

APPENDIX

List of Contributors

This Environmental Assessment (EA) was prepared by DeIDOT with FHWA, DNREC, ACOE, EPA, U.S. Fish and Wildlife, National Marine Fisheries and the Delaware SHPO participating in the review and commenting on the Draft EA.

The following Federal and State agency staff and consultants have participated in and provided a significant role in the administration and direction of the I-95/SR 1 Interchange/I-95 Turnpike Mainline project.

Federal Highway Administration

Robert Kleinburd

U.S. Environmental Protection

Agency

Art Spingarn

Jim Butch

Kevin Magerr

National Marine Fisheries

Tim Goodger

U.S. Army Corps of Engineers

Jackie Winkler

Richard Hassel

U.S. Fish and Wildlife Service

Robert Zepp

Delaware State Historic Preservation Office

Daniel Griffith

Gwen Davis

Delaware Department of Natural Resources and Environmental Control

Joanne Haughey

Karen Bennett

Delaware Department of Transportation

Terry Fulmer

Darren O'Neill

Michael Hahn

Michael A. Angelo

Joy Ford

Charles Altevogt

Pam Steinebach

Rummel, Klepper & Kahl, LLP

Bill Hellmann

Brian Bollas

Michele Floam

John Koch

Michael Hogan

Barbara Hoage

Matthew Snare

Joseph Wutka

Tim Deschepper

Nancy Bergeron

Greg Siegner

Sayed Sadaat

Kevin Hughes

Helen German

Robert Dunning

Erin North

Erron Ramsey

List of Technical Reports

Delaware Department of Transportation and Rummel, Klepper & Kahl, LLP. July 10, 2003: *Purpose and Need, I-95/SR 1 Interchange/Turnpike Mainline Project*

Delaware Department of Transportation and Rummel, Klepper & Kahl, LLP. October 9, 2003: *Alternatives Retained for Detailed Study, I-95/SR 1 Interchange/Turnpike Mainline Project*

John Milner Associates, Inc. March 2004: *I-95/Delaware Turnpike Project; New Castle County, Delaware; Historic Architectural Investigation*

John Milner Associates, Inc. October 2004: *I-95/Delaware Turnpike Project; New Castle County, Delaware; Phase 1 Archaeological Survey*

Rummel, Klepper & Kahl, LLP. September 2003: *Delaware Turnpike Improvements Wetland Investigation Report For: Delaware Turnpike Improvements SR 1 Interchange and Mainline Between SR 1 Interchange to SR 141 New Castle County, Delaware*

Rummel, Klepper & Kahl, LLP. April 2004: *Delaware Turnpike Improvements Nontidal/Tidal Wetland Mitigation Site Search Report*

Rummel, Klepper & Kahl, LLP. September 2004: *Final Wetland Delineation Maps*

The Wilson T. Ballard Company. January 2004: *I-95 Delaware Turnpike from MD/DE Line to SR 141; New Castle County, Delaware; Air Quality Analysis*

Agency Correspondence

RECEIVED

DEC 03 2001



RUMMEL, KLEPPER & KAHL, LLP

DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
DIVISION OF FISH & WILDLIFE

NATURAL HERITAGE PROGRAM

4876 HAY POINT LANDING ROAD
SMYRNA, DELAWARE 19977

TELEPHONE: (302) 653-2880
FAX: (302) 653-3431

Ms. Michele J. Floam
Rummel, Klepper & Kahl, LLP
81 Mosher Street
Baltimore, MD 21217

November 29, 2001

Dear Ms. Floam:

Thank you for soliciting the DE Natural Heritage Program for Federally listed (or proposed) rare, threatened, or endangered species, and unique or critical habitats that might occur in the area affected by the Delaware Turnpike (I-95) improvement projects.

Project Area 1

A review of the DNHP Biological and Conservation Database has revealed the following species:

Scientific Name	Common Name	State Rank	Global Rank	Taxon
<i>Sisyrinchium mucronatum</i>	Michaux's blue-eyed grass	S1	G5	Plant
<i>Scleria pauciflora</i>	few-flowered nutrush	S1	G5	Plant
<i>Veronicastrum virginicum</i>	Culver's-root	S1	G4	Plant
<i>Hemidactylium scutatum</i>	Four-toed Salamander	S1	G5	Amphibian

Three plant species state ranked as S1 (1-5 known populations, extremely rare) appear to be within the project boundaries: *Sisyrinchium mucronatum* (Michaux's blue-eyed grass), *Scleria pauciflora* (few-flowered nutrush), and *Veronicastrum virginicum* (Culver's-root). These species occur on the steep banks in old-field habitat adjacent to Interstate 95. The Delaware Natural Heritage Program would like the opportunity to survey the area for these plants to mark them to avoid impacts and/or to relocate them to suitable habitat outside of the construction area. Surveys and relocation efforts need to be conducted during the growing season, and for these species, June to August would be appropriate.

A population of Four-toed Salamander occurs within the project area in Muddy Run. This species is uncommon in Delaware and is especially rare in northern New Castle County. Special efforts should be undertaken to minimize erosion and sedimentation into Muddy Run from construction activities. This can be accomplished by not removing trees and maintaining wooded riparian habitat at least 30 meters on either side of Muddy Run.

Delaware's Good Nature Depends on You!

Enclosed is a map indicating the general location of the rare plants and the critical habitat for the Four-toed Salamander.

Project Area 2

A review of our Biological and Conservation Database has revealed that there are currently no records of Federally listed (or proposed) rare, threatened, or endangered species, and unique or critical habitats along the length of this project site.

Project Area 3

<u>Scientific Name</u>	<u>Common Name</u>	<u>State Rank</u>	<u>Global Rank</u>	<u>Taxon</u>
<i>Haliaeetus leucocephalus</i>	Bald Eagle	S2B, S3N	G4	Bird
<i>Riparia riparia</i>	Bank Swallow	S2B	G5	Bird
<i>Vireo gilvus</i>	Warbling Vireo	S2B	G5	Bird
<i>Regina septemvittata</i>	Queen snake	S1	G5	Reptile

There is a Bald Eagle nest site located approximately 1,300 feet from the proposed project area. This nest has been monitored since 1996 and there has been activity at this nest each year since that time. During the 2001 breeding season, adult eagles were seen at the nest but the nest was presumed unused. Though no nesting activity occurred this year, the nesting area retains federal protection. This project could introduce disturbance to the nesting site simply from the presence of humans and machinery. Bald Eagle nesting activity is most susceptible to human disturbance during the time period from 15 December to 1 July. The proximity of the project site to the nest may put the project under this time of year restriction. To avoid possible disturbance, work should be conducted from 2 July to 14 December. However, because the Bald Eagle is a federally listed species, you will need to contact the U.S. Fish and Wildlife Service, as any decisions on federally listed species are ultimately their jurisdiction. Questions for USFWS should be directed to Craig Koppie at (410) 573-4534.

The population of Bald Eagles uses the entire Churchman's Marsh area and the forested area to the east to Route 7 and north of I-95 as a foraging area and potential nest site. The other species in the above list could be found anywhere up to 1.5 miles from your project site. The Bank Swallow population would use the marsh and open water areas for feeding on flying insects. Warbling Vireos are neotropical migrant songbirds that would use any forested area around this project site for foraging during spring and autumn migrations and possibly as a nesting area during the summer. Queen snakes prefer forested stream and river habitats and could be found on the tributaries flowing into Churchman's Marsh.

Based on the occurrences of these species in the area of the project, measures should be taken to minimize the impacts to the forested areas around Churchman's Marsh by not removing the trees that provide critical habitat. Enclosed is a map of the most critical habitat for the Bald Eagle and the Warbling Vireo that might be impacted by the proposed project. During our communication on 16 November, 2001 you stated that Churchman's Marsh would not be impacted leading me to conclude that the Bank Swallow and Queen Snake would not likely be affected.

If you have any questions or require additional information, please contact me.

