



ADVISORY COUNCIL ON HISTORIC PRESERVATION

# CASE DIGEST

SUMMER 2006



PROTECTING HISTORIC PROPERTIES: SECTION 106 IN ACTION

An independent federal agency, the ACHP promotes the preservation, enhancement, and productive use of our nation's historic resources, and advises the President and Congress on national historic preservation policy. It also provides a forum for influencing federal activities, programs, and policies that affect historic properties. In addition, the ACHP has a key role in carrying out the Administration's *Preserve America* initiative.

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*Cover: Civil War graveyard at St. Elizabeths Hospital, Washington, DC*

## ABOUT THIS REPORT

Section 106 of the national Historic Preservation Act requires federal agencies to consider historic preservation values when planning their activities. In the Section 106 process, a federal agency must identify affected historic properties, evaluate the proposed action's effects, and then explore ways to avoid or mitigate those effects.

The federal agency often conducts this process with the Advisory Council on Historic Preservation (ACHP), State Historic Preservation Officers, representatives of Indian tribes and Native Hawaiian organizations, and other parties with an interest in the issues.

Sometimes a Programmatic Agreement (PA) or a Memorandum of Agreement (MOA) is reached and signed by the project's consulting parties. A PA clarifies roles, responsibilities, and expectations of all parties engaged in large and complex federal projects that may have an effect on a historic property. An MOA specifies the mitigation measure that the lead federal agency must take to ensure the protection of a property's historic values.

Each year thousands of federal actions undergo Section 106 review. The vast majority of cases are routine and resolved at the state or tribal level, without the ACHP's involvement.

A considerable number of cases, however, present issues or challenges that warrant the ACHP's attention. The criteria for ACHP involvement in reviewing Section 106 cases are set forth in Appendix A of the ACHP's regulations. In accordance with those criteria, the ACHP is likely to enter the Section 106 process when an undertaking:

- has substantial impacts on important historic properties;
- presents important questions of policy or interpretation;
- has the potential for presenting procedural problems; and/or
- presents issues of concern to Indian tribes or Native Hawaiian organizations.

This report presents a representative cross-section of undertakings that illustrate the variety and complexity of federal activities in which the ACHP is currently involved.

It illustrates the ways the federal government influences what happens to historic properties in communities throughout the nation and highlights the importance of informed citizens to be alert to potential conflicts between federal actions and historic preservation goals, and the necessity of public participation to achieve the best possible preservation solution.

In addition to this report, at [www.achp.gov/casedigest.html](http://www.achp.gov/casedigest.html), the ACHP's Web site contains a useful library of information about the ACHP, Section 106 review, and the national historic preservation program.



## DISTRICT OF COLUMBIA

**Project:** New Case: National Capital Framework Plan: “Destinations and Connections Beyond the National Mall”

**Agency:** National Capital Planning Commission and Commission of Fine Arts

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The National Capital Planning Commission and the Commission of Fine Arts, concerned about the large number of proposed memorials, museums, and monuments that may be located on the National Mall in the future, have created a plan to encourage such development in other areas of the nation’s capital.

Partnering with key players in the historic preservation and District of Columbia municipal areas, the plan seeks to enhance areas beyond the National Mall itself to make them more desirable sites for future development.

On May 17, 2006, the National Capital Planning Commission (NCPC) and the Commission of Fine Arts (CFA) announced a new interagency planning initiative, the National Capital Framework Plan. The goal of the program is to address longstanding concerns about what these agencies view as overuse of the National Mall to accommodate an abundance of memorials and museums that have been coming to Washington, DC, in recent years.

The principal focus of the initiative will be the federal interest in the National Mall’s borderlands, with the intent to relieve pressures on the Mall itself through enhancement of the nearby properties and open space under federal control. The ACHP joined several other federal agencies, the District of Columbia, and other stakeholders in partnering with NCPC and CFA on the Framework Plan.

