

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

INTER OFFICE MEMORANDUM

September 11, 2013

TO: Master Files

FROM: Lynn P. Malbrough, Division Head, Environmental Division 

SUBJECT: AHTD Job Number BR2503
FAP Number BRO-0025(15)
Spring River Str. & Apprs.
Bridge Number 13129
Fulton County
Tier 2 Categorical Exclusion

The Environmental Division has reviewed the referenced project and it falls within the definition of a Tier 2 Categorical Exclusion under 23 Code of Federal Regulations, Section 771.117, and the AHTD/FHWA Memorandum of Agreement on the processing of Categorical Exclusions. A public hearing will not be offered for this project.

The purpose of this project is to replace the structurally deficient bridge (sufficiency rating = 47) on County Road 42 (Nine Mile Ridge Rd.) over the Spring River near the City of Hardy in Fulton County. Total length of the project is 0.34 mile. The proposed bridge will be constructed on new location, approximately 250 feet downstream of the existing bridge, with traffic maintained on the existing bridge throughout construction.

The existing low water bridge has an 11' x 301' 30-span concrete deck on concrete bents and will be replaced with a 27' x 556' bridge consisting of 3-span W-beam units on concrete bents.

Design data for this project is as follows:

Design Year	Average Daily Traffic	Percent Trucks	Design Speed
2014	130	5	20 mph
2034	160	5	20 mph

The cross section of the bridge and approaches will be improved and brought up to design standards. The existing bridge narrows to only 10.5 feet wide, while the proposed bridge will have two 10-foot lanes with 2-foot shoulders. The existing bridge approaches consist of two 10-foot gravel lanes with no shoulders, but will be improved to two 10-foot paved lanes with 4-foot gravel shoulders. The average right of way width will increase from 30-35 feet to 85 feet.

There are no Section 4(f)/6(f) properties, *Executive Order 12898* Environmental Justice issues, public water source impacts, cultural resources, wetlands, or relocations associated with this project. Field inspections found no evidence of existing underground storage tanks or hazardous

waste deposits within existing right of way. Approximately 3.5 acres of new right of way will be acquired for the proposed project, with approximately 2 acres of the proposed right of way designated as Farmland of Statewide Importance. The Farmland Conversion Impact Rating form and cultural resources clearance are attached.

Noise predictions have been made for this project utilizing the Federal Highway Administration's TNM 2.5 (Traffic Noise Model) procedures. These predictions indicate that noise levels are below the FHWA noise criteria beyond the project's proposed right of way limits. Any increases in roadway noise levels will not be the result of the proposed project, but instead a result of traffic volume increases during the planning period (Year 2034). As a result, any noise level increases will occur independently of this proposed project and no project related noise impacts are anticipated. In compliance with federal guidelines, local authorities will not require notification.

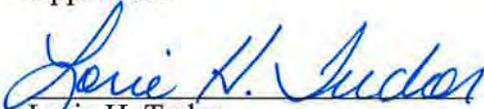
Ten threatened and endangered species are known to occur within the Spring River and adjacent riparian habitats. In an effort to determine potential impacts to threatened and endangered species, in July 2013 personnel from AHTD conducted a freshwater mussel survey of an area extending 100 feet upstream of the existing structure to 300 feet downstream of the proposed bridge alignment. No threatened or endangered species were encountered during the survey. A total of 55 mussels representing four species [*Villosa iris* (32), *Lampsilis reeviana* (12), *Cyclonaias tuberculata* (7), and *Venustaconcha pleasii* (4)] were collected during the survey in a total of 159 minutes of search time. Based on the results of the survey the US Fish and Wildlife Service has determined that the project is not likely to adversely affect threatened or endangered species. US Fish and Wildlife Service coordination is attached.

Construction of the proposed project should be allowed under the terms of a Section 404 Nationwide Permit 14 for Linear Transportation Crossings as defined in Federal Register 77(34):10184-10290. The Spring River has been designated as an Ecologically Sensitive Waterbody and an Extraordinary Resource Water. These designations require the issuance of an Individual Section 401 Water Quality Certification.

Attachments:

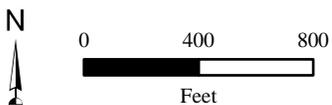
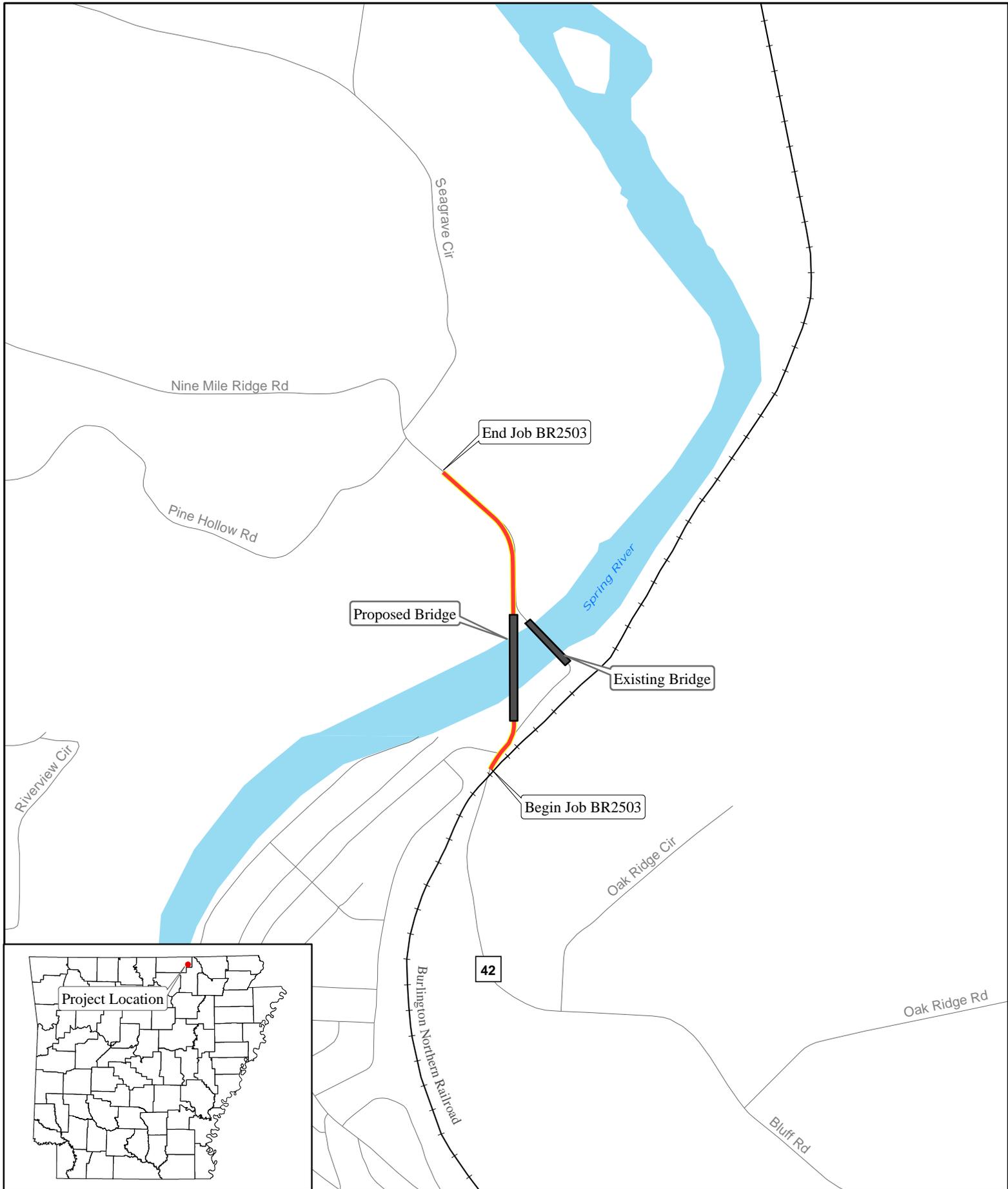
- Project Location Map
- SHPO Clearance
- Environmental Study Checklist
- USFWS Coordination
- Prime Farmland Worksheet
- Design Sheets