INVOICE - PAYMENT DUE

It is our policy to charge a fee for this environmental review service. Please consider this letter to be an invoice for \$88.50 (\$29.50/hour for a one-hour minimum). Please make payable to and submit to:

DE Division of Fish and Wildlife
89 Kings Hwy.
Dover, DE 19901
ATTN: Carla Cassell-Carter

Sincerely,



Kevin S. Kalasz
Assistant Zoologist

cc: Craig Koppie (Endangered Species Biologist - US Fish and Wildlife Service)
Carla Cassell-Carter (Fish and Wildlife Coordination/Accounting)

19713

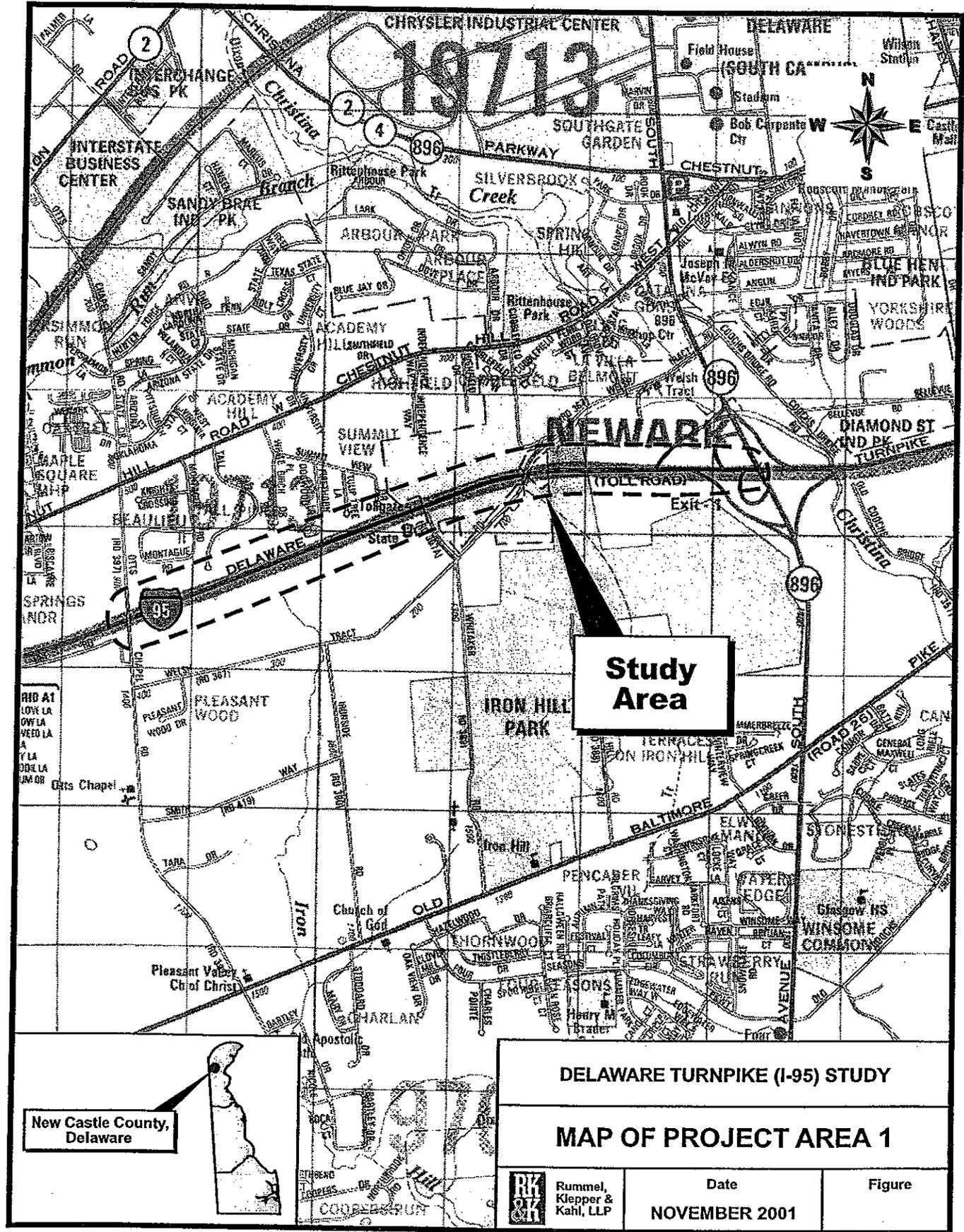


NEWARK

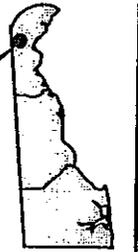
Study Area

DELAWARE TURNPIKE (I-95) STUDY

MAP OF PROJECT AREA 1



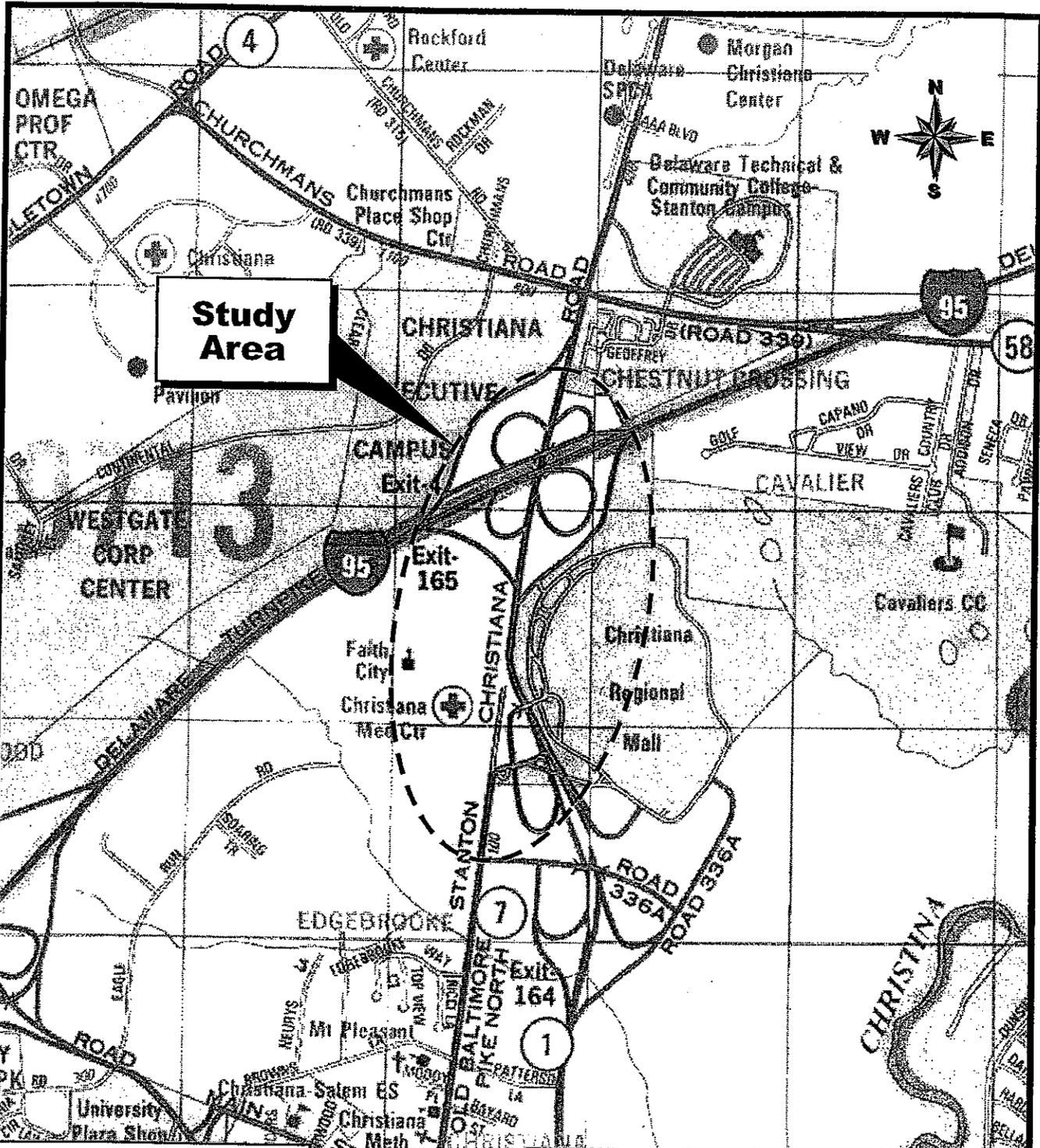
New Castle County, Delaware



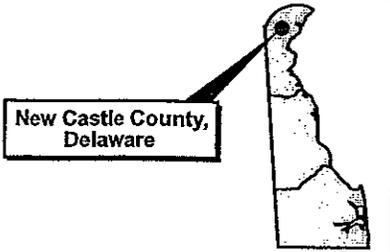
Rummel, Klepper & Kahl, LLP

Date
NOVEMBER 2001

Figure



Study Area



New Castle County, Delaware

DELAWARE TURNPIKE (I-95) STUDY

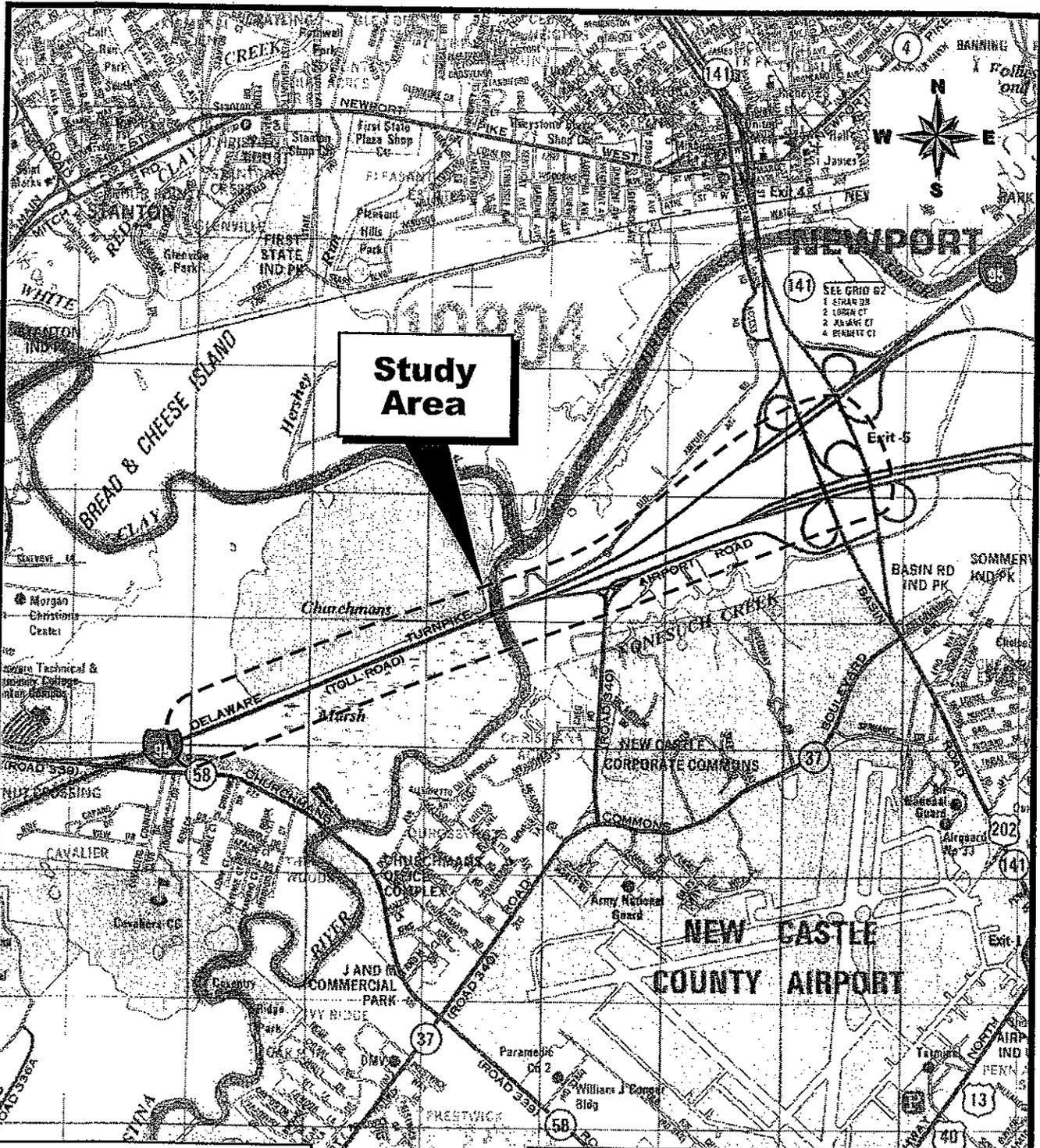
MAP OF PROJECT AREA 2



Rummel, Klepper & Kahl, LLP

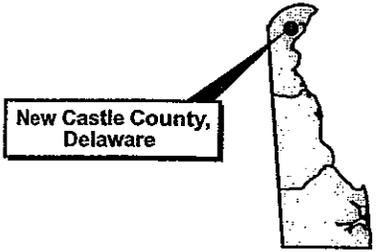
Date
NOVEMBER 2001

Figure



Study Area

SEE GRID G2
 1. LORAN CT
 2. JENNY CT
 4. BERTTT CT



**New Castle County,
 Delaware**

DELAWARE TURNPIKE (I-95) STUDY

MAP OF PROJECT AREA 3



Date
NOVEMBER 2001

Figure



United States Department of the Interior



WKH
MSF
KLM
100-072

FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401

January 16, 2002

JAN 18 2002

Mr. William K. Hellmann
Rummel, Klepper, & Kahl, LLP
81 Mosher Street
Baltimore, Maryland 21217-4250

*RE: Delaware Turnpike Improvements Project
New Castle County, MD*

Dear Mr. Hellman:

This responds to your December 5, 2001, request for information on the presence of species which are federally listed or proposed for listing as endangered or threatened within the above referenced project area. We have reviewed the information you enclosed and are providing comments in accordance with Section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

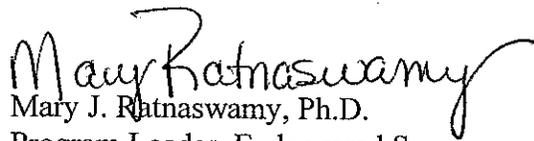
Except for occasional transient individuals, no proposed or federally listed endangered or threatened species are known to exist within the project impact area. Therefore, no Biological Assessment or further Section 7 Consultation with the U.S. Fish and Wildlife Service is required. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

This response relates only to federally protected threatened or endangered species under our jurisdiction. For further information on other rare species, you should contact Karen Bennett of the Delaware Natural Heritage Program at (302) 653-2880.

An additional concern of the Service is wetlands protection. The Service's wetlands policy has the interim goal of no overall net loss of Delaware Bay's remaining wetlands, and the long term goal of increasing the quality and quantity of the Basin's wetlands resource base. Because of this policy and the functions and values wetlands perform, the Service recommends avoiding wetland impacts. All wetlands within the project area should be identified, and if construction in wetlands is proposed, the U.S. Army Corps of Engineers, Philadelphia District should be contacted for permit requirements. They can be reached at (215) 656-6726.

