

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Before Commissioners: Edward J. Gleiman, Chairman;
George A. Omas, Vice Chairman;
Dana B. Covington; Ruth Y. Goldway;
And W. H. "Trey" LeBlanc, III

In the Matter of:

Roanoke, WV 26423 :
(Robert J. Conley, Petitioner) :

Docket No. A2000-1

BRIEF OF INTERVENOR OLIVER R. POSEY
FOLLOWING PRODUCTION OF ADMINISTRATIVE RECORD

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Letter from J. Rudy Henley, dated March 3, 2000	unnumbered
News Release from Benchmark Hospitality, dated July 6, [2000]	unnumbered

CASES AND AUTHORITIES

CONSTITUTIONAL AMENDMENT CITED:

Fifth Amendment of the United States Constitution
(Page 8)

CODE CITED:

39 U.S.C. § 101(b)	(Page 12)
39 U.S.C. § 404(b)(1)	(Page 8)
39 U.S.C. § 404(b)(2)	(Page 12)
39 U.S.C. § 404(b)(5)	(Page 11, 12)

REGULATIONS CITED:

39 C.F.R. § 241.3(a)	(Page 12)
39 C.F.R. § 241.3(d)	(Page 8, 9)
39 C.F.R. § 241.3(g)	(Page 11)

CASES CITED:

Memphis Light, Gas & Water Division v. Craft, 98 S.Ct. 1554, 1562 (1978).
(Page 8)

Mullane v. Central Hanover Bank & Trust Co., 70 S.Ct. 652, 657 (U.S. 1950).
(Page 9)

Richardson v. Perales, 402 U.S. 389, 401 (1971).
(Page 12)

SUPPORTING DOCUMENTATION

The following documents are used for reference to supplement the administrative record provided by the U.S. Postal Service.

FILED BY POSTAL SERVICE

Motion to Dismiss Proceedings

Statement of Explanation by United States Postal Service Regarding Filing of Administrative Record

FILED BY INTERVENOR

Intervenor's Response to Motion to Dismiss

Exhibit I-1 – Affidavit of Oliver R. Posey

Exhibit I-4 – Letter from J. Rudy Henley, dated March 3, 2000

Exhibit I-5 – News Release from Benchmark Hospitality, dated July 6, [2000]

FILED BY PETITIONER

Participant Statement

INTERVENOR'S STATEMENT OF THE CASE

In 1983, the U.S. Postal Service sent a cover letter and questionnaires to the patrons of the temporarily suspended Roanoke, WV Post Office. The cover letter solicited comments regarding service prior to the suspension, current service, and the effect officially closing would have on the community. The questionnaire, which patrons were asked to complete and return, was silent to the issue of whether or not the post office should be closed. The Postal Service, always "acutely attuned to the needs and interests of its customers,"¹ gave patrons five entire days to complete and return the questionnaire. A Proposal to Close the Temporarily Suspended Roanoke, WV Post Office was made in early 1984 and the Final Determination to Close the post office was made in December 1984. The final determination was appealed to the Postal Rate Commission. Well over one hundred patrons of the Roanoke Post Office sent letters to the Postal Rate Commission indicating opposition to the closure. The final determination was set aside because the finding was not supported by substantial evidence. In the late 1980s, the Postal Service made a superficial attempt to locate a site to construct a new Roanoke Post Office.

The Postal Service decided in 1996 that it would again attempt to close the Roanoke Post Office.² A proposal to close the Roanoke, West Virginia Post Office was allegedly posted on July 7, 1997. A Final Determination to close the post office was allegedly posted on March 4, 1998. The people served by the Roanoke Post Office did not receive proper notice of the proposal or the final determination. Robert J. Conley

¹ See Statement of Explanation by United States Postal Service Regarding Filing of Administrative Record, Docket No. A2000-1, Roanoke, West Virginia 25423 (June 16, 2000), footnote 3.

² Item 26.

