



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE  
Blue Ridge Parkway  
199 Hemphill Knob Road  
Asheville, North Carolina 28803

L7617  
PIN 12703

**FINDING OF NO SIGNIFICANT IMPACT  
RIGHT-OF-WAY PERMIT FOR WATAUGA COUNTY BOARD OF EDUCATION  
TO UTILIZE A NCDOT DEED RESERVED ROADSIDE PARK**

**Watauga County, North Carolina  
Blue Ridge Parkway  
USDI, National Park Service**

**INTRODUCTION**

The National Park Service (NPS) has prepared an Environmental Assessment (EA) that evaluates issuing a Right-of-Way permit (ROW) to the Watauga County Board of Education (School Board) in North Carolina. The School Board has requested that the NPS, Blue Ridge Parkway (Parkway) issue a 10-year ROW permit to the school board. The permit would allow the school board to utilize a North Carolina Department of Transportation (NCDOT) deed reserved roadside park that is on park land adjacent to the Parkway Elementary School (school).

The park is administered by NCDOT, but with the completion of the new U.S. Highway 421, NCDOT has closed the roadside park during the week. The roadside park is located on Old U.S. Highway 421. The NCDOT has indicated to the school board that the reserved rights for the roadside park will be relinquished to the NPS when the park is discontinued and a permit issued to the School Board.

A chain link fence separates the school campus from the roadside park. One 20-foot wide ingress/egress is deed reserved across Parkway land for the benefit of the School. The School Board has stated that the ingress/egress at the intersection with Old U.S. Hwy 421 is at times clogged with traffic during winter storms and is seeking a second ingress/egress across Parkway land to Old U.S. Hwy 421 in order to more safely facilitate the flow of school buses and School traffic onto and off the school campus. Additionally, the School's water supply comes from a well located on Federal land and the School needs authority from the Parkway to continue to use the well. The School also needs additional parking space.

The NPS authority for issuing a ROW permit for the stated purpose can be found in 16 USC Section 1a-1; Section 460a-2 and Section 460a-8; Title 36 CFR, Part 14; 245 DM 5.1; and DO #53, *Special Park Uses*. The permit would allow the construction, operation and maintenance of an access road, parking lot, and landscaped areas within the boundaries of the Parkway for the School. The School is located at Parkway Milepost (MP) 281, Parkway Right (PwR), Section 2-F, Station 237.

It should also be noted that the use of the well for the School (water rights) will be addressed under a different process than the ROW permit. The ROW permitting process is not the appropriate way to authorize use of water on Federal land. For the NPS, there are several legal and policy issues associated with use of the well on NPS land that remain to be resolved; however, the NPS is committed to working with the Watauga County Board of Education to reach a satisfactory conclusion.

The NPS has prepared this EA in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 United States Code 4321 et seq.), the Council on Environmental Quality (CEQ) regulations (40 Code of Federal Regulations 1500 through 1508) for implementing NEPA, and the NPS NEPA compliance guidance handbook (Director's Order (DO)-12, *Conservation Planning, Environmental Impact Analysis, and Decision-making*).

## **PREFERRED ALTERNATIVE**

The NPS has selected the Preferred Alternative (Alternative B) from the EA, which is to issue a ROW permit to the Watauga County Board of Education to utilize a deed reserved roadside park on Parkway lands. The mitigations and other features of Alternative B evaluated in the EA substantiate features of this decision.

As part of the Preferred Alternative, the permit would contain the following conditions:

- Removal of all existing improvements for NCDOT roadside park as shown in the EA upon signing of permit; widen deed reserved west entrance (improvement is shown on the Site Plan in Figure 2.2-1 in the EA; the road is being widened from approximately 20 to 40 feet); widen bus drop-off ingress/egress (west entrance); addition/creation of a non-deed reserved east entrance/exit; addition/creation of approximately 60 parking spaces with sidewalk, curbing, striping and landscape treatments; and rehab to existing storm sewer and ditch line. The design intent will be to remove all existing improvements such as retaining walls, comfort station, fencing, picnic tables and pads, and similar above ground development within the roadside park except the existing road. The alignment and pavement of the existing road will be reused, with some alterations, as access to additional parking, as shown in Figure 2.2-1 in the EA.
- Remaining unimproved land between School boundary and Old U.S. Hwy 421 within entire ROW will be maintained by the permittee and will be replanted with native plant material as shown in Figure 2.2-2 in the EA.

- The existing forest will be cleared only where existing parking area will be developed, roads widened, or roads improved as shown in Figure 2.2-1 in the EA. New 2-inch diameter trees of the same species will be planted within the ROW to replace those trees cleared during construction. Additional trees, shrubs, and hedges will be planted as shown in the landscape replanting plan in the EA. As much forest as possible will be retained to maintain a visual screen barrier of the School building. Parkway natural resource management staff will recommend treatment of the hemlock trees for Hemlock Woolly Adelgid. Replacement of dead hemlock or pine trees designated as hazardous, along with oak, maple, and the hickory forest will also be desired and recommended.
- Permit will automatically terminate if and when the Watauga County Board of Education ceased to utilize and operate the facilities as an educational facility.
- At the termination of the permit, all improvements to Federal land allowed under this permit will be removed at the expense of the permittee and the land will be restored as per the Site Rehabilitation Plan as shown in the EA as Figure 2.2-3.

## **ALTERNATIVES CONSIDERED**

The EA analyzed two alternatives, including Alternative A, the No-Action Alternative, and Alternative B, the Preferred Alternative. Under the No-Action Alternative, the existing roadside park would continue to be maintained and operated by NCDOT and the School would continue to experience traffic flow problems since there is only one route for ingress/egress. If NCDOT would cease to use the area as a roadside park, then the land would be rehabilitated to undeveloped Parkway land.