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interest in these resources. If you have any questions or need further assistance, please contact Charisa Morris at 410-573-4550.

Sincerely,


Mary J. Ratnaswamy, Ph.D.
Program Leader, Endangered Species

cc: John Brundage, COE, Dover, DE



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401

January 30, 2002

FEB 07 2002

Mr. William K. Hellmann
Rummel, Klepper, & Kahl, LLP
81 Mosher Street
Baltimore, Maryland 21217-4250

RE: Delaware Turnpike Improvements Project: I-95 Toll Plaza Improvements between Otts Chapel Road and Route 896; Christiana Mall Interchange Project (SR1/I-95); Addition of a fifth lane in both the northbound and southbound directions between SR 1 and SR 141, New Castle County, DE

Dear Mr. Hellman:

This responds to your December 30, 2001, request for information on the presence of species which are federally listed or proposed for listing as endangered or threatened within the above referenced project area. We have reviewed the information you enclosed and are providing comments in accordance with Section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

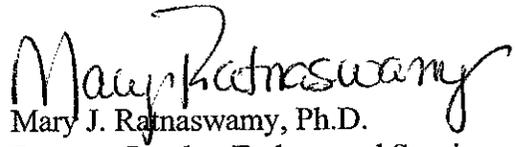
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We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interest in these resources. If you have any questions or need further assistance, please contact Charisa Morris at 410-573-4550.

Sincerely,

A handwritten signature in black ink that reads "Mary Ratnaswamy". The signature is written in a cursive style with a large initial "M".

Mary J. Ratnaswamy, Ph.D.
Program Leader, Endangered Species

cc: John Brundage, COE, Dover, DE



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401

February 22, 2002

FEB 27 2002

Mr. William K. Hellman
Rummel, Klepper, & Kahl, LLP
81 Mosher Street
Baltimore, Maryland 21217-4250

*RE: Delaware Turnpike Improvement Project expansion
New Castle County, DE*

Dear Mr. Hellman:

This responds to your letter, received January 24, 2002, requesting information on the presence of species which are federally listed or proposed for listing as endangered or threatened within the above referenced project area. We have reviewed the information you enclosed and are providing comments in accordance with Section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

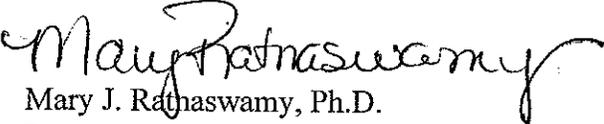
Except for occasional transient individuals, no proposed or federally listed endangered or threatened species are known to exist within the project impact area. Therefore, no Biological Assessment or further Section 7 Consultation with the U.S. Fish and Wildlife Service is required. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

This response relates only to federally protected threatened or endangered species under our jurisdiction. For further information on other rare species, you should contact Karen Bennett of the Delaware Natural Heritage Program at (302) 653-2880.

