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Draft Environmental Assessment

Proposed Black Walnut Point Communications Tower
Tilghman Island, Talbot County, Maryland
FEMA Port Security Grant Number 2009-PU-T9-K003
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ACRONYMS USED IN THIS DOCUMENT

ACHP	Advisory Council on Historic Preservation
APE	Area of Potential Effect
BMPs	Best Management Practices
CFR	Code of Federal Regulations
CZMA	Coastal Zone Management Act
CZMP	Coastal Zone Management Plan
DHHS	U.S. Department of Health and Human Services
EA	Environmental Assessment
EO	Executive Order
EIS	Environmental Impact Statement
FCC	Federal Communication Commission
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FONSI	Finding of No Significant Impact
HUC	Hydrologic Unit Code
IDA	Intensely Developed Area
LDA	Limited Development Area
MBTA	Migratory Bird Treaty Act
MDE	Maryland Department of the Environment
MDNR	Maryland Department of Natural Resources
MEMA	Maryland Emergency Management Agency
MHT	Maryland Historical Trust
NAAQS	National Ambient Air Quality Standards
NHO	Native Hawaiian Organization
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NPA	Nationwide Programmatic Agreement
NRCS	Natural Resources Conservation Service
NRP	Natural Resources Police (MDNR)
NWI	National Wetland Inventory
OSHA	Occupational Safety and Health Administration
PM	Particulate Matter
RCA	Resource Conservation Area
SHPO	State Historic Preservation Office
TCNS	Tower Construction Notification System
THPOs	Tribal Historic Preservation Offices
TMDL	Total Maximum Daily Limit
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
WIP	Watershed Implementation Plan

1.0 INTRODUCTION

The Maryland Emergency Management Agency (MEMA) applied for and was awarded funding under the Federal Emergency Management Agency (FEMA) Port Security Grant Program to facilitate the collection and distribution of radar track data and video as a means of protecting commercial shipping and other vessel traffic using, approaching or leaving the Port of Baltimore. The Maryland Department of Natural Resources (MDNR) Natural Resources Police (NRP) is a sub-grantee to MEMA. On behalf of the MDNR, Dewberry Engineers Inc. in association with A.D. Marble and Company has completed an Environmental Assessment (EA) for work authorized under this grant (2009-PU-T9-K003).

The Maryland NRP will administer the proposed project, which consists of erecting a 140-foot, self-supporting communications tower on concrete supported piers, and will include other site improvements including camera, radar and microwave asset installation and configuration at 4417 Black Walnut Point Road, Tilghman Island, Maryland (see **Figure 1**, Location Map).

This EA has been prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, the President's Council on Environmental Quality regulations to implement NEPA (40 Code of Federal Regulations [CFR] Part 1500 through 1508), and FEMA's regulations implementing NEPA (44 CFR Part 10). FEMA is required to consider potential environmental impacts before funding or approving actions and projects. The purpose of this EA is to analyze the potential environmental impacts of the Black Walnut Point communications tower. FEMA will use the findings in this Draft EA and public input to determine whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI).

1.1 Summary of Environmental Consequences

This Draft EA evaluated the Preferred Alternative (construction of a new communications tower) and the No-Action Alternative for impacts to various resources. The Preferred Alternative will impact the area of construction during the estimated two to three-month construction timeframe. Best management practices (BMPs) will be utilized to minimize sedimentation and erosion of the soils, and impact to localized surface drainage patterns. The proposed tower would not impact any natural, cultural, or socioeconomic resources, aside from temporary disturbances associated with construction. However, construction of the proposed tower would provide the benefits of improved public safety response to the citizens of Talbot County and the State of Maryland. The No-Action Alternative would not result in impacts to any of the resources evaluated in this Draft EA. However, it also would not provide public safety response benefits to the residents of Talbot County and the State of Maryland.

1.2 Conclusion

This Draft EA evaluated the potential environmental effects of the No Action Alternative and Preferred Alternative. Based on findings to date, if the Preferred Alternative is implemented with the BMPs identified in this Draft EA and conditions of other agency approvals, no significant environmental impacts would warrant the need to prepare an EIS.

2.0 PURPOSE AND NEED

2.1 Purpose and Need

The proposed action is the construction of a new communications tower to support maritime surveillance equipment in Talbot County, Maryland. The purpose of the project is to provide the NRP with the capability to detect and track small vessels moving on the Chesapeake Bay and their relationship to commercial shipping. Additionally, the proposed tower would provide the NRP with the ability to track location data on vessels moving in areas restricting the harvest of natural resources. Finally, the proposed tower would provide the NRP and other first responders with the ability to search large expanses of the Chesapeake Bay and its tributaries for lost or overdue vessels, or those which have made a distress call.

The proposed tower would be located in the Blackwalnut Point Natural Resources Management Area, which is owned and maintained by the Maryland Park Service.

2.2 Regional Information

This project is located on the Eastern Shore of the Chesapeake Bay, south of Kent Island Maryland. This area does not currently have the infrastructure needed to support the number of radars necessary to provide total situational awareness of commercial and small vessel movement throughout the Chesapeake Bay's vast area.

Other communications towers in the region equipped with the capabilities proposed as part of this project have the capacity to provide radar track data and video in real time to the NRP, U.S. Coast Guard, Maryland Transportation Authority (responsible for maintaining toll bridges throughout Maryland), the Baltimore Police Department, and the U.S. Navy Tactical Technology Laboratory in Washington D.C. The proposed tower would add to the existing tower network and improve the operational capabilities of these agencies, and would extend the necessary coverage to a point south where the NRP can provide continuous coverage from the Maryland borders with Virginia and Delaware.

As the general population of Talbot County and the State of Maryland continues to grow, and greater pressure is placed upon the water resources of the Chesapeake Bay and its tributaries, a parallel responsibility grows for public safety agencies to provide multiple levels of protection for the citizens of Maryland and those who transit through the state using its waterways. The ability of public safety agencies at the federal, state and local level to provide a cohesive response to maritime events by sharing common inbound data has become critical. The State of Maryland expects that the need for cooperation and information sharing will only increase in the time ahead. This proposed tower represents the opportunity to fill a gap in knowledge that currently exists for all public safety agencies in the affected area

2.3 General Geographic Setting

Talbot County is located in the west-central portion of Maryland's Eastern Shore. Talbot County is approximately 171,000 acres in size, of which approximately 110,000 acres are

farmland, 40,633 acres are forested land, and 4,637 acres are wetlands.

The underlying geology of Talbot County is typical of coastal plain areas, and the topography is flat to gently rolling. Talbot County has approximately 600 miles of shoreline, and is almost entirely surrounded by the waters of the Chesapeake Bay and its tributaries.

3.0 ALTERNATIVES

3.1 Preferred Alternative

The Preferred Alternative is to erect a 140-foot, self-supporting communications tower on concrete supported piers, and include other improvements such as camera, radar, and microwave asset installation and configuration at the proposed Black Walnut Point site (**Figure 2**). The tower would be enclosed by an eight-foot tall fence. Photographs of the proposed site are provided in **Appendix A**. The proposed tower would not require any guy wires or lighting, or any additional structures or power generators.

3.2 No-Action Alternative

The No-Action Alternative would result in no improvements, and would not provide for the construction of a new communications tower. The No-Action Alternative was eliminated from further consideration because it does not meet the purpose and need of this project (to provide the capacity to detect and track small vessels moving on the Chesapeake Bay, provide location data on vessels moving in areas restricting the harvest of natural resources, and provide first responders with the ability to search large expanses of the Chesapeake Bay and its tributaries for lost, overdue, or distressed vessels). Given the inability of the No-Action Alternative to provide these benefits, it is not a recommended alternative.

3.3 Alternatives Considered but Eliminated from Discussion

In addition to the Preferred Alternative and the No-Action Alternative, the NRP evaluated the option to purchase private land (outside of the Blackwalnut Point Natural Resources Management Area) on which to site a potential tower. This alternative was eliminated from further consideration due to cost and time considerations associated with private land aquisition.

4.0 AFFECTED ENVIRONMENT AND POTENTIAL IMPACTS

4.1 Physical Resources

4.1.1 Geology and Soils

According to the Maryland Geological Survey, the proposed tower is located in the Delmarva Peninsula Region of the Coastal Plain Province. The Coastal Plain Province is

underlain by a wedge of unconsolidated sediments including gravel, sand, silt, and clay. Mineral resources of the Coastal Plain are chiefly sand and gravel, which are used as aggregate materials by the construction industry. Plentiful supplies of ground water are available from a number of aquifers throughout much of this region.

According to the USDA Natural Resource Conservation Service *Soil Survey of Talbot County* (2012), the entire project area is located on crosiadore silt loam (CsA) with zero to two percent slope (**Figure 3**). This soil unit is considered to be hydric, and is considered a farmland soil of statewide importance in Maryland. Because the impacts associated with the preferred alternative are limited to the three support piers; and because the proposed tower would not affect any land that is currently under agricultural use, the impacts to farmland of statewide importance are negligible. The CsA soil unit is not considered a prime farmland soil.

The *Preferred Alternative* has a single area for soil disturbance. The proposed tower is triangular in design, with three separate contact points to the ground, each spaced 17 feet apart. The total disturbed area for the proposed tower will be limited to the contact points with the ground, and fence post installation, and will not include any additional impervious surfaces. Given the relatively small area of proposed disturbance, any impacts to geology and soil resources will be minimal and limited to the construction of the tower.

BMPs will be specified by the State of Maryland to prevent soil erosion and provide sedimentation controls, where applicable. All disturbed ground will be reclaimed using appropriate BMPs. Sediment and erosion control will be implemented to prevent or reduce non-point source pollution and minimize soil loss and sedimentation in drainage areas. These practices may include, but are not limited to silt fence, filter fabric check dams, and seeding/mulching of exposed areas. A site manager will be employed by the State of Maryland to insure all necessary measures are put in place.

The *No-Action Alternative* would have no effect on geologic or soil resources.

4.1.2 Air Quality

The U.S. Environmental Protection Agency (EPA) is the primary agency responsible for regulating air emissions to protect air quality throughout the United States. The EPA has established National Ambient Air Quality Standards (NAAQS) for seven pollutants: carbon monoxide, lead, nitrogen dioxide, particulate matter (PM_{10}), particulate matter (PM_{25}), ozone, and sulfur dioxide. Talbot County is considered to be an "attainment" area for all of the seven NAAQS pollutants.

The Preferred Alternative will result in temporary discharges into the air during construction (from construction equipment).. Standard state-wide construction air quality emissions controls will be employed to minimize emissions during construction. Given the scale of the proposed tower, and the limited timeframe for construction, the proposed action would not cause a violation of the NAAQS.

The *Preferred Alternative* would have no significant impact to air quality. The *No-Action*

Alternative would have no change in air quality levels.