## **ENVIRONMENTALLY PREFERRED ALTERNATIVE**

The environmentally preferred alternative is determined by applying the criteria suggested in NEPA, which is guided by the CEQ. The CEQ provides direction that “the environmentally preferable alternative is the alternative that will promote the national environmental policy as expressed in NEPA (Section 101(b)).” The six NEPA goal statements include:

- (1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;*
- (2) Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;*
- (3) Attain the widest range of beneficial uses of the environment without degradation, risk to health and safety, or other undesirable and unintended consequences;*
- (4) Preserve important historic, cultural, and natural aspects of our national heritage, and maintain wherever possible, an environment which supports diversity and variety of individual choice;*
- (5) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and*
- (6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.*

Following environmental analysis, the environmentally preferred alternative is the alternative that causes the least damage to the biological and physical environment or that best protects and enhances the natural, historic, and cultural resources of the site. Alternative A would not contribute to meeting any of the six NEPA goals. Conversely, Alternative A would detract from meeting two of the goals. Alternative B will contribute to meeting four of the six NEPA goals in the project area.

Neither Alternative A nor Alternative B would much contribute to or detract from enabling the NPS to “*fulfill the responsibilities . . . as trustee of the environment.*”

“*Safe, healthful, . . . and esthetically . . . pleasing surroundings*” will better be attained by Alternative B. This alternative will provide a safer traffic flow pattern for the School while reducing safety hazards. Alternative B provides improvements to the site, and landscaped areas will eventually enhance the visitor use and experience, including visual resources when driving along this section of the Parkway.

Alternative B will provide a “*range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences.*” The overall effect of Alternative B will improve the project site based on the terms and conditions within the permit, and a landscape replanting plan will be implemented reducing and/or eliminating diseased trees, providing long-term beneficial impacts the overall forest health. Additional viewshed screening for Parkway visitors will be created under Alternative B, as well.

Neither Alternative A nor Alternative B would much contribute or detract from helping to “*preserve important historical, cultural, and natural aspects of our national heritage.*” Since all construction will take place within the existing roadside park site, and no cultural resources are present, neither alternative would have any effect on historical or cultural resources.

Alternative B will aid in achieving “*a balance between population and resource use that will permit high standards of living and a wide sharing of life’s amenities*” by providing the school with the only feasible option to accomplish their goal. Alternative A would actually detract from this goal since there would be no ingress/egress improvements to the site, therefore resulting in continued safety concerns.

Using the same criterion, Alternative B will also aid in achieving “*a balance between population and resource use*” by providing the School with a safer traffic flow pattern and use of the roadside park.

By initiating the landscape replanting plan, Alternative B will increase native plant species within the immediate area, therefore enhancing “*the quality of renewable resources...*”

Of the two alternatives, Alternative B is environmentally preferred. The deciding factors include:

The reduction and/or elimination of diseased trees and the planned landscape planting will benefit overall forest health and be in keeping with plants native to this section of the Parkway, while providing a better visitor experience traveling the Parkway;

The School will be allowed additional ingress and egress to facilitate safer and more efficient traffic flow to the School property, as well as the use of the roadside park.

### **WHY THE PREFERRED ALTERNATIVE WILL NOT HAVE A SIGNIFICANT EFFECT ON THE HUMAN ENVIRONMENT**

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

#### ***Impacts that may be both beneficial and adverse:***

Because a large majority of the trees at the project site are dead and/or dying due to past storm incidents and/or diseases, the Preferred Alternative will provide long-term, moderate beneficial impacts to the overall forest health. Long-term, negligible, beneficial impacts to the reduction of non-native and/or invasive species on the surrounding native plant communities will result from Alternative B, with implementation of mitigation measures. Native species in the area will experience long-term beneficial impacts, as well.

Only temporary, negligible, adverse impacts on the visual quality of the project site and on transportation (from associated traffic and construction equipment and any generated dust during construction activities) will occur during construction under the Preferred Alternative. However, long-term, minor to moderate, beneficial impacts visual resources will be enhanced by the substantial screening that will occur as part of the landscape replanting plan which will obscure the school and disturbed areas visible from the Parkway. Also, a healthy forest will be preserved as well under this alternative, and its value as a visual barrier to non-agricultural development will be preserved resulting in long-term beneficial impacts to Parkway visitor use and experience, including visual resources.

#### ***Degree of effect on public health and safety:***

Although the Preferred Alternative would have temporary, negligible, localized, adverse impacts on public and worker health and safety (from storage, handling, and use of equipment and during construction activities), long-term, negligible, beneficial impacts on human health and safety are anticipated due to eliminating associated safety hazards by improving the existing traffic flow to the school. Public health and safety risks would be under control by the School Board and would be managed in compliance with applicable state and Federal regulations; therefore, this alternative would be in compliance with NPS Management Policies for ensuring visitor safety.

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

As discussed in the EA, there are no prime farmlands, wetlands, wild and scenic areas, or ecologically critical areas that would be affected by implementation of the Preferred Alternative. In addition, the project would not directly, indirectly, or cumulatively affect historic and cultural resources.

***Degree to which effects on the quality of the human environment are likely to be highly controversial:***

During the public review period the Parkway did receive one comment against issuing the ROW permit to the School Board. However, 152 comments were received in favor of granting the ROW permit. Therefore, no highly controversial effects were identified during either preparation of the EA or the public review period.

***Degree to which the possible effects on the quality of the human environment are highly uncertain, or involve unique or unknown risks:***

There were no highly uncertain or unique or unknown risks identified during preparation of the EA or the public review period.

***Degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration:***

If the Preferred Alternative is implemented, the ROW permit will allow the School Board to meet its requirement for additional ingress and egress to facilitate safer and more efficient traffic flow from U.S. Highway 421 to the School property. However, any NPS ROW permit would expire in not more than 10 years from date of issue, and renewal would be based on a reassessment of continuing need and past adherence to permit requirements. These activities will not result in significant adverse effects on the natural or human environment; overall environmental effects will be beneficial. The Preferred Alternative does not represent a decision in principle about a future consideration.

***Whether the action is related to other actions with individually insignificant, but cumulatively significant, impacts:***

As described in the EA, the action is not related to other actions with individually insignificant but cumulatively significant impacts.

***Degree to which the action may adversely affect districts, sites, highways, structures, or objects listed on National Register of Historic Places (NRHP) or may cause loss or destruction of significant scientific, cultural, or historical resources:***

In accordance with Section 106 of the National Historic Preservation Act, consultation and comment were solicited from the North Carolina State Historic Preservation Officer (SHPO). As discussed in the EA, no historic properties, cultural resources or cultural landscapes will be affected by implementation of the Preferred Alternative.

After applying the Advisory Council on Historic Preservation's criteria of adverse effects (36 CFR Part 800.5, *Assessment of Adverse Effects*), the NPS concludes that implementation of the Preferred Alternative would have *no effect* on cultural resources at the project site. The SHPO concurs with the Parkway's finding of No Adverse Effect on cultural resources.

***Degree to which the action may adversely affect an endangered or threatened species or its critical habitat:***

The United States Fish and Wildlife Service (USFWS), the North Carolina Natural Heritage Program (NCNHP), and the North Carolina Wildlife Resources Commission (NCWRC) were contacted regarding potential impacts of the project on natural heritage resources, including rare, threatened, or endangered plant and animal species. Surveys of the project site did not result in the discovery of any Federal or State-listed threatened or endangered plants or animals, and none will be affected by the Preferred Alternative. In addition, the Parkway database has no records of Federal or State-listed plant or animal species from the project site, and no such species should be affected by the project.

In a letter dated August 30, 2006, the USFWS recommended surveying the project area prior to any on-the-ground activities if suitable habitat were to be present. However, it was determined that no formal Section 7 consultation was necessary. The NCNHP concurred with the USFWS recommendation in a letter dated October 17, 2006. The above recommendations from the USFWS and NCNHP have been incorporated into the permit under *Terms & Conditions, General, No. 29*.

In a response letter from the NCWRC dated September 1, 2006, it was requested that any new construction incorporate Low Impact Development (LID) practices and autochthonous plant species. This recommendation has been incorporated in the *Terms & Conditions, Construction & Maintenance Activities, No. 1*, within the permit.

***Whether the action threatens a violation of Federal, State, or local environmental protection law:***

The implementation of the Preferred Alternative violates no Federal, State, or local environmental protection laws.

**IMPAIRMENT**

In addition to reviewing the list of significance criteria, the NPS has determined that implementation of the Preferred Alternative will not constitute an impairment to the Parkway's resources and values. This conclusion is based on a thorough analysis of the environmental impacts described in the EA, the public comments received, relevant scientific studies, and the

professional judgment of the decision-maker guided by the National Park Service Organic Act, the General Authorities Act, and National Park Service *Management Policies 2006*. As described in the EA, implementation of the Preferred Alternative will not result in major, adverse impacts to a resource or value whose conservation is (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the Parkway; (2) key to the natural or cultural integrity of the Parkway or to opportunities for enjoyment of the Parkway; or (3) identified as a goal in the Parkway's General Management Plan or other relevant NPS planning documents.

## MITIGATION

Mitigation measures were analyzed as part of the action alternative. Mitigation measures have been designed to minimize, reduce, or eliminate the impacts from proposed activities under the Preferred Alternative (Alternative B). These practices and measures will be incorporated into the project construction documents and plans. Mitigation measures undertaken during project implementation will include, but will not be limited to those listed below.

These mitigation measures will be listed within the ROW permit as “Terms and Conditions” (see below).

### *Terms & Conditions*

#### General

- 1) This permit shall not be construed as a permanent interest in the land of the ROW or as an abandonment of use and occupancy by the United States, but shall be considered a use of the land as described, anything to the contrary notwithstanding.
- 2) This ROW permit may be terminated upon breach of any of the stated conditions or at the discretion of the Regional Director of the NPS. Permittee would be given written notice and thirty (30) days to allow an opportunity for corrective actions before termination may occur. The written notice shall describe the specific violations of the permit. If Permittee does not correct the violations to the satisfaction of the NPS, or present a reasonable plan acceptable to the NPS within the 30-day period, then the NPS shall be entitled to revoke this permit.
- 3) Permit would not be in effect and construction of the improvements may not begin until:
  - a) The Parkway has completed an onsite pre construction meeting.
  - b) The NCDOT has quit claimed or relinquished its deed reservation for roadside park, and all existing improvements of the roadside park have been removed.
- 4) Permit shall allow for development of Federal land according to the construction documents and Landscape Plan attached to the permit. Note details of plan allow for the following:
  - a) Widen deed reserved west entrance road from deed reservation of 20 feet to an access road that tapers from 30 feet to 45 feet.
  - b) Widen bus drop-off ingress/egress (west entrance).
  - c) Addition/creation of a new access road (east entrance/exit where no deed reservation exists at a width of 25 feet).



