



February 22, 2018

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

Re: Job Number 090517  
FAP Number HSIP-0003(17)  
Izard Co. Line - Hwy. 62 (Safety  
Impvts.) (Sel. Secs.) (S)  
Baxter 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 ARDOT/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 improve safety on selected sections of Highway 5 in Baxter County. Proposed improvements include adding shoulders and rumble stripes; surface treatments; replacing and extending guardrails; and updating signage. Additional improvements include adding a two-way left turn lane and widening existing lanes within a 1.6-mile long roadway section. Total project length is 18.16 miles. A project location map is enclosed.

The existing roadway consists of two 11' wide paved travel lanes with either no shoulders or shoulders less than 1' wide. The average existing right of way is 120' wide.

A pavement overlay along with centerline and shoulder rumble stripes will be included with the construction of 2' wide shoulders for most of the project. High friction surface treatment will be applied and guardrails will be replaced and

extended in selected sections. Existing signage at or near the end of expected service life will also be replaced. A 12' wide two-way turn lane extending from 0.3 mile south of the Mountain Home city limit to the Highway 62 interchange is proposed. Existing travel lanes within this section will be widened to 12', and 6' wide shoulders (4' paved and 2' gravel) will be constructed. Approximately 0.1 acre of additional right of way and 0.2 acre of temporary construction easement will be required for this project.

Design data for this project is as follows:

Design Year	Average Daily Traffic	Percent Trucks	Design Speed
2018	4,200	5	55 mph
2038	5,000	5	55 mph

There are no relocations, wetlands, floodplains, prime farmland, underground storage tanks, hazardous wastes, environmental justice issues, or cultural resources associated with this project. State Historic Preservation Officer clearance is enclosed. The project passes through several wellhead protection areas and multiple community/transient wells are in the vicinity. A Wellhead Protection Area Special Provision will therefore be required.

Based upon the ARDOT's *Policy on Highway Traffic Noise Abatement*, a noise analysis is not required for this project. Constructing turn lanes and shoulders does not involve added capacity or expose noise sensitive land uses to a new or existing highway noise source.

A species list from the US Fish and Wildlife Service (USFWS) Information for Planning and Consultation website identifies the following federally-listed species as potentially occurring within the proposed project area: gray bat (*Myotis grisecens*); Indian bat (*Myotis sodalis*); northern long-eared bat (*Myotis septentrionalis*); Ozark big-eared bat (*Corynorhinus townsendii-ingens*); Pink Mucket (*Lampsilis abrupta*); Rabbitsfoot (*Theliderma cylindrical*); and Missouri bladderpod (*Physaria filiformis*). Due to the project's limited scope of action, a 'may effect, not likely to adversely affect' determination was made for the bat species. A 'no effect' determination was made for the mussel and plant species. The USFWS species list and correspondence are enclosed.

Minor stream impacts are associated with the construction of the two-way left turn lane, which includes the extension or replacement of seven pipe culverts ranging from 24' to 42' in diameter and 57' to 96' in length. Construction of the proposed project should be allowed under the terms of a Nationwide 14 Section 404 Permit for Linear Transportation Projects as defined in the Federal Register 82(4):1860-2008.

A Public Involvement meeting for the proposed project was held on December 14, 2017 at the Twin Lakes Church of the Nazarene in Mountain Home. Seventy-nine people attended the meeting and 31 comment forms were received. A Public Involvement Synopsis is enclosed.

Please contact the Environmental Division at 569-2281 if you have any questions.

Sincerely,



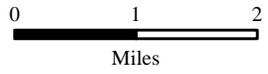
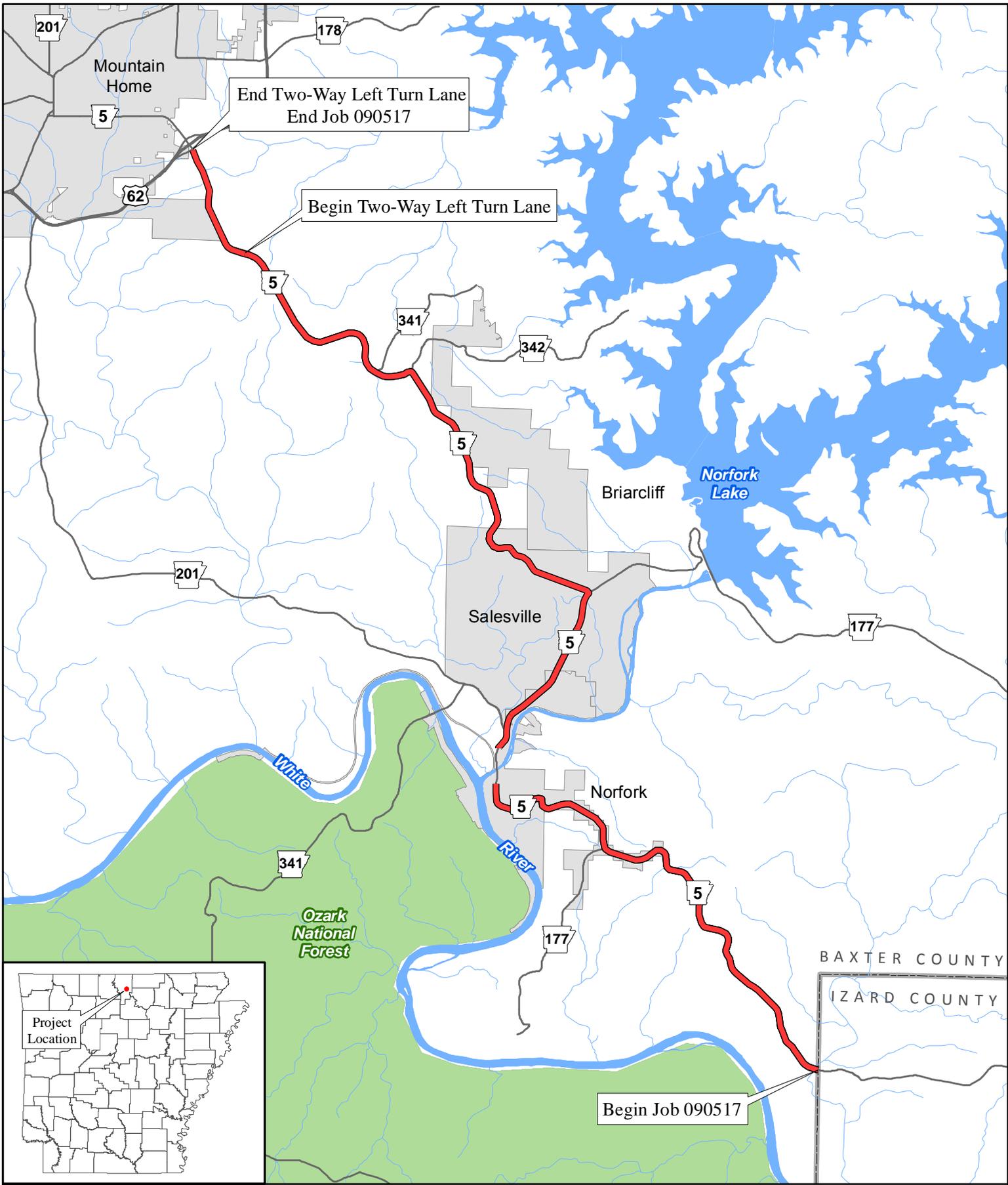
John Fleming  
Division Head  
Environmental Division



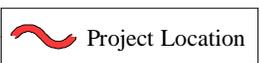
Enclosures

JF:MP:fc

c: Program Management  
Right of Way  
Roadway  
District 9  
Master File



Job 090517  
 IZARD Co. Line - Hwy. 62  
 (Safety Impvts.) (Sel. Secs.) (Hwy. 5)  
 Baxter County





THE DEPARTMENT OF ARKANSAS  
**HERITAGE**

Asa Hutchinson  
Governor

Stacy Hurst  
Director

February 16, 2018

Mr. John Fleming  
Division Head  
Environmental Division  
Arkansas State Highway and Transportation Department  
P.O. Box 2261  
Little Rock, AR 72203-2261

**RECEIVED  
ARDOT  
FEB 21 2018  
ENVIRONMENTAL  
DIVISION**

---

Arkansas Arts Council

Arkansas Natural  
Heritage Commission

Arkansas State Archives

Delta Cultural Center

Historic Arkansas Museum

Mosaic Templars  
Cultural Center

Old State House Museum

---

RE: Baxter County – General  
Section 106 Review – FHWA  
Report Titled: *Izard County Line-Hwy. 62 (Safety Impvts.) (Sel. Secs.)  
(S) Baxter County*  
AHTD Job Number: 090517  
AHPP Tracking Number: 100467

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) has reviewed the above-referenced Phase I cultural resources report.

Based on the nature of the proposed undertaking and the information presented in this report, we concur with the recommendation that the project will have a *No Adverse Effect on Historic Properties*.

Thank you for the opportunity to review this undertaking. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, please call Tim Dodson of my staff at 501-324-9784.

Sincerely,

Scott Kaufman  
Director, AHPP



1100 North Street  
Little Rock, AR 72201

(501) 324-9880  
fax: (501) 324-9184  
tdd: 711

e-mail:  
[info@arkansaspreservation.org](mailto:info@arkansaspreservation.org)  
website:  
[www.arkansaspreservation.com](http://www.arkansaspreservation.com)

cc: Mr. Randall Looney, Federal Highway Administration  
Ms. Elizabeth Toombs, Cherokee Nation  
Mr. Jason Ross, Delaware Nation  
Ms. Robin Dushane, Eastern Shawnee Tribe of Oklahoma  
Dr. Andrea Hunter, Osage Nation  
Mr. Everett Bandy, Quapaw Tribe of Oklahoma  
Ms. Kim Jumper, Shawnee Tribe of Oklahoma  
Dr. Ann Early, Arkansas Archeological Survey



IN REPLY REFER TO:

# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Arkansas Ecological Service Field Office  
110 South Amity Road, Suite 300  
Conway, Arkansas 72032



February 15, 2018

Mr. John Fleming  
c/o Kayti Ewing  
Arkansas Department of Transportation  
10324 Interstate 30  
Little Rock, Arkansas 72209

Dear Mr. Fleming,

The U.S. Fish and Wildlife Service (Service) is responding to your request dated February 12, 2018, regarding ArDOT Job 090517 - HWY 5, a project that will overlay, update signage, and widen shoulders in Baxter County, Arkansas. The project was described and assessed as follows (abbreviated):

The Arkansas Department of Transportation (ArDOT) is proposing safety improvements along Highway 5, from Baxter/Izard County line to Mountain Home in Baxter County, which is approximately 18 miles. This project initially included some sections in Izard County, but the scope of the project changed and those sections were removed. The project has been renamed as Job# 090517.

From the Izard/Baxter County line, proposed improvements include an overlay, updating signage and shoulder widening up to 4 feet for approximately six miles. Near Norfolk, guardrails will be replaced and extended in a short section of Highway 5. Another six mile section will include shoulder widening up to 4 feet starting near Salesville. A two-way left turn lane will be installed for approximately 1.5 miles. Shoulder and centerline rumble stripes will be installed along most of the job. Roughly 20 acres of oak-hickory forest will be cleared during construction. ArDOT will commit to a winter clearing restriction; i.e., clearing of trees is prohibited outside the winter months.

The existing roadway consists of two 11-foot wide travel lanes with less than 1-foot shoulders. Large rock outcrops, patches of mature riparian and upland oak-hickory forest, residences, and pastureland are common throughout the project area.

A review of IPaC shows the following federally listed species have the potential to occur in the proposed project location: Gray Bat (*Myotis grisecens*), Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Ozark

Big-eared Bat (*Corynorhinus townsendii-ingens*), Pink Mucket (*Lampsilis abrupta*), Rabbitsfoot (*Quadrula cylindrica cylindrica*) and Missouri Bladderpod (*Physaria filiformis*).

Baxter County is within the consultation area for all four federally listed bat species. Arkansas Natural Heritage Commission (ANHC) records indicate a few known occurrences (mist-net captures and known roost caves) of the federally listed *Myotis grisecens* and *Myotis septentrionalis* near the project area, in adjacent Izard County. Using IPaC's Assisted Determination Key for northern long-eared bats and Indiana bats, a 'may affect, not likely to adversely affect' determination was reached. Please see the attached NLAA Verification Letter. Although approximately 20 acres of oak-hickory forested habitat will be cleared, it will be limited to only what is needed for the project and ArDOT will commit to a winter clearing restriction; therefore, it is our determination that the project 'may affect, not likely to adversely affect' the Gray Bat and the Ozark Big-eared Bat. We request your concurrence in our determination.

A plant survey was conducted along the proposed corridor, as suitable habitat for Missouri Bladderpod is present; no individuals or populations were found. Therefore, it is our determination that this project will have 'no effect' on Missouri Bladderpod due to this species not being present. All bridges along this proposed section of Highway 5 are exempted from any construction activities. There will be no bridge construction of any kind. All of the smaller streams located adjacent to Highway 5 are not large enough nor have the preferred habitat of the Pink Mucket and Rabbitsfoot mussel, and proper BMPs will be utilized during construction for sediment and erosion control issues. Therefore, it is our determination that the proposed project will have 'no effect' on the aforementioned mussel species.

