

ENCLOSURE 3

LETTER OF TRANSMITTAL

DUFFIELD ASSOCIATES, INC.

Consultants in the Geosciences

5400 Limestone Road

Wilmington, Delaware 19808

Phone: (302)239.6634

Fax: (302)239.8485

DATE: 11/1/04
 PROJECT NO.: 5039CC
 ATTN: Carolann Wicks
 RE: Tweed's Tavern Valley Rd Park Str. Restoratio
 JPP Meeting Summary, October 21, 2004

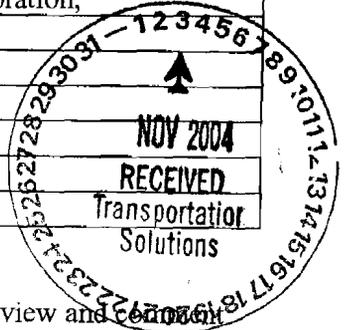
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P.O. Box 778
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Dover, DE 19903

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2	11/1/04		Tweed's Tavern Valley Road Park Stream Restoration, JPP Meeting Summary, October 21, 2004



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REMARKS:

Attached is Duffield Associate's notes summarizing the results of the JPP Meeting on October 21, 2004.
 Please note, this summary is not all inclusive of all discussions, only key actions.

COPY TO: file
Mike Hahn, DeIDOT
Jeff Bross, Duffield Associates
James F. Cloonan,
 Duffield Associates

DUFFIELD ASSOCIATES, INC.

 Christine McLaughlin
 Jim Eisenhardt
 Larry Trout



**DUFFIELD
ASSOCIATES**

Consultants in the Geosciences

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MEMORANDUM

TO: Carolann Wicks, P.E.
Delaware Department of Transportation

FROM: Christine H. McLaughlin *CHM*
Larry G. Trout
James M. Eisenhardt, P.W.S.

DATE: November 1, 2004

RE: Project No. 5039.CC
Summary Minutes (October 21, 2004 Meeting)
Tweed's Park
JPP Meeting

Joint Permit Process (JPP) Meeting of October 21, 2004, 9:00 a.m. – 10:00a.m., Dover, Delaware

Attendees: Joy Ford – Delaware Department of Transportation (DelDOT)
Carol Sullivan – DelDOT
Marc Côté – DelDOT
Michael C. Hahn, AICP – DelDOT
Richard Hassel – U.S. Army Corps of Engineers (USACE)
Laura Herr – Delaware Department of Natural Resources and Environmental
Control (DNREC)
Jennifer Johnson – DNREC
Bonnie Willis – DNREC CZM
Chuck Barscz – National Parks Service (NPS)
Gwen Davis – DE State Historic Preservation Office SHPO)
Jim Butch – Environmental Protection Agency (EPA)
Tim Goodger – National Marine Fisheries Service (NOAA/ NMFS)
Christine H. McLaughlin – Duffield Associates, Inc. (DAI)
Jim M. Eisenhardt, P.W.S. – DAI
Larry G. Trout – DAI

The following are key topics discussed, as well as the recommendations and conclusions of the meeting (this summary is not all inclusive of all discussions, only key actions and assignments). A more detailed set of meeting minutes has been provided to Ms. Joy Ford and Ms. Carol Sullivan of DelDOT.

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Duffield Associates indicated that the purpose of this meeting was to illustrate the changes to the project and receive regulatory guidance based on those revisions. Due to the change in the project and permit area, the purpose is now focused around a stream restoration and associated wetland creation. Duffield Associates introduced the stream channel alignment issues and the preferred alternative. The preferred alternative includes realignment of the stream channel to convey flows to the triple culverts under Valley Road, creation of a wetland area, and adjustments to the culverts to maintain the hydrology needed for the wetland area.

In summary, the agencies commended DelDOT for the minimization of wetland impacts and appreciated the opportunity for continued dialogue and inclusion in the planning portions of the project. The agencies indicated that this was a good project with many benefits, and that permits should be approved provided comments discussed at the meeting were addressed. Duffield Associates and DelDOT staff believe the comments can be addressed. The agencies concurred that all portions of the project, with the exception of the stream relocation and associated wetland creation, can proceed without further approvals from the regulatory agencies. DelDOT review of stormwater, grading and erosion and sediment control and New Castle County review of site plan for visitor's center and ballfields are the primary approvals remaining for construction to be initiated on the balance of the project.

