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 (CFR), 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 a substandard bridge over Wilson Creek on County Road 37 in Nevada County. The bridge will be replaced with a box culvert. The total length of the project is approximately 0.23 mile. A project location map is attached.

The existing bridge over Wilson Creek (AHTD Bridge Number 15582) is comprised of precast concrete channel beam spans. The spans are supported by concrete columns on spread footings at interior bents, and by concrete abutments at end bents. The bridge is 90 feet long and 21.6 feet wide. The bridge has a sufficiency rating of 25.4 and is structurally deficient. The existing bridge approaches consist of two 9-foot travel lanes with 0.5-foot shoulders. The average existing right of way width is 50 feet.

The existing bridge will be replaced with a quintuple 10’ x 8’ x 50’ reinforced concrete box culvert on the existing alignment. A detour road with four 5-foot diameter pipes will be constructed adjacent to, and downstream of, the existing bridge for maintenance of traffic during construction. The detour road will be removed upon completion of the box
AHTD Job Number BR5007  
Tier 2 Categorical Exclusion  
Page 2 of 3

culvert. The new bridge approaches will have two 11-foot travel lanes with 4-foot shoulders. Approximately 0.7 acre of new right of way will be required to complete this project.

Design data for the project are as follows:

<table>
<thead>
<tr>
<th>Design Year</th>
<th>Average Daily Traffic</th>
<th>Percent Trucks</th>
<th>Design Speed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>350</td>
<td>3</td>
<td>40 mph</td>
</tr>
<tr>
<td>2036</td>
<td>400</td>
<td>3</td>
<td>40 mph</td>
</tr>
</tbody>
</table>

No relocatees, protected waters, endangered species, hazardous waste deposits, underground storage tanks, or environmental justice issues are associated with this project. There will be 0.3 acre of Prime Farmlands impacted; form NRCS-CPA-106 is attached. No impacts to cultural resources are anticipated; concurrence from the State Historic Preservation Officer is attached.

Construction of the proposed quintuple box culvert and temporary detour road in Wilson Creek is estimated to impact approximately 0.1 acre of wetlands and 134 feet of the perennial Wilson Creek. Construction of the proposed project should be allowed under the terms of Nationwide Permit 14 for Linear Transportation projects as defined in the Federal Register 77(34):10184-10290.

Nevada County participates in the National Flood Insurance Program. All of the floodplain encroachments within this highway construction project will be designed to comply with the county’s local flood damage prevention ordinance. The project lies within the Zone A, Special Flood Hazard Area. The final project design will be reviewed to confirm that the design is adequate and that the potential risk to life and property is minimized. Adjacent properties should not be impacted nor have a greater flood risk than existed before construction of the project. None of the encroachments will constitute a significant floodplain encroachment or a significant risk to property or life.

Based upon the AHTD’s Policy on Highway Traffic Noise Abatement, a noise analysis is not required for this project. The project meets the criteria for a Type III project established in 23 CFR 772. Type III projects do not involve added capacity, construction of new through lanes or auxiliary lanes, changes in the horizontal or vertical alignment of the roadway, or exposure of noise sensitive land uses to a new or existing highway noise source. Therefore, the project does not require analysis for highway traffic noise impacts.
AHTD Job Number BR5007  
Tier 2 Categorical Exclusion  
Page 3 of 3

AHTD acknowledges that a noise analysis is required if changes to the proposed project result in reclassification to a Type I project.

Approved:

Kevin Thornton  
Assistant Chief Engineer-Planning

Attachments:
Project Location Map  
SHPO Clearance  
NRCS-CPA-106  
Environmental Study Checklist  
Design Sheets

JF:MP:fc

c: Program Management  
Right of Way  
State Aid  
District 3  
FHWA  
Master File
Job BR5007
Wilson Creek Str. & Apprs
Nevada County

Scale 1:24,000
AHTD-Environmental GIS-Hopkins
March 31, 2016
September 1, 2015

Mr. Robert Scoggin
Arkansas Historic Preservation Program
323 Center Street, Suite 1500
Little Rock, Arkansas 72201

RE: AHTD Job Number BR5007
Wilson Creek Str. & Apprs. (S)
Nevada County

Dear Mr. Scoggin:

A Project Identification Form for the referenced project is enclosed. Please review for concurrence with the findings of my staff. If you have any questions or require additional information, please contact Jason Eads of my staff at (501) 569-2181.

