

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Scott E. Bennett
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June 13, 2017

Mr. Angel Correa
Division Administrator
Federal Highway Administration
700 West Capitol, Room 3130
Little Rock, Arkansas 72201-3298

Re: Job Number 040749
FAP Number ER-0024(34)
I-40 Slide Repair (Ozark) (S)
Franklin County
Tier 3 Categorical Exclusion

Dear Mr. Correa:

The Environmental Division has reviewed the referenced project and it falls within the definition of the Tier 3 Categorical Exclusion as defined by the AHTD/FHWA Memorandum of Agreement on the processing of Categorical Exclusions. The following information is included for your review and, if acceptable, approval as the environmental documentation for this project.

The purpose of this project is to repair a slide on Interstate 40 caused by flooding events in the fall and winter of 2015. Total length of the project is 0.1 mile. The slide is located approximately 0.5 mile east of Highway 23 in Franklin County. A project location map is enclosed.

The project will involve using a soil nail wall, a method of landslide stabilization that internally reinforces soil by "nailing" an external wall through the soil to deeper shale or rock. The cross section of Interstate 40 will not change as a result of the proposed project and all work will take place within existing right of way.

There are no relocations, hazardous materials, wetland or stream impacts, prime farmland impacts, or cultural resources associated with this project. There are no *Executive Order 12898* Environmental Justice issues involved with this project. Cultural resources clearance is enclosed. No Section 404 permit will be required.

The United States Fish and Wildlife Service IPaC database determined that five endangered species and three threatened species may occur within the project area. The northern long-eared bat (*Myotis septentrionalis*), gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), Ozark big-eared bat (*Corynorhinus townsendii ingens*), Ozark cavefish (*Amblyopsis rosae*), American burying beetle (*Nicrophorus americanus*), *Geocarpon minimum*, and the spectaclecase mussel (*Cumberlandia monodonta*) were identified as listed species that may occur in the project area. Based on the lack of available/suitable habitat, disturbed environment, and distance to any known species locations it has been determined that the project will have no effect on the listed non-bat species. It has been determined that the proposed project is not likely to adversely affect the listed bat species. Concurrence from the USFWS was received on June 9, 2017, and is enclosed.

Based upon the AHTD's *Policy on Highway Traffic Noise Abatement*, a noise analysis is not required for this project. The project meets the criteria for a Type III project established in 23 CFR 772. Therefore, the project requires no analysis for highway traffic noise impacts. Type III projects do not involve added capacity, construction of new through lanes or auxiliary lanes, changes in the horizontal or vertical alignment of the roadway or exposure of noise sensitive land uses to a new or existing highway noise source. A noise analysis will be required if changes to the proposed project result in reclassification to a Type I project.

If you have any questions, please contact the Environmental Division at 569-2281.

