

Appendix A

**FARMLAND CONVERSION IMPACT RATING
FOR CORRIDOR TYPE PROJECTS**

PART I (To be completed by Federal Agency)	3. Date of Land Evaluation Request	4. Sheet 1 of _____
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1. Name of Project	5. Federal Agency Involved
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2. Type of Project	6. County and State
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PART II (To be completed by NRCS)	1. Date Request Received by NRCS	2. Person Completing Form
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3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form). YES <input type="checkbox"/> NO <input type="checkbox"/>	4. Acres Irrigated Average Farm Size
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5. Major Crop(s)	6. Farmable Land in Government Jurisdiction Acres: _____ %	7. Amount of Farmland As Defined in FPPA Acres: _____ %
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8. Name Of Land Evaluation System Used	9. Name of Local Site Assessment System	10. Date Land Evaluation Returned by NRCS
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PART III (To be completed by Federal Agency)	Alternative Corridor For Segment			
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	Corridor A	Corridor B	Corridor C	Corridor D
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A. Total Acres To Be Converted Directly				
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B. Total Acres To Be Converted Indirectly, Or To Receive Services				
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C. Total Acres In Corridor				
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PART IV (To be completed by NRCS) Land Evaluation Information				
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A. Total Acres Prime And Unique Farmland				
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B. Total Acres Statewide And Local Important Farmland				
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C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted				
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D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value				
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PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)				
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PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))	Maximum Points			
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1. Area in Nonurban Use	15			
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2. Perimeter in Nonurban Use	10			
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3. Percent Of Corridor Being Farmed	20			
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4. Protection Provided By State And Local Government	20			
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5. Size of Present Farm Unit Compared To Average	10			
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6. Creation Of Nonfarmable Farmland	25			
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7. Availability Of Farm Support Services	5			
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8. On-Farm Investments	20			
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9. Effects Of Conversion On Farm Support Services	25			
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10. Compatibility With Existing Agricultural Use	10			
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TOTAL CORRIDOR ASSESSMENT POINTS	160			
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PART VII (To be completed by Federal Agency)				
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Relative Value Of Farmland (From Part V)	100			
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Total Corridor Assessment (From Part VI above or a local site assessment)	160			
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TOTAL POINTS (Total of above 2 lines)	260			
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1. Corridor Selected:	2. Total Acres of Farmlands to be Converted by Project:	3. Date Of Selection:	4. Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>
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5. Reason For Selection:

Signature of Person Completing this Part:	DATE
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NOTE: Complete a form for each segment with more than one Alternate Corridor

CORRIDOR - TYPE SITE ASSESSMENT CRITERIA

The following criteria are to be used for projects that have a linear or corridor - type site configuration connecting two distant points, and crossing several different tracts of land. These include utility lines, highways, railroads, stream improvements, and flood control systems. Federal agencies are to assess the suitability of each corridor - type site or design alternative for protection as farmland along with the land evaluation information.

(1) How much land is in nonurban use within a radius of 1.0 mile from where the project is intended?

More than 90 percent - 15 points
90 to 20 percent - 14 to 1 point(s)
Less than 20 percent - 0 points

(2) How much of the perimeter of the site borders on land in nonurban use?

More than 90 percent - 10 points
90 to 20 percent - 9 to 1 point(s)
Less than 20 percent - 0 points

(3) How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than five of the last 10 years?

More than 90 percent - 20 points
90 to 20 percent - 19 to 1 point(s)
Less than 20 percent - 0 points

(4) Is the site subject to state or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?

Site is protected - 20 points
Site is not protected - 0 points

(5) Is the farm unit(s) containing the site (before the project) as large as the average - size farming unit in the County ?

(Average farm sizes in each county are available from the NRCS field offices in each state. Data are from the latest available Census of Agriculture, Acreage or Farm Units in Operation with \$1,000 or more in sales.)

As large or larger - 10 points
Below average - deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average - 9 to 0 points

(6) If the site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?

Acreage equal to more than 25 percent of acres directly converted by the project - 25 points
Acreage equal to between 25 and 5 percent of the acres directly converted by the project - 1 to 24 point(s)
Acreage equal to less than 5 percent of the acres directly converted by the project - 0 points

(7) Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?

All required services are available - 5 points
Some required services are available - 4 to 1 point(s)
No required services are available - 0 points

(8) Does the site have substantial and well-maintained on-farm investments such as barns, other storage building, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?

High amount of on-farm investment - 20 points
Moderate amount of on-farm investment - 19 to 1 point(s)
No on-farm investment - 0 points

(9) Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?

Substantial reduction in demand for support services if the site is converted - 25 points
Some reduction in demand for support services if the site is converted - 1 to 24 point(s)
No significant reduction in demand for support services if the site is converted - 0 points

(10) Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?

Proposed project is incompatible to existing agricultural use of surrounding farmland - 10 points
Proposed project is tolerable to existing agricultural use of surrounding farmland - 9 to 1 point(s)
Proposed project is fully compatible with existing agricultural use of surrounding farmland - 0 points

Appendix B



WEST VIRGINIA DIVISION OF
CULTURE AND HISTORY

March 24, 2003

RECEIVED

MAR 31 2003

ENGINEERING DIVISION
WV DOH

Mr. James Sothen
Division of Highways
Building 5, Room 110
Capitol Complex
Charleston, WV 25305

RE: US 340, VA Line to Charles Town
State Project U219-340-0300(02)
FR#: 96-814-JF-15

Dear Mr. Sothen:

We have reviewed the addendum architectural survey report, *Cultural Resource Studies Alternatives 8 and 9 Proposed Improvements to US 340 Jefferson County, WV* (September 2002) for the above mentioned 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.

Public comments gathered at the January 15, 2002 meeting, and the addition of Alternative 9, revealed that the area of potential effect required review. The West Virginia Division of Highways expanded the original project area for the U.S. Route 340 improvement project to 1.2 miles wide, extending approximately 0.2 miles west of the Norfolk and Western Railway Corporation track. Coastal Carolina Research, Inc. subsequently conducted an architectural survey of the study area for the proposed improvements to determine the eligibility for the National Register of Historic Places (NRHP). The September 2002 report covered the added portion of the study window west of the Norfolk and Western Railroad track and identified three tasks: 1) to survey the African-American community of Franklinton and make an assessment of its potential as an NRHP historic district; 2) evaluate the Shenandoah Valley section of the Norfolk Southern Railway which passes through the project area; and 3) assess the current NRHP boundaries of Beverly (NR419) and determine if a boundary expansion is required. A December 2002 report regarding the proposed Bullsken Run Rural Historic District, as well as recent public comments, will be addressed in a letter to follow. We request the opportunity to tour the proposed Bullsken Run district and will schedule a site visit with the appropriate individuals prior to our formal review.

Our evaluation of the National Register eligibility of the three resources referenced above associated with the U.S. Route 340 project, follows.

March 24, 2003
Mr. James Sothen
Page 2

Franklinton Historic District:

The community of Franklinton was considered as a potential historic district. The research indicates that this African-American community was settled after the American Civil War. Seven resources were surveyed; none exhibit features that would make them individually eligible for the NRHP. Franklinton is interesting for the relationship between it and that of Lewisville, which is located to the south in Clarke County, Virginia. African-American residents of Franklinton and Lewisville appear to continue to interact and to function as one community, regardless of the state line between them. More information may provide further insight into this relationship and its historical importance, but given the loss of integrity caused by alterations to the architectural fabric and modern intrusion, we concur that Franklinton is not eligible independently for the NHRP as an historic district.

Shenandoah Valley Section of the Norfolk Southern Railway:

We disagree with the recommendation regarding the Norfolk Southern Railway. In our opinion the Norfolk Southern Railway remains an eligible resource under Criterion A, for its importance to transportation history. Originally part of the Shenandoah Valley Railroad (SVRR) chartered in 1867, this line continues to function as a portion of the Norfolk Southern Railway. The SVRR was important to the development of the region as it provided service within Jefferson County along a north-south axis, thereby creating an alternative route to the east-west orientation of the Baltimore & Ohio RR (B&O). Construction of the SVRR was completed in 1882, with service from Hagerstown, Maryland to Roanoke, Virginia. The SVRR was an important link to other regional railways in that it connected with the Atlantic, Mississippi, and Ohio Railroad (AM&O) which became the N&W Railroad, the B&O at Shenandoah Junction, and also with the Virginia Midland Railroad.

The SVRR played an important role in the development of the region. It aided agriculture as it helped ease the transport problems of getting produce to the market, it was instrumental in the development of the Morgan's Grove Fair, an agricultural event held from 1885 until 1931, and its stations would become important points of commerce and travel. The SVRR and the N&W would merge in 1890 becoming the N&W Railway (the N&W would subsequently merge with the Southern Railway in 1982 thereby creating the Norfolk Southern Railway Co.). Improvements were made to the road in the 1940s, involving new rails and several bridges. Today the line continues to transport freight.

Coastal Carolina, Inc. based their recommendation that the line was not eligible upon the report of Gary and Pape, Inc, entitled *Phase 1 Inventory of Cultural Resource Associated with the Proposed Norfolk Southern Railway Co....*(2000), which noted that much of the extant structures, including the line itself, did not date to the era of the SVRR. We disagree with this assessment. The merger of the SVRR and the N&W allows the history of the line to be incorporated. The improvements accomplished in the twentieth century demonstrate the continued role of this railroad in the transportation history and development of the region. It does not matter that the

March 24, 2003
Mr. James Sothen
Page 3

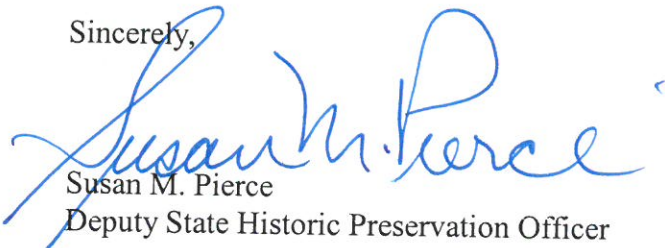
line's materials have been upgraded over time. Indeed, it argues for the increased significance of this railway that it is still a functioning element of commercial transportation. Although individual elements may not remain, the importance of the rail and its attached structures can be seen in the Rippon Railroad Station ruin, which is listed as a contributing site in the Ripon Lodge Farm Boundary Increase National Register Nomination. It is our opinion that the N&W railroad (formerly the SVRR) is an eligible resource with a period of significance from 1882-1952, thereby incorporating 70 years of railroad construction and use. This period of significance corresponds with that of the Kabletown Rural Historic District recommended by Coastal Carolina, Inc. in their October 1999 report, *Architectural Evaluation Proposed Improvements to US 340...*, page 26. (Please note that our August 22, 2000 comments regarding the Gray and Pape report noted only an assessment of no adverse effect to architectural resources.)

Beverley Boundary Increase:

We concur with the recommendation to increase the initial boundary proposed for the Beverley property. Indeed this farm should be increased beyond that of only residence and principal dependencies to reflect the property as it existed when partitioned after the death of John Burns in 1895. This would include portions of the original Beverley tract that lie east of the N&W railroad, designated as Lots 1 and 2 in 1895, the combined acreage being 422.94 acres.

We appreciate the opportunity to be of service. If you have questions regarding our comments or the Section 106 process, please contact Jennifer Murdock, Structural Historian, at (304) 558-0240, Ext. 157.

Sincerely,



Susan M. Pierce
Deputy State Historic Preservation Officer

SMP:jwm



WEST VIRGINIA DIVISION OF
CULTURE AND HISTORY

September 3, 2003

Mr. James Sothen
Division of Highways
Building 5, Room 110
Capitol Complex
Charleston, WV 25305

RECEIVED

SEP 08 2003

ENGINEERING DIVISION
WV DOH

RE: US 340, VA Line to Charles Town
State Project U219-340-0300(02)
FR#: 96-814-JF-16

Dear Mr. Sothen:

We have reviewed the *Cultural Resource Study of Proposed Bullskin Run Rural Historic District Alternatives 8 and 9 Proposed Improvements to US 340 Jefferson County, West Virginia* (December 2002) for the above mentioned 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.

This report was followed by the receipt of an additional report from a local community organization, the South Jefferson Coalition for a Better 340. We have included that additional report with this letter for your information. A meeting was set up on April 11, 2003 to review on site the information presented in both these reports. Historians Alan Rowe, Robin Fisher, Jennifer Murdock, and archaeologists Rachel Black and Joanna Wilson of the West Virginia State Historic Preservation Office (WVSHPO) joined Maral Kalbian and Loretta Lautzenheiser of Coastal Carolina Research and local citizens. The group toured the potential district and met with concerned individuals regarding their historic properties.

At the end of that day, it was my staff's understanding that a follow up summary addendum would be submitted to my office discussing the following issues. The historic boundaries of the William Grubb Farm were incorrectly identified in a previous report. The owners produced the National Register nomination for the property which mapped the William Grubb Farm District as extending from the Quaker cemetery to the farmstead. Current Alternatives 8 and 9 neglected to take into effect the fact that the roadway as depicted would separate these related resources. The owners of Ripon Lodge indicated that the new alternatives 8 and 9 neglected to consider the historic site of the Ripon Station, an archaeological site included within the Ripon Lodge Farm Boundary Increase nomination. We ask that these issues be addressed in future reports.

The report from Coastal Carolina Research focused primarily on the evaluation of the existence of a potential rural historic district west of the Norfolk Southern Railroad and the appropriate boundaries for such a district. The initial study area included land west of the Norfolk Southern to the headwaters of the Bullskin Run, north to Huyette Road and south to the Clarke County, Virginia state line. The proposed district is dominated by the water source, which lends its name to the area. The district is recommended

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Mr. James Sothen
September 3, 2003

as eligible for listing on the National Register of Historic Places (NRHP) under Criterion A due to the contributions to the broad patterns of Jefferson County and West Virginia history in the area of agriculture; under Criterion B for its association to George Washington and other Washington family members; and under Criterion C for the diverse architectural examples of the eighteenth, nineteenth, and twentieth centuries. It may also be eligible under Criterion D for the archaeological potential of the area, however this would require further investigation.

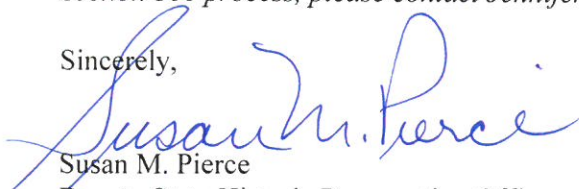
The consultant also identified five properties within the study area which qualified for individual eligibility to the NRHP. These were identified as Locust Hill, Sunnyside, Rockspring, Cloverdale, and Berry Hill. All but Berry Hill are recommended as contributing resources to the proposed Bullskin Run Rural Historic District. We agree that all five resources are eligible to the National Register.

We also believe that all five resources contribute to the Bullskin Run Rural Historic District. However, the report presented two boundaries for the district. Page 9 refers to a southern boundary extending to the state line. Figure 52 cuts the southern boundary short, leaving Berry Hill outside the proposed district. No justification is given regarding the variation in the two boundary descriptions. We are unsure why the boundary changed and support the district boundaries at the state line. Much of the area appears geographically and historically unified. The boundary depicted in Figure 52 appears to be an arbitrary decision. For the purposes of an effects study of the proposed improvements to Route 340 please consider the Bullskin Run Rural Historic District as that described on page 9 of the referenced report.

In the current report it is difficult to gauge property locations within the project area due to a variation in maps and scale. We request that future reports include mapping that is at the same scale and indicates all eligible resources within the district.

We appreciate the opportunity to be of service. If you have questions regarding our comments or the Section 106 process, please contact Jennifer Murdock, Structural Historian, at (304) 558-0240, Ext. 157.

Sincerely,



Susan M. Pierce
Deputy State Historic Preservation Officer

SMP:jwm

cc: South Jefferson Coalition for a Better 340 c/o David Burns

enclosure

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SEP 08 2003

ENGINEERING DIVISION
WV DOH

The proposed Bullskin Run Rural Historic District

Jefferson County, WV

Boundary

The area recommended to be considered eligible for a National Rural Historic District is located in the Kabletown District of Jefferson County, West Virginia. Covering approximately 3000 acres, the proposed district would generally extend from the Claymont property on Summit Point Road to the north; to Rock Hall farm near Summit Point on the west; to Balclutha farm on the Virginia/West Virginia State line on the south; and on the east by West Virginia route 340.

This area can be located on the 2001 Jefferson County Tax Map, District 6 index, on file in the County of Jefferson, Office of Assessor, Charles Town West Virginia, and includes lands found on maps 3, 4, 11, 12, 13, 14, 17, 19, and 29. The area of proposed eligibility can also be located on the USGS maps, Middleway and Berryville Quads.

General Description of Proposed District

The area within the proposed district boundaries is open farmland including; wood lots, tilled fields, and grass pastures. Rolling and marked with limestone ridges, the land is drained by both the north and south branches of the Bullskin Run and Long Marsh Run. Although the cultural and historic landscape within the district remains relatively unmarred by non-contributing features, housing and light commercial development now surround the area and will affect the viewshed from the district's perimeter. The most significant non-contributing features or structures within the proposed boundary are outbuildings, sheds, barns, and silos that have been erected as part of modern farming operations. Several modern homes have also been built within the area that the proposed district would encompass.

Historic Background

The history of the region including the area of the proposed Historic District has been largely affected by geography. Gaps in the Blue Ridge Mountains to the east provided access to the area from Virginia's piedmont and helped to determine the course of early settlement. However, the Blue Ridge had acted for many years as both a physical and psychological barrier for settlers from eastern Virginia. The Shenandoah Valley in which the proposed district is found extends into the Cumberland Valley of Pennsylvania and so the earliest settlers to the region came from the north. As groups of Scots-Irish and German settlers continued to arrive, transportation routes into the area improved. By the mid-eighteenth The Great Wagon Road through the valley served as the primary link between Pennsylvania and the Carolinas. Parts of that original route run through the proposed District.

Pioneers from the north continued to settle with their beliefs and customs in the region and soon found themselves neighbors to settlers from eastern Virginia who as products of a plantation economy brought with them the beliefs and customs of a

different culture. The area became a crossroads between the industrializing north and the plantation economy of the south; two cultures that seemed to meet peacefully but with differences that would eventually lead to war. Great armies of the War Between the States would pass through and camp in the proposed district with a few minor engagements being fought in and around its boundaries.

The earliest land grant in the area, the Northern Neck Proprietary, was made by King Charles II of England in 1649. On August 20, 1734, a large part of the current proposed Historic District was granted to Jost Hite. Hite and sixteen other families arrived in that same year and settled along the Opequon creek and purchased some of their lands from the Van Meter family. Descendants of the Van Meters still live within the boundaries of the proposed historic district.

At about that same time, Richard Stephenson arrived in the Valley from eastern Virginia and settled along the north branch of the Bullskin Run. He made his home within the proposed District area where the house "Beverley" now stands. The two stone outbuildings that flank "Beverley" today were part of Stephenson's original estate.

Another prominent Virginia family purchased lands along the Bullskin. In 1750 Lawrence Washington, George Washington's eldest brother, received a land grant from Lord Fairfax that included much of the northern and western portions of the proposed Historic District. His holdings would be left to his wife and his brothers at the time of his death. George Washington would eventually purchase lands along the Bullskin from Lawrence's widow and George, John Augustine, Samuel, and Charles Washington along with their descendants would all establish homes on these lands. Five of these Washington family homes were built within the boundaries of the proposed Historic District; three of which at present still stand. One of these, George Washington's Bullskin Plantation home, was built by Washington himself in the 1750's and 60's. He only lived there during its construction and then moved to Mount Vernon. This was however the first home he ever owned and he owned it for the remainder of his life. Later the building served as the servants' quarters for a more stately home, Rock Hall, which was built by Washington family descendants.

The Washington's plantation lifestyle stood in sharp contrast to that of some of their neighbors, especially those who were members of the Society of Friends. The Friends, or Quakers as they are more commonly known, began settling in the Valley and in the area of the proposed Historic District in 1730. It was in 1730 that Robert Worthington, a wealthy member of the Society of Friends, established himself along the banks of Evitts run near the present site of Charles Town, West Virginia. He called his home there Quarry Banks and soon after arriving he encouraged other members of the society to come to the area. Several of the families that came at Worthington's urging settled along the south Branch of the Bullskin Run. The homes of Edward Haines and William Grubb, both Friends, still stand on the Bullskin and within the proposed historic district boundaries. Also within the proposed District Boundaries are the remnants of the "Old Quaker Meeting House Road", one of the oldest roads in the area; the site of the Old

Quaker meeting house and parsonage; a Quaker cemetery and the ruins of two Quaker owned mills.

In the antebellum period immediately preceding the Civil War this area experienced an insurgence of industrial improvement as roads, and railroads connected the area to the industrial centers that had emerged nearby at Harpers Ferry and Richmond. This period saw the establishment of two new "industrial" facilities within the proposed district; Porter's Factory, which made woolen goods; and Fagan's Mill, built near the site of the Haines Mill could mill grain as well as timber.

During the Civil War the area within the proposed District was the scene of much troop movement and some minor skirmishing. There were no fewer than 12 skirmishes in and around the area of the proposed district with the heaviest activity in the area being in 1864 as part of Sheridan's campaign to recapture the Valley.

Areas of Significance

The proposed Bullskin Run Rural Historic District is the scene of a long and varied history and may qualify for listing on the National Register through the following recognized "Areas of Significance":

Agriculture

Architecture

Ethnic Heritage

Exploration / Settlement

Military

Social History

Proposed District Themes

Due to the multi-levels of history found within the proposed historic District it is suggested that three themes be used to define and interpret the district:

1. The Washington Family in Jefferson County and life on their Bullskin Plantations
2. Early settlement in the lower Shenandoah Valley
3. The cultural differences between Settlers in the region as an example of the differences between North and South during the early development of the United states and the effects of that difference on local, state, and national history is recommend as the third and final district theme.

These themes are all interrelated and each provides justification for the extensive boundaries of the proposed historic district. The story of the Washington Family in Jefferson and life on their Bullskin Plantations can not be fully understood without examining the early settlement to the area and the relationship that the Washington's had with their neighbors. That one theme alone connects the majority of the properties within the proposed district.

The Washington's lived at Claymont, Blakeley, Prospect Hill, and Rock Hall their cousins, the Blackburn's and Turners, lived at Wheatland, Straithmore, Byrdland, Rippon Lodge, and Olive Boy (spring Grove). These properties account for roughly ½ of the historic properties within the district and stretch the entire length of the proposed district, from Claymont on the North to Olive boy and the Blackburn Cemetery on the Virginia/West Virginia state line. The Washington's sphere of influence and day today life extends even further south to sites within Virginia's Long Marsh Run Rural Historic District; including Fairfield, the home of Warner Washington; and nearby Clifton.

The Washington's relationship to other properties within the district is shown through the documentary evidence available about the family's daily life and interaction with their neighbors. One of the most significant documents to this effect is the diary of Anna Maria Thomasina Blackburn Washington, the wife of Bushrod Washington. Mrs. Washington lived at Claymont and wrote her diary between January, 1838 and February, 1833. In it she mentions often dinning at Wheatland and visiting Mrs. Turner. She writes about staying with her family at Spring Grove (Olive Boy) and about her cousin Richard Scott Blackburn who lived there. In her diary Mrs. Washington relates stories about her husband being injured while on a trip to a mill on the Bullskin and talks a rainy night that they made it home only through the kindness of their neighbor, Nathan Haines. The diary tells of a party held at Beverley that the Washington Children attended. They stayed "too late" and woke the slaves to take care of their horses upon their return. These instances and others help to draw a picture of life within the proposed historic for not only the Washington's but also their extended family, neighbors, and friends.

Historic Properties

Historic Properties within the proposed district include:

1. Blakeley
2. Claymont
3. Prospect Hill
4. Beverley
5. The Fairfax Grant
6. Wheatland
7. Rippon Lodge
8. Cool Spring
9. Berry Hill
10. Locust Hill
11. Byrdland
12. Sunnyside
13. Straithmore
14. Rock Spring
15. Rock Hall
16. Wm. Grubb Farm & Quaker Cemetery
17. Fairview

This is a list of the largest properties within the proposed district and does not include many smaller yet significant contributing resources.

**Analysis of the:
Cultural Resource Study of
Proposed Bullskin Run Rural Historic
District
Alternatives 8 and 9
Proposed Improvements to US 340
Jefferson County, West Virginia
(December 2002)**

**Prepared for:
South Jefferson Coalition for a Better 340
C/O: S. David Burns
The Library Corporation
Research Park
Inwood, West Virginia 25428
304-229-0100**

**Prepared by:
S. David Burns
and
Keven Walker**

March 2003

In the *Cultural Resource Study of Proposed Bullskin Run Rural Historic District*, submitted to the West Virginia Department of Transportation, Division of Highways in December 2002, the boundaries being proposed for the historic district are unclear. On page 9 of the report a description of the proposed boundaries is given that states "the southern boundary of the proposed district is the West Virginia state line." Figure 4 found on page 10 of the same report is a map outlining the district's proposed boundaries. This map shows the southern boundary starting at a point where the northern property line of Ripon Lodge farm meets U.S. 340 and continuing west to a point about 1000 feet south of the head spring of Bullskin Run.

The proposed southern boundary shown on the map is not the West Virginia State line as described in the narrative on page 9. Further study of the report seems to indicate that the proposed boundary that was intended is the boundary as shown on the Figure 4 map. The report has only a vague justification of the proposed boundaries and a cursory justification of the criteria required for National Register eligibility, therefore, determining what boundaries were intended is conjecture based on what resources were, and were not, evaluated by the report.

The absence of clear justifications in the December 2002 report is in sharp contrast to the report submitted to the West Virginia Department of Transportation, Division of Highways in January of 2000. That report, *Architectural Evaluation Proposed Improvements to US 340*, like the report submitted in December of 2002, is a study of cultural and historic resources potentially affected by the nine US 340 improvement options.

Both the 2000 and the 2002 reports outline proposed historic districts. The 2002 report, however, is incomplete when compared to the one submitted in 2000. It is important to note that, although the 2000 report uses a seven-page narrative to describe and justify the boundaries of the proposed Kabletown Rural Historic District (pages 22,26,28,32,35,41,47), the report submitted in 2002 only devotes 1 paragraph (page 9) to the description and justification of boundaries.

Proposed Boundaries

According the NPS National Register Bulletin #15:

A district must be a definable geographic area that can be distinguished from surrounding properties by changes such as density, scale, type, age, style of sites, buildings, structures, and objects, or by documented differences in patterns of historic development or associations.

Researching the properties found along both branches of the Bullskin Run in Jefferson County, West Virginia quickly establishes a definable geographic area that is distinguished from surrounding properties by its associations with:

1. The Washington family and plantation life in the lower Shenandoah Valley
2. Early settlement in the Shenandoah Valley
3. The cultural differences between settlers in the region and how they serve as an example of the differences between North and South during the early development of the United States; and the effects of those differences on local, regional, state, and national history

The boundaries of the Bullskin Run Rural Historic District should be based upon the shared relationship among the properties constituting the district (NRB #15). This shared relationship is better identified and a visual sense of the overall historic environment better achieved by the inclusion of a number of properties within the district that were not recommended for inclusion in the *Cultural Resource Study of Proposed Bullskin Run Rural Historic District*, 2002. Therefore, the proposed boundaries for the Bullskin Run Rural Historic District should be expanded beyond what is recommended in figure 4 of the 2002 report to include historic buildings, structures, and sites as well as open spaces that contribute to the significance of the district. These include:

1. Fairfield
2. Olive Boy, the Spring Grove outbuildings and the Blackburn Cemetery
3. Locust Grove Cemetery at Franklinton
4. Berry Hill
5. Archeological sites on the former Larue Farm "Fairview"
6. Ripon Lodge
7. Archeological sites associated with John A. Washington's Prospect Hill
8. Johnson Cemetery, believed to be the Washington family slave cemetery
9. Harewood (recommended as a discontinuous contributing resource)

Historic Associations Between Contributing Properties

The Washington Family

In 1750 Lawrence Washington, George Washington's eldest brother, received a land grant from Lord Fairfax that included much of the northern and western portions of the proposed Historic District. At the time of his death on August 6, 1752, Lawrence's holdings were willed to his wife and brothers. George Washington purchased land along

the south branch of Bullskin Run from Robert Rutherford and his brother Lawrence's widow. On this land George established what he called his "Bullskin Plantation". At about the same time, John Augustine Washington, George Washington's youngest brother, started clearing ground around the headsprings of the North or "Meadow" branch of the Bullskin Run. John Augustine, or "Jack" as his brothers called him, would name his "Berkeley lands" (the area at that time was part of Berkeley County) "Prospect Hill".

Other members of the Washington family began to settle in the surrounding area. Samuel and Charles Washington, brothers of George Washington, took up permanent residence within four miles of Bullskin Plantation and Prospect Hill. Warner Washington, George Washington's first cousin, also settled within a few miles of the Bullskin. Sometime in late 1769, Warner moved to the area from the Fairfax family home, Belvoir.

The Blackburn Family

The Blackburn family of Virginia is closely associated with the Washingtons. For several generations and in several different branches of the Washington family Blackburn/Washington marriages are common. The most famous of these marriages occurred in 1785 when George Washington's nephew and heir to Mt. Vernon, Bushrod Washington, married Julia Anne Blackburn.

Julia was the daughter of Colonel Thomas Blackburn and Christian Scott of Ripon Lodge in Prince William County, Virginia. Thomas Blackburn's father, Richard Blackburn, built Ripon Lodge (Prince William Co.) in the early 1700's and is said to have overseen the additions to the nearby Washington home, Mt. Vernon, in 1758. Richard Blackburn named Ripon Lodge after the place of his birth, Ripon, Yorkshire, England.

Colonel Thomas Blackburn's son, Richard Scott Blackburn (b.1760), had several children including Jane Charlotte, Anna Maria Thomasina, Christian, and Judith.

This close family association between the Blackburns and the Washingtons, first established in the tidewater region, was carried to the lower Shenandoah Valley in the late 1700's when members of both families began to settle there.

Col. Thomas Blackburn's grandson, Richard Scott Blackburn (nephew of the previously mentioned Richard S. Blackburn) married Elizabeth Sinclair daughter of John Sinclair who in 1805 (Jefferson County Deed Book 3:6) purchased lands in what is now the proposed Bullskin Run Historic District.

In 1805 Sinclair purchased acreage from John Wagner in what would become the southern most part of Jefferson County. By the time of John Sinclair's death in 1815, he was able to leave sizable farms to all of his children. His daughter, Elizabeth Sinclair Blackburn inherited "the best land with all the improvements". Known as Spring Grove, this farm was located at the present site of Olive Boy Farm just east of U.S. route 340 on Smith Road. Mrs. Blackburn lived at Spring Grove until her death in 1840. She was

buried in the Sinclair/Blackburn Cemetery located within a few hundred yards of her home.

Christian Blackburn, the niece of Richard Scott Blackburn and a granddaughter of Col. Blackburn, married Henry Smith Turner in the late 1700's. They established their home near the Bullskin Run in about 1795. Originally named "Castle Thunder", the Turner/Blackburn home became know as Wheatland. The remains of this plantation can be seen near the Bullskin Run on U.S. Route 340.

Jane Charlotte and Anna Maria Thomasina Blackburn married two brothers, Bushrod Corbin Washington and John Augustine Washington. Both boys were raised at Mt. Vernon under the care of their uncle Bushrod Washington and aunt Julia Blackburn Washington. John Augustine and Bushrod Corbin were the grandsons of George Washington's brother, John Augustine, who had established Prospect Hill Plantation on the banks of the North Branch of the Bullskin Run in about 1755.

Harewood

Samuel Washington's home, Harewood, or at least some of its service buildings must have been under construction by 1756. Records show stone being delivered to the site in that year (Waterman, *Mansions of Virginia*). The house is believed to have been designed by John Ariss who later took up residence at Locust Hill about three miles from Harewood. George Washington on his many trips to the area often stayed with his brother Samuel and at least two of his diary entries were written there. On March 6th 1771 George Washington wrote that he left Winchester "to stay with his brother Samuel". With his "Bullskin Plantation" in use by an overseer and his other holdings leased to tenants, George Washington utilized Harewood not only as a place to stay while in the area but also as a place from which to conduct his business. On the 7th he writes from Harewood, "spent day writing instructions and dispatches to Captain Crawford."

His diary notes that on the 11th of March he set off from Harewood to the home of his cousin Warner Washington. There he would stay the night before continuing on to Mt. Vernon the next day. The trip from Harewood to Warner Washington's would have taken Washington directly through the area of the proposed historic district. It is probable that he inspected his Bullskin holdings and leased lands in the area sometime during that day.

Harewood has remained an important part of Washington family life, operating as a thriving plantation and a center for family activities for over two hundred years. Washington ownership of Harewood has never been broken and today it is the home of Mr. Walter Washington, Esquire, a direct descendant of both John Augustine and Samuel Washington. Harewood was visited by the Marquis de Lafayette on his last trip to the United States and was the scene of the wedding of James Madison and Dolly Payne Todd.

Harewood is recommended as a discontinuous contributing element of the proposed Bullskin Run Rural Historic District. The property is a significant contributing element to the district under NRHP Criterion A, B, and C because it represents the first generation of Washington family influence in the area; is an excellent example of colonial architecture in the Shenandoah Valley, having been built by one of the best know American architects of the day; and was a meeting place for world dignitaries and American statesman for decades.

Fairfield

Some confusion as to the exact date of the construction of Fairfield exists and little is known about its earliest years. It is widely accepted that the prominent colonial architect John Ariss built the house. It was built probably about 1770 as a residence for Ariss himself but there is no definite evidence that will establish a date (Waterman).

Ariss' papers reveal at least a suggestion that the house may have been too large or too expensive for him to maintain. On August 5th, 1784, Ariss wrote a letter to George Washington from "Berkeley County" in which he said, "I am under the necessity of giving up the place I now live at, at the end of this year . . . Your Excellency may possibly assist me with a place to live at."

Late in the year 1769, George Washington's first cousin, Warner Washington, moved from Belvoir to a 1600-acre tract of land that he purchased from his brother-in-law, George William Fairfax. The land lay along Long Marsh in what is now Clarke County Virginia, very near the West Virginia State line. Some believe that he had Fairfield built for himself and had moved into that house upon his arrival to the area. It is more likely that Mr. Washington moved into a much smaller house situated about three-fourths of a mile northwest of Fairfield which was later probably used to house his overseer.

Ariss' letter to George Washington may suggest that by August of 1784 Ariss had already made arrangements to sell Fairfield to his neighbor Mr. Warner Washington. A later letter from Ariss to George Washington, dated 1786, makes it clear that Ariss was living on a farm leased from Washington. The evidence shows that this was Locust Hill, located in what is now the center of the proposed Bullskin Run Rural Historic District. Locust Hill was probably built by Ariss in 1785 and was to be his last design (Waterman). Ariss died in 1800, requesting in his will that he be buried "with the permission of Mrs. Washington of Fairfield, in the grave yard of that place."

Warner Washington who established himself at Fairfield in the early months of 1785 was the son of George Washington's Uncle, John Washington, and Catherine Whiting of Gloucester County. Warner's son, Warner Washington the II, married his distant cousin Mary Whiting, daughter of Francis and Francis Perrin Whiting of Gloucester county. They established themselves at Clifton soon after they were married and lived there until about 1794.

Other members of the Whiting Family of Gloucester County, Virginia include Beverley Whiting (c.1707 –1755), godfather of George Washington; and Beverley Whiting (d. 1817) who built his home on the north branch of the Bullskin Run. Mr. Whiting called his home, built about the year 1800, “Bullskin” but by the 1840’s the house became known as “Beverley” presumably in his honor. Beverley is listed on the NRHP and is also recommended as a contributing resource to the Bullskin Run Rural Historic District

Fairfield is listed on the NRHP as a contributing element to the Long Branch Rural Historic District and has very evident ties to the Washington and Whiting families who lived in what is now the proposed Bullskin Run Rural Historic District. Due in part to this close association with the Washington and Whiting families and having been designed by John Ariss, and in part to the architectural connection that the house has with others within the proposed district, Fairfield is recommended as a contributing element to the Bullskin Run Rural Historic District with its significance being defined under NRHP Criterion A, B, and C.

Olive Boy Farm (Spring Grove)

The Blackburn family through the inheritance of Elizabeth Sinclair Blackburn established themselves at the former Sinclair home, Spring Grove. Spring Grove was located at the present site of Olive Boy Farm just east of U.S. route 340 on Smith Road and not far from Warner Washington’s Fairfield. Today the Olive Boy Farm House is itself a significant historic structure. Built by Thomas Isbell in 1858 (Jefferson County Land Tax Book 1859) it would appear to be eligible for the NRHP under Criterion C, as an excellent example of early Italianate architecture.

Although the original Spring Grove house does not remain, evidence suggests the stone and brick pool house and the stone spring house were once part of the original Spring Grove Complex (Lautzenheiser, 2000). These two structures and the Blackburn family cemetery unmistakably connect this property and its early history to the lives of the earliest and most prominent families to settle in the area of the proposed Bullskin Run Rural Historic District.

Anna Maria Thomasina Blackburn Washington was a niece of Elizabeth Blackburn of Spring Grove and the wife of Bushrod Corbin Washington of Claymont. In her diary written between 1828 and 1833 she often mentions her Aunt Elizabeth and her cousin Richard Scott Blackburn. On several occasions she talks of visiting “Spring Grove” and at least twice writes of traveling with the Spring Grove Blackburns to visit Judge Bushrod Washington and his wife Julia Blackburn Washington at Mt. Vernon.

Upon his mother’s death, Richard Scott Blackburn inherited Spring Grove. It was there that his daughter, Catherine Thomas Blackburn, was born on November 25, 1841. Catherine would marry Anna M. T. Washington’s grandson, Bushrod Corbin Washington II, in 1864. This union added another link in the long chain of Blackburn/Washington

marriages and strengthened the historic connections between Spring Grove and the Washington holdings on the Bullskin.

The cemetery contains the remains of members of the Blackburn and Sinclair families including a Blackburn who was murdered while a cadet at the Virginia Military Institute.

The property is recommended as a contributing element to the Bullskin Run Rural Historic District due to its associations with the Blackburn and Washington families. Spring Grove remained an important part of the Blackburn/Washington social sphere until Richard Scott Blackburn sold the property in 1853. Today, the property is of great interest to the Washington/Blackburn descendants as the birthplace and burial ground of many of their ancestors. Jerry Lee Ward of Washington State, a direct descendant of Bushrod Corbin Washington II and Catherine Blackburn Washington, has visited the site as recently as June of 2000 and was extremely interested in the preservation of the cemetery and its surrounding grounds.

Archeological sites at Fairview

When John Sinclair died in 1815 his holdings were divided between his children. Elizabeth Sinclair Blackburn received Spring Grove, and her brother William Z. Sinclair received that part of his father's land that lay west of Spring Grove and west of today's U.S. Route 340. William Sinclair willed this property to his sister Elizabeth's children, Richard Scott Blackburn and his two sisters Sarah Jane Smith and Elizabeth Kounslar.

The heirs sold the property to James Grantham in 1850 who died in 1861 leaving the property to his daughter Catherine Grantham (Jefferson County will book 16, page 381). She married James Larue and it is their descendants who owned the property until April of 1999. At that time the property was sold and divided into two parts with one part now being owned by the Loy Family.

The Fairview house was probably built by William Sinclair and enlarged by James Grantham when he purchased the property in 1850. As noted in the Lautzenheiser report in 2000, the house has been covered in new siding and new windows have been installed within the last 10 years, both negatively impacting the integrity of the structure. The significance of this property is derived not as much from the integrity of Fairview house but from the potential archeological value of the location. The presence of a hand dug, stone lined well in the middle of the Loy parcel and the two stone foundations on the boundary between the Loy and Chapman properties suggests an archeological potential that could yield significant information pertaining to the early inhabitants of the region. National Register Bulletin #15 states that a historic site is:

“the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where a location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.”

The Fairview property is recommended as a contributing resource to the Bullskin Run Rural Historic District. The property is significant as a collection of archeological components illustrating the domestic aspect of an early nineteenth-century plantation complex, NRHP Criterion D. This recommendation is similar to the recommendation for the Wheatland property found on page 84 of the *Architectural Evaluation proposed Improvements to U.S. 340 Jefferson County, West Virginia* submitted to the West Virginia Department of Transportation, Division of Highways in January 2000.