(petitioner) filed an appeal of that Final Determination with the Postal Rate Commission (Commission) on or about April 21, 2000. The Commission accepted the appeal by order issued on May 10, 2000. The Commission ordered the Postal Service to file the administrative record in the matter by May 25, 2000 and established a procedural schedule. On or about May 16, 2000, the Postal Service filed a Motion to Dismiss Proceedings. The motion was accompanied by a limited administrative record consisting of a one page copy of Postal Bulletin 21984 (November 5, 1998), labeled as Exhibit 1; a one page cover sheet of the final determination to close the post office, labeled as Exhibit 2; and a one page cover sheet of the revised proposal to close the post office, labeled as Exhibit 3. On June 2, 2000, intervenor Oliver R. Posey (intervenor) filed his Notice of Intervention with the Commission and his response to the Postal Service's Motion to Dismiss. In support of his response, the intervenor submitted his affidavit, labeled as Exhibit I-1. On June 16, 2000, the Postal Rate Commission issued Order No. 1296, denying the Postal Service's Motion to Dismiss and again ordering production of the administrative record. The record was filed on June 23, 2000.

Because proper notice was not given regarding the proposed closing or the final determination, the due process rights of the intervenor and other persons served by the Roanoke Post Office were violated. The administrative record that has now been filed by the Postal Service establishes that the final determination to close the Roanoke, WV Post Office is arbitrary, capricious, and an abuse of discretion and not supported by substantial evidence. Therefore, this matter should be remanded to the Postal Service for further consideration.

**INTERVENOR'S POSITION
AS TO THE MERITS OF THE FINAL DETERMINATION**

The Postal Service alleges that a proposal to close the Roanoke, West Virginia Post Office was posted at the Walkersville/Crawford Post Office from July 7, 1997 to September 19, 1997. The Postal Service states that no comments were received and alleges that a Final Determination to close the post office was posted at the Walkersville/Crawford Post Office from March 4, 1998 to April 6, 1998. The Postal Service further states that no appeal was filed within the 30-day period following the posting of the Final Determination. The intervenor has no reason to dispute the Postal Service's position that no comments were made in regards to the proposed closure. However, the intervenor contends that the reason no comments were made on the proposed closing was that the people served by the Roanoke Post Office did not receive proper notice of the proposal as mandated by constitutional amendment, statute, regulation, and case law. Therefore, the intervenor was denied his right to present his views on the proposed closure. The intervenor further contends that the Postal Service failed to consider the proper factors in closing the Post Office. The intervenor also contends that proper notice was not given of the final determination of the Postal Service to close the Roanoke Post Office so the time limits for appealing the final determination did not begin to run. Therefore, the final determination should be set aside and returned to the Postal Service for reconsideration upon the proper factors and after proper notice has been given to the affected parties.

DISCUSSION

NOTICE OF PROPOSED CLOSURE

The intervenor contends that he did not receive proper notice of the proposed closure of the Roanoke Post Office. The Fifth Amendment of the United States Constitution guarantees all citizens due process of law. The Due Process Clause mandates that notice is proper only if it informs the affected parties of the action to be taken against them and it informs those parties of the procedures available for challenging that action.³ The Postal Service failed to meet the proper notice (procedural) requirements in effectuating the closure of the Roanoke, WV Post Office.

The Postal Service has alleged that, in 1997, it proposed to close the Roanoke, West Virginia Post Office. To effectuate the closure, the Postal Service must comply with certain procedural and substantive requirements. The constitutional principle of the Fifth Amendment is codified at 39 U.S.C. § 404(b)(1) which provides that the Postal Service "...shall provide adequate notice of its intention to close or consolidate such post office at least 60 days prior to the proposed date of such closing or consolidation to persons served by such post office to ensure that such persons will have an opportunity to present their views." Regulations promulgated as a result of this statute specify that the proposal to close the post office and an invitation for comments shall be posted prominently **in the affected post office.**⁴ (emphasis added). In its prior Motion to Dismiss, the Postal Service has, in effect, conceded that it did not comply with the regulations. The Postal Service contends that it posted the notice in the Walkersville/Crawford Post Office, the post office providing alternative service for the

³ *Memphis Light, Gas & Water Division v. Craft*, 98 S.Ct. 1554, 1562 (1978).

⁴ 39 C.F.R. § 241.3(d)(1).

