



REPLY TO  
ATTENTION OF

## DEPARTMENT OF THE ARMY

PHILADELPHIA DISTRICT CORPS OF ENGINEERS  
WANAMAKER BUILDING, 100 PENN SQUARE EAST  
PHILADELPHIA, PENNSYLVANIA 19107-3390

AUG 27 2008

Regulatory Branch  
Applications Section II

SUBJECT: CENAP-OP-R-2007-120-24  
PHMC ER #: 07-0722-101  
Sugar House Casino

Mr. Douglas C. McLearen, Chief  
Division of Archaeology and Protection  
Bureau for Historic Preservation  
Pennsylvania Historical and Museum Commission  
Commonwealth Keystone Building, 2<sup>nd</sup> Floor  
400 North Street  
Harrisburg, Pennsylvania 17120-0093

Dear Mr. McLearen:

This letter is in regard to the above subject Department of the Army permit application by HSP Gaming, L.P. to construct a casino and entertainment complex known as "Sugar House." The project site is located at 941 – 1025 North Delaware Avenue in Philadelphia, Pennsylvania. The permit application seeks authorization for work, including structures, dredging and fill, within the Delaware River (the undertaking). With respect to historic properties, the project is being reviewed under the Corps of Engineers' regulations at 33 CFR 325, Appendix C (Procedures for the Protection of Historic Properties), as well as those of the Advisory Council on Historic Preservation (ACHP) at 36 CFR 800 (Protection of Historic Properties); both of which implement Section 106 of the National Historic Preservation Act of 1966 (NHPA).

Pursuant to 33 CFR Part 325, Appendix C, 1, g, the Department of the Army's jurisdiction for compliance with Section 106 of the NHPA is limited to the proposed activities within the project's "Permit Area." Based on our review of the above referenced project, this office has determined that the "Permit Area" encompasses the entire project site.

We are providing you with a summary of the following for your review and concurrence:

- a) the efforts that have been made to date to identify historic properties at the referenced site;
- b) our determination of their eligibility for listing in the National Register of Historic Places; and
- c) our findings of effect.

**Identification of historic properties:** We have reviewed the archaeological documentation for the project site, which is encompassed by our permit area. The specific documentation includes the following reports by A.D. Marble & Company: "Phase IA Archaeological Survey Report," "Phase IB/II Archaeological Investigation (Volumes I and II)," "Phase IB Management Summary Report," and "Phase IB/II Supplemental Archaeological Survey, Geomorphological Assessment, and Report Clarification." In regard to the identification efforts that the applicant

and its consultants have made to date, several of the consulting parties have raised issues with the adequacy of the applicant's initial efforts that were carried out. These unresolved issues can be broadly summarized as: lack of utilization by the contractors of historic maps and archival sources; questions about the location of the original Delaware River shoreline, Redoubt #1 (British Northern Line of Defense of Philadelphia), and Batchelor's Hall; whether the remains of the sugar refinery exist in an intact-enough state to possess integrity; and finally, the adequacy of the geomorphological work that has been carried out.

Your office reviewed the consultants' reports and responses in light of the comments received, and on March 26, 2008, requested additional work on five points before proceeding with the Section 106 process:

1. additional testing in the area of Redoubt #1;
2. additional geomorphological investigations (to determine the original shoreline and assess the potential for additional archaeological resources or buried ground surfaces);
3. additional information about the shaft features selected for mitigation;
4. additional supporting justification for exclusion of the majority of shaft features from evaluation level of analysis, and
5. additional exploration of 'yard areas' near Feature 39.

As our permit review has proceeded, we have reviewed the comments of the Philadelphia Archeological Forum (PAF) (specifically their criticisms and recommendations in their letter of June 25, 2008) and the maps and archival information supplied by Mr. Torben Jenk. In addition, these consulting party comments were reviewed point-by-point in a joint meeting with your office, the applicant, the Corps, and A.D. Marble on July 21, 2008. Further, we believe that A.D. Marble's "Phase IB/II Supplemental Archaeological Survey, Geomorphological Assessment, and Report Clarification," dated June, 2008 (Supplemental), satisfactorily addresses the original points raised by your office, and the subsequent points that have been raised by the PAF, Mr., Jenk and others.

Accordingly, we now conclude that the applicant has made a reasonable and good faith effort to identify historic properties at the Sugar House site, as required by the Corps' and ACHP's regulations. We are fully aware that unresolved identification issues remain to be addressed at this site, but we are confident that these can be dealt with as site preparation progresses. We believe that work to remove utilities under the existing Penn Street has the potential to expose additional historic or prehistoric materials, but we believe the most appropriate manner to address this potential is through use of the unanticipated discovery provisions contained in the Corps' and ACHP's regulations (at 33 CFR 325, Appendix C, 11, and 36 CFR 800.13). Stipulations contained in the proposed Memorandum of Agreement (MOA) for this project will provide the mechanism for consideration of historic significance and subsequent mitigation should historic properties be discovered in these areas.