An additional concern of the Service is wetlands protection. The Service's wetlands policy has the interim goal of no overall net loss of Delaware Bay's remaining wetlands, and the long term goal of increasing the quality and quantity of the Basin's wetlands resource base. Because of this policy and the functions and values wetlands perform, the Service recommends avoiding wetland impacts. All wetlands within the project area should be identified, and if construction in wetlands is proposed, the U.S. Army Corps of Engineers, Philadelphia District should be contacted for permit requirements. They can be reached at (215) 656-6726.

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interest in these resources. If you have any questions or need further assistance, please contact Charisa Morris at 410-573-4550.

Sincerely,

A handwritten signature in cursive script that reads "Mary Rathaswamy". The signature is written in black ink and is positioned above the printed name.

Mary J. Rathaswamy, Ph.D.
Program Supervisor, Endangered Species

cc: John Brundage, COE, Dover, DE



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
DIVISION OF FISH & WILDLIFE
NATURAL HERITAGE PROGRAM
4876 HAY POINT LANDING ROAD
SMYRNA, DELAWARE 19977

TELEPHONE: (302) 653-2880
FAX: (302) 653-3431

August 26, 2002

Kelly Maynard, Environmental Scientist
Rummel, Klepper & Kahl, LLP
81 Mosher Street
Baltimore MD 21217

Re: Delaware Turnpike improvements

Dear Ms. Maynard:

Thank you for contacting the Delaware Natural Heritage Program (DNHP) about information on rare, threatened and endangered species, unique natural communities, and other significant natural resources as they relate to the Delaware Turnpike (I-95) improvements between Otts Chapel Road and SR896 and between SR 1 and SR 141.

In previous correspondence we had indicated possible impacts from this project on bald eagle (*Haliaeetus leucocephalus*), warbling vireo (*Vireo gilvus*), four-toed salamander (*Hemidactylum scutatum*), spotted salamander (*Ambystoma maculatum*), Michaux's blue-eyed grass (*Sisyrinchium mucronatum*), few-flowered nutrush (*Scleria pauciflora*), and culver's-root (*Veronicastrum virginicum*). More specific information on the occurrence of these species in the project area follows:

1. Bald eagle – eagles have sporadically nested, or attempted to nest, at Churchman's Marsh since the early to mid-1990s.
2. Warbling vireo – individuals were observed during breeding season several times in 1980 around Churchman's Marsh. Appropriate habitat is still extant, although more recent surveys for the vireo have not been conducted. After further analysis, we have concluded that this project will probably not have any impact on this species, and further surveys are not warranted.
3. Four-toed salamander – a specimen was collected along Muddy Run adjacent to the eventual route of the turnpike in 1941. It has not been surveyed for since then, but appropriate habitat appears to still be available.
4. Spotted salamander – adults, young and egg masses were observed during several surveys in 1989 at a coastal plain pond adjacent to the Otts Chapel Road overpass over the turnpike. This pond is apparently still intact, although surveys have not been conducted since the original observations.
5. Michaux's blue-eyed grass, few-flowered nutrush, and culver's-root – these species were observed adjacent to the intersection of the turnpike and SR 896 in the course of several surveys in the early to mid-1990s. Appropriate habitat appears to still be intact, although more recent surveys have not been attempted.

Surveys for salamanders need to be conducted in the spring. DNHP zoology staff will likely not be able to schedule such surveys next spring due to staffing limitations. However, we can provide you with a list of approved contractors who may be available. The DNHP botanist will conduct surveys for the plants next spring and summer when they are in flower.

RECEIVED

AUG 30 2002

RUMMEL, KLEPPER & KAHL, LLP

Delaware's Good Nature Depends on You!

OCT-10-2002 THU 02:58 PM WILSON BRIDGE CENTER

FAX NO. 301 686 0000

P. 01



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401



September 27, 2002

Mr. Scott Burroughs, IV
Rummel, Lepper & Kahl
81 Mosher Street
Baltimore, Maryland 21217-4250

Post-It® Fax Note	7671	Date	# of pages ▶ 2
To	KELLY MAYNARD	From	SCOTT BURROUGHS
Co./Dept.	RUK	Co.	
Phone #		Phone #	
Fax #	410 728 2834	Fax #	

Re: Delaware I-95 Turnpike near Churchman's Marsh

Dear Mr. Burroughs:

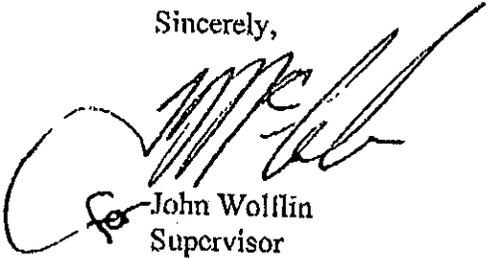
This responds to your design plan submittal of July 25, 2002, and follow-up telephone conversation of August 1, 2002 with Kelly Maynard, regarding your proposed lane expansions to the Delaware Turnpike (I-95) between SR 1 and SR 141 in New Castle County, Delaware. As described, construction activities for the placement of an additional lane for the north and south bound portions of the highway "may affect" a nesting pair of federally threatened bald eagles (*Haliaeetus leucocephalus*). We have reviewed the information you enclosed and are providing comments in accordance with Section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*)

The Service normally recommends that a year round buffer of 750 feet remain undisturbed around an eagle's nest to avoid "take" of the eagles. In addition, a "Time-of-Year" restriction has been established from December 15 through June 15 during which construction activities are restricted within a quarter mile of an eagle nest to avoid disturbing nesting eagles and to ensure successful incubation and rearing of young. However, the Service reviews proposed development near nest sites on a case by case basis and we look for reasonable measures to provide protection for the eagles, while allowing projects to proceed.

Normally, any habitat clearing or modification within a distance of 750 feet from the nest tree would be subjected to additional permitting requirements to comply with the "take" prohibitions set forth by Section 9 of the ESA. Although your project does not involve clearing activities within the eagle protection buffer of Churchman's Marsh, a limited portion of the proposed project, specifically the north west portion of the highway, will involve activity just under a quarter-mile, thereby triggering the time-of-year restriction. However, early history of this eagle pair reveals considerable tolerance to human activity. In 1998, the pair selected a nest tree 600 feet from an existing commercial complex and has continued to be successful in producing and fledging young despite close encounters with human activities.

After reviewing your proposal and the biological history of this pair, the Service believes that the project can be completed as described without adversely affecting the eagle pair. If you have any questions or concerns, please contact Craig Koppic of my Endangered Species Branch at 410/573-4534.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Wofflin', is written over a circular stamp or mark.

John Wofflin
Supervisor

cc: Ken Reynolds, Delaware Fish and Wildlife
John Brundage, COE, Dover, DE



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
& ENVIRONMENTAL CONTROL
DIVISION OF FISH AND WILDLIFE
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
DIRECTOR

To: Maureen Morgan - RK&K
From: Craig Shirey - DE Fish and Wildlife
Subject: Delaware Turnpike improvements projects
Date: January 23, 2003

Dear Ms. Morgan:

I found a request for information that you sent to our office during mid-July of this past year. We have had a shuffle of employees due to a retirement which has led to some positions remaining vacant. Unfortunately, your request "fell through the cracks" it would appear. I apologize for this long delay if indeed no response was returned.

If it is not too late, I found some fisheries information concerning the I-95 crossing over the Christina River. The Delaware Division of Fish and Wildlife surveyed the fish community of the Christina River in 1988. One of the sampling stations included the I-95 bridge within the station bounds. Our records indicated that we collected a total of 17 fish species at this station which was dominated by resident species such as Eastern silvery minnow and banded killifish that were common throughout the tidal portion of the drainage. There were no species present at the time which were (or are) considered rare or threatened. Please see the attached table for a complete list of the fishes that were noted at this station.

The Christina River does have a spawning run of anadromous species such as alewife and blueback herring, and the potential for some spawning activity of American shad. Most of the herring spawning grounds are probably located upstream of the construction area in the smaller tributary streams, making this particular section of the river an important corridor for migrating fish. The Division of Fish and Wildlife typically places a work restriction on projects that have the potential of interfering with fish migration during the spawning season. This restriction would begin in late March and continue through May, which would cover the spawning seasons for a variety of important fish species including yellow perch, alewife, blueback herring, and white perch.

