

# **Appendix C**

## *Agency Correspondence*

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### *US 301 Project Development*



*Federal Highway  
Administration*



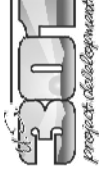
*Delaware Department  
Of Transportation*



**US 301 Project Development  
Final Environmental Impact Statement  
November 2007**

**List of Agency Correspondence**

<b>From</b>	<b>Date</b>	<b>To</b>	<b>Topic of Letter</b>
DeIDOT	7/18/05	DE SHPO	Transmitting the Phase I architectural baseline & historic context study
DNREC	07/25/05	RK&K	Information regarding presence of RTE species in project area (bog turtle & bald eagle)
RK&K	10/20/05	MD DNR	Requesting information on RTE species in Maryland portion of project
RK&K	10/20/05	USFWS – MD Office	Requesting information on RTE species in Maryland portion of project
RK&K	10/20/05	DNREC – F&WL Division	Requesting information on RTE species for additional area
RK&K	10/20/05	MD DNR W&H Division	Requesting information on RTE species in Maryland portion of project
DNREC	11/21/05	RK&K	Information regarding presence of RTE species for Red Alternative, north of Canal
USFWS	08/17/05	RK&K	Information regarding presence of RTE species in project area (bog turtle & bald eagle)
USFWS	12/7/05	RK&K	Information regarding presence of RTE species in for Red Alternative, north of Canal
USFWS	12/8/05	RK&K	Information regarding presence of RTE species in project area, additional information
MDNR	12/7/05	RK&K	Natural resources environmental review of MD portion of project
DeIDOT	9/20/05	DE SHPO	Forwarding draft Determination of Eligibility report
DE SHPO	10/7/05	FHWA	Historic resources and potential effects
DE SHPO	10/14/05	DeIDOT	Comments on architectural evaluation survey report
DE SHPO	01/6/06	FHWA	Draft architectural evaluation survey report, supplemental materials, determinations of eligibility and report content
DeIDOT	1/20/05	DE SHPO	Sending additional information on eligibility determinations
DeIDOT	01/20/06	DE SHPO	Regarding eligibility determinations and anticipated concurrence
DE SHPO	01/27/06	FHWA	Concurrence on eligibility and need for further evaluations
FAA	04/10/06	DeIDOT	Importance of Summit Airport
FAA	08/28/06	DeIDOT	Brown Alternatives will impact Summit Airport and proposed expansion plans
DE SHPO	8/11/06	DeIDOT, et al	Email stating eligibility determinations process is completed
DeIDOT	7/11/06	DE SHPO	Additional eligibility determinations materials
DeIDOT	10/24/05	MHT	Investigation of known historical resources in MD portion of project
DeIDOT	12/8/06	DE SHPO	Transmitting Final Determination of Eligibility Report and Historic Context
RK&K	1/16/07	DNREC - DCOMP	Request for DCOMP consistency review and certification
DNREC	3/22/07	RK&K	Extending review period for DCOMP review
DeIDOT	04/17/07	MHT	Requesting opinion and concurrence – no adverse effects on historic properties within Maryland
MHT	06/29/07	DeIDOT	Requesting participation and as signatory to MOA
DeIDOT	05/24/07	Stockbridge-Muncee Community	Asking their desire to be a signatory to the MOA



**US 301 Project Development**  
**Final Environmental Impact Statement**  
**November 2007**

**List of Agency Correspondence**

DeIDOT	05/24/07	The Delaware Nation	Asking their desire to be a signatory to the MOA
DeIDOT	06/18/07	ACHP	Declaring that the project will have adverse effects
DeIDOT	9/4/07	DE SHPO	Submitting Draft Adverse Effects Document
DDA	03/14/07	DeIDOT	Ratlidge Road Area Option 4B Modified is most suitable for agriculture
DNREC	9/14/07	RK&K	Conditional concurrence with DCMF consistency
ACHP	8/30/07	DeIDOT	Received Notice of Adverse Effects; declines invitation to sign MOA
DE SHPO	10/12/07	FHWA, et al	Email stating that they will provide formal concurrence on adverse effects
DeIDOT	9/17/07	USACOE	Regarding Individual Section 404 permit application



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JUL 25 2005

STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**

JANEL, KLEPPER & KAHL, LLP

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

NATHAN HAYWARD III  
SECRETARY

July 18, 2005

Mr. Timothy Slavin, Director  
Division of Historic and Cultural Affairs  
Suite 21A, The Green  
Dover, DE 19901

Dear Mr. Slavin,

On behalf of the Federal Highway Administration, enclosed is a Phase I architectural baseline survey of the U.S. 301 Planning Study. More importantly, the draft historic context is included in the report and has been undertaken in consultation with your office.

I ask that you please read over and direct your written comments before the end of August 18, 2005 to Michael Hahn of my staff. We realize given the time schedule on the U.S. 301 project, it is imperative that we coordinate and meet closely with your staff.

If there are any questions, please contact our office.

Sincerely,

Therese M. Fulmer  
Manager, Environmental Studies

TMF/MH (attachment)

cc: Robert Kleinburd, FHWA Reality Officer  
Robert Taylor, Assistant Director, Engineering Support  
Mark Tudor, Project Manager, North II Team  
Kevin Cunningham, Environmental Studies  
Michael Hahn, Environmental Studies  
Partick Carpenter, Environmental Studies  
Erica Rush, Urban Engineers  
William Hellmann, R, K & K, Engineers  
File



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 25, 2005

Justin T. Reel  
Rummel, Klepper & Kahl, LLP  
81 Mosher Street  
Baltimore, MD 21217-4250

*RE: US 301 Corridor Project Development*

Dear Mr. Reel:

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.

This large project area has been sectioned into three quadrants to ease identification of rare species locations (see attached map). Further coordination by your client with our office will be necessary as this project moves forward.

All Quadrants:

*Bog Turtle*

A review of our database has revealed that there may be suitable habitat for the federally listed bog turtle (*Glyptemys muhlenbergii*) within the proposed project area. Because the bog turtle is a federally listed species, protected under the Endangered Species Act, its presence can affect the scope of work. To ensure that the project will not impact bog turtles or their habitat, Phase I surveys for bog turtle habitat should be conducted. Some wetlands within the project area may have already been surveyed by our staff and this information will be available via a shape file that will be forwarded to your client directly. Phase I surveys will need to be conducted in other wetlands identified within the project area that have not been surveyed by our staff. If potential bog turtle habitat is identified by our staff or found during additional Phase I surveys, your client is required to either:

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AUG 01 2005

- 1) Completely avoid all direct and indirect project impacts to the wetland, in consultation with the U.S. Fish and Wildlife Service and Delaware Division of Fish and Wildlife;

OR

- 2) Have surveys conducted to determine if bog turtles are present. In accordance with Delaware's bog turtle site survey procedures, surveys must be conducted by a State-approved bog turtle surveyor between April 15 and June 15.

Phase I surveys can be conducted any time of year when snow cover is not present. If potential habitat is found, however, please note there is a time of year restriction during which Phase II surveys for bog turtles must be conducted. *Delaware approved bog turtle surveyors must be used for these surveys.* Please contact Holly Niederriter (302-653-2880) to obtain a list of Delaware approved bog turtle surveyors.

#### *Migratory Birds*

Bridges within the project area will need to be surveyed for the presence of nesting migratory birds, disturbance of which is regulated by the federal Migratory Bird Treaty Act (MBTA). It is likely that one or more pairs of barn swallow (*Hirundo rustica*) and/or Eastern phoebe (*Sayornis phoebe*) nest under the bridge. If a survey detects a substantial number of active nests, impacts should be avoided by performing construction activities from 1 August to 15 April. If construction cannot be performed in this time period, a deterrent such as mesh netting should be used to block access to nesting sites on the underside of the bridge. The material would need to be in place no later than 15 April, the underside of the bridge would need to be fully encapsulated, and the material should be left in place until construction begins.

#### *Bald Eagle*

There is an active Bald Eagle (*Haliaeetus leucocephalus*) nest within project boundaries or very close to the boundaries along Scott Run. The location of this nest should be ground truthed as this project moves forward to ensure no impacts to this species. In addition, there has been activity in the general vicinity of Middletown and also around Summit Air Park. If the project area extends beyond the ROW along US 301 then surveys should be conducted to locate potential nests.

In addition to those species mentioned above, a review of our database indicates that the following species and/or communities at or adjacent to the project site:

Quadrant 1: (within study area east of Railroad tracks and north of Marl Pit Rd)

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Hemidactylium scutatum</i>	four-toed salamander	Amphibian	S1		G5	
<i>Septemvittata regina</i>	queen snake	Reptile	S1		G5	
<i>Atlides halesus</i>	great purple hairstreak	Insect	S1		G5	
<i>Carex mitchelliana</i>	Mitchell's sedge	Plant	S2		G4G5	
<i>Agastache nepetoides</i>	yellow giant hyssop	Plant	S2		G5	
<i>Enneacanthus chaetodon</i>	blackbanded sunfish	Fish	S2		G4	
<i>Anodonta implicata</i>	alewife floater	Fish	S1		G5	

Quadrant 2 (within study area west of railroad tracts and north of Marl Pit Road):

There are no additional species (other than a potential for bog turtle, Bald Eagle, and migratory birds) located within this quadrant.

Quadrant 3 (within study area south of Marl Pit Road):

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Caltha palustris</i>	marsh marigold	Plant	S2		G5	
<i>Luzula acuminata</i>	hairy woodrush	Plant	S1		G5	
<i>Cyperus refractus</i>	Abruptly bent backed flatsedge	Plant	S2		G5	
<i>Anodonta implicata</i>	alewife floater	Mussel	S1		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; SX-Extirpated or presumed extirpated from the state. All historical locations and/or potential habitat have been surveyed; SH- Historically known, but not verified for an extended period (usually 15+ years); there are expectations that the species may be rediscovered; SE-Non-native in the state (introduced through human influence); not a part of the native flora or fauna.

**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; Candidate – Taxa for which the U.S. Fish and Wildlife Service has on file enough substantial information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species.

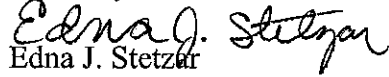
The project area also contains State Wildlife Area lands, managed by the Division of Fish and Wildlife, DNREC. As this project moves forward, the applicant should consult with the Regional Wildlife Biologist (currently Rob Hossler 302-834-8433) to minimize potential negative impacts of the proposed project on State Wildlife Area lands.

There may also be species of fish that are not listed as rare but are commercially and/or recreationally important. If you require information pertaining to anadromous or

freshwater fish species, please contact Craig Shirey, Fisheries Program Manager, at 739-9914.

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. If you have any questions, please contact me at (302) 653-2883 ext. 126.

Sincerely,



Edna J. Stetzer

Biologist/Environmental Review Coordinator

### **INVOICE - PAYMENT DUE**

It is our policy to charge a fee for this environmental review service. This letter constitutes an invoice for \$118.00 (\$29.50/hour for four hours). Please make your check payable to "Delaware Division of Fish and Wildlife" and submit to:

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

**Please reference "RK&K 2005-06-29" on your check.**

cc: Carla Cassell-Carter, Fish and Wildlife Coordination/Accounting; Code to 9892  
Andy Moser, Endangered Species Biologist, Chesapeake Bay Field Office, USFWS  
Craig Koppie, Endangered Species Biologist, Chesapeake Bay Field Office, USFWS  
Rob Hossler, Regional Wildlife Biologist, DNREC-Division of Fish & Wildlife







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Emeritus

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Robert J. Halbert  
Stephen G. Zentz  
J. Michael Potter  
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81 Mosher Street  
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October 20, 2005

Maryland Department of Natural Resources  
Mr. Ray Dintaman  
Environmental Review  
Tawes State Office Building, B-3  
580 Taylor Avenue  
Annapolis, MD 21401

Project: US 301 Project Development  
Delaware Department of Transportation

Subject: Request for RTE Information

Dear Mr. Dintaman:

RK&K is conducting preliminary environmental and engineering studies on behalf of the Delaware Department of Transportation (DelDOT) for improvements along the US 301 corridor in Delaware.

The enclosed USGS Quad map shows the location of the project area.

We are requesting information regarding the presence of any state listed (or proposed) rare, threatened, or endangered species (RTEs), and any unique or critical habitat in the project area that may be affected by the proposed project.

If you have any questions concerning this project and/or the information requested, please contact me at (410) 728-2900. Thank you for your assistance.

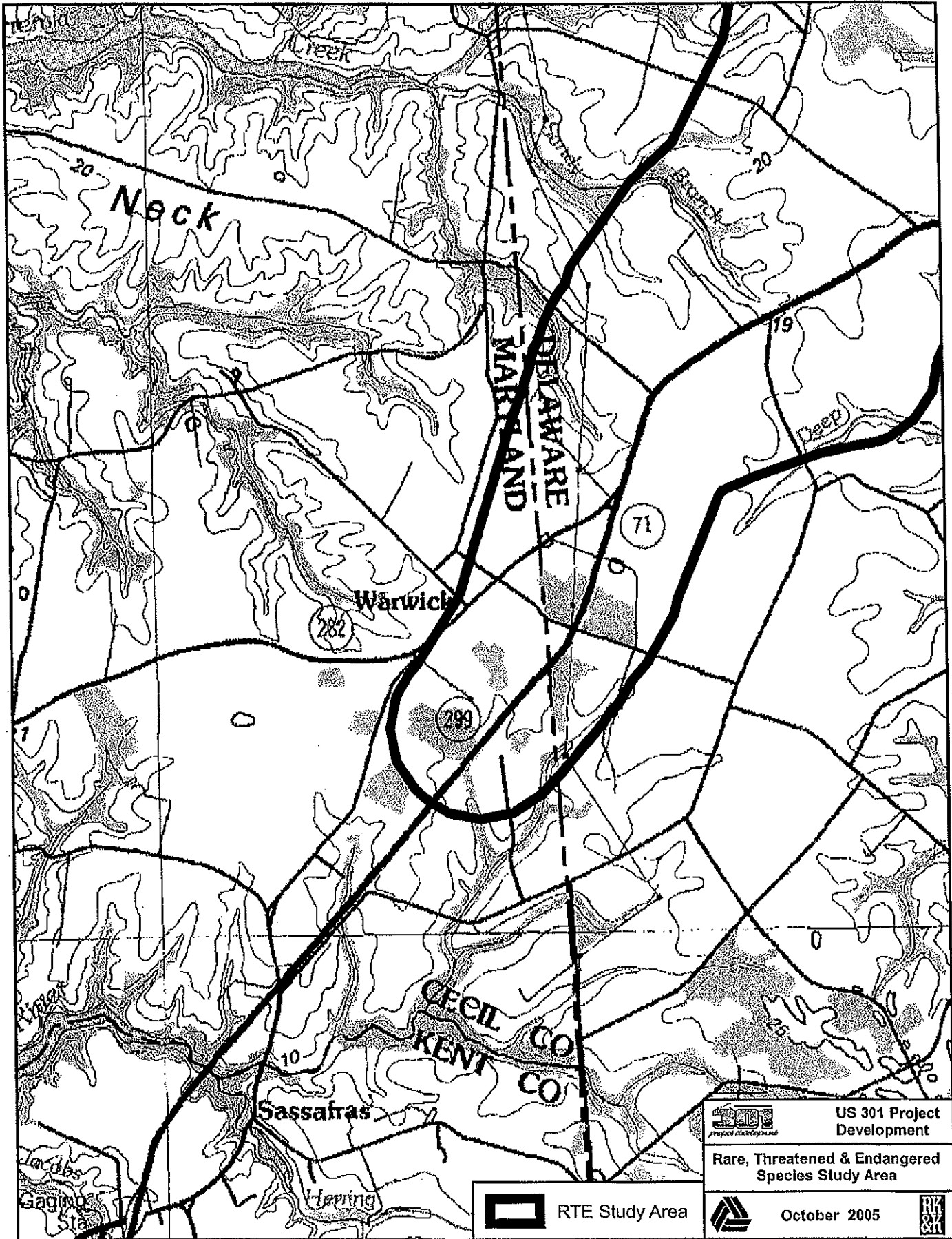
Sincerely,  
Rummel, Klepper & Kahl, LLP

*Ben Rogers* FOR!  
Justin T. Reel  
Project Scientist


Enc.

cc: Terry Fulmer and Anna Montone - DelDOT

104-063  
WFK (file)  
HG KH  
RM  
BEA  
Erika Rosh  
Mark Tudor



 RTE Study Area

 US 301 Project Development

Rare, Threatened & Endangered Species Study Area

 October 2005 



**Rummel,  
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*William K. Hellmann  
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October 20, 2005

Mr. John Wolflin  
U.S. Fish and Wildlife Service  
Chesapeake Bay Field Office  
177 Admiral Cochrane Drive  
Annapolis, MD 21401

Attn: Maricela Constantino

Project: US 301 Project Development  
Delaware Department of Transportation

Subject: Request for additional RTE Information

Dear Ms. Constanino:

RK&K is conducting preliminary environmental and engineering studies on behalf of the Delaware Department of Transportation (DelDOT) for improvements along the US 301 corridor in Delaware. As the Project has evolved some new potential alignments have surfaced. To ensure we have all the information on these new alignments we are requesting additional information regarding the presence of any state listed (or proposed) rare, threatened, or endangered species (RTEs), and any unique or critical habitat for the project area of the new alignments.

The enclosed map dated May 2005 shows the location of the project area on the USGS topographic map from the previous request for RTE species, for which we already have information. The enclosed map dated October 2005 shows the additional study area, for which we are requesting the additional RTE information.

If you have any questions concerning this project and/or the information requested, please contact me at (410) 728-2900. Thank you for your assistance.

Sincerely,  
Rummel, Klepper & Kahl, LLP

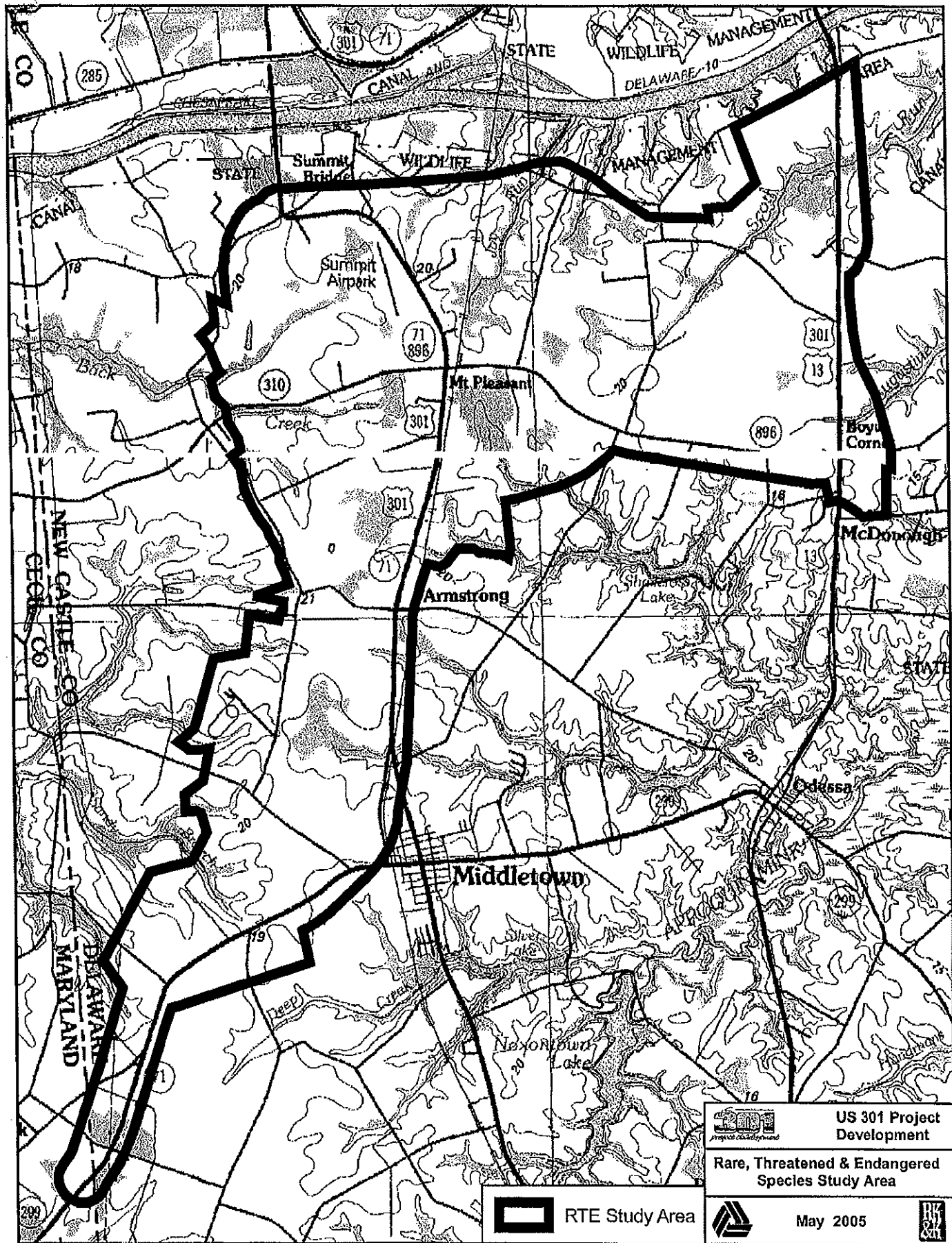
*Ben Rogers* for:  
**Justin T. Reel**  
Project Scientist

Enc.

cc: Terry Fulmer and Anna Montone - DelDOT

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BEA  
erika Rusk  
Mark Tutor*



 RTE Study Area



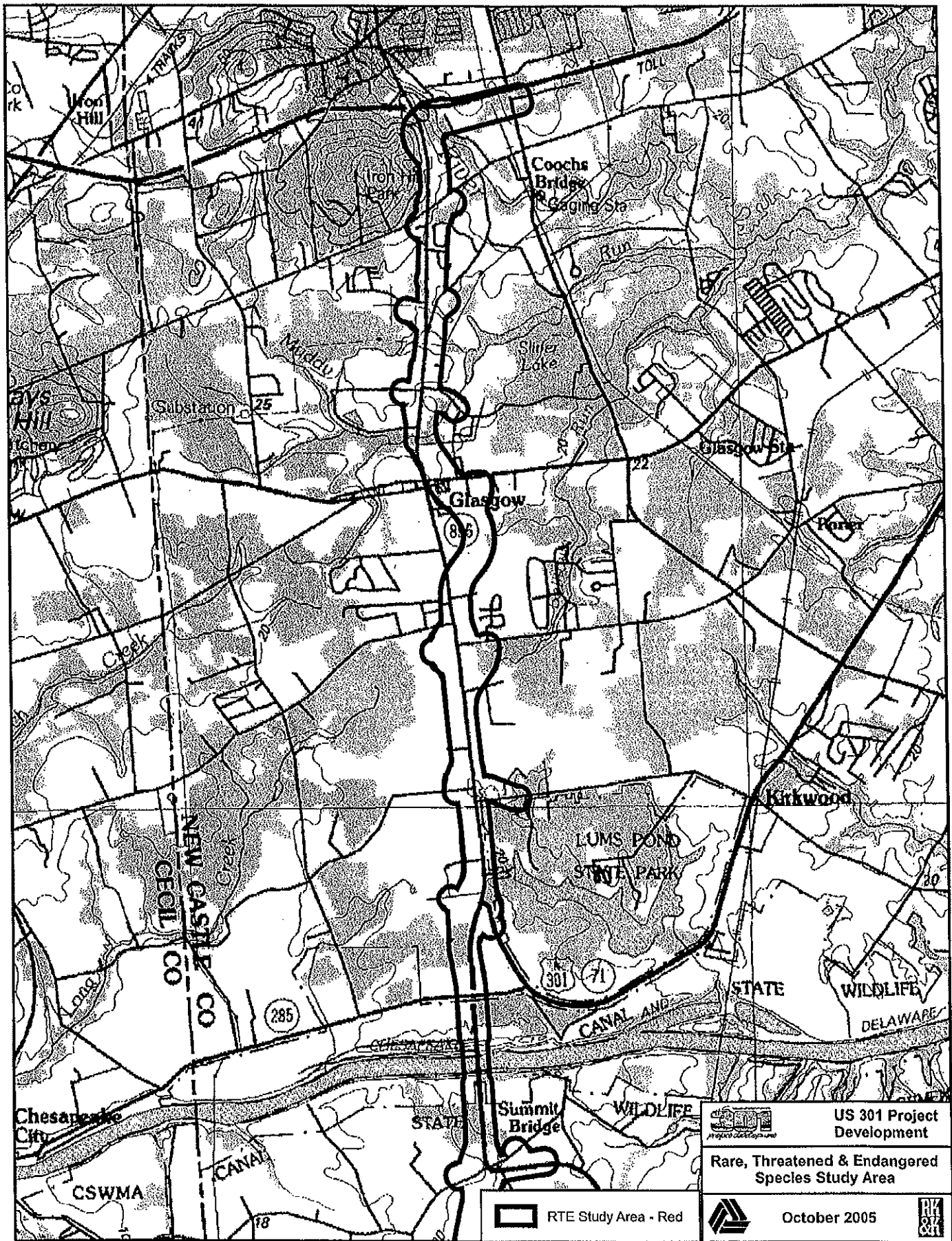
US 301 Project Development

Rare, Threatened & Endangered Species Study Area

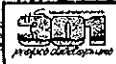


May 2005





 RTE Study Area - Red



US 301 Project Development

Rare, Threatened & Endangered Species Study Area



October 2005





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October 20, 2005

Environmental Review/Information Request  
Delaware Natural Heritage Program  
Division of Fish and Wildlife  
4876 Hay Point Landing Road  
Smyrna, Delaware 19977

Project: US 301 Project Development  
Delaware Department of Transportation


Subject: Request for additional RTE Information

RK&K is conducting preliminary environmental and engineering studies on behalf of the Delaware Department of Transportation (DelDOT) for improvements along the US 301 corridor in Delaware. As the Project has evolved some new potential alignments have surfaced. To ensure we have all the information on these new alignments we are requesting additional information regarding the presence of any state listed (or proposed) rare, threatened, or endangered species (RTEs), and any unique or critical habitat for the project area of the new alignments.

