

ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

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



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

September 14, 2015

Ms. M. Elaine Edwards
Chief, Regulatory Division
Little Rock District, Corps of Engineers
P.O. Box 867
Little Rock, AR 72203

RE: AHTD Job Number BR6507
Branch of Vineyard Creek
Str. & Apprs. (S)
Sebastian County

Dear Ms. Edwards:

Enclosed are the approved Categorical Exclusion, supporting illustrations, and proposed construction plans for the referenced AHTD project. This project appears to meet the requirements of the NWP 14 for Linear Transportation Projects. The existing structurally deficient bridge at station 105+55 will be replaced with a quintuple concrete box culvert (10' x 5' x 51.76'). There will be no wetland impacts due to construction of this project. Impacts to waters of the United States should be less than 0.1 acre. Construction should be allowed under the terms of a Nationwide Permit 14 for Linear Transportation Projects as defined in the Federal Register 77 (34): 10184-10290.

Please review this project for concurrence that construction can proceed under terms of a Nationwide Permit 14. If additional information is required, please contact Bill Bailey or Josh Seagraves of my staff at (501) 569-2281.

Sincerely,

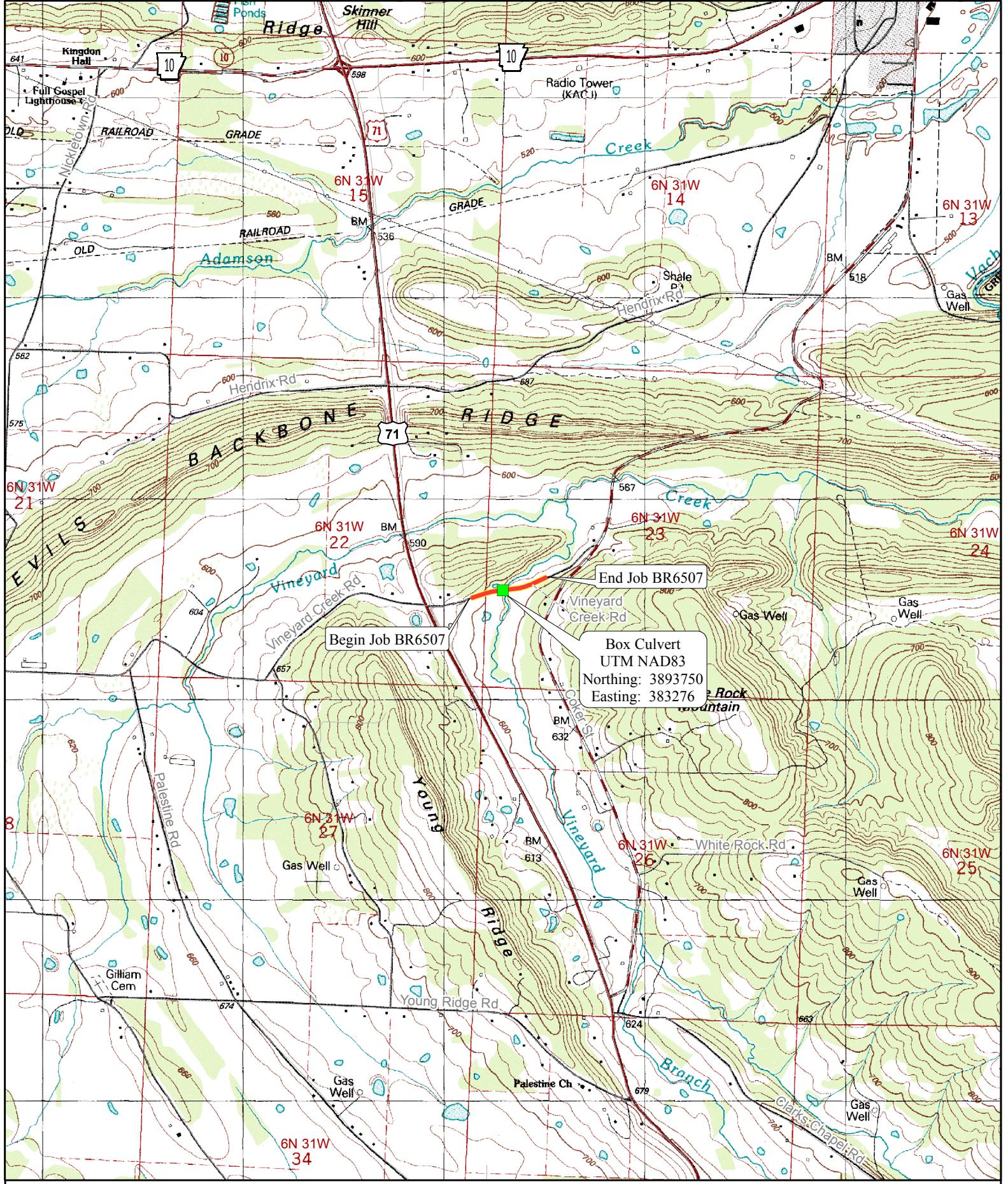
A handwritten signature in blue ink that reads "John Fleming".

John Fleming
Division Head
Environmental Division

JF:JS:BB:jh

Enclosures

Categorical Exclusion
Supporting Illustrations
Proposed Construction Plans



Begin Job BR6507

End Job BR6507

Box Culvert
 UTM NAD83
 Northing: 3893750
 Easting: 383276



Scale 1:24,000

AHTD-Environmental GIS-Hopkins
 September 11, 2015

Job BR6507
 Branch of Vineyard
 Creek Str. & Apprs.
 Sebastian County

Project Location

USGS Topographic Map
 Greenwood 1995

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

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August 11, 2015

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

Re: Job Number BR6507
FAP Number STPB-0065(49)
Bridge Number 16795
Branch of Vineyard Creek Str. & Apprs.
Sebastian County
Tier 3 Categorical Exclusion

Dear Mr. Correa:

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

The purpose of this project is to replace a bridge over Vineyard Creek on County Road 42 in Sebastian County. The total length of the project is 0.25 mile. A project location map is enclosed.

