State Comments and Responses

Comments were received from the following State agencies:

Montana Historical Society
Maine Historic Preservation Commission
Maryland Division of Historical and Cultural Programs
West Virginia Division of Culture and History
Idaho State Historical Society
Oklahoma Historical Society
Maryland Department of Natural Resources
Michigan State Historic Preservation Office
Virginia Department of Environmental Quality
Mississippi Department of Archives and History
Virginia Chesapeake Bay Local Assistance Department
Washington State Department of Ecology
Kansas Department of Wildlife and Parks
Wyoming State Historic Preservation Office
Iowa State Historic Preservation Office
Arizona Game and Fish Department
Minnesota State Historic Preservation Office
New York Department of Environmental Conservation
Rhode Island Historical Preservation and Heritage Commission
New Jersey Department of Environmental Protection

State Historic Preservation Office
Montana Historical Society
1410 8th Avenue • PO Box 201202 • Helena, MT 59620-1202 • (406) 444-7715 • FAX (406) 444-6575

December 16, 1999

EWP DRAFT PEIS COMMENTS
POB 745
FALLS CHURCH VA 22040-0075

Dear Sir or Madame:

We have reviewed the above referenced draft document as requested. We believe several elements in the proposed action could result in more effective consideration of Historic Properties under the National Historic Preservation Act. Perhaps most important could be the refinement of the "urgent and compelling situation" concept rather than the current use of exigency/non-exigency categories.

1 However the document is very vague regarding just how consultation regarding Historic Properties would or could be carried out. For example, increased coordination among various agencies is suggested but no mechanism are described. The EWP manual and policy are described as containing directions for completing the DSR but I could not find those contents or steps described (for example, when to request SHPO information, when the NRCS Cultural Resource Specialist reviews proposed actions, when inventory would occur for what kinds of actions, agency-SHPO consultation of adequacy of identification efforts, eligibility, avoidance or effect findings, etc.). When this level of nonspecificity is combined with statements such as "The NRCS state cultural resources specialist or coordinator *may* recommend consultation with the State Historic Preservation Office (2-11) . . . " it is difficult to see just how Historic Properties would be identified, recorded and assessed relative to NRCS EWP sponsored projects.

2 This is all the more disquieting since we have expressed strong concern over the apparent lack of project review for cultural resources by at least 50% of the NRCS county field offices in Montana for at least three years under the NRCS-NCSHPO state protocol. It is difficult to envision from this document how additional undertakings could improve this situation unless there are basic changes in the way the NRCS handles cultural resources and section 106 in Montana to begin with.

There is no question that several EWP practices have the potential to affect Historic Properties in non "urgent and compelling situations" where straightforward, regular, if expedited, consultation with SHPO would be appropriate. Where and how is that consultation conducted in the EWP program? At the DSR stage, a later environmental review stage? - where alternatives have already been identified - likely without regard to Historic Properties? Efforts to have state agencies complete NRCS sponsored practices will likely confound NRCS 106 responsibilities unless the guidance manuals are extremely clear, firm and supportive of meeting those responsibilities. We would be happy to provide comment and recommendations concerning cultural resource assessment procedures when and if the EWP Manual, regulations, handbook DSR or other guidance is revised.

Sincerely,

Stan Wilmoth

Stan Wilmoth, Ph.D.
State Archaeologist/Deputy State Historic Preservation Officer

File: NRCS/99

MAINE HISTORIC PRESERVATION COMMISSION
55 CAPITOL STREET
65 STATE HOUSE STATION
AUGUSTA, MAINE
04333

ANGUS S. KING, JR.
GOVERNOR

EARLE G. SHETTLEWORTH, JR
DIRECTOR

December 22, 1999

EWP Draft PEIS Comments
PO Box 745
Falls Church, VA 22040-0075

Project: MHPC #2160 - Draft PEIS EWP Program Improvements and Expansion
Location: Statewide, Maine

Dear Agency Representative:

In response to your recent request, I have reviewed the information received December 15, 1999 to initiate consultation on the above referenced project. Our office is reviewing this document as it relates to Section 106 of the National Historic Preservation Act of 1966 (as amended).

1 Our office concurs with statements made in S.7.3 and 3.5.5 (Mitigation for Cultural Resources) regarding consultation with our office as part of the EWP planning and coordination function before disaster occurs and before actions at EWP are taken. This planning and consultation should include activities affecting National Register of Historic Places listed or eligible historic properties which can include standing structures, archaeological sites, viewsheds, historic landscapes and cultural places. Training at the state level in the types and prevalence of all cultural resources that might be encountered in each region of the state is encouraged.

Please contact Dana R. Vaillancourt of my staff if you require further assistance in this matter.

Sincerely,

Earle G. Shettleworth, Jr.
State Historic Preservation Officer

EGS/drv

PHONE: (207) 287-2132

FAX: (207) 287-2335

Montana Historical Society page 1	Maine Historic Preservation Committee page 1
1) Refer to the "Special Environmental Concerns" Evaluation Procedure Guide Sheets in the Appendix 610.71 of the NRCS National Environmental Compliance Handbook for directions for completing the DSR. These guide sheets are also provided in Appendix C of this Final PEIS. NRCS does not consider it appropriate to describe detailed procedures for each state within this nationwide programmatic document. Procedures are State-specific and stipulated in the Emergency Recovery Plans (ERP). ERPs will specify how historic properties and other cultural resources would be identified, recorded, and assessed relative to NRCS EWP sponsored projects. The State Level Agreement (SLA) and AOP procedures are required to be consistent with the Advisory Council on Historic Preservation's regulatory procedures for implementation of the National Historic Preservation Act (NHPA) of 1966, as amended, found at 36 CFR Part 800; appropriate treatments will, therefore, be determined on a case-by-case basis in consultation with the State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO). 2) We are forwarding a copy of your comment letter to the State Conservationist. We urge you to discuss your concerns about cultural resources directly with the Montana State Conservationist's office.	1) We appreciate your concern that our field personnel be trained regarding the nature and extent of all cultural and historic resources that may be affected by natural disasters. While EWP training focuses on ensuring that all consultations and identifications are conducted in a manner that effectively and efficiently treats all potentially affected resources, NRCS mandatory modular cultural resources training for field personnel provides the tools needed for recognizing the full range of resources in the State. We appreciate your office's willingness to work with us in providing the latter training, and updates, thereby enabling our field and State office personnel and cultural resources staff to make informed decisions.

Maryland Department of Housing and Community Development

Division of Historical and Cultural Programs

100 Community Place
Crownsville, Maryland 21032

410-514-7600
1-800-756-0119
Fax: 410-987-4071
Maryland Relay for the Deaf:
1-800-735-2258

http://www.dhcd.state.md.us

Parris N. Glendening
Governor

Raymond A. Skinner
Secretary

Marge Wolf
Deputy Secretary

January 10, 2000

DWP Draft PEIS Comments
P.O. Box 745
Falls Church, VA 22040-0075

RE: U.S. Department of Agriculture Natural Resources Conservation Service Emergency Watershed Protection (EWP) Program, Draft Programmatic Environmental Impact Statement (Section 106 Review – USDA)

Dear Sir or Madam:

Thank you for your 15 December 1999 package, which the Maryland Historical Trust received that same day regarding the above-referenced draft EIS. Trust staff have reviewed the package and below are our comments.

1 As we understand, the EWP Program provides protection and restoration to damaged watersheds following flooding or other storms. The program will account for historic resources within any project area on a case-by-case basis. The Trust is of the opinion that this will allow the Agriculture Department through the EWP Program to work with our office to account for all historic properties which are in the project area. To that end, we would encourage the EWP to identify any dams or other structures that exist within any Maryland river or stream. Once a particular project is identified, we will be able to work with you to identify other standing structures or archeological sites which have been affected.

Thank you for providing us this opportunity to comment. Should you have any questions regarding the review of the project, please contact Ms. Anne Bruder (for structures) at 410-514-7636 or Dr. Gary Shaffer (for archeology) at 410-514-7638.

Sincerely,

Anne E. Bruder
Preservation Officer
Project Review and Compliance

GDS:AEB:199903429

WEST VIRGINIA DIVISION OF
CULTURE AND HISTORY

January 12, 2000

United States Department of Agriculture
EWP Draft PEIS Comment
P.O. Box 745
Falls Church, Virginia 22040

RE: Emergency Watershed Protection Program
FR#: 00-252-MULTI

To Whom It May Concern:

We have received and reviewed the Emergency Watershed Protection Program Draft Programmatic Environmental Impact Statement. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

1 We concur with the National Resources Conservation Service's broader definition for Area of Potential Effect (APE) as proposed in Section 3.5.5 "Mitigation for Cultural Resources." The current NRCS definition of APE often only encompasses the immediate site location and does not take into account important considerations such as archaeological sites, viewsheds, historic landscapes, and cultural places. In each case, an adverse effect can occur without the undertaking taking place in the nearby vicinity of a significant resource.

The Advisory Council on Historic Preservation defines APE as "the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if such properties exist" (36 CFR 800.16(d)). In West Virginia we have quantified this statement by describing the Area of Potential Effect as within a radius of 1,000 feet from the undertaking or extending to where the undertaking can be viewed from an historic resource.

We appreciate the opportunity to be of service. If you have questions regarding our comments or the Section 106 process, please call Marc Holma, Structural Historian, or Joanna Wilson, Senior Archaeologist, at (304) 558-0220.

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP: mh

THE CULTURAL CENTER • 1900 KANAWHA BOULEVARD, EAST • CHARLESTON, WEST VIRGINIA 25305-0300
TELEPHONE 304-558-0220 • FAX 304-558-2779 • TDD 304-558-3562
EEO/AA EMPLOYER

Maryland Div. of Historical and Cultural Programs page 1	West Virginia Division of Culture and History page 1
1) A list of the locations of all NRCS assisted structures built under PL 83-566 and PL 78-534 is available from the State Conservationist. EWP funding resources do not allow the Program to do more than provide this inventory of such structures. The EWP program depends upon SHPOs to provide assistance in identifying the locations of protected resources. As Described in Draft PEIS Proposed Action Element 6 of Section 3.2.2.1, pre-disaster planning and coordination will provide an opportunity for specific procedures to be developed for cultural and other sensitive resources. The Preferred Alternative retains the interagency coordination and pre-disaster planning described in Element 6.	1) Because Section 106 compliance will be carried out in accordance with the Advisory Council's Procedures found at 3 CFR Part 800, we are confident that your concern for resources within the watershed restoration project's area of potential effect (direct and indirect) will be addressed. We have found that the viewsheds of most of our restoration projects are not adversely affected by our restoration activities; however, we will continue to work in consultation with all SHPOs and THPOs offices to address this and other concerns.

IDAHO STATE HISTORICAL SOCIETY

Our mission: to educate through the identification, preservation, and interpretation of Idaho's cultural heritage.