APPROVED

Environmental Specialist
Federal Highway Administration
Date: 6-15-2017

Sincerely,

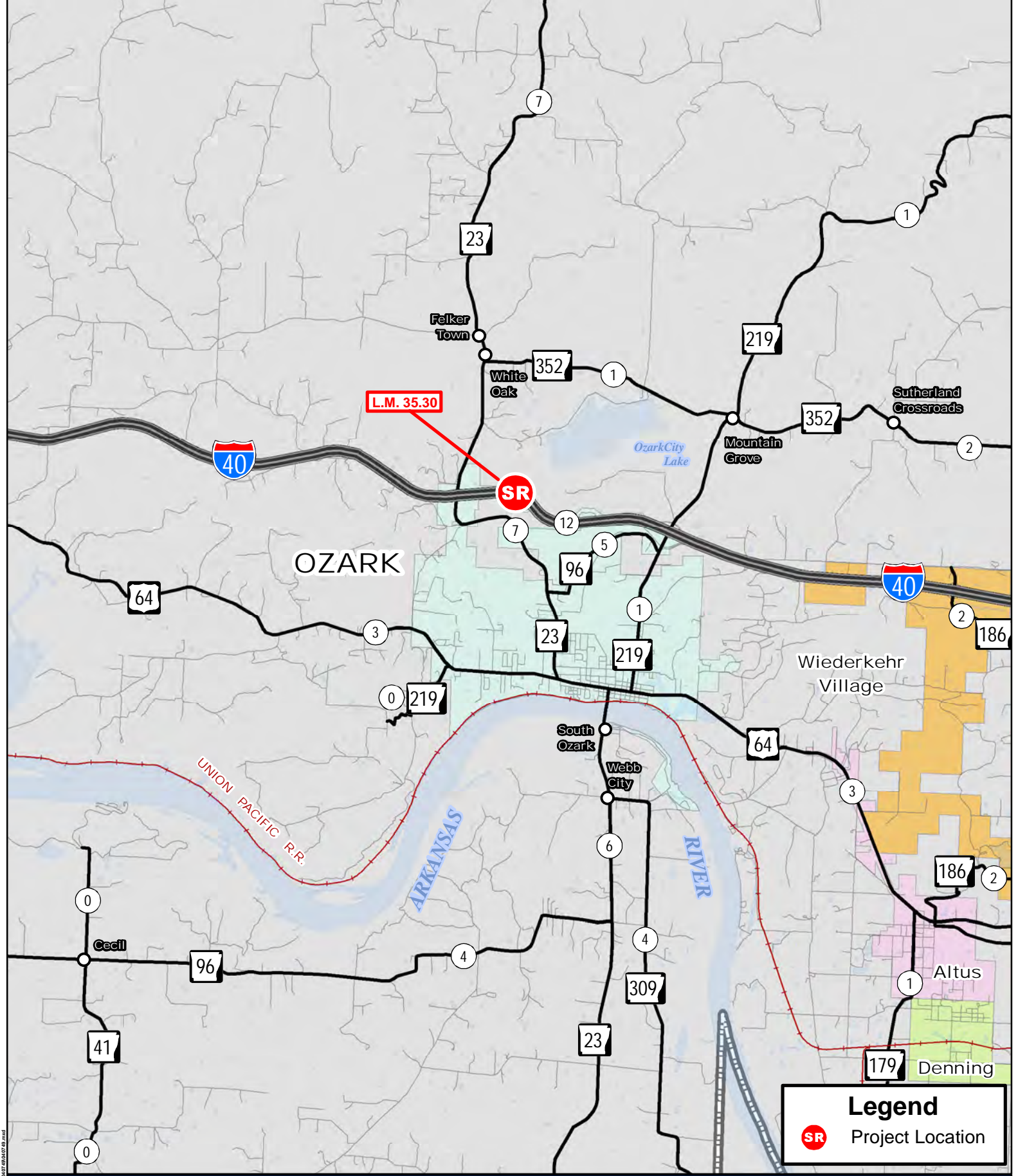


John Fleming
Division Head
Environmental Division

Enclosures

JF:SS:fc

c: Program Management
Right of Way
Roadway Design
District 4
Master File



Job 040749
 I-40 Slide Repair (Ozark) (S)
 I-40, Sec. 12
 Franklin County

PM: PS: cIde014: 5/4/2017




Document Path: \\sart\GIS\Programs\Contract\Sketchup\040749.mxd

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

INTEROFFICE MEMORANDUM

June 7, 2017

TO: Job File

FROM: Richard Jenkins, Cultural Resources 

SUBJECT: Archeological Clearance
AHTD Job Number 040749
I-40 Slide Repair (Ozark) (S)
Franklin County

The Arkansas State Highway and Transportation Department proposes to repair and reconstruct a portion of Interstate 40 due to a roadway slide failure. No new right-of-way will be acquired.

An examination of the Arkansas Archeological Survey's (AAS) records was conducted for previously recorded archeological sites and found no sites are near or within the proposed project. A records evaluation at the Department of Arkansas Heritage (AHPP) for National Register listed structures revealed no structures listed on the National Register. The Watalula topographic quadrangle map was examined for cemeteries, likely historic structures, and landforms conducive to hold archeological sites. The 1838 General Land Office map showed no cultural development near the project. The 1936 Franklin County Highway map shows no structures near this project.

The proposed road improvements will occur in previously disturbed areas inside the current highway right-of-way. No cultural resources will be impacted. This project is subject to the 1999 MOA and falls under the exempted Work Category "Safety Improvements." The project is not considered an undertaking and requires no further work or Section 106 review.



