



August 24, 2018

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

RE: Job Number 050344
FAP Number NHPP-0025(18)
English Creek Str. & Apprs.
Route 289, Section 4
Bridge Number M2728
Fulton County
Tier 3 Categorical Exclusion

Dear Mr. Correa:

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

The purpose of this project is to replace the bridge over English Creek on Highway 289 in Fulton County. Total length of the project is 0.48 mile. A project location map is enclosed.

Existing Highway 289 consists of two 11-foot wide travel lanes with no shoulders. The existing bridge (M2728) has a 20' x 153' concrete deck with 122-foot steel thru truss. The existing right of way width is 80 feet.

Proposed improvements include a 30' x 253' continuous composite W-beam Unit bridge with approaches that have two 11-foot wide paved travel lanes and 6-foot wide shoulders (2-foot paved). The proposed structure will be 110 feet downstream from the existing bridge. The proposed average right of way width will

be 150'–200'. Approximately 5.34 acres of right of way will be required for this project.

Design data for this project is as follows:

Design Year	Average Daily Traffic	Percent Trucks	Design Speed
2018	500	10	55 mph
2038	600	10	55 mph

There are no relocations or environmental justice issues associated with this project. Field inspections found no evidence of existing underground storage tanks or hazardous waste deposits. Approximately 4.51 acres of Farmland of Statewide Importance will be converted to highway right of way. Form NRCS-CPA-106 is enclosed.

Noise predictions have been made for this project utilizing the Federal Highway Administration's TNM 2.5 procedures. These procedures indicate that noise levels are below the FHWA noise criteria beyond the project's proposed right of way limits and no sensitive receptors are currently impacted. Any increases in roadway noise levels will not be the result of the proposed project, but instead a result of traffic volume increases during the planning period (Year 2038). Therefore, any noise level increases will occur independently of this proposed project, and no project related noise impacts are anticipated. In compliance with Federal guidelines, local authorities will not require notification.

Stream impacts include the replacement of the bridge at English Creek and an intermittent tributary. Construction activities will fill and relocate 500 linear feet (0.11 acre) of an unnamed tributary to English Creek. The tributary is currently located parallel to the northeast roadside. The tributary will be culverted under the highway, under a county road, and relocated to the western side of the roadside embankment. Additionally, temporary and permanent fill of less than 0.1 acre will be placed within English Creek to accommodate new pier footings and work roads. The ARDOT proposes the use of 2,625 stream credits from the Wiseman Mitigation Bank located in Izard County as compensatory mitigation for the 500 linear foot of unavoidable stream impacts to the intermittent tributary. Construction of the proposed project should be allowed under the terms of a Nationwide Permit 14 for Linear Transportation Projects.

The U.S. Fish and Wildlife Service Information for Planning and Consultation (IPaC) website lists gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Ozark hellbender (*Cyptobranchus alleganiensis bishopi*), Curtis Pearlymussel (*Epioblasma florentina curtisii*), Pink Mucket (*Lampsilis abrupta*), Rabbitsfoot (*Theliderma cylindrica*), Scaleshell (*Leptodea leptodon*), and Snuffbox (*Epioblasma triquetra*) as threatened and endangered species potentially occurring at or near the project location.

A freshwater mussel survey was conducted on September 14, 2017 by ARDOT personnel resulting in no federally threatened or endangered mussels species present. With the use of best management practices to limit sedimentation and special provisions to limit clearing and construction activities during bat active seasons, the USFWS concurred with the determination that the project "may affect, but not likely to adversely affect" gray bat, Ozark hellbender, Pink Mucket, Rabbitsfoot, Scaleshell, and Snuffbox.

A total of 0.16 acre of trees suitable for Indiana bat habitat will be cleared. A bat survey conducted by Civil & Environmental Consultants, Inc. on May 23-24, 2018 resulted in the capture of a single northern long-eared bat. The IPaC Programmatic Determination Key for Indiana and Northern Long-eared Bats resulted in "may affect, likely to adversely affect" determination with mitigation requirements. The ARDOT proposes the use of 0.24 credit generated from the joint Indiana bat spring migration research study as compensatory mitigation. Further, no prohibited take will occur for northern long-eared bats following the guidance of the final 4(d) rule (50 CFR §17.40(o)). A concurrence letter by USFWS was received on March 5, 2018. The official species list, northern long-eared bat 4(d) rule streamlined consultation form, letter of consistency, and USFWS concurrence letter are enclosed.

The English Creek Bridge is a Pratt through truss span, located on Highway 289 crossing English Creek. It is one of six bridges of its type still in service in the state of Arkansas. The historic bridge was listed in the National Register of Historic Places (NRHP) on November 18, 2008, under Criterion A for its association with the development of vehicular transportation in Fulton County and under Criterion C as an excellent example of a Pratt through truss bridge.

The ARDOT recommends that the English Creek Bridge be relocated for future use on County Road 70 over Martin Creek in Sharp County. The historic bridge will be relocated with historic preservation responsibilities transferred from the current owner, the ARDOT, to the new owners, Sharp County, as agreed under the MOA.

Job Number 050344
Tier 3 Categorical Exclusion
Page 4 of 4


A concurrence letter from the State Historic Preservation Office and a Programmatic Section 4(f) Evaluation for the bridge are enclosed.

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

Sincerely,

APPROVED

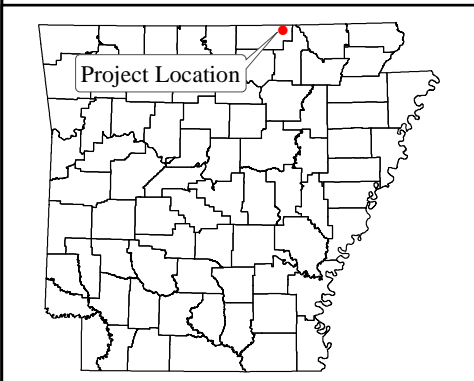
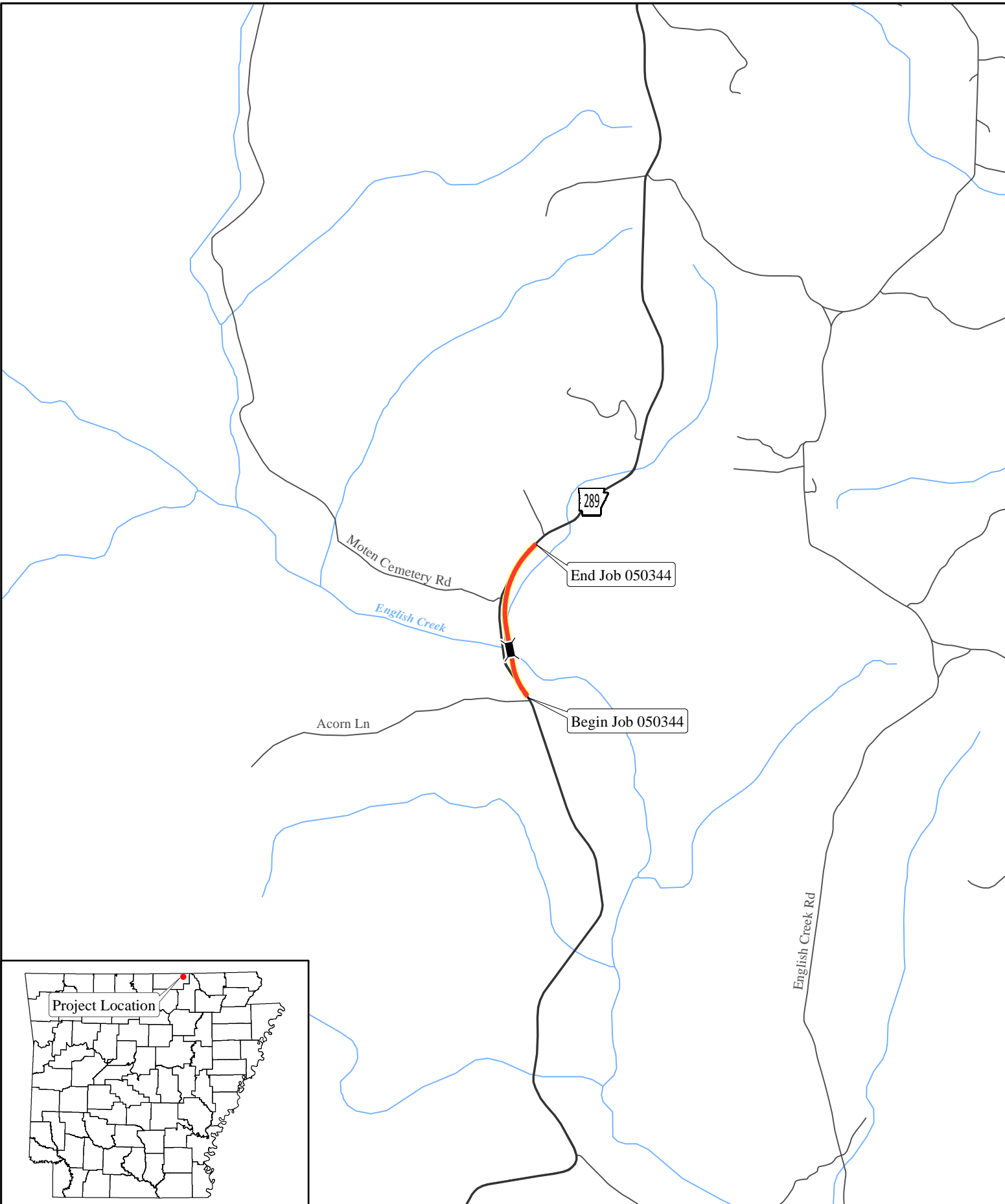
Environmental Specialist
Federal Highway Administration
Date: 8/29/2016