Ripon Lodge

Ripon Lodge is situated along U.S. Route 340 near the village of Rippon and just outside the December 2002 report's proposed boundaries for the Bullskin Run Rural Historic District. William F. Turner on a section of his father's estate built the house in 1833. William's father, Henry S. Turner, was a prominent man of means in the county and owner of Wheatlands, a large plantation that was located on a hill overlooking the south branch of the Bullskin Run. The site of Henry Turner's plantation house is located within the proposed district boundaries and is recommended as a contributing resource to the district under NRHP criterion D.

Although situated less than a mile south of Wheatlands, Ripon Lodge was not recommended as a contributing resource to the Bullskin Run Rural Historic District and the proposed district boundaries do not include Ripon Lodge and its surrounding farmland. The two properties in reference to the proposed Bullskin Run Rural Historic District are inseparable. The stories of the two properties are virtually one in the same; the story of Ripon Lodge simply the second chapter of a history of the Turner family at Wheatland.

The influence of this powerful and wealthy family at Wheatland is directly associated with the histories of Straithmore, Byrdland, and Ripon Lodge. All three were holdings divided out of the original plantation for Henry S. Turner's children. All three should be included within the Bullskin Run Rural Historic District.

Another historic connection between Ripon Lodge and other properties and families within the district can be made through the maternal ancestors of the Turner Children. Henry Turner's wife, Christian, was a Blackburn of the same Blackburn family as the Blackburns at Spring Grove and the Washington's at Claymont, Blakeley, and Rock Hall. This family association must have been important to William F. Turner the builder of Ripon Lodge. This is evident in the name that he chose for his farm, Ripon Lodge. Ripon Lodge was the name of the Blackburn family home in Prince William County where William Turner's mother had been born. Both houses derived their name from the Blackburn family ancestral home, Ripon, Yorkshire, England.

It is obvious that the Blackburn family connection was historically very strong within the Turner family at Ripon Lodge. This historic connection between Ripon Lodge and other

properties throughout the proposed Bullskin Run Rural Historic District is further reason that it should be included within the district's boundary. Ripon Lodge is individually listed on the National Register of Historic Places and is recommended for listing as a contributing resource to the Bullskin Run Rural Historic District.

Washington Family Slave Cemetery

What is believed to be the Washington family slave cemetery is located on a small hill overlooking the north branch of the Bullskin Run just west of the railroad, between Claymont and Blakeley. Keven Walker and David Roberts discovered the cemetery in the winter of 2000. Walker had been researching historic sites associated with the Washington plantations Claymont, Blakeley, and Prospect Hill for two years when the site was discovered. It was that research that led to the onsite discovery by Roberts and was subsequently able to identify the cemetery as the probable burying ground for the Washington family slaves from all three plantations.

The property on which the cemetery is located passed out of Washington family hands when it was sold to Peter K. and Honey Johnson by Eleanor Howard, the daughter of Louisa Washington Chew of Blakeley. The Johnson's are buried in the cemetery and their gravestone is one of only two that were evident after an initial survey of the site. The Johnson's were descendants of former slaves from both Claymont and Blakeley and are listed in probate records for both properties. A letter written by Anna M.T.B. Washington to her son, Thomas, relates the death of a slave and alludes to his burial nearby. Other slave deaths are recorded in her diary. The farm journal of Bushrod Corbin Washington II talks of "plowing the graveyard field" and it was location evidence from that diary that focused the search in the general area in which the cemetery was eventually found.

The experience of African American slaves within the area of the proposed historic district is an integral part of the social history of the region. The plantations that were established along the Bullskin were built with slave labor, and it was this system of labor that set these plantation holders socially, ethically, and economically apart from their Quaker neighbors. The collision of these two, very different ideologies is a central theme for the proposed district, therefore any sites that contribute to the understanding of the black experience within the proposed district is significant. The Johnson Cemetery is significant under NRHP criterion A, B, and D and is recommended as a contributing resource to the proposed Bullskin Run Rural Historic District. It is further recommended that the National Register Boundaries for Claymont be extended to include the outlying areas of that former plantation that contain significant resources such as the Johnson Cemetery.

Archeological sites associated with Prospect Hill

Very near the Bullskin Run and on a rise between Claymont and Blakeley is situated the remains of what once was the main house for Prospect Hill Plantation. A phase one

archeological survey was conducted within a limited area and initial evidence recovered in this survey seems to support documentary research that positively identifies the site as Prospect Hill.

Prospect Hill was the plantation established by George Washington's brother, John Augustine Washington, in the late 1750's and early 1760's. John Augustine never lived at the site but stayed there often until his death. During its early years, the Washington landholdings at Prospect Hill increased until in 1813 the land was divided between John Augustine Washington's grandchildren, the children of his son Corbin, Bushrod Corbin Washington, John Augustine Washington II, and Richard Washington. Out of this land division the Claymont and Blakeley plantations were created and the now much smaller Prospect Hill was devised to Richard Washington.

Richard Washington died at a very young age, unmarried and with no children. Upon his death, his sister Mary Washington Herbert inherited the Prospect Hill Property. The property continued in the hands of her descendants until by the late 1930's it was reported in the Jefferson County Historical Magazine to be deserted and in ruin but still standing. The house was said to have been rather modest with three rooms on the main level and three above, made of limestone with a large fireplace in each of the three downstairs rooms.

John Augustine Washington sent a letter to his brother George Washington who was then commanding the continental Army in the American Revolution. The letter clearly states at the top that it was written from Prospect Hill. Another interesting piece of documentary evidence that has been found in the collections of the Virginia Historical Society is an invitation to a Dance to be held at Prospect Hill in 1813.

Prospect Hill is recommended as a contributing resource to the Bullskin Run Rural Historic District under NRHP criterion D. The Prospect Hill Site has the potential to yield archeological information that may contribute to our understanding of the Washington family's earliest years in the Shenandoah Valley and life on, what was then, their new plantations.

Berry Hill

Located just east of Franklinton Road, Berry Hill was evaluated for the December 2002 report and found to be potentially eligible for nomination to the NRHP under criterion C for its architectural significance as a ca. 1800 Federal-style dwelling. The report cited that the original construction of the house was a variation on a 3 room Quaker plan with corner fireplaces in each of the rooms on the west side and one in the room on the east side (Lautzenheiser, 2002).

The detailing in this house and the suggestion of Quaker influence are reminiscent of certain elements found in the home known as The Fairfax Grant. The Fairfax Grant, though constructed much earlier, also boasts corner fireplaces and a Quaker three room.

Berry Hill is recommended as a contributing resource to the Bullskin Run Rural Historic District. This recommendation is based on the architectural similarities that Berry Hill shares with other properties within the district and Berry Hill's relevance to early settlement in the lower Shenandoah Valley, a theme for the proposed district.

The William Grubb Farm District

The December 2002 Cultural Resource Study does not sufficiently nor accurately demonstrate the negative effect of Alternatives 8 and 9 on an **existing National Register Historic District**.

According to the National Register of Historic Places (NRHP) Registration Form for the William Grubb Farm District, dated October 16, 1991, Section 7, Pages 4-5, there are five contributing resources within the District. These include the William Grubb Farm House, Well House, Corn Crib, Barn, and the Quaker Burial Ground. Section 8, page 3 of the same document states that the William Grubb Farm District is eligible for consideration under criteria D, due to the inclusion of the Quaker Burial Ground within the District. Section 8 states:

"The site meets the special requirements for the criteria considerations by deriving its primary significance as the burial place of William McPherson, first Quaker overseer of Bullskin Meeting and first surveyor of Jefferson County when it split off of Berkeley County. It is also the burial site for the Haines and Grubb families, earliest settlers on the Bullskin...The stone wall exists as rubble and the setting is as it was originally. Surrounded by fields and bordered on two sides by trees, the site is visible in the distance from the barn, and within walking distance. The property is currently owned by Katherine Burns of the Beverley/Burns farm who is in agreement with its inclusion in the nomination."

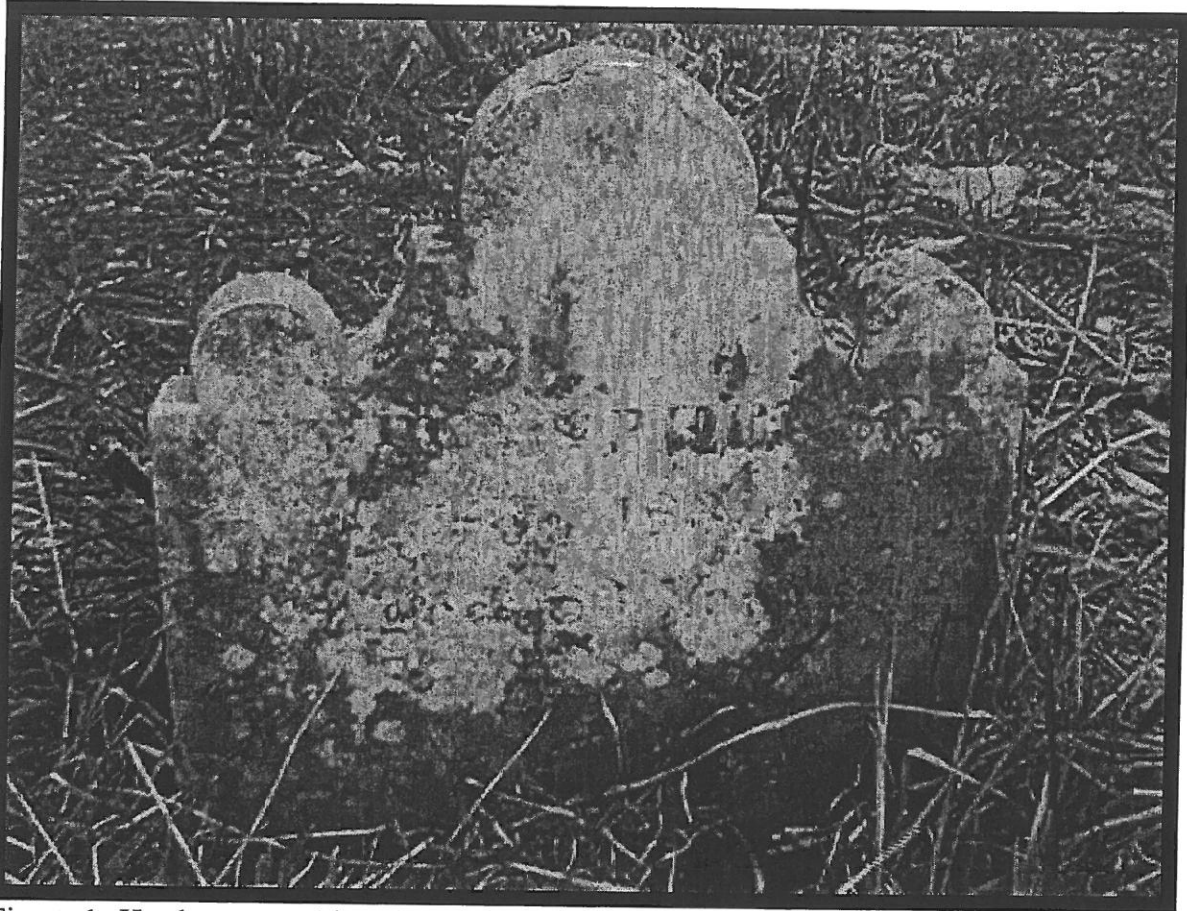


Figure 1: Headstone marking the grave of William McPherson, Quaker Burial Ground, William Grubb Farm Historic District.

Section 10 of the NRHP Registration Form lists the acreage of the district as 25 acres. It also lists the following information:

VERBAL BOUNDARY: *The boundary of the William Grubb Farm District, including the Quaker graveyard, is shown as the dotted line on the accompanying map entitled: "Survey and Division Plat of Rawlings, Thos. O., and Marijo Tract", February 21, 1978.*

BOUNDARY JUSTIFICATION: *The boundary includes the farmhouse, barn, outbuildings, Quaker graveyard, fields, and water rights that have historically been part of the William Grubb Farm and that maintain historic integrity and significance.*

The document titled Architectural Evaluation, Proposed Improvements to US 340, dated January 2000, prepared for WV Department of Transportation and the FHA, includes a West Virginia Historic Property Inventory Form for the William Grubb Farm. The sketch map on the Property Inventory Form incorrectly places the location of the Quaker

Cemetery, west of the Grubb barn. This sketch map makes it appear that the Quaker Cemetery is located within the existing 10 acre property boundary for the William Grubb Farm. The National Register Registration Form attached plats clearly shows the correct location of the Quaker Cemetery approximately 1000 feet North of the William Grubb barn.

Alternatives 8 and 9 cut directly through the William Grubb Farm District, as recorded in the NRHP Registration Form. Alternatives 8 and 9 permanently separate the Quaker Graveyard and the farmhouse, thus destroying the historic integrity of the District.

Alternatives 8 and 9 also bisect the Old Quaker Meeting House Road, which can be seen on the 1809 Varle Map and the 1820 John Wood Map of Jefferson County. This road connected the Quaker cemetery, Quaker meeting house, Quaker parsonage, and the home of Abram Haines Sr., a prominent Quaker believed to be one of the earliest settlers on the Bullskin. Although this road has been abandoned a road trace is still visible.

The Quaker Meeting House Road, the Quaker meeting house archaeological site, and the Quaker parsonage archaeological site have not been addressed as potential contributing resources to either the William Grubb Farm Historic District or the Bullskin Run Rural Historic District.

The Fairfax Grant

The Fairfax Grant, believed to have been built in the 1730's by the Haines family, has not been listed as a property eligible for listing on the National Register of Historic Places. It is recommended that this property, not only be listed as a contributing resource to the Bullskin Run Rural Historic District, but also individually listed on the National Register of Historic Places. This recommendation is based on the property's association with the area's earliest settlers; its association with nearby nationally registered Quaker sites; and the property's overall historic integrity (interior and exterior).

Details Missing from December 2002 Cultural Resource Study of BRRHD

The December 2002 report does not include maps detailing the effects of Improvement Options 8 and 9 on each of the affected National Register and eligible National Register properties, as can be found in the Architectural Evaluation, Proposed Improvements To US 340, dated January 2000. An example is Figure 123, found on page 135 in the January 2000 report.

Adverse Effects of US route 340 Improvement Options 8 and 9

Section 106 of the National Historic Preservation Act requires that federal agencies take into account the effect of their undertakings on historic properties; seek ways to avoid or reduce adverse effects their projects may have on historic properties; and afford the Federal Advisory Council on Historic Preservation an opportunity to comment on the project and its effects on historic properties.

As defined in Section 106, adverse effects can be direct or indirect. They include reasonably foreseeable impacts that may occur later in time, be farther removed in distance, or be cumulative. Typical examples of adverse effect are:

- changes in the character of the property's use or setting; and
- introduction of incompatible visual, atmospheric, or audible elements.

US Route 340 Improvement options 8 and 9 would adversely effect no fewer than five properties listed on the National Register of Historic Places; six properties listed as eligible for the NRHP; and the entire area and associated contributing cultural resources recommended as eligible to be listed on the NRHP as the Bullskin Run Rural Historic District. These properties include:

National Register Properties

- Beverley – adverse effect
- William Grubb Farm – adverse effect
- Claymont – adverse effect
- Blakeley – adverse effect
- Ripon Lodge – adverse effect

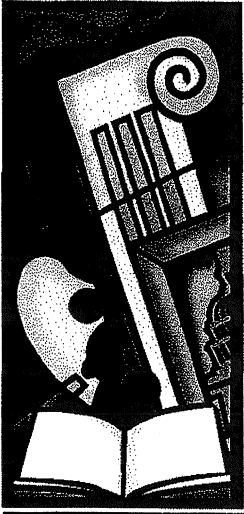
Eligible National Register Properties

- Wheatland – adverse effect
- Sunnyside – adverse effect
- Locust Hill – adverse effect
- Rock Spring – adverse effect
- Fairfax Grant Farm – adverse effect
- Berry Hill – adverse effect

Eligible Contributing Resources to the Bullskin Run Rural Historic District

- Olive Boy (Spring Grove), Blackburn Cemetery – adverse effect
- Archeological sites on the former Larue Farm “Fairview” – adverse effect
- Prospect Hill – adverse effect
- Johnson Cemetery –adverse effect
- Rock Hall Farm – adverse effect
- Cool Spring Farm – adverse effect
- Hillbrook – adverse effect
- White House Farm – adverse effect

As a result of either improvement Option 8 or improvement Option 9, all of the above listed properties and sites will be subject to changes in their character and setting, and the introduction of incompatible visual, atmospheric, or audible elements.



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July 5, 2005

Mr. Gregory L. Bailey
Division of Highways
Building 5, Room 110
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Charleston, WV 25305

RE: US 340, VA Line to Charles Town
State Project U219-340-0.00 02
Federal Project NH-0340 (0.30)E
FR#: 96-814-JF-19

Dear Mr. Bailey:

We have reviewed the report, *Criteria of Effects Report, Alternative 4, Proposed Improvements to US 340, Jefferson County, West Virginia* as prepared by Coastal Carolina Research (June 2004) for the above referenced project. As required by Section 106 of the National Historic Preservation act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

Architectural Resources:

Thank you for submitting the report referenced above. We apologize for the lateness of our response to you. The West Virginia Department of Transportation (WVDOT), Division of Highways, has proposed improvements to US 340 in Jefferson County. The project extends from the Virginia state line to the existing four-lane section of the Charles Town bypass, which lies two miles north of Rippon, a distance of approximately 4.8 miles. The proposed improvements require the development of a four-lane depressed median facility with partially controlled access. Nine alternatives were studied and Alternative 4 has been chosen as the preferred alternative.

Within the study area 76 resources dating prior to 1946 were recorded or resurveyed. Of these 76 resources, Ripon Lodge and the William Grubb Farm, are listed in the National Register of Historic Places (NRHP). Three historic districts were identified and include the Kabletown Rural Historic District, the Rippon Historic District and the Bull Skin Run Historic District. In addition 13 resources within the study area were determined individually eligible for the NRHP; Straithmore, Byrdland, Wayside, Glenwood, Olive Boy Farm, Locust Hill, Sunnyside, Rockspring, Cloverdale, Berry Hill, the Shenandoah section of the Norfolk Southern Railroad and the archaeological component of Wheatlands. Balclutha, a contributing resource to the Long Marsh Run Rural Historic District in Virginia, extends in to West Virginia.

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Engineering Division
WVDOT/DOH

July 5, 2005
Mr. Bailey
Page 2

The report address the potential adverse effects to the above mentioned properties utilizing the Criteria of Adverse Effects as defined in Section 800.5 of 36 CFR 800, the implementing regulations for Section 106. The consultant found that the Preferred Alternative 4 would have No Effect to the following eligible or listed resources: Balclutha (concurrent by the Virginia State Historic Preservation Office), Berry Hill, Wheatlands, Locust Hill, Rockspring, Sunnyside, William Grubb Farm, Beverley and Cloverdale. We concur with this assessment.

The consultant found that the Preferred Alternative 4 would have No Adverse Effect to the Ripon Lodge and the Norfolk Southern Railroad due to the fact that the short distance to the project area may introduce audible, visual or atmospheric elements, but they will not diminish the properties significant characteristics. We concur with this assessment.

As currently designed the Preferred Alternative 4 will have an Adverse Effect to the following eligible properties and historic districts: Olive Boy Farm, Glenwood, Wayside, Byrdland, Straithmore, Kabletown Rural Historic District, Bull Skin Run Historic District and Rippon Historic District. We concur this assessment.

Archaeological Resources:

Wheatlands: We concur that the Preferred Alternative 4 will have No Effect to the historic archaeological resources at this property.

In addition to the report reference above, a summary of the comments received at the November 18, 2003 public meeting was enclosed. Thank you for providing us with the comments regarding the proposed alternative.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Ryan Burns, Historian or Lora Lamarre, Senior Archaeologist at (304) 558-0240.*

Sincerely,



Susan M. Pierce
Deputy State Historic Preservation Officer

CC: Coalition for a Better 340 c/o David Burns

SMP:lal/jwm/rb



June 25, 2014

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Charleston, WV 25305

RE: US 340
State Project: U219-340-0.00; Federal Project: NH-340 (024)
FR#: 96-814-JF-22

Dear Mr. Hark:

We have reviewed the information submitted for the above referenced project to determine potential effects to cultural resources. Unfortunately, we are concerned that WV DOH continues to conduct project reviews on behalf of the Federal Highway Administration without complying with Section 106 regulations. We request that a qualified staff archaeologist review the report prior to its submission to our office.

The report was prepared by staff at Coastal Carolina Research as sub-consultants to HW Lochnar. Your letter indicates that the consultant is "an extension of our WV DOH Environmental Staff." As stated in previous correspondence, the Section 106 regulations state under 36 CFR Part 800.2(a)(1) that "Section 112(a)(1)(A) of the act requires each Federal agency responsible for the protection of historic resources, including archaeological resources, to ensure that all actions taken by employees or contractors of the agency shall meet professional standards under regulations developed by the Secretary." The Section 106 regulations further state under 36 CFR Part 800.2(a)(3), "If a document or study is prepared by a non-Federal party, the agency official is responsible for ensuring that its content meets applicable standards and guidelines." It is not evident that a qualified DOH archaeologist reviewed the content of this report to ensure that work conducted by outside consultants meets federal and state standards and guidelines. We will be happy to provide our comments once that has occurred.

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

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/LLD



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

1900 Kanawha Boulevard East • Building Five • Room 110
Charleston, West Virginia 25305-0430 • (304) 558-3505

Earl Ray Tomblin
Governor

Paul A. Mattox, Jr., P. E.
Secretary of Transportation/
Commissioner of Highways

May 30, 2014

Ms. Susan Pierce, Deputy State
Historic Preservation Officer
Division of Culture and History
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Ms. Pierce:

State Project U219-340-0.00
Federal Project NH-340 (024)
US 340 Improvement Study
Archaeology Resources
Sinkhole Investigations Related to the Madison Cave Isopod
Jefferson County

This submission for the Jefferson County US 340 project addresses Archeological Resources for two sinkholes. Our May 28, 2014 Historic Resources submission to your office, is for the same two sink holes. Attached are two of your letters from 1999 that addresses Archeology.

The West Virginia Division of Highways (WVDOH) is in the process of updating the environmental studies for the US 340 four lane project in Jefferson County.

Part of the initial studies involves updating endangered species concerns with respect to the Madison Cave Isopod that occurs in underground aquifers. The first step in this process is to investigate known sink holes to determine if there could be connectivity to a water source.

There are two sink holes on preferred alternative 4 located on historic properties that require access & debris removal.

The attached archeological letter report addresses this work and the effect to Archeological Resources.

The WVDOH has contacted the effected property owners and have been given right of entry to perform the required work.

Costal Carolina Research, who performed this work, is a sub consultant to HW Lochnar, our prime NEPA consultant. These firms are an extension of our WV DOH Environmental Staff.

If you have any questions please you may contact me at (304) 558-9670.

Very truly yours,

Ben L. Hark
Environmental Section Head
Engineering Division

BH:k
Enclosure
bcc: DDE(SM)



**WEST VIRGINIA DIVISION OF
CULTURE AND HISTORY**

February 17, 1999

Mr. James Sothen
Division of Highways
Building 5, Room 109
Capitol Complex
Charleston, WV 25305

RECEIVED
FEB 17 1999
WEST VIRGINIA DIVISION
WV DOT

RE: Route 340 - Archaeological Assessment and
Archaeological Predictive Model
FR: 96-814-JF

Dear Mr. Sothen,

We have reviewed the following documents: "Phase I Cultural Resource Investigation Architectural Survey and Archaeological Assessment, Proposed Improvements to US 340 Jefferson County, West Virginia" and the "Predictive Model Addendum". In accordance with Section 106 of the National Historic Preservation Act, we submit our comments on the above referenced project.

Overall, we find both documents acceptable and the Archaeological Predictive Model to be thorough and comprehensive. We look forward to reviewing the results of the predictive model testing.

We appreciate the opportunity to be of service. If you have any questions, please contact Patrick Trader, Senior Archaeologist.

Sincerely,


Susan M. Pierce
Deputy State Historic Preservation Officer

SMP:PDT



WEST VIRGINIA DIVISION OF
CULTURE AND HISTORY

December 7, 1999

Mr. James Sothen
Division of Highways
Building 5, Room 110
Capitol Complex
Charleston, WV 25305

RECEIVED

DEC 14 1999

ENGINEERING DIVISION
WV DOH

RE: US 340, VA Line to Charles Town
State project U219-340-0300(02)
FR#: 96-814-JF

Dear Mr. Sothen:

As requested, we have reviewed the consultant's conclusions as found in the archaeological sample survey report for the above mentioned project. We concur with the recommendation that medium and high probability areas be survey of the Preferred Alternative. We add the recommendation that those portions of the low probability areas not previously disturbed or located on steep slopes be visually surveyed and shovel tested if necessary. As the discussion of the predictive model asserts, there has been very little organized examination of this portion of Jefferson County, and the US 340 project presents an excellent opportunity to remedy this oversight.

We appreciate the opportunity to be of service. If you have questions regarding our comments or the Section 106 process, please call Joanna Wilson, Senior Archaeologist, at (304) 558-0220 extension 146.

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP:jlw



Coastal Carolina Research
P.O. BOX 1198, Tarboro, North Carolina 27886
(252) 641-1444 | (252) 641-1235 fax
www.ccrtarboro.com

May 29, 2014

Ben Hark
Environmental Section Head
West Virginia Division of Highways
1900 Kanawha Boulevard, East
State Capitol Complex, Building 5
Charleston, WV 25305

RE: US 340 Improvement Study, Categorical Exclusion for Sinkhole Investigations Related to the Madison Cave Isopod Study, Jefferson County, West Virginia (Federal Project No.: NH-0340(030); WVDOH Project No.: U219-340-0.00 02), Archaeological Survey of Sinkholes #1 and #2.

Dear Mr. Hark:

Introduction

Coastal Carolina Research (CCR), under contract with H. W. Lochner, Inc., is conducting studies for a Categorical Exclusion for the Madison Cave Isopod Study in compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966 and its implementing regulations, 36 CFR Part 800, as amended. The Madison Cave Isopod Study is evaluating the potential impact to the Madison Cave Isopod habitat from alterations of sinkholes related to the roadway improvement project for the existing two-lane section of US 340 in Jefferson County, West Virginia. As part of the studies of the sinkholes, the West Virginia Division of Highways (WVDOH) intends to remove debris, including farm-related debris, from two sinkhole openings (Sinkhole #1 and #2) to expose any open throat or cave entrance that may be present. Sinkhole #1 is within the established boundaries of the two NRHP-eligible properties, Olive Boy Farm (JF-0062-006) and the Kabletown Rural Historic District, and Sinkhole #2 is located within the qualifying landscape of the established boundary of the NRHP-eligible Kabletown Rural Historic District (Attachment A). This letter details the results of an archaeological identification survey conducted around the sinkhole openings. Archaeological monitoring of debris removal will also be conducted as part of the overall investigations at a later date.

Sinkhole Descriptions and Records Search Results

Sinkhole #1. This sinkhole, located approximately 50 feet west of US 340 in an open pasture, is less than 15 feet in diameter and is situated within a shallow swale (Orndorff 2011). It contains farm debris including old fencing materials and may have considerable depth. The sinkhole is located along the western boundary of Olive Boy Farm as well as the Kabletown Rural Historic District, of which Olive Boy Farm is a contributing element.

Sinkhole #2. Sinkhole #2 is approximately 15 feet in diameter is situated in an approximately 100-foot-diameter limestone rock break. The east-facing rock break is grown up with trees but is otherwise within an agricultural field (Orndorff 2011). The sinkhole has been used as a dump for field stone and farm debris including fencing and roofing. It is located within the qualifying landscape of the established boundary of the NRHP-eligible Kabletown Rural Historic District, approximately 600 feet southeast of US 340 (see Attachment A).

Previously Identified Archaeological Sites. No previously recorded archaeological sites are located directly at or immediately adjacent to either of the sinkhole locations; however, one previously recorded archaeological site (46JF139) is located within one mile of Sinkhole #1 (Attachment B), and three previously recorded archaeological sites (46JF301 through 303) are located within one mile of Sinkhole #2 (Attachment C).

CCR is a Wholly Owned Subsidiary of CCRG

 COMMONWEALTH CULTURAL
RESOURCES GROUP, INC.
www.ccrainc.com

Historic Background

Sinkhole #1. Sinkhole #1 is located on land that is part of Olive Boy Farm. The 16 acres upon which Olive Boy Farm sits today was once part of a much larger, 8,007-acre tract granted in 1730 by Lord Fairfax to Mann Page, son-in-law of his agent Robert "King" Carter (O'Dell 1995). By 1815, the present-day Olive Boy Farm property was part of a 246-acre farm, Spring Grove, that was owned and operated by Elizabeth Blackburn with assistance from her four children and various slaves. Elizabeth Blackburn's son inherited the farm by 1840 and was also a slaveholder. He sold the entire farm, with the existing family cemetery and former house (both well south of the current sinkhole), to Thomas Isbell in 1853. Isbell constructed the current Italianate Olive Boy Farm house in 1858 (Kalbian et al. 2000). Sinkhole #1 has been in the agricultural setting associated with Spring Grove, later renamed Olive Boy Farm, since that time.

Sinkhole #2. Sinkhole #2 is situated on land that was once part of the greater Glenwood tract and is currently part of the Kabetown Rural Historic District. The early history of the Glenwood tract begins in 1748 when one of the heirs to the Mann Page tract in northeastern Frederick County sold his inheritance to Ralph Wormeley (Kalbian et al. 2000). The land exchanged hands numerous times throughout the eighteenth and nineteenth centuries, and in 1844 the property was divided into two separate tracts by the then owner, Daniel Heflebower. One tract became known as Wayside, and stayed in the hands of the Heflebower family, while the other tract, which became known as Glenwood, was sold. Farming operations continued on the Glenwood tract throughout the nineteenth century, and in 1845, a high-style, eclectic dwelling was constructed on the farm, with Georgian, Federal, and Greek Revival-style elements. The house still stands roughly 1,100 feet southeast of the sinkhole; however, the land that the sinkhole is on has been separated from the Glenwood tract. The Glenwood property was sold and divided several more times throughout the nineteenth and twentieth centuries (Kalbian et al. 2000). Today, Sinkhole #2 remains in an agricultural setting, with the NRHP-eligible Glenwood property boundary well to the south (see Attachment A).

Archaeological Identification Survey Methods

The archaeological identification survey utilized information gathered by CCR as part of previous background reviews (Brady and Lautzenheiser 1999; Kalbian et al. 2000; Lautzenheiser et al. 1997) and current consultation with the West Virginia Division of Culture and History's State Historic Preservation Office (SHPO) to obtain information on any additional previously recorded sites. For the survey fieldwork, the study areas for the sinkholes were given full consideration through visual inspection. In areas without standing water or obvious heavy saturation, if not obviously disturbed by previous substantial earth moving activities or excessively sloped, shovel tests were placed at the 15-m intervals. Digital photography was used to document the project area.

The study area for Sinkhole #1 was the approximate 50-ft (15-m) perimeter around the sinkhole. For Sinkhole #2, the study area is defined as the approximate 50-ft (15-m) perimeter around the sinkhole as well as a proposed temporary access corridor to bring equipment to the sinkhole. The access corridor would be approximately 600 feet long and no greater than 50 feet in width.

Shovel tests were 50 x 50 cm in diameter and were excavated at least 10 cm into the subsoil or sterile soil. Fill from the tests was screened through 6.35-mm mesh screen. An archaeological site would be defined by the recovery of identifiable features (hearth, refuse pit, articulated brick, etc.) or three or more artifacts in reasonable association on a landform or connected landforms. Any other isolated artifact finds would be considered an isolated find. No sites or isolated finds were identified.

Ben Hark
May 29, 2014
Page 3

Archaeological Identification Survey Results

The archaeological identification survey was conducted on May 21, 2014, by CCR project archaeologist Lindsay Flood, M.A., RPA, and CCR archaeologist Amanda Stamper. Field maps and GPS locational devices for the survey were prepared by CCR GIS Coordinator D. Allen Poyner based on locational data and engineering plans provided by H. W. Lochner, Inc.

No archaeological sites or isolated finds were recorded at either of the two sinkhole locations.

Sinkhole #1. Four shovel tests were excavated around Sinkhole #1. The shovel tests were spaced approximately 15 m apart from each other, with Shovel Test 1 to the northeast of the sinkhole, Shovel Test 2 to the southeast, Shovel Test 3 to the southwest, and Shovel Test 4 to the northwest (Attachment D). The current conditions at the sinkhole location consist of a cow pasture with tall grass. Logs and other wood debris have been placed in and around the sinkhole (Attachments E and F). The soil profiles of the four shovel tests were similar and appeared to represent a brown (7.5YR 4/4) silty clay loam plow zone between 23 and 27 cm thick, above a strong brown (7.5YR 4/6 to 7.5YR 5/8) silty clay subsoil (Attachment G). The subsoil was excavated for a full 10 cm. No artifacts were found in any of the four shovel tests, and no sites were recorded at the location for Sinkhole #1.

Sinkhole #2. Sixteen shovel tests were excavated at the project area for Sinkhole #2, with six shovel tests placed at approximately 15-m intervals around the copse of trees associated with the sinkhole. The other 10 shovel tests were placed at approximately 15-m intervals along the proposed access corridor that runs from the sinkhole, northwest to US 340 (Attachment H). Apart from the copse of trees where the sinkhole is located, the ground cover at the project area for Sinkhole #2 consists of an agricultural field, which at the time of the current survey contained tall grass and had recently been planted with corn (Attachments I through L). The typical shovel test profile represented a dark yellowish brown (10YR 4/6) to a yellowish brown (10YR 5/6) silty clay loam plow zone that averaged 28 cm in thickness on top of a strong brown (7.5YR 5/8) silty clay subsoil (Attachment M). Four of the shovel tests also had an intermediate soil zone (Zone 2) between the plow zone and the subsoil. This zone was between 7 cm and 28 cm thick, and ranged from a dark yellowish brown (10YR 4/4 to 10YR 4/6) clay loam to a yellowish brown (10YR 5/6) silty clay loam (see Attachment M). Zone 2 in these four shovel tests appeared to be a deeper, buried plow zone, and was observed in areas of the field that were low, where colluvial deposition may have taken place. The subsoil below was excavated for a full 10 cm. No artifacts were found in any of the 16 shovel tests, and no sites were recorded at the location for Sinkhole #2.

Recommendations

No previously recorded archaeological sites are located at or adjacent to the Sinkhole #1 or #2 locations. Background review indicates that one of the previously recorded archaeological sites (46JF139) is located in the one-mile search radius of Sinkhole #1, and three previously recorded archaeological sites (46JF301 through 303) are located within one mile of Sinkhole #2 (see Attachments B and C). Background review also indicates limited potential for historic habitation sites at the sinkhole locations.

Visual inspection and intensive survey of the area of potential modifications associated with the sinkhole investigations yielded no evidence of archaeological sites; therefore, no archaeological sites on or eligible for the NRHP will be affected by the proposed investigations. It has also already been previously recommended that the NRHP-eligible properties or districts in the vicinity of the sinkholes will not be adversely affected by the potential

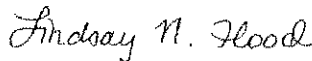
Ben Hark
May 29, 2014
Page 4

modifications associated with the sinkhole investigations (Bamann and Van den Hurk 2014). No further archaeological work is recommended.

Yours truly,



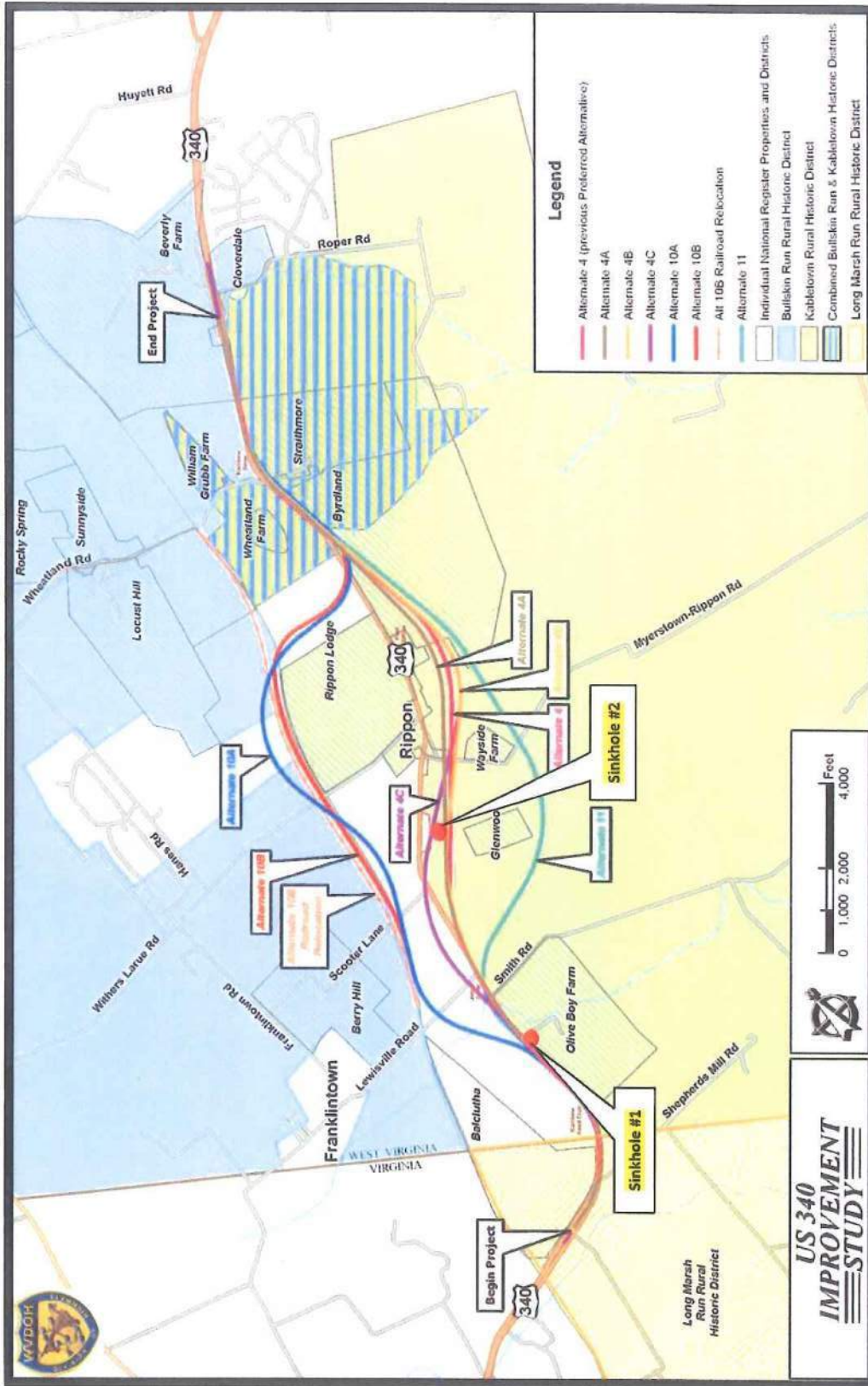
Susan E. Bamann, Ph.D., RPA
Regional Director/Project Manager



Lindsay N. Flood, M.A., RPA
Project Archaeologist

References Cited

- Bamann, Susan E., and Jeroen van den Hurk
2014 US 340 Improvement Study, Categorical Exclusion for Sinkhole Investigations Related to the Madison Cave Isopod Study, Jefferson County, West Virginia (Federal Project No.: NH-0340(030); WVDOH Project No.: U219-340-0.00 02). Letter Report Prepared by Coastal Carolina Research. Ms. on file, Coastal Carolina research, Tarboro, North Carolina.
- Brady, Ellen M., and Loretta Lautzenheiser
1999 *Archaeological Sample Survey, Proposed Improvements to US 340, Jefferson County, West Virginia*. Prepared by Coastal Carolina Research. Ms. on file, West Virginia Division of Highways, Charleston.
- Kalbian, Maral, Loretta Lautzenheiser, Leila Boyer, and Bill W. Hall
2000 *Architectural Evaluation, Proposed Improvements to US 340, Jefferson County, West Virginia*. Prepared by Coastal Carolina Research. Ms. on file, West Virginia Division of Highways, Charleston.
- Lautzenheiser, Loretta, Maral S. Kalbian, and Mary Ann Holm
1997 *Phase I Cultural Resource Investigation, Architectural Survey and Archaeological Assessment, Proposed Improvements to US 340, Jefferson County, West Virginia*. Prepared by Coastal Carolina Research. Ms. on file, West Virginia Division of Highways, Charleston.
- O'Dell, C.
1995 *Pioneers of Old Frederick County, Virginia*. Walsworth Publishing Company, Marceline, Missouri.
- Orndorff, Wil
2011 *Evaluation of Potential Impact to Madison Cave Isopod Habitat from Alteration of Sinkholes by WVDOH Project U219-340, Alternatives 4, 4A, and 4B*. Ms. on file, West Virginia Division of Highways, Charleston.



