



STEVEN L. BESHEAR
GOVERNOR

**TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY HERITAGE COUNCIL**

MARCHETA SPARROW
SECRETARY

THE STATE HISTORIC PRESERVATION OFFICE
300 WASHINGTON STREET
FRANKFORT, KENTUCKY 40601
PHONE (502) 564-7005
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www.heritage.ky.gov

MARK DENNEN
EXECUTIVE DIRECTOR AND
STATE HISTORIC PRESERVATION OFFICER

December 13, 2010

Mr. Gregory D. Rawlings
Transportation Specialist
U. S. Department of Transportation
Federal Highway Administration
330 West Broadway
Frankfort, KY 40622

Re: Rowan and Elliott Counties/KY 32 Widening Project, KYTC Item No. 9-192

Dear Mr. Rawlings:

Pursuant to Section 106 of the National Historic Preservation Act of 1966 (16 U. S. C. Sec. 470f) and implementing regulations at 36 C. F. R. Part 800, the Kentucky State Historic Preservation Office received for review and comment a description of the methodology to determine the Area of Potential Effect for this project, along with maps showing the proposed boundaries for the APE. Based on the information provided, it appears that the APE is adequate to cover direct, indirect, and cumulative effects at this time. We appreciate the comments in the APE attachment that allow for the possibility of revisions to the APE in the future as the project is further developed. If you have questions, please contact Vicki Birenberg of my staff at (502) 564-7005, extension 127.

Sincerely,

Mark Dennen
Executive Director and
State Historic Preservation Officer

cc: David Waldner – KYTC - DEA
Rebecca Turner – KYTC – DEA

MD:vmb





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LINDY CASEBIER
ACTING EXECUTIVE DIRECTOR AND
STATE HISTORIC PRESERVATION OFFICER

January 13, 2012

Mr. David Waldner, P. E., Director
Division of Environmental Analysis
Kentucky Transportation Cabinet
200 Mero Street
Frankfort, KY 40622

Re: Historic Architectural Eligibility Study: KY 32 Alternatives Between KY 504 at Elliottville in Rowan County to KY 747 in Newfoundland, Elliott and Rowan Counties, KY, Item No. 9-192.00

Dear Mr. Waldner:

Pursuant to Section 106 of the National Historic Preservation Act of 1966 (16 U. S. C. Sec. 470f) and implementing regulations at 36 C. F. R. Part 800, the Kentucky State Historic Preservation Office received for review and comment the above-referenced eligibility report completed by Marvin Brown of URS Corporation. Of 88 identified sites, only one was previously surveyed. This site, RW-15, was listed in the National Register of Historic Places in 1998. Five other sites were recommended as eligible for the National Register of Historic Places: RW-190, EL-26, EL-32, EL-38, and EL-51. We concur with the author's findings of eligibility for these sites. If you have questions, please contact Vicki Birenberg of my staff at (502) 564-7005, extension 127.

Sincerely,

Lindy Casebier
Acting Executive Director and
State Historic Preservation Officer

cc: Rebecca Turner – KYTC - DEA

LC:ymb



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LINDY CASEBIER
ACTING EXECUTIVE DIRECTOR AND
STATE HISTORIC PRESERVATION OFFICER

February 23, 2012

Mr. David Waldner, P. E., Director
Division of Environmental Analysis
Kentucky Transportation Cabinet
200 Mero Street
Frankfort, KY 40622

Re: **Consulting Party Status**
KY 32 Elliottville to Sandy Hook Improvement Project
Rowan and Elliot Counties, Kentucky
Item No. 9-1071-00
192.00

Dear Mr. Waldner:

Pursuant to Section 106 of the National Historic Preservation Act of 1966 (16 U. S. C. Sec. 470f) and implementing regulations at 36 C. F. R. Part 800, the Kentucky State Historic Preservation Office received for review and comment requests from both Terry (Gene) Johnson and Cecil Ison to become consulting parties on the above-referenced project. We concur that both qualify and endorse their approval. If you have questions, please contact Vicki Birenberg of my staff at (502) 564-7005, extension 127.

