



REPLY TO  
ATTENTION OF

## DEPARTMENT OF THE ARMY

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

**MAR 3 0 2009**

Regulatory Branch  
Applications Section II

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

Mr. Douglas C. McLearn, 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. McLearn:

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 (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 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 (NHPA).

Pursuant to 33 CFR 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.

Based on work undertaken by A.D. Marble and Company since our previous letter of August 27, 2008, we are providing you a more detailed and up-to-date summary of events and attempts to refine identification of historic properties at the site. This letter is inclusive of information from the original letter, as well. Again, 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 Sugar House site;
- b) our determination of their eligibility for listing in the National Register of Historic Places (NRHP); and
- c) our findings of effect.

**Identification of Historic Properties:** We have continued to review the archaeological documentation for the project site encompassed by our permit area. The specific documentation originally included the following reports by A.D. Marble & Company: “Phase IA Archaeological Survey Report” (March 2007); “Phase IB/II Archaeological Investigation (Volumes I and II)” (February 2008); and “Phase IB/II Supplemental Archaeological Survey, Geomorphological Assessment, and Report Clarification” (June 2008).

Consulting party comments originally covered the following issues: adequacy of work undertaken; lack of utilization of maps and additional archival sources supplied by consulting parties; location of the original Delaware River shoreline; the location of Batchelor’s Hall; extant remains of the sugar refinery; adequacy of the geomorphological research; and, the presence of Redoubt No. 1 (British Northern Line of Defense of Philadelphia).

After review of the consulting party comments and A.D. Marble work, your office proposed five areas needing additional work in a letter dated March 26, 2008. These five issues were addressed in A.D. Marble’s “Phase IB/II Supplemental Archaeological Survey, Geomorphological Assessment, and Report Clarification” (June 2008). That work covered the majority of issues raised to that point by the consulting parties.

Our meeting with your office and the applicant, The Keating Group, on July 21, 2008, included point-by-point consideration of consulting party comments, the A.D. Marble work, and your March 26, 2008 letter. This meeting also included consideration of comments from the Philadelphia Archeological Forum (PAF) dated June 25, 2008, as well as a considerable body of documents (maps and archival sources) from Mr. Torben Jenk. The conclusion of that meeting was a general agreement between PHMC and the Corps that A.D. Marble’s work was sound, had addressed the consulting party issues, and the Section 106 process should continue with determinations of NHRP eligibility and assessments of effect.

At the specific request of The Keating Group, our respective offices reviewed their submittal dated June 17, 2008, which described a specific set of proposed site preparation activities within specific portions of the site. With the concurrence of your office (PHMC letter dated July 28, 2008), the Corps notified the applicant that their proposed upland activities could be carried out without affecting the ongoing Section 106 process for the remainder of the site where resources had been identified (Corps letter dated August 1, 2008). It was subsequently brought to our attention that three indicator piles were driven outside the disturbance areas previously identified for obstruction removal and test and indicator piles. Our review of the archaeological studies confirmed that the three locations were not within areas previously identified for future investigation. As such, we have determined that the three piles had no effect on identified historic properties.

Based on the above, our original letter of August 27, 2008, addressed effect determinations and NRHP status. However, the consulting parties expressed skepticism with the conclusions expressed in the letter (as well as A.D. Marble’s ‘Phase I/IIB Supplemental,’ etc.) and continued to provide questions and documentation arguing for additional work. Many of these concerns reflected the original charge of inadequate work, and quality of work, by A.D. Marble. Broadly, there was also a rejection of the geomorphological work conducted by Dr. Daniel Wagner; and it was felt that remains of Redoubt No. 1, the Kensington screw docks, and Batchelor’s Hall (among other architectural features) could remain (or have remained) intact under the Sugar House foundation.

The Corps continued to accept and review comments from consulting parties after the letter was issued. The PAF added a letter commenting on, and disagreeing with, our conclusions in the August 27, 2008 letter to your office. The PAF also noted inconsistencies with eligibility for features between the A.D. Marble report and the Corps letter. Mr. Jenk provided additional archival materials, and the presence of intact subsurface deposits continued to be a topic of discussion. Finally, it was determined proper treatment of any features found to be intact during future removal of Penn Street and the buried utilities lacked detail in that letter.