Roanoke Post Office. Because the regulations make no express provision for posting the notice in the post office providing alternative service, the Postal Service must take any other steps necessary to inform the affected public of the nature of the proposed action.⁵

The Postal Service cannot establish, based only on its submission of a cover sheet from the proposal to close the post office, that notice was provided to the people served by the Roanoke Post Office. In *Mullane v. Central Hanover Bank & Trust Co.*, the United States Supreme Court stated, "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections."⁶ The "efforts" of the Postal Service to provide notice to the affected people fell well short of this requirement. The petitioner contends that there was no notice of the proposed closing in the local newspaper and no notice in the patrons' mailboxes.⁷ Indeed, if the number of people actually affected by the closure is as small as the Postal Service alludes to in its Motion to Dismiss⁸, then actual written notice to the individuals served by the Roanoke Post Office appears to be the necessary and reasonable way of noticing these people whose post office had been temporarily suspended.

The Walkersville/Crawford Post Office is located near Walkersville, West Virginia. The Postal Service has alleged that Walkersville, West Virginia is "the nearest

⁵ 39 C.F.R. § 241.3(d)(3).

⁶ *Mullane v. Central Hanover Bank & Trust Co.*, 70 S.Ct. 652, 657 (U.S. 1950).

⁷ Participant's Statement.

⁸ Motion to Dismiss.

large community” to Roanoke.⁹ The Postal Service conspicuously failed to note that Crawford and Walkersville are small towns that have no significant businesses to draw people to them and that are not near an interstate or commerce center.¹⁰ The Postal Service also failed to point out that Roanoke is about the same distance from Walkersville as it is from Weston – the commerce center of the area.¹¹ Several patrons of the Roanoke Post Office notified the Postal Service that the Crawford Post Office was inconveniently located for Roanoke residents.¹² Crawford is located eight miles from Roanoke and Walkersville is located eleven miles from Roanoke,¹³ so the inconvenience is even greater now that the post office is at Walkersville. Some patrons expressly stated that they did not use the Crawford Post Office or that they regularly used another post office or even a different delivery service because of the great inconvenience of the location of the Crawford Post Office.¹⁴ Therefore, it is reasonable to conclude that the Postal Service had a good basis for knowing that posting the documents in the Walkersville/Crawford Post Office would not provide notice to the affected patrons. Even with this information available, the Postal Service took no other steps to insure that the patrons knew of its plan. Accordingly, there is no reasonable basis for assuming that posting a notice in the Walkersville/Crawford Post Office would notice those people served by the Roanoke Post Office of the planned closure.

Even if the Walkersville/Crawford Post Office was found to be the proper location to post the notice, the Postal Service has failed to show that the notice was posted

⁹ Motion to Dismiss.

¹⁰ Exhibit I-1; Item 23, p. 37, 133.

¹¹ Exhibit I-1; Item 23, p. 37.

¹² Item 10, p.2, 4, 6, 8, 12, 14, 18, 20, 22, 24, 34, 47, 44, 50, 55, 59, 77, 79, 82. See also Item 23, p. 37, 76, 80, 82, 92, 95, 99, 100, 107, 109, 114, 127, 129, 130, 135, 137, 138, 150, 151, 152, 162, 181, 184, 188, 194.

¹³ Item 21, p. 6.

¹⁴ Item 10, p. 4, 18, 36, 47, 50, 55, 59, 77, 82; Item 23, p. 135, 151, 194.

prominently or that it provided the required information. The administrative record simply shows a date-stamped cover sheet from the alleged proposal posting.¹⁵ There was no affidavit to show the manner or location in which the notice was posted.

NOTICE OF FINAL DETERMINATION

As was the case with the notice of the proposed action, the Postal Service failed to comply with its mandatory duty to provide proper notice of its Final Determination. The Postal Service must post a copy of the Final Determination prominently in the affected post office.¹⁶ The Final Determination was allegedly posted in the Walkersville/Crawford Post Office¹⁷ rather than the affected post office, there is no affidavit or supporting documentation to establish the manner or location in which the notice was posted and there is no evidence to establish that the Postal Service took the steps necessary to insure that the people served by the Roanoke Post Office were aware of the action proposed by the Postal Service. Therefore, notice of the Final Determination was not proper.

The time for filing an appeal of a final determination runs thirty (30) days after the proper notice of the Final Determination.¹⁸ The post office cannot be discontinued any less than sixty (60) days after proper notice has been given.¹⁹ Because proper notice was not provided, the time for filing an appeal did not begin to run, and implementation of the closure was improper.

¹⁵ Item 37.

¹⁶ 39 C.F.R. § 241.3(g)(1)(i).

¹⁷ Motion to Dismiss.

¹⁸ 39 U.S.C § 404(b)(5).

¹⁹ 39 C.F.R. § 241.3(g)(2).