Sincerely,

Lindy Casebier
Acting Executive Director and
State Historic Preservation Officer

cc: Rebecca Turner – KYTC - DEA

LC:vmb



STEVEN L. BESHEAR
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MARK DENNEN
EXECUTIVE DIRECTOR AND
STATE HISTORIC PRESERVATION OFFICER

February 22, 2012

Mr. David Waldner, P. E., Director
Division of Environmental Analysis
Kentucky Transportation Cabinet
200 Mero Street
Frankfort, KY 40622

Re: Consulting Party Status – KY 32 Elliottville to Sandy Hook Improvement Project
Rowan and Elliott Counties, Kentucky
Item No. 9-1071:00
192.00

Dear Mr. Waldner:

Pursuant to Section 106 of the National Historic Preservation Act of 1966 (16 U. S. C. Sec. 470f) and implementing regulations at 36 C. F. R. Part 800, the Kentucky State Historic Preservation Office received for review and comment a request for consulting party status from Ms. Vivian Wagner. We concur that Ms. Wagner is qualified to be a consulting party on this project.

If you have questions, please contact Phillip Johnson of my staff at (502) 564-7005, extension 122.

Sincerely,

Lindy Casebier
Acting Executive Director and
State Historic Preservation Officer

cc: Rebecca Turner – KYTC - DEA

LC:prj

MEETING MINUTES

PROJECT: KY 32 – Elliottville to Newfoundland
PURPOSE: Consulting Parties Meeting #1
PLACE: Rowan County Fiscal Court, Morehead, KY
MEETING DATE: May 24, 2012
PREPARED BY: Tom Springer
IN ATTENDANCE:

Name	Organization
Judge/Executive Nickell	Rowan County Fiscal Court
Judge/Executive Fannin	Elliott County Fiscal Court
Cecil Ison	Consulting Party
Vivian Wagner	Consulting Party
Vickie Birenberg	Kentucky Heritage Council
Phil Johnson	Kentucky Heritage Council
Rachel Catchings	KYTC, District 9
Darrin Eldridge	KYTC, District 9
Karen Mynhier	KYTC, District 9
Dan Davis	KYTC, DEA
Rebecca Turner	KYTC, DEA
Marvin Brown	URS, via conference call
Kevin Dant	URS
Tom Springer	Qk4

Tom Springer, Qk4, welcomed everyone to the meeting, and asked that participants introduce themselves and explain the reasons for their involvement in the consulting party process for the project. Following introductions, Mr. Springer stated the focus and goals for the meeting: to discuss historic sites in the area and the Area of Potential Effect for the project. Prior to the meeting the consulting parties were mailed a digital (.pdf) version of the Eligibility Report on a CD.

The PowerPoint presentation provided an overview of the various environmental laws, including the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act, and others that must be followed for this project to use federal funds. The presentation also included an overview of the Area of Potential Effect (APE), and the sites currently listed in, and believed to be eligible for listing in, the National Register of Historic Places (see PowerPoint Presentation, Attachment A).

Following the presentation the discussion involved the information in the Eligibility Report. Prior to the discussion Mr. Davis noted that the archaeology research, which falls under the Section 106 process, has not yet been conducted, but will be conducted after a preferred alternative is identified and before that alternative is selected as final. A summary of the points made and questions asked by the consulting parties follows.

Eligibility and Other Questions

- **Site RW-220, Slone-Johnson House.** It was noted that his house was not 50-years old; rather, it was built in the late 1970's to early 1980's. It was built out of older material and therefore gave the appearance of being older. The Eligibility Report did not identify a date the structure was built, and noted that the "extensive state of deterioration...indicates that it has been vacant for many years." This site was not recommended as potentially eligible. No changes or actions are needed based on this new information.
- **Site RW-203, Cecil Binion Store and House.** Cecil Ison (1) noted that the barn (Plat 144, building G) has since been removed from this site, and (2) questioned the determination of not eligible, noting that the only modification to the house was an interior wall that could be removed. Project historian Marvin Brown noted that this was a "borderline" site and overall did not have the integrity to meet National Criteria listing. Mr. Ison stated he did not dispute that determination but that the site gives a sense of the overall ridge top community. No changes or actions are needed based on this information.
- **Site EL-68, Flanery Log House.** Vivian Wagner noted that this house is no longer on this site, it has been razed. The Eligibility Report noted that this site had lost its integrity and was not recommended to be eligible for listing in the National Register. No changes or actions are needed based on this information.
- **Parcel 312.** It was noted by Vivian Wagner that this, which is located along the south side of KY 32, just south of Site EL-37 (Dr. Wales Brown Hospital Site Walls) is a house that is over 50 years old that was not addressed in the baseline study. Ms. Wagner also noted that the house had been recently remodeled and looked much newer and modern. Due to these modifications the site appeared to be less than 50 years old and was therefore not evaluated by project historian Marvin Brown.