4.2 Water Resources

4.2.1 Surface Water Quality

The proposed tower is located within the Lower Choptank River watershed (Federal Hydrologic Unit Code (HUC) 02060005220; Maryland Department of the Environment (MDE) 12 Digit Code: 021304030455). The majority of surface water from the proposed site drains into Blackwalnut Cove, which empties into the Choptank River, near its confluence with the Chesapeake Bay (see **Figure 4).** According to the Draft *2012 Integrated Report of Surface Water Quality in Maryland* (MDE, 2012), portions of the Lower Choptank Basin are listed on the EPA's Section 303(d) list of impaired waters, as Category 5 waters. Category 5 waters represent waters that do not attain water quality standards, and therefore require the development of a Total Maximum Daily Load (TMDL).

In December, 2010, the EPA, in coordination with the Chesapeake Bay watershed jurisdictions, established a nutrient and sediment pollution diet for the Bay to guide and assist Chesapeake Bay restoration efforts. This pollution diet is known as the Chesapeake Bay TMDL, (Bay TMDL). Concurrent with the Bay TMDL, EPA charged the Bay watershed states with developing Watershed Implementation Plans (WIPs) in order to provide adequate "reasonable assurance" that the jurisdictions can and will achieve the nutrient and sediment reductions necessary to implement the Bay TMDL within their respective boundaries.

Talbot County submitted draft two-year TMDL milestones to the MDE for inclusion in the Maryland Phase II WIP for the Chesapeake Bay Watershed, providing detailed reduction targets and strategies to ensure that the water quality goals of the Bay TMDL will be met. The WIP process will continue through 2012; the Bay TMDL goal is to attain water quality improvement goals by 2025.

Because no surface water bodies are present at the proposed site, and the overall area of disturbance is relatively small, no adverse impacts would occur as a result of the *Preferred Alternative.* It is not anticipated that the Preferred Alternative would affect attainment of the proposed Bay TMDL in any way. The *No-Action Alternative* would have no effect on surface water quality.

4.2.2 Wetlands

Wetlands are defined as areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Under Section 404 of the Clean Water Act (33 U.S.C. 1344), a U.S. Army Corps of Engineers' permit is required for the deposition of dredged or fill material into "Waters of the United States," of which wetlands are a subset.

A review of the U.S. Fish and Wildlife Service's (USFWS) National Wetlands Inventory (NWI) mapping indicated that no wetlands are present at the location of the proposed tower;

however, two wetlands are present adjacent to the proposed site. The adjacent wetlands are classified as irregularly flooded estuarine intertidal emergent wetlands, dominated by *Phragmites australis* (E2EM5P). Additionally, the entire shoreline of Black Walnut Point has been classified as estuarine intertidal unconsolidated shore wetland (E2USM). The location of these wetlands is shown on **Figure 5**.

Neither the *Preferred Alternative* nor the *No-Action Alternative* would impact any wetland areas.

4.2.3 Floodplains

Based on a review of FEMA Flood Insurance Rate Map (FIRM), Community Panel Number 240066 0042 A, the proposed tower is located within Zone A6, meaning that it is within a 100-year floodplain, with a flood elevation of six feet (see **Figure 6**).

Executive Order (EO) 11988 – Floodplain Management was issued in 1977 to eliminate the long- and short-term adverse impacts associated with the occupancy and modifications of floodplains, and to avoid direct and indirect support of floodplain development wherever practicable. FEMA's regulations in 44 CFR Part 9 implement EO 11988 for the agency.

The FEMA requirements under 44 CFR Part 9 state that for critical actions such as emergency operations centers and communications towers, FEMA must identify practicable alternatives outside the 500-year floodplain. If no practicable alternatives exist, then FEMA must minimize potential harm to or from the floodplain through their Eight-Step Planning Process. A Floodplain Management Checklist was completed for the proposed tower to evaluate potential impacts to or within the floodplain (**Appendix C**). The results of this process indicate that there are no practicable alternatives to building within the floodplain as most of Black Walnut Point, and Tilghman Island is within the 100-year floodplain. Also, since minimization measures were included in the design to eliminate the need for a concrete pad, instead placing the tower on piers supported by underground concrete (allowing surface water to flow freely through the site), overall floodplain impacts are expected to be minor.

FEMA's procedures contain particular restrictions and minimization requirements for actions that will be located in coastal high hazard areas (areas subject to high velocity waters which appear as zones V1-30, VE, or V on a FIRM map) and regulatory floodways (the portion of the floodplain which is effective in carrying flow). The proposed tower is not located in a coastal high hazard or regulatory floodway.

The *Preferred Alternative* would result in only minor impacts to floodplains, and would not affect floodplain function or values. The *No-Action Alternative* would not have any impact on floodplains.

4.3 Coastal Resources

The Coastal Zone Management Act (CZMA) was enacted in 1972, to encourage coastal states to develop comprehensive programs to manage and balance competing uses of and impacts

to coastal resources. The CMZA requires that federal activities that have reasonably foreseeable effects on land or water use, or the natural resources of a state's coastal zone be conducted in a manner that is consistent with that state's federally approved coastal zone management program (CZMP).

Although the proposed project is located within the coastal zone, which includes all of Talbot County, it would not result in any impacts to land or water use, or natural resources; the *Preferred Alternative* would not result in any impacts to coastal resources.

The *No-Action Alternative* would have no impact on coastal resources.

4.3.1 Chesapeake Bay Critical Area

The Critical Area Act, passed in 1984, identified the "Critical Areas" in Maryland as all land within 1,000 feet of the mean high water line of tidal waters or the landward edge of tidal wetlands and all waters of, and lands under, the Chesapeake Bay and its tributaries. The Critical Area was categorized into one of three land classifications based on the predominant land use and the intensity of development present. The three classifications include: Intensely Developed Areas (IDA), Limited Development Areas (LDA), and Resource Conservation Areas (RCA). The proposed tower location is located within an area designated as a RCA. RCAs are characterized by natural environments or areas where resource-utilization activities such as agriculture, forestry, fisheries activities, and aquaculture are taking place.

Because the proposed tower would not be located within the Critical Area Buffer (designated as the area within 100 feet of tidal boundaries), and because no new impervious surface is proposed, the project is consistent with the Critical Area Act, and no additional review with the Chesapeake Bay Critical Area Commission is required. The Critical Area Commission concurred with these findings on July 5, 2012 (see attached letter in **Appendix B**).

Overall impacts to the Critical Area as a result of the *Preferred Alternative* are expected to be minor. The *No-Action Alternative* would have no impact on the Chesapeake Bay Critical Area.

4.4 Biological Resources

4.4.1 Threatened and Endangered Species and Critical Habitat

The Maryland DNR Wildlife and Heritage Service was contacted in July, 2012 regarding knowledge of any state-listed rare, threatened or endangered species known to occur within the project area. On July 19, 2012, the Wildlife and Heritage Service Environmental Review Coordinator responded with no comments (see response in **Appendix B)**.

The USFWS was contacted in January, 2013 regarding knowledge of the presence of any Federally listed (or proposed) rare, threatened, or endangered species, and any unique or critical habitat located within the project study area. The USFWS responded in a letter dated March 8, 2013 that except for occasional transient individuals, no federally proposed or listed endangered or threatened species are known to exist within the project impact area. Therefore, no Biological

Assessment or further consultation with the U.S. Fish and Wildlife Service is required (see attached letter in **Appendix B**).

All native migratory birds, including waterfowl, shorebirds, passerines, hawks, owls, vultures, and falcons are afforded protection under the Migratory Bird Treaty Act (MBTA) of 1918 (16 USC 703-712). To streamline federal review of rare, threatened, and endangered species issues for proposed tower actions, the USFWS has developed a migratory bird policy, and has provided recommendations on reducing migratory bird collisions with communications towers. In general, towers that are more than 200 feet high and have lights or guy wires are more likely to cause death or injury to migratory birds than shorter structures. The USFWS recommends unguyed structures with minimal vertical and aerial cross-sectional dimensions. In addition, the proposed tower should be sited and designed so as to avoid or minimize habitat loss within or adjacent to the tower footprint.

In accordance with the USFWS recommendations, the proposed tower was designed at 140 feet (below the 200 foot recommendation), does not include any guy wires, and does not include lighting. Additionally, the tower would be sited in an open grassy area that would not impact any critical wildlife habitat.

Because no rare, threatened, or endangered species were identified on the project site, the *Preferred Alternative* would have only minimal effects to rare, threatened, or endangered species or their habitat. The *No-Action Alternative* would have no effect on rare, threatened or endangered species.

4.5 Cultural and Historic Resources

4.5.1 Historic Properties

Section 106 of the National Historic Preservation Act (NHPA) requires that a federal agency take into account the effect of a proposed undertaking on historic properties, including properties to which federally recognized Indian tribes and Native Hawaiian Organizations (NHO) attach religious or cultural significance. To streamline Section 106 compliance, the Federal Communications Commission (FCC) enacted a Nationwide Programmatic Agreement (NPA) with the Advisory Council on Historic Preservation (ACHP) and the National Conference of State Historic Preservation Officers (SHPOs), for the review of Section 106 effects on historic properties related to communications towers.

The FCC National Programmatic Agreement was revised in 2005 to include the Tower Construction Notification System (TCNS), an electronic submission process that works to increase communication during the Section 106 process. The TCNS provides Tribes/NHOs and SHPOs with early notification of proposed towers in order to streamline the review and approval process. This system allows project sponsors to submit notification of proposed tower construction to the FCC, who subsequently provides this information to federally-recognized Indian Tribes, NHOs, and SHPOs, who then responds directly to the project sponsors if they have concerns about a proposed construction.

As part of the Section 106 process, an Area of Potential Effect (APE) for direct effects and an APE for visual effects were created for the project based on the FCC Nationwide Programmatic Agreement and Maryland Historical Trust (MHT) *Guidelines and Resources for FCC Applicants Section 106 Submittals, Identification of Historic Resources*. The MHT is the SHPO for the State of Maryland. The APE for direct effects is the area of potential ground disturbance, while the APE for visual effects is defined as 0.5 mile from the proposed tower for towers less than 200 feet in height.

A thorough review was conducted at the MHT Library in order to identify historic resources present within the APE for direct and visual effects. As part of this research, the following records were examined to identify and evaluate historic properties:

1. Properties listed in the National Register of Historic Places (National Register);
2. Properties formally determined eligible for listing by the Keeper of the National Register;
3. Properties the MHT certifies are in the process of being nominated to the National Register;
4. Properties previously determined eligible for listing as part of a consensus determination of eligibility between the MHT and a Federal agency;
5. Properties listed in the Maryland Inventory of Historic Properties that the MHT has previously evaluated and determined to be eligible for listing in the National Register.

Results of the background research concluded that there were no historic properties located within the APE for direct or visual effects.