County Road 42 consists of two 10-foot paved travel lanes with no shoulders. The existing right of way width is approximately 40 feet. The existing 21' x 30' bridge over Vineyard Creek (16795) consists of one steel girder span with a concrete deck and a masonry substructure. The bridge has a qualifying code of functionally obsolete and a sufficiency rating of 46.2.

The new bridge approaches will have two 10-foot paved travel lanes with 4-foot paved shoulders. The existing bridge will be replaced with a quintuple 10' x 5' x 50' R.C. box culvert on existing location. County Road 42 will be closed during construction. The new average right of way width will vary from 70 to 140 feet.

Design data for this project is as follows:

Design Year	Average Daily Traffic	Percent Trucks	Design Speed
2015	200	3	40 mph
2035	250	3	40 mph

There are no relocations, wetlands, environmental justice issues, or noise impacts associated with this project. Field inspection found no evidence of underground storage tanks or hazardous waste deposits. Approximately 2.0 acres of new right of way will be required, of which 1.0 acre is Prime Farmland and 0.4 acre is Statewide Important Farmland. Form NRCS-CPA-106 is enclosed. No impacts to cultural resources are anticipated; concurrence from the State Historic Preservation Officer is enclosed.

Sebastian County is inhabited by the endangered American Burying Beetle (ABB). Disturbance of approximately 1.0 acre of suitable ABB habitat for this project is not likely to adversely affect the species. The suitable ABB habitat is determined by the characteristics described in the Survey Guidance of the Programmatic Biological Opinion provided by the US Fish and Wildlife Service. The project lies within the range of the Federally threatened northern long-eared bat; however, habitat within the project area was determined to be unsuitable for the species leading to the determination that the project may affect, but is not likely to adversely affect the species. The US Fish and Wildlife Service concurred with this decision June 27, 2015 (correspondence enclosed).

Construction of this project will replace the existing structurally deficient bridge with a quintuple concrete box culvert. Impacts to waters of the United States should be less than 0.1 acre. Construction of this project should be covered under the terms of a Nationwide Permit 14 for Linear Transportation Projects as defined in the Federal Register 77(34):10184 10290.

APPROVED

Environmental Specialist
Federal Highway Administration
Date: 8/11/2015

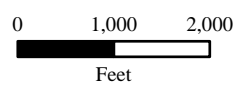
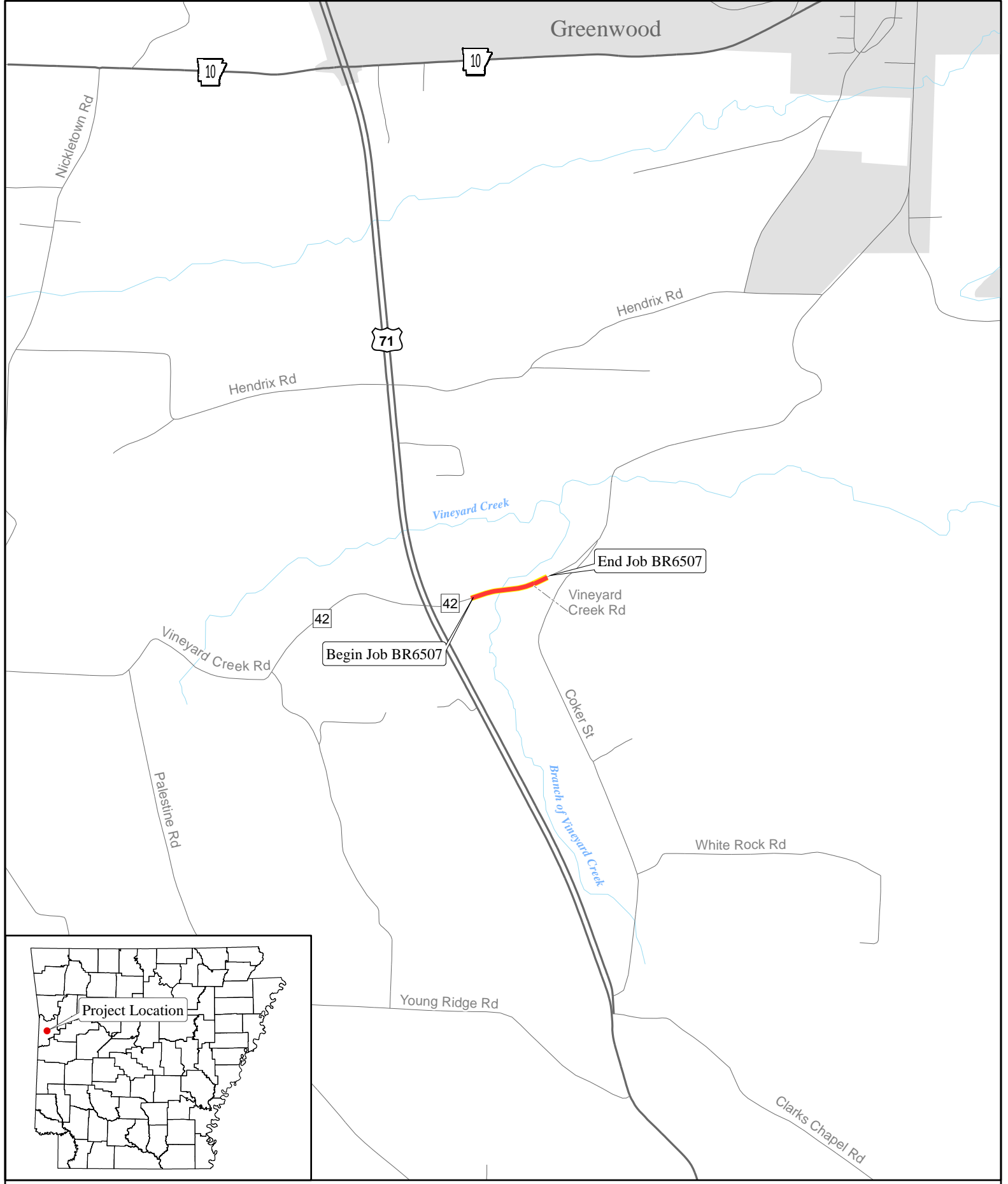
Sincerely,



