



August 26, 2024

Colonel Francis B. Pera  
District Commander  
U.S. Army Corps of Engineers  
Baltimore District  
2 Hopkins Plaza  
Baltimore, Maryland 21201

Ref: *Washington Aqueduct Georgetown Castle Gatehouse Project*  
*Georgetown, District of Columbia*  
*ACHP Project Number: 021393*

Dear Colonel Pera:

On August 2, 2024, the Advisory Council on Historic Preservation (ACHP) was notified by the District of Columbia State Historic Preservation Officer (SHPO) of concerns regarding ongoing construction activities affecting Georgetown Castle Gatehouse, a historic property within the Washington Aqueduct. That same day, the ACHP requested the U.S. Army Corps of Engineers (Corps), Baltimore District, respond to the SHPO's request regarding the ongoing activities and its compliance with Section 106 (54 U.S.C. § 306108) of the National Historic Preservation Act (54 U.S.C. § 300101 et seq.) and its implementing regulations, "Protection of Historic Properties" (36 C.F.R. Part 800).

On August 7, 2024, the Corps informed the ACHP and SHPO that the work occurring was related to an undertaking that had been previously determined to have *no adverse effect*; however, the work occurring was inconsistent with what had been previously consulted and concurred upon by SHPO. The Corps issued a stop work order to its contractor at that time. On August 12, 2024, the Corps hosted a site visit with the ACHP and the SHPO to assess the current status of the completed work, to evaluate the condition of the historic property, and to discuss potential steps forward. During this meeting, the condition of the remaining extant brick turrets and structural concerns associated with the gatehouse were discussed.

On August 15, 2024, the Corps formally acknowledged that the change in scope to the undertaking had resulted in an *adverse effect* to the historic property and proposed to now resolve the adverse effect through an agreement document. Concurrently, the Corps identified that existing structural conditions, coupled with the pause in work, presented a need for immediate actions to allow selected work to continue on the two deconstructed turrets to prevent additional damage and life safety risks. On August 15, 2024, the SHPO and the ACHP concurred with the Corps proceeding with critical reconstruction work on the two dismantled turrets and the development of an agreement document to resolve the now-identified adverse effect. Additionally, the ACHP supported the SHPO's request that no additional work proceed on the two remaining turrets until an opportunity was provided to consider all information relevant to the situation and determine whether any alternatives to maximize the retention of historic fabric are feasible.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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When an agency official fails to comply with the requirements of Section 106, the ACHP's opportunity to comment may be foreclosed. Based on the information available at this time, it appears the adverse effect occurred as a result of miscommunications and lack of oversight within the Corps in implementing the undertaking, rather than an intentional effort to ignore the requirements of Section 106. Accordingly, to aid Corps in addressing this issue, the ACHP is providing this letter under our general commenting authority at 36 C.F.R. § 800.9(a).

The ACHP acknowledges the initial efforts by the Corps to address the situation, including issuing a stop work order and initiating discussions with consulting parties to determine a path forward in a timely manner. However, the ACHP questions the communication and oversight procedures within the Baltimore District and at Washington Aqueduct that allowed changes to a project's scope without proper coordination with relevant Corps Cultural Resources staff, to include reinitiating consultation with the SHPO. As expressed by consulting parties during the site visit with the Corps, the modifications to the undertaking might well have been agreed to by the SHPO and the ACHP, given the identified condition of the historic property; however, this opportunity was not afforded due to a misunderstanding of the conditions within the *no adverse effect* finding and miscommunications between the Corps and the contractor conducting the work. The ACHP requests that the Corps conduct a thorough after-action analysis of this undertaking, which is critical to ensure that similar situations do not occur in the future. Such an analysis should include a summary of the incident, the circumstances that led to the changes in project scope without proper consultation, an assessment of current Section 106 compliance efforts at the Washington Aqueduct, and the actions the Corps proposes to take to ensure this situation does not occur again. Based on the results of that analysis, the ACHP may provide additional recommendations to the Corps.

As indicated in our August 16, 2024, response, the ACHP agrees with the Corps that in this instance, the development of a Memorandum of Agreement (MOA) to resolve the undertaking's adverse effect is appropriate. While the process detailed in 36 C.F.R. § 800.13(b)(3) could be used, given the complexities of the current circumstances, we believe an MOA is an appropriate compliance outcome. The ACHP supports the recommendations made by the SHPO concerning potential resolution measures to be included in the MOA, including consideration of alternatives that would maximize the retention of remaining historic fabric in addition to mitigation measures that improve and support the identification, documentation, interpretation, and utilization of historic properties at the Washington Aqueduct. We also recommend that the MOA consider requiring training for relevant Corps staff, including leadership, project managers, contracting officials, and other relevant staff within Baltimore District and the Washington Aqueduct, on Section 106 procedures and responsibilities.

Because the Corps is collaborating closely with the SHPO, we do not feel our formal participation in consultation to develop an MOA is needed at this time. However, should circumstances change, or a consulting party request our participation, we may reconsider our decision. We look forward to assisting the Corps in carrying out its Section 106 compliance responsibilities and appreciate its consideration of our comments and recommendations on these issues. Should you have any questions or require additional assistance, please contact Mr. Christopher Daniel at (202) 517-0223 or by e-mail at [cdaniel@achp.gov](mailto:cdaniel@achp.gov) and reference the ACHP Project Number above.

Sincerely,



Jaime Loichinger  
Director  
Office of Federal Agency Programs