Enclosed is a May 2005 Map showing the original project area and an October 2005 map showing the additional study area for which we are requesting new RTE information.

If you have any questions concerning this project and/or the information requested, please contact me at (410) 728-2900. Thank you for your assistance.

Sincerely,  
Rummel, Klepper & Kahl, LLP

 FOR:  
**Justin T. Reel**  
Project Scientist

Enc.

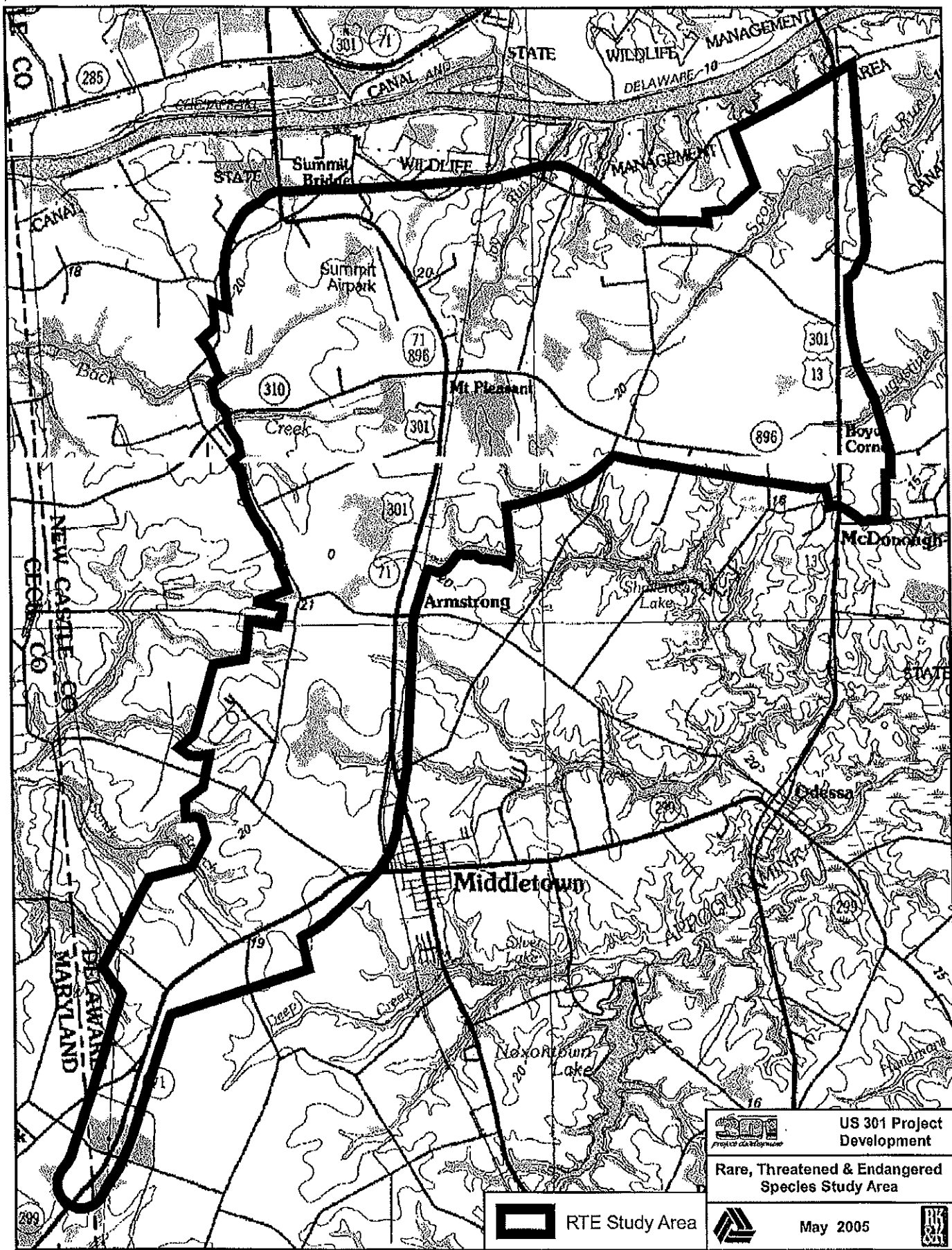
cc: Terry Fulmer and Anna Montone - DelDOT

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~~RK&K~~ (file)

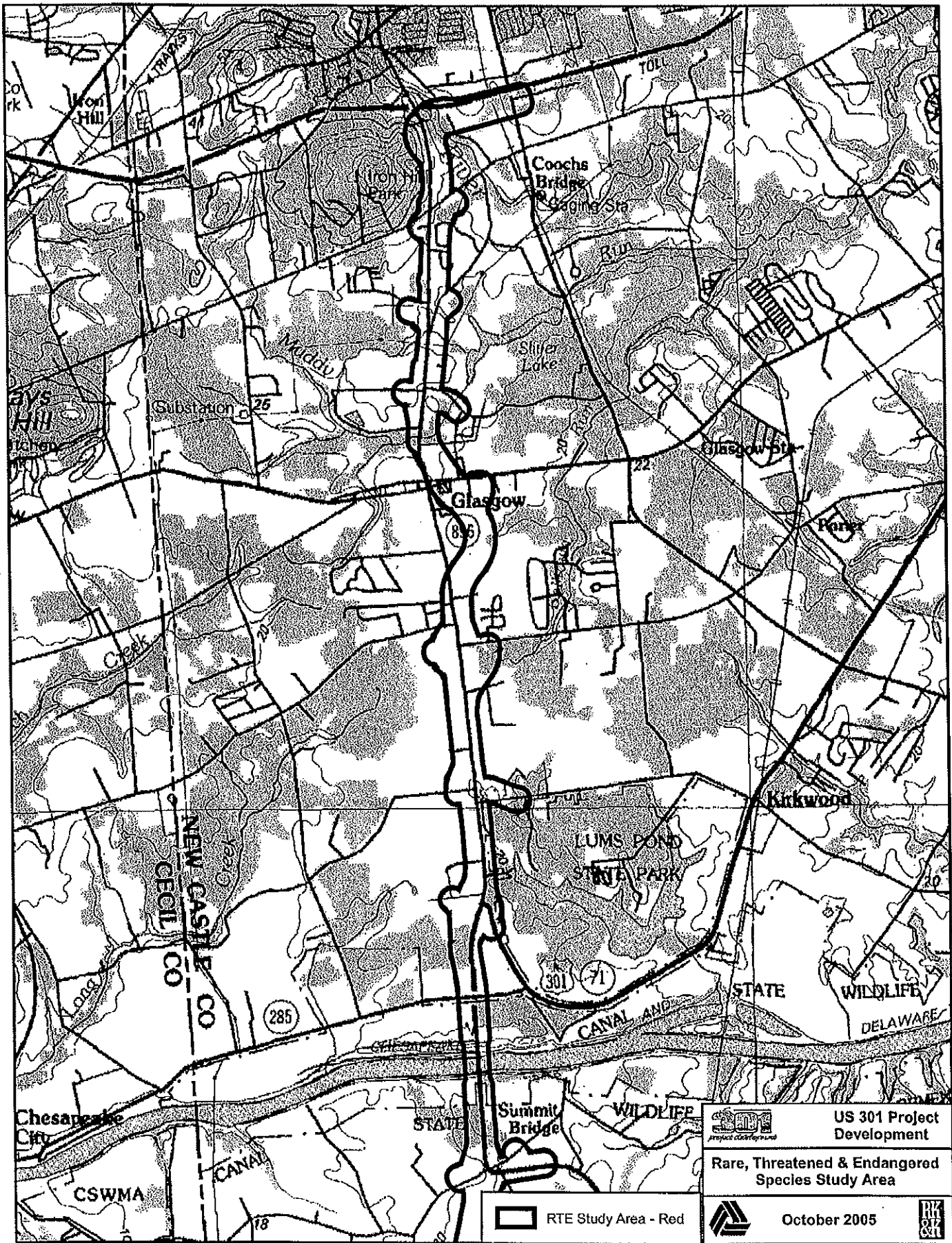
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BEA


Erika Rosh (email)  
Mark Tudor (email)



	<b>US 301 Project Development</b>
<b>Rare, Threatened &amp; Endangered Species Study Area</b>	
RTE Study Area	May 2005





 RTE Study Area - Red



US 301 Project Development

Rare, Threatened & Endangered Species Study Area



October 2005





Rummel,  
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October 20, 2005

Mr. Paul A. Peditto, Director  
Wildlife and Heritage Division  
Department of Natural Resources  
Tawes State Office Building, E-1  
580 Taylor Avenue  
Annapolis, MD 21401

Project: US 301 Project Development  
Delaware Department of Transportation

Subject: Request for RTE Information

Dear Mr. Peditto:

RK&K is conducting preliminary environmental and engineering studies on behalf of the Delaware Department of Transportation (DelDOT) for improvements along the US 301 corridor in Delaware.

The enclosed USGS Quad map shows the location of the project area.

We are requesting information regarding the presence of any state listed (or proposed) rare, threatened, or endangered species (RTEs), and any unique or critical habitat in the project area that may be affected by the proposed project.

If you have any questions concerning this project and/or the information requested, please contact me at (410) 728-2900. Thank you for your assistance.

Sincerely,  
Rummel, Klepper & Kahl, LLP

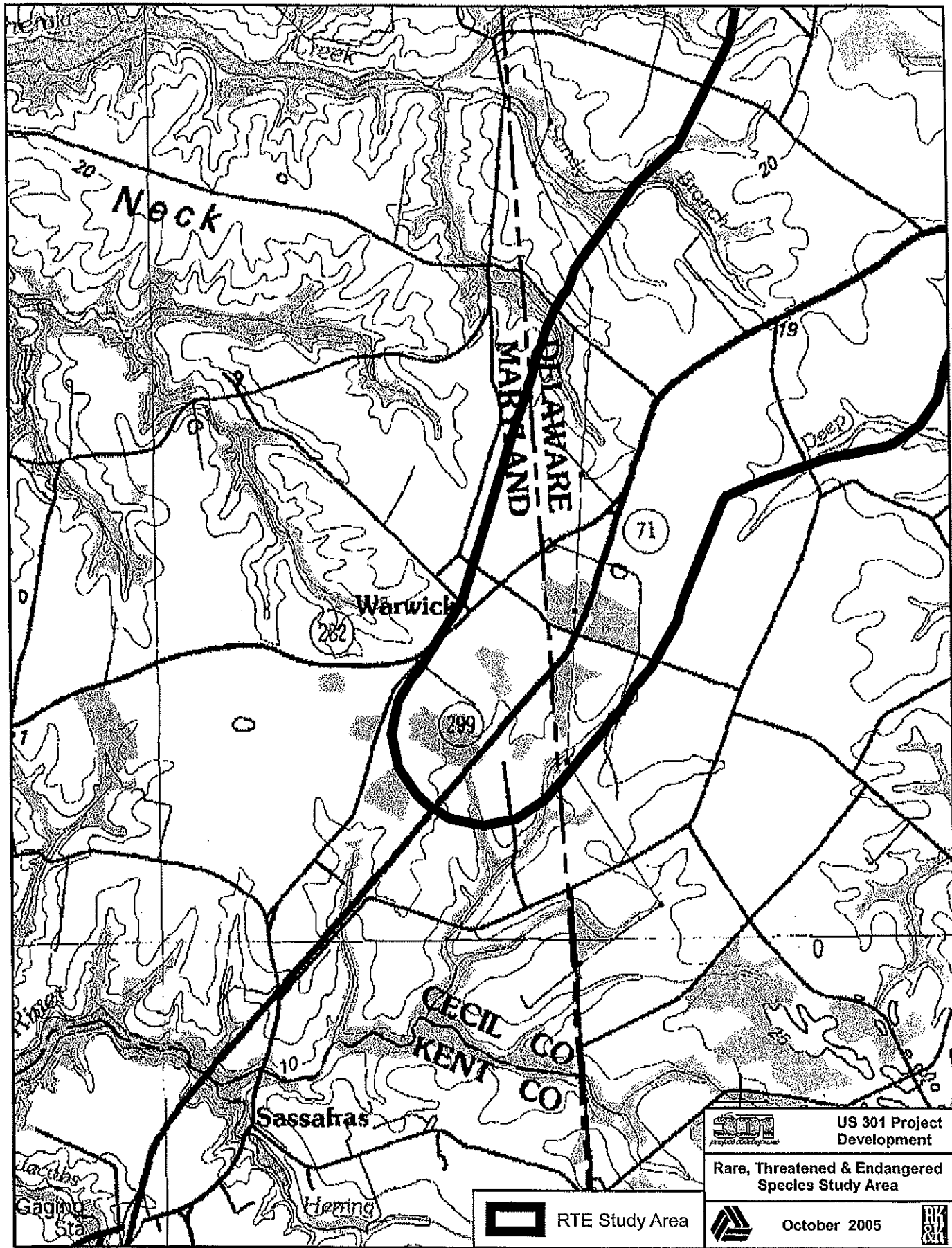
*Justin J. Reel*

Justin J. Reel  
Project Scientist

Enc.

cc: Terry Fulmer and Anna Montone - DelDOT

104-063  
with file  
HG KH  
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Erika Rosh  
Mark Tudor



US 301 Project  
Development

Rare, Threatened & Endangered  
Species Study Area



RTE Study Area



October 2005





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

November 21, 2005

Justin Reel  
 Rummel, Klepper & Kahl, LLP  
 81 Mosher Street  
 Baltimore, MD 21217-4250

**RECEIVED**

NOV 28 2005

Re: US 301 Project Development, Request for additional RTE information  
 Applicant: DelDOT

**RUMMEL, KLEPPER & KAHL, LLP**

Dear Justin:

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 above referenced project, specifically, the proposed route alternative that runs north of the Chesapeake and Delaware Canal.

A review of our database indicates 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>Cordulegaster bilineata</i>	Brown Spiketail	Dragonfly	S2		G5	
<i>Panax quinquefolius</i>	American Ginseng	Vascular Plant	S2		G4	
<i>Carex willdenowii</i>	Willdenow's Sedge	Vascular Plant	S1		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; SX-Extirpated or presumed extirpated from the state. All historical locations and/or potential habitat have been surveyed; SH- Historically known, but not verified for an extended period (usually 15+ years); there are expectations that the species may be rediscovered; SE-Non-native in the state (introduced through human influence); not a part of the native flora or fauna.

**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; Candidate - Taxa for which the U.S. Fish and Wildlife Service has on file enough substantial information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species.

The Brown Spiketail has been observed adjacent to your proposed work area on Muddy Run. Dragonflies are dependent on consistent water quality, especially during their egg and larval stages. Efforts should be made to avoid increased sedimentation or changes in water level during construction around this area.

*Delaware's Good Nature Depends on You!*

American Ginseng and Willdenow's Sedge have been observed along the eastern facing slopes of Iron Hill, adjacent to your proposed work area. Disturbance of the substrate and the canopy layer of this forest should be minimized in this area.

In addition to the above mentioned rare species, review of our database has revealed that there may be suitable habitat for the federally listed bog turtle (*Glyptemys muhlenbergii*) within the proposed project area. Because the bog turtle is a federally listed species, protected under the Endangered Species Act, its presence can affect the scope of work. To ensure that the project will not impact bog turtles or their habitat, Phase I surveys for bog turtle habitat should be conducted. If potential bog turtle habitat is found during Phase I surveys, you are required to either:

- 1) Completely avoid all direct and indirect project impacts to the wetland, in consultation with the U.S. Fish and Wildlife Service and Delaware Division of Fish and Wildlife;

OR

- 2) Have surveys conducted to determine if bog turtles are present. In accordance with Delaware's bog turtle site survey procedures, surveys must be conducted by a State-approved bog turtle surveyor between April 15 and June 15.

Phase I surveys can be conducted any time of year when snow cover is not present. If potential habitat is found, however, please note there is a time of year restriction during which Phase II surveys for bog turtles must be conducted. *A Delaware approved bog turtle surveyor must be used to conduct the surveys.* Please contact Holly Niederriter (302-653-2880) to obtain a list of contacts to conduct Phase I and, if necessary, Phase II surveys.

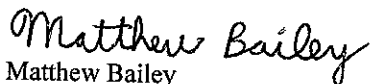
The proposed project area also impacts the Iron Hill Natural Area. If you require further information about State Natural Areas, please contact Rob Line at: (302) 739-3423.

The proposed project is within ½ mile of the boundary of C & D Canal Wildlife Area, a State Wildlife Area managed by the Division of Fish and Wildlife, DNREC. The State is concerned that the quantity and quality of wildlife habitat in the State Wildlife Area, particularly near the border, might be negatively affected by development activities, or by permanent land use changes, on the property in question. DelDOT should consult with the Regional Wildlife Biologist (currently, Rob Hossler, (302) 834-8433) to minimize potential negative impacts of the proposed project on State Wildlife Area lands.

We are continually updating our 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.

Feel free to get in touch with me if you have any questions or require additional information.

Sincerely,



Matthew Bailey  
DelDOT Environmental Review Coordinator  
(302) 653-2880  
(302) 653-3431 fax  
[matthew.bailey@state.de.us](mailto:matthew.bailey@state.de.us)



# United States Department of the Interior



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

August 17, 2005

## RECEIVED

AUG 23 2005

RUMMEL, KLEPPER & KAHL, LLP

Mr. Justin T. Reel  
Project Scientist  
Rummel, Klepper & Kahl, LLP  
81 Mosher Street  
Baltimore, Maryland 21217-4250

RE: *US 301 Project Development, Delaware Department of Transportation, New Castle County, DE*

Dear Mr. Reel:

This responds to your letter, received May 16, 2005, 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 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 the Delaware Natural Heritage and Endangered Species Program recommends. 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. Should your surveys show the species to be present within the project impact area, further coordination will be required with the U.S. Fish and Wildlife Service and the Department of Natural Resources and Environmental Control.

The federally threatened bald eagle (*Haliaeetus leucocephalus*) nests within the vicinity of the project area. According to our records, a nest is located along Scott Run approximately 0.8 miles east of US 301. 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.

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 Andrew Moser at (410) 573-4537.

Sincerely,



*for* Mary J. Ratnaswamy, Ph.D.  
Program Supervisor, Threatened and Endangered Species

cc: Holly Niederriter, Delaware Natural Heritage Program, Smyrna, DE  
Christopher Heckscher, Delaware Natural Heritage Program, Smyrna, DE  
Richard Hassel, Chief, Application Section I, COE, Philadelphia, PA



# United States Department of the Interior



FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office

177 Admiral Cochrane Drive

Annapolis, MD 21401

December 7, 2005

## RECEIVED

DEC 13 2005

RUMMEL, KLEPPER & KAHL, LLP

Mr. Justin T. Reel  
Project Scientist  
Rummel, Klepper & Kahl, LLP  
81 Mosher Street  
Baltimore, Maryland 21217-4250

*RE: Request for Additional RTE Information - US301 Project Development, Delaware  
Department of Transportation, New Castle County, DE*

Dear Mr. Reel:

This responds to your letter, dated August 24, 2005, 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 bog turtle (*Clemmys muhlenbergii*) may be present within the study 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 the Delaware Natural Heritage and Endangered Species recommends. 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.

The federally threatened bald eagle (*Haliaeetus leucocephalus*) nests within close proximity to the study area. For further information regarding bald eagle nesting activity, 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 swamp pink (*Helonias bullata*) has been documented to occur within the proposed project area, along Barlow Branch. Swamp pink is a perennial wildflower that inhabits a variety of freshwater wetlands, including spring seepages, swamps, bogs, wet meadows and margins of small streams. We recommend that any wetlands to be filled or otherwise affected by the proposed project be surveyed for the presence of swamp pink by a professional botanist. Enclosed is a list of qualified individuals who have experience with swamp pink surveys. Even if no direct effects to potential swamp pink habitat are identified, any activities proposed to occur in the Barlow Branch drainage area must be designed to minimize impacts of hydrologic changes, siltation, and runoff (quantity and quality) on the watershed. Any such potential impacts on swamp pink habitat should be analyzed as a part of your environmental assessment. If such impacts may occur, further Section 7 consultation with the U.S. Fish and Wildlife Service may be required.

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 Andrew Moser at (410) 573-4537.

Sincerely,



Mary J. Ratnaswamy, Ph.D.  
Program Supervisor, Threatened and Endangered Species

cc: Holly Niederriter, Delaware Natural Heritage Program, Smyrna, DE  
Christopher Heckscher, Dept of Natural Resources & Environmental Control, Smyrna, DE  
Bill McAvoy, Delaware Natural Heritage Program, Smyrna, DE  
Richard Hassel, Chief, Application Section I, COE, Philadelphia, PA

**SURVEY CONTACTS  
FOR THE  
SWAMP PINK  
(*Helonias bullata*)**

D. Daniel Boone  
8111 Chestnut Avenue  
Bowie, MD 20715  
301-464-5199

David Maddox  
The Nature Conservancy  
Science Division  
1815 North Lynn Street  
Arlington, VA 22209  
703-841-5383

Jan Reese  
Environmental Regulations Consultant  
P.O. Box 298  
St. Michaels, MD 21663

Dr. Donna Ware  
Department of Biology  
The College of William and Mary  
Williamsburg, VA 23187  
757-221-2213

Mark Strong  
Smithsonian Institution  
Washington, DC  
202-357-4570

Phil Sheridan  
Botanist  
2500 ½ Kensington Avenue  
Richmond, VA 23220  
804-359-6439

Garrie D. Rouse  
Rouse Environmental Services, Inc.  
Route 1, Box 25  
Alett, VA 23009  
804-769-0846

Ted Bradley  
George Mason University  
Department of Biology  
Fairfax, VA 22030-4444  
703-993-1050

Catherine Tucker  
302 Danray Drive  
Richmond, VA 23228  
(H) 804-264-6941  
(W) 804-786-0450

Inclusion of names on this list does not constitute endorsement by the U.S. Fish and Wildlife Service or any other U.S. Government agency.

JANUARY 23, 1998



# United States Department of the Interior



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

December 8, 2005

## RECEIVED

JAN 02 2006

RUMMEL, KLEPPER & KAHL, LLP

Mr. Justin T. Reel  
Project Scientist  
Rummel, Klepper & Kahl, LLP  
81 Mosher Street  
Baltimore, Maryland 21217-4250

*RE: Request for Additional RTE Information - US301 Project Development, Delaware Department of Transportation, New Castle County, DE*

Dear Mr. Reel:

This responds to your letter, dated October 20, 2005, 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 bog turtle (*Clemmys muhlenbergii*) may be present within the study 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 the Delaware Natural Heritage and Endangered Species recommends. 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.

The federally threatened swamp pink (*Helonias bullata*) has been documented to occur in close proximity to the proposed project area, south of Muddy Run. Swamp pink is a perennial wildflower that inhabits a variety of freshwater wetlands, including spring seepages, swamps, bogs, wet meadows and margins of small streams. We recommend that any wetlands to be filled or otherwise affected by the proposed project be surveyed for the presence of swamp pink by a professional botanist. Enclosed is a list of qualified individuals who have experience with

swamp pink surveys. Even if no direct effects to potential swamp pink habitat are identified, any activities proposed to occur in the Barlow Branch drainage area must be designed to minimize impacts of hydrologic changes, siltation, and runoff (quantity and quality) on the watershed. Any such potential impacts on swamp pink habitat should be analyzed as a part of your environmental assessment. If such impacts may occur, further Section 7 consultation with the U.S. Fish and Wildlife Service may be required.

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 Andrew Moser at (410) 573-4537.