RECEIVED

JAN 31 2003

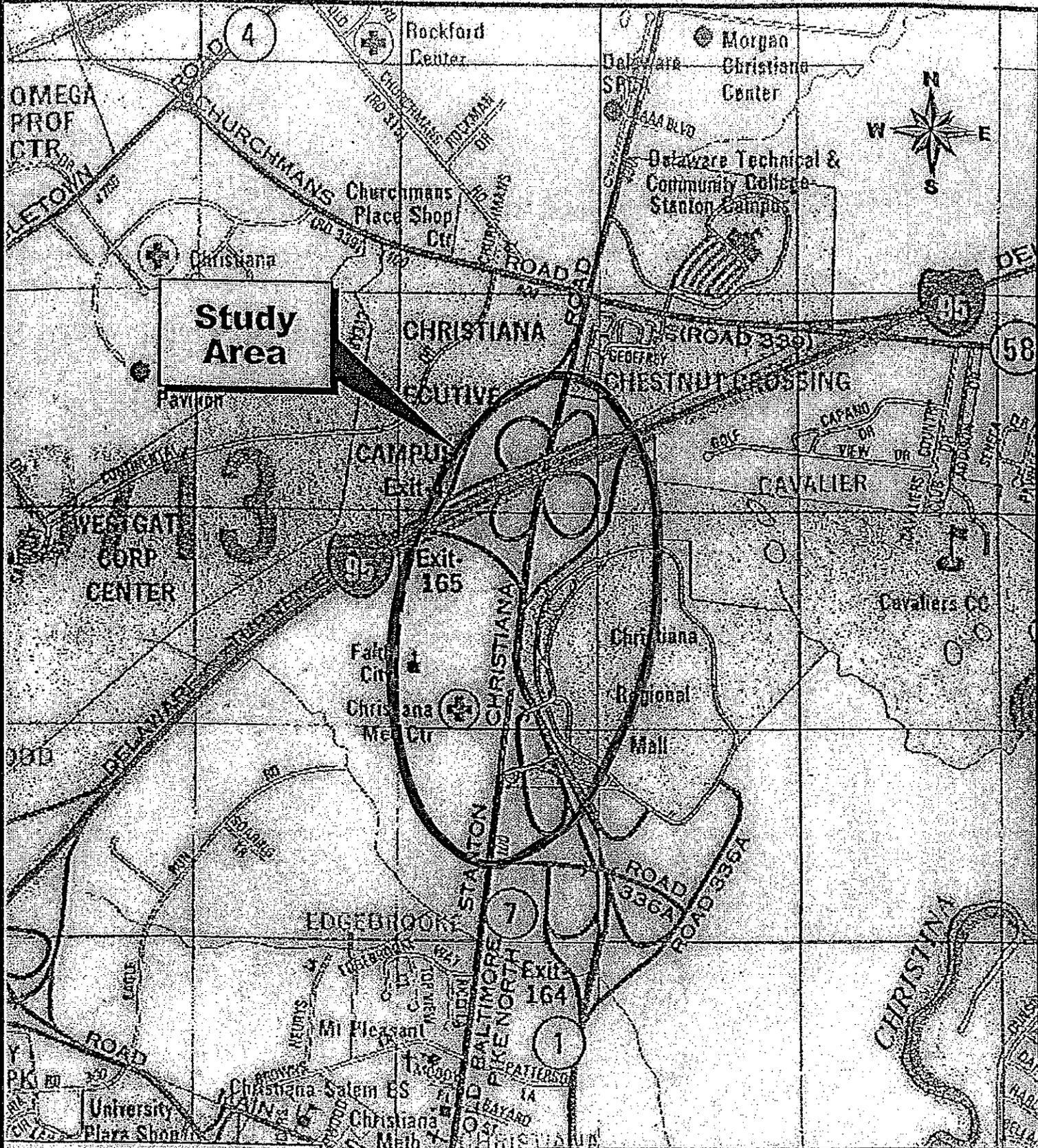
RUMMEL, KLEPPER & KAHL, LLP
YORK, PA

Delaware's good nature depends on you!

List of fish species taken in the Christina River during 1988 in the vicinity of the I-95 bridge.

Species:

Eastern silvery minnow
Banded killifish
White sucker
Spottail shiner
Channel catfish
Brown bullhead catfish
Black crappie
Tessellated darter
Common carp
Golden shiner
Yellow perch
Spotfin shiner
Gizzard shad
Spot
White perch
Atlantic menhaden
Hogchoker



Study Area

DELAWARE TURNPIKE (I-95) STUDY

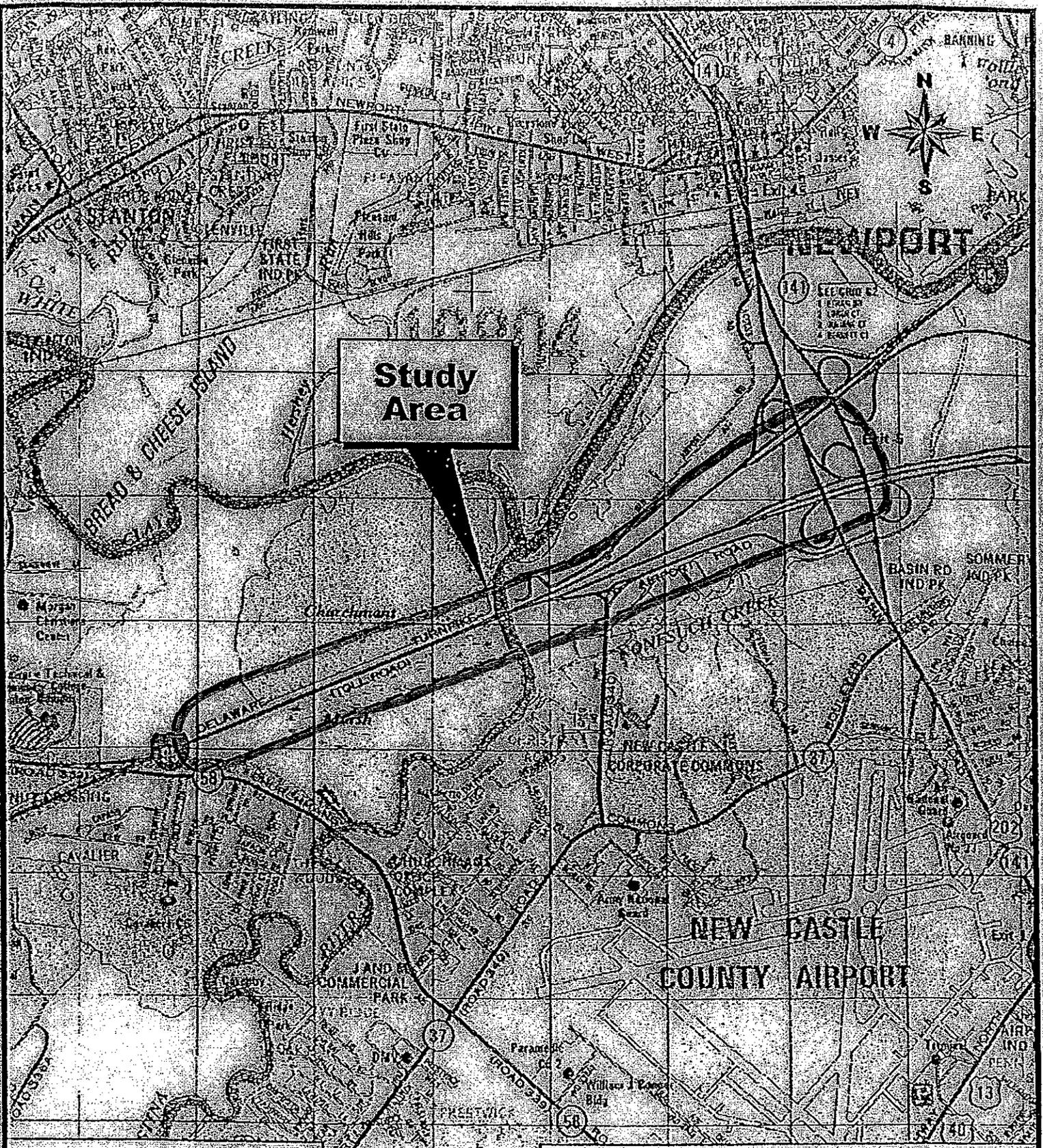
MAP OF PROJECT AREA 1

New Castle County, Delaware

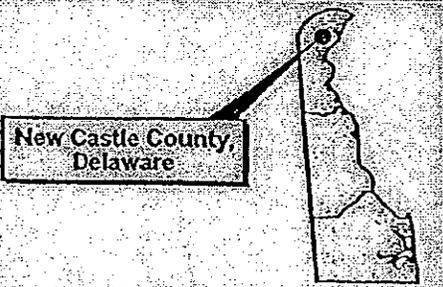
Rummel, Klepper & Kahl, LLP

Date
APRIL 2004

Figure



Study Area



**New Castle County,
Delaware**

DELAWARE TURNPIKE (I-95) STUDY

MAP OF PROJECT AREA 2



Runnel,
Klepper &
Kahl, LLP

Date
APRIL 2004

Figure

U.S. Department of
Homeland Security

United States
Coast Guard



Commander
United States Coast Guard
Fifth Coast Guard District

431 Crawford Street
Portsmouth, VA 23704-5004
Staff Symbol: (obr)
Phone: (757) 398-6222
Fax: (757) 398-6334
Email: WGregory@LANTD5.USCG.mil

16590
25 May 04

RECEIVED

MAY 27 2004

RUMMEL, KLEPPER & KAHL, LLP

Ms. Michele J. Floam
Environmental Manager
Kummel, Klepper & Kahl, LLP
81 Mosher Street
Baltimore, Maryland 21217-4250

Dear Ms. Floam:

We have reviewed the information provided in your letter of April 29, 2004, regarding the proposed widening of the I-95 Bridge across the Christina River in New Castle County, Delaware.