for John Fleming
Division Head
Environmental Division

Enclosures

JF:JB:fc

c: Program Management
Right of Way
Roadway Design
District 5
Master File



N
0 1,000 2,000
Feet
ARDOT - Environmental GIS - Hopkins
February 22, 2018

Job 050344
English Creek Str. & Apprs.
(Hwy. 289)
Fulton County

 Project Location



THE DEPARTMENT OF ARKANSAS
HERITAGE

Asa Hutchinson
Governor

Stacy Hurst
Director

February 14, 2018

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

RECEIVED
ARDOT
JUN 01 2018
ENVIRONMENTAL
DIVISION

Arkansas Arts Council

Arkansas Natural
Heritage Commission

Arkansas State Archives

Delta Cultural Center

Historic Arkansas Museum

Mosaic Templars
Cultural Center

Old State House Museum

RE: Fulton County – General
Section 106 Review – FHWA
AHTD Job Number ~~050355~~ 050344
Report Titled *A Cultural Resources Survey of ARDOT Job Number
050344 English Creek Str. & Apprs. (S)*
AHPP Tracking Number 99554.01

Dear Mr. Fleming

My staff has reviewed the Cultural Resources Survey Report regarding the above referenced project. The cultural resources survey report details the fieldwork done and is acceptable. ARDOT FU0084-English Creek Bridge (also known as 3FU0082) is listed in the National Register of Historic Places (NRHP). As stated in your report, removal of this bridge would constitute an adverse effect. We understand that to mitigate this effect, Sharp County has agreed to take ownership of the structure. We look forward to receiving a copy of the Memorandum of Agreement once it has been developed.

Tribes that have expressed an interest in the area include the Osage Nation (Dr. Andrea Hunter), the Quapaw Tribe of Oklahoma (Mr. Everett Bandy), and the Shawnee Tribe of Oklahoma (Ms. Kim Jumper). We recommend that they be consulted in accordance with 36 CFR § 800.2 (c) (2).

Thank you for the opportunity to review this undertaking. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, please call Theresa Russell of my staff at 501-324-9357.

Sincerely,

Scott Kaufman
Director, AHPP

cc: Mr. Randall Looney, Federal Highway Administration
Dr. Andrea Hunter, Osage Nation
Dr. Ann Early, Arkansas Archeological Survey



ARKANSAS HISTORIC
PRESERVATION PROGRAM



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Little Rock, AR 72201

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

e-mail:

info@arkansaspreservation.org

website:

www.arkansaspreservation.com

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

PART I (To be completed by Federal Agency) Job 050344	3. Date of Land Evaluation Request 8/17/18	4. Sheet 1 of
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1. Name of Project English Creek Str. & Apprs.	5. Federal Agency Involved FHWA
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2. Type of Project Bridge Replacement	6. County and State Fulton AR.
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PART II (To be completed by NRCS)	1. Date Request Received by NRCS	2. Person Completing Form
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3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form). YES NO	4. Acres Irrigated Average Farm Size
---	--

5. Major Crop(s)	6. Farmable Land in Government Jurisdiction Acres: %	7. Amount of Farmland As Defined in FPPA Acres: %
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8. Name Of Land Evaluation System Used	9. Name of Local Site Assessment System	10. Date Land Evaluation Returned by NRCS
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PART III (To be completed by Federal Agency) **Alternative Corridor For Segment**

	Corridor A	Corridor B	Corridor C	Corridor D
A. Total Acres To Be Converted Directly				
B. Total Acres To Be Converted Indirectly, Or To Receive Services				
C. Total Acres In Corridor				

PART IV (To be completed by NRCS) Land Evaluation Information

A. Total Acres Prime And Unique Farmland	
B. Total Acres Statewide And Local Important Farmland	4.51
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted	
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value	

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

PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))	Maximum Points	Corridor A	Corridor B	Corridor C	Corridor D
1. Area in Nonurban Use	15	15			
2. Perimeter in Nonurban Use	10	10			
3. Percent Of Corridor Being Farmed	20	20			
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	50			

PART VII (To be completed by Federal Agency)

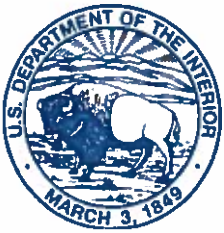
Relative Value Of Farmland (From Part V)	100	100			
Total Corridor Assessment (From Part VI above or a local site assessment)	160	50			
TOTAL POINTS (Total of above 2 lines)	260	150			

1. Corridor Selected: <input type="checkbox"/> New <input checked="" type="checkbox"/> Existing	2. Total Acres of Farmlands to be Converted by Project: 4.51 acres 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: John Baber DATE: 08/24/2018

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



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE

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



March 5, 2018

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

Consultation Code: 04ER1000-2018-F-0531 050344

Dear Mr. Fleming,

The Service has reviewed your assessment and determinations for Arkansas Department of Transportation (ArDOT) plans to the Hwy 289 Bridge over English Creek, Fulton County, Arkansas. This action may rely on the December 15, 2016, Programmatic Biological Opinion (BO) for federally funded or approved transportation projects that may affect the Indiana Bat (*Myotis sodalis*) and/or Northern Long-eared Bat (NLEB) (*Myotis septentrionalis*). We received your request and associated Likely to Adversely Affect (LAA) Consistency Letter on February 26, 2018. The project was described and assessed as follows (abbreviated):

ArDOT plans to replace the Hwy 289 Bridge over English Creek (36.444793°, -91.567023°) with a new bridge approximately 200' downstream (east) of the current bridge. The project is scheduled to let to contract in December of 2018. IPaC identified gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Ozark hellbender (*Cyptobranchnus alleganiensis bishopi*), Curtis Pearlymussel (*Epioblasma florentina curtisii*), Pink Mucket (*Lampsilis abrupta*), Rabbitsfoot (*Theliderma cylindrica*), Scaleshell (*Leptodea leptodon*), and Snuffbox (*Epioblasma triquetra*) as potentially occurring at or near the project location.

Approximately 1.66 acres of trees will be cleared during the project (1.5 within 100 ft and 0.16 acres from 100-300 ft). The Programmatic Biological Opinion for Transportation Projects for Indiana and northern long-eared bats determination key was used. Inactive season clearing and time of day construction restriction special provisions will be included in the contract. The key resulted in the determination of this project likely to adversely affect for Indiana bat due to 0.16 acres of trees cleared from 100-300 ft from the road surface. Using the compensatory mitigation calculations outlined in the In-Lieu Fee (ILF) Instrument sponsored by The Conservation Fund, a total of 0.24 acres or \$1,389 pay to the ILF can be use. Technical assistance from the service identified this project as one within an area of insufficient data and indicated a presence/absence survey would be beneficial. ArDOT proposes either the use of 0.24 acre from the Kings River

Mitigation tract or a presence/absence survey at the project location for use as mitigation. If female Indiana bats are captured and tracked further consultation will occur. No prohibited take will occur for northern long-eared bats following the guidance of the Programmatic Biological Opinion and Final 4(d) Rule (50 CFR §17.40(o)). A NLEB 4(d) Rule Streamlined Consultation form and Consistency Letter has been completed and submitted.