Attachment A: US 340 Improvement Study, WVDOH Map of Current Alternates with General Locations of Sinkholes Added.

Attachment B: Table Listing Previously recorded Archaeological Sites Within a 1-mile Radius of Sinkhole #L.

Site Number	Site Name	Site Type	Elevation above MSL (ft)	Topographic Setting	Proximity to Project Area	Source of Information
46JF139 (JF-0062-0006)	Blackburn/Isbell-Wortley	Historic, Domestic and Cemetery: 19th-20th century	500	Ridge Toe	0.256 mi	WV Archaeological Site Form (WV SHPO Map Viewer)

Attachment C: Table Listing Previously recorded Archaeological Sites Within a 1-mile Radius of Sinkhole #2.

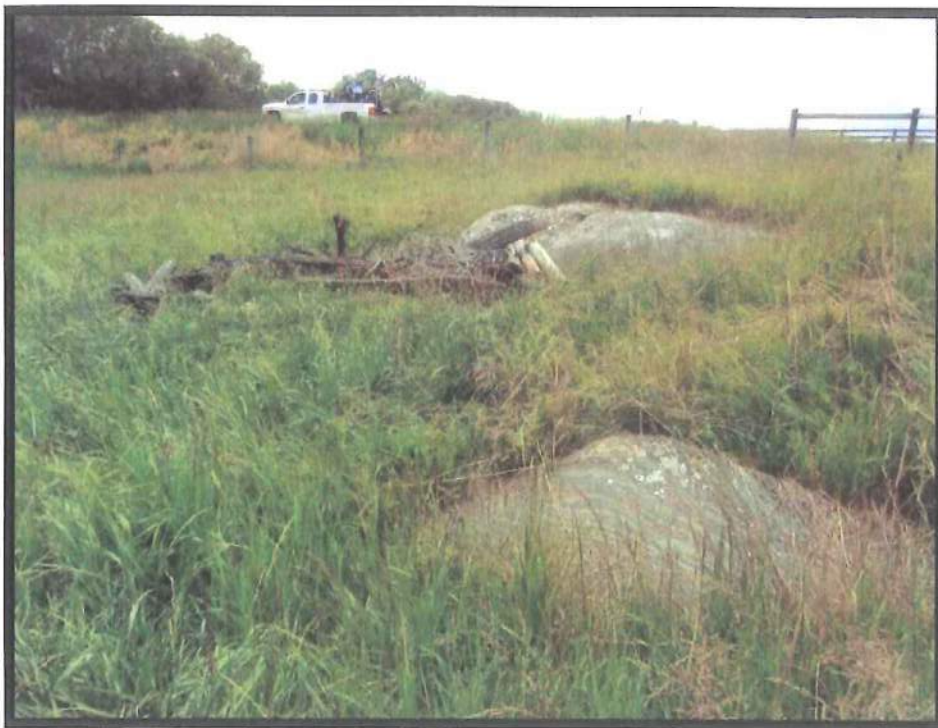
Site Number	Site Name	Site Type	Elevation above MSL (ft)	Topographic Setting	Proximity to Project Area	Source of Information
46JF301	Ripon Lodge Farm	Historic, Domestic: 19th-20th century	545	Upland Flat	0.762 mi	Brady and Lautzenheiser 1999; WV Archaeological Site Form (WV SHPO Map Viewer)
46JF302	Ripon Lodge Farm	Historic, Domestic: 19th-20th century	540	Upland Flat	0.870 mi	Brady and Lautzenheiser 1999; WV Archaeological Site Form (WV SHPO Map Viewer)
46JF303	Ripon Lodge Farm	Historic, Industrial: 19th-20th century	530	Upland Flat	0.442 mi	Brady and Lautzenheiser 1999; WV Archaeological Site Form (WV SHPO Map Viewer)



Attachment D: Map Showing the Locations of Sinkhole 1 and Excavated Shovel Tests.



Attachment E: View of Sinkhole #1 from Shovel Test 3, Looking Northeast.



Attachment F: View of Sinkhole #1 from Shovel Test 1, Looking West.

Attachment G: Shovel Test Profiles at Sinkhole #1.

Shovel Test (ST) #	Zone 1 (Depth and Soil Color/Texture)		Zone 2 (Depth and Soil Color/Texture)	
	Depth	Soil Color/Texture	Depth	Soil Color/Texture
ST 1	0-23	7.5YR 4/4 (brown) silty clay loam	23-33	7.5YR 5/8 (strong brown) silty clay
ST 2	0-25	7.5YR 4/4 (brown) silty clay loam	25-36	7.5YR 4/6 (strong brown) silty clay
ST 3	0-27	7.5YR 4/4 (brown) silty clay loam	27-37	7.5YR 5/8 (strong brown) silty clay
ST 4	0-25	7.5YR 4/4 (brown) silty clay loam	25-35	7.5YR 5/8 (strong brown) silty clay



Attachment H: Map Showing the Locations of Sinkhole 2, Proposed Access Corridor, and Excavated Shovel Tests.



Attachment I: View of Sinkhole #2, Looking West-Northwest.



Attachment J: View of Sinkhole #2 from Shovel Test 4, Looking Northeast.



Attachment K: View of Copse of Trees and Sinkhole #2, and Shovel Test 4 Being Excavated, Looking Northeast.



Attachment L: View of Proposed Access Corridor and Copse of Trees in Field that Contains Sinkhole #2, Looking South-Southeast.

Attachment M: Shovel Test Profiles at Sinkhole #2.

Shovel Test (ST) #	Zone 1 (Depth and Soil Color/Texture)		Zone 2 (Depth and Soil Color/Texture)		Zone 3 (Depth and Soil Color/Texture)	
	Depth	Soil Color/Texture	Depth	Soil Color/Texture	Depth	Soil Color/Texture
ST 1	0-26	10YR 4/6 (dark yellowish brown) silty clay loam	26-37	7.5YR 5/8 (strong brown) silty clay		
ST 2	0-23	10YR 4/6 (dark yellowish brown) silty clay loam	23-33	7.5YR 5/8 (strong brown) silty clay		
ST 3	0-25	10YR 4/6 (dark yellowish brown) silty clay loam	25-44	10YR 5/6 (yellowish brown) silty clay loam	44-54	7.5YR 5/8 (strong brown) silty clay
ST 4	0-39	10YR 4/6 (dark yellowish brown) silty clay loam	39-49	7.5YR 5/8 (strong brown) silty clay		
ST 5	0-28	10YR 4/6 (dark yellowish brown) silty clay loam	28-40	7.5YR 5/8 (strong brown) silty clay		
ST 6	0-39	10YR 4/6 (dark yellowish brown) silty clay loam	39-49	7.5YR 5/8 (strong brown) silty clay		
ST 7	0-28	10YR 4/6 (dark yellowish brown) silty clay loam	28-40	7.5YR 5/8 (strong brown) silty clay		
ST 8	0-19	10YR 4/6 (dark yellowish brown) silty clay loam	19-47	10YR 4/6 (dark yellowish brown) clay loam	47-57	7.5YR 5/8 (strong brown) silty clay
ST 9	0-28	10YR 4/6 (dark yellowish brown) silty clay loam	28-39	7.5YR 5/8 (strong brown) silty clay		
ST 10	0-37	10YR 4/6 (dark yellowish brown) silty clay loam	37-47	7.5YR 5/8 (strong brown) silty clay		
ST 11	0-22	10YR 4/6 (dark yellowish brown) silty clay loam	22-50	10YR 4/4 (dark yellowish brown) clay loam	50-60	7.5YR 5/8 (strong brown) silty clay
ST 12	0-28	10YR 4/6 (dark yellowish brown) silty clay loam	28-35	10YR 4/4 (dark yellowish brown) clay loam	35-45	7.5YR 5/8 (strong brown) silty clay
ST 13	0-26	10YR 4/6 (dark yellowish brown) silty clay loam	26-37	7.5YR 5/8 (strong brown) silty clay		
ST 14	0-30	10YR 4/6 (dark yellowish brown) silty clay loam	30-40	7.5YR 5/8 (strong brown) silty clay		

Attachment M: continued

ST 15	0-23	10YR 5/6 (yellowish brown) silty clay loam	23-33	7.5YR 5/8 (strong brown) silty clay mottled with 10YR 6/6 (brownish yellow) silty clay	
ST 16	0-18	7.5YR 5/8 (strong brown) silty clay			



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

July 8, 2014

Mr. Ben Hark
Environmental Section Head
WVDOH
1900 Kanawha Blvd., East
Building 5, Room A-848
Charleston, West Virginia 25305



RE: US 340 Improvement Study Sinkhole Investigation related to the Madison Cave Isopod
State Project: U219-340-0.00; Federal Project: NH-340 (024)
FR#: 96-814-JF-23

Dear Mr. Hark:

We have reviewed 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.

According to submitted information, the West Virginia Department of Highways proposes to remove debris, including farm related debris, from two sinkhole openings to expose any throat or cave entrances that may be present. The project is related to the Madison Cave Isopod (a threatened species) study.

Architectural Resources:

Olive Boy Farm and the Kabletown Rural Historic District are considered eligible for listing in the National Register of Historic Places. However, these properties will not be adversely impacted by the proposed project. No further consultation is necessary; however, we do 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 Ernest E. Blevins, Structural Historian, at (304) 558-0240.*

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/EEB



U.S. Department
of Transportation

**Federal Highway
Administration**

West Virginia Division

July 21, 2014

Geary Plaza, Suite 200
700 Washington Street, East
Charleston, West Virginia 25301
Phone (304) 347-5928
Fax (304) 347-5103

IN REPLY REFER TO:
Federal Project NH-340(024)
State Project U219-340-0.00
US 340 Improvement Project
Jefferson County

Ms. Susan Pierce
Deputy State Historic Preservation Officer
West Virginia Division of Culture and History
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Ms. Pierce:

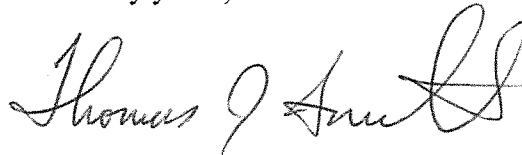
With this letter, the Federal Highway Administration (FHWA) is responding to your June 25, 2014 letter to the West Virginia Department of Transportation, Division of Highways (WVDOH) on the subject project. In this letter you expressed concern regarding compliance with National Historic Preservation Act (NHPA), Section 106 regulations.

On May 30, 2014, the WVDOH submitted an archeological survey report for two sinkholes located within the study area of the subject project for your review and concurrence. We have verified that professional archeologists who meet the U.S. Department of Interior (USDO) Secretary's Standards conducted the survey and prepared the report. We have also verified that the WVDOH reviewed the report to ensure the content met applicable standards and guidelines, prior to submittal to you.

Based on the information above, our office believes the survey work, report preparation and review process complies with the NHPA Section 106 regulations; specifically, 36 CFR Part 800.2(a)(1) and 36 CFR 800.2(a)(3). Should you find substantive issues related to the quality of the report, FHWA recognizes its responsibilities for quality control and will take additional measures to ensure that such issues are attended by WVDOH.

If you have any questions concerning this matter, please contact Jason Workman at (304) 347-5271 or via email at jason.workman@dot.gov.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Thomas J. Smith". The signature is fluid and cursive, with a large, stylized initial "T".

Thomas J. Smith, P.E.
Division Administrator

cc: File, Reading, JEW, TJS, AR
ARogers:072114 (j:\ARogers\2014\2014 07 21 US340 Improvement Project Response-WVSHPO
Sec106 Compliance Concerns)



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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



June 1, 2015

Mr. Ben Hark
West Virginia Department of Transportation
Division of Highways
1900 Kanawha Boulevard East
Charleston, West Virginia 25305

Re: West Virginia Division of Highways, US 340 Phase II Madison Cave Isopod Survey
Report, Jefferson County, West Virginia

Dear Mr. Hark:

This responds to your request of April 27, 2015, for information regarding the potential occurrence of federally listed endangered or threatened, candidate or proposed species or their designated critical habitats in the vicinity of the referenced project. These comments are provided pursuant to the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

The proposed US 340 highway project involves several right-of-way alternatives that are currently being studied in more detail. The project area is underlain by the Cambrian-aged Conococheague Formation, which is known to host populations of the federally listed threatened Madison cave isopod (*Antrolana lira*), a freshwater crustacean that is only known to occur in the Shenandoah Valley in West Virginia and Virginia. The Madison Cave isopod's habitat consists of ground water and aquifers in karst (limestone) areas near surface-to-ground-water interfaces such as vertical fissures, sinkholes, or caves. Two of the right-of-way alternatives are in close proximity to sinkholes.

A Phase I survey of these sinkholes was completed on October 9, 2011, to determine whether there was potential connectivity to Madison Cave isopod habitat. This Phase I survey involved three sinkholes. Of these, two contained farm debris and merited future surveying once the debris could be excavated. The third sinkhole contained no indication of karst features at the site; it was determined to likely be an old farm pond. Additionally, the feature is shown as a pond on U.S. Geological Survey topographic maps.

A Phase II survey of the sinkholes was proposed in your March 18, 2014, correspondence. The Service concurred with the survey plan on March 24, 2014. This survey was carried out by Wil

Mr. Ben Hark
June 1, 2015

2

Orndorff, an expert on the Madison Cave isopod and karst habitats on December 15, 2015. Both sinkholes were excavated during this time following methodologies outlined in your March 18, 2014 correspondence. No connection to suitable Madison Cave isopod habitat was found during the Phase II efforts. Both sinkholes were backfilled with gravel and then capped with soil excavated from the sinkhole.

As a result of the above information, the Service has concluded that the project may affect, but is not likely to adversely affect, the Madison Cave isopod. The Service appreciates WVDOH's efforts to avoid and minimize impacts to federally listed species and their habitats. No biological assessment or further section 7 consultation under the ESA is required with the Service. 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 determination may be reconsidered.

If you have any questions regarding this letter, please contact Liz Stout of my staff at (304) 636-6586 Ext. 15, Elizabeth_Stout@fws.gov, or at the letterhead address.

Sincerely,



John E. Schmidt
Field Supervisor



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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 24, 2015

Mr. Ben Hark
Environmental Section Head
WVDOH
1900 Kanawha Blvd., East
Building 5, Room A-848
Charleston, WV 25305

RE: US 340
State Project: U219-340-0.00; Federal Project: NH-340 (024)
FR#: 96-814-JF-28

Dear Mr. Hark:

We have reviewed the document titled Archaeological Assessment of Site Potential Alternatives 4, 4A, 4B, and 4C US-340 Improvement Study that was submitted for the above referenced project to determine potential effects to cultural resources. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments

According to the document, WV Division of Highways has added seven new alternatives, 4a, 4b, 4c, 9, 10a, 10b, and 11, for evaluation in the development of plans to improve a section of U.S. 340 in Jefferson County, WV. It is our understanding that Alternative 4 is still preferred. The report presents the results of an assessment that was conducted to determine the known archaeological resources in and the archaeological potential for Alternatives 4, 4a, 4b, and 4c. After consideration of a number of variables, the archaeologists at Coastal Carolina Research concluded that there is a moderate to high potential for Native American sites and a high potential for historic period sites within the Area of Potential Effect of each of the alternatives. They also concluded there is a low potential for archaeological resources that would affect the decision making during the planning process. We concur with these conclusions and look forward to reviewing the results of the Phase I survey once a final preferred alternative has been selected.

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

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/LLD



August 10, 2015

The Culture Center
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Randall Reid-Smith, Commissioner

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EEO/AA Employer

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

RE: US 340 Improvement Study
Architectural Survey Update / Jefferson County
State Project No. U219-340-0.00 / Federal Project No. NH-340 (024)
FR# 96-814-JF-29

Dear Mr. Hark:

We have reviewed 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.

According to the submitted information, the West Virginia Division of Highways (DOH) has proposed improvements to the existing two-lane section of US 340 (approximately five miles) in Jefferson County from 0.5 mile southwest of the West Virginia state line (with Virginia) to approximately two miles north of the community of Rippon, WV. A four-lane divided highway is planned, and numerous alternatives have been evaluated, including six in detail in a 2001 Draft Environmental Impact Statement (DEIS). In 2003, Alternative 4 was identified as the Preferred Alternative. However, following a period of project dormancy, seven new Alternatives (4a, 4b, 4c, 9, 10a, 10b, and 11) were added to the study. However, the report does not include the new Alternatives nor the revised Area of Potential Effect (APE). Please provide our office with illustrations that depict the revisions.

At the request of H.W. Lochner, Inc., Coastal Carolina Research (CCR) has prepared an updated survey of architectural resources and a review of historic property boundaries for the overall project's Study Area encompassing the various alternatives and the current variations of Alternative 4 (4, 4a, 4b, and 4c). *Architectural Survey Update and Historic Property Boundary Review, US 340 Improvement Study, Jefferson County, West Virginia*, (the report) presents the results of an architectural survey update for the Study Area associated with the ongoing US 340 Improvement Study. The current survey was conducted to 1) update earlier survey information to include any previously unrecorded resources that now meet the 50 years of age requirement; 2) provide recommendations on the National Register of Historic Places (NRHP) eligibility of newly recorded resources; and, 3) update previously recorded resources including updated NRHP eligibility recommendations and/or any potential NRHP boundary changes of either individual resources or historic districts. We understand that information for a determination of effects for the Preferred Alternative and its variations (Alternatives 4, 4a, 4b, and 4c) is being prepared separately.

Architectural Resources:

We have reviewed the submitted report. Table 4-1 (enclosed) summarizes the previous NRHP eligibility status as well as the results and recommendations (from the current survey) for each of the 72 previously recorded resources. The 2015 comments within the table speak to the resource's individual eligibility status as well as its status within one of three previously-identified, NRHP-eligible Historic Districts (i.e., Kabletown Rural Historic District, Bullskin Run Rural Historic District, and Rippon Historic District). The table also indicates the location of the resource in relation to the project's Study Area.

Although our office has previously commented about the eligibility of these resources, due to the passage of time, we believe that updated comments are warranted. We concur with CCR's recommendations as enumerated in the "NRHP Eligibility Recommendation" column in Table 4-1. Specifically regarding the individual NRHP eligibility recommendations, we concur that the following architectural resources are individually eligible for the NRHP:

Olive Boy Farm (JF-0062-0006); Glenwood (JF-0062-0011); Wayside Farm (JF-0062-0012); Byrdland (JF-0062-0016); Wheatland (JF-0062-0017); Straithmore (JF-0062-0019); Berry Hill (JF-0062-0029); St. John's Episcopal Church (JF-0062-0049; Criterion C); Snyder-Barney Mill Ruins (JF-0169; Criterion D); and the Shenandoah Valley section of the Norfolk Southern Railway (JF-1228; Criterion A).

In CCR's discussion about the Bullskin Run Historic District and the Rippon Historic District (p. 2-6), we note that the authors state that the districts were "determined eligible" for the NRHP. Although our office concurs with CCR's assessment of eligibility and these historic districts are considered eligible for NRHP inclusion, neither district has been formally determined eligible for the NRHP by the Keeper. In order to avoid misperception, we recommend that CCR reconsider the language used in the discussion.

Table 4-2 (enclosed) summarizes the resource-specific information and NRHP recommendations for the ten (10) newly surveyed resources. Of these resources, one is a cemetery and our comments for which are found below. Regarding the nine remaining resources, CCR recommends the McPherson-Adams Farm (JF-1225) as potentially eligible for individual listing in the NRHP under Criteria A and C as well as a contributing resource to the Kabletown Rural Historic District. While we do not necessarily disagree with the eligibility recommendation, what is the recommended period of significance and NRHP boundary for this farm?

Finally, we concur that the remaining eight architectural resources (JF-1218 – JF-1222; JF-1224; JF-1226 - JF1227) in Table 4-2 are not individually eligible for the NRHP. However, without additional justification, we are unable to concur with the recommendation that the Adams House (JF-1224) is a contributing resource to the Kabletown Rural Historic District.

Cemetery Resources:

We note that CCR recorded the Old Baptist Cemetery (Resource Number 006) on a West Virginia Cemetery Form; however documentation listed in form item 20 was not included in the submission. We request that your office submit the necessary documentation to our office. Upon receipt of the requested information, we will provide further comment.

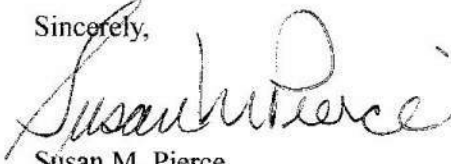
Mr. B. Hark
August 10, 2015
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Page 3

Public Comment:

If you have not already done so, we encourage your office to inform the property owners, the Jefferson County Historic Landmarks Commission, the Jefferson County Historical Society, and the Preservation Alliance of West Virginia about the latest project developments.

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

Sincerely,

A handwritten signature in cursive script that reads "Susan M. Pierce". The signature is written in dark ink and is positioned above the typed name.

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/JSS

Table 4-1: Previously Recorded Architectural Resources Documented During the Current Project.

WV HPI #	Resource Name or Description	Date	Previous NRHP Status		Comments	2015 Update & Recommendations		Location
			Individual Status*	Eligible as Contributing to HDs		Individual Eligibility Status	Eligible as Contributing to HDs	
JF-0005	William Grubb Farm	ca. 1763	NRHP (1991)	Bullskin Run and Kabletown Rural HDs		NRHP (1991)	Bullskin Run and Kabletown Rural HDs	In Study Area
JF-0062-0001	Balclutha	ca. 1840	NRHP (1996) as part of historic district	Long Marsh Rural HD	The dwelling is located in Virginia and two barns in Jefferson County, WV. The Long Marsh Rural Historic District in Clarke County, VA, has been in NRHP since 1996.	The smaller of the two barns recorded in 1996 no longer survives. The loss of the barn has no effect on the overall boundary of the property, nor its eligibility.	Long Marsh Rural HD	In Study Area
JF-0062-0002	Edward Allen House	1927	Not eligible (1999)	n/a	A wrap-around porch was added to the front of the dwelling since it was first recorded in 1996.	Not eligible	n/a	In Study Area
JF-0062-0003	Shady Grove Farm Tenant House	ca. 1910	Part of Olive Boy Farm (1999)	Olive Boy Farm and Kabletown Rural HD	The siding and windows were altered on the dwelling since it was first recorded in 1999.	Not eligible, but the building remains a contributing element of Olive Boy Farm and the Kabletown Rural HD.	Olive Boy Farm and Kabletown Rural HD	In Study Area
JF-0062-0004	Arthur Allen House #1	ca. 1870	Not eligible (1999)	Kabletown Rural HD		Not eligible	Kabletown Rural HD	In Study Area
JF-0062-0005	Arthur Allen House #2	ca. 1900	Not eligible (1999)	Kabletown Rural HD		Not eligible	Kabletown Rural HD	In Study Area
JF-0062-0006	Olive Boy Farm	1858	Recommended eligible (1999)	Kabletown Rural HD		Eligible	Kabletown Rural HD	In Study Area
JF-0062-0007	John's Family Restaurant	1944	Not eligible (1999)	n/a	The restaurant has been expanded since it was first surveyed in 1996.	Not eligible	n/a	In Study Area
JF-0062-0008	Hackberry	ca. 1881	Not eligible (1999)	n/a	Surveyed as Breezewood (JF-0370) in 2005. The porches were altered and a wing was added to the rear elevation.	Not eligible	n/a	In Study Area
JF-0062-0009	Dunn-Jenkins House	ca. 1915	Not eligible (1999)	n/a		Not eligible	n/a	In Study Area

WV HPI #	Resource Name or Description	Date	Previous NRHP Status		Comments	2015 Update & Recommendations		Location
			Individual Status*	Eligible as Contributing to		Individual Eligibility Status	Eligible as Contributing to	
JF-0062-0010	Chapman Tenant House	ca. 1870	Not eligible (1999)	Bullskin Run Rural HD	Porch was altered, the original windows replaced with vinyl windows and the building was clad in vinyl siding.	Not eligible	Bullskin Run Rural HD	Outside Study Area, but potential effects from Alternatives 10A & 10B
JF-0062-0011	Glenwood	1845	Recommended eligible (1999)	Kabletown Rural HD	A two-story, three-bay brick garage was recently constructed west of the main dwelling, and a large gable-roofed stable section was added to the east elevation of the barn at some point after 1999.	Eligible	Kabletown Rural HD	In Study Area
JF-0062-0012	Wayside Farm	ca. 1816 & ca. 1860	Recommended eligible (1999)	Kabletown Rural HD	The large bank barn is no longer extant, loss does not affect boundary.	Eligible	Kabletown Rural HD	In Study Area
JF-0062-0013	Oak Hill Farm	1852 & 1867	Not eligible (1999)	Rippon HD and Kabletown Rural HD	Stables no longer extant.	Not eligible	Rippon HD and Kabletown Rural HD	In Study Area
JF-0062-0014	Fairview Farm	Mid-19th century	Not eligible (1999)	Bullskin Run Rural HD		Not eligible	Bullskin Run Rural HD	Outside Study Area, but potential effects from Alternatives 10A & 10B
JF-0062-0015	Ripon Lodge	ca. 1833	In NRHP since 1984. Boundary increase in 1998	Kabletown Rural HD	Other than the loss of a tenant house there is no change, loss does not affect boundary.	Eligible	Kabletown Rural HD	In Study Area
JF-0062-0016	Byrdland (1999)/Birdland (1996)// Caleb Burns House (2005)	ca. 1847-1852	Recommended eligible (1999)	Bullskin Run and Kabletown Rural HDs	Other than the loss of two of the three tenant houses there is no change, loss does not affect boundary.	Eligible	Bullskin Run and Kabletown Rural HDs	In Study Area

WV HPI #	Resource Name or Description	Date	Previous NRHP Status		Comments	2015 Update & Recommendations		Location
			Individual Status*	Eligible as Contributing to HDs		Individual Eligibility Status	Eligible as Contributing to HDs	
JF-0062-0017	Wheatland	ca. 1830 & ca. 1900	Recommended eligible (1999); (Criterion D)	Bullskin Run and Kabletown Rural HDs		Eligible	Bullskin Run and Kabletown Rural HDs	In Study Area
JF-0062-0018	"Straithmore" Overseer's House (Abuhove House)	ca. 1830	Not Eligible (1999)	Bullskin Run and Kabletown Rural HDs	A large two-story wing was built against the rear elevation of the main block at some point after 1999.	Not eligible	Bullskin Run and Kabletown Rural HDs	In Study Area
JF-0062-0019	Straithmore	ca. 1830	Recommended eligible (1999)	Bullskin Run and Kabletown Rural HDs	Other than the loss of one of the barns there is no change, loss does not affect boundary.	Eligible	Bullskin Run and Kabletown Rural HDs	In Study Area
JF-0062-0020	Beulah Presbyterian Church	1874	Not eligible (1999)	Bullskin Run and Kabletown Rural HDs		Not eligible	Bullskin Run and Kabletown Rural HDs	In Study Area
JF-0062-0022	Butler-Yates House	ca. 1900	Not eligible (2000)	Bullskin Run Rural HD	The property is abandoned and deteriorating. The building is not contributing to the Bullskin Run Rural HD, loss does not affect district boundary	Not eligible	n/a	In Study Area
JF-0062-0027	Rainbow Road Club	1929	Not eligible (1996)	n/a		Not eligible	n/a	In Study Area
JF-0062-0028	Abandoned House & Barn Route 340	1910 (out- buildings) & 1955 (house)	Not eligible (1996)	n/a	House survives and remains abandoned, but the outbuildings are no longer extant.	Not eligible	n/a	In Study Area
JF-0062-0029	Berry Hill	ca. 1800	Recommended eligible (1999)	Bullskin Run Rural HD		Eligible	Bullskin Run Rural HD	Outside Study Area, but potential effects from Alternatives 10A & 10B.

WV HPI #	Resource Name or Description	Date	Previous NRHP Status		Comments	2015 Update & Recommendations		Location
			Individual Status*	Eligible as Contributing to		Individual Eligibility Status	Eligible as Contributing to	
JF-0062-0034	Payton House	ca. 1910	Not eligible (1996)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0036	Heskett House # 1	Mid to late 19 th century	Not eligible (1996)	Rippon HD	The two small outbuildings no longer survive, but there is no change to the house.	Not eligible	Rippon HD	In Study Area
JF-0062-0037	Johnson House	ca. 1940	Not eligible (1996)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0038	Nicodemus House	ca. 1880- 1900; 1910	Not eligible (1996)	Rippon HD	The porch and shed wing no longer survive	Not eligible	Rippon HD	In Study Area
JF-0062-0039	Donald Chapman House	ca. 1905	Not eligible (1996)	n/a		Not eligible	n/a	In Study Area
JF-0062-0040	Anders House	Mid-19 th century	Not eligible (1996)	Rippon HD	No longer extant. Replaced by a modern house, loss does not affect the district boundary.	n/a	n/a	In Study Area
JF-0062-0041	Wilt & Moffett Grocery	1916	Not eligible (1996)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0042	Wilt-Adams House	1916	Not eligible (1996); Recommended not eligible (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0043	Robinson House #1	ca. 1880- 1900	Not eligible (1996); Recommended not eligible (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0044	Carter House #1	ca. 1880- 1900	Not eligible (1996)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0045	Carter House #2	ca. 1880- 1900	Not eligible (1996)	Rippon HD	The house is abandoned and in a ruinous state.	Not eligible	Rippon HD	In Study Area

WV HPI #	Resource Name or Description	Date	Previous NRHP Status		Comments	2015 Update & Recommendations		Location
			Individual Status*	Eligible as Contributing to		Individual Eligibility Status	Eligible as Contributing to	
JF-0062-0046	Robinson House #2	ca. 1880-1900	Not eligible (1996)	Rippon HD	No longer extant. Replaced by a modern house, loss does not affect the district boundary.	n/a	n/a	In Study Area
JF-0062-0047	Jenkins House	ca. 1890-1910	Not eligible (1996)	Rippon HD	No longer extant, loss does not affect the district boundary.	n/a	n/a	In Study Area
JF-0062-0048	Jenkins Antique Store	1932	Not eligible (1996)	Rippon HD	No longer extant, loss does not affect the district boundary.	n/a	n/a	In Study Area
JF-0062-0049	St. John's Episcopal Church	1890	No (clear) recommendation (1996)	Rippon HD		Potentially eligible under Criterion C	Rippon HD	In Study Area
JF-0062-0050	Rippon Store & House (1996)/Rippon Grocery (2005)	1932	Not eligible (1996); Recommended not eligible (2005)	Rippon HD	House received its own entry in 2004/5 (JF-0351).	Not eligible	Rippon HD	In Study Area
JF-0062-0051	Bredden House	1927	Not eligible (1996); Recommended not eligible (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0052	Heskett House and Store	ca. 1860	Not eligible (1996); Recommended not eligible (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0053	Heskett House #2	ca. 1890-1910	Not eligible (1996); Recommended potentially eligible under C (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area

WV HPI #	Resource Name or Description	Date	Previous NRHP Status		Comments	2015 Update & Recommendations		Location
			Individual Status*	Eligible as Contributing to		Individual Eligibility Status	Eligible as Contributing to	
JF-0062-0054	Harris House	ca. 1880-1900	Not eligible (1996)	Rippon HD	Some of the outbuildings are no longer extant, but this does not affect the district boundary.	Not eligible	Rippon HD	In Study Area
JF-0062-0055	Thomas House	ca. 1880-1900	Not eligible (1996)	Rippon HD	No longer extant, loss does not affect the district boundary.	n/a	n/a	In Study Area
JF-0062-0056	New School Baptist Church	ca. 1908-1910	Not eligible (1996)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0057	Whittington House	ca. 1900-1920	Not eligible (1996)	Rippon HD	No longer extant, loss does not affect the district boundary.	n/a	n/a	In Study Area
JF-0062-0058	Boyd House	ca. 1900-1920	Not eligible (1996); Recommended not eligible (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0059	Rippon Feed Mill	ca. 1950	Not eligible (1996); Recommended not eligible (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0060	Heskett Warehouse	1940s	Not eligible (1996)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0061	Adams House	ca. 1850-1870 & ca. 1900 (1996)// ca. 1820 (2005)	Not eligible (1996); Recommended not eligible (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0062	Old Parish Hall	ca. 1890-1910	Not eligible (1996)	Rippon HD	No longer extant, loss does not affect the district boundary.	n/a	n/a	In Study Area

WV HPI #	Resource Name or Description	Date	Previous NRHP Status		Comments	2015 Update & Recommendations		Location
			Individual Status*	Eligible as Contributing to		Individual Eligibility Status	Eligible as Contributing to	
JF-0062-0063	Rippon School	ca. 1900	Not eligible (1996); Recommended potentially eligible under A (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0064	Saylor House	ca. 1900-1920	Not eligible (1996); Recommended not eligible (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0065	Cooper House	ca. 1920	Not eligible (1996); Recommended not eligible (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0066	LaRue House	1950	Not eligible (1996); Recommended not eligible (2005)	Rippon HD		Not eligible	Rippon HD	In Study Area
JF-0062-0068	Bridge over Bullskin Run	ca. 1910-1930	Not eligible (1996)	Bullskin Run and Kabletown Rural HDs	Modern guardrails were affixed to the original railings.	Not eligible	Bullskin Run and Kabletown Rural HDs	In Study Area
JF-0062-0069	Dave's Auto	1940	Not eligible (1996)	Bullskin Run and Kabletown Rural HDs	The stepped parapet wall on the front gable end was removed and a second-floor apartment was added over the rear of the building.	Not eligible.	Not contributing to the Bullskin Run & Kabletown Rural HDs, loss does not affect the district boundary.	In Study Area
JF-0164	Meadow Spring Farm (Nicodemus Farm)	ca. 1840	Recommended potentially eligible under C and perhaps A (2005)	Bullskin Run and Kabletown Rural HDs		Not eligible	Bullskin Run and Kabletown Rural HDs	Outside Study Area, but property extends into Study Area.

WV HPI #	Resource Name or Description	Date	Previous NRHP Status		Comments	2015 Update & Recommendations		Location
			Individual Status*	Eligible as Contributing to HDs		Individual Eligibility Status	Eligible as Contributing to HDs	
JF-0169	Snyder-Baney Mill Ruins	ca. 1800	Recommended potentially eligible under A and D (2005)	Bullskin Run and Kabletown Rural HDs	Originally associated with Straithmore (JF-0062- 0019) and contributing to that property	Perhaps eligible under Criterion D as an archaeological resource.	Bullskin Run and Kabletown Rural HDs	In Study Area
JF-0171	"Tenant House"	ca. 1870	Recommended not eligible (2005)	Bullskin Run and Kabletown Rural HDs	Originally associated with Byrdland (JF-0062-0016).	Not eligible	Bullskin Run and Kabletown Rural HDs	In Study Area
JF-0173	"Tenant House"	ca. 1840	Recommended not eligible (2005)	Bullskin Run and Kabletown Rural HDs	No longer extant. Originally associated with Birdland (JF-0062-0016), loss does not affect the district boundary.	n/a	n/a	In Study Area
JF-0175	Civil War Marker 14	1910	Recommended potentially eligible under Criterion Consideration F (2005)	Rippon HD	Originally located near the Wilt & Moffett Grocery (JF-0062-0041), but was moved at some point. It does not meet Criterion Consideration F and is not individually eligible, but is contributing to the Rippon HD.	Not eligible	Rippon HD	In Study Area
JF-0194	House	ca. 1900	Recommended not eligible (2005)	Kabletown Rural HD		Not eligible	Kabletown Rural HD	Outside Study Area, but potential effects from Alternative II.
JF-0195	House.	ca. 1860	Recommended not eligible (2005)	Kabletown Rural HD		Not eligible	Kabletown Rural HD	Outside Study Area, but potential effects from Alternative II.

WV HPI #	Resource Name or Description	Date	Previous NRHP Status		Comments	2015 Update & Recommendations		Location
			Individual Status*	Eligible as Contributing to		Individual Eligibility Status	Eligible as Contributing to	
JF-0215	Shady Grove Farm/Hermitage	ca. 1880	Recommended potentially eligible under C (2005)	Kabletown Rural HD		Not eligible	Kabletown Rural HD	Outside Study Area, but property extends into Project Study Area.
JF-0326	Beverly	ca. 1800	In NRHP since 1987	Bullskin Run HD		NRHP	Bullskin Run HD	Outside Study Area, but property extends into Project Study Area.
JF-0340	Ripon Lodge Manager's House	ca. 1920	No (clear) recommendation (2005)	Ripon Lodge NR	Contributing building to the Ripon Lodge NR boundary increase. Originally included as part of Ripon Lodge (JF-0062-0015).	Not eligible	Ripon Lodge NR	In Study Area
JF-0351	House	ca. 1900	Recommended not eligible (2005)	Rippon HD	Originally included as part of the Rippon Store & House (JF-0062-0050)	Not eligible	Rippon HD	In Study Area
JF-0356	Bullskin Run Bridges	ca. 1900 & ca. 1920	Oldest recommended potentially eligible under Criterion A (2005)	Bullskin Run and Kabletown Rural HDs	Originally included as part of the William Grubb Farm (JF-0005). Not individually eligible but contributing to Bullskin Run & Kabletown Rural HDs.	Not eligible	Bullskin Run and Kabletown Rural HDs	In Study Area
JF-1228	Shenandoah Valley Section of the Norfolk Southern Railway	ca. 1878	Eligible (WV SHPO 2003)	Bullskin Run and Kabletown Rural HDs	No change. Contributing to Bullskin Run & Kabletown Rural HDs.	Eligible under Criterion A	Bullskin Run and Kabletown Rural HDs	In Study Area

*dates 1996, 1999, and 2000 refer to HPI form entry dates for US 340 Improvement Study projects; 2005 date refers to Taylor and Taylor Associates, Inc., (2005).

Table 4-2: Newly Recorded Architectural Resources Documented During the Current Project.

WV HPI #	Resource Name or Description	Date	NRHP Eligibility Recommendation	Comments
JF-1218	Berryville Pike (US 340), Charles Town, WV	ca. 1955	Recommended not eligible	In Study Area
JF-1219	1580 Berryville Pike (US 340), Charles Town, WV	ca. 1965	Recommended not eligible	In Study Area
JF-1220	1621 Berryville Pike (US 340), Charles Town, WV	ca. 1965	Recommended not eligible	In Study Area
JF-1221	58 Earl Ellifritz Drive, Charles Town, WV	ca. 1965	Recommended not eligible	In Study Area
JF-1222	20 Hunters Hollow Lane, Charles Town, WV	ca. 1965	Recommended not eligible	In Study Area
JF-1223	Old Baptist Church Cemetery, northwest side of Berryville Pike (US 340), at intersection with Meyerstown Road	ca. 1888	Recommended not eligible	In Study Area
JF-1224	Adams House, 384 Meyerstown Road, Charlestown, WV	1953	Recommended not individually eligible but contributing to the Kabletown Rural HD*	Parcel extends into Study Area
JF-1225	McPherson-Adams House, 380 Meyerstown Road, Charlestown, WV	ca. 1850	Recommended potentially individually eligible for the NRHP under A & C; Contributing to the Kabletown Rural HD*	Parcel extends into Study Area
JF-1226	United States Post Office, 2468 Berryville Pike (US 340), Rippon, WV	ca. 1965	Recommended not individually eligible and not contributing to the Rippon HD	In Study Area
JF-1227	Rainbow Diner & Truck Stop, Berryville Pike (US 340), WV	ca. 1940	Recommended not eligible	In Study Area

*does not affect the current historic district boundary



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

August 27, 2015

Mr. R. J. Scites, P.E.
Director, Engineering Division
West Virginia Division of Highways
1334 Smith Street
Charleston, West Virginia 25301

RE: Proposed Draft Supplemental Environmental Impact Statement for US 340 from the Virginia State Line to the Charles Town Bypass, Federal Project NH-0340(030), West Virginia Project U219-340-0.00(02), Clarke County, Virginia and Jefferson County, West Virginia

Dear Mr. Scites:

This letter is in response to the scoping request for the above-referenced project. As you may know, the Department of Environmental Quality, through its Office of Environmental Impact Review (DEQ-OEIR), is responsible for coordinating Virginia's review of federal environmental documents prepared pursuant to the National Environmental Policy Act (NEPA) and responding to appropriate federal officials on behalf of the Commonwealth.