Sincerely,



*f* Mary J. Ratnaswamy, Ph.D.  
Program Supervisor, Threatened and Endangered Species

Enclosure

cc: Holly Niederriter, Delaware Natural Heritage Program, Smyrna, DE  
Christopher Heckscher, Dept of Natural Resources & Environmental Control, Smyrna, DE  
Bill McAvoy, Delaware Natural Heritage Program, Smyrna, DE  
Richard Hassel, Chief, Application Section I, COE, Philadelphia, PA

**SURVEY CONTACTS  
FOR THE  
SWAMP PINK  
(*Helonias bullata*)**

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Ted Bradley  
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Department of Biology  
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703-993-1050

Catherine Tucker  
302 Danray Drive  
Richmond, VA 23228  
(H) 804-264-6941  
(W) 804-786-0450

Inclusion of names on this list does not constitute endorsement by the U.S. Fish and Wildlife Service or any other U.S. Government agency.

JANUARY 23, 1998



Robert L. Ehrlich, Jr., Governor

Michael S. Steele, Lt. Governor

C. Ronald Franks, Secretary

December 7, 2005

Mr. Justin T. Reel  
Rummel, Klepper & Kahl, LLP  
81 Mosher Street  
Baltimore, MD 21217-4250

**RE: Environmental Review for US 301 Project Development, Delaware Department of Transportation, Cecil County, Maryland.**

Dear Mr. Reel:

The Wildlife and Heritage Service has determined that there are no State or Federal records for rare, threatened or endangered species within the boundaries of the project site as delineated. As a result, we have no specific comments or requirements pertaining to protection measures at this time. This statement should not be interpreted however as meaning that rare, threatened or endangered species are not in fact present. If appropriate habitat is available, certain species could be present without documentation because adequate surveys have not been conducted. It is also important to note that the utilization of state funds, or the need to obtain a state authorized permit may warrant additional evaluations that could lead to protection or survey recommendations by the Wildlife and Heritage Service. If this project falls into one of these categories, please contact us for further coordination.

Thank you for allowing us the opportunity to review this project. If you should have any further questions regarding this information, please contact me at (410) 260-8573.

Sincerely,

Lori A. Byrne,  
Environmental Review Coordinator  
Wildlife and Heritage Service  
MD Dept. of Natural Resources

ER #2005.2431.ce

RECEIVED

DEC 12 2005

RUMMEL, KLEPPER & KAHL

Tawes State Office Building • 580 Taylor Avenue • Annapolis, Maryland 21401

410.260.8DNR or toll free in Maryland 877.620.8DNR • www.dnr.maryland.gov • TTY users call via Maryland Relay



STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**

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

**RECEIVED**

SEP 27 2005

NATHAN HAYWARD III  
 SECRETARY  
 FROM: MEL, KLEPPER & KAHL, LLP

September 20, 2005

Mr. Timothy Slavin, Director  
 Division of Historic and Cultural Affairs  
 21 The Green, Suite A  
 Dover, Delaware 19901

Dear Mr. Slavin:

The Delaware Department of Transportation (DelDOT) Environmental Studies Section has recently received the draft US 301 Project Development, Determination of Eligibility Report. The project is funded under State Project #25-113-01. The project is also considered a federal undertaking subject to NEPA requirements as well as Section 106 of the National Historic Preservation Act of 1966 (as amended). The Federal Highway Administration will fund construction efforts in the future.

The undertaking involves transportation improvements within the US 301 corridor. The project limits roughly begin at the Maryland/Delaware State Line south of Middletown and ultimately end with a connection at State Route 1 near the Chesapeake and Delaware Canal Bridge. Other transportation options have also been considered, which are based on previous Draft Environmental Impact Statements on this project and public feedback from June 05 public workshops. Transportation improvement alignment options as well as the Area of Potential Effects reflected in each considered option are further illustrated and discussed in the enclosures.

Based on the undertaking's potential to effect historic properties, DelDOT, in consultation with your office, hired A.D. Marble & Company to conduct an architectural survey, including National Register eligibility determinations for properties approximately fifty years and older. The enclosed report is the result of those identification and evaluation efforts.

Additionally, the A.D. Marble team in consultation with our offices sufficiently prepared an archaeological predictive model for this project.

In summary, the consultants determined that several surveyed architectural properties were recommended eligible for the National Register. After some internal review, our staff agrees with the report's findings and conclusions. However, we may have questions and suggestions for making the evaluations and other content clearer that a revision will be necessary. In order to satisfy both agencies and under 36 CFR 800.4, we would like to extend your agency an opportunity to comment within the 30-day requirements on the draft eligibility report before the revision is completed and Section 106 consultation continues.

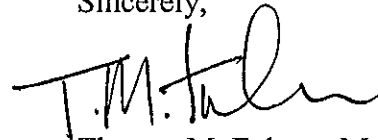


Our goal is to provide the consultant with the most comprehensive and accurate comments for a final report that fully satisfies both our agencies and SHPO report guidelines. Our staff will forward over our comments within the next few days to share as part of this joint effort.

Please provide any comments you have within thirty days of receiving of this draft eligibility report. If there are any questions, please contact Michael Hahn at (302) 760-2131.

Thank you again for your continued cooperation.

Sincerely,



Therese M. Fulmer, Manager  
Environmental Studies

TMF/mh (enclosure)

- cc: Robert Kleinburd, FHWA Reality Officer  
Gwen Davis, DE SHPO – with copy  
Stephanie Bruning, New Castle County Department of Land Use – with copy  
Robert Taylor, Assistant Director, Engineering Support  
Mark Tudor, Group Engineer  
Michael Hahn, Environmental Studies – with copy  
Patrick Carpenter, Environmental Studies – with copy  
Nathaniel Delesline, Environmental Studies - with copy  
Erika Rush, Urban Engineers, Inc.  
William Hellmann, R, K & K Engineers, Inc.  
File



State of Delaware  
Historical and Cultural Affairs

21 The Green  
Dover, DE 19901-3611

Phone: (302) 736.7400

Fax: (302) 739.5660

October 7, 2005

Mr. Robert Kleinburd  
Division Program Manager  
Federal Highway Administration  
J. Allen Frear Federal Building  
300 South New Street  
Dover, DE 19904-6726

RE: US 301 Corridor Study – Alternatives

Dear Mr. Kleinburd:

At the resource agency meetings held this summer, DelDOT has sought comments on the Alternatives being considered for the US 301 Corridor project. With DelDOT's recent submittal of the revised impacts matrix, including information derived from the archaeological predictive model, this office now has sufficient information on which to base such comments. Since it is uncertain when the next resource agency meeting for this project will occur, this office is offering written comments for FHWA and DelDOT to consider as the analysis of the alternatives continues.

Please note that these comments are based primarily on the data contained in the revised impact matrix, received by this office on September 26, 2005. The architectural evaluation survey report, which conveys the consultant's specific recommendations on which resources are eligible for listing in the National Register of Historic Places, is still under review by this office. Also, this office has just received the revised archaeological predictive model report. The views expressed in this letter may be revised after this office completes its review of these reports.

The matrix identifies several categories of cultural resource issues. Of these, this office considers the following as the most critical categories:

- properties listed in or eligible for the National Register of Historic Places which may be physically affected (potential "4(f)" properties);
- properties listed in or eligible for the National Register of Historic Places which may be subject to visual or audible intrusions, significant changes of setting, or other such indirect adverse effects;

DATE RECEIVED

OCT 17 2005

RUMMEL, KLEPPER & KAHL, LLP



- surveyed properties (CRS) – including buildings and structures built prior to 1962, historic districts, objects, and known archaeological sites – which may be physically or indirectly affected;
- areas with High potential for Prehistoric and/or Historic period archaeological sites, as defined by the archaeological predictive model which may be physically affected; and
- cemeteries which may be physically or indirectly affected.

With the exception of “No Build”, all of the Alternatives presented to date are likely to adversely affect such known and potential historic properties. However, it is understood that DelDOT views the “No Build” alternative as not viable, as it would not meet the project’s “Purpose and Need” defined through the National Environmental Policy Act review process.

The “Build” Alternatives can be characterized by their relative degree and nature of potential effects to historic properties. This office views those alternatives which have overall fewer potential effects as “satisfactory” for the purposes of being carried forward for further analysis. From this perspective, specific comments on the Alternatives are given below.

Brown Alternatives (North and South):

In most of the critical cultural resource categories noted above, the Brown Alternatives have fewer potential impacts. This is particularly the case for above-ground resources and areas with historic archaeological potential. An exception is that the Brown routes have relatively high impacts to areas with prehistoric archaeological potential. Overall, this office views these alternatives as “satisfactory”, as defined above.

Green Alternatives (North and South)

When compared with the data on all of the other alternatives, the Green Alternatives generally fall in the middle of the range of potential effects on historic properties. Like the Brown Alternatives, the Green routes have relatively high impacts to areas with prehistoric archaeological potential. However, unlike the Brown routes, the Green Alternatives also pose relatively high potential effects on historic buildings. This office views these alternatives as “satisfactory”, as defined above, but recommends consideration of additional designs that would avoid or minimize the effects on historic buildings, in particular.

Yellow, Orange and Purple Alternatives:

The Yellow, Orange & Purple alternatives could have significant physical, visual, audible and other adverse effects on above-ground resources, including many that are already listed in the National Register of Historic Places. Yellow and Orange could affect two cemeteries, as well. Although these alternatives could have fewer impacts on areas with prehistoric archaeological potential, this office’s view of the Yellow, Orange and Purple alternatives is that they pose an unsatisfactory level of potential effects on historic properties. DelDOT has recommended that the Orange Alternative be dropped from further study; this office supports that recommendation.

Blue Alternatives (North and South):

Strictly by the data in DelDOT's matrix, the Blue Alternatives have fewer potential impacts in several critical cultural resource categories. However, as noted in the matrix, the cultural resource data for these Alternatives are incomplete. There are considerations beyond the numbers as well.

Because the projected routes would cross less intensively developed areas, the Blue Alternatives could significantly alter the setting of historic properties (potential historic landscapes). This office raised similar concerns about the "South Ridge" route in the first US 301 Corridor study. Subsequent development in that area has diminished such concerns.

Additionally, local concern about the Blue Alternatives will likely reopen the controversial issue of historic properties in "the Levels" area. As you may be aware, the initial study and nomination of the Levels Historic District was abandoned in 1985, at the request of land owners in the designated area who expressed this desire at a public hearing. However, this office recently received inquiries from an historic property owner concerned about the Blue routes' effects on the Levels area. Whether this reflects a general shift in the sentiment of area land owners is unknown. To date, DelDOT's consultants have not completed a re-evaluation of this area, so it is unclear if a viable district still remains here.

Although the information is not complete, this office believes the Blue Alternatives may pose an unsatisfactory level of potential effects on historic properties. DelDOT has recommended that these Alternatives be dropped from further study. This office does not object to that recommendation.

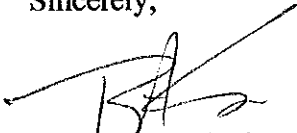
Red Alternative

This alternative is essentially DelDOT's preferred alternative from the previous US 301 Corridor study. At the time of the earlier study, this office viewed the section south of the C & D Canal as preferable to other alternatives considered, but viewed the section north of the Canal as less favorable than other alternatives considered. Concerns about the north section were due to potential effects on several National Register listed properties, including the Cooch's Bridge Historic District. The current matrix data for the Red Alternative are incomplete, but it appears that these conditions still exist in the north section, at least in part. Therefore, this office views the Red Alternative, north of the Canal, as posing an unsatisfactory level of potential effects on historic properties. DelDOT has recommended that the Red Alternative be dropped from further study; this office supports that recommendation.

Thank you for your consideration of these comments. This office looks forward to the continuing consultation on this project. Comments on the draft architectural survey report and revised archaeological predictive model will be provided to you presently. In the interim, if you have any questions, please do not hesitate to contact Gwen Davis, who is conducting the review of this project in consultation with the Division Director and Deputy Director.

Letter to R. Kleinburd  
October 7, 2005  
Page 4

Sincerely,



Timothy A. Slavin  
Director/State Historic Preservation Officer

cc: Edward Bonner, Philadelphia District, U.S. Army Corps of Engineers  
Stephen Marz, Deputy Director, Division of Historical and Cultural Affairs  
Robert Taylor, Assistant Director, Engineering Support, DelDOT  
Therese M. Fulmer, Manager, Environmental Studies, DelDOT  
Mark Tudor, Project Manager, Project Development North II, DelDOT  
Michael C. Hahn, Senior Highway Planner, DelDOT  
Gwenyth A. Davis, Archaeologist, SHPO, Division of Historical & Cultural Affairs  
Robin Bodo, National Register Coordinator, SHPO, Division of Historical & Cultural Affairs  
Stephanie Bruning, Preservation Planner, New Castle County Dept. of Land Use  
Bill Hellmann, RK&K, Inc.  
Katry Harris, RK&K, Inc.

State of Delaware  
Historical and Cultural Affairs

21 The Green  
Dover, DE 19901-3611

Phone: (302) 736.7400

Fax: (302) 739.5660

October 14, 2005

DATE RECEIVED

OCT 24 2005

RUMMEL, KLEPPER & KAHL, LLP

Ms. Therese M. Fulmer, Manager  
Environmental Studies  
Delaware Department of Transportation  
800 Bay Road, P.O. Box 778  
Dover, DE 19904

RE: US 301 Corridor Study – architectural evaluation survey report

Dear Ms. Fulmer:

Concurrent with your staff, this office is reviewing the above-referenced survey report, prepared by DelDOT's consultant, A.D. Marble. Overall, the report indicates a solid effort on a large, complex project with significant time constraints. This office commends the consultant's efforts to date.

The survey included a reassessment of properties previously listed or found eligible for listing in the National Register of Historic Places. The consultant recommends that all but four of these resources still meet the criteria for listing. The survey also entailed evaluating the eligibility of circa 130 properties built prior to 1963. The consultant has recommended that six of these properties are eligible for listing.

This office generally agrees with the recommendations reviewed thus far. However, in discussing the matter with Mike Hahn of your office, it is apparent that both your staff and this office found several aspects of the survey results that need to be clarified. For this office, one question in particular is the level of survey conducted for the Brown Alternatives. It is not clear from the report if all areas that may be affected by the Brown Alternatives were covered by the intensive level survey.

Given the nature of this project, it is important that the results of survey are fully supported, and that concurrence is reached as expeditiously as possible. Therefore based on discussion with your staff, this office would like to defer formal comment on the eligibility determinations, and meet to review and resolve the critical issues with the report. Meetings on the US 301 project had been previously scheduled for October 25<sup>th</sup> and/or 26<sup>th</sup>. Please confirm that these dates are still available for this purpose. Thank you.

Sincerely,



Gwennyth A. Davis  
Archaeologist



Letter to T. Fulmer  
October 14, 2005  
Page 2

cc: Robert Kleinburd, Division Program Manager, Federal Highway Administration  
Stephen Marz, Deputy Director, Division of Historical and Cultural Affairs  
Mark Tudor, Project Manager, Project Development North II, DelDOT  
Michael C. Hahn, Senior Highway Planner, DelDOT  
Patrick Carpenter, Historian, DelDOT  
Robin Bodo, National Register Coordinator, SHPO, Division of Historical & Cultural Affairs  
Stephanie Bruning, Preservation Planner, New Castle County Dept. of Land Use  
Katy Harris, RK&K

State of Delaware  
Historical and Cultural Affairs

21 The Green  
Dover, DE 19901-3611

Phone: (302) 736.7400

Fax: (302) 739.5660

January 6, 2006

Mr. Robert Kleinburd  
Division Program Manager  
Federal Highway Administration  
J. Allen Frear Federal Building  
300 South New Street  
Dover, DE 19904-6726

RE: US 301 Corridor Study – draft architectural survey report, and supplemental materials;  
determinations of eligibility and report content

Dear Mr. Kleinburd:

As you are aware, this office has been working with DelDOT's Environmental Studies staff and DelDOT's consultant, A.D. Marble, to review architectural surveys for the above-referenced project. Consultation is ongoing, and additional materials were submitted for review near the end of December. Nevertheless, this office would like to offer comments on the evaluations (as received through November 2005) and the content of the "Determination of Eligibility Report" for your consideration at this time.

Evaluations of a number of the surveyed properties were discussed by staff of this office, DelDOT and its consultants during a field review held November 4, 2005. In addition, on December 8, 2005, this office provided DelDOT with a draft list of surveyed properties, derived from various tables in the survey report, for which clarification on the status of the survey was needed. DelDOT's e-mail dated December 15 resolved the majority of these questions, but noted that the consultant should work to confirm that properties initially identified as located outside of the Area of Potential Effect are, in fact, outside these limits. This step may need to be repeated, as the project alternatives are refined.

Evaluations:

To date, DelDOT has submitted survey information on a total of 150 properties that were still extant at the time of the survey. In terms of this office's review, these properties can be divided into four categories:

1. Concur with the consultant's recommendations on eligibility for listing in the National Register of Historic Places and/or historic boundaries, without further comment (55 properties);



Letter to R. Kleinburd  
January 6, 2006  
Page 2

2. Concur with the consultant's recommendations on eligibility and/or historic boundaries, but with comments that should be addressed in the final report (58 properties);
3. Cannot yet concur with the consultant's recommendations on eligibility and/or historic boundaries, as substantive issues in the evaluations need to be resolved (19 properties);  
and
4. Pending review of new or supplemental information (18 properties).

The results of this office's review of the evaluations are listed in the attached chart. Comments on some properties refer to specific concerns with the report content, particularly regarding the historic contexts and/or the manner in which eligibility criteria were applied. Such concerns are discussed in more detail in comments on the report content.

Report Content:

This office also reviewed the report content for its completeness and clarity, in accordance with the federal *Secretary of the Interior's Standards and Guidelines for Evaluation*, as well as this office's *Guidelines for Architectural and Archaeological Surveys in Delaware*. The enclosed comments identify information that should be added and/or clarified in the report, to fully meet these standards and guidelines. These comments pertain to both substantive and technical revisions. In addition, note that DelDOT's staff also previously provided comments which similarly address both substantive and technical issues with the report. It would be helpful if the consultant could address the substantive comments (e.g., pertaining to historic contexts) as soon as possible, to assist in making the final eligibility determinations.

As noted in previous correspondence, overall the "Determination of Eligibility Report" demonstrates a solid effort made by the consultants, on an extensive and complex project. The efforts of DelDOT's staff have also been invaluable. The concerns outlined in the enclosed comments are resolvable through continued consultation.

This office will complete its review of the new and supplemental materials received to date within the next few weeks. In the interim, if you have any questions about the enclosed comments, or would like to meet to discuss the evaluations of specific properties, please do not hesitate to contact Gwen Davis and Robin Bodo, who are reviewing this project. Thank you.

Sincerely,



Joan N. Larrivee  
Deputy State Historic Preservation Officer



Letter to R. Kleinburd  
January 6, 2006  
Page 3

Enclosures: Comments on individual eligibility determinations (chart)  
Comments on report content

cc: Stephen Marz, Deputy Director, Division of Historical & Cultural Affairs  
Robert Taylor, Assistant Director, Engineering Support, DelDOT  
Therese M. Fulmer, Manager, Environmental Studies, DelDOT (w/enclosures)  
Mark Tudor, Project Manager, Project Development North II, DelDOT  
Michael C. Hahn, Senior Highway Planner, DelDOT (w/enclosures)  
Patrick Carpenter, Historian, DelDOT (w/enclosures)  
Gwenyth A. Davis, Archaeologist, SHPO, Division of Historical & Cultural Affairs  
Robin Bodo, National Register Coordinator, SHPO, Division of Historical & Cultural Affairs  
Christine Quinn, Preservation Planner, New Castle County Dept. of Land Use (w/enclosures)  
Katy Harris, RK&K (w/enclosures)  
Barbara Frederick, A.D. Marble (w/enclosures)



DATE RECEIVED

JAN 31 2006

RUMMEL, KLEPPER & KAHL, LLP

STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**

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

NATHAN HAYWARD III  
SECRETARY

January 20, 2005

Mr. Timothy Slavin, Director  
Division of Historic and Cultural Affairs  
The Green, Suite 21A  
Dover, Delaware 19901

Dear Mr. Slavin:

Regarding the US 301 Transportation Improvement Project, the Delaware Department of Transportation's (DelDOT) Environmental Studies Section recently provided your office with the revised draft eligibility determinations and supplemental materials by virtue of an attached cover letter dated 12/22/05. The materials, which included a total of 18 properties, are based on our 11/4/05 field overview and draft comments received by your office on 12/8/05. The supplemental materials were distributed to your office for 30-day eligibility and satisfaction review. Due to mailing delays and the holidays, we anticipate that the 30-day eligibility and material review be complete by 1/27/06.

As such, our office is providing written comments for your information on the recent submissions within its 30-day time period. We trust your office may agree with comments for adequacy. As mentioned, we anticipate that your office provide any further comments by 1/27/06. If failure to provide valid written comment, our office will consider the eligibility assessments and supplemental material are valid and accurate. We will continue Section 106 consultation and/or revision needs under the DelDOT written comments and coordination.

In summary, the consultants provided supplemental information and eligibility assessments for the US 301 cultural resource study. For our records and under 36 CFR 800.4, our office concurs with the supplemental materials for the 18 subject properties *conditioned* that a number of technical clarifications are still necessary. The technical clarifications and other minor needs can be addressed in the final revised document.

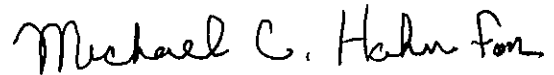
However, our office will still go in record that it does not necessarily agree with the consultant's eligibility recommendation for the A00026, White Brothers Supply property. The latest revisions did not adequately address earlier comments and new questions arise. Comments regarding this property are also enclosed.



Letter to T. Slavin  
1/20/2006  
Page 2 of 2

If there are any questions, please contact Michael C. Hahn at (302) 760-2131.  
Thank you again for your continued cooperation.

Sincerely,



Therese M. Fulmer, Manager  
Environmental Studies

TMF/mh (attachment)

cc: Robert Kleinburd, FHWA Reality Officer (w/attachment)  
Stephen Marz, Deputy Director, Division of Historic and Cultural Affairs  
Gwen Davis, SHPO (w/attachment)  
Robin Bodo, SHPO (w/attachment)  
Robert Taylor, Assistant Director, Engineering Support  
Mark Tudor, Project Manager, North II (w/attachment)  
Patrick Carpenter, Environmental Studies  
Nathaniel Delesline, Environmental Studies  
Christine Quinn, NCC Dept. of Land Use (w/attachment)  
~~Katry Harris, R.K. & K Engineers, Inc. (w/attachment)~~  
Barbara Frederick, A.D. Marble & Co. (w/attachment)  
File

## Comments on Supplemental Eligibility Documentation

The materials are based on revisions or clarifications from DelDOT/SHPO comments on earlier consultation and on 11/4/05 field view with SHPO and New Castle County Preservation Planner.

In sum DelDOT qualified staff concurs with the exception to A00026 White Brothers Supply to all supplemental materials. This includes new/clarified eligibility recommendations, revised/proposed boundaries, new property materials, or additional narrative write-up.

Also, given the necessary technical revisions in absence of the 3 remaining criteria not applied to the property to A00203, Beverly and Laura Pleasanton House, this property is thought to be not eligible. We indicated that the property is not eligible under any of the 4 criteria, but only explain in detail criteria C. Need to simply iterate on other criteria applied.

**Within the overall report:** For future revisions and within the conclusions and recommendations of our report (as true with other properties that we looked at) we need to indicate that SHPO needs to revise database to ensure that reverse eligibility recommendations are undertaken for records & for any National Park Service needs.

### A00026, White Brothers Supply

In addition to other comments, this property's eligibility was not applied or discussed as a potential roadside commercial eligible property. The Quonset huts with operations have been functional as commercial ventures for 50+ years. The criteria application under A only indicates that they are associated with the military.

Also, in the criteria summary, we indicate that Quonset huts are easily movable, but then we then disembarck its potential eligibility as they have been removed from their original location resulting in the loss of integrity of association and feelings. Then, we indicate that other examples (also moved, altered, and adapted for other uses) are better represented - suggesting that they might be the known one's eligible.

With exception to the foam roof covering and overall size differences, there are no key elemental differences in between the DelDOT and Philadelphia Pike Quonset huts and the White Bother's supply huts. All have adaptive uses in the interior alterations, functions, facades; each end units of the building are missing materials and/or altered.

Missing application of Criterion D. Is the building's construction readily known?

Is the showroom (off N half of west hut's west wall) really a circa 2000 addition or just a renovation for a pervious showroom or office?

Please take the green dot off the site plan in CRS # 9.

## **N00112, Summerton**

Is the tax parcel map for the proposed or recommended boundary still curved as illustrated in the 2000 ortho?

## **N05131, T. J. Houston Farm**

Section 7, page 1, first paragraph: place or use specific date (in parenthesis or not) on when removal of buildings in the rear occurred? We say within the past year, but when reader view this, what is the date?