- d) Addition/creation of 60 parking spaces with sidewalk.
  - e) Storm sewer and ditch line rehabilitation.
- 5) Remaining unimproved land between School and Old U.S. Hwy 421 shall be maintained by the Permittee as open space and shall be planted with native plant material as shown in the plan.
  - 6) Permit shall automatically terminate when the Watauga County Board of Education closes the School and ceases to use the site for educational purposes.
  - 7) At the termination of the permit, all improvements to Federal land allowed under this permit shall be removed at the expense of Permittee and the land restored as per the restoration plan.
  - 8) The Permittee shall comply with all applicable State and Federal laws and existing regulations promulgated thereunder in the construction, operation, and maintenance of the subject Access Road, Parking Lot, and Landscaped Areas.
  - 9) The Superintendent or his representative (Highlands District Ranger (336)372-8568, notified in writing no less than 2 weeks prior to the start of maintenance or construction on park lands. An on-site meeting would be conducted no less than one week prior to start of maintenance or construction between representatives of the Parkway and the Permittee construction/maintenance supervisor to determine and clarify the scope of the project and any requirements of the NPS. Except in extraordinary situations and with the agreement of the Superintendent, or as determined at or prior to the on-site meeting above, all work on Parkway lands would be conducted on a Monday through Friday, 8:00 am through 5:00 pm basis. All work on Parkway lands shall be completed to the satisfaction of the Superintendent or his or her representative.
  - 10) A copy of this authorization and all attachments must be onsite and available for review by Parkway personnel at all times. Failure to present these materials or adhere to the terms and conditions included herein would result in all construction activities to cease immediately.
  - 11) The Permittee shall have a right of ingress and egress within the permitted ROW at all times for the purposes of maintaining and operating the existing Access Road, Parking Lot, and Landscaped Areas and appurtenances.
  - 12) If any portion of the Access Road, Parking Lot, and Landscaped Areas are to be installed underground within the road shoulders of public roads, they shall comply with the specifications of the highway department having jurisdiction. Detailed procedures of installation are also subject to approval in advance of construction by the Superintendent or his representative.
  - 13) If required, the Permittee shall file a performance bond with satisfactory surety payable to the Permittor to fully insure compliance with the permit terms and conditions.

- 14) The Permittee shall be responsible to pay the Permitter for any damage resulting from this permit which would not reasonably be inherent in the use which the Permittee is authorized to make of the land. The Permitter would give the Permittee written notice of such damage and the Permittee would either take corrective action or pay the indicated amount as agreed upon and approved by the Superintendent.
- 15) Use by the Permittee of the land is subject to the right of the Parkway to establish trails, roads, and other improvements and betterments over, upon, or through said premises, and further to the use by travelers and others of such roads, trails, and other improvements already existing. If it is necessary to exercise such right, every effort shall be made by the Parkway to refrain from unduly interfering or preventing use of the land by the Permittee for purposes intended under this permit.
- 16) The Permittee shall take adequate measures as directed and approved by the Superintendent to prevent or minimize damage to Parkway resources. This may include restoration, soil conservation and protection measures, landscaping, and repairing roads, trails, fences, etc. The Permittee shall dispose of brush and other refuse as required by the Superintendent. The Superintendent or his representative may inspect the ROW area as deemed necessary.
- 17) In the event any facilities covered by this permit should interfere with future Parkway construction, Permittee agrees to relocate them to a point designated by the Superintendent at no cost to the Permitter within 60 days after written notice.
- 18) The Permittee agrees that the ROW shall be subject to the express condition that the use would not unduly interfere with the management and administration by the NPS of the lands. Further, the Permittee agrees and consents to the occupancy and use by the Parkway, its Permittees or lessees, of any part of the right-of-way not actually occupied or required by the project, or the full and safe utilization, for necessary operations incident to such management, administration, or disposal.
- 19) Upon expiration, revocation, or termination of this permit, the Permittee shall leave the land subject to the permit in as nearly the original condition as possible, as directed and approved by the Superintendent.
- 20) During the performance of this permit, the Permittee agrees that it shall not discriminate against any person because of race, color, religion, sex, disability, or national origin. The Permittee shall take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex, national origin, disability, or age.
- 21) No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this permit or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this permit if made with a limited partnership for its general benefit.
- 22) This permit is not transferable to another party.

- 23) This agreement is made upon the express condition that the United States, its agents and employees shall be free from all liabilities and claims for damages and/or suits for or by reason of any injury, or death to any person or property of any kind whatsoever, whether to the person or property of the Permittee, its agents or employees, or third parties, from any cause or causes whatsoever while in or upon said premises or any part thereof during the term of this agreement or occasioned by any occupancy or use of said premises or any activity carried on by the Permittee in connection herewith, and the Permittee hereby covenants and agrees to indemnify, defend, save and hold harmless the United States, its agents and employees from all liabilities, charges, expenses and costs on account of or by reason of any such injuries, deaths, liabilities, claims, suits or losses however occurring or damages growing out of the same.
- 24) Any alterations to this permit must be in writing and signed by the parties. Renewals shall be subject to regulations existing at the time of renewal and such other terms and conditions deemed necessary to protect the public interest.
- 25) Nothing herein contained shall be construed as binding the NPS to expend in any one fiscal year any sum in excess of appropriations made by Congress or administratively allocated for the purpose of this permit for the fiscal year, or to involve the NPS in any contract or other obligation for the further expenditure of money in excess of such appropriations or allocations.
- 26) The Permittee agrees that the permitted ROW would be subject to the express covenant that it shall be modified, adapted, or discontinued if found by the Permitter to be necessary, without liability or expense to the Permitter, so as not to conflict with the use and occupancy of the land for any authorized works which may hereafter be constructed thereon under the authority of the Permitter.
- 27) The Permittee shall at all times keep the Superintendent or his representative informed of Permittee's address, and, in the case of limited partnerships, of the address of Permittee's principal place of business.
- 28) No part of the construction, maintenance, operation, replacement, or removal of any part of this Access Road, Parking Lot, and Landscaped Areas, structure, or other facility authorized by this permit shall be accomplished at the expense of the Permitter.
- 29) Watauga County Board of Education shall be in compliance with NEPA regulations during the duration of this permit. Should rare plant species or plants growing within the permitted ROW become listed on State or Federal lists after construction, Permitter shall require mitigating measures from the Permittee or relocation of Access Road, Parking Lot, and Landscaped Areas. Should mitigation measures require relocation of subject Access Road, Parking Lot, and Landscaped Areas, all environmental and cultural requirements applicable to said relocated Access Road, Parking Lot, and Landscaped Areas shall be satisfied prior to construction.

