

March 10, 2020

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Re: Alternatives Analysis for JRWA Project

Dear Mr. Curtis, Mr. Payne, and Ms. Phillips:

On behalf of our client the Monacan Indian Nation, we write to urge the James River Water Authority (JRWA) to:

- defer its planned vote to reject alternatives to the Rassawek location for the pump station project, and
- consider the Forsyth Alternative and conduct additional investigation into this potential route for the water project.

You stated last week that a primary obstacle to your clients' ability or willingness to deviate from current plans is that the Nation has not identified a specific alternative that it might find acceptable.<sup>1</sup> The Nation has now done so.

We understand that Julia and Richard Rose, owners of a large parcel that would provide access from the James River north along a substantial portion of Bremo Road, are willing to work with JRWA to provide access for a more detailed site survey and eventual construction. We have information that neither JRWA nor the Timmons Group has contacted the Roses,

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<sup>1</sup> See [https://www.dailyprogress.com/news/local/consultants-recommend-keeping-pump-station-at-rassawek/article\\_f0067342-332c-597f-9bf7-b691f9f8e99f.html](https://www.dailyprogress.com/news/local/consultants-recommend-keeping-pump-station-at-rassawek/article_f0067342-332c-597f-9bf7-b691f9f8e99f.html) and email correspondence from Mr. Payne to Greg Werkheiser, March 6, 2020.

notwithstanding that JRWA has identified the Forsyth Alternative as one that should be given careful consideration.

The Nation and supporting organizations are prepared to collaborate in good faith with JRWA in the earnest exploration of this alternative. Specifically:

- the Nation is prepared to direct its cultural resources management experts to work with JRWA's consultant, GAI, to ensure the route is evaluated and tested in a timely and accurate manner, and that the resulting information will be accepted as valid by all parties;
- the Southern Environmental Law Center (SELC) has enlisted an independent engineering firm, Aquilogic Inc., to evaluate JRWA's analysis of proposed alternatives<sup>2</sup>, with the ultimate goal of reaching a shared confidence in the conclusions regarding the engineering viability and associated costs projects of the Forsyth Alternative and JRWA's current preferred alternative at the site of Rassawek; and
- the Nation is open to a professionally mediated discussion of the Forsyth Alternative.

JRWA is now presented with a decision: it may either proceed to vote this Wednesday to adhere to the current plan to destroy Rassawek, or it can defer the vote and give closer attention to the Forsyth Alternative in a manner aimed at respecting the Nation's ancestors, history, and culture, and avoiding costly and burdensome litigation.

Should JRWA choose to move forward without more fulsome consideration of the Forsyth Alternative, the Nation and its supporters will have no choice but to conclude that JRWA was never serious about trying to find a viable alternative. State and federal agencies will also likely question whether this effort is in good faith if JRWA proceeds now to move forward with plans to destroy Rassawek.

This letter is not a settlement offer and is not confidential. Nothing in this letter constitutes a waiver of any legal claims the Nation may have against any party, including but not limited to the claim that anticipatory demolition by a JRWA consultant precludes the Army Corps from issuing a permit to JRWA.

We look forward to hearing from you.

Regards,

/s/

Greg Werkheiser  
Attorney for the Monacan Indian Nation

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<sup>2</sup> As of this writing, JRWA has not made its formal alternatives analysis public, instead releasing only a PowerPoint summary of the conclusions of the analysis. The summary, on its face, evidences attempts to create a greater-than-reality gap in projected costs between JRWA's preferred route through the heart of Rassawek and alternatives. We respectfully urge you to make the full alternatives analysis report available immediately and provide the public time to review it before proceeding to vote.