Sincerely,

John Fleming
Division Head
Environmental Division

JF:DW:JW:jh

Enclosure
Project Identification Form

Date 9/3/15
No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.

Franzese McSwain, Deputy State Historic Preservation Officer
### FARM LAND CONVERSION IMPACT RATING
FOR CORRIDOR TYPE PROJECTS

#### PART I (To be completed by Federal Agency)
- **Job BR5007**
- **Name of Project**: Wilson Creek Sr. & Apprs.
- **Type of Project**: Bridge Replacement
- **Federal Agency Involved**: FHWA
- **County and State**: Nevada AR.

#### PART II (To be completed by NRCS)
- **Date Request Received by NRCS**: 6/15/16
- **Person Completing Form**
- **Does the corridor contain prime, unique statewide or local important farmland?**
  - Yes
  - No
- **Acres Irrigated**
- **Average Farm Size**: %
- **FARMABLE LAND in Government Jurisdiction**
  - Acres: %
- **Amount of Farmland As Defined in FPPA**
  - Acres: %
- **Name Of Land Evaluation System Used**
- **Name of Local Site Assessment System**
- **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**

#### PART IV (To be completed by NRCS) Land Evaluation Information
- **Total Acres Prime And Unique Farmland**: .3
- **Total Acres Statewide And Local Important Farmland**
- **Percentage Of Farmland in County Or Local Govt. Unit To Be Converted**
- **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))

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Maximum Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Area in Nonurban Use</td>
<td>15</td>
</tr>
<tr>
<td>2. Perimeter in Nonurban Use</td>
<td>15</td>
</tr>
<tr>
<td>3. Percent Of Corridor Being Farmed</td>
<td>15</td>
</tr>
<tr>
<td>4. Protection Provided By State And Local Government</td>
<td>15</td>
</tr>
<tr>
<td>5. Size of Present Farm Unit Compared To Average</td>
<td>15</td>
</tr>
<tr>
<td>6. Creation Of Nonfarmable Farmland</td>
<td>15</td>
</tr>
<tr>
<td>7. Availability Of Farm Support Services</td>
<td>15</td>
</tr>
<tr>
<td>8. On-Farm Investments</td>
<td>15</td>
</tr>
<tr>
<td>9. Effects Of Conversion On Farm Support Services</td>
<td>15</td>
</tr>
<tr>
<td>10. Compatibility With Existing Agricultural Use</td>
<td>15</td>
</tr>
<tr>
<td><strong>TOTAL CORRIDOR ASSESSMENT POINTS</strong></td>
<td>160</td>
</tr>
</tbody>
</table>

#### PART VII (To be completed by Federal Agency)
- **Relative Value Of Farmland (From Part V)**
- **Total Corridor Assessment (From Part VI above or a local site assessment)**
- **TOTAL POINTS (Total of above 2 lines)**
- **Corridor Selected:** New Location Adjacent to existing
- **Total Acres of Farmlands to be Converted by Project:** .3 acres of Prime Farmland
- **Date Of Selection**: 6/15/16
- **Was A Local Site Assessment Used?**
  - Yes
  - No

5. **Reason For Selection**

**Signature of Parson Completing this Part:**

**DATE** 6/15/16

**NOTE:** Complete a form for each segment with more than one Alternate Corridor.
# AHTD ENVIRONMENTAL IMPACTS ASSESSMENT FORM

<table>
<thead>
<tr>
<th>Environmental Impacts</th>
<th>None</th>
<th>Minor</th>
<th>Significant</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Quality</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction Impacts</td>
<td></td>
<td>X</td>
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<td>Temporary during construction</td>
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<tr>
<td>Cultural Resources</td>
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<tr>
<td>Economic</td>
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<tr>
<td>Energy Resources</td>
<td></td>
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<tr>
<td>Environmental Justice/Title VI</td>
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<td>Fish and Wildlife</td>
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<td>X</td>
<td></td>
<td>Minor loss of habitat</td>
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<tr>
<td>Floodplains</td>
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<tr>
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<tr>
<td>Hazardous Materials/Landfills</td>
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<tr>
<td>Land Use Impacts</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Migratory Birds</td>
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<td>X</td>
<td></td>
<td>Migratory Bird SP</td>
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<tr>
<td>Navigation/Coast Guard</td>
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<tr>
<td>Noise Levels</td>
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<td></td>
</tr>
<tr>
<td>Prime Farmland</td>
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<td>X</td>
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<td>0.3 acre Prime Farmland</td>
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<td>Protected Waters</td>
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<td>Public Recreation Lands</td>
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<td></td>
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<tr>
<td>Public Water Supply/WHPA</td>
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<td>Relocates</td>
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<td>Section 4(f)/6(f)</td>
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<tr>
<td>Social</td>
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<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Underground Storage Tanks</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Visual Impacts</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stream Impacts</td>
<td></td>
<td>X</td>
<td></td>
<td>NW 14 Sect. 404 Permit</td>
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<tr>
<td>Water Quality</td>
<td></td>
<td>X</td>
<td></td>
<td>Temporary during construction</td>
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<tr>
<td>Wetlands</td>
<td></td>
<td>X</td>
<td></td>
<td>0.1 acre of impacts, NW 14 Permit</td>
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<tr>
<td>Wildlife Refuges</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Section 401 Water Quality Certification Required? **No**
Short-term Activity Authorization Required? **Yes**
Section 404 Permit Required? **Yes** Type **NW14**

