

From: Robin Dushane [<mailto:RDushane@estoo.net>]
Sent: Sunday, June 19, 2016 6:20 PM
To: Epperly, Randy T <Randy.T.Epperly@wv.gov>
Subject: SP X341-ZWA/Y-100 00

Dear Mr. Epperly,

In accordance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f), and its implementing regulation, 36 CFR 800, "Protection of Historic Properties" and as authorized by the Eastern Shawnee Tribal Historic Preservation Office, I am replying to a written communication from Ben L. Hark dated June 1, 2016-referencing the project listed above.

I have reviewed this communication and am currently unaware of sites of importance within Raleigh County of importance to the Shawnee. If there are to be any archaeological surveys performed as you expand WV 3 and WV 307, this office will be pleased to review such work. Thank you for the opportunity to consult.

Regards,

Robin Dushane

Tribal Historic Preservation Officer

Eastern Shawnee Tribe

70500 E 128 Rd.

Wyandotte, OK 74370

918 533 4104-cell

rdushane@estoo.net



United States Department of the Interior



FISH AND WILDLIFE SERVICE

West Virginia Field Office
694 Beverly Pike
Elkins, West Virginia 26241

Contact Name: Traci Cummings

Email Address or Fax Number: traci.l.cummings@wv.gov

FWS File # 2016-1-0571 **All future correspondence should clearly reference this FWS File #.**

Project: Beckley Z-Way, Shady Spring to Beaver, Raleigh County

Date of Letter Request: Dec. 5, 2017

This is in response to your letter requesting threatened and endangered species information in regard to the proposed project listed above. These comments are provided pursuant to the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U. S. C. 1531 *et seq.*).

Two federally listed species could occur in the project area: the endangered Indiana bat (*Myotis sodalis*) and the threatened northern long-eared bat (*Myotis septentrionalis*) (NLEB).

The Indiana bat and NLEB may use the project area for foraging and roosting between April 1 and November 15. Indiana bat summer foraging habitats are generally defined as riparian, bottomland, upland forest, and old fields or pastures with scattered trees. Roosting/maternity habitat consists primarily of live or dead hardwood tree species which have exfoliating bark that provides space for bats to roost between the bark and the bole of the tree. Tree cavities, crevices, splits, or hollow portions of tree boles and limbs also provide roost sites. In West Virginia, the U.S. Fish and Wildlife Service (Service) considers all forested habitat containing trees greater than or equal to 5 inches in diameter at breast height to be potentially suitable as summer roosting and foraging habitat for the Indiana bat.

Indiana bats feed on emerged aquatic and terrestrial flying insects. Moths, caddisflies, flies, mosquitoes, and midges are major prey items. Aquatic insects that have concentrated emergences or that form large mating aggregations above or near water appear to be preferred prey items. As a result, streams, wetlands, and associated riparian forests are often preferred foraging habitats for pregnant and lactating Indiana bats. Indiana bats also forage within the canopy of upland forests, over clearings with early successional vegetation (e.g., old fields), along the borders of croplands, along wooded fencerows, and over farm ponds in pastures. Increased erosion and sedimentation of streams reduces diversity and biomass of benthic invertebrates, i.e. insects. Some projects propose impacts to aquatic features such as streams or wetlands, which could result in a decrease in insects available to both bat species for foraging.

Updated June 2017

Similar to the Indiana bat, NLEB foraging habitat includes forested hillsides and ridges, and small ponds or streams. NLEB are typically associated with large tracts of mature, upland forests with more canopy cover than is preferred by Indiana bats. NLEB seem to be flexible in selecting roosts. They choose roost trees based on suitability to retain bark or provide cavities or crevices, and this species is known to use a wider variety of roost types than the Indiana bat. Males and non-reproductive females may also roost in cooler places like caves and mines. Although rare, this bat has also been found roosting in structures like barns and sheds.

Indiana bats and NLEB use caves or mine portals for winter hibernation between November 15 and March 31. These species also use the hibernacula and the areas around them for fall-swarming and spring-staging activity (August 15 to November 14 and April 1 to May 14, respectively). Some males have been known to stay close to the hibernacula during the summer and may use the hibernacula as summer roosts. There may be other landscape features being used as hibernacula by NLEB during the winter that have yet to be documented.

The Service has reviewed the number of acres of potentially suitable foraging and roosting habitat on the West Virginia landscape available to each Indiana bat, versus the total acreage of forest. On that basis, we have determined that small projects, more than 10 miles from a known priority 1 or 2 Indiana bat hibernaculum, more than 5 miles from a known priority 3 or 4 Indiana bat hibernaculum, or more than 2.5 miles from any known maternity roost, or more than 5 miles from summer detection sites where no roosts were identified, that affect less than 17 acres of forested habitat, and will not affect any potential hibernacula, will have a very small chance of resulting in direct or indirect effects to the Indiana bat, and therefore these effects are considered discountable. **Please note that the Service may review and update this assessment at any time as new information becomes available.**

The Service has determined that this project is not likely to adversely affect the Indiana bat because your project: 1) will affect less than 17 acres of potential Indiana bat foraging or roosting habitat; 2) is not within any of the Indiana bat hibernacula or summer use buffers described above; 3) will not affect any potential caves or mines that could be used as hibernacula for this species; and 4) effects to aquatic features used for foraging habitat will be insignificant.

The NLEB may occur within the range of the proposed project, and may be affected by the proposed construction and operation of this project. Any take of NLEB occurring in conjunction with these activities that complies with the conservation measures (as outlined in the 4(d) rule), as necessary, is exempted from section 9 prohibitions by the 4(d) rule and does not require site specific incidental take authorization. Note that the 4(d) rule does not exempt take that may occur as a result of adverse effects to hibernacula and that no conservation measures are required as part of the 4(d) rule unless the proposed project: 1) involves tree removal within 0.25 miles of known NLEB hibernacula; or 2) cuts or destroys known, occupied maternity roost trees or any other trees within a 150-foot radius around known, occupied maternity tree during the pup season (June 1 to July 31). This proposed project is not located within any of these radii around known hibernacula or roost trees and will not affect any known NLEB hibernacula, therefore any take of NLEB associated with this project is exempted under the 4(d) rule and no conservation measures are required.

