



Appendix 9

**Draft Memorandum of
Understanding (MOU)
with DeIDOT
(including DNS cover letter
and prior correspondence with
DeIDOT)**

January 3, 2007 DRAFT

MEMORANDUM OF UNDERSTANDING
BETWEEN
Delaware Nature Society (DNS) as Coordinating Agency for
the Red Clay Valley Scenic Byway (Byway)
AND
Delaware Department of Transportation (DelDOT)
FOR
Implementation of the Red Clay Valley Scenic Byway Corridor Management Plan

This MEMORANDUM OF UNDERSTANDING is hereby made and entered into by and between the Delaware Nature Society (DNS), as Coordinating Agency for the Red Clay Valley Scenic Byway and the Delaware Department of Transportation (DelDOT).

A. PURPOSE:

The purpose of this MOU is to implement the recommendations of the Red Clay Valley Scenic Byway Corridor Management Plan (Plan), specifically developing and expanding a framework of cooperation between DNS and DelDOT to:

- coordinate traffic and safety improvements in a context-sensitive manner,
- institutionalize a process for communication, and
- develop mutually beneficial programs, projects and activities.

B. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

DelDOT benefits include an active partnership with DNS to coordinate and communicate transportation issues to the public; obtain assistance in protecting and enhancing the intrinsic qualities of the Byway; and fulfilling its their mission to “showcase the natural beauty and unique features of the state and foster the preservation of natural, cultural and historic resources” (Delaware State Scenic and Historic Highways Program Vision) and “protect and/or enhance State Scenic and Historic Highways and their resources through a coordinated management program while ensuring safe operation of these routes” (Program Goal 2).

The benefits for DNS through this cooperative effort are provided through better communication with DelDOT; creation of a mutual understanding of the importance of resource protection through a coordinated roadway management program; and fulfillment of its mission to foster understanding, appreciation, and enjoyment of the natural world through education, to preserve ecologically significant areas, and to advocate stewardship and conservation of natural resources.

The mutual benefit for both parties is to provide a public service to protect the intrinsic qualities of the Byway while promoting safe roadways.

C. DelDOT AGREES TO THE FOLLOWING:

1. Work with DNS to identify opportunities for roadside vegetative improvements, context sensitive design solutions, education and assistance, etc. and funding thereof and jointly pursue such projects as appropriate to manage the resources and roadways of the Byway.
2. Develop an early notification process and alert DNS of any road improvements, safety projects, or

construction and maintenance activities within the Byway, including the scheduling thereof, opportunities for public input, etc.

3. Make DNS a conduit for disseminating information and coordinating with the Byway Steering Committee/Management Entity regarding road improvements, traffic and safety issues, and construction and maintenance projects within the Byway.
4. Include and utilize DNS and Byway Steering Committee/Management Entity technical expertise in developing transportation programs and solutions that are sensitive to Byway resources.
5. Create procedural guidelines for engineers, designers and planners who work on projects that impact the Byway.
6. Coordinate the creation of the state's context sensitive design guidelines with DNS so that the context sensitive design materials compiled for and germane to the Byway are appropriately referenced.
7. Meet with DNS, Delaware Greenways, the Delaware Bicycle Council and local bicycle and trails organizations as appropriate to coordinate safety and public access issues within the Byway. It is understood that the Plan does not anticipate expanded tourism or recreation, does not encourage bicycle usage on roads other than those designated by DelDOT as having average or above average cycling conditions, and recognizes that pedestrian access will remain limited to public institutions given the predominance of private land.
8. Consider any signage inventories conducted by DNS and its partners intended to improve signage (consolidate, remove, or add) within the Byway.
9. Work with DNS and its partners to assess the viability of delisting Route 82 as a state highway.
10. Review this agreement with DNS no less than annually and modify as necessary to further implement the Plan.

DNS AGREES TO THE FOLLOWING:

1. Work with DelDOT to identify opportunities within the Plan for roadside vegetative improvements, context sensitive design solutions, education and assistance, etc. and funding thereof and jointly pursue such projects as appropriate to manage the resources and roadways of the Byway.
2. Serve as a conduit for disseminating information and coordinating with the Byway Steering Committee/Management Entity regarding road improvements, traffic and safety issues, and construction and maintenance projects within the Byway.
3. Coordinate with the Byway Steering Committee/Management Entity and share their technical expertise with DelDOT in developing transportation programs and solutions that are sensitive to Byway resources.
4. Share the context sensitive design materials compiled for and germane to the Byway with DelDOT so the state can incorporate such materials into its context sensitive design guidelines.
5. Meet with DelDOT, Delaware Greenways, the Delaware Bicycle Council and local bicycle and trails organizations as appropriate to coordinate safety and public access issues within the Byway. It is understood that the Corridor Management Plan does not anticipate expanded tourism or recreation, does not encourage bicycle usage on roads other than those designated by DelDOT as having average or above average cycling conditions, and recognizes that pedestrian access will remain limited to public institutions given the predominance of private land.
6. Share any signage inventories with DelDOT intended to improve signage (consolidate, remove, or add) within the Byway.
7. Work with DelDOT to assess the viability of delisting Route 82 as a state highway.
8. Review this agreement with DelDOT no less than annually and modify as necessary to further implement the Plan.

IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

1. MODIFICATION. Modifications within the scope of the instrument shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.
2. PARTICIPATION IN SIMILAR ACTIVITIES. This instrument in no way restricts either party from participating in similar activities with other public or private agencies, organizations, and individuals.
3. TERMINATION. Either party may terminate, in writing, the instrument in whole, or in part, at any time before the date of expiration.
4. PRINCIPAL CONTACTS. The principal contacts for this instrument are:

Michael E. Riska
Executive Director
Delaware Nature Society
P.O. Box 700
Hockessin, DE 19707

Carolann Wicks
Secretary
Delaware Department of Transportation
800 Bay Road
P.O. Box 778
Dover, DE 19903
302-760-2128

5. NON-FUND OBLIGATING DOCUMENT. This instrument is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for State procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This instrument does not provide such authority. Specifically, this instrument does not establish authority for a noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for services must fully comply with all applicable requirements for competition.
6. COMMENCEMENT/EXPIRATION DATE. This instrument is executed as of the date of last signature and is effective for a period of one (1) year from such date at which time it will expire unless extended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last written date below and agree to actively abide by its terms.

FOR DeIDOT

FOR DNS

DeIDOT Secretary Date

Executive Director Date

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Hockessin, DE 19707
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NATURE CENTER
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January 3, 2007

The Honorable Carolann Wicks
Delaware Department of Transportation
P.O. Box 778
Dover, DE 19983

EXECUTIVE DIRECTOR
Michael F. Riska

Dear Secretary Wicks

PRESIDENT

Peter H. Hill

VICE PRESIDENT

Thomas C. Shea, Jr.

SECRETARY

Richmond L. Williams

TREASURER

David Harrison

I am pleased to report that the Delaware Nature Society and the Red Clay Valley Scenic Byway Steering Committee have passed the midpoint in our work to create the corridor management plan for the 28 roadways designated throughout the watershed. Communication with stakeholders and partners, particularly DelDOT, is central to the success of our implementation strategies. To that end, our Steering Committee has drafted a Memorandum of Understanding (MOU) for DelDOT's consideration. As you will see, the MOU outlines the mutual benefits and interests to our organizations, as well as our respective roles and responsibilities.

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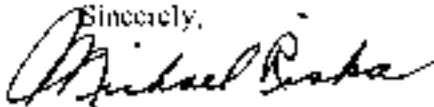
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Maryann Younger

The Scenic and Historic Highways program is still relatively new in Delaware and the Red Clay Valley Scenic Byway, with its network of 28 roadways, is particularly unique. We believe an agreement, such as this MOU, will help guide our partnership as the Scenic and Historic Highways program evolves and we address the management needs of the Byway.

Thank you for your consideration of the MOU; please do not hesitate to contact me with any questions concerning its content. The Delaware Nature Society looks forward to working cooperatively with DelDOT on the long-term management of the Red Clay Valley Scenic Byway.

Sincerely,

Michael F. Riska
Executive Director

cc: **The Honorable Charles L. Copeland, Senator, Delaware General Assembly**
The Honorable Deborah D. Hudson, Representative, Delaware General Assembly
Mr. Joseph Cantalupo, Assistant Director, Planning, DelDOT
Ms. Maria Andaya, Scenic Highways Program Manager, DelDOT
Red Clay Valley Scenic Byway Steering Committee

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STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
806 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

DCI - 10/20/06

October 20, 2006

CAROLANN WICKS, P.E.
SECRETARY

Michael E. Raska
Executive Director
Delaware Nature Society
P.O. Box 700
Hockessin, DE 19707

Dear Mike:

Thank you for your letter of September 27, 2006, requesting continued communication with projects or other work that impacts the Red Clay Valley Scenic Byway, or other byways in Delaware.