Dirk Kempthorne
Governor of Idaho

Steve Guerber
Director

Administration
1109 Main Street, Suite 250
Boise, Idaho 83702-5642
Office: (208) 334-2682
Fax: (208) 334-2774

Archaeological Survey
210 Main Street
Boise, Idaho 83702-7264
Office: (208) 334-3847
Fax: (208) 334-2775

Historical Museum and Education Programs
610 North Julia Davis Drive
Boise, Idaho 83702-7695
Office: (208) 334-2120
Fax: (208) 334-4199

Historic Preservation Office
210 Main Street
Boise, Idaho 83702-7264
Office: (208) 334-3861
Fax: (208) 334-2775

Historic Sites Office
2445 Old Penitentiary Road
Boise, Idaho 83712-8254
Office: (208) 334-2844
Fax: (208) 334-3225

Library/Historical Collection
450 North Fourth Street
Boise, Idaho 83702-6027
Office: (208) 334-3956
Fax: (208) 334-3198

Library/Genealogical Collection
450 North Fourth Street
Boise, Idaho 83702-6027
Office: (208) 334-3957
Fax: (208) 334-3198

Oral History
450 North Fourth Street
Boise, Idaho 83702-6027
Office: (208) 334-3663
Fax: (208) 334-3198

Memberships and Outreach and Development
1109 Main Street, Suite 250
Boise, Idaho 83702-5642
Office: (208) 334-3956
Fax: (208) 334-2774

Publications
450 North Fourth Street
Boise, Idaho 83702-6027
Office: (208) 334-3428
Fax: (208) 334-3198

State Archives Manuscripts
2205 Old Penitentiary Road
Boise, Idaho 83712-8250
Office: (208) 334-2620
Fax: (208) 334-2626

January 13, 2000

EWP Draft EIS Comments
P.O. Box 745
Falls Church, VA 22040-0075

RE: Draft Programmatic Environmental Impact Statement–EWP Program Improvement and Expansion

Thank you for requesting our views on the draft Programmatic Environmental Impact Statement for the Emergency Watershed Protection Program, a program administered by the Natural Resources Conservation Service (NRCS). After reviewing the document, we have only a few comments:

1. Section 3.5.5. (p. 3-45): A significant problem for all NRCS cultural resource management in Idaho is that the NRCS state office does not have a cultural resource specialist on staff to provide day-to-day expertise. Such expertise is particularly important in emergency situations. Idaho's NRCS cultural resource specialist, Alan Spencer, works out of Portland, Oregon, and our state is only one of several states under his supervision. Given this lack of expertise at the state level, we strongly recommend that at least one cultural resource specialist be hired within the Idaho NRCS state office. We also feel that cultural resource training for NRCS field personnel is an ongoing need. Therefore, we wholeheartedly support your recommendations for more comprehensive training at the state level as a component of this program. (1)

2. Section 4.1 (p. 4-2) We also agree that cultural resources cannot be addressed programmatically under a program like this, but should be handled on a case-by-case basis. (2)

3. At an appropriate point, reference should be made to the nationwide Programmatic Agreement (PA) among NRCS, the Advisory Council on Historic Preservation, and National Conference of State Historic Preservation Officers. Reference should also be made to the state agreements developed under the nationwide PA. These are the documents that govern how NRCS meets its obligations under Section 106 of the National Historic Preservation Act and 36 CFR 800, even in emergency situations. (3)

We appreciate the opportunity to comment. If you have any questions, feel free to contact me at 208-334-3847.

Sincerely,

Susan Pengilly Neitzel
Deputy SHPO

cc: Joyce Swartzendruber, NRCS Idaho
Alan Spencer, NRCS, Portland, Oregon

The Idaho State Historical Society is an Equal Opportunity Employer

Oklahoma Historical Society *Founded May 27, 1893*

State Historic Preservation Office • 2704 Villa Prom • Shepherd Mall • Oklahoma City, OK 73107-2441
Telephone 405/521-6249 • Fax 405/947-2918

January 14, 2000

EWP Draft PEIS Comments
P.O. Box 745
Falls Church, VA 22040-0075

RE: File #0732-00; Draft PEI Statement for Emergency Watershed Protection Program

We have received and reviewed the Draft PEI Statement for the above referenced project.

We find that cultural resources are not adequately addressed in the draft. In addition to our comments, the recommendations of the Oklahoma Archeological Survey regarding this project should be included in the final document. (1)

We appreciate the opportunity to comment on this project and look forward to working with you in the future.

Should further correspondence pertaining to this project be necessary, the above underlined file number must be referenced. If you have any questions, please contact me at 405/521-6381. Thank you.

Sincerely,

J. Marshall Gettys
Historical Archaeologist

JMG:pm

Idaho State Historical Society page 1	Oklahoma Historical Society page 1
1) NRCS does not have a full-time archaeologist on staff in Idaho because of the broad management requirements and limited resources available to the State Conservationist. However, NRCS is confident that, as agreed upon in the Idaho State Level Agreement, the in-state availability of expertise from the U.S. Forest Service, coupled with access to two archaeologists from Oregon and the oversight of our experienced coordinator, are providing both sound and consistent consideration of historic and cultural resources within Idaho. 2) No response required. 3) The PEIS text of Chapter 3 Draft PEIS Proposed Action Element 6 has been expanded to refer to the nationwide Programmatic Memorandum Of Agreement with its primary focus on technical assistance activities, the State agreements with SHPOs and the ongoing Memorandum of Understanding. This element is adopted under the EWP Preferred Alternative.	1) While you do not provide specifics on your broad concern, we believe that our revised language in Chapters 2 and 3 does adequately describe our intent to comply with Section 106 of the NHPA as implemented by the Advisory Council on Historic Preservation's (ACHP) Procedures found at 36 CFR Part 800. However, detailed discussion of site-specific procedures was not deemed appropriate for this nationwide programmatic document and specific procedures will not be provided at the national level. Headquarters will provide general guidance in the EWP Manual and the EWP Handbook, but the State Conservationist will be charged with determining specific procedures. The State Conservationist is the responsible Federal official and will develop procedures with various Federal and State agencies to comply with the requirements of applicable Federal and State rules and regulations.

EWP

From: Dintaman, Ray <RDintaman@dnr.state.md.us>
To: <ewp@mangi.com>
Cc: Romano, Bill <BROMANO@dnr.state.md.us>; Lubbers, Larry <LLUBBERS@dnr.state.md.us>
Sent: Wednesday, January 19, 2000 9:58 AM
Subject: Draft PEIS - Emergency Watershed Protection Program

Thank you for providing the Maryland Department of Natural Resources with the opportunity to review and comment on the Draft Programmatic Environmental Impact Statement for the Emergency Watershed Protection Program.

We concur that the improvements shown in the Draft PEIS should allow NRCS to better meet the needs of persons requiring emergency assistance. This is an excellent document and we offer only the following comments:

1 The Maryland Department of Natural Resources encourages the United States Department of Agriculture, Natural Resources Conservation Service, Emergency Watershed Protection Program to adopt Alternative 3 - Prioritized Watershed Planning and Management. Alternative 3 would encourage the use of corrective measures that result in greater environmental benefits, such as restoring natural floodplains versus building dams and levees, than either of the alternative proposals. Any projects undertaken in the Chesapeake Bay watershed by the emergency Watershed Protection Program should rely on remedies that restore the ecosystem to natural conditions.

Thank you again for the opportunity to comment on this document. If you should have any questions concerning these comments, please call me at 410-260-8331.

Sincerely,

Ray C. Dintaman, Jr., Director
Environmental Review Unit

MICHIGAN DEPARTMENT OF STATE
Candice S. Miller, Secretary of State
Lansing, Michigan 48918-0001

STATE HISTORIC PRESERVATION OFFICE
Michigan Historical Center
717 West Allegan Street
Lansing, Michigan 48918-1800

January 26, 2000

EWP DRAFT PEIS COMMENTS
P.O. BOX 745
FALLS CHURCH VA 22040-0075\

RE: ER-00-141 Emergency Watershed Protection Program, , MI General (USDA)

To Whom It May Concern:

We have reviewed the draft Environmental Impact Statement for the Emergency Watershed protection Program. Section 3.5.5, Mitigation for Cultural Resources, notes the NRCS tendency to focus on standing structures and to define the Area of Potential Effects as the immediate site location. It goes on to point out possible consequences of these tendencies: "In addition, NRCS focus on historic structures may result in omitting cultural resources such as archaeological sites, viewsheds, historic landscapes, and cultural places. With narrowly-defined APEs, cultural resources may also be affected by ancillary activities such as soil borrow and heavy equipment staging."

1 We want to reinforce the concern expressed in these statements. EWP work takes place along waterways, which tend to be high sensitivity areas for cultural resources, including historic structures, archaeological sites, viewsheds, historic landscapes and cultural places. Many of these resources are far less obvious than structures and thus are in even greater danger of being affected, both directly and by ancillary activities.

Section 3.5.5 suggests that more comprehensive training at the state level may help mitigate potential effects on cultural resources. It also points out that consultation with the SHPO is part of EWP planning and coordination, and that the SHPO is contacted before EWP actions are taken. We applaud these steps as part of the EWP plan and we look forward to close cooperation with the NRCS in implementing the program.

If you have any questions, please contact Martha MacFarlane, Environmental Review Coordinator, at (517) 335-2721. Thank you for your consideration.

Sincerely,

Brian D. Conway
State Historic Preservation Officer

BDC:DLA

Maryland Department of Natural Resources page 1	Michigan State Historical Preservation Office page 1
1) NRCS recognizes that Alternative 3 "Prioritized Watershed Planning and Management" would likely be the environmentally preferable alternative. However, the agency supports Alternative 4 as its Preferred Alternative because: a. Current law, as interpreted by USDA legal counsel, limits activities conducted under EWP primarily to disaster recovery work. Alternative 3 would add a substantial increment of preventative measures to reduce future flood damages. Legislative authority would be required to implement such a major expansion of the purpose of EWP under Alternative 3. b. To a large extent, NRCS has integrated the management of its watershed programs as described in Alternative 3 within the Water Resources Branch of the NHQ Financial Assistance Programs Division working closely with the NHQ Easement Programs Branch. Together they oversee the recovery practices and floodplain easements portions of EWP and provide funding and technical assistance and training to the NRCS State Offices. But NRCS is limited in fully implementing the scope of Alternative 3 primarily by funding constraints. Several NRCS watershed programs currently exist under P.L. 566 and P.L. 534 that address watershed planning and management and include measures for watershed protection and flood prevention, as well as the cooperative river basin surveys and investigations. Under the new Watershed Rehabilitation Program, NRCS works with local communities and watershed project sponsors to address public health and safety concerns and potential adverse environmental impacts of aging dams. NRCS so far has undertaken 118 projects in 20 States to assess the condition of and repair of more than 10,000 upstream flood control structures built since 1948. The structural and non-structural practices implemented and the easements purchased under those programs have greatly reduced the need for future EWP measures in project watersheds. Nevertheless, EWP must remain available to deal with the aftermath of major disasters regardless of improvements under the other watershed programs.	1) We appreciate your comments and believe that our current mandatory cultural resources training program for field personnel serves to reinforce the nature, range, and diversity of resources in each state. Additionally, we are confident that case-by-case consultation with SHPOs and THPOs will enable our decisions regarding cultural resources within the direct and indirect impact areas to be well informed and to encompass concerns beyond standing structures.

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

James S. Gilmore, III
Governor

John Paul Woodley, Jr.
Secretary of Natural Resources

Street address: 629 East Main Street, Richmond, Virginia 23219
Mailing address: P.O. Box 10009, Richmond, Virginia 23240
Fax (804) 698-4500 TDD (804) 698-4021
http://www.deq.state.va.us

Dennis H. Treacy
Director

(804) 698-4000
1-800-592-5482

January 27, 2000

EWP Draft PEIS Comments
P.O. Box 745
Falls Church, Virginia 22040-0075

RE: Draft Programmatic Environmental Impact Statement, Emergency Watershed Protection Program; Proposed by the USDA Natural Resources Conservation Service; DEQ 99-132F

Dear Sir/Madam:

The Commonwealth of Virginia has completed its review of the draft programmatic EIS on the above referenced project. The Department of Environmental Quality is responsible for coordinating Virginia's review of federal environmental documents and responding to appropriate federal officials on behalf of the Commonwealth. The following agencies and planning district commission participated in this review:

Department of Environmental Quality
Department of Agriculture and Consumer Services
Department of Mines, Minerals, and Energy
Department of Forestry
Hampton Roads Planning District Commission

The Chesapeake Bay Local Assistance Department, the Virginia Marine Resources Commission, the Virginia Institute of Marine Science, the Department of Conservation and Recreation, and the Northern Virginia, RADCO, Northern Neck, Richmond, Mid Peninsula, Crater, Accomack-Northampton Planning District Commissions were also invited to comment.