John Fleming
Division Head
Environmental Division

Enclosures
JF:SL:fc

c: Program Management
Right of Way
State Aid
District 4
FHWA
Master File



AHTD-Environmental GIS-Hopkins
June 15, 2015

Job BR6507
Branch of Vineyard
Creek Str. & Apprs.
Sebastian County





THE DEPARTMENT OF ARKANSAS
HERITAGE

Asa Hutchinson
Governor

Stacy Hurst
Director

Arkansas Arts Council

Arkansas Natural Heritage
Commission

Delta Cultural Center

Historic Arkansas Museum

Mosaic Templars
Cultural Center

Old State House Museum



Arkansas Historic
Preservation Program



323 Center Street, Suite 1500
Little Rock, AR 72201

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

e-mail:

info@arkansaspreservation.org

website:

www.arkansaspreservation.com

An Equal Opportunity Employer

July 13, 2015

RECEIVED
AHTD

JUL 16 2015

ENVIRONMENTAL
DIVISION

Mr. John Fleming
Head, Environmental Division
Arkansas State Highway & Transportation Dept.
Post Office Box 2261
Little Rock, Arkansas 72203-2261

RE: Sebastian County - General
Section 106 Review - FHWA
Job No. BR6507 - Branch of Vineyard Creek Str. & Apprs. (S)
AHPP Tracking Number 85756.1

Dear Mr. Fleming:

My staff has reviewed the Cultural Resource Project Identification Form submitted regarding the above referenced undertaking and we find it acceptable. On the basis of the information contained in this form, we find that no historic properties will be affected by this undertaking.

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 Steve Imhoff of my staff at 501-324-9270.

Sincerely,

Frances McSwain
Deputy State Historic Preservation Officer

cc: Dr. Richard Allen, Cherokee Nation of Oklahoma
Ms. Lisa C. Baker, United Keetoowah Band of Cherokee Indians
Mr. Everett Bandy, Quapaw Tribe of Oklahoma
Ms. Lindsay E. Bilyeu, Choctaw Nation of Oklahoma
Ms. Tamara Francis-Fourkiller, Caddo Nation
Dr. Andrea Hunter, Osage Nation
Mr. Randal J. Looney, Federal Highway Administration

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

PART I (To be completed by Federal Agency) Job BR6507		3. Date of Land Evaluation Request 7/16/15	4. Sheet 1 of _____
1. Name of Project Branch of Vineyard Creek – Str. & Apprs.		5. Federal Agency Involved FHWA	
2. Type of Project Bridge Replacement		6. County and State Sebastian AR.	
PART II (To be completed by NRCS)		1. Date Request Received by NRCS	2. Person Completing Form
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	
5. Major Crop(s)	6. Farmable Land in Government Jurisdiction Acres: %		7. Amount of Farmland As Defined in FPPA Acres: %
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	1.0			
B. Total Acres Statewide And Local Important Farmland	.4			
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				

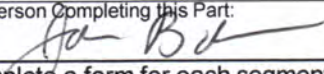
PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)				
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PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are 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	15			
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	45			

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	45		
TOTAL POINTS (Total of above 2 lines)	260	145		

1. Corridor Selected: New Location Adjacent to existing	2. Total Acres of Farmlands to be Converted by Project: 1.0 acres of Prime Farmland & .4 of Farmland of Statewide Importance	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 7/22/15

NOTE: Complete a form for each segment with more than one Alternate Corridor

From: [Seagraves, Josh](#)
To: [Leblanc, Sherry](#)
Subject: FW: Bat Clearance BR6507
Date: Monday, August 10, 2015 4:24:37 PM

From: Lewis, Lindsey [mailto:lindsey_lewis@fws.gov]
Sent: Saturday, June 27, 2015 11:15 AM
To: Bailey, Bill
Subject: Re: Bat Clearance BR6507

Bill,

I have reviewed the information you provided and our records and can find no data to suggest that any listed species occur in the action area. Based in the limited area of impact and the data review, the Service concurs with your determination.

Thanks,

Lindsey Lewis
U.S. Fish & Wildlife Service

On Thursday, June 18, 2015, Bailey, Bill <William.Bailey@ahtd.ar.gov> wrote:
Lindsey.....AHTD Job Number BR6507 (Branch of Vineyard Creek Str. & Apprs.) in Sebastian County will impact less than 1 acre of habitat outside our existing right-of-way. Sebastian County is known to support the Northern Long-eared bat. Based on guidance received from the USFWS AR Field Office, it is our opinion that this project is not likely to adversely affect any endangered species.
The ABB Special Provision will be included in the job.

Bill Bailey
Arkansas Highway & Transportation Department
Environmental Division
10324 Interstate 30
Little Rock, AR 72209
501-569-2617

--

Lindsey Lewis
Biologist

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

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

AHTD ENVIRONMENTAL IMPACTS ASSESSMENT FORM

AHTD Job Number BR6507 FAP Number STPB-0065(49)

Job Title Branch of Vineyard Creek Str. & Apprs.