As you know, we have taken a proactive role in the State Scenic and Historic Highways (SSH) Program and have worked hard to participate and support entities that desire to be included in the process. In addition, we have encouraged others to nominate roadways they believe should be included in the SSH system. We do have an information Web site and have a DelDOT Planner dedicated to the program.

Thanks to you and others, we were able to support the designation of the Brandywine Valley Scenic Byway as a National Scenic Byway in 2005. As we speak, another dedicated group is working toward nominating Route 9 as a scenic highway. In place since 2001, we expect the program to continue to expand.

As to your point about not being notified about projects that occur along or near a SSH, your point is well taken. The program is relatively new and to a certain extent we are still working through all of the issues associated with a new venture. I am sure you know that Joseph Cantalupo and Maria Andaya of our Planning staff have already met with the Red Clay Valley Corridor Management Plan Steering Committee to work through this issue. They generated several good ideas and as a result we are now in the process of modifying several project management databases and software applications to integrate SSH program mapping. We are also working on an internal e-mail notification system. Such improvements, as well as others, that we might consider in the future should increase the level of communication between the department and sponsoring agency.

I hope you find this information helpful. If you have any additional questions or comments, please contact Maria Andaya at 302-760-2128.

Again, thank you for your support of the SSH program.

Sincerely,

Carolann Wicks
Secretary

CW:des

cc: Ralph Reeb, Director, Planning
Darrel Cole, Director, Public Relations
Joseph Cantalupo, Assistant Director, Planning
Maria Andaya, Project Planner, Planning
Michael Williams, Manager, Public Relations



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**DELAWARE
NATURE
SOCIETY**



Educating Today, Preserving for Tomorrow

September 27, 2006

The Honorable Carolann Wicks
Delaware Department of Transportation
P.O. Box 778
Dover, DE 19903

Dear Secretary Wicks:

Since the Red Clay Valley Scenic Byway was officially designated and our Steering Committee was convened to begin work on the corridor management plan, the Delaware Nature Society and our partners have been urging DelDOT to institutionalize a process for communicating with sponsoring organizations and the public about construction and major maintenance plans that impact Scenic Byways. To ensure that the intrinsic qualities of the Byway are protected to the greatest extent possible, we believe this communication should occur early in the plan development process.

To that end, a letter was sent to former Secretary Nathan Hayward in November 2005 (*letter and response attached*). Mr. Hayward indicated that DelDOT would begin to address the need for communication through simple measures initially, such as developing the program web site, issuing an internal memo to planners and engineers, and incorporating a GIS layer in the mapping software. A commitment was also made to move to a more formal process if needed.

While we have appreciated the initiation of the measures outlined above, we believe that a more formal communication process is needed, due in part to recent events related to the proposed Wooddale Covered Bridge project along Rolling Mill Road. Neither the Delaware Nature Society (sponsoring organization of the Byway) nor Mt. Cuba Center (landowner) had been notified about the proposed project until recently, although public workshops were held nearly a year ago and the project is now in the final planning stages.

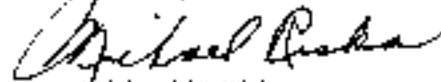
We were pleased to learn that the Wooddale Covered Bridge will be replaced with a new covered bridge to maintain the scenic, historic, and cultural integrity of the area. However, other components of the proposed project raise concerns within the Byway context, such as widening the lanes/addition of paved shoulders and the apparent impacts to the State-designated Red Clay Valley Natural Area, located on either side of Rolling Mill Road.

Although it appears that the public comment period has closed, we request an opportunity for the Steering Committee to meet with DelDOT staff to review the details of the project and explore options to maintain the intrinsic qualities of the Byway. To make certain that we do not find ourselves in a similar situation in the

future, we believe that it is imperative for DelDOT to formalize a communication process for all designated roadways without further delay.

Thank you for your consideration of this request. The Delaware Nature Society looks forward to working cooperatively with DelDOT on the long-term management of the Red Clay Valley Scenic Byway.

Sincerely,



Michael E. Riska
Executive Director

cc: **The Honorable Charles L. Copeland, Senator, Delaware General Assembly**
The Honorable Deborah D. Hudson, Representative, Delaware General Assembly
Ms. Maria Andaya, Scenic Highways Program Manager, DelDOT
Mr. Rick Lewandowski, Executive Director, Mt. Cuba Center
Ms. Eileen Butler, Natural Areas Program Manager, DNREC
Red Clay Valley Scenic Byway Steering Committee



