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MEMORANDUM

TO: Penns Neck Area EIS Partners' Roundtable members and alternates
Members of the public and interested parties

FROM: Jon A. Carnegie, AICP/PP
Senior Project Manager

DATE: September 3, 2002

SUBJECT: Integration of Penns Neck Area EIS and Section 106 public involvement processes

At the August 20, 2002 Penns Neck Area EIS Partners' Roundtable meeting, the project team reiterated the intent to coordinate the Penns Neck Area EIS public involvement process with the public involvement activities required under the implementing regulations of Section 106 (36 CFR Part 800 "Protection of Historic Properties"). See (<http://www.achp.gov/regs.html#800>). The New Jersey Department of Transportation and the Federal Highway Administration, the lead agencies for the Penns Neck Area EIS, have asked the project team to clarify, in writing, how the EIS and Section 106 processes will be coordinated and which agencies and organizations have been granted "consulting party" status in accordance with Section 106 regulations.

Penns Neck Area EIS Public Involvement Program

The Penns Neck Area EIS process includes a comprehensive and extensive public involvement program, which is in full compliance with federal public involvement requirements. The program has been designed as an open and ongoing process aimed at establishing and maintaining effective communications between the public and involved public agencies. The program's specific objective is to maintain open lines of communication, active engagement, and maximum participation of the public throughout the scoping, strategy screening, alternatives evaluation, and impact analysis phases of the EIS process.

Specific elements of the program include:

- Early stakeholder interviews and small group listening sessions designed to promote early and full understanding of the issues to be potentially addressed in the EIS, including issues related to historic and archeological resources in the study area.

- Partners' Roundtable Advisory Committee made up of community partners from the public, private and nonprofit sectors. The purpose of the Roundtable is to assist in shaping an Environmental Impact Statement (EIS) for the Route 1-Penn's Neck area and to advise the EIS process as it progresses. The Roundtable has 32 members and meets approximately bi-weekly.
- Public Scoping Forum held in December 2001, to solicit input from the general public on issues related to the scope of the EIS.
- In-progress Review forum to be held on September 30, 2002 to provide the public with an opportunity to informally discuss the alternatives under consideration, as well as the traffic and environmental studies being conducted for the EIS.
- On-going dissemination of project information through direct mailings, a project website, and availability of materials at six document repositories.
- Public Hearing and comment period on the DEIS.

Section 106 Public Involvement Requirements

According to 36 CFR Part 800,

Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. The section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.

The regulations require that agencies “seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties, confidentiality concerns of private individuals and businesses, and the relationship of the Federal involvement to the undertaking.” In addition, the agency must, “provide the public with information about an undertaking and its effects on historic properties and seek public comment and input.” Finally, regulations provide that “members of the public may also provide views on their own initiative for the agency to consider in (the) decision-making (process)”.

Coordination of public involvement processes

Since the inception of the Penns Neck Area EIS process, members of the public and Partners' Roundtable participants have provided valuable input on many EIS related issues, including those related to historic and archeological resources. Input from 92 individuals, representing 45 constituencies, including elected officials; state, municipal, county, and regional agencies; institutional and other stakeholder bodies; civic and public interest groups; transportation, environmental, planning, historic preservation, and business organizations; residents and members of neighborhood groups; and other individuals reflecting a diverse range of views and interests, has been documented as part of early stakeholder interviews and small group listening sessions. More than 110 individuals provided formal testimony as part of a public scoping forum held in December 2001; and input on historic and

archeological resources has been documented as part of many of the 22 Partners' Roundtable meetings held to date.

Opportunities for on-going public input on historic and archeological resource issues will continue throughout the remainder of the EIS process. Specific opportunities will include:

- Notification of document availability – Members of the public and Partners' Roundtable participants will receive notification of the availability of Section 106 related documents including, cultural resource survey and determination of effects reports. Documents will be made available for review at six designated document repository locations. Members of the public may provide written comments for consideration in the decision-making process.
- Future Partners' Roundtable meetings – Roundtable participants and members of the public present at the meetings will receive briefings on the findings of the cultural resource survey and determination of effects studies and have an opportunity to discuss and comment on the findings at future Roundtable meetings.
- In-progress Review Forum – Historic and archeological resource studies will be covered at one of four information stations to be set up at the September 30, 2002 In-progress Review forum to be held from 10AM to 10PM at the New Jersey Hospital Association on Alexander Road in West Windsor Township. Members of the public will have an opportunity to discuss and comment on cultural resource issues throughout the forum.
- Public Hearing on the Draft EIS – Members of the public will have an opportunity to review and comment on the cultural resource survey and determination of effects reports as part of the DEIS public hearing and public comment period tentatively scheduled for December 2002/January 2003.

Consulting Parties under Section 106

In addition to input from the public as described above, Section 106 regulations (36 CFR 800), require specific and formal consultation with a number of parties. According to the regulations, the following parties have consultative roles in the Section 106 process:

1. State Historic Preservation Officer;
2. Indian tribes and Native Hawaiian Organizations;
3. Representatives of local government with jurisdiction over the area in which the effects of an undertaking may occur; and
4. Applicants for Federal assistance, permits, licenses, and other approvals.

In addition, the regulations provide that “individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties.” Consulting party status must be considered and approved by the FHWA NJ Division Office in consultation with the State Historic Preservation Office.

In addition to the FHWA NJ Division Office and the NJDOT, the following parties have been approved to participate in Section 106 consultation as consulting parties:

1. NJ State Historic Preservation Office

2. Advisory Council on Historic Preservation
3. Delaware & Raritan Canal Commission
4. Mercer County
5. National Trust for Historic Preservation
6. Plainsboro Township
7. Princeton Borough
8. Princeton Township
9. Princeton University
10. Sarnoff Corporation
11. Sierra Club (Central Jersey)
12. Stony Brook-Millstone Watershed Association
13. Washington Road Elms Preservation Trust
14. West Windsor Township

Generally, it is the responsibility of consulting parties to review and comment on information and documentation pertinent to the identification of historic properties and assessment of the effects; to participate in the development/evaluation and refinement of alternatives which can be considered to avoid or minimize adverse effects; and to participate in the consideration of mitigation strategies or measures where impacts cannot be avoided. For the Penns Neck Area EIS process, approved consulting parties will receive individual copies of cultural resource survey and determination of effects reports for review and written comment.

If you have any questions regarding the coordination of Section 106 and EIS public involvement activities, please feel free to contact me at 732/932-6812 x606 or by email at carnegie@rci.rutgers.edu.

Thank you.