Since the proposed rehabilitation/improvements to the I-95 Bridge across the Christina River will not significantly or materially alter the effect on navigation or the general configuration of the bridge, a Coast Guard bridge permit will not be required for the proposed work. The stipulations we require for such work are as follows:

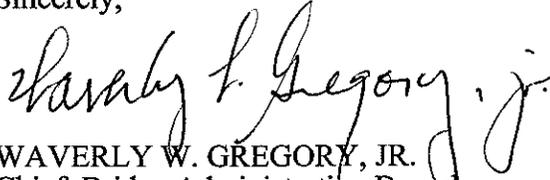
1. You should provide us with a schedule of the dates and times the work will take place in the waterway, and of any phase of the work which may create an obstruction or safety hazard to navigation. We must have this schedule 30 days in advance of the first working day in order for us to review and coordinate the schedule and publish it in our Local Notice to Mariners.
2. Barges that will be in the waterway during the rehabilitation/improvements of the I-95 Bridge must be marked in accordance with Title 33 Code of Federal Regulations, Section 118.95 that outlines temporary marking and lighting requirements. If barge anchors are used, they must be marked by anchor buoys, which should be lighted. Enclosure (1) is a copy of this regulation and is attached for your information. If you should have any questions regarding lights on barges, please contact Mr. John Walters, Chief, Waterways and Planning Management Section, at (757) 398-6230.
3. There shall be no change to the approved horizontal and vertical clearances of the I-95 Bridge across the Christian River.

The fact that a Coast Guard permit is not required does not relieve you of the responsibility for compliance with the requirements of any other Federal, State or local agency who may have jurisdiction over any aspect of the project.

16590
25 May 2004

If you should have any questions regarding this matter, please contact Mr. Waverly W. Gregory, Chief, Bridge Administration Branch, at the above listed phone number of address shown above.

Sincerely,

A handwritten signature in cursive script that reads "Waverly W. Gregory, Jr." The signature is written in dark ink and is positioned above the typed name.

WAVERLY W. GREGORY, JR.
Chief, Bridge Administration Branch
By direction of the Commander
Fifth Coast Guard District



STATE OF DELAWARE
 DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
 DIVISION OF FISH & WILDLIFE
 NATURAL HERITAGE & ENDANGERED SPECIES
 4876 HAY POINT LANDING ROAD
 SMYRNA, DELAWARE 19977

TELEPHONE: (302) 653-2880
 FAX: (302) 653-3431

July 13, 2004

Michele J. Floam
 Rummel, Klepper, & Kahl
 81 Mosher Street
 Baltimore, MD 21217-4250

RE: *Delaware Turnpike Improvements Project*
Christiana Mall Interchange Project
Addition of fifth lane between SR 1 and SR 141
Applicant: Delaware Department of Transportation

Dear Ms. Floam:

Thank you for contacting the Natural Heritage and Endangered Species program about information on rare, threatened and endangered species, unique natural communities, and other significant natural resources as they relate to the above referenced project.

A review of our database indicates that the following species and/or communities at or adjacent to the project site:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Riparia riparia</i>	Bank Swallow	Bird	S2B		G5	
<i>Regina septemvittata</i>	Queen Snake	Reptile	S1		G5	
<i>Vireo gilvus</i>	Warbling Vireo	Bird	S2B		G5	

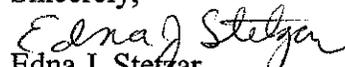
State Rank: S1- extremely rare within the state (typically 5 or fewer occurrences); S2- very rare within the state (6 to 20 occurrences); B - Breeding; N - Nonbreeding; **State Status:** E - endangered, i.e. designated by the Delaware Division of Fish and Wildlife as seriously threatened with extinction in the state; **Global Rank:** G1 - imperiled globally because of extreme rarity (5 or fewer occurrences worldwide); G2 - imperiled globally because of great rarity (6 to 20 occurrences); G3 - either very rare and local throughout its range (21 to 100 occurrences) or found only locally in a restricted range; G4 - apparently secure globally but uncommon in parts of its range; G5 - secure on a global basis but may be uncommon locally; T - variety or subspecies rank; Q - questionable taxonomy; **Federal Status:** LE - endangered, i.e. designated by the U.S. Fish and Wildlife Service as being in danger of extinction throughout its range; LT - threatened, i.e. designated by USFWS as being likely to become endangered in the foreseeable future throughout all or a significant portion of its range; PS - proposed status.

Records of the species listed in the table are from the portion of Churchmans Marsh bisected by I-95 (south of Red Clay Creek and West of Christina River). The Warbling vireo were observed during breeding season several times in 1980 around Churchman's Marsh. Appropriate habitat is still extant, although more recent surveys for the vireo have not been conducted. After further analysis, we have concluded that this project will probably not have any impact on this species, and further surveys are not warranted. Bank Swallow were present in this area of Churchmans Marsh from 1965 to 1980. The most recent survey was conducted in 1996 and no birds were reported, although their present status is unknown. Records of Queen snake are from the early 1990s and further surveys to confirm the presence of and to avoid impacts to Queen snake may be warranted.

In addition, Bald eagle have sporadically nested, or attempted to nest, at Churchman's Marsh since the early to mid-1990s. A nest was located in 2004 during mid-winter surveys in the wooded area just west of the marsh. The project area indicated in the map you sent with your request appears to be outside of the 1,320 foot protective buffer zone and there should be no impact to Bald Eagle. However, if you haven't done so, you may want to contact the U.S. Fish and Wildlife Service (USFWS) because the Bald Eagle is a federally listed species and any decisions on federally listed species are ultimately their jurisdiction. Questions for USFWS should be directed to Craig Koppie at (410) 573-4534.

We are continually updating records on Delaware's rare, threatened and endangered species, unique natural communities and other significant natural resources. If the start of the project is delayed more than a year past the date of this letter, please contact us again for the latest information.

Sincerely,


Edna J. Stetzar
Biologist

(Please see Invoice on next page)



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401

July 13, 2004

RECEIVED

RUMMEL, KLEPPER & KAHL, LLP

Mr. Michael J. Floam
Rummel, Klepper & Kahl, LLP
81 Mosher Street
Baltimore, Maryland 21217-4250

APRIL
&
2004

RE: DelDOT Delaware Turnpike Improvements Project - Christiana Mall Interchange Project & Addition of 5th Lane on SR1 and SR141, New Castle County, DE

Dear Mr. Floam:

This responds to your letter, received April 6, 2004, requesting information on the presence of species which are federally listed or proposed for listing as endangered or threatened within the above referenced project area. We have reviewed the information you enclosed and are providing comments in accordance with Section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

The federally threatened bald eagle (*Haliaeetus leucocephalus*) nests within the vicinity of the project. A nest is located north of I-95, east of Rt. 7 and south of White Clay Creek. For further information regarding activity at this nest, Christopher Heckscher of the Delaware Natural Heritage Program should be contacted at (302) 653-2880 ext 118. Any construction or forest clearing activities within one-quarter mile of an active nest may impact bald eagles. If such impacts may occur, further section 7 consultation with the U.S. Fish and Wildlife Service may be required.

The federally threatened bog turtle (*Clemmys muhlenbergii*) may be present within the project area. Bog turtles primarily inhabit palustrine wetlands comprised of a muddy bottom or shallow water, and tussocks of vegetation. A survey for bog turtle habitat and bog turtles may be appropriate. These surveys should be conducted at any location where the Delaware Natural Heritage and Endangered Species Program recommends them. Upon completion, survey reports should be forwarded to both the Service and the Delaware Natural Heritage and Endangered Species Program for review. If you have not already sent a copy of your request for threatened and endangered species information to the Delaware Natural Heritage and Endangered Species Program, please do so. Ms. Holly Niederriter can provide further details regarding the distribution of bog turtles in the state of Delaware, appropriate survey techniques for determining

the presence of the species, and a list of qualified bog turtle surveyors. Ms. Niederriter may be contacted at (302) 653-2880 ext 121.