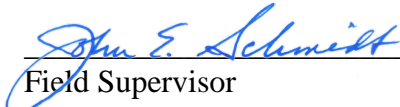
Should project plans change or amendments be proposed that we have not considered in your proposed action, or if additional information on listed and proposed species becomes available, or if new species become listed or critical habitat is designated, this assessment may be reconsidered.

If you have any questions regarding these comments, please contact the biologist listed below at (304) 636-6586 or at the letterhead address.



Biologist

Date: 12/19/2017



Field Supervisor

Date: 12/21/2017



United States Department of the Interior



FISH AND WILDLIFE SERVICE

West Virginia Field Office
694 Beverly Pike
Elkins, West Virginia 26241

Contact Name: Traci Cummings

Email Address or Fax Number: traci.l.cummings@wv.gov

FWS File # 2016-i-0571 **All future correspondence should clearly reference this FWS File#.**

Project: Beckley Z-Way Shady Spring to Beaver

Date of Letter Request: 06/01/2016

This is in response to your letter requesting threatened and endangered species information in regard to the proposed project listed above. These comments are provided pursuant to the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U. S. C. 1531 *et seq.*).

Two federally listed species could occur in the project area, the endangered Indiana bat (*Myotis sodalis*), and the threatened northern long-eared bat (NLEB) (*Myotis septentrionalis*).

The Indiana bat and NLEB may use the project area for foraging and roosting between April 1 and November 15. Indiana bat summer foraging habitats are generally defined as riparian, bottomland, upland forest, and old fields or pastures with scattered trees. Roosting/maternity habitat consists primarily of live or dead hardwood tree species which have exfoliating bark that provides space for bats to roost between the bark and the bole of the tree. Tree cavities, crevices, splits, or hollow portions of tree boles and limbs also provide roost sites. In West Virginia, the U.S. Fish and Wildlife Service (Service) considers all forested habitat containing trees greater than or equal to 5 inches in diameter at breast height (DBH) to be potentially suitable as summer roosting and foraging habitat for the Indiana bat. Similar to the Indiana bat, NLEB foraging habitat includes forested hillsides and ridges, and small ponds or streams. NLEB are typically associated with large tracts of mature, upland forests with more canopy cover than is preferred by Indiana bats. NLEB seem to be flexible in selecting roosts. They choose roost trees based on suitability to retain bark or provide cavities or crevices, and this species is known to use a wider variety of roost types than the Indiana bat. Males and non-reproductive females may also roost in cooler places like caves and mines. This bat has also been found, although rare, roosting in structures like barns and sheds.

Indiana bats and NLEB use caves or mine portals for winter hibernation between November 15 and March 31. These species also use the hibernacula and the areas around them for fall-swarmering and spring-staging activity (August 15 to November 14 and April 1 to May 14,

respectively). Some males have been known to stay close to the hibernacula during the summer and may use the hibernacula as summer roosts. There may be other landscape features being used as hibernacula by NLEB during the winter that have yet to be documented. The federally endangered Virginia big-eared bat (*Corynorhinus townsendii virginianus*) may also use caves or mine portals during any time of the year.

Based on documented travel distances of Indiana bats, Indiana bats are most likely to use suitable habitat within 10 miles from a known priority 1 or 2 Indiana bat hibernaculum, 5 miles from a known priority 3 or 4 Indiana bat hibernaculum, 2.5 miles from any known maternity roost, or 5 miles from a summer detection site where no roosts were identified.

The NLEB may occur within the range of the proposed project, and may be affected by the proposed construction and operation of this project. Any take of NLEB occurring in conjunction with these activities that complies with the conservation measures (as outlined in the 4(d) rule), as necessary, is exempted from section 9 prohibitions by the 4(d) rule and does not require site specific incidental take authorization. Note that the 4(d) rule does not exempt take that may occur as a result of adverse effects to hibernacula. No conservation measures are required as part of the 4(d) rule unless the proposed project (1) involves tree removal within 0.25 miles of known NLEB hibernacula; or (2) cuts or destroys known, occupied maternity roost trees or any other trees within a 150-foot radius around known, occupied maternity tree during the pup season (June 1 to July 31). This proposed project is not located within any of these radii around known hibernacula or roost trees and will not affect any known NLEB hibernacula, therefore any take of NLEB associated with this project is exempted under the 4(d) rule and no conservation measures are required.

Project Review

The Service has evaluated the availability of suitable foraging and roosting habitats on the West Virginia landscape relative to the best estimate of the statewide population of Indiana bats. On that basis, we have determined projects affecting less than 17 acres of suitable forested habitat and that are not within any Indiana bat buffer areas as described above, and will not affect any potential hibernacula, are very unlikely to result in direct or indirect impacts to these species. The effects of such projects are considered discountable and the projects, therefore, are not likely to adversely affect the Indiana bat. For more information on projects affecting less than 17 acres of suitable forest habitat, that occur outside of any Indiana bat buffer areas, please refer to Appendix A.

This project does not fall within any of the Indiana bat or NLEB buffers described above, and will remove 17 or more acres of potential Indiana bat summer habitat as a result of the proposed action. As a result, the project proponent will need to develop project-specific surveys and avoidance measures to determine whether this species may be adversely affected by the proposed action, as described below. The project proponent should determine the amount of suitable Indiana bat summer habitat that will be removed from the proposed site, and determine whether any caves or mine portals that may be potential hibernacula are present or may be affected by the project.