The archeological sensitivity of the property on which the tower is proposed was also assessed during this time. The location of the proposed tower appears to have been disturbed in the past via historic era plowing. A late-nineteenth-century structure is located approximately 100 feet southwest of the proposed tower location. It is possible that the remains of outbuildings or activities associated with any outbuildings related to the structure are present in the APE; however, given the limited size and scope of the proposed work, it was determined that no additional archeological investigations were warranted.

In accordance with the FCC Nationwide Programmatic Agreement, the results of the Section 106 investigations were submitted to the MHT via a completed FCC Form 620. The FCC Form 620 provides site information, information on historic properties that may be present, a determination of direct and visual effects to historic properties, and documents tribal, NHO, and local government involvement. The completed FCC Form 620 was submitted on April 23, 2012, and concluded that no historic properties (either historic structures or archeological sites) are located within the APEs for both direct and visual effects. The MHT concurred with this determination on June 28, 2012. The Talbot County Historic Preservation Commission agreed with the MHT that the facility will have no direct effect on historic resources in the vicinity, in an e-mail dated March 14, 2013. Correspondence is included in **Appendix B.**

The *Preferred Alternative* will have no effect on cultural and historic resources. The *No-Action Alternative* would have no effect on cultural and historic resources.

4.5.2 Tribal Coordination

At the early stage in the planning process, the FCC Nationwide Programmatic Agreement requires the project sponsor to gather information from appropriate Indian Tribes or NHOs to assist in the identification of historic properties of religious and cultural significance to them. The FCC's TCNS works to improve this process by increasing communication with Tribal Historic Preservation Offices (THPOs) in the context of Section 106 review. It also provides THPOs with early notification of proposed towers in order to facilitate compliance with the FCC's rules, and streamline the review process for construction of towers and other FCC undertakings.

A notification of the proposed tower at Black Walnut Point was submitted via TCNS on April 23, 2012 (Notification ID 84953). Responses to this notification were received from the Keweenaw Bay Indian Community on April 25, 2012 and the Shawnee Tribe on May 7, 2012. Each of these tribes were provided with the findings of the Section 106 study, and afforded the opportunity to review and comment on the proposed project. On March 8, 2013 the Shawnee Tribe's Tribal Historic Preservation Department concurred that no known historic properties will be impacted by this project. On March 12, 2013 the Keweenaw Bay Indian Community Tribal Historic Preservation Office responded that they have identified no properties of interest regarding religious or cultural sites documented at this time in the proposed location. Copies of the notification and responses are included in **Appendix B**.

The *Preferred Alternative* will not have an adverse effect on tribal resources. The *No-Action Alternative* would have no change in tribal resources.

4.6 Socioeconomic Resources

4.6.1 Environmental Justice

EO 12898, Federal Actions to Address Environmental Justice in Minority and Low-Income Populations requires the assessment of disproportionately high and adverse human health and environmental effects on minority and/or low-income populations resulting from proposed federal actions. The EO reaffirms the provisions of Title VI of the Civil Rights Act of 1964 and related statutes and emphasizes the incorporation of those provisions into existing planning and environmental processes.

"Minority" is defined as a person identified as:

- African-American (a person having origins in any of the black racial groups of Africa);
- Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish-culture origin, regardless of race);
- Asian-American (a person having origins in any of the original peoples of the Far East, South East Asia, the Indian subcontinent, or the Pacific Islands); or
- American Indian and Alaska Native (a person having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition).

"Low income" is defined as a person whose median household income is at or below the income level set by the Department of Health and Human Services (DHHS) poverty guidelines. The poverty guidelines are used mainly for statistical purposes, primarily to estimate the number of Americans in poverty each year. In 2012, the poverty threshold for a family of four within the continental 48 states was $23,050.

Minority Populations

A review of 2010 U.S. Census data indicates that the proposed tower site is located within Census Tract 9608 (see **Figure 7**), and that this census tract has a very small minority population (5.3 percent). The percentage of minority population within this census tract is much less than that of Talbot County (41.8 percent); and also much lower than that of the State of Maryland (38.0 percent). Because the minority population of Census Tract 9608 is so much lower than that of Talbot County and the state as a whole, it does not appear that any minority-based environmental justice concerns exist in the study area.

Low-Income Populations

According to the *2006 to 2010 American Community Survey Five-Year Estimates*, the median household income for Census Tract 9608 is $49,538. This is less than that of Talbot County ($63,017) and the State of Maryland ($70,647). However, the percentage of the population in Census Tract 9608 whose income was below the poverty level is 4.8 percent, which is less than that of Talbot County (6.1 percent) and the State of Maryland (8.6 percent). Consequently, no low income populations were identified in the study area.

No disproportionate adverse effects on low income or minority populations are anticipated under the *Preferred Alternative* or the *No-Action Alternative*.

4.6.2 Noise

The study area is generally open space, in an area that includes residential buildings currently being used as a Bed and Breakfast (the Black Walnut Point Inn Bed and Breakfast). The Black Walnut Point Inn sits on land currently being leased from the State of Maryland. Ambient noise levels are low, and typical of those found in a coastal bay environment. Background noise is dominated by the natural sounds of wind and waves.

The proposed tower would result in temporary construction noise associated with the initial tower build-out; however, BMPs will be employed to minimize the temporary noise impact during construction including: limiting work to daytime hours and designating a site manager to monitor site construction activity. No generator will be placed on site for this radar support tower. Therefore, no additional noise other than from construction equipment should be present.

The chosen radar that will be included as part of the tower construction was tested in May 2012 for noise concerns. Although detailed noise monitoring was not conducted, the rotation of the radar antenna was tested at 10 meters and no noise beyond ambient background noise could be detected by State observers. The operational height of the radar at the project site will be approximately 42 meters (140 feet); therefore, it is not anticipated to create any noticeable noise

impacts. Additionally, there are no noise sensitive receptors located within approximately 115 feet of the proposed tower.

The *Preferred Alternative* will not result in significant long-term noise issues. The *No-Action Alternative* would have no effect on noise levels.

4.6.3 Transportation Network

The primary means of surface transportation throughout the study area is Maryland Route 33, which extends for approximately 27 miles from Easton, Maryland to Black Walnut Point on Tilghman Island. In the vicinity of the proposed project, Maryland Route 33 is also named Black Walnut Road; however, it is also named Tilghman Island Road and Saint Michaels Road at various points throughout the 27 mile corridor. Maryland Route 33 is a two lane road, with one lane in each direction for the entire length of the road.

The proposed tower would not require any improvements or changes to existing roads or any new access roads. The proposed tower would provide monitoring of the maritime channels which are utilized by commercial and pleasure craft operating in the area. These maritime channels create an extensive maritime transportation network.

The *Preferred Alternative* would not result in any negative effects to the existing transportation network; instead it would improve the maritime transportation network by eliminating a gap in the ability of government agencies and responders to monitor or gather information relative to the movement of vessels in this area. The *No-Action Alternative* would have no effect on the transportation network.

4.6.4 Utilities

The proposed site is served by existing electrical infrastructure, which currently provides power to the existing development at Black Walnut Point. The Preferred Alternative proposes to connect to the existing electrical grid via a new direct buried connection.

Neither the *Preferred Alternative* nor the *No-Action Alternative* would adversely affect infrastructure in the area.

4.6.5 Public Health and Safety

No concerns with hazardous materials or waste sites are anticipated with the construction of the proposed tower. According to the U.S. Environmental Protection Agency's EnviroMapper website, there are no hazardous waste sites located within the vicinity of the proposed tower.

There are no known health issues associated with the construction of new towers. It is anticipated that all workers constructing the tower will adhere to construction safety procedures and the standards mandated by the Occupational Safety and Health Administration (OSHA) and Maryland Occupational and Health Administration. The State of Maryland will provide a site manager to insure safety regulations are followed.

As part of the proposed tower construction, fencing and locked gates will be provided in order to provide security to the tower and equipment, and prevent accidental or other unwanted intrusion into the area.

The *Preferred Alternative* would not result in any adverse effects to human health or safety; instead, the proposed tower would benefit the health and safety of the adjacent communities by addressing existing vulnerabilities in the government's ability to respond to and monitor maritime traffic in the project vicinity.

The *No-Action Alternative* would have no effect on public health and safety.

4.7 Summary Table

Table 1 summarizes the environmental consequences post-construction at the tower site. No additional impacts to the listed resources were identified from this project. This Draft EA evaluates the potential environmental effects of the Preferred Alternative and the No-Action Alternative. Based on findings to date, if the Preferred Alternative were implemented with the BMPs identified in this Draft EA, no significant environmental impacts were identified that would warrant the need to prepare an environmental impact statement (EIS).

Table 1. Summary Table of Significant Environmental Impacts.

RESOURCE	PREFERRED ALTERNATIVE IMPACTS	NO-ACTION ALTERNATIVE IMPACTS
Physical		
Geology and Soils	No significant impact.	No impact.
Air Quality	Limited impacts during construction/ No significant impact.	No impact.
Water Resources		
Surface Water Quality	No significant impact.	No impact.
Wetlands	No impact.	No impact.
Floodplains	Minor impact to floodplains, and no effect on floodplain function or values.	No impact.
Coastal Resources		
Chesapeake Bay Critical Area	No impact.	No impact.
Biological Resources		
Threatened and Endangered Species and Critical Habitat	No significant impact.	No effect.
Cultural and Historic Resources		
Historic Properties	No adverse effect.	No effect.

RESOURCE	PREFERRED ALTERNATIVE IMPACTS	NO-ACTION ALTERNATIVE IMPACTS
Archaeological Resources	No adverse effect.	No effect.
Tribal Coordination	No adverse effect.	No change.
Socioeconomic Resources		
Environmental Justice	No impact.	No impact.

5.0 CUMULATIVE IMPACTS

The regulations implementing NEPA require that the cumulative effects of a proposed action be assessed (Title 40 CFR Parts 1500-1508). A cumulative impact is an "impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions" (40 CFR 1508.7).

The proposed tower would cause minimal ground disturbance, and includes BMPs which will restore the ground under and around the proposed tower. The design of the tower has also been reduced in height to minimize potential bird strikes. As no other construction projects have been identified in the project area, no cumulative impacts resulting from the *Preferred Alternative* are anticipated.

6.0 PUBLIC INVOLVEMENT

FEMA is the lead Federal agency for conducting the NEPA compliance process for the proposed project in Talbot County. It is the goal of the lead agency to expedite the preparation and review of NEPA documents and to be responsive to the needs of the community and the purpose and need of the proposed action while meeting the intent of NEPA and complying with all NEPA provisions.

Section 106 of the FCC regulations requires the State of Maryland to notify local governments about the proposed project and environmental review process. In keeping with this requirement, the State of Maryland sent a notification letter to the Talbot County Government and the Talbot County Historical Society on April 30, 2012. No response was received from Talbot County Government. A response was received from the Talbot County Historical Society which indicates that they want to be a consulting party. Documentation of this response is included in **Appendix B**.