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Arkansas Ecological Services Field Office
110 South Amity Suite 300
Conway, AR 72032-8975
Phone: (501) 513-4470 Fax: (501) 513-4480
<http://www.fws.gov/arkansas-es>

In Reply Refer To:

June 08, 2017

Consultation Code: 04ER1000-2017-SLI-0858

Event Code: 04ER1000-2017-E-01255

Project Name: I-40 Slide Repair (Ozark)

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies endangered, threatened, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). **This letter only provides an official species list and technical assistance; if you determine that listed species and/or designated critical habitat may be affected in any way by the proposed project, even if the effect is wholly beneficial, consultation with the Service will be necessary.**

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found on our website.

Please visit our website at <http://www.fws.gov/arkansas-es/IPaC/home.html> for species-specific guidance to avoid and minimize adverse effects to federally endangered, threatened, proposed, and candidate species. Our web site also contains additional information on species life history and habitat requirements that may be useful in project planning.

If your project involves in-stream construction activities, oil and natural gas infrastructure, road construction, transmission lines, or communication towers, please review our project

specific guidance at <http://www.fws.gov/arkansas-es/IPaC/ProjSpec.html>.

The karst region of Arkansas is a unique region that covers the **northern third of Arkansas** and we have specific guidance to conserve sensitive cave-obligate and bat species. **Please visit <http://www.fws.gov/arkansas-es/IPaC/Karst.html> to determine if your project occurs in the karst region and to view karst specific-guidance.** Proper implementation and maintenance of best management practices specified in these guidance documents is necessary to avoid adverse effects to federally protected species and often avoids the more lengthy formal consultation process.

If your species list includes any mussels, Northern Long-eared Bat, Indiana Bat, Yellowcheek Darter, Red-cockaded Woodpecker, or American Burying Beetle, your project may require a presence/absence and/or habitat survey prior to commencing project activities. Please check the appropriate species-specific guidance on our website to determine if your project requires a survey. We strongly recommend that you contact the appropriate staff species lead biologist (see office directory or species page) prior to conducting presence/absence surveys to ensure the appropriate level of effort and methodology.

Under the ESA, it is the responsibility of the Federal action agency or its designated representative to determine if a proposed action "may affect" endangered, threatened, or proposed species, or designated critical habitat, and if so, to consult with the Service further. Similarly, it is the responsibility of the Federal action agency or project proponent, not the Service, to make "no effect" determinations. If you determine that your proposed action will have "no effect" on threatened or endangered species or their respective critical habitat, you do not need to seek concurrence with the Service. Nevertheless, it is a violation of Federal law to harm or harass any federally-listed threatened or endangered fish or wildlife species without the appropriate permit.

Through the consultation process, we will analyze information contained in a biological assessment that you provide. If your proposed action is associated with Federal funding or permitting, consultation will occur with the Federal agency under section 7(a)(2) of the ESA. Otherwise, an incidental take permit pursuant to section 10(a)(1)(B) of the ESA (also known as a habitat conservation plan) is necessary to harm or harass federally listed threatened or endangered fish or wildlife species. In either case, there is no mechanism for authorizing incidental take "after-the-fact." For more information regarding formal consultation and HCPs, please see the Service's Consultation Handbook and Habitat Conservation Plans at www.fws.gov/endangered/esa-library/index.html#consultations.

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, **the accuracy of this species list should be verified after 90 days.** This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and

implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. **Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.**

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Arkansas Ecological Services Field Office

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

Project Summary

Consultation Code: 04ER1000-2017-SLI-0858
Event Code: 04ER1000-2017-E-01255
Project Name: I-40 Slide Repair (Ozark)
Project Type: TRANSPORTATION
Project Description: Repair slide along Interstate 40
Project Location:

Approximate location of the project can be viewed in Google Maps:

<https://www.google.com/maps/place/35.52158306305945N93.85103957698065W>



Counties: Franklin, AR

Endangered Species Act Species

There is a total of 9 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area. Please contact the designated FWS office if you have questions.