Environmental Impacts	None	Minor	Significant	Comments
Air Quality	X			
Construction Impacts		X		
Cultural Resources	X			
Economic	X			
Endangered Species	X			ABB SP
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			
Migratory Birds		X		Migratory Bird SP included.
Navigation/Coast Guard	X			
Noise Levels	X			
Prime Farmland		X		1.0 acres Prime Farmland and 0.4 acre Statewide Important Farmland
Protected Waters	X			
Public Recreation Lands	X			
Public Water Supply/WHPA	X			
Relocatees	X			
Section 4(f)/6(f)	X			
Social	X			
Underground Storage Tanks	X			
Visual Impacts	X			
Stream Impacts		X		Replacing structure w/ quin. box cul.
Water Quality		X		During construction
Wetlands	X			
Wildlife Refuges	X			

Section 401 Water Quality Certification Required? No

Short-term Activity Authorization Required? Yes

Section 404 Permit Required? Yes Type NW14

Remarks: _____

Signature of Evaluator *Sherry LeBlanc* Date 7-22-2015

Date Submitted June 09, 2015

Date Returned _____

STATE AID DESIGN REQUEST

Job Number: BR6507 FAP Number: STPB-0065(49) County: Sebastian County

Job Name: Branch of Vineyard Creek Str. & Apprs. (S)

Design Engineer: Phillip Ammons Environmental Staff _____

Brief Project Description: Replace existing obsolete bridge.

A. Existing Conditions:

1. Roadway Width: Metric _____ English N/A

2. Shoulder Width: Metric _____ English NONE

3. Number of Lanes and Width: Metric _____ English 2 @ 0'-0"

4. Existing Right-of-Way: Metric _____ English 40'

B. Proposed Improvements:

1. Roadway Width: Metric _____ English 28'-0"

2. Shoulder Width: Metric _____ English 4'-0"

3. Number of Lanes and Width: Metric _____ English 2 @ 10'-0"

4. Average Right-of-Way: Metric _____ English Varies 70' to

If bridge(s) will be replaced by culverts give dimensions: QUINTUPLE 10' X 5' X 49.99'

C. Construction Information:

Detour: (if applicable)

Where: N/A

Approximate total length of detour: _____ kilometer(s) _____ mile(s)

D. Design Data:

2015 ADT: 200 2035 ADT: 250 Trucks: 3 %

Design Speed: 40 MPH

E. Approximate total length of project: _____ kilometer(s) 0.25 mile(s)

F. Justification for proposed improvements: To replace functionally obsolete bridge

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

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

County Officials: Sebastian County Judge

State Agency: No

Federal Agency: No

**ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT
CONSTRUCTION PLANS FOR PROPOSED COUNTY ROAD**

DATE FILED	DATE FILED	DATE REVISED	DATE FILED	FED. AID PROJ. NO.	STATE	FED. AID PROJ. NO.	SHEET NO.	TOTAL SHEETS
				6	ARK.			
				JOB NO.	BR6507		1	53
④ BRANCH OF VINEYARD CREEK STR. & APPRS. (S)								

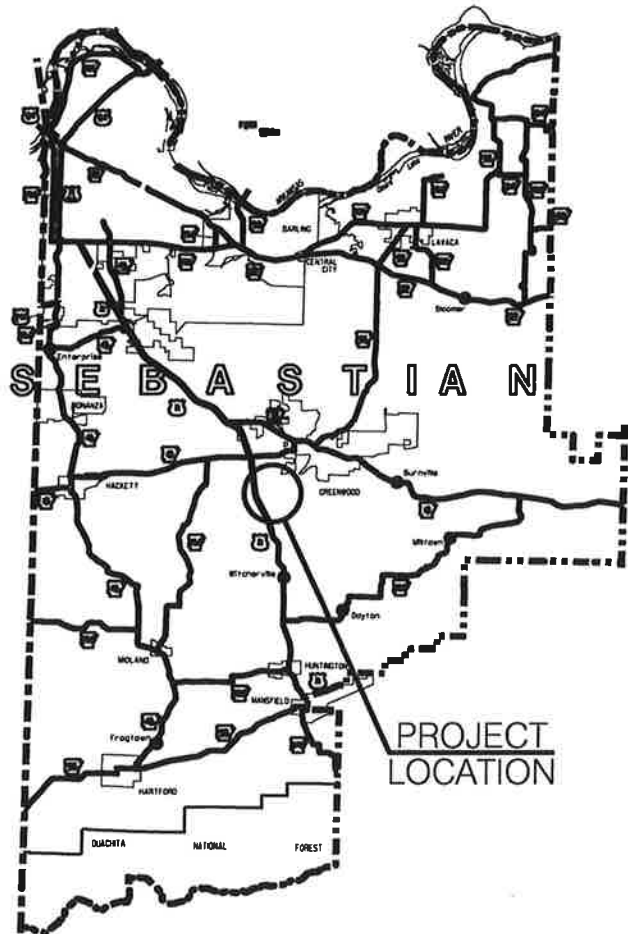
BRANCH OF VINEYARD CREEK STR. & APPRS. (S)

CO. RD. 42

SEBASTIAN COUNTY

FED. AID PROJ. STPB-0065(49)