This project is within the known gray bat range and a records search of ANHC databases identified a gray bat roost cave (Ozark Acres Cave) approximately 14 miles southeast of the project location. Special provisions for time of day work restrictions will be included in the contract. Temporary sedimentation and construction activities associated with bridge replacement may temporarily decrease forage availability for gray bats. Sedimentation will be limited with the use of best management practices. With the use of best management practices and special provisions outlined above we seek concurrence that this project may effect, but will not likely adversely affect gray bats.

A freshwater mussel survey was conducted on 14 September 2017 by ArDOT personnel resulting in one relict Arkansas Brokenray (*Lampsilis reeveiana*) and 2 relict valves of Ellipse (*Venustaconcha ellipsiformis*) at the project location. During the survey no Ozark hellbender habitat was observed. English Creek is a tributary to the Spring River with the project located approximately 4.0 miles from the confluence. A records search of ANHC and AGFC databases indicate Rabbitsfoot, Pink Mucket, Scaleshell, Snuffbox, Curtis Pearlymussel, and Ozark hellbender are known to occur downstream from the confluence of English Creek in the main stem of the Spring River. Temporary and limited quantities of sedimentation during construction activities could reach the Spring River. Sedimentation will be limited with the use of best management practices. As a result we seek concurrence that the construction of this project may effect, but will not likely adversely affect Rabbitsfoot, Pink Mucket, Scaleshell, Snuffbox, Curtis Pearlymussel, and Ozark hellbender.

This letter provides the Service's response as to whether the Project may rely on the BO to comply with Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) for its effects to the Indiana Bat and/or NLEB. This letter also responds to your request for Service concurrence that the Project may affect, but is not likely to adversely affect (NLAA) ESA-listed species and/or designated critical habitats other than the Indiana Bat and NLEB.

The ArDot has determined that the Project is likely to adversely affect (LAA) the Indiana Bat. Additionally, the Arkansas Department of Transportation has also determined that the Project is

not likely to adversely affect (NLAA) Gray Bat, Rabbitsfoot, Pink Mucket, Scaleshell, Snuffbox, Curtis Pearlymussel, and Ozark hellbender.

The Service concurs with these determination(s), the proximity of known species sites and foraging range to the project location and the occurrence of suitable foraging habitat for these species that exists on and adjacent to the site, and the bridge habitat that exists on the site. A determination of LAA for Indiana Bat is appropriate based on the amount and distance from the existing roadway of suitable habitat being lost, the conservation measures being proposed, winter clearing (non-reproductive season) only provisions, and the proposed implementation of all required AMMs. Furthermore, the distance to known Gray Bat roosting and hibernacula sites, time of day restrictions, winter clearing only, off-site restraining conditions, downstream distance to mussel habitat and known sites, and standard sediment controls, warrants a NLAA determination for these species. This concurrence concludes your ESA Section 7 responsibilities relative to Indiana Bat, Gray Bat, Rabbitsfoot, Pink Mucket, Scaleshell, Snuffbox, Curtis Pearlymussel, and Ozark hellbender for this Project, subject to the Reinitiation Notice below.

Conclusion

The Service has reviewed the effects of the proposed Project, which includes the ArDOT's commitment to implement any applicable mitigation measures as indicated on the Project Submittal Form. We confirm that the proposed Project's effects are consistent with those analyzed in the BO. The Service has determined that projects consistent with the conservation measures and scope of the program analyzed in the BO are not likely to jeopardize the continued existence of the Indiana Bat and/or the NLEB. In coordination with your agency and the other sponsoring Federal Transportation Agencies, the Service will reevaluate this conclusion annually in light of any new pertinent information under the adaptive management provisions of the BO.

Incidental Take

Indiana Bat

The Service anticipates that tree removal associated with the proposed Project will cause incidental take of Indiana Bats. As described in the Incidental Take Statement (ITS) of the BO, such taking will be difficult to detect. The Service determined that it is appropriate to measure the amount or extent of incidental taking resulting from BO projects using the proposed acreage of tree removal from Indiana Bat suitable habitat as a surrogate for the numbers of individuals taken.

The proposed Project will remove 0.16 acres of trees from habitat that is suitable for the Indiana Bat. All tree removal will occur in winter and comply with all other conservation measures in the

BO. Based on the BO, 0.16 acres are anticipated to result in adverse effects and ArDOT, using the compensatory mitigation calculations outlined in the In-Lieu Fee (ILF) Instrument sponsored by The Conservation Fund, proposes to mitigate a total of 0.24 acres or \$1,389 in payment to the ILF. Technical assistance from the Service identified this project as one within an area of insufficient data and indicated a presence/absence survey would be beneficial. ArDOT proposes either the use of 0.24 acre from the Kings River Mitigation tract or perform a presence/absence survey at the project location for use as mitigation.

In addition, the Project may take up to 5 Indiana Bats that were not detected during bridge bat assessments conducted prior to implementing the proposed work on the Hwy 289 Bridge. Although such take is reasonably certain to occur at up to 10 bridge projects per year as included in the scope of the BO, it is a remote possibility for any individual project that is implemented consistent with the conservation measures of the BO.

The Service will add the acreage of Project-related tree removal to the annual total acreage attributed to the BO as a surrogate measure of Indiana Bat take and exempted from the prohibitions against incidental taking. Such exemption is effective as long as your agency implements the reasonable and prudent measure (RPM) and accompanying terms and conditions of the BO's ITS.

The sole RPM of the BO's ITS requires the Federal Transportation Agencies to ensure that State/Local transportation agencies, who choose to include eligible projects under the programmatic action, incorporate all applicable conservation measures in the project proposals submitted to the Service for ESA section 7 compliance using the BO. The implementing terms and conditions for this RPM require the Federal Transportation Agencies to offer training to appropriate personnel about using the BO, and about promptly reporting sick, injured, or dead bats (regardless of species) (or any other federally listed species) located in project action areas.

Northern Long-eared Bat

The Service anticipates that tree removal associated with the proposed Project will cause incidental take of NLEBs. However, the Project is consistent with the BO, and such projects will not cause take of NLEB that is prohibited under the ESA section 4(d) rule for this species (50 CFR §17.40(o)). Therefore, the take of NLEBs resulting from this project does not require exemption from the Service.

Reporting Dead or Injured Bats

The Arkansas Department of Transportation, its State/Local cooperators, and any contractors must take care when handling dead or injured Gray, Indiana Bats and/or NLEBs, or any other federally listed species that are found at the Project site to preserve biological material in the best

possible condition and to protect the handler from exposure to diseases, such as rabies. Project personnel are responsible for ensuring that any evidence about determining the cause of death or injury is not unnecessarily disturbed. Reporting the discovery of dead or injured listed species is required in all cases to enable the Service to determine whether the level of incidental take exempted by this BO is exceeded, and to ensure that the terms and conditions are appropriate and effective. Parties finding a dead, injured, or sick specimen of any endangered or threatened species must promptly notify this Service Office.

Reinitiation Notice

This letter concludes consultation for the proposed Project, which qualifies for inclusion in the BO issued to the Federal Transportation Agencies. To maintain this inclusion, a reinitiation of this Project-level consultation is required where the Arkansas Department of Transportation's discretionary involvement or control over the Project has been retained (or is authorized by law) and if:

1. the amount or extent of incidental take of Indiana Bat is exceeded;
2. new information reveals that the Project may affect listed species or critical habitat in a manner or to an extent not considered in the BO or in the Project information that supported Service concurrence with the NLAA determination;
3. the Project is subsequently modified in a manner that causes an effect to listed species or designated critical habitat not considered in the BO or in the Project information that supported Service concurrence with NLAA determination; or
4. a new species is listed or critical habitat designated that the Project may affect.

Per condition #1 above, the anticipated incidental take is exceeded when:

- the Project removes trees from more than 0.16 acres of habitat suitable for the Indiana Bat; or
- the Project takes more than 5 Indiana Bats resulting from work on the Hwy 289 Bridge.

In instances where the amount or extent of incidental take is exceeded, the Arkansas Department of Transportation is required to immediately request a reinitiation of formal consultation. Please note that the Service cannot exempt from the applicable ESA prohibitions any Action-caused take that exceeds the amount or extent specified in the ITS of this BO that may occur before the reinitiated consultation is concluded.