Section 7, page 2, Landscaped Features and Setting: Reword: I did not know that tree lines running along the creek to the south might suggest that they are historic landscaped features? The area to the south of the property is essentially wetlands or steep slopes that can't be farmed or cultivated. So, why are we indicating that they are historic landscaped features as this also suggests inclusion within the boundary (or another CRS form - landscape)? How mature are the tree lines along the driveway as we should indicated any changes along the driveway pattern if we are to include the driveway areas as part of the boundary.

Section 8, page 3, end of 1<sup>st</sup> paragraph: Need date of recently removed building since we suggest earlier that we know when this occurred.

General Question in section 8 -- & this applies to all the revised eligibility write-ups: Why do we include the other applications of criteria consideration (as not eligible) in the nomination forms? DelDOT ok with this, but it is not necessarily needed in this forum.

Need a proposed NR boundary

Does the 1849 Rea and Price Map list/include a dot that a property/building was located on the property? If not and from the tax assessments, it appears that no structure was built until later in time. From the write up and the research, it appears that the house (and maybe not the main/front block) was built between 1857 and 1861. Assuming that Rea and Price map does not include structure (probably the rear ell) and until further research can clarify ambiguity, the circa date is more like 1860.

Please Remove Green Dot of all aerial maps (NR proposed boundary and CRS #9) and USGS.

## **N05153 R.G. Hayes House**

Please remove Green Dot off maps and revise maps according to the description and justification. We indicated a portion of tax map, but write up illustration shows the entire parcel. There seems to be a difference in the NR boundary and the tax map.

Check labels on maps.

#### **N05186 Cleaver Farm/Biddle Mansion Farm**

Please indicate when photos were taken or received from NCC planning as this suggests differences in condition on when survey was taken and when NCC undertook their assessment of the property.

Due to subdivision of the property and # of changes, is an update form needed for both properties. Appears so.

Please list dates on when NCC preservation planning staff (not the Planning Commission – unless it was) undertook interview with property owner or provided information based on what time frame. Please check this throughout.

Please reiterate in NR Evaluation, second paragraph that the property has been subdivided, so essentially we are looking at two properties. Indicated that each property is not eligible in its own right or collectively together.

Need some summary discussion of 11/20/05 filed meeting included in NR evaluation portion.

#### **N05195 J. Houston Farm NR form**

From a future readers perspective, what is meant by “within the study area, .....” indicated in Section 8, page 1? This wording is ok in the eligibility assessment, but not in the NR nomination form.

Section 8, page 2, second paragraph: “By county standards.....” This should be by Saint George’s Hundred records or in comparison of the hundred.

Please remove green dots off aerials and revise NR recommended boundary to correspond with the driveway and ensure measurements are accurately depicted and illustrated. Essentially, what was discussed in the field on 11/20/05 was not fully undertaken in the draft revision. Although a USGS map makes the boundary revisions, does Marble still feel that the boundary includes only an area around house? If so, then need some written description on why driveway was not included.

#### **N05196 Old Fort Dairy**

Need summary discussion/conclusion of November 20<sup>th</sup> meeting in *National Register Evaluation* portion of this assessment.

#### **N05221 C. Polk Estate**

Please remove green dots off aerials and revise NR recommended boundary to correspond with the driveway and ensure measurements are accurately depicted and illustrated. Essentially, what was discussed in the field on 11/20/05 was not fully undertaken in the draft revision. Although the boundary change is shown in the USGS map, does Marble still feel that the boundary includes only an area around house? If so, then need some written description on why driveway was not included.

**A00046, Lester and Thelma Biddle House**

Some minor grammatical/graphic changes needed. DelDOT to undertake.

**A00226 John Eliason Farm**

Checking CRS form #1 for grammatical/graphic change. DelDOT to undertake.

## ***Comments for Supplemental Eligibility Documentation***

### ***A00024, Atwell and Edna Johnson House***

-List adjacent CRS properties.

- A mid-twentieth century property may have a high degree of integrity for its type and period, but not be significant (would still need associated documented record, etc).

Integrity is relative to each type (see previous report comments).

### ***A00026, White Brothers Supply Company***

Although evaluation shows the loss of integrity of the huts and their relocation affects integrity, the phrase "...where they likely served in a military capacity during World War II" indicates an association with an important event in American history that has not been discussed in the prior evaluation or discussions. In the discussion for Criterion A, it seems if there is a WW II association, location not the most critical aspect of integrity. Further, in narrative, indicates that Quonsets were temporary in concept and were often meant for relocation. Therefore, if associated with documented WWII functions, relocation in of itself would not necessarily cause such a loss of integrity that huts are not eligible. Other aspects of integrity loss as indicated in the evaluation may preclude eligibility, but the integrity discussion for Criterion A focuses primarily on the relocation of the huts.

In total, overall integrity loss may preclude eligibility even for WWII association, but need to make this specific link. If some level of further research on the huts' potential WWII association is not conducted, then a clear explanation of why this is not warranted should be included in the evaluation. In addition, over and above the loss of historic location, the evaluation should explain why overall integrity loss would cause not to be eligible even if WWII association.

### ***N05153, R.G. Hayes House***

NR boundary aerial map does not correspond to boundary description and justification.

### ***N05195, J. Houston Farm***

NR boundary aerial does not correspond to boundary description and justification.

### ***N05221, C. Polk House***

NR boundary aerial does not correspond to boundary description and justification.

### ***N05223, Samuel Price Farm***

Agree not eligible, based on unsympathetic modern rear addition, deteriorated condition, and better examples of similar type and age in project area. Might be helpful here to draw parallels to other resources determined not eligible/eligible in the project to show how it compares in terms of integrity. T. Houston for instance, likely retains its earlier ell while also maintaining more integrity on the main block.



**US 301 Revised Eligibility Documentation  
Comments**

**CRS No. A00026**

1. Typical character-defining features for Quonset huts: one feature listed, as typical multi pane, fixed windows on the sides of the building. It should be noted that the Quonset hut located at the DelDOT yard in Dover doesn't have the side windows. The side window rather than a typical design may be an added feature depending on the use of the structure.

**CRS No. N05186**

2. Interior alterations was given as one of the reasons for insufficient integrity of design, material and workmanship making the structure not eligible for National Register consideration. Interior changes should not affect the National Register eligibility of a structure.

State of Delaware  
Historical and Cultural Affairs

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January 27, 2006

**DATE RECEIVED**

**FEB 02 2006**

RUMMEL, KLEPPER & KAHL, LLP

Mr. Robert Kleinburd  
Division Program Manager  
Federal Highway Administration  
J. Allen Frear Federal Building  
300 South New Street  
Dover, DE 19904-6726

RE: US 301 Corridor Study – draft architectural survey, determinations of eligibility; new evaluations and supplemental materials on 18 properties

Dear Mr. Kleinburd:

As you are aware, this office has been working with DelDOT's Environmental Studies staff and DelDOT's consultant, A.D. Marble, to review architectural surveys for the above-referenced project. On January 6, 2006, this office provided formal comments on the survey report and the evaluations of 132 properties, noting that review of recently submitted evaluations of 18 properties was still pending. As indicated in an e-mail sent on January 20<sup>th</sup> (within the 30 day review period), this office's review of the 18 evaluations is now complete, with comments as follows:

1. Concur with the consultant's recommendations on eligibility for listing in the National Register of Historic Places and historic boundaries, without further comment (8 properties);
2. Concur with the consultant's recommendations on eligibility and/or historic boundaries, but with comments that should be addressed in the final report (8 properties); and
3. Cannot yet concur with the consultant's recommendations on eligibility and/or historic boundaries, as substantive issues in the evaluations need to be resolved (2 properties)\*.

More specific comments on the evaluations are indicated in the attached chart.

On January 25<sup>th</sup>, this office also received comments from DelDOT's staff on the 18 evaluations. DelDOT's staff has agreed with the consultant's recommendations on all but one of the properties (A00026 White Brother's Supply), and has additional technical comments on several others. DelDOT's letter requests written comments on the 18 properties by January 27<sup>th</sup>. This office trusts that the January 20<sup>th</sup> e-mail, this letter and attached document will suffice.



Letter to R. Kleinburd  
January 27, 2006  
Page 2

Between DelDOT's comments and those of this office, further consultation on the eligibility and/or boundary recommendations is needed for a minimum of 21 properties: 3 from the current review (2 from SHPO's review and 1 from DelDOT's review) and 18 from the original survey report. DelDOT's recent letter does not acknowledge receipt of this office's January 6, 2006, comments, which identified 18 properties for which substantive issues need to be addressed. DelDOT's previous comments (received via e-mail October 31, 2005) did not specifically indicate its staff's concurrence or non-concurrence with those evaluations.

It is the understanding of this office that DelDOT will soon set a meeting to discuss the architectural survey results to date. Please note that today we received documentation on four additional properties and narrative discussion of a potential rural historic district. It would be helpful if DelDOT could identify any additional evaluations it expects to be submitted in the near future.

This office looks forward to continuing the consultation. In the interim, if you have any questions about the enclosed comments, please do not hesitate to contact Gwen Davis and Robin Bodo, who are reviewing this project. Thank you.

Sincerely,

  
Joan N. Larrivee  
Deputy State Historic Preservation Officer

Enclosure

cc: Stephen Marz, Deputy Director, Division of Historical & Cultural Affairs  
Robert Taylor, Assistant Director, Engineering Support, DelDOT  
Therese M. Fulmer, Manager, Environmental Studies, DelDOT (w/enclosure)  
Mark Tudor, Project Manager, Project Development North II, DelDOT  
Michael C. Hahn, Senior Highway Planner, DelDOT (w/enclosure)  
Patrick Carpenter, Historian, DelDOT (w/enclosure)  
Gwenyth A. Davis, Archaeologist, SHPO, Division of Historical & Cultural Affairs  
Robin Bodo, National Register Coordinator, SHPO, Division of Historical & Cultural Affairs  
Christine Quinn, Preservation Planner, New Castle County Dept. of Land Use (w/enclosure)  
Katy Harris, RK&K (w/enclosure)  
Barbara Frederick, A.D. Marble (w/enclosure)

\* Note: In the January 20<sup>th</sup> e-mail, this office identified 3 properties for which further consultation was needed. After further review, this number is reduced to 2.

January 27, 2006

**US 301 Architectural Survey  
Index to DE SHPO comments on consultant's recommendations:  
New Evaluations and Supplemental Materials  
(materials received through December 22, 2005)**

1. Concur with the consultant's recommendations on eligibility and historic boundaries without further comment (8 properties): A00046, A00203, A00226, A00232, N-112, N-5153, N-5186, and N-5191.
2. Concur with the consultant's recommendations on eligibility and/or historic boundaries, but with comments that should be addressed in the final report (8 properties): A00024, A00026, A00027, N-5131, N-5196, N-5221, N-5223, and N-5224.
3. Cannot yet concur with the consultant's recommendations on eligibility: A00030 Haman House, an African American resource; and  
Cannot yet concur with the consultant's recommendations on historic boundary: N-5195 J. Houston Farm.

January 27, 2006

**US 301 Corridor Study:  
DE SHPO comments on Evaluations of Individual Properties:  
New Evaluations and Supplemental Materials  
(materials received through December 22, 2005)**

<b>Temp or CRS #</b>	<b>Historic Name</b>	<b>Consultant Recommendation</b>	<b>SHPO Review</b>	<b>SHPO Comments Nature of Further Work Needed (if any)</b>
A00024	A. & E. Johnson House	Not eligible	concur	Relate evaluation more specifically to the established criteria.
A00026	White Bros. Supply	Not eligible	Concur Pending discussion of DeDOT's comments	Context: Future research issues -- need better definition of this property type; e.g., comparison of airplane hangars vs. Quonset huts used for other purposes, plus other barrel-shaped roof structures.  Description: technically the corrugated metal is not a "cladding" material, it is part of the wall support.
A00027	R. & M. Wallis House	Not eligible	concur	Relate evaluation more specifically to the established criteria.
A00030	J. & L. Haman Hse.	Not eligible	?????	See 1/6/06 report comments, re: African-American historic context.
A00046	Dwelling, 842 Churchtown Rd.	Not eligible	concur	
A00203	B. & L. Pleasanton Hse.	Not eligible	concur	
A00226	Deeney property	Not eligible	concur	
A00232	Bertha Hobson Chicken Hse.	Not eligible	concur	
N-112	Summerton	Eligible	concur	
		Boundary	concur	

Temp or CRS #	Historic Name	Consultant Recommendation	SHPO Review	SHPO Comments Nature of Further Work Needed (if any)
N-5131	T.J. Houston House	Eligible	concur	DOE, Section 8, p. 4: clarify that the property was evaluated under an agricultural context, but found not eligible under that context.
N-5153	R.G. Hayes House	Boundary Eligible	concur	
N-5186	Cleaver/Biddle	Boundary	concur	
N-5191	Rothwell	Not Eligible Eligible	concur	
N-5195	J. Houston Farm	Boundary Eligible	concur	
N-5196	Old Ford Dairy	Boundary	?????	Boundary: "keyhole" boundaries not ideal; need to discuss other options for drawing boundary. Would be helpful if the summary stated up front that advanced deterioration has significantly affected the property's integrity.
N-5221	C. Polk Estate	Not eligible Eligible Boundary	concur	Description still needs work. Please discuss w/Robin.
N-5223	Samuel Price House	Eligible Boundary	concur	After further review, we agree that the property is not eligible. Though, in our view, the setting and façade retain some integrity, there isn't a strong case for eligibility when compared to similar properties evaluated for the project.
N-5224	A. Crockett Hse.	Not eligible	concur	See 1/6/06 report comments re: application of Criterion D.



U.S. Department  
of Transportation

**Federal Aviation  
Administration**

Harrisburg Airports District Office  
3905 Hartzdale Drive, Ste. 508  
Camp Hill, PA 17011  
(717) 730-2830 phone  
(717) 730-2838 FAX

April 10, 2006

Mark Tudor, P.E.  
Group Engineer, Project Development  
State of Delaware  
Department of Transportation  
800 Bay Road  
Dover, DE 19903

Re: Route 301 DEIS Alternatives

Dear Mr. Tudor:

Thank you for the opportunity to comment on the four alternatives retained in the Draft Environmental Impact Statement (DEIS) for the Route 301 project. We have reviewed the drawings and the letter you provided from Mr. Finn Nielsen, President, Summit Aviation Incorporated. We generally concur with the comments made by Summit Aviation.

Summit Airport is an important airport in the National Air Transportation System. The airport's proximity to Wilmington, Delaware and Philadelphia, Pennsylvania provides important airport coverage in the Federal Aviation Administration's National Plan of Integrated Airport Systems (NPIAS). Summit Airport is a reliever airport to the congested and delayed Philadelphia International Airport (PHL). As such, Summit Airport provides general aviation access to the National Air Transportation that cannot be readily accommodated at PHL without causing further delays.

Summit Airport's current Airport Layout Plan (ALP), as approved by the FAA, includes an extension of the primary Runway 17/35. Summit Airport has filed plans with the FAA to extend Runway 17/35 to the north by 335 feet, and to the south by 498 feet. Accordingly, we have considered the potential effects of the four alternatives on the planned runway extension, as well as to the existing airport facilities. Based on our preliminary review of the alternatives, it appears that the Brown Alternative may be the only alternative that will adversely affect the Summit Airport. As indicated in your letter of March 2, the Brown Alternative has two options – Brown North and Brown South.

### Brown North

As indicated in Summit Aviation's letter of February 16, the Brown North option may adversely impact both the existing Runway 17-35, and proposed extended Runway 17-35.

Vehicles using the Brown North option may penetrate the existing and/or proposed extended Runway 17 34:1 Approach Surface, 40:1 Instrument Departure Surface, and 20:1 Threshold Sitting Surface. Depending on several factors, such as the ability to mitigate a potential hazard, the penetrations may degrade the utility of the existing runway by increasing visibility minimums to possibly restricting use of Runway 17 for daytime operations only.

We did not determine the actual impacts that the Brown North Alternative may have on the current and/or proposed approaches at Summit Airport. Such an analysis will require the Delaware Department of Transportation to file an FAA Form 7460 with the FAA pursuant to Federal Aviation Regulations (FAR) Part 77. Upon receipt of the FAA Form 7460, the FAA will conduct an airspace evaluation and issue a determination. Each FAA line of business, including, Airports, Flight Procedures, and Air Traffic, among other offices, will review the proposed alternatives and comment.

Pursuant to FAR Part 77, the Delaware Department of Transportation will be required to file an FAA Form 7460 prior to constructing either the Brown North or Brown South options due to their close proximity to the airport. In addition, any other alternative selected as the preferred alternative in the DEIS will need to be evaluated using the surfaces identified in FAR Part 77 prior to construction to determine if a Form 7460 is necessary. That said, we highly recommend that a Form 7460 be filed for each of the four alternatives as required by FAR Part 77, including different options under each alternative, prior to completion of the DEIS.

The Brown North option will traverse the Runway Protection Zone (RPZ) of the existing and planned Runway 17 end. We strongly encourage airport owners to acquire sufficient interest in property within the RPZ in order to prohibit incompatible land use.

Finally, the Brown North option will cause a penetration to the Runway Object Free Area of the proposed Runway 17/35 extension, thereby precluding the construction of the full length of the extension currently proposed by Summit Aviation. This impact may be avoidable if the existing pavement was used for the Summit Bridge Farms access Spur and the Right of Way line adjusted accordingly. The Brown North option also impacts the existing Runway 17 by not allowing any space between the Object Free Area and the proposed Summit Bridge Farms access Spur. The space would allow an internal airport vehicle service road and was a condition of the last (2/8/06) Airport Layout Plan approval letter. The condition was imposed in order to address FAA's emphasis on prevention of Aircraft-Vehicle incursions.

### Brown South

As indicated in your letter of March 2, the Brown South option will physically impact Summit Airport's runways. Specifically, it appears that the crosswind Runway 11/29 would become too short to allow any aircraft landings or takeoffs and would need to be closed. In addition, the primary Runway 17/35 would need to be shortened by more than 250 feet, assuming the presence of 25-foot light poles and/or highway signs along the proposed Brown South option in the vicinity of the airport. Therefore, it appears that the Brown South option will significantly degrade the utility of the existing airport.

Summit Airport has received Federal grant assistance under the FAA's Airport Improvement Program. In exchange for this assistance, Summit Aviation has agreed to several Federal obligations in the form of



grant assurances as required by Federal law. Among other things, Summit Aviation has agreed that it will not sell, lease, encumber, or otherwise transfer any interest in the airport property without the written approval of the FAA. In addition, Summit Aviation has agreed to operate the airport in a safe and serviceable condition at all time in accordance with its currently approved Airport Layout Plan. Given the apparent significant adverse impacts that the Brown South option may have on the Summit Airport, it is not likely that the FAA will approve the sale of any interest in the airport property for the Brown South option.

If you have any questions regarding our comments please contact Mr. Jim Fels of my office at (717) 730-2833. In addition, Jim Fels is available to assist your office in completing the necessary FAA Form 7460 to obtain a complete airspace determination from the FAA.

Again, thank you for the opportunity to comment.

Sincerely,

Original Signed by:  
Sue McDonald, Acting Manager for

Wayne T. Heibeck  
Manager

cc: by eMail only:  
Michael Kirkpatrick Del DOT Aviation Planner  
Finn Neilson, Summit Aviation @ EVY



U.S. Department  
of Transportation

**Federal Aviation  
Administration**

Harrisburg Airports District Office  
3905 Hartzdale Drive, Suite 50B  
Camp Hill, PA 17011



August 28, 2006

Mark Tudor, P.E.  
Group Engineer, Project Development  
State of Delaware  
Department of Transportation  
800 Bay Road  
Dover, DE 19903

Dear Mr. Tudor:

**Route 301 DEIS Brown-North Alternative;  
Airspace Case # 06-AEA-314-NRA Consolidated Reply**

This is the Federal Aviation Administration (FAA) aeronautical study response for Airspace Case 06-AEA-314-NRA; Construct the *Brown-North EIS Alternative of the US Highway 301 Project Development* (Brown-North Alternative) at the above referenced airport. The FAA finds the impacts of the Brown-North Alternative objectionable for the reasons discussed below. The FAA's objection is based on the potential degradation of the existing runway utility and the conflicts that result between the Brown-North Alternative and airport planning previously accomplished and depicted on Summit Airport's currently approved Airport Layout Plan (ALP), dated February 8, 2006.

This is a determination with respect to the safe and efficient use of navigable airspace by aircraft, and with respect to the safety of persons and property on the ground. In making this determination, the FAA has considered matters such as the effects the proposal will have on existing or planned traffic patterns of neighboring airports, the existing airspace structure and projected programs of the FAA, the safety of persons and property on the ground, and airport proposals on file with the FAA.

Summit Airport is an important airport in the National Air Transportation System. The airport's proximity to Wilmington, Delaware and Philadelphia, Pennsylvania provides important airport coverage in the Federal Aviation Administration's National Plan of Integrated Airport Systems (NPIAS). Summit Airport is a reliever airport to the congested and delayed Philadelphia International Airport (PHL). As such, Summit Airport provides general aviation access to the National Air Transportation that cannot be readily accommodated at PHL without causing further delays.

Should the Delaware Department of Transportation (Del DOT) elect to build any of the alternatives proposed, pursuant to Federal Aviation Regulation (FAR) Part 77.13, the Del DOT will likely be required to notify the FAA of the construction. Part 77.13 defines the proximity of the proposal to an airport that determines if the form needs to be submitted. If required by Part 77.13, notification would be provided 60-90 days prior to actual construction by using FAA's Form 7460-1 *Notification of Construction or Alteration* available on the web.

Vehicles using the Brown-North Summit Bridge Farms Access Road will penetrate or encroach upon the following Airport Design Standards, Approach, or Departure Surfaces for Runway 17:

1. 34:1 Approach Surface. We have determined that there will be no Instrument Flight Rules (IFR) effect to current approaches; but that future improvements to instrument approach minimums may not be possible.
2. 40:1 Instrument Departure Surface. We have determined that there will be no IFR effect to current departures; but that future improvement to instrument departure minimums may not be possible. During visual conditions, the proposed Summit Bridge Farms Access Road will necessitate an increase in aircraft climb performance with or without the north runway extension depicted on the current conditionally approved Airport Layout Plan. It will also require an increased awareness of the roadway and its embankment by the pilot during preflight briefing. Additional aircraft performance and pilot vigilance to see and avoid vehicles on the new Summit Bridge Farms Access Road and DE896 will be needed during the initial climb phase of flight. While not insurmountable, the takeoff and initial climb phases are critical phases of operation. We would expect Del DOT to assist the FAA in documenting the impacts of alternatives to meet the Airport Design Standards, Approach, or Departure Surfaces for Runway 17 should the Brown-North Alternative be selected.
3. 20:1 Threshold Siting Surface. To meet the 20:1 Threshold Siting Surface, the existing runway will need to be shortened to allow over flight of vehicles on the realigned and elevated Summit Bridge Farms Access Road. We believe this will degrade the current utility of the existing runway. To mitigate this penetration and maintain the existing runway length, the runway will need to be shifted approximately 400 feet to the south. This mitigation will preclude 400' of the proposed south runway extension currently depicted on the conditionally approved Airport Layout Plan.
4. The Runway Protection Zone (RPZ). The Brown-North option will traverse the existing and future RPZ of Runway 17. The RPZs function is to enhance the protection of people and property on the ground. This is achieved through airport owner control over RPZs. Therefore, the FAA discourages public roadways in the RPZ and strongly encourages airport owners to acquire fee interest in property within the RPZ. Accordingly, we discourage Del DOT from increasing the highway right of way acreage amount needed by the Brown-North Alternative within the Runway 17 RPZ.
5. The right of way of the Brown-North Alternative does not encroach upon the existing Runway 17 Object Free Area (ROFA). However, it would preclude the airport owner from constructing an internal airport vehicle service road to get around the *existing* north end of the Runway without using off-site public roadways. This was a condition of our, Airport Layout Plan approval letter dated February 8, 2006. The condition was imposed in order to address FAA's emphasis on

prevention of Aircraft-Vehicle incursions. Moreover, the roadway would penetrate the actual ROFA of the *proposed* runway extension shown on the current conditionally approved ALP.

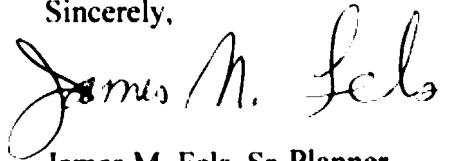
Summary:

The Brown-North alternative is objectionable due to the conflict that results with airport planning previously accomplished and shown on the current Airport Layout Plan (ALP) as conditionally approved February 8, 2006. For the above reasons, the planned extension to the north would not be able to be built. Extending the runway only, or all to the south, to achieve the future length would need to be evaluated if the Brown-North Alternative were to remain a reasonable & feasible alternative of the EIS.

