wishing to see the aqueduct will have to be resolved. With water in the aqueduct, the 8-foot-wide towpath would have to accommodate all pedestrian crossings of the Monocacy River. With a dry aqueduct, the bed of the canal can serve to accommodate some of the visitors as it does today. If mule-driven barges are considered, this could become the sole method of transport across the aqueduct. The economics of rewatering this aqueduct will be considered.

Access and Existing Facilities

Current facilities include a two-lane gravel road, a 15 car parking lot, a small picnic area, and boat access at Noland's Ferry. The access to Monocacy combines a grade crossing of the railroad and a narrow curved road which produce an undesirable entrance. Better access to the area can be developed, in cooperation with the county, from Noland's Ferry Road to the north. The existing parking, picnicking and boat ramp, adjacent to the aqueduct, should be phased out because they are incompatible with the historic scene. Although the upstream boat ramp could be retained, it might be more advantageous to locate it on the opposite side of the Monocacy River.

Parklands and Adjacent Land Use

Approximately 750 acres of agricultural land has been purchased adjacent to the towpath between the Potomac River and the railroad. Although much of this land is within the 50-year flood plain, development on carefully selected sites can provide facilities for a versatile combination of day-use activities. Parking, picnic areas, boat, canoe and food concession seem appropriate here. The existing farmstead could be made into a stable, and bridle as well as foot trails connecting with the Monocacy River Valley could be provided.

11. Nolands Ferry to Brunswick Town Park: 44.6 - 54.00 = 9.4 miles; Zone D

The Resources

Although paralleled by the railroad for its entire length, this section provides the second remote area along the canal. The historic resources are limited to Lock 28 and 29, the stabilized ruins of the Catoctin Creek Aqueduct, and the remains of the old Pivot Bridge at Point of Rocks. Its unusual natural features include a series of outcroppings and quarries of calico marble from which columns were carved for some of the buildings in Washington.

Access and Existing Facilities

The major entry point to this section will be at its midpoint, Point of Rocks. The existing Route 15 will serve visitors to this area. The road to the other access point, Catoctin Station, is dangerous and will be de-emphasized. The only existing facilities are a small parking area at Catoctin Station, a boat ramp at Point of Rocks, and two hiker-biker overnigher units.

Parklands and Adjacent Land Use

The park boundary generally follows the railroad along this section. Most of the parklands are between the canal and the river and are subject to flooding. Thus, development of these lands should be very low key. Parking facilities for towpath users and a park and walk campground is envisioned for Point of Rocks. The view from the cliffs is outstanding and a side trail to this vantage point is envisioned. Provision for group camping at Catoctin Station, along with a campground for hikers and bikers near Catoctin Aqueduct, should be studied.

The State of Maryland owns 99 acres of land at Point of Rocks which are within the boundary of the park. This can be utilized for land exchanges between the State and the Park Service in other areas of the park. Heaters Island in the Potomac River was one of two islands occupied by the Canoy Inidans in the 1690's.

12. Brunswick-Town Park to Lock 30: 54.00 - 55.00 = 1 mile; Zone B

The Resources

This section includes Lock 30, which is one of four that were doubled in length by a wooden extension. The ruins of an old mill lie adjacent to the lock.

Access and Existing Development

Access is gained from the town of Brunswick by crossing the railroad yards. Existing use of the towpath by motor vehicles should be eliminated. The Brunswick Town Park provides camping and boat launching.

Parklands and Adjacent Land Use

The 90-acre park owned by the town of Brunswick will be further developed for camping and picnicking. A road to serve the park and the sewage treatment plant can be constructed between the towpath and the river. As the canal, towpath, and Lock 30 will be restored and rewatered, care must be taken to select a vehicular crossing of the canal which won't intrude on the historic scene. Parking for towpath users can be provided adjacent to the mill on the berm side. All remaining parklands here lie within the annual flood plain. Consequently, no other development is proposed. The Town of Brunswick, the railroad yards, roundhouse and



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401



May 22, 2003

Ms. Tammy L. Sherwin
Whitman, Requardt and Associates, LLP
107B French Lane
Zelienople, Pennsylvania 16063

RE: *WR&A W.O. 13550, McKinney Wastewater Treatment Plant, Treated Effluent Outfall and Raw Water, Transmission Main Project, Frederick County, MD*

Dear Ms. Sherwin:

This responds to your letter, received April 14, 2003, 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.*).

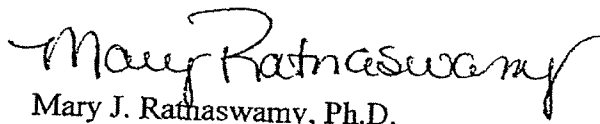
Except for occasional transient individuals, no federally proposed or listed endangered or threatened species are known to exist within the project impact area. Therefore, no Biological Assessment or further Section 7 Consultation with the U.S. Fish and Wildlife Service is required. Should project plans 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.

An additional concern of the Service is wetlands protection. Federal and state partners of the Chesapeake Bay Program have adopted an interim goal of no overall net loss of the Basin's remaining wetlands, and the long term goal of increasing the quality and quantity of the Basin's wetlands resource base. Because of this policy and the functions and values wetlands perform, the Service recommends avoiding wetland impacts. All wetlands within the project area should be identified, and if construction in wetlands is proposed, the U.S. Army Corps of Engineers, Baltimore District, should be contacted for permit requirements. They can be reached at (410) 962-3670.