Mr. John Fleming

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We appreciate your continued efforts to ensure that this Project is fully consistent with all applicable provisions of the BO. If you have any questions regarding our response or if you need additional information, please contact Lindsey Lewis at (501) 513-4489 or lindsey_lewis@fws.gov

Sincerely,

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

Melvin L. Tobin
Field Supervisor



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Arkansas Ecological Services Field Office
110 South Amity Suite 300
Conway, AR 72032-8975
Phone: (501) 513-4470 Fax: (501) 513-4480
<http://www.fws.gov/arkansas-es>

IPaC Record Locator: 432-11312071

February 23, 2018

Subject: Consistency letter for the '050344 - English Creek Str. & Apprs. (S)' project (TAILS 04ER1000-2018-R-0531) under the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated to verify that the **050344 - English Creek Str. & Apprs. (S)** (Proposed Action) may rely on the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action is within the scope and adheres to the criteria of the PBO, including the adoption of applicable avoidance and minimization measures, and may affect, and is likely to adversely affect the endangered Indiana bat (*Myotis sodalis*) and/or the threatened Northern long-eared bat (*Myotis septentrionalis*). Consultation with the Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) is required.

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

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

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

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

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

If the Proposed Action may affect any other federally-listed or proposed species and/or designated critical habitat, additional consultation between the lead Federal action agency and this Service Office is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please advise the lead Federal action agency for the Proposed Action accordingly.

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

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

Project Description

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

Name

050344 - English Creek Str. & Apprs. (S)

Description

Replace Hwy 289 Bridge over English Creek

Determination Key Result

Based on your answers provided, this project is likely to adversely affect the endangered Indiana bat and/or the threatened Northern long-eared bat. Therefore, consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required. However, also based on your answers provided, this project may rely on the conclusion and Incidental Take Statement provided in the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

Qualification Interview

1. Is the project within the range of the Indiana bat^[1]?

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

Automatically answered

Yes

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

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

Automatically answered

Yes

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

A) Federal Highway Administration (FHWA)

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

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

No

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

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

No

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

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

No

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

Yes

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

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

No

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

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

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

Yes

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

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

Yes

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

No

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

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

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

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

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

No

13. Does the project include activities **within documented Indiana bat habitat**^{[1][2]}?

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

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

No

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

Yes

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

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

B) During the inactive season

16. Does the project include activities **within documented NLEB habitat**^{[1][2]}?

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

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

No

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

Yes

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

B) During the inactive season

19. Has a visual emergence survey^[1] been conducted?

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

No

20. Do you plan on conducting a visual emergence survey prior to removing trees^[1]?

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

No

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

Yes

22. Will the tree removal alter *any* **documented** Indiana bat or NLEB roosts and/or alter any surrounding summer habitat **within** 0.25 mile of a documented roost?

No

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

Yes

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

Yes

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

Yes

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

No

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

No

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

No

29. Does the project include slash pile burning?

Yes

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

Yes

31. Is there *any* suitable habitat^[1] for Indiana bat or NLEB **within** 1,000 feet of the bridge? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

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

Yes

32. Has a bridge assessment^[1] been conducted **within** the last 24 months^[2] to determine if the bridge is being used by bats?

[1] See [User Guide Appendix D](#) for bridge/structure assessment guidance

[2] Assessments must be completed no more than 2 years prior to conducting any work below the deck surface on all bridges that meet the physical characteristics described in the Programmatic Consultation, regardless of whether assessments have been conducted in the past. Due to the transitory nature of bat use, a negative result in one year does not guarantee that bats will not use that bridge/structure in subsequent years.

Yes

SUBMITTED DOCUMENTS

- *050344 AppendixD_BridgeAssessmentAugust2016.pdf* <https://ecos.fws.gov/ipac/project/FH2BE7FL4FFHVCYWLJVZSJPKSE/projectDocuments/11312037>

33. Did the bridge assessment detect *any* signs of bats roosting in/under the bridge (bats, guano, etc.)?

Note: There is a small chance bridge assessments for bat occupancy do not detect bats. Should a small number of bats be observed roosting on a bridge just prior to or during construction, such that take is likely to occur or does occur in the form of harassment, injury or death, the PBO requires the action agency to report the take. Report all unanticipated take within 2 working days of the incident to the USFWS. Construction activities may continue without delay provided the take is reported to the USFWS and is limited to 5 bats per project.

No

34. Will the bridge removal, replacement, and/or maintenance activities include installing new or replacing existing **permanent** lighting?

No

35. Does the project include the removal, replacement, and/or maintenance of *any* structure other than a bridge? (e.g., rest areas, offices, sheds, outbuildings, barns, parking garages, etc.)

No

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

No

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

No

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

No

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

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

Yes

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

No

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

Automatically answered

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

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

Automatically answered

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

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

Automatically answered

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

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

Automatically answered

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

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

Automatically answered

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

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

Automatically answered

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

47. Is the bridge removal, replacement, or maintenance activities portion of this project consistent with a No Effect determination in this key?

Automatically answered

Yes, because the bridge has been assessed using the criteria documented in the BA and no signs of bats were detected

48. **General AMM 1**

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

Yes

49. Hibernacula AMM 1

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

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

Yes

50. Hibernacula AMM 1

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

Yes

51. Tree Removal AMM 1

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

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

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

Yes

52. Tree Removal AMM 2

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

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

Automatically answered

Yes

53. **Tree Removal AMM 2**

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

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

Automatically answered

Yes

54. **Tree Removal AMM 3**

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

Yes

55. **Tree Removal AMM 4**

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

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

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

Yes

56. **Lighting AMM 1**

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

Yes

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

5. *Unknown*

Project Questionnaire

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

No

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

Yes

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

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

1.5

4. **Please verify:**

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

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

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

Yes

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

Yes

7. **Please verify:**

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

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

8. **Please verify:**

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

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

9. Please describe the proposed bridge work:
-

Bridge replacement on new location

10. Please state the timing of all proposed bridge work:

Project is scheduled to let to contract December 2018

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

- *General AMM 1*
- *Hibernacula AMM 1*
- *Lighting AMM 1*
- *Tree Removal AMM 1*
- *Tree Removal AMM 2*
- *Tree Removal AMM 3*
- *Tree Removal AMM 4*

Avoidance And Minimization Measures (AMMs)

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

GENERAL AMM 1

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

HIBERNACULA AMM 1

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

LIGHTING AMM 1

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

TREE REMOVAL AMM 1

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

TREE REMOVAL AMM 2

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

TREE REMOVAL AMM 3

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

TREE REMOVAL AMM 4

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

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

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

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

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



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Arkansas Ecological Services Field Office
110 South Amity Suite 300
Conway, AR 72032-8975
Phone: (501) 513-4470 Fax: (501) 513-4480
<http://www.fws.gov/arkansas-es>

In Reply Refer To:

February 20, 2018

Consultation Code: 04ER1000-2018-SLI-0531

Event Code: 04ER1000-2018-E-00804

Project Name: 050344 - English Creek Str. & Apprs. (S)

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies endangered, threatened, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). **This letter only provides an official species list and technical assistance; if you determine that listed species and/or designated critical habitat may be affected in any way by the proposed project, even if the effect is wholly beneficial, consultation with the Service will be necessary.**

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found on our website.

Please visit our website at <http://www.fws.gov/arkansas-es/IPaC/home.html> for species-specific guidance to avoid and minimize adverse effects to federally endangered, threatened, proposed, and candidate species. Our web site also contains additional information on species life history and habitat requirements that may be useful in project planning.

If your project involves in-stream construction activities, oil and natural gas infrastructure, road construction, transmission lines, or communication towers, please review our project specific guidance at <http://www.fws.gov/arkansas-es/IPaC/ProjSpec.html>.

The karst region of Arkansas is a unique region that covers the **northern third of Arkansas** and we have specific guidance to conserve sensitive cave-obligate and bat species. **Please visit <http://www.fws.gov/arkansas-es/IPaC/Karst.html> to determine if your project occurs in the karst region and to view karst specific-guidance.** Proper implementation and maintenance of best management practices specified in these guidance documents is necessary to avoid adverse effects to federally protected species and often avoids the more lengthy formal consultation process.

If your species list includes any mussels, Northern Long-eared Bat, Indiana Bat, Yellowcheek Darter, Red-cockaded Woodpecker, or American Burying Beetle, your project may require a presence/absence and/or habitat survey prior to commencing project activities. Please check the appropriate species-specific guidance on our website to determine if your project requires a survey. We strongly recommend that you contact the appropriate staff species lead biologist (see office directory or species page) prior to conducting presence/absence surveys to ensure the appropriate level of effort and methodology.

