

# ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Scott E. Bennett  
Director  
Telephone (501) 569-2000  
Voice/TTY 711



P.O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400  
[www.arkansashighways.com](http://www.arkansashighways.com)

August 22, 2016

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

Re: Job Number CA0704  
FAP Number ACNHPP-007(25)  
Bridge Numbers 03637 and 00306  
Hwy. 79 - South (Widening) (S)  
Calhoun County  
Tier 3 Categorical Exclusion

Dear Mr. Correa:

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

The purpose of this project is to improve safety and increase capacity by widening Highway 167. The project will also construct two new bridges (one carrying traffic in each direction) over the Union Pacific Railroad in the southern portion of the U.S. Highway 79/167 interchange and replace an existing bridge with a box culvert. The project starts just south of Calhoun County Road 157 continuing north to its intersection with U.S. Highway 79. Total length of the project is 5.57 miles. A project location map is enclosed.

The existing roadway consists of two 12-foot wide paved travel lanes with 8-foot shoulders. The existing right of way width is 120 feet. The existing Union Pacific Railroad Bridge (Bridge Number 03637) has a concrete deck that is 33.4 feet wide and 188 feet long with steel beams supported by concrete piers and piles. The bridge has a sufficiency rating of 80.0. The existing Lost Creek Bridge (Bridge Number 00306) has a concrete deck that is 42 feet wide and 26 feet long on steel girders with concrete abutments on timber piling. This bridge has a sufficiency rating of 83.6.

Proposed highway improvements will consist of widening the highway to four 12-foot wide paved travel lanes, a continuous 11-foot left turn lane, and 8-foot shoulders. The proposed right of way width will average 160 feet. The new twin parallel bridges over the Union Pacific Railroad will have concrete decks that are 41.2 feet wide and 252 feet long with a continuous composite W-beam unit and two column bents with concrete filled steel pile footings at the interior bents and concrete filled steel piling at the end bents. A new 9' x 8' x 121' box culvert will replace the bridge over Lost Creek. Approximately 31 acres of additional right of way will be required for this project.

Design data for this project is as follows:

Design Year	Average Daily Traffic	Percent Trucks	Design Speed
2016	4,000	25	60 mph
2036	4,900	25	60 mph

There are no relocations, endangered species, or *Executive Order 12898* Environmental Justice issues associated with the project. Field inspections found no evidence of existing underground storage tanks or hazardous waste deposits. No impacts to cultural resources will occur; SHPO concurrence is enclosed. Approximately 19 acres of prime farmland will be converted to highway right of way. Form NRCS-CPA-106 is enclosed.

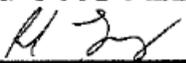
The widening of Highway 167 will impact approximately 0.35 acre of wetlands and impact approximately 202 linear feet of streams. Approximately 0.33 acre of wetlands will be permanently filled for the construction of the new roadway embankment and additional 0.02 acre of wetlands will be permanently cleared within the proposed right of way. Stream impacts will result from the extension of one box culvert and the replacement of one single span bridge with a new box culvert on Lost Creek (intermittent stream). Compensatory mitigation, 3.4 wetland credits, will be provided at a U.S. Army Corps of Engineers approved mitigation bank. Construction of this project should be

allowed under the terms of a Nationwide 14 Permit for Linear Transportation Projects as defined in Federal Register 77(34): 10183-10290.

Noise predictions have been made for this project utilizing the Federal Highway Administration's Traffic Noise Model 2.5 procedures. A Noise Analysis is enclosed.

A public meeting was held for the proposed project on February 25, 2016. A public involvement synopsis is enclosed.