The Framework Plan is intended to build on NCPC’s Master Plan, *Extending the Legacy: Planning America’s Capital for the 21st Century*. It is also inspired by an increasing level of public interest



*The National Mall, extending west from the U.S. Capitol to the banks of the Potomac River, contains now-open spaces much desired and sought after as sites for future buildings, memorials, and monuments.*

in protection of the historic and commemorative qualities of the National Mall by members of Congress and by local and national groups, including the National Coalition to Save Our Mall, the National Trust for Historic Preservation, the Committee of 100 on the Federal City, and the DC Preservation League. The NCPC and CFA proposal summarizes the initiative:

*The National Capital Framework Plan will provide ways to seamlessly extend desirable qualities of the National Mall to surrounding areas; re-establish vistas of national importance; create important new places for cultural and commemorative attractions; and improve access and connections to popular places around the city.*

ACHP Chairman John L. Nau, III, was appointed to the steering committee for the initiative, which has begun a series of meetings to culminate in a draft plan in the fall of 2006. At the first steering committee meeting, held July 5, Nau noted that the goals of the initiative mirror those of the *Preserve America* Executive Order, in that they both emphasize federal stewardship, partnerships, and heritage tourism. He praised the public outreach goals as essential to the success of the plan.

**Partners with NCPC and CFA in the initiative include:**

- Advisory Council on Historic Preservation
- Anacostia Waterfront Corporation
- Architect of the Capitol

## DC : NATIONAL CAPITAL

- Department of Agriculture
- District of Columbia – Office of the Mayor; Office of the Council Chair
- General Services Administration
- Kennedy Center
- National Gallery of Art
- National Park Service
- Smithsonian Institution
- Washington Metropolitan Area Transit Authority

The first of a series of public meetings was held July 25 at NCPC. Input will be sought on all aspects of the planning initiative, with specific emphasis on how to address underutilized areas including the Federal Triangle, RFK Stadium, South Capitol Street, Banneker Overlook, Poplar Point, East Potomac Park, Southwest Federal Center, and Northwest Rectangle. Comments received from the participants at public meetings will be posted on NCPC's Website for the initiative: [http://www.ncpc.gov/planning\\_init/NCFP/NCFP.html](http://www.ncpc.gov/planning_init/NCFP/NCFP.html).

Martha Catlin serves as the ACHP's designee on the initiative's working group and is staffing this program initiative.

## DISTRICT OF COLUMBIA

**Project:** Ongoing Case: St. Elizabeths Hospital Renovation and Development

**Agency:** General Services Administration

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The Department of Homeland Security (DHS) is considering consolidating its headquarters operation at the property occupied by the richly historic and highly visible site of St. Elizabeths Hospital in southeastern Washington, DC. The site is located on a high rise of ground overlooking the confluence of the Anacostia and Potomac rivers with tremendous views of downtown and across the Potomac River into Virginia. Conversely, it is a conspicuous feature on the southeast skyline.

It is obvious that the deteriorating structures and grounds of St. Elizabeths urgently need attention and care. The resource is suffering from neglect and would benefit from occupancy and adaptive reuse. However, the several options under consideration for the DHS facility involve up to 4.5 million square feet of mostly new development, requiring a scale of construction that is of great concern to many elements of the preservation community. Additionally, some local residents believe the now-closed grounds of St. Elizabeths would be forever lost to the general public if a high-security facility is located there.

The Advisory Council on Historic Preservation (ACHP) has been involved since January 2005 in formal consultations regarding the General Service Administration's (GSA) proposed development of the west campus of St. Elizabeths Hospital into office space for federal clients.

GSA has identified and determined the need to redevelop St. Elizabeths West and has embarked on the preparation of a master plan that would guide the site's long-term use and development. A Programmatic Agreement is being developed to guide the master planning and design guideline process. GSA's proposed client is the Department of



*Historic structures and grounds at St. Elizabeths Hospital in Washington, DC, are greatly in need of attention and care, but the scale of proposed redevelopment is at issue.*

Homeland Security (DHS). As part of this effort, GSA has initiated review under Section 106 to consider how this action will affect the St. Elizabeths National Historic Landmark (NHL) District.