JOB BR6507



VICINITY MAP



ARKANSAS HIGHWAY DISTRICT 4

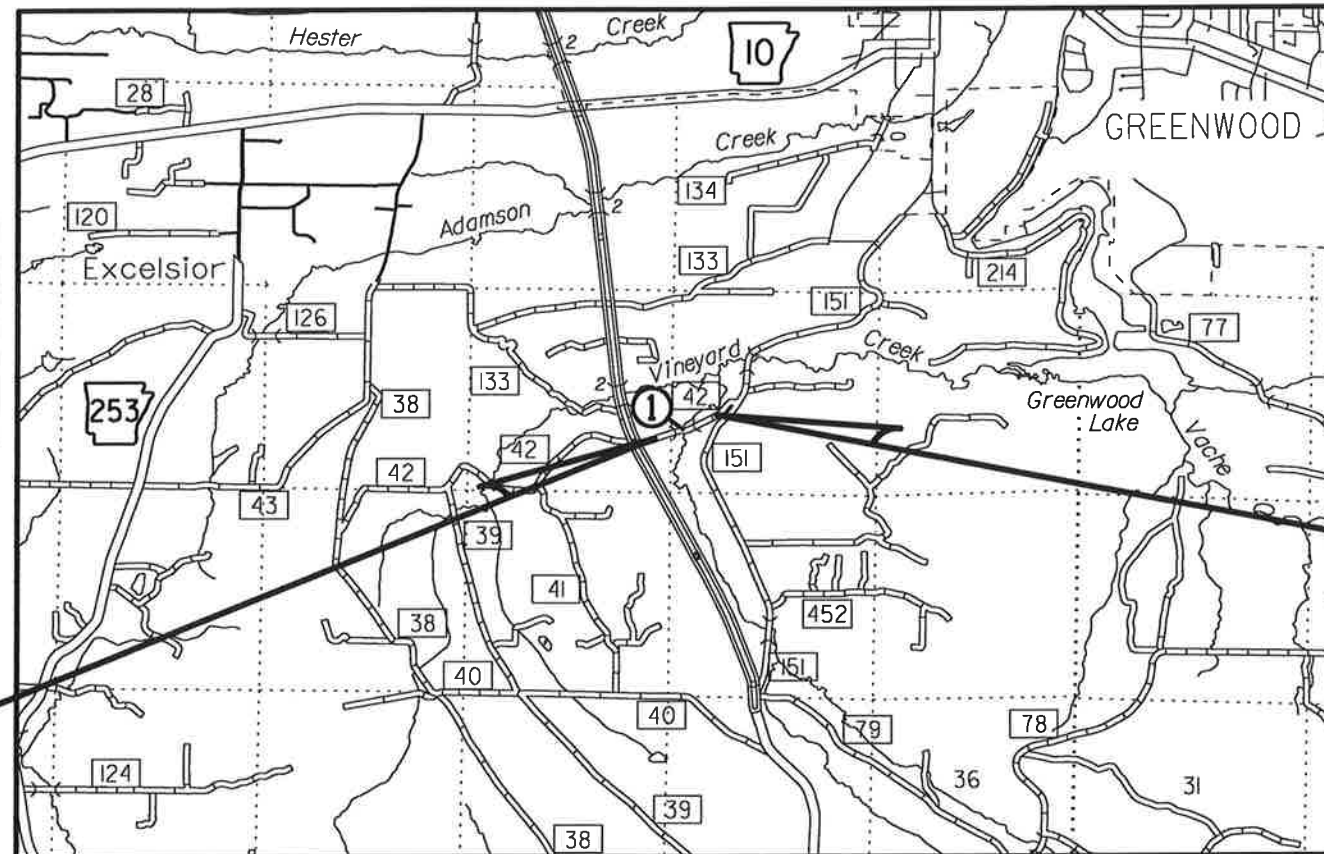


SCALE IN MILES

R3IW

STRUCTURES OVER 20'-0" SPAN

- 1** STA. 105+65.58 CONSTRUCT
QUINTUPLE 10' X 5' X 51.76'
R.C. BOX CULVERT
15° LT. FWD. SKEW
SPAN = 53' - 8"



T
6
N

T
6
N

R3IW

DESIGN TRAFFIC DATA

DESIGN YEAR	2035
2015 ADT	200
2035 ADT	250
2035 DHV	38
DIRECTIONAL DISTRIBUTION	0.60
TRUCKS	3%
DESIGN SPEED	40 MPH

STA. 100+00.00 - BEGIN JOB BR6507
FED. AID PROJ. STPB-0065(49)

STA. 113+00.00 - END JOB BR6507
FED. AID PROJ. STPB-0065(49)

PROJECT COORDINATES:

	BEGIN	MID-POINT	END
LAT.	N 35° 10' 46.5"	N 35° 10' 47.9"	N 35° 10' 50.1"
LONG.	W 94° 17' 1.3"	W 94° 16' 54.8"	W 94° 16' 46.4"

GROSS LENGTH OF PROJECT	1300.000 FEET OR 0.246 MILES
NET " " ROADWAY	1246.330 " " 0.236 "
NET " " BRIDGE	53.670 " " 0.010 "
NET " " PROJECT	1300.000 " " 0.246 "



LEGEND

- --- POWER POLE
- ⊕ --- COMBINATION POLE
- ⊖ --- POLE W/GUY
- ⊞ --- TELEPHONE RISER
- ⊙ --- TELEPHONE POLE
- ▲ --- UNDERGROUND CABLE MKR.
- ⊠ --- WATER METER
- ⊡ --- WATER VALVE

EARTHWORK

STA. 100+00 TO 113+00
 UNCLASSIFIED EXCAVATION (NORMAL) = 2717 CU.YDS.
 UNCLASSIFIED EXCAVATION (ENTRANCES) = 53 CU.YDS.
 UNCLASSIFIED EXCAVATION (OBLITERATION OF ENTRANCES) = 28 CU.YDS.
 UNCLASSIFIED EXCAVATION (RC BOX CULVERT) = 894 CU.YDS.
 UNCLASSIFIED EXCAVATION (CHANNEL CHANGE) = 587 CU.YDS.
 COMPACTED EMBANKMENT (NORMAL) = 6420 CU.YDS.
 COMPACTED EMBANKMENT (ENTRANCES) = 402 CU.YDS.
 EARTHWORK SHALL BE PAID AS PLAN QUANTITY.

MAILBOXES

STA. 100+76 RT. = 1 EACH
 STA. 103+83 LT. = 1 EACH
 STA. 107+92 RT. = 1 EACH

STA. 103+11 IN PLACE
 24" X 40" PIPE CULVERT
 LT. SIDE DRAIN
 WITH HDWL.
 REMOVE

MAILBOXES

STA. 104+10
 INSTALL SIDE DRAIN ON LT.
 24" X 44" PIPE CULVERT
 CONSTRUCT APPROACH
 = 139 CU. YDS. COMP. EMBANKMENT
 = 14 CU. YDS. UNCL. EXCAVATION