BASIS FOR FINAL DETERMINATION

In making a determination whether or not to close a post office, the Postal Service must consider 1) the effect on the community; 2) the effect on employees of the post office; 3) compliance with the policy, set forth in 39 U.S.C. § 101(b), of providing a high level of postal service to rural patrons; 4) the economic savings to the Postal Service; and 5) any other factor the Postal Service determines is necessary.²⁰ Nothing in the regulations suggests that the Postal Service can disregard consideration of any of the specifically listed factors. A determination of the Postal Service to close a post office must be based on substantial evidence.²¹ Substantial evidence is "more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."²² The Postal Service failed to show by substantial evidence that it considered the community effect that closure would have. The postal statute also requires that the final determination of the Postal Service be neither arbitrary nor capricious.²³ In this case, the final determination of the Postal Service is both arbitrary and capricious and without support of substantial evidence.

During the appeal of the 1984 closure determination, one disgruntled patron of the Roanoke Post Office indicated that he was "appalled at the fraudulent and underhanded action the post service is taking in efforts to close the post office at Roanoke, West Virginia, zip 26423."²⁴ Although the intervenor is not alleging fraud on the part of the Postal Service, the record shows that the Postal Service has misrepresented the evidence to support its agenda of closing the post office. In its

²⁰ 39 U.S.C § 404(b)(2)(A); 39 C.F.R. § 241.3(a)(2).

²¹ 39 U.S.C § 404(b)(5)(C).

²² *Richardson v. Perales*, 402 U.S. 389, 401 (1971)

²³ 39 U.S.C § 404(b)(5)(A).

²⁴ Item 23, p. 37.

revised proposal, the Postal Service stated that forty-three of the sixty-one responses to questionnaires in 1983 were favorable to discontinuance.²⁵ A review of the questionnaire and the actual responses on the completed questionnaires shows that this representation is blatantly false.²⁶ The questionnaire does not ask the patrons to comment on whether or not the Roanoke Post Office should be closed, and most of the "favorable" responses make no comment for or against closure. If the Postal Service was sincere about its desire to have the patrons of the Roanoke Post Office give their opinion regarding closure, then all it would have had to do was insert one short sentence in its questionnaire – "Do you think the Roanoke Post Office should be closed?" The absence of this specific question suggests that the Postal Service did not actually want written documentation of the opinions of the postal patrons on this issue.

The administrative record shows that the determination is not based on relevant evidence. After the 1984 determination was set aside, the Postal Service implicitly acknowledged, in an internal memorandum, that patrons had not been adequately apprised of the closure and that the final determination did not address the then current status of the Roanoke area.²⁷ The memo suggested that a new questionnaire should be sent out before closure was attempted again.²⁸ Apparently in the decade that passed between the memo and the new push to close the Roanoke Post Office, the Postal Service forgot the deficiencies of the 1984 closure attempt. The result is that the 1998 determination is no more proper than the one made in 1984. The Postal Service ignored, almost completely, the fact that the revised proposal to close the post office

²⁵ Item 37, p. 2.

²⁶ Item 10.

²⁷ Item 23, p. 1.

²⁸ Id.

was made in the late 1990s, not in the early 1980s. No efforts were made to solicit current community opinions. The only community input referred to in the revised proposal is the information regarding the responses received from the 1983 questionnaire.²⁹ The Postal Service did have other evidence before it showing community sentiment that, while many years old, was still more contemporaneous than the evidence the Postal Service relied upon and distorted. That evidence included the one hundred plus letters from Roanoke Post Office patrons who opposed closure.³⁰ The Postal Service did not even mention these letters in the Revised Proposal. Despite the existence of over one hundred letters opposing closure and despite the misrepresentation regarding the responses to the 1983 questionnaires, the Postal Service found that one of the deciding factors for the closure determination was “that the majority of affected customers favor permanent discontinuance of the Roanoke, WV Post Office.”³¹ A finding based on a false premise is clearly improper. The Postal Service did mention the letters obtained during the appeal in the final determination;³² however, it is clear from the revised proposal that the decision had already been made to close the post office and it did not matter what the community effect would be. The Postal Service’s solution to customer’s concerns about mailing packages was to simply leave the package and money at the rural mailbox for pick-up by rural delivery.³³ This solution might have been something patrons would have felt safe doing in the 1960s or 1970s, but the determination was made in 1998 and the risk of theft is dramatically

²⁹ Item 37, p. 2.