Under the ESA, it is the responsibility of the Federal action agency or its designated representative to determine if a proposed action "may affect" endangered, threatened, or proposed species, or designated critical habitat, and if so, to consult with the Service further. Similarly, it is the responsibility of the Federal action agency or project proponent, not the Service, to make "no effect" determinations. If you determine that your proposed action will have "no effect" on threatened or endangered species or their respective critical habitat, you do not need to seek concurrence with the Service. Nevertheless, it is a violation of Federal law to harm or harass any federally-listed threatened or endangered fish or wildlife species without the appropriate permit.

Through the consultation process, we will analyze information contained in a biological assessment that you provide. If your proposed action is associated with Federal funding or permitting, consultation will occur with the Federal agency under section 7(a)(2) of the ESA. Otherwise, an incidental take permit pursuant to section 10(a)(1)(B) of the ESA (also known as a habitat conservation plan) is necessary to harm or harass federally listed threatened or endangered fish or wildlife species. In either case, there is no mechanism for authorizing incidental take "after-the-fact." For more information regarding formal consultation and HCPs, please see the Service's Consultation Handbook and Habitat Conservation Plans at www.fws.gov/endangered/esa-library/index.html#consultations.

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, **the accuracy of this species list should be verified after 90 days.** This verification can be

completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. **Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.**

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Arkansas Ecological Services Field Office

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

Project Summary

Consultation Code: 04ER1000-2018-SLI-0531

Event Code: 04ER1000-2018-E-00804

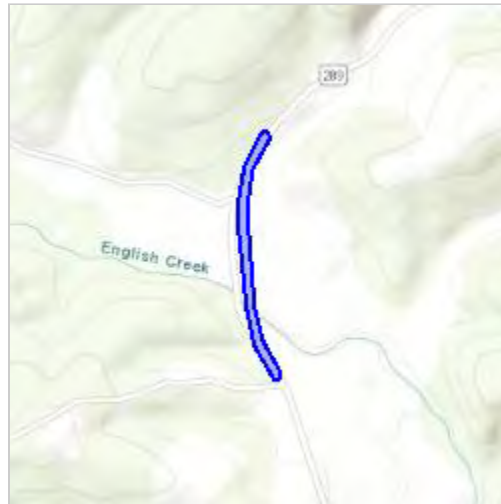
Project Name: 050344 - English Creek Str. & Apprs. (S)

Project Type: TRANSPORTATION

Project Description: Replace Hwy 289 Bridge over English Creek

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.44580120908121N91.56676652831604W>



Counties: Fulton, AR

Endangered Species Act Species

There is a total of 9 threatened, endangered, or candidate species on this species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

Mammals

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Amphibians

NAME	STATUS
Ozark Hellbender <i>Cryptobranchus alleganiensis bishopi</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/647	Endangered

Clams

NAME	STATUS
Curtis Pearlymussel <i>Epioblasma florentina curtisii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5628	Endangered
Pink Mucket (pearlymussel) <i>Lampsilis abrupta</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7829	Endangered
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5165	Threatened
Scaleshell Mussel <i>Leptodea leptodon</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5881	Endangered
Snuffbox Mussel <i>Epioblasma triquetra</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4135	Endangered

Critical habitats

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

ENGLISH CREEK BRIDGE



BRIDGE NUMBER M2728

PROGRAMMATIC SECTION 4(F) EVALUATION FOR FEDERALLY-AIDED HIGHWAY PROJECTS THAT NECESSITATE THE USE OF HISTORIC BRIDGES

ARDOT Job Number 050344

English Creek Str. & Apprs.

Fulton County

August 2018

Submitted Pursuant to 49 U.S.C. Section 303 and 23 U.S.C. Section 138 by the U.S. Department of Transportation Federal Highway Administration and the Arkansas Department of Transportation.

Programmatic Section 4(f) Evaluation – Historic Bridges

1 Why is this report being prepared?

Section 4(f) of the Department of Transportation Act of 1966 declared a national policy to make a special effort to preserve the natural beauty of the countryside, public parks and recreations lands, wildlife and waterfowl refuges, and historic sites. The current Section 4(f) legislation permits the Secretary of Transportation to approve a project that requires the use of certain historic bridge structures to be replaced or rehabilitated with Federal funds only if a determination has been made that there is no feasible and prudent alternative to the use of the property and all possible planning has been undertaken to minimize harm to the property resulting from such use. These determinations, submitted pursuant to 49 U.S.C. Section 303 and 23 U.S.C. Section 138, are set forth in this Programmatic Section 4(f) Evaluation.

2 What would the project accomplish?

The Arkansas Department of Transportation (ARDOT; formerly the Arkansas State Highway and Transportation Department [AHTD]), in conjunction with the Federal Highway Administration (FHWA), is proposing to construct a new bridge across English Creek along Highway 289 in Fulton County, Arkansas. The project will improve safety and the transportation needs in northern Arkansas. As part of the project, a historic bridge will be replaced.

ARDOT Bridge Number M2728 (English Creek Bridge) is a pin-connected steel, Pratt through truss bridge, built in 1929. The total length of the bridge is 153 feet with a clear deck width of approximately 20 feet containing two ten-foot wide travel lanes. According to the Bridge Inspection Report dated February 27, 2018, the historic bridge is classified as Structurally Deficient, but remains in use. The Bridge Inspection Report lists the condition of the deck as poor (code 4), the superstructure as fair (code 5), and the substructure as satisfactory (code 6).


The bridge will be replaced with a continuous W-beam structure. It will measure approximately 253 feet long with a clear roadway width of 30 feet. The new bridge roadway will have two eleven-foot wide paved travel lanes, and six-foot wide shoulders.

What properties does Section 4(f) protect?

Section 4(f) properties include significant publicly owned parks, recreation areas, and wildlife or waterfowl refuges, or any publicly or privately owned historic site listed or eligible for listing in the National Register of Historic Places with national, state, or local significance. The ARDOT considers historic bridges as historic sites.

What is a through truss bridge?

The top chords of a through truss bridge connect above the roadway.



What is meant by Structurally Deficient?

Definition from the Federal Highway Administration: “A ‘structurally deficient’ designation does not imply that a bridge is unsafe, but such bridges typically require significant maintenance and repair to remain in service, and would eventually require major rehabilitation or replacement to address the underlying deficiency.” A structurally deficient bridge may or may not also be functionally obsolete.

3 What Section 4(f) property is being impacted?

The English Creek Bridge consists of a single 122-foot, pin-connected, steel, Pratt through truss span, supported by cast concrete abutments (Figure 1). The bridge is located at the Highway 289 crossing of English Creek south of the village of Mammoth Spring. It is one of six bridges of its type still in service in the state of Arkansas. The historic bridge was listed in the National Register of Historic Places (NRHP) on November 18, 2008, under Criterion A for its association with the development of vehicular transportation in Fulton County and under Criterion C as an excellent example of a Pratt through truss bridge. The Virginia Bridge and Iron Company of Roanoke, Virginia built the bridge in 1929. The English Creek Bridge is not considered a National Historic Landmark.

English Creek Bridge



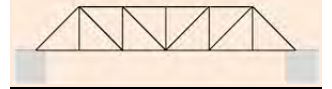
Figure 1

4 Does this project qualify for the Section 4(f) programmatic for historic bridges?

The FHWA may apply the programmatic Section 4(f) evaluation to projects that meet the criteria shown in Table 1.

What is a Pratt truss?

Thomas Pratt created the truss design and patented it in 1844. By the early 1900s, it was the most commonly used bridge type for bridges less than 250 feet long. Defining features include parallel horizontal top and bottom chords and diagonals that slant down and inward.



What are the National Register Criteria?

Properties that possess significance in American history, architecture, archeology, engineering, and culture that retain aspects of integrity, and are:

- A) associated with an event, broad patterns, or trends of history;
- B) associated with an important person(s);
- C) embody typical features of a type, period, or construction method, that represent the work of a master, or possess high artistic values; or
- D) that have or will likely yield significant information for history or prehistory.

(National Register Bulletin No.15:<https://www.nps.gov/NR/PUBLICATIONS/bulletins/nrb15/>)

What is a National Historic Landmark?

Properties are selected by the Secretary of the Interior for national historic significance. The property should “possess exceptional value in showing the history of the United States,” per the National Park Service <https://www.nps.gov/nhl/learn/intro.htm> (<https://www.nps.gov/nhl/learn/intro.htm>).