The following summarizes some key permitting issues and questions that were discussed:

- **NWP 27.** The USACE agreed that NWP 27 could be used for the stream restoration. The weir would also be applicable to this permit because it would be required to insure adequate hydrology for the wetland. The USACE also indicated that because the wetland area will be primarily for enhancement and not solely stormwater management, this area will be a federally regulated wetland and no maintenance will be allowed.
- **Permit Area.** The permit area for the USACE permit, as well as for Section 106 compliance, will be adjusted to include solely the stream restoration and wetland creation area. The balance of the project (the ball fields, visitor's center, stormwater management features) can proceed now prior to the issuance of the permits for the stream restoration.
- **Soil Disposal.** The mushroom soil (a portion of it) from the excavation will be used as topsoil for the wetland creation area. The intention is to maintain all fill and excavated material on site. However, off-site disposal remains a possible option. The agencies requested information on the location of any on-site or off-site disposal options, and consultation with SHPO may be needed.
- **NPS.** The main concern is impacts to the subsurface geology because of the Cockeysville formation in the proximity of the project site. Duffield Associates indicated a concern for groundwater quality, as well as for karst/sinkholes that might be present,

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RE: Project No. 5039.CC

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and as the project proceeds and additional borings are taken, the design will be refined accordingly. However, Duffield Associates indicated that the design is in compliance with New Castle County (NCC) regulations. DelDOT is currently the lead review agency for the project for stormwater management. Therefore, NCC will not be issuing a permit. NPS' main concern is with the parking lots, drainage, and bioswale.

- **SHPO.** SHPO is still in consultation with DelDOT in reference to the buildings at the corner of Route 7 and Valley Road. The mushroom building does not meet the registering requirements, and the preliminary opinion on the dwelling is the same. SHPO believes there are limited archeological issues; however, more boring in the corner of the property would be helpful.
- **DNREC.** DNREC requested a detailed section of the stream restoration. DNREC will write a letter stating that there is no jurisdictional activity occurring on the remainder of the site so that the project may move forward.
- **Pre Construction Notification (PCN).** EPA stated no objection. NMF stated that there are no marine resources affected by the proposed project and, therefore, no comment is necessary. NPS will need to approve the final plan (in particular with respect to Cockeysville formation criteria). FWS has already been coordinated with and has referred any comments to DNREC Fish and Wildlife. CZM has requested a copy of the detailed plans along with a letter serving as a PCN with a notice of the changes, as well as a statement that the project will be conducted under NWP 27 and, therefore, CZM review has been blanketed (waived) under this permit application.

CHMLGTJME:amt

WORD\5039CC-JPP 102104.MEM

cc: Michael C. Hahn, AICP – Delaware Department of Transportation
James F. Cloonan, P.E. – Duffield Associates, Inc.
Jeffrey M. Bross, P.E. – Duffield Associates, Inc.

LETTER OF TRANSMITTAL

DUFFIELD ASSOCIATES, INC.

Consultants in the Geosciences

5400 Limestone Road
 Wilmington, Delaware 19808
 Phone: (302)239.6634
 Fax: (302)239.8485

DATE: 11/1/04
PROJECT NO.: 5039CC
ATTN: Joy Ford & Carol Sullivan, DeDOT
RE: Tweed's Tavern Valley Rd Park Str. Restoration
 JPP Meeting Minutes, October 21, 2004

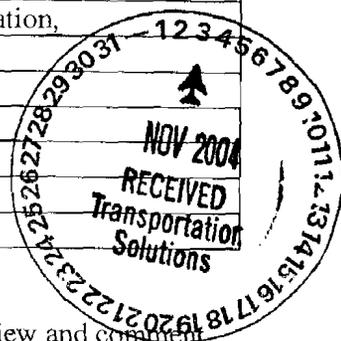
TO: DelDOT Environmental Studies Section
P.O. Box 778
800 Bay Road
Dover, DE 19903

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REMARKS:

Attached is Duffield Associate's notes summarizing the key topics and decisions made at the JPP Meeting on October 21, 2004 for your file. Please note, this summary is not all inclusive of all discussions, only key actions and assignments.

COPY TO: file
Mike Hahn, DeDOT
Marc Cote, DeDOT
James F. Cloonan,
 Duffield Associates

DUFFIELD ASSOCIATES, INC.



Christine McLaughlin
 Jim Eisenhardt
 Larry Trout



MEMORANDUM

TO: Ms. Joy Ford
Delaware Department of Transportation, Environmental Studies Section

Ms. Carol Sullivan
Delaware Department of Transportation, Environmental Studies Section

FROM: Christine H. McLaughlin *CHM*
Larry G. Trout
James M. Eisenhardt, P.W.S.