The proposed program consists of improving and expanding the existing emergency watershed protection program. The program helps remove threats to life and property that remain in the nation's watersheds in the aftermath of natural disasters (i.e. floods, hurricanes, tornadoes, and wildfires).

Environmental Impacts and Mitigation

1 The Commonwealth of Virginia concurs with the findings and conclusions of the draft EIS and supports the selection of alternative # 3. The proposal is likely to result in less impact to wetlands and possibly in an increase in wetland acreage through the application of bioengineering techniques and the establishment of easements.

2 During execution of the projects, all wastes generated must be disposed in accordance with the Virginia Solid Waste Management regulations and the Virginia Hazardous Waste regulations. NRCS should notify DEQ if hazardous materials are encountered. DEQ should be contacted, Melissa Porterfield at (804) 698-4238, for additional information.

3 The Department of Mines, Minerals, and Energy (DMME) commented that the proposal does not adequately address the natural processes that modify the earth's surface. In some areas restoration to the pre-disaster condition may exacerbate the impacts of future natural disasters. DMME should be contacted, Eugene Rader at (804) 293-5121, for additional information.

Pursuant to the Coastal Zone Management Act of 1972, as amended, the proposed project must be conducted in a manner that is consistent with the Virginia Coastal Resources Management Program (VCP). Therefore, the Natural Resources Conservation Service must receive all applicable permits and approval listed under the Enforceable Programs of the VCP (attached). Please contact Silvia B. Gazzera of DEQ's Office of Environmental Impact Review at (804) 698-4488 for more information.

Thank you for the opportunity to review the DEIS.

Sincerely,

Michael P. Murphy, Director
Division of Environmental Enhancement

Enclosures
cc: Ellen Gilinsky, OWPP
Melissa Porterfield, DEQ-DVPC
John Foreman, DOF
Eugene Rader, DMME
Arthur Collins, Hampton Roads PDC

Virginia Department of Environmental Quality page 1	Virginia Department of Environmental Quality page 2
No response required. **Virginia Department of Environmental Quality page 2** 1) NRCS recognizes that Alternative 3 "Prioritized Watershed Planning and Management" would likely be the environmentally preferable alternative. However, the agency supports Alternative 4 as its Preferred Alternative because: a. Current law, as interpreted by USDA legal counsel, limits activities conducted under EWP primarily to disaster recovery work. Alternative 3 would add a substantial increment of preventative measures to reduce future flood damages. Legislative authority would be required to implement such a major expansion of the purpose of EWP under Alternative 3. ***(Response continued at top of next column)***	b. To a large extent, NRCS has integrated the management of its watershed programs as described in Alternative 3 within the Water Resources Branch of the NHQ Financial Assistance Programs Division working closely with the NHQ Easement Programs Branch. Together they oversee the recovery practices and floodplain easements portions of EWP and provide funding and technical assistance and training to the NRCS State Offices. But NRCS is limited in fully implementing the scope of Alternative 3 primarily by funding constraints. Several NRCS watershed programs currently exist under P.L. 566 and P.L. 534 that address watershed planning and management and include measures for watershed protection and flood prevention, as well as the cooperative river basin surveys and investigations. Under the new Watershed Rehabilitation Program, NRCS works with local communities and watershed project sponsors to address public health and safety concerns and potential adverse environmental impacts of aging dams. NRCS so far has undertaken 118 projects in 20 States to assess the condition of and repair of more than 10,000 upstream flood control structures built since 1948. The structural and non-structural practices implemented and the easements purchased under those programs have greatly reduced the need for future EWP measures in project watersheds. Nevertheless, EWP must remain available to deal with the aftermath of major disasters regardless of improvements under the other watershed programs. 2) The text of PEIS Chapter 2, Section 2.3.1 and Chapter 5, Section 5.2.2 has been expanded to clarify the general EWP precautions taken in dealing with hazardous materials but NRCS does not consider it appropriate to reference State-specific requirements in a national PEIS. Instead, compliance with specific State requirements would be determined through inter-agency coordination (as outlined in Chapter 3 Draft PEIS Proposed Action Element #6) and would differ from state to state. 3) Greater emphasis on purchase of floodplain easements and increased use of EWP restoration design based on the principles of natural stream dynamics are Program improvements that have been proposed to more fully adapt the Program's measures to the normal processes which sculpt the earth's surface.

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Peter W. Schmidt
Director

P O Box 10009
Richmond, Virginia 23240-0009
(804) 762-4000

Enforceable Regulatory Programs comprising Virginia's Coastal Resources Management Program

a. Fisheries Management - The program stresses the conservation and enhancement of finfish and shellfish resources and the promotion of commercial and recreational fisheries to maximize food production and recreational opportunities. This program is administered by the Marine Resources Commission (Virginia Code §28.1-23.1) and the Department of Game and Inland Fisheries (Virginia Code §29-13 and §29-125).

The State Tributyltin (TBT) Regulatory Program has been added to the Fisheries Management program. The General Assembly amended the Virginia Pesticide Use and Application Act as it related to the possession, sale, or use of marine antifoulant paints containing TBT. The use of TBT in boat paint constitutes a serious threat to important marine animal species. The TBT program monitors boating activities and boat painting activities to ensure compliance with TBT regulations promulgated pursuant to the amendment. The MRC, DGIF, and VDACS share enforcement responsibilities.

b. Subaqueous Lands Management - The management program for subaqueous lands establishes conditions for granting or denying permits to use state-owned bottomlands based on considerations of potential effects on marine and fisheries resources, wetlands, adjacent or nearby properties, anticipated public and private benefits, and water quality standards established by the Department of Environmental Quality, Water Division. The program is administered by the Marine Resources Commission (Virginia Code §62.1-13.1 et. seq.).

c. Wetlands Management - The purpose of the wetlands management program is to preserve tidal wetlands, prevent their despoliation, and accommodate economic development in a manner consistent with wetlands preservation. This program is administered by the Marine Resources Commission (Virginia Code §62.1-13.1 through §62.1-13.20).

d. Dunes Management - Dune protection is carried out pursuant to The Coastal Primary Sand Dune Protection Act and is intended to prevent destruction or alteration of primary dunes. This program is administered by the Marine Resources Commission (Virginia Code §62.1-13.21 through §62.1-13.28).

e. Non-point Source Pollution Control - Virginia's Erosion and Sediment Control Law requires soil-disturbing projects to be designed to reduce soil erosion and to decrease inputs of chemical nutrients and sediments to the Chesapeake Bay, its tributaries, and other rivers and waters of the Commonwealth. This program is administered by the Department of Conservation and Recreation (Virginia Code §10.1-560 et.seq.).

f. Point Source Pollution Control - The point source program is administered by the State Water Control Board pursuant to Virginia Code §62.1-44.15. Point source pollution control is accomplished through the implementation of:

(i) The National Pollutant Discharge Elimination System (NPDES) permit program established pursuant to Section 402 of the federal Clean Water Act and administered in Virginia as the VPDES permit program.

(ii) Water Quality Certification pursuant to Section 401 of the Clean Water Act.

g. Shoreline Sanitation - The purpose of this program is to regulate the installation of septic tanks, set standards concerning soil types suitable for septic tanks, and specify minimum distances that tanks must be placed away from streams, rivers, and other waters of the Commonwealth. This program is administered by the Department of Health (Virginia Code §32.1-164 through §32.1-165).

h. Air Pollution Control - The program implements the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards. This program is administered by the State Air Pollution Control Board (Virginia Code §10-17.18).

629 East Main Street, Richmond, Virginia 23219 - Fax (804) 762-4500 - TDD (804) 762-4021

Virginia Department of Environmental Quality page 3	Virginia Department of Environmental Quality page 4
No response required.	No response required.

If you cannot meet the deadline, please notify SILVIA GAZZERA at 804/698-4488 prior to the date given. Arrangements will be made to extend the date for your review if possible. An agency will not be considered to have reviewed a document if no comments are received (or contact is made) within the period specified.

REVIEW INSTRUCTIONS:

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B. Prepare your agency's comments in a form which would be acceptable for responding directly to a project proponent agency.

C. Use your agency stationery or the space below for your comments. **IF YOU USE THE SPACE BELOW, THE FORM MUST BE SIGNED AND DATED.**

Please return your comments to:

DR. SILVIA B. GAZZERA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL IMPACT REVIEW
629 EAST MAIN STREET, SIXTH FLOOR
RICHMOND, VA 23219
FAX #804/698-4319

JAN 11 2000

Silvia B. Gazzera
Environmental Program Planner

COMMENTS

The proposed action will result in needed improvements to the emergency watershed Protection Program, and should not affect compliance with Section 404 or 401 programs. The proposed use of natural methods of stream restoration will result in less impacts to wetland, and possible increases to wetland acreage from natural plantings and easements, as well as encouraging wetland restoration.

(signed) Ellen Gilinsky (date) 1/10/2000

(title) Virginia Water Protection Permit Program Manager

(agency) DEQ

PROJECT # 99-132F

8/98

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RICHMOND, VA 23219
FAX #804/698-4319

JAN 19 2000

Silvia B. Gazzera
Environmental Program Planner

1 COMMENTS - For areas in Virginia All wastes generated must be disposed of in accordance with the Virginia Solid Waste Management Regulations and the Virginia Hazardous Waste Regulations. NRCS should notify DEQ if hazardous materials are found since this plan states that the states are responsible for removal of these materials.

(signed) Melissa Rutufield (date) 1-19-00

(title) Environmental Program Planner

(agency) DEQ-Waste

PROJECT # 99-132F

8/98

Virginia Department of Environmental Quality page 5	Virginia Department of Environmental Quality page 6
No response required.	1) The PEIS text of Chapter 2, Section 2.3.1 and Chapter 5, Section 5.2.2 has been expanded to clarify the general EWP precautions taken in dealing with hazardous materials but NRCS does not consider it appropriate to reference State specific requirements in a national PEIS. Instead, compliance with specific State requirements would be determined through inter-agency coordination (as outlined in Chapter 3 Draft PEIS Proposed Action Element #6) and would differ from state to state.

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR PROGRAM COORDINATION

DOCUMENT REVIEW CHECKLIST

JAN 13 2000

TO: Silvia B. Gazzera

DATE: 1/12/00 **DEQ-OEIA PROJECT NUMBER:** 99-132F

___ STATE EIR ___ FEDERAL EA/FONSI X FEDERAL EIS ___ GRANT/SCC
___ CONSISTENCY DETERMINATION/CERTIFICATION

PROJECT TITLE: Emergency Watershed Protection Program Draft Programmatic EIS sponsored by USDA/Natural Resources Conservation Service

PROJECT DETAILS: Expand the program by adding floodplain sediment deposition, upland disaster debris, and damaged structural conservation practices.