**Additional review:** Our continued review and engagement with the consulting parties was supported by additional work and review by the applicant. Keating and A.D. Marble responded to consulting party comments by reviewing and refining work at the site. Keating provided monitoring (by A.D. Marble) of the obstruction removal and pile installation process, along with documentary photographs. A detailed letter addressing Mr. Jenk's archival material was provided by Keating on two occasions: September 16, and September 24, 2008. A.D. Marble provided a more detailed report of monitoring on October 13, 2008. The monitoring reports were consistent with the prior evidence of brick and concrete rubble foundation debris extending more than three meters into riverine sediments.

A consulting party meeting was held at the Corps' Philadelphia District office on October 29, 2008, to allow consulting parties to meet directly with the PHMC, the Corps, the ACHP, and the applicant. Keating agreed to provide Mr. Jenk access to the site to personally direct exploratory excavations in areas of greatest concern in order to determine whether any intact remains existed on the site that may be historic properties.

The report of this work was provided to all parties on November 20, 2008. While Mr. Jenk disagrees with A.D. Marble's interpretation of the age of the features encountered during his direction of trenching, the Corps concurs with A.D. Marble's conclusion that: Batchelor's Hall is not within the property; Redoubt No. 1 was likely removed by industrial impacts; the Kensington Screw Docks and the Master's Tide Mill have no identifiable evidence on the property.

In light of this additional work, we have reexamined our original conclusion that the applicant and the applicant's consultant have made a reasonable and good faith effort to identify historic properties. As such, we continue to stand by our earlier conclusion.

**Evaluation of historic significance:** Our review of the collective information has reinforced our previous conclusions the Sugar House site was been substantially and irrevocably altered by multiple episodes of construction that culminated with the deep foundation excavations that remain today. The geomorphological evidence at the site is conclusive and compelling. Dr. Wagner's report, "Geoarcheological Investigations at the Sugar House Casino Site in Philadelphia, Pennsylvania," explains the lack of features east of Penn Street, as well as the damage (truncation of the upper meter) of shaft features west of Penn Street. The cross-support of good archeological documentation provides a very sound basis for accepting the work undertaken by A.D. Marble as adequately elucidating the historic evolution of the Sugar House site.

Based on the collective work by A.D. Marble, including the supplemental work undertaken since our previous letter, we continue to find the original structural part of 36PH137, the Pennsylvania Sugar Refinery complex, to be ineligible for inclusion in the NRHP. Demolition of the structure in 1997 resulted in catastrophic loss of integrity, eliminating its potential status as an historic property eligible for listing in the NRHP. We request your concurrence with this determination.

Shaft features representing different aspects of the historic occupation were identified primarily in areas H-1 and H-2, the majority west of Penn Street. A total of 144 historic features were identified during collective field work ending in May 2008. Industrial excavations in excess of three meters deep removed the sub-soils east of Penn Street, truncating existing soils and compacting older living surfaces. A portion of the features identified, collectively wells, privies, chimneys, etc., remained intact by circumstance of having been filled with debris during accretion of over-lying industrial development. After analysis, A.D. Marble has recommended seven of these features as contributing to the site's eligibility to the NRHP under Criterion D of 36 CFR 60.4. These features selected represent a cross-section of functional types, as well as those with contextual integrity, and are recommended for Phase III work. Specifically the following:

From Area H-1:

Features 124, 125, 132, and 134 – circular shaft features

Feature 154 – rectangular shaft feature

From Area H-2

Feature 10 and 10A – stacked barrel privy

Feature 174 – wooden, plank-lined rectangular shaft feature

We request your concurrence that these features are part of an historic property associated with the industrial development of this site, and that the property is NRHP eligible.