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interests in these resources. If you have any questions or need further assistance, please contact Maricela Constantino at (410) 573-4542.

Sincerely,



Mary J. Rathaswamy, Ph.D.

Program Supervisor, Threatened and Endangered Species



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Maryland Department of Natural Resources

Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

C. Ronald Franks
Secretary

W. P. Jensen
Deputy Secretary

June 6, 2003

Ms. Tammy L. Sherwin
Whitman, Requardt and Associates, LLP
107B French Lane
Zelienople, PA 16063

RE: Environmental Review for McKinney Wastewater Treatment Plant, Treated Effluent Outfall and Raw Water, Transmission Main Project, WR&A W.O. 13550, Frederick County, Maryland.

Dear Ms. Sherwin:

The Wildlife and Heritage Service's Natural Heritage database indicates that there are recent records for Soft Fox Sedge (*Carex conjuncta*) and for Davis' Sedge (*Carex davisii*), both state listed endangered species, known to occur on the project site. There are also recent records for Star-flowered False Solomons-seal (*Smilacina stellata*) and for Auricled Gerardia (*Agalinis auriculata*), both state listed endangered species, known to occur within the vicinity of the project site. These species could potentially occur on the project site itself, especially in areas of appropriate habitat.

The presence of these state listed endangered species should be incorporated in the planning phases of this project, so that adverse impacts are avoided. Surveys for these species may be necessary. Please coordinate with Ed Thompson of the Wildlife and Heritage Service at (814) 634-5972 for further technical assistance regarding conservation of these species.

Also, the forested area on the project site contains Forest Interior Dwelling Bird habitat. Populations of many Forest Interior Dwelling Bird species (FIDS) are declining in Maryland and throughout the eastern United States. The conservation of this habitat is strongly encouraged by the Department of Natural Resources. The following guidelines will help minimize the project's impacts on FIDS and other native forest plants and wildlife:

1. Concentrate development to nonforested areas.

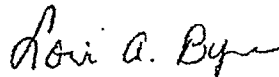
Page 2

June 6, 2003

2. If forest loss or disturbance is absolutely unavoidable, concentrate or restrict development to the perimeter of the forest (i.e., within 300 feet of the existing forest edge), particularly in narrow peninsulas of upland forest less than 300 feet wide.
3. Limit forest removal to the "footprint" of houses and to that which is absolutely necessary for the placement of roads and driveways.
4. Wherever possible, minimize the number and length of driveways and roads.
5. Roads and driveways should be as narrow and short as possible; preferably less than 25 feet and 15 feet, respectively.
6. Maintain forest canopy closure over roads and driveways.
7. Maintain forest habitat up to the edges of roads and driveways; do not create or maintain mowed grassy berms.
8. Maintain or create wildlife corridors.
9. Do not remove or disturb forest habitat during May-August, the breeding season for most FIDS. This seasonal restriction may be expanded to February-August if certain early nesting FIDS (e.g., Barred Owl) are present.
10. Afforestation efforts should target (1) riparian or streamside areas that lack woody vegetation, (2) forested riparian areas less than 300 feet, and (3) gaps or peninsulas of nonforested habitat within or adjacent to existing FIDS habitat.

If you should have any further questions regarding this information, please contact me at (410) 260-8573 or at the above address.

Sincerely,



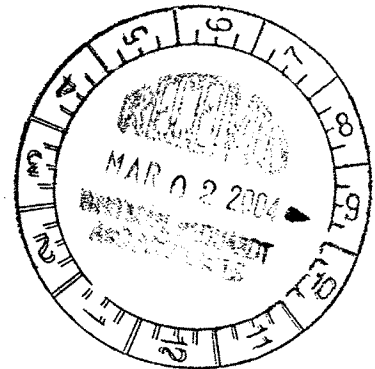
Lori A. Byrne
Environmental Review Coordinator,
Wildlife and Heritage Service
Maryland Department of Natural Resources

ER# 2003.0651.fr
Cc: E.L. Thompson, DNR
R. Wiegand, DNR



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:

A90 (CHOH)

February 25, 2004

Mr. Aaron Keel
Whitman, Requardt and Associates, LLP
801 South Carolina Street
Baltimore, MD 21231

Dear Mr. Keel:

Enclosed are two copies of Special Use Permit number NCR3100-5700-067 to conduct survey work and baseline data collection within C&O Canal National Historical Park.

If you agree to the terms and conditions of the permit, please sign both original copies and return them to the park. An authorized copy will be returned to you for your files.

If you have any questions concerning this permit or the processing procedures, please contact Donna Swauger, Special Park Use Coordinator, at (301) 745-5817.

Sincerely,

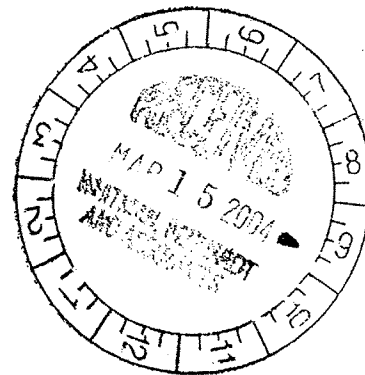
Kevin D. Brandt
for Kevin D. Brandt
Superintendent

Enclosures



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:

A90 (CHOH)

March 10, 2004

Mr. Aaron Keel
Whitman, Requardt and Associates, LLP
801 South Carolina Street
Baltimore, MD 21231

Dear Mr. Keel:

Enclosed is Special Use Permit number NCR3100-5700-067 authorizing you to conduct survey work and baseline data collection within C&O Canal National Historical Park.