To avoid liability under section 9 of the ESA, no project construction activities, **including tree clearing**, should occur on the proposed site until consultation with the Service is complete. It is important to note that “project” includes all project features, not just the portion of the project prompting the submittal of a permit application (*e.g.*, to West Virginia Department of Environmental Protection or the U. S. Army Corps of Engineers). For example, a residential development would include all features of the development, including all forest or wooded areas to be affected or encroached upon by roads, utility lines, houses, driveways, septic areas, detention basins, stormwater basins, yards, lots, etc.. An oil or gas project would include not only the well and well pad, but also the roads, staging areas, impoundments and holding pits, and oil and gas lines associated with the well or well field.

Summer Habitat Options

We recommend one of two options to avoid incidental take of the Indiana bat as a result of loss of potential summer habitat. Please choose and complete either Option 1 or Option 2 below, as your choice will be applicable for the duration of the proposed project. **Options may not be combined.**

These options are “guidance” and not policy, a project proponent has the option of not following the Guidance’s recommendations when providing information to the Service, however, this will likely increase review times or result in projects that will adversely affect Indiana bats and, therefore, require formal consultation.

Option 1:

This option presumes that Indiana bats are present at the proposed site and sufficient avoidance and minimization measures must be developed and implemented to avoid incidental take. A conservation plan for the Indiana bat should be developed. At a minimum, this plan must include a commitment that all tree removal operations will be conducted between November 15 and March 31, when Indiana bats are in hibernation.

Prior to developing a conservation plan, a detailed on-site habitat assessment should be completed. This will determine the amount and quality of potential Indiana bat summer foraging and roosting habitat that will be cleared by the project. It will assure that Indiana bats present in the area will not be adversely affected by loss of habitat. After this assessment is conducted, measures to avoid and minimize impacts to Indiana bat summer foraging and roosting habitat should be developed. An Indiana Bat Conservation Plan should then be developed to avoid and minimize adverse impacts to bats. Information on how to develop this plan is available in the enclosed Guidance on Developing and Implementing an Indiana Bat Conservation Plan and its associated appendices. This plan and the on-site habitat evaluation should be developed by someone who has experience with Indiana bat habitat requirements such as those listed in the enclosed List of Surveyors Qualified to Conduct Indiana Bat Surveys in West Virginia.

In addition, the conservation plan should include an evaluation calculating the percentage of potential Indiana bat summer foraging and roosting habitat that will remain after project construction. For non-linear projects, this habitat evaluation should be done for the area within a 2-mile radius around the center point of the proposed disturbance. Please be sure to determine the 2-mile radius from the center of the proposed project area rather than from the project

boundary. For linear projects like roads, oil and gas pipelines, or electric transmission lines, the habitat evaluation should be done for the area within ¼ -mile on each side of the proposed right-of-way for the entire length of the project. Please calculate the number of acres of forested habitat and non-forested habitat within the appropriate analysis area both prior to and after project construction.

The results of the habitat evaluations and the proposed conservation plan should be submitted for our review prior to commencement of the project. If we determine that the extent of disturbance is not significant enough to adversely affect the Indiana bat, the project may proceed with seasonal restrictions on tree removal and commitments made for avoidance and minimization of project impacts on suitable bat habitat. Seasonal restriction on tree removal will apply for the life of the project.

If we determine that the extent of disturbance may affect, and is likely to adversely affect, the Indiana bat, a survey may be necessary to determine if this species is present, or additional conservation measures may be required. For further information, please see Option 2.

Option 2:

Surveys are conducted to determine if the summer foraging and roosting habitats within the proposed site are occupied by the Indiana bat. The enclosed Range-wide Indiana Bat Summer Survey Guidelines should be followed. To avoid insufficient or inadequate surveys, a survey plan for the proposed site should be submitted to the West Virginia Field Office (WVFO) for concurrence prior to conducting the survey. Acoustic surveys may be conducted between May 15 and August 15, and mist-net surveys may be conducted between June 1 and August 15. The surveys should be conducted by someone who has experience in identifying Indiana bats and who holds a current, valid collection permit from the West Virginia Division of Natural Resources (WVDNR). The WVDNR may be contacted at the Elkins Operation Center, P.O. Box 67, Ward Road, Elkins, West Virginia, 26241; phone (304) 637-0245. A List of Surveyors Qualified to Conduct Indiana Bat Surveys in West Virginia is also enclosed.

The survey results should be provided to the Service's WVFO for review and concurrence. If no federally listed bats are detected and we agree with the survey findings, tree removal can proceed at any time of year. If federally listed bats are detected, the West Virginia Field Office and the WVDNR should be notified the next business day¹. We will then work with the project proponent to minimize adverse effects to Indiana bats. The Guidance on Developing and Implementing an Indiana Bat Conservation Plan may be used to help develop measures to minimize impacts when Indiana bats are captured.

Surveys are considered current for five years consisting of the summer they are done and the following four summer seasons. Surveys should be repeated for any tree removal occurring after this 5-year period.

¹ Surveys should not stop if a listed bat is captured or detected.

Winter Habitat: Caves and Mine Portals

Regardless of which summer habitat option is chosen from above, the presence of caves and mine portals, and their use by federally listed bats, must also be addressed.

Therefore, the following step-wise process should be followed in order to determine if any caves or abandoned mine portals in the proposed project area are used by federally listed bats. It should be noted that adverse effects to caves or mine portals that are used by federally listed bat species may result in violation of section 9 of the ESA. Caves may also contain other sensitive species, and activities that may adversely affect cave passages and openings should generally be avoided to the maximum extent practicable. Also note that the criteria and forms listed below may be modified as new information on bats and mines in West Virginia is obtained.

The proposed site should be surveyed for caves and mine portals. This survey can be performed by mining engineers, other field personnel, or biologists with experience identifying caves or mines. The survey should include a review of topographic, mining, karst occurrence, and environmental resources information maps, as well as actual field reviews of the entire proposed project area. For linear projects (e.g., transmission lines, natural gas pipelines, highways, and access roads), the field survey should include lands buffering the disturbance footprint of the proposed linear project, extending to 0.6 mile (1 km) on each side of the outer edges of the footprint.