Except for occasional transient individuals, no other federally proposed or listed threatened or endangered species are known to exist within the project area. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available this determination may be reconsidered.

This response relates only to federally protected threatened and endangered species under our jurisdiction. For information on the presence of other rare species, you should contact Karen Bennett of the Delaware Natural Heritage and Endangered Species Program at (302) 653-2880.

An additional concern of the Service is wetlands protection. The Service's wetlands policy has the interim goal of no overall net loss of Delaware Bay's remaining wetlands, and the long term goal of increasing the quality and quantity of the Basin's wetlands resource base. Because of this policy and the functions and values wetlands perform, the Service recommends avoiding wetland impacts. All wetlands within the project area should be identified, and if construction in wetlands proposed, the U.S. Army Corps of Engineers, Philadelphia District should be contacted for permit requirements. They can be reached at (215) 656-6728.

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interest in these resources. If you have any questions or need further assistance, please contact me at (410) 573-4537.

Sincerely,



G. Andrew Moser
Acting Program Supervisor, Threatened and Endangered Species

cc: Holly Niederriter, Delaware Natural Heritage Program, Smyrna, DE
Christopher Heckscher, Delaware Natural Heritage Program, Smyrna, DE
John Brundage, U.S. Army Corps of Engineers, Dover, DE



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

PHILADELPHIA DISTRICT, CORPS OF ENGINEERS
WANAMAKER BUILDING, 100 PENN SQUARE EAST
PHILADELPHIA, PENNSYLVANIA 19107-3390

Regulatory Branch
Application Section I

SEP 02 2004

RECEIVED

SEP 13 2004

SUBJECT: CENAP-OP-R-200300700-11

Ms. Therese M. Fulmer
Delaware Department of Transportation
P.O. Box 778
Dover, Delaware 19903

RUMMEL, KLEPPER & KAHL, LLP

Dear Ms. Fulmer:

This is in regard to your request for comments on the April 8, 2004 Draft Environmental Assessment (DEA) for the I-95/SR 1 Interchange, I-95 Turnpike Mainline project in New Castle County, Delaware. We have completed our review of the document and offer the following comments.

1. Under current Federal regulations a Department of the Army permit is required for work or structures in navigable waters of the United States and/or the discharge of dredged or fill material into waters of the United States including wetlands. Given the projected project impacts, it appears that an Individual Department of the Army permit will be required for the project. Your continued early coordination with this office regarding the permit application process will facilitate the processing of that request.

2. This office has previously concurred with the alternatives that were carried forward into the DEA for detailed evaluation. When evaluating any project, the Corps performs an alternatives analysis to determine the Least Environmental Damaging Practicable Alternative (LEDPA). Our regulations state that no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse consequences. An important consideration in our permit decision for this project will be comments received from the general public and Federal and State regulatory and resources agencies concerning the Department of the Army permit application you will need to submit to this office. Therefore, at this time we are not in a position to concur/not concur that your preferred Project Alternative appears to be the LEDPA.

3. Page 3, 1(b) - Does the Delaware Turnpike operate at LOS F at all hours or only during certain hours?

4. Page 15 - Table 3 quantifies the proposed project's impacts to Federally regulated Waters of the United States. These impacts are used repeatedly throughout the document. The numbers should be revised in the Final Environmental Assessment (FEA) to reflect the Corps of Engineers' Jurisdictional Determination verifying the location and extent of Federally regulated Waters of the U. S., including wetlands, within the project area that we anticipate issuing shortly. Further, here, as well as at other locations throughout the document, nontidal Waters of the U.S. are identified as being drainage ditches. Not all Waters of the U.S. within the project study area are drainage ditches: several are perennial streams. Without detailed project plans superimposed on the final Jurisdictional Determination we cannot confirm that this is an accurate representation of the aquatic resources that would be affected by the proposed project alternatives.

5. Page 45, Table 11 - Please clarify whether Table 11 provide averages of water quality data for the entire length of Eagle Run and the Christina River or at certain sampling locations only.

6. Page 46, Paragraph 1 - Revise the first sentence to indicate that a Section 10 of the Rivers and Harbors Act permit is also required from this office and that Water Quality and Coastal Zone Consistency Certifications are also required from DNREC for any work in Waters of the U.S.

7. Page 46, Paragraph 5 - Has DelDOT calculated the amount of material that will need to be borrowed for or wasted from the project impact area and possible sources/disposal sites for the material? If available, that information should be included in the EA.

8. Page 50, Paragraph 3 and Figure 14 - A number of potential stormwater management facilities are identified. At least 7 of them are located in areas that are beyond the scope of the Jurisdictional Determination that was performed by this office for the project. Prior to applying for a Department of the Army permit for the project please submit a jurisdictional determination request for any proposed stormwater facilities, as well as any other work beyond the scope of the approved Jurisdictional Determination for the project.

9. Page 50, Paragraph 6 - Reference is made to a joint permit. Please clarify what permit that is.

10. Page 54, Paragraph 2 - Under Section 10 of the Rivers and Harbors Act this office regulates all work within the Christina River landward to the mean high water mark.

11. Page 54, Paragraph 4 - Under the heading "Consequences", what work do you anticipate will occur within the Christina River and its associated tidal channels?

12. Page 54, Paragraph 5 - Compensatory mitigation will be required for unavoidable, permanent impacts to Section 10 regulated Waters of the U.S.

13. Page 55 - The term "Waters of the United States" includes wetlands and is properly defined at 33 CFR 328.3. This should be corrected throughout the document. Section 404 of the Clean Water Act provides regulatory authority only for the discharge of dredged or fill material into Waters of the U. S.

14. Page 55, Paragraph 2 - Change the term "wetland resources" to "aquatic resources".

15. Figure 16 - The project area on Figure 16 is more extensive than the limits of the Jurisdictional Determination that was done for the project.

16. Page 59, Table 13 - Nontidal waters within the project area are not necessarily "roadside drainage ditches".

17. Page 59, Paragraph 1 - Mitigation requirements for unavoidable impacts to Waters of the U.S. will be determined during the Department of the Army permit application process.

18. Page 60 - Either identify the potential compensatory mitigation sites or reference the document where that information is available.

19. Page 62, Paragraph 2 - Is the "Wooded Area" identified in Paragraph 2 "Forest Stand 2" on Figure 17? If so, it is part of a fragmented woodlot that extends south into all the interchanges below Road A and on to the banks of both Eagle Run and the Christina River.

20. Page 62, Paragraph 4 - Forest Stand 3 represents the edge of an extensive forest adjacent to Churchman's Marsh.

21. Page 63, Paragraph 1 - Forest Stand 5 is a narrow, wooded upland band adjacent to the Delaware Turnpike and developed areas. As such, it is far more limited in terms of the quality of the wildlife habitat it provides when compared to the other forested parcels within the project area.

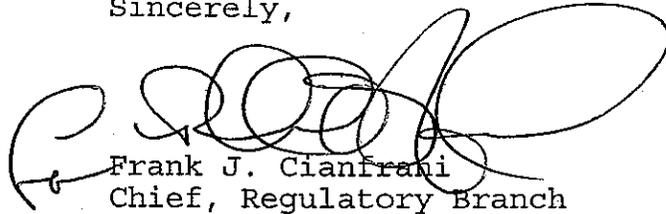
22. Page 63, Paragraph 2 - Unlike Forest Stand 5, Forest Stand 6 is adjacent to an extensive wetland system which enhances its wildlife value.

23. Page 64, Mitigation - This office recommends that you look for opportunities to implement forest mitigation adjacent to required mitigation for unavoidable impacts to Waters of the U.S.

24. Page 66 - In the Aquatic Resources, Consequences Section the EA indicates that the preferred alternative would not impact anadromous fish species. What impact do you anticipate the cofferdam mentioned on Page 67 would have on anadromous fish?

We hope this provides you with useful information. Should you have any questions regarding this matter, please contact Jacqueline Winkler of my office at (215) 656-5833 between the hours of 1:00 and 3:30 p.m. or by writing to the above address.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank J. Cianfrani', written over a printed name and title.