Note: following the meeting information on the site was reviewed, and it was determined that it would not meet any of the criteria for listing in the National Register. No changes or actions are needed based on this information.

- **Scenic Byway Designation.** Mr. Ison asked if KY 32 had been identified as a scenic byway, and if viewsheds were being considered for this project. KYTC officials noted that the road was not a designated scenic byway, but they also noted that viewsheds and aesthetic considerations have been identified as an important part of this project by the local stakeholders, and will continue to be considered during the final design phases of the project.

Note: following the meeting, it was discovered in that in 2000 the Elliott County Tourism Development Council and Elliott County Fiscal Court filed a Scenic Byway application to the KYTC; however, the application was not approved by the KYTC Scenic Highways and Byways Program.

- **Rural Historic Landscape.** Mr. Ison question if a rural historic landscape determination had been considered for this area. Ms. Turner noted that it was considered, but not documented or shared with the SHPO's office. She stated that due to the intrusion of modern houses (mostly ranches and mobile homes) that the integrity of the rural historic landscape had been compromised and found to be not consistent. Mr. Ison requested that the information be documented and shared with the SHPO's office for their opinion and consideration.

Note: following the meeting, Mr. Brown noted that he was unable to hear the entire discussion about the rural landscape determination. He then noted that on pages 9 through 15 of the Eligibility Report, the issue of the rural historic landscape is presented. The discussion summarizes the National Register's *Guidance for Evaluating and Documenting Rural Historic Landscapes*, includes several pictures from the corridor, and concludes that "the APE does not constitute a rural historic landscape." Attachment B includes these pages from the Eligibility Report.

Next Steps

- Mr. Springer noted that following this meeting, minutes would be distributed, and the consulting parties would be asked to comment on the minutes, and any additional information in the Eligibility Report. Future involvement, either by mail or by meeting, would be conducted regarding potential effects to the historic sites by the build alternatives.
- When asked when a decision will be made about which alternative would be selected, it was noted that a preferred alternative would not be selected until all the information is taken into account and a public hearing is held. Prior to then the KYTC will likely identify a recommended alternative, which will be identified as such in the Environmental Assessment and at the public hearing.

The meeting concluded at approximately 12:00 pm (noon).

END OF MINUTES

Attachments: A – PowerPoint Presentation
B—Pages 9-15, October 17, 2011 Eligibility Report regarding the rural historic landscape

THS

cc: Attendees

File No. U:\10403 - KY 32\Docs\Environmental\S106 - Section 106 - CH\CP Mtg #1 - May 2012\2012-05-24 CP Mtg 1 - minutes v1.doc

ATTACHMENT A
MAY 24, 2012 POWERPOINT PRESENTATION

KY 32 Reconstruction
KYTC Item No.: 9-192
 Elliottville to Newfoundland

**First Section 106
 Consulting Parties
 Meeting**

May 24, 2012

Meeting Objectives:

1. **Review NEPA Process**
2. **Review Section 106 Process**
 - A. **Review and Discuss Area Of Potential Effects (APE)**
 - B. **Review and Discuss Eligibility of Properties**

NEPA

National Environmental Policy Act

- Enacted in 1969
- Requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions
- Is required for all projects with any federal involvement
- Three types of documents: CE, EA/FONSI, EIS

NEPA Requires:

- **Avoidance** of impacts to resources
- **Minimization** of impacts to resources
- **Mitigation** for unavoidable impacts
- **Enhancement** for resources

Areas Evaluated for NEPA Compliance

<ul style="list-style-type: none"> • Cultural Historic • Archaeology • Streams • Wildlife • Wetlands • Hazardous Materials • Visual 	<ul style="list-style-type: none"> • Endangered Species • Air Quality • Noise • Socioeconomic • Environmental Justice • Communities • Indirect & Cumulative
--	--

Regulations

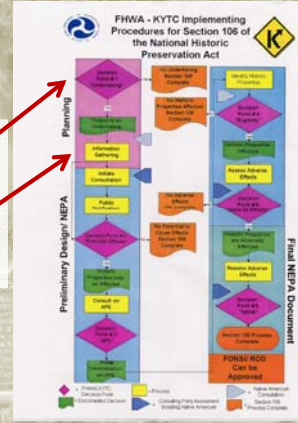
- Clean Air Act
- Clean Water Act (Sections 401 and 404)
- Endangered Species Act (Section 7 and Section 10)
- **National Historic Preservation Act (Section 106)**
- **State Antiquities Act**
- Resource Conservation and Recovery Act
- Safe Drinking Water Act
- Comprehensive Environmental Response, Compensation and Liability Act