Any caves and portals found should be evaluated for characteristics that may indicate potential use by bats. A Phase I Cave/Mine Portal Survey Data Sheet should be completed for each opening found. This data sheet is enclosed and results should be compared against the criteria listed in the Draft Protocol for Assessing Abandoned Mines/Caves for Bat Use. The data obtained from the survey should be provided to us for review prior to implementation of any activities that may impact caves or portals.

Any caves and portals determined not to exhibit potential habitat for bats, based upon the criteria referenced above, will not require any further assessments for the presence of federally listed bat species. If caves and/or portals at the proposed site appear to have suitable bat habitat characteristics, mist net surveys or trapping may be recommended. Guidelines for conducting these surveys are provided in the Draft Protocol for Assessing Abandoned Mines/Caves for Bat Use. However, due to concerns about the potential for mist netting and trapping at caves or portals to exacerbate the spread of white nose syndrome, please contact this office for the most current recommendations and protocols prior to conducting these activities. The results of any surveys should be provided to this office for review and concurrence prior to proceeding with any activities that may adversely impact caves or portals. If federally listed bats are found using caves or portals in the project area, further consultation will be necessary.

To facilitate consultation pursuant to the ESA, please provide to us all the following information, at one time and prior to implementation of any project construction activities including tree removal or other activities that may impact caves or mine portals:

- 1) Data pertaining to either Option 1 or Option 2 (options may not be combined); and

- 2) Information on whether there are caves or old mine portals at the proposed project site, as well as the results of all surveys conducted to determine whether these openings exhibit potential bat habitat.

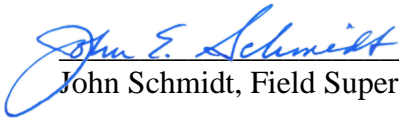
This letter provides technical assistance only and does not serve as a completed section 7 consultation document. If there is a federal nexus for the project (e.g., federal funding provided, federal permits required to construct), no tree clearing or any project construction activities on any portion of the parcel should occur until consultation under section 7 of the ESA, between the Service and the federal action agency, is completed. Any Federal permits required by this project should not be issued until we provide a letter stating that consultation is concluded. We cannot prepare a response unless sufficient information under 1 and 2 above is provided.

If you have any questions regarding these comments, please contact the biologist listed below at (304) 636-6586 or at the letterhead address.



Biologist

Date: 07/06/2016



John Schmidt, Field Supervisor

Date: 7/14/2016

Enclosures (4)

Appendix A:
Small Projects that Occur Outside of Indiana bat and/or NLEB Known Use Areas

The Service has reviewed the number of acres of potentially suitable foraging and roosting habitat on the West Virginia landscape available to each Indiana bat, versus the total acreage of forest. On that basis, we have determined that small projects, more than 10 miles from a known priority 1 or 2 Indiana bat hibernaculum, more than 5 miles from a known priority 3 or 4 Indiana bat hibernaculum, more than 2.5 miles from any known maternity roost, or more than 5 miles from summer detection sites where no roosts were identified, that affect less than 17 acres of forested habitat, and will not adversely affect any potential hibernacula, will have a very small chance of resulting in direct or indirect adverse effects to the Indiana bat, and therefore these effects are considered discountable. **Please note that the Service may review and update this assessment at any time as new information becomes available.** The Service does not anticipate that projects: 1) affecting less than 17 acres of potential Indiana bat foraging or roosting habitat; 2) not occurring within any of the Indiana bat hibernacula or summer use buffers described above; and 3) not affecting any potential caves or mines that could be used as hibernacula for this species, are likely to adversely affect the Indiana bat.

The NLEB may occur within the range of the proposed project, and may be affected by the proposed construction and operation of this project. Any take of NLEB occurring in conjunction with these activities that complies with the conservation measures (as outlined in the 4(d) rule), as necessary, is exempted from section 9 prohibitions by the 4(d) rule and does not require site specific incidental take authorization. Note that the 4(d) rule does not exempt take that may occur as a result of adverse effects to hibernacula. No conservation measures are required as part of the 4(d) rule unless the proposed project (1) involves tree removal within 0.25 miles of known NLEB hibernacula; or (2) cuts or destroys known, occupied maternity roost trees or any other trees within a 150-foot radius around known, occupied maternity trees during the pup season (June 1 to July 31). This proposed project is not located within any of these radii around known hibernacula or roost trees and will not affect any known NLEB hibernacula, therefore any take of NLEB associated with this project is exempted under the 4(d) rule and no conservation measures are required.



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ENGINEERING
DIVISION

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

Randall Reid-Smith, Commissioner

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

June 1, 2016

Mr. Ben Hark
WV Division of Highways
1334 Smith Street
Charleston, West Virginia 25305

RE: Beckley Z-Way, Shady Spring to Beaver- State Project X341-ZWA/Y-1.00 Federal
STP-0019(419)D
FR#: 16-662-RG-1

Dear Hark,

We have reviewed the technical report titled, *Phase IA Archaeological Survey US 19 Shady Spring to Beaver Beckley Z-Way Raleigh County, West Virginia*, that was prepared by Skelly and Loy, Inc. for the above referenced project. As required by Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

According to the submitted information, the West Virginia Department of Transportation, Division of Highways (WVDOH) proposes to improve US 19 from WV 3 in Shady Spring to WV 307 in Beaver, Raleigh County, West Virginia. It is our understanding that proposed project would widen existing US 19 from WV 3 in Shady Spring to WV 307 in Beaver from two lanes to three lanes. It is also our understanding that the through-lanes would be widened by 12-feet and the continuous turning lane would be widened by 14-feet. We also understand that the Phase IA survey failed to rediscover a historic burial recorded as being contained within the proposed projects area of potential effects (APE), site 46-RG-90. Additionally, we also understand that the historic structures survey will be submitted separately from the archaeological survey report.