FAA is concerned about potential environmental impacts to adjacent communities to the south since the Brown-North Alternative precludes extending the runway to the north at all. Specifically, the surrounding terrain and land use to the south would need to be changed through land acquisition, grading, drainage improvements, and Churchtown Road realignment before the entire extension meeting FAA standards could be built to the south alone. We would look to the Delaware DOT to document the environmental effects of the resulting shift of Runway 17/35 to the south. It must be demonstrated the resulting shift would be consistent with local plans, and successfully coordinated with the interests of local communities and affected parties, as well as meet FAA Airport Design Standards prior to extending Runway 17/35 to the south alone.

We hope this adequately studies the aeronautical impacts for inclusion in your Route 301 DEIS study. This letter concludes the 2006-AEA-314-NRA case.

Sincerely,

A handwritten signature in cursive script that reads "James M. Fels". The signature is written in black ink and is positioned to the left of a vertical line.

James M. Fels, Sr. Planner  
Harrisburg Airports District Office

cc: by eMail only:

Michael Kirkpatrick Del DOT Aviation Planner  
Finn Neilson, Summit Aviation @ EVY  
Oscar Sanchez, FAA-Harrisburg ADO

## Helen German

---

**From:** "Davis Gwen (DOS)" <Gwen.Davis@State.De.US>  
**To:** "Carpenter Patrick (DeIDOT)" <Patrick.Carpenter@state.de.us>; "Bodo Robin (DOS)" <Robin.Bodo@State.De.US>  
**Cc:** "Eric Almquist' (E-mail)" <balmquist@rkkengineers.com>; "Kleinburd Robert (FHWA)" <Robert.Kleinburd@fhwa.dot.gov>; "Helen' 'German (E-mail)" <Hgerman@rkkengineers.com>; "Bill Hellmann" <whellmann@rkkengineers.com>; "Hahn Michael (DeIDOT)" <MichaelC.Hahn@state.de.us>; "Fulmer Terry (DeIDOT)" <Terry.Fulmer@state.de.us>  
**Sent:** Friday, August 11, 2006 2:25 PM  
**Attach:** US301\_archit\_final\_supplem\_GDavis\_comments.doc  
**Subject:** RE: Kane Farm/Swyka House-US 301 Supplemental Submission

Patrick and Mike,

Thank you for your comments. I have discussed these evaluations with Robin, and she agrees that the Swyka and Kane properties are not eligible for listing in the National Register of Historic Places.

Attached please find my comments on the Swyka and Kane evaluations, as well as the written comments I had prepared for the evaluations on Asbury Cemetery, Forest Cemetery, the African American Rural Community, and the Rural Historic District. Robin may have other comments, and I noted a few points where I suggest that AD Marble consult with Robin before finalizing the report.

You will recall that our office previously provided our concurrence with the findings on Asbury Cemetery, Forest Cemetery, and the African American Rural Community, in an e-mail dated June 30, 2006. After further review, we also concurred with DeIDOT's conclusion regarding the Rural Historic District, in an e-mail dated July 5, 2006.

With these findings and concurrences, the architectural survey should be complete for the US 301 project, at least as the undertaking and the APE are currently defined. As the project planning and the Section 106 consultation progresses, the APE may need to be adjusted, and thereby additional, architectural identification or evaluation survey may be required.

Thank you.

-- Gwen

<<US301\_archit\_final\_supplem\_GDavis\_comments.doc>>

---

**From:** Carpenter Patrick (DeIDOT)  
**Sent:** Monday, August 07, 2006 3:42 PM  
**To:** Davis Gwen (DOS); Bodo Robin (DOS)  
**Cc:** "Eric Almquist' (E-mail)"; Kleinburd Robert (FHWA); 'Helen' 'German (E-mail)'; 'Bill Hellmann'; Hahn Michael (DeIDOT); Fulmer Terry (DeIDOT); Carpenter Patrick (DeIDOT)  
**Subject:** Kane Farm/Swyka House-US 301 Supplemental Submission

Gwen and Robin,

We have completed our review of the Swyka House and Kane Farm properties, and concur with the non-eligible determinations.

We do have a few comments on the evaluations listed below.

### Swyka House

-- Photograph of dwelling does not depict those alterations most affecting its integrity

-- From photograph-house appears to have bungalow massing- a leftover design for a 50's era house?

Kane Farm

--Clarify dates of construction for the dwelling in the description section. In the first paragraph, sounds as if there are two dwellings, and in the second paragraph both the front block and rear ell are listed as circa 1860.

Please let us know if you have any questions or need any more information before your review is complete.

Thanks,

Patrick



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

DATE RECEIVED

JUL 17 2006

RUMMEL, KLEPPER & KAWI, LLP

104-0603  
 file/wkt  
 HG

CAROLANN WICKS, P.E.  
 SECRETARY

July 11, 2006

Mr. Timothy Slavin, Director  
 Division of Historic and Cultural Affairs  
 Delaware State Historic Preservation Office  
 21 The Green, Suite A  
 Dover, Delaware 19901

Dear Mr. Slavin:

The Delaware Department of Transportation (DelDOT), on behalf of the Federal Highway Administration (FHWA), is pleased to provide the Delaware State Historic Preservation Office (DE SHPO) with supplemental materials in association with our ongoing 301 Project Development historic architectural survey and evaluation efforts. Enclosed are draft CRS forms and narratives for two properties : A00247, Swyka House and N-6191, Kane Farm.

Based on consultation with your staff, two CRS forms and narratives not included with the original DOE report submission or secondary information and are now being submitted for review and concurrence. The two subject properties fell into the study area APE due to various new options developed or refined involving the Purple + Spur & Green Interchange Options South of Summit Bridge with sub-options involving an extension tie-in of Bethel Church Road (options 3, 3B, 4)

Please provide comments within 30-days of receiving the enclosed materials. Thank you once again for your continued cooperation.

Sincerely,

*Michael C. Hahn for*

Therese M. Fulmer, Manager  
 Environmental Studies

TMF:mch  
 Enclosures

- cc: Robert Kleinburd, FHWA  
 Gwen Davis, DE SHPO (w/copy)  
 Robin Bodo, DE SHPO (w/copy)  
 Christine Quinn, New Castle County Land Use (w/copy)  
 Helen German, R. K. & K. Engineers,  
 Mark Tudor, DelDOT North  
 Michael Hahn, Environmental Studies  
 Patrick Carpenter, Environmental Studies  
 File





STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**

800 BAY ROAD  
P.O. BOX 778  
DOVER, DELAWARE 19803

NATHAN HAYWARD III  
SECRETARY

October 24, 2005

Ms. Elizabeth Cole, Administrator  
Project Review and Compliance  
Office of Preservation Services  
Maryland Historical Trust  
100 Community Place  
Crownsville, Maryland 21032

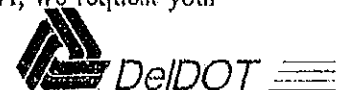
**Reference: US 301 Project Development  
Delaware-Maryland State Line to SR 1  
New Castle County, Delaware**

Ms. Cole:

The Delaware Department of Transportation (DelDOT) is currently undertaking project development proposing improvements to US 301 from the Delaware-Maryland State Line to SR 1 in New Castle County, Delaware. The Federal Highway Administration (FHWA) is the lead agency for the Environmental Impact Statement (EIS) for the improvements (see Notice of Intent published in the *Federal Register* on February 2, 2005) and the Environmental Protection Agency, US Fish and Wildlife Service, and the US Army, Corps of Engineers, are cooperating agencies. The EIS is being prepared assuming that the project will be funded by FHWA, although the specifics of the funding have not been identified to date, and the improvements do not have a federal project number assigned.

To date, DelDOT and FHWA have been consulting with the Delaware State Historic Preservation Office. Ms. Gwen Davis from their office is our liaison regarding the potential effects of the improvements on cultural resources and Section 106 compliance. Other interested parties have also been notified during the project initiation, including New Castle County and the federally listed Native American Tribes with an interest in Delaware.

While the improvements proposed in the current alternatives require construction and direct impacts only in Delaware, parts of Queen Anne's, Kent, and Cecil Counties, Maryland, may experience Secondary or Cumulative Effects as a result of the proposed improvements. In order to identify and consider these potential effects, we are undertaking, with the assistance of Rummel, Klepper & Kahl (RK&K) and A.D. Marble and Company (ADM), a Secondary and Cumulative Effects Assessment (SCEA). In order to ensure that potential effects on cultural resources are considered in this SCEA, we request your





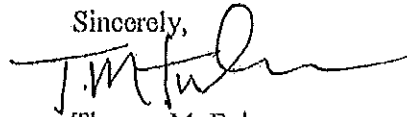
Letter to E. Cole  
10/24/2005  
Page 2 of 2

assistance in providing information on known listed, determined eligible, and inventoried cultural resources in the SCEA area in Maryland (illustrated in the attached figure).

DelDOT and the various resources agencies have been pursuing an expedited and streamlined approach for coordination and consultation. In order to maintain our current schedule, we request that you assist a qualified professional from RK&K or ADM in obtaining the necessary information in a Geographic Information Systems (GIS) format.

Thank you for your assistance in this matter. If you have any questions regarding the proposed improvements, please contact Mike Hahn of my office at (302) 760-2131.

Sincerely,

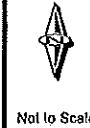
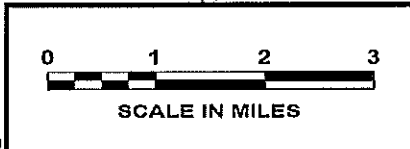
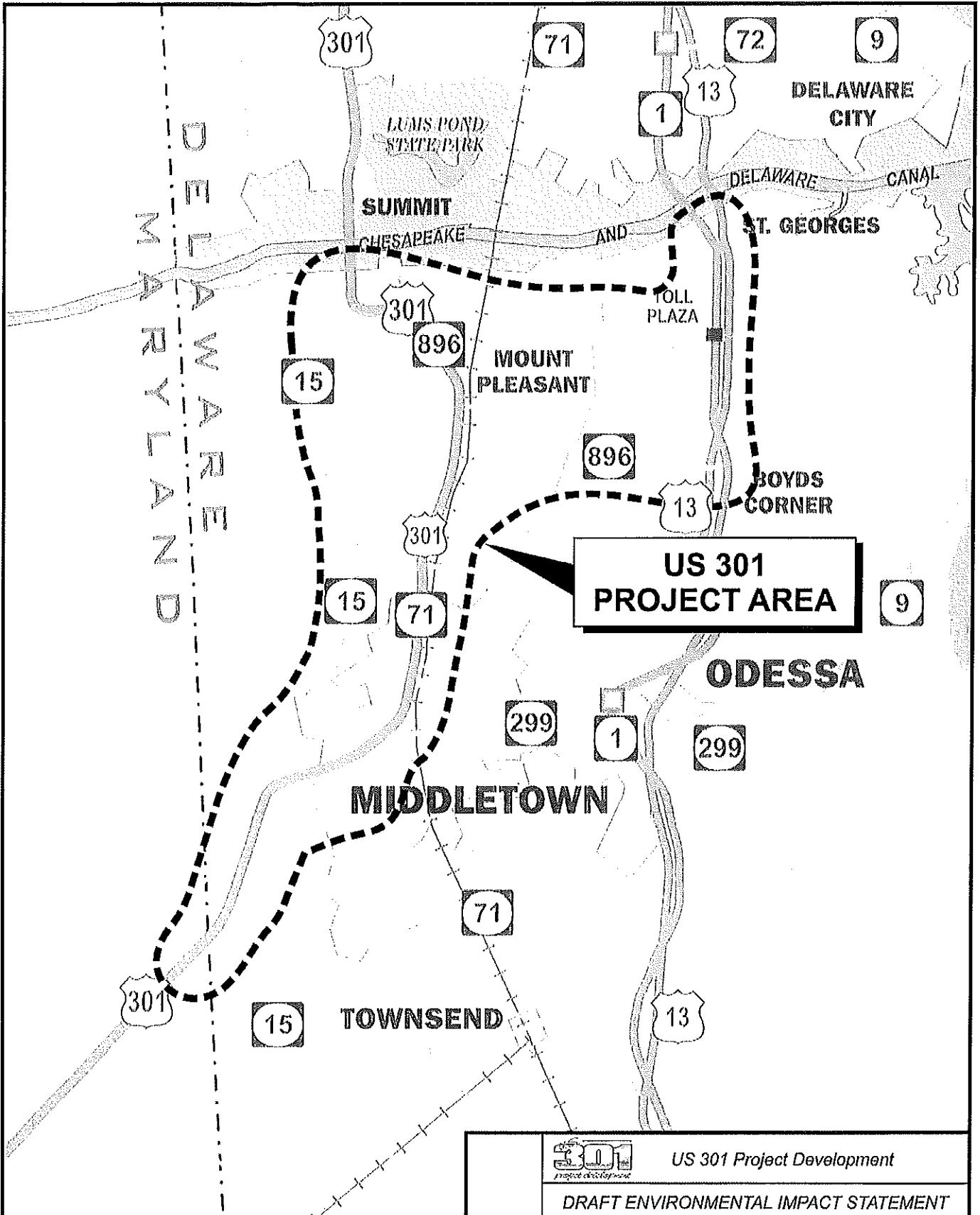




Therese M. Fulmer  
Manager, Environmental Studies

Enclosure: Map illustrating the Secondary and Cumulative Effects Assessment Area for US 301 Project Development

TMF/mh

CC: Bob Kleinburd, FHWA (Delaware Division) - w/enclosure  
Dan Johnson, FHWA (Maryland Division) - w/enclosure  
Gwen Davis, DE-SHPO -- w/enclosure  
Christine Quinn, New Castle County, Planning Department - w/enclosure  
Robert Taylor, DelDOT  
Mark Tudor, DelDOT  
Mike Hahn, DelDOT  
Brika Rush, Urban Engineers  
Bill Hellmann, RK&K  
Katry Harris, RK&K  
File

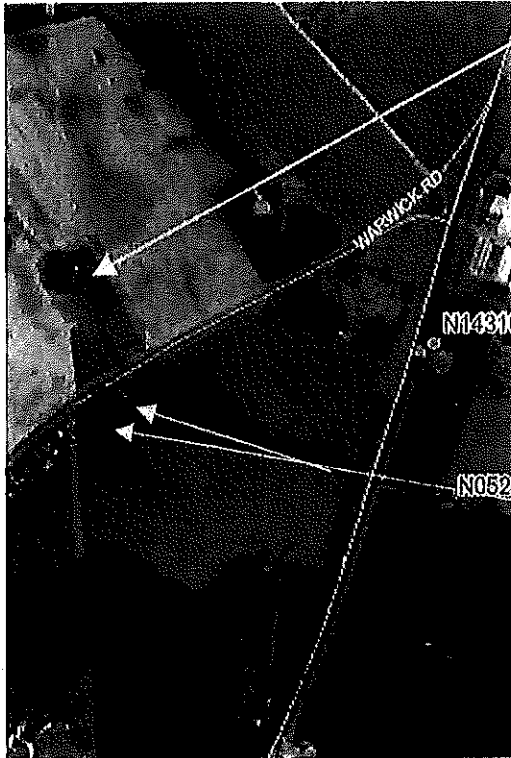


 US 301 Project Development	
DRAFT ENVIRONMENTAL IMPACT STATEMENT	
US 301 PROJECT AREA	
 Delaware Department of Transportation	November 2006
Figure S-2	



**301** US 301 Project Development  
Proposed Improvements in Maryland  
Scale: 1" = 500'  
April 10, 2007

OK, based on map assurances, we need to confirm a number of properties in the field.



Parcel #1302600008 owned by Larry and Shanna Shuler at 313 Warwick Road, Middletown. There are two residences with one not dated and other built in 2000. This property was originally in the reconnaissance as A00086, but then was assigned N-14398 in the final report. However, the reconnaissance never had an inventory card to ever indicate any information. The property is mostly on the Delaware end (& original outbuildings), but a portion is also on the Maryland end. NR eligibility not undertaken since APE line was re-defined. However, not sure if it should have based on options and improvements to Warwick Road – see green and yellow.

Other properties missed – two, maybe three. Field view as this might be part of a Warwick HD assessment?

Parcel #1400500001 at 306 Warwick Road  
1951 Ranch;

Parcel # 1400500003 at 302 Warwick Road  
1948 Ranch

Parcel # 1401000029 Warwick Road or 290  
East Main Street: appears to be vacant or with  
a Maryland lot



### Green North with Armstrong Corner Road Option 2A and Spur Road Option 3B

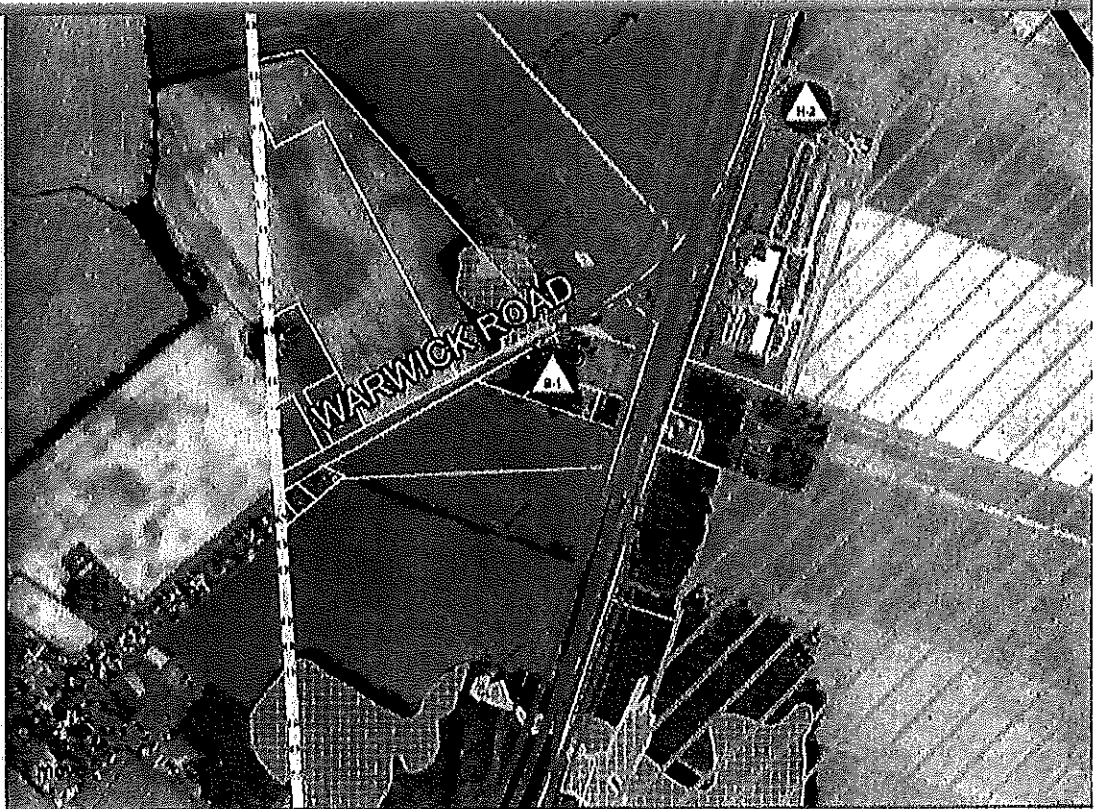
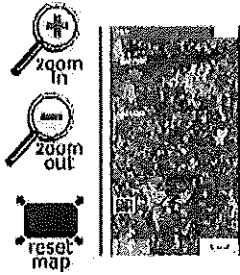
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#### LEGEND

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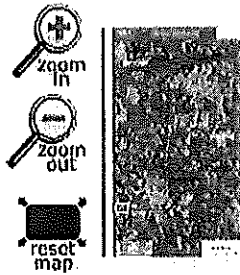
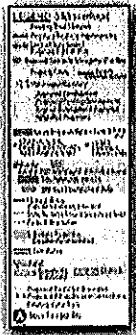


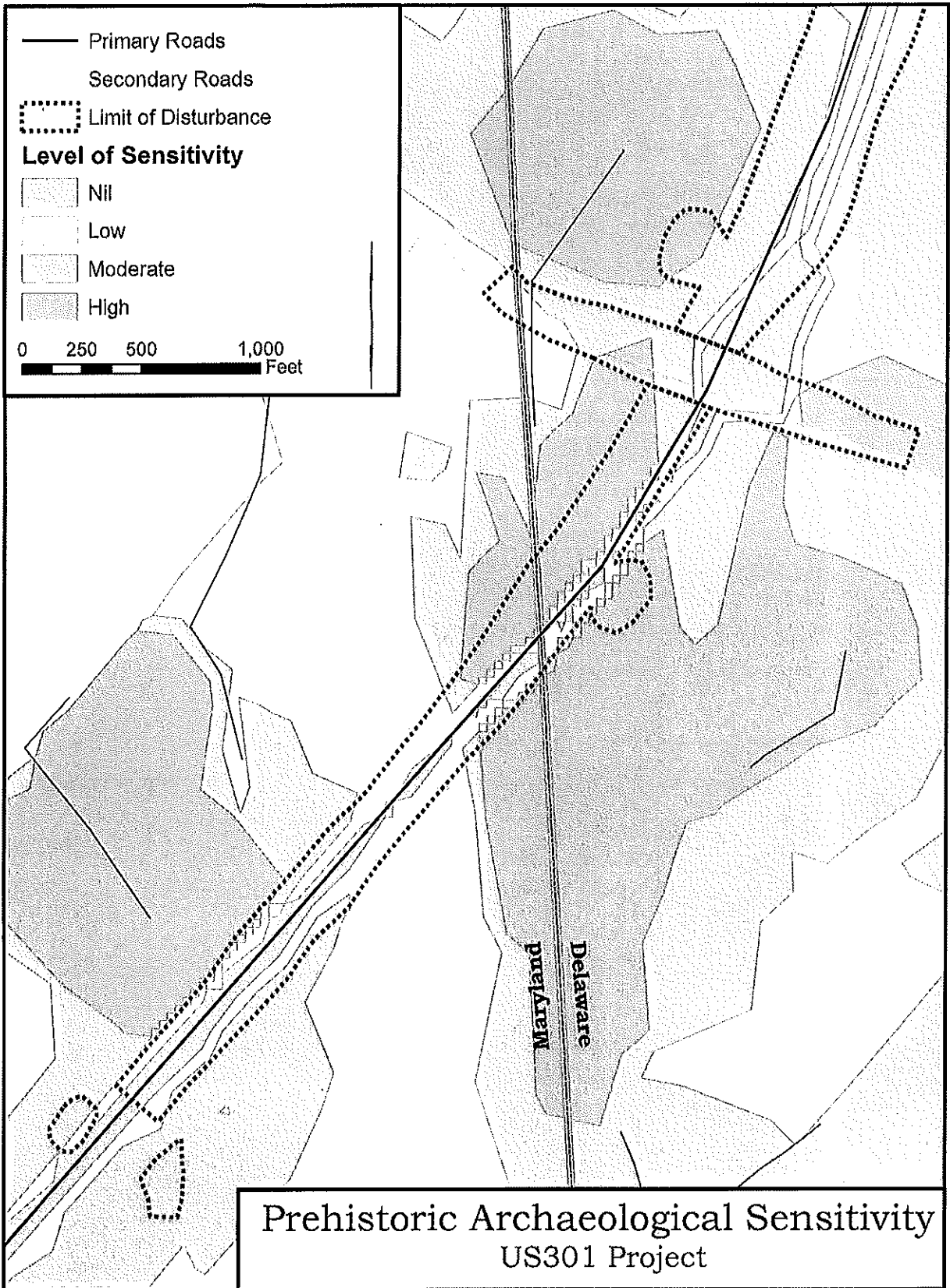
### Yellow Alternative

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**LEGEND**  
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STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**  
800 BAY ROAD  
P.O. BOX 778  
DOVER, DELAWARE 19903

CAROLANN WIGGS, P.E.  
SECRETARY

December 8, 2006

Mr. Timothy Slavin, Director  
Division of Historic and Cultural Affairs  
21 The Green, Suite A  
Dover, Delaware 19901

Dear Mr. Slavin:

The Delaware Department of Transportation (DelDOT) Environmental Studies Section has recently received the final US 301 Project Development, Determination of Eligibility Report and Historic Context. The report reflects all our multi stage coordination efforts as far as incorporation of draft report comments, re-submissions, and all other necessary comments for revisions to the text, graphics, and substantive content. This submission also reflects that fact that all property's assessed in the study area have a concurred SHPO and DelDOT/FHWA approval for known National Register eligibility status.

At this stage, we will continue to coordinate with what additional efforts (i.e. CRS forms, photos, GIS, copies, etc) may still be necessary to bring closure to this identification and evaluation of historic properties under 36 CFR 800.4.