The site is richly historic for many reasons, including:

- It is a National Historic Landmark, as the first federal mental health facility (1852) in the country.
- It marked a transition in the care given to the mentally afflicted in the United States. St. Elizabeths was the first major facility in the nation to use occupational therapy and engage patients in activities like farming rather than to restrain and lock them away.
- Architect of the Capitol Thomas Walter designed one of the major structures (Center Building) in 1853.
- The campus includes a Civil War cemetery where the remains of both black and white soldiers are buried.
- During a short period during the Civil War it served as a general hospital for Union soldiers, where a room was reserved for President Lincoln during his frequent overnight visits with soldiers.
- In 1862, a wounded General Joseph Hooker was admitted and treated at the hospital.
- The poet Ezra Pound was admitted to the institution in 1945 and wrote some of his most famous works during his long stay there.
- The 182-acre campus includes landscaping by Frederick Law Olmstead's design firm.

Formal involvement in consultations includes GSA, DHS, ACHP, and the National Park Service

## DC: ST. ELIZABETHS HOSPITAL

(NPS). Other consulting parties are: District of Columbia State Historic Preservation Officer (SHPO), National Capital Planning Commission (NCPC), Commission of Fine Arts (CFA), DC Preservation League (DCPL), Committee of 100, Anacostia Historical Society, Friends of St. Elizabeths Hospital, National Association of Olmstead Parks, Advisory Neighborhood Commissions (ANC 8C04, ANC 8D01, and ANC 8B06), and the National Trust for Historic Preservation (NTHP).

In early 2006 many of the concerned groups met and agreed to a shared position statement that called the DHS proposal incompatible with the historic character of the site. NCPC expressed concern that DHS programmatic requirements appeared to be taking precedence over historic preservation and planning interests in the development of alternatives. The DCSHPO argued that the new construction would constitute “immense adverse effects” upon the NHL, including active demolition of and encroachment upon contributing structures, destruction of landscape, and modification of important views to, from, and within the campus.

Consultation, which has involved many concerned local organizations and groups, therefore has been very contentious, due to the sensitive historic nature of the site, its importance to many in the DC area, and its national significance. It is anticipated the project will remain controversial. Media and public attention is already focusing on the site. Some of the consulting parties are reportedly already considering litigation.

For more information:

<http://www.stelizabethswestcampus.com/index.php>



## FLORIDA

**Project:** Ongoing Case: Camp Pinchot Historic District Saved Through Programmatic Agreement to Adaptively Reuse Threatened Structures

**Agency:** U.S. Air Force

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The U.S. Air Force originally proposed to demolish the entire Camp Pinchot Historic District at Eglin Air Force Base. This was to accommodate construction of new senior officer housing under the Military Family Privatization Program at this military facility located near Fort Walton Beach in the Florida Panhandle.

However, agreement among Section 106 consulting parties led by the Air Force stipulates that the historic structures, which are in excellent condition, will be spared and adaptively reused by the private developer.

A Programmatic Agreement (PA) is circulating for signature setting out how the U.S. Air Force will meet its historic preservation responsibilities for its Military Family Housing Privatization Program at Eglin Air Force Base and Hurlburt Field, Florida.

As described in the Summer 2005 Case Digest, the Air Force originally proposed to demolish the entire Camp Pinchot Historic District at Eglin and replace it with new senior officer housing. Camp Pinchot is where the commanding officers of Eglin have resided since its conveyance from the U.S. Forest Service to the Army Air Forces in 1940. The wooden houses, sheds, and barns were constructed prior to 1920 to house U.S. Forest Service personnel managing the Choctawhatchee National Forest, the first designated national forest in the eastern United States. The forest was established under President Theodore Roosevelt in 1908.

The Camp Pinchot Historic District was listed on the National Register of Historic Places in 1998. Camp Pinchot consists of ten contributing and three non-contributing wooden buildings. They sit on the waters of Garnier's Bayou, on landscaped grounds surrounded by live oaks draped with Spanish moss. These properties have been well maintained



*Building 1553, Camp Pinchot, Fort Walton Beach, Florida  
(photo: U.S. Air Force)*

since their conveyance from the Forest Service. The structures have been very well maintained and the Air Force agrees they possess "excellent integrity."

A large prehistoric and historic archaeological site that has been determined eligible for listing in the National Register of Historic Places also underlies much of Camp Pinchot.