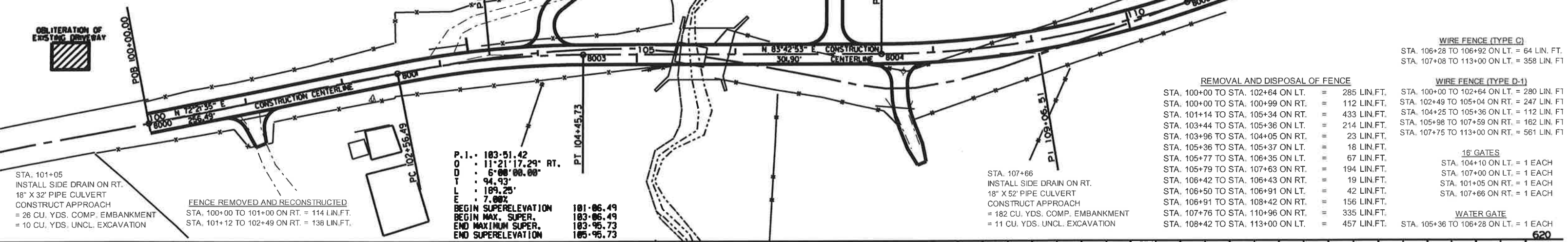
STA. 105+65.58 CONSTRUCT
 QUINTUPLE 10' X 5' X 51.76'
 R.C. BOX CULVERT
 15° LT. FWD. SKEW
 SPAN = 53' - 8"

CLEARING AND GRUBBING
 STA. 100+00 TO 113+00 = 13 STA.

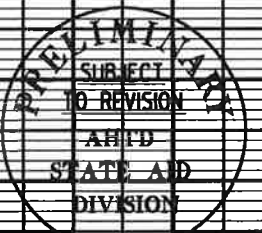
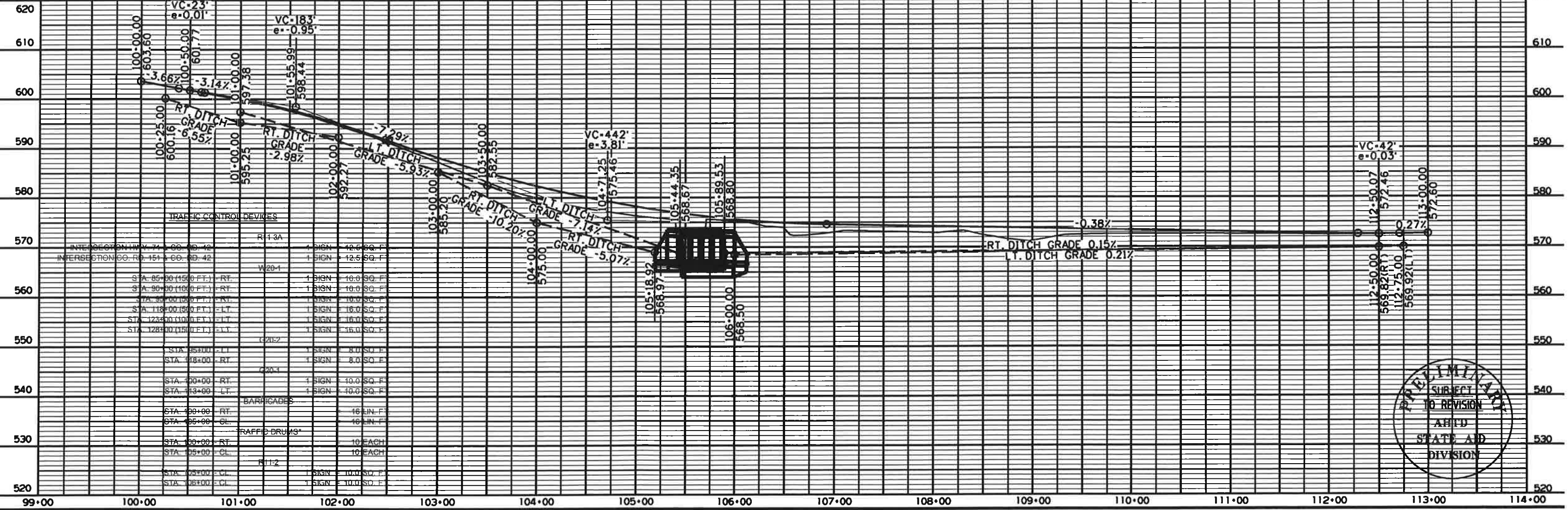
DATE REVISION	DATE PLANNED	DATE REVISION	DATE PLANNED	FEED NO.	STATE	FED. PROJ. NO.	SHEET NO.	TOTAL SHEETS
				6	ARK.		21	53
				JOB NO.	BR6507			

PLAN AND PROFILE SHEETS

NOTE: FOR THE CONSTRUCTION OF TEMPORARY WORK RAMPS OR HAUL ROADS, THIS STREAM IS CLASSIFIED AS AN INTERMITTENT STREAM. THE STREAM BANK ELEVATIONS ARE 569.0 FEET MSL BETWEEN STATIONS 105+40 AND 105+70. REFER TO SECTION 80.05(c) OF THE 2014 STANDARD SPECIFICATIONS.