AIR PROGRAM COORDINATION DIVISION FINDINGS:

___ CONCURS WITH THE FONSI ___ CONCURS WITH THE CONFORMITY FINDING

___ SEE APPLICABLE REGULATORY REQUIREMENTS X NO COMMENTS

THE PROJECT SITE IS LOCATED IN A:

___ OZONE/CARBON MONOXIDE NONATTAINMENT AREA

___ OZONE/CARBON MONOXIDE MAINTENANCE AREA

___ STATE VOLATILE ORGANIC COMPOUND & NITROGEN OXIDES EMISSION CONTROL (VOC/NO_xEC) AREA

REGULATORY REQUIREMENTS MAY APPLY TO:

___ CONSTRUCTION ___ OPERATION

STATE AIR POLLUTION CONTROL BOARD REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION THAT MAY APPLY:

1. ___ 9 VAC 5-40-5200 C and 9 VAC 5-40-5220 E - Stage I.
2. ___ 9 VAC 5-40-5200 C and 9 VAC 5-40-5220 F - Stage II Vapor Recovery.
3. ___ 9 VAC 5-40-5490 et seq. - Cut-back Asphalt Usage Restriction.

4. ___ 9 VAC 5-40-5600 et seq. - Open Burning.
5. ___ 9 VAC 5-50-60 et seq. - Fugitive Dust Emissions.
6. ___ 9 VAC 5-50-130 et seq. - Odorous Emissions; applicable to the _____.
7. ___ 9 VAC 5-50-160 et seq. - Standards of Performance for Toxic Pollutants.
8. ___ 9 VAC 5-50-400 Subpart ___, Standards of Performance for New Stationary Sources, designates standards of performance for the _____.
9. ___ 9 VAC 5-80-10 et seq. of the regulations - Permits for Stationary Sources.
10. ___ 9 VAC 5-80-1700 et seq. of the regulations - Major or Modified Sources located in PSD areas. This rule may be applicable to the _____.
11. ___ 9 VAC 5-80-2000 et seq. of the regulations - New and Modified Sources located in nonattainment areas. This rule may be applicable to the _____.
12. ___ 9 VAC 5-80-800 et seq. of the regulations - Operating Permits and Exemptions. This rule may be applicable to _____.

OTHER REQUIREMENTS (R) AND/OR CONSIDERATIONS (C):

PLEASE CONTACT THE _____ OFFICE FOR ANY TECHNICAL AND/OR PERMIT ASSISTANCE.

James P. Ponticello
Office of Air Data Analysis

1-12-00
Date

Virginia Department of Environmental Quality page 7	Virginia Department of Environmental Quality page 8
No response required.	No response required.

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Please return your comments to:

DR. SILVIA B. GAZZERA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL IMPACT REVIEW
629 EAST MAIN STREET, SIXTH FLOOR
RICHMOND, VA 23219
FAX #804/698-4319

JAN 5 2000

Silvia B. Gazzera
Environmental Program Planner

COMMENTS

I concur with the proposed alternative 3 action. This would be a significant improvement in the manner in which the EWP Program is functioning.

(signed) J. M. Foreman (date) 1/4/00
(title) Forest Management Team
(agency) VA. Department of Forestry

PROJECT # 99-132F 8/98

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OFFICE OF ENVIRONMENTAL IMPACT REVIEW
629 EAST MAIN STREET, SIXTH FLOOR
RICHMOND, VA 23219
FAX #804/698-4319

JAN 7

Silvia B. Gazzera
Environmental Program Planner

COMMENTS

Based on information in our database, we do not anticipate this project will have any adverse impacts as it relates to VDACS' responsibilities for the preservation of agricultural lands and the protection of listed endangered or threatened plant and insect species.

Thank you for the opportunity to comment and if you have any questions or need additional information, please contact me at (804)786-3515.

(signed) (date) 1/5/2000
(title) Endangered Species Coordinator
(agency) Virginia Department of Agriculture and Consumer Services

PROJECT # 99-132F 8/98

Virginia Department of Environmental Quality page 9	Virginia Department of Environmental Quality page 10
1) NRCS recognizes that Alternative 3 "Prioritized Watershed Planning and Management" would likely be the environmentally preferable alternative. However, the agency supports Alternative 4 as its Preferred Alternative because: a. Current law, as interpreted by USDA legal counsel, limits activities conducted under EWP primarily to disaster recovery work. Alternative 3 would add a substantial increment of preventative measures to reduce future flood damages. Legislative authority would be required to implement such a major expansion of the purpose of EWP under Alternative 3. b. To a large extent, NRCS has integrated the management of its watershed programs as described in Alternative 3 within the Water Resources Branch of the NHQ Financial Assistance Programs Division working closely with the NHQ Easement Programs Branch. Together they oversee the recovery practices and floodplain easements portions of EWP and provide funding and technical assistance and training to the NRCS State Offices. But NRCS is limited in fully implementing the scope of Alternative 3 primarily by funding constraints. Several NRCS watershed programs currently exist under P.L. 566 and P.L. 534 that address watershed planning and management and include measures for watershed protection and flood prevention, as well as the cooperative river basin surveys and investigations. Under the new Watershed Rehabilitation Program, NRCS works with local communities and watershed project sponsors to address public health and safety concerns and potential adverse environmental impacts of aging dams. NRCS so far has undertaken 118 projects in 20 States to assess the condition of and repair of more than 10,000 upstream flood control structures built since 1948. The structural and non-structural practices implemented and the easements purchased under those programs have greatly reduced the need for future EWP measures in project watersheds. Nevertheless, EWP must remain available to deal with the aftermath of major disasters regardless of improvements under the other watershed programs.	No response required.

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Please return your comments to:

DR. SILVIA B. GAZZERA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL IMPACT REVIEW
629 EAST MAIN STREET, SIXTH FLOOR
RICHMOND, VA 23219
FAX #804/698-4319

JAN 7 2000

Silvia Gazzera
Silvia B. Gazzera
Environmental Program Planner

COMMENTS

1 The EWPP Draft Programmatic EIS adequately addresses restoration after a "natural disaster". However, the document fails to consider the normal processes which sculpt the earth's surface. In some areas restoration to the pre-disaster condition may exacerbate a future "natural disaster".

(signed) Eugene K. Rader (date) 01-05-2000
Eugene K. Rader
(title) Geologist Supervisor
(agency) DMME/DMR

PROJECT # 99-132F 8/98

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OFFICE OF ENVIRONMENTAL IMPACT REVIEW
629 EAST MAIN STREET, SIXTH FLOOR
RICHMOND, VA 23219
FAX #804/698-4319

Silvia Gazzera
Silvia B. Gazzera
Environmental Program Planner

JAN 14 2000

COMMENTS

No adverse impact on our program.

(signed) Asmalik (date) 1/12/2000
(title) Asif K. Malik, P.E.
Chief of Technical Services
(agency) Division of Wastewater Engineering
Virginia Department of Health

PROJECT # 99-132F 8/98

Virginia Department of Environmental Quality page 11	Virginia Department of Environmental Quality page 12
1) Greater emphasis on purchase of floodplain easements and increased use of EWP restoration design based on the principles of natural stream dynamics are Program improvements that have been proposed to more fully adapt the Program's measures to the normal processes which sculpt the earth's surface. These measures would be considered in all cases under the Preferred Alternative.	No response required.

JAN 2 1 200

HAMPTON ROADS
PLANNING DISTRICT COMMISSION

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ARTHUR L. COLLINS, EXECUTIVE DIRECTOR/SECRETARY

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Joe S. Frank, *Mayor*
Edgar E. Maroney, *City Manager*

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Herbert M. Collins, Sr., *Vice-Mayor*
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Margaret L. Eure, *Council Member*
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Harold Heischober, *Council Member*
Louis R. Jones, *Council Member*
Meyera E. Oberndorf, *Mayor*
Nancy K. Parker, *Council Member*
James K. Spore, *City Manager*

WILLIAMSBURG
Jackson C. Tuttle, II, *City Manager*
Jeanne Zeidler, *Mayor*

YORK COUNTY
Sheila S. Noll, *Chairman*
Daniel M. Stuck, *County Administrator*

January 19, 2000

Ms. Silvia B. Gazzera
EIR Program Planner
Department of Environmental Quality
Post Office Box 10009
Richmond, Virginia 23219

Re: Emergency Watershed Protection Program Draft Programmatic EIS
DEQ #99-132F (ENV:GEN)

Dear Ms. Gazzera:

Pursuant to your request of December 28, 1999, the staff of the Hampton Roads Planning District Commission has reviewed the Emergency Watershed Protection Program Draft Programmatic Environmental Impact Statement.

Generally speaking, it seems that an expansion of the Emergency Watershed Protection Program, as proposed in the EIS, may potentially help to improve natural disaster recovery efforts in our region. Thus, we are in support of the proposed program expansion.

We appreciate the opportunity to review this project. If you have any questions, please do not hesitate to call.

Sincerely,

Arthur L. Collins
Executive Director/Secretary

HRV:fh

HEADQUARTERS • THE REGIONAL BUILDING • 723 WOODLAKE DRIVE • CHESAPEAKE, VIRGINIA 23320 • (757) 420-8300
PENINSULA OFFICE • HARBOUR CENTRE, 2 EATON STREET • SUITE 502 • HAMPTON, VIRGINIA 23669 • (757) 728-2067

Mississippi Department of Archives and History

Historic Preservation Division
Post Office Box 571 • Jackson, Mississippi 39205-0571 • Phone 601 / 359-6940 • Fax 601 / 359-6955

February 3, 2000

U. S. Department of Agriculture
Natural Resources Conservation Services
EWP Draft PEIS Comments
P. O. Box 745
Falls Church, Virginia 22040-0075

Dear Madam or Sir:

RE: Emergency Watershed Protection Program
Draft Programmatic Environmental Impact Statement

1 We have reviewed the referenced document with the intent of providing comments. However, we cannot actually find anything contained therein which is substantially related to cultural resources, archaeology, or history upon which to offer meaningful comments. Perhaps it is a comment to observe that the document reflects the almost total omission of anything related to cultural resources, which is our area of expertise and responsibility.

If you need additional information, please do not hesitate to contact me at 601-359-6946.

Sincerely,

Thomas H. Waggener
Review and Compliance Officer

Board of Trustees: William F. Winter, president / Van R. Burnham, Jr. / Arch Dalrymple III / Lynn Crosby Gammill / E. Jackson Garner / Gilbert R. Mason, Sr. / Martis D. Ramage, Jr. / Everette Truly / Rosemary Taylor Williams / *Department Director: Elbert R. Hilliard*

Virginia Department of Environmental Quality page 13	Mississippi Department of Archives and History page 1
No response required.	1) Please refer to Chapter 2, Section 2.2.2.3; Chapter 3 Draft PEIS Proposed Action Element #6, and Section 3.5.5 for discussions of consultation regarding cultural resources. Also please refer to the responses to other cultural resource-related comments in this appendix for further clarification.

COMMONWEALTH of VIRGINIA

CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

James S. Gilmore, III
Governor
John Paul Woodley, Jr.
Secretary of Natural Resources

James Monroe Building
101 North 14th Street, 17th Floor
Richmond, Virginia 23219
FAX: (804) 225-3447

Michael D. Clower
Executive Director

(804) 225-3440
1-800-243-7229 Voice/TDD

January 28, 2000

EWP Program Director
USDA-NRCS Watershed and Wetlands Division
P.O. Box 745
Falls Church, Virginia 22040-0075

RE: Draft PEIS – Emergency Watershed Protection Program
CBLAD Project Review No. FSPR-NRCS-01-00

Dear EWP Program Director:

We have reviewed the Draft Programmatic Environmental Impact Statement for the Emergency Watershed Protection Program and offer the following comments.