The Service advised in a February 12, 2018, Concurrence Verification Letter that, based on the information you provided, you have determined that the Proposed Action is within the scope and adheres to the criteria of the Programmatic Biological Opinion (PBO), including the adoption of applicable avoidance and minimization measures, may affect, but is not likely to adversely affect (NLAA) the endangered Indiana Bat (*Myotis sodalis*) and/or the threatened Northern Long-eared Bat (*Myotis septentrionalis*).

Due to the limited scope of the action (i.e., modifying widening existing roadway, repaving, sign replacement, minimal adjacent habitat effects, distance to known species locations, and the standard special provisions for bat avoidance and sediment control, the Service agrees with your assessments for the species identified. Furthermore, the Service concurs with the determination of "may affect, not likely to adversely affect" for Gray Bat, Ozark Big-eared Bat,

Mr. John Fleming

3

Indiana Bat, and Northern Long-eared Bat. No further consultation for this action or regarding these species is necessary at this time.

If you have any questions regarding our response or if you need additional information, please contact Lindsey Lewis at (501) 513-4489 or [lindsey\\_lewis@fws.gov](mailto:lindsey_lewis@fws.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Melvin L. Tobin', with a stylized flourish at the end.

Melvin L. Tobin  
Field Supervisor



## 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:

February 08, 2018

Consultation Code: 04ER1000-2018-SLI-0491

Event Code: 04ER1000-2018-E-00738

Project Name: 090517 Iazard County - Hwy. 62 (Safety Impvts.) (Sel. Secs.)

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/engangered/esa-library/index.html#consultations](http://www.fws.gov/engangered/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: 04ER1000-2018-SLI-0491

Event Code: 04ER1000-2018-E-00738

Project Name: 090517 IZARD COUNTY - HWY. 62 (SAFETY IMPVTS.) (SEL. SECS.)

Project Type: TRANSPORTATION

Project Description: The proposed project will widen shoulders, add rumble strips and add a two way left turn lane at selected selections.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.243034827114386N92.26654241725976W>



Counties: Baxter, AR | IZARD, AR

---

## Endangered Species Act Species

There is a total of 7 threatened, endangered, or candidate species on this 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 under this office's jurisdiction. Please contact the designated FWS office if you have questions.

### Mammals

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/6329">https://ecos.fws.gov/ecp/species/6329</a>	Endangered
Indiana Bat <i>Myotis sodalis</i> There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/5949">https://ecos.fws.gov/ecp/species/5949</a>	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> There is <b>proposed</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/7245">https://ecos.fws.gov/ecp/species/7245</a>	Endangered

### Clams

NAME	STATUS
Pink Mucket (pearlymussel) <i>Lampsilis abrupta</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7829">https://ecos.fws.gov/ecp/species/7829</a>	Endangered
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/5165">https://ecos.fws.gov/ecp/species/5165</a>	Threatened

### Flowering Plants

NAME	STATUS
Missouri Bladderpod <i>Physaria filiformis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/5361">https://ecos.fws.gov/ecp/species/5361</a>	Threatened

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.



## 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:

February 12, 2018

Consultation Code: 04ER1000-2018-I-0491

Event Code: 04ER1000-2018-E-00769

Project Name: 090517 Izard County - Hwy. 62 (Safety Impvts.) (Sel. Secs.)

Subject: Concurrence verification letter for the '090517 Izard County - Hwy. 62 (Safety Impvts.) (Sel. Secs.)' project under the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated to verify that the **090517 Izard County - Hwy. 62 (Safety Impvts.) (Sel. Secs.)** (Proposed Action) may rely on the concurrence provided in the February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action is within the scope and adheres to the criteria of the PBO, including the adoption of applicable avoidance and minimization measures, may affect, but is not likely to adversely affect (NLAA) the endangered Indiana bat (*Myotis sodalis*) and/or the threatened Northern long-eared bat (*Myotis septentrionalis*).

The Service has 14 calendar days to notify the lead Federal action agency or designated non-federal representative if we determine that the Proposed Action does not meet the criteria for a NLAA determination under the PBO. If we do not notify the lead Federal action agency or designated non-federal representative within that timeframe, you may proceed with the Proposed Action under the terms of the NLAA concurrence provided in the PBO. This verification period allows Service Field Offices to apply local knowledge to implementation of the PBO, as we may identify a small subset of actions having impacts that were unanticipated. In such instances, Service Field Offices may request additional information that is necessary to verify inclusion of the proposed action under the PBO.

**For Proposed Actions that include bridge/structure removal, replacement, and/or maintenance activities:** If your initial bridge/structure assessments failed to detect Indiana bats, but you later detect bats during construction, please submit the Post Assessment Discovery of Bats at Bridge/Structure Form (User Guide Appendix E) to this Service Office. In these instances, potential incidental take of Indiana bats may be exempted provided that the take is reported to the Service.

If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or Northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required. If the Proposed Action may affect any other federally-listed or proposed species, and/or any designated critical habitat, additional consultation is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please contact this Service Office.

The following species may occur in your project area and **are not** covered by this determination:

- Gray Bat, *Myotis grisescens* (Endangered)
- Missouri Bladderpod, *Physaria filiformis* (Threatened)
- Ozark Big-eared Bat, *Corynorhinus (=Plecotus) townsendii ingens* (Endangered)
- Pink Mucket (pearlymussel), *Lampsilis abrupta* (Endangered)
- Rabbitsfoot, *Quadrula cylindrica cylindrica* (Threatened)

## **Project Description**

The following project name and description was collected in IPaC as part of the endangered species review process.

### **Name**

090517 IZARD COUNTY - HWY. 62 (SAFETY IMPVTS.) (SEL. SECS.)

### **Description**

The proposed project will widen shoulders, add rumble strips and add a two way left turn lane at selected selections.

## Determination Key Result

Based on your answers provided, this project(s) may affect, but is not likely to adversely affect the endangered Indiana bat and/or the threatened Northern long-eared bat. Therefore, consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required. However, also based on your answers provided, this project may rely on the concurrence provided in the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

## Qualification Interview

1. Is the project within the range of the Indiana bat<sup>[1]</sup>?

[1] See [Indiana bat species profile](#)

**Automatically answered**

*Yes*

2. Is the project within the range of the Northern long-eared bat<sup>[1]</sup>?

[1] See [Northern long-eared bat species profile](#)

**Automatically answered**

*Yes*

3. Which Federal Agency is the lead for the action?

*A) Federal Highway Administration (FHWA)*

4. Are *all* project activities limited to non-construction<sup>[1]</sup> activities only? (examples of non-construction activities include: bridge/abandoned structure assessments, surveys, planning and technical studies, property inspections, and property sales)

[1] Construction refers to activities involving ground disturbance, percussive noise, and/or lighting.

*No*

5. Does the project include *any* activities that are **greater than** 300 feet from existing road/rail surfaces<sup>[1]</sup>?

[1] Road surface is defined as the actively used [e.g. motorized vehicles] driving surface and shoulders [may be pavement, gravel, etc.] and rail surface is defined as the edge of the actively used rail ballast.

*No*

6. Does the project include *any* activities **within** 0.5 miles of an Indiana bat and/or NLEB hibernaculum<sup>[1]</sup>?

[1] For the purpose of this consultation, a hibernaculum is a site, most often a cave or mine, where bats hibernate during the winter (see suitable habitat), but could also include bridges and structures if bats are found to be hibernating there during the winter.

*No*

7. Is the project located **within** a karst area?

*Yes*

8. Will the project include *any* type of activity that could impact a **known** hibernaculum<sup>[1]</sup>, or impact a karst feature (e.g., sinkhole, losing stream, or spring) that could result in effects to a **known** hibernaculum?

[1] For the purpose of this consultation, a hibernaculum is a site, most often a cave or mine, where bats hibernate during the winter (see suitable habitat), but could also include bridges and structures if bats are found to be hibernating there during the winter.

*No*

9. Is there *any* suitable<sup>[1]</sup> summer habitat for Indiana Bat or NLEB **within** the project action area<sup>[2]</sup>? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] The action area is defined as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR Section 402.02). Further clarification is provided by the [national consultation FAQs](#).

*Yes*

10. Will the project remove *any* suitable summer habitat<sup>[1]</sup> and/or remove/trim any existing trees **within** suitable summer habitat?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

*Yes*

11. Will the project clear more than 20 acres of suitable habitat per 5-mile section of road/rail?

*No*

12. Have presence/probable absence (P/A) summer surveys<sup>[1][2]</sup> been conducted<sup>[3][4]</sup> **within** the suitable habitat located within your project action area?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] Presence/probable absence summer surveys conducted within the fall swarming/spring emergence home range of a documented Indiana bat hibernaculum (contact local Service Field Office for appropriate distance from hibernacula) that result in a negative finding requires additional consultation with the local Service Field Office to determine if clearing of forested habitat is appropriate and/or if seasonal clearing restrictions are needed to avoid and minimize potential adverse effects on fall swarming and spring emerging Indiana bats.

[3] For projects within the range of either the Indiana bat or NLEB in which suitable habitat is present, and no bat surveys have been conducted, the transportation agency will assume presence of the appropriate species. This assumption of presence should be based upon the presence of suitable habitat and the capability of bats to occupy it because of their mobility.

[4] Negative presence/probable absence survey results obtained using the [summer survey guidance](#) are valid for a minimum of two years from the completion of the survey unless new information (e.g., other nearby surveys) suggest otherwise.

*No*

13. Does the project include activities **within documented Indiana bat habitat**<sup>[1][2]</sup>?

[1] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry biangulation/triangulation to estimate foraging areas; or (3) foraging areas with repeated use documented using acoustics. Documented roosting habitat is also considered as suitable summer habitat within 0.25 miles of documented roosts.)

[2] For the purposes of this key, we are considering documented corridors as that where Indiana bats and/or NLEB have actually been captured and tracked to using (1) radio telemetry; or (2) treed corridors located directly between documented roosting and foraging habitat.

*No*

14. Will the removal or trimming of habitat or trees occur **within** suitable but **undocumented Indiana bat** roosting/foraging habitat or travel corridors?

*Yes*

15. What time of year will the removal or trimming of habitat or trees **within** suitable but **undocumented Indiana bat** roosting/foraging habitat or travel corridors occur<sup>[1]</sup>?

[1] Coordinate with the local Service Field Office for appropriate dates.

*B) During the inactive season*

16. Does the project include activities **within documented NLEB habitat**<sup>[1][2]</sup>?

[1] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry biangulation/triangulation to estimate foraging areas; or (3) foraging areas with repeated use documented using acoustics. Documented roosting habitat is also considered as suitable summer habitat within 0.25 miles of documented roosts.)

[2] For the purposes of this key, we are considering documented corridors as that where Indiana bats and/or NLEB have actually been captured and tracked to using (1) radio telemetry; or (2) treed corridors located directly between documented roosting and foraging habitat.

*No*

17. Will the removal or trimming of habitat or trees occur **within** suitable but **undocumented NLEB** roosting/foraging habitat or travel corridors?

*Yes*

18. What time of year will the removal or trimming of habitat or trees **within** suitable but **undocumented NLEB** roosting/foraging habitat or travel corridors occur?

*B) During the inactive season*

19. Has a visual emergence survey<sup>[1]</sup> been conducted?

[1] Refer to the [summer survey guidance](#)

*No*

20. Do you plan on conducting a visual emergence survey prior to removing trees<sup>[1]</sup>?

[1] If bats are detected during a visual emergence survey conducted in suitable but **undocumented** habitat, this consultation will no longer be valid and a new consultation will be conducted through IPaC with the habitat now considered as **documented** habitat.

*No*

21. Are *any* trees being removed **greater than** 9 inches diameter at breast height (dbh)?

*Yes*

22. Will the tree removal alter *any* **documented** Indiana bat or NLEB roosts and/or alter any surrounding summer habitat **within** 0.25 mile of a documented roost?  
*No*
23. Will *any* tree trimming or removal occur **within** 100 feet of existing road/rail surfaces?  
*Yes*
24. Will *any* tree trimming or removal occur **between** 100-300 feet of existing road/rail surfaces?  
*No*
25. Are *all* trees that are being removed clearly demarcated?  
*Yes*
26. Will the removal of habitat or the removal/trimming of trees include installing new or replacing existing **permanent** lighting?  
*No*
27. Does the project include maintenance of the surrounding landscape at existing facilities (e.g., rest areas, stormwater detention basins)?  
*No*
28. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?  
*No*
29. Does the project include slash pile burning?  
*Yes*
30. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?  
*No*
31. Does the project include the removal, replacement, and/or maintenance of *any* structure other than a bridge? (e.g., rest areas, offices, sheds, outbuildings, barns, parking garages, etc.)  
*No*
32. Will the project involve the use of **temporary** lighting *during* the active season?  
*No*

33. Will the project install new or replace existing **permanent** lighting?

*No*

34. Does the project include percussives or other activities (**not including tree removal/trimming or bridge/structure work**) that will increase noise levels above existing traffic/background levels?