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

**APPROVED**  
  
Environmental Specialist  
Federal Highway Administration  
Date: 8/24/2016

Sincerely,

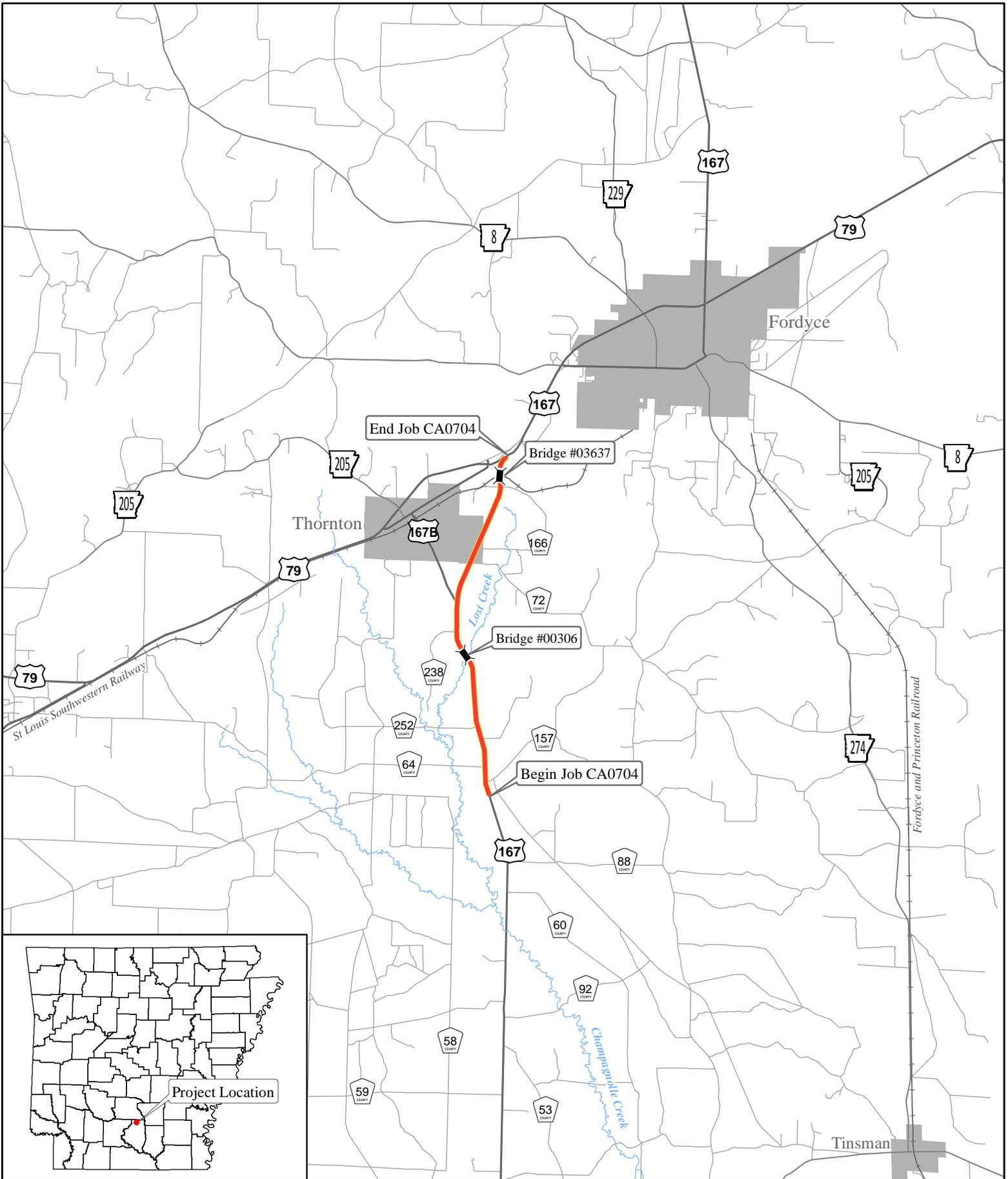


John Fleming  
Division Head  
Environmental Division

Enclosures

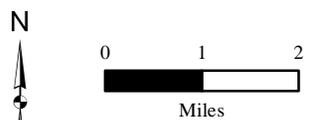
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c: Program Management  
Right of Way  
Roadway Design  
District 7  
CAP Manager  
Master File



Job CA0704  
 Hwy. 79 - South (Widening)  
 (Hwy. 167)  
 Calhoun County

 Project Location





THE DEPARTMENT OF ARKANSAS  
**HERITAGE**

Asa Hutchinson  
Governor

Stacy Hurst  
Director

Arkansas Arts Council

Arkansas Natural  
Heritage Commission

Delta Cultural Center

Historic Arkansas Museum

Mosaic Templars  
Cultural Center

Old State House Museum



ARKANSAS HISTORIC  
PRESERVATION PROGRAM



National Historic  
Preservation Act 1966-2016



323 Center Street, Suite 1500  
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)

An Equal Opportunity Employer

May 20, 2016

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

RE: Calhoun County – General  
Section 106 Review – FHWA  
Report Titled *A Cultural Resources Survey of AHTD Job Number CA0704,  
Hwy. 79-South (Widening) (S) Calhoun County, Arkansas*  
AHTD Job Number CA0704  
AHPP Tracking Number 82604.03

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program has reviewed the above-referenced cultural resources report.

Based on the information presented in this report, we concur that sites 3CA144-Locations 1-6 and 3CS353 are not eligible for the National Register of Historic Places (NRHP) and require no further work.

We are unable to concur that Property 1 (3CA352) is not eligible for the NRHP. Property 1 was originally determined eligible for inclusion on the NRHP under Criteria A, for its association with Arkansas Transportation History. Shovel testing and the archival research limited to the AHTD archives does not meet the level necessary to reverse this determination. More archival research conducted in the Calhoun County archives may present the opportunity to alter this determination.

Due to the fact that current design plans show that Property 1 (3CA352) will not be impacted by the project and sites 3CA144-Locations 1-6 and 3CA353 are not eligible for inclusion on the NRHP, we find this project will have no effect on historic properties. This determination could change should current design plans be altered.

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 Bob Scoggin of my staff at 501-324-9270

Sincerely,

Frances McSwain  
Deputy State Historic Preservation Officer

cc: Mr. Randall Looney, Federal Highway Administration  
Ms. Somier D. Harris, Caddo Nation  
Dr. Ian Thompson, Choctaw Nation of Oklahoma  
Mr. Everett Bandy, Quapaw Tribe of Oklahoma  
Ms. Kim Jumper, Shawnee Tribe of Oklahoma  
Dr. Ann Early, Arkansas Archeological Survey

**FARMLAND CONVERSION IMPACT RATING  
FOR CORRIDOR TYPE PROJECTS**

<b>PART I (To be completed by Federal Agency)</b> Job CA0704		3. Date of Land Evaluation Request 8/1/2016	4. Sheet 1 of 1
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1. Name of Project Hwy. 79 – South (Widening)	5. Federal Agency Involved FHWA
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2. Type of Project Widening and Bridge Replacement	6. County and State Calhoun County, Arkansas.
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<b>PART II (To be completed by NRCS)</b>		1. Date Request Received by NRCS	2. Person Completing Form
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3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form).		YES	NO	4. Acres Irrigated	Average Farm Size
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5. Major Crop(s)	6. Farmable Land in Government Jurisdiction Acres: %	7. Amount of Farmland As Defined in FPPA Acres: %
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8. Name Of Land Evaluation System Used	9. Name of Local Site Assessment System	10. Date Land Evaluation Returned by NRCS
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<b>PART III (To be completed by Federal Agency)</b>	<b>Alternative Corridor For Segment</b>			
	Corridor A	Corridor B	Corridor C	Corridor D
A. Total Acres To Be Converted Directly	31			
B. Total Acres To Be Converted Indirectly, Or To Receive Services	0			
C. Total Acres In Corridor	108			

<b>PART IV (To be completed by NRCS) Land Evaluation Information</b>				
A. Total Acres Prime And Unique Farmland	19			
B. Total Acres Statewide And Local Important Farmland	0			
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted				
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value				

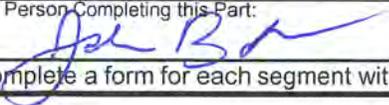
**PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)**