Construction/Maintenance Activities

- (1) The Permittee shall incorporate LID practices as recommended by the NCWRC. Information on LID practices and measures can be found at [www.lowimpactdevelopment.org](http://www.lowimpactdevelopment.org).
- (2) The Permittee shall follow all requirements specified by the North Carolina Department of Environment and Natural Resources (DENR). The DENR should be contacted to determine if the DENR permit(s) and/or approvals indicated below may need to be obtained in order for this project to comply with North Carolina Law. Questions regarding these should be addressed to: North Carolina Department of Environment and Natural Resources, Winston-Salem Regional Office, 585 Woughtown Street, Winston-Salem, North Carolina 27107, telephone (336) 771-4600.
  - a) Permit to construct and operate Air Pollution Abatement facilities and/or Emission Sources as per 15 A NCAC (2Q.0100, 2Q.0300, 2H.0600).
  - b) Any open burning associated with subject proposal must be in compliance with 15 A NCAC 2D.1900.
  - c) Demolition or renovations of structures containing asbestos material must be in compliance with 15 A NCAC 2D.1110 (a)(1) which requires notification and removal prior to demolition. Contact Asbestos Control Group 919-733-0820.
  - d) Notification of the proper regional office is requested if 'orphan' underground storage tanks are discovered during any excavation operation.
  - e) Abandonment of any wells, if required, must be in accordance with Title 15A. Subchapter 2C.0100.
- (3) The Permittee shall take adequate measures, as directed and approved by the Superintendent, to insure all disturbances of vegetation, soil, and other Parkway resources shall be kept at an absolute minimum. This includes providing soil conservation and protection measures, landscaping, weed control, and repairing roads, trails, and fences. The Permittee shall dispose of brush and other refuse as required by the Superintendent. The Superintendent or his representative may at any time enter and inspect the area and facilities as deemed necessary and without restriction.
- (4) The Permittee shall notify the Parkway of emergency situations as soon as practical. In the event emergency maintenance is required after normal business hours, the Permittee should contact Blue Ridge Parkway Communication Center (828) 298-0358 or 1-800-PARK WATCH (1-800-727-5928).
- (5) Other than in emergency situations, requests for maintenance, repair, or upgrade shall be in writing and subject to written approval from the Superintendent or his representative.
- (6) The Permittee shall be responsible for the provision and maintenance of proper signs, barricades, or other means of warning motorists and pedestrians of danger during all periods of repair and maintenance.
- (7) No vegetation may be cut or destroyed without first obtaining approval from the Superintendent or his representative. The Parkway would be reimbursed for the market value

of any vegetation removed. Any vegetation that must be removed shall be replaced in kind as specified by the Superintendent.

- (8) No tree in excess of 6 inches Diameter Breast Height (DBH ) shall be cut or trimmed without obtaining a permit from the Superintendent. If any tree over 6 inches DBH is removed or trimmed without a permit, replacement value for the vegetation shall be assessed using the 1992 International Society of Arboriculturalist *Guide to Plant Appraisal*. All Pruning and limb removal shall be preformed in a manner consistent with the National Arborist Association and ANSI A300-1995.
- (9) An Erosion and Sediment Control Plan is required for this project. However, the Permittee shall follow NPS procedures outlined in the section entitled General Erosion and Sediment Control Standards.
- (10) All vegetation outside of the construction limits shall be protected with a construction barrier fence. All tree drip lines adjacent to construction shall be protected against compaction of soils.
- (11) No vehicles, equipment, or materials shall be parked or staged on Parkway land at any time before, during, or after construction.
- (12) No construction material, trash, or debris shall be stored or deposited on Parkway land.
- (13) Use of pesticides, herbicides, or growth regulating chemicals is strictly prohibited on Parkway lands and within the permitted area.
- (14) The Permittee shall immediately halt all activities, including construction, and notify the Superintendent upon discovery of threatened or endangered species or archeological, paleontological, or historical findings. All artifacts unearthed are the property of the Parkway.
- (15) Trucks, tractors, and other maintenance and construction equipment of the Permittee or its agents shall not use the Parkway motor road for access to the work area or for hauling workers, supplies, and equipment; construction, operation, and maintenance of the subject Access Road, Parking Lot, and Landscaped Areas shall be accomplished in a manner not requiring the crossing of the Parkway motor road or interfering with traffic flow by equipment.
- (16) The Permittee agrees to do everything reasonably within its power, both independently and on request of the Superintendent, to prevent and suppress fires on and adjacent to the ROW permitted herein.
- (17) Any underground utilities previously located within this ROW which are damaged or disrupted during construction or maintenance shall be repaired or restored by the Permittee within 4 hours.

Restoration/Mitigation

- (1) Upon completion of construction or maintenance, the Permittee shall restore any damages to Parkway property to the satisfaction of the Superintendent or his representative. Restoration shall consist of removing all non-native materials and scarifying all soils compacted by construction or maintenance and by amending the remaining native soils as needed to support the growth of vegetation.
- (2) All restoration and mitigation activities shall be completed within 60 days after construction/maintenance or as agreed upon.
- (3) Reseeding shall follow NPS procedures outlined in the section entitled ROW Seeding and Rehabilitation Guidelines, and shall meet an 80 percent survival rate guaranteed for 2 years. Any plant material not meeting this survival period shall be replaced at the expense of the Permittee.