Remarks: 

Signature of Evaluator **Mary Pearson** Date **6-15-11**

5/17/2011
STATE AID DESIGN REQUEST

Job Number_ BR5007 _____ FAP Number__________County   _NEVADA__
Job Name   _WILSON CREEK STR. & APPRS. (S) CO. RD. NO. 37
Design Engineer: Eleanor Goins        Environmental Staff________________________
Brief Project Description:Replacement of 85 ft. span bridge with QUINT 10’ x 8’
Reinforced Concrete Box Culverts with a 55 ft. span.

A. Existing Conditions:
1. Roadway Width: Metric ___________ English __ 20.0 ft. __
2. Shoulder Width: Metric ___________ English __ 0.5 ft. __
3. Number of Lanes and Width: Metric ___________ English 2 lanes – 9 ft. __
4. Existing Right-of-Way: Metric ___________ English __

B. Proposed Improvements:
1. Roadway Width: Metric ___________ English __ 22 ft. __
2. Shoulder Width: Metric ___________ English __ 4 ft. __
3. Number of Lanes and Width: Metric ___________ English 2 lanes – 11 ft. each __
4. Average Right-of-Way: Metric ___________ English __ 80 ft. __

If bridge(s) will be replaced by culverts give dimensions: QUINT 10’ x 8’ x 50’

C. Construction Information:
If detour: Where: _A detour will be provided during construction just downstream of_
the original road. Three-Five foot diameter pipes will be placed just downstream_
of the existing bridge for the detour road. Upon completion of the box culvert_
crossing that is being constructed, the detour main lane will be removed and_
properly disposed of. Length: English __1222.39 feet - 0.23 miles__

D. Design Data:
2016   ADT: 350        2036 ADT: 400        Trucks: __3%__
Design Speed: __40__ m.p.h

E. Approximate total length of project:_________ kilometer(s) __0.23_____mile(s)

F. Justification for proposed improvements: _Structurally Deficient_ _____

G. Total Relocatees: __0_____ Residences: ____________ Businesses: ____________

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

   County Officials________________________________________
   State Agency____________________________________________
   Federal Agency____________________________________________

PA:eg
EXISTING BRIDGE INFORMATION

Job Number: __BR5007__  FAP Number: __9970__  County: __Nevada__
Job Name: Wilson Creek Str. & Apprs. (S)
Design Engineer: __A. Schubel__  Environmental Staff: __Mary Pearson__

A. Description of Existing Bridge:
1. Bridge Number __15582__ over __Wilson Creek__
2. Location: Rte.: __Co. Rd. 37__  Section: __00__  Log Mile: __5.42__
4. Type Construction: __Precast concrete channel beam spans supported by concrete columns on spread footings at interior bents and by concrete abutments at end bents__
5. Deficiencies: __Too narrow, Scour exposing footings, timber cap cushions deteriorated and causing beam settlement, bridge structurally deficient and load posted__
7. Are any Condition Component Ratings at 3 or less? __Yes__

B. Proposed Improvements:

Existing Bridge will be replaced with Box Culvert.
Please contact the State-Aid Division for proposed improvements.
Regulatory Division

NATIONWIDE PERMIT NO. MVK 2016-00585

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

Dear Mr. Fleming:

Please refer to your request dated June 29, 2016, concerning Department of the Army permit requirements pursuant to Section 404 of the Clean Water Act (33 U.S. Code 1344). You requested authorization for the placement of dredged and fill material in waters of the United States associated with replacing an existing 90-foot-long by 21.6-foot-wide precast concrete bridge on County Road 37 over Wilson Creek with a quintuple 10-foot-wide by 8-foot-high by 50-foot-long reinforced concrete box culvert (RCB). Construction of the RCB will permanently fill approximately 0.1 acres of herbaceous wetlands and 89 linear feet of Wilson Creek will be relocated to flow into the newly constructed RCB. Additionally, a temporary detour road will be constructed on the east side of County Road 37 for maintenance of traffic. Construction of the detour road will temporarily impact approximately 45 linear feet of Wilson Creek by placing four 5-foot-diameter by 45-foot-long pipe culverts below the ordinary high water mark of Wilson Creek. The project is located in sections 16 and 17, T. 10 S., R. 22 W., Nevada County, Arkansas. A project vicinity map, project location map, and drawings are enclosed.

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

Please 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 during and after construction of the proposed project to comply with this permit condition.

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 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. Lazendra Hairston at the Arkansas Department of Environmental Quality, Water Division, 5301 Northshore Drive, North Little Rock, Arkansas 72118, telephone (501) 682-0946.

The NWP determination will be valid until March 18, 2017. 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 months to complete the work.

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

Your cooperation in the Regulatory Program is appreciated. If you have any questions about this permit or any of its provisions, please contact me at (501) 340-1372 and refer to Permit No. MVK 2016-00585, AHTD – Co. Rd. 37 Bridge Replacement – Wilson Creek.

Sincerely,

Gerald Dickson
Environmental Protection Specialist

Enclosures

cc:
Arkansas Department of Environmental Quality, Ms. Lazendra Hairston
US Fish and Wildlife Service, Mr. Lindsey Lewis
Mr. Johnny McLean, AHTD Program Manager
Ch, Vicksburg District Regulatory Division
Ch, Regulatory Enf
Nationwide Permit No. 14

Linear Transportation Projects. Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxways) 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 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 31.) (Sections 10 and 404)

Note: 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).

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.

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

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

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

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

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. **Adverse Effects From Impoundments.** If the activity creates an
impoundment of water, adverse effects to the aquatic system due to
accelerating the passage of water, and/or restricting its flow must be
minimized to the maximum extent practicable.

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

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

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

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

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

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

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

16. **Wild and Scenic Rivers.** No activity may occur in a component of
the National Wild and Scenic River System, or in a river officially
designated by Congress as a “study river” for possible inclusion in
the system while the river is in an official study status, unless the
appropriate Federal agency with direct management responsibility for
such river, has determined in writing that the proposed activity will
not adversely affect the Wild and Scenic River designation or study
status. Information on Wild and Scenic Rivers may be obtained from
the appropriate Federal land management agency responsible for the
designated Wild and Scenic River or study river (e.g., National Park
Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish
and Wildlife Service).

17. **Tribal Rights.** No activity or its operation may impair reserved
tribal rights, including, but not limited to, reserved water rights and
treaty fishing and hunting rights.

18. **Endangered Species.** (a) No activity is authorized under any
NWP which is likely to directly or indirectly jeopardize the continued
existence of a threatened or endangered species or a species proposed
for such designation, as identified under the Federal Endangered
Species Act (ESA), or which will directly or indirectly destroy or
adversely modify the critical habitat of such species. No activity is
authorized under any NWP which “may affect” a listed species or
critical habitat, unless Section 7 consultation addressing the effects of
the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for
complying with the requirements of the ESA. Federal permittees
must provide the district engineer with the appropriate
documentation to demonstrate compliance with those requirements.
The district engineer will review the documentation and determine
whether it is sufficient to address ESA compliance for the NWP
activity, or whether additional ESA consultation is necessary.

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

(d) As a result of formal or informal consultation with the FWS or
NMFS the district engineer may add species-specific regional
endangered species conditions to the NWPs.

(e) Authorization of an activity by a 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 U.S. 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.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/fgac and http://www.noaa.gov/fisheries.html respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for obtaining any "take" permits required under the U.S. Fish and Wildlife Service's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such "take" permits are required for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may affect 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. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may 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 may be affected by the proposed work 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 resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, 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 and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may 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 or that consultation under Section 106 of the NHPA has been completed.

(d) 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. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work 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 (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

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

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

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

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical
resource waters including wetlands adjacent to those waters. The
district engineer may authorize activities under these NWP's only
after it is determined that the impacts to the critical resource waters
will be no more than minimal.