*Yes*

35. Will the activities that use percussives (**not including tree removal/trimming or bridge/structure work**) and/or increase noise levels above existing traffic/background levels be conducted *during* the active season<sup>[1]</sup>?

[1] Coordinate with the local Service Field Office for appropriate dates.

*Yes*

36. Will *any* activities that use percussives (**not including tree removal/trimming or bridge/structure work**) and/or increase noise levels above existing traffic/background levels be conducted *during* the inactive season<sup>[1]</sup>?

[1] Coordinate with the local Service Field Office for appropriate dates.

*Yes*

37. Are *all* project activities that are **not associated with** habitat removal, tree removal/trimming, bridge or structure removal, replacement, and/or maintenance, lighting, or use of percussives, limited to actions that DO NOT cause any stressors to the bat species, including as described in the BA/BO (i.e. activities that do not involve ground disturbance, percussive noise, temporary or permanent lighting, tree removal/trimming, nor bridge/structure activities)?

Examples: lining roadways, unlighted signage, rail road crossing signals, signal lighting, and minor road repair such as asphalt fill of potholes, etc.

*Yes*

38. Will the project raise the road profile **above the tree canopy**?

*No*

39. Is the slash pile burning portion of this project consistent with a Not Likely to Adversely Affect determination in this key?

**Automatically answered**

*Yes, because it is near suitable habitat and >0.5 miles from any hibernaculum*

40. Are the project activities that use percussives (not including tree removal/trimming or bridge/structure work) consistent with a Not Likely to Adversely Affect determination in this key?

**Automatically answered**

*Yes, because the activities are within 300 feet of the existing road/rail surface, greater than 0.5 miles from a hibernacula, and are not within documented habitat*

41. Are the project activities that use percussives (not including tree removal/trimming or bridge/structure work) and/or increase noise levels above existing traffic/background levels consistent with a No Effect determination in this key?

**Automatically answered**

*Yes, because the activities are within 300 feet of the existing road/rail surface, greater than 0.5 miles from a hibernacula, and conducted during the inactive season*

42. Is the habitat removal portion of this project consistent with a Not Likely to Adversely Affect determination in this key?

**Automatically answered**

*Yes, because the tree removal/trimming that occurs outside of the active season occurs greater than 0.5 miles from the nearest hibernaculum, is less than 100 feet from the existing road/rail surface, includes clear demarcation of the trees that are to be removed, and does not alter documented roosts and/or surrounding summer habitat within 0.25 miles of a documented roost*

43. Is the habitat removal portion of this project consistent with a Not Likely to Adversely Affect determination in this key?

**Automatically answered**

*Yes, because the tree removal/trimming that occurs outside of the active season occurs greater than 0.5 miles from the nearest hibernaculum, is less than 100 feet from the existing road/rail surface, includes clear demarcation of the trees that are to be removed, and does not alter documented roosts and/or surrounding summer habitat within 0.25 miles of a documented roost*

44. **General AMM 1**

Will the project ensure *all* operators, employees, and contractors working in areas of known or presumed bat habitat are aware of *all* FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable Avoidance and Minimization Measures?

*Yes*

**45. Hibernacula AMM 1**

Will the project ensure that on-site personnel will use best management practices<sup>[1]</sup>, secondary containment measures, or other standard spill prevention and countermeasures to avoid impacts to possible hibernacula?

[1] Coordinate with the appropriate Service Field Office on recommended best management practices for karst in your state.

*Yes*

**46. Hibernacula AMM 1**

Will the project ensure that, where practicable, a 300 foot buffer will be employed to separate fueling areas and other major containment risk activities from caves, sinkholes, losing streams, and springs in karst topography?

*Yes*

**47. Tree Removal AMM 1**

Can *all* phases/aspects of the project (e.g., temporary work areas, alignments) be modified, to the extent practicable, to avoid tree removal<sup>[1]</sup> in excess of what is required to implement the project safely?

Note: Tree Removal AMM 1 is a minimization measure, the full implementation of which may not always be practicable. Projects may still be NLAA as long as Tree Removal AMMs 2, 3, and 4 are implemented and LAA as long as Tree Removal AMMs 3, 5, 6, and 7 are implemented.

[1] The word "trees" as used in the AMMs refers to trees that are suitable habitat for each species within their range. See the USFWS' current summer survey guidance for our latest definitions of suitable habitat.

*Yes*

**48. Tree Removal AMM 2**

Can *all* tree removal activities be restricted to when Indiana bats are not likely to be present (e.g., the inactive season)<sup>[1]</sup>?

[1] Coordinate with the local Service Field Office for appropriate dates.

**Automatically answered**

*Yes*

**49. Tree Removal AMM 2**

Can *all* tree removal activities be restricted to when Northern long-eared bats are not likely to be present (e.g., the inactive season)<sup>[1]</sup>?

[1] Coordinate with the local Service Field Office for appropriate dates.

**Automatically answered**

*Yes*

**50. Tree Removal AMM 3**

Can tree removal be limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits)?

*Yes*

**51. Tree Removal AMM 4**

Can the project avoid cutting down/removal of *all* (1) **documented**<sup>[1]</sup> Indiana bat or NLEB roosts<sup>[2]</sup> (that are still suitable for roosting), (2) trees **within** 0.25 miles of roosts, and (3) documented foraging habitat any time of year?

[1] The word documented means habitat where bats have actually been captured and/or tracked.

[2] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry biangulation/triangulation to estimate foraging areas; or (3) foraging areas with repeated use documented using acoustics. Documented roosting habitat is also considered as suitable summer habitat within 0.25 miles of documented roosts.)

*Yes*

**52. Lighting AMM 1**

Will *all* **temporary** lighting used during the removal of suitable habitat and/or the removal/trimming of trees within suitable habitat be directed away from suitable habitat during the active season?

*Yes*

## Project Questionnaire

1. Have you made a No Effect determination for *all* other species indicated on the FWS IPaC generated species list?

*No*

2. Have you made a May Affect determination for *any* other species on the FWS IPaC generated species list?

Yes

3. How many acres<sup>[1]</sup> of trees are proposed for removal between 0-100 feet of the existing road/rail surface?

[1] If described as number of trees, multiply by 0.09 to convert to acreage and enter that number.

20

4. How many acres<sup>[1]</sup> of trees are proposed for removal between 100-300 feet of the existing road/rail surface?

[1] If described as number of trees, multiply by 0.09 to convert to acreage and enter that number.

0

## Avoidance And Minimization Measures (AMMs)

These measures **were accepted** as part of this determination key result:

### GENERAL AMM 1

Ensure all operators, employees, and contractors working in areas of known or presumed bat habitat are aware of all FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable AMMs.

### HIBERNACULA AMM 1

For projects located within karst areas, on-site personnel will use best management practices, secondary containment measures, or other standard spill prevention and countermeasures to avoid impacts to possible hibernacula. Where practicable, a 300 foot buffer will be employed to separate fueling areas and other major containment risk activities from caves, sinkholes, losing streams, and springs in karst topography.

### LIGHTING AMM 1

Direct temporary lighting away from suitable habitat during the active season.

### TREE REMOVAL AMM 1

Modify all phases/aspects of the project (e.g., temporary work areas, alignments) to avoid tree removal.

**TREE REMOVAL AMM 2**

Apply time of year restrictions for tree removal when bats are not likely to be present, or limit tree removal to 10 or fewer trees per project at any time of year within 100 feet of existing road/rail surface and **outside of documented** roosting/foraging habitat or travel corridors; visual emergence survey must be conducted with no bats observed.

**TREE REMOVAL AMM 3**

Ensure tree removal is limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits).

**TREE REMOVAL AMM 4**

Do not remove **documented** Indiana bat or NLEB roosts that are still suitable for roosting, or trees within 0.25 miles of roosts, or **documented** foraging habitat any time of year.

## **Determination Key Description: FHWA, FRA, FTA Programmatic Consultation For Transportation Projects Affecting NLEB Or Indiana Bat**

This key was last updated in IPaC on February 05, 2018. Keys are subject to periodic revision.

This decision key is intended for projects/activities funded or authorized by the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and/or Federal Transit Administration (FTA), which require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act (ESA) for the endangered **Indiana bat** (*Myotis sodalis*) and the threatened **Northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects](#). The programmatic biological opinion covers limited transportation activities that may affect either bat species, and addresses situations that are both likely and not likely to adversely affect either bat species. This decision key will assist in identifying the effect of a specific project/activity and applicability of the programmatic consultation. The programmatic biological opinion is not intended to cover all types of transportation actions. Activities outside the scope of the programmatic biological opinion, or that may affect ESA-listed species other than the Indiana bat or NLEB, or any designated critical habitat, may require additional ESA Section 7 consultation.

## PUBLIC INVOLVEMENT SYNOPSIS

Job Number 090517

Izard Co. Line-Hwy. 62. (Safety Impvts.) (Sel. Secs.) (Hwy. 5)

Baxter County

Thursday, December 14, 2017

An open forum Public Involvement meeting for the proposed project was held at the Twin Lakes Church of the Nazarene in Mountain Home from 4:00 – 7:00 p.m. on Thursday, December 14, 2017. Efforts to involve minorities and the public in the meeting included:

- Display advertisement placed in *The Baxter Bulletin* on Friday, December 8 and Wednesday, December 13, 2017.
- Outreach with letters mailed to public officials.
- Distribution of flyers in the project area.

The following information was available at the meeting for public review and comment:

- Displays of an aerial-based project location map (scale: 1 inch = 0.5 mile).
- Preliminary project design plans (scale: 1 inch = 100 feet).

Public handouts included a Citizen Comment Form and a small-scale project location map. Copies of the handouts are attached to this synopsis.

Table 1 summarizes public participation at the meeting.

TABLE 1	
Public Participation	Totals
Attendance at meeting (including AHTD staff)	79
Citizen Comment Forms received	31

*AHTD staff reviewed and evaluated all comments received. The summary below reflects the perception or opinion of the person or organization making the comment(s). The order in which the comments are listed is random and does not reflect the number of times comments were made or their significance. Not all commenters responded to every Comment Form question, and some responses were ambiguous. A few of the comments were combined and/or paraphrased to simplify this synopsis.*

Table 2 provides a summary of responses to Citizen Comment Form questions.

<b>TABLE 2</b>	
<b>Survey Results</b>	<b>Totals</b>
Feel proposed safety improvements are needed	24
Do not feel proposed safety improvements are needed	5
Knowledge of historical, archeological, or cemetery sites	1
Knowledge of area environmental constraints	0
Home or property offers limitations to the project	0
Suggestions to better serve the needs of the community	7
Beneficial impacts due to the proposed project	8
Adverse impacts due to the proposed project	5

Comments regarding why safety improvements are need included:

- Hwy. 5 carries a lot of traffic.
- Difficulties entering and exiting roadway and private driveways/properties.
- Drivers passing on two-lane roadway cause safety hazards.
- Need for turn lane in front of new Dollar General store.
- Number of crashes (including one fatality) near 9055 Hwy. 5.

Centerline and shoulder rumble stripes will be helpful.

Responses to the question regarding historical, archeological, or cemetery sites included:

- A cultural resources sign was vandalized and then removed from the historic information turn-around near Hart Cemetery. Although Baxter County has been notified, the sign has not been replaced.

Suggestions regarding how the proposed project could better serve the needs of the community and/or additional comments included:

- Baxter County should be assisted with obtaining a sign for CR 69 to prevent drivers from confusing it with Hwy. 5.
- Horizontal alignment of Hwy 5 places the edge of pavement within 6 feet of the property line at 3484 Hwy. 5 South, causing fence crashes and poor sight distances. Alignment should be corrected.
- Blind curve between 5647 Hwy. 5 South and Southside Paint and Auto Body shop should be corrected.
- Brush/vegetation along roadway curves should be cut to easement limits.

- Expand Hwy. 5 south of by-pass for one or two miles to include four travel lanes and a center turn lane.
- Pave all driveways and County Roads to/from Hwy. 5 with asphalt for a distance of at least 150 feet (where possible) to improve ingress and egress. This would be particularly beneficial for the intersection of BC 304 and Hwy. 5 since more than 30 residents use the gravel road.
- A Mountain Home water utility line crosses Hwy. 5 from 33 Big Pond Place on BC 304 to the soccer field (approximately 2 miles south of the Mountain Home city limit).
- Corner property markers at 4091 Hwy. 5 South cannot be located since completion of last improvement project and boundaries should be verified during proposed improvement project.
- Adding alternating passing lanes should be considered.

Comments regarding beneficial impacts included:

- Turn lane will improve flow of fast-moving traffic.
- Traffic flow in general will improve.
- Ingress and egress will improve.
- Property values may increase.

Comments regarding adverse impacts included:

- Business will decrease during construction period.
- Commute time will increase during construction period.
- Hwy. 5 pavement will be closer to property line.

