

ENCLOSURE 1



STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**

800 BAY ROAD  
P.O. Box 778  
DOVER, DELAWARE 19903

NATHAN HAYWARD III  
SECRETARY

January 8, 2004

James N. Boyer, Ph. D.  
Biologist, Regulatory Branch  
US Army Corps of Engineers, Phila. District  
Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390

**Subject: Follow-Up: Delegation to Applicant for Proposed Valley Road Park Involving Section 106 Compliance for Federally Permitted Actions**

Dear Dr. Boyer:

Earlier this past spring, our Department staff had on site visit with you and other officials from DNREC, SHPO, and Duffield Associates, Inc. regarding future US Army Corps of Engineers (ACOE) permit application (and DNREC) for a newly acquired property area slated to be improved by DeIDOT for a park. This letter serves as a follow-up to that field meeting with you and other officials. For our permit referencing needs, the park is unnamed at this time, but should be referred to as "Valley Road Park" until further notice. Our Department is working with the community to nominate an official park name.

First, we like to thank you for your time and efforts thus far. We appreciate your input and past comments that were incorporated in the preliminary conceptual design. As you recall, the field agency walk over was May 29, 2003. Additionally, the JPP presentation was held at DNREC this past September. During the JPP overview, various plan revisions were presented which reflected your (and others) earlier comments on why specific wetland areas might be impacted for construction improvements to the proposed park. Adjustments in preliminary design, which minimize impacts to wetlands and forested areas, were undertaken. Enclosed are our revised plans reflecting the current site plan and overall park proposal. We have highlighted a few things that may be relevant towards future permit compliance. As you will see, the plan reflects the wetland impacts and wetland enhancement measures, regional/local stormwater management needs, hydrologic needs, open space recreational proposals, and environmental restoration/reforestation of the area.

However, the main reason why this letter is written is to notify the US Army Corps of Engineers that this federally permitted action is subject to Section 106 compliance under National Historic Preservation Act of 1966 as amended. During the field review back in May, Gwen Davis from the SHPO and Michael Hahn from my section discussed and agreed with you the coordination protocol that has been typically undertaken between our agencies when a federal permit is necessary.

As you know, the Corps of Engineers will ensure that the applicant (in this case, DeIDOT) obligates all pre-conditions of the anticipated permit before issuing final approval of a wetlands



permit. One of those pre-conditions is successful coordination with the SHPO for Section 106 compliance for federally funded, licensed, or permitted projects.

As such, it is my understanding that the following steps may be necessary:

1) Initiation: Unless your agency differs in delegation, this letter serves as an official project notification and initiation to the SHPO that this project anticipates a federal wetlands permit subject to Section 106 review from the SHPO. Draft plans illustrating the proposed federal action are attached for the ACOE and the SHPO. These plans detail the proposed park's components and all its site amenities. It is our understanding that the ACOE will delineate the permit area in consultation with the SHPO. Based on revised preliminary actions, this area might be all wetland impacted areas as well as the proposed stormwater and wetland mitigation areas. We trust that you will inform us of this particular area. If need be, we will work with you to confirm this area.

2) Compliance Coordination: Following confirming the Section 106 applicable permit area, it has been understood that with most typical DelDOT state funded projects involving a ACOE permit, our Department can and takes the lead initiative in coordination with the SHPO for Section 106 compliance. With delegation assured, my staff can keep you involved in all relevant correspondences or milestones achieved in the Section 106 process. Ultimately, it is expected that your agency will need a letter from the SHPO indicating that Section 106 compliance is complete. Our goal is to provide you that information as a pre-condition of this future permit.

3) Cultural Resource Information: At this stage my staff is gathering existing cultural resource background information of the project area. Several studies of the project area have been undertaken. We will coordinate this information with the SHPO to determine what future steps might be needed to bring successful closure or potential mitigation of adverse effect to this project.

If there are any questions at this stage involving Section 106 procedures, please contact Michael C. Hahn of my section (302-760-2131).

Sincerely,



Therese M. Fulmer  
Manager, Environmental Studies

TMF/mch  
Attachment  
cc:

Carloann Wicks, Chief Engineer  
Robert Taylor, Assistant Director, Engineering Support  
Marc Cote, Project Engineer, North II Team - with copy  
Joy Ford, Environmental Studies  
Michael Hahn, Environmental Studies  
Kevin Cunningham, Environmental Studies  
Frank Cianfrani, ACOE, Chief Regulatory Branch  
Daniel Griffith, Director, Division of Historic and Cultural Affairs  
Gwen Davis, DE SHPO - with copy  
Joanne Haughey, DNREC - with copy  
Jeff Bross, Duffield Associates, Inc.

File