The circulating PA calls for adaptive reuse of the historic properties within the Camp Pinchot Historic District. As part of its housing privatization program, Camp Pinchot will be conveyed to a private developer with restrictions requiring development of a reuse plan. The developer will consult with the Air Force, the Florida State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP), the Forest Service, the National Trust for Historic Preservation, and the Florida Trust for Historic Preservation on any activities that could cause adverse effects to the contributing buildings in the Camp Pinchot Historic District. These organizations are the consulting parties for the PA now being signed. The ACHP became involved on July 27, 2004, in a letter notifying the Secretary of the Air Force that the ACHP would be a consulting party.

The PA also references a 1940 law that transferred lands of the Choctawhatchee National Forest (including the properties at Camp Pinchot) from the Forest Service to the War Department, and requires transfer back to the Forest Service should they no longer be needed by the government for military purposes.



## KENTUCKY

**Project:** New Case: Interstate 65 to U.S. Highway 31 West Connector Highway Project

**Agency:** Federal Highway Administration, U.S. Department of Transportation

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The Federal Highway Administration (FHWA) and the Kentucky Transportation Cabinet (KYTC) propose constructing a new four-lane highway linking Interstate 65 and U.S. Highway 31 W in Warren County, Kentucky, northeast of Bowling Green. Section 106 issues for this undertaking are complicated by the concerns of consulting parties about private development for Phase I of the Kentucky Transpark, which is proceeding without federal agency oversight or Section 106 review, which some parties believe is warranted. Although the KYTC proposes to design the connector highway to avoid all direct impacts to historic properties, the indirect effects of improving access through this area remain to be addressed.

On July 11, 2006, the Advisory Council on Historic Preservation (ACHP) responded to a request from the Kentucky Division, FHWA, to provide its views on FHWA's application of the adverse effect criteria to historic properties identified for the proposed I-65 and U.S. 31 W Connector Project. ACHP advised FHWA it would become involved in consultation due to concerns raised by other consulting parties and the need to resolve procedural issues.

In reaching this decision, the ACHP determined that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of the regulations was met due to the controversial nature of the undertaking and the potential for procedural problems in completing Section 106 of the National Historic Preservation Act.

The proposed new highway project is located in Warren County, Kentucky, in an area northeast of Bowling Green that is experiencing rapid growth.



*Aerial photo of construction in Phase I of the Kentucky Transpark industrial development (840 acres). The Phase I development is just west of the proposed connector road. Phase II (340 acres) will be built to the east of the road.*

Consulting parties are particularly concerned regarding the relationship of the I-65 to US 31 W Connector to the Kentucky Transpark, an industrial and high-tech business park currently under development. On June 15, 2005, a group of citizens opposed to the Transpark project filed a complaint in U.S. District Court for the District of Columbia against the U.S. Environmental Protection Agency (EPA), Housing and Urban Development (HUD), and the Tennessee Valley Authority (TVA) for failure to comply with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) with respect to the Kentucky Transpark. The district court granted motions to dismiss in December 2005, but the decision was appealed and is under review.

Consulting parties for Section 106 review include the KYTC, Sierra Club, City of Oakland, National Trust for Historic Preservation, Karst Environmental Education and Protection Inc., and the Kentucky State Historic Preservation Office (SHPO).

The KYTC and the SHPO agree with FHWA findings of effect for the undertaking. One or more of the other consulting parties, however, have objected to FHWA's findings of "no historic properties affected" or "no adverse effect" for nine of the 13 identified historic properties. Specifically, concerns have been raised regarding FHWA's definition of the area of potential effects (APE), the level of effort in

## KY: I-65 TO U.S. - 31 WEST CONNECTOR

identification of historic properties, National Register eligibility determinations, and FHWA's application of the criteria of adverse effect.

In accordance with 36 CFR 800.4(a)(1), FHWA has defined the Area of Potential Effects (APE) for the I-65 to US 31 W project to include all areas of potential direct and indirect effects to historic properties.