Attachments:

Blank Comment Form

Small-Scale Project Location Map

RJ   
DN 

MP:

**ARKANSAS DEPARTMENT OF TRANSPORTATION (ARDOT)  
CITIZEN COMMENT FORM**

**AHTD JOB NUMBER 090517  
Izard Co. Line-Hwy. 62 (Safety Impvts. (Sel. Secs.) (Hwy. 5)  
BAXTER COUNTY**

**LOCATION:  
TWIN LAKES CHURCH OF THE NAZARENE  
(FELLOWSHIP HALL)  
1337 EAST 9<sup>TH</sup> STREET  
MOUNTAIN HOME, AR  
4:00 – 7:00 P.M.  
THURSDAY, DECEMBER 14, 2017**

Make your comments on this form and leave it with ARDOT personnel at the meeting or mail it by 4:30 p.m. on **Friday, December 29, 2017** to: Arkansas Department of Transportation, Environmental Division, Post Office Box 2261, Little Rock, Arkansas 72203-2261. Email: [environmentalpimeetings@ardot.gov](mailto:environmentalpimeetings@ardot.gov).

Yes      No  
     

Do you feel there is a need for the proposed safety improvements on selected sections of Highway 5 between the Izard County Line and Highway 62? Comment (optional) \_\_\_\_\_

---

---

Do you know of any historical sites, family cemeteries, or archaeological sites in the project area? Please note and discuss with staff. \_\_\_\_\_

---

---

Do you know of any environmental constraints, such as endangered species, hazardous waste sites, existing or former landfills, or parks and public lands in the vicinity of the project? Please note and discuss with ARDOT staff. \_\_\_\_\_

---

---

---

---

(Continued on back)

Yes  No

Does your home or property offer any limitations to the project, such as septic systems, that the Department needs to consider in its design? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Do you have a suggestion that would make this proposed project better serve the needs of the community? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do you feel that the proposed improvements project will have any impacts ( Beneficial or  Adverse) on your property and/or community (economic, environmental, social, etc.)? Please explain. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

It is often necessary for ARDOT to contact property owners along potential routes. If you are a property owner along or adjacent to the route under consideration, please provide information below. Thank you.

Name : \_\_\_\_\_ (Please Print)

Address: \_\_\_\_\_ Phone: (\_\_\_\_\_) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

E-mail: \_\_\_\_\_

Please make additional comments here. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



# ARDOT ENVIRONMENTAL IMPACTS ASSESSMENT FORM

ARDOT Job Number 090517 FAP Number HISP-0003(17)

Job Title Izard Co Line – Hwy 62 (Safety Impvts.) (Sel. Secs.) (S)

Environmental Impacts	None	Minor	Significant	Comments
Air Quality	X			
Construction Impacts		X		Temporary
Cultural Resources	X			SHPO clearance enclosed
Economic	X			
Endangered Species		X		NLAA determination; USFWS corresp.
Energy Resources	X			
Environmental Justice/Title VI	X			
Fish and Wildlife		X		Minor loss of habitat
Floodplains	X			
Forest Service Property	X			
Hazardous Materials/Landfills	X			
Land Use Impacts		X		0.1 acre new ROW; 0.2 acre TCE
Migratory Birds	X			
Navigation/Coast Guard	X			
Noise Levels	X			
Prime Farmland	X			
Protected Waters		X		Work within 1.0 mile of North Fork River; 401 WQC needed
Public Recreation Lands	X			
Public Water Supply/WHPA	X			WHPA SP added
Relocates	X			
Section 4(f)/6(f)	X			
Social	X			
Underground Storage Tanks	X			
Visual Impacts	X			
Stream Impacts		X		NW14 Sect. 404 Permit
Water Quality		X		Temporary during construction
Wetlands	X			
Wildlife Refuges	X			

Section 401 Water Quality Certification Required? Yes  
 Short-term Activity Authorization Required? Yes  
 Section 404 Permit Required? Yes Type NW14

Remarks: Shoulder widening will occur within 1 mile of North Fork River, which is a 303(d) listed stream.

Signature of Evaluator Mary J. Pearson Date February 22, 2018

## ROADWAY DESIGN REQUEST

Job Number 090517 FAP No. \_\_\_\_\_ County Baxter

Job Name Izard Co. Line-Hwy. 62 (Safety Impvts.) (Sel. Secs.) (S)

Design Engineer Brooke Perkins Environmental Staff \_\_\_\_\_

Brief Project Description Shoulder widening up to 2' and resurfacing  
Two way left turning lane

**A. Existing Conditions:**

Roadway Width: 22' Shoulder Type/Width: N/A

Number of Lanes and Width: 2-11' Existing Right-of-Way: 120'

Sidewalks? No Location: \_\_\_\_\_ Width: \_\_\_\_\_

Bike Lanes? No Location: \_\_\_\_\_ Width: \_\_\_\_\_

**B. Proposed Conditions:**

Roadway Width: 26' Shoulder Type/Width: 2'  
40' 6', 4' paved

Number of Lanes and Width: 2-11' Proposed Right-of-Way: 120'  
3-12' 120'

Sidewalks? No Location: \_\_\_\_\_ Width: \_\_\_\_\_

Bike Lanes? No Location: \_\_\_\_\_ Width: \_\_\_\_\_

**C. Construction Information:**

If detour: \_\_\_\_\_ Where: \_\_\_\_\_ Length: \_\_\_\_\_

**D. Design Traffic Data:**

2018 ADT: 4200 2038 ADT: 5000 % Trucks: 5%  
 Design Speed: 55 m.p.h.

E. Approximate total length of project: 18.16 mile(s)

F. Justification for proposed improvements: Safety Improvements

G. Total Relocates: 0 Residences: \_\_\_\_\_ Businesses: \_\_\_\_\_

H. Have you coordinated with any outside agencies (e.g., FHWA, City, County, etc.)? No

Agency/Official	Person Contacted	Date



**DEPARTMENT OF THE ARMY**  
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS  
POST OFFICE BOX 867  
LITTLE ROCK, ARKANSAS 72203-0867  
www.swl.usace.army.mil

September 14, 2018

Regulatory Division

**NATIONWIDE PERMIT NO. SWL 2018-00241**

Mr. John Fleming  
Division Head, Environmental Division  
Arkansas Department of Transportation  
P.O. Box 2261  
Little Rock, AR 72203-2261

Dear Mr. Fleming:

Please refer to your letter dated May 14, 2018, concerning Department of the Army permit requirements pursuant to Section 404 of the Clean Water Act (33 U.S. Code 1344). You requested authorization for work, including the placement of dredged and fill material, in waters of the United States associated with ARDOT Job 090517, IZARD COUNTY LINE - HWY 62 (SAFETY IMPVTS.) (SEL SECS), including roadway improvements along approximately 18.16 miles of selective selections of Highway 5 in Baxter County. Work includes the addition of shoulders, shoulder widening, shoulder rumble stripes, high friction surface treatments, guardrail extension and replacement, turnout paving, and the addition of a two-way left turn lane along approximately 1.6 miles of roadway. Construction of the two-way left turn lane on Highway 5 will include the extension or replacement of seven pipe culverts ranging from 24-inches to 42-inches in diameter and 57-feet to 96-feet in completed length. The existing 42-inch diameter by 62-foot-long pipe culvert at station number 1323+34 will be extended 28 linear feet within an unnamed ephemeral tributary to Fall Creek. Total impacts to waters of the United States includes approximately 28 linear feet and less than 0.1 acres. The project crosses an unnamed tributary of Fall Creek, in section 14, T. 19 N., R. 13 W., Baxter County, Arkansas.

The proposed activity is authorized by Department of the Army Nationwide Permit (NWP) No. 14 (copy enclosed), provided that the conditions therein are met. You should become familiar with the conditions and maintain a copy of the permit at the worksite for ready reference. If changes are proposed in the design or location of the facilities, you should submit revised plans to this office for approval before construction of the change begins.

Please refer to NWP General Condition No. 12, which stipulates that appropriate erosion and siltation controls be used during construction and all exposed soil be permanently stabilized. Erosion control measures must be implemented during and after construction of the proposed project to comply with this permit condition.

In order to fully comply with the conditions of the NWP, you must submit the enclosed compliance certification within 30 days of completion of the project. This is required pursuant to

NWP General Condition No. 30 of the permit.

This permit action is based upon a Corps of Engineers determination that the subject work is within the jurisdiction of the Department of the Army regulatory program. You may contact the Little Rock District Regulatory Division if you wish to discuss your options for appealing this determination.

The NWP determination will be valid until March 18, 2022. If NWP No. **14** is modified, suspended, or revoked during this period, your project may not be authorized unless you have begun or are under contract to begin the project. If work has started or the work is under contract, you would then have twelve (12) months to complete the work.

The authorization of this work by a NWP does not relieve you of complying with other applicable local, state, and Federal laws, nor does it grant any property rights or exclusive privileges.

If you have any questions about this permit or any of its provisions, please contact me at (501) 324-5295 and refer to Permit No. **SWL 2018-00241**.

Please submit your comments or suggestions on our Customer Service Survey:  
[http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey).

Sincerely,

JOYNER.CHRISTOPHE  
R.JAMES.1512308887

Digitally signed by  
JOYNER.CHRISTOPHER.JAMES.1512308887  
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI,  
ou=USA, cn=JOYNER.CHRISTOPHER.JAMES.1512308887  
Date: 2018.09.14 10:38:55 -05'00'  
Adobe Acrobat version: 11.0.23

Chris Joyner  
Environmental Engineer

Enclosures

**PERMITTEE COMPLIANCE CERTIFICATION**

**PERMIT NO.:** SWL 2018-00241 **NWP/S NO.:** 14

**PERMITTEE NAME:** Arkansas Department of Transportation

**DATE OF ISSUANCE:** September 14, 2018

**PROJECT MANAGER:** Chris Joyner

**Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:**

**US Army Corps of Engineers, Little Rock  
ATTENTION: CESWL-RD  
PO Box 867  
Little Rock, Arkansas 72203-0867**

**Please note that your permitted activity is subject to a compliance inspection by a US Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.**

**I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.**

**DATE WORK COMPLETED:** \_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE OF PERMITTEE**

\_\_\_\_\_  
**DATE**

# Nationwide Permit No. 14

**Linear Transportation Projects.** Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

**Notification:** The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) The loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 32.) (Sections 10 and 404)

**Note 1:** For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d).

**Note 2:** Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under section 404(f) of the Clean Water Act (see 33 CFR 323.4).

**Note 3:** For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

## Nationwide Permit General Conditions

**Note:** To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. **Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation.  
(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.  
(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. **Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status,

unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin

work until the Corps has provided notification that the proposed activity will have “no effect” on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWP.

(d) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(e) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. **Migratory Birds and Bald and Golden Eagles.** The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. **Historic Properties.** (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been

submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal

lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for

the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is

provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

\_\_\_\_\_

(Date)

\_\_\_\_\_

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN)

as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or  
(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;  
(2) Location of the proposed activity;  
(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;  
(4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and

other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);  
(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and  
(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

### **District Engineer's Decision**

In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the individual crossings of waters of the United States to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to streams or of an otherwise applicable limit, as provided for

in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51, 52, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects. For those NWPs that have a waivable 300 linear foot limit for losses of intermittent and ephemeral stream bed and a 1/2-acre limit (i.e., NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52), the loss of intermittent and ephemeral stream bed, plus any other losses of jurisdictional waters and wetlands, cannot exceed 1/2-acre.

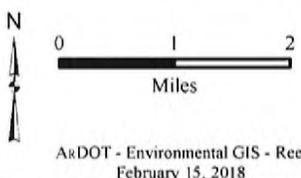
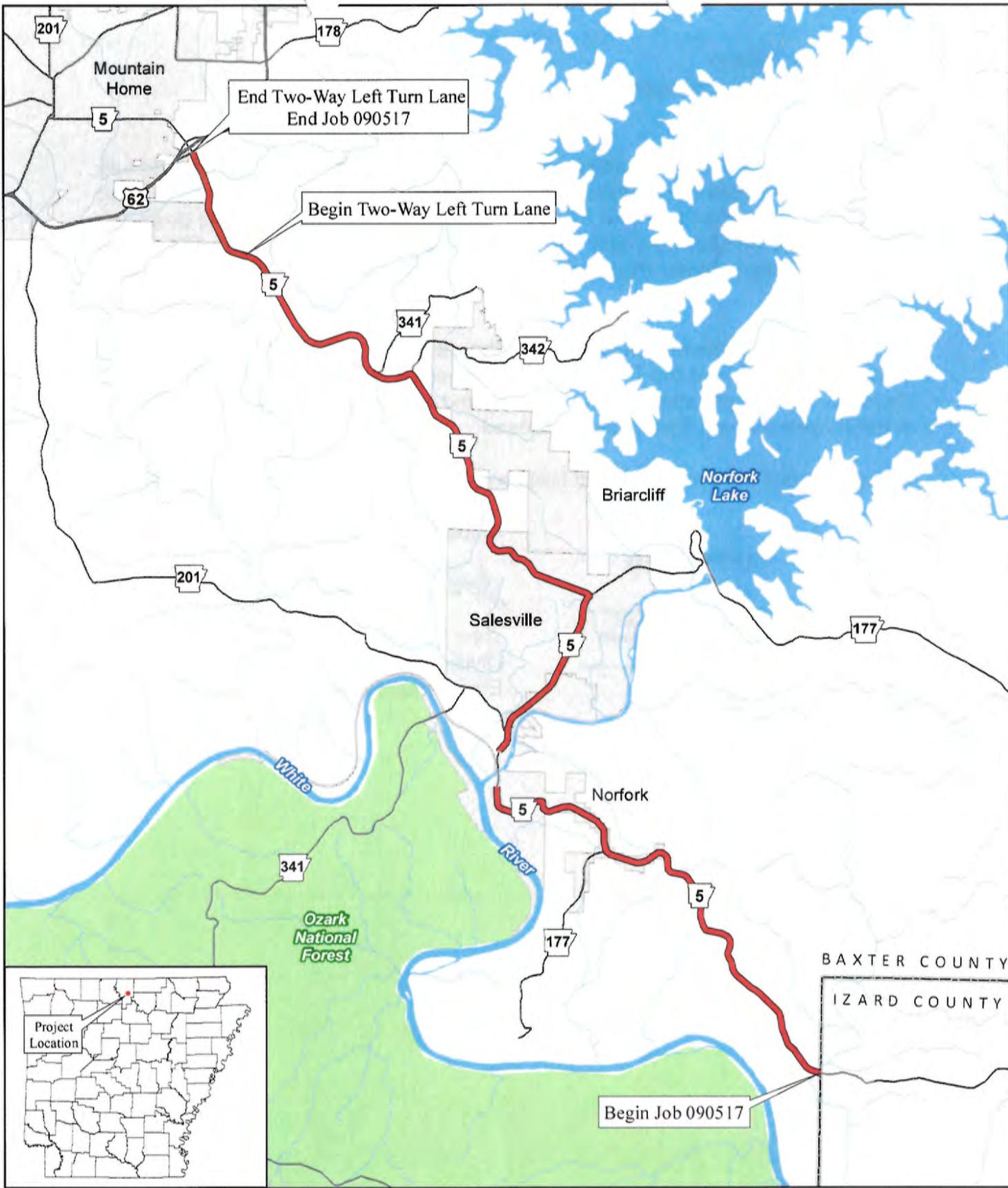
1. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

2. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters (e.g., streams). The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

3. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31, or to evaluate PCNs for activities authorized by NWPs 21, 49, and 50), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

#### **Further Information**

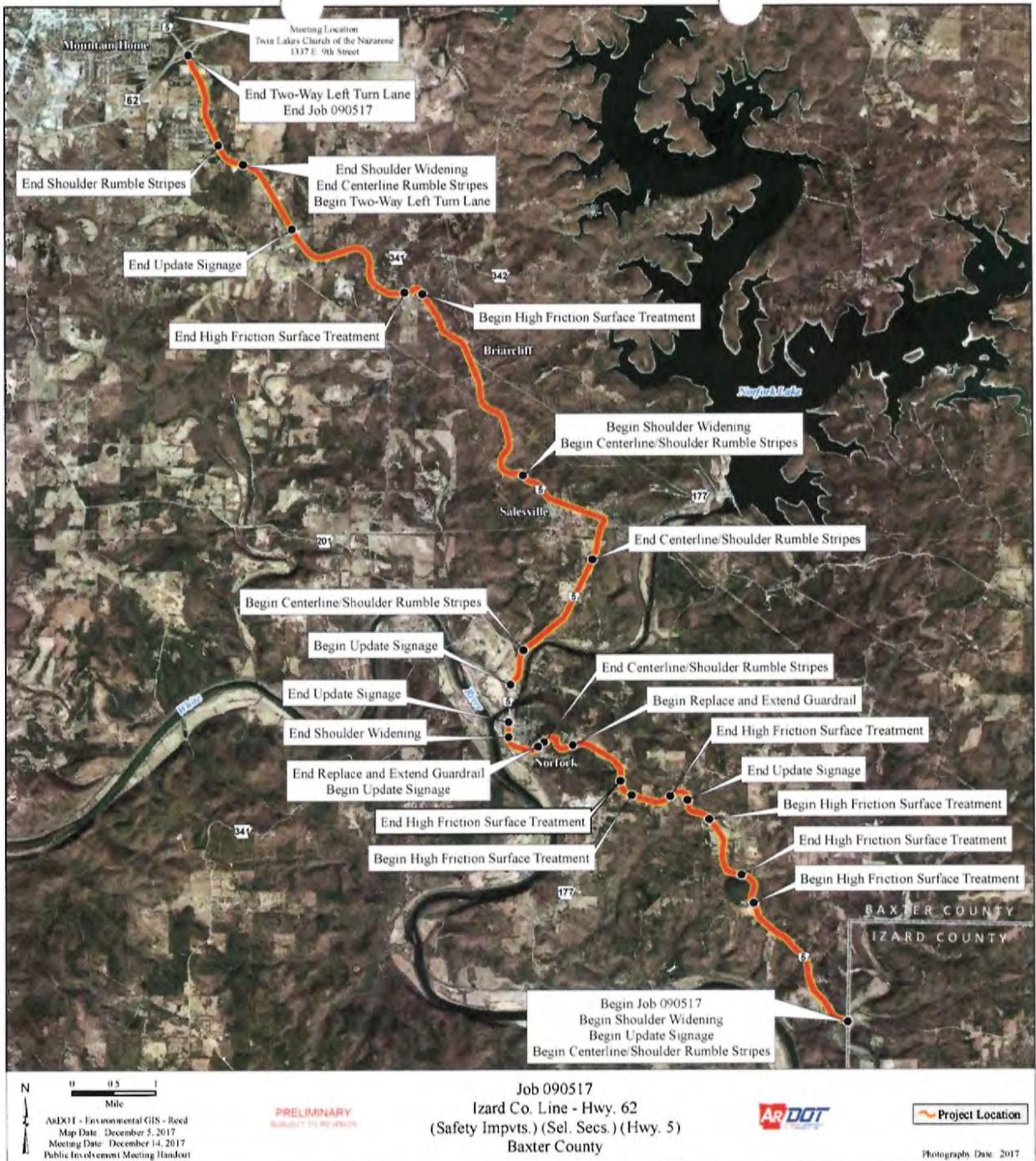
1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31)



**Job 090517**

(Safety) SWL 2018-00241 SEPTEMBER 2018  
 ARDOT-FALL CREEK-IZARD COUNTY LINE-HWY 62(SAFETY IMPVTS.)  
 (SEL SECS)(090517)  
 S14; T. 19 N.; R. 13 W.

Sheet 1 of 12



Notes:

---



---



---



---



---



---

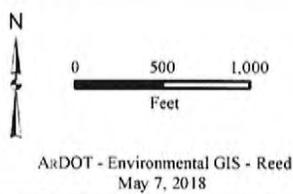
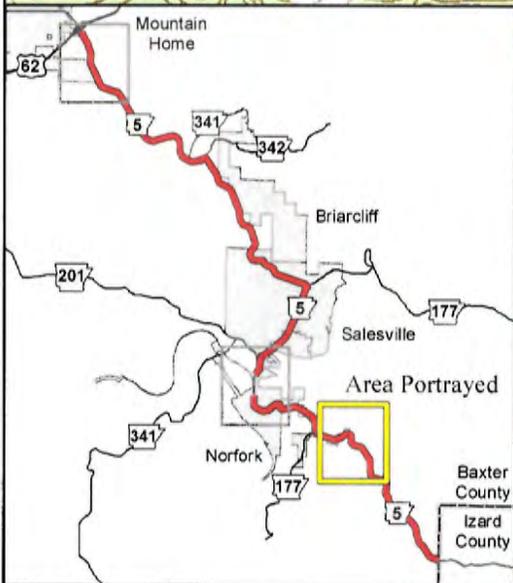
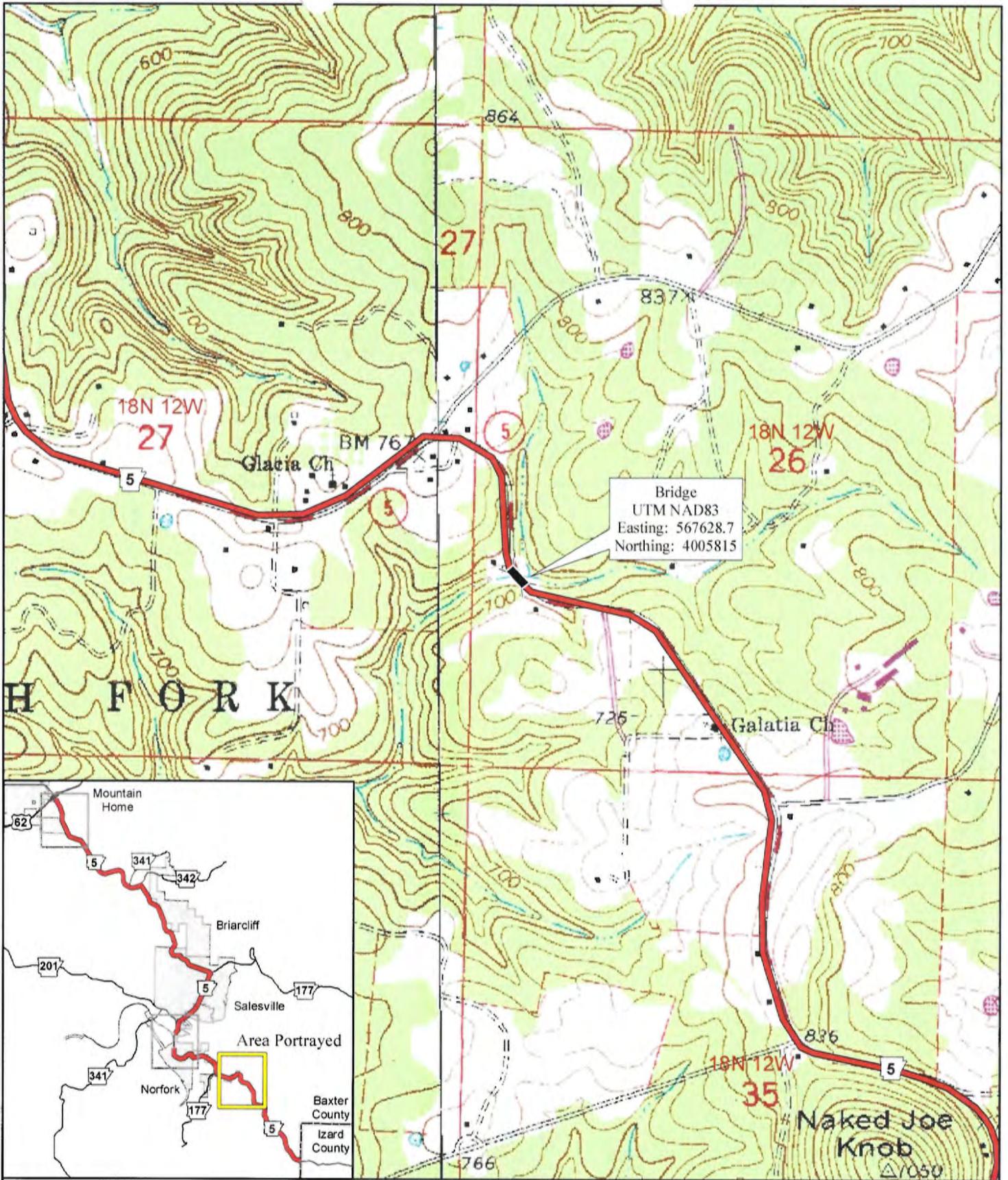