<b>PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))</b>	Maximum Points			
1. Area in Nonurban Use	15	15		
2. Perimeter in Nonurban Use	10	10		
3. Percent Of Corridor Being Farmed	20	5		
4. Protection Provided By State And Local Government	20	0		
5. Size of Present Farm Unit Compared To Average	10	5		
6. Creation Of Nonfarmable Farmland	25	0		
7. Availability Of Farm Support Services	5	5		
8. On-Farm Investments	20	0		
9. Effects Of Conversion On Farm Support Services	25	0		
10. Compatibility With Existing Agricultural Use	10	0		
<b>TOTAL CORRIDOR ASSESSMENT POINTS</b>	<b>160</b>	<b>40</b>		

<b>PART VII (To be completed by Federal Agency)</b>				
Relative Value Of Farmland (From Part V)	100	100		
Total Corridor Assessment (From Part VI above or a local site assessment)	160	40		
<b>TOTAL POINTS (Total of above 2 lines)</b>	<b>260</b>	<b>140</b>		

1. Corridor Selected: A	2. Total Acres of Farmlands to be Converted by Project:  19 acres of Prime Farmland	3. Date Of Selection:	4. Was A Local Site Assessment Used?  YES <input type="checkbox"/> NO <input type="checkbox"/>
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5. Reason For Selection: Improving the existing US Highway 167 on existing location.

Signature of Person Completing this Part: 	DATE August 1, 2016
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NOTE: Complete a form for each segment with more than one Alternate Corridor

## **AHTD JOB NUMBER CA0704**

### **NOISE ANALYSIS**

#### ***Fundamentals of Sound and Noise***

“Noise” is defined as an unwanted sound. Sounds are described as noise if they interfere with an activity or disturb the person hearing them. Sound is measured in a logarithmic unit called a decibel (dB). The human ear is more sensitive to middle and high frequency sounds than it is to low frequency sounds, so sound levels are weighted to more closely reflect human perceptions. These “A-weighted” sounds are measured using the decibel unit dB(A). Because the dB(A) is based on a logarithmic scale, a 10 dB(A) increase in sound level is generally perceived as twice as loud while a 3 dB(A) increase is just barely perceptible to the human ear.

Sound levels fluctuate with time depending on the sources of the sound audible at a specific location. In addition, the degree of annoyance associated with certain sounds varies by time of day, depending on other ambient sounds affecting the listener and the activities of the listener. The time-varying fluctuations in sound levels at a fixed location can be quite complex, so they are typically reported using statistical or mathematical descriptors that are a function of sound intensity and time. A commonly used descriptor of the equivalent sound level is  $Leq$ , which represents the equivalent of a steady, unvarying level over a defined period of time containing the same level of sound energy as the time varying noise environment.  $Leq(h)$  is a sound level averaged over one hour. For highway projects, the  $Leq(h)$  is commonly used to describe traffic-generated sound levels at locations of outdoor human use and activity (such as residences).

#### ***Noise Impact Criteria***

Traffic noise impacts take place when the predicted traffic noise levels approach or exceed the noise abatement standard, or when the predicted traffic noise levels exceed the existing noise level by ten dB(A) (decibels on the A-scale). The noise abatement standard of 67 dB(A) is used for sensitive noise receptors such as residences, schools, churches, and parks. The term “approach” is considered to be one dB(A) less than the noise abatement standard.

The number of noise receptors was estimated for this project utilizing the Federal Highway Administration’s Traffic Noise Model 2.5, existing and proposed roadway information, existing traffic information, and projected traffic levels for 2036.

#### ***Traffic Noise Analyses***

Traffic noise analyses were performed for the project utilizing a roadway cross-section for Highway 167 consisting of four 12-foot paved travel lanes, 11-foot wide median and 8-foot paved shoulders.

### ***Effects of Project***

The traffic noise estimates for the project resulted in a noise abatement distance of 150 feet from the centerline of Highway 167 in the project area. Approximately 2 receptors could be affected by future noise levels greater than 66 dB(A). Of those 2 receptors, both are currently being affected by noise levels from Highway 167 and would experience a 1 to 3 dB(A) noise increase from the proposed project. This increase would be barely discernible to the impacted receptors.

### ***Traffic Noise Abatement***

Since noise impacts are predicted within 500 feet of the proposed project, the feasibility and reasonableness of potential noise abatement measures must be evaluated. Based upon AHTD's "Policy on Highway Traffic Noise Abatement", any noise abatement effort using barrier walls or berms is not warranted for this project. In order to provide direct access to the highway from adjacent properties, breaks in the barrier walls or berms would be required. These necessary breaks for highway access would render any noise barrier ineffective.

To avoid noise levels in excess of design levels, any future receptors should be located a minimum of 10 feet beyond the distance that the noise abatement standard is projected to occur. This distance should be used as a general guide and not a specific rule since the noise will vary depending upon the roadway grades and other noise contributions.

Any excessive project noise, due to construction operations, should be of short duration and have a minimum adverse effect on land uses or activities associated with this project area.

In compliance with Federal guidelines, a copy of this analysis will be transmitted to the Southwest Arkansas Planning and Development District for possible use in present and future land use planning.

## PUBLIC INVOLVEMENT SYNOPSIS

**Job CA0703 Hwy. 274–North (Widening)**

**And**

**Job CA0704 Hwy. 79–South (Widening)**

**Calhoun County**

**Thursday, February 25, 2016**

An open forum Public Involvement Meeting for two proposed projects that will widen Highway 167 was held at the Fordyce Civic Center from 4:00–7:00 p.m. on Thursday, February 25, 2016. Efforts to involve minorities and the public included:

- Display advertisement placed in *South Arkansas Sun*, Thursday, February 11, 2016 and Thursday, February 18, 2016.
- Display advertisement placed in *Fordyce News-Advocate*, Wednesday, February 17, 2016 and Wednesday, February 24, 2016.
- Public Service Announcement to *KMGC 104.5 FM* which aired on Monday, February 22, 2016 through Thursday, February 25, 2016.
- Outreach to Minority Minister Letters.
- Distribution of flyers in the project area.

The following information was available for inspection and comment:

- Displays included two aerial photographs at a scale of 1 inch equals 2000 feet.
- Preliminary design of the proposed projects at a scale of 1 inch equals 100 feet.