³⁰ Item 23.

³¹ Item 37, p. 6.

³² Item 44.

³³ Item 44, p. 4.

increased. This is a poignant example of how the final determination of the Postal Service is unreasonable and out of touch with current community needs.

The Postal Service implies that the dam project depleted the community in the early 1980s.³⁴ However, it is apparent that the Postal Service showed no interest in determining the current status of patrons being served. District Post Office Review Coordinator Sheryl Webb completed a Post Office Closing or Consolidation Proposal Fact Sheet on October 8, 1996.³⁵ In reporting the number of customers served, Ms. Webb used the number from 1982, with no mention of the number of patrons who had a Roanoke address a post office box at another post office in 1996. The Walkersville postmaster completed a Community Survey Sheet on October 31, 1996.³⁶ The Survey Sheet asked specifically for “population growth trends and projections” and “business growth trends.” The postmaster failed to provide this information, choosing to leave the questions unanswered. The Postal Service did acknowledge that two businesses existed in the community at the time – Lakeside Grocery and Stonewall Jackson Lake State Park.³⁷ What the Postal Service failed to mention was the growth expected in the area as a result of the Park. In 1984, West Virginia State Senator William R. Sharpe advised the Postal Rate Commission that new residences and new businesses were being established in the area.³⁸ Senator Sharpe went on to state that the Army Corps of Engineers projected that more than a million people would use the area annually after the project was completed.³⁹ Developer J. Rudy Henley described a \$50 million

³⁴ Motion to Dismiss; Item 37, p. 4; Item 44, p. 6.

³⁵ Item 30.

³⁶ Item 29.

³⁷ Item 28, p. 1; Item 30; Item 37, p. 5; Item 44, p. 6.

³⁸ Item 23, p. 44.

³⁹ Item 23, p. 44.

development at the park that included construction of a lodge, cabins, new campsites, an 18-hole golf course, and a conference center.⁴⁰ Senator Sharpe's 1984 figures regarding expected use of the park are corroborated by the recent news release from Benchmark Hospitality.⁴¹ Consideration of a development of this size right in the middle of the area served by the Roanoke Post Office, along with its expected impact on the surrounding area, certainly should have been a factor that was considered in determining the effect closure would have on the community. The Postal Service's failure to discuss the impact of the park development makes the closure determination arbitrary and capricious.

It would not be fair to say that the Postal Service relied upon absolutely no current information. In 1984, the Final Determination did note that the annual net savings would be \$21,271.⁴² In 1998, the Postal Service pointed out that the annual net savings had increased to \$43,668.⁴³ In view of the Postal Service's failure to obtain updated community opinion by reasonable means such as sending out questionnaires specifically inquiring about closure, its failure to consider the current population of the Roanoke area along with expected growth, and its failure to utilize reasonable steps to make sure that patrons knew of the renewed closure efforts, the use of the updated savings figures suggests that the final determination was not based upon the proper factors, but rather upon a one-sided effort to obtain closure of the Roanoke, WV Post Office.

⁴⁰ Exhibit I-4.

⁴¹ Exhibit I-5.

⁴² Item 21, p. 7.

⁴³ Item 44, p. 7.

The record makes it clear that the Postal Service did not take the steps necessary to inform the affected people of its planned actions, so no input was received from those people. Any final determination made without considering who would be affected and without considering input from those affected patrons, in light of the lack of proper notice, would obviously be arbitrary and capricious. Moreover, the Postal Service failed to support its decision with substantial evidence.

PROPOSED HOLDING

The final determination of the Postal Service to close the Roanoke, West Virginia Post Office is arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with the law; the final determination was made without observance of the procedure required by law; and the final determination is not supported by substantial evidence in the record. Therefore, the matter should be returned to the Postal Service for further consideration. Furthermore, the final determination of the Postal Service should be suspended pending the final disposition of the appeal.