---



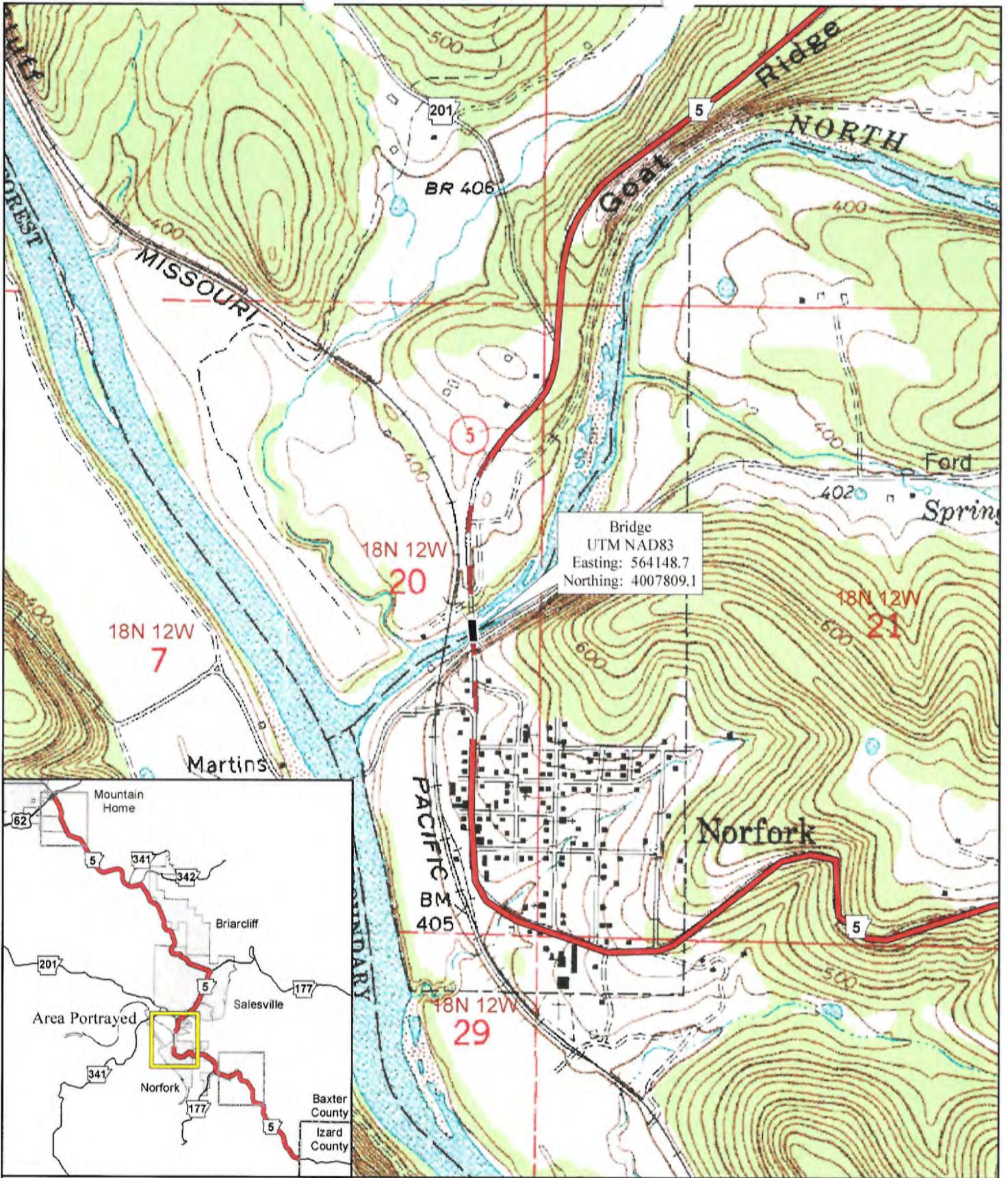
---

SWL 2018-00241 SEPTEMBER 2018  
 ARDOT-FALL CREEK-IZARD COUNTY LINE-HWY 62(SAFETY IMPVTS.)  
 (SEL SECS)(090517)  
 S14; T. 19 N.; R. 13 W. Sheet 2 of 12

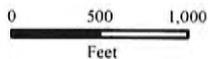
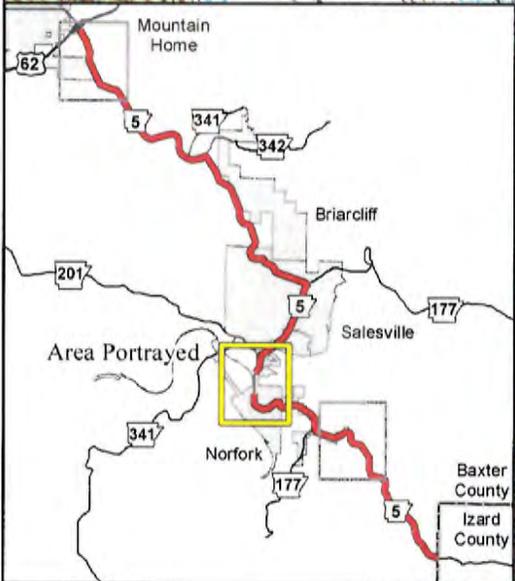


Job 090517

(Sa SWL 2018-00241 ARDOT-FALL CREEK-IZARD COUNTY LINE-HWY 62(SAFETY IMPVTS.) (SEL SECS)(090517) S14; T. 19 N.; R. 13 W.	SEPTEMBER 2018 Sheet 3 of 12
---	---------------------------------



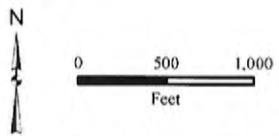
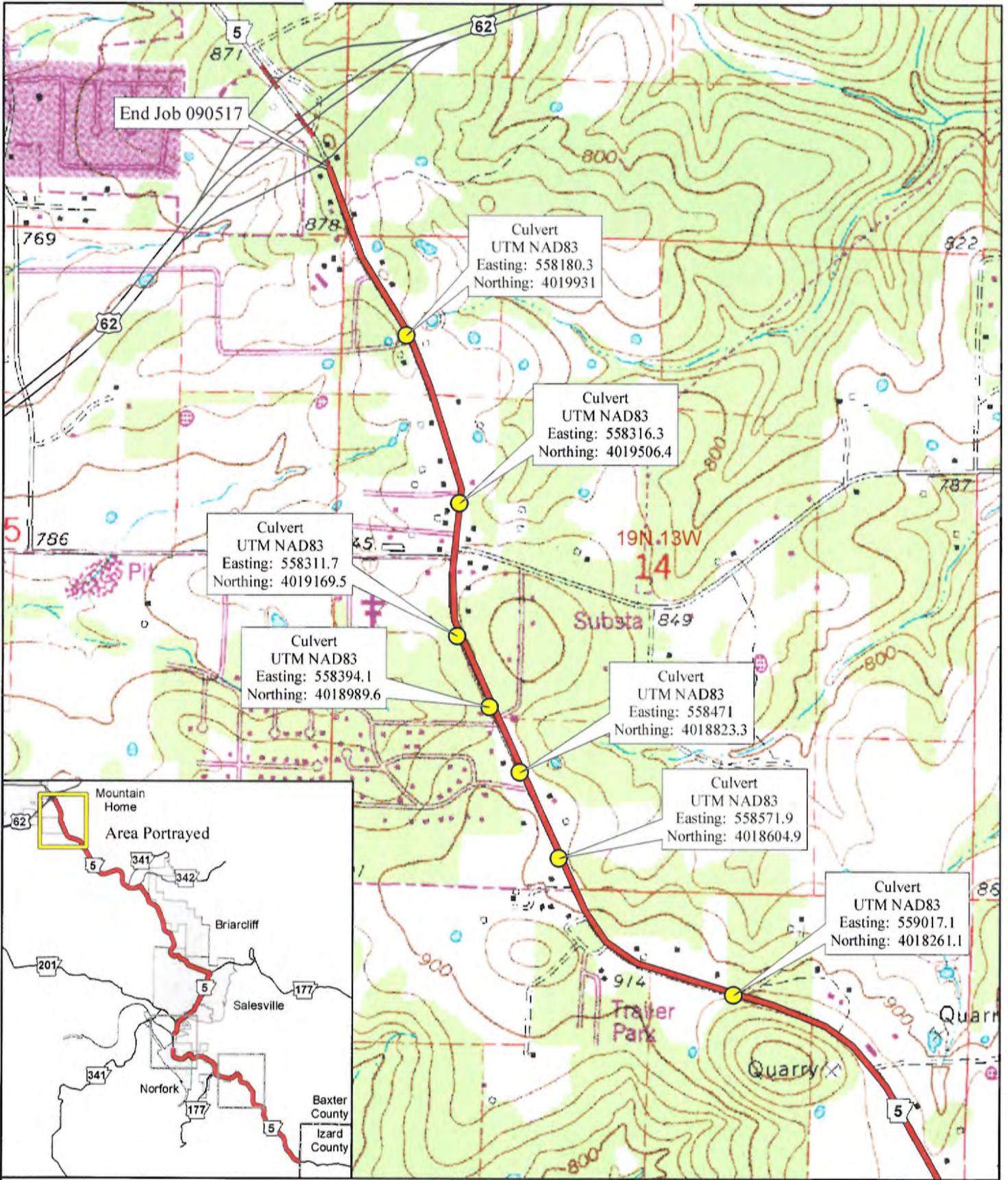
Bridge  
 UTM NAD83  
 Easting: 564148.7  
 Northing: 4007809.1



ArkDOT - Environmental GIS - Reed  
 May 7, 2018

Job 090517

(Safety) SWL 2018-00241 SEPTEMBER 2018  
 ARDOT-FALL CREEK-IZARD COUNTY LINE-HWY 62(SAFETY IMPVTS.)  
 (SEL SECS)(090517)  
 S14; T. 19 N.; R. 13 W. Sheet 4 of 12



ArDOT - Environmental GIS - Reed  
May 7, 2018

Job 090517  
 SWL 2018-00241  
 ARDOT-FALL CREEK-IZARD COUNTY LINE-HWY 62(SAFETY IMPVTS.)  
 (SEL SECS)(090517)  
 S14; T. 19 N.; R. 13 W.  
 SEPTEMBER 2018  
 Sheet 5 of 12

DATE REVISION	DATE FILED	DATE REVISION	DATE FILED	PROJECT NO.	STATE	FEDERAL PROJECT NO.	SHEET NO.	TOTAL SHEETS
				6	ARIZ.			
							JOB NO.	090517

2 PLAN AND PROFILE SHEETS

**PRELIMINARY**  
SUBJECT TO REVISION

HWY. 5  
P.I. = 1293+76.23  
q = 44+59' 14" LT.  
D = 4+00' 00"  
T = 993.13'  
L = 1124.68'  
P.C. = 1287+83.10  
P.T. = 1299+07.78

STA. 1303+25.00 TO STA. 1303+61.00 ON LT.  
CONC. DITCH PAVING (TYPE B) = 24.00 SQ. YD.

STA. 1303+61 IN PLACE  
30" X 41" R.C. PIPE CULVERT  
WITH HOLES LT. & RT.  
REMOVE AND CONSTRUCT  
36" X 57" PIPE CULVERT  
(CLASS VI) (TYPE 3 BEDDING)  
WITH FES LT. & RT.  
050 = 29.9 CFS D.A. = 53 ACRES  
36" R.C. PIPE = 57 LIN. FT.  
36" FES = 2 EA.

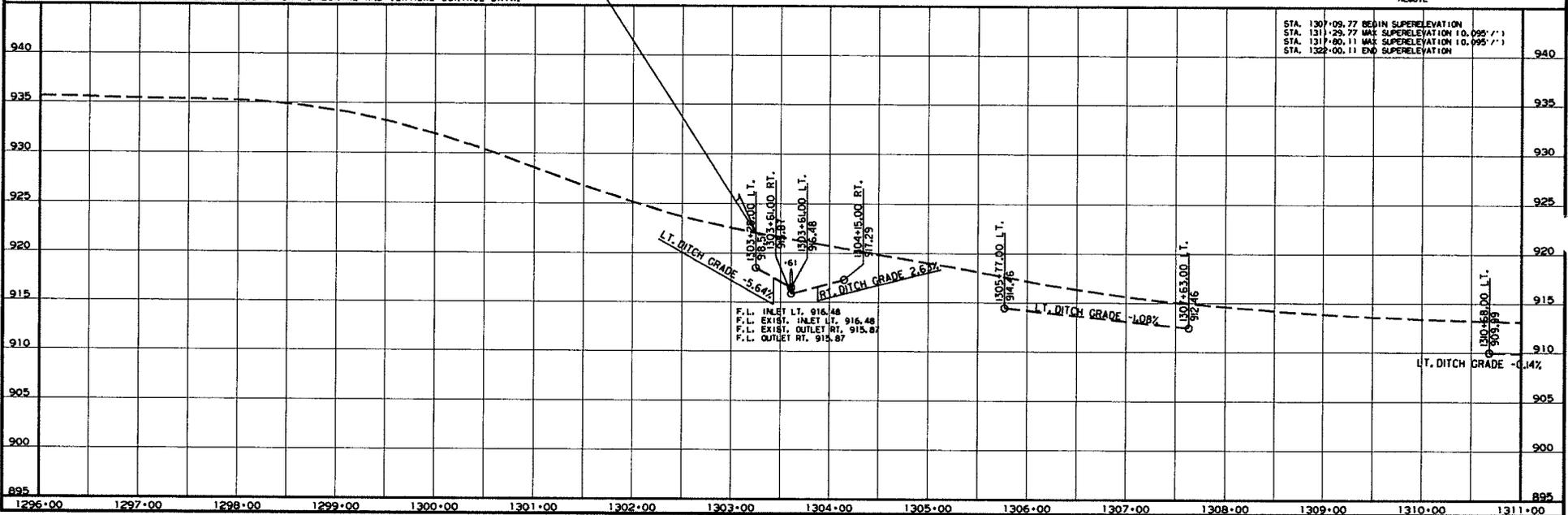
STA. 1304+07 CONSTRUCT  
APPROACH ON LT. = 30 CU. YD.

STA. 1305+77 IN PLACE  
18" X 60" C.M. PIPE CULVERT  
LT. SIDE DRAIN  
REMOVE AND INSTALL  
18" X 60" PIPE CULVERT  
LT. SIDE DRAIN  
CONSTRUCT APPROACH = 40 CU. YD.

STA. 1307+63 IN PLACE  
18" X 60" C.M. PIPE CULVERT  
LT. SIDE DRAIN  
REMOVE AND INSTALL  
18" X 60" PIPE CULVERT  
LT. SIDE DRAIN  
CONSTRUCT APPROACH = 65 CU. YD.

STA. 1303+25.00  
BEGIN TWLTL WIDENING  
LOG MILE 16.60

REFER TO SURVEY CONTROL DETAIL SHEETS FOR HORIZONTAL AND VERTICAL CONTROL DATA.