Public involvement is being performed in compliance with NEPA, FEMA's regulations implementing NEPA at 44 CFR 10.9(c), and Executive Orders 12898, 11988, and 11990. A Public Notice will be published in the Talbot Star Democrat Newspaper. The public comment period will be 15 days. The Draft EA will also be available for public review at the Talbot County Free Library, 100 W Dover Rd., Easton, Maryland. The viewing/available hours are 9 a.m. to 6 p.m. Monday through Thursday and 9 a.m. to 5 p.m. Friday and Saturday. The Draft EA is also available on FEMA's website at: http://www.fema.gov/plan/ehp/envdocuments/index.shtm under Region III. Comments on the Draft EA can be provided to Amanda Ciampolillo. If no substantive comments are received

relative to the Proposed Action's environmental effects, the Draft EA will become final and a Finding of No Significant Impact (FONSI) will be issued for the project.

7.0 REFERENCES

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33 U.S.C. §1251 et seq. *The Clean Water Act of 1972*. U.S. Environmental Protection Agency. 1972.

40 CFR, Part 50. Title 40, Code of Federal Regulations, Part 50, *National Primary and Secondary Ambient Air Quality Standards*. U.S. Environmental Protection Agency. 2004.

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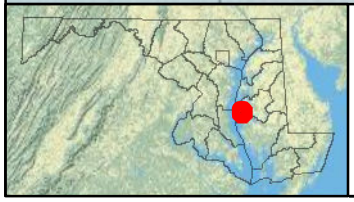
8.0 LIST OF PREPARERS

This Environmental Assessment was prepared under the supervision of the NRP. The companies/organizations who contributed to the preparation of the document are listed below.

Company	Name	Role	Years of Experience
Dewberry Engineers Inc. 600 Parsippany Road, Suite 301 Parsippany, NJ 07054-3715	Sara Dougherty	Project Manager	13
A.D. Marble & Company 10989 Red Run Boulevard, Suite 209 Owings Mills, MD 21117	Erik Schwenke	NEPA Documentation and Figures	16
	Emma Diehl	Historic Structures Investigation	8
	Michael Lenert, Ph.D	Archeological Assessment	22

Figures

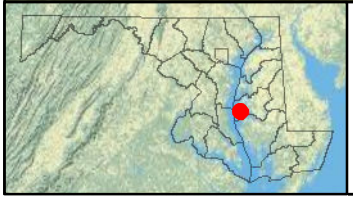


0 1,000 2,000 Feet

Maryland Department of Natural Resources
Black Walnut Point Tower

Figure 1: Location Map

Source: USGS Topographic Map, Tilghman Quad

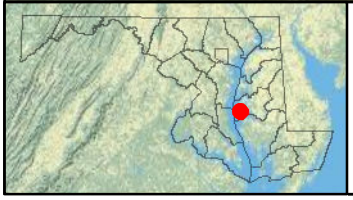


0 100 200 Feet

Maryland Department
of Natural Resources
Black Walnut Point Tower

Figure 2: Site Plan

Source: Bing Maps 2010



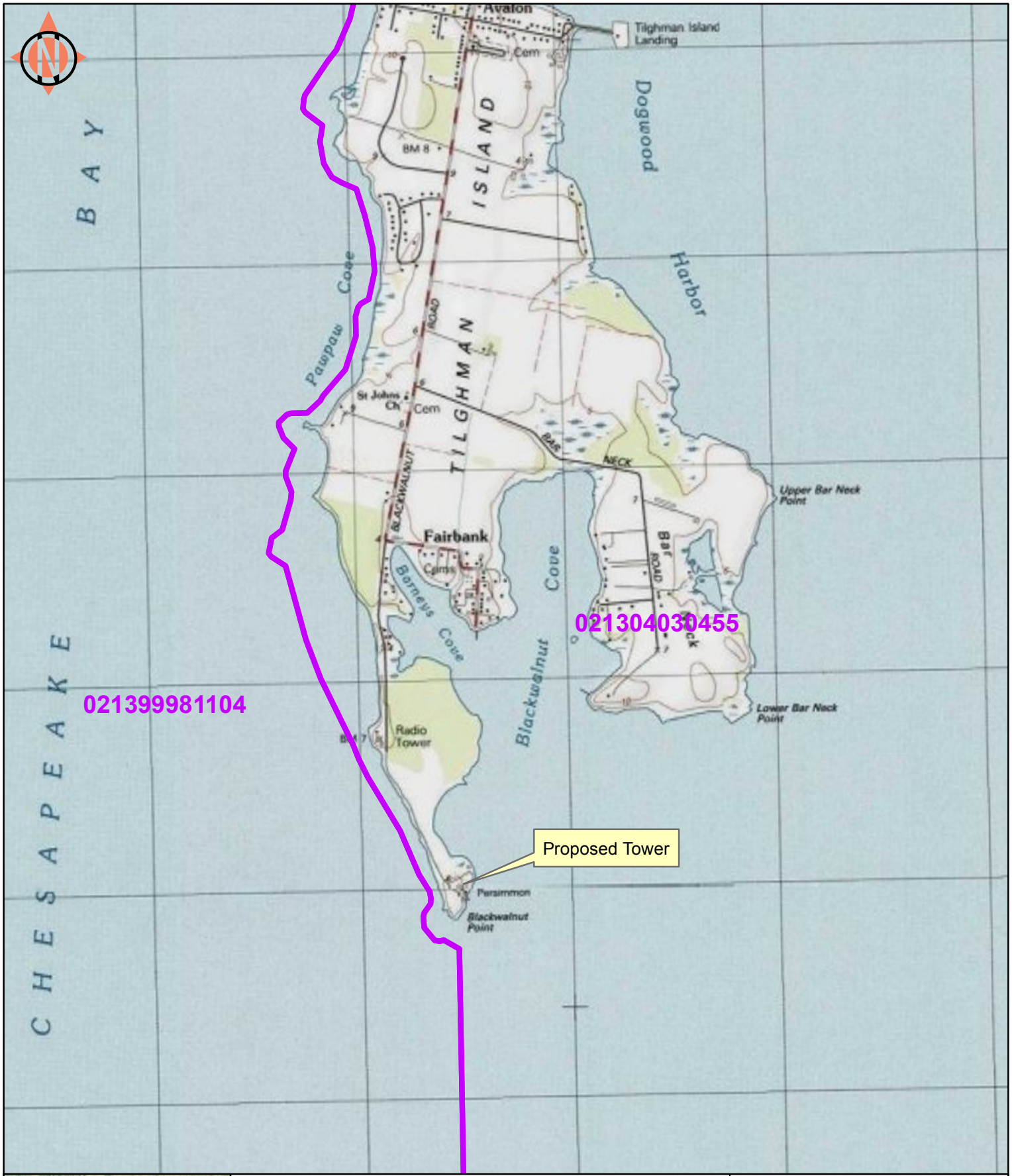
0 100 200 Feet

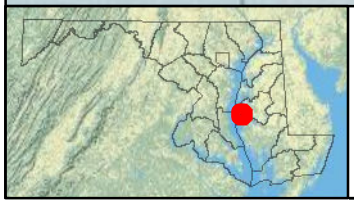
Soil Unit

Maryland Department
of Natural Resources
Black Walnut Point Tower

Figure 3: Soils Map

Source: Bing Maps 2010





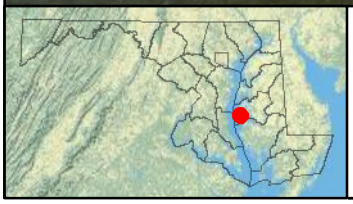
0 1,000 2,000 Feet

Watershed Boundary

Maryland Department of Natural Resources
Black Walnut Point Tower

Figure 4: Watershed Boundaries

Source: USGS Topographic Map, Tilghman Quad



0 100 200 Feet

NWI Wetlands

Maryland Department of Natural Resources
Black Walnut Point Tower
Figure 5: NWI Map

Source: Bing Maps 2010

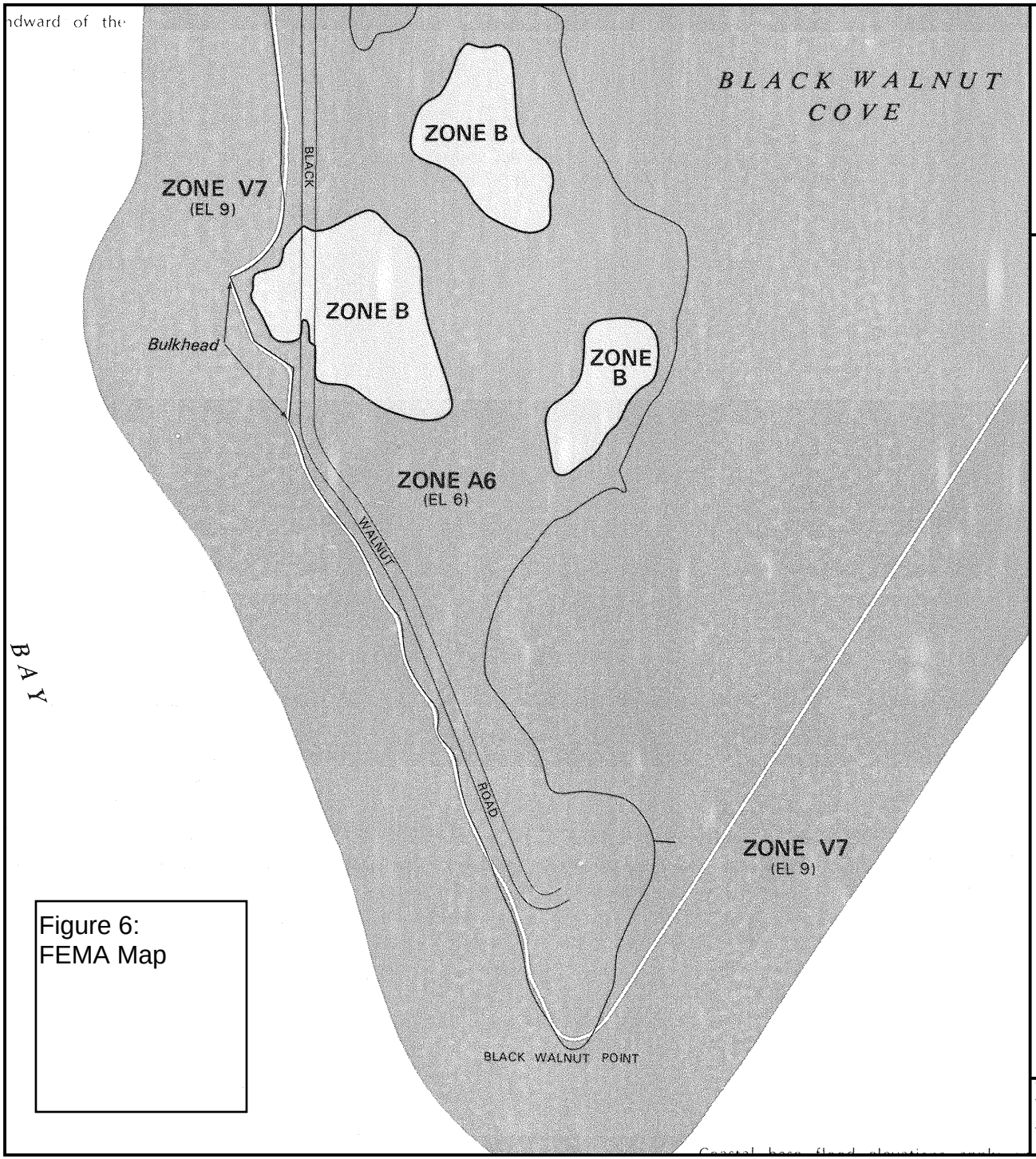


Figure 6:
FEMA Map

APPROXIMATE SCALE

600 0 600 FEET

NATIONAL FLOOD INSURANCE PROGRAM

FIRM

FLOOD INSURANCE RATE MAP

TALBOT
COUNTY,
MARYLAND
(UNINCORPORATED AREAS)