Additionally, as part of the Draft US 301 Environmental Impact Statement in the project development process and as part of our normal DelDOT Environmental Studies report submissions, we are also posting the reports on DelDOT's internet at <http://www.deldot.gov/static/projects/archaeology/index.shtml>. Should you receive an inquiry, now or into the future, the same materials are present for the public to view.

Thank you again for your continued cooperation.

Sincerely,

Therese M. Fulmer, Manager  
Environmental Studies

TMF/mh (enclosure)

cc: Robert Kleinburd, FHWA Realty Officer - with copy  
Gwen Davis, DE SHPO - with copy  
Christine Quinn, New Castle County  
Robert Taylor, Chief Engineer  
Mark Tudor, Group Engineer  
Michael Hahn, Environmental Studies - with copy  
Nathaniel Delesline, Environmental  
Erika Rush, Urban Engineers, Inc.  
William Hellmann, R, K & K Engineers, Inc.  
Jason Vendetti, A.D. Marble & Co., Inc.  
File

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DEC 18 2006

RUMMEL, KLEPPER & KAHL, LLP







Rummel,  
Klepper  
& Kahl, LLP

January 16, 2007

Tricia K. Arndt  
Delaware Coastal Management Program  
Department of Natural Resources and Environmental Control  
89 Kings Highway  
Dover, DE 19901

*William K. Hellmann*  
Emeritus

*David W. Wallace*  
*Robert J. Halbert*  
*Stephen G. Zentz*  
*J. Michael Potter*  
*Thomas E. Mohler*  
*James A. Zito*

Subject: US 301 Project Development  
DCMP Federal Consistency Certification Request

*Charles M. Easter, Jr.*  
*Joseph A. Romanowski, Jr.*  
*Michael L. Krupsaw*

*Lars E. Hill*  
*J. Tommy Peacock, Jr.*  
*Michael W. Myers*  
*Martin C. Rodgers*  
*Kenneth A. Goon*  
*Richard J. Adams, Jr.*  
*John A. d'Epagnier*  
*Barbara J. Hoage*  
*Christopher F. Wright*  
*Owen L. Peery*

*Nancy R. Bergeron*  
*Stuart A. Montgomery*  
*David G. Vansocy*  
*Henry J. Bankard, Jr.*  
*Peter C. D'Adamo*  
*James F. Ridenour, Jr.*  
*Robert J. Andryszak*  
*Raymond M. Harbeson, Jr.*  
*B. Keith Skinner*  
*Karen B. Kahl*  
*Seyed A. Saadat*  
*John C. Moore*  
*Sonya Y. Brown*  
*Eric M. Klein*

Ms. Arndt;

On behalf of the Federal Highway Administration (FHWA) and the Delaware Department of Transportation (DelDOT), Rummel, Klepper & Kahl, LLP is requesting a Delaware Coastal Management Program (DCMP) consistency review and certification for the US 301 Project. The US 301 Project will improve safety in the roadway corridor, relieve congestion and manage through-truck traffic. The need for this project is supported by the accident history within the corridor, existing and future congestion (projected 2030 traffic and land use), and the high percentage of truck traffic that mixes with local traffic.

FHWA and DelDOT assert that the US 301 project is consistent with Delaware Coastal Zone policies and regulations. A statement of project purpose and an assessment of probable effects on the coastal zone are submitted (attached) in support of the project's consistency. FHWA and DelDOT have applied to the U.S. Army Corps of Engineers for an individual Department of the Army Permit (33 CFR 325), a copy of this permit application is also enclosed. Applications for required Delaware State permits, including DNREC Wetlands, DNREC Subaqueous Lands, and 401 Water Quality Certification, will be submitted closer to final design.

81 Mosher Street  
Baltimore, Maryland  
21217-4250  
Ph: 410-738-2900  
Fax: 410-738-2992  
www.rkkengineers.com

The previously submitted US 301 Project Development, Draft Environmental Impact Statement document (November 2006) provides detailed supplemental information in support of the project's consistency and is referenced frequently in the attached Supplemental Information for DCMP Consistency Certification.

Ms. Tricia Arndt  
January 16, 2007  
Page 2



**Rummel, Klepper & Kahl, LLP**

If you have any questions or require additional information, please feel free to contact me at (410) 728-2900. Thank you for your time and continued assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Justin Reel', written in a cursive style.

Justin Reel  
Project Scientist

Enclosures: Supplemental Information for DCMP Consistency Certification  
US 301 ACOE individual permit application

Cc: E. Bonner – ACOE  
R. Kleinburd – FHWA  
M. Tudor, and T. Fulmer - DeIDOT  
W. Hellmann, H. German, E. Almquist, R. Cole – RK&K  
104-063 (file)



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

DELAWARE COASTAL  
MANAGEMENT PROGRAM

TELEPHONE: (302) 739-9283  
FAX: (302) 739-2048

104-063

WKA/f.le

HG  
BEA

RECEIVED

March 22, 2007

MAR 26 2007

Justin Reel  
Rummel, Klepper & Kahl, LLP  
81 Mosher Street  
Baltimore, MD 21217-4250

RUMMEL, KLEPPER & KAHL, LLP

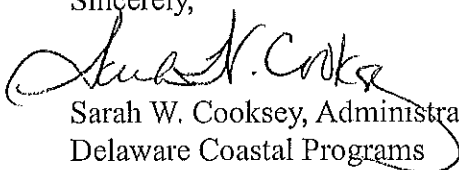
**RE: Delaware Coastal Management Federal Consistency Certification  
US 301 Draft Environmental Impact Statement**

Dear Mr. Reel:

The Delaware Coastal Management Program has received and reviewed your consistency certification for the above referenced project. Based upon our review and pursuant to *15 CFR part 930* of National Oceanic and Atmospheric Administration regulations, we are notifying you that our review period will be extended for an additional ninety days. The additional time is necessary to allow further coordination with the Delaware Department of Transportation to address issues outlined in the February 23, 2007 letter to Secretary Carol Ann Wicks from Director Kevin Donnelly on behalf of the Department of Natural Resources and Environmental Control. Our new deadline for this project is July 19, 2007.

If you have any questions please feel free to contact Tricia Arndt of my staff at (302) 739-9283.

Sincerely,

  
Sarah W. Cooksey, Administrator  
Delaware Coastal Programs

SWC/tka

File: FC#07.037

cc: Mark Tudor-DelDOT

Ed Bonner-USACE



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

DATE RECEIVED

APR 30 2007

RUMMEL, KLEPPER & KAHL, LLP

CAROLANN WICKS, P.E.  
SECRETARY

April 17, 2007

Ms. Elizabeth Cole, Administrator  
Project Review and Compliance  
Office of Preservation Services  
Maryland Historical Trust  
100 Community Place  
Crownsville, Maryland 21032

**Reference: US 301 Project Development  
Delaware/Maryland State Line to SR 1  
New Castle County, Delaware**

Dear Ms. Cole,

The Delaware Department of Transportation (DelDOT) is continuing its undertaking to complete the requirements of Section 106 of the National Historic Preservation Act with respect to proposed improvements in the US 301 corridor from the Delaware/Maryland line to SR 1 in southern New Castle County, Delaware. As you may know, this project was initiated with your office on October 24, 2005 (letter attached).

The Federal Highway Administration (FHWA) is the lead agency for the Environmental Impact Statement (EIS) for the improvements. DelDOT announced their Recommended Preferred Alternative for the project, the Green North Alternative, with the publication of the Draft EIS in November, 2006. A map of the project area and a map showing proposed improvements within Maryland are enclosed. The DelDOT web site illustrating the Recommended Preferred Alternative and documenting the Draft EIS impacts to the project can be found at:

- [http://www.deldot.gov/static/projects/us301/jan07\\_flash\\_maps/preferred\\_alt/pages/301map\\_preferredalternatives.htm](http://www.deldot.gov/static/projects/us301/jan07_flash_maps/preferred_alt/pages/301map_preferredalternatives.htm)

and,

- <http://www.deldot.gov/static/projects/us301/pdfs/jan07/deis/deis.shtml>.

Direct improvements in Maryland would extend approximately 2,600 feet into Maryland. Improvements involve widening of existing US 301 to four lanes to meet the proposed four-lane



US 301 in Delaware. Most of the improvements are within the existing Maryland State right of way.

Based on cultural resource efforts in Maryland, DelDOT and FHWA have reviewed properties in the area within 600 feet on either side of the roadway of the proposed improvements. Based on all the build options, including the Recommended Preferred Alternative, we have determined that there are no listed, eligible, or inventory properties within Maryland that would be affected or directly involved. Additionally, based on visual assessment of the area, beyond 600 feet on either side of the roadway, there are no potential historic properties evident for indirect visual or audible intrusion. We encourage your assessments on this matter, including any information that we may be missing.

As a matter of follow-up and in coordination with the Delaware State Historic Preservation Office (DE SHPO), we are also requesting your opinion whether or not collective properties in Maryland near/along Warwick Road could have the potential to be involved in visual impacts as a potential historic district of Warwick. Currently, there are two architectural properties in Delaware, located at 302 and 306 Warwick Road that appear to be part of the extended area, or an eastern terminus of Warwick. There is also one vacant parcel, which consists of delineated area within the two states. Please see attachments and also the direct web page link.

The subject properties in Delaware that might be considered part of Warwick are well in excess of 1,500 feet from any improved portion of a roadway. As coordinated with the Delaware SHPO, it was determined that the subject properties are not within the Area of Potential Effect (APE) in Delaware. However, with different state Section 106 coordination with your office, we request your opinion and concurrence. Are there adjacent properties in Maryland, in excess of 1,500 feet and screened from any sight visual distance, that may be part of a National Register evaluation need in Maryland? Are there additional Section 106 identification efforts with the Maryland Historical Trust for US 301?

For standing structures, it is the opinion of DelDOT and FHWA that if properties closer in Delaware (and part of a potential historic district for the town of Warwick) are not potentially within the APE, then continual properties further away (west) and into Maryland would also not be within the APE. For consultation purposes, we would like to confirm this analysis.

For your information, DelDOT and FHWA also considered secondary and cumulative impacts within Maryland. Concerns are focused on travel and traffic diversions, traffic pattern changes, as well as any secondary roadway improvements caused by changes in travel or traffic patterns. Documented in the Draft EIS, coordinated with the DE SHPO, and documented for the public, we concluded that with regard to cultural resources (listed, eligible, inventoried), no changes or impacts would occur that would not normally take place in time. Even under "no build" situations or with selected corridor improvements, traffic patterns and volumes would not be altered so as to impact or involve effects on cultural resources. This includes roadways in

Delaware and applicable roadways in Maryland – see DEIS, Chapter III, Section G (Traffic, Travel Patterns and Toll Diversions).

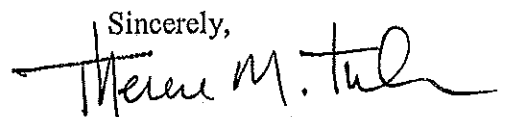
With regard to potential cultural resources involving surface or sub-surface archaeology, it has been ascertained through archaeological predictive modeling that little or no potential exists along the main line of US 301 for prehistoric sites (see enclosed figure). The potential for historic archaeology has not been confirmed, but we can reasonably reach the same conclusion. As it stands, the potential limit of disturbance (LOD) for US 301 roadway improvements within Maryland appears to have been significantly altered by past construction activities. No investigations are needed. We also seek your thoughts and concurrence towards this conclusion.

Based on conceptual engineering, two stormwater management ponds may be located in Maryland near the state line and outside existing right of way. As you may know, the construction of this project may not occur immediately. Not knowing all the finite details in a final design to determine full or future archaeological needs, a Memorandum of Agreement (MOA) will accompany the Final EIS to determine the treatment of potential archaeological sites within the project's limit of disturbance (LOD). Unless you are willing clear or condition this differently, we trust the MHT will be invited to participate as a signatory to this agreement. This will assure the successful continuance of the Section 106 process with both the Delaware and Maryland SHPO with regard to any actions necessary in the future.

DelDOT and FHWA are therefore requesting your comments and input on the level of concurrence that might be necessary for Section 106 consultation. For standing architectural resources in Maryland and under a 30-day review time period, we suggest no further identification efforts. For NEPA compliance, DelDOT and FHWA are recommending a Finding of No Historic Properties Affected within the APE of the Recommended Preferred Alternative within Maryland. Moreover, your agency's participation as a signatory to the US 301 MOA would assure future treatments of any archaeological needs in Maryland, should they arise. We trust that the Maryland Historical Trust will confirm its participation in the MOA.

The US 301 Project Development Team realizes that the information provided may need an overview from your perspective. Upon your request and for Section 106 needs, we would be glad to provide an overview of the project in your office or out in the field. If so, or if you have questions concerning this project and/or the information requested, please contact Mr. Michael Hahn of our office at 302-760-2131 (MichaelC.Hahn@state.de.us).

Thank you for your consideration of this matter.

Sincerely,  
  
Therese M. Fulmer  
Manager, Environmental Studies

Letter to E. Cole

4/17/2007

Page 4 of 4

TMF/mh

Enclosures

cc: Daniel Johnson, FHWA  
Robert Kleinburd, FHWA – with copies  
Gwen Davis, DE SHPO – with copies  
Robert Taylor, Chief Engineer  
Mark Tudor, Group Engineer – with copies  
Mike Hahn, Project Manager  
Kevin Cunningham, Archaeologist – copies  
Erika Rush, Urban Engineers  
William Hellmann, RK&K Engineers  
~~Helen German, RK&K Engineers – with copies~~  
File



Maryland Department of Planning  
Maryland Historical Trust

Richard Eberhart Hall  
Secretary

Matthew J. Power  
Deputy Secretary

Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor

June 29, 2007

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



Re: US 301 Project Development  
Delaware/Maryland State Line to US 1  
New Castle County, Delaware

Dear Ms. Fulmer:

Thank you for contacting the Maryland Historical Trust (Trust), a division of the Maryland Department of Planning, regarding the above-referenced undertaking. We are writing to offer our comments in accordance with Section 106 of the National Historic Preservation Act and the Maryland Historical Trust Act of 1985, as appropriate.

As noted in your letter, the project within Maryland involves the widening of existing US 301 to four lanes for a distance of 2600 feet. This work will occur within the existing US 301 right-of-way. Other ancillary activities, including the construction of storm water management facilities, may also occur within Maryland. Based upon our review of the project documentation, the Trust agrees that the Area of Potential Effects (APE) for the undertaking does not contain historic structures. In addition, it is the Trust's opinion that the proposed project area has been disturbed and has a low potential for containing National Register-eligible archeological resources that have not yet been identified. We agree with your assessment that no archeological investigations are warranted within Maryland. If ancillary activities are proposed outside of the existing right-of-way for US 301, additional coordination with the Trust will be necessary to determine the potential for impacts to unknown archeological resources. Therefore, we agree to participate in the execution of a Memorandum of Agreement (MOA) to assure future coordination of archeological investigations in Maryland.

We look forward to working with you to successfully complete the preservation requirements for the proposed undertaking. If you have questions or require assistance, please contact Beth Cole (regarding archeology) at [bcole@mdp.state.md.us](mailto:bcole@mdp.state.md.us) \ 410-514-7631 or me (regarding historic built environment) at [ttamburrino@mdp.state.md.us](mailto:ttamburrino@mdp.state.md.us) \ 410-514-7637.

Sincerely,

Tim Tamburrino  
Preservation Officer  
Maryland Historical Trust

TJT/ 200701412

cc: Mr. Dan Johnson (FHWA)  
Ms. Julie Schablitsky (SHA)







STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**  
800 BAY ROAD  
P.O. Box 778  
DOVER, DELAWARE 19903

CAROLANN WICKS, P.E.  
SECRETARY

May 24, 2007

Linda Katchenago, Tribal Administer  
Stockbridge-Muncee Community  
N8705 Moh-He-Con-Nuck Road  
Bowler, WI 54416

**Reference: US 301 Project Development  
Delaware/Maryland State Line to SR 1  
New Castle County, Delaware**

Dear Ms. Katchenago,

On behalf of the Federal Highway Administration (FHWA), the Delaware Department of Transportation (DelDOT) is continuing its federal undertaking to complete the requirements of Section 106 of the National Historic Preservation Act with respect to proposed improvements in the US 301 corridor from the Delaware/Maryland line to SR 1 in southern New Castle County, Delaware.

The Federal Highway Administration (FHWA) is the lead agency for the Environmental Impact Statement (EIS) for the improvements. DelDOT announced their Recommended Preferred Alternative for the project, the Green North Alternative plus Spur, with the publication of the Draft EIS in November, 2006. The DelDOT web site illustrating the Recommended Preferred Alternative and documenting the Draft EIS impacts to the project can be found at:

- [http://www.deldot.gov/static/projects/us301/jan07\\_flash\\_maps/preferred\\_alt/pages/301map\\_preferredalternatives.htm](http://www.deldot.gov/static/projects/us301/jan07_flash_maps/preferred_alt/pages/301map_preferredalternatives.htm)

and,

- <http://www.deldot.gov/static/projects/us301/pdfs/jan07/deis/deis.shtml>.

For your convenience, we are also enclosing a computer disk for your records or needs.

Direct improvements are also anticipated in Maryland that would extend approximately 2,600 feet into Maryland. Improvements involve widening of existing US 301 to four lanes to meet the proposed four-lane US 301 in Delaware. Most of the improvements are within the existing Maryland State right of way. DelDOT on behalf of the Federal Highway Administration is coordinating its needs with the Maryland Historical Trust.



Letter to Kerry Holton

5/24/2007

Page 2 of 3

Not knowing all the finite details in a final design to determine full range or even future archaeological needs, a Memorandum of Agreement (MOA) will accompany the Final EIS to determine the treatment of potential archaeological sites (historic and pre-historic) within the project's limit of disturbance (LOD). More importantly, timing for future archaeological studies could be years away as schedules are undetermined. As such, the development of a MOA will assure the successful continuance in avoidance, preservation, consultation, or mitigation of the Section 106 process with both the Delaware and Maryland SHPO with regard to any actions necessary in the future.

As a matter of follow-up and in coordination with the Federal Highway Administration and Delaware State Historic Preservation Office (DE SHPO), we are also requesting your opinion whether or not your participation would be desired as part of a signatory process to the Memorandum of Agreement.

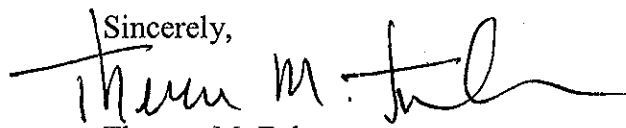
Concerning Delaware's Native American sites, all archeological sites developed from SHPO inventories have been identified within and adjacent to the project area. In addition, a predictive model of pre-Columbian sites has been planned, developed, mapped, and selectively tested within a portion of state right of way. The predicted locations of sites are based upon a series of environmental variables, which are thought necessary in the life ways of Delaware's first inhabitants. As this information is deemed sensitive, we have discouraged availability of this planning information for the general public. However, to date no sites have been National Register identified or lie in the project area. Of course, the reason for this is we lack actual archaeological field efforts commissioned for US 301 and the verification of existing background data. With future archaeological investigations anticipated within the limits of construction, Native American or other archaeological sites would be validated and identified.

Concerning the above your signature would only solidify your interest, participation, or knowledge that future archaeological studies are not only needed, but when sites are found, they may involve Native American consultation. Should you choose to not be a participant in the MOA signature at this stage, your participation or interest in the future would be reaffirmed.

Should we not hear from you within 30-calendar days upon receiving this letter, DelDOT, on behalf of FHWA, will continue to move forward on the MOA and other needs to satisfy and continue its Section 106 compliance.

If you would like any further information please do not hesitate contact Kevin Cunningham at 302-760-2125 (Kevin.Cunningham@state.de.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Therese M. Fulmer". The signature is written in a cursive style with a long horizontal flourish at the end.

Therese M. Fulmer

Manager, Environmental Studies

Letter to Kerry Holton

5/24/2007

Page 3 of 3

TMF/mh

Enclosures

Robert Kleinburd, FHWA

Timothy Slavin, Director, Delaware State Historic Preservation Office

Gwen Davis, SHPO

Mark Tudor, Group Engineer

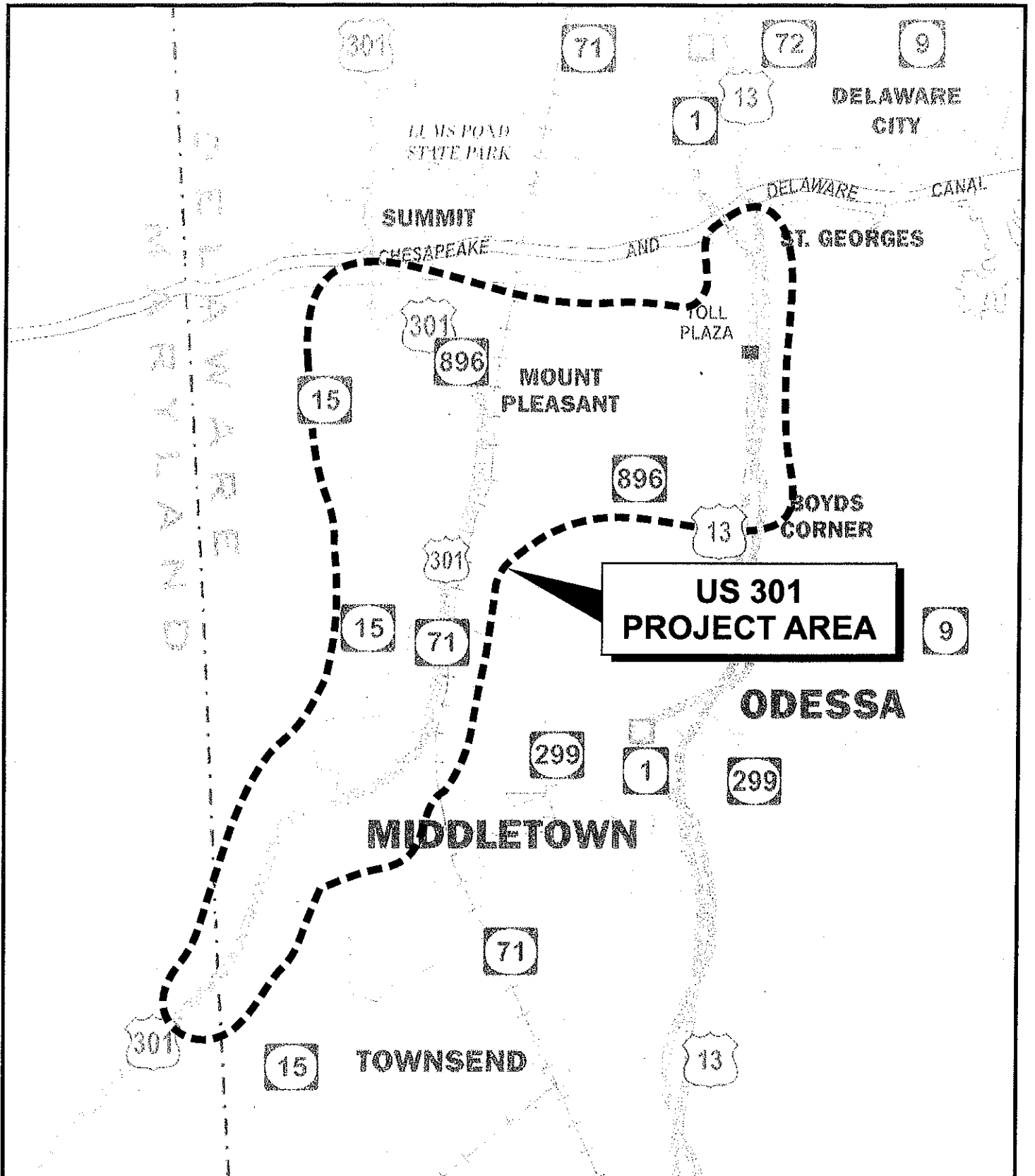
Michael Hahn, Project Manager

Kevin Cunningham, DelDOT Archaeologist

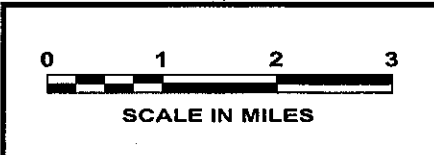
David Clarke, DelDOT Archaeologist




Helen German, RK & K Engineers, Inc

File



**US 301  
PROJECT AREA**



	US 301 Project Development	
	DRAFT ENVIRONMENTAL IMPACT STATEMENT	
 Not to Scale	US 301 PROJECT AREA	
	 Delaware Department of Transportation	November 2006



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

CAROLANN WICKS, P.E.  
SECRETARY

May 24, 2007

Kerry Holton, Tribal President  
The Delaware Nation  
Post Office Box 825  
Anadarko, OK 73005

**Reference: US 301 Project Development  
Delaware/Maryland State Line to SR 1  
New Castle County, Delaware**

Dear Kerry Holton,

On behalf of the Federal Highway Administration (FHWA), the Delaware Department of Transportation (DelDOT) is continuing its federal undertaking to complete the requirements of Section 106 of the National Historic Preservation Act with respect to proposed improvements in the US 301 corridor from the Delaware/Maryland line to SR 1 in southern New Castle County, Delaware.