If you have any questions concerning this permit or the processing procedures, please contact Donna Swauger, Special Park Use Coordinator, at (301) 745-5817.

Sincerely,

Kevin D. Brandt

for Kevin D. Brandt
Superintendent

Enclosure

UNITED STATES DEPARTMENT OF THE INTERIOR
National Park Service

Page 1 of 5

Special Use Permit

Name of Use: Survey

Date Permit Reviewed 2004

Reviewed 20

Reviewed 20

Expires: July 31, 2004

Long Term

Permit # NCR 3100-5700-023

Region Park Type No. #

Short Term X

Chesapeake and Ohio Canal National Historical Park

Name of Area

Aaron Keel, Whitman, Requardt & Associates, LLP, 801 South Caroline Street, Baltimore, Maryland 21231, (410) 235-3450, extension 1622, is hereby authorized during the period from (Time 0001 day 01 Month March, 2004), through (Time 2359 day 31 Month July, 2004), to use the following described land or facilities in the above named area:

C&O Canal NHP property at Nolands Ferry (mile 44.58)

For the purpose(s) of:

Survey efforts and baseline data collection needed for engineering development of the proposed improvements to the existing Frederick County Water Intake and pipelines located at Nolands Ferry.

Work to include:

1. placement of aerial targets for orthophotography and associated supplemental traditional survey work
2. property boundary and corner survey work
3. environmental survey of wetlands/trees
4. survey and stake-out for geotechnical soil boring locations

Authorizing legislation or other authority (RE NPS-53 Appendix 1)

Title 36 CFR 1.6, 2.1, 4.10, 4.11, 4.13, 4.20, 4.21, 5.6, 5.7

NEPA Compliance: CATEGORICALLY EXCLUDED 3.4 E(6) EA/FONSI EIS OTHER APPROVED PLANS

PERFORMANCE BOND: Required Not Required X Amount \$ N/A

LIABILITY INSURANCE: Required X Not Required Amount \$1,000,000

ISSUANCE of this permit is subject to the conditions on the reverse hereof and appended pages and when appropriate to the payment to the U.S. Dept. of the Interior, National Park Service of the sum of \$waived

The undersigned hereby accepts this permit subject to the terms, covenants, obligations, and reservations, expressed or implied herein.

PERMITTEE

Aaron Keel
Signature

3/3/04
Date

Authorizing Official

John K. Orville
Superintendent

3-11-04
Date

CONDITIONS OF THIS PERMIT

1. The permittee shall exercise this privilege subject to the supervision of the Superintendent, and shall comply with all applicable laws and regulations of the area.
2. Damages - The permittee shall pay the United States for any damage resulting from this use, which would not reasonably be inherent in the use, which the permittee is authorized to make of the land described in this permit.
3. Benefit - Neither Members of, nor Delegates to Congress, or Resident Commissioners shall be admitted to any share or part of this permit or derive, either directly or indirectly, any pecuniary benefits to arise therefrom: Provided, however, that nothing herein contained shall be construed to extend to any incorporated company, if the permit be for the benefit of such corporation.
4. Assignment - This permit may not be transferred or assigned without the consent of the Superintendent, in writing.
5. Revocation - This permit may be terminated upon breach of any of the conditions herein or at the discretion of the Superintendent.
6. The permittee is prohibited from giving false information; to do so will be considered a breach of conditions and be grounds for revocation [Re: 36 CFR 2.32(a)(4)].
7. Permittee will comply with applicable public health and sanitation standards and codes.
8. The permittee and all participants authorized herein must comply with all of the conditions of this permit and with all reasonable directions of the Park Rangers or US Park Police.
9. The area shall be left in substantially the same condition as it was prior to the activities authorized herein, and all litter shall be removed from the park.
10. All precautions will be taken to protect the Park's natural, cultural, and historical resources.
11. All walkways, roadways, and avenues of egress must remain unobstructed at all times by people, equipment, and vehicles so as not to hamper in any way the normal travel and use of the park by visitors.
12. The National Park Service cannot authorize the closing of a park area to the public or permit the hampering of normal travel and use by the public. Restriction of public access may only be entertained for the security and protection of dignitaries and special guests.
13. The permittee must, at all times, conduct his activities so as to insure the safety of the park visitor and the protection of park resources.

14. INDEMNIFICATION. The permittee shall save, hold harmless, defend, and indemnify the United States of America, its agents and employees for losses, damages or judgments, and expenses on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, arising out of the activities of the permittee, his/her employees, subcontractors or agents under this permit.

- A. The permittee shall purchase a minimum the types and amounts of insurance coverage as stated herein and agrees to comply with any revised insurance limits the Superintendent may require during the period of this permit.
- B. The permittee shall provide the Superintendent with a Statement of Insurance and Certificate of Insurance at the inception of this permit, and shall provide the Superintendent thirty (30) days advance written notice of any material change in the permittee's insurance program hereunder.