Archaeological Resources:

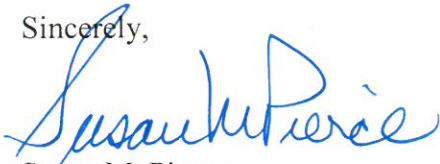
According to the report, a Phase IA archaeological survey of the study area consisted of background research, pedestrian reconnaissance and limited hand auger boring. During the field assessment, 23 areas, totaling 16.50 acres, were identified to possess potential for buried archaeological resources. The presence of intact and undisturbed soils prompted the recommendation for additional archaeological testing in a Phase IB survey. The report recommends that ground penetrating radar (GPR) be used during a Phase IB survey in an attempt to relocate site 46-RG-90. In our opinion, 46-RG-90 is not eligible for inclusion in the National Register of Historic Places. No further consolation is necessary for this resource. However, if the historic era burial is identified, other state laws may be applicable. We concur with the determination that the 16.50 acres previously discussed should be archaeological tested through the use of shovel testing and GPR in a Phase 1B survey should road construction activities be required in any of these areas. Should the proposed project be changed to require ground disturbing

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Mr. Hark
FR# 16-662-RG-1
June 1, 2016

activities outside of the 163.79 acres included in the Phase IA survey we request that this office be notified so we may provide additional comments.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Katie M. Turner, Archaeologist, at (304) 558-0240.*

Sincerely,



Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/KMT



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DIVISION

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EEO/AA Employer

August 29, 2016

Mr. Ben Hark
WV Division of Highways
1334 Smith Street
Charleston, West Virginia 25305

RE: Beckley Z-Way, Shady Spring to Beaver, Raleigh County, West Virginia
State Project #: X341-ZWA/Y-1.00
Federal Project #: STP-0019(419)D
FR#: 16-662-RG-3

Dear Mr. Hark:

We received the additional information submitted for the above-mentioned project to determine its effects to cultural resources. As required by Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

Architectural Resources:

We have reviewed the additional information submitted. Skelly and Loy Inc. (S&L), working on behalf of the West Virginia Division of Highways, identified and surveyed a total of 128 architectural properties within the undertaking's area of potential effect. In our June 17, 2016, letter to your office we requested additional research be completed for two of the resources: the stone wall located on the west side of US 19 (aka Ritter Drive) in Beaver (RG-0453), and the A.M. Carson Store located at 169 Canary Drive (RG-0454). We also requested updated cemetery inventory forms and information regarding GIS shapefiles for the project.

After reviewing the additional information we concur with the consultant's recommendations that five (5) architectural properties are *eligible* for inclusion in the National Register of Historic Places. The former Raleigh Dairy farmhouse (RG-0390) is eligible under Criterion C. The A.F. and Alena Myrtle Deck Homeplace (RG-0419) is eligible under Criterion A. The bungalow located at 1535 Ritter Drive (RG-0420) is eligible under Criterion C. The Wesley Deck Homeplace (RG-0440) is eligible under Criterion C. And the Shady Spring High School (RG-0448) is eligible under Criterion A.

We cannot concur completely with S&L's recommendations that the remaining 123 architectural resources are *not eligible* for inclusion in the National Register. They are numbered as follows: RG-0342 to RG-0389, RG-0391 to RG-0418, RG-0421 to RG-0439, RG-0441 to RG-0447, and RG-0449 to RG-0469. Based on the provided documentation, it is our opinion that the stone wall (RG-0453) located on the west side of US 19/Ritter Drive is *eligible* under Criterion A for its connection to transportation in the area. Regarding the two homes located at 1591 Flat Top Road (RG-0345) and 1926 Ritter Drive (RG-0404), we do not concur with the consultant's statement that these two properties are "not unusual

August 29, 2016
Mr. B. Hark
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or noteworthy in [their] design and [are] not the work of a master.” Further research could reveal that these two homes are in fact the work of a master, local or otherwise. For the sake of this review, it is our opinion that they are *eligible* for inclusion in the National Register under Criterion C. Regarding the remaining 120 resources, we concur that they are *not eligible* for inclusion in the National Register. We also concur with the consultant that there are *no eligible* districts within the project’s APE.

At this time, we request you assess the effects the proposed undertaking will have to the eight (8) eligible resources noted above. We will provide additional comments upon receipt of this information.

Cemetery Resources:

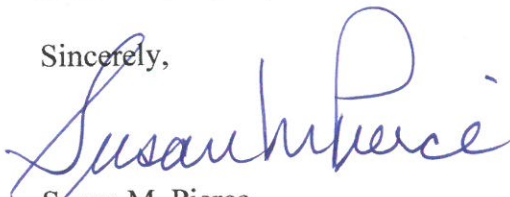
Skelly & Loy Inc. identified three (3) cemeteries within the project’s area of potential effect: the Ransom Cemetery (46-RG-340), the Meador Lane Cemetery (46-RG-341), and the Beaver Cemetery (46-RG-342). It is our opinion that these three cemeteries are *not eligible* for inclusion in the National Register because they do not meet the standards established in Criteria Consideration D. No further consultation is necessary regarding cemetery resources; however, we ask that you contact our office if your project should change.

Public Comments:

In our June 23, 2016, letter we noted that a public scoping meeting will be held in the project vicinity sometime in either late summer or early fall 2016. We requested that you provide our office with hard copies of the public meeting’s minutes as well as any correspondence or comments you receive relating to it. We also asked you to forward a copy of the submitted information for the undertaking to the Raleigh County Historic Landmarks Commission, the Raleigh County Historical Society, the Fayette & Raleigh Counties Genealogical Society, and the Coal Heritage Highway Authority/National Coal Heritage Area. To date we have received no comments regarding this consultation. If you receive no comments within thirty (30) days, please indicate that *in writing* to this office. We will provide additional comments upon receipt of this information.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Katie M. Turner, Archaeologist, or Mitchell K. Schaefer, Structural Historian, at (304) 558-0240.*

Sincerely,



Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/MKS



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

Randall Reid-Smith, Commissioner

Phone 304.558.0220 • www.wvculture.org
Fax 304.558.2779 • TDD 304.558.3562

EEO/AA Employer

October 26, 2017

Mr. Ben Hark
Environmental Section Head
Engineering Division
WV Division of Highways
1334 Smith Street
Charleston, West Virginia 25301