Approved:


Lorie H. Tudor
Assistant Chief Engineer-Planning

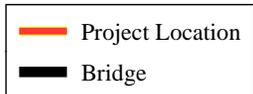
LM:SS:fc

- c: Bridge
- Programs and Contracts
- Right of Way
- State Aid
- District 5
- FHWA
- Master File



AHTD-Environmental GIS-Hopkins
June 10, 2013

Job BR2503
Spring River Strs. & Apprs.
Fulton County





The Department of
**Arkansas
Heritage**

Mike Beebe
Governor

Martha Miller
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

323 Center Street, Suite 1500
Little Rock, AR 72201
(501) 324-9880
fax: (501) 324-9184
tdd: (501) 324-9811

e-mail:

info@arkansaspreservation.org

website:

www.arkansaspreservation.org

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AHTD

JUN 28 2013

ENVIRONMENTAL
DIVISION

June 24, 2013

Mr. Lynn P. Malbrough
Division Head
Environmental Division
Arkansas State Highway and Transportation Department
PO Box 2261
Little Rock, AR 72203-2261

RE: Fulton County – General
Section 106 Review – FHWA
Report Titled: "A Cultural Resources Survey of AHTD Job Number
BR2503 Spring River Str. & Apprs., Fulton County, Arkansas"
AHTD Job Number BR2503
Spring River Str. & Apprs.
AHPP Tracking Numbers: 86610

Dear Mr. Malbrough:

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

We concur that the only existing and previously undocumented prehistoric site (3FU160) identified in the above survey, is ineligible for inclusion in the National Register of Historic Places because of earlier road construction and plowing. In addition, there is no significant archeological material in the project area. Therefore, we concur that no archeological sites will be impacted by this undertaking and can issue a no effect finding.

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 Theresa Russell of my staff at (501)-324-9880.

Sincerely,

Frances McSwain
Deputy State Historic Preservation Officer

cc: Mr. Randal Looney, Federal Highway Administration
Dr. Andrea A. Hunter, The Osage Nation
Ms. Jean Ann Lambert, Quapaw Tribe of Oklahoma
Dr. Ann Early, Arkansas Archeological Survey

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

PART I (To be completed by Federal Agency) Job BR2503	3. Date of Land Evaluation Request 8/28/13	4. Sheet 1 of _____
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1. Name of Project Spring River Strs. & Apprs.	5. Federal Agency Involved FHWA
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2. Type of Project Bridge Replacement	6. County and State Fulton AR.
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PART II (To be completed by NRCS)	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
----------------------------------------	-----------------------------------------	-------------------------------------------

PART III (To be completed by Federal Agency)	Alternative Corridor For Segment			
	Corridor A	Corridor B	Corridor C	Corridor D
A. Total Acres To Be Converted Directly				
B. Total Acres To Be Converted Indirectly, Or To Receive Services				
C. Total Acres In Corridor				

PART IV (To be completed by NRCS) Land Evaluation Information				
A. Total Acres Prime And Unique Farmland				
B. Total Acres Statewide And Local Important Farmland	1.95			
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)

PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))	Maximum Points				
1. Area in Nonurban Use	15	15			
2. Perimeter in Nonurban Use	10	10			
3. Percent Of Corridor Being Farmed	20	0			
4. Protection Provided By State And Local Government	20	0			
5. Size of Present Farm Unit Compared To Average	10	0			
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			
TOTAL CORRIDOR ASSESSMENT POINTS	160	30			

PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)	100	100			
Total Corridor Assessment (From Part VI above or a local site assessment)	160	30			
TOTAL POINTS (Total of above 2 lines)	260	130			

1. Corridor Selected: New	2. Total Acres of Farmlands to be Converted by Project: 1.95Acres	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:

Signature of Person Completing this Part: 	DATE 9/6/13
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NOTE: Complete a form for each segment with more than one Alternate Corridor



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE

110 S. Amity Road, Suite 300
Conway, Arkansas 72032

Tel.: 501/513-4470 Fax: 501/513-4480



July 15, 2013

BR2503

Lynn P. Malbrough
AHTD
P.O. Box 2261
Little Rock, AR 72203

Dear Mr. Malbrough:

The Fish and Wildlife Service (Service) has reviewed your letter dated July 8, 2013, concerning the proposed replacement of an existing low water bridge near the City of Hardy, Fulton County, Arkansas. Our comments are submitted in accordance with the Fish and Wildlife Coordination Act (FWCA; 16 U.S.C. 661-667e) and the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.).