ENVIRONMENTAL REVIEW UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT: PROJECT SCOPING AND AGENCY INVOLVEMENT

NEPA (PL 91-190, 1969) and its implementing regulations (Title 40, *Code of Federal Regulations*, Parts 1500-1508) requires a draft and final Environmental Impact Statement (EIS) and, when necessary, a Supplemental EIS for federal activities or undertakings that are federally licensed or federally funded which will or may give rise to significant impacts upon the human environment. An EIS carries more stringent public participation requirements than an Environmental Assessment (EA) and provides more time and detail for comments and public decision-making. Accordingly, we refer to "NEPA document" in the remainder of this letter.

While this Office does not participate in scoping efforts beyond the advice given herein, other agencies are free to provide scoping comments concerning the preparation of the NEPA document. Accordingly, we are providing notice of your scoping request to the following state agencies, locality and Planning District Commission, including but not limited to:

Department of Environmental Quality:

- DEQ Regional Office
- Air Division
- Office of Wetlands and Stream Protection
- Division of Land Protection and Revitalization
- Office of Stormwater Management

Department of Conservation and Recreation
Department of Health
Department of Agriculture and Consumer Services
Department of Game and Inland Fisheries
Virginia Marine Resources Commission
Department of Historic Resources
Department of Mines, Minerals, and Energy
Department of Forestry
Department of Transportation
Clarke County
Northern Shenandoah Valley Regional Commission

DOCUMENT SUBMISSIONS

In order to ensure an effective coordinated review of the NEPA document, notification of the NEPA document should be sent directly to OEIR. We request one electronic copy and two hard copies (CD, preferred, or paper) for our files and for small localities. Electronic copies may be sent to eir@deq.virginia.gov (10 MB maximum) or made available for download at a website, file transfer protocol (ftp) site or the VITAShare file transfer system (<https://vitashare.vita.virginia.gov>).

We strongly encourage you to issue shape files with the NEPA document. In addition, project details should be adequately described for the benefit of the reviewers.

DATA BASE ASSISTANCE

Below is a list of databases that may assist you in the preparation of a NEPA document:

- DEQ Online Database: Virginia Environmental Geographic Information Systems

Information on Permitted Solid Waste Management Facilities, Impaired Waters, Petroleum Releases, Registered Petroleum Facilities, Permitted Discharge (Virginia Pollution Discharge Elimination System Permits) Facilities, Resource Conservation and Recovery Act (RCRA) Sites, Water Monitoring Stations, National Wetlands Inventory:

- www.deq.virginia.gov/ConnectWithDEQ/VEGIS.aspx

- DEQ Virginia Coastal Geospatial and Educational Mapping System (GEMS)

Virginia's coastal resource data and maps; coastal laws and policies; facts on coastal resource values; and direct links to collaborating agencies responsible for current data:

- <http://128.172.160.131/gems2/>

- DHR Data Sharing System

Survey records in the DHR inventory:

- www.dhr.virginia.gov/archives/data_sharing_sys.htm

- DCR Natural Heritage Search

Produces lists of resources that occur in specific counties, watersheds or physiographic regions:

- www.dcr.virginia.gov/natural_heritage/dbsearchtool.shtml

- DGIF Fish and Wildlife Information Service

Information about Virginia's Wildlife resources:

- <http://vafwis.org/fwis/>

- Environmental Protection Agency (EPA) Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) Database: Superfund Information Systems

Information on hazardous waste sites, potentially hazardous waste sites and remedial activities across the nation, including sites that are on the National Priorities List (NPL) or being considered for the NPL:

- www.epa.gov/superfund/sites/cursites/index.htm

- EPA RCRAInfo Search

Information on hazardous waste facilities:

- www.epa.gov/enviro/facts/rcrainfo/search.html

- EPA Envirofacts Database

EPA Environmental Information, including EPA-Regulated Facilities and Toxics Release Inventory Reports:

- www.epa.gov/enviro/index.html

- EPA NEPAassist Database

Facilitates the environmental review process and project planning:

- <http://nepaassisttool.epa.gov/nepaassist/entry.aspx>

If you have questions about the environmental review process and/or the federal consistency review process, please feel free to contact me (telephone (804) 698-4204 or e-mail bettina.sullivan@deq.virginia.gov).

I hope this information is helpful to you.

Sincerely,



for Bettina Sullivan, Program Manager
Environmental Impact Review and
Long-Range Priorities



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DIVISION

COMMONWEALTH of VIRGINIA

Department of Historic Resources

Molly Joseph Ward
Secretary of Natural Resources

2801 Kensington Avenue, Richmond, Virginia 23221

Julie V. Langan
Director

Tel: (804) 367-2323
Fax: (804) 367-2391
www.dhr.virginia.gov

14 September 2015

Mr. R. J. Scites
Director, Engineering Division
West Virginia Division of Highways
1334 Smith Street
Charleston, West Virginia 25301

RE: US 340 from Virginia State Line to Charles Town Bypass
Jefferson County, West Virginia
State Project No. U219-340-0.00(02)
VDHR File No. 2015-1028

Dear Mr. Scites:

The Department of Historic Resources (DHR) has received for our review and comment the above referenced project. It is our understanding that the West Virginia Division of Highways proposes to construct a four-lane portion of the Charles Town Bypass beginning in Jefferson County, West Virginia, at the 0.5 mile marker southwest of the state line between Clarke County, Virginia, and West Virginia, and running north for a distance of five miles to the completed section of the Charles Town Bypass.

As the undertaking begins one half mile from the Virginia State line and does not cross our border, we do not believe that any historic properties located within the jurisdiction of DHR will be affected. However, when available please provide us an electronic version on disc of the Supplemental Environmental Impact Statement for our consideration.

If you have any questions about our comments, please contact me at (804) 482-6090.

Sincerely,

Marc Holma, Architectural Historian
Division of Review and Compliance

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Petersburg, VA 23803
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Fax: (540) 387-5446

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Molly Joseph Ward
Secretary of Natural Resources

Clyde E. Cristman
Director



Joe Elton
Deputy Director of Operations

Rochelle Altholz
Deputy Director of Administration
and Finance

David Dowling
Deputy Director of
Soil and Water and Dam Safety

COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

October 7, 2015

R.J. Scites
WV Division of Highways
1334 Smith Street
Charlestown, WV 25301

Re: U219-340-0.00(02), US 340 Improvements

Dear Mr. Scites:

The Department of Conservation and Recreation's Division of Natural Heritage (DCR) has searched its Biotics Data System for occurrences of natural heritage resources from the area outlined on the submitted map. Natural heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations.

According to the information currently in our files, the Gaylord Calcareous Marsh Conservation Site is within two miles of the project site. Conservation sites are tools for representing key areas of the landscape that warrant further review for possible conservation action because of the natural heritage resources and habitat they support. Conservation sites are polygons built around one or more rare plant, animal, or natural community designed to include the element and, where possible, its associated habitat, and buffer or other adjacent land thought necessary for the element's conservation. Conservation sites are given a biodiversity significance ranking based on the rarity, quality, and number of element occurrences they contain; on a scale of 1-5, 1 being most significant. Gaylord Calcareous Marsh Conservation Site has been given a biodiversity significance ranking of B4, which represents a site of moderate significance. The natural heritage resources of concern at this site are:

<i>Railus limicola</i>	Virginia rail	G5/S2B, S3N/NL/NL
<i>Porzana carolina</i>	Sora	G5/S1B, S2N/NL/NL
<i>Eutrochium maculatum</i> var. <i>maculatum</i>	Spotted Joe-pye-weed	G5T5/S1/NL/NL
<i>Carex utriculata</i>	Beaked Sedge	G5/S1/NL/NL
<i>Juncus torreyi</i>	Torrey's Rush	G5/S1/NL/NL
<i>Ribes americanum</i>	Wild Black Currant	G5/S1/NL/NL
<i>Potamogeton zosteriformis</i>	Flatstem Pondweed	G5/S1/NL/NL

Carex utriculata - *Sparganium americanum* Herbaceous Vegetation G4G5/S1/NL/NL
Ridge and Valley Calcareous Spring Marsh (Beaked Sedge - American Bur-Reed Type)

This project is situated on karst-forming carbonate rock and can be characterized by sinkholes, caves, disappearing streams, and large springs. If such features are encountered during the project, please coordinate with Wil Orndorff (540-230-5960, Wil.Orndorff@dcr.virginia.gov) to document and minimize adverse impacts.

600 East Main Street, 24th Floor | Richmond, Virginia 23219 | 804-786-6124

State Parks • Soil and Water Conservation • Outdoor Recreation Planning
Natural Heritage • Dam Safety and Floodplain Management • Land Conservation

Discharge of runoff to sinkholes or sinking streams, filling of sinkholes, and alteration of cave entrances can lead to surface collapse, flooding, erosion and sedimentation, groundwater contamination, and degradation of subterranean habitat for natural heritage resources. If the project involves filling or “improvement” of sinkholes or cave openings, DCR would like detailed location information and copies of the design specifications. In cases where sinkhole improvement is for stormwater discharge, copies of VDOT Form EQ-120 will suffice. New “Karst Assessment Guidelines” developed by the Virginia Cave Board for land development can be found at http://www.dcr.virginia.gov/natural_heritage/documents/karst_assessment_guidelines.pdf. DCR requests a copy of the environmental analysis conducted in 2014 for the Madison Cave Isopod.

There is also potential for the Northern Long-eared bat (*Myotis septentrionalis*, G1G3/S3/LT/NL) to occur within the project area. The Northern Long-eared bat is a small insect-eating bat characterized by its long-rounded ears that when folded forward extend beyond the tip of the nose. Hibernation occurs in caves, mines and tunnels from late fall through early spring and bats occupy summer roosts comprised of older trees including single and multiple tree-fall gaps, standing snags and woody debris. Threats include white nose syndrome and loss of hibernacula, maternity roosts and foraging habitat (NatureServe, 2014). Due to the decline in population numbers, the Northern Long-eared bat has been federally listed as “threatened” by the United States Fish and Wildlife Service (USFWS).

To minimize adverse impacts to the aquatic ecosystem as a result of the proposed activities, DCR recommends the implementation of and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulations. Due to the legal status of the Northern Long-eared bat, if tree removal is proposed for the project DCR recommends coordination with the USFWS to ensure compliance with protected species legislation. DCR recommends coordination with the WVDNR Natural Heritage Program for natural heritage resources within the project area in West Virginia.

There are no State Natural Area Preserves under DCR’s jurisdiction in the project vicinity.

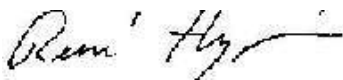
Under a Memorandum of Agreement established between the Virginia Department of Agriculture and Consumer Services (VDACS) and the DCR, DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species. The current activity will not affect any documented state-listed plants or insects.

New and updated information is continually added to Biotics. Please re-submit project information and map for an update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized.

The Virginia Department of Game and Inland Fisheries (VDGIF) maintains a database of wildlife locations, including threatened and endangered species, trout streams, and anadromous fish waters that may contain information not documented in this letter. Their database may be accessed from <http://vafwis.org/fwis/> or contact Ernie Aschenbach at 804-367-2733 or Ernie.Aschenbach@dgif.virginia.gov.

Should you have any questions or concerns, feel free to contact me at 804-371-2708. Thank you for the opportunity to comment on this project.

Sincerely,



S. Rene’ Hypes
Project Review Coordinator

CC: Troy Anderson, USFWS
Ernie Aschenbach, VDGIF
Wil Orndorff, DCR-Karst
WVDNR-Natural Heritage Program

Literature Cited

NatureServe, 2014. NatureServe Explorer: An online encyclopedia of life [web application]. Version 7.1.
NatureServe. Arlington, Virginia. Available <http://explorer.natureserve.org> (Accessed: December 22, 2014).



October 8, 2015

Mr. RJ Scites, P.E.
Director, Engineering Division
West Virginia Division of Highways
1334 Smith Street
Charleston, WV 25301

**RE: WVDOH State Project #:U219-340-0.00(02) and Federal Project: NH-0340(030)
VOF Open-Space Easement CLA-01583, PropID: 3698
Instrument: #04-4453**

Dear Mr. Scites:

This letter is in response to a letter sent to Mr. Mike Hallock-Solomon of the Virginia Outdoors Foundation from Mr. Ben L. Hark of the West Virginia Department of Transportation received on September 8, 2015 regarding comment on WVDOH State Project #:U219-340-0.00(02) and Federal Project: NH-0340(030). The Virginia Outdoors Foundation (VOF) thanks you for the opportunity to comment on this project regarding a proposed highway improvement project to U.S. Route 340 in Jefferson County WV, including improvements on a portion of U.S. Route 340 in Clarke County, VA.

The VOF open space easement property in the vicinity of the Preferred Alternative is known as CLA-01583, owned by Oakland Orchard, LP, c/o Mr. Peter J. Cook. From review of the material provided and terms of the open-space deed of easement, VOF finds no significant conflict with the proposed project as long as all permanent improvements occur within the existing right-of-way of U.S. Route 340. Should the final design for the Preferred Alternative change, show a need to extend beyond the existing right of way, or need a temporary construction easement please contact VOF at your earliest convenience for further review.

As always, the impact of highway improvement projects to VOF open-space easements should be kept to a minimum to ensure that conservation values are not impaired.

Thank you for the notice and please feel free to contact me with any further questions, comments, or concerns.

Sincerely,

Abbe Kennedy
Stewardship Assistant
Mobile: 540-424-6251
Email: akennedy@vofonline.org

virginiaoutdoorsfoundation.org

From: Cromwell, James R. (VDOT) <James.Cromwell@VDOT.Virginia.gov>
Sent: Tuesday, October 27, 2015 12:18 PM
To: Hark, Ben L
Cc: Mullins, Sondra L; Dehler, Brian
Subject: RE: US 340 SDEIS

I have an answer for you. We do not wish to be a signatory to the document but we would like the opportunity to review and comment on the DEIS, as well as get copies of any correspondence with and from the Virginia Resource agencies you contacted as part of the study.

Thank you for your patience.

James R. Cromwell
Environmental Program Manager
Virginia Department of Transportation
1401 E. Broad Street
Richmond, VA 23219
Phone (804) 225-3608
Cell (804) 840-9340
Fax (804) 786-7401

James.Cromwell@VDOT.Virginia.gov



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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

November 18, 2015

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

RE: US 340 Improvement Study
Architectural Survey Update / Jefferson County
State Project No. U219-340-0.00 / Federal Project No. NH-340 (024)
FR# 96-814-JF-31

Dear Mr. Hark:

We have reviewed 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.

Cemetery Resources:

Thank you for submitting the revised West Virginia Cemetery Form for the Old Baptist Cemetery (Resource Number 006). We are also in receipt of the CD containing a PDF of the revised form as well as shapefiles for the resource. We have assigned the cemetery trinomial number 46-JF-582 and note that the form now contains UTM coordinates.

Coastal Carolina Research, Inc. (CCR) surveyed and documented the c. 1888 Old Baptist Cemetery for the above-referenced project. CCR recommended the resource as not eligible for the National Register of Historic Places. Following a review of the cemetery form, we concur with their assessment. No further consultation is necessary regarding cemetery 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 Jeffrey S. Smith, Structural Historian, or Lora Lamarre-DeMott, Senior Archaeologist, at (304) 558-0240.

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/JSS/LLD



COMMONWEALTH of VIRGINIA

Department of Historic Resources

2801 Kensington Avenue, Richmond, Virginia 23221

Molly Joseph Ward
Secretary of Natural Resources

Julie V. Langan
Director

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24 November 2015

Mr. R. J. Scites
Director, Engineering Division
West Virginia Division of Highways
1334 Smith Street
Charleston, West Virginia 25301

RE: US 340 from Virginia State Line to Charles Town Bypass
Jefferson County, West Virginia
State Project No. U219-340-0.00(02)
VDHR File No. 2015-1028

Dear Mr. Scites:

After discussing the above referenced project with Mr. Ben Hark, West Virginia Division of Highways, it has come to our attention that the Department of Historic Resources' (DHR) understanding of the undertaking was in error. Prior to Mr. Hark's phone call it was our belief that the Route 340 improvement project will not cross into Virginia but that all construction would be limited to the West Virginia side of the border. Our comments included in DHR's letter of 14 September 2015 reflected that belief. In fact, the undertaking will extend a few thousand feet over existing right of way into the Commonwealth.

The project Area of Potential Effects (APE) on the Virginia side of the state line includes the Long Marsh Run Rural Historic District (DHR Inventory No. 021-0967), a property listed in the National Register of Historic Places. We believe that the proposed widening of US 340 will have No Adverse Effect on the Long Marsh Run Rural Historic District.

If you have any questions about our comments, please contact me at (804) 482-6090.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Holma".

Marc Holma, Architectural Historian
Division of Review and Compliance

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Northern Region Office
5357 Main Street
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Stephens City, VA 22655
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Fax: (540) 868-7033

C: Mr. Ben Hark, WVDOH



United States Department of the Interior



FISH AND WILDLIFE SERVICE

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

December 22, 2015

Mr. Ben Hark
West Virginia Department of Transportation
Division of Highways
1900 Kanawha Boulevard East
Charleston, West Virginia 26305

Re: West Virginia Department of Transportation, US 340 Improvement Project, Jefferson County, West Virginia (FWS File #: 2015-TA-0451)

Dear Mr. Hark:

This responds to your December 2, 2015, request for information regarding the proposed US 340 widening project in Jefferson County, West Virginia. Former correspondence and completed surveys have occurred on this project, but these did not address every species potentially present within the proposed project area. The following comments are provided pursuant to the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

Based on your correspondence, the Service has determined that three federally listed species may occur within the range of the proposed project that may be affected by the construction and operation of the proposed project, the endangered Indiana bat (*Myotis sodalis*), the threatened northern long-eared bat (*M. septentrionalis*)(NLEB), and the threatened Madison Cave isopod (*Antrolana lira*)(MCI).

Federally Listed Bats

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, or 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. Similar to the Indiana bat, NLEB bat 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. Northern long-eared bats seem to be flexible in selecting roosts, choosing 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 rarely roosting in structures, like barns and sheds. In West Virginia, the U.S. Fish and Wildlife Service (Service) considers all forest habitats containing trees greater than or equal to 3 inches in diameter at breast height (DBH) to be potentially suitable as summer roosting and foraging habitat for the Indiana and northern long-eared bat.

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 areas around them for fall-swarmling 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 by NLEB during the winter that have yet to be documented.

The Service has determined the number of acres of potential summer 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 take of the Indiana bat, and therefore these effects are considered discountable.

This 17-acre threshold was developed based on information specific to the Indiana bat in West Virginia. While there are many similarities between the Indiana bat and NLEB, the distribution and abundance of the NLEB in West Virginia is much different than the Indiana bat and there are a number of factors that make the NLEB different from the Indiana bat in regard to whether they are likely to be adversely affected by these types of activities. The WVFO is currently reviewing existing data and available literature on the NLEB to determine how our recommendations should be modified to address the NLEB. We anticipate that additional information may become available as the Service accepts public comments and works to finalize the 4(d) rule for the species. **We expect that this 17-acre threshold may change** in the near future and our intent is to make modifications to our recommendations concurrent with the anticipated completion of the final 4(d) rule **on or before the end of the 2015 calendar year**. In the interim, our office will be using the threshold developed for the Indiana bat to make determinations regarding the NLEB.

Because the distance that NLEB typically travel between foraging and roosting sites and hibernacula are different from the Indiana bat, we are using species-specific buffers around known NLEB captures, maternity, and hibernacula sites. Therefore, small projects completed before the end of the 2015 calendar year that are more than 5 miles from a NLEB hibernaculum or 1.5 miles from a known NLEB maternity roost or 3 miles from a NLEB detection site with no roost identified, that affect less than 17 acres of suitable forested habitat, and will not affect any potential hibernacula, will also be considered to have discountable effects on the NLEB.

Mr. Ben Hark
December 22, 2015

3

Because your project 1) will affect less than 17 acres of potential Indiana bat or NLEB foraging or roosting habitat; 2) is not within any of the Indiana bat or NLEB hibernacula or summer use buffers described above; and 3) will not affect any potential caves or mines that could be used as hibernacula for these species, we have made a determination that the project is not likely to adversely affect the Indiana bat or NLEB.

Madison Cave Isopod

The Service received results of Phase I surveys for MCI on October 9, 2011, and Phase II survey results were carried out by Wil Orndorff, an expert on MCI and karst habitats, on December 15, 2014. As a result of these efforts, the Service concurred that the project may affect, but is not likely to adversely affect MCI in a letter to you on June 1, 2015. This concurrence has not changed.

Therefore no biological assessment or further section 7 consultation under the ESA is required with the Service. 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 determination may be reconsidered.

We appreciate your continued commitment to avoiding and minimizing impacts to federally listed threatened and endangered species. If you have any questions regarding this letter, please contact Liz Stout of my staff at (304) 636-6586, Ext. 15, or elizabeth_stout@fws.gov, or at the letterhead address.

Sincerely,



John E. Schmidt
Field Supervisor



COMMONWEALTH of VIRGINIA

Department of Historic Resources

2801 Kensington Avenue, Richmond, Virginia 23221

Molly Joseph Ward
Secretary of Natural Resources

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Julie V. Langan
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11 August 2016

Mr. Ben L. Hark
Environmental Section Head
West Virginia Division of Highways
1900 Kanawha Boulevard East, Building 5, Room 110
Charleston, West Virginia 25305-0430

RE: Draft EIS for US 340 from Virginia State Line to Charles Town Bypass
Jefferson County, West Virginia
State Project No. U219-340-0.00(02)
VDHR File No. 2015-1028

Dear Mr. Hark:

The Department of Historic Resources (DHR) has received for our review and comment the draft Environmental Impacts Statement (DEIS) for the above referenced project. As DHR wrote in our letter of 25 November 2015 the proposed undertaking on the Virginia side of the state line includes the Long Marsh Run Rural Historic District (DHR Inventory No. 021-0967), a property listed in the National Register of Historic Places. In our previous correspondence we stated it was our belief that the proposed widening of US 340 will have No Adverse Effect on the Long Marsh Run Rural Historic District. Upon review of the DEIS we reiterate this position.

If you have any questions about our comments, please contact me at (804) 482-6090.

Sincerely,

Marc Holma, Architectural Historian
Division of Review and Compliance

C: Ms Julia Wellman, DEQ

Administrative Services
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Molly Joseph Ward
Secretary of Natural Resources

Clyde E. Cristman
Director



Rochelle Altholz
Deputy Director of
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David C. Dowling
Deputy Director of
Soil and Water Conservation
and Dam Safety

Thomas L. Smith
Deputy Director of Operations

COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

August 16, 2016

R.J. Scites, P.E.
Director, Engineering Division WVDOH,
1334 Smith Street
Charleston, WV 25301

Re: US340 Supplemental Draft EIS

Dear Mr. Scites:

The Department of Conservation and Recreation's Division of Natural Heritage (DCR) has searched its Biotics Data System for occurrences of natural heritage resources from the area outlined on the submitted map. Natural heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations.

According to the information currently in our files, the Gaylord Calcareous Marsh Conservation Site is within two miles of the project site. Conservation sites are tools for representing key areas of the landscape that warrant further review for possible conservation action because of the natural heritage resources and habitat they support. Conservation sites are polygons built around one or more rare plant, animal, or natural community designed to include the element and, where possible, its associated habitat, and buffer or other adjacent land thought necessary for the element's conservation. Conservation sites are given a biodiversity significance ranking based on the rarity, quality, and number of element occurrences they contain; on a scale of 1-5, 1 being most significant. Gaylord Calcareous Marsh Conservation Site has been given a biodiversity significance ranking of B4, which represents a site of moderate significance. The natural heritage resources of concern at this site are:

<i>Railus limicola</i>	Virginia rail	G5/S2B, S3N/NL/NL
<i>Porzana carolina</i>	Sora	G5/S1B, S2N/NL/NL
<i>Eutrochium maculatum var. maculatum</i>	Spotted Joe-pye-weed	G5T5/S1/NL/NL
<i>Carex utriculata</i>	Beaked Sedge	G5/S1/NL/NL
<i>Juncus torreyi</i>	Torrey's Rush	G5/S1/NL/NL
<i>Ribes americanum</i>	Wild Black Currant	G5/S1/NL/NL
<i>Potamogeton zosteriformis</i>	Flatstem Pondweed	G5/S1/NL/NL
<i>Carex utriculata - Sparganium americanum</i>	Herbacious Vegetation	G4G5/S1/NL/NL

Ridge and Valley Calcareous Spring Marsh (Beaked Sedge - American Bur-Reed Type)

To minimize adverse impacts to the aquatic ecosystem as a result of the proposed activities, DCR recommends the implementation of and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulations.

According to the information currently in our files, the Loggerhead shrikes (*Lanius ludovicianus*, G4/S2B,S3N/NL/LT) has been documented immediately adjacent to the project area. Loggerhead shrikes breed

throughout most of the United States and southern Canada, through Mexico and into Central America (NatureServe, 2009). In Virginia, there are records throughout most of the state; however its current strong hold seems to be the Shenandoah Valley. It usually nests, forages, and perches in open fields and pastures where there are scattered trees for nesting and telephone wires or fences for perching (Hamel, 1992). Essential habitat requirements include open country with scattered trees or shrubs and conspicuous perches. A thorny shrub, such as hawthorn, is a favored nesting site. Loggerhead shrikes sometimes impale their food on thorny shrubs, barbed-wire fences, and other suitable objects to be eaten later or to feed to their young. Please note that the Loggerhead shrike is currently classified as threatened by the Virginia Department of Game and Inland Fisheries (VDGIF).

Threats to the Loggerhead shrike include loss of open habitats through reforestation and conversion to cropland, and the removal of hedgerows (Fraser, 1991). They may experience negative impacts from insecticide use and predation (NatureServe, 2009).

Due to the legal status of the Loggerhead shrike, DCR recommends coordination with Virginia's regulatory authority for the management and protection of this species, the VDGIF, to ensure compliance with the Virginia Endangered Species Act (VA ST §§ 29.1-563 – 570).

This project is situated on karst-forming carbonate rock and can be characterized by sinkholes, caves, disappearing streams, and large springs. Due to the potential for the project area to support the Madison Cave isopod (*Antrolana lira*, G2G4/S2/LT/LT), a Phase II survey was conducted for two sinkholes identified on the property in December of 2014. There was no connection identified between the sinkholes and suitable habitat for the Madison Cave isopod. Therefore, DCR concurs with the USFWS assessment of no adverse effect on the Madison Cave isopod however due to the state legal status of this species recommends coordination with the Virginia Department of Game and Inland Fisheries to ensure compliance with protected species legislation.

If other karst features are encountered during the project, please coordinate with DCR Karst Protection Coordinator Wil Orndorff (540-230-5960), Wil.Orndorff@dcr.virginia.gov to document and minimize adverse impacts. Discharge of runoff to sinkholes or sinking streams, filling of sinkholes, and alteration of cave entrances can lead to surface collapse, flooding, erosion and sedimentation, groundwater contamination, and degradation of subterranean habitat for natural heritage resources. If the project involves filling or “improvement” of sinkholes or cave openings, DCR would like detailed location information and copies of the design specifications. In cases where sinkhole improvement is for stormwater discharge, copies of VDOT Form EQ-120 will suffice. New “Karst Assessment Guidelines” developed by the Virginia Cave Board for land development can be found at <http://www.dcr.virginia.gov/natural-heritage/document/karst-assessment-guidelines.pdf>

Under a Memorandum of Agreement established between the Virginia Department of Agriculture and Consumer Services (VDACS) and the DCR, DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species. The current activity will not affect any documented state-listed plants or insects.

There are no State Natural Area Preserves under DCR’s jurisdiction in the project vicinity.

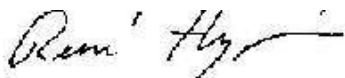
New and updated information is continually added to Biotics. Please re-submit project information and map for an update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized. For natural heritage resources within the project area in West Virginia, DCR recommends coordination with the WVDNR Natural Heritage Program.

The VDGIF maintains a database of wildlife locations, including threatened and endangered species, trout streams, and anadromous fish waters that may contain information not documented in this letter. Their database may be accessed from <http://vafwis.org/fwis/> or contact Ernie Aschenbach at 804-367-2733 or Ernie.Aschenbach@dgif.virginia.gov. This project is located within 2 miles of a documented occurrence of a state listed animal. Therefore, DCR recommends coordination with the VDGIF, Virginia's regulatory authority for the management and protection of this species to ensure compliance with the Virginia Endangered Species Act (VA

ST §§ 29.1-563 – 570).

Should you have any questions or concerns, feel free to contact me at 804-371-2708. Thank you for the opportunity to comment on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "S. René Hypes". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

S. René Hypes
Project Review Coordinator

CC: Wil Orndorff, DCR-Karst
Troy Andersen, USFWS
Ernie Aschenbach, VDGIF

Literature Cited

Fraser, J. D. 1991. Loggerhead Shrike. In *Virginia's Endangered Species: Proceedings of a Symposium*. K. Terwilliger ed. The McDonald and Woodward Publishing Company, Blacksburg, Virginia.

Hamel, P. B. 1992. *Land Manager's Guide to the Birds of the South*. The Nature Conservancy. Chapel Hill, North Carolina.

NatureServe. 2009. NatureServe Explorer: An online encyclopedia of life [web application]. Version 7.1. NatureServe, Arlington, Virginia. Available <http://www.natureserve.org/explorer>. (Accessed: June 24, 2010).



September 8, 2016

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
WVDOH
1334 Smith Street
Charleston, WV 25301

RE: US 340 – Supplemental Draft Environmental Impact Statement
State Project: U219-340-0.00; Federal Project: NH-340 (024)
FR#: 96-814-JF-32

Dear Mr. Hark:

We have reviewed the Supplemental Draft Environmental Impact Statement (DEIS) dated July 2016 that was submitted for the above referenced project. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments

Archaeological Resources:

We have reviewed Chapter IV. Section B.3. Archaeological Sites (pages IV-20 – IV-22) of the submitted document and find the text is inaccurate and unacceptable. This section of the DEIS provides a brief summary of studies and consultation that has occurred to date regarding the proposed project's potential to affect archaeological sites. As well, this section provides the proposed project's effects on archaeological sites.

As indicated in the document, predictive models were developed and sample areas of the Area of Potential Effect (APE) were surveyed in the late 1990s. The DEIS notes that a May 1997 architectural survey and archaeological assessment report and a June 1997 predictive model estimated that approximately 65 percent of the project area has a high probability of containing archaeological sites, 20 percent has a medium probability and 15 percent a low probability. As indicated in the DEIS, four potentially significant archaeological sites were identified during a 1999 sample survey conducted within Alternates 1, 3, 4, 5 and 6. This indicates that the predictive model and archaeological assessment are valid and support the need for a complete Phase I survey of the Preferred Alternate.

In 2015, a second archaeological assessment of site potential was conducted for variations of Preferred Alternate 4 (Alternates 4, 4A, 4B and 4C). However, the DEIS does not include the results and conclusions of this second assessment, which reiterate that the APE of each of the alternatives has a moderate to high potential for Native American sites and a high potential for historic period sites. More importantly however, the DEIS fails to mention that a complete Phase I survey of the Preferred Alternate has not yet been conducted. Furthermore, page IV-22 of the DEIS of the document states, "Programmatic language will be included in the project's Memorandum of Agreement for Cultural/Historic Resources that describes how any additional archaeological resources discovered during construction should

be addressed.” This statement incorrectly implies that the Section 106 process has been completed and that no further archaeological work is necessary. As such the DEIS misleads and misinforms everyone concerned with the project about the level of cultural resource work that still needs to be completed.

At this point in time, this proposed project is still within the identification phase of the Section 106 Process. As indicated in the DEIS, only sample areas within various alternates have been surveyed. Because we are in the initial stages of the Section 106 process, it is inappropriate to develop a Memorandum of Agreement (MOA), which primarily is a document type that indicates how adverse effects will be resolved, for the project. Rather, a Programmatic Agreement (PA) should be developed. As you know, PAs provide the means to outline how the steps of the Section 106 process will be completed. This type of document has been created for several WV DOH projects in the past. We would be happy to work with your agency on the creation of a PA for this project. We request that the text of the DEIS be amended to accurately reflect that the Section 106 process has not been completed, that a Phase I survey and any necessary subsequent archaeological investigations still need to be conducted, and that a Programmatic Agreement will be developed to outline how this will be carried out.

Architectural Resources:

We have reviewed the submitted information and concur that 17 architectural resources eligible for or listed in the National Register of Historic Places are located within the proposed project’s direct or indirect Area of Potential Effects (APE) for the three build alternatives included in the assessment of effects section: Alternative 4, 4A (preferred), and 4B. The majority of these 17 resources were identified within the *Phase I Cultural Resource Investigation Architectural Survey and Archaeological Assessment, Proposed Improvements to US 340 Jefferson County, West Virginia* report completed in June 1997, which was reviewed and concurred with by our office in a letter dated January 7, 2000. Because of project delays, in 2015 a new report, *Architectural Survey Update and Historic Property Boundary Review US 340 Improvement Study Jefferson County, West Virginia* was completed to provide updated information regarding architectural resources within the proposed project area, as well as to identify any addition resources not previously surveyed. The findings within this report were reviewed and concurred with by our office in letters dated August 10, 2015 and October 9, 2015.

Preliminary findings of effect were made in 2005, with concurrence from our office provided in a letter dated July 5, 2005. At that time, Alternative 4 was the preferred alternative, but later additional build alternatives, Alternative 4A and 4B, were developed. We agree that the similarities between the design alignments for Alternatives 4, 4A (preferred), and 4B would result in similar findings of effects for each alternative. Updated preliminary determinations of effect pursuant to 36 CFR 800.5 Assessment of Adverse Effects are included in Table IV-8 on page IV-26 of the DEIS.

Four of the 17 architectural resources considered eligible for or listed in the National Register within the APE for Preferred Alternative 4A have been recommended as having *no effect*. These resources include the St. John’s Episcopal Church (JF-0062-0049), William Grubb Farm (JF-0005), Wheatland Farm (JF-0062-0017), and Berry Hill (JF-0062-0029). We disagree with this recommendation for the St. John’s Episcopal Church (JF-0062-0049) because although a buffer of trees, shrubs, and outbuildings will minimize any potential visual impact to the church, the proposed project will still likely effect this resource. We recommend changing the assessment of effect for the St. John’s Episcopal Church (JF-0062-0049) to *no adverse effect*. We concur with the *no effect* assessment for the other three resources.

September 8, 2016
Mr. Hark
FR#: 96-814-JF-32
Page 3

Five resources, the Long Marsh Run Rural Historic District, the Norfolk Southern Railroad (JF-1228), McPherson-Adams House (JF-1225), Beverly Farm (JF-0326), and Ripon Lodge (NR# 83003240; NR# 98001074 (boundary expansion); JF-0062-0015), are recommended as having *no adverse effect*. We disagree with this recommendation for the Norfolk Southern Railroad (JF-1228) and the McPherson-Adams House (JF-1225) because the proposed project will require no right-of-way acquisition within the boundaries of these resources and no visual impacts are anticipated; therefore, we recommend changing the assessment of effect to *no effect* for these two resources. We concur with the recommendation of *no adverse effect* for the remaining three resources.

The DEIS recommends a determination of *adverse effect* for eight resources. These resources include the Kabletown Rural Historic District, the Village of Rippon Historic District, the Bullsken Run Rural Historic District, Olive Boy Farm (JF-0062-0006), Glenwood (JF-0062-011), Wayside Farm (JF-0062-0012), Byrdland (JF-0062-0016), and Straithmore (JF-0062-0019). Because the proposed project will directly impact properties associated with these resources, we concur with the recommendation of *adverse effect* for these resources.

On pages IV-30-31 of the DEIS, discussion regarding the development of an MOA to mitigate adverse effects of the proposed project is presented. However, as was noted in the Archaeological Resources section above, at this point in the project, a PA should be developed instead of an MOA. Because of the size and complexity of the proposed project, a PA will provide an outline on how the steps of the Section 106 process will be completed for both architectural and archaeological resources. The PA should also detail how the appropriate public involvement will be completed to satisfy requirements established in 36 CFR 800. We request that the text of the DEIS be amended to accurately reflect the need of a PA for this proposed project.

In addition, we recommend that you include the site identification numbers for the built resources included within the DEIS to minimize potential confuse with any similarly named resources within the state.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Lora A Lamarre-DeMott, Senior Archaeologist or Benjamin M. Riggle, Structural Historian, at (304) 558-0240.*

Sincerely,



Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/LLD/BMR



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DIVISION OF NATURAL RESOURCES
Wildlife Resources Section
Operations Center
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Fax (304) 637-0250

Earl Ray Tomblin
Governor

Robert A. Fala
Director

September 19, 2016

R.J. Scites, P.E.
Director, Engineering Division
West Virginia Division of Highways
1334 Smith Street
Charleston WV 25301-0430

Dear Mr. Scites,

West Virginia Division of Natural Resources (WVDNR) Wildlife Resources Section (WRS) has reviewed the Supplemental Draft Environmental Impact Statement (DEIS) U219-340-03.00 (02) for the proposed US 340 Virginia Line to Charles Town Bypass project in Jefferson County.

The road project will impact mapped flood plains and increase the amount of impervious surface area of the watershed. All proposed alternatives for the project cross wetlands, Big Bullskin Run, and a direct tributary to Long Marsh Run. Long Marsh Run and Big Bullskin Run are listed as High Quality Streams by the WVDNR and are considered as valuable warmwater fisheries. Both streams are listed in the 2016 Mussel Survey Protocols as Group 1. Group 1 streams are HQ streams that may contain state protected freshwater mussels. Natural resources should be afforded proper recognition in the final EIS. Big Bullskin Run is stocked January through May within the project area.

We strongly suggest you contact Barbara Sargent at WVDNR in Elkins by telephone at 304-637-0245 or email Barbara.D.Sargent@wv.gov so she can conduct a land inquiry. There may be springs and state rare species within the project area. There are historic records of spotted turtles and migrant loggerhead shrikes within the project area.

We look forward to working with WVDOH on this project. If you have further questions, please contact Anne Wakeford of my staff in Elkins by telephone at 304-637-0245 or email at Anne.M.Wakeford@wv.gov.

Regards,

A handwritten signature in blue ink, appearing to read "Danny Bennett", with a long horizontal flourish extending to the right.

Danny A. Bennett, Supervisor



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DIVISION

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

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.wvdep.gov

September 22, 2016

Mr. R. J. Scites, P.E., Director
WVDOH-Engineering Division
1334 Smith Street
Charleston, WV 25305-0430

RE: State Project: U219-340-0.00(02)
Federal Project: NH-0340(030)
US 340 Improvement Study
Jefferson County, WV

Dear Mr. Scites:

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 environmental impacts, such as potential water quality standard issues, please consult with the appropriate Department of Environmental Protection Division.

Jefferson County is currently designated as attainment/unclassified for all National Ambient Air Quality Standards (NAAQS) criteria pollutants. Therefore, based upon the current regulatory requirements, this project as described 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:

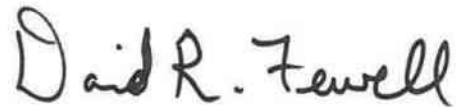
1. It is necessary to burn land clearing debris in order to complete the project; in which case, approval by the WVDEP Secretary or his or her authorized representative is required to conduct such burning (see 45CSR6) or;
2. The project entails the renovation, remodeling, or demolition, either partially or totally, 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 such is the case, a formal Notification of Abatement, Demolition, or Renovation must be completed and timely filed with the WVDEP Secretary's authorized representative and approval received before commencement of the activities addressed in the Notification.

3. Backup or emergency electrical generators may be subject to federal and state requirements and require an air permit in accordance with 45CSR13.