REMOVAL AND DISPOSAL OF FENCE		WIRE FENCE (TYPE C)		WIRE FENCE (TYPE D-1)	
STA. 100+00 TO STA. 102+64 ON LT.	= 285 LIN. FT.	STA. 106+28 TO 106+92 ON LT.	= 64 LIN. FT.	STA. 100+00 TO 102+64 ON LT.	= 280 LIN. FT.
STA. 100+00 TO STA. 100+99 ON RT.	= 112 LIN. FT.	STA. 107+08 TO 113+00 ON LT.	= 358 LIN. FT.	STA. 102+49 TO 105+04 ON RT.	= 247 LIN. FT.
STA. 101+14 TO STA. 105+34 ON RT.	= 433 LIN. FT.			STA. 104+25 TO 105+36 ON LT.	= 112 LIN. FT.
STA. 103+44 TO STA. 105+36 ON LT.	= 214 LIN. FT.			STA. 105+98 TO 107+59 ON RT.	= 162 LIN. FT.
STA. 103+96 TO STA. 104+05 ON RT.	= 23 LIN. FT.			STA. 107+75 TO 113+00 ON RT.	= 561 LIN. FT.
STA. 105+36 TO STA. 105+37 ON LT.	= 18 LIN. FT.				
STA. 105+77 TO STA. 106+35 ON LT.	= 67 LIN. FT.			16' GATES	
STA. 105+79 TO STA. 107+63 ON RT.	= 194 LIN. FT.			STA. 104+10 ON LT.	= 1 EACH
STA. 106+42 TO STA. 106+43 ON RT.	= 19 LIN. FT.			STA. 107+00 ON LT.	= 1 EACH
STA. 106+50 TO STA. 106+91 ON LT.	= 42 LIN. FT.			STA. 101+05 ON RT.	= 1 EACH
STA. 106+91 TO STA. 108+42 ON RT.	= 156 LIN. FT.			STA. 107+66 ON RT.	= 1 EACH
STA. 107+76 TO STA. 110+96 ON RT.	= 335 LIN. FT.				
STA. 108+42 TO STA. 113+00 ON LT.	= 457 LIN. FT.			WATER GATE	
				STA. 105+36 TO 106+28 ON LT.	= 1 EACH





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

RECEIVED
AHTD

SEP 21 2016

ENVIRONMENTAL
DIVISION

SEP 16 2016

Regulatory Division

NATIONWIDE PERMIT NO. 2016-00279

Mr. John Fleming
Division Head, Environmental Division
Arkansas State Highway and Transportation Department
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 (33 U.S. Code 1344). You requested authorization for work, including the placement of dredged and fill material, in waters of the United States associated with the replacement of an existing structurally deficient double concrete box culvert on State Highway 289 with the placement of a new double 10-foot-wide by 9-foot-tall by 72-foot-long reinforced concrete box culvert. Work also includes the temporary placement of two stone dams, upstream and downstream of the culvert, lined with a geotextile waterproof membrane used for dewatering the project area. Total impacts to waters of the United States is less than 0.1 acres. The project is located in Hubble Branch, in the SW 1/4 of section 32, T. 19 N., R. 7 W., Fulton County, Arkansas.

The proposed activity is authorized by Department of the Army Nationwide Permit (NWP) **No. 3** (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) 682-0947.

The NWP determination will be valid until March 18, 2017. If NWP **No. 3** 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 Chris Joyner at (501) 324-5295 and refer to Permit No. **2015-00303, AHTD District 5 – Hubble Branch – Hwy. 289 Maintenance.**

Sincerely,

A handwritten signature in black ink, appearing to read "C. Joyner", written in a cursive style.

Chris Joyner
Environmental Engineer

Enclosures

Nationwide Permit No. 3

Maintenance. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project or within the boundaries of the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and/or the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization. The placement of new or additional riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer.

(c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. 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.

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 31). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404)

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

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 NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

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

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

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

9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization 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 NHPs.

(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/ipac> 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 NWP's 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWP's 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 some 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-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (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(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the 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 by telephone or fax to 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 of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(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.

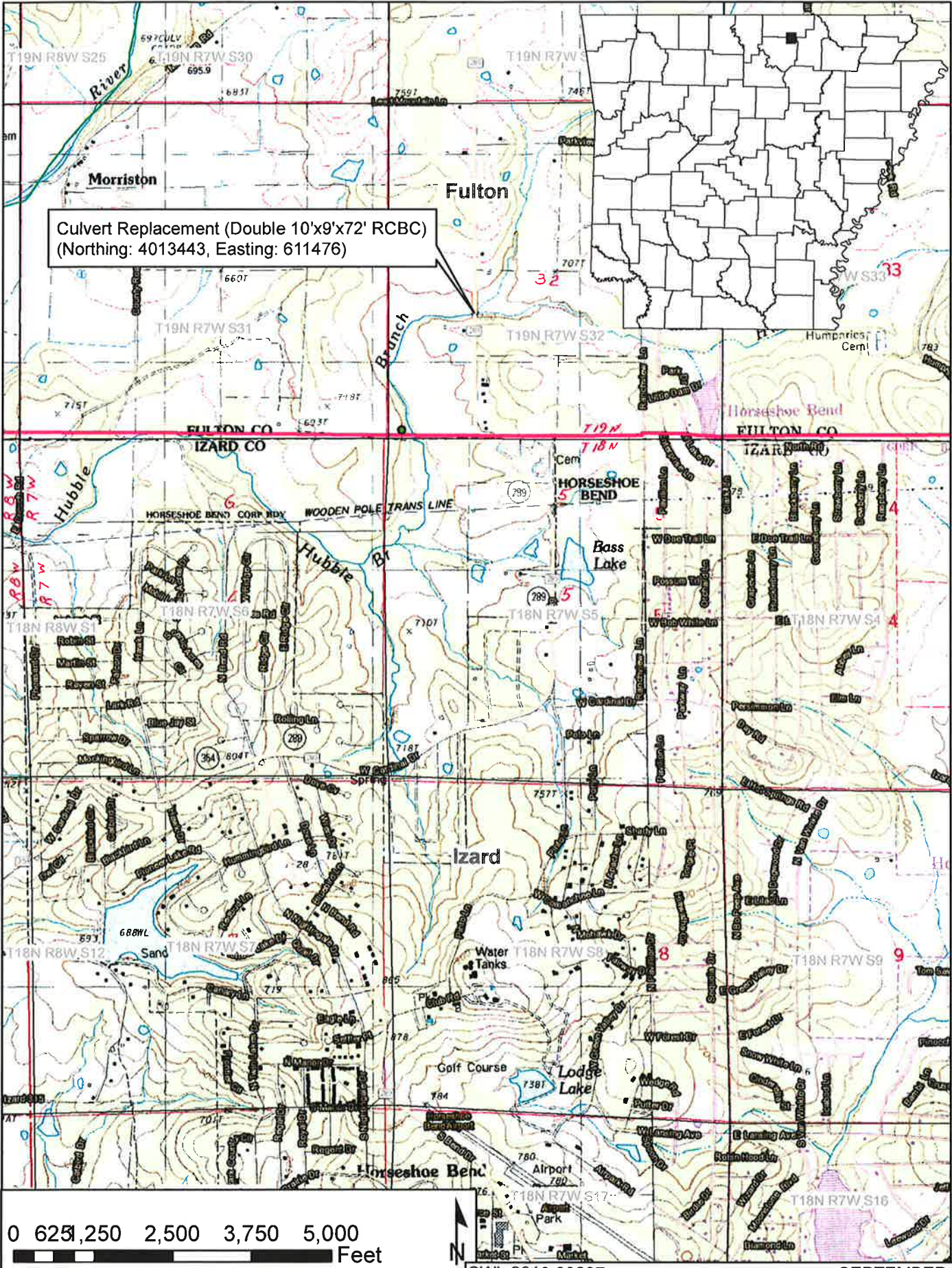
2. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider 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 on 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