Regulations Continued:

- Title IV of the Civil Rights Act
- Executive Order 12898 (Environmental Justice)
- Farmland Protection Act
- **Native American Graves Protection and Repatriation Act**
- Section 6(f) of the Land and Water Conservation Fund Act
- **Section 4(f) of the Department of Transportation Act**
- And Others ...

Section 106 Process

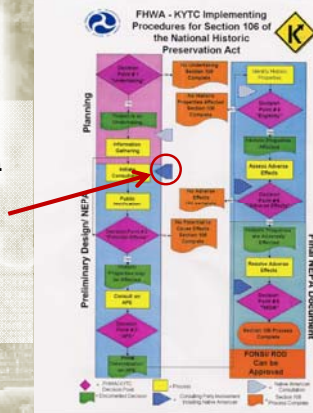
1. **Undertaking?**
Yes
2. **Information Gathering**
Underway



Section 106 Process

3. **Initiate Consultation**

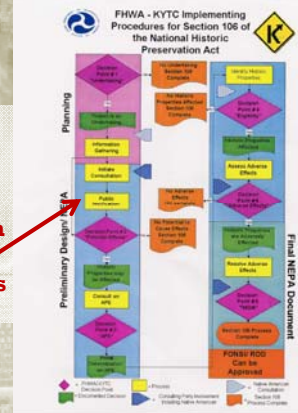
2010 began request for Consulting Parties



Section 106 Process

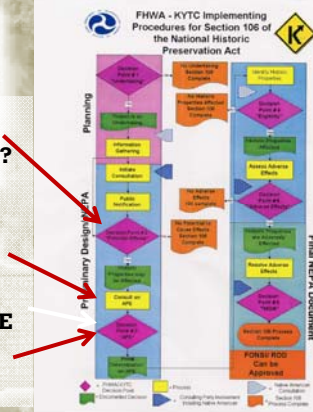
4. **Public Notification**

Notice placed in ads and at Public Meetings



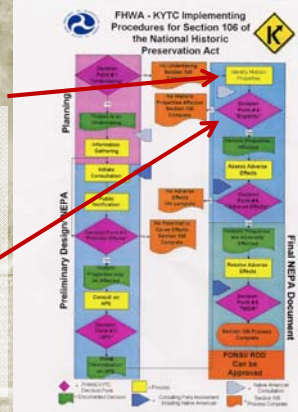
Section 106 Process

5. **Potential Effect?**
Yes
6. **Consult on APE**
Yes
7. **Decision on APE**
Yes



Section 106 Process

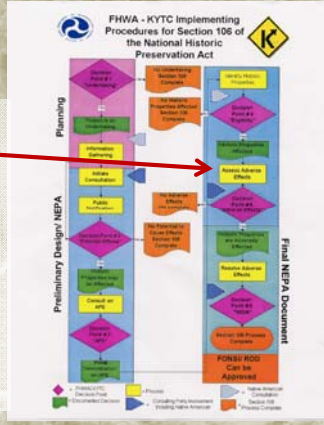
8. **Identify Historic Properties**
Objective of today's meeting
9. **Decision on Eligibility**
After today's meeting



Section 106 Process

10. Assess Adverse Effects:

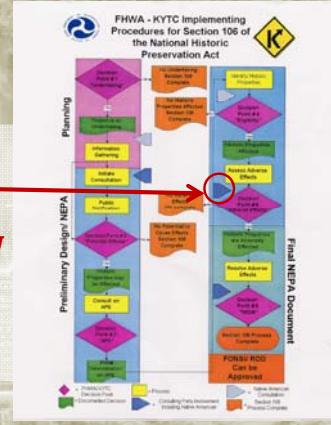
- Obtain consulting party input
- Prepare Draft Effects Determination
- Reviewed by KYTC Historian
- Sent to SHPO for Comment