The Superintendent will not be responsible for any omissions or inadequacies of insurance coverage and amounts if such prove to be inadequate

15. PUBLIC LIABILITY. The permittee shall provide comprehensive general liability insurance against claims occasioned by actions or omissions of the permittee in carrying out the activities and operations authorized hereunder. Such insurance shall be in the amount commensurate with the degree of risk and the scope and size of such activities authorized herein, but in any event, the limits of liability shall not be less than \$1,000,000 per occurrence covering both bodily injury and property damage. If claims reduce available insurance below the required per occurrence limits, an umbrella or excess liability policy, in addition to a comprehensive general liability policy, may be used to achieve the required limits.

- A. All liability policies shall specify that the insurance company shall have no right of subrogation against the United States of America or shall provide that the United States of America is named an additional insured.

ACTIVITY DETAIL

- 1. Area of permitted work will be on U.S. Government owned land administered by the C&O Canal National Historical Park, Monocacy District at Nolands Ferry, near Point of Rocks, Maryland. Permitted work will be comprised of non-destructive data collection through survey work.
- 2. The Permittee must submit a written safety plan prior to the issuing of this permit. The safety plan must show how all OSHA requirements will be met. The C&O Canal NHP vigorously adheres to required safety procedures and practices.
- 3. Permitted work will allow the surveying on park property associated with the proposed utility up-grade, as submitted by Frederick County Maryland Division of Utilities and Solid Waste Management's "New Design Raw Water Intake Main and McKinney Treated Effluent Project." This proposed project would increase water intake from Potomac River to serve

Frederick County and Frederick City residents. Treated effluent outfall is proposed as a part of the project. Survey work is necessary to develop engineering concepts for the proposed project. The proposed project is currently being processed through environmental and cultural compliance reviews.

4. A copy of this permit must accompany all work groups, associated with this project, when conducting work on C&O Canal property.
5. Surveying work will not include any permanent markings on any historic structures (i.e., buildings, locks, prism walls, flumes, etc.) or natural features. If permanent marking is undertaken, use of permanent Type G monuments will be permitted. Installation of these monuments will be done with hand tools. Provide recovery information for all monuments to include Maryland State Plane Coordinates and Vertical Data on NGVD 88. Preapproval for installation of permanent monuments must be received from the NPS. All temporary survey marking will be removed upon completion of the survey activity. Wetland delineation needs to be surveyed and geo-referenced to the Maryland State Plane Coordinate System or North American Datum 83, Feet. All panels used for aerial surveying needs shall be removed at the end of the survey project. **NO BLAZING OF TREES OR PAINT WILL BE USED FOR SURVEY WORK OR PROPERTY/BOUNDARY LINE IDENTIFICATION.** Digital files showing wetland delineation and other survey information shall be provided to the park in AutoCad 2000 .dwg and ArcView Project format.
6. Minor tree/shrub trimming will be allowed for the survey activity. However, if vegetation must be removed at the main trunk, the vegetation will be marked with survey tape and permission for removal must be obtained from one of the park's natural resources specialists.
7. All work will proceed during daylight hours between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday excluding Federal holidays
8. Park visitors will not be detained from travel for more than five minutes. It will be the responsibility of the permittee to provide flagmen and appropriate signage to ensure safe passage of visitors through work zones that interfere with an open roadways, parking lots, towpath, sidewalks, or hiking trails.
9. Traffic on NPS properties is limited to company vehicles; personal vehicles must be identified belonging to permitted company.
10. Speed limits while in the park will follow posted signs. Right-of-way will be given to park visitors. Speed limits on the towpath will be 15 mph. Towpath weight restrictions are 12 tons or less. Only single-axle vehicles are permitted on the towpath. Park staff must review any anticipated deviations and work will not proceed without official approval from Park staff.
11. Weather conditions may prohibit access to the park. If there has been rainy weather, Whitman, Requardt & Associates, LLP needs to contact Park staff to verify park conditions in that area. If rains or windstorms have occurred within 24 hours of designated work date, the towpath may not be accessible to vehicular travel. Potomac River level may also impact availability of designated worksite. Windstorms may also inhibit access due to downed tree

limbs. For verification on towpath conditions, contact Lynne Wigfield, Compliance Officer at (301) 714-5802 prior to scheduling of work activities.

12. Permittee will be responsible for the removal of all trash and debris resulting from above listed work projects. The work site shall be kept free of trash and construction debris at all times. All foreign debris is to be cleaned and removed from the park grounds each day.
13. Work sites will be secured at all times.
14. Upon completion of the work, the permittee will be responsible for any reseedling or turf restoration. Permittee must use Park approved grass seed mixes.
15. Any deviations of work, or in the event the National Park Service should need additional information, the point of contact will be Aaron Keel at (410) 235-3450.
16. The permittee will notify the Park through Lynne Wigfield, Compliance Officer, at (301) 745-5802, two workdays prior to project beginning and ending.
17. Any accidents/damage, either personal or property, will be reported immediately to the Park at (301) 714-2235.
18. The National Park Service reserves the right to immediately revoke this permit at any time should it appear that the activity of this permit presents a clear and present danger to the public safety or if any conditions of this permit are violated.
19. Permission granted by this permit does not constitute a release by the National Park Service of any rights, title, or interest in the C&O Canal National Historical Park.
20. No other work in the park is granted under this permit.