The FHWA excluded Phase 1 of the Transpark from the APE, stating that the private development of this area is already underway, and it will likely proceed with or without the proposed Connector Highway. The FHWA has, however, included all areas within the viewshed of the proposed new highway and areas of projected induced growth, including Phase II of the Kentucky Transpark (340 acres) and 82 acres along US 31 W. Based on the information provided, the ACHP agrees that FHWA's APE has been adequately drawn to include areas of anticipated direct and indirect (secondary) effects to historic properties.

The ACHP has recommended to the FHWA that a strategy for additional archeological work is necessary in areas subject to both direct and indirect effects. The complexity of the karst topography, the potential for human remains, uncertainties about the nature of future secondary impacts, and the high cost of subsurface testing are all factors that need to be considered in determining the appropriate level of archaeological field work. Consulting parties are also concerned about potential damage to caves and sinkholes throughout the landscape, including nearby Mammoth Cave National Park. A cave containing Native American human remains was discovered as recently as January 2005, and parties worry that additional human burials might be affected by the project.

The ACHP agrees with FHWA's determination that 13 properties located within the APE are eligible for inclusion in the National Register of Historic Places. At this point the ACHP does not recommend

revisiting any of these eligibility determinations since they reflect a consensus between the SHPO and FHWA based on the lack of integrity of the properties.

The ACHP does not agree with FHWA's position that it cannot resolve adverse effects resulting from indirect and cumulative effects and recommends negotiation of a mitigation plan that is documented in a Memorandum of Agreement (MOA) executed pursuant to 36 CFR 800.6(b). This may include modifications to the undertaking that could minimize or mitigate adverse effects to historic properties, provisions for a phased approach to the identification of archaeological properties and, if needed, the identification (or additional documentation) of other historic properties in the areas of indirect impact. ACHP also urges inviting the developer for the Kentucky Transpark, affected local governments, and other federal agencies that will likely have related undertakings, as their involvement in consultation and cooperation in carrying out measures to avoid, minimize or mitigate adverse effects is critical to effectively address indirect and cumulative effects.

## MINNESOTA-WISCONSIN

**Project:** Closed Case: St. Croix River Crossing Project

**Agency:** Federal Highway Administration, U.S. Department of Transportation

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After several appearances in the Case Digest and more than 15 years of effort, the St. Croix River Crossing Project was resolved by an agreement that will both preserve the historic Stillwater Lift Bridge, an icon for the city of Stillwater, and allow a new bridge to span the Lower St. Croix River to improve vehicular traffic patterns.

The historic bridge will continue to carry vehicles only until a new bridge is completed. At that time, the historic bridge will be converted to pedestrian and bicycle use so that it can become part of a new recreational loop trail. In reaching agreement, the more than 25 federal, state and local agencies, and organizations concluded one of the last remaining of the seven original priority projects identified for oversight by the task force established under Executive Order 13274, *Environmental Stewardship and Transportation Infrastructure Project Reviews*.

A Memorandum of Agreement (MOA) was executed on May 15, 2006 following years of effort and disagreement. The project's first MOA, on December 8, 1994, anticipated that the historic lift bridge would remain on the state trunk highway system, and be subject to further review, pursuant to the ACHP's regulations, for future changes in jurisdiction or disposition. The Federal Highway Administration (FHWA) suspended implementation of this agreement when successful litigation by the Sierra Club led to a National Park Service (NPS) finding, under Section 7(a) of the Wild and Scenic Rivers Act, that the proposed project would have a direct and adverse effect on the scenic and recreational values of the Lower St. Croix River.

In response to this finding and in recognition of its policy of non-proliferation of Lower St. Croix



*Photo simulation of the historic Stillwater Lift Bridge crossing the St. Croix River (foreground) with the proposed new vehicle bridge in the background.*

River crossings, NPS recommended a mitigation package that, for the first time, linked the fate of the historic lift bridge with creation of a proposed new bridge. This mitigation proposal encouraged demolition of the historic property in order to maintain a single crossing of the river. Failure of the federal agencies to reach agreement on mitigation and the fate of the historic lift bridge effectively stalled the project.

In February 1999, FHWA resumed consideration of a new crossing of the Lower St. Croix River. However, two years later, FHWA again suspended project development because the parties failed to reach agreement regarding the fate of the historic lift bridge. That same year, FHWA asked the U.S. Institute for Environmental Conflict Resolution to evaluate this dispute. In 2003, applying the institute's recommendations, FHWA resumed consultation.