23. Mitigation. The district engineer will consider the following
factors when determining appropriate and practicable mitigation
necessary to ensure that adverse effects on the aquatic environment
are minimal:
(a) The activity must be designed and constructed to avoid and
minimize adverse effects, both temporary and permanent, to waters
of the United States to the maximum extent practicable at the project
site (i.e., on site).
(b) Mitigation in all its forms (avoiding, minimizing, rectifying,
reducing, or compensating for resource losses) will be required to the
extent necessary to ensure that the adverse effects to the aquatic
environment are minimal.
(c) Compensatory mitigation at a minimum one-for-one ratio will be
required for all wetland losses that exceed 1/10-acre and require pre-
construction notification, unless the district engineer determines in
writing that either other form of mitigation would be more
environmentally appropriate or the adverse effects of the proposed
activity are minimal, and provides a project-specific waiver of this
requirement. For wetland losses of 1/10-acre or less that require pre-
construction notification, the district engineer may determine on a
case-by-case basis that compensatory mitigation is required to ensure
that the activity results in minimal adverse effects on the aquatic
environment. Compensatory mitigation projects provided to offset
losses of aquatic resources must comply with the applicable
provisions of 33 CFR part 332.
(1) The prospective permittee is responsible for proposing an
appropriate compensatory mitigation option if compensatory
mitigation is necessary to ensure that the activity results in minimal
adverse effects on the aquatic environment.
(2) Since the likelihood of success is greater and the impacts to
potentially valuable uplands are reduced, wetland restoration should
be the first compensatory mitigation option considered.
(3) If permittee-responsive mitigation is the proposed option, the
prospective permittee is responsible for submitting a mitigation plan.
A conceptual or detailed mitigation plan may be used by the district
gineer to make the decision on the NWP verification request, but a
final mitigation plan that addresses the applicable requirements of 33
CFR 332.4(c)(2) – (14) must be approved by the district engineer
before the permittee begins work in waters of the United States,
unless the district engineer determines that prior approval of the final
mitigation plan is not practicable or not necessary to ensure timely
completion of the required compensatory mitigation (see 33 CFR
332.3(k)(3))
(4) If mitigation bank or in-lieu fee program credits are the proposed
option, the mitigation plan only needs to address the baseline
conditions at the impact site and the number of credits to be
provided.
(5) Compensatory mitigation requirements (e.g., resource type and
amount to be provided as compensatory mitigation, site protection,
ecological performance standards, monitoring requirements) may be
addressed through conditions added to the NWP authorization,
instead of components of a compensatory mitigation plan.
(d) For losses of streams or other open waters that require pre-
construction notification, the district engineer may require
compensatory mitigation, such as stream rehabilitation, enhancement,
or preservation, to ensure that the activity results in minimal adverse
effects on the aquatic environment.
(e) Compensatory mitigation will not be used to increase the acreage
losses allowed by the acreage limits of the NWP's. For example, if an
NWP has an acreage limit of 1/2-acre, it cannot be used to authorize
any project resulting in the loss of greater than 1/2-acre of waters of
the United States, even if compensatory mitigation is provided that
replaces or restores some of the lost waters. However, compensatory
mitigation can and should be used, as necessary, to ensure that a
project already meeting the established acreage limits also satisfies
the minimal impact requirement associated with the NWP's.
(f) Compensatory mitigation plans for projects in or near streams or
other open waters will normally include a requirement for the
restoration or establishment, maintenance, and legal protection (e.g.,
conservation easements) of riparian areas next to open waters. In
some cases, riparian areas may be the only compensatory mitigation
required. Riparian areas should consist of native species. The width
of the required riparian area will address documented water quality or
aquatic habitat loss concerns. Normally, the riparian area will be 25
to 50 feet wide on each side of the stream, but the district engineer
may require slightly wider riparian areas to address documented
water quality or habitat loss concerns. If it is not possible to establish
a riparian area on both sides of a stream, or if the waterbody is a lake
or coastal waters, then restoring or establishing a riparian area along
a single bank or shoreline may be sufficient. Where both wetlands
and open waters exist on the project site, the district engineer will
determine the appropriate compensatory mitigation (e.g., riparian
areas and/or wetlands compensation) based on what is best for the
aquatic environment on a watershed basis. In cases where riparian
areas are determined to be the most appropriate form of
compensatory mitigation, the district engineer may waive or reduce
the requirement to provide wetland compensatory mitigation for
wetland losses.
(g) Permittees may propose the use of mitigation banks, in-lieu fee
programs, or separate permittee-responsible mitigation. For activities
resulting in the loss of marine or estuarine resources, permittee-
responsible compensatory 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.
(h) Where certain functions and services of waters of the United
States are permanently adversely affected, such as the conversion of 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 effects of the project to the 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 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 work 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(j)(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 work and mitigation.