RE: Beckley-Z Way, Beaver to S. Eisenhower Drive
Raleigh County, West Virginia
State Project No. X341-ZWA/Y-6.22
Federal Project No. STP-0019(420)D
FR: 16-662-RG-7

Dear Mr. Hark:

We received the technical report titled "Determination of Effect Report, US 19 Shady Spring to Beaver Project (Beckley Z-Way) Raleigh County, West Virginia," that Skelly and Loy, Inc. prepared for the aforementioned project. As required by Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

According to submitted information, the West Virginia Division of Highways (WVDOH) evaluated six (6) separate alternatives for the proposed undertaking. The preferred method, Alternative 2, proposes to widen US 19 to three (3) lanes from the current two (2). This will create two (2) continuous through lanes on either side of the roadway and one (1) center continuous turning lane.

Archaeological Resources:

The current submission indicates that Phase IB archaeological investigations were completed within the project area in August and September 2017. The resulting technical report will be addressed under a separate cover upon its receipt.

Architectural Resources:

We have reviewed the submitted report, which evaluated potential effects the undertaking may have on eight (8) properties considered *eligible* for inclusion in the National Register of Historic Places. Previous correspondence between our offices documented Skelly & Loy's (S&L) efforts to identify, survey, and evaluate more than 130 total resources for the proposed project. Excluding these eight historic resources, we concurred with S&L's recommendations that the remaining identified properties were *not eligible* for inclusion in the National Register. Our assessments of effect for the eight eligible resources are provided below.

October 26, 2017
Mr. B. Hark
DOH: X341-ZWA/Y-6.22
FHWA: STP-0019(420)D
FR: 16-662-RG-7
Page 2

Although the report evaluated effects using the examples of adverse effects listed in 36 CFR §800.5(a)(2), each final assessment did not clearly address both direct and indirect effects. The assessments only considered how the project would directly affect the historic properties within their delineated property boundaries. Per 36 CFR 800.5(a)(1), “adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.” The information and mapping in the report, however, provided our office adequate context to make our own assessments of the project’s potential to affect architectural resources both directly and indirectly. While S & L provides one of the better assessments of effects provided by consultants, we recommend that future submissions include statements that discuss both direct and indirect effects on cultural resources.

The **home located at 1591 Flat Top Road (RG-0345)** is eligible for inclusion in the National Register under Criterion C for its noteworthy design. S&L noted in the report that the property is located “outside of the planned construction area,” therefore, the undertaking would have no effect thereon. We concur the proposed work will have *no direct effect* on the home; however, it will introduce a minor visual change to the surrounding area. It is our opinion those changes will have *no adverse effect* on the resource because changes to the property’s setting will be limited and will not include any new substantial above-ground-level construction nearby.

The report indicated the preferred alternative will bring the roadway “slightly closer” to the former **Raleigh Dairy Farmhouse (RG-0390)** and “the proposed roadway ditch cut will clip the corner of the NRHP boundary.” Despite this small change to the property’s setting, S&L recommended the undertaking would have no adverse effect because “the house and retaining wall associated with the property will not be touched or harmed.” We concur the proposed work will have *no adverse effect* on the property in question. The changes to the property and its setting will be limited, won’t require demolition of any character defining features, and will not include any new substantial above-ground-level construction nearby.

The roadway will be expanded on the opposite side of the road from the **home located at 1926 Ritter Drive (RG-0404)**. Thus, S&L reported, “no land will be taken” and the project will have no effect thereon. We concur the project will have *no direct effect* on the Ritter Drive property; however, it will have at least a minor indirect or visual effect. It is our opinion those changes will have *no adverse effect* on the resource because changes to the property’s setting will be limited and will not include any new substantial above-ground-level construction nearby.

The report indicated the preferred alternative will bring the roadway “slightly closer” to **the A.F. and Alena Myrtle Deck Homeplace (RG-0419)** and will “take about two feet from within the NRHP boundary.” Despite this small change to the property’s setting, S&L recommended the undertaking would have no adverse effect because the retaining wall associated with the property will not be damaged. We concur the proposed work will have *no adverse effect* on the property in question. The changes to the property and its setting will be limited, won’t require demolition of any character defining features, and will not include any new substantial above-ground-level construction nearby.

October 26, 2017
Mr. B. Hark
DOH: X341-ZWA/Y-6.22
FHWA: STP-0019(420)D
FR: 16-662-RG-7
Page 3

The roadway will be expanded on the opposite side of the road from the **bungalow home located at 1535 Ritter Drive (RG-0420)**. Thus, S&L reported, "no land will be taken" and the project will have no effect thereon. We concur the project will have *no direct effect* on the Ritter Drive property; however, it will have at least a minor indirect or visual effect. It is our opinion those changes will have *no adverse effect* on the resource because changes to the property's setting will be limited and will not include any new substantial above-ground-level construction nearby.

The report indicated that near the former **Wesley Deck Homeplace (RG-0440)**, the preferred alternative will construct a "more direct intersection connection." This will result in taking and using the property that sits opposite the Wesley home. S&L reported that this action will have no effect on the Wesley property because "no land will be taken" therefrom. We concur the chosen alternative will have *no direct effect* on the Wesley property, but it will have at least a minor visual change in the property's setting. That change have *no adverse effect* on the property because it will introduce no new visual elements that may diminish the integrity of the Wesley home or the roadway with which it has always been associated.

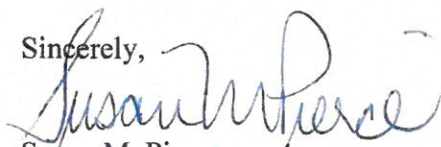
The preferred alternative will not take land from the **former Shady Spring High School (RG-0448)**, nor will it affect the building "in any way." Thus, S&L reported the project will have no effect thereon. We concur the project will have *no direct effect* on the former school property; however, it will have at least a minor indirect or visual effect. It is our opinion those changes will have *no adverse effect* on the resource because changes to the school's setting will be limited and will not include any new substantial above-ground-level construction nearby.