1 The Proposed Action appears to be an improvement over the existing program. We are pleased that the proposed program would place greater emphasis on bioengineering solutions for stream restoration, expands the use and number of easements, and promotes floodplain restoration practices as well. While Element #10 promotes the use of bioengineering practices, this would only be the case "where they constitute the least-cost defensible solution". In comparison to the costs of traditional stream restoration practices (i.e., rough channelization and debris removal) of the NRCS it is unclear under what circumstances bioengineering would be the least costly alternative. Bioengineering should be encouraged as a preemptive measure as well as follow-up measure to more extreme emergency practices that may be necessary. It would be helpful if the Final EIS more fully explained this matter and described specific implementation goals.

Thank you for the opportunity to comment on this document. Should you have any questions please do not hesitate to call us at 1-800-CHESBAY.

Sincerely,

Catherine M. Harold
Environmental Engineer

Cc: Scott Crafton, CBLAD
H. Shepard Moon, CBLAD
Sylvia Gazzera, VDEQ

Virginia Chesapeake Bay Local Assistance Dept. page1	Virginia Chesapeake Bay Local Assistance Dept. page2
1) Upon consideration of the fundamental goals of the Program improvement, NRCS has changed its basic approach to approval of EWP work. The title of Draft PEIS Proposed Action Element 10 of Section 3.2.2.1 of Chapter 3 has been revised. The term "least-cost" has been eliminated and the Element now reads: "Apply the principles of natural stream dynamics and, where appropriate, use bioengineering in the design of EWP restoration practices." Hydrogeomorphic design and use of bioengineering would be among the solutions considered in all cases. Costs alone would not dictate which solution is selected, as the solution must also be environmentally and socially defensible. NRCS believes these changes reflect the intent of the comment, as the focus is no longer on least cost solutions. Other factors, such as environmental resources, also would be used to determine the best solution as indicated in the related revision to Draft PEIS Proposed Action Element 5, paragraph 2. These aspects of Draft PEIS Proposed Action Elements 5 and 10 have been wholly adopted under the Preferred Alternative.	No response required.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

February 10, 2000

EWP Draft PEIS Comments
PO Box 745
Falls Church, VA 22040-0075

Dear Sir or Madam:

Thank you for the opportunity to comment on the draft programmatic environmental impact statement (PEIS) for the Emergency Watershed Protection Program. The Department of Ecology has been designated to coordinate Washington State agency review and response for documents issued under the National Environmental Policy Act. In that capacity we enclose a comment letter received from Washington Department of Fish and Wildlife (WDFW).

WDFW has comments related to the merits and disadvantages of Alternatives 2 and 3. They wish also to encourage the Natural Resources Conservation Service to coordinate with state programs before emergency responses are put into action.

If you have any questions, please contact Ms. Cynthia Pratt with WDFW at (360) 902-2575.

Sincerely,

Rebecca J. Inman

Rebecca J. Inman
Environmental Coordination Section

EIS #998035

Attachment (1)

cc: Cynthia Pratt, WDFW

State of Washington
DEPARTMENT OF FISH AND WILDLIFE
Mailing Address: 600 Capitol Way N - Olympia, Washington 98501-1091 - (360) 902-2200, TDD (360) 902-2207
Main Office location: Natural Resources Building - 1111 Washington Street SE - Olympia, WA

February 4, 2000

Rebecca Inman
Environmental Coordination Section
P.O. Box 47600
Olympia, Washington 98504-7600

Dear Ms. ~~Inman~~: Rebecca

RE: NRCS Federal Emergency Watershed Protection Program, Draft Programmatic Environmental Impact Statement, Dated December 15, 1999, Comments for Inclusion in NEPA Comment Letter by the State

The following are my comments concerning the Emergency Watershed Protection Program Draft Programmatic EIS. I will first address the choice of alternatives, and then discuss briefly the need to emphasize state coordination with emergency responses by the NRCS.

Alternatives

1 While the preferred alternative, Alternative 2, is certainly better than the present program as described in the No Action alternative (Alternative 1), it only goes half-way to address returning the hydrological processes of the watershed to a more natural functioning system. Alternative 3 would instigate a proactive response to maintaining contiguous watershed corridors.

Alternative 3 was not selected, it appears, because of 1) cost to NRCS and 2) disruption of older rural communities. However, actively working toward improving watersheds that are most likely to have risks to property and lives will, once implemented, reduce costs. After a stream or river begins to establish a more natural meander, and the floodplain functions to absorb flooding events, streambanks stabilize with good riparian buffers. Costs would only occur when there is an extreme event (>100 year event). Natural flooding events are part of the hydrology of the watershed: floods move sediment throughout the system, and move logs and debris so that large woody debris is deposited for aquatic habitat. Current practices encourage turbidity and erosion, and leads to further downstream emergencies, while not addressing long-term fixes as the DEIS points out. Establishing long-term contiguous floodplain areas would reduce the extreme flooding event, and reduce erosion and water quality issues, as well as benefit fish and wildlife. The need to respond to an emergency in those areas would be decreased. Thus, high costs due to emergency responses would be reduced.

Washington State Department of Ecology page 1	Washington State Department of Ecology page 2
No response required.	1) NRCS recognizes that Alternative 3 "Prioritized Watershed Planning and Management" would likely be the environmentally preferable alternative. However, the agency supports Alternative 4 as its Preferred Alternative because: a. Current law, as interpreted by USDA legal counsel, limits activities conducted under EWP primarily to disaster recovery work. Alternative 3 would add a substantial increment of preventative measures to reduce future flood damages. Legislative authority would be required to implement such a major expansion of the purpose of EWP under Alternative 3. b. To a large extent, NRCS has integrated the management of its watershed programs as described in Alternative 3 within the Water Resources Branch of the NHQ Financial Assistance Programs Division working closely with the NHQ Easement Programs Branch. Together they oversee the recovery practices and floodplain easements portions of EWP and provide funding and technical assistance and training to the NRCS State Offices. But NRCS is limited in fully implementing the scope of Alternative 3 primarily by funding constraints. Several NRCS watershed programs currently exist under P.L. 566 and P.L. 534 that address watershed planning and management and include measures for watershed protection and flood prevention, as well as the cooperative river basin surveys and investigations. Under the new Watershed Rehabilitation Program, NRCS works with local communities and watershed project sponsors to address public health and safety concerns and potential adverse environmental impacts of aging dams. NRCS so far has undertaken 118 projects in 20 States to assess the condition of and repair of more than 10,000 upstream flood control structures built since 1948. The structural and non-structural practices implemented and the easements purchased under those programs have greatly reduced the need for future EWP measures in project watersheds. Nevertheless, EWP must remain available to deal with the aftermath of major disasters regardless of improvements under the other watershed programs.

1 While Alternative 3 may disrupt older rural communities, so does flooding and other emergency events. Which is more traumatic: a community which loses large sections of farms, businesses, and housing, including the lose of lives to a natural disaster, or planned easements and buyouts?

NRCS and State Coordination

2 Which ever Alternative is finally chosen, it is imperative to coordinate with other state programs before responses begin. Washington State Fish & Wildlife has provisions for emergency responses to flooding, and can give verbal approval for emergency repair activities. Emergency repairs are considered to be temporary. It is important to consult with state biologists because of

3 their familiarity with their areas, and because of the concern for cumulative impacts. There is also need to set up some procedures for monitoring and for follow-up activities that will address long-term fixes.

4 Washington State Fish & Wildlife biologists are extremely concerned with use of armoring along streambanks. Revegetation and 'softer' approaches should be used where ever possible. Armoring only exacerbates erosion downstream, reduces absorption of flow, and eliminates insect habitat and detritus contributions to the streambed which benefits fish.

5 The DEIS discusses removal of downed trees and other material during flooding, hurricanes and other disasters. While it is beneficial to remove man-made structures that are damaging property or would risk lives, downed trees and snags contribute to large woody debris to streams. They also provide habitat in upland areas for raptors (i.e., eagles, osprey) and small mammals. Care should be taken when deciding which downed trees and snags to remove and which to leave. Again, contacting state Fish and Wildlife personnel would be able to help with those decisions.

Sincerely,

Cynthia K. Pratt

SEPA/NEPA Coordinator
Regulatory Section
Environmental Services Division

Kansas Department of Wildlife & Parks
Environmental Services Section
512 SE 25th Ave.
Pratt, KS 67124
February 14, 2000

EWP Draft PEIS Comments
P.O. Box 745
Falls Church, VA 22040-0745

Dear Sir:

1 We have reviewed the Draft Programmatic Environmental Impact Statement (PEIS) for the Emergency Watershed Protection (EWP) program. The description of threatened and endangered species in this document appears to refer exclusively to federally-listed species. In the 404(b)1 guidelines, threatened and endangered species are defined as being both on lists maintained by individual states and federally at 50 CFR 17.11. The Kansas Nongame and Endangered Species Conservation Act places the responsibility for identifying and undertaking appropriate conservation measures for threatened and endangered species directly upon the Department of Wildlife and Parks. Therefore, pursuant to Kansas Statute Annotated 32-961 and Kansas Administration Regulation 115-15-3 of the Kansas Nongame and Endangered Species Act, our agency would like to review the projects prior to their initiation. We would like to see

2 language incorporated into section 2.2.2.3 Environmental Review and Inter-Agency Coordination page 2-11 that allows state Natural Resource agencies the opportunity to protect state T&E species. Natural resource agencies could be included in the list of examples that are associated with state agencies in the first paragraph of 2.2.2.3.

We have no objections to the draft PEIS for the EWP program; however, we would like to see language incorporated so that our agency can be notified of these types of proposed activities to preserve the threatened, endangered, and SINC species of the State of Kansas.

Thank you for the opportunity to provide these comments and recommendations.

Sincerely,

Mark A. Shaw, Aquatic Ecologist
Environmental Services Section

xc: NRCS, Ourada

Washington State Department of Ecology page 3	Kansas Department of Wildlife and Parks page 1
1) In those simplified terms the desirable tradeoff is obvious. Nevertheless, NRCS is committed to consideration of the social impacts of its actions. Easements are a voluntary solution, so the disruptions mentioned will not be forced upon communities. Please refer to previous response to your page 2 comment for rationale for not selecting Alternative 3. 2) Please refer to Draft PEIS Proposed Action Element 6 of Section 3.2.2.1. Pre-disaster coordination will incorporate other agencies and their programs. The Preferred Alternative retains the interagency coordination and pre-disaster planning described in Element 6. 3) Installed EWP measures are designed to be long-term not temporary solutions to watershed impairments. However, in "exigency" situations, a short-term "stopgap" solution might be implemented to address an immediate threat to life or property with a permanent solution installed as soon as practicable afterward that would address longer term considerations including environmental and social defensibility. Therefore, monitoring of temporary "stop-gap" solutions would not be necessary. However, NRCS State Offices are required to implement appropriate methods for tracking installed measures to, at a minimum, determine when repeated repairs are being considered. These methods offer the opportunity for such longer-term monitoring of solutions. 4) Please refer to Draft PEIS Proposed Action Element 10 of Section 3.2.2.1. Element 10 of Section 3.2.2.1 has also been revised to stress that bioengineering would be considered for all situations and used whenever feasible. This aspect of Element 10 has been wholly adopted under the Preferred Alternative. 5) Section 3.5.1 has been revised to include the value of instream woody debris, the increased use of natural stream dynamics, and to state that floodplains and upland debris will not be removed unless it poses a future threat.	1) Chapter 2 has been revised to include discussion of the protection of State-listed T&E species. Draft PEIS Proposed Action Element 3 of Section 3.2.2.1 has been revised to add State-listed species. Draft PEIS Proposed Action Element 6 of Section 3.2.2.1 has been revised to include State-listed species. These elements would be adopted under the Preferred Alternative. 2) Current EWP policy requires that NRCS work with the States to protect State-listed species. Section 2.2.2.3 of the PEIS has been expanded to describe those requirements.