Table 1

Criteria To Use Programmatic Section 4(f) Evaluation For Federally-Aided Highway Projects That Necessitate The Use of Historic Bridges

The bridge is to be replaced or rehabilitated with Federal funds.	√
The project requires the use of a historic bridge structure that is eligible for inclusion or listed in the NHRP.	√
The bridge is not a National Historic Landmark.	√
The FHWA Division Administrator determines that the facts of the project match those set forth in the FHWA Section 4(f) Policy Paper issued March 1, 2005.	√
Agreement has been reached among the FHWA, State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) through procedures pursuant to Section 106 of the National Historic Preservation Act (NHPA).	√

What is meant by feasible or prudent?

In 23 CFR 774.17, *Feasible and prudent avoidance alternative* definitions are as follows:

(2) An alternative is not **feasible** if it cannot be built as a matter of sound engineering judgment.

(3) An alternative is not **prudent** if:

(i) It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need

(ii) It results in unacceptable safety or operational problems;

(iii) After reasonable mitigation, it still causes:

(A) Severe social, economic, or environmental impacts

(B) Severe disruption to established communities;

(C) Severe disproportionate impacts to minority or low income populations; or

(D) Severe impacts to environmental resources protected under other Federal statutes;

(iv) It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;

(v) It causes other unique problems or unusual factors; or

(vi) It involves multiple factors in paragraphs (3)(i) through (3)(v) of this definition, that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.

5 Could the project avoid demolishing the historic bridge?

In order for a Programmatic Section 4(f) Evaluation That Necessitate the Use of Historic Bridges to be applied to a project, each of the following findings; 1) No Action, 2) Rehabilitation of the Existing Structure, and 3) Build on New Location and Retain the Existing Structure, must be supported by the circumstances, studies, and consultations on the project.

To this effect, ARDOT established a Historic Bridge Analysis Committee (HBAC) to evaluate viable alternatives for the preservation of historically significant bridges through retention, rehabilitation, or to justify their removal, if required. The HBAC assessed the following alternatives to determine if a feasible and prudent alternative to the proposed impacts to the historic bridge existed.

No Action

This alternative consists of no improvements to the existing facilities and would continue to provide only routine maintenance. The bridge is structurally deficient, too narrow, and has a vertical height restriction of less than 15 feet. This alternative does not improve the existing roadway width or height limitations of the bridge and would not alleviate the safety issues. It is not prudent to leave the bridge as is, resulting in safety and/or operational issues.

Rehabilitation of the Existing Structure

Two rehabilitation alternatives were considered for this project.

Rehabilitation Alternative One rehabilitates the existing historic bridge for two-way traffic operations. To meet minimum design standards for a two-way bridge, Bridge Number M2728 would need to be widened from a 21-foot clear roadway to a 28-foot clear roadway. This action would impact its integrity of design, which is one of the factors in its listing in the NRHP. The bridge would also still be posted with weight restrictions because it was not originally designed to carry current allowable loads even with full rehabilitation. Rehabilitation to less than design standards does not improve the height restriction in a fracture critical bridge. Raising the height of the portal bracing to reduce the risk of vehicle collision with the bridge would alter its historic integrity. *Rehabilitation Alternative One* is not prudent due to unacceptable safety and operational problems. Widening or raising the portal bracing of the bridge would also compromise its historic integrity; therefore, it is not a prudent option.

Rehabilitation Alternative Two rehabilitates the existing historic bridge for one-way traffic operations, and constructs a new bridge for one-way traffic operations in the opposite direction. With this option, the issue of height restriction on a fracture critical bridge remains. Rehabilitation would require raising the height of the portal bracing, which would compromise the historic integrity of the bridge. At higher speeds, splitting and rejoining the roadway for couplet bridges creates additional safety risks. *Rehabilitation Alternative Two* is not a prudent option due to unacceptable safety and operational problems, along with alteration of the historic integrity of the bridge.

Build on New Location and Retain the Existing Structure

Two new location alternatives were considered for this project.

New Location Alternative One constructs a new bridge in accordance with the approved ARDOT project design criteria, with the owner retaining possession of the historic bridge, either preserving it in place or at another location. ARDOT owns the bridge. Design of the proposed bridge on a new location was a consideration; however, it is the policy of ARDOT to no longer retain bridges after they are removed from the highway system. This option is not prudent as it would result in additional maintenance or operational costs of extraordinary magnitude and create liability concerns.

What is meant by fracture critical?

According to the FHWA, "A fracture critical member is a steel member in tension, or with a tension element, whose failure would probably cause a portion of or the entire bridge to collapse." (<https://www.fhwa.dot.gov/bridge/nbis/>)

New Location Alternative Two constructs a new bridge to current, minimum design standards with another entity accepting ownership of the historic bridge. ARDOT marketed the bridge for preservation in place or relocation on October 2, 2017, to find an entity willing to accept ownership of the bridge (see Appendix A for marketing correspondence). Sharp County agreed to accept ownership, following its dismantling and relocation, for re-erection later at the Sharp County Road 70 (a.k.a. Baker Cemetery Road) crossing over Martin Creek. Therefore, *New Location Alternative Two* is both feasible and prudent.

6 How will the ARDOT mitigate for the harm being done to the historic property?

Agreement between FHWA and the SHPO has been reached through the Section 106 process (36 C.F.R. 800) of NHPA (16 U.S.C. 470) on measures to minimize harm, and these measures have been incorporated into this project. Through a Memorandum of Agreement (MOA), it was agreed that ARDOT Bridge Number M2728 would be documented to the Arkansas Historic Preservation Program’s architectural documentation standards prior to disassembly and relocation. The MOA also contains a Historic Bridge Preservation Covenant with the historic preservation stipulations that apply to Sharp County. A copy of the MOA, which includes all agreed upon mitigation stipulations, can be found in Appendix B.

7 What are the findings of the alternatives analysis and this evaluation?

Table 2 contains a summary of the analysis and decision-making information included in this evaluation.

Table 2
Section 4(f) Analysis Summary

Alternative	Feasible	Prudent	Uses Section 4(f) Property	Harm to Section 4(f) Property
No Action	Yes	No	No	None
Rehabilitation One	Yes	No	Yes	Adverse Effect
Rehabilitation Two	Yes	No	Yes	Adverse Effect
New Location One	Yes	No	No	None
New Location Two	Yes	Yes	Yes	Adverse Effect

Based on the considerations in Table 2, *New Location Alternative Two* is the only feasible and prudent option. The proposed action includes all

Could an outside entity maintain the bridge in place or use it at another location?

The Surface Transportation & Uniform Relocation Assistance Act of 1987, Historic Bridges Section 144(g) requires states to market a historic bridge before its replacement. Following this directive, when no other alternatives are found to be feasible or prudent, the ARDOT markets historic bridges to federal and state agencies, county and local governments, as well as state and local historical societies. Any interested responsible parties must demonstrate willingness to accept title for, preserve the features of historic significance, and assume financial responsibility for the continued maintenance on the structure (23 U.S.C. 144).

possible planning to minimize harm to the historic bridge resulting from such use.

8 What are the recommendations moving forward on this project?

The ARDOT recommends that the old English Creek Bridge (ARDOT Bridge Number M2728) be relocated for future use on County Road 70 over Martin Creek in Sharp County. The historic bridge will be relocated with historic preservation responsibilities transferred from the current owner, the ARDOT, to the new owners, Sharp County, as agreed under the MOA (Appendix B).

The above documentation illustrates that the proposed project complies with all requirements of the Programmatic Section 4(f) Evaluation for Federal-aid highway projects that require the use of a historic bridge.

Appendix A: Marketing Correspondence



ARKANSAS DEPARTMENT OF TRANSPORTATION

ARDOT.gov | IDriveArkansas.com | Scott E. Bennett, P.E., Director

10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261

Phone: 501.569.2000 | Voice/TTY 711 | Fax: 501.569.2400

October 26, 2017

«Name», «Title_»

«Agency»

«Address_1»

«Address_2»

«City»

RE: Historic Bridge M2728
Job Number 050344
Hwy. 64 Strs. & Apprs.
Crawford County
Historic Bridge Marketing Request

Dear «Greeting»:

The Arkansas Department of Transportation (ARDOT) is planning to replace Bridge Number M2728 (English Creek Bridge) on Highway 289 in Fulton County. This bridge was listed in the National Register of Historic Places (NRHP) in 2009. A location map and further information about the bridge is enclosed.

The Fixing America's Surface Transportation (FAST) Act, 23 USC § 144 (g)(5) states: "Any State which proposes to demolish a historic bridge for a replacement project ... shall first make the bridge available for donation to a State, locality, or responsible private entity..." As part of the mitigation process, the ARDOT is offering to donate Bridge Number M2728 to any government or entity that demonstrates a willingness to accept title for, maintain the structure in its current location or relocate it for use at another site, preserve the historic features of, and assume the financial responsibility for the continued maintenance on the structure.