Handouts for the public included a comment sheet and a small-scale map identical to the aerial photography display. Copies of these are attached. Table 1 summarizes the public participation at the meeting.

<b>TABLE 1</b>	
<b>Public Participation</b>	<b>Totals</b>
Attendance at meeting (including AHTD staff)	41
Total comment forms received	5

*AHTD staff reviewed all comments received and evaluated their contents. The summary of comments listed below reflects the personal perception or opinion of the person or organization making the statement. The sequencing of the comments is random and is not intended to reflect importance or numerical values. Some of the comments were combined and/or paraphrased to simplify the synopsis process.*

The following is a listing of comments concerning issues associated with the projects.

- Four commenters felt there was a need for the projects.
- One commenter felt the projects were not needed due to low traffic volume.

A listing of general comments concerning the proposed projects is as follows:

- The traffic is never heavy, never once been backed up.
- Trucks are needing more space to move through faster and efficiently.
- It will shorten the acres of my property.
- I will not be upset if it goes through.

Attachments: Public handouts including blank comment form  
Public display

RJ RS  
DN DN

TT:fc

**ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT (AHTD)**

**CITIZEN COMMENT FORM**

**AHTD JOB NUMBER CA0703 & CA0704  
Highway 274 – North (Highway 167 Widening)  
Highway 79 – South (Highway 167 Widening)  
CALHOUN COUNTY**

**LOCATION:  
FORDYCE CIVIC CENTER  
300 HWY. 79/167 BYPASS  
FORDYCE, AR  
4:00 P.M. – 7:00 P.M.  
THURSDAY, FEBRUARY 25, 2016**

Make your comments on this form and leave it with AHTD personnel at the meeting or mail it within 15 days to: Arkansas State Highway and Transportation Department, Environmental Division, Post Office Box 2261, Little Rock, Arkansas 72203-2261.  
Email: [environmentalmeetings@ahrd.ar.gov](mailto:environmentalmeetings@ahrd.ar.gov).

Yes      No  
       Do you feel there is a need to widen Highway 167 from Highway 274 – North and Highway 79 - South? 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 AHTD staff. \_\_\_\_\_

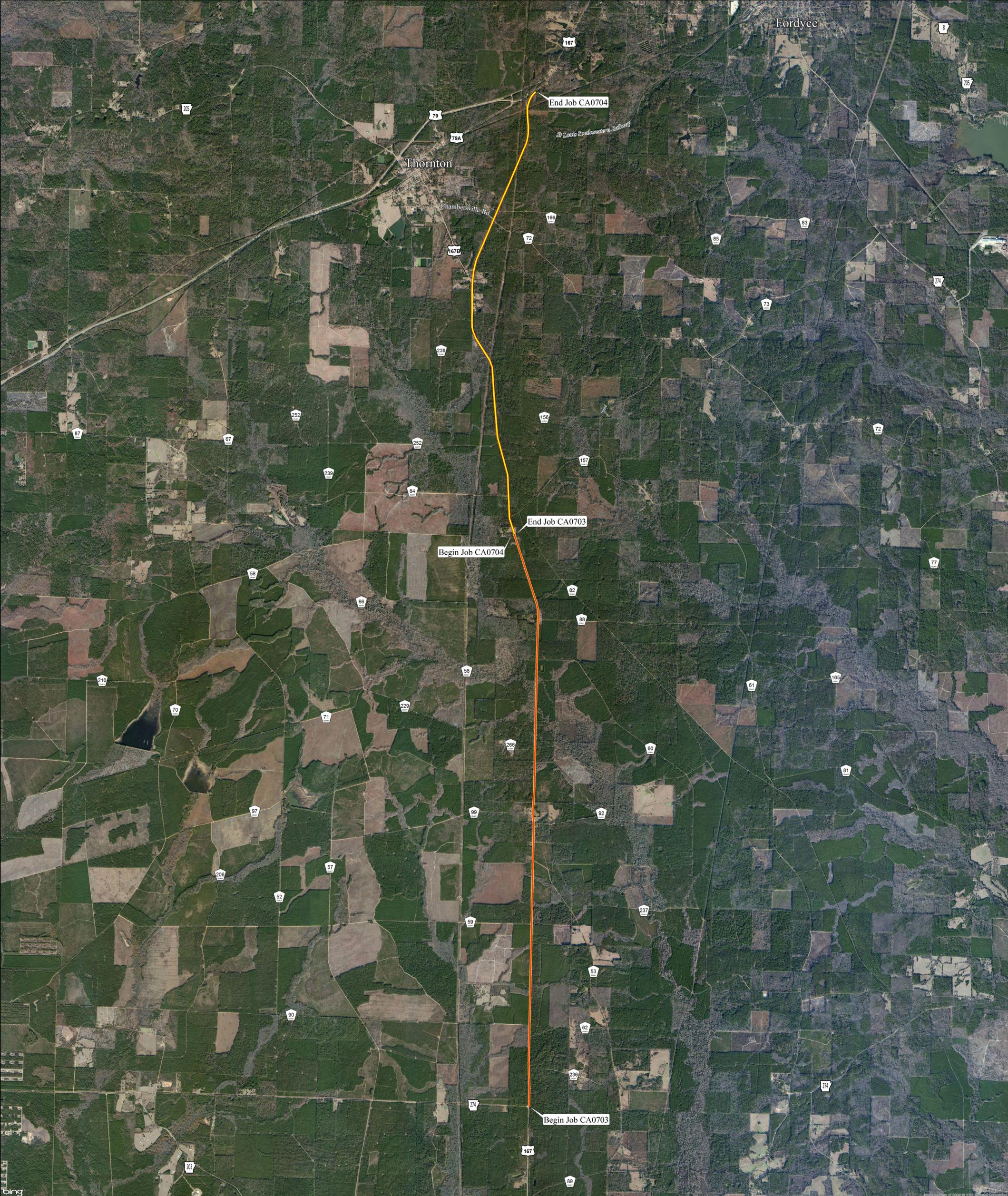
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_

(Continue on Back)