DATE: November 1, 2004

RE: Project No. 5039.CC
JPP Meeting Minutes (October 21, 2004 Meeting)
Tweed's Park

Joint Permit Process (JPP) Meeting of October 21, 2004, 9:00 a.m. – 10:00a.m., Dover, Delaware

Attendees: Joy Ford – Delaware Department of Transportation (DelDOT)
Carol Sullivan – DelDOT
Marc Côté – DelDOT
Michael Hahn, AICP - DelDOT
Richard Hassel – U.S. ARMY Corps of Engineers (USACE)
Laura M. Herr – Delaware Department of Natural Resources and Environmental Control (DNREC)
Jennifer Johnson – DNREC
Bonnie Willis – DNREC Coastal Zone Management (CZM)
Chuck Barszcz – National Parks Service (NPS)
Gwen Davis – DE State Historic Preservation Office (SHPO)
Jim Butch – Environmental Protection Agency (EPA)
Tim Goodger – National Marine Fisheries Service (NOAA/ NMFS)
Christine H. McLaughlin – Duffield Associates, Inc. (DAI)
Jim M. Eisenhardt, P.W.S. – DAI
Larry G. Trout – DAI

The following are key topics discussed, as well as the recommendations and conclusions made at the meeting (this summary is not all inclusive of all discussions, only key actions and assignments).

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Duffield Associates, Inc. summarized the main objectives of the overall project and what agencies were involved to date. Duffield Associates summarized the impacts proposed on the last plan submitted for agency review during the previous JPP Meeting (February 20, 2003). Duffield Associates indicated that the purpose of this meeting was to illustrate the changes to the project and receive regulatory guidance based on those revisions. Duffield Associates summarized the updated plans and how each of the wetland impacts was eliminated. Due to the change in the project and permit area, the purpose is now focused around a stream restoration and associated wetland creation. Duffield Associates introduced the stream channel alignment issues and the three options that were considered: stabilization in place, proceeding with the last proposed alignment which included two created wetland areas on either side of the stream channel, and the newest proposed alignment, the preferred alternative. The preferred alternative includes realignment of the stream channel to conduct flows to the triple culverts under Valley Road, creation of a wetland area, and adjustments to the culverts to maintain the hydrology needed for the wetland area. In addition, riparian buffer plantings have been proposed.

In summary, the agencies concurred that DelDOT has made positive improvements to the plan and appreciated the continued coordination on the project. All attendees believed that the project as presented should receive approval, provided comments as detailed below are addressed.

After summarizing the status of the design, the following permitting issues and questions were discussed:

- **Stream embankment.** DNREC wanted to know if the proposed embankment design separating the stream channel from the wetland area could be redesigned to better mimic a natural wetland. Duffield Associates pointed out that the current plan is still preliminary and it is our intention to grade that area to a gentle slope. The bank full discharge is approximately 12 to 15 cfs. Duffield Associates also indicated that we are targeting to reduce this embankment to allow more frequent hydrology to the wetland area. Currently, the drainage area releases 64 acre feet of runoff during the 100-year storm, and the design will provide storage for approximately 30 acre feet of storm water.
- **Culvert adjustments.** Duffield Associates indicated that they intend to close off the box culvert because it is Duffield Associates' opinion that the triple culvert configuration will allow for better control of flow. The intention is to use 2 pipes for base flow and alter one pipe to convey and control high flow events. These adjustments are mandated in the latest State of Delaware Bond Bill.
- **NWP 27.** The USACE agreed that NWP 27 could be used for the stream restoration. The weir would also be applicable to this permit because it would be required to insure adequate hydrology for the wetland. The USACE requested that Duffield Associates document the loss of channel downstream of the box culvert but it is not necessary to compensate for this loss of waters of the United States. The USACE also requested that the permit application include a site plan for the entire property. Because this project is a

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design/build, the USACE understands that further refinements may be made as the project proceeds. Therefore, the USACE has requested that we submit a "worst case" scenario and as the plan is refined, submit a request for modification of the permit for approval. This approval will be needed in case any compliance inspections are performed in the future. The USACE also indicated that because the wetland area will be primarily for enhancement and not solely stormwater management, this area will be a federally regulated wetland. Therefore, it should be designed so that maintenance is not required, since it would not be allowed by the permit. The USACE suggested that if the project is to proceed on the remainder of the property before issuance of the permit, a letter should be written to the USACE regulatory branch, as well as Doug Janeic in Enforcement stating that the project will proceed and that all work that is being done is outside of waters of the United States.