Consultation overcame a major hurdle when the NPS maintained that should a new bridge be constructed, conversion of the historic lift bridge to pedestrian and bicycle use, until such time as it may be removed, would satisfy the spirit of its guidance on non-proliferation of Lower St. Croix River crossings. This interpretation opened the way for preservation of the historic lift bridge.

Therefore, on May 15, 2006 the FHWA, the ACHP, and the Minnesota and Wisconsin State Historic Preservation Officers (SHPOs) executed

## MN - WI: ST. CROIX RIVER CROSSING

an Amended MOA for the St. Croix River Crossing Project.

FHWA determined that implementation of the preferred alternative may have an adverse effect on the National Register (NR) listed Stillwater Lift Bridge (1989) and the Stillwater Commercial Historic District (1992). FHWA also determined that several NR eligible properties, including the Stillwater Cultural Landscape District (which includes the lift bridge), the Bergstein Shoddy Mill and Warehouse, the Log Cabin Restaurant, the Stillwater Overlook-South, the South Main Archeological District, the Thelan Farmstead and the Kriesel Farmstead, also would be adversely affected.

Under the terms of the Amended MOA, the Minnesota Department of Transportation (MnDOT) will retain ownership of the historic lift bridge “with the intent to preserve and protect it beyond the opening of the new bridge.” After the opening of the new bridge, however, the historic lift bridge will be converted from vehicular to pedestrian and bicycle use so that it may be incorporated into a proposed new recreational loop trail. To provide assistance in the long-term management of this historic property, MnDOT will look to an advisory committee to be established immediately following issuance of the record of decision.

Some rehabilitation of the historic bridge has been accomplished through \$5 million in Congressional appropriations, but about \$7 million of additional work is needed. With the encouragement of the ACHP, the SHPOs, the National Trust for Historic Preservation, and other consulting parties, MnDOT has agreed, under the terms of the MOA, to provide up to \$7 million within one year after opening the new bridge for rehabilitation of the historic lift bridge. In addition to this commitment, MnDOT will establish a \$3 million endowment fund to support the operation and maintenance of the historic bridge upon its conversion to pedestrian and bicycle use. These

commitments erased the last major obstacles to the long-term preservation of the historic lift bridge.

Together, FHWA and the consulting parties elected to move beyond the typical, but uninspired, box girder bridge type, reaching consensus, instead, on an *extradosed* bridge (see photo). Although more costly to construct, selection of this bridge type reflects the parties’ efforts to minimize the visual impact of the new structure on historic properties. The Amended MOA does not specifically reference this bridge type, but does mandate that design of the new bridge and other project elements shall be guided by *context sensitive* principles and visual quality standards developed by the consulting parties.

In order to support implementation of the Amended MOA, on the recommendation of Office of Federal Agency Programs staff, the City of Stillwater applied for and has received designation as a *Preserve America* community. This designation could be helpful to the city in securing assistance for further development of the loop trail, which includes the historic lift bridge, in the future.



## MONTANA

**Project:** New Case: Coal and Wind Electric Generation Facility at Great Falls/Cascade County, Montana

**Agency:** Rural Utilities Service, Rural Development, U.S. Department of Agriculture

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Southern Montana Electric Generation and Transmission Cooperative, Inc., proposes with funding assistance from the Rural Utilities Program of USDA Rural Development to create a 250-megawatt coal-fired power plant and construct a series of wind generators north of Great Falls, Montana. This project has the potential to create adverse effects on the Great Falls Portage National Historic Landmark District, site of an epic 1805 portage by the Lewis and Clark Expedition.

On July 12, 2006, the Advisory Council on Historic Preservation (ACHP) formally entered consultation on a proposal by Southern Montana Electric Generation and Transmission Cooperative, Inc. (SME) to build a 250-megawatt coal-fired power plant and construct a series of wind generators at a location near Great Falls, Montana. SME has requested financial assistance from the Rural Utilities Program of USDA Rural Development, making the proposal a federal undertaking.