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



Jefferson County
Development Authority

Board of Directors
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RECEIVED
OCT 04 2016
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DIVISION

September 26, 2016

Mr. R. J. Scites, P.E.
Director, Engineering Division
West Virginia Division of Highways
1334 Smith Street
Charleston, West Virginia 25301

Dear Mr. Scites,

On behalf of the Jefferson County Development Authority (JCDA), I am writing to express our strong support for the planned expansion of US 340 in Jefferson County from south of the state line in Virginia to the Charles Town bypass. Furthermore, the JCDA supports the Alternate 4A which is the preferred alternative.

Currently, US 340 is a rural two-lane highway with traffic that has been significantly slowed by turning vehicles at numerous access points from both residential and commercial properties. Deficiencies in roadway alignment also contribute to the operational and safety concerns. In fact, WVDOH data gathered in 2013 indicates that accident rates and the severity index are at or above the statewide average for similar facilities. With the ever increasing growth in Jefferson County, these statistics will only worsen over time if nothing is done. The expansion of US 340 from two lanes to four lanes is a priority for Jefferson County as it will improve traffic operations and safety within the project limits. This project will also foster much-needed economic development along its route.

With regards to the proposed alternative routes, the JCDA supports Alternate 4A which is the route preferred by WVDOH. Of the proposed alternatives, Alternate 4A has the least number of residential and business relocations, impacts the fewest number of historic acres, and has the least number of stream impacts. Alternative 4A will clearly accomplish the goals of the project with the least impact to the community.

In closing, I want to thank you and your staff for all of your hard work on this important road project. We are very pleased that this project will soon become a reality. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

John Reisenweber
Executive Director



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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4020
1-800-592-5482

September 26, 2016

Mr. R.J. Scites, P.E.
West Virginia Department of Transportation
1334 Smith Street
Charleston, WV 25301-0430

RE: Federal Highway Administration Supplemental Environmental Impact Statement:
U.S. 340 Improvements in Clarke County (DEQ 16-173F)

Dear Mr. Scites:

The Commonwealth of Virginia has completed its review of the draft supplemental environmental impact statement (EIS) for the above-referenced project. The Department of Environmental Quality (DEQ) is responsible for coordinating Virginia's review of federal environmental documents prepared pursuant to the National Environmental Policy Act (NEPA) and responding to appropriate federal officials on behalf of the Commonwealth. The following agencies joined in this review:

Department of Environmental Quality
Department of Conservation and Recreation
Department of Health
Department of Historic Resources

The Department of Game and Inland Fisheries, Department of Agriculture and Consumer Services, Department of Forestry, Marine Resources Commission, Department of Transportation, Northern Shenandoah Valley Regional Commission and Clarke County also were invited to comment.

PROJECT DESCRIPTION

The West Virginia Department of Transportation's (WVDOT) Division of Highways in conjunction with the Federal Highway Administration (FHWA) proposes to expand an existing two-lane section of US 340 in Jefferson County, West Virginia, and Clarke

County, Virginia, into a four-lane highway. The project starts in Clarke County approximately 1,000 feet from the state border and extends two miles into West Virginia. The project is funded entirely by federal and state funds administered by the WVDOT. The adjoining segments of highway, on the north and south ends of the project area, have four lanes. The project area consists primarily of rural, agricultural areas. Some residential and commercial properties also exist along the project area. The purpose and need of the proposed improvements is to address traffic operations and improve safety deficiencies along the existing facility. The draft EIS for the project was approved in 2001, but the project was delayed due to a lack of funding. Due to the growth and development within the area of the preferred alternative (Alternate 4) since then, additional alternatives have been developed. The following alternatives are analyzed in the draft supplemental EIS: Alternate 4A (preferred) and Alternates 4B, 4C, 10A, 10B and 11.

ENVIRONMENTAL IMPACTS AND MITIGATION

1. Air Quality. The EIS (page IV-75) states that air quality impacts will be temporary and primarily consist of emissions from construction equipment, fugitive dust and open burning.

1(a) Agency Jurisdiction. The DEQ Air Division, on behalf of the State Air Pollution Control Board, is responsible for developing regulations that implement Virginia's Air Pollution Control Law (Virginia Code §10.1-1300 et seq.). DEQ is charged with carrying out mandates of the state law and related regulations as well as Virginia's federal obligations under the Clean Air Act as amended in 1990. The objective is to protect and enhance public health and quality of life through control and mitigation of air pollution. The division ensures the safety and quality of air in Virginia by monitoring and analyzing air quality data, regulating sources of air pollution, and working with local, state and federal agencies to plan and implement strategies to protect Virginia's air quality. The appropriate DEQ regional office is directly responsible for the issuance of necessary permits to construct and operate all stationary sources in the region as well as monitoring emissions from these sources for compliance. As a part of this mandate, environmental impact reviews (EIRs) of projects to be undertaken in the state are also reviewed. In the case of certain projects, additional evaluation and demonstration must be made under the general conformity provisions of state and federal law.

The Air Division regulates emissions of air pollutants from industries and facilities and implements programs designed to ensure that Virginia meets national air quality standards. The most common regulations associated with major State projects are:

- Open burning: 9VAC5-130 et seq.
- Fugitive dust control: 9VAC5-50-60 et seq.

- Permits for fuel-burning equipment: 9VAC5-80-1100 et seq.

1(b) Ozone Attainment Area. According to the DEQ Air Division, the project site is located in an ozone attainment area.

1(c) Requirements.

1(c)(i) Fugitive Dust. During land-disturbing activities, fugitive dust must be kept to a minimum by using control methods outlined in 9VAC5-50-60 et seq. of the regulations for the Control and Abatement of Air Pollution. These precautions include, but are not limited to, the following:

- Use, where possible, of water or suitable chemicals for dust control during the proposed demolition and construction operations and from material stockpiles;
- Installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials;
- Covering of open equipment for conveying materials; and
- Prompt removal of spilled or tracked dirt or other materials from paved streets and removal of dried sediments resulting from soil erosion.

Do not use water for dust control to the extent that it results in runoff to surface waters or wetlands.

1(c)(ii) Open Burning. If project activities include the burning of vegetative debris or construction material, this activity must meet the requirements under 9VAC5-130 et seq. of the regulations for open burning, and it may require a permit. The regulations provide for, but do not require, the local adoption of a model ordinance concerning open burning. Contact officials with the locality to determine what local requirements, if any, exist.

The DEQ Valley Regional Office (VRO) states that any open burning of vegetative debris must be performed in accordance with the open-burning regulation (<http://www.deq.virginia.gov/Programs/Air/AirQualityPlans/OpenBurning.aspx>) and coordinated with the local fire official to ensure that all local ordinances are met.

1(c)(iii) Fuel-Burning Equipment. Fuel-burning equipment (boilers, generators, compressors, etc.) or any other air-pollution-emitting equipment may be subject to registration or permitting requirements.

1(d) Agency Recommendation. DEQ VRO states that the shredding or chipping of vegetative debris and reuse on-site is usually recommended over open burning (see Item 3(d) for additional information).

2. Erosion and Sediment Control and Stormwater Management. The EIS (page IV-41) states that permits would be obtained from West Virginia. In addition, the EIS states that the project would comply with the West Virginia Erosion and Sediment Control Best Management Practice Manual. Compliance with Virginia laws and regulations are not discussed.

2(a) Agency Jurisdiction. The DEQ Office of Stormwater Management (OSM) administers the following laws and regulations governing construction activities:

- Virginia Erosion and Sediment Control Law (VESCL) (§ 62.1-44.15:51 et seq.) and Regulations (VESCL&R) (9VAC25-840);
- Virginia Stormwater Management Act (VSMA) (§ 62.1-44.15:24 et seq.);
- Virginia Stormwater Management Program (VSMP) regulation (9VAC25-870); and
- 2014 General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities (9VAC25-880).

In addition, DEQ is responsible for the VSMP General Permit for Stormwater Discharges from Construction Activities related to Municipal Separate Storm Sewer Systems (MS4s) and construction activities for the control of stormwater discharges from MS4s and land disturbing activities under the Virginia Stormwater Management Program (9VAC25-890-40).

2(b) Requirements. General guidance on regulatory requirements is below.

2(b)(i) Erosion and Sediment Control and Stormwater Management Plans. The applicant and its authorized agents conducting regulated land-disturbing activities on private and public lands in the state must comply with VESCL&R and VSMA and VSMP Regulation, including coverage under the general permit for stormwater discharge from construction activities, and other applicable federal nonpoint source pollution mandates (e.g. Clean Water Act-Section 313). Clearing and grading activities, installation of staging areas, parking lots, roads, buildings, utilities, borrow areas, soil stockpiles, and related land-disturbing activities that result in the total land disturbance of equal to or greater than 10,000 square feet would be regulated by VESCL&R. Accordingly, the applicant must prepare and implement an erosion and sediment control (ESC) plan to ensure compliance with state law and regulations. The ESC plan is submitted to the DEQ regional office that serves the area where the project is located for review for compliance. The applicant is ultimately responsible for achieving project compliance through oversight of on-site contractors, regular field inspection, prompt action against non-compliant sites, and other mechanisms consistent with agency policy (Reference: VESCL 62.1-44.15 et seq.).

2(b)(ii) General Permit for Stormwater Discharges from Construction Activities (VAR10). The operator or owner of a construction project involving land-disturbing activities equal to or greater than one acre is required to register for coverage under the General Permit for Discharges of Stormwater from Construction Activities and develop a project-specific stormwater pollution prevention plan (SWPPP). The SWPPP must be prepared prior to submission of the registration statement for coverage under the general permit and the SWPPP must address water quality and quantity in accordance with the VSMP Permit Regulations. General information and registration forms for the General Permit are available on DEQ's website at <http://www.deq.virginia.gov/Programs/Water/StormwaterManagement/VSMPPermits/ConstructionGeneralPermit.aspx> (Reference: VSWML 62.1-44.15 et seq.; VSMP Permit Regulations 9VAC 25-870-10 et seq.).

3. Solid and Hazardous Wastes. According to the EIS (page IV-76), the removal of structures and debris will be done in accordance with local and state regulations.

3(a) Agency Jurisdiction. On behalf of the Virginia Waste Management Board, the DEQ Division of Land Protection and Revitalization is responsible for carrying out the mandates of the Virginia Waste Management Act (Virginia Code §10.1-1400 et seq.), as well as meeting Virginia's federal obligations under the Resource Conservation and Recovery Act and the Comprehensive Environmental Response Compensation Liability Act, commonly known as Superfund. The DEQ Division of Land Protection and Revitalization also administers those laws and regulations on behalf of the State Water Control Board governing Petroleum Storage Tanks (Virginia Code §62.1-44.34:8 et seq.), including Aboveground Storage Tanks (9VAC25-91 et seq.) and Underground Storage Tanks (9VAC25-580 et seq. and 9VAC25-580-370 et seq.), also known as Virginia Tank Regulations, and § 62.1-44.34:14 et seq. which covers oil spills.
Virginia:

- Virginia Waste Management Act, Virginia Code § 10.1-1400 et seq.
- Virginia Solid Waste Management Regulations, 9VAC20-81
 - (9VAC20-81-620 applies to asbestos-containing materials)
- Virginia Hazardous Waste Management Regulations, 9VAC20-60
 - (9VAC20-60-261 applies to lead-based paints)
- Virginia Regulations for the Transportation of Hazardous Materials, 9VAC20-110.
-

Federal:

- Resource Conservation and Recovery Act (RCRA), 42 U.S. Code sections 6901 et seq.

- U.S. Department of Transportation Rules for Transportation of Hazardous Materials, 49 Code of Federal Regulations, Part 107
- Applicable rules contained in Title 40, Code of Federal Regulations.

3(b) Data Files and Databases. The DEQ Division of Land Protection and Revitalization (DLPR) staff conducted a cursory search (1,000-foot radius of the project corridor in Virginia) of solid and hazardous waste databases for waste sites in close proximity to the project corridor and did not identify any waste sites which might impact the project. Additionally, no waste sites of possible concern were located within the same zip code.

3(c) Agency Recommendations. DEQ encourages all projects and facilities to implement pollution prevention principles, including:

- the reduction, reuse and recycling of all solid wastes generated; and
- the minimization and proper handling of generated hazardous wastes.

3(d) Requirements.

- All structures being demolished or removed should be checked for asbestos-containing materials (ACM) and lead-based paint (LBP) prior to demolition. If ACM and LBP are found, in addition to the federal waste-related regulations mentioned above, state regulations 9VAC20-81-640 for ACM and 9VAC20-60-261 for LBP must be followed.
- Any soil/sediment that is suspected of contamination or wastes that are generated during construction-related activities must be tested and disposed of in accordance with applicable federal, state, and local laws and regulations.
- Report evidence of a petroleum release, if discovered during construction of this project, to DEQ, as authorized by Code of Virginia § 62.1-44.34.8-9 and 9 Virginia Administrative Code 25-580-10 et seq.
- No open burning should take place in violation of the Virginia Waste Management Regulations (<http://law.lis.virginia.gov/admincode/title9/agency20/>).

4. Natural Heritage Resources. The EIS (pages IV-44 to IV-46) states that the project is unlikely to have adverse effects to protected species or significant habitat.

4(a) Agency Jurisdiction.

4(a)(i) The Virginia Department of Conservation and Recreation's (DCR) Division of Natural Heritage (DNH): DNH's mission is conserving Virginia's biodiversity through inventory, protection and stewardship. The Virginia Natural Area Preserves Act (Virginia Code §10.1-209 through 217), authorized DCR to maintain a statewide database for

conservation planning and project review, protect land for the conservation of biodiversity, and to protect and ecologically manage the natural heritage resources of Virginia (the habitats of rare, threatened and endangered species, significant natural communities, geologic sites, and other natural features).

4(a)(ii) The Virginia Department of Agriculture and Consumer Services (VDACS): The Endangered Plant and Insect Species Act of 1979 (Virginia Code Chapter 39 §3.1-1020 through 1030) authorizes VDACS to conserve, protect and manage endangered and threatened species of plants and insects. Under a Memorandum of Agreement established between VDACS and the DCR, DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species.

4(b) Agency Findings – Natural Heritage Resources. According to the information currently in DCR DNH's files, the Gaylord Calcareous Marsh Conservation Site is within two miles of the project site. The conservation site has been given a biodiversity significance ranking of B4, which represents a site of moderate significance. The natural heritage resources of concern at this site are:

- *Railus limicola*, Virginia rail, G5/S2B, S3N/NL/NL
- *Porzana Carolina*, Sora, G5/S1B, S2N/NL/NL
- *Eutrochium maculatum var. maculatum*, Spotted Joe-pye-weed, G5T5/S1/NL/NL
- *Carex utriculata*, Beaked Sedge, G5/S1/NL/NL
- *Juncus torreyi*, Torrey's Rush, G5/S1/NL/NL
- *Ribes americanum*, Wild Black Currant, G5/S1/NL/NL
- *Potamogeton zosteriformis*, Flatstem Pondweed, G5/S1/NL/NL
- *Carex utriculata* - *Sparganium americanum* Herbacious Vegetation, G4G5/S1/NL/NL
- Ridge and Valley Calcareous Spring Marsh (Beaked Sedge - American Bur-Reed Type)

According to the information currently in DCR DNH's files, the Loggerhead shrikes (*Lanius ludovicianus*, G4/S2B,S3N/NL/LT) has been documented immediately adjacent to the project area. Loggerhead shrikes breed throughout most of the United States and southern Canada, through Mexico and into Central America (NatureServe, 2009). The Loggerhead shrike is currently classified as threatened by the Department of Game and Inland Fisheries (DGIF).

Due to the potential for the project area to support the Madison Cave isopod (*Antrolana lira*, G2G4/S2/LT/LT), a Phase II survey was conducted for two sinkholes identified on the property in December 2014. There was no connection identified between the sinkholes and suitable habitat for the Madison Cave isopod. Therefore, DCR concurs

with the US Fish and Wildlife Service (FWS) assessment of no adverse effect on the Madison Cave isopod.

The DCR DNH states that the project is situated on karst-forming carbonate rock and can be characterized by sinkholes, caves, disappearing streams, and large springs. Discharge of runoff to sinkholes or sinking streams, filling of sinkholes, and alteration of cave entrances can lead to surface collapse, flooding, erosion and sedimentation, groundwater contamination, and degradation of subterranean habitat for natural heritage resources. New Karst Assessment Guidelines, developed by the Virginia Cave Board for land development, can be found at www.dcr.virginia.gov/natural_heritage/documents/karst_assessment_guidelines.pdf.

4(c) Agency Findings – Threatened and Endangered Plant and Insect Species.

DCR finds that the current activity will not affect any documented state-listed plant and insect species.

4(d) Agency Findings – State Natural Area Preserves. There are no State Natural Area Preserves under DCR's jurisdiction in the project vicinity.

4(e) Agency Recommendations. DCR has the following recommendations:

- To minimize adverse impacts to the aquatic ecosystem as a result of the proposed activities, implement and strictly adhere to applicable state and local erosion and sediment control and stormwater management laws and regulations.
- Due to the legal status of the Loggerhead shrike and Madison Cave isopod, coordinate with DGIF to ensure compliance with the Virginia Endangered Species Act (§§ 29.1-563 – 570).
- Coordinate with DCR to document and minimize adverse impacts if other karst features, including sinkholes, caves, disappearing streams and large springs, are encountered during the project.
- Contact the DCR DNH and resubmit project information if the scope of the project changes and/or six months has passed before it is utilized.
- For natural heritage resources within the project area in West Virginia, DCR recommends coordination with the West Virginia Natural Heritage Program.

5. Wetlands and Water Quality. According to the EIS (page IV-42), approximately 1.14 acres of wetlands would be affected by the preferred alternative. In addition, the EIS (page IV-37) states that best management practices would be used to reduce sedimentation to streams.

5(a) Agency Jurisdiction. The State Water Control Board promulgates Virginia's water regulations covering a variety of permits to include the Virginia Pollutant Discharge

Elimination System Permit regulating point source discharges to surface waters, Virginia Pollution Abatement Permit regulating sewage sludge, storage and land application of biosolids, industrial wastes (sludge and wastewater), municipal wastewater, and animal wastes, the Surface and Groundwater Withdrawal Permit, and the Virginia Water Protection (VWP) Permit regulating impacts to streams, wetlands, and other surface waters. The VWP permit is a state permit which governs wetlands, surface water, and surface water withdrawals and impoundments. It also serves as §401 certification of the federal Clean Water Act §404 permits for dredge and fill activities in waters of the U.S. The VWP Permit Program is under the Office of Wetlands and Stream Protection, within the DEQ Division of Water Permitting. In addition to central office staff that review and issue VWP permits for transportation and water withdrawal projects, the six DEQ regional offices perform permit application reviews and issue permits for the covered activities:

- Clean Water Act, §401;
- Section 404(b)(i) Guidelines Mitigation Memorandum of Agreement (2/90);
- State Water Control Law, Virginia Code section 62.1-44.15:20 et seq.; and
- State Water Control Regulations, 9VAC25-210-10.

5(b) Agency Finding. DEQ VRO states that disturbance of surface waters or wetlands may require prior approval by DEQ and/or the U.S. Army Corps of Engineers (Corps). The Corps is the final authority for an official confirmation of whether there are federal jurisdictional wetlands or other surface waters that may be impacted by the proposed project. DEQ may confirm additional waters as jurisdictional beyond those under federal authority. Review of National Wetland Inventory maps or topographic maps for locating wetlands or streams may not be sufficient; there may need to be a site-specific review of the site by a qualified professional.

5(c) Agency Requirements.

- Measures must be taken to avoid and minimize impacts to surface waters and wetlands during construction activities.
- If construction activities will occur in or along any streams (perennial, intermittent, or ephemeral), open water or wetlands, the applicant should contact DEQ VRO (Eric Millard at 540-574-7813 or Eric.Millard@deq.virginia.gov) to determine the need for any permits prior to commencing work that could impact surface waters or wetlands.

6. Historic and Archaeological Resources. The EIS (page IV-20) indicates that the WVDOT has coordinated with the Virginia Department of Historic Resources (DHR).

6(a) Agency Jurisdiction. The Virginia DHR conducts reviews of both federal and state projects to determine their effect on historic properties. Under the federal process, DHR is the State Historic Preservation Office, and ensures that federal undertakings – including licenses, permits, or funding – comply with Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulation at 36 CFR Part 800. Section 106 requires federal agencies to consider the effects of federal projects on properties that are listed or eligible for listing on the National Register of Historic Places. For state projects or activities on state lands, DHR is afforded an opportunity to review and comment on (1) the demolition of state property; (2) major state projects requiring an EIR; (3) archaeological investigations on state-controlled land; (4) projects that involve a landmark listed in the Virginia Landmarks Register; (5) the sale or lease of surplus state property; (6) exploration and recovery of underwater historic properties; and (7) excavation or removal of archaeological or historic features from caves. See DHR’s website for more information about applicable state and federal laws and how to submit an application for review:
<http://www.dhr.virginia.gov/StateStewardship/Index.htm>.

6(b) Agency Finding. DHR states that the proposed widening of US Route 340 will not have an adverse effect on the Long Marsh Run Rural Historic District.

7. Public Water Sources. The EIS (page IV-12) states that the project would have low to moderate demands on utilities, including water supplies.

7(a) Agency Jurisdiction. The Virginia Department of Health (VDH) Office of Drinking Water (ODW) reviews projects for the potential to impact public drinking water sources (groundwater wells, springs and surface water intakes). VDH administers both federal and state laws governing waterworks operation.

7(b) Agency Findings. VDH ODW states that there may be impacts to public drinking water sources due to this project if the mitigation efforts outlined below are not implemented. No public groundwater wells are within a 1-mile radius of the project site. No surface water intakes are located within a 5-mile radius of the project site. The project is within the watershed of the following public surface water sources:

PWSID	SYSNAME	FACNAME
2043125	TOWN OF BERRYVILLE	SHENANDOAH RIVER
2043634	MOUNT WEATHER	SHENANDOAH RIVER
6059501	FAIRFAX CO WATER AUTHORITY	INTAKE (POTOMACH RIVER)
6107300	LEESBURG, TOWN OF	POTOMAC INTAKE

7(c) Agency Recommendation. Implement best management practices, including erosion and sedimentation controls as well as spill prevention controls and countermeasures, on the project site.

7(d) Requirements. Potential impacts to public water distribution systems or sanitary sewage collection systems must be verified by the local utility according to VDH ODW.

8. Pollution Prevention. DEQ advocates that principles of pollution prevention and sustainability be used in all construction projects as well as in facility operations. Effective siting, planning, and on-site Best Management Practices (BMPs) will help to ensure that environmental impacts are minimized. However, pollution prevention and sustainability techniques also include decisions related to construction materials, design, and operational procedures that will facilitate the reduction of wastes at the source.

8(a) Recommendations. We have several pollution prevention recommendations that may be helpful in constructing this project:

- Consider environmental attributes when purchasing materials. For example, the extent of recycled material content, toxicity level, and amount of packaging should be considered and can be specified in purchasing contracts.
- Consider contractors' commitment to the environment when choosing contractors. Specifications regarding raw materials and construction practices can be included in contract documents and requests for proposals.
- Choose sustainable materials and practices for building construction and design.
- Integrate pollution prevention techniques into the facility maintenance and operation, to include inventory control for centralized storage of hazardous materials. Maintenance facilities should have sufficient and suitable space to allow for effective inventory control and preventive maintenance.

DEQ's Office of Pollution Prevention provides information and technical assistance relating to pollution prevention techniques. If interested, please contact DEQ (Meghann Quinn at 804-698-4021).

9. Pesticides and Herbicides. In general, when pesticides or herbicides must be used, their use should be strictly in accordance with manufacturers' recommendations. In addition, DEQ recommends that the responsible agent use the least toxic pesticides or herbicides effective in controlling the target species. For more information on pesticide or herbicide use, please contact the Virginia Department of Agriculture and Consumer Services at (804) 786-3501.

REGULATORY AND COORDINATION NEEDS

1. Air Quality. This project may be subject to air regulations administered by DEQ. The following sections of Virginia Administrative Code are applicable:

- 9 VAC 5-50-60 *et seq.* governing fugitive dust emissions; and
- 9 VAC 5-130 *et seq.* for open burning.

Coordinate with DEQ VRO (Janardan Pandey at 540-574-7817 or Janardan.Pandey@deq.virginia.gov) prior to implementing the project if the use of fuel-burning equipment is proposed.

2. Solid and Hazardous Wastes. Contact DEQ VRO (Graham Simmerman at 540-574-7865 or Graham.Simmerman@deq.virginia.gov) for additional information on waste management as well as if contaminated soils or water are encountered during construction.

2(a) Asbestos-Containing Material. It is the responsibility of the owner or operator of a demolition activity, prior to the commencement of the demolition, to thoroughly inspect the affected part of the facility where the operation will occur for the presence of asbestos, including Category I and Category II nonfriable asbestos-containing material. Upon classification as friable or non-friable, all asbestos-containing material shall be disposed of in accordance with the Virginia Solid Waste Management Regulations (9 VAC 20-81 *et seq.*) and transported in accordance with the Virginia regulations governing Transportation of Hazardous Materials (9 VAC 20-110-10 *et seq.*). Contact the DEQ Division of Land Protection and Revitalization (Katy Dacey at 804-698-4274) and the Department of Labor and Industry (804-371-2327) for additional information.

2(b) Lead-Based Paint. If applicable, this project must comply with the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) regulations and with the Virginia Lead-Based Paint Activities Rules and Regulations. For additional information regarding these requirements, contact the Department of Professional and Occupational Regulation (804-367-8500).

3. Erosion and Sediment Control and Stormwater Management. This project must comply with Virginia's Erosion and Sediment Control Law (Virginia Code § 62.1-44.15:61) and Regulations (9VAC25-840-30 *et seq.*) and Stormwater Management Law (Virginia Code § 62.1-44.15:31) and Regulations (9VAC25-870-210 *et seq.*) as administered by DEQ. Erosion and sediment control, and stormwater management requirements should be coordinated with the DEQ VRO (Gary Flory at 540-574-7840 or Gary.Flory@deq.virginia.gov).

4. General Permit for Stormwater Discharges from Construction Activities

(VAR10). The operator or owner of a construction activity involving land disturbance of equal to or greater than 1 acre is required to register for coverage under the General Permit for Discharges of Stormwater from Construction Activities and develop a project specific stormwater pollution prevention plan (SWPPP). Specific questions regarding the Stormwater Management Program requirements should be directed to DEQ (Holly Sepety at 804-698-4039) (Reference: VSWML §62.1-44.15 et seq.).

5. Water Quality and Wetlands. DEQ regulates wetlands and water quality through implementation of the Virginia Water Protection Program (Virginia Code § 62.1-44.15 et seq.; 9VAC25-210 et seq.). If construction activities will occur in or along any streams (perennial, intermittent, or ephemeral), open water or wetlands, the applicant should contact DEQ VRO (Eric Millard at 540-574-7813 or Eric.Millard@deq.virginia.gov) to determine the need for any permits prior to commencing work that could impact surface waters or wetlands.

6. Natural Heritage Resources.

- Due to the legal status of the Loggerhead shrike and Madison Cave isopod, coordinate with DGIF to ensure compliance with the Virginia Endangered Species Act (§§ 29.1-563 – 570).
- If the project involves filling or improvement of sinkholes or cave openings, submit detailed location information and copies of the design specifications to DCR. In cases where sinkhole improvement is for stormwater discharge, copies of Virginia Department of Transportation Form EQ-120 will suffice. For additional information and if karst features are encountered during the project, contact DCR (Wil Orndorff at 540-394-2552 or Wil.Orndorff@dcr.virginia.gov) to document and minimize adverse impacts.
- Contact the DCR DNH (804-371-2708) and re-submit project information and a map for an update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized.

7. Public Water Supply. Contact VDH ODW (Susan Douglas at Susan.Douglas@vdh.virginia.gov) for additional information about its comments and recommendations if necessary.

Thank you for the opportunity to comment on this draft supplemental EIS. If you have questions, please do not hesitate to call me at (804) 698-4204 or Julia Wellman at (804) 698-4326.

Sincerely,



Bettina Sullivan, Manager
Environmental Impact Review and Long Range
Priorities Program

Enclosures

ec: Amy Ewing, DGIF
Robbie Rhur, DCR
Keith Tignor, VDACS
Roger Kirchen, DHR
Tony Watkinson, VMRC
Gregory Evans, DOF
James Cromwell, VDOT
Elizabeth Jordan, VDOT
Susan Douglas, VDH
David Ash, Clark County
Brandon Davis, Northern Shenandoah Valley RC
RJ Scites, WV DOT
Sondra Mullins, WV DOT

Molly Joseph Ward
Secretary of Natural Resources

Clyde E. Cristman
Director



Rochelle Altholz
Deputy Director of
Administration and Finance

David C. Dowling
Deputy Director of
Soil and Water Conservation
and Dam Safety

Thomas L. Smith
Deputy Director of Operations

COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

MEMORANDUM

DATE: August 24, 2016
TO: Julia Wellman, DEQ
FROM: Roberta Rhur, Environmental Impact Review Coordinator
SUBJECT: DEQ 16-173F, US 340 Improvements

Division of Natural Heritage

The Department of Conservation and Recreation's Division of Natural Heritage (DCR) has searched its Biotics Data System for occurrences of natural heritage resources from the area outlined on the submitted map. Natural heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations.

According to the information currently in our files, the Gaylord Calcareous Marsh Conservation Site is within two miles of the project site. Conservation sites are tools for representing key areas of the landscape that warrant further review for possible conservation action because of the natural heritage resources and habitat they support. Conservation sites are polygons built around one or more rare plant, animal, or natural community designed to include the element and, where possible, its associated habitat, and buffer or other adjacent land thought necessary for the element's conservation. Conservation sites are given a biodiversity significance ranking based on the rarity, quality, and number of element occurrences they contain; on a scale of 1-5, 1 being most significant. Gaylord Calcareous Marsh Conservation Site has been given a biodiversity significance ranking of B4, which represents a site of moderate significance. The natural heritage resources of concern at this site are:

<i>Railus limicola</i>	Virginia rail	G5/S2B, S3N/NL/NL
<i>Porzana carolina</i>	Sora	G5/S1B, S2N/NL/NL
<i>Eutrochium maculatum</i> var. <i>maculatum</i>	Spotted Joe-pye-weed	G5T5/S1/NL/NL
<i>Carex utriculata</i>	Beaked Sedge	G5/S1/NL/NL
<i>Juncus torreyi</i>	Torrey's Rush	G5/S1/NL/NL
<i>Ribes americanum</i>	Wild Black Currant	G5/S1/NL/NL
<i>Potamogeton zosteriformis</i>	Flatstem Pondweed	G5/S1/NL/NL
<i>Carex utriculata</i> - <i>Sparganium americanum</i>	Herbaceous Vegetation	G4G5/S1/NL/NL
Ridge and Valley Calcareous Spring Marsh (Beaked Sedge - American Bur-Reed Type)		

To minimize adverse impacts to the aquatic ecosystem as a result of the proposed activities, DCR recommends the implementation of and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulations.

According to the information currently in our files, the Loggerhead shrikes (*Lanius ludovicianus*, G4/S2B,S3N/NL/LT) has been documented immediately adjacent to the project area. Loggerhead shrikes breed throughout most of the United States and southern Canada, through Mexico and into Central America (NatureServe, 2009). In Virginia, there are records throughout most of the state; however its current strong hold seems to be the Shenandoah Valley. It usually nests, forages, and perches in open fields and pastures where there are scattered trees for nesting and telephone wires or fences for perching (Hamel, 1992). Essential habitat requirements include open country with scattered trees or shrubs and conspicuous perches. A thorny shrub, such as hawthorn, is a favored nesting site. Loggerhead shrikes sometimes impale their food on thorny shrubs, barbed-wire fences, and other suitable objects to be eaten later or to feed to their young. Please note that the Loggerhead shrike is currently classified as threatened by the Virginia Department of Game and Inland Fisheries (VDGIF).

Threats to the Loggerhead shrike include loss of open habitats through reforestation and conversion to cropland, and the removal of hedgerows (Fraser, 1991). They may experience negative impacts from insecticide use and predation (NatureServe, 2009).

Due to the legal status of the Loggerhead shrike, DCR recommends coordination with Virginia's regulatory authority for the management and protection of this species, the VDGIF, to ensure compliance with the Virginia Endangered Species Act (VA ST §§ 29.1-563 – 570).

This project is situated on karst-forming carbonate rock and can be characterized by sinkholes, caves, disappearing streams, and large springs. Due to the potential for the project area to support the Madison Cave isopod (*Antrolana lira*, G2G4/S2/LT/LT), a Phase II survey was conducted for two sinkholes identified on the property in December of 2014. There was no connection identified between the sinkholes and suitable habitat for the Madison Cave isopod. Therefore, DCR concurs with the USFWS assessment of no adverse effect on the Madison Cave isopod however due to the state legal status of this species recommends coordination with the Virginia Department of Game and Inland Fisheries to ensure compliance with protected species legislation.

If other karst features are encountered during the project, please coordinate with DCR Karst Protection Coordinator Wil Orndorff (540-230-5960), Wil.Orndorff@dcr.virginia.gov to document and minimize adverse impacts. Discharge of runoff to sinkholes or sinking streams, filling of sinkholes, and alteration of cave entrances can lead to surface collapse, flooding, erosion and sedimentation, groundwater contamination, and degradation of subterranean habitat for natural heritage resources. If the project involves filling or "improvement" of sinkholes or cave openings, DCR would like detailed location information and copies of the design specifications. In cases where sinkhole improvement is for stormwater discharge, copies of VDOT Form EQ-120 will suffice. New "Karst Assessment Guidelines" developed by the Virginia Cave Board for land development can be found at <http://www.dcr.virginia.gov/natural-heritage/document/karst-assessment-guidelines.pdf>

Under a Memorandum of Agreement established between the Virginia Department of Agriculture and Consumer Services (VDACS) and the DCR, DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species. The current activity will not affect any documented state-listed plants or insects.

There are no State Natural Area Preserves under DCR's jurisdiction in the project vicinity.

New and updated information is continually added to Biotics. Please re-submit project information and map for an update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized. For natural heritage resources within the project area in West Virginia, DCR recommends coordination with the WVDNR Natural Heritage Program.

The VDGIF maintains a database of wildlife locations, including threatened and endangered species, trout streams, and anadromous fish waters that may contain information not documented in this letter. Their database may be accessed from <http://vafwis.org/fwis/> or contact Ernie Aschenbach at 804-367-2733 or Ernie.Aschenbach@dgif.virginia.gov. This project is located within 2 miles of a documented occurrence of a state listed animal. Therefore, DCR recommends coordination with the VDGIF, Virginia's regulatory authority for the management and protection of this species to ensure compliance with the Virginia Endangered Species Act (VA ST §§ 29.1-563 - 570).

The remaining DCR divisions have no comments regarding the scope of this project. Thank you for the opportunity to comment.

CC: Wil Orndorff, DCR-Karst
Troy Andersen, USFWS
Ernie Aschenbach, VDGIF

Literature Cited

Fraser, J. D. 1991. Loggerhead Shrike. In *Virginia's Endangered Species: Proceedings of a Symposium*. K. Terwilliger ed. The McDonald and Woodward Publishing Company, Blacksburg, Virginia.

Hamel, P. B. 1992. *Land Manager's Guide to the Birds of the South*. The Nature Conservancy. Chapel Hill, North Carolina.

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Wellman, Julia (DEQ)

From: Warren, Arlene (VDH)
Sent: Tuesday, September 06, 2016 10:15 AM
To: Wellman, Julia (DEQ)
Subject: RE: NEW PROJECT FHWA Rt 340 16-173F

Project Name: U.S. 340 Improvements

Project #: 16-173 F

UPC #: N/A

Location: **Clarke County**

VDH – Office of Drinking Water has reviewed the above project. Below are our comments as they relate to proximity to **public drinking water sources** (groundwater wells, springs and surface water intakes). Potential impacts to public water distribution systems or sanitary sewage collection systems **must be verified by the local utility.**

There are no public groundwater wells within a 1 mile radius of the project site.

There are no surface water intakes located within a 5 mile radius of the project site.

The project is within the watershed of the following public surface water sources (intakes where the project falls within 5 miles into their watershed are formatted in **bold**):

PWSID	SYSNAME	FACNAME
2043125	TOWN OF BERRYVILLE	SHENANDOAH RIVER
2043634	MOUNT WEATHER	SHENANDOAH RIVER
6059501	FAIRFAX CO WATER AUTHORITY	INTAKE (POTOMACH RIVER)
6107300	LEESBURG, TOWN OF	POTOMAC INTAKE

Best Management Practices should be employed on the project site including Erosion & Sedimentation Controls as well as Spill Prevention Controls & Countermeasures.

There may be impacts to public drinking water sources due to this project if the mitigation efforts outlined above are not implemented.

Best regards,

Arlene Fields Warren
Virginia Department of Health,
Office of Drinking Water
James Madison Building
109 Governor St,
Richmond, VA 23219
804.864.7781

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR PROGRAM COORDINATION

ENVIRONMENTAL REVIEW COMMENTS APPLICABLE TO AIR QUALITY

TO: Julia H. Wellman

DEQ - OEIA PROJECT NUMBER: DEQ #16-173F

PROJECT TYPE: STATE EA / EIR FEDERAL EA / EIS SCC
 CONSISTENCY DETERMINATION

PROJECT TITLE: U.S. 340 Improvement

PROJECT SPONSOR: Federal Highway Administration

PROJECT LOCATION: OZONE ATTAINMENT/ AREA

REGULATORY REQUIREMENTS MAY BE APPLICABLE TO: CONSTRUCTION
 OPERATION

STATE AIR POLLUTION CONTROL BOARD REGULATIONS THAT MAY APPLY:

1. 9 VAC 5-40-5200 C & 9 VAC 5-40-5220 E – STAGE I
2. 9 VAC 5-45-760 et seq. – Asphalt Paving operations
3. 9 VAC 5-130 et seq. – Open Burning
4. 9 VAC 5-50-60 et seq. Fugitive Dust Emissions
5. 9 VAC 5-50-130 et seq. - Odorous Emissions; Applicable to _____
6. 9 VAC 5-60-300 et seq. – Standards of Performance for Toxic Pollutants
7. 9 VAC 5-50-400 Subpart _____, Standards of Performance for New Stationary Sources, designates standards of performance for the _____
8. 9 VAC 5-80-1100 et seq. of the regulations – Permits for Stationary Sources
9. 9 VAC 5-80-1605 et seq. Of the regulations – Major or Modified Sources located in PSD areas. This rule may be applicable to the _____
10. 9 VAC 5-80-2000 et seq. of the regulations – New and modified sources located in non-attainment areas
11. 9 VAC 5-80-800 et seq. Of the regulations – State Operating Permits. This rule may be applicable to _____

COMMENTS SPECIFIC TO THE PROJECT:



(Kotur S. Narasimhan)
Office of Air Data Analysis

DATE: August 8, 2016



MEMORANDUM

TO: Julia Wellman, DEQ/EIR Environmental Program Planner

FROM: Katy Dacey, Division of Land Protection & Revitalization Review Coordinator

DATE: August 12, 2016

COPIES: Sanjay Thirunagari, Division of Land Protection & Revitalization Review Manager; file

SUBJECT: Environmental Impact Review: EIR Proj No 16-173F US 340 Highway Improvement, Clarke County, VA

The Division of Land Protection & Revitalization (DLPR) has completed its cursory review of the US 340 Highway Improvement located at the state line into West Virginia in Berryville, VA 22611

Project Scope: improvements to an existing four-line section of highway 340 (0.5 miles in Virginia)

Solid and hazardous waste issues were addressed in the submittal. The submittal did indicate that a search of Federal or State environmental databases was conducted. DLPR staff conducted a cursory search (1000 foot radius of project corridor in VA) of solid and hazardous waste databases for waste sites in close proximity to the project corridor, and did not identify any waste sites in close proximity which might impact the project. Additionally, no waste sites of possible concern were located within the same zip code, 22611. The DEQ DLPR staff has reviewed the submittal and offers the following comments concerning possible waste issues associated with this proposed project:

Hazardous Waste/RCRA Facilities – none in close proximity to the project corridor

CERCLA Sites – none in zip code of the project corridor

FUDS – none

Solid Waste – none

VRP – none

Petroleum Releases – none in close proximity to the project corridor

GENERAL COMMENTS

Soil, Sediment, and Waste Management

Any soil that is suspected of contamination or wastes that are generated must be tested and disposed of in accordance with applicable Federal, State, and local laws and regulations. Some of the applicable state laws and regulations are: Virginia Waste Management Act, Code of Virginia Section 10.1-1400 *et seq.*; Virginia Hazardous Waste Management Regulations (VHWMR) (9VAC 20-60); Virginia Solid Waste Management Regulations (VSWMR) (9VAC 20-81); Virginia Regulations for the Transportation of Hazardous Materials (9VAC 20-110). Some of the applicable Federal laws and regulations are: the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 *et seq.*, and the applicable regulations contained in Title 40 of the Code of Federal Regulations; and the U.S. Department of Transportation Rules for Transportation of Hazardous Materials, 49 CFR Part 107.