Frank J. Cianfrani
Chief, Regulatory Branch



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
DIVISION OF FISH & WILDLIFE
NATURAL HERITAGE & ENDANGERED SPECIES

4876 HAY POINT LANDING ROAD
SMYRNA, DELAWARE 19977

TELEPHONE: (302) 653-2880
FAX: (302) 653-3431

December 6, 2004

Michele J. Floam
Rummel, Klepper, and Kahl
81 Mosher Street
Baltimore, MD 21217-4250

RECEIVED

DEC 13 2004

RUMMEL, KLEPPER & KAHL, LLP

RE: Bald Eagle Information

*Delaware Turnpike Improvements Project-Christiana Mall Interchange
Project and Addition of 5th Lane SR1 and SR 141, New Castle County
Applicant: Delaware Department of Transportation*

Dear Ms. Floam:

This is in response to your letter dated November 10, 2004 regarding the issue of Bald Eagle nest sites adjacent to the above referenced project. I also spoke with you on the phone soon after I received the letter and we determined that your project area was outside the protection zones around the two Bald Eagle nest sites within Churchmans Marsh. This letter is to confirm our conversation. Therefore, there should be no issues with these two nests and your project. If you have any more questions regarding this issue, I can be reached at (302) 653-2883 ext. 126.

For future reference and clarification:

Bald eagle nesting areas retain protection under the federal Endangered Species Act. All habitat within 750 feet (radius around the nest) is protected; in general, activities within this zone are not permitted during the nesting season (December 15 to July 15), other activities are strictly limited the rest of the year. All habitat within a secondary protection zone, defined as the area from 750 feet to 1,320 feet in radius around the nest, is also protected; in general, activities within this zone are restricted during the nesting season (December 15 to July 1) and some activities are not permitted any time of the year. Determinations of allowable activities are evaluated on a case-by-case basis. Because the Bald Eagle is a federally listed species, any decisions on federally listed species are ultimately under U.S. Fish and Wildlife jurisdiction.

We are continually updating records on Delaware's rare, threatened and endangered species, unique natural communities and other significant natural resources. If the start of the project is delayed more than a year past the date of this letter, please contact us again for the latest information.

Sincerely,



Edna J. Stetzar

Biologist



STATE OF DELAWARE
DIVISION OF HISTORICAL AND CULTURAL AFFAIRS
DELAWARE STATE HISTORICAL PRESERVATION OFFICE
21 THE GREEN, SUITE A
DOVER • DE • 19901-3611

TELEPHONE: (302) 739-5685

FAX: (302) 739-5660

December 29, 2004

Mr. Robert Kleinburd
Realty & Environmental Specialist
Federal Highway Administration
J. Allen Frear Federal Building
300 South New Street
Dover, DE 19904-6726



RE: I-95/Delaware Turnpike Projects: Main Line (SR 1 to SR 141, including the SR 1 Interchange); Finding of No Historic Properties Affected

We have reviewed the documentation, prepared by DelDOT on your agency's behalf, supporting a finding of No Historic Properties for the above-referenced undertaking. We have also reviewed the cultural resource survey reports prepared for the I-95 Projects, which included architectural and archaeological survey within the Area of Potential Effect (APE) for the Main Line/SR 1 Interchange part of the corridor. At this time, we still plan to provide DelDOT with technical comments on the cultural resource survey reports, but we have essentially agreed with the architectural evaluations (except for the I-95 Dedication Monument in the Toll Plaza project area) and that no further archaeological investigation is needed at this time.

Specifically for the Main Line/SR 1 Interchange, as noted in our letter of June 9, 2004, and subsequent correspondence, we concur that the Henry L. Churchman House (CRS # N-1603) is eligible for listing in the National Register of Historic Places. We have also previously concurred (e-mail dated August 5, 2004) that other evaluated architectural properties within the Main Line/SR 1 Interchange APE are not eligible; these eleven properties are as follows: CRS #s N-6783 (Stafford/Lewis-Welden Farm); N-12904; N-12907; N-14166; N-14167; N-14168; N-14169; N-14170; N-14171; N-14172; and N-14173.

Based on field reviews and other information provided by DelDOT, we concur that the Henry L. Churchman House will not be affected by the current undertaking, as currently depicted in the conceptual plans.

The archaeological survey for the Mainline/SR 1 Interchange components of the I-95 Projects was, in consultation with our office, limited to investigation of three areas. Two locations are within or adjacent to known sites, i.e., Site 7NC-E-58 (N-9356), and Site 7NC-E-172 (N-6783; Stafford/Lewis-Welden Farm Site). The third area surveyed was located in a wooded area southwest of the I-95/SR 1 Interchange. Two additional areas known as "Site 1" and "Site 7", planned for wetland mitigation activities, were later subject to limited archaeological survey.

Letter to R. Kleinburd
December 29, 2004
Page 2

Based on the information in the report and field observations, we concur that:

- no significant deposits associated with Site 7NC-E-58 are located within the APE;
- the portion of Site 7NC-E-172 (Stafford/Lewis-Welden) located within the APE is primarily represented by disturbed deposits, and that the farmstead as a whole, formerly found eligible for listing in the National Register of Historic Places, no longer retains integrity sufficient for listing; and
- no archaeological sites were identified in the wooded area southwest of the I-95/SR 1 Interchange, or the wetland mitigation areas Site 1 and Site 7.

Therefore, we concur with the finding of No Historic Properties Affected, noting the conditions cited in DelDOT's documentation, i.e., that FHWA and DelDOT will further consult with the DE SHPO concerning: project plans, as they are developed; any significant changes in the project that could result in a change of the APE and/or effects to resources contained therein; and the locations for disposal of project related material.

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

Sincerely,



Daniel R. Griffith
Director/State Historic Preservation Officer

cc: Richard Hassel, Chief, Application Section I, Phila. District, U.S. Army Corps of Engineers
Carolann Wicks, Director, Division of Transportation Solutions, DelDOT
Therese M. Fulmer, Manager, Environmental Studies, DelDOT
Darren O'Neill, Project Manager, DelDOT
Kevin Cunningham, Archaeologist, DelDOT
Michael C. Hahn, Senior Highway Planner, DelDOT
Stephanie Bruning, Preservation Planner, New Castle County Dept. of Land Use
Joseph T. Wutka, Project Manager, Rummel Klepper & Kahl, LLP

DEPARTMENT OF THE ARMY
PHILADELPHIA DISTRICT CORPS OF ENGINEERS
WAWANAKER BUILDING, 100 PENN SQUARE EAST
PHILADELPHIA, PENNSYLVANIA 19107-0999

JAN 05 2005

Regulatory Branch
Application Section I

SUBJECT: CENAP-OP-R-200300838-11 (JD)

Ms. Therese Fulmer
Delaware Department of Transportation
P.O. Box 778
Dover, Delaware 19903

Dear Ms. Fulmer:

The plans identified on the following page depict the extent of Federal jurisdiction on the subject property. The basis of our determination of jurisdiction is also provided (Enclosure 1).

Pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, a Department of the Army permit is required for work or structures in navigable waters of the United States and the discharge of dredged or fill material into waters of the United States including adjacent and isolated wetlands. Any proposal to perform the above activities within the area of Federal jurisdiction requires the prior approval of this office.

This letter is valid for a period of five (5) years. However, this wetland determination is issued in accordance with current Federal regulations and is based upon the existing site conditions and information provided by you in your application. This office reserves the right to reevaluate and modify the jurisdictional determination at any time should the existing site conditions or Federal regulations change, or should the information provided by you prove to be false, incomplete or inaccurate.

In accordance with the U.S. Army Corps of Engineers Administrative Appeal Process, you may accept or appeal the approved jurisdiction determination. For further information in this regard, please refer to the Notification of Administrative Appeal Options and Process and Request for Appeal form (Enclosure 2).

If you should have any questions regarding this matter, please contact Jacqueline Winkler at (215) 656-5833 between the hours of 1:00 and 3:30 p.m. or write to the above address.

Sincerely,

Richard A. Hassel
Assistant Chief, Regulatory Branch

SUBJECT PROPERTY: Delaware Turnpike (I-95) from the SR 1 Interchange to the SR 141 Interchange, New Castle County, Delaware.

SURVEY DESCRIPTION: Plans prepared by RK&K, dated May 2004, Wetland Delineation Keysheet and Sheets 1,2,4,6,7,8,9,10 and 11 of 11 last revised July 22, 2004, Sheet 3 of 11 last revised December 2, 2004, Sheet 5 of 11 last revised September 7, 2004, entitled: Delaware Turnpike (I-95), SR 1 Interchange to SR 141, Wetland Delineation Keysheet and Sheets 1 through 11 of 11.

COMMENTS: Field views of the subject property were conducted by a representative of this office.

Enclosures

Copies Furnished:

- DDNREC
- New Castle County Planning Board
- ✓Michelle Floam
- Rummel, Klepper & Kahl, LLP
- 81 Mosher Street
- Baltimore, Maryland 21217