The Service concurs with your determination that the proposed bridge replacement is not likely to adversely affect the Curtis pearl mussel (*Epioblasma florentina curtisi*), scaleshell (*Leptodea leptodon*), Ozark hellbender (*Cryptobranchus alleganiensis bishopi*), rabbitsfoot (*Quadrula cylindrica cylindrica*), Sprague's pipit (*Anthus spragueii*), Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), pink mucket (*Lampsilis abrupta*), snuffbox (*Epioblasma triquetra*), fanshell (*Cyprogenia stegaria*), or Bald Eagle (*Haliaeetus leucocephalus*) and would not have any significantly adverse impacts on any non-listed species.

We appreciate the opportunity to provide these comments. If you have any questions, please contact the Arkansas Ecological Services Staff at (501) 513-4487.

Sincerely,


Jim Boggs
Project Leader

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AUG 05 2013

ENVIRONMENTAL
DIVISION

AHTD ENVIRONMENTAL IMPACTS ASSESSMENT FORM

AHTD Job Number BR2503 FAP Number BRO-0025(15)

Job Title Spring River Strs. & Apprs.

Environmental Impacts	None	Minor	Significant	Comments
Air Quality	X			
Construction Impacts		X		Traffic maintained throughout construction
Cultural Resources	X			
Economic	X			
Endangered Species		X		Not likely to adversely affect (7/15/13)
Energy Resources	X			
Environmental Justice/Title VI	X			
Fish and Wildlife		X		
Floodplains	X			
Forest Service Property	X			
Hazardous Materials/Landfills	X			
Land Use Impacts		X		3.5 acres proposed right of way
Migratory Birds	X			
Navigation/Coast Guard	X			
Noise Levels	X			
Prime Farmland		X		2 acres Farmland of Statewide Importance
Protected Waters		X		Spring River – see remarks
Public Recreation Lands	X			
Public Water Supply/WHPA	X			
Relocatees	X			
Section 4(f)/6(f)	X			
Social	X			
Underground Storage Tanks	X			
Visual Impacts	X			
Stream Impacts		X		
Water Quality		X		Section 401 Individual WQC
Wetlands	X			
Wildlife Refuges	X			

Section 401 Water Quality Certification Required? Yes
 Short-term Activity Authorization Required? Yes
 Section 404 Permit Required? Yes Type Nationwide 14

Remarks: Spring River is listed as an Extraordinary Resource Water and an Ecologically Sensitive Waterbody

Signature of Evaluator Susan Stafford Date September 5, 2013

Date Submitted 5/8/13
Date Returned _____

STATE AID DESIGN REQUEST

Job Number BR2503 FAP Number BRO-0025(15) County Fulton
Job Name Spring River Str. & Apprs. (S)
Design Engineer Ronnie Smith Environmental Staff _____
Brief Project Description Replace low water crossing with new bridge and approaches on new location.

A. Existing Conditions:

- 1. Roadway Width: Metric _____ English 20'
- 2. Shoulder Width: Metric _____ English None
- 3. Number of Lanes and Width: Metric _____ English 2 - 10'
- 4. Existing Right-of-Way: Metric _____ English 30' - 35'

B. Proposed Improvements:

- 1. Roadway Width: Metric _____ English 28'
- 2. Shoulder Width: Metric _____ English 4' Gravel
- 3. Number of Lanes and Width: Metric _____ English 2 - 10' Paved
- 4. Average Right-of-Way: Metric _____ English 85'

If bridge(s) will be replaced by culverts give dimensions: _____

C. Construction Information:

If detour: Where: N/A Length: English

D. Design Data:

2014 ADT: 130 2034 ADT: 160 Trucks: 5 %
Design Speed: 20 m.p.h.

E. Approximate total length of project: _____ kilometer(s) 0.340 mile(s)

F. Justification for proposed improvements: _____

G. Total Relocatees: 0 Residences: _____ Businesses: _____

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

County Officials YES
State Agency NO
Federal Agency NO

Job Number: BR2503 FAP Number: 9970 County: Fulton
 Job Name: Spring River Str. & Apprs. (S)
 Design Engineer: Courtney Rome Environmental Staff: Josh Seagraves

A. Description of Existing Bridge(s):

1. Bridge Number: 13129 over Spring River
2. Location: Rte. 42 Section: _____ Log Mile: _____
3. Length: 301.00 ft ; Br. Rdwy. Width: 10.50 ft; Deck Width (Out to Out): 11.000 ft
4. Type Construction: (30) 10 ft. concrete deck spans supported by concrete bents.
5. Deficiencies: Cracking, deep scaling and spalling to deck at all spans w/exposed rebar.
6. HBRRP Eligibility: Qualif. Code SD ; Suff. Rating 47.0

B. Proposed Improvements:

1. Length: 556.36 ft ; Br. Rdwy. Width: 24.00 ft; Deck Width (Out to Out): 27.17 ft
2. Travel Lanes: No. 2; Width 10 ft
3. Shoulder Width: Left: 2.00 ft ; Right: 2.00 ft
4. Sidewalks? no ; Location: _____ ; Width: _____ ft

C. Construction Information:

1. Location in relation to existing bridge: 250' Downstream of Existing C. L.
2. Superstructure Type: (2) 277' Cont. Comp. W-Beam
3. Span Lengths: 81', 115', 81'
4. Substructure Type: Concrete Single Coulmn Bent w/ Drilled Shaft Foundation
5. Ordinary High Water Elevation: 364.00
6. Number bents inside Ordinary High Water (OHW) Contours: 5
7. Concrete Volume below OHW: 0 yd3; Volume bent excavation: TBD yd3; Is backfill req'd? TBD
8. Is Channel Excavation Required? no ; Surface Area: _____ ft2; Volume: _____ yd3
9. Is Fill below OHW req'd? no ; Surface Area: _____ ft2; Volume: _____ yd3
10. Is Riprap required? No ; Volume: _____ yd3

D. Work Road Information:

1. Is Work Road(s) required? TBD ; Location: _____ ft _____; Top Width: _____ ft
2. Is fill below OHW req'd? TBD ; Surface Area: _____ ft2; Volume: _____ yd3
3. Are Pipes required to meet Backwater Criteria? TBD ; Waterway opening: _____ ft2