Lastly, regarding the c. 1930s **stone retaining wall along US 19 (RG-0453)** will be located near project work, but "is outside of the planned construction area." We concur the undertaking will have no direct effect on the wall, but it will have at least a minor indirect or visual effect. It is our opinion those changes will have *no adverse effect* on the wall because changes to its setting will be limited and will not include any new substantial above-ground-level construction nearby.

No further consultation is necessary regarding above-ground resources; however, we ask that you contact our office if your project should change.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Mitchell K. Schaefer, Structural Historian, or Carolyn M. Kender, Archaeologist, at (304) 558-0240.*

Sincerely,



Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/MKS/CMK



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

Randall Reid-Smith, Commissioner

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EEO/AA Employer

November 8, 2017

Mr. Ben Hark
Environmental Section Head
Engineering Division
WV Division of Highways
1334 Smith Street
Charleston, West Virginia 25301

RE: Beckley-Z Way, U.S. 19 Shady Spring to Beaver, Raleigh County, West Virginia
State Project No. X341-ZWA/Y-1.00 00
Federal Project No. STP-0019(419)D
FR: 16-662-RG-8

Dear Mr. Hark:

We received the technical report titled "Phase IB Archaeological Survey, US 19 Shady Spring to Beaver Project (Beckley Z-Way) Raleigh County, West Virginia," that Skelly and Loy, Inc. prepared for the aforementioned project. As required by Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

Archaeological Resources:

The report addresses our concerns regarding the presence of cultural resources within the proposed project area. Systematic survey conducted in the project area consisted of pedestrian survey, hand-excavated auger borings, and shovel testing. One new archaeological resource, 46RG346 was identified during the survey. This resource is a mid-twentieth century domestic site. We concur that this resource has no potential to provide significant information. We also concur with the recommendation that site 46 RG346 is *not eligible* for inclusion in the National Register of Historic Places. No further archaeological investigations are necessary.

In our opinion, no archaeological historic properties will be affected by the proposed project. No further consultation is necessary with respect to archaeological resources.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Carolyn M. Kender, Archaeologist, at (304) 558-0240.*

Sincerely,

Susan M. Pierce
for Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/CMK



Division of

Culture and History

December 6, 2017

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

Randall Reid-Smith, Commissioner

Phone 304.558.0220 • www.wvculture.org
Fax 304.558.2779 • TDD 304.558.3562

EEO/AA Employer

Mr. Ben Hark
Environmental Section Head
Engineering Division
WV Division of Highways
1334 Smith Street
Charleston, West Virginia 25301

RE: Beckley-Z Way, U.S. 19 Shady Spring to Beaver, Raleigh County, West Virginia
State Project No. X341-ZWA/Y-6.22
Federal Project No. STP-0019(420)D
FR: 16-662-RG-9

Dear Mr. Hark:

We received your letter dated November 30, 2017, wherein you stated your intention to issue a *de minimus* impact finding for the aforementioned project under Section 4(f) of the Department of Transportation Act of 1966, as amended. As required by Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

In letters dated October 26, 2017 and November 6, 2017 (see FR:16-662-RG-7 and 16-662-RG-8), our office described our assessments that the proposed undertaking would have *no adverse effect* on architectural properties and *no effect* on archaeological resources, respectively. Therefore, we acknowledge and concur with your *de minimus* impact finding under Section 4(f) for the eight (8) architectural resources that will be affected by the undertaking, but not adversely. No further consultation is necessary regarding cultural resources; however, we ask that you contact our office if your project should change.

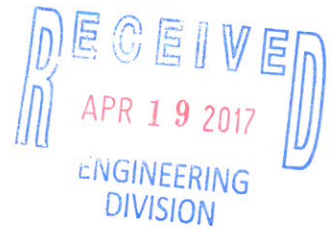
We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Mitchell K. Schaefer, Structural Historian, at (304) 558-0240.*

Sincerely,

A handwritten signature in blue ink that reads "Susan M. Pierce".

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/MKS



west virginia department of environmental protection

Division of Air Quality
601 57th Street SE
Charleston, WV 25304
Phone: 304 926 0475 • FAX: 304 926 0479

Jim Justice, Governor
Austin Caperton, Cabinet Secretary
dep.wv.gov

April 17, 2017

Ben L. Hark, Environmental Section Head
WVDOH-Engineering Division
1900 Kanawha Blvd East
Building Five- Room 110
Charleston, WV 25305-0430

RE: State Project: X341-ZWA/Y-6.22
Federal Project: STP-0019(420)D
Beckley Z-Way Beaver to S. Eisenhower Dr.
Raleigh County

Dear Mr. Hark:

This letter is in response to your April 7, 2017 letter to Director Durham concerning the above referenced project. Although this project appears to be in its preliminary stages, below are potential air quality requirements that could apply to this project. However, as the project details are developed other requirements could arise. This letter only addresses issues related to air quality. If you determine the project may have other types of environmental impacts, such as potential water quality standard issues, please consult with the appropriate Department of Environmental Protection Division.

Raleigh County is currently designated as attainment/unclassified for all criteria pollutant National Ambient Air Quality Standards (NAAQS). Therefore, based upon current regulatory requirements, this project as described in your April 7th letter does not appear to require any pre-construction permits, authorizations, or air quality analyses by WVDAQ except to the extent any of the following apply:

1. Burning of land clearing debris is required to complete the project. If so, approval by the WVDEP Secretary or his or her authorized representative is required prior to conducting burning activities (see 45CSR6) or;
2. The project entails the partial or total renovation, remodeling, or demolition of a structure, building or installation, irrespective of the presence or absence of asbestos-containing materials, and is subject to 45CSR34 (the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40CFR61, Subpart M). If this is the case, a formal

Notification of Abatement, Demolition, or Renovation must be completed, timely filed, and approved by the WVDEP Secretary's authorized representative before activities addressed in the Notification can commence.