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION

500 BAY ROAD
P.O. BOX 776
DOVER, DELAWARE 19903

NATHAN HAYWARD III
SECRETARY

December 12, 2005

Mr. Michael F. Riska
Delaware Nature Society
P.O. Box 700
Hockessin, DE 19707

Dear Mr. Riska

Thank you for your letter dated November 10, 2005, requesting that we establish a process that will keep byway management entities informed of Department of Transportation (DelDOT) projects affecting our scenic highways, and develop design guidelines that will aid our planners and engineers in rendering decisions that are context sensitive. We agree that the sustainability of our byways is an urgent concern. After all, the essence of the Scenic and Historic Highways Program is to protect and preserve the unique characteristics of our roadways from the constant threat of over development. Getting a designation is indeed prestigious, but it comes with the immense responsibility of assuming the role of byway stewards. We have the obligation to ensure that the intrinsic qualities of our byways remain intact for future generations to enjoy.

We have been exploring avenues to create awareness inside and outside the department about the existence of our scenic highways. Our program web site is now up and we are working on incorporating a GIS layer in the mapping software that we utilize internally. Along with this, we are issuing a memorandum for our planners and engineers to coordinate projects affecting the scenic highways to the State Coordinator, who in turn, will communicate these matters with you. These measures are of course, in addition to the public workshops and meetings that we typically conduct for our projects. I propose that we start with these simple measures and commit that we will develop a more formal process if needed later on.

As for developing context sensitive design guidelines exclusive to our scenic highways, we have taken the initial steps towards this direction. We are going to apply for a federal grant to develop these guidelines. Our ultimate goal is to have a set of guidelines for each scenic highway that will address design issues related to preservation and enhancement of their unique characteristics without compromising safety. We will be sure to include you when we start this effort.

Rest assured that we share your ardent desire to properly manage our scenic highways and we take pride in partnering with you in this undertaking. We will keep you updated on these matters and if you have further questions or concerns please feel free to contact our State Scenic and Historic Highways Coordinator, Maria Andaya at (302) 760-2128.

Sincerely,

Nathan Hayward III
Secretary



NH:kph

- cc. Guil Van Gilder, Delaware Greenways
- Joe Cantalupo, Assistant Director, Planning
- Maria Andaya, Project Planner, Planning





November 10, 2005

The Honorable Nathan Hayward
Delaware Department of Transportation
P.O. Box 778
Dover, DE 19904

Dear Secretary Hayward:

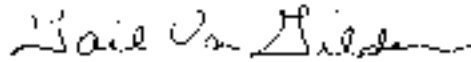
In partnership with the Department of Transportation, we have celebrated the designation of our State's first two Scenic Byways, the Brandywine Valley Scenic Byway and the Red Clay Valley Scenic Byway. As you know, these designated roads epitomize the unique qualities (scenic, historic, natural, cultural, recreational and archeological) that the Scenic and Historic Highways Program was designed to showcase to the citizens of Delaware and elsewhere. We now look forward to working with you to preserve the intrinsic qualities of these roadways for future generations.

You are keenly aware, perhaps more so than anyone, that road improvement projects are very visible to the public. Delaware citizens and those travelling through our state depend on the Department of Transportation for safe, quality, and efficient transportation that is also sensitive to the surrounding environment and the context of neighboring communities. This sensitivity is acutely true for road segments designated as Scenic Byways.

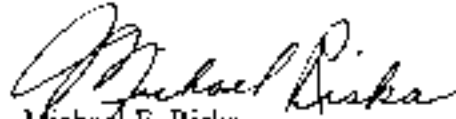
To that end, the Delaware Nature Society and Delaware Greenways would like to suggest that the Department of Transportation institutionalize a process for communicating with sponsoring organizations and the public about construction and major maintenance plans that impact Scenic Byways. This communication should occur early in the plan development process to ensure that design issues are discussed and community feedback is considered and incorporated as appropriate. In addition, we strongly encourage the Department to create procedural guidelines for engineers and design staff who are working on construction/major maintenance projects that impact Scenic Byways. Such guidelines will help to ensure that strong consideration is given to context sensitive design and that the objectives of the corridor management plan for the Byway are met to the greatest extent possible. We believe both suggestions necessitate thoughtful discussion; to the degree we can assist the Department in this effort, we would be happy to meet with you and your staff at your convenience.

The Delaware Nature Society and Delaware Greenways appreciate your consideration of these suggestions and we look forward to partnering with the Delaware Department of Transportation on the long-term management of our State's Scenic Byways.

Sincerely,



Gail Van Gilder
Delaware Greenways
Sponsor, Brandywine Valley Scenic Byway



Michael E. Riska
Delaware Nature Society
Sponsor, Red Clay Valley Scenic Byway

cc: Joe Cantalupo, DelDOT
Maria Andaya, DelDOT