E. Detour Information:

1. Is a detour bridge required? No
2. Location in relation to existing Bridge. _____
3. Length: _____ ft ; Br. Rdwy. Width: _____ ft ; Deck Elevation: _____
4. Volume of Fill below OHW: _____ yd3; Surface Area: _____ ft2

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

Has Bridge Div. coordinated with any outside agencies? No

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/

November 8, 2018

Regulatory Division

NATIONWIDE PERMIT NO. SWL 2014-00261-1

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 replacing a bridge over the Spring River. The project was previously authorized in 2014 but was not constructed. The new bridge will be constructed approximately 250 feet downstream from the existing bridge. Five bridge bents will be located below the ordinary high water mark of the river and each of the footings is approximately eight feet in diameter. Approximately 1,185 cubic yards of fill will be deposited into the river for the construction of temporary work roads. Less than 300 linear feet of the river will be impacted and impacts will only be temporary. The Spring River is classified as an Extraordinary Resource Water and Ecologically Sensitive Waterbody. Section 401 Water Quality Certification for the project was issued by the Arkansas Department of Environmental Quality (ADEQ) on June 10, 2014. Since over four years have elapsed since the previous consultation, ArDOT reinitiated consultation with the U.S. Fish and Wildlife Service (USF&WS) and performed another mussel survey on September 4, 2018. The USF&WS concurred with ArDOT's determination that the project may affect but is not likely to adversely affect the Northern Long-eared (*Myotis septentrionalis*), Indiana (*Myotis sodalis*) and Gray (*Myotis grisescens*) Bats, the Pink Mucket (*Lamprolaima abrupta*), Rabbitsfoot (*Quadrula cylindrica*) and Scaleshell (*Leptodea leptodon*) Mussels, and the Ozark Hellbender (*Cryptobranchus alleganiensis*). The project is located approximately one mile northwest of Hardy on Fulton County Road No. 42, in section 33, T. 20 N., R. 5 W., Fulton County, Arkansas. A vicinity map, project location map and temporary work road drawings are enclosed.

The proposed activities are authorized by Department of the Army Nationwide Permit (NWP) **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 implement the Avoidance and Minimization Measures (AMM's) for the Indiana Bat and Northern Long-eared Bat as referenced in the USF&WS September 19, 2018, Consultation Letter and detailed in the USF&WS September 18, 2018, Consistency Letter (copies enclosed). These include General AMM 1, Hibernacula AMM 1, Lighting AMM 1, Tree Removal AMM 1 and Tree Removal AMM 3.

Please pay particular attention 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 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.

We have enclosed a copy of the ADEQ Section 401 Individual Water Quality Certification, 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 or Ms. Millie Remmer 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. **SWL 2014-00261-1, Spring River Structure and Approaches on County Road No. 42 near Hardy.**

Sincerely,



Sarah Chitwood

Sarah Chitwood
Chief, Regulatory Evaluation Branch

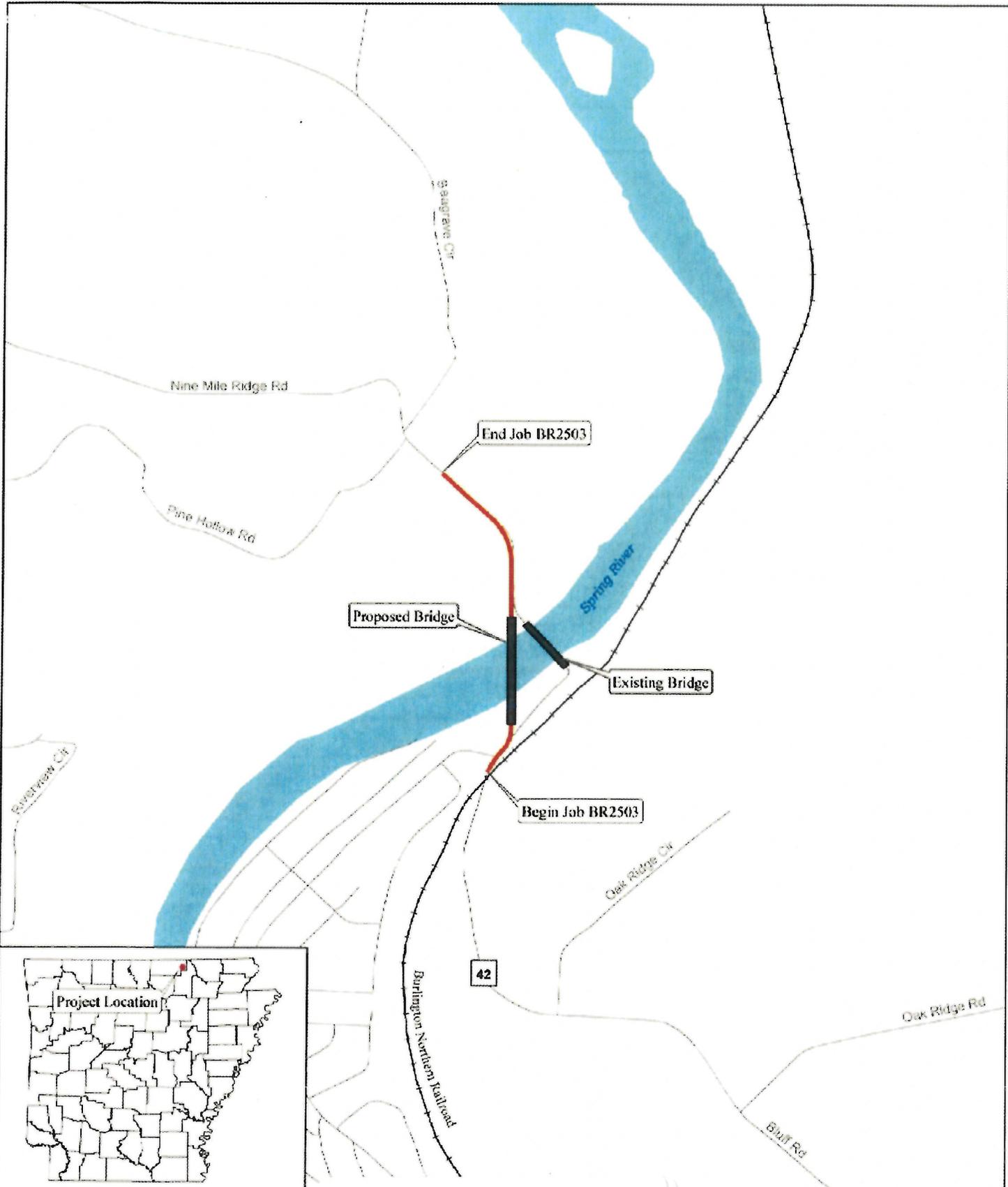
Enclosures

Copy Furnished:

Chief, Regulatory Enforcement Branch, w/cy dwgs

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

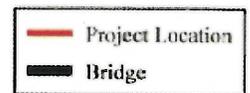
Mr. Lindsey Lewis, US Fish and Wildlife Service, w/cy dwgs



NWP No. SWL 2014-00261-1
Arkansas Dept. of Transportation
Spring River Bridge and Approaches
Fulton County Rd. 42 near Hardy
November 2018 Sheet 1 of 4



AITD-Environmental GIS-Hopkins
 June 10, 2013

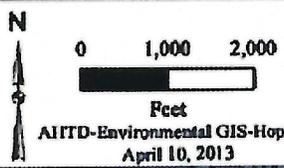




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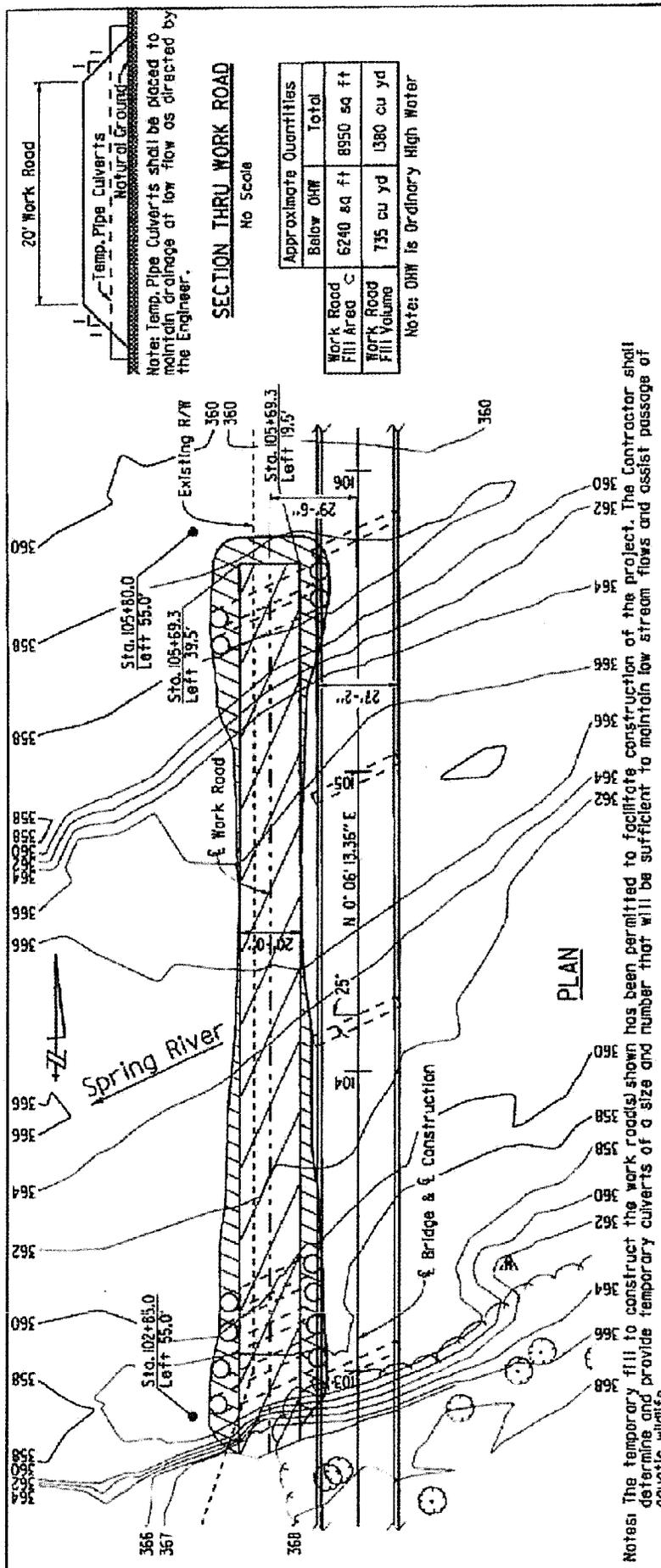
Begin Job BR2503



Job BR2503
 Spring River Strs. & Apprs.
 Fulton County

Project Location

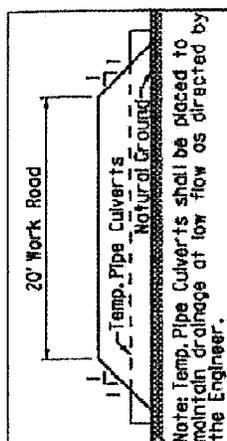
Sheet 2 of 4



Notes: The temporary fill to construct the work road(s) shown has been permitted to facilitate construction of the project. The Contractor shall determine and provide temporary culverts of a size and number that will be sufficient to maintain low stream flows and assist passage of aquatic wildlife.

The Contractor may submit an alternative work road plan for approval by the Engineer showing details of and describing the proposed modifications. The primary objective of any proposed modifications should be to minimize the reduction of the waterway opening in the floodplain. The top of the alternative work road(s) shall not exceed the elevation shown. A determination will be made by the Engineer within ten (10) business days concerning the necessity or practicability of the request. A modification of the Section 404 Permit and additional review time by the Corps of Engineers may be required if the alternative work road(s) increases the volume of temporary fill that has been permitted for the project. The contract time will not be extended for the time required to consider or approve any alternate work road(s) submitted.

The Contractor is responsible for maintenance of the work road(s) during the contract period. See SP Job BR2503 "Construction in Special Flood Hazard Areas" and Section 110.05(c) in the Supplemental Specification for additional information.