General Erosion and Sediment Control Standards

An Erosion and Sediment Control Plan is required for all park projects that exceed 10,000 square feet (0.23 acres) in Virginia (Virginia Erosion and Sediment Control Regulations) and more than 43,560 square feet (one acre) in North Carolina (Sedimentation Pollution Control Act of 1973).

A. For projects smaller than those identified within the State statutes, the following guidelines shall be followed:

- (1) Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment shall be constructed as a first step in any disturbing activity and shall be made functional before up-slope land disturbance takes place.
- (2) All storm sewer inlets that are in or near or made operable during construction projects shall be protected so that sediment-laden water cannot enter the conveyance system without first being filtered or otherwise treated to remove sediment.
- (3) All erosion and sediment control devices shall be adequately maintained to assure continued performance of their intended function. Those that have sustained damage or have reached their capability shall be replaced or maintenance performed.
- (4) During construction of the project, soil stock piles and borrow areas on-site, as well as soil intentionally transported from the project site, shall be stabilized or protected with sediment trapping measures.
- (5) Permanent or temporary soil stabilization shall be applied to denuded areas within 3 days after final grade is reached on any portion of the site. Temporary soil stabilization shall be applied within 7 days to denuded areas that may not be at the final grade but would remain dormant (undisturbed) for longer than 30 days. Permanent stabilization shall be applied to areas that are to be left dormant for more than one year.
- (6) Permanent vegetative cover, in accordance with the ROW Seeding and Rehabilitation Guidelines shall be established on denuded areas not otherwise permanently stabilized.
- (7) Stabilization measures shall be applied to earthen structures, such as dams, dikes, and diversions immediately after installation.
- (8) All temporary erosion and sediment control measures shall be removed within 30 days after final site stabilization or after the temporary measures are no longer needed. This determination shall be made by the District Resource Management Specialist.

B. Standards Applicable to Access Roads: The route of construction roads shall be selected so that heavy cut and fill, sharp curves, steep grades, ledges, wet areas and unnecessary stream crossings are avoided. Where practical, existing roads shall be utilized and/or upgraded as necessary to provide access to project locations.

- (1) When necessary, streams shall be crossed at right angles. If a live watercourse must be crossed more than twice, a temporary stream crossing made of non-erodible material shall be constructed. For a very small stream, the channel may be temporarily dammed while the crossing is installed. Care must be taken to prevent the dam or the sides of the resulting pool from being over-topped. If needed, the excess flow can be conveyed around the crossing area by pumping or a temporary channel. Temporary crossings must be removed within 7 days of project completion.
- (2) Stream beds, flowing or dry, shall not be used for construction roads. When work in a live watercourse is performed, precautions shall be taken to minimize encroachment, control sediment transport, and stabilize the work area to the greatest extent possible during construction. Non-erodible material shall be used for the construction of causeways and cofferdams. Earthen fill may be used for these structures if armored by non-erodible cover materials. Only rubber-tired vehicles may enter Parkway water courses.
- (3) Stream work shall not be conducted in trout waters during trout spawning season (October 15 through April 1) unless no practical alternative exists. Approval to conduct work in streams during this time requires written approval from the Superintendent.
- (4) All applicable Federal, State, and local regulations pertaining to work in or crossing live watercourses shall be met. For any project involving the discharge of dredge or fill material to state waters, permitting by the U.S. Corps of Engineers and certification or permits from the Commonwealth of Virginia or the State of North Carolina may be required.
- (5) The bed and banks of a watercourse shall be stabilized immediately after work in the watercourse is completed.
- (6) When roads are to be located adjacent to streams, a buffer or filter strip of sufficient width (see chart for minimum widths) is to be left to prevent the silting of the stream. If a filter strip of sufficient width cannot be provided, additional perimeter controls shall be provided.

SLOPE OF LAND BETWEEN ROAD AND STREAM %	WIDTH OF FILTRATION STRIP (FEET)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

- (7) Road grades are to be kept as low as practicable and still allow adequate drainage.
- (8) On inslope or crowned roads, sufficient cross drains or drains shall be installed to direct the water from the ditch to a spillway or drain. Actual distance between cross drains or drains would depend upon the nature of the road surface materials and its tendency to erode. Advantage shall be taken of the existing terrain in locating cross drains and drains; cross drain location would generally be determined by the equation:

$$\text{Distance between drains} = \frac{1000 \text{ feet}}{\% \text{ grade}}$$

- (9) Spillways should be placed at places that are the least subject to erosion.
- (10) When a construction road crosses a natural drain, the drain shall be kept open and cleaned as required in order to prevent ponding of water. If this is impracticable, adequate stream protection such as culverts or bridges shall be installed prior to starting work. All instream work shall be in accord with standard No. 2 above.
- (11) The transport of sediment onto paved or public roads at construction access entrances shall be minimized. The use of stone construction entrance pads or other erosion and sedimentation controls shall be installed to ensure minimum deposition. Whenever vehicle tracking of sediment occurs, sediment shall be removed daily by shoveling or sweeping.

C. Standards for Structures: The following aesthetic and construction methods shall be adhered to:

- (1) All construction activities shall be performed in a manner having the least possible detrimental effect upon the surrounding terrain.
- (2) Grading of construction areas shall be held to a minimum. These areas shall be graded in a manner that would prevent erosion or slope instability. All grading



operations must have the approval of the Superintendent.

- (3) Adequate drainage of sites must be insured at all times; water should not be allowed to accumulate. Runoff from these areas shall be channeled so it would not contribute to soil erosion, slope instability, or other undesirable conditions.
- (4) Loose fill from grading operations or foundation excavation shall not be spilled on any surface where it would inhibit drainage or cause slope stability problems due to increased surcharge.