Department

of the Interior

Partners:

C. Richard Lortz
John S. Maynes
Joseph S. Makar
David B. McCormick

Senior Associates:

James O. Armacost, III
Louis W. Klinefelter
Thomas J. Hannan, Jr.
John P. Maddox
William P. Wagner
Walter P. Miller
Dennis J. Hasson

WHITMAN, REQUARDT AND ASSOCIATES, LLP

Engineers, Architects and Planners

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Gary B. Bush
William W. Fitchett, Jr.
Daniel J. Seli
Anthony U. Olsen
Gregory D. Mucci
Joseph C. Sowinski
William A. Geschrei
Robert J. Krallinger
J. Mark Parker
Douglas A. Kelso
Amitava Podder
Neil M. Leary
Gregory King
Jeffrey F. Gliza
Jeffrey R. Riegner

October 21, 2004

Mr. Ed Thompson
Maryland Department of Natural Resources
Wildlife and Heritage Division
580 Taylor Avenue
Annapolis, MD 21401

Re: McKinney Wastewater Treatment Plant
Treated Effluent Outfall and Raw Water
Transmission Main Project
Frederick County, Maryland
WR&A WO #13550

Dear Mr. Thompson:

Whitman, Requardt & Associates (WRA) received a letter from your office dated June 6, 2003 in regards to the McKinney Wastewater Treatment Plant Treated Effluent Outfall and Raw Water Transmission Main project (see attached map, Buckeystown 7.5 Minute Quadrangle). This project is still on-going and this letter is to update our correspondence.

In the June 2003 correspondence (ER# 2003.0651.fr), the Maryland Wildlife and Heritage Service provided information on the potential occurrence of rare, threatened and endangered species for the McKinney Wastewater Treatment Plant. Your database has recent records of four (4) following endangered species: the Soft Fox Sedge (*Carex conjuncta*); the Davis' Sedge (*Carex davisii*); the Star-flowered False Solomons-seal (*Smilacina stellata*); and the Auricled Gerardia (*Agalinis auriculata*) within the vicinity of the project site. None of the above species are federally-listed.


Ms. Lori Byrne of your division was contacted regarding plant characterization abstracts (PCAs) for these species. No PCAs were available. Ms Byrne provided us with a list of references which is typically used by the Wildlife and Heritage Division to obtain species information. Using this list and other resources we obtained additional information regarding the habitat of the four species above. The table below summarizes the habitat of the species.

Species	Habitat
<i>Carex conjuncta</i>	Low, wet alluvial rich woods; in the water or along the banks of small to large streams
<i>Carex davisii</i>	Damp woods
<i>Smilacina stellata</i>	Sandy banks and dunes; moist meadows
<i>Agalinis auriculata</i>	Seasonally flooded areas along the Potomac River

Impacts associated with the project will be temporary and are located primarily within existing pre-disturbed right-of-way. Due to the nature of the project, we believe no adverse impacts will result to these species. Please review the attached plans and provide us detailed feedback on any necessary follow-up to comply with the Endangered Species Act.

Also, please forward any new information or records that you may have regarding the presence of federal rare, threatened or endangered species, within the project area, to the above address. Thank you for your assistance; we look forward to working further with your agency to successfully this needed project. Please contact me at (443) 224-1684 or email kmoore@wrallp.com if you have any questions.

Very truly yours,
WHITMAN, REQUARDT AND ASSOCIATES, LLP


Kelly Moore
Environmental Scientist

Enclosures: Site Location Map
Original Correspondence Letter

cc: Dennis Hasson
Aaron Keel

Partners:

C. Richard Lortz
John S. Maynes
Joseph S. Makar
David B. McCormick

Senior Associates:

James O. Armacost, III
Louis W. Klinefelter
Thomas J. Hannan, Jr.
John P. Maddox
William P. Wagner
Walter P. Miller
Dennis J. Hasson

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801 South Caroline Street
Baltimore, Maryland 21231

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October 21, 2004

Associates:

Richard J. Kane
Earl L. Swartzendruber, Jr.
William E. Bingley
Herbert W. Lew
Luther E. Bathurst
John D. Emerson
Gary B. Bush
William W. Fitchett, Jr.
Daniel J. Sell
Anthony U. Olsen
Gregory D. Mucci
Joseph C. Sowinski
William A. Geschrei
Robert J. Krallinger
J. Mark Parker
Douglas A. Kelso
Amitava Podder
Neil M. Leary
Gregory King
Jeffrey F. Gliza
Jeffrey R. Riegner

Ms. Maricela Constantino
Chesapeake Bay Field Office
US Fish and Wildlife Service
177 Admiral Cochran Drive
Annapolis, MD 21401

Re: McKinney Wastewater Treatment Plant
Treated Effluent Outfall and Raw Water
Transmission Main Project
Frederick County, Maryland
WR&A WO #13550

Dear Ms. Constantino:

Whitman, Requardt & Associates (WRA) received a letter from your office dated May 22, 2003 in regards to the McKinney Wastewater Treatment Plant Treated Effluent Outfall and Raw Water Transmission Main project (see attached map, Buckeystown 7.5 Minute Quadrangle). This project is still on going and this letter is to update our correspondence. In the May 22, 2003 correspondence you stated that except for occasional transient individuals, no federally proposed or listed endangered or threatened species are known to exist within the project impact area.

Please forward any information or records that you may have regarding the presence of federal rare, threatened or endangered species, within the project area, to the above address. Thank you for your assistance; we look forward to working further with your agency to successfully this needed project. Please contact me at (410) 235-3450 ext. 1684, email kmoore@wrallp.com if you have any questions.

