APPENDIX A:

LETTER OF CONCURRENCE, DESHPO

STATE OF DELAWARE
DEPARTMENT OF STATE
DIVISION OF HISTORICAL AND CULTURAL AFFAIRS
HISTORIC PRESERVATION OFFICE
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Mike Petruglia

November 2, 1999

Mr. Joseph T. Wutka, Asst. Director
Division of Planning
Delaware Department of Transportation
P.O. Box 778
800 Bay Road
Dover, DE 19903

RE: Rte. 13 Relief Rte. (SR 1), Smyrna to Pine Tree Corners, and PNC Bank Wetland Mitigation area; Determination of Eligibility and Data Recovery Proposal for the Frederick Lodge Site Complex (7NC-J-97, 98, 99) and Site 7NC-J-224

Dear Mr. Wutka:

As we informed your staff via email, we have completed review of the revised Determination of Eligibility and Data Recovery Plan for the Frederick Lodge Site Complex, which includes several archaeological sites (7NC-97, 98, 99). Another site, 7NC-J-224, which partially overlaps the Site Complex, is also partially within the proposed project area known as the PNC Bank Wetland Mitigation area. We would like to offer the following comments on the sites and the documents.

National Register Eligibility:
We concur that the Native American component of the Frederick Lodge Site Complex is eligible for listing in the National Register of Historic Places. The revised Determination of Eligibility addresses many of our previous comments (memo dated October 4, 1999). However, we suggest that a few, minor technical revisions be undertaken, as indicated in the attached list.

We also concur that, based on the information that is currently available, the historic component of the Site Complex is not eligible for listing in the National Register. Evaluation of the other historic site on the property, 7NC-J-224, is incomplete. However, DelDOT has indicated that it will avoid this site. No further evaluation of 7NC-J-224 will be necessary, provided that DelDOT takes appropriate steps to protect the site from adjacent construction activities. Such

steps should, minimally, include demarcating the area on project plans as a "Do Not Disturb" area, and placing fencing around the site area. In the event that FHWA and DelDOT require use of the area of Site 7NC-J-224, they must reinitiate consultation with the DE SHPO on the evaluation of, and effects on the site.

Effects on the Frederick Lodge Site Complex:
The proposed construction of this segment of the SR 1 project will include both highway and wetland mitigation facilities, covering a very large area. The project will have an Adverse Effect on the Frederick Lodge Site Complex, as the work will result in physical destruction of the sites. In our meeting of August 27, 1999, we requested that DelDOT and FHWA consider ways in which the effects could be avoided or minimized. We were informed that, aside from the above-described avoidance of 7NC-J-224, no other avoidance or minimization of effects on sites in this area would be feasible. We asked that DelDOT provide information supporting this determination. Your letter of September 7, 1999, explained the complexity of the proposed uses, both short-term and long-term, of the property, and how those uses are an integral part of the project plans. We appreciate your explanation, and understand why avoidance or minimization of effects on the Site Complex is not considered feasible. We agree that a data recovery plan must be implemented to mitigate for the effects. However, we take issue with your letter's suggestion that our request for a meaningful discussion on avoidance of National Register eligible sites is due to the recent changes in the regulations implementing Section 106 of the National Historic Preservation Act. Discussion of avoidance and minimization of Adverse Effects on such sites is a requirement of our Memorandum of Agreement for the SR 1 project, which was executed in 1987.

Mitigation of Effects:
The revised Data Recovery Plan outlines an approach to recover the significant information contained in the Frederick Lodge Site Complex. Based on consultation with DelDOT and Parsons, we approve the basic approach to the recovery, and concur that field work may begin. However, as expressed in our recent e-mail, we recommend that the timing of some proposed aspects of the plan be adjusted. This adjustment would allow for greater flexibility, and ensure that decisions about the need for or direction of additional work will be based on an appropriate level of information. Our specific comments are outlined in the attached list. Our approval is conditioned on these comments being addressed. We request that the final revised Data Recovery Plan be submitted within 15 days of the consultant's receipt of these comments.

Thank you for your consideration of these comments. If you or Parsons have any questions or need clarification of our comments, please do not hesitate to contact me.

Sincerely,

Gwenyth A. Davis
Archaeologist

Enclosure

cc: Robert Kleinburd, Federal Highway Administration
Robert McCleary, SR 1 Project Manager, DelDOT
Kevin Cunningham, Archaeologist, Planning, DelDOT
Kenneth Clark, Sr., Chief, Nanticoke Indian Association
Michael Petraglia, Principal Investigator, Parsons Engineering Science

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