#### D. Standards Applicable to Construction Adjacent to Streams:

- (1) Trees and brush located adjacent to streams with running water shall have a filtration buffer strip left. Care shall be taken to prevent the disturbance of soil within the buffer zone around streams and ditches. The use of non-erodible material and/or culverts would be used to prevent stream siltation and bank erosion.

#### E. Standards Applicable to Special Conditions:

- (1) Where compatible with safety and space considerations, excavated soil shall be placed on the uphill side of trenches. Where such a practice would result in unsafe conditions or unnecessary traffic disruption, material may be placed on the downslope side of a trench. In such a case, an appropriate silt barrier shall be placed along the excavated material to prevent sediment deposition.
- (2) Trench dewatering devices shall discharge in a manner that would not adversely affect flowing streams, drainage systems or off-site property. If the water is muddy, water should be pumped into settling ponds.
- (3) When backfilling trenches, the backfill material shall be replaced in the order removed (with topsoil on top) and properly compacted to minimize erosion and promote stabilization.

#### ROW Seeding and Rehabilitation Guidelines

##### A. Establishment of Grass:

- (1) Grading. Unnatural or disturbed grades would be brought back to natural and/or existing grades.
- (2) Fine Grading. Drag or harrow final surfaces to a smooth and even grade. Maintain unobstructed drainage.
- (3) Bed Preparation. After final grades are achieved, remove all loose rocks, debris and clods. Spread fertilizer and limestone evenly and incorporate into the top 2 to 4 inches of loose soil. Rate per 1,000 square feet as follows:

Limestone--Agricultural limestone containing a minimum of 85% calcium carbonate or equivalent, meeting the following graduations:

- 100 percent passing a 10-mesh sieve,
- 98 percent passing a 20-mesh sieve,
- 55 percent passing a 60-mesh sieve, and
- 40 percent passing a 100-mesh sieve.

Rate per 1,000 square feet is 125 pounds.

Fertilizer--Analysis 5-10-5 at 45 pounds per 1,000 square feet or 10-20-10 at 25 pounds per 1,000 square feet.

- (4) Seeding Mixture. Sow uniformly at the rate of between 2 and 3 pounds per 1,000 square feet on flat areas and up to 4 pounds per 1,000 square feet on slopes with the following mix:

**March 1 to September 31**

<i>For Elevations Below 2,500 Feet</i>				
Name of Seed	Shoulders/Ditches		Slopes	
	Lbs/Acre	Lbs/1000	Lbs/Acre	Lbs/1000
Clover, white	6	1/8	6	1/8
Fescue, chewings	29	5/8	79	1-3/4
Fescue, K31	65	1-1/2	40	7/8
Red Top	9	3/16	--	--

**September 1 to March 1**

<i>For Elevations Above 2,500 Feet</i>				
Name of Seed	Shoulders/Ditches		Slopes	
	Lbs/Acre	Lbs/1000	Lbs/Acre	Lbs/1000
Clover, alsike	12	1/4	12	1/4
Fescue, chewings	65	1-1/2	40	7/8
Fescue, K31	29	5/8	79	1-3/4
Winter rye grain (Dec. 1-Feb. 15)	44	1	44	1

- (5) Make 2 applications at right angles to each other either by hand or mechanical spreader. Lightly roll immediately after sowing.

Optimal planting times for elevations above 2,500 feet are March 20 through April 20 and July 20 through August 15.

Optimal planting times for elevations below 2,500 feet are March 1 through April 1 and August 15 through September 1.

- (6) Mulch. After rolling, uniformly apply 1 to 2 bales per 1,000 square feet of mulch (native materials of grain straw or equivalent cover of another suitable mulching material). 30 to 40 percent bare ground should be visible after mulch is applied.

Secure mulch in place by staking and tying. Netting is the preferred anchoring method on steep slopes.

- (7) Water. If easily accessible, water with mist spray soaking ground to a minimum depth of 2 inches. Water should be clean, fresh and free from harmful substances.

#### B. Slopes Stabilization:

- (1) For slopes less than 20 percent, begin with the procedures described Establishment of Grass.
- (2) For slopes greater than 20 percent, install a mechanical device that stabilizes the soil:
  - any blanket that is biodegradable, weed-seed free (enka mat, excelcior blanket, etc.) or any on-site materials, such as rocks, that would hold soil in place. Native type materials should be considered first. Non-native type materials can be used when natives are not available (e.g., coconut matting).
- (3) Complete seeding as per procedures described in Establishment of Grass.

### **PUBLIC INVOLVEMENT**

To ensure that the Parkway and its programs are coordinated with the programs and objectives of State, Federal, and local governments and private organizations, it is the Parkway's objective to work with these agencies and organizations during the planning process. Consultation and coordination have occurred with numerous agencies during the preparation of this EA. On August 1, 2006, the Parkway Superintendent mailed a scoping notice announcing the project proposal, notified interested parties where more information could be obtained, and invited their review comments. The scoping comment period lasted 30 days.

As a result of the scoping effort, three responses were elicited. All comments received in response to the scoping notices have been duly considered and will remain in the project record throughout this planning process.

A copy of the EA was sent to all persons who requested a copy, as well as to other pertinent agencies and individuals potentially affected by the Preferred Alternative. The EA was also made available to all NPS employees along the Parkway. A public notice/news release was published in local newspapers in Boone, Blowing Rock, Jefferson, and Winston-Salem announcing the availability of the EA and requesting public and agency comments on the EA. In addition, the EA was posted and available for review on the NPS Planning Website (PEPC) at <http://parkplanning.nps.gov/>, as well as Parkway Headquarters.

This EA was available for public review for over 30 days, which ended November 1, 2006.

One hundred fifty-three comments were received in response to this public review, some of which provided additional recommendations to further minimize resource damage during implementation of the Preferred Alternative. In response to these comments, the NPS incorporated these additional mitigation measures into the EA, and will implement the measures as part of the project.