Very truly yours,
WHITMAN, REQUARDT AND ASSOCIATES, LLP



Kelly Moore
Environmental Scientist

Enclosure: Site Location Map
Original Correspondence Letter

cc: Dennis Hasson
Aaron Keel



WHITMAN, REQUARDT AND ASSOCIATES, LLP
801 South Caroline Street
Baltimore, MD 21231

Engineers
Architects
and
Planners

Phone: (410) 235-3450
Fax: (410) 243-5716

MEMORANDUM OF MEETING

Date: November 2, 2004

Date of Meeting: October 27, 2004
Time: 10:00 AM

Location: National Park Service, C&O Canal NHP HQ
1850 Dual Highway, Hagerstown, MD

Project: New Design Raw Water Main/McKinney Treated Effluent Outfall
NPS Special Use Permit
WR&A WO #13550

Attendees:

Lynne Wigfield	NPS, Compliance Officer
Bill Justice	NPS, Acting Deputy Supt. C&O NHP
Dan Copenhagen	NPS, Civil Engineer
Marie Frias Souter	NPS, Resource Mgmnt.
Bill Spinrad	NPS, Lands Mgmnt.
James Perry	NPS, Historian
Kevin Demosky	Frederick County, DUSWM
Art Campbell	Frederick County, DUSWM
Dennis J. Hasson, P.E.	WR&A
Aaron Keel	WR&A
Colby Child	RCG

On October 27, 2004, the National Park Service (NPS) and Frederick County (w/ WR&A & RCG) met to discuss the status of the New Design Raw Water Main/McKinney Treated Effluent Outfall project through the Chesapeake and Ohio Canal National Historic Park (C&ONHP). This meeting was a follow-up to a series of previous meetings on the proposed Frederick County water/wastewater system improvements that affect NPS properties.

The series of previous meetings were primarily associated with the New Design Water Transmission Main through the Monocacy National Battlefield Park (MNBP). The environmental compliance process for that project is complete, including Section 404 CWA, Section 106 NHPA, and NPS Special Use Permit (SUP)/NEPA efforts. The purpose of this meeting was to re-introduce the NPS C&ONHP staff to the project, and to provide an overview of the recently completed conceptual design for the project. The NPS also refers to this park with the acronym CHOH.

The following are significant points from this meeting:

1. Frederick County is pursuing 5 major water contracts, pursuant to the Frederick County Comprehensive Growth plans. The New Design Raw Water Main/McKinney Treated Effluent Outfall project is one of the five projects. The New Design Water Transmission Main (@ MNBP) was also one of the five contracts.

2. The New Design Raw Water Main/McKinney Treated Effluent Outfall project has advanced to a 30% design stage. Dennis Hasson discussed the details of the project relating to three exhibits of the conceptual alignments/preferred alternative. Kevin Demosky and Dennis led the discussion of the current concept and conditions of the project:
 - a. Existing infrastructure in this study area, includes:
 - New Design raw water intake pumphouse (constructed in 1968),
 - Existing County 75-foot right-of-way from the CSX railroad to the C&O Canal,
 - Existing 24-inch raw water line,
 - Existing 18-inch treated effluent main (extending parallel to the 24-inch water main) and McKinney Potomac River treated effluent diffuser.
 - Existing duct bank with approximately 15-foot right-of-way, for control/communications at the pumphouse.
 - Existing infrastructure must stay in service during construction.
 - b. Proposed infrastructure – 3 new underground utilities:
 - 42-inch raw water main, from the pumphouse to the New Design Water Treatment Plant (WTP)
 - 42-inch treated effluent main, extending parallel to the existing 18" outfall, stopping at a proposed junction box, near the C&ONHP tow path.
 - New additional duct bank for electrical service to the pumphouse, within existing duct bank ROW.
 - Water and treated effluent lines must maintain a minimum 10-foot separation. The proposed CSX rail line crossings will require minimal additional right-of-way.
 - Proposed activities do not involve construction within the limits of the Potomac River (either at intake or existing McKinney effluent diffuser).
3. The proposed 42-inch effluent main has surplus capacity to address long-term projected growth and can accommodate proposed future regional treated effluent volumes. This effluent main has the capacity to accommodate a future McKinney Wastewater Treatment Plant (WWTP) and potential future redirected treated effluent from the Ballenger Creek WWTP (currently discharging into the Monocacy River). The current discharge from the Ballenger Creek WWTP is 6 million gallons per day (MGD) on an average daily flow basis. The future McKinney WWTP will be located within a business/industrial park, to the south of the Ballenger Creek WWTP and will discharge treated effluent to the Potomac River.
4. No pumping stations are proposed within C&ONHP lands.