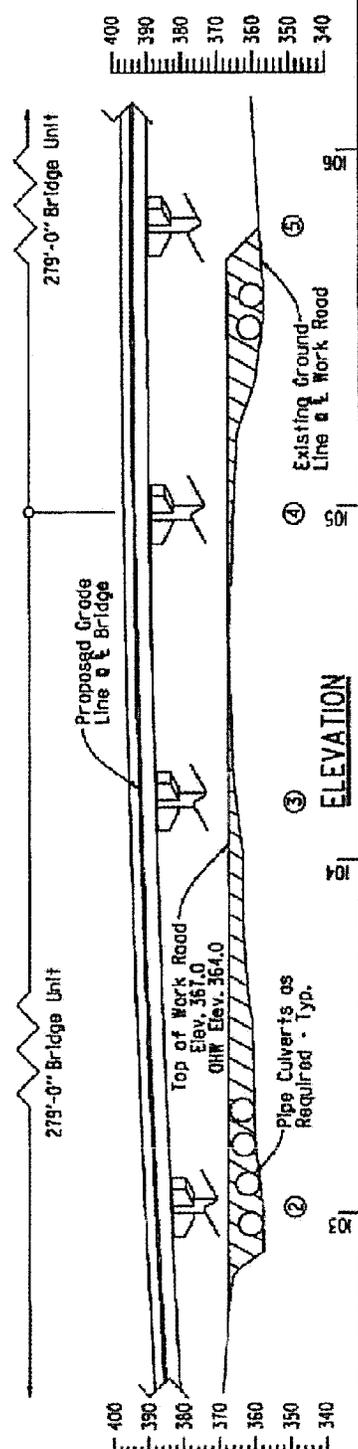
SECTION THRU WORK ROAD
No Scale

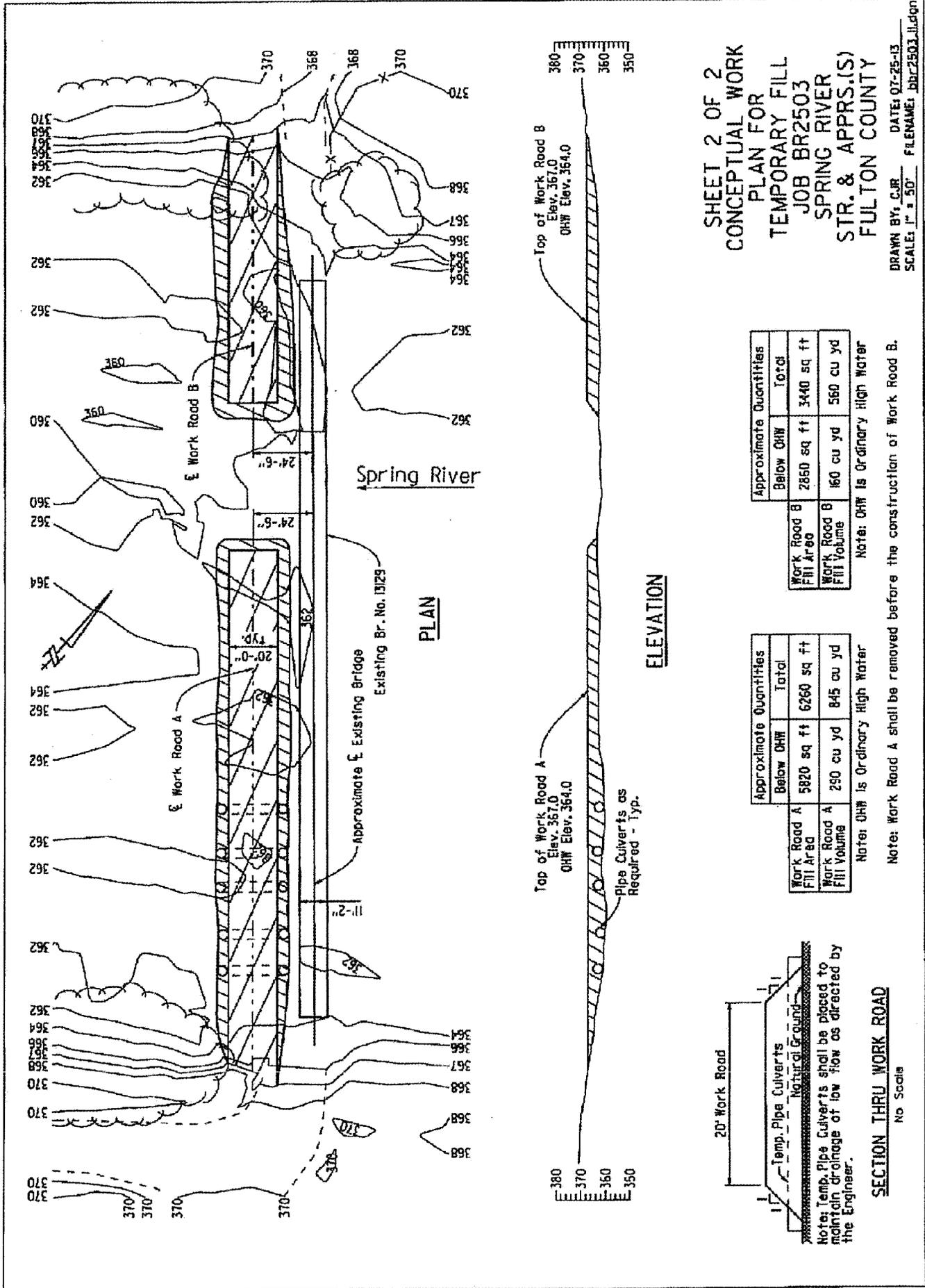
Approximate Quantities	
Below OHW	Total
Work Road Fill Area	6240 sq ft
Work Road Fill Volume	735 cu yd
	8950 sq ft
	1380 cu yd