The ARDOT, through the Federal Highway Administration (FHWA), can reimburse costs associated with preservation up to the demolition estimate expense for bridges preserved in place. The demolition estimated reimbursement will be determined by the FHWA, not exceed 100 percent of the costs of demolition of the bridge, which will be based on the estimate of the ARDOT. The 2017 demolition estimate for this bridge is \$50,000. The costs associated with preservation could include rehabilitation of the bridge or minor modifications for adaptive reuse. If the bridge is relocated, the reimbursement funds allocated to

ARDOT Bridge Number M2728
Job Number 050344
Marketing Request
Page 2 of 2

this bridge will be exhausted during the careful dismantling and relocation process.

If you are interested in acquiring this bridge, please respond with a letter of interest within 45 days from the date of this letter. Preference will be given to an entity interested in preserving the bridge in place. For further information, contact Nikki Senn at (501) 569-2979.

Sincerely,

John Fleming
Division Head
Environmental Division

Enclosures

JF:NS:CSS:ym

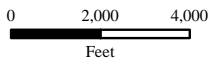
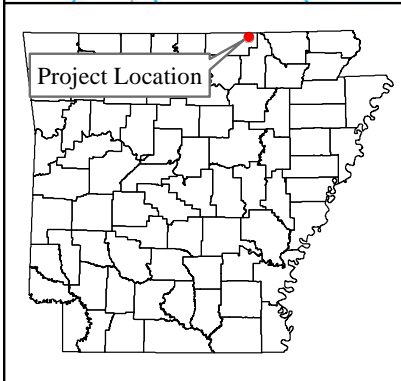
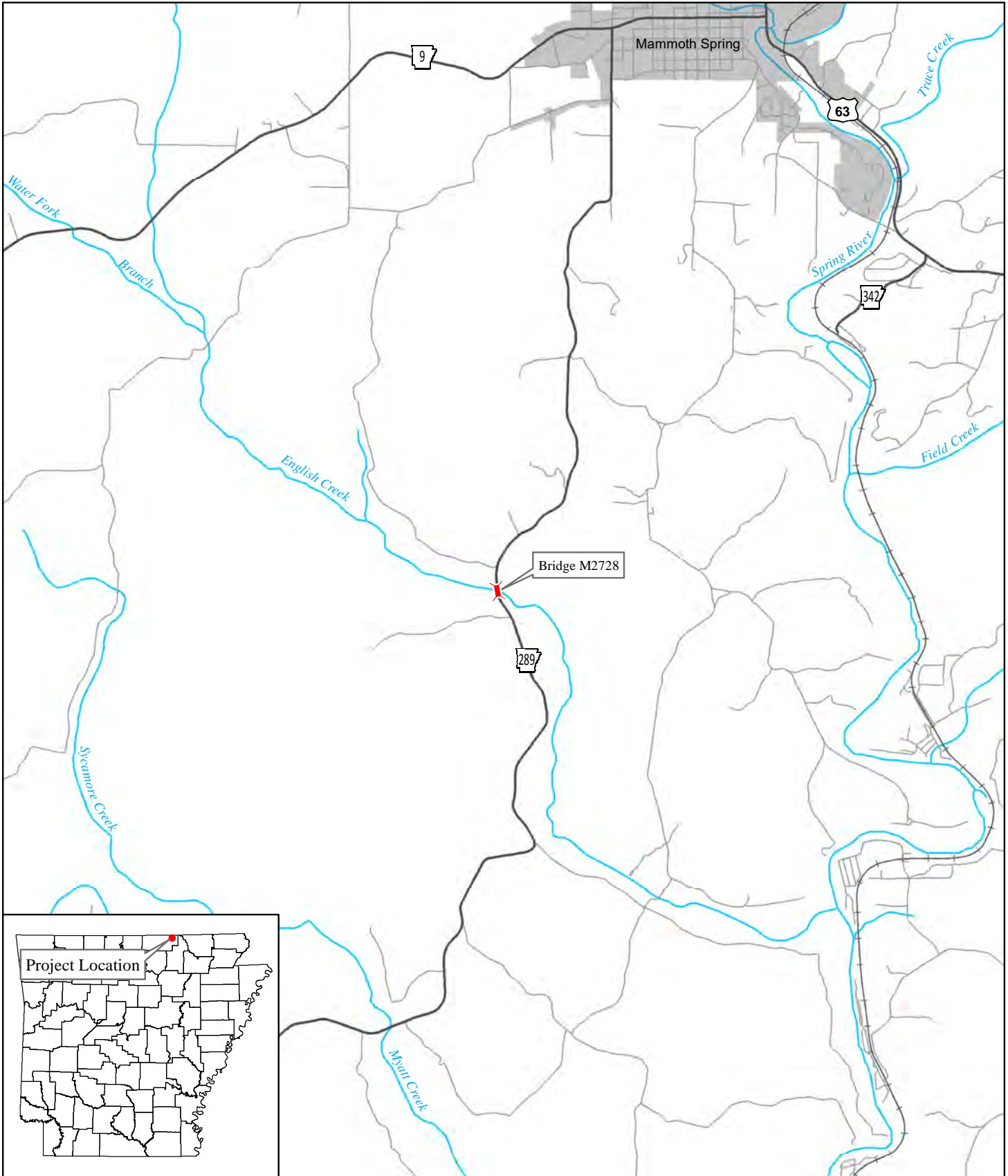
c: Assistant Chief Engineer - Planning
Bridge Division
District 5 Engineer
FHWA
SHPO

ARDOT Job Number 050344
Historic Bridge Marketing Description



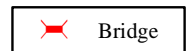
ARDOT Bridge Number M2728, on Highway 289, was listed in the National Register of Historic Places in 2009. The bridge was constructed over English Creek (a.k.a. Warn Creek) by the Virginia Bridge and Iron Company in 1929. The truss span is 122 feet in length and 20 feet wide.

This is one of eight bridges displaying the Pratt through truss design still in use on the highway system in Arkansas.



ArDOT - Environmental GIS - Strawn
August 16, 2017

Job 050344.
Bridge M2728.
English Creek Str. & Apprs.
(Hwy. 289).
Fulton County.



Job 050344
English Creek Bridge (M2728)
Marketing Addresses

Marketing Groups	Greeting	Name	Title	Agency	Address 1	Address 2	City
Mayor	Mayor Pace	The Honorable Jean Pace		City of Mammoth Spring, Office of the Mayor	P.O. Box 185		Mammoth Spring, AR 72554
Mayor	Mayor Stokes	The Honorable Russ Stokes		City of Cherokee Village, Office of the Mayor	2 Santee Drive		Cherokee Village, AR 72529
Chamber of Commerce	Mr. Spurlock	James Spurlock	President	Mammoth Spring Chamber of Commerce	P.O. Box One		Mammoth Spring, AR 72554
Chamber of Commerce	Ms. Sackett Clute	Laura Sackett Clute	President	Spring River Area Chamber of Commerce	2423F US-62		Highland, AR 72542
County Judge	Judge Zimmer	The Honorable Darrell Zimmer		Fulton County Judge	123 S Main St		Salem, AR 72576
County Judge	Judge Moore	The Honorable Gene Moore		Sharp County Judge	718 Ash Flat Drive		Ash Flat, AR 72513
County Historical Society	Ms. Langston	Carol Langston		Fulton County Heritage Foundation	P.O. Box 768		Salem, AR 72576
County Historical Society	To whom it may concern			Sharp County Historical Society	Box 185		Ash Flat, Ar 72513
Arkansas Historical Association	Mr. Christ	Mark Christ	President	Arkansas Historical Association	Department of History, University of Arkansas	Main 416	Fayetteville, AR 72701
Historic Preservation Alliance of Arkansas	Mrs. Patton	Rachel Patton	Executive Director	Preserve Arkansas	P.O. Box 305		Little Rock, AR 72203-0305
Arkansas Department of Parks and Tourism	Mr. Webb	Kane Webb	Executive Director	Arkansas Department of Parks and Tourism	One Capitol Mall 4A-900		Little Rock, AR 72201
Arkansas Game and Fish Commission	Mr. Crow	Jeff Crow	Director	Arkansas Game and Fish Commission		2 Natural Resources Drive	Little Rock, AR 72205
US Corps of Engineers	Colonel Dixon	Colonel Robert G. Dixon	Commander and District Engineer	U.S. Army Corps of Engineers	Little Rock District	P.O. Box 867	Little Rock, AR 72203-0867
Metro Planning Org, if applicable	Mr. Thomas	Van Thomas	Executive Director	White River Planning and Development District, Inc.	P.O. Box 2396		Batesville, AR 72503
Central Arkansas Water	Ms. Lawson	Raven Lawson	Watershed Protection Manager	Central Arkansas Water	221 East Capitol Avenue	P.O. Box 1789	Little Rock, AR 72203
Local Water Authority	Mr. McCord	Noble McCord	Water Operator	Fulton County Water Authority	225 S. Main St.		Salem, AR 72576
United States Forest Service - LOCAL RANGER DISTRICT	To whom it may concern		Sylamore Ranger District	United States Forest Service	1001 E. Main St.		Mountain View, AR 72560
United States Forest Service	To whom it may concern	Forest Supervisor's Office	Ozark-St. Francis National Forests	United States Forest Service	605 West Main		Russellville, AR 72801
Arkansas Trails Council	Mr. Sprague	Mike Sprague	Executive Secretary	Arkansas Trails Council, Dept. of Parks and Tourism	One Capitol Mall		Little Rock, AR 72201