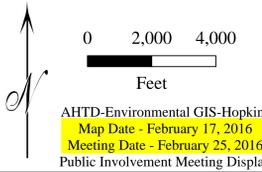




**Job CA0703**  
 Hwy. 274 - North  
 and Job CA0704  
 Hwy. 79 - South  
 (Widening) (Hwy. 167)  
 Calhoun County

Preliminary  
Subject to Revision

— Job CA0703  
— Job CA0704



AHTD-Environmental GIS-Hopkins  
 Map Date - February 17, 2016  
 Meeting Date - February 25, 2016  
 Public Involvement Meeting Display

# AHTD ENVIRONMENTAL IMPACTS ASSESSMENT FORM

AHTD Job Number CA0704 FAP Number \_\_\_\_\_

Job Title Hwy. 79 – South (Widening) (S)

Environmental Impacts	None	Minor	Significant	Comments
Air Quality	X			
Construction Impacts		X		Temporary
Cultural Resources	X			SHPO attached
Economic	X			
Endangered Species	X			
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			
Migratory Birds		X		Bird SP required
Navigation/Coast Guard	X			
Noise Levels	X			
Prime Farmland	X			
Protected Waters	X			
Public Recreation Lands	X			
Public Water Supply/WHPA	X			
Relocatees	X			
Section 4(f)/6(f)	X			
Social	X			
Underground Storage Tanks	X			
Visual Impacts	X			
Stream Impacts		X		Nationwide 14 permit
Water Quality		X		Temporary during construction
Wetlands		X		0.35 acre
Wildlife Refuges	X			

Section 401 Water Quality Certification Required? No  
 Short-term Activity Authorization Required? Yes  
 Section 404 Permit Required? Yes Type Nationwide 14

Remarks: 3.4 wetland mitigation credits will be required. The required mitigation credits will be obtained through an approved mitigation bank.

Signature of Evaluator  Date August 22, 2016

Date Submitted: July 14, 2016

Date Returned: \_\_\_\_\_

### ROADWAY DESIGN REQUEST

Job Number CA0704 FAP No. \_\_\_\_\_ County Calhoun

Job Name Hwy. 79-South (Widening) (S)

Design Engineer Primary Environmental Staff \_\_\_\_\_

Brief Project Description Widen existing lanes and replace bridges

A. Existing Conditions:

- 1. Roadway Width: Metric: \_\_\_\_\_ English: 40'
- 2. Shoulder Width: Metric: \_\_\_\_\_ English: 8'
- 3. Number of Lanes and Width: Metric: \_\_\_\_\_ English: 2-12'
- 4. Existing Right-of-Way: Metric: \_\_\_\_\_ English: 120'

B. Proposed Conditions:

- 1. Roadway Width: Metric: \_\_\_\_\_ English: 75'
- 2. Shoulder Width: Metric: \_\_\_\_\_ English: 8'
- 3. Number of Lanes and Width: Metric: \_\_\_\_\_ English: 4-12' & 11' median
- 4. Average Right-of-Way: Metric: \_\_\_\_\_ English: 160'

C. Construction Information:

Traffic will be rerouted from Hwy. 79/167 southbound thru Thornton and 167B.

D. Design Data:

County \_\_\_\_\_ 2016 ADT: 4000 \_\_\_\_\_ 2036 ADT: 4900 Trucks: 25

Design Speed: \_\_\_\_\_ km/h 60 m.p.h.

E. Approximate total length of project: \_\_\_\_\_ kilometer(s) 5.57 mile(s)

F. Justification for proposed improvements: Increase capacity

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

H. Have you coordinated with any of the following: (provide name and date)

City and/or County Officials: No

State Agency: No

Federal Agency: No

**BRIDGE INFORMATION - PRELIMINARY**

Job Number: CA0704 FAP Number: M001-0007-025 County: CALHOUN

Job Name: HWY. 79-SOUTH (WIDENING) (S)

Design Engineer: Jim Pool

Environmental Staff: Terry Tucker, Clint Hucheson

**A. Description of Existing Bridge:**

1. Bridge Number: 00306 over Lost Creek
2. Location: Rte.: 167 Section: 4 Log Mile: 14.46
3. Length: 26 ft Br. Rdwy. Width: 40 ft Deck Width (Out-to-Out): 42 ft
4. Type Construction: Reinforced Concrete Deck Girder Span on Conc. Abutments w/timber piles
5. Deficiencies: None
6. HBRRP Eligibility: Qualif. Code:        Sufficiency Rating: 83.6
7. Are any Condition Component Ratings at 3 or less? Traffic Safety Feature

**B. Proposed Improvements: BOX CULVERT**

1. Length:    ft Br. Rdwy. Width:    ft Deck Width (Out-to-Out):    ft
2. Travel Lanes:
3. Shoulder Width:
4. Sidewalks?    Location:        Width:        ft

**C. Construction Information:**

1. Location in relation to existing bridge:
2. Superstructure Type:
3. Span Lengths:
4. Substructure Type:
5. Ordinary High Water Elev. (OHW): N/A No. of Bents inside OHW Contours: N/A
6. Concrete Volume below OHW:        yd<sup>3</sup> Vol. Bent Excavation:        yd<sup>3</sup> Vol. Backfill:        yd<sup>3</sup>
7. Is Channel Excavation below OHW Required? N/A Surface Area:        ft<sup>2</sup> Volume:        yd<sup>3</sup>
8. Is Fill below OHW Req'd.? N/A Surface Area:        ft<sup>2</sup> Volume:        yd<sup>3</sup>
9. Is Riprap below OHW required? N/A Volume:        yd<sup>3</sup>

**D. Work Road Information:**

1. Is Work Road(s) required?        Location:        Top Width:        ft
2. Is Fill below OHW required?        Surface Area:        ft<sup>2</sup> Volume:        yd<sup>3</sup>
3. Are Pipes required to meet Backwater Criteria?        Waterway Opening:        ft<sup>2</sup>

**E. Detour Information:**

1. Is a detour bridge required? No Location in relation to Existing Br.:
2. Length:        ft Br. Rdwy. Width:        ft Deck Elevation:
3. Volume of Fill below OHW:        yd<sup>3</sup> Surface Area:        ft<sup>2</sup>

**F. Coordination with Outside Agencies** (e.g., FHWA, City, County, C of E, USCG):

Has Bridge Division coordinated with any outside agencies?       