Section 106 Process

11. Presented to Consulting Parties

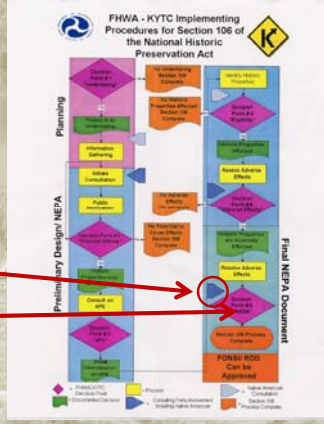
Next Consulting Parties Consultation (meeting or by letter)



Section 106 Process

12. If Adverse Effects: Identify Mitigation or Enhancements to "Resolve Adverse Effects" Hold CP Mtg.

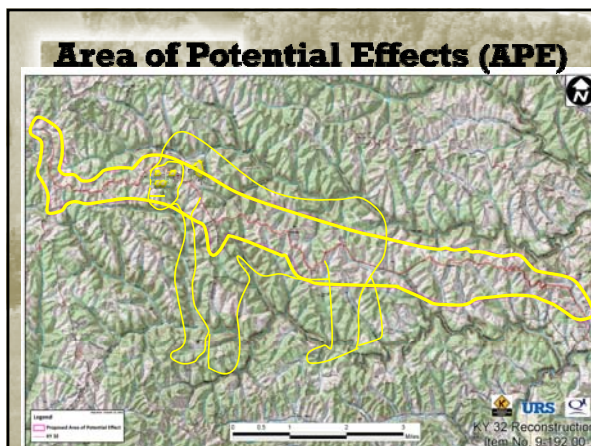
13. Write MOA Signed by KYTC, SHPO, and FHWA



Area of Potential Effects (APE)

Definition: "the **geographic area** or areas within which an undertaking may directly or indirectly cause alteration 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." 36 CFR 800.16(d)

Area of Potential Effects (APE)



What's Listed in the NRHP?

- ⊙ Districts, sites, buildings, structures, objects that ...
 - ✓ Are **significant** in American history
 - ✓ Are generally at least **50 years old**
 - ✓ Retain enough **integrity** to convey meaning and importance
 - ✓ Meet one or more of the four **Criteria of Eligibility**

Criteria of Eligibility





Properties that...

A — Are associated with **events** that have made a significant contribution to the broad patterns of our history

B — Are associated with the **lives of persons** significant in our past

C — Embody **characteristics** of a type, period or construction method; represent a **master's work**; have high **artistic** value


D — Have yielded or may yield important **information** about prehistory or history (generally applies to Archaeology)

Sites within the KY 32 APE

NRHP Status. . .


- **Listed – 1 site**
 - #4 Hogtown Voting House (RW-15), listed in 1998.
- **Potentially Eligible – 5 Sites**
 - Elliottville School (RW-190)—A
 - Black-Caudill Log House (EL-26)—C
 - H.H. Johnson House and Store (EL-32) (Ordinary)—C
 - Montgomery and Mary Crockett House (EL-38)—C
 - Concord School (EL-51)—A
- **Considered Not Eligible – 82 Sites**



Sites within the KY 32 APE

NRHP Status. . .

- **Listed – 1 site**
 - #4 Hogtown Voting House (RW-15), listed in 1998.
- **Potentially Eligible – 5 Sites**
 - Elliottville School (RW-190)—A
 - Black-Caudill Log House (EL-26)—C
 - H.H. Johnson House and Store (EL-32) (Ordinary)—C
 - Montgomery and Mary Crockett House (EL-38)—C
 - Concord School (EL-51)—A
- **Considered Not Eligible – 82 Sites**



ATTACHMENT B

OCTOBER 17, 2011 KY 32 ELIGIBILITY REPORT
PAGES 9—15 REGARDING A RURAL HISTORIC LANDSCAPE



Plate 9. Looking southeast down toward KY 32 from Brown Cemetery (EL-35)

On a ridge with occasional panoramic views into the valleys to the north and south, the rural landscape of the APE and its surroundings is often striking. It is not, however, the agriculture-related rural historic landscape it was as recently as the 1980s. It is marked in large measure by the following integrity-challenging changes identified in the National Register's *Guidelines for Evaluation and Documenting Rural Historic Landscapes* (McClelland, Keller, Keller, and Melnick 1989):

- deterioration, abandonment, and relocation of historic buildings and structures;
- substantial alteration of buildings and structures (remodeling, siding, additions);
- replacement of structures such as dams, bridges, and barns; and
- construction of new buildings and structures.