- **Permit Area.** The permit area for the USACE permit, as well as for Section 106 compliance, will be adjusted to include solely the stream restoration and wetland creation area. This revised permit area can be submitted to the USACE and agreed upon prior to submittal of the permit application. A plan of the entire property with a bold line indicating the permit area can be sent to the USACE for approval.
- **Soil Disposal.** Currently, the area of the proposed wetland creation consists of trash, concrete, and mostly mushroom soils. The mushroom soil (at least a portion of it) will be used as topsoil for the wetland creation area. Duffield Associates is trying to maintain all fill and excavated material on site. If storage is needed, it is planned to place the soil in the area indicated for reforestation. However, off-site disposal remains a possible option. The agencies requested that the disposal site be noted on the plans and if this is changed, consultation with SHPO will be needed. The agencies requested a note on the plan indicating a possible disposal site with a note stating that any change would involve coordination with SHPO. DelDOT indicated that the DelDOT protocol for soil disposal will be followed for this site.
- **NPS.** The main concern for NPS is impacts to the subsurface geology because of the Cockeysville formation in the proximity of the project site. White Clay Creek was designated as a Wild and Scenic River for several resources, one of which was the Cockeysville Formation. Duffield Associates indicated that based on our preliminary studies, the location of the Cockeysville formation is different than the area mapped by the Water Protection Agency. The stormwater management ponds will be lined, and a low permeability soil layer is proposed for the wetland area. Duffield Associates is not proposing a synthetic liner for the wetland area so that larger trees with greater root penetration can be used. If more herbaceous plants were proposed, the liner might be detrimental to the survival of the plants, as well as due to possible heat trapping that might occur above the clay liner. Duffield Associates indicated a concern for groundwater quality, as well as for karst/sinkholes that might be present and, as the project proceeds and additional borings are taken, the design will be refined accordingly.

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DelDOT is currently the lead review agency for the project in reference to stormwater management and Erosion and Sedimentation Control. Therefore, New Castle County (NCC) will not be issuing a permit. NCC will be given the opportunity for a courtesy review. However, Duffield Associates indicated that the design is in compliance with NCC regulations. NCC will be the lead reviewer for the Tweeds Inn and visitor center buildings. Based on this discussion, NPS would like to coordinate with DelDOT and NCC on the Cockeysville formation issues. NPS requested that the Cockeysville formation line be included on the plan and that any information (boring logs) that might alter the mapped line be included as well. NPS' main concern is with the parking lots, drainage, and bioswale. NPS ordinarily recommends no more than 10% impervious cover in WPRA. Duffield Associates should check with the UDC for further guidance as well. NPS requests specifics on the bioswale design and possible inclusion of a liner if appropriate.

- **SHPO.** Based on the previous submission, consultation with the USACE and DelDOT had defined the APE. Because the permit area has changed, SHPO will need a plan with the new permit area designated so that they may determine if a new APE will be designated. SHPO's main concern is Tweed's Tavern relocation. Because the building will be relocated regardless of the USACE permit action, the relocation is not affected by the USACE permit. Although Tweed's Tavern is currently located within the permit area, construction and work on Tweed's Tavern is authorized. Because of the change in permit area, the work currently being conducted on Tweed's Tavern is no longer an issue for Section 106 coordination with respect to this project. SHPO is still in consultation with DelDOT in reference to the buildings at the intersection of Route 7 and Valley Road. The mushroom building does not meet the registering requirements, and the preliminary opinion on the dwelling is the same. SHPO believes there are limited archeological issues; however, more borings in the corner of the property would be helpful. SHPO has requested that the plans include the location of the soil disposal site so that DelDOT and SHPO Archeologists can go back out and review that area specifically.
- **DNREC.** DNREC confirmed that they do not have jurisdiction on the construction of the boardwalks as long as the piles are kept out of the OHW; however, DNREC would prefer the piles be kept out of the bank full width as well. DNREC will have to check on whether the 401 water quality certification has been completed for NWP 27. Coastal Zone Management has been approved for this general permit, and it will not be necessary to submit for this project. DNREC requested a detailed section of the stream restoration. DNREC will write a letter stating that there is no jurisdictional activity occurring on the remainder of the site so that the project may move forward.
- **Pre Construction Notification (PCN).** The EPA stated no objection, and does not require an additional PCN. NMF stated that there are no marine resources affected by the proposed project and, therefore, no comment is necessary. NPS will need to approve the

MEMORANDUM

RE: Project No. 5039.CC

November 1, 2004

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final plan. FWS has already been coordinated with, and has referred any comments to DNREC Fish and Wildlife. CZM has requested a copy of the detailed plans along with a letter serving as a PCN with a notice of the changes, as well as a statement that the project will be conducted under NWP 27 and, therefore, CZM review has been blanketed (waived) under this permit application.