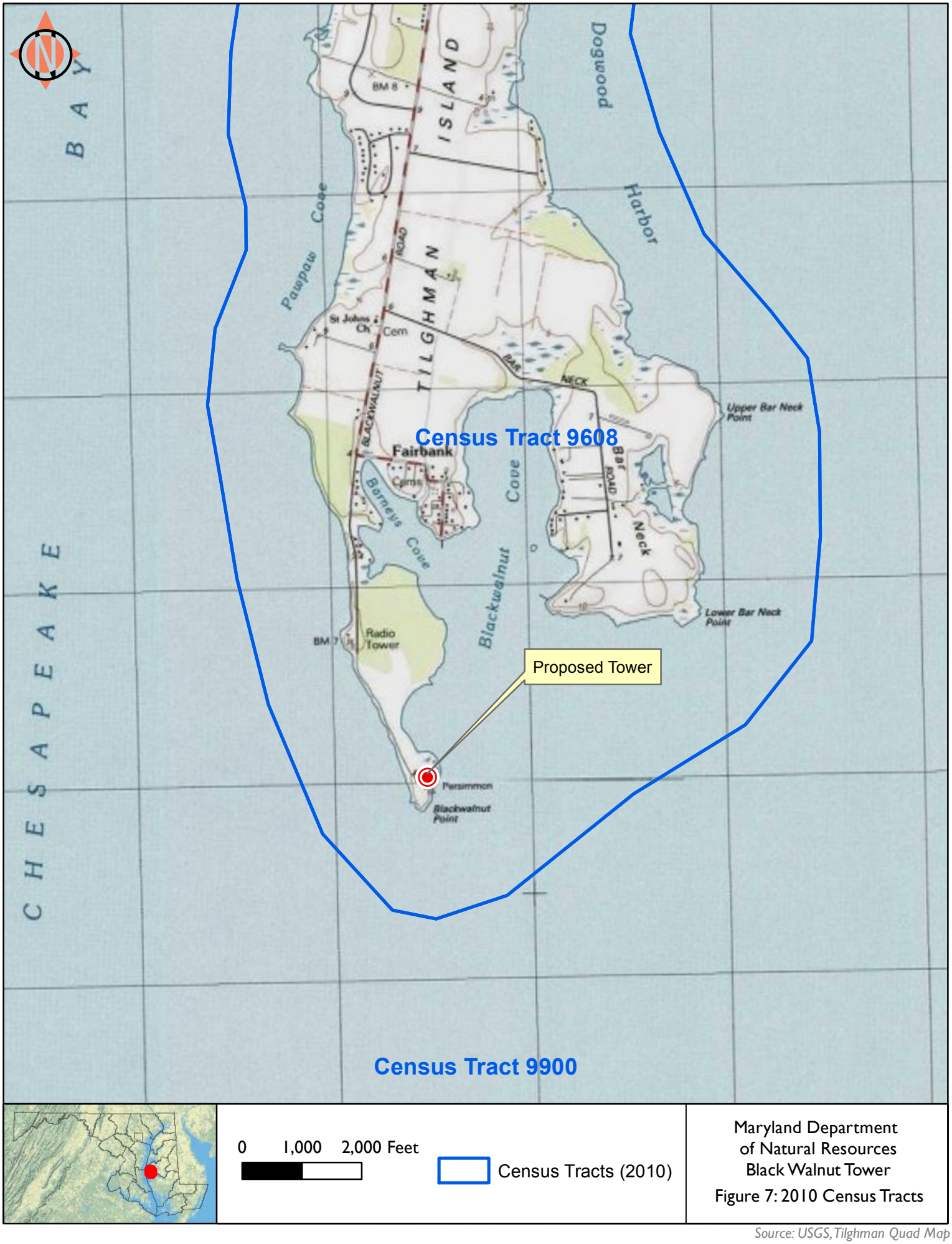
PANEL 42 OF 54
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER
240066 0042 A

EFFECTIVE DATE:
MAY 15, 1985

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov



Source: USGS, Tilghman Quad Map

Appendix A:
Site Photographs

Photograph 1: View looking southwest towards proposed tower site. The office and main house of the Black Walnut Point Inn can be seen in the background, left (March 2012).

Photograph 2: View looking north from proposed tower site (March 2012).

Photograph 3: View looking northeast from proposed tower site (March 2012).

Photograph 4: View looking east from proposed tower site (March 2012).

Photograph 5: View looking southeast from proposed tower site (March 2012).

Photograph 6: View looking south from proposed tower site, showing the modern cabins and parking area of the Black Walnut Point Inn (March 2012).

Photograph 7: View looking southwest from proposed tower site (March 2012).

Photograph 8: View looking west from proposed tower site (March 2012).

Photograph 9: View looking northwest from proposed tower site (March 2012).

Appendix B:
Agency Correspondence

List of Agency Coordination:

- Tower Construction Notification System (TCNS) Notification, April 23, 2012
- Keweenaw Bay Indian Community Tribal Historic Preservation Office Reply, April 25, 2012
- Keweenaw Bay Indian Community Tribal Historic Preservation concurrence response, March 12, 2013
- Shawnee Tribe Historic Preservation Office Reply, May 7, 2012
- Shawnee Tribe concurrence response, March 8, 2013
- Talbot County Historic Preservation Commission Section 106 Consulting Party Response Form, May 8, 2012
- Maryland Historical Trust (SHPO) Section 106 Notification of Concurrence/Clearance, June 28, 2012
- Talbot County Historic Preservation Commission concurrence, March 14, 2013
- Critical Area Commission Response Letter/Clearance, July 5, 2012
- Maryland Department of Natural Resources, Wildlife and Heritage Service e-mail correspondence on Rare, Threatened, and Endangered Species
- Maryland Department of Natural Resources Clearance email, July 20, 2012
- United States Fish and Wildlife Service (USFWS) Consultation Letter, January 7, 2013
- USFWS Response Letter, March 8, 2013

-----Original Message-----
From: towernotifyinfo@fcc.gov [mailto:towernotifyinfo@fcc.gov]
Sent: Monday, April 23, 2012 1:26 PM
To: Emma Diehl
Subject: Proposed Tower Structure Info - Email ID #3012742

Dear Emma Diehl,

Thank you for submitting a notification regarding your proposed construction via the Tower Construction Notification System. Note that the system has assigned a unique Notification ID number for this proposed construction. You will need to reference this Notification ID number when you update your project's Status with us.

Below are the details you provided for the construction you have proposed:

Notification Received: 04/23/2012

Notification ID: 84953
Tower Owner Individual or Entity Name: Maryland Department of Natural Resources
Consultant Name: Emma Diehl
Street Address: 3913 Hartzdale Drive, Suite 1302
City: Camp Hill
State: PENNSYLVANIA
Zip Code: 17011
Phone: 717-731-9588
Email: ediehl@admarble.com
Structure Type: UTOWER - Unguyed - Free Standing Tower
Latitude: 38 deg 40 min 22.0 sec N
Longitude: 76 deg 20 min 23.6 sec W
Location Description: 4417 Black Walnut Point Road
City: Tilghman Island
State: MARYLAND
County: TALBOT
Ground Elevation: 0 meters
Support Structure: 30.5 meters above ground level
Overall Structure: 30.5 meters above ground level
Overall Height AMSL: 30.5 meters above mean sea level

From: towernotifyinfo@fcc.gov [mailto:towernotifyinfo@fcc.gov]
Sent: Wednesday, April 25, 2012 8:55 AM
To: Emma Diehl
Subject: Reply to Proposed Tower Structure (Notification ID: 84953) - Email ID #3014482

Dear Emma Diehl,

Thank you for using the Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS). The purpose of this email is to inform you that an authorized user of the TCNS has replied to a proposed tower construction notification that you had submitted through the TCNS.

The following message has been sent to you from THPO/NAGPRA Technician Juliet K Goyen of the Keweenaw Bay Indian Community in reference to Notification ID #84953:

Aniin;
The Keweenaw Bay Indian Community Tribal Historic Preservation Office (KBIC THPO) has received your requests for comments or interest concerning Section 106 of the National Historic Preservation Act, to the effect on historic and cultural sites within your proposed project area. The KBIC THPO charges a fee of $250.00 for review of project proposals. Please submit a check for $250.00 to the KBIC THPO, 16429 Beartown Road, Baraga, Michigan 49908, if you have already done so, thank you, we appreciate your support. The fee covers a preliminary in-house review of records for the presence of cultural sites in the proposed project area. Fees also help us to cover costs of research and other consultation activities.

When payment has been received, our determination will be sent to you within two weeks.
Miigwech (Thank You)
Christopher J. Chosa, THPO/NAGPRA Officer Juliet K. Goyen, THPO/NAGPRA Technician

For your convenience, the information you submitted for this notification is detailed below.

Notification Received: 04/23/2012
Notification ID: 84953
Tower Owner Individual or Entity Name: Maryland Department of Natural Resources
Consultant Name: Emma Diehl
Street Address: 3913 Hartzdale Drive, Suite 1302
City: Camp Hill
State: PENNSYLVANIA
Zip Code: 17011
Phone: 717-731-9588
Email: ediehl@admarble.com

Structure Type: UTOWER - Unguyed - Free Standing Tower
Latitude: 38 deg 40 min 22.0 sec N

Longitude: 76 deg 20 min 23.6 sec W
Location Description: 4417 Black Walnut Point Road
City: Tilghman Island
State: MARYLAND
County: TALBOT
Ground Elevation: 0.0 meters
Support Structure: 30.5 meters above ground level
Overall Structure: 30.5 meters above ground level
Overall Height AMSL: 30.5 meters above mean sea level

Sent: Monday, May 07, 2012 11:51 AM
To: Emma Diehl
Cc: tcns.fccarchive@fcc.gov
From: towernotifyinfo@fcc.gov [mailto:towernotifyinfo@fcc.gov]
Subject: Reply to Proposed Tower Structure (Notification ID: 84953) - Email ID #3021610

Dear Emma Diehl,

Thank you for using the Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS). The purpose of this email is to inform you that an authorized user of the TCNS has replied to a proposed tower construction notification that you had submitted through the TCNS.