The Rural Utilities Service had notified ACHP and other potentially interested parties regarding the undertaking on June 29, 2006. Agency officials noted that it has the potential to have an adverse visual effect on historic properties, notably the Great Falls Portage National Historic Landmark District. In 1805, the Corps of Discovery took 31 days to cover the 18-mile portage around the Great Falls on the Missouri River at this site.

Other federal agencies involved in the consultations are the National Park Service (NPS), notably the Lewis and Clark National Historic Trail Interpretive Center, and their partner the U.S. Forest Service. Also involved is the Great Falls/Cascade County Historic Preservation Program.



*Artists rendition of the proposed Highwood Generation Station near the Great Falls Portage National Historic Landmark District, Great Falls, Montana. Image Courtesy of USDA Rural Utilities Service.*

The ACHP and other consulting parties are in the early stages of discussion as part of the development of a Memorandum of Agreement (MOA). In addition to proving a record of consultation, the agreement will establish mitigation measures and protocols to minimize direct, indirect, and cumulative effects of the project, most notably visual impacts to the largely pristine viewshed of the National Historic Landmark (NHL) District. The agreement may also outline a number of alternative mitigation measures such as support for and development of additional interpretive facilities and visitor sites within the NHL, at the Lewis and Clark National Historic Trail Interpretive Center, and at other locations in the vicinity of the Great Falls portage site. On July 27, 2006, a public meeting to receive comments on the draft Environmental Impact Statement was held in Great Falls.

The Great Falls Portage NHL is a truly unique resource where important events in the nation's history occurred. The Corps of Discovery was of monumental importance in opening the western regions to expansion by the United States. In addition to the political importance of this expedition, it was one of the first scientific expeditions west of the Mississippi River making significant additions to the zoological and botanical knowledge of the continent with the description of over 120 mammals, birds, reptiles and fish, and nearly 200 plant specimens.



## NEW YORK

**Project:** New Case: Ellis Island Seawall Rehabilitation

**Agency:** National Park Service

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The National Park Service is rehabilitating a 6,450-foot long seawall at Ellis Island. The sunken remains of the ferryboat *Ellis Island* and the remnants of the ferry's docking structure, both considered contributing elements to Ellis Island's National Register listing, will be removed as part of the project after appropriate research, documentation, and recovery efforts are completed.

In early May 2006, the Advisory Council on Historic Preservation (ACHP) joined consultations regarding the National Park Service's (NPS) plan to rehabilitate the 6,450-foot seawall surrounding Ellis Island. The seawall was built between 1890 and 1934, and represents the development and expansion of the island in the 20<sup>th</sup> century.

The seawall protects the buildings and landscape of the island from continuing erosion. In doing a condition assessment of the seawall, NPS found substantial degradation such as cracks in granite facing, dislodged granite blocks, decayed wooden foundation pilings, and failing concrete foundations. Thus, the NPS intends to rehabilitate the seawall at Ellis Island.

The sunken ferry boat, *Ellis Island*, and its associated docking structure would be removed as they are already considerably degraded and facing eminent loss, and their presence in the ferry basin would create further damage to those resources and limit access to the seawall. However, they are considered contributing elements to Ellis Island's National Register of Historic Places status.

The NPS has conducted cultural resource investigations at Ellis Island, including a Cultural Landscape Report for the seawall and an underwater archaeological report (*Ferry to Freedom*) for the ferryboat, *Ellis Island*, and the docking structure. The NPS will continue investigations and incorporate



*Ellis Island, New York Harbor (NOAA photo)*

results into the public interpretation of the park. The NPS will develop an interpretive strategy that may include such things as regularly scheduled interpretive talks on ferry history, a video of the ferryboat and docking structure recovery, a Webpage with new information, and possibly a museum exhibit.

The seawall will be rehabilitated in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. The NPS will conduct additional underwater archeology to perform data recovery for the ferryboat and docking structure, and the NPS will also conduct a terrestrial archaeological investigation in the area of potential effect. All archeological investigations will be conducted in accordance with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation, and the scope of work, research, design, and archeological reports will all be provided to the SHPOs for review and comment. The NPS will develop an artifact collection and treatment strategy in consultation with the SHPOs. Copies of all documents resulting from the recordation/documentation strategies will be deposited with the Statue of Liberty National Monument.