5. Construction of the 42-inch mains may require excavations that are approximately 10-feet deep.
6. In the future, as more effluent volume is required, the Potomac River diffuser will likely require modifications. However, existing growth projections do not justify work within the Potomac River at this time.
7. The proposed 18" effluent diffuser junction box will be a below ground structure. The surface appearance can be contained to a ground level concrete pad with manholes.
8. NPS noted that this project's SUP NEPA evaluation should include a brief narrative of the future outfall modifications. The NEPA should acknowledge that future outfall modifications may be necessary. However, the NEPA should note that no funds exist to upgrade the outfall and any outfall upgrades would be associated with a future action that would be connected to this activity.
9. Kevin and Dennis provided a more detailed discussion of the profiles and nature of force mains versus pressure gravity lines.
10. NPS expressed concerns about the visual impacts of vents within the park. Dennis responded that at MNBP, WR&A strategically placed vents in locations that were acceptable to NPS. This project will adopt the same approach.
11. NPS expressed concerns about proposed changes to the existing pumphouse building footprint. Kevin noted that the initial phase of the New Design Raw Water Main/McKinney Treated Effluent Outfall project will not require changes to the pumphouse footprint. Kevin Demosky will verify any footprint changes with the pumphouse consultant, RK&K.
12. Kevin also noted that Frederick County is pursuing, under a different contract, replacing/upgrading the pumps at the existing pumphouse. WR&A is not associated with the New Design intake pumps project. That contract will determine any structural footprint modifications required. If that contract will affect NPS lands, Frederick County will discuss the Special Use Permit implications with C&ONHP Staff, at that time. Bill Spinrad, NPS, noted that if pump upgrades drive building footprint changes, those impacts must be included within a single unified NEPA evaluation.
13. Dennis noted that the earliest possible start of construction would be late summer 2005, and that the duration of the construction with the C&ONHP should be limited to 3 to 5 months. WR&A wants to have an NPS accepted Draft NEPA EA by mid-spring 2005 and an approved Final NEPA EA by early summer 2005.
14. The NPS inquired by what means will Frederick County cross the C&O Canal and towpath. The County responded that the existing infrastructure was installed via cut-and-cover construction. This project proposes similar construction practices. WR&A will investigate less intrusive construction techniques (such as jack-and-bore or drilling) however, geological conditions and the requirements of the 42-inch mains may render those options infeasible.
15. The NPS noted that the C&O Canal and Towpath are National Register Listed historic structures. Generally, the NPS does not close the towpath, and detour options in this vicinity are limited. The project must include plans to ensure uninterrupted use of the towpath and boat ramp. In

addition, Dan Copenhagen discussed the dangers and potential infeasibility of open cut along the Nolands Ferry bridge abutment.

16. NPS noted that other unrelated parties (Semptra Energy) have expressed an interest in co-located construction within the New Design Raw Water Main/McKinney Treated Effluent Outfall project area. Lynne Wigfield indicated that NPS prefer to address all known development within the County right-of-way in a single NEPA evaluation. NPS would like some assurance that repeated construction disruption of the C&ONHP won't occur within a specified timeframe. Kevin Demosky stated that the Semptra Energy proposal is unrelated to the County's infrastructure projects and should be evaluated separately.
17. WR&A and RCG inquired about the special use permit and the ARPA permit. Lynne Wigfield indicated that the Special Use permit for WRA could be extended and would need further coordination. Dr. Stephen Potter, NPS, has extended ARPA permits in the past; however, due to this project longevity it may be worth while to reapply. Colby Child inquired about the nature of the activities which must be completed within the period specified in line 4 of the ARPA. Lynne responded that generally the ARPA applies to the actual fieldwork and that analysis and reporting would be carried out afterward. The ARPA could expire after fieldwork was complete and during the analysis and reporting period. NPS deferred to Dr. Stephen Potter, NPS on ARPA issues.
18. Bill Spinrad asked about deed and ownership of the New Design Road portion between the CSX railroad and the Canal. His understanding was that the NPS owned it and Frederick County had an easement. Art Campbell stated that Frederick County owned the 75' right-of-way in fee simple. Art provided a copy of his deed to Bill Spinrad. After reading the deed, Bill Spinrad determined that Frederick County only held an easement on the NPS property, and that the fee simple ownership applied to two parcels on the north side of the CSX alignment.
19. Bill Justice requested any photo documentation of the previous construction for the existing 18" line, 24" main and duct bank.

ACTION ITEMS

1. WR&A to provide Lynne Wigfield, NPS:
 - a. 2 sets of 30% plans,
 - b. CADD files of the plans with projection,
 - c. Metes and bounds of conceptual easements (PE/TCE)
2. Frederick County will locate photos of the previous utility construction in this region.
3. WR&A will identify the status of the existing Special Use Permit and request an extension of the previous approval to Marie Sauder (cc: Lynne Wigfield). WR&A will also provide a boring plan and include the boring stake-out and data collection within this activity.
4. RCG will contact Dr. Stephen Potter, NPS, to define the next steps for archeological investigations.

The above is a memorandum of understanding between the parties regarding the topics discussed and the decisions reached. Any participants desiring to add to, or otherwise amend the minutes, are requested

to put their comments in writing to the writer within seven (7) days; otherwise, the minutes will stand as written.



Aaron M. Keel, AICP, Project Planner

cc: Attendees



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office

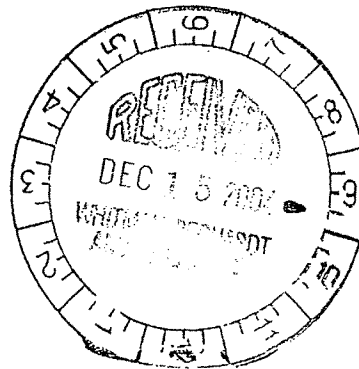
177 Admiral Cochrane Drive

Annapolis, MD 21401



December 13, 2004

Ms. Kelly Moore
Whitman, Requardt and Associates, LLP
801 South Caroline St.
Baltimore, MD 21231



RE: *McKinney Wastewater Treatment Plan, WR&A WO#13550, Frederick County, MD*

Dear Ms. Moore:

This responds to your letter, received October 22, 2004, 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.