Agency	Person Contacted	Date

## BRIDGE INFORMATION - PRELIMINARY

Job Number: CA0704 FAP Number: M001-0007-025 County: CALHOUN

Job Name: HWY. 79-SOUTH (WIDENING) (S)

Design Engineer: Jim Pool

Environmental Staff: Terry Tucker, Clint Hutcheson

**A. Description of Existing Bridge:**

1. Bridge Number: 03637 over UPRR
2. Location: Rte.: 167 Section: 4 Log Mile: 17.50
3. Length: 188 ft Br. Rdwy. Width: 27.9 ft Deck Width (Out-to-Out): 33.4 ft
4. Type Construction: Steel beam spans on concrete piers and piles
5. Deficiencies: None
6. HBRRP Eligibility: Qualif. Code:        Sufficiency Rating: 80.0
7. Are any Condition Component Ratings at 3 or less? Traffic Safety Feature

**B. Proposed Improvements: Twin Parallel Bridges over Union Pacific Railroad**

1. Length: 252.167 ft Br. Rdwy. Width: 38 ft Deck Width (Out-to-Out): 41.167 ft
2. Travel Lanes: Two 12ft. lanes
3. Shoulder Width: 6 foot inside, 8 foot outside
4. Sidewalks? No Location:        Width:        ft

**C. Construction Information:**

1. Location in relation to existing bridge: Approx 13' West (Southbd.) & Approx. 73' East (Northbd.)
2. Superstructure Type: 250'-0" Continuous Composite W-Beam Unit
3. Span Lengths: Three Spans (70' - 110' - 70')
4. Substructure Type: Conc. Columns on Pile Footings at Interior Bents, Piling at End Bents
5. Ordinary High Water Elev. (OHW): N/A No. of Bents inside OHW Contours: N/A
6. Concrete Volume below OHW:        yd<sup>3</sup> Vol. Bent Excavation:        yd<sup>3</sup> Vol. Backfill:        yd<sup>3</sup>
7. Is Channel Excavation below OHW Required? N/A Surface Area:        ft<sup>2</sup> Volume:        yd<sup>3</sup>
8. Is Fill below OHW Req'd.? N/A Surface Area:        ft<sup>2</sup> Volume:        yd<sup>3</sup>
9. Is Riprap below OHW required? N/A Volume:        yd<sup>3</sup>

**D. Work Road Information:**

1. Is Work Road(s) required? No Location:        Top Width:        ft
2. Is Fill below OHW required?        Surface Area:        ft<sup>2</sup> Volume:        yd<sup>3</sup>
3. Are Pipes required to meet Backwater Criteria?        Waterway Opening:        ft<sup>2</sup>

**E. Detour Information:**

1. Is a detour bridge required? No Location in relation to Existing Br.:
2. Length:        ft Br. Rdwy. Width:        ft Deck Elevation:
3. Volume of Fill below OHW:        yd<sup>3</sup> Surface Area:        ft<sup>2</sup>

**F. Coordination with Outside Agencies (e.g., FHWA, City, County, C of E, USCG):**

Has Bridge Division coordinated with any outside agencies?       

Agency	Person Contacted	Date



REPLY TO  
ATTENTION OF

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

RECEIVED  
ARDOT

JUN 28 2018

ENVIRONMENTAL  
DIVISION

June 21, 2018

Regulatory Division

NATIONWIDE PERMIT NO. **MVK 2018-00456**

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

Dear Mr. Fleming:

Please refer to your recent request concerning Department of the Army permit requirements pursuant to Section 404 of the Clean Water Act. You requested authorization for the placement of dredged and fill material in waters of the United States associated with widening U.S. Highway 167. The existing roadway consists of two 12-foot-wide lanes with 8-foot-wide shoulders. The upgraded roadway will consist of four 12-foot-wide lanes with a continuous 11-foot-wide turn lane and 8-foot-wide shoulders. The bridge over Lost Creek will be replaced with a reinforced box culvert and the box culvert in an unnamed tributary will be extended to accommodate the widening. All work will be on existing alignment and the Federal Highway Administration certified the project as a Tier 3 Categorical Exclusion on August 24, 2016. Approximately 31 acres of additional right-of-way will be acquired for the project. The project will adversely impact approximately 0.35 acres of wetlands. Less than 300 linear feet and 0.1 acres of each stream will be impacted. There are no endangered species or cultural resources impacts. The project is located on U.S. Highway 167 approximately two miles south of the City of Fordyce, in sections 6, 7, 18, 19, 30 and 31, T. 11 S., R. 13 W., Calhoun County, Arkansas. A vicinity map, project location map and wetland credits worksheet are enclosed.

The proposed activities are authorized by three Department of the Army Nationwide Permits (NWP's) **No. 14** (copy enclosed), provided that the following **Special Condition** and General Conditions therein are met. For your convenience, we have highlighted the General Conditions of the NWP that are the most pertinent to your project. 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 project, you should submit revised plans to this office for approval before construction of the change begins.

**Special Condition:**

**ArDOT agrees to mitigate for the adverse impacts to 0.35 acres of wetlands with 3.4**

**wetland credits at an approved mitigation bank before construction of the project begins. ArDOT will provide documentation of the mitigation bank transaction to the U.S. Army Corps of Engineers Little Rock District Transportation Program Manager.**

Please pay particular attention to 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 before, during and after construction.

Also, 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 General Condition No. 30 of the permit.

For your information, we have enclosed a copy of the Arkansas Department of Environmental Quality (ADEQ) Section 401 Water Quality Certification conditions, which are conditions of your permit. If you have any questions concerning compliance with the conditions of the 401 certification, you should contact Ms. Melanie Treat at the ADEQ, Water Division, 5301 Northshore Drive, North Little Rock, Arkansas 72118, telephone (501) 682-0040.

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.