The Federal Highway Administration (FHWA) is the lead agency for the Environmental Impact Statement (EIS) for the improvements. DelDOT announced their Recommended Preferred Alternative for the project, the Green North Alternative plus Spur, with the publication of the Draft EIS in November, 2006. The DelDOT web site illustrating the Recommended Preferred Alternative and documenting the Draft EIS impacts to the project can be found at:

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and,

- <http://www.deldot.gov/static/projects/us301/pdfs/jan07/deis/deis.shtml>.

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Direct improvements are also anticipated in Maryland that would extend approximately 2,600 feet into Maryland. Improvements involve widening of existing US 301 to four lanes to meet the proposed four-lane US 301 in Delaware. Most of the improvements are within the existing Maryland State right of way. DelDOT on behalf of the Federal Highway Administration is coordinating its needs with the Maryland Historical Trust.



Letter to Kerry Holton

5/24/2007

Page 2 of 3

Not knowing all the finite details in a final design to determine full range or even future archaeological needs, a Memorandum of Agreement (MOA) will accompany the Final EIS to determine the treatment of potential archaeological sites (historic and pre-historic) within the project's limit of disturbance (LOD). More importantly, timing for future archaeological studies could be years away as schedules are undetermined. As such, the development of a MOA will assure the successful continuance in avoidance, preservation, consultation, or mitigation of the Section 106 process with both the Delaware and Maryland SHPO with regard to any actions necessary in the future.

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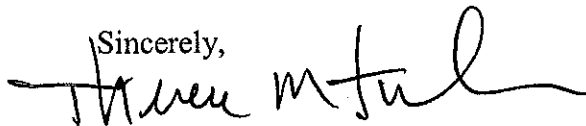
Concerning Delaware's Native American sites, all archeological sites developed from SHPO inventories have been identified within and adjacent to the project area. In addition, a predictive model of pre-Columbian sites has been planned, developed, mapped, and selectively tested within a portion of state right of way. The predicted locations of sites are based upon a series of environmental variables, which are thought necessary in the life ways of Delaware's first inhabitants. As this information is deemed sensitive, we have discouraged availability of this planning information for the general public. However, to date no sites have been National Register identified or lie in the project area. Of course, the reason for this is we lack actual archaeological field efforts commissioned for US 301 and the verification of existing background data. With future archaeological investigations anticipated within the limits of construction, Native American or other archaeological sites would be validated and identified.

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Should we not hear from you within 30-calendar days upon receiving this letter, DelDOT, on behalf of FHWA, will continue to move forward on the MOA and other needs to satisfy and continue its Section 106 compliance.

If you would like any further information please do not hesitate contact Kevin Cunningham at 302-760-2125 (Kevin.Cunningham@state.de.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Therese M. Fulmer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Therese M. Fulmer

Manager, Environmental Studies

Letter to Kerry Holton

5/24/2007

Page 3 of 3

TMF/mh

Enclosures

Tamara Francis, The Delaware Nation, Preservation Director

Robert Kleinburd, FHWA

Timothy Slavin, Director, Delaware State Historic Preservation Office

Gwen Davis, SHPO

Mark Tudor, Group Engineer

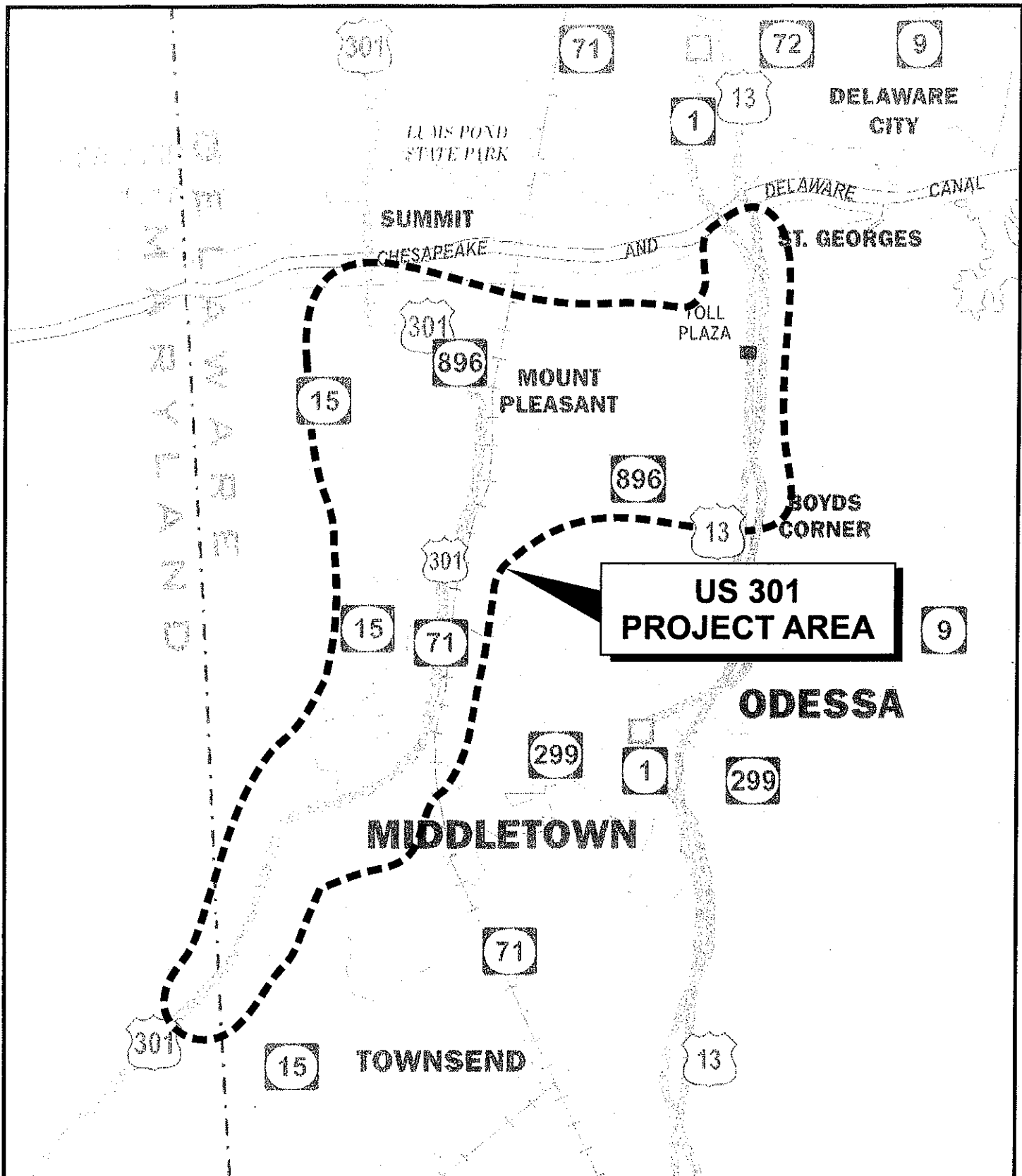
Michael Hahn, Project Manager

Kevin Cunningham, DelDOT Archaeologist

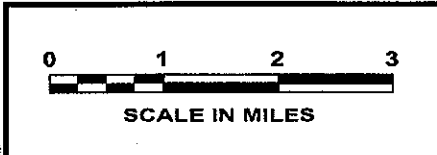
David Clarke, DelDOT Archaeologist



Helen German, RK & K Engineers, Inc

File



**US 301  
PROJECT AREA**



 US 301 Project Development	
DRAFT ENVIRONMENTAL IMPACT STATEMENT	
US 301 PROJECT AREA	
 Delaware Department of Transportation	November 2006
Figure S-2	

Not to Scale





DATE RECEIVED

JUN 22 2007

RUMMEL, KLEPPER & KAHL, LLP

STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**  
800 BAY ROAD  
P.O. Box 778  
DOVER, DELAWARE 19903

CAROLANN WICKS, P.E.  
SECRETARY

June 18, 2007

Mr. Don Klima  
Advisory Council on Historic Preservation  
The Old Post Office Building  
1100 Pennsylvania Avenue, NW, #809  
Washington, D.C. 20004

**Reference: US 301 Project Development  
Delaware/Maryland State Line to SR 1  
New Castle County, Delaware**

Dear Mr. Klima:

The Delaware Department of Transportation (DelDOT) is continuing its efforts to complete the requirements of Section 106 of the National Historic Preservation Act with respect to proposed improvements in the US 301 corridor from the Delaware/Maryland line to SR 1 in southern New Castle County, Delaware. As you may know, when this project was re-initiated with the Delaware State Historic Preservation Office on January 26, 2005, your office was included and advised of this undertaking.

The Federal Highway Administration (FHWA) is the lead agency for the Environmental Impact Statement (EIS) for the improvements. DelDOT announced their Recommended Preferred Alternative for the project, the Green North Alternative, with the publication of the Draft EIS in November 2006. A map of the project area and a map showing proposed improvements within Maryland are enclosed. The DelDOT web site illustrating the Recommended Preferred Alternative and documenting the Draft EIS impacts to the project can be found at:

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and,

- <http://www.deldot.gov/static/projects/us301/pdfs/jan07/deis/deis.shtml>.

As historic properties are involved with the project, it is our intention to notify your agency that adverse effects are expected upon identified historic properties (36 CFR



800.6(1)). Due to the potential of anticipated adverse effects upon known historic properties, we offer the Council an opportunity to participate in Section 106 consultation.

### **Project Description**

The proposed project development effort has evolved out of the recommendations of two previous studies. In 1990, DelDOT initiated the US Route 301 Corridor Study that resulted in the preparation of a Draft Environmental Impact Statement (DEIS). The DEIS evaluated the need for and the location and design features of transportation alternatives to improve traffic service and operations on U.S. Route 301 and Delaware Route 896 between the Delaware/ Maryland border and I-95. The DEIS compared the environmental impacts of a variety of alternatives, focused on highway solutions primarily assessing alternative highway corridors and worked in a relatively narrow study area encompassing the Route 301/896 corridor. In December 1994, following completion of the DEIS, DelDOT announced that the corridor would be the subject of a Major Investment Study (MIS) that would assemble a package of land use measures, transportation options, design standards for both transportation and land use activities, transportation demand reduction strategies, financing and network management. The Greater Route 301 Major Investment Study was initiated in 1995 and a Final Report was completed in 2000. The Final MIS recommended that three alternatives be studied in a new EIS. The intent of the current project development effort is to pursue the MIS recommendations and prepare the newly recommended environmental documentation.

The Greater Route 301 MIS (Major Investment Study) was designed to evaluate additional opportunities for regional transportation planning and the integration of transportation and land use to address the movement of people and goods. The MIS recommended east-west capacity improvements south of the canal to get to SR1, established current funding levels in DelDOT's Capital Transportation Plan for the US Route 301 corridor, and recommended evaluation of capacity improvements in the US Route 301 corridor both along the existing Route 301 alignment and a Ridge Alternative corridor. This resulted in renewed efforts to preserve land along the Ridge Alternative for future highway improvements.

The project development effort has evaluated, in greater detail, improvements from US Route 301 at the Maryland/Delaware border to the recently constructed SR 1, south of the C&D Canal, per the Greater Route 301 MIS recommendation.

Under the US 301 Project Development, DelDOT's Recommended Preferred Alternative that was presented at the January 8 and 9, 2007 Public Hearings. In the spring of 2007, DelDOT confirmed the recommended preferred alternative after some minor adjustments. For more detailed information and an illustration of the Preferred Alternative, please see the following web site.

- [http://www.deldot.gov/static/projects/us301/jan07\\_alternatives.shtml](http://www.deldot.gov/static/projects/us301/jan07_alternatives.shtml)

### **Description of Steps to Identify Historic Properties**

In an effort to properly identify historic properties under 36 CFR 800.4, FHWA in consultation with the Delaware State Historic Preservation Office (DE SHPO) and DelDOT has established an initial Area of Potential Effect (APE) for the project, as defined in 36 CFR Part 800.16(d) including the tax parcels located within 600 feet on either side of the centerline of the US 301 project area.

Due to the volume and timing of the project, FHWA and DelDOT has elected to phase the identification and evaluation of historical properties as provided in 36 CFR 800.4(b)(2) for completion of archaeological efforts. Architectural properties may be deemed complete.

Results of the above ground study determined that there are a number of existing national register listed properties. Reassessments and recommended historic boundaries were also clarified with the SHPO. Additional buildings meeting the minimum fifty years were also identified and determined "eligible" or "not eligible". Eligibility assessments for newly identified properties and supplemental information on existing national register properties has been processed and consulted with the SHPO.

Pursuant to 36 CFR Part 800.4(a)(2), DelDOT, FHWA, and SHPO has determined and reaffirmed that within the APE the following properties are listed in the National Register of Historic Places:

- The Maples, CRS No. N-106
- S. Holton Farm, CRS No. N-107
- Choptank, CRS No. N-109
- Rumsey Farm, CRS No. N-113
- Cochran Grange, CRS No. N-117
- Hedgelawn, CRS No. N-118
- Weston, CRS No. N-121
- Achmester, CRS No. N-3930
- Idalia Manor, CRS No. N-3947
- Governor Benjamin T. Biggs Farm, CRS No. N-5123
- Armstrong-Walker House, CRS No. N-5146
- Rosedale, CRS No. N-5148
- B.F Hanson House, CRS No. N-5225
- Fairview, CRS No. N-5244

Pursuant to 36 CFR Part 800.4(c), DelDOT, FHWA, and SHPO has determined that within the APE the following properties are eligible for listing in the National Register of Historic Places:

- Summerton, CRS No. N-112

- Woodside, CRS No. N-427
- T.J. Houston Farm, CRS No. N-5131
- Lovett Farm, CRS No. N-5132
- J. Houston House, CRS No. N-5195
- C. Polk House Estate, CRS No. N-5221
- State Bridge Number 383, CRS No. N-12636
- Shahan Farm, CRS No. N-14388

With regard to potential cultural resources involving surface or sub-surface archaeology, it has been ascertained through archaeological predictive modeling that little or no potential exists along the main line of US 301 for prehistoric sites. However, not knowing all the finite details in a final design to determine full range or even future archaeological needs, a Memorandum of Agreement (MOA) will accompany the Final EIS to determine the treatment of potential archaeological sites (historic and pre-historic) within the project's limit of disturbance (LOD). More importantly, timing for future archaeological studies could be years away as schedules are undetermined. As such, the development of a MOA for future archaeological identification and curation needs will assure the successful continuance in avoidance, preservation, consultation, or mitigation of the Section 106 process with both the Delaware and Maryland SHPO and any consulting parties with regard to any actions necessary in the future.

Thus, given the determination of adverse effect, a Memorandum of Agreement (MOA) will address all mitigation or conditional measures for Section 106 resolution and closure.

### **Description of the Affected Historic Standing Structures**

As an alternative to minimize length, DelDOT and FHWA are providing you with the web site links to read the description of the affected historic standing structures.

Please begin by connecting onto the DelDOT web state at:

- <http://www.deldot.gov/static/projects/archaeology/>

Under the US 301 Project Development, the historic properties are identified and discussed. They include:

- The Maples, CRS No. N-106 - Historic Context and Reconnaissance Survey Report, page 205; DOE Volume I, page 132
- S. Holton Farm, CRS No. N-107 - Historic Context and Reconnaissance Survey Report, page 215; DOE Volume I, page 146
- Choptank, CRS No. N-109 - Historic Context page 229/230; DOE Volume I, page 159
- Summerton, CRS No. N-112 - DOE Volume I, page 175

- Rumsey Farm, CRS No. N-113 - Historic Context and Reconnaissance Survey Report, page 237; DOE Volume I, page 194
- Cochran Grange, CRS No. N-117 - Historic Context and Reconnaissance Survey Report, page 248; DOE Volume I, page 215
- Hedgelawn, CRS No. N-118 - Historic Context and Reconnaissance Survey Report, page 258; DOE Volume I, page 227
- Weston, CRS No. N-121 - Historic Context and Reconnaissance Survey Report, page 265; DOE Volume I, page 257
- Woodside, CRS No. N-427 - DOE Volume I, page 321
- Achmester, CRS No. N-3930 - Historic Context page 308; DOE Volume I, page 326
- Idalia Manor, CRS No. N-3947 - Historic Context and Reconnaissance Survey Report, page 329; DOE Volume I, page 343
- Governor Benjamin T. Biggs Farm, CRS No. N-5123 - Historic Context and Reconnaissance Survey Report, page 340; DOE Volume I, page 362
- Armstrong-Walker House, CRS No. N-5146 - Historic Context and Reconnaissance Survey Report, page 356; DOE Volume I, page 435
- Rosedale, CRS No. N-5148 - Historic Context and Reconnaissance Survey Report, page 362; DOE Volume I, page 457
- B.F Hanson House, CRS No. N-5225 - Historic Context and Reconnaissance Survey Report, page 446; DOE Volume II, page 219
- Fairview, CRS No. N-5244 - Historic Context and Reconnaissance Survey Report, page 457; DOE Volume II, page 367
- T.J. Houston Farm, CRS No. N-5131- DOE Volume I, page 373
- Lovett Farm, CRS No. N-5132; DOE Volume I, page 393
- J. Houston House, CRS No. N-5195; DOE Volume II, page 25
- C. Polk House Estate, CRS No. N-5221- DOE Volume II, page 160
- State Bridge Number 383, CRS No. N-12636 - Historic Context and Reconnaissance Survey Report, page 487; DOE Volume II, page 529
- Shahan Farm, CRS No. N-14388 - DOE Volume IV, page 355

#### Undertaking Effects on Historic Properties and Measures to Avoid or Minimize

Both listed and eligible standing structures will be indirectly impacted with the US 301 roadway improvements.

Based on consultation with the SHPO to date FHWA and DelDOT have determined that project will have no effect on:

- Cochran Grange, CRS No. N-117
- Weston, CRS No. N-121
- Woodside, CRS No. N-427
- Achmester, CRS No. N-3930
- Fairview, CRS No. N-5244

- State Bridge Number 383, CRS No. N-12636
- Shahan Farm, CRS No. N-14388
- J. Houston House, CRS No. N-5195

Based on consultation with the SHPO to date FHWA and DelDOT have determined that project will have no adverse effect on:

- Hedgelawn, CRS No. N-118
- Lovett Farm, CRS No. N-5132

Based on consultation with the SHPO to date FHWA and DelDOT have determined that project will have adverse effect on:

- The Maples, CRS No. N-106
- S. Holton Farm, CRS No. N-107
- Choptank, CRS No. N-109
- Summerton, CRS No. N-112
- Rumsey Farm, CRS No. N-113
- Idalia Manor, CRS No. N-3947
- Governor Benjamin T. Biggs Farm, CRS No. N-5123
- Armstrong-Walker House, CRS No. N-5146
- Rosedale, CRS No. N-5148
- B.F. Hanson House, CRS No. N-5225
- T.J. Houston Farm, CRS No. N-5131
- C. Polk House, CRS No. N-5221

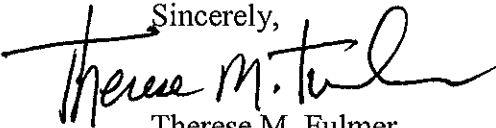
The adverse effects are all examples of visual effects. The visual effects range in distance with some considered cumulative in nature. Adverse effects anticipated by the change in character of the property's use or of physical features within the property's setting that contribute to its historic significance will also occur upon several properties.

Measures to avoid or minimize impact, including adverse effect have been considered during the entire project EIS project development. Consultation with the SHPO and several historic property owners regarding impacts and minimization has taken place and will continue throughout the implementation of mitigation measures. As this stage, all reasonable measures and dialogue with the SHPO has taken place; it appears that the criteria of adverse effect (under 36 CFR 800.5(a)(1) applies and is unavoidable.

With respect to future archaeology, our identification protocol is being developed. Identification phases will be established as well as the necessary steps for public outreach, measures to minimize or preserve, and consultation with consulting parties should they be identified or involved at later stages. Our future archaeological needs are in draft stages where both DelDOT/FHWA and SHPO have dialoged to determine the

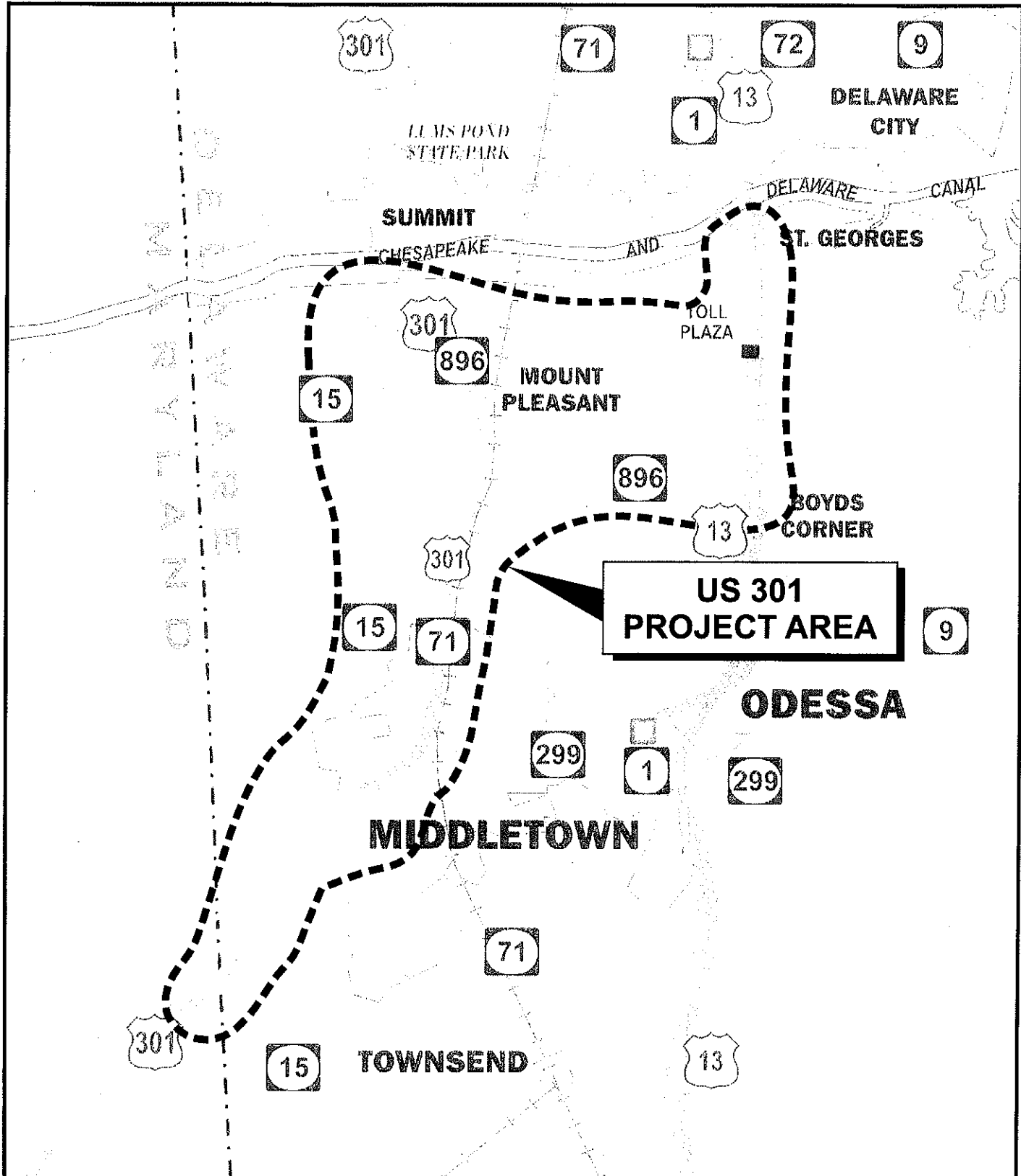
best steps for the future. Any data recovery plan (Phase III) will be developed as part of the mitigation of adverse effects and will be processed under the Memorandum of Agreement (MOA) for this undertaking. As you may know, the MOA will be an attachment to the Documentation for a Finding of Adverse Effect (36 CFR 800.11(e)).

Please review the information our Department is providing on the undertaking. At this stage we are requesting whether or not Council participation in the consultation or resolution of adverse effect is warranted from your agency perspective. If there are any questions, please contact Michael C. Hahn, AICP (302-760-2131 or MichaelC.Hahn@state.de.us).