Respectfully submitted,

OLIVER R. POSEY
Intervenor
By counsel



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March 3, 2000

Robin Poling
Administrative Assistant
Lewis County Commission
Post Office Box 466
Weston, WV 26542

Re: Stonewall Jackson Lake State Park

Dear Robin:

The Stonewall Jackson Lake State Park Project is located approximately six miles south of Weston and approximately one and one half miles off Interstate 79 at exit 91. The Lake itself is approximately 2,650 acres and the adjacent managed wildlife area contains approximately 15,000 acres. The new state park resort will provide a major recreational component centered in the rural area of Roanoke, West Virginia. Because of the proximity of the recreational area close to the major north/south thoroughfare of I-79, we believe this will have a significant impact not only on tourist traffic, but also on other economic activity in the immediate area.

The initial phase of our development at Stonewall Jackson Lake includes a 196 unit lodge, ten cabins, and approximately 100 campsites, along with an 18-hole signature golf course, conference center, spa, clubhouse, 374 slip marina, day use area and other similar resort amenities. Our project development costs will total approximately \$50 million in addition to the \$40 million that has already been expended by the State of West Virginia and the U.S. Army Corp of Engineers on recreational facilities at the Roanoke Bay area. The projected opening date for the facility is May, 2001. The projected annual occupancy for the lodge, cabins and campgrounds is in the 70% range. As these statistics indicate, it is anticipated that there will be a significant amount of human traffic generated by the project.

Because of the amount of activity, it would be helpful to our operation if there were a nearby Post Office. This would be convenient not only for guests and staff, but also for people who live in the immediate area. We anticipate that a large volume of business mail will be generated as well as personal mail from conference attendees and guests. We would be pleased to cooperate with your offices as well

Exhibit I-4

as the United States Post Office to explore any possibilities that would enable the establishment of United States Postal Service facilities near the entrance to the Park. Currently postal service customers must travel some distance to a Post Office. We believe that a Post Office near the Park will enhance the services available, and will be a tremendous convenience to the local community as well as to the visitors

If you need further information, please feel free to contact me at 304/347-7520.

Sincerely,



J. Rudy Henley
McCabe Henley Properties L. P.
Project Developer
Stonewall Jackson Lake State Park

JRH/ps



BENCHMARK HOSPITALITY

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For Immediate Release

Official Groundbreaking Held for New Resort at Stonewall Jackson Lake State Park

Senator Byrd Honored at Event

Roanoke, West Virginia (July 6) – Senator Robert C. Byrd, Governor Cecil H. Underwood and other state dignitaries gathered today at Stonewall Jackson Lake State Park to celebrate the official groundbreaking of the new \$50 million resort and conference center currently under construction. Benchmark Hospitality, of The Woodlands, Texas, will operate the resort.

Rudy Henley, a partner with McCabe-Henley-Durbin and the primary developer of the project, said, “This celebration is to recognize the efforts of Senator Byrd, the state of West Virginia, and many other organizations and individuals who have worked tirelessly over the years to make this project a reality.”

John Rader, Director of the WV Division of Natural Resources, noted that the project can serve as a model on how the state can work with a private developer to create a world-class resort.

“This one-of-a-kind public/private partnership will create hundreds of new jobs, infuse millions of dollars in economic development into Lewis County and Central West Virginia, and will result in a resort that will serve millions of visitors from throughout the eastern part of the nation,” he said.

Henley said that West Virginia Governors, both past and present, the state’s Congressional delegation, many West Virginia Legislators, particularly those representing Lewis County, and local community groups, such as the Stonewall Jackson Lake Advisory Committee, have played key roles in assuring the successful development of the resort.

more

Exhibit I-5

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“Senator Byrd,” Henley said, “is the person who made this project possible.” He said that through Byrd’s efforts the state will be able to pay off its debt to the U.S. government for the original project cost by getting credit for its investment in the new and greatly expanded resort.

Henley said, “this is a project where everyone wins and it is a remarkable, yet typical, example of how the Senator works.”

Benchmark Hospitality will operate the 2000-acre lakeside resort complex which will include a 196-guest room lodge with conference center, restaurants, complete fitness center and swimming pool. Other amenities will include guest cottages, additional camping area, and an 18-hole championship golf course. The project is scheduled to be completed in the spring of 2001.

With headquarters in The Woodlands, Texas, Benchmark Hospitality is a recognized leader in resort, conference center, and conference hotel management. For information on Benchmark Hospitality visit their website at www.benchmark-hospitality.com.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice, specifically by mailing true copies to the U.S. Postal Service and to Robert J. Conley, Petitioner, by depositing same in the U. S. Mail, postage paid, on the 11th day of July, 2000.



Clinton G. Bush, Esquire