Your cooperation in the Regulatory Program is appreciated. If you have any additional questions about this permit or any of its provisions, please contact Mr. Johnny McLean at (501) 324-5295 and refer to Permit No. **MVK 2018-00456, U.S. Highway 167 widening south of Fordyce (ArDOT Project No. CA0704).**

Sincerely,



Sarah Chitwood

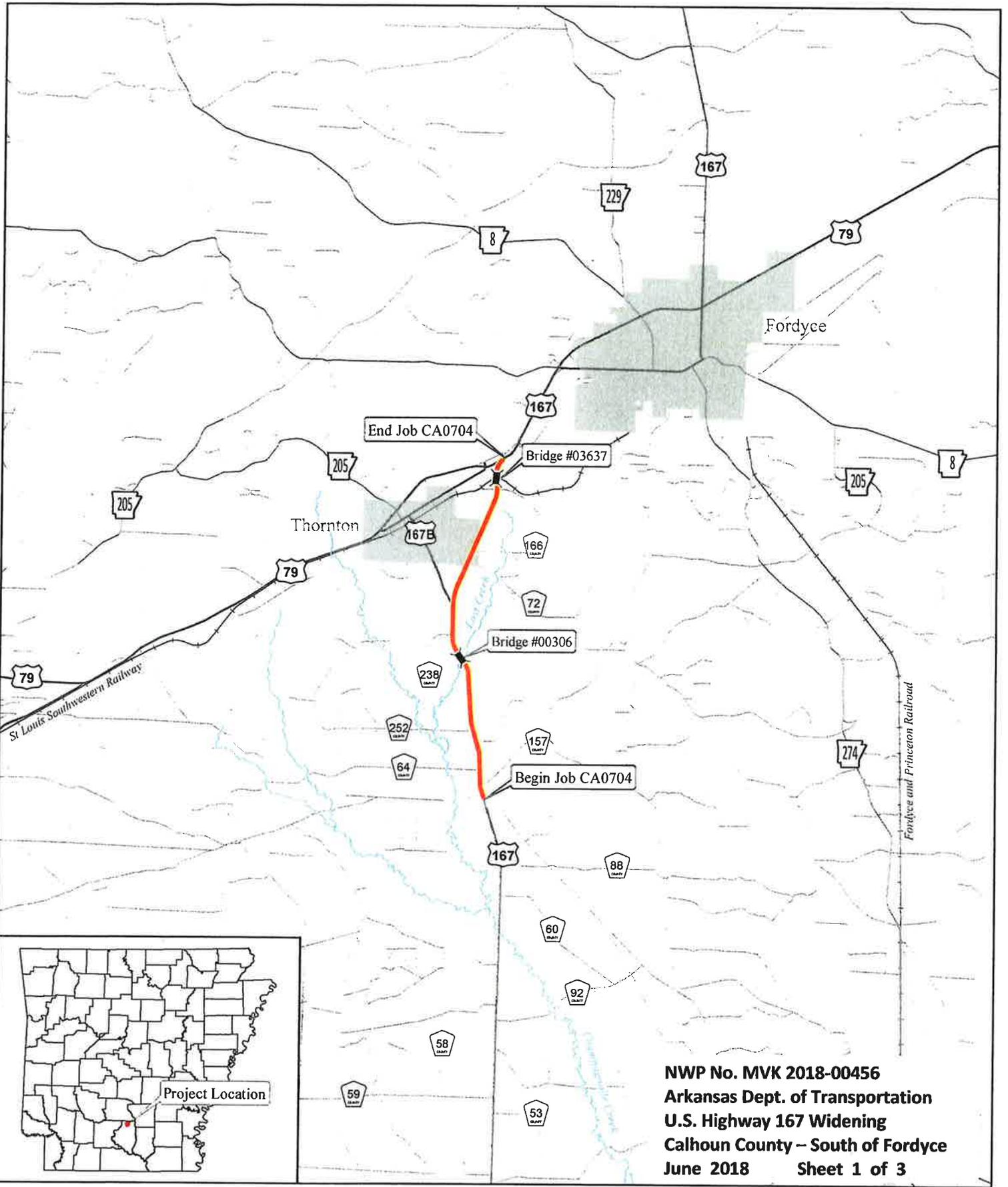
Chief, Regulatory Evaluation Branch

Copy Furnished:

Vicksburg District Regulatory, w/cy dwgs

Ms. Melanie Treat, Arkansas Department of Environmental Quality, w/cy dwgs

Mr. Lindsey Lewis, U.S. Fish & Wildlife Service, w/cy dwgs



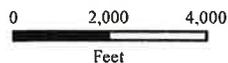
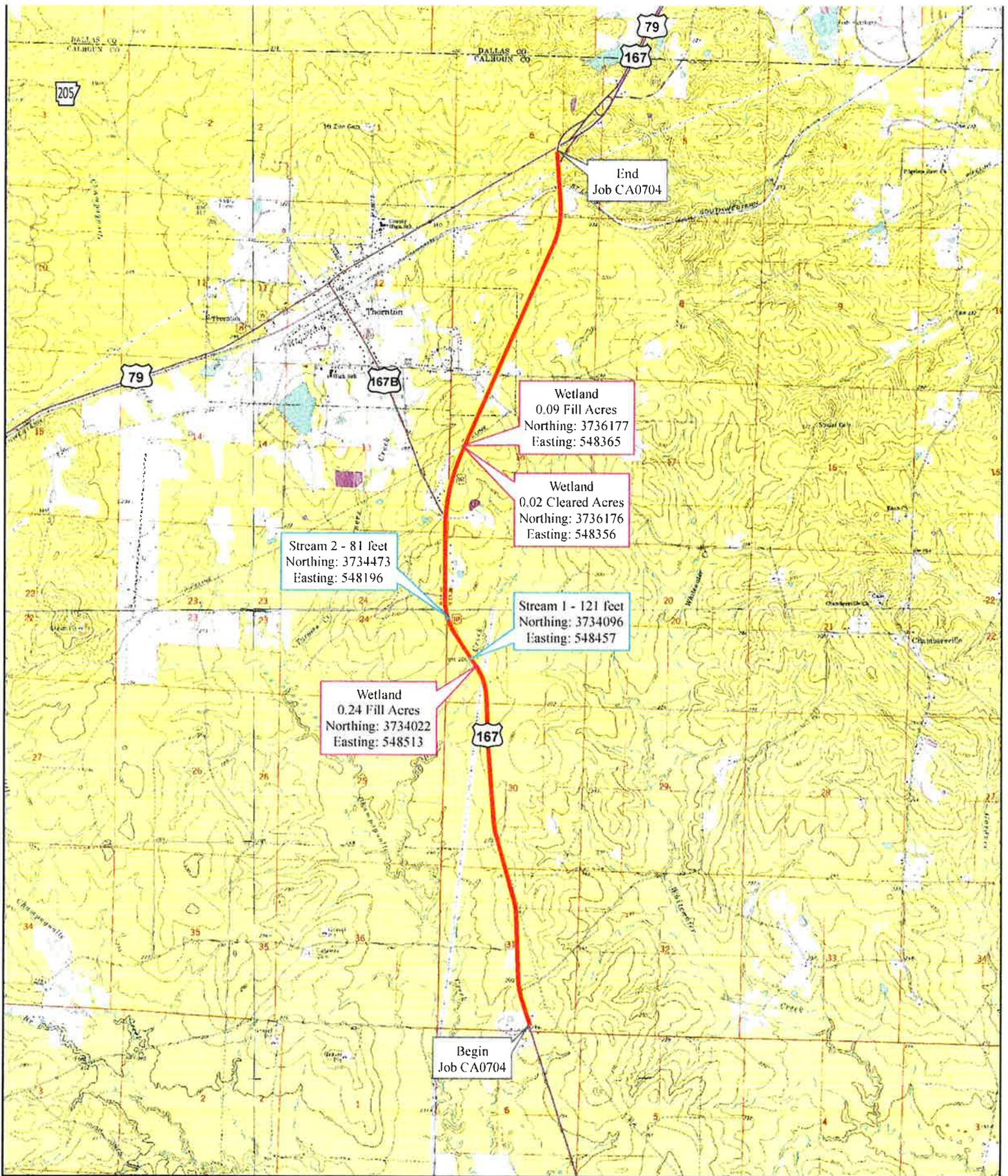
**NWP No. MVK 2018-00456**  
**Arkansas Dept. of Transportation**  
**U.S. Highway 167 Widening**  
**Calhoun County – South of Fordyce**  
**June 2018 Sheet 1 of 3**

**Job CA0704**  
**Hwy. 79 - South (Widening)**  
**(Hwy. 167)**  
**Calhoun County**

 **Project Location**



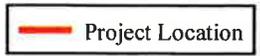
AHTD-Environmental GIS-Hopkins  
 August 4, 2016



AHTD - Environmental GIS - Strawn  
April 7, 2017

**Job CA0704**  
**Hwy. 79 - South**  
**(Widening) (Hwy. 167)**  
**Calhoun County**

**Sheet 2 of 3**



Chambersville and Fordyce 1985  
USGS Topographic Maps

## Required Wetland Mitigation Credits Worksheet

(Charleston 2010 Determination of Wetland Credits)

<b>Factor</b>	<b>Filled Herbaceous Wetland</b>	<b>Cleared Forested Wetland</b>
Lost Type	2	3
Priority Category	0.5	0.5
Existing Condition	2.0	2.0
Duration	2	2
Dominant Impact	3	1
Cumulative Impact	0.2	0.2
Sum of r Factors	$R_1=9.7$	$R_2=8.7$
Impacted Area	$AA_1=0.33$	$AA_2=0.02$
R x AA=	3.2	0.2

$$\text{TOTAL REQUIRED CREDITS} = \sum (R \times AA) = 3.4$$

# 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.

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

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 NWP.

(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)

(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.



**MAR 16 2017**

Colonel Robert G. Dixon  
District Commander  
U.S. Army Corps of Engineers  
P.O. Box 867  
Little Rock, Arkansas 72203-0867

RE: Public Notice: Re-issuance of Nationwide Permits

Dear Colonel Dixon:

The Arkansas Department of Environmental Quality (ADEQ) has completed its review of the above referenced public notice for re-issuance of the U.S. Army Corps of Engineers Nationwide Permits (NWP) for the State of Arkansas.

ADEQ has determined that there is a reasonable assurance that the activities covered under most these NWP will be conducted in a manner which, according to the Arkansas Pollution Control and Ecology Commission's Regulation No.2, will not physically alter a significant segment of the waterbody and will not violate the water quality criteria.

Therefore, pursuant to §401(a)(1) of the Clean Water Act, the ADEQ hereby issues water quality certification for all NWP with the exception of NWP 14, 29, and 43, contingent upon the following conditions:

- 1) An individual water quality certification request must be submitted to ADEQ for Activities which may impact Extraordinary Resource Waters, Ecologically Sensitive Waterbodies, and Natural Scenic Waterways and their tributaries (within 1 mile) as defined in Regulation No. 2, Water Quality Standards.
- 2) The applicant shall contact ADEQ to determine if a Short Term Activity Authorization (STAA) is needed when performing work in the wetted area of any waterbody. More information can be obtained by contacting the Water Division Planning Section of ADEQ at 501-682-0946.
- 3) The applicant shall implement all practicable best management practices (BMP) to avoid excessive impacts of sedimentation and turbidity to the surface waters.
- 4) The applicant will take all reasonable measures to prevent the spillage or leakage of any chemicals, oil, grease, gasoline, diesel, or other fuels. In the unlikely event such spillage or leakage occurs, the applicant must contact ADEQ immediately.
- 5) The applicant shall limit construction to low flow periods as much as possible to minimize adverse effects on water quality and aquatic life.

**PERMITTEE COMPLIANCE CERTIFICATION**

**PERMIT NO.: MVK 2018-00456, U.S. Highway 167 widening south of Fordyce (ArDOT Project No. CA0704)**

**NWP/S NO.: 14**

**PERMITTEE NAME: AHTD**

**DATE OF ISSUANCE: \_\_\_\_\_**

**PROJECT MANAGER: Johnny McLean**

**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**