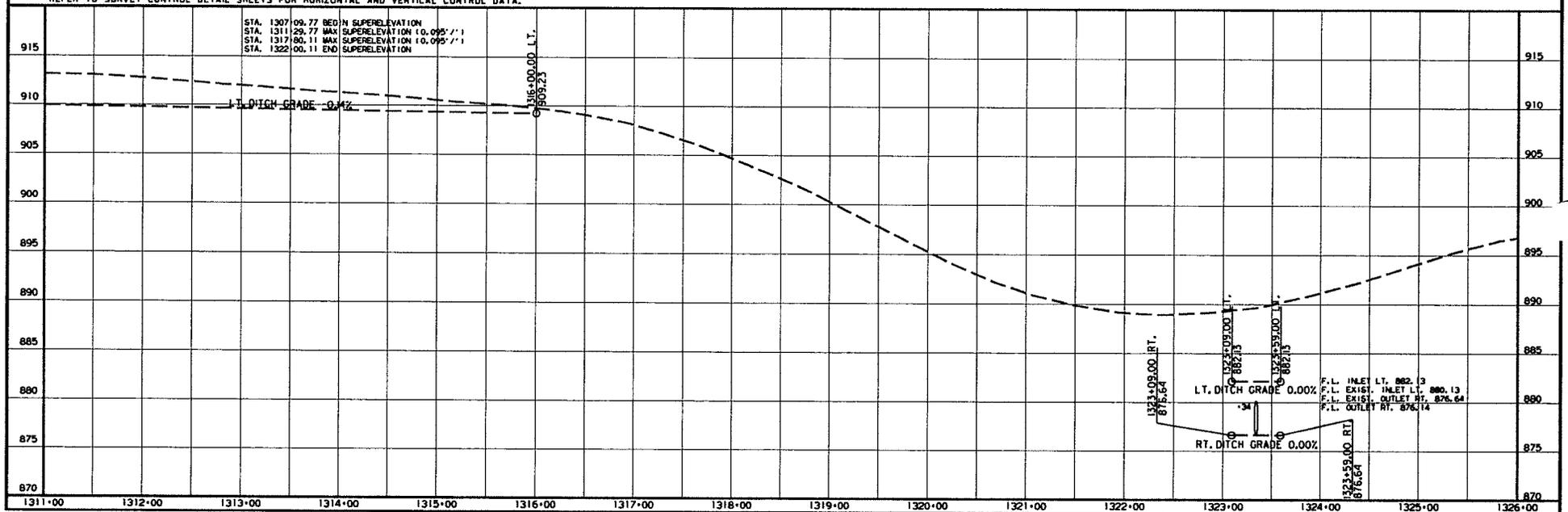
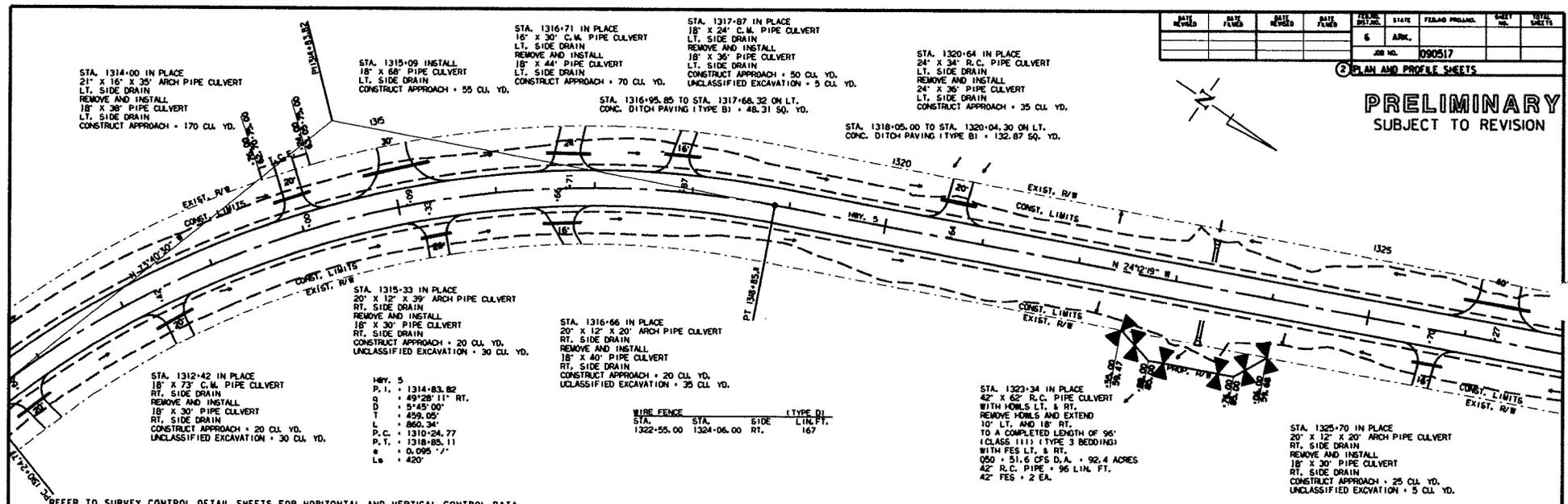


R090517.DGN 3/30/2018

DATE REVISION	DATE REVISION	DATE REVISION	DATE REVISION	REV. NO.	STATE	FILED PROGRAM	SHEET NO.	TOTAL SHEETS
				6	ARIZ.			
								2
								090517

2 PLAN AND PROFILE SHEETS

**PRELIMINARY**  
SUBJECT TO REVISION



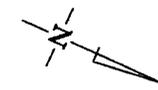
SWL 2018-00241 SEPTEMBER 2018  
 ARDOT-FALL CREEK-IZARD COUNTY LINE-HWY 62(SAFETY IMPVTS.)  
 (SEL SECS)(090517)  
 S14; T. 19 N.; R. 13 W. Sheet 7 of 12

3/30/2018 R090517.DGN

DATE REVISION	DATE	DATE	DATE	PROJECT NO.	STATE	FEDERAL PROJECT	SHEET NO.	TOTAL SHEETS
				6	ARK.			
							090517	

2 PLAN AND PROFILE SHEETS

**PRELIMINARY**  
SUBJECT TO REVISION



STA. 1326-27 IN PLACE  
16" X 70" C.M. PIPE CULVERT  
LT. SIDE DRAIN  
REMOVE AND INSTALL  
18" X 68" PIPE CULVERT  
LT. SIDE DRAIN  
CONSTRUCT APPROACH + 50 CU. YD.  
UNCLASSIFIED EXCAVATION + 45 CU. YD.

STA. 1329-63 IN PLACE  
16" X 65" R.C. PIPE CULVERT  
LT. SIDE DRAIN  
REMOVE AND INSTALL  
18" X 70" PIPE CULVERT  
LT. SIDE DRAIN  
CONSTRUCT APPROACH + 50 CU. YD.  
UNCLASSIFIED EXCAVATION + 75 CU. YD.

STA. 1327-90 CONSTRUCT  
APPROACH ON LT. + 70 CU. YD.  
UNCLASSIFIED EXCAVATION + 55 CU. YD.

STA. 1330-96 IN PLACE  
18" X 45" C.M. PIPE CULVERT  
LT. SIDE DRAIN  
REMOVE AND INSTALL  
18" X 36" PIPE CULVERT  
LT. SIDE DRAIN  
CONSTRUCT APPROACH + 35 CU. YD.  
UNCLASSIFIED EXCAVATION + 40 CU. YD.

STA. 1331-63 CONSTRUCT  
APPROACH ON LT. + 40 CU. YD.  
UNCLASSIFIED EXCAVATION + 5 CU. YD.

STA. 1333-17 IN PLACE  
22" X 14" X 40" ARCH PIPE CULVERT  
LT. SIDE DRAIN  
REMOVE AND INSTALL  
18" X 46" PIPE CULVERT  
LT. SIDE DRAIN  
CONSTRUCT APPROACH + 40 CU. YD.  
UNCLASSIFIED EXCAVATION + 15 CU. YD.

STA. 1334-16 IN PLACE  
22" X 14" X 40" ARCH PIPE CULVERT  
LT. SIDE DRAIN  
REMOVE AND INSTALL  
18" X 36" PIPE CULVERT  
LT. SIDE DRAIN  
CONSTRUCT APPROACH + 30 CU. YD.  
UNCLASSIFIED EXCAVATION + 5 CU. YD.

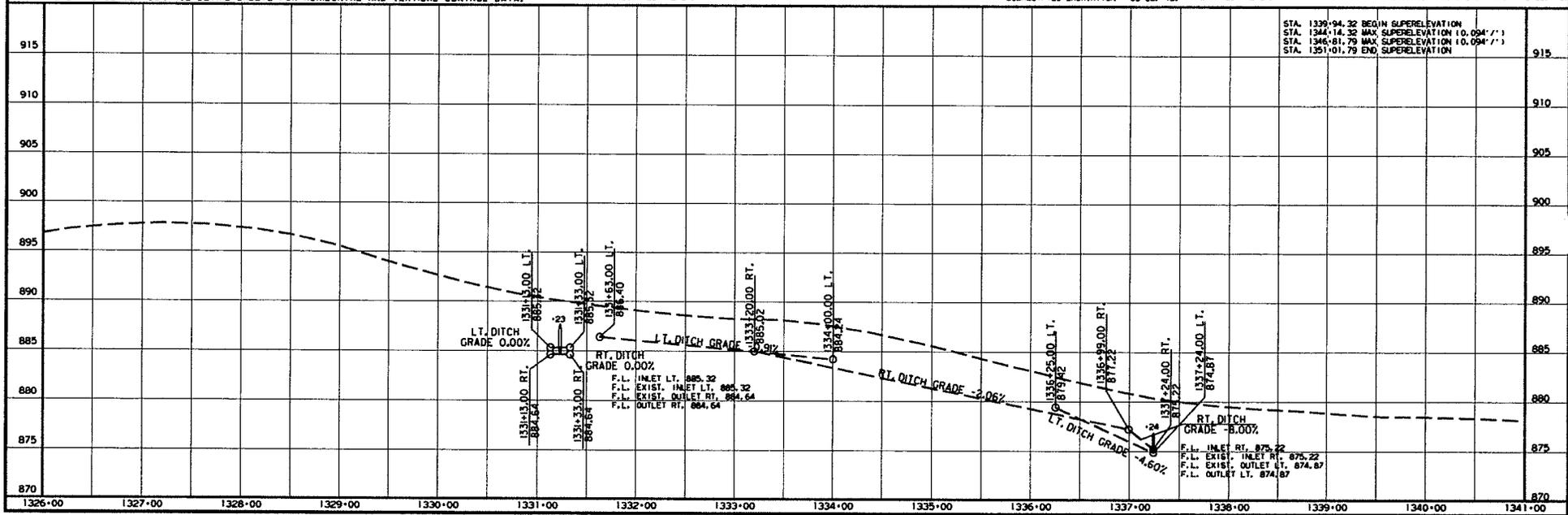
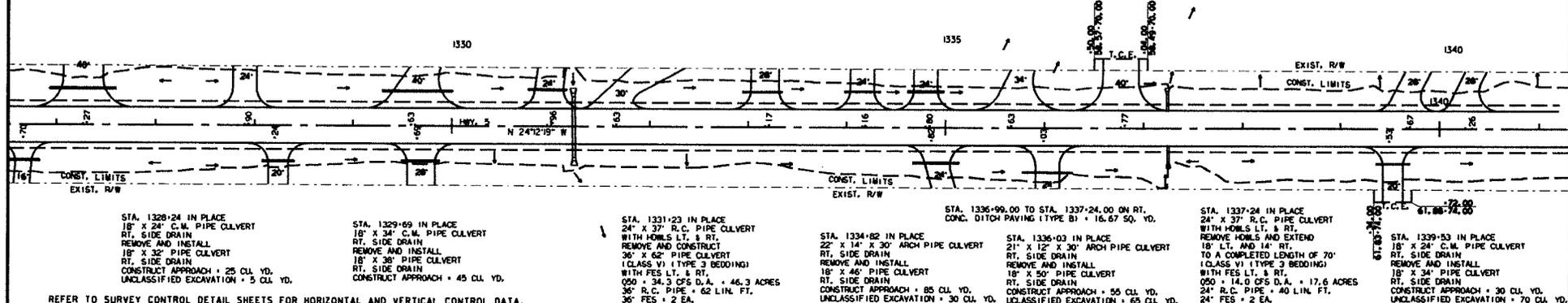
STA. 1334-80 IN PLACE  
18" X 40" C.M. PIPE CULVERT  
LT. SIDE DRAIN  
REMOVE AND INSTALL  
18" X 36" PIPE CULVERT  
LT. SIDE DRAIN  
CONSTRUCT APPROACH + 25 CU. YD.

STA. 1335-63 CONSTRUCT  
APPROACH ON LT. + 50 CU. YD.