We are also in agreement that the prehistoric component of site 36PG137 is eligible for inclusion in the NRHP. The Late Woodland site has the advantage of being intact by virtue of its very unusual depositional situation (the undisturbed common area between Colonial homes).

The removal of Penn Street represents a necessary unknown for subsurface evidence of historic and prehistoric features. It is unlikely, but not inconceivable, that evidence of Redoubt No. 1 could be encountered when Penn Street is removed. The extent to which buried utilities along the street may have damaged subsurface remains, however, is unknown.

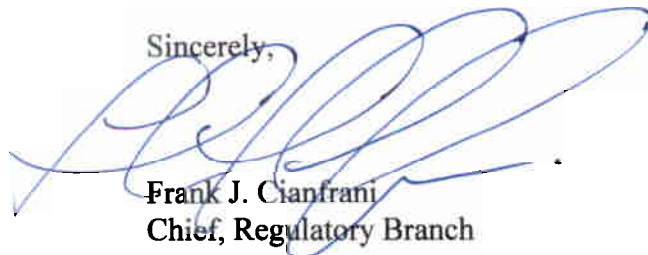
Penn Street will be fully assessed when work commences in this part of the project site. A series of stipulations under the terms of a Memorandum of Agreement (MOA) will provide for this action, including the steps necessary to assess the removal of the street and interpretation of any intact historic or prehistoric features identified underneath. The MOA will also have stipulations addressing monitoring, recording, and assessment (if necessary) for any NRHP eligible portions of 36PH137 that are yet to be identified.

**Findings of effect:** We find the undertaking will have an effect on the prehistoric and historic components of site 36PH137 by altering those characteristics that qualify them for listing in the NRHP. Construction of the Sugar House casino represents the adverse effect according to the criteria of adverse effect set out in ACHP regulations at 36 CFR 800.5(a)(2).

If you agree with our findings that: 1) historic property identification efforts have been completed (except for Penn Street); 2) application of the National Register eligibility criteria has resulted in a finding of one prehistoric and one historic property; and 3) construction of the proposed development will have an adverse effect on those qualities of the historic properties that qualify them for listing in the National Register; we will proceed to notify consulting parties of our agreement with these findings, and formally invite the ACHP to participate in consultation as required by 36 CFR 800.6(a)(1). Additionally, if you agree with our conclusions of significance and determination of effect, the next step will be the development of an agreement document among the Corps, the Pennsylvania Historical Commission (PHMC), and the ACHP to address this adverse effect. A preliminary outline of this document, with stipulations to guide Phase III work, will be provided to the PHMC, the ACHP, and the consulting parties for their initial review. We envision the agreement document will require stipulations to treat the yet-to-be-removed Penn Street for any associated testing and eligibility issues associated with features (continuing questions over the presence or absence of Redoubt No. 1, for example) that might be identified there. Excavation of the prehistoric component of the site would also be provided for in this document, including any necessary tribal notifications and involvement. Stipulations addressing unanticipated discoveries will ensure protection of the site during the course of construction, as well.

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

Copies Furnished (via regular mail and electronic mail):

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Mr. Mark Shaffer; PHMC  
Mr. Skipper Scott; CESWF-PER-R  
Mr. Terrence J. McKenna, The Keating Group

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Dr. Jonathan Farnham, Acting Historic Preservation Director, Phila. Historical Commission  
Ms. Deborah King, Northern Liberties Neighbors Association  
Ms. Hilary Regan, Northern Liberties Neighbors Association  
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Mr. Jeremy Beaudry, Neighbors Allied for the Best Riverfront  
Ms. Maya van Rossum, Delaware Riverkeeper Network  
Mr. Douglas B. Mooney, President, Philadelphia Archaeological Forum  
Mr. John Andrew Gallery, Executive Director, Preservation Alliance  
Mr. Stephen W. Tull, Vice President, Pennsylvania Archaeological Council  
Mr. Torben Jenk  
Ms. Tamara Francis, Cultural Preservation Director, Delaware Nation  
Ms. Sherry White, Tribal Historic Preservation Office, Stockbridge – Munsee Band of Mohicans