Mammals

NAME	STATUS
<p>Gray Bat (<i>Myotis grisescens</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329</p>	Endangered
<p>Indiana Bat (<i>Myotis sodalis</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5949</p>	Endangered
<p>Northern Long-eared Bat (<i>Myotis septentrionalis</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045</p>	Threatened
<p>Ozark Big-eared Bat (<i>Corynorhinus (=Plecotus townsendii ingens)</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7245</p>	Endangered

Fishes

NAME	STATUS
<p>Ozark Cavefish (<i>Amblyopsis rosae</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6490</p>	Threatened

Clams

NAME	STATUS
<p>Spectaclecase (mussel) (<i>Cumberlandia monodonta</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7867</p>	Endangered

Insects

NAME	STATUS
American Burying Beetle (<i>Nicrophorus americanus</i>) Population: Ex Pop, SW Missouri No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/66	Experimental Population, Non-Essential
American Burying Beetle (<i>Nicrophorus americanus</i>) Population: Wherever found, except where listed as an experimental population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/66	Endangered

Flowering Plants

NAME	STATUS
Geocarpon minimum No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7699	Threatened

Critical habitats

There are no critical habitats within your project area.

From: [Lindsey Lewis](#)
To: [Bailey, William](#)
Subject: Re: Bat Clearance 040749
Date: Friday, June 09, 2017 9:13:45 AM

Bill,

The Service does not have any information indicating that there are any federally listed species in the affected area of this action due to the habitat type, disturbed environment, and distance to any known species locations. Therefore, the Service concurs with AHTD's assessment and determination for the listed species identified.

Thanks,

Lindsey Lewis
Biologist
US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501)513-4489 - voice
(501)513-4480 - fax
Lindsey_Lewis@fws.gov

> On Jun 8, 2017, at 2:03 PM, Bailey, William <William.Bailey@ahtd.ar.gov> wrote:

>

> Lindsey....please review the attached Google Earth map and let us know if you concur with our determination. The outlined section of Interstate 40 in Franklin County is gradually sliding and construction of this project will return the proposed area to its pre-existing condition. There are no streams or wetlands that will be impacted due to the construction of this project. The USFWS IPaC database determined that 5 endangered species and 3 threatened species may occur within the project area. The gray bat, Indiana bat, Northern long-eared bat, Ozark big-eared bat, Ozark cavefish, American burying beetle, Geocarpon minimum, and the spectaclecase mussel may be located within the construction limits of the proposed project. Due to the lack of available/suitable habitat, orientation of the proposed project to the existing interstate ROW, and distance to known locations of the listed species it our determination that the project will have no effect on the listed non-bat species. It is our determination that the proposed project is not likely to adversely affect the listed bat species.

> <[GoogleEarth_Placemark.kmz](#)>

> <[USFWS Species List.pdf](#)>

AHTD ENVIRONMENTAL IMPACTS ASSESSMENT FORM

AHTD Job Number 040749 FAP Number ER-0024(34)
 Job Title I-40 Slide Repair (Ozark)

Environmental Impacts	None	Minor	Significant	Comments
Air Quality	X			
Construction Impacts		X		Minor during construction
Cultural Resources	X			
Economic	X			
Endangered Species		X		USFWS concurrence 6/9/17
Energy Resources	X			
Environmental Justice/Title VI	X			
Fish and Wildlife	X			
Floodplains	X			
Forest Service Property	X			
Hazardous Materials/Landfills	X			
Land Use Impacts	X			All work within existing right of way
Migratory Birds	X			
Navigation/Coast Guard	X			
Noise Levels	X			
Prime Farmland	X			
Protected Waters	X			
Public Recreation Lands	X			
Public Water Supply/WHPA	X			
Relocatees	X			
Section 4(f)/6(f)	X			
Social	X			
Underground Storage Tanks	X			
Visual Impacts	X			
Stream Impacts	X			
Water Quality	X			
Wetlands	X			
Wildlife Refuges	X			

Section 401 Water Quality Certification Required? No
 Short-term Activity Authorization Required? No
 Section 404 Permit Required? No Type None

Remarks: _____

Signature of Evaluator *Don Hurd* Date June 13, 2017