More succinctly, the landscape no longer appears to possess, in the words of the *Guidelines*, “a significant concentration, linkage, or continuity of areas of land use, vegetation, buildings and structures, roads and waterways, and natural features” (Plate 6, Plate 10 through Plate 20). There are modern gas stations/convenience stores in Elliottville and on Hogtown Hill in Rowan County and in Newfoundland in Elliott County. There are numerous modern mobile homes, ranch houses, garages, and other houses and subsidiary buildings throughout the APE. And, as the photographs in the inventory indicate, many of the earlier buildings within the APE have been substantially altered through remodeling, re-siding, and additions. Others have been abandoned and have heavily deteriorated. With so many of its historic standing resources replaced or substantially altered, its tobacco fields and overall agriculture base gone, and its many modern ranch houses, mobile homes, and other intrusions, the APE is a no-longer-cultivated rural landscape that has lost the integrity that sustains historic significance. It is therefore recommended that the APE does not constitute a rural historic landscape.



Plate 10. Looking east at modern buildings along KY 32 at western end of APE opposite Elliottville School (RW-190), which is just beyond image at left



Plate 11. Looking south along KY 504 toward intersection with KY 32 in Elliottville; Roe House (RW-192) at right



Plate 12. Looking west toward modern houses on east side of KY 32 south of Mabry Road in Rowan County; Lewis Outbuildings (RW-196) at far right and at left across KY 32



Plate 13. Looking northwest in Rowan County along KY 32 from intersection with KY 173 at modern buildings on left; Moore Farm (RW-201) at right beyond stop sign



Plate 14. Looking east along KY 32 at modern residences at mile marker 18 in Rowan County



Plate 15. Looking northeast along KY 32 east of Mabry Road at modern houses and store in Rowan County



Plate 16. Looking northwest along KY 32 at Outbuildings (EL-29) and modern houses in Elliott County



Plate 17. Looking west from Kentucky 32 at modern houses at left and at right in far distance at mile marker 6 in Elliott County



Plate 18. looking north from Kentucky 32 at modern buildings along Thornsberry Road in Elliott County



Plate 19. Looking south down Simmons Loop Road from KY 32 near eastern end of APE in Elliott County; Burley Tobacco Barn (EL-71) with rusted metal roof is in trees at left



Plate 20. Looking northeast along Old Route 7 from intersection with Kentucky 32 at modern resources in Newfoundland at eastern end of APE



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GOVERNOR

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LINDY CASEBIER
ACTING EXECUTIVE DIRECTOR AND
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October 4, 2012

David M. Waldner, P.E.
Director
Division of Environmental Analysis
Kentucky Transportation Cabinet
200 Mero Street
Frankfort, KY 40601

Re: Determination of Effects Report for: Kentucky 32 Alternatives between KY 504 at Elliottville in Rowan County to KY 747 in Newfoundland, Elliott and Rowan Counties, Kentucky (Item No. 9-192.00)

Dear Mr. Waldner:

The Kentucky Heritage Council has received for review and comment the above referenced Determination of Effects Report completed by QK4 and the URS Corporation. A previous Determination of Eligibility Report was commented on by this office on January 13, 2012. In those comments, we concurred that the following sites were either eligible for or listed in the National Register of Historic Places: RW-15, RW-190, EL-26, EL-32, EL-38, and EL-51. In addition, we now concur with the following determinations of effect recommended by the FHWA as well:

Alternative 1A: **No Effect** to RW-15, RW-190, EL-32, EL-38, and EL-51 and **Adverse Effect** to EL-26.

Alternative 1B: **No Effect** to RW-15, RW-190, EL-32, EL-38, and EL-51 and **No Adverse Effect** to EL-26.

Alternative 2A: **No Effect** to RW-15, RW-190, EL-32, EL-38, and EL-51 and **No Adverse Effect** to EL-26.

Alternative 3: **No Effect** to RW-15, RW-190, EL-26, EL-32, EL-38, and EL-51 and **No Adverse Effect** to EL-26 and EL-38.

Thank you for coordinating with this office. We look forward to continued consultation under the Resolution of Adverse Effects phase should Alternative 1A be selected as the preferred. If you have any questions please contact Craig Potts of my staff at (502) 564-7005, ext. 123.

Sincerely,

Lindy Casebier
Acting Executive Director and
State Historic Preservation Officer

C: Gregory D. Rawlings (FHWA), file/cap