Note: OHW is Ordinary High Water

SHEET 1 OF 2
CONCEPTUAL WORK PLAN FOR TEMPORARY FILL
JOB BR2503
SPRING RIVER
STR. & APPRS.(S)
FULTON COUNTY

DATE: 08-28-13
DRAWN BY: LCR
SCALE: 1" = 50'
FILENAME: dbr2503.dwg





SHEET 2 OF 2
CONCEPTUAL WORK
PLAN FOR
TEMPORARY FILL
JOB BR2503
SPRING RIVER
STR. & APPRS.(S)
FULTON COUNTY

DRAWN BY: CJR DATE: 07-25-13
 SCALE: 1" = 50' FILENAME: Dbr2503.dwg

PLAN

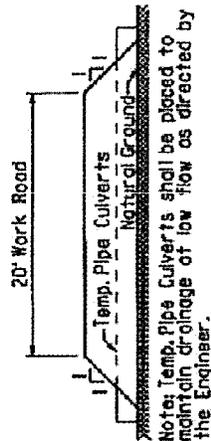
ELEVATION

	Approximate Quantities	
	Below OHW	Total
Work Road B Fill Area	2850 sq ft	3440 sq ft
Work Road B Fill Volume	160 cu yd	560 cu yd

Note: OHW is Ordinary High Water

	Approximate Quantities	
	Below OHW	Total
Work Road A Fill Area	5820 sq ft	6260 sq ft
Work Road A Fill Volume	250 cu yd	845 cu yd

Note: OHW is Ordinary High Water



SECTION THRU WORK ROAD
 No Scale

Note: Work Road A shall be removed before the construction of Work Road B.



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



September 19, 2018

Mr. John Fleming
c/o Josh Seagraves
Arkansas Department of Transportation
10324 Interstate 30
Little Rock, AR 72209

Consultation Code: 04ER1000-2018-R-1577

Dear Mr. Fleming,

The Fish and Wildlife Service (Service) has reviewed your email dated September 18, 2018, concerning the proposed 'BR2503 Spring River Structure and Approaches' project to replace an existing low water bridge near the City of Hardy, Fulton County, Arkansas. Our comments are submitted in accordance with the Fish and Wildlife Coordination Act (FWCA; 16 U.S.C. 661-667e) and the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.). The project was described and assessed as follows (abbreviated):

The County and the Department are now ready to proceed the replacement of the low-water structure across the Spring River at 9 mile ridge road in Fulton County near Hardy. Previous consultation on the project occurred in 2013, attached. Given the elapsed time since that consultation, the project has been reevaluated. I have attached an updated species list as well as the LAA Consistency letter from the Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat. Additionally, another mussel survey was conducted at the site on September 4, 2018. The datasheet is attached. No threatened or endangered species were encountered during the survey.

Based on the results of the mussel survey, distance to species locations, and recent species status assessments the project was determined to have no effect on the Curtis Pearlymussel or Turgid Blossom; a determination of may affect not likely to adversely affect was made for the Pink Mucket, Rabbitsfoot, and Scaleshell mussels.

Based on a lack of suitable habitat and distance to known species occurrences the project was determined to have no effect on the Missouri Bladderpod.

Based on the distance to known species occurrences as well as recent species status assessments the project a determination was made that the project may affect, but is not likely to adversely affect the Ozark Hellbender.

The determination key for the Programmatic Consultation for Transportation Projects affecting Northern Long-eared Bat or Indiana Bat resulted in a determination of may affect likely to adversely affect for the two species. The AMMs listed in the consistency letter will be followed.

With the incorporation of the AMMs previously mentioned as well as the incorporation of standard sediment and erosion control measures to minimize impacts to water quality (minimizing impacts to the species forage base) it was determined that he project may affect but is not likely to adversely affect the gray bat.

Your concurrence is requested.

The Service has received your concurrence verification letter and request to verify that the 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, 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 concurs that this action may rely on the PBO. Furthermore, due to the limited size of the area being affected, negative mussel survey results, habitat types, distance to known species locations, and the standard special provisions for stream sediment control and water quality conservation measures, the Service agrees with your assessment and determinations for all species identified. No further consultation is necessary at this time.

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

Mr. John Fleming

3

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 the AFO.

The Service agrees with your species assessments and no further consultation for this action, including other identified federally listed species, is necessary at this time.

For further assistance or if you have any questions, please contact Lindsey Lewis at (501) 513-4489 or lindsey_lewis@fws.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. 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>

IPaC Record Locator: 495-13987883

September 18, 2018

Subject: Consistency letter for the 'BR2503 Spring River Structure and Approaches' project (TAILS 04ER1000-2018-R-1577) 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 **BR2503 Spring River Structure and Approaches** (Proposed Action) may rely on 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 (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, and may affect, and is likely to adversely affect the endangered Indiana bat (*Myotis sodalis*) and/or the threatened Northern long-eared bat (*Myotis septentrionalis*). Consultation with the 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.

This "may affect - likely to adversely affect" determination becomes effective when the lead Federal action agency or designated non-federal representative uses it to ask the Service to rely on the PBO to satisfy the agency's consultation requirements for this project. Please provide this consistency letter to the lead Federal action agency or its designated non-federal representative with a request for its review, and as the agency deems appropriate, transmittal to this Service Office for verification that the project is consistent with the PBO.

This Service Office will respond by letter to the requesting Federal action agency or designated non-federal representative within 30 calendar days to:

- verify that the Proposed Action is consistent with the scope of actions covered under the PBO;
- verify that all applicable avoidance, minimization, and compensation measures are included in the action proposal;
- identify any action-specific monitoring and reporting requirements, consistent with the monitoring and reporting requirements of the PBO, and
- identify anticipated incidental take.

ESA Section 7 compliance for this Proposed Action is not complete until the Federal action agency or its designated non-federal representative receives a verification letter from the Service.

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 may affect any other federally-listed or proposed species and/or designated critical habitat, additional consultation between the lead Federal action agency and this Service Office 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 advise the lead Federal action agency for the Proposed Action accordingly.

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

- Curtis Pearlymussel, *Epioblasma florentina curtisii* (Endangered)
 - Gray Bat, *Myotis grisescens* (Endangered)
 - Missouri Bladderpod, *Physaria filiformis* (Threatened)
 - Ozark Hellbender, *Cryptobranchus alleganiensis bishopi* (Endangered)
 - Pink Mucket (pearlymussel), *Lampsilis abrupta* (Endangered)
 - Rabbitsfoot, *Quadrula cylindrica cylindrica* (Threatened)
 - Scaleshell Mussel, *Leptodea leptodon* (Endangered)
 - Snuffbox Mussel, *Epioblasma triquetra* (Endangered)
 - Turgid Blossom (pearlymussel), *Epioblasma turgidula* (Endangered)
-

Project Description

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

Name

BR2503 Spring River Structure and Approaches

Description

bridge replacement

Determination Key Result

Based on your answers provided, this project is 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 conclusion and Incidental Take Statement 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^[1]?