3. Use of backup or emergency electrical generators. Generators may be subject to federal and state requirements and require an air permit in accordance with 45CSR13 prior to use.

If the project involves demolition, excavation and transportation of soil/aggregates or handling of materials that can cause nuisance dust emissions or entrainment problems, adequate air pollution control measures as prescribed by 45CSR17 must be applied to prevent statutory air pollution problems. Likewise, activities which could create objectionable odors must apply adequate air pollution control measures per 45CSR4.

Copies of all the WVDAQ rules cited in this letter may be reviewed on the agency's website at <http://www.dep.wv.gov/daq/rulessummary/Pages/default.aspx>.

If you have any questions or need further assistance or information, please contact me at (304) 926-0499 x1255.

Sincerely,



David R. Fewell, Technical Analyst
Division of Air Quality

From: [Romano, Joe](#)
To: [Romano, Joe](#)
Subject: Fwd: WVDEP comments
Date: Monday, June 12, 2017 9:30:09 PM

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Romano, Joe" <jromano@skellyloy.com>
Date: 5/30/17 6:07 PM (GMT-05:00)
To: "Romano, Joe" <jromano@skellyloy.com>
Subject: Fwd: WVDEP comments

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Epperly, Randy T" <Randy.T.Epperly@wv.gov>
Date: 5/30/17 8:49 AM (GMT-05:00)
To: "Romano, Joe" <jromano@skellyloy.com>
Subject: WVDEP comments

Joe,

Last Thursday Dave Long with WVDEP called in response to our scoping letters for the Beckley Z-Way projects. Mr. Long said they have had approximately 9 sites with underground tank leaks on the two Z-Way projects. They have been remediated except for one site which is still active. The site is an old gas station at the corner of US 19 and C&O Dam Road and is owned by Blue Flash. Blue Flash is now bankrupt and nothing has been done with the site for several years.

[Randy Epperly](#)
[WV Division of Highways](#)
[Engineering Division](#)
[Environmental Section](#)
304-558-9385



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DIVISION

DIVISION OF NATURAL RESOURCES
Wildlife Resources Section
Operations Center
P.O. Box 67
Elkins, West Virginia 26241-3235
Telephone (304) 637-0245
Fax (304) 637-0250

Jim Justice
Governor

Stephen S. McDaniel
Director

August 23, 2017

Mr. Ben Hark
Division of Highways
Engineering Division
1334 Smith Street
Charleston, WV 25301

Dear Mr. Hark:

We have reviewed Natural Heritage Program files for information on rare, threatened and endangered (RTE) species and natural trout streams for the areas of the proposed highway projects:

RE	State Project S322-37-4.35 East Fork Bridge Lincoln County	There are no known occurrences of any RTE species or natural trout streams within the project area.
RE	State Project X341-ZWA/Y-1.00 Federal Project STP-0019(419)D Beckley Z-Way Shady Spring to Beaver Raleigh County	There are no known occurrences of any RTE species or natural trout streams within the project area.
RE	State Project U354-14-8.69 Federal Project STP-0014(136)D Mineralwells – Pettyville Wood County	There are no known occurrences of any RTE species or natural trout streams within the project area.
SM	State Project U354-14-28.05 Federal Project CMAQ-0014(147)D WV 14 & WV 31 Intersection Improvements Williamstown Roundabout Wood County	There are no known occurrences of any RTE species or natural trout streams within the project area.
RE	State Project X341-ZWA/Y-6.22 Federal Project STP-0019(420)D Beckley Z-Way Beaver to South Eisenhower Drive Raleigh County	There are no known occurrences of any RTE species or natural trout streams within the project area.

AUG 23 2017

LS

State Project S324-103/5-0.15
Venus Bottom Bridge
McDowell County

There are no known occurrences of any RTE species or natural trout streams at the project site; however, surveys are required for freshwater mussels and the Big Sandy crayfish prior to any in-stream work.

The Wildlife Resources Section knows of no surveys that have been conducted in these areas for rare species or rare species habitat. Consequently, this response is based on information currently available and should not be considered a comprehensive survey of the areas under review.

Thank you for your inquiry, and should you have any questions please feel free to contact me at the above number, extension 2048.

Sincerely,



Barbara Sargent
Environmental Resources Specialist
Environmental Coordination
Operations Unit

From: [Epperly, Randy T](#)
To: [Romano, Joe](#)
Subject: FW: X314-ZWA/Y-6.22 Beckley ZWay Beaver to S. Eisenhower Dr., Raleigh County
Date: Monday, April 24, 2017 12:28:19 PM

Below is WVDNR response to the scoping letter.

From: Wakeford, Anne M
Sent: Monday, April 24, 2017 12:22 PM
To: Epperly, Randy T <Randy.T.Epperly@wv.gov>; Cummings, Traci L <Traci.L.Cummings@wv.gov>
Cc: Bennett, Danny A <Danny.A.Bennett@wv.gov>
Subject: X314-ZWA/Y-6.22 Beckley ZWay Beaver to S. Eisenhower Dr., Raleigh County

Dear Randy Epperly,

Thank you for providing the start and end coordinates for the Beckley Z Way Beaver to S. Eisenhower Drive.

From the locations of start and end points provided:

The beginning point is not exact at this time pending the tie-in with the Shady Spring to Beaver section of Beckley Z-Way. But it will be in this area: Beginning point: 37.746698, -81.127720; Ending point: 37.761899, -81.146388

It appears that wetlands could be in proximity of the project.

I look forward to providing more detailed comments as the NEPA scoping process progresses.

Regards,

Anne

Anne M. Wakeford

Anne M. Wakeford
Coordination Biologist
WV DNR Elkins Operation Center
PO Box 67 Ward Rd
Elkins WV 26241
Email: Anne.M.Wakeford@wv.gov
Phone 304-637-0245 ex 2035
Fax 304-637-0250