Pollution Prevention – Reuse - Recycling

Please note that DEQ encourages all construction projects and facilities to implement pollution prevention principles, including the reduction, reuse, and recycling of all solid wastes generated. All generation of hazardous wastes should be minimized and handled appropriately.

If you have any questions or need further information, please contact Katy Dacey at (804) 698-4274.

Wellman, Julia (DEQ)

From: Fowler, Keith (DEQ)
Sent: Friday, August 05, 2016 8:39 AM
To: Wellman, Julia (DEQ)
Subject: RE: NEW PROJECT FHWA Rt 340 16-173F

Below are DEQ Valley Regional Office review comments for the subject project. Other than the information provided below, I have no additional recommendations re this project. Please let me know if you need any additional information.

1. Water Quality and Wetlands. Measures must be taken to avoid and minimize impacts to surface waters and wetlands during construction activities. The disturbance of surface waters or wetlands may require prior approval by DEQ and/or the U.S. Army Corps of Engineers. The Army Corps of Engineers is the final authority for an official confirmation of whether there are federal jurisdictional wetlands or other surface waters that may be impacted by the proposed project. DEQ may confirm additional waters as jurisdictional beyond those under federal authority. Review of National Wetland Inventory maps or topographic maps for locating wetlands or streams may not be sufficient; there may need to be a site-specific review of the site by a qualified professional. Even if there will be no intentional placement of fill material in jurisdictional waters, potential water quality impacts resulting from construction site surface runoff must be minimized. This can be achieved by using Best Management Practices (BMPs). If construction activities will occur in or along any streams (perennial, intermittent, or ephemeral), open water or wetlands, the applicant should contact Eric Millard at DEQ-VRO (540-574-7813, Eric.Millard@deq.virginia.gov) to determine the need for any permits prior to commencing work that could impact surface waters or wetlands.

2. Erosion and Sediment Control and Storm Water Management. DEQ has regulatory authority for the Virginia Pollutant Discharge Elimination System (VPDES) programs related to municipal separate storm sewer systems (MS4s) and construction activities. Erosion and sediment control measures are addressed in local ordinances and State regulations. Additional information is available at <http://www.deq.virginia.gov/Programs/Water/StormwaterManagement.aspx>. Non-point source pollution resulting from this project should be minimized by using effective erosion and sediment control practices and structures. Consideration should also be given to using permeable paving for parking areas and walkways where appropriate, and denuded areas should be promptly revegetated following construction work. If the total land disturbance exceeds 10,000 square feet, an erosion and sediment control plan will be required. Some localities also require an E&S plan for disturbances less than 10,000 square feet. A stormwater management plan may also be required. For any land disturbing activities equal to one acre or more, you are required to apply for coverage under the VPDES General Permit for Discharges of Storm Water from Construction Activities. The Virginia Stormwater Management Permit Authority may be DEQ or the locality. Specific questions regarding the Stormwater Management Program requirements should be directed to Gary Flory at DEQ-VRO (540-574-7840, Gary.Flory@deq.virginia.gov).

3. Other Site Development Considerations. Fugitive dust generated during construction should be controlled by using measures such as the prompt removal of spilled or tracked dirt or other materials from paved streets, limited application of water to suppress dust, and washing of construction vehicles and paved roadways immediately adjacent to construction sites. Do not use water for dust control to the extent that it results in runoff to surface waters or wetlands. Land clearing wastes (vegetative debris) generated during construction should be properly managed in accordance with applicable regulations and local ordinances. Shredding/chipping of vegetative debris and reuse on-site is usually recommended over open burning. Any open burning of vegetative debris must be performed in accordance with the Open Burning Regulation and coordinated with the local fire official to ensure that all local ordinances are met. A copy of DEQ's open burning regulation and related information are accessible from <http://www.deq.virginia.gov/Programs/Air/AirQualityPlans/OpenBurning.aspx>. Also, no open burning should take place in violation of the Virginia Waste Management Regulations, <http://law.lis.virginia.gov/admincode/title9/agency20/>. Contact Keith Fowler at DEQ-VRO (540-574-7812, Keith.Fowler@deq.virginia.gov) for any questions related to the proper control of fugitive dust, or open burning requirements and prohibitions.

4. Air Quality. Installation / operation / modification / replacement of stationary or portable fuel burning equipment (e.g., generators, wood chippers/grinders, boilers, etc.) or other sources of air pollutants, including dust, may be subject to registration and/or air permitting requirements (<http://www.deq.virginia.gov/Programs/Air/PermittingCompliance/Permitting/TypesofAirPermits.aspx>); for questions regarding this, please contact Janardan Pandey at DEQ-VRO (540-574-7817, Janardan.Pandey@deq.virginia.gov).

5. Petroleum Storage Tanks. Installation / operation / modification of tanks used for the storage of petroleum and CERCLA substances may be subject to registration and/or other regulatory requirements (<http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/PetroleumProgram/StorageTanks.aspx>). If petroleum-contaminated soils or water are encountered during excavation work, or if old petroleum tanks need to be removed or replaced, contact DEQ. For questions regarding any of this, please contact David Forrer at DEQ-VRO (540-574-7837, David.Forrer@deq.virginia.gov).

6. Solid and Hazardous Wastes, and Hazardous Substances. DEQ administers the Virginia Waste Management Regulations, <http://law.lis.virginia.gov/admincode/title9/agency20/>. All solid wastes, hazardous wastes, and hazardous materials, including construction and demolition (C&D) wastes and universal wastes (batteries, fluorescent lights, refrigerants, mercury switches, mercury thermostats, etc.), must be managed in accordance with all applicable federal, state, and local environmental regulations. The generation of hazardous wastes should be minimized and solid wastes generated at the site should be reduced at the source, reused, or recycled. DEQ encourages the management of certain organic wastes by on-site composting or reuse as animal feed or soil amendment. Also, if you encounter any improperly disposed solid or hazardous wastes, or petroleum contaminated soils, you should contact DEQ-VRO. You may wish to refer to the web link for "What's in My Back Yard?", <http://www.deq.virginia.gov/ConnectWithDEQ/VEGIS.aspx>, to help you determine areas where residual contamination may be more likely. Contact Graham Simmerman at DEQ-VRO (540-574-7865, Graham.Simmerman@deq.virginia.gov) for any questions related to waste management / disposal. Manage / dispose of any asbestos-containing materials (ACMs) in accordance with Virginia Department of Labor and Industry (DOLI) regulations. Contact Doug Wiggins at DOLI (Richard.Wiggins@doli.virginia.gov, 540-562-3580, ext. 131) for any questions related to management / disposal of ACMs. Any open burning must be conducted in compliance with the Open Burning Regulation, <http://law.lis.virginia.gov/admincode/title9/agency5/chapter130/>. Contact Keith Fowler at DEQ-VRO (540-574-7812, Keith.Fowler@deq.virginia.gov) for any questions related to open burning requirements and prohibitions.

7. Pesticides and Herbicides. DEQ recommends that herbicides or pesticides for construction or landscape maintenance, when necessary, be used in accordance with the principles of integrated pest management, and that the least toxic pesticides that are effective in controlling the target species be used. Please contact the Department of Agriculture and Consumer Services at (804) 786-3501 for more information. If applying aquatic pesticides to surface waters, the applicant must comply with the DEQ's Pesticide General Permit, <http://www.deq.virginia.gov/Programs/Water/PermittingCompliance/PollutionDischargeElimination/PermitsFees.aspx#pest>

8. Natural Heritage Resources. The Virginia Department of Conservation and Recreation (DCR) Division of Natural Heritage (DNH) can search its Biotics Data System for occurrences of natural heritage resources from the area indicated on the submitted map. Natural heritage resources are defined as the habitat of rare, threatened, or endangered animal and plant species, unique or exemplary natural communities, and significant geologic communities. We recommend that the DNH be contacted at (804) 786-7951 to secure updated information on natural heritage resources before commencing the project.

9. Wildlife Resources. The Virginia Department of Game and Inland Fisheries (DGIF) exercises enforcement and regulatory jurisdiction over wildlife and freshwater fish, including state or federally listed endangered or threatened species. DGIF determines likely impacts on fish and wildlife resources and habitat, and recommends appropriate measures to avoid, reduce, or compensate for those impacts. For more information, see the DGIF website at <http://www.dgif.virginia.gov> or contact Ray Fernald at (804) 367-6913.

10. Historic and Archaeological Resources. Section 106 of the National Historic and Preservation Act of 1966, as amended, requires that activities that receive federal funding must consider effects to properties that are listed or eligible for listing on the National Register of Historic Places. The Department of Historic Resources (DHR) conducts reviews of projects to determine their effect on historic structures or cultural resources. If applicable, contact DHR. In the event that archaeological resources are encountered during construction, immediately contact Ms. Ethel Eaton, DHR, at (804) 367-2323.

11. Pollution Prevention. DEQ recommends that construction projects incorporate the principles of pollution prevention including the following recommendations:

- Consider environmental attributes when purchasing materials. For example, the extent of recycled material content and toxicity level should be considered.
- Consider contractors' commitment to the environment when choosing contractors. Also, specifications regarding raw material selection (alternative fuels and energy sources) and construction practices can be included in contract documents and requests for proposals.

- Choose sustainable practices and materials in infrastructure and construction and design. These could include asphalt and concrete containing recycled materials and integrated pest management in landscaping.
- Integrate pollution prevention techniques into maintenance and operation activities to include source reduction (fixing leaks, energy efficient products).

Pollution prevention measures are likely to reduce potential environmental impacts and reduce costs for material purchasing and waste disposal. DEQ's Office of Pollution of Prevention hosts a number of programs and initiatives that provide non-regulatory assistance to businesses, institutions, and communities including the Virginia Environmental Excellence Program and Virginia Green. For more information, please visit our web site at <http://www.deq.virginia.gov/Programs/PollutionPrevention.aspx>.

12. Energy Conservation. Any structures should be planned and designed to comply with state and federal guidelines and industry standards for energy conservation and efficiency. For example, energy efficiency of the structures can be enhanced by maximizing the use of the following:

- thermally-efficient building shell components (roof, wall, floor, and insulation);
- high efficiency heating, ventilation, air conditioning systems; and
- high efficiency lighting systems.

Matt Heller at the Department of Mines, Minerals and Energy, (434) 951-6351, may be contacted for assistance in meeting this challenge.

13. Potable Water. Installation of potable water lines and appurtenances must comply with the State's Waterworks Regulations. The Virginia Department of Health (VDH), <http://www.vdh.state.va.us/ODW/>, administers both federal and state laws governing waterworks operation. For more information, contact the VDH's Lexington Office of Water Programs at (540) 463-7136.

14. Wastewaters. DEQ has approval authority over wastewater discharges per the State Water Control Law and corresponding regulations. This includes discharges or land application of any wastewaters generated from washing of materials, products, or vehicles, or other practices relevant to this project, including water contaminated by chemicals used on-site. DEQ also has approval authority over plans and specifications for sewage collection systems and treatment works (except drainfields and other on-site systems approved by the local health department), per the Sewage Collection and Treatment (SCAT) Regulations, <http://law.lis.virginia.gov/admincode/title9/agency25/chapter790/>. Any wastewaters generated by this project must be properly managed and disposed. For additional information and assistance, contact Brandon Kiracofe at DEQ-VRO (540-574-7892, Brandon.Kiracofe@deq.virginia.gov).

B. Keith Fowler | Deputy Regional Director | DEQ-Valley Regional Office | 4411 Early Road | P. O. Box 3000 | Harrisonburg, VA 22801 | 540-574-7812 | Keith.Fowler@deq.virginia.gov

From: Fulcher, Valerie (DEQ)

Sent: Thursday, August 04, 2016 4:19 PM

To: dgif-ESS Projects (DGIF); Tignor, Keith (VDACS); Rhur, Robbie (DCR); odwreview (VDH); Dacey, Katy (DEQ); Narasimhan, Kotur (DEQ); Gavan, Larry (DEQ); Sepety, Holly (DEQ); Fowler, Keith (DEQ); Kirchen, Roger (DHR); Evans, Gregory (DOF); Watkinson, Tony (MRC); Ray, Alfred C. (VDOT); Cromwell, James R. (VDOT); Jordan, Elizabeth (VDOT); bdavis@nsvregion.org; lwalburn@clarkecounty.gov

Cc: Wellman, Julia (DEQ)

Subject: NEW PROJECT FHWA Rt 340 16-173F

Good afternoon - this is a new OEIR review request/project:

Document Type: Supplemental EIS

Project Sponsor: Federal Highway Administration

Project Title: U.S. 340 Improvement

Location: Clarke County

Project Number: DEQ #16-173F

The document is available at

<http://www.transportation.wv.gov/highways/engineering/comment/us340/Pages/default.aspx>. (You can find the 2016 Supplemental EIS under "Meeting Materials").



COMMONWEALTH of VIRGINIA

Department of Historic Resources

2801 Kensington Avenue, Richmond, Virginia 23221

Molly Joseph Ward
Secretary of Natural Resources

Julie V. Langan
Director

Tel: (804) 367-2323
Fax: (804) 367-2391
www.dhr.virginia.gov

11 August 2016

Mr. Ben L. Hark
Environmental Section Head
West Virginia Division of Highways
1900 Kanawha Boulevard East, Building 5, Room 110
Charleston, West Virginia 25305-0430

RE: Draft EIS for US 340 from Virginia State Line to Charles Town Bypass
Jefferson County, West Virginia
State Project No. U219-340-0.00(02)
VDHR File No. 2015-1028

Dear Mr. Hark:

The Department of Historic Resources (DHR) has received for our review and comment the draft Environmental Impacts Statement (DEIS) for the above referenced project. As DHR wrote in our letter of 25 November 2015 the proposed undertaking on the Virginia side of the state line includes the Long Marsh Run Rural Historic District (DHR Inventory No. 021-0967), a property listed in the National Register of Historic Places. In our previous correspondence we stated it was our belief that the proposed widening of US 340 will have No Adverse Effect on the Long Marsh Run Rural Historic District. Upon review of the DEIS we reiterate this position.

If you have any questions about our comments, please contact me at (804) 482-6090.

Sincerely,

Marc Holma, Architectural Historian
Division of Review and Compliance

C: Ms Julia Wellman, DEQ

Administrative Services
10 Courthouse Ave.
Petersburg, VA 23803
Tel: (804) 862-6408
Fax: (804) 862-6196

Eastern Region Office
2801 Kensington Avenue
Richmond, VA 23221
Tel: (804) 367-2323
Fax: (804) 367-2391

Western Region Office
962 Kime Lane
Salem, VA 24153
Tel: (540) 387-5443
Fax: (540) 387-5446

Northern Region Office
5357 Main Street
PO Box 519
Stephens City, VA 22655
Tel: (540) 868-7029
Fax: (540) 868-7033



United States Department of the Interior

OFFICE OF THE SECRETARY

Office of Environmental Policy and Compliance
Custom House, Room 244
200 Chestnut Street
Philadelphia, Pennsylvania 19106-2904

September 29, 2016

9043.1
ER 16/0425

Jason Workman
West Virginia Division
Federal Highway Administration
700 Washington St E Ste 200
Charleston, WV 25301

Subject: Draft Section 4(f) Evaluation and Supplemental Environmental Impact Statement – US 340 Four-Lane Improvement Study, Jefferson County, West Virginia.

Dear Mr. Workman:

The Department of the Interior (Department) has reviewed the draft Section 4(f) Evaluation for the US 340 Four-Lane Improvement Study in Jefferson County, West Virginia, which seeks to address traffic operations and improve safety deficiencies on US 340 by rerouting and expanding a 4.5 mile stretch of two-lane highway to four lanes. We offer the following comments on this project for your consideration.

Section 4(f) Evaluation Comments

The Department concurs that there is no prudent and feasible alternative to the proposed use of 4(f) lands, which consist of portions or contributing elements of three historic districts (Kabletown Rural Historic District, Bullskin Run Rural Historic District, and the Village of Ripon Historic District) and numerous individual properties listed on or eligible for the National Register of Historic Places (NRHP). The Department also encourages you to consider the effects upon the Summit Point battlefield; in the *Update to the Civil War Sites Advisory Commission Report* (2011), the American Battlefield Protection Program indicated that this portion of US 340 would be part of a potential National Register listing for this battle. Any measures to minimize harm should be formalized in a Memorandum of Agreement developed in consultation with the West Virginia State Historic Preservation Office, the West Virginia Department of Transportation, and other parties as appropriate.

We appreciate the opportunity to provide these comments.

Sincerely,

Lindy Nelson
Regional Environmental Officer

cc: SHPO-WV (susan.m.pierce@wv.gov)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

September 29, 2016

Mr. Ben Hark
Environmental Section-Head
Engineering Division WVDOH
1334 Smith Street
Charleston, WV 25301

Mr. Jason Workman
Director, Program Development
Federal Highway Administration
Geary Plaza, Suite 200
700 Washington Street, East
Charleston, WV 25301

Re: US 340 Improvement Study Supplemental Draft Environmental Impact Statement
Jefferson County, West Virginia CEQ No. 20160174

Dear Mr. Hark and Mr. Workman:

In accordance with the National Environmental Policy Act (NEPA) of 1969, Section 309 of the Clean Air Act and the Council on Environmental Quality regulations implementing NEPA (40 CFR 1500-1508), the United States Environmental Protection Agency (EPA) has reviewed the US 340 Improvement Study Supplemental Draft Environmental Impact Statement (SDEIS). The SDEIS has been prepared by the Federal Highway Administration (FHWA) in conjunction with the West Virginia Department of Highways (WVDOH). The SDEIS evaluates alternatives to improve the existing two-lane section of US 340 from the existing four-lane section just south of the state boundary in Clarke County, Virginia to the existing four-lane section of the Charles Town Bypass in Jefferson County, West Virginia.

The SDEIS explains the history of the project from the November 2001 Draft EIS which evaluated eight build alternatives to subsequent public feedback on alternatives, to the current study. EPA provided comment in a letter dated April 8, 2002. At the time, we recommended efforts to reduce floodplain impacts and improvements to the cumulative effects analysis. No Final EIS was prepared for the 2001 study. The SDEIS evaluates the No-Build alternative and seven build alternatives. Alternative 4 A is the Preferred Alternative. This alternative is 4.5 miles long and has three residential relocations, four business relocations, and impacts two noise receptors, eight historic resources, 1.1 acre of wetlands, 5.1 acres of floodplains, 1, 315 linear feet of stream and costs \$49,920,000.

While we understand the complexity of the project area, the SDEIS does not provide detail on the process used for the selection of the preferred alternative, nor does it offer descriptions of the various resources, potential impacts, and avoidance and minimization of impacts. In addition, stormwater management and design adaptation have not been evaluated. These, though important features, may increase impacts. It is also unclear how coordination with Virginia will take place since the project crosses the state line. Coordination should occur prior to the FSEIS so impacts and issues can be discussed in the NEPA document and commitments can be made in the Record of Decision (ROD).

Based on our review summarized above and presented in the attached Detailed Technical Comments, EPA has rated the environmental impacts associated with this project as Environmental Concerns, Insufficient Information (EC2). A description of our rating system can be found at:

www.epa.gov/nepa/environmental-impact-statement-rating-system-criteria

We suggest the project team maintain close coordination with affected residents and continue to explore methods to avoid and minimize construction and operational impacts associated with the build alternatives. If you have questions regarding these comments, the staff contact for this project is Ms. Barbara Okorn; she can be reached at 215-814-3330.

Sincerely,



Barbara Rudnick
NEPA Team Leader

Enclosure

Enclosure
Detailed Technical Comments for Supplemental Draft Environmental Impact Statement,
US 340 Improvement Study, West Virginia

Alternatives

- While we understand that a range of alternatives was evaluated during the history of this project, additional detail should be provided on the methodology used for deciding which alternatives would be evaluated in this SDEIS. Based on the information presented, it is not clear why Alternative 4 which was originally dismissed in 2002, was brought back for the SDEIS; and Alternatives 6 and 8 which were retained and studied in detail in 2002, were not evaluated in the SDEIS.
- The SDEIS should provide additional rationale for the ranking of alternatives found on page III-7. It is not clear how the criteria were established.
- The analysis of the build alternatives on pages III-8 to 10 states whether alternatives were eliminated or retained for further consideration. The next section states that Alternative 4A is the preferred alternative. The preceding section gives the impression there will be more analysis to narrow down the retained alternatives. Clarification should be provided.
- The proposed facility is described as having a 60 mile-per-hour design speed with a 40-foot depressed median throughout the length of the project. Consideration should be given to minimizing the footprint of the road in areas of resource impact, if possible.
- Stormwater management (SWM) facilities do not appear to be included within the limit of disturbance (LOD) for the alternatives. Though SWM is critical to protection of water quality, the placement of facilities could greatly increase impacts. SWM should not be placed in aquatic habitats. SWM should address existing and new conditions. We recommend proposed locations be included in the Final SEIS.

Social and Environmental Justice (EJ)

- The minority population of Jefferson County is more than double the state average. Please state how this was factored into the EJ assessment.
- The minority populations of Census Block Groups 972800-3 and 4 exceed the minority population percentage for the state, but not for Jefferson County.
- The percentage of persons living below the poverty level exceeds the Jefferson County average in Census Block Group 972800-3 and 010100-2, supporting that there are areas of Environmental Justice concern identified in the study area. Please highlight.
- Please state how low income residents are impacted by the relocations. Are any structures occupied by or serving low income residents being impacted by relocations or takings? It is noted that none of the properties to be relocated are minority owned; are any minority occupied?

- A car service business and two restaurants are being relocated. How are the impacts being addressed?
- More time should be taken to conduct a comprehensive Environmental Justice assessment, looking at the totality of impacts upon the at-risk populations, identifying the at-risk populations, and assessing all those activities that may impact those populations.
- The EIS did not state the methodology used to identify EJ communities nor provide clear benchmarks for identification of EJ communities. EPA recommends the following approach to determination of appropriate benchmarks.
 - Apply the 50% test (all areas that are more than 50% are areas of EJ concern. Benchmark value should be compared to the state or county average)
 - If the percent minority population is greater than the state or county average, then this would equal the Area of Potential EJ concern; OR
 - Set a benchmark that exceeds the state or county average by a given percentage (e.g., taking 120% of the state or county average). (see below)
- We do not recommend the convention of adding 20 percentage points to the minority population percentage. Adding 20 percentage points to an average may have an unintended result on the assessment, particularly when the minority/low income population is a small percentage value. For example, if the percentage is five percent, adding 20 percentage points to that value increase the benchmark by 500%.
- We recommend a methodology to be protective of at-risk communities and more inclusive of potential communities of concern. We recommend using a benchmark calculated by taking the minority population percentage and then adding 20 percent of the value (for example, $5\% \times 1.2$ (20 percent of 5)) = 6% a difference of 20%). This method is consistent, treating all populations the same way. We suggest that recalculated thresholds be used and reevaluate the impact assessment.
- A coordination plan should be developed to assist the community with concerns and impacts related to impacts associated with the projects. We suggest that the project team closely coordinate with residents related to displacements and other impacts.
- Construction routes/corridors and staging areas should be identified and included in the environmental analysis to determine potential risks to human health and the environment. EPA is concerned with potential impacts to the public, children and EJ communities. Exposure risks from dust, hazardous materials, noise and traffic should be addressed in the FSEIS. In addition, please address if Contingency Plans are in place to address potential risks from spills, hazardous materials exposure, etc.
- Executive Order 13045, *Protection of Children from Environmental Health Risks and Safety Risks*, requires each federal agency to identify and assess environmental health and safety risks to children. It is recommended that the environmental document provide an assessment of potential exposures and susceptibilities to pollutants of concern for children.

Historic Resources

- EPA appreciates the coordination done with the State Historic Preservation Office (SHPO) and the information provided in the SDEIS. Approaches to avoid or minimize historic impacts should be pursued. Coordination should continue with the SHPO. The SDEIS references archaeological models from 1999. Is there more recent information that should be used? It is unclear if this was done.
- Page IV-30 mentions that a small historic bridge that carries Bullskin Run will be reconstructed. Coordination should occur with resource agencies to insure that the structure can sufficiently accommodate wildlife passage.

Aquatic Resources

- Page IV-37 states that the southernmost tributary of Long Marsh Run is located in Clarke County, Virginia and that no impacts are anticipated. It appears that the project may have the potential to cause direct or indirect impacts to the resource. This should be clarified and potential unavoidable impacts should be disclosed in the FSEIS.
- Streams and wetlands should be described and displayed in mapping in greater detail. Page IV-37 states that all stream runs are contained within culverts but page IV-43 states that some wetland complexes are associated with streams. The entire size of wetland complexes should be provided as well as the size of the potential impact to each. Discussion of wetland function in the watershed should be included in the Final SEIS.
- Additional analysis should be conducted to ensure that the hydrology of springs, wetlands, and streams is not adversely impacted by this project.
- After avoidance and minimization has been maximized, the agencies should work to identify mitigation that can replace lost functions of resources in the watershed.
- The EIS should evaluate remnant wetlands. There may be instances where the remaining portion of wetlands does not provide the original functions due to project impacts.
- The wetland impact numbers provided on Tables 1-1, III-3, and IV-13 are inconsistent. Corrections should be made and all figures should be checked.
- Any geologic formation associated with springs or sinkholes should be investigated to identify if these features are present in the study area. Protection of water quality should be enhanced in areas vulnerable to rapid infiltration and hydrologic movement and more closely monitored as necessary. We recommend that any potential drinking water supplies associated with these resources be identified in the Final SEIS.

Groundwater

- Potential impacts associated with the project should be evaluated. This includes construction, spills, impervious surface, road runoff, etc.

Terrestrial Resources

- Coordination should continue with the US Fish and Wildlife Service (USFWS) regarding migratory birds and endangered species. It is not clear if USFWS concurs with the findings presented in the SDEIS related to the Indiana bat and Northern long-eared bat. We recommend that the Final SEIS include correspondence from USFWS to provide the reader information on the biological findings.
- Wildlife passage should be considered in the project design. We recommend discussion of potential passage locations in the Final SEIS.
- Efforts should be made to avoid and minimize impacts to terrestrial resources. Corridors should be maintained to the maximum extent possible for wildlife travel. Upland buffers should also be maintained around aquatic habitat.

Construction

- The EIS should give estimates of how much borrow and fill will be needed and how waste material will be disposed of or borrow will be delivered. For example, there may be a significant increase in traffic from hauling away excess dirt, etc. What routes would these trucks take, how many trips/day and for what duration?
- Stormwater ponds, best management practices (BMPs) and construction staging areas should not be located in wetlands and streams. Stormwater management alternatives that address the existing and new construction should be considered.
- The document mentions sinkholes, springs and caves. Will there be construction issues related to these features? We recommend identification of any karst or spring/sinkhole features, presentation of locations of these features and statement of any construction/operational contingencies potentially appropriate for this highway. We recommend this information be included in the Final SEIS.

GHG/Climate Change

- EPA recommends that Federal agencies use a reasonable approach in the consideration of Greenhouse Gas (GHG) emissions and climate change impacts in the NEPA analysis. This approach includes an estimate of the GHG emissions associated with the project during construction and operation, a qualitative description of relevant climate change impacts, and an analysis of reasonable alternatives and/or practicable mitigation measures to reduce project-related GHG emissions. The SDEIS does not include this reasonable approach. The NEPA analysis did not address the appropriateness of considering changes to the design of the proposal to incorporate GHG reduction measures and resilience to foreseeable climate change. The SDEIS did not state whether commitments will be made

to ensure implementation of design or other measures to reduce GHG emissions or to adapt to climate change impacts.

- The estimated GHG emissions can serve as a reasonable proxy for climate change impacts when comparing the proposal and alternatives. In disclosing the potential impacts of the proposal and reasonable alternatives, consideration should be given to whether, and to what extent, the impacts may be exacerbated by expected climate change in the action area, as discussed in the “affected environment” section.
- The NEPA analysis should describe measures to reduce GHG emissions associated with the project, including reasonable alternatives or other practicable mitigation opportunities and disclose the estimated GHG reductions associated with such measures. The alternatives analysis should, as appropriate, consider practicable changes to the proposal to make it more resilient to anticipated climate change. EPA further recommends that the Record of Decision (ROD) commits to implementation of reasonable mitigation measures that would reduce project-related GHG emissions.

Cumulative Impacts

- While the SDEIS briefly discusses the past, existing, and future conditions of the project area, cumulative impacts from the proposed project on aquatic and other resources should be evaluated in the FSEIS. The document should address potential indirect and cumulative effects in the project area; analysis may aid in the identification of resources that are likely to be adversely affected by multiple projects, and sensitive resources that could require additional measures. It is suggested that a secondary and cumulative effects analysis begin with defining the geographic and temporal limits of the study; this is generally broader than the study area of the project. The cumulative impact analysis should evaluate impacts to environmental resources that have the potential to be impacted by the project (i.e. wetlands, surface water, etc).
- Indirect and temporary impacts to resources should also be analyzed.

US 340 Improvement

Jefferson County, WV

WVDOH Response to Comments Received (A = Agency)

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
A-1	Commonwealth of Virginia – Department of Historic Resources	The proposed widening of US 340 will have No Adverse Effect on the Long Marsh Run Rural Historic District (DHR Inventory No. 021-0967) is reiterated.	This is in agreement with Table IV-8: Preliminary Determination of Effect on page IV-26 of the approved SDEIS dated July 2016.
A-2a	Commonwealth of Virginia – Department of Conservation and Recreation	The Gaylord Calcareous Marsh Conservation Site is within two miles of the project site. It is a site of “moderate significance.” To minimize adverse impacts to the aquatic ecosystem as a result of the proposed activities, DCR recommends implementation of and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulations.	Virginia Best Management Practices will be adhered to per contract specifications and special provisions. Statement added in Section IV.C.4.a, Threatened and Endangered Species, of the FEIS.
A-2b	Commonwealth of Virginia – Department of Conservation and Recreation	Loggerhead shrikes (<i>Lanius ludovicianus</i>) has been documented adjacent to the project area. It is currently classified as “threatened” by the VADGIF. Due to the legal status, DCR recommends coordination with VADGIF to ensure compliance with the VA Endangered Species Act.	The project design team will coordinate with VADGIF to ensure compliance with the Virginia Endangered Species Act. Statement added in Section IV.C.4.a, Threatened and Endangered Species, of the FEIS.
A-2c	Commonwealth of Virginia – Department of Conservation and Recreation	DCR concurs with the USFWS assessment of “No Adverse Effect” on the Madison Cave Isopod however, due to the legal status of this species, recommends coordination with the VADGIF to ensure compliance with protected species	This will be added to the special provisions of the construction contract. Statement added in Section I.H, Environmental Commitments, of the FEIS.

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		legislation. If other karst features are encountered during the project, please coordinate with DCR Karst Protection Coordinator Will Orndorff to document and minimize adverse impacts. He can be reached at 540.230.5960 or will.orndorff@dcr.virginia.gov.	
A-2d	Commonwealth of Virginia – Department of Conservation and Recreation	The current activity will not affect any documented state-listed plants or insects.	Thank you for your comment.
A-2e	Commonwealth of Virginia – Department of Conservation and Recreation	There are no State Natural Preserves under DCR’s jurisdiction in the project vicinity.	Thank you for your comment.
A-2f	Commonwealth of Virginia – Department of Conservation and Recreation	New and updated information is continually added to Biotics. Please resubmit project information and map for update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized.	This will be reviewed again 6 months prior to letting. Statement added in Section I.H, Environmental Commitments, of the FEIS.
A-3	Virginia Marine Resources Commission	It appears that project impacts in Virginia are limited to the unnamed tributary to Long Marsh Run and that no impacts to Long Marsh Run are proposed. Provided this is accurate, then a permit will not be required from the Virginia Marine Resources Commission for this project. Should the project scope change, please be advised that the Commission, pursuant to Section 28.2-1200 et seq of the Code of Virginia, has jurisdiction over any encroachments in, on, or over the beds of the	The intent of the proposed design is to tie to existing US 340 without impact/encroachment to Long Marsh Run. Should the scope of the project change such that encroachment occurs, coordination with VMRC will be initiated. Statement added to Section IV.C.2.f, Required Permits, in the FEIS.

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<p>bays, ocean, rivers, streams, or creeks which are the property of the Commonwealth. Accordingly, if any portion of the subject project involves any encroachments channelward of ordinary high water along Long Marsh Run, a permit may be required from this office. Any jurisdictional impacts will be reviewed by VMRC during the monthly IACM (Interagency Coordination Meeting) or via the Joint Permit Application process.</p>	
A-4a	West Virginia – Division of Culture and History	<p>The DEIS does not include the results and conclusions of the second archaeological assessment. It fails to mention that a complete Phase I survey of the Preferred Alternate has not yet been completed. It implies that the Section 106 process has been completed and is misleading.</p> <p>DCH recommends that a Programmatic Agreement (PA) is developed to outline how the steps of the Section 106 process will be completed.</p> <p>DCH recommends that the text of the DEIS be amended to reflect that the Section 106 process has not been completed, that a Phase I survey, and any necessary subsequent archaeological investigations will need to be conducted, and that a PA will be developed.</p>	<p>Archaeological investigations have been completed and the results are discussed in Section IV.</p> <p>The WVDOH has developed a Memorandum of Agreement (MOA) with the Division of Culture and History to mitigate impacts to cultural resources. The MOA is discussed in Section IV and the fully executed MOA is included at the end of Appendix B in the FEIS.</p>
A-4b	West Virginia – Division of Culture and History	<p>DCH concurs that 17 architectural resources eligible or listed in the NRHP are located within the project’s direct or indirect APE. DCR agrees</p>	<p>Thank you for your comment.</p>

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		that the similarities between design alternates 4, 4A, and 4B would result in similar findings of effects for each alternate.	
A-4c	West Virginia – Division of Culture and History	DCH recommends revising the assessment of effect for the St. John’s Episcopal Church (JF-0062-0049), shown on Table IV-8 on page IV-26 of the DEIS, to <i>No Adverse Effect</i> .	Table IV-8 revised in the FEIS to reflect assessment of effect as noted.
A-4d	West Virginia – Division of Culture and History	DCH recommends revising the assessment of effect for the Norfolk Southern Railroad (JF-1228) and McPherson-Adams House (JF-1225), shown on Table IV-8 on page IV-26 of the DEIS, to <i>No Effect</i> .	Table IV-8 revised in the FEIS to reflect assessment of effect as noted.
A-4e	West Virginia – Division of Culture and History	DCH concurs with the assessment of effects shown on Table IV-8 on page IV-26 of the DEIS except as noted in A-4c and A-4d above.	No other changes made to Table IV-8 in the FEIS except as noted in comments A-4c and A-4d above and A-4f below.
A-4f	West Virginia – Division of Culture and History	DCH further recommends that site identification numbers for the built resources are included within the DEIS to minimize confusion with other similarly named resources within the state.	This comment has been addressed in the FEIS by adding the site identification numbers.
A-5	West Virginia – Division of Natural Resources, Wildlife Resources Section	Long Marsh Run and Big Bullskin Run are listed as High Quality Streams, are considered as valuable warmwater fisheries, and are listed in the 2016 Mussel Survey Protocols as Group 1. Group 1 streams are HQ streams that may contain state protected freshwater mussels. Natural resources should be afforded proper recognition in the FEIS.	Freshwater mussel surveys will be conducted prior to construction. Statements added in Sections I.H, Environmental Commitments, and IV.C.2.a, Streams, in the FEIS.

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<p>Big Bullskin Run is stocked January through May within the project area.</p> <p>DNR suggests contacting Barbara Sargent by telephone (304.637.0245) or email (Barbara.d.sargent@wv.gov) to conduct a land inquiry.</p>	
A-6a	West Virginia – Department of Environmental Protection	<p>Jefferson County is currently designated as attainment/unclassified for all National Ambient Air Quality Standards (NAAQS) criteria pollutants. Therefore, based upon the current regulatory requirements, this project as described does not appear to require any pre-construction permits, authorizations, or air quality analyses by WVDAQ. Exceptions are:</p> <ol style="list-style-type: none"> 1. It is necessary to burn land clearing debris; in which case approval by the WVDEP Secretary or his or her authorized representative is required or; 2. The project entails demolition, either partially or totally, of a structure, building, or installation, irrespective of the presence or absence of asbestos-containing materials, and is subject to the asbestos National Emission Standards for Hazardous Air Pollutants. If such is the case, a formal Notification of Abatement, Demolition, or Renovation must be completed and timely filed with the WVDEP Secretary’s authorized representative and approval received before 	<ol style="list-style-type: none"> 1. Statement has been added to the FEIS in Section IV.C.7.c, “Permits.” 2. Statement has been added to Section IV.C.8, Hazardous Materials, in the FEIS. 3. Statement has been added to Section IV.D.2, Construction Impacts.

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<p>commencement of activities addressed in the Notification.</p> <p>3. Backup or emergency generators may be subject to federal and state requirements and require an air permit in accordance with 45CSR13.</p>	
A-6b	West Virginia – Department of Environmental Protection	If the project involves demolition, excavation and transportation of soils/aggregates, or handling of materials that can cause problems such as nuisance dust emissions or entrainment, adequate air pollution control measures must be applied to prevent statutory air pollution problems as prescribed by 45CSR17.	Statement added to Section I.H, Environmental Commitments, and Section IV.D.2, Construction Impacts, in the FEIS.
A-6c	West Virginia – Department of Environmental Protection	Activities which could create objectionable odors must apply adequate air pollution control measures per 45CSR4.	Statement added to FEIS Section I.H, Environmental Commitments.
A-7a	Commonwealth of Virginia – Department of Environmental Quality	The project site is located in an ozone attainment area.	Thank you for your comment.
A-7b	Commonwealth of Virginia – Department of Environmental Quality	Fugitive Dust. During land-disturbing activities, fugitive dust must be kept to a minimum by using control methods outlined in Commonwealth of Virginia Administrative Code 9VAC5-50-60 et seq. of the regulations for the Control and Abatement of Air Pollution. These precautions include, but are not limited to, the following:	Statement added to Section IV.D.2, Construction Impacts, in the FEIS.

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<ul style="list-style-type: none"> • Use, where possible, of water or suitable chemicals for dust control during the proposed demolition and construction operations and from material stockpiles; • Installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials; • Covering of open equipment for conveying materials; and • Prompt removal of spilled or tracked dirt or other materials from paved streets and removal of dried sediments resulting from soil erosion. <p>Do not use water for dust control to the extent that it results in runoff to surface waters or wetlands.</p>	
A-7c	Commonwealth of Virginia – Department of Environmental Quality	<p>Open Burning. If project activities include the burning of vegetative debris or construction material, this activity must meet the requirements under 9VAC5-130 et seq. of the regulations for open burning, and it may require a permit. The regulations provide for, but do not require, the local adoption of a model ordinance concerning open burning. Contact officials with the locality to determine what local requirements, if any, exist.</p> <p>The DEQ Valley Regional Office (VRO) states that any open burning of vegetative debris must be performed in accordance with the open-burning regulation</p>	Statement added to Section IV.D.2, Construction Impacts, in the FEIS.

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		http://www.deg.virginia.gov/Programs/Air/AirQualityPlans/OpenBurning.aspx) and coordinated with the local fire official to ensure that all local ordinances are met.	
A-7d	Commonwealth of Virginia – Department of Environmental Quality	Fuel-Burning Equipment. Fuel-burning equipment (boilers, generators, compressors, etc.) or any other air-pollution-emitting equipment may be subject to registration or permitting requirements.	Statements added to FEIS Sections IV.C.7.c, Permits, and Section IV.D.2, Construction Impacts.
A-7e	Commonwealth of Virginia – Department of Environmental Quality	DEQ Valley Regional Office (VRO) further recommends that shredding or chipping of vegetative debris and reuse on-site is desired over open burning.	The FEIS has been amended to reflect this comment in Section I.H, Environmental Commitments, and in Section IV.D.2., Construction Impacts.
A-7f	Commonwealth of Virginia – Department of Environmental Quality	Erosion and Sediment Control and Stormwater Management <ul style="list-style-type: none"> • Compliance with Virginia laws and regulations is not discussed in the SDEIS. • An Erosion and Sediment Control Plan (ESC) is recommended and should be submitted to the DEQ Regional Office. • For land disturbing activities greater than one acre, coverage under a General Permit for Discharges of Stormwater from Construction Activities is required along with a project-specific stormwater pollution prevention plan (SWPPP). 	The FEIS has been amended to reflect these comments in Section IV.C.2.f., Required Permits.