WYOMING

DEPARTMENT OF STATE PARKS & CULTURAL RESOURCES
STATE HISTORIC PRESERVATION OFFICE

Barrett Building
2301 Central Ave.
Cheyenne, WY 82002

(307) 777-7697
FAX (307) 777-6421

February 10, 2000

EWP Draft PEIS Comments
P.O. Box 745
Falls Church, VA 22040-0075

RE: Draft Programmatic Environmental Impact Statement for the Emergency Watershed Protection Program; SHPO #0200RLC012

Dear Comment Reviewer:

Our staff has received information concerning the aforementioned Draft Programmatic Environmental Impact Statement (PEIS). Thank you for allowing us the opportunity to comment.

Management of cultural resources on U.S.D.A. Natural Resources Conservation Services (NRCS) projects is conducted in accordance with Section 106 of the National Historic Preservation Act and Advisory Council regulations 36 CFR Part 800 (800 Regs). In particular, for this PEIS, 36 CFR 800.12. These regulations call for survey, evaluation and protection of significant historic and archeological sites prior to any disturbance. Provided the NRCS follows the procedures established in the regulations, and makes the following changes, we have no objections to the proposals within the Emergency Watershed Protection Program PEIS.

1 -In section 2.2.2.3, the PEIS states that "The NRCS state cultural resources specialist or coordinator may recommend consultation with the state historic preservation officer". We request that this be changed to indicate that the cultural resource specialist or coordinator "shall enter into consultation with the State Historic Preservation Officer".

2 -In table 3.2-3, priority 4, it is indicated that sites will be included in this priority only if they are contained in, or in proximity to, cultural resources which are listed on the National Register of Historic Places (NRHP). However, sites which have been determined to be eligible for the NRHP, as well as those listed on the NRHP, are defined at 36 CFR Part 800.16(l) as "historic properties", and are afforded the same protection. It should also be noted that sites must be evaluated for eligibility to the NRHP if they are located within the Area of Potential Effect for a specific project (36 CFR 800.4[c][1]) prior to a determination of project effect. Therefore, sites which are currently

1 unevaluated for the NRHP must be protected from project effects until NRHP evaluations can be completed. We request that this section be modified by replacing the phrase "listed on the National Register of Historic Places" with "historic properties", and to include sites which are currently unevaluated for NRHP eligibility. Additionally, this section should include designated National Landmarks.

Please refer to SHPO project control number #0200RLC012 on any future correspondence dealing with this project. If you have any questions contact Richard Currit at 307-777-5497 or me at 307-777-6311.

Sincerely,

Judy K. Wolf
Deputy State Historic Preservation Officer

JKW:RLC:jh

cc: Wyoming State Clearinghouse, Office of Federal Land Policy

Wyoming State Historic Preservation Office page 1	Wyoming State Historic Preservation Office page 2
1) No response is required, because the section the commenter references describes the process under the Current Program. However, please refer to Elements 5 and 6 of Section 3.2.2.1, which address defensibility and pre-disaster coordination. These changes to EWP will help to improve the consultation process. These aspects of Elements 5 and 6 have been wholly adopted under the Preferred Alternative. 2) NRCS is committed to compliance with Section 106 of the National Historic Preservation Act (NHPA), as amended, and as implemented by 36 CFR Part 800. We agree that strict adherence to the regulations might require consultation with the SHPO and THPO for every EWP response. However, under Proposed Action Element 6 in Section 3.2.2.1 Interagency Coordination, we propose to develop coordination and consultation protocols with the SHPOs and THPOs under the Emergency Recovery Plan (ERP). This aspect of Element 6 has been wholly adopted under the Preferred Alternative. Thus, the NRCS would have a plan, in which the SHPO and THPO have concurred, that would provide guidance as to when consultation would or would not be necessary.	1) Table 3.2-3 has been revised to include historic and cultural properties listed in or eligible for listing in the National Register of Historic Places (NRHP). The NRHP includes all National Historic Landmarks.

February 14, 2000

In reply refer to:
R&C#: 991200087

EWP Draft PEIS Comments
P.O. Box 745
Falls Church, VA 22040-0075

RE: USDA/NRCS – STATEWIDE – EMERGENCY WATERSHED PROTECTION PROGRAM – DRAFT PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT

Dear Sir or Madam:

This letter is to inform you that the Iowa State Historic Preservation Office (SHPO) has received a copy of the above-referenced Programmatic Environmental Impact Statement (PEIS) for review and comment. Several members of our Historic Preservation staff have had an opportunity to review the proposed provisions for the Mitigation of Cultural Resources as defined in Section 3.5.5 of this document. The consensus among our staff is that, as written, the policies set forth in this draft are vague and inconclusive with respect to the agency's compliance obligations mandated under Section 106 of the National Historic Preservation Act of 1966 and 36 CFR Part 800 and are therefore unacceptable to this office.

1 If the agency's objective is to legitimize a policy that coordinates the NHPA and NEPA reviews pursuant to 36 CFR Part 800.8, then the NRCS should clarify, point by point, its procedures toward this end either within the text, in an appendix, or in an addendum to the PEIS. The agency has provided no account of how it intends to coordinate these two separate review processes in Emergency Watershed Protection (EWP) situations.

Furthermore, we find that the wording of Section 3.5.5 is tentative, hypothetical, and avoids the issues of how the agency will initiate consultation, identify and evaluate historic properties, and determine and mitigate project impacts. It appears that the purpose of Section 3.5.5 is to convey to the reader the agency's license for discretionary latitude in its interpretation of the applicable Federal regulations and its responsibilities mandated under Federal law.

Of particular concern to us are the agency's statements regarding the Area of Potential Effect (APE) and how project APE are defined by NRCS Cultural Resource Coordinators during EWP projects. Section 3.5.5 states:

> "Currently, some NRCS field offices define the Area of Potential Effect (APE) for EWP projects as the immediate site location, which may inadvertently omit addressing potential adverse impacts to historic properties nearby or downstream. The Cultural Resources Coordinators in the example site states indicate that EWP activities need to be very near to historic resources for NRCS to consider the possibility of impacts. Therefore, at present, unless potential historic structures located in the floodplain, such as homes or mills, are directly affected by sudden impairments and NRCS is planning EWP work to protect them, such resources would not be considered to be in the APE. In addition, NRCS focus on historic structures may result in omitting cultural resources such as archaeological sites, viewsheds; historic landscapes, and cultural places."

This viewpoint contradicts the definition provided in 36 CFR 800.16 (d), which states:

> "The Area of potential effect means the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking."

It is our opinion that the agency has to consider all properties as defined in the NHPA, the Secretary standards, and the regulations. These include archaeological sites, traditional cultural properties, buildings, structures, objects, cultural landscapes, and districts. Furthermore, the delineation of the project APE is not left to the discretion of the Agency Official, Agency Cultural Resource Coordinators, or Field Representatives. 36 CFR 800.4 (a) (1) specifically states that "The Agency Official shall consult with the SHPO/THPO to determine and document the area of potential effects as defined in 36 CFR 800.16(d)."

Our office has found that this document raises more questions than answers and would be problematic if implemented using the current language. It should be stated here that the Iowa SHPO would not endorse, nor be a party to a programmatic agreement that would allow a Federal agency to disregard the adverse effects of its undertakings on historic properties. We recommend that Section 3.5.5 of the proposed Programmatic Environmental Impact Statement be rewritten in such a way as to address the Section 106 review process; and, that it outline the appropriate measures to be taken by NRCS Field Offices to assure the agency's compliance during EWP projects.

We would be pleased to review and comment on any future drafts issued by your agency and would be willing to consult with NRCS policymakers regarding the details of its structure and implementation. If you have any questions please feel free to contact me at (515) 281-8744.

Sincerely,

Daniel K. Higginbottom, Archaeologist
Community Programs Bureau, State Historical Society of Iowa

cc: Bruce Julian, National Watershed Policy Coordinator, NRCS
Don Klima, Director, Advisory Council of Historic Preservation
Patricia Ohlerking, Deputy State Historic Preservation Officer
Leroy Brown, State Conservationist, NRCS/USDA

Iowa State Historic Preservation Office page 1	Iowa State Historic Preservation Office page 2
1) This Final EWP PEIS discusses the nationwide implementation of EWP Program improvements. NRCS does not consider it appropriate to outline detailed procedures for treatment of cultural resources within any specific State. However, the PEIS does state that the EWP program will be carried out in a manner consistent with the ACHP's regulatory procedures for implementation of the NHPA of 1966, as amended, found at 36 CFR Part 800. When EWP solutions are being considered, appropriate identification and evaluation of potential impacts to cultural resources will be determined on a case-by-case basis by means of consultation between the NRCS State Office specialist and the SHPOs and/or THPOs. We agree that strict adherence to the regulations might require consultation with the SHPOs and THPOs for every EWP project. However, under Draft PEIS Proposed Action Element 6 in Section 3.2.2.1 Interagency Coordination, NRCS proposes that each State Office develop coordination and consultation protocols with the SHPOs and THPOs under the Emergency Recovery Plan (ERP). This aspect of Element 6 has been wholly adopted under the Preferred Alternative. The language in Section 3.5.5 is not tentative but broad and cautionary. However, in response to comments we have modified the language to ensure that it is clear that EWP solutions are to be identified and designed in consultation with the SHPOs and THPOs, taking into account the nature and values of identified resources on a case-by-case basis. NEPA is integrated into the EWP process by completion of the Environmental, Social, and Economic Evaluation portions of the DSR which incorporates the environmental evaluation process in the NRCS NEPA regulations at 7 CFR 650.5. This process considers alternatives to any EWP action and all impacts resulting from those alternatives.	No response required.

February 14, 2000

Mr. Bruce Julian
Director, Watersheds and Wetlands Division
USDA-NRCS
Post Office Box 2890
Washington, DC 20013-2890

Re: Draft Programmatic Environmental Impact Statement (PEIS) for the Emergency Watershed Protection Program

Dear Mr. Julian:

The Arizona Game and Fish Department (Department) appreciates the opportunity to review the draft PEIS for the Natural Resources Conservation Service's (NRCS) Emergency Watershed Protection (EWP) Program. Watersheds provide very important habitats for fish and wildlife. We believe there are opportunities for cooperative watershed management and restoration work, through the EWP Program, that can support this program and the Department's mission. The following comments are provided for your consideration.

1 The Department supports the EWP Program and the NRCS's efforts to improve and expand activities to address watershed impairments. The Proposed Action includes several new elements, including environmental impact analyses and development of mitigation to avoid or minimize potential adverse effects to fish and wildlife that could result from EWP Program activities. The Department would like to emphasize the importance of involving the state agencies early in the EWP Program process. This level of coordination between NRCS and the state wildlife agencies should be required for all EWP Program activities that have the potential to impact fish and wildlife resources. The Department requests that the Proposed Action include the state wildlife agency as one of the main agencies with which the NRCS should work closely with to avoid problems with environmental compliance and impacts to fish and wildlife resources.