It is Duffield Associates' opinion that these minutes accurately reflect the event discussed. If you have any comments or request additions or deletions, please submit these in writing to Duffield Associates within 5 days of receipt of this correspondence.

cc: Michael C. Hahn, AICP – Delaware Department of Transportation
Marc Côté – Delaware Department of Transportation
James F. Cloonan, P.E. – Duffield Associates, Inc.

CHMLGT\JME\amt

WORD\5039CC-JPP-Mtg Min 102104.MEM



M. Hahn
Del DOT

STATE OF DELAWARE
DEPARTMENT OF STATE
DIVISION OF HISTORICAL AND CULTURAL AFFAIRS
HISTORIC PRESERVATION OFFICE

21 THE GREEN, Suite A

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FAX: (302) 739-5660

October 20, 2004

MEMORANDUM TO: Jim Boyer, Philadelphia District, U.S. Army Corps of Engineers

FROM: Gwenyth A. Davis, Archaeologist 

SUBJECT: CENAP-OP-R-200300716-24; Valley Road SWM/Recreational Park

I am writing to clarify the DE SHPO's view of the undertaking's potential affects on historic properties in the permit area, as it was defined in June 2004.

Tweeds Tavern

In past consultations, Tweeds Tavern has been treated as eligible for listing in the National Register of Historic Places. There has not been a formal reevaluation of the Tavern's eligibility since it was moved from its original site several years ago, due to the Federal Highway Administration funded project at Route 7 and Valley Road intersection. At this point in time, the DE SHPO does not think that such formal reevaluation is necessary.

In April we advised the Corps that in our view although the building is in the permit area for the Valley Road SWM/Park project, its relocation should not be considered part of the Corps' permitted actions since said relocation is not contingent upon the work proposed for the Tavern's current site. If the relocation of the Tavern was being done *but for* the work proposed under the permit, the SHPO absolutely would consider the relocation (including the process by which the building would be moved, the site to which it would be moved, and rehabilitation after moving) to be part of the permitted activity and therefore subject to Section 106 review. We would also be requesting that the Corps and its applicant consider alternatives to relocating the building. We did, in fact, go through that process for the initial move that occurred as a result of the FHWA funded intersection project. But this is not the case for the Valley Road SWM/Park project; the Tavern is to be relocated regardless of the undertaking that is subject to Section 106 review under the Corps' permit.

However, according to a June 9th e-mail, the Corps' position is that the effects on the Tavern must be considered since it is in the permit area, and we were asked for advice on the potential effects of the project. I discussed the matter further with Dan Griffith, the State Historic Preservation Officer. Essentially, because we view the relocation of the Tavern as unrelated to the actions subject to the permit, the Valley Road SWM/ Park project could be considered to have no effect on the Tavern.

Memo to J. Boyer
October 20, 2004
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DelDOT has continued to involve us in the Tavern relocation project. Most recently, we reviewed and commented on the final plans for the rehabilitation, and sent a letter to the Fire Marshal in support of the project. We were aware that the initial stages of the move are underway, and are ok with it.

Other buildings in the permit area (as currently defined)

Our National Register coordinator has provided a preliminary opinion on the eligibility of the buildings located at the intersection of SR 7 and Valley Road. These include several buildings associated with the mushroom business and an early 20th century dwelling. We agree with DelDOT's proposed assessment that the mushroom-related buildings do not meet the 50 year age criterion, nor at this time warrant consideration under the exception to the age criterion. Currently there is no specific historic context available for evaluating such resources, but given the nature of this undertaking, we are not requesting that such a context be developed at this time. The early 20th c. dwelling also is unlikely to be eligible for listing in the National Register of Historic Places. Please note that DelDOT staff had previously indicated that they would send us additional information on these buildings to request our formal concurrence with eligibility determinations. We have not yet received this information, and as Mike Hahn recently indicated, they might not proceed with preparing this information should the permit area be redefined to exclude the buildings.

Archaeological Potential

As we've stated before, it appears that the project area has little potential to contain intact archaeological sites, due to extensive previous ground disturbance. However, we will need additional information on the nature and location of the proposed work before a final determination on this point is made.

Next Steps:

It is my understanding that DelDOT is currently proposing some changes to the project that could result in a redefinition of the permit area. If this is the case, the Corps and the SHPO will have to consult on any commensurate changes to the Area of Potential Effect, and known and potential resources that may be contained therein.

We look forward to working with the Corps and DelDOT to conclude the Section 106 consultation for this undertaking. If you have any questions, please feel free to contact me.

cc: Michael C. Hahn, Senior Highway Planner, DelDOT
Faye Stocum, Archaeologist, DE SHPO