Several concerns were received during the public review process from the Superintendent, Watauga County Board of Education that required resolution by the NPS. Responses to these concerns are provided in the Errata Sheet attached to this document.

All comments received in response to the scoping notices have been duly considered and will remain in the project administrative record.

## CONCLUSION

In consideration of the comments received throughout the planning process, careful review of potential resource and visitor impacts, and developing appropriate mitigation to protect resources, the Preferred Alternative best strikes a balance between the widest range of use and enjoyment of the Parkway without degradation of the environment or risk of health or safety.

The Preferred Alternative does not constitute an action that normally requires preparation of an environmental impact statement (EIS). The Preferred Alternative will not have a significant effect on the human environment. Negative environmental impacts that could occur are minor and temporary in effect. There are no unmitigated adverse impacts on public health, public safety, threatened or endangered species, sites or districts listed in or eligible for listing in the NRHP, or other unique characteristics of the region. No highly uncertain or controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence were identified. Implementation of the action will not violate any Federal, State, or local environmental protection law.


Based on the foregoing, it has been determined that an EIS is not required for this proposed project on NPS lands, and thus, will not be prepared. Implementation may take place immediately after the date of this decision.

Recommended:

  
\_\_\_\_\_  
Superintendent, Blue Ridge Parkway

1/16/07  
Date

Approved:

  
\_\_\_\_\_  
Regional Director, SERO  
John

1/26/07  
Date

**Errata Sheet**  
**Right-of-Way Permit for Watauga County Board of Education**  
**To Utilize a NCDOT Deed Reserved Roadside Park**  
**On National Park Service Land**

A listing of the concerns raised by the Superintendent, Watauga County Board of Education during the 30-day public review of the Environmental Assessment and the National Park Service (NPS) response to those concerns follows:

*Concern #1:* “The schools water supply comes from a well located on Federal land and the school needs authority from the Blue Ridge Parkway to continue to use the well”. Although we understand from Mr. David Anderson, an employee on your staff, water usage will be addressed in a different process, we are concerned about this important issue and wish to resolve the use of the well as quickly as possible. The draft of the right-of-way (ROW) permit prepared by your staff included a grant of water rights to the well.”

*NPS Response #1:* We decided to pursue the water issue outside of the permitting process for use of the roadside park for access and parking to serve Parkway Elementary School for two reasons. First, the right-of-way permitting process is not the appropriate way to authorize use of water on Federal land. Next, our authorizing the use of water is much more involved and may take an indeterminate amount of time to resolve.

The well, which was installed in 1967 by the State of North Carolina to serve the roadside park and then the School, was never authorized by the NPS, so this is a problem for both the NPS and Watauga County. The NPS may enter into contracts for the sale and lease of water to an entity outside and near a park that provides public accommodations or services for park visitors and when there are no feasible alternatives. That situation does not seem to apply here. The well originally, to some extent, met that test by providing restroom services to Parkway visitors, but now that service has been eliminated and the well that remains only serves the School, a non-visitor function. For the NPS, there are several legal and policy issues associated with use of the well on NPS land that remain to be resolved. We are committed to working with the Watauga County School Board and you to reach a satisfactory conclusion. We do not know what that will be at this time.

*Concern #2:* “The Parkway Service having the authority to build a trail, etc. over any of the land the school is using.”

*NPS Response #2:* This is a standard clause in all NPS ROW permits and a change would require a lengthy review by DOI solicitors. The permit does acknowledge the following: “If it is necessary to exercise such right, every effort shall be made by the Park to refrain from unduly interfering or preventing use of the land by the Permittee for the purposes intended under this permit.”

*Concern #3:* “The Parkway Service having the jurisdiction to have the Watauga County Board of Education relocate improvements to areas designated by the Park Service. (We will have an initial investment of \$300,000 in this project.)”

*NPS Response #3:* This is also a standard clause in all NPS ROW permits and a change would require a lengthy review by DOI solicitors.

*Concern #4:* “Lack of opportunity to have site preparation and construction crews to park and store on the park land during construction. (We have no other staging sites available.)”

*NPS Response #4:* This clause is standard to all of our permits and is meant to be applicable to construction equipment that is working adjacent to the Parkway motor road. An area may be agreed upon for use as a construction staging area during the preconstruction meeting.

*Concern #5:* “The authority of the Parkway Service to terminate the permit "at the discretion of the Regional Director of the Service". We are assuming this would not be used in an arbitrary or capricious manner.”

*NPS Response #5:* This is a standard clause in all NPS ROW permits and would not be exercised in an arbitrary or capricious manner.

*Concern #6:* “The stipulation that no vegetation may be cut or destroyed without first obtaining approval from the Park Service Superintendent. Does this include routine maintenance and care of area (i.e. cutting the grass)?”

*NPS Response #6:* This is a standard clause for all Parkway ROW permits and is included to limit a contractor's ability to remove significant size trees that were not identified in the construction documents or preconstruction meeting without notification of Parkway personnel.

*Concern #7:* “Several issues involving trees: having to replace dead hemlock, pine, oak, maple and hickory; not being able to remove or trim trees over 6 inches tall; spraying of hemlock trees to prevent disease. A number of these requirements were not included in the draft of the right-of-way prepared by your staff. All of these maintenance issues will require extensive monitoring by maintenance personnel and additional funds to carry out the responsibilities.”

*NPS Response #7:* It was not known that the existing hemlock trees had been severely impacted by the Hemlock Woolly Adelgid at the time of the drafting of the original plan and that removal would be required. Removal of the diseased trees could be accomplished during construction of the site improvements and no future spraying will be required. The only site planting required is that which is called for in Figure 2.2-2, or Sheet 5, of the construction plans.