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

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

Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:
(1) Name, address and telephone numbers of the prospective permittee;
(2) Location of the proposed project;
(3) A description of the proposed project; the project’s purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; 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. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans;
(4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
(5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and
(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project’s adverse environmental effects to a minimal level.

(2) For 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, for 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 intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, 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 (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), 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 telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse 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 to the aquatic environment of the proposed activity are 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.

(3) In cases 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.

(4) 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:
1. 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. For a linear project, this determination will include an evaluation of the individual crossings 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 intermittent or ephemeral streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51 or 52, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in minimal adverse effects. When making minimal effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. 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 assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse 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 projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed activity are 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 effects to the aquatic environment are 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 no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

3. If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (a) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the project is authorized under the NWP subject to the applicant’s submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (c) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period, with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

Further Information:

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.
ARMS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT
CONSTRUCTION PLANS FOR PROPOSED COUNTY ROAD

WILSON CREEK STR. & APPRS. (S)
CO. RD. NO. 37
NEVADA COUNTY
JOB BR5007
FED. AID PROJECT

ARKANSAS HWY. DISTRICT NO. 3

DESIGN YEAR ................................ 2036
2016 ADT ...................................... 350
2036 ADT ...................................... 400
2036 DHV ...................................... 24
DIRECTIONAL DISTRIBUTION ............ 0.60
TRUCKS ....................................... 37
DESIGN SPEED ................................ 40 MPH

STA 2115+29.00 END
JOB BR5007 DETOUR
STA 311+77.00 END
JOB BR5007 MAIN

STA 200+00.00 BEGIN
JOB BR5007 DETOUR
STA 103+26.00 BEGIN
JOB BR5007 MAIN

PROJECT COORDINATES

BEGIN MID-POINT END
LAT. N33°52'2.70" N33°52'7.65" N33°52'2.28"
LONG. W93°22'8.45" W93°22'8.34" W93°22'8.22"

LENGTH OF MAIN LANE PROJECT CALCULATED ALONG CL CONSTRUCTION
GROSS LENGTH OF PROJECT FEET OR MILES
NET ROADWAY 791.00 0.05
NET BRIDGES 54.00 0.01
NET PROJECT 85.00 0.01

LENGTH OF DETOUR LANE PROJECT CALCULATED ALONG CL CONSTRUCTION
GROSS LENGTH OF PROJECT FEET OR MILES
NET ROADWAY
NET PIPES
NET PROJECT

ACTION NO. MVK 2016-00585
AHTD
Bridge Replacement (Wilson Creek)
Secs 16 & 17, T. 10 S., R. 22 W.
August 2016  Sheet 2 of 3
March 16, 2012

Colonel Glen A. Masset
District Commander,
Little Rock District Corps of Engineers
P. O. Box 867
Little Rock, Arkansas 72203-0867

RE: Public Notice: Re-issuance of Nationwide Permits

Dear Colonel Masset:

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 for the State of Arkansas.

ADEQ has determined that there is a reasonable assurance that this activities covered under these Nationwide Permits 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 this project contingent upon the following conditions:

1) Individual Water Quality Certification requests must be submitted to ADEQ for any activity impacting Extraordinary Resource Waters, Ecologically Sensitive Waters, and Natural and Scenic Waters as identified in Regulation No.2.
2) Applicant shall contact ADEQ for a Short Term Activity Authorization needs determination for activities that have the potential to violate water quality criteria.
3) Applicant shall comply with NPDES Stormwater Program requirements.

Sincerely,

Steve Drown
Chief, Water Division

cc: Elaine Edwards, Chief Regulatory Division USACE
    Rocky Presley, Branson Regulatory Field Office USACE
    Wanda Boyd, Region VI, Environmental Protection Agency
PERMITTEE COMPLIANCE CERTIFICATION

PERMIT NO.: MVK 2016-00585
NWP/S NO.: 14

PERMITTEE NAME: AHTD

DATE OF ISSUANCE: August 23, 2016

PROJECT MANAGER: Gerald Dickson

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