The following message has been sent to you from THPO Kim Jumper of the Shawnee Tribe in reference to Notification ID #84953:

WE HAVE UPDATED OUR PROCEDURES FOR 2012 (EFFECTIVE 3-01-12). PLEASE MAKE SURE THAT YOU HAVE RECEIVED AND READ A COPY OF OUR UPDATED PROCEDURES .

Please use only the following address when sending materials to us:

Please use this fax number to contact us: 918-542-9915. Please do not contact us via e-mail.

SHAWNEE TRIBE
ATT: KIM JUMPER
HISTORIC PRESERVATION DEPT.
29 SOUTH HIGHWAY 69A
MIAMI, OK 74354

The Shawnee Tribe is interested in consulting on this tower, as we are in all towers in this geographic area. Ms. Kim Jumper is our manager for cell tower consultation. Please contact Kim Jumper, Asst. THPO, at 918-542-2441 if you have any questions on this or any other TCNS project.

For this particular tower to which we are responding, please follow our consultation procedures. Please note our consultation fee is $100.00 per tower for new towers. If this tower is a CO-LOCATION, please fax us and let us know. We cannot always reliably tell from the TCNS web site when a tower is a co-location.

PLEASE, when you are mailing us regarding a cell tower, be sure to put Kim Jumper's name and Historic Preservation Department in the address. If you send any mailing just generally to

the Shawnee Tribe, without including the name and department, several days or more may pass before the mailing is properly directed.

In the event that you are building another tower in this state and you did not receive a response from us through the TCNS, it is because the project was omitted from the TCNS web site, as we respond to ALL towers listed in our geographic areas on that web site. We take this opportunity to remind you that, even if a tower has been omitted from the TCNS web site, as occasionally happens, we are still interested in consulting on it.

For your convenience, the information you submitted for this notification is detailed below.

Notification Received: 04/23/2012
Notification ID: 84953
Tower Owner Individual or Entity Name: Maryland Department of Natural Resources
Consultant Name: Emma Diehl
Street Address: 3913 Hartzdale Drive, Suite 1302
City: Camp Hill
State: PENNSYLVANIA
Zip Code: 17011
Phone: 717-731-9588
Email: ediehl@admarble.com

Structure Type: UTOWER - Unguyed - Free Standing Tower
Latitude: 38 deg 40 min 22.0 sec N
Longitude: 76 deg 20 min 23.6 sec W
Location Description: 4417 Black Walnut Point Road
City: Tilghman Island
State: MARYLAND
County: TALBOT
Ground Elevation: 0.0 meters
Support Structure: 30.5 meters above ground level
Overall Structure: 30.5 meters above ground level
Overall Height AMSL: 30.5 meters above mean sea level

30 April 2012

Black Walnut Point Proposed Tower Project
4417 Black Walnut Point Road
Tilghman Island, Talbot County, Maryland

Section 106 Consulting Party Response Form

TO:

Maryland Department of Natural Resources
Attention: Timothy Bowman
Address: 580 Taylor Ave
Annapolis, Md 21401

Phone: 410-260-8891 Fax: 410-260-8878

FOR OFFICIAL USE

FROM: Talbot County Historic District Commission
215 Bay Street, Suite 2
Easton, MD 21601 **DATE:** 5/8/12

Telephone/Fax Numbers: 410-770-8030 /410-770-8043

____x____ **Yes**. I, or my organization, would like to be a consulting party in the Section 106 process for the Black Walnut Point Proposed Tower Project.

Talbot County Historic Commission (Organization) will be represented by

Martin Sokolich (Representative) (Please indicate above the mailing address of the representative if different than the addressee).

____x____ I am a representative of a local government with jurisdiction over the area in which the project occurs. (If so, please go to the last question)

_____ **No**. I, or my organization, do(es) not wish to participate as a consulting party for the Black Walnut Point Proposed Tower Project.

Individual's or Organization's Demonstrated Interest
Please Check Appropriate Box(es)

x 1. legal interest
☐ 2. economic interest
x 3. historic property(s) concerns

Briefly justify your Demonstrated Interest

The Talbot County Historic Commission is a Certified Local Government recognized by the SHPO (Maryland Historical Trust) as a consulting party and is customarily consulted on communications tower applications in the County.

Do you know of another potential consulting party for this project?
Please list their name and phone number below.

Please return this form in the pre-addressed envelope provided.

From: towernotifyinfo@fcc.gov [mailto:towernotifyinfo@fcc.gov]
Sent: Thursday, June 28, 2012 2:45 PM
To: Emma Diehl
Subject: Section 106 Notification of SHPO/THPO Concurrence- Email ID #284611

This is to notify you that the Lead SHPO/THPO has concurred with the following filing:
Date of Action: 06/28/2012
Direct Effect: No Historic Properties in Area of Potential Effects (APE)
Visual Effect: No Historic Properties in Area of Potential Effects (APE)
Comment Text: None

File Number: 0005246217
Purpose: New Tower Submission Packet
Notification Date: 7AM EST 06/05/2012
Applicant: Maryland Department of Natural Resources
Consultant: A.D. Marble & Company
Site Name: Black Walnut Point
Site Address: 4417 Black Walnut Point Road
Site Coordinates: 38-40-22.0 N, 76-20-23.6 W
City: Tilghman Island
County: TALBOT
State:MD
Lead SHPO/THPO: Maryland Historical Trust

NOTICE OF FRAUDULENT USE OF SYSTEM, ABUSE OF PASSWORD AND RELATED MISUSE
Use of the Section 106 system is intended to facilitate consultation under Section 106 of the National Historic Preservation Act and may contain information that is confidential, privileged or otherwise protected from disclosure under applicable laws. Any person having access to Section 106 information shall use it only for its intended purpose. Appropriate action will be taken with respect to any misuse of the system.

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

Memorandum

Date: July 5, 2012

To: Lee Schnappinger, Natural Resources Planner, Maryland Department of Natural Resources

From: Nick Kelly, Regional Program Chief

Re: Black Walnut Point NRMA Radio Tower (2011DNR155)

Thank you for the updated information regarding the installation of a radio tower at the Black Walnut Point NRMA for the purposes of enhancing communication and improving emergency services. The radio tower will be located outside the 100-foot Buffer, and no new impervious surface is proposed. In addition, a fence will be installed, and the Department will provide native vegetation. Based on the information provided, I find that this activity is consistent with the Critical Area law and Criteria. No additional review is required.

If you have any questions, please contact me at (410) 260-3483.

From: Byrne, Lori
Sent: Thursday, July 19, 2012 2:57 PM
To: Schnappinger, Lee A
Subject: RE: New Tower - Black Walnut Point NRMA - 2011DNR155

Follow Up Flag: Follow up
Flag Status: Red

Hi Lee,

The WHS has no comments regarding RT&E species for this project as proposed. Thanks for the opportunity to review and comment.

Lori

Lori A. Byrne
Environmental Review Coordinator
MD DNR - Wildlife and Heritage Service
410-260-8573
FAX 410-260-8596

-----Original Message-----
From: Schnappinger, Lee A
Sent: Wednesday, July 18, 2012 3:27 PM
To: Byrne, Lori
Subject: FW: New Tower - Black Walnut Point NRMA - 2011DNR155

Lori,

Just checking in to see if you have had a chance to look at this project yet. Let me know if you have questions.

Lee A. Schnappinger, RLA, LEED AP
Natural Resources Planner
Maryland Park Service
Maryland Department of Natural Resources
580 Taylor Avenue, E-3
Annapolis, MD 21401
410-260-8161

From: Schnappinger, Lee A
Sent: Friday, June 29, 2012 9:21 AM
To: Ohler, John; Byrne, Lori
Cc: Herrick, Neal
Subject: New Tower - Black Walnut Point NRMA - 2011DNR155

I have enclosed the location map and details for a tower being proposed internally (through NRP). The tower is 140' high and proposed to be located in an existing grass area in Black Walnut NRMA. It will be outside of the 100' Critical Area Shore Buffer, but we will be working with the CAC to mitigate any impacts from construction. See the details sent to me from Tim Bowman below:

I've attached the tower design that we have adopted for both Black Walnut Point and Deale Island. I've

also drawn a sketch of the proposed tower. It is represented by the triangle on the photo and the compound measures roughly 60 x 60. We may expand it to 80 x 80. The operators of the Inn have asked that we put a little design on the ends to make it more attractive to which we have consented. The tower legs are 17 ft. apart. The fence will likely be 8' in height.
The three lines coming from the water's edge represent approximately 100 ft. distance from the rip rap.
The line connecting the two buildings represents a buried electric line and is approximate and based on the best info available.
Gerritt Veenhoff from our engineering group has told me that the legs of the tower will be on piers and therefore there will be no impervious surfaces. There will be concrete underground to support the piers but I'm not clear on its dimensions. Because the tower legs are on piers, my understanding is that water striking the surface will be allowed to flow freely through.

Please let me know what questions/comments/concerns you may have. The project is moving concurrently through the FCC process and comments by July 11th would be wonderful.

Lee A. Schnappinger, RLA, LEED AP
Natural Resources Planner
Maryland Park Service
Maryland Department of Natural Resources
580 Taylor Avenue, E-3
Annapolis, MD 21401
410-260-8161

From: Schnappinger, Lee A
Sent: Friday, July 20, 2012 9:35 AM
To: Bowman, Timothy R
Subject: New Tower - Black Walnut Point NRMA - 2011DNR155

Attachments: 2012 07 05 CAC.pdf
Tim,

I have heard back from everybody on the new tower proposal and there are no comments to address, so please move forward with the project. The Critical Area Commission has determined that no mitigation will be required.

Please make the park manager, John Ohler, aware of when work will be starting when the time comes.

Lee A. Schnappinger, RLA, LEED AP
Natural Resources Planner
Maryland Park Service
Maryland Department of Natural Resources
580 Taylor Avenue, E-3
Annapolis, MD 21401
410-260-8161

Dewberry

Dewberry Engineers Inc.
600 Parsippany Road, Suite 301
Parsippany, NJ 07054-3715
973.739.9400
973.428.8509 fax
www.dewberry.com

January 7, 2013

Mr. Leopoldo Miranda
Field Supervisor
US Fish and Wildlife Service
Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401

RE: Proposed Black Walnut Point Communications Tower
Tilghman Island, Talbot County, Maryland

Dear Mr. Miranda:

The Maryland Department of Natural Resources, Natural Resources Police (NRP) is proposing the construction of a new communications tower to support maritime surveillance equipment in Talbot County, Maryland. The purpose of the project is to provide the NRP with the capability to detect and track small vessels moving on the Chesapeake Bay and their relationship to commercial shipping. Additionally, the proposed tower would provide the NRP with the ability to track location data on vessels moving in areas restricting the harvest of natural resources. Finally, the proposed tower would provide the NRP and other first responders with the ability to search large expanses of the Chesapeake Bay and its tributaries for lost or overdue vessels, or those which have made a distress call.