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
A-7e	Commonwealth of Virginia – Department of Environmental Quality	<p>No waste sites in close proximity to the project corridor have been identified. DEQ recommends implementation of pollution prevention principles including:</p> <ul style="list-style-type: none"> • The reduction, reuse and recycling of all solid wastes generated and • Minimization and proper handling of generated hazardous wastes. 	The FEIS has been amended to reflect this comment in Section I.H, Environmental Commitments.
A-7f	Commonwealth of Virginia – Department of Environmental Quality	<ol style="list-style-type: none"> 1. All structures being demolished or removed should be checked for asbestos- containing materials (ACM) and lead-based paint (LBP) prior to demolition. If ACM and LBP are found, in addition to the federal waste-related regulations mentioned above, state regulations 9VAC20-81-640 for ACM and 9VAC20-60- 261 for LBP must be followed. 2. Any soil/sediment that is suspected of contamination or wastes that are generated during construction-related activities must be tested and disposed of in accordance with applicable federal, state, and local laws and regulations. 3. Report evidence of a petroleum release, if discovered during construction of this project, to DEQ, as authorized by Code of Virginia § 62.1-44.34.8-9 and 9 Virginia Administrative Code 25-580-10 et seq. 4. No open burning should take place in violation of the Virginia Waste Management 	<ol style="list-style-type: none"> 1. The FEIS has been amended to reflect this comment in Section, IV.C.8, Hazardous Materials. Note: No structures are proposed to be demolished or removed on the Virginia side of the state line. 2. The FEIS has been amended to reflect this comment in Section, IV.C.8, Hazardous Materials. 3. The FEIS has been amended to reflect this comment in Section, IV.C.8, Hazardous Materials. 4. The FEIS has been amended in Section IV.D.2, Construction Impacts, to discuss open burning.

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		Regulations (http://law.lis.virginia.gov/admincode/title9/agency20/).	
A-7g	Commonwealth of Virginia – Department of Environmental Quality	See comments A-2a through A-2f above from VA DCR regarding Natural Resources.	
A-7h	Commonwealth of Virginia – Department of Environmental Quality	<p>Wetlands and Water Quality</p> <ol style="list-style-type: none"> 1. Take measures to avoid and minimize impacts to surface waters and wetlands during construction activities 2. Contact DEQ VRO (Eric Millard at 540-574-7813 or Eric.Millard@deq.virginia.gov) to determine need for any permits prior to commencing work that could impact surface waters and wetlands 	<ol style="list-style-type: none"> 1. Avoidance, minimization, and permitting will occur during the more detailed design phase of the project as noted in FEIS Section IV.C.2, Water Resources. 2. Statement added in Section IV.C.2.f, Required Permits, in the FEIS.
A-7i	Commonwealth of Virginia – Department of Environmental Quality	See comment A-1 above from VA DHR.	
A-7j	Commonwealth of Virginia – Department of Environmental Quality	<p>Public Water Sources</p> <p>Implement best management practices, erosion and sedimentation controls, and spill prevention controls and counter measures on this project to avoid impacts to public water drinking sources.</p>	Section I.H, Environmental Commitments, and Section IV.C.2.a, Streams, have been amended in the FEIS to reflect this comment.
A-7k	Commonwealth of Virginia – Department of Environmental Quality	<p>Pollution Prevention</p> <ol style="list-style-type: none"> a. Consider environmental attributes when purchasing contracts. 	Comments are reflected in Section I.H, Environmental Commitments, of the FEIS.

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<ul style="list-style-type: none"> b. Consider contractors’ commitment to the environment when choosing contractors. c. Consider use of sustainable materials. d. Integrate pollution prevention techniques into facility maintenance and operation. 	
A-7I	Commonwealth of Virginia – Department of Environmental Quality	Use of pesticides and herbicides should be in strict accordance with manufacturers’ recommendations. The least toxic pesticides and herbicides effective on controlling the target species is recommended.	The FEIS has been amended to reflect this comment in Section I.H, Environmental Commitments.
A-8	US Dept. of the Interior	Consider effects upon the Summit Point battlefield and this portion of US 340 that would be part of a potential National Register listing.	The Summit Point Battlefield is discussed in FEIS Section IV.B Historic and Archaeological Resources.
A-9a	US Environmental Protection Agency - General	<ol style="list-style-type: none"> 1. While we understand the complexity of the project area, the SDEIS does not provide detail on the process used for the selection of the preferred alternative, nor does it offer descriptions of the various resources, potential impacts, and avoidance and minimization of impacts. 2. In addition, stormwater management and design adaptation have not been evaluated. These, though important features, may increase impacts. 3. It is also unclear how coordination with Virginia will take place since the project crosses the state line. 	<ol style="list-style-type: none"> 1. The SDEIS provides a history of the project, the public involvement process, descriptions of environmental features, and quantifies impacts to the natural and human environments based on build alternate designs. The design alternates themselves were a means to avoid and minimize impacts to resources. Their elimination or retention for further evaluation is described in Section III. A ranking of the alternates was developed based on the resource categories and based on discussions between FHWA and the WVDOH, a preferred alternate was selected. 2. Stormwater management has not been developed at this stage of the design. During

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
			<p>plan development, stormwater management plans will be prepared and submitted to the appropriate authorities. The FEIS has been amended to include stormwater management requirements in Section IV.C.2.f., "Required Permits."</p> <p>3. An Interstate Agreement for the US 340 project is currently under development. The items addressed in the agreement are discussed in Section I.A of the FEIS.</p>
A-9b	US Environmental Protection Agency - Alternatives	<ol style="list-style-type: none"> 1. Additional detail should be provided on the methodology used for deciding which alternatives would be evaluated in this SDEIS. 2. It is not clear why Alternative 4 which was originally dismissed in 2002, was brought back for the SDEIS; and Alternatives 6 and 8 which were retained and studied in detail in 2002, were not evaluated in the SDEIS. 3. The SDEIS should provide additional rationale for the ranking of alternatives found on page III-7. It is not clear how the criteria were established. 4. The analysis of the build alternatives on pages III-8 to 10 states whether alternatives were eliminated or retained for further consideration. The next section states that Alternative 4A is the preferred alternative. The preceding section gives the impression there will be more analysis to narrow down the 	<ol style="list-style-type: none"> 1. The project background provided on page I-2 and again on page III-1 provides the project history and development of project build alternatives. Through a series of public meetings, comments received, and additional cultural resource work, the FHWA and WVDOH agreed to the build alternatives to be evaluated in the SDEIS. The alternatives discussion is expanded in Section III.A on pages III-1 through III-4. 2. Alternate 4 which was dismissed in the original DEIS was again evaluated in the SDEIS because of public comment, lower impacts to historic resources, and lower impacts to environmental features. Alternates 6 and 8 were eliminated from evaluation in the SDEIS for reasons stated on page III-1. 3. As explained in the SDEIS, each category evaluated was assigned a rank of 1-7 since there are seven alternates with "1" being the "best" or

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		retained alternatives. Clarification should be provided.	<p>“least” impact and “7” being the “worst” or “highest” impact. An additional statement is made before Table III-2 for clarification in the FEIS.</p> <p>4. The Comparative Summary is provided in Table III-3. Section III.C is the culmination of the additional analysis that is accomplished in subsequent chapters which leads to Section III.D.</p>
A-9c	US Environmental Protection Agency – Social and Environmental Justice	<ol style="list-style-type: none"> 1. The minority population of Jefferson County is more than double the state average. Please state how this was factored into the EJ assessment. 2. The minority populations of Census Block Groups 972800-3 and 4 exceed the minority population percentage for the state, but not for Jefferson County. 3. The percentage of persons living below the poverty level exceeds the Jefferson County average in Census Block Group 972800-3 and 010100-2, supporting that there are areas of Environmental Justice concern identified in the study area. Please highlight. 4. Please state how low income residents are impacted by the relocations. Are any structures occupied by or serving low income residents being impacted by relocations or takings? It is noted that none of the properties to be relocated are minority owned; are any minority occupied? 	<ol style="list-style-type: none"> 1. There is no EJ requirement to compare the County minority population to the State’s. It is standard to compare the minority concentration in a specific project area to the minority concentration in the County where the project is located—this allows a reasonable determination of whether the project is likely to have a “disproportionately high and adverse” impact on minority group members because it allows comparison to minority concentration in the surrounding area. The comparison of the County concentration to the State’s has no bearing on whether the project would have “disproportionately high and adverse” impacts on minority group members. Most states have higher concentrations of minority populations in certain counties. Using the County-to-State comparison in the EJ assessment would have the outcome of making any project in a County with a large minority concentration appear to have EJ concerns, when this may not be the case (e.g., the project is in a part of the County without a

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<ol style="list-style-type: none"> 5. A car service business and two restaurants are being relocated. How are the impacts being addressed? 6. More time should be taken to conduct a comprehensive Environmental Justice assessment, looking at the totality of impacts upon the at-risk populations, identifying the at-risk populations, and assessing all those activities that may impact those populations. 7. The EIS did not state the methodology used to identify EJ communities nor provide clear benchmarks for identification of EA communities. EPA recommends the following approach to determination of appropriate benchmarks. <ol style="list-style-type: none"> a. Apply the 50% test (all areas that are more than 50% are areas of EJ concern. Benchmark value should be compared to the state or county average) b. If the percent minority population is greater than the state or county average, then this would equal the Area of Potential EJ concern; OR c. Set a benchmark that exceeds the state or county average by a given percentage (e.g., taking 120% of the state or county average). (see below) 8. We do not recommend the convention of adding 20 percentage points to the minority population percentage. 	<p>particularly high minority concentration, even if the County as a whole has a relatively high concentration of minority residents.)</p> <p>As noted on page IV-15, the analysis concluded that there are no concentrated areas of minority or low income residents in the project area. For this reason, the discussion notes that no disproportionately high or adverse impacts to either minority populations or low income populations are expected to result “from the No Build or any of the build alternatives.” As noted in Table IV-6, none of the relocations for any of the Build Alternates would affect minority-owned residents or businesses. A clarification has been added to page IV-16. Note that the alignments of Alternates 4 and 4B only differ slightly from the alignment of the Preferred Alternative, so the human environmental characteristics of the areas affected by each of these three alignments are virtually identical.</p> <ol style="list-style-type: none"> 2. The percentages of families in those Block Groups are higher than for the County as a whole (as noted in Table IV-5), and the Environmental Justice discussion in the SDEIS on page IV-14 does note that this is the case. However, note that the Environmental Justice discussion also explains that field observation didn’t support the idea that the project would disproportionately affect the low-income residents of those Block Groups. While there is a

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<p>9. We recommend a methodology to be protective of at-risk communities and more inclusive of potential communities of concern. We recommend using a benchmark calculated by taking the minority population percentage and then adding 20 percent of the value (for example, 5% x 1.2 (20 percent of 5)) — 6% a difference of 20%). This method is consistent, treating all populations the same way. We suggest that recalculated thresholds be used and reevaluate the impact assessment.</p> <p>10. A coordination plan should be developed to assist the community with concerns and impacts related to impacts associated with the projects. We suggest that the project team closely coordinate with residents related to displacements and other impacts.</p> <p>11. Construction routes/corridors and staging areas should be identified and included in the environmental analysis to determine potential risks to human health and the environment. EPA is concerned with potential impacts to the public, children and EJ communities. Exposure risks from dust, hazardous materials, noise and traffic should be addressed in the FSEIS. In addition, please address if Contingency Plans are in place to address potential risks from spills, hazardous materials exposure, etc.</p> <p>12. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, requires each federal agency to identify</p>	<p>relatively high concentration of low-income residents in those Block Groups, those residents do not appear to reside near the project location. If those residents are not affected by the project, there is not an EJ concern. Clarification is added on page IV-14.</p> <p>3. Pages IV-14 and IV-15 of the SDEIS explain that there are three homes that will be affected by relocations and none of them are minority owned. One appears to be uninhabited. The other are homes in the Ryan’s Glen neighborhood that, from tax records, appear to be owner-occupied. None of the four affected businesses (two restaurants, a car dealership/service shop, and a produce stand) disproportionately serve minority or low-income residents. Clarification made on pages IV-15 and IV-16.</p> <p>4. Pages IV-14 and IV-15 of the SDEIS explain that there are three homes that will be affected by relocations and none of them are minority owned. One appears to be uninhabited. The other are homes in the Ryan’s Glen neighborhood that, from tax records, appear to be owner-occupied. None of the four affected businesses (two restaurants, a car dealership/service shop, and a produce stand) disproportionately serve minority or low-income residents.</p>

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<p>and assess environmental health and safety risks to children. It is recommended that the environmental document provide an assessment of potential exposures and susceptibilities to pollutants of concern for children.</p>	<p>5. The WVDOH Relocation Section of the Right of Way Division oversees the operation which provides a relocation program which complies with and implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended. The purpose of this Act is to assure the prompt and equitable relocation of persons, businesses, farms, and nonprofit organizations displaced as a result of highway construction, so that a few individuals do not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. This is included on page IV-15 of the SDEIS (page IV-16 in FEIS).</p> <p>6. FHWA and WVDOH consider the methods used to identify potential environmental justice communities to be sufficient.</p> <p>7.-9. There are no parts of the project area with populations of minority residents that would exceed the benchmarks recommended by EPA. While two of the Block Groups have low-income populations that would exceed the County concentration x 1.2, as described above, the project area does not include the parts of the Block Groups with notably high concentrations of low-income populations, meaning that the project would not disproportionately affect those residents. FHWA and WVDOH consider the methods used to identify potential environmental</p>

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
			<p>justice communities to be sufficient.</p> <p>Page IV-14 in the FEIS explains the methods/thresholds used—these are consistent with EPA recommendations (e.g., for minority populations, the two thresholds used were 50% or more minority population in a block group or minority population in a block group at least 10 percentage points higher than county average.) As noted on page IV-15, none of the block groups in the project area exceeds the thresholds for minority residents—all block groups have substantially less than 50% minority residents and all have lower concentrations of minority residents than the County as a whole.</p> <p>10. The WVDOH Relocation Section of the Right of Way Division oversees the operation which provides a relocation program which complies with and implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended. The purpose of this Act is to assure the prompt and equitable relocation of persons, businesses, farms, and nonprofit organizations displaced as a result of highway construction, so that a few individuals do not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. This is included on page IV-15 of the SDEIS.</p>

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
			<p>11. WVDOH does not typically designate construction routes/corridors in the pre-construction process. Construction routes would be determined by contractors during the public bidding process and will depend greatly on where their borrow/waste sites are located, where their staging areas are, where their equipment storage is, what asphalt plant they are using, where their materials are coming from, and what subcontractors they are using. <u>Traffic noise</u> is discussed in Section IV.C.6.d.</p> <p><u>Dust</u> - Statement added to Section IV.D.2, Construction Impacts, in the FEIS.</p> <p><u>Hazardous Materials</u> - Statement has been added to Section IV.C.8, Hazardous Materials, in the FEIS.</p> <p><u>Open burning</u> - The FEIS has been amended in Section IV.D.2, Construction Impacts, to discuss open burning.</p> <p>12. FHWA and WVDOH consider the community impact and air quality impact analyses completed for the project, and the documentation of those analyses, as well as the items noted in response no. 11 above, to be sufficient relative to E.O. 13045.</p>

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
A-9d	US Environmental Protection Agency – Historic Resources	<ol style="list-style-type: none"> 1. Approaches to avoid or minimize historic impacts should be pursued. Coordination should continue with the SHPO. The SDEIS references archaeological models from 1999. Is there more recent information that should be used? It is unclear if this was done. 2. Page IV-30 mentions that a small historic bridge that carries Bullskin Run will be reconstructed. Coordination should occur with resource agencies to insure that the structure can sufficiently accommodate wildlife passage. 	<ol style="list-style-type: none"> 1. The numerous alternatives developed and evaluated is a form of minimization. Continued coordination with the SHPO resulted in the development a Memorandum of Agreement that outlines mitigation strategies and commitments to minimize/mitigate impacts to historic resources. On page IV-22 of the SDEIS and page IV-24 of the FEIS, “An Archaeological Assessment of Site Potential (April 2015)” is discussed. The FEIS adds a discussion on the 2016 “Phase I Archaeological Survey of the Preferred Alternative 4A.” The WV SHPO has concurred with the findings of both of these documents. 2. This description will be revised to reflect that the existing bridge is not historic but is a contributing element to the Bullskin Run Rural Historic Districts on page IV-33 of the FEIS. Additionally, a statement regarding wildlife passage has been added to the end of Section I.H. Environmental Commitments.
A-9e	US Environmental Protection Agency – Aquatic Resources	<ol style="list-style-type: none"> 1. Page IV-37 states that the southernmost tributary of Long Marsh Run is located in Clarke County, Virginia and that no impacts are anticipated. It appears that the project may have the potential to cause direct or indirect impacts to the resource. This should be clarified and potential unavoidable impacts should be disclosed in the FSEIS. 2. Streams and wetlands should be described and displayed in mapping in greater detail. Page IV- 	<ol style="list-style-type: none"> 1. Project construction should begin north of Long Marsh Run in Clarke County where existing US 340 is already a 4-lane highway. Potential impacts are addressed in previous responses, including: VA DEQ - Erosion Control and Sedimentation and Stormwater Management: <ol style="list-style-type: none"> a. The FEIS has been amended in Section IV.C.2.f., Required Permits. VA DEQ – Wetlands and Water Quality:

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<p>37 states that all stream runs are contained within culverts but page IV-43 states that some wetland complexes are associated with streams. The entire size of wetland complexes should be provided as well as the size of the potential impact to each. Discussion of wetland function in the watershed should be included in the final SEIS.</p> <ol style="list-style-type: none"> 3. Additional analysis should be conducted to ensure that the hydrology of springs, wetlands, and streams is not adversely impacted by this project. 4. After avoidance and minimization has been maximized, the agencies should work to identify mitigation that can replace lost functions of resources in the watershed. 5. The EIS should evaluate remnant wetlands. There may be instances where the remaining portion of wetlands does not provide the original functions due to project impacts. 6. The wetland impact numbers provided on Tables 1-1, III-3, and IV-13 are inconsistent. Corrections should be made and all figures should be checked. 7. Any geologic formation associated with springs or sinkholes should be investigated to identify if these features are present in the study area. Protection of water quality should be enhanced in areas vulnerable to rapid infiltration and hydrologic movement and more closely monitored as necessary. We 	<ol style="list-style-type: none"> a. Avoidance, minimization, and permitting will occur during the more detailed design phase of the project as noted in FEIS Section IV.C.2, Water Resources. b. Statement added in Section IV.C.2.f, Required Permits, in the FEIS. <p>VMRC – Long Marsh Run</p> <ol style="list-style-type: none"> a. Statement added to Section IV.C.2.f, Required Permits, in the FEIS 2. Sections IV.C.2 and IV.C.3. have been updated based on recent <i>“Preliminary Jurisdictional Determination Report”</i> (June 2017, Michael Baker, Jr., Inc.). 3. This analysis will be conducted during the subsequent design phase and preparation of environmental permits. 4. This analysis will be conducted during the subsequent design phase and preparation of environmental permits. 5. This analysis will be conducted during the subsequent design phase and preparation of environmental permits. 6. Wetland impacts have been reassessed based on recent wetland delineations. Table IV-13 in the SDEIS is now Table IV-14 in the FEIS. Quantities in Tables I-1, III-3, and IV-14 are now consistent. 7. Groundwater and geologic formations associated with springs or sinkholes are addressed in previous responses, including:

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<p>recommend that any potential drinking water supplies associated with these resources be identified in the Final SEIS.</p>	<p>a. VA DEQ – Public Water Sources: Section I.H, Environmental Commitments, and Section IV.C.2.a, Streams, have been amended in the FEIS.</p> <p>b. VA DCR – Karst Features: Statement added in Section I.H, Environmental Commitments, of the FEIS.</p>
A-9f	US Environmental Protection Agency – Groundwater	<p>1. Potential groundwater impacts associated with the project should be evaluated. This includes construction, spills, imperious surface, road runoff, etc.</p>	<p>This comment is addressed in previous responses, including erosion and sediment control, stormwater management, best management practices, and permitting.</p>
A-9g	US Environmental Protection Agency – Terrestrial Resources	<p>1. Coordination should continue with the US Fish and Wildlife Service (USFWS) regarding migratory birds and endangered species. It is not clear if USFWS concurs with the findings presented in the SDEIS related to the Indiana bat and Northern long-eared bat. We recommend that the Final SEIS include correspondence from USFWS to provide the reader information on the biological findings.</p> <p>2. Wildlife passage should be considered in the project design. We recommend discussion of potential passage locations in the Final SEIS.</p> <p>3. Efforts should be made to avoid and minimize impacts to terrestrial resources. Corridors should be maintained to the maximum extent possible for wildlife travel. Upland buffers should also be maintained around aquatic habitat.</p>	<p>1. Coordination will continue with USFWS particularly on results of freshwater mussel surveys which will be conducted prior to construction. Statements added in Sections I.H, Environmental Commitments, and IV.C.2.a, Streams, in the FEIS.</p> <p>Correspondence from the USFWS dated 12/22/15 (p.3), states that the project is “not likely to adversely affect the Indiana bat or the NLEB” similar to the language in the SDEIS.</p> <p>2. No comments had been received from USFWS, VA Dept. of Conservation and Recreation, WV Division of Natural Resources – Wildlife Section, WV Dept. of Environmental Protection, or the VA Dept. of Environmental Quality regarding wildlife passage for this project. Agriculture dominates the land use in the area. There are</p>

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
			<p>fences that line US 340 on each side. New fencing will be installed during construction of the project. Existing fences already inhibits wildlife from crossing US 340, particularly larger species. The same will hold true following construction. This is discussed in FEIS Section IV.C.4.</p> <p>3. As noted above, farm fields dominate the landscape along this section of US 340. Trees and buffers will be protected where possible, i.e. beyond clearing limits and outside of clear roadside recovery areas.</p>
A-9h	US Environmental Protection Agency – Construction	<ol style="list-style-type: none"> 1. The EIS should give estimates of how much borrow and fill will be needed and how waste material will be disposed of or borrow will be delivered. For example, there may be a significant increase in traffic from hauling away excess dirt, etc. What routes would these trucks take, how many trips/day and for what duration? 2. Stormwater ponds, best management practices (BMPs) and construction staging areas should not be located in wetlands and streams. Stormwater management alternatives that address the existing and new construction should be considered. 3. The document mentions sinkholes, springs and caves. Will there be construction issues related to these features? We recommend identification of any karst or spring/sinkhole 	<ol style="list-style-type: none"> 1. Construction routes would be determined by contractors during the public bidding process and will depend greatly on where their borrow/waste sites are located, where their staging areas are, where their equipment storage is, what asphalt plant they are using, where their materials are coming from, and what subcontractors they are using. Final design documents are necessary to estimate the amount of earthwork for highway construction. Preliminary earthwork estimates indicate that the amount of excavation is greater than the amount of embankment resulting in a “waste” situation. The subsequent design phase will use more accurate survey data/mapping to evaluate the project’s vertical alignment and cross-sections to reduce waste material from having to be transported off the site. With an ADT of

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<p>features, presentation of locations of these features and statement of any construction/operational contingencies potentially appropriate for this highway. We recommend this information be included in the Final SEIS.</p>	<p>nearly 15,000 vehicles per day, it is unlikely that construction traffic would make a significant impact on the traffic stream.</p> <p>2. There will be no activity in wetlands other than what is shown on the approved permit drawings.</p> <p>3. This has been addressed in previous comments, including: VA DCR – Karst Features: Statement added in Section I.H, Environmental Commitments, of the FEIS.</p>
A-9h	US Environmental Protection Agency – CHG/Climate Change	<p>1. EPA recommends that Federal agencies use a reasonable approach in the consideration of Greenhouse Gas (GHG) emissions and climate change impacts in the NEPA analysis. This approach includes an estimate of the GHG emissions associated with the project during construction and operation, a qualitative description of relevant climate change impacts, and an analysis of reasonable alternatives and/or practicable mitigation measures to reduce project-related GHG emissions. The SDEIS does not include this reasonable approach. The NEPA analysis did not address the appropriateness of considering changes to the design of the proposal to incorporate GHG reduction measures and resilience to foreseeable climate change. The SDEIS did not state whether commitments will be made to ensure</p>	<p>These comments are addressed with a qualitative assessment of the GHG impacts in the revised Section IV.C.7.d of the FEIS. The project is considered rural in nature and is surrounded by rural historic districts. Because of this, no significant changes to the rural landscape are anticipated and the qualitative discussion of GHG as presented is considered a reasonable approach.</p>

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
		<p>implementation of design or other measures to reduce GHG emissions or to adapt to climate change impacts.</p> <p>2. The estimated GHG emissions can serve as a reasonable proxy for climate change impacts when comparing the proposal and alternatives. In disclosing the potential impacts of the proposal and reasonable alternatives, consideration should be given to whether, and to what extent, the impacts may be exacerbated by expected climate change in the action area, as discussed in the “affected environment” section.</p> <p>3. The NEPA analysis should describe measures to reduce GHG emissions associated with the project, including reasonable alternatives or other practicable mitigation opportunities and disclose the estimated GHG reductions associated with such measures. The alternatives analysis should, as appropriate, consider practicable changes to the proposal to make it more resilient to anticipated climate change. EPA further recommends that the Record of Decision (ROD) commits to implementation of reasonable mitigation measures that would reduce project-related GHG emissions.</p>	

Comment ID	Commenter Agency/Name	Comment	WVDOH Response
A-9i	US Environmental Protection Agency – Cumulative Impacts	<ol style="list-style-type: none"> 1. While the SDEIS briefly discusses the past, existing, and future conditions of the project area, cumulative impacts from the proposed project on aquatic and other resources should be evaluated in the FSEIS. The document should address potential indirect and cumulative effects in the project area; analysis may aid in the identification of resources that are likely to be adversely affected by multiple projects, and sensitive resources that could require additional measures. It is suggested that a secondary and cumulative effects analysis begin with defining the geographic and temporal limits of the study; this is generally broader than the study area of the project. The cumulative impact analysis should evaluate impacts to environmental resources that have the potential to be impacted by the project (i.e. wetlands, surface water, etc). 2. Indirect and temporary impacts to resources should also be analyzed. 	<p>Section IV.D.3 has been revised to include a discussion that notable cumulative effects on environmental resources are not anticipated. Sections IV.D.2 and IV.D.3 include the analysis of temporary and secondary (indirect) impacts associated with the project.</p>



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

1900 Kanawha Boulevard East • Building Five • Room 110
Charleston, West Virginia 25305-0430 • (304) 558-3505

Jim Justice
Governor

Thomas J. Smith, P. E.
Secretary of Transportation
Commissioner of Highways

February 8, 2017

Ms. Susan Pierce, Deputy State
Historic Preservation Officer
Division of Culture and History
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0430

Dear Ms. Pierce:

State Project U219-340-0.00 (02)
Federal Project NH-340 (030) E
US 340 Improvement Project
VA Line to Charles Town Bypass
Jefferson County

Attached for your review and comment is the Draft Memorandum of Agreement for the US 340 Improvement Project – VA Line to Charles Town Bypass.

An archaeology report will be sent over in the next couple of weeks with the recommendation that no further work is necessary. This Draft MOA is to receive comments on the agreement to further expedite the project.

Should you have any questions, please contact Sondra Mullins at (304) 558-9487.

Very truly yours,

A handwritten signature in blue ink that reads "Ben L. Hark".

Ben L. Hark
Environmental Section Head
Engineering Division

BH:h
Attachments
bcc: DDE(SM)

**MEMORANDUM OF AGREEMENT
BY AND AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE WEST VIRGINIA STATE HISTORIC PRESERVATION OFFICER
AND THE WEST VIRGINIA DIVISION OF HIGHWAYS**

**REGARDING IMPLEMENTATION OF THE US 340 IMPROVEMENT PROJECT
VA LINE TO CHARLES TOWN BYPASS
STATE PROJECT #U219-340-0.00(02)
FEDERAL PROJECT #NH-0340(030)
JEFFERSON COUNTY, WEST VIRGINIA
FEBRUARY 2017**

WHEREAS, the Federal Highway Administration (FHWA), in cooperation with the West Virginia Division of Highways (WVDOH), proposes to improve the existing two-lane section of US 340 from the existing four-lane section just south of the WV/VA state boundary in Clarke County, Virginia to the existing four-lane section of the Charles Town Bypass in Jefferson County, West Virginia, hereinafter referred to as the Project. The improvements will address traffic operations and improve safety deficiencies along the existing facility; and

WHEREAS, the FHWA has determined that the Project will have an adverse effect upon the Kabletown Rural Historic District, the Village of Rippon Historic District, the Bullskin Run Historic District, Olive Boy Farm, Glenwood, Wayside Farm, Byrdland, and Straithmore, properties on or eligible for the National Register of Historic Places (NRHP); and

WHEREAS, the FHWA has consulted with the West Virginia State Historic Preservation Officer (WVSHPO) pursuant to 36 CFR Part 800 Implementing Section 106 of the National Historic Preservation Act; (16 U.S.C., 470f); and

WHEREAS, the FHWA has determined that the Project will not affect archaeological properties; and

WHEREAS, The WVDOH has contacted the Preservation Alliance of West Virginia, Jefferson County Historical Society, Jefferson County Historic Landmarks Commission, and the Charles Town Historic Landmarks Commission; and

WHEREAS, in accordance with 36 CFR 800.6 (a) (1), the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR 800.6 (a) (1) (iii);

NOW, THEREFORE, the FHWA, the WVSHPO, and the WVDOH agree that the undertaking will be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

STIPULATIONS

The FHWA shall ensure that the following stipulations are carried out:

US 340 Improvement Project

- I. The WVDOH has eliminated alternatives from further consideration that are located further away from existing US 340 that bisect historic districts and properties that would have directly affected structures on these resources.
- II. The historic resources in the US 340 Improvement Project area will be documented in its present historic setting. The documentation package will include 5"x7" black and white digital prints in accordance with the National Register of Historic Places and National Historic Landmarks Survey Photo Policy Expansion of May 2013.
- III. A brief history of the area will be included along with fully completed West Virginia Historic Property Inventory forms of the historic resources along the US 340 Improvement Project and a copies will be provided to the Charles Town Library.
- IV. The WVDOH evaluated multiple alignments to avoid or minimize the impacts to the historic resources along the US 340 Improvement Project. Several public meetings/hearings were held with the public to receive input on all of the alignments.
- V. The historic area of the US 340 Improvement Project alignment will be featured on a History Through Highways website showcasing historic farmlands and districts along our highway project.

VI. Duration

This MOA will expire if its stipulations are not carried out within five (5) years from the date of its execution. At such time, and prior to work continuing on the undertaking, the FHWA shall either (a) execute an MOA pursuant to 36 CFR 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. Prior to such time, FHWA may consult with other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation X below. FHWA shall notify the signatories as to the course of action it will pursue.

VII. Post-Review Discoveries

If any unanticipated discoveries of historic properties or archaeological sites, including human burial sites and/or skeletal remains, are encountered during the implementation of this undertaking, work shall be suspended in the area of the discovery until the WVDOH has developed and implemented an appropriate treatment plan in consultation with the WVSHPO pursuant to 36 CFR 800.13 (b).

VIII. Monitoring and Reporting

Each year following the execution of this MOA until it expires or is terminated, FHWA shall provide all parties to this MOA a summary report detailing work carried out pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in FHWA's efforts to carry out the terms of this MOA.

IX. Dispute Resolution

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.
- C. FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

X. Amendments

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

XI. Termination

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA must either (a) execute a MOA pursuant to 36 CFR 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. FHWA shall notify the signatories as to the course of action it will pursue.

EXECUTION of the Memorandum of Agreement by the FHWA, WVSHPO, the WVDOH and the Council, and implementation of its terms evidence that the FHWA has afforded the Council an opportunity to comment on the US 340 Improvement Project and its effects on historic properties, and that the FHWA has taken into account the effects of the undertaking on the historic properties.

Signatories Page

Federal Highway Administration Date

West Virginia Deputy State Historic Preservation Officer Date

APPROVED:

Advisory Council on Historic Preservation Date

CONCUR:

West Virginia Division of Highways Date



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ENGINEERING
DIVISION

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

Randall Reid-Smith, Commissioner

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EEO/AA Employer

March 10, 2017

Mr. Ben Hark
Section Head
Department of Highways
1334 Smith Street
Charleston, WV 25301

RE: US 340 Improvement Project – VA Line to Charles Town Bypass
State Project: U219-340-0.00(02); Federal Project: NH-0340(030)
FR#: 96-814-JF-33

Dear Mr. Hark:

We have received and reviewed the draft of the *Memorandum of Agreement by and among The West Virginia State Historic Preservation Officer and the West Virginia Division of Highways Regarding Implementation of the US 340 Improvement Project VA Line to Charles Town Bypass* (MOA), which was prepared 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.

The FHWA, with concurrence from our office in a letter dated September 8, 2016, determined that the project will have an adverse effect on eight (8) architectural resources listed in or eligible for inclusion in the National Register of Historic Places. These resources are: Kabletown Rural Historic District, the Village of Rippon Historic District, the Bullskin Run Rural Historic District, Olive Boy Farm (JF-0062-0006), Glenwood (JF-0062-011), Wayside Farm (JF-0062-0012), Byrdland (JF-0062-0016), and Straithmore (JF-0062-0019).

There are several issues at hand regarding the draft MOA submitted to our office. First, there are two stipulations that do not address mitigation at all; rather they speak to aspects of the review process. We appreciate that the WV DOH has evaluated multiple possible alignments as referenced in Stipulation I and held public meetings to receive input on the alignments as stated in Stipulation IV. However, these statements would be more appropriate in the Whereas clauses to document fulfillment of Section 106 responsibilities in reaching this phase of consultation.

Stipulations II and III reference documentation efforts. Because of multiple evaluations over the years, documentation of these historic resources already exists and could be updated, if necessary, as part of the mitigation. Survey reports should already contain the brief history that is referenced in Stipulation IV. It is not evident why these efforts need be duplicated.

While the stipulations proposed in the draft MOA are generally acceptable for mitigation of small projects resulting in modest adverse effects, it is our opinion that the extensive impacts resulting from

March 10, 2017
Mr. Hark
FR#: 96-814-JF-33
Page 2

this project require more substantial mitigation measures. These efforts should take into consideration not only the direct impact to the individual resources and the historic districts, but the cumulative adverse effects to this corner of Jefferson County that will occur upon completion of an improved roadway.

We recommend the consideration of the following measures for inclusion in the final MOA. Since the affected resources have already been documented, National Register nominations could be completed to list some of these resources in the National Register of Historic Places. Another possibility would be to work with the Jefferson County Historic Landmark Commission or other identified local history/architecture organization to develop an oral history collection project to record and archive the recollections of the residents associated with the historic resources. Another mitigation effort could be the development of interpretive signs documenting both the history of the local area and the development of the US 340 project. These signs could be installed in appropriate publicly-accessible locations. Finally, we suggest exploring options to help in county planning efforts, such as assistance in the development of protective easements with property owners who wish to preserve the historic character of this area.

The MOA states that several public meetings/hearings were held to receive input on the possible alignments. The most recent meeting regarding this proposed project was held in August 2016. While at that time, no comments were recorded related to the effects of the proposed project to historic resources, we believe local organizations and individuals should be invited specifically to assist in the development of ways to mitigate adverse effects to their local historic resources. We would be happy to be included in discussions with impacted property owners and other appropriate consulting parties.

Finally, while we understand this is a draft MOA, we are unable to concur with the fourth Whereas clause which states that the project will not affect archaeological properties. As indicated in your cover letter, we have not yet received the Phase I archaeological survey report. As such, we do not yet know whether we will concur that no further work is necessary and that no archaeological resources will be affected.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Lora Lamarre-DeMott, Senior Archaeologist, or Benjamin M. Riggle, Structural Historian, at (304) 558-0240.*

Sincerely,



Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/BMR

CC: Alison Rogers, FHWA



Division of

WEST
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EEO/AA Employer

April 10, 2017

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

RE: US 340 Improvement Project
State Project U219-340-0.00 02, Federal Project NH-034(030)
FR#: 96-814-JF-34

Dear Mr. Hark:

We have reviewed the submitted technical report titled, *Archaeological Survey of Preferred Alternative 4A US 340 Improvement Study Jefferson County, West Virginia*, which was prepared by Commonwealth Heritage Group, 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 WV Division of Highways proposes improvements to the existing two-lane section of US 340 in Jefferson County. The proposed improvements will span approximately four miles from south of the Virginia/West Virginia state line north towards the community of Rippon. The improvements will include the creation of a four-lane divided highway. We understand that numerous alternatives have been evaluated and as of the Supplemental Draft Environmental Impact Statement dated July 2016 the preferred alternative is Alternative 4A.

Upon review of the submitted report we find that it does not meet federal or state documentation standards. The discussions of each site do not include sufficient information to allow us to concur with eligibility recommendations. For example, each site discussion must include information about artifact densities, the total number of artifacts and artifact types that were recovered. Each site discussion should include comparisons in the variable artifact densities noted across a site, and information regarding the various soil strata from which the artifact assemblages were recovered. Please ensure that each site discussion includes the information outlined on pages 24 and 25 in our state guidelines.

We have also identified other areas of concern. The report states that site 46JF603 is recommended as a contributing resource to the Bullskin Run and Kabletown Rural Historic Districts as it exhibits earlier transportation infrastructure in the county and serves as an element of the greater rural landscape of the districts. We are unable to concur with this determination, we will provide further comment. Please amend the report so that it lists which National Register criterion the site meets and includes a discussion indicating how site 46JF603 contributes to the Bullskin Run and Kabletown Rural Historic Districts.

A number of site forms provide information that is different or contrary to information in the report. Please amend the site forms and/or report for the following sites so that the information they provide is consistent.

- Sites 46JF587 and 46JF588: the forms indicate that these sites are associated with the Olive Boy Farm; however, the report does not mention or discuss an association. Also, Table 6.1-1 "Summary of Sites in the APE" located on page 6-1 does not indicate an association between these sites and the Olive Boy Farm.
- Sites 46JF589 and 46JF606: the site forms should be modified to reflect the multicomponent nature of these resources. Also, please ensure that the "Unassigned" and "Other" fields under the prehistoric section are completed. We also request that the comments for site 46JF606 on pages 6-92 be updated to include information pertaining to the site's prehistoric component as mentioned under recommendations on page 6-94.
- Sites 46JF589 and 46JF605: there is a discrepancy between the coordinates provided for these sites on the submitted site forms and the project location maps included in the report. We recommended that the coordinates for site 46JF589 be adjusted to 39°12'05.7348"N, 77°55'01.5312"W. We also recommend that the coordinates for 46JF605 be adjusted to 39°14'08.6316"N, 77°53'48.8472"W.

We will provide further comment upon the receipt of the revised hard copy and digital copy of the technical report and the updated site forms for sites 46JF587, 46JF588, 46JF589, 46JF605, and 46JF606.

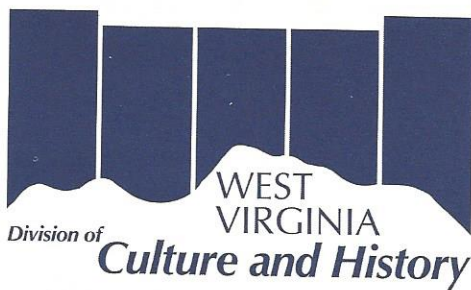
We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Katie M. Turner, Archaeologist, at (304) 558-0240.*

Sincerely,



Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/KMT



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 21, 2017

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

RE: US 340 Improvement Study- State Project U219-340-0.00 02, Federal Project NH-034(030)
FR#: 96-814-JF-35

Dear Mr. Hark:

We have reviewed the submitted technical report titled, *Archaeological Survey of Preferred Alternative 4A US 340 Improvement Study Jefferson County, West Virginia*, that was prepared by Commonwealth Heritage Group, 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.