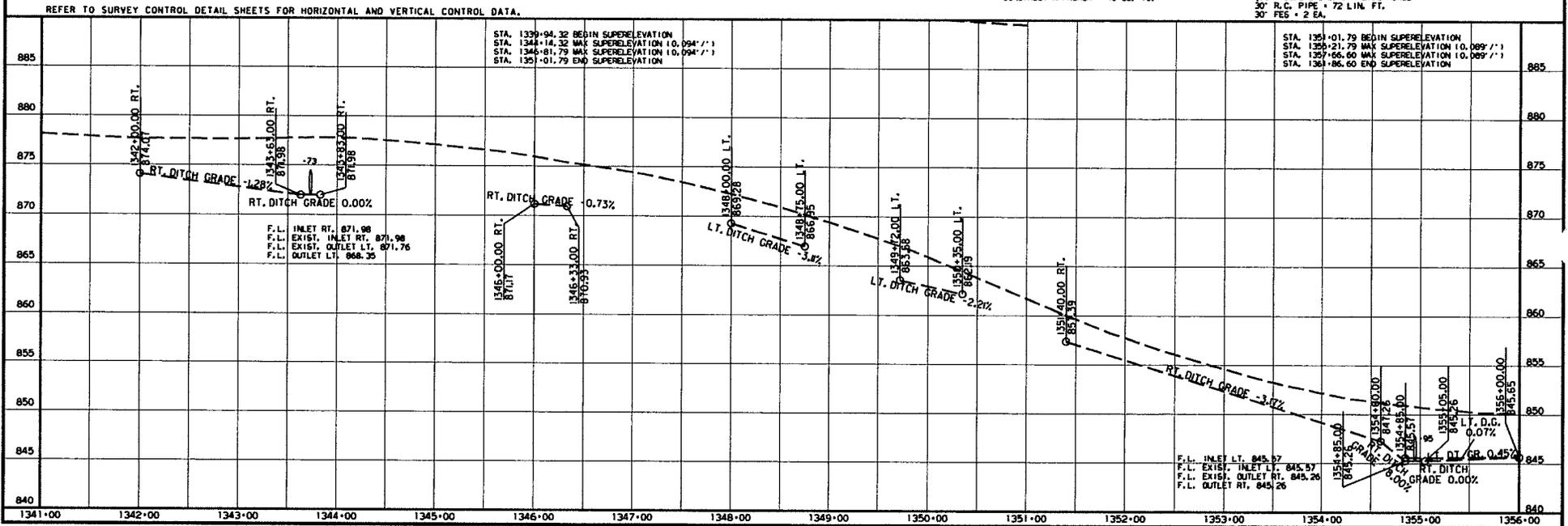
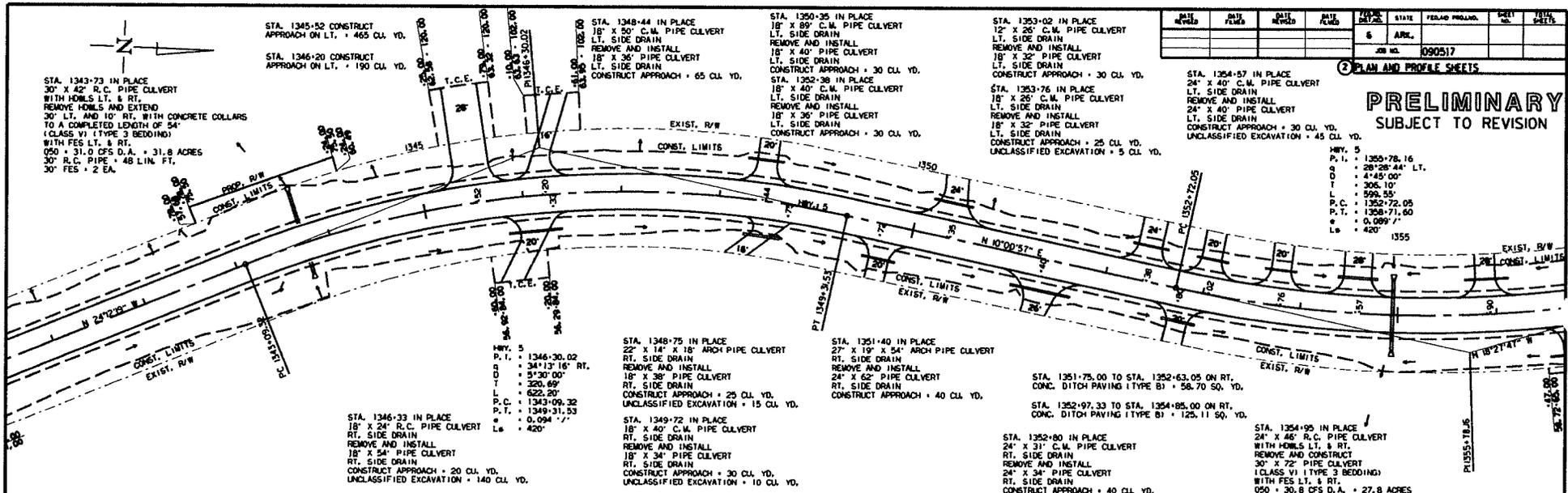
STA. 1336-77 CONSTRUCT  
APPROACH ON LT. + 115 CU. YD.

STA. 1339-67 CONSTRUCT  
APPROACH ON LT. + 30 CU. YD.

STA. 1340-26 CONSTRUCT  
APPROACH ON LT. + 65 CU. YD.



SWL 2018-00241  
SEPTEMBER 2018  
ARDOT-FALL CREEK-IZARD COUNTY LINE-HWY 62(SAFETY IMPVTS.)  
(SEL SECS)(090517)  
S14; T. 19 N.; R. 13 W.  
Sheet 8 of 12

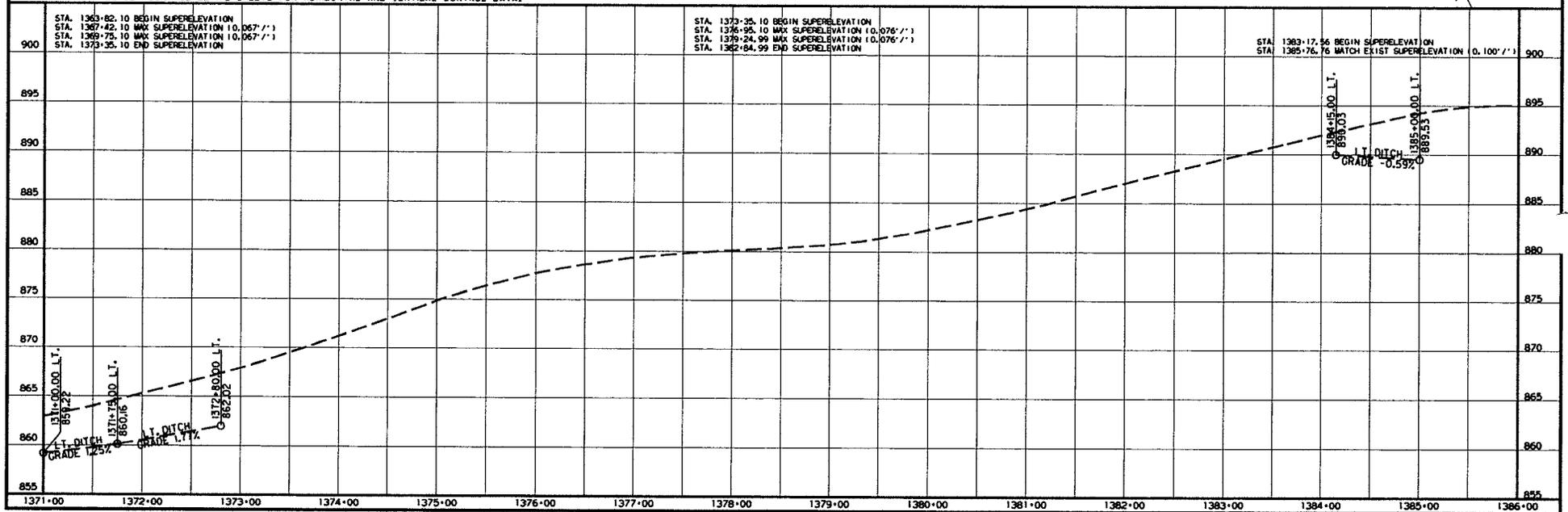
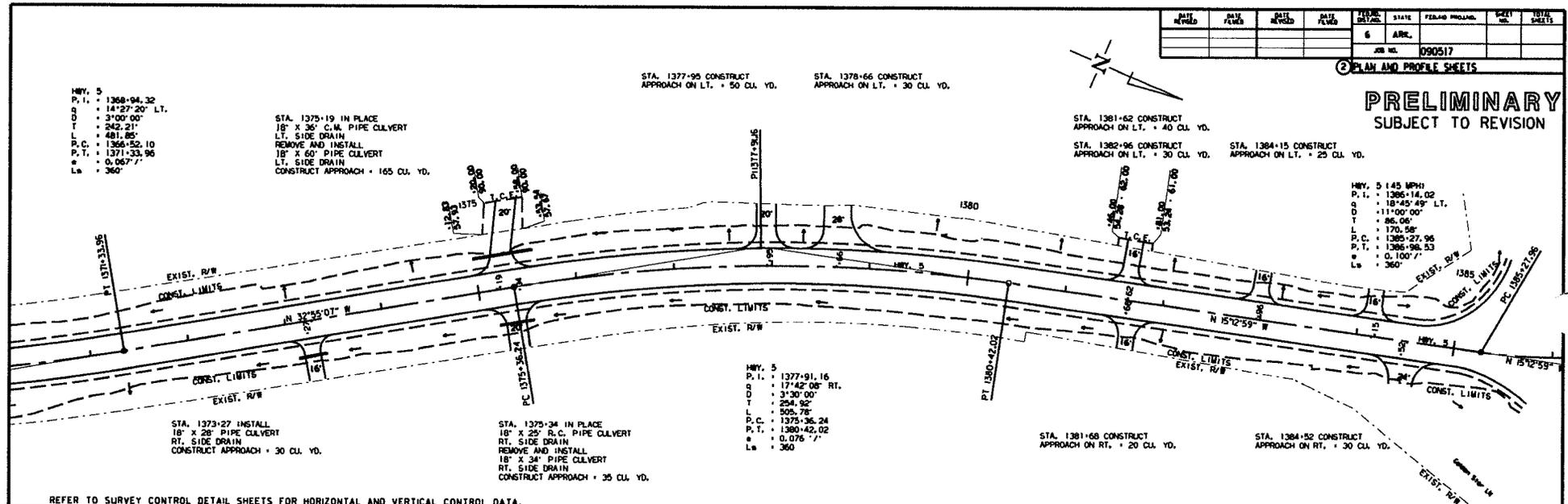




DATE REVISION	DATE FILED	DATE REVISION	DATE FILED	FED. ROAD DIST. NO.	STATE	FED. ROAD PROJ. NO.	SHEET NO.	TOTAL SHEETS
				6	ARK.			
							JOB NO. 090517	

2 PLAN AND PROFILE SHEETS

**PRELIMINARY**  
SUBJECT TO REVISION

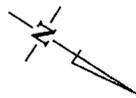


SWL 2018-00241 SEPTEMBER 2018  
 ARDOT-FALL CREEK-IZARD COUNTY LINE-HWY 62(SAFETY IMPVTS.)  
 (SEL SECS)(090517)  
 S14; T. 19 N.; R. 13 W.  
 Sheet 11 of 12

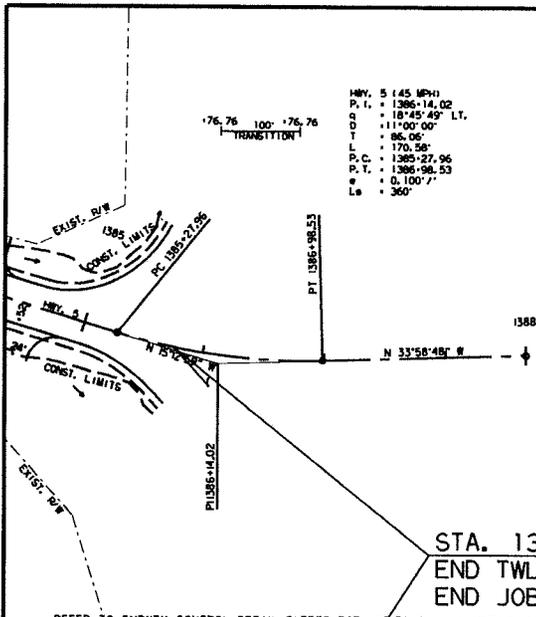
DATE REVISED	BY	DATE REVISED	BY	FED. DIST.	STATE	FED. PROJ. NO.	SHEET NO.	TOTAL SHEETS
				6	ARK.			
JOB NO. 090517								

2 PLAN AND PROFILE SHEETS

**PRELIMINARY**  
SUBJECT TO REVISION



HWY. 5 (45 MPH)  
 P. I. = 1385+14.02  
 C = 18°45'43" L.T.  
 D = 11'00'00"  
 L = 86.06'  
 P. C. = 1385+27.96  
 P. T. = 1386+98.53  
 E = 0.1007'  
 Ls = 350'



STA. 1385+76.76  
 END TWLTL WIDENING  
 END JOB 090517

REFER TO SURVEY CONTROL DETAIL SHEETS FOR HORIZONTAL AND VERTICAL CONTROL DATA.