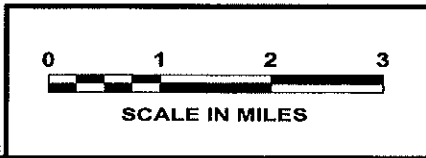
Sincerely,  
  
Therese M. Fulmer  
Manager, Environmental Studies

TMF/mh

Enclosures  
Robert Kleinburd, FHWA  
Timothy Slavin, Director, Delaware State Historic Preservation Office  
Gwen Davis, SHPO  
Mark Tudor, Group Engineer  
Michael Hahn, Project Manager  
Kevin Cunningham, DelDOT Archaeologist  
David Clarke, DelDOT Archaeologist  
Helen German, RK & K Engineers, Inc  
File



**US 301  
PROJECT AREA**





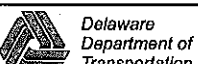
	US 301 Project Development	
	DRAFT ENVIRONMENTAL IMPACT STATEMENT	
US 301 PROJECT AREA		
 Not to Scale		November 2006

Figure S-2





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

CAROLANN WICKS, P.E.  
SECRETARY

September 4, 2007

Mr. Timothy Slavin, Director  
Division of Historic and Cultural Affairs  
21 The Green, Suite A  
Dover, Delaware 19901

Dear Mr. Slavin:

The Delaware Department of Transportation (DelDOT) Environmental Studies Section is pleased to submit the Draft Documentation in Support of a Finding of Adverse Effect and Memorandum of Agreement for the US 301 Project Development. The report document reflects all our multi stage coordination efforts as far as incorporation and Section 106 consultation of adverse effect. The Memorandum of Agreement (MOA), which memorializes Section 106 consultation, effect determinations, mitigation measures, and future archaeological needs, is currently in your office and under review. As we have been working on the MOA together, we anticipate comments on the MOA from your office by September 10, 2007. We hope to have the MOA document with signatures included in the FEIS for circulation by the end of this month. The remaining adverse effects document is subject to a thirty (30) day review and comment.

Please coordinate your comments and review directly with Michael Hahn at 302-760-2131 of my section. As always, thank you for your continued cooperation.

Sincerely,

Therese M. Fulmer, Manager  
Environmental Studies

TF/mh

Enclosure

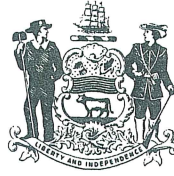
cc: Robert Kleinburd, FHWA Realty Officer (with copy)  
Gwen Davis, DE SHPO  
Elizabeth Cole, Maryland SHPO (with copy)  
Christine Quinn, New Castle County (with copy)  
Robert McCleary, Assistant Director, Engineering Support  
Mark Tudor, Group Engineer (with copy)  
Michael Hahn, Environmental Studies  
Erika Rush, Urban Engineers, Inc.  
William Hellmann, R, K & K Engineers, Inc.  
Jason Vendetti, A.D. Marble & Co., Inc.  
File

RECEIVED

SEP 10 2007

RUMMEL, KLEPPER & KAHL, LLP





STATE OF DELAWARE  
DEPARTMENT OF AGRICULTURE  
2320 SOUTH DUPONT HIGHWAY  
DOVER, DELAWARE 19901

MICHAEL T. SCUSE  
SECRETARY

HARRY D. SHOCKLEY  
DEPUTY SECRETARY

TELEPHONE (302) 698 - 4500  
DE ONLY (800) 282 - 8685  
FAX (302) 697 - 6287

March 14, 2007

Mr. Mark Tudor  
Project Engineer  
Delaware Department of Transportation  
800 Bay Road  
Dover, DE 19903

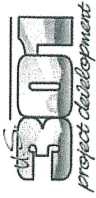
Dear Mr. Tudor:

Upon further review of the route selection for the Ratledge Road Area of the Rt. 301 Development Project, we have come to the conclusion that Option 4B Modified is the most suitable for agriculture. The decision to endorse this option is based on the analysis of the potential loss of hydric soils, and prime farm soils acres. The difference between our previous selection, Option 4, and Option 4B Modified is minimal in terms of threatened prime farm acres, and LESA score. Through the endorsement of Option 4B Modified, the opportunity to permanently preserve valuable active farmland in the area may present itself through a joint venture between the Delaware Department of Transportation, and the Department of Agriculture. The primary goal of our representation in the selection process is to protect the interests of agriculture, Option 4B Modified offers the most benefits to agriculture.

Sincerely,

Michael T. Scuse  
Secretary

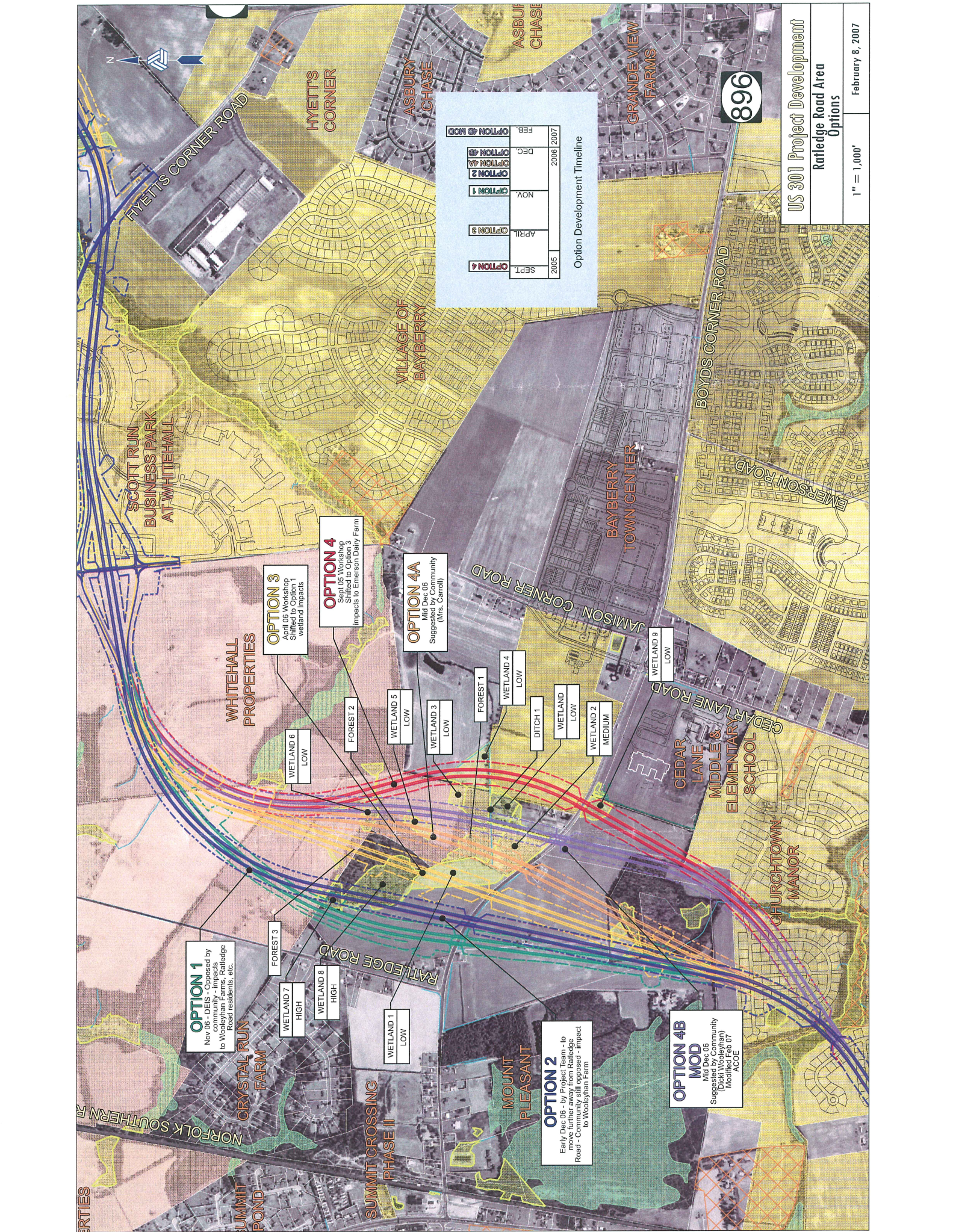
cc: Bill Hellmann, RK & K Engineers ✓  
Michael H. McGrath, Chief of Planning  
Mark Davis, Deputy Principal Assistant



March 6, 2007

**Comparison of Options Near Ratledge Road**

	Ratledge Road Option 1 (As shown in DEIS Green North Alternative)	Ratledge Road Option 2	Ratledge Road Option 3	Ratledge Road Option 4	Ratledge Road Option 4A	Ratledge Road Option 4B	Ratledge Road Option 4B Modified
Hydric Soils (acres)	135.8	136.4	144.3	132.8	148.7	143.5	141.1
Prime Farm Soils (acres)	427	424	426	401	421	408	407
Agricultural Districts (each)	1	1	1	1	1	1	1
Agricultural Easements (each)	1	1	1	1	1	1	1
Ag Suitability LESA (score)	212	212	212	209	211	210	210
Ag Suitability LESA - non developed (score)	219	219	219	214	218	216	215
2002 Land Use Forest (acres)	34.2	34.3	42.2	33.2	44.6	40.6	38.0
State Forest (acres)	0	0	0	0	0	0	0



**OPTION 1**  
Nov 05 Dec 06  
Nov 05 Dec 06 - Impacted by community - impacts to Woolleyhan Farms, Rattledge Road residents, etc.

WETLAND 7 HIGH  
WETLAND 8 HIGH  
FOREST 3

WETLAND 1 LOW  
WETLAND 2 LOW  
WETLAND 3 LOW  
WETLAND 4 LOW  
WETLAND 5 LOW  
WETLAND 6 LOW  
WETLAND 9 LOW

FOREST 1  
DITCH 1  
WETLAND 2 MEDIUM

**OPTION 3**  
Sept 05 Workshop  
Shift to Option 1  
Impacts wetland impacts

**OPTION 4**  
Sept 05 Workshop  
Shifted to Option 3  
Impacts to Emerson Dairy Farm

**OPTION 4A**  
Mid Dec 06  
Suggested by Community (Mrs. Carroll)

**OPTION 2**  
Early Dec 06 - by Project Team - to move further away from Rattledge Road - Community still opposed - impact to Woolleyhan Farm

**OPTION 4B MOD**  
Mid Dec 06  
Suggested by Community (Dicki Woolleyhan)  
Modified Feb 07  
ACOE

Option Development Timeline

OPTION 4B MOD	FEB.	2006	2007
OPTION 4B	DEC.		
OPTION 2	NOV.		
OPTION 1	APRIL		
OPTION 3	SEPT.	2005	

US 301 Project Development  
Rattledge Road Area  
Options  
1" = 1,000'  
February 8, 2007

896



STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
 DIVISION OF SOIL AND WATER CONSERVATION  
 89 KING'S HIGHWAY  
 DOVER, DELAWARE 19901

DELAWARE COASTAL  
 MANAGEMENT PROGRAM

TELEPHONE: (302) 739-9283  
 FAX: (302) 739-2048

104-063  
 WHH/fste | Mark Tabor  
 HG | Terry Fulmer  
 BEA  
 SDF

September 14, 2007

Justin Reel  
 Rummel, Klepper & Kahl, LLP  
 81 Mosher Street  
 Baltimore, MD 21217-4250

**RE: Delaware Coastal Management Federal Consistency Certification  
 US 301 Project Development and Environmental Impact Statement  
 (FC 07.037)**

Dear Mr. Reel:

The Delaware Coastal Management Program (DCMP) has received and reviewed your consistency certification for the above referenced project. DelDOT has chosen the Green North Alternative with the Option 4B Modified alignment through the Ratledge Road area. Based upon our review and pursuant to 15 CFR part 930 of National Oceanic and Atmospheric Administration regulations, the DCMP *conditionally* concurs with your consistency determination for US 301 Project Development and Environmental Impact Statement (EIS).

This concurrence is based upon the restrictions and/or conditions placed on any and all permits issued to you for this project. Additionally, our concurrence is based on resolution of certain issues to the satisfaction of the Department of Natural Resources and Environmental Control and the DCMP. These issues, outlined in a letter dated February 23, 2007 from Kevin Donnelly, the Division Director of Water Resources, to which DelDOT responded in the Final Environmental Impact Statement, shall be conditions of this Federal Consistency determination. Those conditions are:

1. **US 301 is to be a limited access highway.** The new US 301 will provide access at 6 locations only: Levels Road, existing 301, Jamison Corner Road, at SR 1, Bethel Church Road extended, and US 301/SR 896 at the base of Summit Road.
2. **Final mitigation plans must be submitted and approved by DCMP prior to construction.** The wetland and forest mitigation package for the 301 project and the additional mitigation proposed for the Option 4B Modified alignment must satisfy the permitting requirements of the Division of Water Resources, Wetlands and

Subaqueous Lands Section. Mitigation plans must be submitted to the DCMP and approved in writing prior to construction.

3. **DelDOT will pursue agricultural conservation agreements in the Boyds Corner/Ratledge Road area and will submit documentation of conservation easements to the DCMP prior to construction.** The original Green North Alternative was modified significantly to avoid impacts to longstanding farming operations. The Option 4B Modified alignment chosen by DelDOT, while preserving agricultural areas, resulted in increased natural resource impacts. The DCMP seeks assurances that agricultural uses of the area will be preserved in perpetuity through conservation easements as part of the justification for increased natural resource impacts. If such easements prove unobtainable, the DCMP reserves the right to reconsider approval of the Option 4B Modified alignment.
4. **DelDOT shall seek opportunities to purchase portions of forests/wetlands to keep large habitat blocks intact within the Scott Run Watershed and shall seek permanent protection of environmentally sensitive lands wherever outright purchase is not feasible. Documentation of these efforts must be submitted to the DCMP.** The DCMP understands that landowners must be willing participants in fee simple purchase and conservation easements; therefore the outcome of this condition is not predictable. DelDOT shall provide the DCMP with information outlining efforts made to acquire forest and wetland blocks and solicitations for conservation easements prior to construction.
5. **Management plans for lands purchased or placed in conservation easements as a part of this project shall be developed and submitted to the DCMP for approval.** Lands placed in conservation easements shall be actively managed to control invasive species and improve wildlife habitat. A management plan for lands placed under conservation easements will outline acceptable uses of these areas. The plan should provide monitoring and eradication strategies for invasive species, identify tactics to address heavy deer browse if applicable, and outline means to control unwanted public uses such as illegal hunting or ATV usage. The plan(s) must be submitted to DCMP and approved in writing prior to construction.
6. **Preliminary and final design plans for the wildlife passageway proposed in the Ratledge Road area must be submitted to DCMP for comment and approval.** The Ratledge Road area contains a large area of forested and wetland habitat that will be impacted by Option 4B Modified. In order to protect populations of breeding amphibians and reptiles, a wildlife corridor has been proposed, but plans have not yet been finalized. The proposed corridor is a currently a 10' x 10' passageway adjacent to the southern tributary of Scott Run, north of Boyds Corner Road. Additional wildlife corridors, including oversized culverts, should be considered in the design process. Plans for wildlife passageways must be submitted the DCMP and approved in writing prior to construction.

- 3 -


September 14, 2007

7. **All significant waterways will be bridged.** Spanning waterways reduces floodplain impacts and allows for wildlife passage along riparian corridors and is an important component of limiting the resource impacts of this project.
8. **Waterway habitat connectivity at Scott Run and Hyetts Corner Road will be improved.** DelDOT will remove existing culverts at Hyetts Corner Road and restore 55 linear feet of stream bank in this location. Spanning this waterway will allow wildlife passage under the overpass.
9. **Where feasible, DelDOT shall implement best management practices for stormwater management as detailed in DNREC Sediment and Stormwater section's guidance document, "Green Technology: The Delaware Urban Runoff Management Approach."** The DCMP understands that traditional methods to contain stormwater will be necessary in many locations due to the quantity of water to be managed but asks that DelDOT consider a suite of environmentally sensitive options to remove sediment and pollutants prior to discharge to waterways.

The DCMP looks forward to continued coordination with DelDOT to ensure that the above conditions are satisfactorily completed. As such, please submit a status report to this office within one year of the date of this letter. This should allow sufficient time for DelDOT to negotiate property acquisition and potential agricultural and conservation easements, as well as finalize the compensatory mitigation package. **Therefore, a response is required no later than September 14, 2008.**

If you have any questions please feel free to contact me or Tricia Arndt of my staff at (302) 739-9283.

Sincerely,

  
Sarah W. Cooksey, Administrator  
Delaware Coastal Programs

SWC/tna

File: 1:07.037  
cc: Mark Tudor-DelDOT  
Ed Bauer-USACE  
John A. Hughes -OTS  
Kevin Donnelly-DWR  
Robert Klembird-PIWA



Preserving America's Heritage

August 30, 2007

Ms. Therese M. Fulmer  
Manager, Environmental Studies  
State of Delaware  
Department of Transportation  
P.O. Box 778  
Dover, DE 19903

Ref: *Proposed US 301 Project Development From the Delaware/Maryland State Line to SR 1  
New Castle County, Delaware*

Dear Ms. Fulmer:

The Advisory Council on Historic Preservation (ACHP) recently received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information you provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the State Historic Preservation Officer, Tribal Historic Preservation Officer, affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and you determine that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), developed in consultation with the Delaware State Historic Preservation Office (SHPO) and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with your notification of adverse effect. If you have any questions or require our further assistance, please contact me at 202-606-8522 or via e-mail at [clegard@achp.gov](mailto:clegard@achp.gov).

Sincerely,

Carol Legard  
FHWA Liaison  
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004  
Phone: 202-606-8503 • Fax: 202-606-8647 • [achp@achp.gov](mailto:achp@achp.gov) • [www.achp.gov](http://www.achp.gov)



## Helen German

---

**From:** "Davis Gwen (DOS)" <Gwen.Davis@State.De.US>  
**To:** "Kleinburd Robert (FHWA)" <Robert.Kleinburd@fhwa.dot.gov>  
**Cc:** "Tudor Mark (DeIDOT)" <Mark.Tudor@state.de.us>; "Fulmer Terry (DeIDOT)" <Terry.Fulmer@state.de.us>; "Hahn Michael (DeIDOT)" <MichaelC.Hahn@state.de.us>; "Clarke David S. (DeIDOT)" <David.Clarke@state.de.us>; "Cunningham Kevin (DeIDOT)" <Kevin.Cunningham@state.de.us>; "Helen German" <hgerman@rkkengineers.com>  
**Sent:** Friday, October 12, 2007 12:25 PM  
**Attach:** US301\_draftAEdoc\_800.11(e) checklist.rtf  
**Subject:** US 301 draft effects document

Mr. Bob Kleinburd,

I discussed the US 301 draft Adverse Effects documentation with DeIDOT's Environmental Studies staff at our regular coordination meeting on October 10. As agreed to at that meeting, I have completed my review of the draft documentation, and would like to offer the comments.

The draft documentation is relatively complete, containing the type of information stipulated in the Section 106 documentation requirements (36 CFR Part 800.11(e)). The description of which historic properties will be affected by the project, and how those properties will be affected. For the most part, the documentation is consistent with the consultation between our agencies to date. However, one important exception is an apparent new limitation on how consultation on mitigation for audible effects to historic properties will be carried out (pages 72-Table 5, 110, 112), which I find to be inconsistent with the language and intent of the draft MOA.

I have several other substantive concerns about some aspects of the content of the documentation, as follows:

- The description of the APE is not entirely consistent with how (as I recall) it was derived; illustration of the APE is not consistent with that presented in the draft FEIS. (pp. 5-6, Figures 1 & 2 in the AE document; Figure III-8 in the FEIS)
- Sections 1 and 6 of the document include representations of the DE SHPO views on the Preferred Alternative that are not wholly accurate (pp. 7, 114)
- Incomplete characterization of consulting parties. (page 8)
- Inconsistencies with the intent of stipulations in the draft MOA in regard to: identification of additional consulting parties (page 8), identification of archaeological sites (page 12), future consultation on the effects on Idalia Manor (Sections 4 and 5), project plan review and consultation on changes to the project (page 113).
- Definitive statements as to how the archaeological predictive models would be used for future survey, which are inconsistent with recent conversations between DeIDOT and DE SHPO archaeologists. (page 12)
- Inappropriate characterizations of the alternatives' relative effects on historic properties, and the reasons for selecting the Preferred Alternative. (page 111)

More specific comments on these issues are included in the enclosed technical/editorial comments on the draft documentation. I ask that these issues be addressed in the final documentation, and that any concomitant information that may be contained in the draft FEIS be similarly addressed before its publication. I also plan to send some further comments on the draft FEIS, shortly.

My office will provide its formal concurrence with the finding of Adverse Effect in writing, likely next week. But you may consider this email as sufficient agreement with DeIDOT's findings to proceed toward finalizing the FEIS, with the understanding that the above-referenced substantive issues will be addressed to the satisfaction of our respective agencies.

Thank you for your consideration of these comments. If you have any questions at this time, please do not hesitate

to contact me.

-- Gwenyth A. Davis, Archaeologist, State Historic Preservation Office

Delaware Division of Historical & Cultural Affairs

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STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**

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

September 17, 2007

CAROLANN WICKS, P.E.  
SECRETARY

Mr. Frank J. Cianfrani  
Chief, Regulatory Branch  
U.S. Army Corps of Engineers  
Wanamaker Building  
100 Penn Square East  
Philadelphia, Pennsylvania 19107-3390

**RE: DELAWARE DEPARTMENT OF TRANSPORTATION  
CENAP-OP-R-2006-6071-1  
US Route 301 Project**

Dear Mr. Cianfrani:

As you are aware, the Delaware Department of Transportation (DelDOT) has undertaken the US 301 Project Development effort using the Mid-Atlantic Transportation and Environmental (MATE) process. This new 4-lane controlled access expressway from the Maryland/Delaware line to SR 1, south of the C & D Canal, will address safety and congestion problems in the rapidly developing area south of the C & D Canal. The project also includes a 2-lane controlled access connection from the Armstrong Corner Road area to Summit Bridge.

On November 13, 2006, we submitted an individual Section 404 permit application for this project to perform work, including the discharge of dredged or fill material, in Waters of the United States, including wetlands, to facilitate construction of the US 301 Project. As specified in the permit application, all work is to be completed in accordance with the Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS) documents and plans.

We currently anticipate implementing the US 301 project in a manner similar to that utilized for SR 1. This approach would involve four or five Design Consultants (Section Designers) and a General Engineering Consultant (GEC) to assist DelDOT in the overall management of the design and construction. Construction may involve four or five major contracts, and a number of smaller advance contracts (bridges, utility relocations, etc.). The total estimated cost of the project is approximately \$600 million in 2006 dollars.

As you are also aware, DelDOT and the Corps of Engineers held a Joint Public Hearing for the project on January 8 and 9, 2007. Under our current schedule, the FEIS will be circulated in the fall of 2007, and we anticipate receiving a Record of Decision (ROD) from the Federal Highway Administration (FHWA) in early 2008. We would hope that you would be in a position to issue the Section 404 permit, shortly after FHWA's issuance of the ROD.



Mr. Frank J. Cianfrani  
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Final design is anticipated to occur between 2008 and 2010, right-of-way acquisition between 2008 and 2011, and construction between 2010 (advance contracts) and 2016. At this point, these time frames are projections, based on current conditions, past experience, and funding availability. However, this project has been identified as extremely critical for the State of Delaware.

While we have not developed the final construction plans, we have been able to develop sufficiently detailed concept plans to clearly identify the limits of construction and all federally regulated wetlands and waters of the United States within, and reasonably beyond, the areas of projected construction disturbances. In response to specific resource concerns expressed by the State and Federal agencies during the EIS development and review process, we have developed specific design concepts for many stream and wetland crossings. And we fully expect that these design concepts will be incorporated into any Department of the Army permit for this project as special conditions to assure that we fulfill our environmental commitments enumerated in the FEIS. Further, we expect to continue our coordination efforts through the final design process and that no construction will begin until you have reviewed and approved the final construction plans. From previous permit experiences, we understand that your office would prefer to withhold a final decision until such time that the final construction plans have been reviewed and approved. However, this project has been developed through the MATE process, and we believe that this inter-agency consultation, coordination and, most importantly, cooperation has produced an exemplary product for this important project. As noted above, we anticipate that the final design and construction plans will be developed by a group of Design Consultants in coordination with your staff. As such, we look forward to your completing the review of this permit application and issuance of the necessary Department of the Army authorization based upon the level of design concepts and details, which have been developed to date.

We sincerely appreciate the time and effort your staff has provided to this project development, and we look forward to continuing our excellent working relationship with the Corps as we move forward with this important project. If you should have any questions, please feel free to contact me at (302) 760-2305.

Sincerely,



Robert Taylor, P.E.  
Chief Engineer

RT:smw

cc: Carolann Wicks, P.E., DelDOT Secretary  
Mark Tudor, P.E. (DelDOT)  
Terry Fulmer (DelDOT)  
Robert Kleinburd (FHWA)  
Dan Johnson, P.E. (FHWA)  
William Hellmann, P.E. (Rummel, Klepper, and Kahl, LLP)  
Justin Reel (Rummel, Klepper, and Kahl, LLP)  
Erika Rush (Urban Engineers)