Archaeological Resources:

Thank you for providing us with the revised technical report and the updated archaeological site forms as requested. The report states that a systematic Phase I archaeological survey was completed on the 246.4 acre proposed project area through a combination of pedestrian survey and shovel probe excavation. The systematic survey resulted in the identification of twenty-nine archaeological resources: two previously recorded isolated finds; seven newly recorded isolated finds; two multicomponent sites, and eighteen newly recorded historic-period sites.

The two previously recorded isolated finds, 46JF300 and 46JF305, are located within the proposed project area. They were determined to be ineligible for inclusion in the National Register of Historic Places in 1999. No further work was completed at these locations during the current investigation. Isolated finds 46JF607, 46JF608, 46JF609, 46JF610, 46JF611, 46JF612 and 46JF613 each produced fewer than three artifacts. We concur that these isolated finds lack research potential and are not eligible for inclusion in the National Register of Historic Places.

Multicomponent sites 46JF589 and 46JF606 are interpreted as a historic-period domestic artifact scatters that also produced one prehistoric chert flake. The historic-period artifact assemblages, recovered from the Ap horizon, consist of assorted domestic and architectural debris supporting occupations dating from the 19th century through 20th century. The historic period components of each site may be associated with structures depicted on 19th century maps of Jefferson County. The report states that site 46JF589 may extend outside of the proposed project area. The report also states that the artifact assemblage of 46JF589 may represent secondary deposits as artifacts may have washed into the site from a bluff. We concur with the determination that the portion of site 46JF589 contained within the proposed project area is not contributing to the site's overall potential eligibility for inclusion

in the National Register of Historic Places. We also concur that site 46JF606 is not eligible for inclusion in the National Register of Historic Places due to a lack of stratified deposits and a lack of cultural features.

Sites 46JF587, 46JF590, 46JF591, 46JF595, 46JF597, 46JF598, 46JF600 and 46JF605 are interpreted as historic period artifact scatters dating from the early 19th century through the 20th century. Sites 46JF588, 46JF593 and 46JF599 are of indeterminate age. All sites lack evidence of stratified deposits as the artifacts were discovered within the Ap horizon. Sites 46JF593, 46JF595, 46JF599, 46JF600 and 46JF605 are not associated with any historic period structures. Sites 46JF587, 46JF588, 46JF590, 46JF591, 46JF597, 46JF598 and 46JF600 are associated with structures depicted 19th and 20th century maps of Jefferson County. The report states that site 46JF598 may extend outside of the proposed project area. We concur with the determination that the portion of site 46JF598 included within the proposed project area is not contributing to the overall site's potential for inclusion in the National Register of Historic Places. We also concur with the determinations that sites 46JF587, 46JF590, 46JF591, 46JF595, 46JF597, 46JF598, 46JF600 and 46JF506 are not eligible for inclusion in the National Register of Historic Places due to a lack of stratified deposits and cultural features.

Sites 46JF592, 46JF594, 46JF596 and 46JF601 are interpreted as historic period artifact scatters dating from the early 19th century to 20th century. Site 46JF602 is a historic period artifact scatter lacking diagnostic artifacts. The report states that the artifact assemblage of site 46JF594 may be associated with road trash from US 340. All sites lack evidence of stratified deposits as the artifacts were discovered within the Ap horizon. Site 46JF601 also contains a cinderblock chimney fall and a concrete-topped well. A historic map analysis has determined that sites 46JF592, 46JF594, 46JF596, 46JF601 and 46JF602 may be associated with historic period structures that appear on 19th and 20th century maps of Jefferson County. We concur with the determinations that sites 46JF592, 46JF594, 46JF596 and 46JF602 are not eligible for inclusion in the National Register of Historic Places due to a lack of stratified deposits and cultural features. We also concur with the determination that site 46JF601 is not eligible for inclusion in the National Register of Historic Places due to a lack of stratified deposits.

Site 46JF603 is interpreted as the nineteenth and twentieth century remains of the Berryville Pike Road alignment and bridge abutments. The site, which did not yield any artifacts, encompasses the remains of the Berryville Pike bridge abutments over Bullsken Run and the associated road grade located on the east side of the current US 340 bridge. Recorded features include the remnants of the bridge abutments and piles of material rubble on both the north and south banks of Bullsken Run. The piles of rubble consist of fieldstones, mortar, and crushed concrete. Site 46JF603 retains the integrity of setting and location but lacks integrity of design, workmanship and materials. We concur with the determination that due to the site's diminished integrity the site is not interpreted as a contributing resource to the Bullsken Run and Kabletown Rural Historic Districts and not eligible for inclusion in the National Register of Historic.

Site 46JF604 is interpreted as the ruins of the nineteenth century Snyder-Baney Mill (ca. 1800), which yielded three artifacts from the Ap horizon. The aboveground portion of the site consists of the remains of the fieldstone and mortar mill building and the associated raceway, which extends from Straithmore Farm Lane south to Bullsken Run. A historic map analysis demonstrates that the mill appears on maps from 1809 until 1928. According to the current landowner, the previous owner used the mill remains as a place to burn trash. Additionally, the presence of push piles in the area surrounding the ruins indicates that the site has been disturbed. We concur with the determination that the archaeological portion of the Snyder-Baney Mill is ineligible for inclusion in the National Register of Historic Places due to the site being previously disturbed.

June 21, 2017
Mr. B. Hark
FR# 96-814-JF-35
Page 3

In conclusion, we concur that sites 46JF300, 46JF305, 46JF587, 46JF588, 46JF589, 46JF590, 46JF591, 46JF592, 46JF593, 46JF594, 46JF595, 46JF596, 46JF597, 46JF598, 46JF599, 46JF600, 46JF601, 46JF602, 46JF603, 46JF604, 46JF605, 46JF606, 46JF607, 46JF608, 46JF609, 46JF610, 46JF611, 46JF612 and 46JF613 are not eligible for inclusion in the National Register of Historic Places. The consultant concludes that no further archaeological investigations are necessary. We concur with this determination; no historic properties are present within the proposed project area. No further consultation is necessary.

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



June 26, 2017

Mr. Ben Hark
Section Head
Department of Highways
1334 Smith Street
Charleston, WV 25301

RE: RE: US 340 Improvement Project- VA Line to Charles Town Bypass State Project:
U219-340-0.00(02); Federal Project: NH-0340(030)
FR#: 96-814-JF-33

Dear Mr. Hark:

The Jefferson County Historic Landmarks Commission (JCHLC) received and reviewed the draft of the *Memorandum of Agreement by and among The West Virginia State Historic Preservation Officer and the West Virginia Division of Highways Regarding Implementation of the US 340 Improvement Project VA Line to Charles Town Bypass* (MOA), which was prepared 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.

The FHWA, with concurrence from WVSHPO in a letter dated September 8, 2016, determined that the project will have an adverse effect on eight (8) architectural resources listed in or eligible for inclusion in the National Register of Historic Places. These resources are: Kabletown Rural Historic District, the Village of Rippon Historic District, the Bullskin Run Rural Historic District, Olive Boy Farm (JF-0062- 0006), Glenwood (JF-0062-011), Wayside Farm (J F-0062-0012), Byrdland (JF-0062-0016), and Straithmore (JF-0062-0019). It is also noted is that entire Preferred Route 4A falls within the study area of the Summit Point Battlefield, as recommended by the Civil War Sties Advisory Commission.

The JCHLC agrees with most of the points raised in the WVSHPO's letter dated March 10, 2017 regarding the draft MOA and urge the WVDOH to amend the Stipulations Section accordingly.

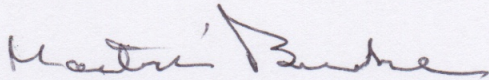
While the stipulations proposed in the draft MOA are generally acceptable for mitigation of small projects resulting in modest adverse effects, in JCHLC's opinion that the extensive impacts resulting from this project requires more substantial mitigation measures. These efforts should take into consideration not only the direct impact to the individual resources and historic districts, but the cumulative adverse effects that will occur upon completion of an improved roadway.

JCHLC recommends the consideration of the following measures for inclusion in the final MOA. National Register nominations should be completed to list Wayside Farm, Olive Boy Farm, Byrdland, and the Village of Rippon Historic District in the National Register of Historic Places. A specific mitigation/design strategy for the intersection of Route 340 and Meyerstown Rd. The proposed route will physically and visually divide the Village of Rippon from Wayside Farm, which lie less than 1000 ft. from one another.

The MOA states that several public meetings/hearings were held to receive input on the possible alignments. The most recent meeting regarding this proposed project was held in August 2016. JCHLC believes local organizations and individuals should be invited specifically to assist in the development of ways to mitigate adverse effects to their local historic resources. JCHLC would be happy to be included in such a discussion with impacted property owners and other appropriate consulting parties.

We appreciate the opportunity to be of service. If you have questions regarding our comments, please contact Martin Burke, Chair, Jefferson County Historic Landmarks Commission at (304)876-3883.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin Burke". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Martin Burke
Chair, Jefferson County Historic Landmarks Commission

CC: Benjamin Riggle, WVSHPO



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

1900 Kanawha Boulevard East • Building Five • Room 110
Charleston, West Virginia 25305-0430 • (304) 558-3505

Jim Justice
Governor

Thomas J. Smith, P. E.
Secretary of Transportation
Commissioner of Highways

July 12, 2017

Mr. Jason Workman
Director, Program Development
Federal Highway Administration
West Virginia Division
700 Washington Street East Suite 200
Charleston, West Virginia 25301

Dear Mr. Workman:

State Project U219-340-0.00 (02)
Federal Project NH-340 (030) E
US 340 Improvement
VA Line to Charles Town Bypass
Jefferson County

Enclosed for transmittal to the Advisory Council on Historic Preservation, for the participation interest, is the Draft Memorandum of Agreement (MOA) for the above referenced project. This MOA is pursuant to the determination that the US 340 Improvement Project, VA Line to Charles Town Bypass will have an adverse effect to eight historic resources eligible for the National Register of Historic Places (NRHP). Along with the MOA is the Correspondence letters from the West Virginia State Historic Preservation Office (WVSHPO) and the Jefferson County Historic Landmarks Commission.

Should you have any questions, please do not hesitate to contact Sondra Mullins of our Environmental Section at (304) 558-9487.

Very truly yours,

A handwritten signature in blue ink that reads "Ben L. Hark".

Ben L. Hark
Environmental Section Head
Engineering Division

H:h
Attachments
bcc: DDE(SM)

**MEMORANDUM OF AGREEMENT
BY AND AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE WEST VIRGINIA STATE HISTORIC PRESERVATION OFFICER
AND THE WEST VIRGINIA DIVISION OF HIGHWAYS**

**REGARDING IMPLEMENTATION OF THE US 340 IMPROVEMENT PROJECT
VA LINE TO CHARLES TOWN BYPASS
STATE PROJECT #U219-340-0.00(02)
FEDERAL PROJECT #NH-0340(030)
JEFFERSON COUNTY, WEST VIRGINIA
JULY 2017**

WHEREAS, the Federal Highway Administration (FHWA), in cooperation with the West Virginia Division of Highways (WVDOH), proposes to improve the existing two-lane section of US 340 from the existing four-lane section just south of the WV/VA state boundary in Clarke County, Virginia to the existing four-lane section of the Charles Town Bypass in Jefferson County, West Virginia, hereinafter referred to as the Project. The improvements will address traffic operations and improve safety deficiencies along the existing facility; and

WHEREAS, the FHWA has determined that the Project will have an adverse effect upon the Kabletown Rural Historic District, the Village of Rippon Historic District, the Bullskin Run Historic District, Olive Boy Farm, Glenwood, Wayside Farm, Byrdland, and Straithmore, properties on or eligible for the National Register of Historic Places (NRHP); and

WHEREAS, the FHWA has consulted with the West Virginia State Historic Preservation Officer (WVSHPO) pursuant to 36 CFR Part 800 Implementing Section 106 of the National Historic Preservation Act; (16 U.S.C., 470f); and

WHEREAS, the FHWA has determined that the Project will not affect archaeological properties; and

WHEREAS, The WVDOH has contacted the Preservation Alliance of West Virginia, Jefferson County Historical Society, Jefferson County Historic Landmarks Commission, and the Charles Town Historic Landmarks Commission; and the JCHLC responded to the letter with requested mitigation items; and

WHEREAS, the WVDOH has eliminated alternatives from further consideration that are located further away from existing US 340 that bisect historic districts and properties that would have directly affected structures on these resources; and

WHEREAS, the WVDOH evaluated multiple alignments to avoid or minimize the impacts to the historic resources along the US 340 Improvement Project. Several public meetings/hearings were held with the public to receive input on all the alignments; and

WHEREAS, in accordance with 36 CFR 800.6 (a) (1), the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR 800.6 (a) (1) (iii);

NOW, THEREFORE, the FHWA, the WWSHPO, and the WVDOH agree that the undertaking will be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

STIPULATIONS

The FHWA shall ensure that the following stipulations are carried out:

US 340 Improvement Project

- I. The WVDOH will provide \$50,000 to the JCHLC for National Register of Historic Places nominations for the following properties: Wayside Farm, Olive Boy Farm, Byrdland, and the Village of Rippon Historic District. The JCHLC will work with the WWSHPO's National Register Survey Coordinator on the nominations.
- II. The WVDOH will provide \$3,000 to develop an oral history collection project to record and archive the recollections of the residents associated with the historic resources in the project area. The oral history collection will be submitted to the WVDOH and the WWSHPO once the project is complete.
- III. The WVDOH will provide \$3,000 for interpretive historic signs documenting the history of the local area. These signs will be installed in appropriate publicly accessible locations. The WWSHPO will be given the opportunity to review all educational materials developed for this stipulation.
- IV. The historic area of the US 340 Improvement Project alignment will be featured on a History Through Highways website showcasing historic farmlands and districts along our highway project.

V. Duration

This MOA will expire if its stipulations are not carried out within five (5) years from the date of its execution. At such time, and prior to work continuing on the undertaking, the FHWA shall either (a) execute an MOA pursuant to 36 CFR 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. Prior to such time, FHWA may consult with other signatories to reconsider the terms of the MOA

and amend it in accordance with Stipulation X below. FHWA shall notify the signatories as to the course of action it will pursue.

VI. Post-Review Discoveries

If any unanticipated discoveries of historic properties or archaeological sites, including human burial sites and/or skeletal remains, are encountered during the implementation of this undertaking, work shall be suspended in the area of the discovery until the WVDOH has developed and implemented an appropriate treatment plan in consultation with the WVSHPO pursuant to 36 CFR 800.13 (b).

VII. Monitoring and Reporting

Each year following the execution of this MOA until it expires or is terminated, FHWA shall provide all parties to this MOA a summary report detailing work carried out pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in FHWA's efforts to carry out the terms of this MOA.

VIII. Dispute Resolution

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

- C. FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

IX. Amendments

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

X. Termination

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation IX, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA must either (a) execute a MOA pursuant to 36 CFR 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. FHWA shall notify the signatories as to the course of action it will pursue.

EXECUTION of the Memorandum of Agreement by the FHWA, WVSHPO, the WVDOH and the Council, and implementation of its terms evidence that the FHWA has afforded the Council an opportunity to comment on the US 340 Improvement Project and its effects on historic properties, and that the FHWA has taken into account the effects of the undertaking on the historic properties.

Signatories Page

Federal Highway Administration
Date

West Virginia Deputy State Historic Preservation Officer
Date

Advisory Council on Historic Preservation
Date

INVITED SIGNATORY:

West Virginia Division of Highways
Date

Consulting Parties

Jefferson County Historic Landmarks Commission

Date



U.S. Department
of Transportation

**Federal Highway
Administration**

West Virginia Division

July 31, 2017

154 Court Street
Charleston, West Virginia 25301
Phone (304) 347-5928
Fax (304) 347-5103

IN REPLY REFER TO:

Federal Project NH-0340(030)
State Project S219-340-0.00 (02)
US 340 Improvement Project
Jefferson County

Ms. Mary Ann Naber
Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F Street NW., Suite 308
Washington, DC 20001-2637

Dear Ms. Naber:

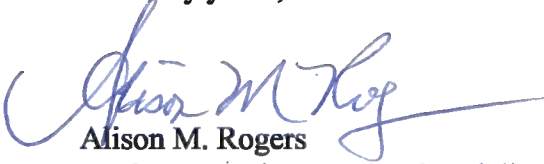
The Federal Highway Administration (FHWA) has been working with the West Virginia Department of Transportation, Division of Highways (WVDOH) to develop the above referenced undertaking since the early 1990's. The US 340 Improvement Project proposes to improve a 4.5-mile long two-lane section of US 340 that connects the highway to the existing four-lane facility located just south of the West Virginia/Virginia State line in Clarke County, Virginia to the four-lane Charles Town Bypass in Jefferson County, West Virginia. The project is needed to address traffic operations and improve geometric deficiencies to increase the safety of US 340.

The project area is located in the Shenandoah Valley of West Virginia's Eastern Panhandle and has a rich history dating to the early settlement of Virginia in the late 1700's. The area has historically been less densely populated and developed than other sections of the county and is primarily comprised of farms and large estates. However, several newer subdivisions have been established within the project area.

In consultation with the West Virginia State Historic Preservation Officer (SHPO), FHWA has determined that the undertaking will have an adverse effect to three (3) historic districts (Kabletown Rural Historic District, Village of Rippon Historic District, and Bullskin Run Rural Historic District) and five (5) historic properties (Olive Boy Farm, Glenwood, Wayside Farm, Byrdland, and Straithmore). This correspondence is intended to serve as the notification of an adverse effect finding as required under 36 CFR 800.6(a)(1). Considering the 20-year development history of this undertaking and the historic nature of the project area, we developed a project information and Section 106 consultation summary in accordance with 36 CFR 800.11(e) to assist with your review. The summary includes maps of the project, copies of the SHPO correspondence letters, and a copy of the draft Memorandum of Agreement developed in consultation with SHPO and the Jefferson County Historic Landmarks Commission (JFHLC) to resolve the adverse effects of this undertaking.

Please advise the FHWA within fifteen (15) days of receipt of this notice whether or not the Council wishes to participate in Section 106 consultation process for this undertaking. Should you have any questions regarding the accompanying information or if you need copies of any report referenced in the enclosed summary, please contact me at (304) 347-5436 or via e-mail at alison.rogers@dot.gov. Thank you for your attention to this matter.

Sincerely yours,



Alison M. Rogers
Environmental Protection Specialist

Enclosure



Preserving America's Heritage

August 11, 2017

Ms. Alison Rogers
Environmental Program Manager
FHWA – WV Division
154 Court Street
Charleston, WV 25301

Ref: *US 340 Improvement Project*
Jefferson County, West Virginia and Clarke County, Virginia

Dear Ms. Rogers:

On July 31, 2017, the Advisory Council on Historic Preservation (ACHP) received your notification of adverse effect for the referenced undertaking that was submitted in accordance with our regulations, "Protection of Historic Properties" (36 CFR Part 800). While we have decided to participate in subsequent consultation pursuant to Appendix A of the regulations, the supporting documentation accompanying your notification did not include adequate information to enable the ACHP to fully understand the impacts of the multiple alternatives under consideration. Accordingly, we request that you submit the following information so we can fully participate in the consultation to resolve adverse effects of this project.

- A detailed description of each of the potentially affected historic properties, including the historic districts and all other individually listed or eligible properties, including information on the characteristics that qualify each property for the National Register;
- A description of the specific effects on historic properties of each of the alternatives currently under consideration, including maps, photos, and other illustrations at a scale adequate to convey the nature of direct and indirect impacts;
- Summaries of the views provided by other consulting parties and the public.

In addition, you should address the issue raised by the Department of the Interior regarding the eligibility, location, and any potential effects to the Summit Point Battlefield. Given the 20 year time period over which this project has evolved, we think the suggestion made by the Jefferson County Historic Landmarks Commission to invite consulting parties to a discussion on appropriate measures to resolve adverse effects to historic properties is a good one, and we stand ready to participate in such a meeting.

We look forward to working with you to resolve the Section 106 process and impacts to historic properties for this project. If you have any questions, please contact MaryAnn Naber at 202-517-0218 or via e-mail at mnaber@achp.gov.

Sincerely,

for
Charlene Dwin Vaughn, AICP
Assistant Director, FPLAS
Office of Federal Agency Programs

To: Martin Burke <martinburke@frontiernet.net>

Subject: Re: Rt. 340 Extension MOA

Thanks Martin for getting this email to me. The minutes in the attachment are from September 2016. Please send me the 18th minutes so that I can let fhwa and achp we are in continued communication. I will work on getting you the requested information so we can work together on the plans. Thanks again.

From: Martin Burke <martinburke@frontiernet.net>

Sent: Wednesday, September 20, 2017 4:27:41 PM

To: Mullins, Sondra L

Subject: Rt. 340 Extension MOA

Ms. Mullins,

At its regular monthly meeting, September 18, 2017, the Jefferson County Historic Landmarks Commission discussed and voted to approve the Rt. 340 MOA, meeting agenda attached.

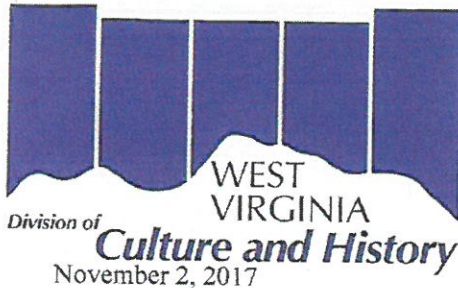
Although the route has been selected, JCHLC would like to review the preliminary construction drawings to reduce or eliminate the visibility of the project or alter the project's effect with respect to Wayside Farm and the Village of Rippon.

Sincerely,

Martin Burke

Chair

Jefferson County Historic Landmarks Commission



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

EEC/AA Employer

Mr. Ben Hark
Environmental Section Head
WVDOH
1334 Smith Street
Charleston, WV 25301

RE: US 340 – Supplemental Draft Environmental Impact Statement
State Project: U219-340-0.00; Federal Project: NH-340 (024)
FR#: 96-814-JF-36

Dear Mr. Hark:

We have reviewed the “Evaluation and Effect Recommendations, Summit Point Battlefield (JF-0738)” that was submitted for the above-referenced project. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: “Protection of Historic Properties,” we submit our comments.

Based on the submitted documentation, we concur with the consultant that the Summit Point Battlefield (JF-0738) is eligible for the National Register of Historic Places under Criterion A for its association with the American Civil War. While additional survey and research, outside the scope required for this proposed project, would be needed to establish the full boundary for the Summit Point Battlefield and to provide assessments of the resource under Criteria B and C, we agree that the travel corridor contributes to the significance of the battlefield under Criterion A. In addition, portions of the battlefield may retain sufficient integrity to be eligible under Criterion D; however, the project’s Area of Potential Effects (APE) within the battlefield travel corridor was previously evaluated as not contributing according to Criterion D. We concurred with this finding in a letter dated June 21, 2017.

We concur that the proposed project, Alternative 4A, to expand and widen the existing roadway within this portion of the Summit Point Battlefield will result in an *adverse effect* to the battlefield resource. It is our understanding that multiple construction options were reviewed in an attempt to *avoid, minimize, or mitigate* the potential adverse effects resulting from this proposed project, and Alternative 4A was chosen as the preferred option. Therefore, the *adverse effect* resulting from this proposed project will need to be mitigated. We recommend that mitigation measures be developed in consultation with our office and other appropriate consulting parties. These mitigation measures can then be included in the Memorandum of Agreement (MOA) currently being revised by your office. We will provide further comments as mitigation plans are developed.

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

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/BMR



U.S. Department
of Transportation

**Federal Highway
Administration**

West Virginia Division

November 28, 2017

Geary Plaza, Suite 200
700 Washington Street, East
Charleston, West Virginia 25301
Phone (304) 347-5928
Fax (304) 347-5103

IN REPLY REFER TO:

Federal Project NH-0340(030)
State Project U219-340-0.00(02)
US 340 Improvement Project
Jefferson County

Ms. Mary Ann Naber
Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F Street NW., Suite 308
Washington, DC 20001-2637

Dear Ms. Naber:

In your letter of August 11, 2017, you advised the Federal Highway Administration (FHWA) of the Advisory Council on Historic Preservation's (Council) intent to participate in the consultation for the subject undertaking. We appreciate the Council's interest in the US 340 Improvement Project and look forward to working with you as we resolve the adverse effects associated with the proposed project. In your letter, you requested additional information to assist the Council with their understanding of the alternatives under consideration, as well as any potential effects the US 340 Improvement Project may have on the Summit Point Battlefield. In response to that request, the following information is enclosed with this letter:

- A PDF copy of the *Architectural Survey Update and Historic Property Boundary Review* (September 2015) which includes descriptions of each of the potentially affected historic properties and the characteristics that qualify each property for inclusion in the National Register of Historic Places;
- A PDF copy of the "Evaluation and Effect Recommendations, Summit Point Battlefield (JF-0738)" letter report dated October 27, 2017 and a PDF copy of the West Virginia Historic Property Inventory Form (HPI form) for the Summit Point Battlefield that will be filed with the West Virginia State Historic Preservation Officer (SHPO);
- A PDF copy of the letter from SHPO that concurs with the Summit Point Battlefield eligibility and effects recommendations; and
- A PDF copy of the revised draft Memorandum of Agreement (MOA) that contains additional stipulations to mitigate the adverse effect of the proposed project on the Summit Point Battlefield.

The information regarding the effects on historic properties associated with each of the alternatives carried forward (Alternatives 4, 4A and 4B) can be found in Sections IV and V of the Draft

an electronic copy of the DSEIS can be obtained from the West Virginia Department of Transportation, Division of Highways (WVDOH) website:
<http://transportation.wv.gov/highways/engineering/comment/closed/us340/Pages/default.aspx>.
Please refer to the following subsections, pages, and associated exhibits for this information:

- Section IV.B, Historic and Archaeological Resources: pages IV-16 through IV-31
- Section IV.C.5.b, Visual Impacts: pages IV-48 through IV-55
- Section V, Section 4(f) Evaluation: pages V-1 through V-24

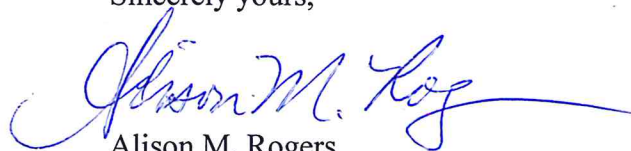
The DSEIS does not fully address mitigation for the effects of the undertaking on historic properties because FHWA and WVDOH wanted to give the public and interested parties an additional opportunity during the DSEIS comment period to provide input on the effects and/or suggestions on how to mitigate the adverse effects. FHWA and WVDOH received comments from the public regarding the project's impacts to various resources, but we did not receive any suggestions on how to mitigate the adverse effects to historic properties. However, the Jefferson County Historic Landmark Commission (JCHLC) provided mitigation suggestions in their letter of June 26, 2017. FHWA and WVDOH agreed to most of the JCHLC's suggestions and incorporated them into a draft MOA. Follow up conversations with the JCHLC indicate that we have addressed their comments and the meeting they suggested in their letter is not necessary at this time. A PDF copy of the JCHLC's June 26th letter and a PDF copy of the draft MOA were included in our July 31, 2017 submission to the Council.

FHWA and WVDOH have determined that the Summit Point Battlefield is eligible for inclusion in the National Register of Historic Places. The proposed US 340 Improvement Project is located within one of the Battlefield's travel corridors; therefore, the proposed project will have an adverse effect to the Summit Point Battlefield. SHPO concurred with the eligibility and effects determinations on November 2, 2017. We have revised the draft MOA to add the following mitigation items to address the project's effects to the Summit Point Battlefield:

- FHWA and WVDOH will work with the JCHLC to develop a historic driving tour brochure that maps the historic resources, including the Summit Point Battlefield, along the US 340 corridor; and
- FHWA, SHPO and WVDOH will coordinate with the JCHLC on their Geoexplorer Project to develop and add a Geographic Information Systems (GIS) layer that documents the historic agricultural resources within Jefferson County.

Should you have any questions regarding the enclosed information or have difficulty accessing the DSEIS, please contact me at (304) 347-5436 or via e-mail at alison.rogers@dot.gov. Thank you for your attention to this matter.

Sincerely yours,



Alison M. Rogers
Environmental Protection Specialist

Enclosures



Preserving America's Heritage

December 28, 2017

Ms. Alison M. Rogers
Environmental Protection Specialist
Federal Highway Administration
West Virginia Division
Geary Plaza, Suite 200
700 Washington Street, East
Charleston, WV 25301

Ref: *Draft MOA (November 2017) for US 340 Improvement Project
Jefferson County, West Virginia*

Dear Ms. Rogers:

On November 28, 2017, the Advisory Council on Historic Preservation (ACHP) received your email conveying additional information and an updated draft Memorandum of Agreement (MOA) regarding the referenced project. The project has been developed in cooperation with the West Virginia Department of Highways (WVDOH) and proposed for funding by the Federal Highway Administration (FHWA). Therefore, the project is subject to Section 106 of the National Historic Preservation Act and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800). Based on your prior submission for the project, the ACHP is participating in consultation to develop an MOA for the project.

The ACHP has concluded its review of the additional information provided, particularly the assessment of eligibility and project impacts on the Summit Point Battlefield. We believe that the revised draft MOA submitted substantially addresses the project effects to historic properties; however, the agreement requires several edits and revisions before the ACHP would be prepared to execute it. As such, we request that the parties address the following comments and make the necessary revisions, as appropriate.

- The first mention of the Jefferson County Historic Landmarks Commission (JCHLC) in the preamble should include a definition of the acronym that will be used subsequently in the MOA in referring to the organization.
- Because the JCHLC has a role to play in carrying out the stipulations, please add a Whereas clause indicating that they have participated in the consultation and are being invited to sign the MOA as a signatory.
- Because the WVDOH also has a role to play in carrying out the stipulated actions, please add a Whereas clause to indicate that WVDOH has participated in the consultation and has been invited to sign the MOA as a signatory.
- The final Whereas clause should indicate that the ACHP has elected to participate in the consultation for the project and is a signatory to the MOA.
- Stipulations I, II, and III may be grouped together as one, but should include additional details regarding preparation of a workplan by JCHLC, timing, and a process for coordination and approval of the final products.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637
Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov

- Stipulations IV, V, and VI should clarify who will be responsible for developing the information and providing the final products to the recipients identified.
- The final sentence in Stipulation VII pertaining to Stipulations I, II, and III should be moved from this location and incorporated into the pertinent stipulations.
- The JCHLC should be listed as an invited signatory indicating their agreement to receive the funding and develop the products stipulated.

Following review of any other comments received from consulting parties, FHWA should revise the draft MOA and provide the updated draft to all consulting parties. If there are questions about our comments or you wish to schedule a follow-up teleconference to discuss any outstanding issues, please contact Sarah Stokely at 202-517-0224 or via e-mail at sstokely@achp.gov.

We appreciate the opportunity to provide our comments and look forward to working with you to finalize the MOA for the project.

Sincerely,



jd Charlene Dwin Vaughn, AICP
Assistant Director
Office of Federal Agency Programs
Federal Permitting, Licensing, and Assistance Section



U.S. Department
of Transportation

**Federal Highway
Administration**

West Virginia Division

April 27, 2018

Geary Plaza, Suite 200
700 Washington Street, East
Charleston, West Virginia 25301
Phone (304) 347-5928
Fax (304) 347-5103

IN REPLY REFER TO:

Federal Project NH-0340(030)
State Project U219-340-0.00(02)
US 340 Improvement Project
Jefferson County

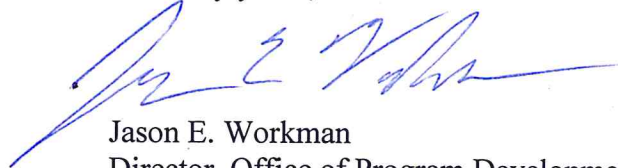
Ms. Sarah Stokely
Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F Street NW., Suite 308
Washington, DC 20001-2637

Dear Ms. Stokely:

In your letter of December 28, 2017, you requested that revisions be made to the revised draft Memorandum of Agreement (MOA) that was sent to you on November 28, 2017 for the above referenced project. The draft MOA has been revised based on your comments and signed by all consulting parties. The MOA is enclosed for your signature.

Should you have any questions regarding the enclosed information, please contact me at (304) 347-5271 or via e-mail at jason.workman@dot.gov. Thank you for your attention to this matter.

Sincerely yours,



Jason E. Workman
Director, Office of Program Development

Enclosures

**MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE WEST VIRGINIA STATE HISTORIC PRESERVATION OFFICER, THE WEST
VIRGINIA DIVISION OF HIGHWAYS, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**REGARDING IMPLEMENTATION OF THE US 340 IMPROVEMENT PROJECT
VA LINE TO CHARLES TOWN BYPASS
STATE PROJECT #U219-340-0.00(02)
FEDERAL PROJECT #NH-0340(030)
JEFFERSON COUNTY, WEST VIRGINIA
JANUARY 2018**

WHEREAS, the Federal Highway Administration (FHWA), in cooperation with the West Virginia Division of Highways (WVDOH), proposes to improve the existing two-lane section of US 340 from the existing four-lane section just south of the WV/VA state line in Clarke County, Virginia to the existing four-lane section of the Charles Town Bypass in Jefferson County, West Virginia, hereinafter referred to as the Project. The improvements will address traffic operations and improve safety deficiencies along the existing facility; and

WHEREAS, the FHWA has defined the undertaking's area of potential effects (APE) located along the US 340 Corridor, which runs north-south through the county (see attached map); and

WHEREAS, the FHWA has determined that the Project will have an adverse effect upon the Kabletown Rural Historic District, the Village of Rippon Historic District, the Bullskin Run Historic District, Olive Boy Farm, Glenwood, Wayside Farm, Byrdland, Straithmore, and The Summit Point Battlefield, properties on or eligible for the National Register of Historic Places (NRHP); and

WHEREAS, the FHWA has consulted with the West Virginia State Historic Preservation Officer (WVSHPO) pursuant to 36 CFR Part 800 Implementing Section 106 of the National Historic Preservation Act; (54 U.S.C. § 306108); and

WHEREAS, the FHWA has consulted with Federally-recognized Indian tribes with ancestral lands in West Virginia in a manner consistent with WVDOT's Tribal Consultation Guidance; and

WHEREAS, the WVDOH has participated in the consultation and is an invited signatory to this Memorandum of Agreement (MOA); and

WHEREAS, the WVDOH has contacted the Preservation Alliance of West Virginia, Jefferson County Historical Society, Jefferson County Historic Landmarks

Commission (JCHLC), and the Charles Town Historic Landmarks Commission; and the JCHLC responded to the letter with requested mitigation items; and

WHEREAS, the JCHLC has participated in the consultation and is an invited signatory to the MOA and will be responsible for carrying out stipulated actions; and

WHEREAS, the WVDOH has eliminated alternatives from further consideration that are located further away from existing US 340 and bisect historic districts and historic properties that will be directly affected; and

WHEREAS, the WVDOH evaluated multiple alignments to avoid or minimize the impacts to the historic resources along the US 340 Improvement Project. Several public meetings/hearings were held to receive input on all the alignments; and

WHEREAS, in accordance with 36 CFR § 800.6 (a) (1), the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 CFR § 800.6 (a) (1) (iii) and is a signatory to the MOA;

NOW, THEREFORE, the FHWA, the WVSHPO, the WVDOH, and the ACHP agree that the undertaking will be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

STIPULATIONS

The FHWA with the assistance of WVDOH shall ensure that the following stipulations are carried out:

US 340 Improvement Project

- I. Within 90 days of execution of this MOA, JCHLC shall submit a workplan to WVDOH for the following mitigation items:
 - A. The WVDOH will provide \$50,000 to the JCHLC for completion of National Register of Historic Places nomination forms for the following properties: Wayside Farm, Olive Boy Farm, Byrdland, and the Village of Rippon Historic District. The JCHLC will work with the WVSHPO's National Register Survey Coordinator on the nomination forms.
 - B. The WVDOH will provide \$3,000 to the JCHLC to develop an oral history collection project to record and archive the recollections of the residents associated with the historic properties in the project area. The oral history collection will be submitted to the WVDOH and the WVSHPO within 6 months after the project is complete.

- C. The WVDOH will provide \$3,000 to the JCHLC for interpretive historic signs documenting the history of the local area. These signs will be installed in appropriate publicly accessible locations. The WVSHPO will be given the opportunity to review all educational materials developed for this stipulation.

Once the workplan has been approved WVDOH will distribute the funds to the JCHLC.

- II. The WVDOH will coordinate with the JCHLC and the WVSHPO to develop a historic driving tour brochure, mapping the historic resources and the Summit Point Battlefield along the US 340 corridor. This will be similar to the John Brown Trail on the JCHLC website. The WVDOH will be responsible for development and providing all the information to the Civil War Trust and WV Tourism.
- III. The WVDOH and the WVSHPO will coordinate with the JCHLC on their WV Geoexplorer Project and will develop a GIS layer that documents the historic agriculture resources within Jefferson County. The WVDOH will be responsible for development of the GIS and it will be added to the WVDOH and JCHLC's website.
- IV. The historic area of the US 340 Improvement Project alignment will be featured on a History Through Highways website showcasing historic farmlands and districts along our highway project. This information will be transmitted by the WVDOH to Dr. David Trowbridge at Marshall University to be included in the Clio mobile application which is an educational website that guides the public to thousands of historical and cultural sites in the United States.

V. Duration

This MOA will expire if its stipulations are not carried out within five (5) years from the date of its execution. At such time, and prior to work continuing on the undertaking, the FHWA shall either (a) execute an MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. Prior to such time, FHWA may consult with other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation XI below. FHWA shall notify the signatories as to the course of action it will pursue.

VI. Post-Review Discoveries

If any unanticipated discoveries of historic properties or archaeological sites, including human burial sites and/or skeletal remains, are encountered during the implementation of this undertaking, work shall be suspended in the area of the discovery until the WVDOH has developed and implemented an appropriate treatment plan in consultation with the WVSHPO pursuant to 36 CFR § 800.13(b).

VII. Monitoring and Reporting

Each year following the execution of this MOA until it expires or is terminated, FHWA shall provide all parties to this MOA a summary report detailing work carried out pursuant to its terms. Such report shall include any scheduling changes proposed, any

problems encountered, and any disputes and objections received in FHWA's efforts to carry out the terms of this MOA. Following execution of this MOA, FHWA will distribute the summary report to all the signatories on or before January 31st of each year for the duration of the agreement. The first summary report will be distributed on or before January 31, 2019.

VIII. Dispute Resolution

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.
- C. FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

IX. Amendments

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

X. Termination

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation IX, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA must either (a) execute a MOA pursuant to 36 CFR § 800.6, or (b) request, take into

account, and respond to the comments of the ACHP under 36 CFR § 800.7. FHWA shall notify the signatories as to the course of action it will pursue.

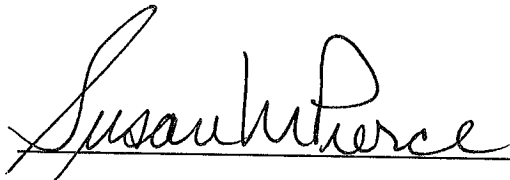
EXECUTION of the Memorandum of Agreement by the FHWA, WVSHPO, ACHP, WVDOH, and JCHLC, and implementation of its terms evidence that the FHWA has afforded the ACHP an opportunity to comment on the US 340 Improvement Project and its effects on historic properties, and that the FHWA has taken into account the effects of the undertaking on the historic properties.

Signatories:




Edward S. Stephen
Division Administrator
Federal Highway Administration, West Virginia Division

4/25/18
Date



Susan M. Pierce
Deputy State Historic Preservation Officer
West Virginia Division of Culture and History


2-2-2018
Date



John M. Fowler
Executive Director
Advisory Council on Historic Preservation

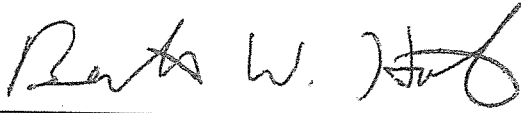
6/27/18
Date

Invited Signatories:



Thomas J. Smith
Commissioner
West Virginia Department of Transportation, Division of Highways

2-26-2018
Date



Bennett Horter
Commissioner
Jefferson County Historic Landmarks Commission

2/28/2018

Date