



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
CIVIL WORKS  
108 ARMY PENTAGON  
WASHINGTON DC 20310-0108

REPLY TO  
ATTENTION OF

03 JUN 1999

Honorable Donald J. Barry  
Assistant Secretary for Fish  
and Wildlife and Parks  
United States Department of the Interior  
Washington, D. C. 20240

Dear Mr. Barry:

Thank you for your letter of May 5, 1999, concerning your request that I review the proposed decision on the Army Corps of Engineers Baltimore District decision to issue a Department of the Army permit to the Pennsylvania Department of Transportation. Because your request was made pursuant to our Section 404(q) Memorandum of Agreement (MOA), my staff has carefully reviewed the concerns raised in your letter, the District's decision documents and draft permit, and information from the applicant. The review also included an on-site inspection and meeting with those parties concerned in the issues being raised.

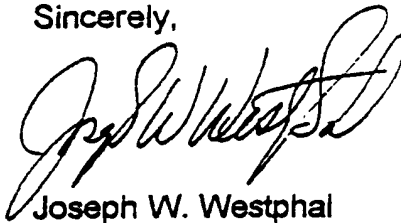
We find that the aquatic resources of Bald Eagle Ridge do not qualify as an aquatic resource of national importance, we also disagree that substantial and unacceptable adverse impacts will result from the District's proposed permit. Our review affirmed the District's determination that the project represents the least environmentally damaging practicable alternative. The District has adequately demonstrated that other available alternatives result in more unacceptable environmental impacts or are not practicable. The proposed permit conditions currently require the Pennsylvania Department of Transportation to begin mitigation efforts concurrent with the construction of the project. In light of these findings an additional review, pursuant to the MOA is not warranted and the District will be allowed to proceed with issuance of the permit.

While there has been continued local disagreement over the decisions that have been made, your field staff was very effective in monitoring the development of the project design to ensure it included features that benefited the fish and wildlife resources within the project boundaries. In our opinion, this oversight was a determining factor in the State highway agency's decisions about changing a less environmentally sensitive design used for a previous section of I-99.

This case involved a considerable effort of cooperation among all parties from 1992 to the present. There are additional sections of I-99 to be constructed and the vigilance and attention of your field staff will be required again to ensure protection of the important fish and wildlife resources that will likely be impacted.

Thank you for your interest in this matter. If you have any additional questions or comments concerning our decision in this case, please contact me or Mr. Chip Smith, Assistant for Environment and Regulatory Affairs, at (703) 693-3655.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joseph W. Westphal', written in a cursive style.

Joseph W. Westphal  
Assistant Secretary of the Army  
(Civil Works)