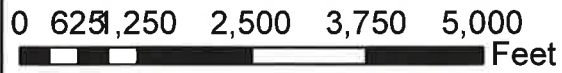
aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

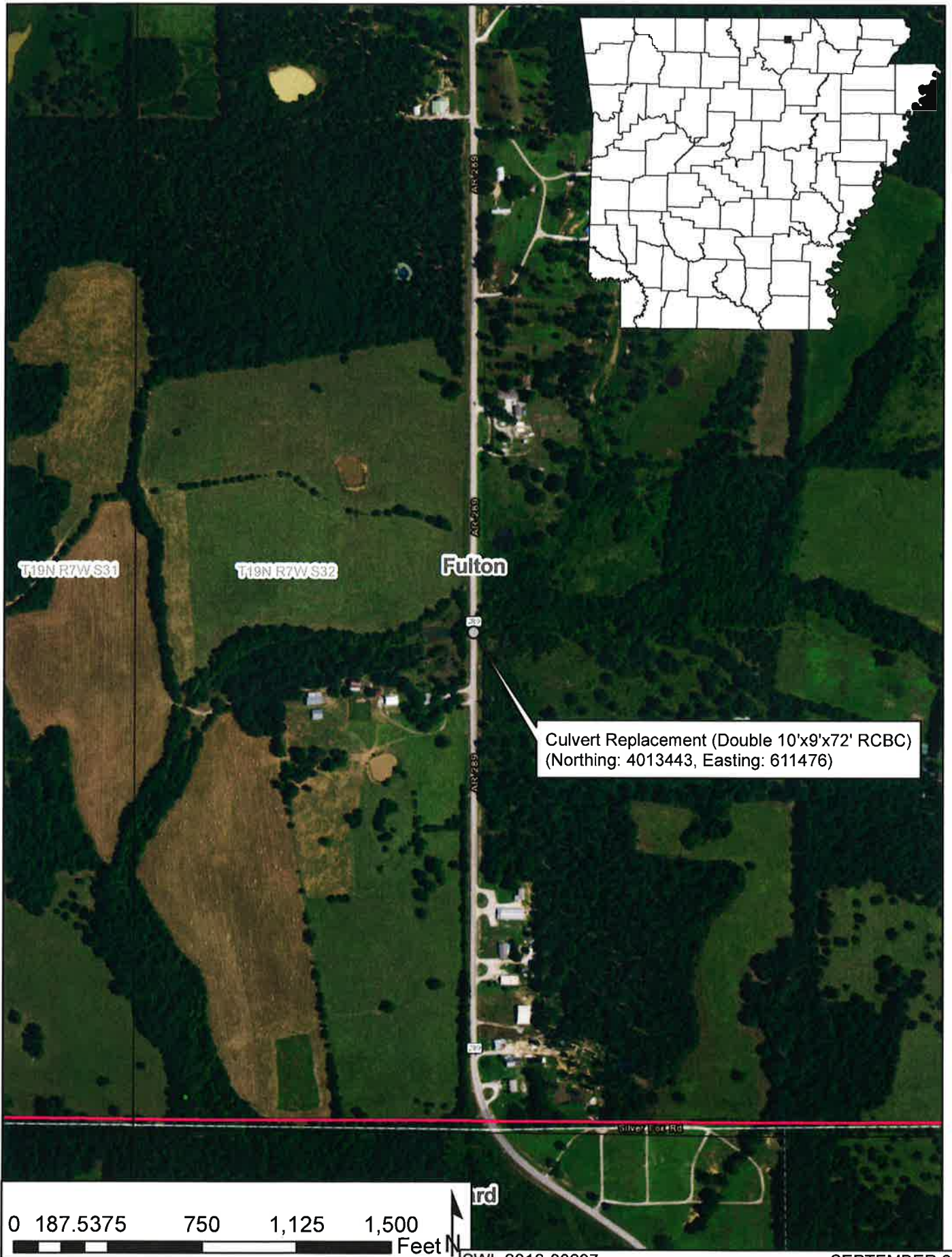
Further Information:

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.

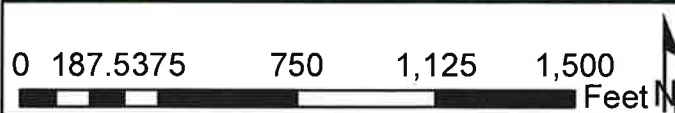


Culvert Replacement (Double 10'x9'x72' RCBC)
 (Northing: 4013443, Easting: 611476)





Culvert Replacement (Double 10'x9'x72' RCBC)
 (Northing: 4013443, Easting: 611476)



ADEQ

ARKANSAS
Department of Environmental Quality

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.: 2016-00279 **NWP/S NO.:** 3

PERMITTEE NAME: Arkansas State Highway and
Transportation Department

DATE OF ISSUANCE: SEP 16 2016

PROJECT MANAGER: Chris Joyner

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

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

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

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

DATE WORK COMPLETED: _____

SIGNATURE OF PERMITTEE

DATE