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

Automatically answered

Yes

2. Is the project within the range of the Northern long-eared bat^[1]?

[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^[1] 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^[1]?

[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^[1]?

[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^[1], 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^[1] summer habitat for Indiana Bat or NLEB **within** the project action area^[2]? (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^[1] 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^{[1][2]} been conducted^{[3][4]} **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**^{[1][2]}?

[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^[1]?

[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**^{[1][2]}?

[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. Will *any* tree trimming or removal occur **within** 100 feet of existing road/rail surfaces?

Yes

20. 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

21. Will *any* tree trimming or removal occur **between** 100-300 feet of existing road/rail surfaces?

Yes

22. Are *all* trees that are being removed clearly demarcated?

Yes

23. Will the removal of habitat or the removal/trimming of trees include installing new or replacing existing **permanent** lighting?

No

24. Does the project include maintenance of the surrounding landscape at existing facilities (e.g., rest areas, stormwater detention basins)?

No

25. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?

No

26. Does the project include slash pile burning?

No

27. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?

No

28. 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

29. Will the project involve the use of **temporary** lighting *during* the active season?

No

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

No

31. 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?

No

32. 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

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

No

34. Are the project activities that are not associated with habitat removal, tree removal/trimming, bridge removal, replacement, and/or maintenance, structure removal, replacement, and/or maintenance, and lighting, consistent with a No Effect determination in this key?

Automatically answered

Yes, other project activities are limited to actions that DO NOT cause any stressors to the bat species as described in the BA/BO

35. 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

36. Is the habitat removal portion of this project consistent with a Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because the tree removal that occurs during the winter is 100-300 feet from the existing road/rail surface, and is not in documented roosting/foraging habitat or travel corridors

37. 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

38. Is the habitat removal portion of this project consistent with a Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because the tree removal that occurs during the winter is 100-300 feet from the existing road/rail surface, and is not in documented roosting/foraging habitat or travel corridors

39. **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

40. **Hibernacula AMM 1**

Will the project ensure that on-site personnel will use best management practices^[1], 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

41. **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

42. 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^[1] 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

43. 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

44. 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

45. For Indiana bat, if applicable, compensatory mitigation measures are required to offset adverse effects on the species (see Section 2.10 of the BA). Please select the mechanism in which compensatory mitigation will be implemented:

5. *Unknown*

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^[1] 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.

0

4. How many acres^[1] 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.

0.17

5. **Please verify:**

All tree removal will occur greater than 0.5 mile from any hibernaculum.

Yes, I verify that all tree removal will occur greater than 0.5 miles from any hibernaculum.

6. Is the project location 0-100 feet from the edge of existing road/rail surface?

Yes

7. Is the project location 100-300 feet from the edge of existing road/rail surface?

Yes

8. **Please verify:**

No documented Indiana bat roosts or surrounding summer habitat within 0.25 mile of documented roosts will be impacted between May 1 and July 31.

Yes, I verify that no documented Indiana bat roosts or surrounding summer habitat within 0.25 mile of documented roosts will be impacted during this period.

9. **Please verify:**

No documented NLEB roosts or surrounding summer habitat within 150 feet of documented roosts will be impacted between June 1 and July 31.

Yes, I verify that no documented NLEB roosts or surrounding summer habitat within 150 feet of documented roosts will be impacted during this period.

10. You have indicated that the following Avoidance and Minimization Measures (AMMs) will be implemented as part of the proposed project:

- *General AMM 1*
 - *Hibernacula AMM 1*
-

- *Lighting AMM 1*
- *Tree Removal AMM 1*
- *Tree Removal AMM 3*

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 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).

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

This key was last updated in IPaC on March 16, 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.

ADEQ

ARKANSAS
Department of Environmental Quality

JUN 10 2014

Colonel Courtney W. Paul, District Commander
Little Rock District Corps of Engineers
P. O. Box 867
Little Rock, Arkansas 72203-0867

RE: 401 Water Quality Certification: Arkansas Highway and Transportation Department (AHTD) Job No. BR2503 Co. Rd. 42 (Nine Mile Ridge Rd.) Bridge Replacement over the Spring River in Fulton County, Arkansas

Dear Colonel Paul:

The Arkansas Department of Environmental Quality ("ADEQ") has completed its review of the above referenced Application Number for Mr. Lynn Malbrough, Arkansas Highway and Transportation Department (AHTD) to facilitate the replacement of the County Road 42 (Nine Mile Ridge Rd.) low water bridge crossing over the Spring River. The proposed bridge will be constructed on new location approximately 250 feet downstream of the existing crossing. The bridge will consist of a 3 span continuous composite W-beam superstructure on concrete single column bents. Five bents will be located within the contours of the ordinary high water. Additional impacts include the placement of approximately 1,185 cubic yards of temporary fill for the construction of the work roads. The project is located at the County Road 42 (Nine Mile Ridge Rd.) bridge crossing the Spring River Section 33, Township 20 North, Range 5 West, in Fulton County, Arkansas.

ADEQ has determined that there is a reasonable assurance that this activity 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.

Pursuant to §401(a)(1) of the Clean Water Act, the ADEQ hereby issues water quality certification for this project: **AHTD Job No. BR2503**, contingent upon the following conditions:

- 1) The applicant shall implement all practicable best management practices to avoid excessive impacts of sedimentation and turbidity to the surface waters.
- 2) 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.
- 3) The applicant must obtain a Short Term Activity Authorization (STAA) from ADEQ for the work in the wetted area of any stream. More information can be obtained by contacting the Planning Section of ADEQ at 501-682-0028.

- 4) The applicant shall comply with any applicable provisions of the NPDES Storm Water Program. More information can be obtained by contacting the NPDES Storm water Section of ADEQ at 501-682-0621

In issuing this certification, ADEQ does not assume any liability for the following:

- a. Damages to the proposed project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity specified in this certification
- c. Design or construction deficiencies associated with this proposed project.

Please contact Mark Hathcote, of the Water Division, at (501) 682-0028 if you have any questions regarding this certification

Sincerely,



Ellen Carpenter
Chief, Water Division

cc: Johnny McLean, USACE Little Rock District, Project Manager
Lynn Malbrough, Applicant