An additional concern of the Service is wetlands protection. Federal and state partners of the Chesapeake Bay Program have adopted an interim goal of no overall net loss of the Basin's remaining wetlands, and the long term goal of increasing the quality and quantity of the Basin's wetlands resource base. Because of this policy and the functions and values wetlands perform, the Service recommends avoiding wetland impacts. All wetlands within the project area should be identified, and if construction in wetlands is proposed, the U.S. Army Corps of Engineers, Baltimore District, should be contacted for permit requirements. They can be reached at (410) 962-3670.

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interests in these resources. If you have any questions or need further assistance, please contact Maricela Constantino at (410) 573-4542.

Sincerely,

G. A. Moser

G. Andrew Moser
Acting Program Supervisor, Threatened and Endangered Species

Partners:

C. Richard Lortz
John S. Maynes
Joseph S. Makar
David B. McCormick

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December 22, 2004

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Lynne Wigfield
Compliance Officer
National Park Service
C&O Canal National Historical Park
1850 Dual Highway, Suite 100
Hagerstown, Maryland 21740-6620

Re: New Design Raw Water Main/McKinney
Wastewater Effluent Outfall Pipe
C&O Canal NHP
WO#: 13550

Dear Lynne:

The following transmittal is a follow-up to our meeting on October 27, 2004 regarding the Frederick County DUSWM proposed New Design Raw Water Transmission Main and McKinney Treated Wastewater Effluent Outfall Pipe within the NPS C&O Canal National Historical Park (C&O NHP) management area. The minutes of that meeting were previously distributed. Enclosed herein are:

- A) 2 sets of full-size prints of the 30% preliminary engineering plans of the proposed alignments.
 - Including a boring plan of proposed geotechnical investigations (more detail below).
- B) Draft Special Use Permit for additional investigations (more detail below).
- C) Draft NEPA Environmental Assessment Outline

Item A) WR&A has been coordinating with Marie Frias Sauder, NPS C&O NHP, on the electronic transfer of the CADD files. The CADD files were emailed directly to Ms. Frias-Sauder as .dxf files on December 20, 2004. The set of 30% preliminary engineering plans includes the proposed boring locations. The following borings are depicted on sheet C-1, of the attached December 2004 plan set, within the C&O NHP area: RW-1, RW-2, RW-3, UE-1, UE-2, UE-3, and FM-1.

At the October, 2004 meeting we discussed providing metes and bounds of conceptual easements (PE/TCE) within the C&O NHP. As of this date, those metes and bounds are not yet defined. We will provide property metes/bounds data as soon as possible. In the interim, the LOD is defined; the easements will be based on the LOD.

Item B) The previous Special Use Permit for survey work, property work, environmental work, and geotechnical boring stake-out expired on July 31, 2004. We are requesting a new Special Use Permit to advance the project, including:

- 1) Supplemental property and topographic survey and environmental investigations (if needed),
- 2) Subsurface investigations for soil corrosivity studies and locating utilities (test pits may be needed),
- 3) Conducting Geotechnical borings in accordance with the approved boring plan, and
- 4) Field investigations for State and Federal permits.

This Special Use permit is intended to cover multiple events. Although the permit is requested from February 1, 2005 through June 30, 2005, we anticipate being on-site for a maximum of 30 days total during this period. Each on-site event will clean-up and restore the area immediately upon completion. Please transmit this material to Ms. Swauger, or others, as is necessary.

Item C) As required by the NPS Special Use permit to construct this project, we are currently developing the Draft Environmental Assessment (EA) for the New Design Raw Water Main and McKinney Treated Effluent Outfall Pipe at the C&O Canal NHP. The document is being developed in accordance with NPS DO-12 Handbook NEPA Guidance. The NEPA EA will follow a format similar to the recent New Design Water Transmission Main at Monocacy National Battlefield document. Attached is a draft outline for this document. We hope to transmit the Draft EA for your review before Spring 2005.

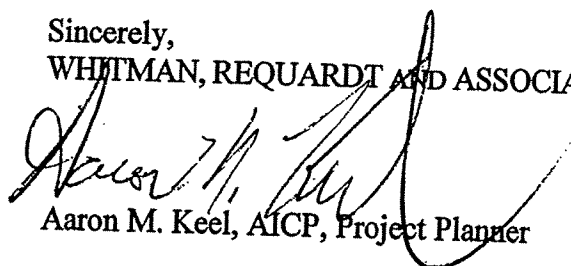
At the October, 2004 meeting we discussed providing photos of previous utility construction in this region. The County DUSWM is trying to locate those photos. We will provide the pictures as soon as possible. DUSWM may not be able to locate those photos within the timeframes of this project.

The existing NPS ARPA permit will expire this month. Our specialized subconsultant, R. Christopher Goodwin, Inc., (RCG) will contact Dr. Stephen Potter, NPS to discuss the ARPA permit. Sometime in mid-January, RCG will contact Dr. Potter and yourself to negotiate the appropriate requirements for future archeological investigations within this project area.

If there are any questions or concerns, or to request additional copies of any material referenced in this letter, please contact me at (410) 235-3450, ext. 1622, or akeel@wrallp.com.

Sincerely,

WHITMAN, REQUARDT AND ASSOCIATES, LLP



Aaron M. Keel, AICP, Project Planner

Enclosures: 2 sets full-size 30% plans, Special Use Permit Application, Draft EA Outline.

cc: Kevin Demosky, Fr. DUSWM
Dennis Hasson, WR&A
Christopher Polglase/Colby Child, RCG