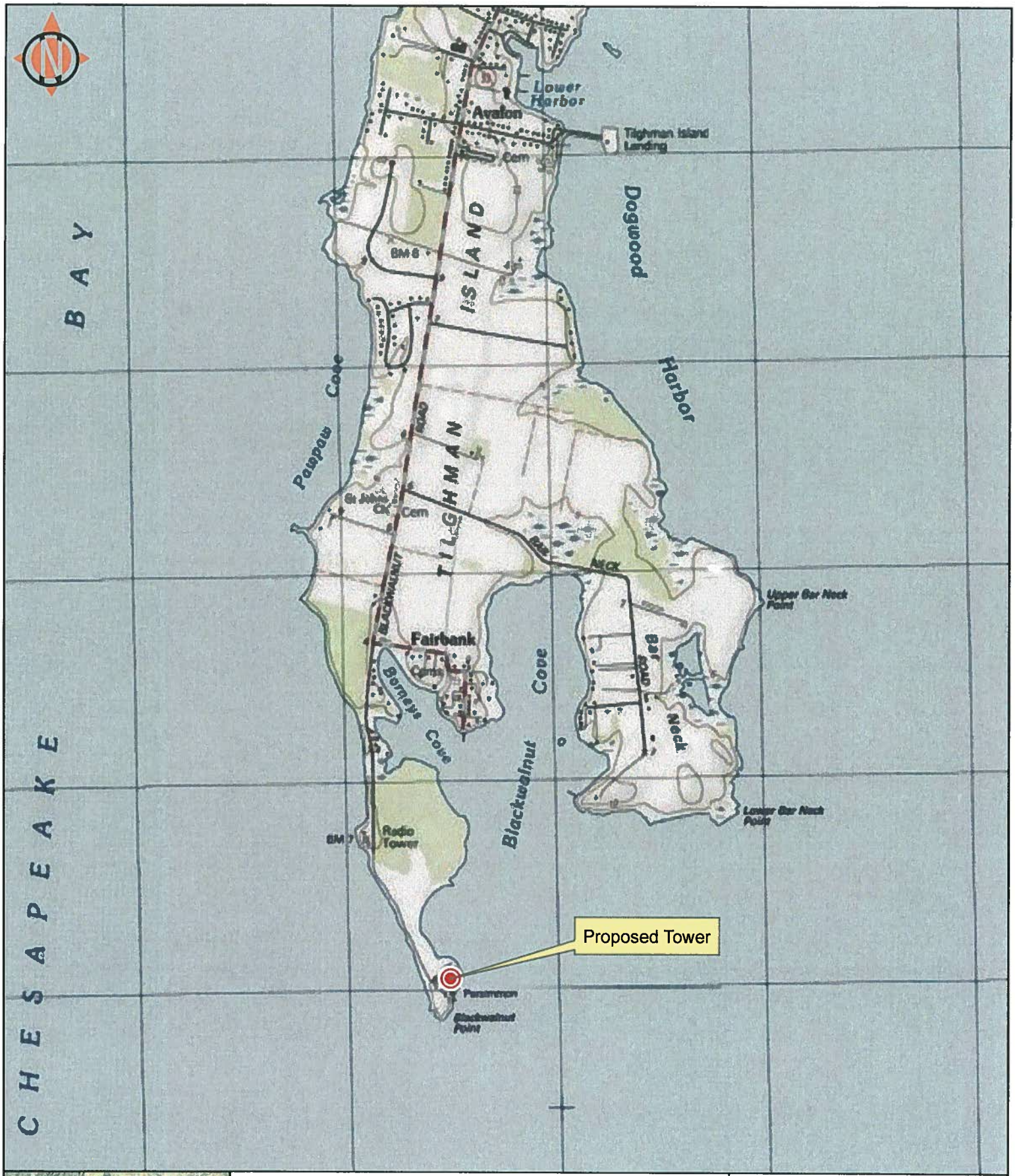
The proposed tower would be located in the Blackwalnut Point Natural Resources Management Area, which is owned and maintained by the Maryland Park Service. A topographic map (Tilghman, MD quadrangle) showing the location is enclosed.

We are requesting information regarding the presence of any Federally listed (or proposed) rare, threatened, or endangered species, and any unique or critical habitat located within the project study area. Please call me at (973) 576-9687 if you have any questions or concerns. Thank you for your cooperation.

Sincerely,
Dewberry Engineers, Inc.

Sara N. Dougherty
Senior Geologist

Enclosure



Source: USGS Topographic Map, Tilghman Quad

From: Kim Jumper [jumper.shawneetribe@hotmail.com]
Sent: Friday, March 08, 2013 3:07 PM
To: Bowman, Timothy R
Subject: RE:

This letter is in response to the above referenced project.

The Shawnee Tribe's Tribal Historic Preservation Department concurs that no known historic properties will be negatively impacted by this project. We have no issues or concerns at this time, but in the event that archaeological materials are encountered during construction, use, or maintenance of this location, please re-notify us at that time as we would like to resume consultation under such a circumstance.

Thank you for giving us the opportunity to comment on this project.

Sincerely,
Kim Jumper, THPO
Shawnee Tribe

From: TBowman@dnr.state.md.us
To: Jumper.shawneetribe@hotmail.com
Date: Fri, 8 Mar 2013 12:42:45 -0500
Subject:

Ms. Jumper,
Per our conversation. Thank you for your kind consideration.

Tim Bowman
Md. Dept of Natural Resources Police
443-336-6340-mobile

Talbot County Historic District Commission
215 Bay Street, Suite 2
Easton, Md. 21601
c/o Martin Sokolich

Ref: Natural Resources Police Communication's Radar tower @ Black Walnut Point

Greetings,

Per your request to be a consulting party in the project named above, this correspondence is to advise you that an examination of the proposed site was completed and the results submitted to the Maryland Historical Trust (MHT) for review.

The examination concluded that no historic properties would be affected. This conclusion was reviewed and the MHT concurred.

I have attached the FCC 602 form and a copy of the MHT concurrence for your consideration.

Please examine and if you have any questions please don't hesitate to contact us. The contact information for the Program Manager is listed below. In any event, we look forward to hearing from you by 18 March 2013.

Thank you for your interest and comments.

Timothy Bowman
Md. Department of Natural Resources Police
580 Taylor Ave.
Annapolis, Md. 21401
443-336-6340-mobile

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, Maryland 21401
http://www.fws.gov/chesapeakebay

March 8, 2013

Ms. Sara N. Dougherty
Senior Geologist
Dewberry
600 Parsippany Road, Suite 301
Parsippany, NJ 07054-3715

RE: Proposed Black Walnut Point Communications Tower on Tilghman Island, Talbot County, Maryland

Dear Ms. Dougherty:

This responds to your letter, received January 7, 2013, requesting information on the presence of species which are federally listed or proposed for listing as endangered or threatened within the vicinity of the above referenced project area. We have reviewed the information you enclosed and are providing comments in accordance with section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

Except for occasional transient individuals, no federally proposed or listed endangered or threatened species are known to exist within the project impact area. Therefore, no Biological Assessment or further section 7 Consultation with the U.S. Fish and Wildlife Service is required. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

This response relates only to federally protected threatened or endangered species under our jurisdiction. For information on the presence of other rare species, you should contact Lori Byrne of the Maryland Wildlife and Heritage Division at (410) 260-8573.

Effective August 8, 2007, under the authority of the Endangered Species Act of 1973, as amended, the U.S. Fish and Wildlife Service (Service) removed (delist) the bald eagle in the lower 48 States of the United States from the Federal List of Endangered and Threatened Wildlife. However, the bald eagle will still be protected by the Bald and Golden Eagle Protection Act, Lacey Act and the Migratory Bird Treaty Act. As a result, starting on August 8, 2007, if your project may cause "disturbance" to the bald eagle, please consult the "National Bald Eagle Management Guidelines" dated May 2007.

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If any planned or ongoing activities cannot be conducted in compliance with the National Bald Eagle Management Guidelines (Eagle Management Guidelines), please contact the Chesapeake Bay Ecological Services Field Office at 410-573-4573 for technical assistance. The Eagle Management Guidelines can be found at: **http://www.fws.gov/migratorybirds/issues/BaldEagle/NationalBaldEagleManagementGuidelines.pdf.**

In the future, if your project can not avoid disturbance to the bald eagle by complying with the Eagle Management Guidelines, you will be able to apply for a permit that authorizes the take of bald and golden eagles under the Bald and Golden Eagle Protection Act, generally where the take to be authorized is associated with otherwise lawful activities.

An additional concern of the Service is wetlands protection. Federal and state partners of the Chesapeake Bay Program have adopted an interim goal of no overall net loss of the Basin's remaining wetlands, and the long term goal of increasing the quality and quantity of the Basin's wetlands resource base. Because of this policy and the functions and values wetlands perform, the Service recommends avoiding wetland impacts. All wetlands within the project area should be identified, and if construction in wetlands is proposed, the U.S. Army Corps of Engineers, Baltimore District, should be contacted for permit requirements. They can be reached at (410) 962-3670.

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interests in these resources. If you have any questions or need further assistance, please contact Trevor Clark at (410) 573-4527.

Sincerely,

G. LaRouche

Genevieve LaRouche
Supervisor

Dougherty, Sara

From: Bowman, Timothy R [TBowman@dnr.state.md.us]
Sent: Tuesday, March 19, 2013 12:54 PM
To: Dougherty, Sara
Cc: 'Ciampolillo, Amanda'
Subject: FW: communication's tower, Black Walnut Point FCC form 620 consulting party,

Sara,
Here is the e-mail from Talbot County Historical and I just received the Keweenaw response. Could you send me your fax number and I will send to you immediately.

Tim

From: Martin Sokolich [mailto:msokolich@talbgov.org]
Sent: Thursday, March 14, 2013 1:13 PM
To: Bowman, Timothy R
Subject: RE: communication's tower, Black Walnut Point FCC form 620 consulting party,

Mr. Bowman,
Thanks on behalf of the Talbot County Historic Preservation Commission for the opportunity to comment on the proposed communications tower at black Walnut Point.
The Commission agrees with the findings of the Maryland Historical Trust that the facility will have no direct effect on historic resources in the vicinity.
Sincerely,

Martin

~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~
Martin Sokolich
Long Range Planner
Talbot County Department of Planning and Permits
215 Bay St, Suite 2
Easton, MD 21601-2782
410-770-8032
This e-mail and any files attached are confidential and intended solely for the use of the addressee.

