



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

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OFFICE OF THE
REGIONAL ADMINISTRATOR

May 8, 2006

Pamela J. Chandler, Chief
Site Selection and Environmental Review Branch
Federal Bureau of Prisons
320 First Street, N.W.
Washington, DC 20534

Re: Draft Environmental Impact Statement Proposed Federal Correctional Institution, Berlin,
New Hampshire (CEQ# 20060096)

Dear Ms. Chandler:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, we have reviewed the Federal Bureau of Prisons' (BOP) Draft Environmental Impact Statement (DEIS) for a Proposed Federal Correctional Institution in Berlin, New Hampshire.¹

The proposed action described in the DEIS consists of the development of a medium-security Federal Correctional Institution that would house approximately 1,230 adult inmates along with a minimum-security prison camp to house 128 adult inmates. Ancillary facilities mentioned in the DEIS include administrative buildings, prison industry, central utility plant, training facilities, firing range, warehouses, and a water storage tank. The DEIS documents the growing need for additional bedspace capacity within the northeast and that the City of Berlin has expressed willingness to host such a facility.

EPA appreciates the efforts by the Bureau of Prisons and its consultants to coordinate with EPA staff and other state and federal agencies during a number of meetings related to the wetlands permitting for the project. We appreciate the opportunity to comment on the project and to work with the BOP and the Corps as the project advances through the NEPA and Section 404 reviews.

The attachment to this letter describes issues and questions related to wetland impacts and energy efficiency that we believe need to be addressed in the FEIS. We have rated the DEIS "EC-2-

¹EPA will offer additional specific comments on the project in response to the Army Corps of Engineers Clean Water Act Section 404 Public Notice when it is issued.

Environmental Concerns–Insufficient Information” in accordance with EPA’s national rating system, a description of which is attached to this letter. Please contact Timothy Timmermann (617-918-1025) of EPA’s Office of Environmental Review with any questions.

Sincerely,



Robert W. Varney
Regional Administrator

attachment

Additional Detailed Comments on the DEIS for the Federal Bureau of Prisons Proposed Federal Correctional Institution, Berlin, New Hampshire

Wetlands

Environmental Setting

The proposed prison development site is adjacent to Horne Brook which flows, less than a mile downstream, into the Androscoggin River. Wetlands within the study area provide valuable wildlife habitat and function to maintain water quality. Much of the study area remains forested despite some recent logging. Riparian corridors and wetlands help maintain viable wildlife populations by adding to the natural connectivity of habitats. Far ranging aquatic mammals, such as long-tailed weasels, mink, and river otters, as well as upland species, such as fisher, commonly use riparian habitats for hunting and travel.

Alternatives

We believe the DEIS provides sufficient information to satisfy the off-site alternatives analysis required by EPA's 404 (b)(1) Guidelines" (40 CFR Part 230). The DEIS is not as specific in its discussion of the impacts of potential on-site alternatives. For example, the DEIS states that the project will fill between 3 and 17 acres of wetlands, and temporarily impact another 6 - 12 acres of wetlands. We have been told verbally during interagency meetings that the impacts will likely be on the low end of that scale but that is not reflected in the DEIS discussion. We believe additional information can be provided in the FEIS that more fully describes the aquatic impacts associated with the proposed project. In addition to more specific information about potential wetland impacts, we believe the FEIS should present additional information to more fully describe the mitigation plan to address unavoidable wetland impacts from the project.

Impact Assessment

- Vernal Pools--It is not clear from the DEIS whether a vernal pool and Natural Heritage survey has been completed at the site. If so, the results should be reported; if not, we recommend that this survey be completed in and near (within 200') the expected impact areas to more fully describe the potential impacts of the project.
- Temporary Impacts--It would also be helpful to know which impacts are considered temporary. For example, are constantly cleared areas for prison safety being termed temporary impacts? Perhaps indirect impacts might be a better term.

Mitigation

This project will cause a substantial biological impact given the large size of the impact and the indirect effects. The project will directly impact flood storage, water quality, and wildlife habitat. Over 150 acres of land will be altered, including 140 acres of upland and approximately 3 - 17 acres of wetland and streams. The clearing of land for prison safety will also add to the

total impacts. We assume that this total includes the estimate of temporary impacts of 6 - 12 acres of wetland, but it is not clear from the document. Further, the project will indirectly impact additional wetlands by placing roads and development adjacent to wetlands and cause fragmentation to wetlands such as F (47 acres) and P (60 acres).

During interagency discussions, EPA has encouraged the BOP to restore wetlands in protected areas or protect sizeable upland buffers along valuable aquatic resources away from the site in a location that would have important long term value. Since upland buffers are crucial for the maintenance of water quality and wildlife habitat functions of wetlands, we believe that this approach would be an effective way to mitigate for impacts to the aquatic environment. While there is relatively little detail in the DEIS regarding the mitigation plan it generally describes plans to protect 450 - 500 acres of land, but it does not supply a map showing the location and how it will be protected. We suggest that the FEIS provide additional information to more fully describe the approach to mitigation for the project including measures to describe how these lands will be protected in perpetuity (whether through a conservation easement or some other mechanism). The DEIS also offers general comments regarding enhancement and restoration, but does not provide enough information that we could offer specific comments at this point in time. In general, while EPA encourages restoration and enhancement as part of the mitigation plan, the plan must be designed in such a manner that functioning parts of upland ecosystems are not unduly compromised in the process. EPA looks forward to working with the BOP and Corps of Engineers to help develop an appropriate mitigation plan to address aquatic impacts of the project.

Energy Efficiency

Page I-19 of the DEIS discusses Energy Conservation and Recycling. The discussion focuses almost entirely on recycling and mentions energy conservation only briefly. Given the description of the facility, and the existing utility infrastructure, EPA suggests that the BOP explore the option of a thermally led cogeneration project on site to provide hot water and some amount of the facility's electricity. Combined heat and power applications are typically the most efficient use of energy resources since the production of electricity usually uses only about 30 - 40% of the energy content of the fuel, whereas combined heat and power applications are often over 80% efficient. In addition to the environmental benefits associated with more efficient use of fuel, the BOP may also achieve savings related to reduced electricity purchases from their local electric utility, and the utility may be able to defer costly transmission upgrades that would otherwise be required to serve such a large customer. EPA, the DOE and other organizations in New England can also provide free resources to evaluate the technical and financial feasibility of such an option.²

² Please contact John Moskal of the EPA Region 1 Energy Team at 617-918-1826 for additional information.

EPA strongly encourages the BOP to use green building design principles as it plans the prison. Other energy efficiency measures such as energy efficient lighting, motors and pumps should be installed to reduce energy costs and save taxpayer dollars. The BOP may also want to consider the installation of solar PV panels and/or a wind turbine at the facility to provide some of the facilities' electricity.

Summary of Rating Definitions and Follow-up Action

Environmental Impact of the Action

LO--Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1--Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2--Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3--Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.