2 In addition, the Department would appreciate the NRCS's consideration of incorporating the following elements, including specific elements of Alternative 3 (Prioritized Watershed Planning and Management) in the Proposed Action. These elements include:

- working with the Department to ensure that fish and wildlife resources and needs are addressed during EWP Program activities;

- investigating the causes of watershed impairments and impacts to watersheds based on floodplain, wetland and riparian community parameters;

- and components of Alternative 3 (#3-5) which address proactive planning and locally led disaster-readiness and mitigation planning, planning and management of priority watersheds, and combining the EWP Program with other program authorities to enhance watershed values, including fish and wildlife habitat improvements.

Again, we appreciate the opportunity to review and comment on the draft PEIS. If you have any questions regarding this letter, please contact me at (602) 789-3602.

Sincerely,

John Kennedy
Project Evaluation Program Supervisor
Habitat Branch

JK:am

cc: Tom Fresques, Habitat Specialist, Region III, Kingman
Bill Knowles, Habitat Specialist, Region IV, Yuma
Tim Wade, Habitat Specialist, Region VI, Mesa
Bill Werner, Aquatic Habitat Coordinator, Habitat Branch
Michael Somerville, State Conservationist, NRCS

AGFD# 12-16-99(02)

Arizona Fish and Game Department page 1	Arizona Fish and Game Department page 2
1) Please refer to Draft PEIS Proposed Action Element 6 of Section 3.2.2.1. Pre-disaster coordination would become part of the EWP program. The Preferred Alternative retains the interagency coordination and pre-disaster planning described in Element 6. 2) NRCS recognizes that Alternative 3 "Prioritized Watershed Planning and Management" would likely be the environmentally preferable alternative. However, the agency supports Alternative 4 as its Preferred Alternative because: a. Current law, as interpreted by USDA legal counsel, limits activities conducted under EWP primarily to disaster recovery work. Alternative 3 would add a substantial increment of preventative measures to reduce future flood damages. Legislative authority would be required to implement such a major expansion of the purpose of EWP under Alternative 3. b. To a large extent, NRCS has integrated the management of its watershed programs as described in Alternative 3 within the Water Resources Branch of the NHQ Financial Assistance Programs Division working closely with the NHQ Easement Programs Branch. Together they oversee the recovery practices and floodplain easements portions of EWP and provide funding and technical assistance and training to the NRCS State Offices. But NRCS is limited in fully implementing the scope of Alternative 3 primarily by funding constraints. Several NRCS watershed programs currently exist under P.L. 566 and P.L. 534 that address watershed planning and management and include measures for watershed protection and flood prevention, as well as the cooperative river basin surveys and investigations. Under the new Watershed Rehabilitation Program, NRCS works with local communities and watershed project sponsors to address public health and safety concerns and potential adverse environmental impacts of aging dams. NRCS so far has undertaken 118 projects in 20 States to assess the condition of and repair of more than 10,000 upstream flood control structures built since 1948. The structural and non-structural practices implemented and the easements purchased under those programs have greatly reduced the need for future EWP measures in project watersheds. Nevertheless, EWP must remain available to deal with the aftermath of major disasters regardless of improvements under the other watershed programs.	No response necessary.

Minnesota Historical Society
SHPO
February 15, 2000

EWP Program Director
EWP Draft PEIS Comments
PO Box 745
Falls Church, VA 22040-0075

Re: Draft Programmatic Environmental Impact Statement
NRCS Emergency Watershed Protection Program
SHPO Number: 2000-0838

Dear EWP Program Director:

Thank you for the opportunity to review and comment on the above programmatic EIS. It has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

1. We appreciate the mention of cultural resource issues on pages S-3, S-22, and S-26 of the Summary section on page 2-11 of Chapter 2, and on page 3-45 of Chapter 3. This discussion acknowledges the need for consultation with the SHPO. However, there needs to be more discussion of the need for specific procedures to be followed when an emergency situation arises. The consultation process often gets bogged down when such procedures have not been carefully formulated beforehand. (1)

2. The discussion on page 3-45 (section 3.5.5) is a good example of the type of issues that can be worked out in the context of specific response procedures.

3. It appears that the impact analysis for historic and cultural resources on page 5-104 could be used to justify limiting consideration of cultural resource impacts to areas where there are known sites. This would not be appropriate.

Contact us at 651-296-5462 with questions or concerns.

Sincerely,

Dennis A. Gimmestad
Government Programs & Compliance Officer

New York State Department of Environmental Conservation

Division of Water, Room 310C

50 Wolf Road, Albany, New York 12233-3500
Phone: (518) 457-7464 · **FAX:** (518) 457-0625

Website: www.dec.state.ny.us

February 15, 2000

EWP-PEIS
P.O. Box 475
Falls Church, Va. 22040-0745

RE: USDA Soil Conservation Service Emergency Watershed Protection Programmatic Environmental Impact Statement (EWP-PEIS) - Comments and Recommendations.

Comments:

1. The New York State Department of Environmental Conservation (DEC) commends the Soil Conservation Service efforts toward the "greening" of the Emergency Watershed Protection program. Items we particularly endorse are the declaration of intent to attain a greater degree of interagency coordination, making Disaster Assistance Recovery Teams (DART) available to state and local entities for watershed protection training, and the expanded role of floodplain easements to be used in lieu of "recovery work".

2. However as DEC staff worked through the PEIS, it was apparent that while the "proposed alternative" makes several improvements over the traditional program and should promote soil conservation, and protection of fish and wildlife habitats while protecting human life and property, the proposed alternative is not the alternative we would have preferred. In our previous comments on the "Notice of Intent to Prepare a Draft PEIS", DEC stated the importance of long term watershed planning with respect to interagency coordination. DEC advocated for allocating some percentage of EWP funds toward long-range planning and implementation of work that would be of lasting positive benefit and would include purchase of flood-way easements. Alternative #3 satisfies these objectives, yet it is not the adopted alternative.

(1) DEC understands that sometimes trade-offs must be made between such things as "affordability" and "protection of environmental and cultural resources" but the PEIS does not state why the proposed alternative is selected over the more comprehensive "Alternative #3".

Minnesota State Historic Preservation Office page 1	New York State Dept. of Environmental Conservation page 1
1) This PEIS is discusses nationwide implementation of the NRCS' EWP Program. We refer you to the discussion of ERPs (Emergency Recovery Plans) under Draft PEIS Proposed Action Element 6 in Section 3.2.2.1 Planning. Through these plans, NRCS will be developing coordination and consultation protocols with the SHPO and THPO, prior to disasters, thereby facilitating this process during actual field operations. This aspect of Element 6 has been wholly adopted under the Preferred Alternative.	1) NRCS recognizes that Alternative 3 "Prioritized Watershed Planning and Management" would likely be the environmentally preferable alternative. However, the agency supports Alternative 4 as its Preferred Alternative because: a. Current law, as interpreted by USDA legal counsel, limits activities conducted under EWP primarily to disaster recovery work. Alternative 3 would add a substantial increment of preventative measures to reduce future flood damages. Legislative authority would be required to implement such a major expansion of the purpose of EWP under Alternative 3. b. To a large extent, NRCS has integrated the management of its watershed programs as described in Alternative 3 within the Water Resources Branch of the NHQ Financial Assistance Programs Division working closely with the NHQ Easement Programs Branch. Together they oversee the recovery practices and floodplain easements portions of EWP and provide funding and technical assistance and training to the NRCS State Offices. But NRCS is limited in fully implementing the scope of Alternative 3 primarily by funding constraints. Several NRCS watershed programs currently exist under P.L. 566 and P.L. 534 that address watershed planning and management and include measures for watershed protection and flood prevention, as well as the cooperative river basin surveys and investigations. Under the new Watershed Rehabilitation Program, NRCS works with local communities and watershed project sponsors to address public health and safety concerns and potential adverse environmental impacts of aging dams. NRCS so far has undertaken 118 projects in 20 States to assess the condition of and repair of more than 10,000 upstream flood control structures built since 1948. The structural and non-structural practices implemented and the easements purchased under those programs have greatly reduced the need for future EWP measures in project watersheds. Nevertheless, EWP must remain available to deal with the aftermath of major disasters regardless of improvements under the other watershed programs.

3. We note that the list of elements comprising the "proposed action" includes the following (p.3-9)

"**Interagency coordination**. NRCS would evaluate and implement ways to improve coordination between the EWP Program and other emergency programs. Coordination would help each agency understand better the roles and responsibilities of the other agencies. This would entail working more closely with EPA, FWS, USACE, and state emergency response and recovery agencies to avoid problems with permits, regulatory consultation, and duplication of work."

1 This element description does not include long term planning efforts, nor does it explain how or when improved coordination would take place. In addition, key flood control related agencies were excluded. The Federal Emergency Management is the designated lead federal agency dealing with disaster relief. FEMA and the State National Flood Insurance Program Coordinator should be included in the list of agencies.

2

Recommendations:

3 1. Adopt Alternative #3 as the preferred alternative: Our previous recommendations requested that you adopt long term planning efforts. Since "**long term watershed planning**" distinguishes "alternative #3" from the "proposed alternative", we recommend that you either incorporate at least minimum features of alternative three in the proposed alternative or adopt alternative #3.

4 2. **Discussion of alternative 3 on page 3-21 should include more description of what elements of Alternative 3 of the EWP program are common with the broader mission and mandate of NRCS relative to watershed management and restoration.** What kinds of overlapping program elements exist between these two programs? We suggest that the document describe how much of alternative 3 of the EWP program would be included in the implementation of NRCS's watershed management and restoration mission.

5 (3) **The final PEIS should feature a comprehensive comparison of the alternatives with specific discussion of the rationale for choosing the preferred or proposed alternative over the other alternatives.**

The Draft PEIS provides a description and evaluation of each alternative, however it does not provide any explanation of why the proposed alternative was chosen. Throughout the Draft PEIS, "Alternative 3" is touted as being the best alternative from both natural and cultural resources perspectives, but there is no discussion concerning why that alternative was not selected.

6 (4) **DEC recommends soliciting state and other agency recommendations for improved coordination between SCS -EWP staff and the other agencies, particularly with respect to state and if applicable, local permitting requirements.**

Ensuring that funded work is permissible under state and local laws is crucial.

1 (5) **DEC advocates that no "cap" be placed on funding for purchase of easements. Reiterating item 1 above, we advocate long range planning within the program to ensure that easement purchases are maximally effective with respect to natural resource objectives that may lie beyond the purview of simple watershed protection.**

It may be beneficial to plan purchase of easements to acquire an entire reach of stream, achieving benefits to open space, wildlife, fisheries and even cultural objectives that could not be achieved without planning.

2 (6) While the proposed NRCS actions contain elements of sound floodplain management, there should be a general statement that all activities within federally mapped floodplains must comply with National Flood Insurance Program development requirements. In particular, debris should not be deposited within regulatory floodways. The NRCS document does not contain anything contrary to these suggestions. However, the statements be made more overt.

DEC appreciates this opportunity to comment on the Draft PEIS.