From: Bowman, Timothy R [mailto:TBowman@dnr.state.md.us]
Sent: Monday, March 11, 2013 9:02 AM
To: Martin Sokolich
Cc: 'Dougherty, Sara'
Subject: communication's tower, Black Walnut Point FCC form 620 consultingparty,

Mr. Sokolich,
In response to your request to be a consulting party for the radar/communication's tower proposed by the Md. Natural Resources Police for Black Walnut Point, Tilghman Island, I have attached the completed FCC form 620 and the concurrence from the Maryland Historical Trust as to no historic properties in area of direct effect and no historic properties in area of visual effect.
Thank you for your interest and concern on this project, I have placed my contact information, including my cell phone number on the cover letter to you and the historical commission if there are any follow-up questions you might have.

Regards,

Tim Bowman
~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

Keweenaw Bay Indian Community
Tribal Historic Preservation Office
and Language Program

16429 Beartown Road
Baraga, Michigan 49908-9210
thpo@kbic-nsn.gov, jgoyen@kbic-nsn.gov, gloonsfoot@kbic-nsn.gov
Phone: 906-353-6278, Phone: 906-353-4178, Fax: 906-353-7540

March 12, 2013

RE: TCNS Notification ID#: 84953.

Ahhnii Boozhoo (Hello!, Greetings!);
The KBIC Tribal Historic Preservation Office has identified no properties of interest regarding religious or cultural sites documented at this time in your proposed location. If the scope of work changes in any way, or if artifacts or human remains are discovered, please notify the KBIC THPO immediately.
Please forward any future consultation requests for review of project proposals pursuant to Section 106 of the National Historic Preservation Act to KBIC THPO, Keweenaw Bay Indian Community Tribal Historic Preservation Office or through email at gloonsfoot@kbic-nsn.gov or jgoyen@kbic-nsn.gov and keep us informed of future projects as we continue our efforts to identify and document historic, archaeological and traditional cultural sites in the area so we can assist in making an appropriate determination.

Chi-Miigwech (Big Thank You)
Gary F. Loonsfoot, Jr., Director of Cultural Resources
Juliet K. Goyen, THPO/NAGPRA Technician

Miigwech!
Gary F. Loonsfoot, Jr. & Juliet K. Goyen
"If you take care of the language, the spirit-keeper of the language will take care of you."

Appendix C:
Floodplain Management Checklist

EXECUTIVE ORDER 11988 and 11990

FLOODPLAIN MANAGEMENT – CHECKLIST (44 CFR Part 9)

FACILITY NAME: Black Walnut Point Communications Tower, PSGP Project 2009-PU-T9-K003

APPLICANT: Maryland Department of Natural Resources

PROPOSED ACTION: The project involves the construction of a 140-foot tall self-supporting tower to hold/maintain a radar unit, a surveillance camera, and microwave antenna. The tower is to be located at 4417 Black Walnut Point Road, Black Walnut Point, Tilghman Island, Maryland, in support of the Maritime Law Enforcement Information Network (MLEIN). An Environmental Assessment has been developed for this project.

APPLICABLILITY: Actions which have the potential to affect floodplains or their occupants, or which are subject to potential harm by location in floodplains.

☐ **YES**	☒ **NO**	The proposed action could potentially adversely affect the floodplain.
☒ **YES**	☐ **NO**	The proposed action could potentially be adversely affected by the floodplain.

Remark: The proposed project is located within the 100-year floodplain. The tower will be placed on concrete supported piers to minimize ground disturbance and allow water to flow freely through the site.

IF ANSWER IS NO, REVIEW IS COMPLETED, OTHERWISE CONTINUE WITH REVIEW.

CRITICAL ACTION:

☐ **YES** **Review against 500 Year floodplain**
X **NO** **Review against 100 Year floodplain**

STEP NO. 1 **Determine whether the proposed action is located in the 100-year floodplain (500-year floodplain for critical actions);**

☒ **YES** ☐ **NO** The project is located within the 100-year floodplain.

IF ANY OF THE ANSWERS ARE YES, CONTINUE WITH THE FOLLOWING STEPS, OTHERWISE REVIEW IS COMPLETE.

STEP NO. 2 **Notify the public at the earliest possible time of the intent to carry out an action in a floodplain, and involve the affected and interested public in the decision-making process.**

☒ Notice will be published by the applicant.

Remark: Per state requirements, the applicant will publish a notice of the project in a newspaper of general circulation when the Environmental Assessment is made available for public review.

STEP NO. 3 **Identify and evaluate practicable alternatives to locating the proposed action in a floodplain (including alternatives sites, actions and the "no action" option). If a practicable alternative exists outside the floodplain, FEMA must locate the action at the alternative site.**

Alternative Options

☐ **YES**	☒ **NO**	Is there a practicable alternative site location outside of the 100-Year floodplain?
☐ **YES**	☒ **NO**	For Critical actions, is there a practicable alternative site location outside of the 500-Year floodplain?
☐ **YES**	☒ **NO**	Is there a practicable alternative site location outside of the 100-Year floodplain that will not affect the floodplain?

Remark: Alternative locations were evaluated in the Environmental Assessment, but dismissed due to being time and cost prohibitive. In addition, alternative locations had security challenges, resulted in insufficient transmission strength, or were too close to residential buildings. The vast majority of Black Walnut Point and Tilghman Island sit within the floodplain.

☐ **YES**	☒ **NO**	Is there NO Action alternative the most practicable alternative?

Remark: The No-Action alternative would not meet the requirements to improve communications for public safety in this region of Maryland.

IF ANY ANSWER IS YES, THEN FEMA SHALL TAKE THAT ACTION AND THE REVIEW IS CONCLUDED.

STEP NO. 4 **Identify the potential direct and indirect impacts associated with the occupancy or modification of floodplains and the potential direct and indirect support of floodplain development that could result from the proposed action. 44CFR Part 9.10**

☐ **YES**	☒ **NO**	Is the Proposed Action based on incomplete information?
☐ **YES**	☒ **NO**	Does the proposed action increase the risk of flood loss?
☐ **YES**	☒ **NO**	Will the proposed action result in an increased base discharge or increase the flood hazard potential to other properties or structures?

☒ **YES**	☐ **NO**	Does the proposed action minimize the impact of floods on human health, safety and welfare? **Remark:** Yes, the construction of the tower greatly improves public safety communication. Insufficient communication systems during future disasters could lead to further health, safety, and welfare concerns.
☐ **YES**	☒ **NO**	Will the proposed action induce future growth and development, which will potentially adversely affect the floodplain? **Remark:** No, the proposed project is the construction of a radar tower in an area devoid of residential development.
☐ **YES**	☒ **NO**	Does the proposed action involve substantial dredging and/or filling of a floodplain?
☐ **YES**	☒ **NO**	Will the proposed action result in the discharge of pollutants into the floodplain?
☐ **YES**	☒ **NO**	Does the proposed action avoid long and short-term adverse impacts associated with the occupancy and modification of floodplains?
☐ **YES**	☒ **NO**	Will the proposed action result in any indirect impacts that will affect the natural values and functions of floodplains?
☐ **YES**	☒ **NO**	Will the proposed action forego an opportunity to restore the natural and beneficial values served by floodplains?
☐ **YES**	☒ **NO**	Does the proposed action restore and/or preserve the natural and beneficial values served by floodplains?
☐ **YES**	☒ **NO**	Will the proposed action result in an increase to the useful life of a structure or facility?

STEP NO. 5 Minimize the potential adverse impacts and support to or within floodplains to be identified under Step 4, restore and preserve the natural and beneficial values served by floodplains.

☐ **YES**	☒ **NO**	Were flood hazard reduction techniques applied to the proposed action to minimize the flood impacts if site location is in the 100-Year floodplain?
☐ **YES**	☒ **NO**	Were avoidance and mitigation measures applied to the proposed action to minimize the short and long term impacts on the 100-Year floodplain? **Remark:** Impervious surfaces will be limited to the three contact points for the tower on the ground, which will be on piers supported with underground concrete. The use of only the contact points instead of a full base will allow water to flow freely through the site.
☐ **YES**	☒ **NO**	Were measures implemented to restore and preserve the natural and beneficial values of the floodplain. **Remark:** None/Not Applicable. The amount of the tower that will actually be present in the floodplain is very small. Any disturbed vegetation will be replaced. The applicant will apply BMPs for soil erosion prevention and containment during staging of equipment and project activities.

STEP NO. 6 **Reevaluate the proposed action to determine first, if it is still practicable in light of its exposure to flood hazards, the extent to which it will aggravate the hazards to others, and its potential to disrupt floodplain values and second, if alternatives preliminarily rejected at Step 3 are practicable in light of the information gained in Steps 4 and 5. FEMA shall not act in a floodplain unless it is the only practicable location.**

☒ **YES**	☐ **NO**	The action is still practicable at a floodplain site in light of the exposure to flood risk and ensuing disruption of natural values. **Remark:** The proposed action involves the construction of a radar tower that will allow for increased communication for public safety in the area. Project will not, on both a long-term or short-term basis, adversely impact base flood levels, floodplain functions, resources, or characteristics. The proposed action remains practicable based on the design elements incorporated to minimize floodplain impacts, and the minimal overall impact to floodplains. It would not aggravate flood hazards nor disrupt floodplain values.
☒ **YES**	☐ **NO**	The floodplain site is the only practicable alternative.
☒ **YES**	☐ **NO**	There is no potential for limiting the action to increase the practicability of previously rejected non-floodplain sites and alternative sites.
☒ **YES**	☐ **NO**	Minimization of harm to or within the floodplain can be achieved using all practicable means.
☒ **YES**	☐ **NO**	The action in a floodplain clearly outweighs the requirement of E.O. 11988.

STEP NO. 7 **Prepare and provide the public with a finding and public explanation of any final decision that the floodplain is the only practicable alternative.**

☐	Final Notice was provided as part of the floodplain notice. See EO 11988 checklist.
☒	Notice will be provided as part of the Environmental Assessment Public Notice. **Remark:** A public notice will be published informing the public of FEMA's decision to proceed with the project. This notice will include rationale for floodplain impacts; a description of all significant facts considered in making the determination; a list of the alternatives considered; a statement indicating whether the action conforms to State and local floodplain protection standards; a statement indicating how the action affects the floodplain; and a statement of how mitigation will be achieved.

STEP NO. 8 **Review the implementation and post - implementation phases of the proposed action to ensure that the requirements stated in Section 9.11 are fully implemented. Oversight responsibility shall be integrated into existing processes.**

☒ **YES** ☐ **NO** Was Grant conditioned on review of implementation and post-implementation phases to insure compliance of EO 11988?

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