An Environmental Assessment is being prepared, and a Programmatic Agreement (PA) is being developed under Section 106 of the National Historic Preservation Act. The PA is expected to be ready for signing in August 2006.

Ellis Island is part of the Statue of Liberty National Monument. Ellis Island was the country's

## NEW YORK: ELLIS ISLAND SEAWALL

busiest immigration station between 1892 and 1954, and has been listed on the National Register since 1981.

In addition to the ACHP and the NPS, the New York State Historic Preservation Office and the New Jersey Historic Preservation Office are consulting parties. Both the Stockbridge-Munsee Tribe and the Delaware Nation were informed of the project and asked to participate, and both responded they wish to be kept informed.

## VIRGINIA

**Project:** New Case: Bishops Run

**Agency:** U.S. Army Corps of Engineers

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Following a defeat at Bristoe Station and a failed advance on Centreville, the Confederate Army was in retreat from the area near Manassas Junction, being shielded by Confederate Maj. Gen. J.E.B. Stuart's cavalry. About 4,000 Union cavalry collided with approximately 8,000 Confederate cavalry from this screen on October 19, 1863, falling into a carefully prepared trap along the Warrenton Turnpike near Chestnut Hill. The resultant scattering and five-mile pursuit of the Union forces were known at the time as the "Buckland Races."

A private developer has purchased 63 acres that includes a portion of the Buckland Mills Battlefield. Development of the tract is opposed by some factions that include local residents of the nearby town of Buckland, which retains 17 structures from the 18<sup>th</sup> century.

On July 14, 2006, the Advisory Council on Historic Preservation (ACHP) formally entered the consultation process regarding a U.S. Army Corps of Engineers (Corps) permit for residential development of a 63-acre site in Fauquier County, Virginia. The ACHP became involved at the request of the Virginia State Historic Preservation Officer.

Bishop's Run LLC, a private developer, has purchased a 63-acre tract in Fauquier County, Virginia, and plans to build a residential development. The project is located in Fauquier County, Virginia, adjacent to Route 29, just west of the border between Fauquier and Prince William counties. The development requires a Corps of Engineers Section 404 Permit. The proposed development tract encompasses some portion of the Buckland Mills Battlefield, a Civil War cavalry engagement fought on October 19, 1863.

Initially, the Corps had notified the ACHP of the potential for adverse effects in November 2005, but the ACHP felt the Section 106 process



*Buckland from Mr. Hunton's House, scene of cavalry engagement with Stuart," sketch by Alfred Waud (19 October 1863), Library of Congress Prints and Photographs Division.*

was working well at that point and declined to become involved. At that earlier time, a number of the consulting parties had been recognized, and research to identify and evaluate historic properties was underway. However, due to varying perceptions on the part of consulting parties about the scale of the impacts of the development and the resultant difficulty of adequately assessing the project's effects on historic properties, the consultation process has become increasingly complex. Thus, the ACHP subsequently opted to become a party to the consultations. Other consulting parties to date include the Corps, the National Trust for Historic Preservation, the National Park Service's American Battlefield Protection Program, and the Buckland Preservation Society.

The exact boundaries of the Buckland Mills Battleground, as well as the locations of the core area and peripheral areas, are in contention. However, the project will result in the physical destruction of a portion of the battleground. There is also one previously identified prehistoric site, and there are several standing structures potentially located within the viewshed of the project.

A number of the consulting parties also contend that the development will spur additional, similar development in the area/region and will increase the pressure for expansion of Route 29, with resultant impacts to the historic community of Buckland located about one mile to the east.

Buckland includes 17 structures surviving from the 18th century. The Buckland Preservation Society would like to preserve this historic district and its broader context, which includes the Buckland Mills Battlefield. Buckland has been listed as one

## VIRGINIA: BISHOPS RUN

of the nation's seven most-endangered landscapes by the Cultural Landscape Foundation, a District of Columbia-based preservation group. Route 29, a major east-west transportation corridor in the region, bisects the community.

Consultation in the case is in its early stages.







*Preserving America's Heritage*

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