Sincerely,

N.G. Kaul, Director
Division of Water

New York State Dept. of Environmental Conservation page 2	New York State Dept. of Environmental Conservation page 3
1) Please refer to Draft PEIS Proposed Action Element 6 of Section 3.2.2.1. NRCS would seek improved coordination between EWP and other emergency programs and request that State Conservationists prepare ERPs that detail working relationships with other groups on the Federal, State, and local levels. Under the Preferred Alternative, time to respond to exigency situations is increased from 5 to 10 days, allowing for more time to conduct appropriate agency coordination and consultation. 2) Draft PEIS Proposed Action Element 6 of Section 3.2.2.1 has been revised to include FEMA as a disaster agency. Also note that FEMA is charged with handling Presidentially declared disasters. NRCS does not routinely operate on such a scale; EWP responses tend to be more “localized.” 3) Please see the response to page 1, comment #1 for NRCS’ explanation of why the agency supports Alternative 4 as the Preferred Alternative. 4) The overall mission of NRCS is to conserve resources and includes several elements. NRCS has the responsibility to administer two watershed protection and flood prevention programs: PL 78-534 and PL 83-566. These programs authorize the Federal government to cooperate with states and their subdivisions and others for the purposes of preventing flood damages and furthering the conservation, development, utilization, and disposal of water. The EQIP program (PL 104-127) is designed to carry out the installation of "best management practices" (BMPs) to reduce erosion in critical areas and implement other natural resource conservation measures. Under the leadership of local organizations, Alternative 3 would utilize these and other programs to provide financial and technical assistance to implement measures needed to reduce and/or minimize the chance of flood damage occurring in the future. Other Federal agency programs that might be applicable would also be used to assist in bringing about better watershed management. 5) The Final PEIS text has been revised to clarify why Alternative 3 was not the Draft PEIS Proposed Action or the Preferred Alternative. When NRCS publishes its Record of Decision (ROD), the rationale for selecting the alternative that is ultimately chosen will be detailed. 6) Please refer to Draft PEIS Proposed Action Element 6 of Section 3.2.2.1 for information on pre-disaster coordination with other agencies and to response #1 above. . Also refer to Appendix A for information on the public scoping for this PEIS. The document was also made available for public comment and hundreds of copies were distributed nationwide for comment.	1) EWP has no pre-defined cap or limit on either the number of acres or the dollars spent for easements. The Wetland Reserve Program (WRP) does have a statutory limit on the number of acres that may be purchased, but EWP does not have such restrictions. Please refer to Figure 3.4-1 for the projected funding for EWP floodplain easements. 2) PEIS Section 2.1.1.2 has been revised to reflect National Flood Insurance Program requirements regarding activities in federally mapped floodplains, specifically debris removal and disposal.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
HISTORICAL PRESERVATION & HERITAGE COMMISSION
Old State House • 150 Benefit Street • Providence, R.I. 02903-1209
Preservation (401) 222-2678 FAX (401) 222-2968
Heritage (401) 222-2669 TDD (401) 222-3700

February 11, 2000

EWP Draft PEIS Comments
P. O. Box 745
Falls Church, VA 22040-0075

Dear EWP Staff:

The Rhode Island Historical Preservation and Heritage Commission staff has reviewed the draft PEIS for the proposed improvements and expansion of the Emergency Watershed Protection Program. We have the following comments regarding the proposed action and the implications for cultural resource management.

1 The draft document properly identifies cultural resources as significant aspects of the environment affected by EWP activities. It also cites the need to consult with the SHPO as part of EWP planning before as well as in the aftermath of disasters. This need should be stated more emphatically in Section 2.2.2.3, paragraph 2, where the text now reads that the "NRCS state cultural resources specialist or coordinator **may** recommend consultation with the SHPO..." "Should recommend" would be a more appropriate statement.

It appears that the proposed action would increase the areas of potential effect for EWP activities and thereby increase the likelihood that cultural resources might be affected by those activities. Table S-4-2 indicates that sites with cultural resources would receive high priority ranking for EWP actions, which would be beneficial for cultural resources. However, there is also the increased potential for adverse impacts to cultural resources through various means, including a too-narrow definition of the APE, as described in Section 3.5.5. In order to reduce such avoidable impacts, the NRCS will need to develop appropriate plans and disaster protocols in coordination with the SHPO to insure that known sites and areas of high sensitivity are properly identified and areas of potential affect are defined to encompass the full range of effects to resources.

These comments are provided in accordance with Section 106 of the National Historic Preservation Act. If you have any questions or comments, please contact Richard E. Greenwood, Project Review Coordinator of this office.

Very truly yours,

for Richard E. Greenwood

Edward F. Sanderson
Executive Director
Deputy State Historic
Preservation Officer

(B5)

Rhode Island Historical Preservation and Heritage Commission page 1	Rhode Island Historical Preservation and Heritage Commission page 2
1) NRCS is committed to compliance with the Section 106 of the NHPA, as amended, as implemented by 36 CFR Part 800. We agree that strict adherence to the regulations might require consultation with the SHPO and THPO for every EWP response. However, in Draft PEIS Proposed Action Element 6 in Section 3.2.2.1, we present a plan to develop pre-disaster coordination and consultation protocols with the SHPOs and THPOs under ERPs (Emergency Recovery Plans). Thus, the NRCS State Office would have a plan that would provide guidance when consultation is or is not necessary. We have modified the language in Section 2.2.2.3, paragraph two, to ensure that consultation would take place as necessary. The development of ERPs, in consultation with SHPOs, THPOs, and other concerned partners, would also ensure that appropriate areas of potential effect (APEs) would be defined and considered for each activity. We have also modified the language in Table 3.2-3 to include historic and cultural properties listed in or eligible for listing in the NRHP.	No response required.

State of New Jersey
Department of Environmental Protection

Christine Todd Whitman
Governor

Robert C. Shinn, Jr.
Commissioner

Office of Program Coordination
PO Box 418
Trenton, NJ 08625-0418
Phone 609-292-2662
Fax 609-292-4608
E-mail: lschmidt@dep.state.nj.us

February 16, 2000

EWP Draft PEIS Comments
P.O. Box 745
Falls Church, VA 22040-0075

RE: DPEIS Comments – Emergency Watershed Protection Program

Dear Sir:

The Office of Program Coordination of the New Jersey Department of Environmental Protection (NJDEP) has completed its review of the Draft Programmatic Environmental Impact Statement (DPEIS) for the Emergency Watershed Protection (EWP) Program of the Natural Resources Conservation Service (NRCS), United States Department of Agriculture. We commend the NRCS for the development of a through and well-presented document. The EWP is a valuable Program and our Department is aware of the positive impacts it has had in watersheds in New Jersey. We offer the following comments regarding plans of the NJDEP to protect the watersheds of New Jersey, impacts to natural resources, and impacts to open space.

The NJDEP's Division of Watershed Management is currently moving forward with initiating development of Watershed Management Area Plans in all New Jersey watersheds within the year 2000. This effort includes extensive watershed coordination efforts with local citizens, local units of government, other State agencies, and federal agencies. The EWP Program is one of the federal mechanism for watershed restoration that will be key to coordinate policy with both now and in the future for the NJDEP to be fully successful in achieving mandated water quality goals.

Several points within the proposed 15 elements of the EWP expansion are of particular interest to the Division of Watershed Management. They concur with the spirit of the expansion and feel that the proposed changes represent a positive correlation with priorities developed by the NJDEP. In particular, the Division of Watershed Management commands the NRCS on the elements stating that:

- The restoration measures be of a "greener" variety whenever possible;
- Permanent easements will be emphasized to a greater degree;
- Restoration in the stream channel will be in line with natural stream dynamics;
- Greater coordination with local stakeholders will be part of alternatives selection;
- The restoration measures will be more cost effective; and
- The restoration measures will be more sensitive to threatened and endangered species, cultural resources, and watershed wide implications.

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1 The Division of Watershed Management's primary technical concern with the EWP Program (which is also noted in the following comments from the Division of Fish and Wildlife) is that selected measures, both structural and vegetative, be consistent with the native ecology at the site or watershed. The measures should mesh with ecological criteria of watershed restoration action strategies of our Department.

2 NJDEP's Division of Fish and Wildlife (DFW) also concurs that in general the Proposed Action (Alternative 2) appears to be a logical next step from the current EWP Program, and does provide for additional direction toward bio-engineering and floodplain reclamation/restoration initiatives. However, the DFW would, of course, favor those aspects of the Prioritized Watershed Planning and Management (Alternative 3) that is yet another step further toward greener methods and broad-based purchases of disaster-prone watershed areas.

3 One major concern of the DFW is if particular recognition and value will be placed on State watershed areas that harbor special natural resources (e.g. State threatened or endangered species or New Jersey Category 1/FW-1 Waters). The document notes that federally listed species will receive protection on a case-by-case basis, but does not necessarily reflect the same consideration for State species or other special resources for a given State/region/watershed reach. The Final PEIS should

4 address how adequate coordination will take place to insure that their value is properly assessed in the EWP Program, and how trout waters or other aquatic resources, for example, will be evaluated beyond the *EPA Rapid Bioassessment Protocols for Use in Streams and Rivers*, which may not adequately reflect State priority resources.

The EWP Program may offer opportunities in New Jersey to coordinate acquisition of conservation, agriculture and floodplain easements to the benefit of flood and open space protection. With respect to disaster recovery, our Department's Green Acres Program would review each instance on a case by case basis to determine if the parcels involved are encumbered by the Green Acres Program's rules and regulations and to what degree the NJDEP has jurisdiction.

Thank you for the opportunity to review the DPEIS.

Sincerely,

Lawrence Schmidt
Director
Office of Program Coordination

C: Barbara Hirst, NJDEP
Robert McDowell, NJDEP
Jeanne Donlon, NJDEP

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No response required.	a. Current law, as interpreted by USDA legal counsel, limits activities conducted under EWP primarily to disaster recovery work. Alternative 3 would add a substantial increment of preventative measures to reduce future flood damages. Legislative authority would be required to implement such a major expansion of the purpose of EWP under Alternative 3. b. To a large extent, NRCS has integrated the management of its watershed programs as described in Alternative 3 within the Water Resources Branch of the NHQ Financial Assistance Programs Division working closely with the NHQ Easement Programs Branch. Together they oversee the recovery practices and floodplain easements portions of EWP and provide funding and technical assistance and training to the NRCS State Offices. But NRCS is limited in fully implementing the scope of Alternative 3 primarily by funding constraints. Several NRCS watershed programs currently exist under P.L. 566 and P.L. 534 that address watershed planning and management and include measures for watershed protection and flood prevention, as well as the cooperative river basin surveys and investigations. Under the new Watershed Rehabilitation Program, NRCS works with local communities and watershed project sponsors to address public health and safety concerns and potential adverse environmental impacts of aging dams. NRCS so far has undertaken 118 projects in 20 States to assess the condition of and repair of more than 10,000 upstream flood control structures built since 1948. The structural and non-structural practices implemented and the easements purchased under those programs have greatly reduced the need for future EWP measures in project watersheds. Nevertheless, EWP must remain available to deal with the aftermath of major disasters regardless of improvements under the other watershed programs. 3) The PEIS has been revised to include State-listed T&E species. 4) Draft PEIS Proposed Action Element 6 of Section 3.2.2.1 addresses pre-disaster planning and allows states to raise issues of particular concern. The Preferred Alternative retains the interagency coordination and pre-disaster planning described in Element 6.
New Jersey Department of Environmental Protection page 2 1) Please refer to Draft PEIS Proposed Action Elements 6 and 10 in Section 3.2.2.1. These items refer to the pre-disaster planning process and an increased use of the principles of natural stream dynamics and bioengineering practices. These aspects of Elements 6 and 10 have been wholly adopted under the Preferred Alternative. Pre-planning would allow for other agencies to raise ecological concerns. 2) NRCS recognizes that Alternative 3 "Prioritized Watershed Planning and Management" would likely be the environmentally preferable alternative. However, the agency supports Alternative 4 as its Preferred Alternative because: ***(response continued at top of next column)***	