**Evaluation of historic significance:** Our review of all the information concludes the Sugar House site has been substantially altered by industrial (and pre-industrial) modifications and disturbance. The geomorphological evidence clearly indicates the site has suffered extensive subsurface impacts. East of Penn Street, to the Delaware River, these impacts extend to almost three meters below modern grade and into estuarine sediments. West of Penn Street, grading has eliminated much of the upper one meter or more of soil. Industrial debris is present, and a

number of shaft features have been identified. As noted in the reports, all of these features have been truncated in (at least) their upper one meter by grading and refilling activities.

The most significant conclusion of the Supplemental report is the extent of previous disturbance on this site, as documented on pages 30-36 of the report *Geoarchaeological Investigations at the SugarHouse Casino Site in Philadelphia, Pennsylvania*, by Daniel P. Wagner. Dr. Wagner noted profound and substantial landform modifications east of the existing Penn Street, with rubble extending in excess of three meters below modern ground surface. Foundations and support piers are present within the estuarine sediments in this area, having effectively eliminated any evidence of prior use of that portion of the site. The report notes the original shoreline was probably adjacent (on the east) to Penn Street. Terrestrial soils do exist west of Penn Street, but have also been truncated to a depth of a meter or more by industrial development. Efforts to identify Redoubt #1 were not successful due to substantial cutting, grading, and filling of this area that seems to have eliminated any final traces of Redoubt #1. Thus, we do not believe that any remains of Redoubt #1 exist on the Sugar House site; and, even if any remains were to exist, they would not possess the integrity required to be determined an historic property.

A.D. Marble's historians have reviewed all of the maps and supporting documentation provided by the consulting parties, principally Mr. Jenk, and determined that Batchelor's Hall was not present on the Sugar House site. As with Redoubt #1, if any remains still did exist, they would not possess the integrity required to be determined an historic property. As for the shoreline areas, we believe that construction of crib docks associated with the sugar refinery have eliminated any possibility of finding intact and significant underwater resources on the site.

Concerning the remains of the sugar refinery itself, we have reviewed A.D. Marble's reports "Phase IA Archaeological Survey Report," "Phase IB/II Archaeological Investigations, (volumes I and II)," "Phase IB Management Summary Report," and "Phase IB/II Supplemental Archaeological Survey, Geomorphological Assessment, and Report Clarification." We find the original structural part of 36PH137, the Pennsylvania Sugar Refinery complex, to be ineligible for inclusion in the National Register of Historic Places (NRHP). Demolition of the structures in 1997 resulted in loss of integrity and context of the structures, effectively eliminating its National Register status. We request your concurrence with this determination.

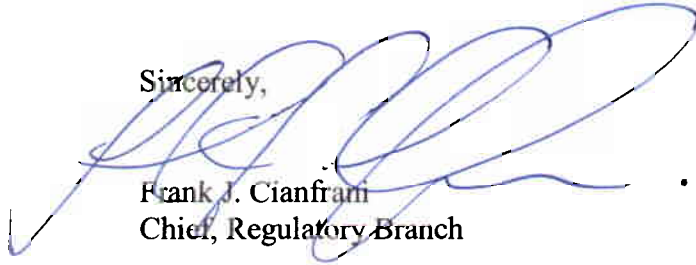
The two significant archaeological resources still existing on this site are the prehistoric component of site 36PH137 and the six historic shaft features from area H-1. We have reached agreement with the determination in your letter dated March 26, 2008, that the prehistoric site is eligible for inclusion in the National Register. Based on the documentation of the shaft features and recommendations made in A. D. Marble's recommendation contained on pages 164-166 within "Phase IB/II Archaeological Investigations Sugarhouse Casino Site (36PH137)," we believe the shaft features possess integrity and are eligible for inclusion to the National Register under criterion D. By this letter we seek your concurrence with this finding.

**Findings of effect:** We seek your agreement with our finding that this undertaking, as currently proposed by the applicant, will have an effect on the identified historic and prehistoric components of 36PH137 by altering those characteristics that qualify them for listing in the National Register. Further, these will be adversely affected by construction of the Sugar House casino, according to the criteria of adverse effect set out in the ACHP's regulations at 36 CFR 800.5(a)(2).

If you agree with these findings of adequate identification efforts now made, of historic significance of only the two archaeological sites, and of adverse effect for this undertaking, we will notify the consulting parties and formally invite the ACHP to participate as required by 36 CFR 800.6(a)(1) and 33 CFR 325(7)(d). At this point, and given the construction plans for this property, we see little opportunity to avoid or minimize these effects. We believe resolution will be through provisions contained in an agreement document between the Corps, the Pennsylvania Historical and Museum Commission (PHMC) the ACHP.

We look forward to continuing to work with your office, and the consulting parties, on mitigation measures for this undertaking. If you should have any questions regarding this matter, please contact James N. Boyer of this office at the above address, or by electronic mail at [James.N.Boyer@usace.army.mil](mailto:James.N.Boyer@usace.army.mil) or by calling (215) 656-5826.

Sincerely,



Frank J. Cianfrani  
Chief, Regulatory Branch