**Sharp County Road Department
2 Progress Lane
P.O. Box 97
Ash Flat, AR 72513
Phone: 870 994 9675 Fax: 870 994 9677
Email – sharproads@yahoo.com**



December 13, 2017

Sharp County Road Department is interested in the historical bridge M2728 on Highway 289 spanning over English Creek (A.K.A. Warn Creek). Sharp County already has a location to reconstruct this bridge to span Love Creek, replacing existing bridge 16942 with a bridge weight of 5-5-7.

**Daniel T. Melbourne
Superintendent
Sharp County Road Department
Phone: 870.994.9675
Fax: 870.994.9677
Email: sharproads@yahoo.com**



ARKANSAS DEPARTMENT OF TRANSPORTATION

ArDOT.gov | IDriveArkansas.com | Scott E. Bennett, P.E., Director

10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261

Phone: 501.569.2000 | Voice/TTY 711 | Fax: 501.569.2400

March 8, 2018

Daniel T. Melbourne, Superintendent
Sharp County Road Department
P.O. Box 97
Ash Flat, AR 72513

RE: Historic Bridge Number M2728
Job Number 050344
English Creek Str. & Apprs. (S)
Route 289, Section 4
Fulton County

Dear Mr. Melbourne:

The Arkansas Department of Transportation (ARDOT) appreciates the Sharp County Road Department's interest in assuming responsibility for the English Creek Bridge (Number M2728). It is the general policy of the Arkansas Highway Commission not to retain bridges once they are no longer in use as part of the state's transportation system. However, when another agency or organization assumes responsibility for the structure, this ensures that a piece of Arkansas' heritage is preserved.

The ARDOT would like your agency to submit an official proposal regarding the English Creek Bridge. Your proposal for the bridge will be considered by the ARDOT's Historic Bridge Analysis Committee (HBAC). The information provided will be used by the HBAC to make a recommendation regarding donation of the bridge. The proposal should include the following:

- The Sharp County Road Department's commitment to accept the bridge, if selected, including preservation of its historic features and acceptance of all future legal and financial responsibility;
- The proposed location for the reassembly of the English Creek Bridge, as well as a storage location, if the bridge will not be immediately reassembled;
- The proposed use of the bridge;
- A list of all known public and private parties that will contribute to, or benefit by, the relocation; and

Historic Bridge M2728
ARDOT Job Number 050344
Page 2 of 2

- An estimate of expense for reassembly/rehabilitation, along with source(s) and timeline of available funding.

We request you respond with your proposal within 30 days from the date of this letter; response through email is acceptable. If you have any questions, please contact Nikki Senn of my staff at (501)569-2979 or nikkisenn@ardot.gov regarding the potential reuse of the English Creek Bridge by the Sharp County Road Department.

Sincerely,



John Fleming
Division Head
Environmental Division

Enclosure
Historic Bridge Preservation Guide

JF:DW:NS:CSS:ym

ARDOT HISTORIC BRIDGE PRESERVATION GUIDELINES

- No bridge will be donated to a party unless that party agrees to:
 1. Accept title;
 2. Maintain (preserve) the bridge and the features that give it historic significance (qualities that qualify it for the National Register); and
 3. Assume all future legal and financial responsibilities for the bridge and to hold the Arkansas Department of Transportation (ARDOT) and the Federal Highway Administration (FHWA) harmless in any liability action.
- Any non-governmental entity wishing to acquire a historic bridge must meet the following qualifications:
 1. Must be a tax-exempt non-profit organization registered under Section 501(c)3 of the Internal Revenue Code (26 U.S.C. § 501(c)).
 2. The County or City, if associated with placement of the bridge, must also be a signatory on the Memorandum of Agreement.
 3. The organization must have bonding and insurance for the bridge.
- If the bridge will be donated to a governmental entity, a City Council or Quorum Court, resolution accepting the bridge is required.
- Any reuse or rehabilitation of a historic bridge should be performed in a manner that provides a reasonable assurance that the public will be protected.
- The Fixing America's Surface Transportation (FAST) Act allows use of Surface Transportation Program (STP) funds, which otherwise would have been used for bridge demolition, for actions to preserve or reduce the impact of the project on a historic bridge. However, these funds will be exhausted if the bridge will be dismantled and relocated.
- Once Title 23 (Highway) funds are used for disassembly, relocation or rehabilitation, the bridge is no longer eligible for funding available under Title 23, such as grants from the Transportation Alternative Program (TAP).
- Historic Bridges listed on the National Register are eligible for Historic Preservation Restoration Grants funded through the Arkansas Historic Preservation Program. Information regarding these grants can be found at <http://www.arkansaspreservation.com/preservation-services/grant-programs/>.
- Historic bridges are considered a cultural resource. For funding of preservation activities, the Arkansas Natural and Cultural Resources Council grants may be a possibility. Grant information can be found at <http://www.ancrc.org/>.

Senn, Nikki K.

From: Jeremy Langston <jlangston_sharpoem@yahoo.com>
Sent: Monday, April 16, 2018 12:14 PM
To: Senn, Nikki K.
Subject: Historical Bridge number M2728, job number 050344, English Str. & Apprs. (S) Route 289, Section 4

Follow Up Flag: Follow up
Flag Status: Flagged

Sharp County Road Dept. is fully committed to the acceptance of title and preservation of all future legal and financial responsibility in regards to Historical Bridge Number M2728. If selected for this donation Sharp County Road Dept has selected a location for this structure on Baker's Cemetery Rd. spanning Martin Creek at N 36.35112 W 91.31160 to replace existing county road bridge (18272) with current restrictions of 12-14-20. If immediate reassembly is not feasible at the time of donation the English Creek Bridge will be stored at the Sharp County Road Department's maintenance yard until it can be reassembled.

The relocation of this bridge would be beneficial for the Armstrong community and the Sharp County Road Dept, Martin Creek Fire Dept, Spring River Paramedic Ambulance Service, and three local public school system, the U.S. Postal Service's rural mail carriers would also benefit from this relocation.

The estimated time frame for reassembly for this bridge is approximately three months with an estimated cost of \$150,000.00. Funding for reassembly will come initially come from Sharp County Road Department budget and will reach out to Arkansas Historic Preservation Program, Arkansas Natural and Cultural Resources Council, and Arkansas Department of Emergency Management.

If more information is needed please contact me:
Thank you very much

Daniel Melbourne
Sharp County Road Dept.
office: 870.994.9675
fax: 870.994.9677
email: sharproads@yahoo.com

Appendix B: Memorandum of Agreement

MEMORANDUM OF AGREEMENT
AMONG THE
FEDERAL HIGHWAY ADMINISTRATION, THE
ARKANSAS DEPARTMENT OF TRANSPORTATION,
SHARP COUNTY, ARKANSAS, AND THE
ARKANSAS STATE HISTORIC PRESERVATION OFFICER
REGARDING
ARDOT JOB NUMBER 050344
ENGLISH CREEK STR. & APPRS. (S)
HIGHWAY 289, FULTON COUNTY, ARKANSAS
ARDOT BRIDGE NUMBER M2728

WHEREAS, the Federal Highway Administration (FHWA) and the Arkansas Department of Transportation (ARDOT) propose constructing a new bridge across English Creek along Highway 289 in Fulton County, and the old English Creek Bridge will be demolished as part of completing ARDOT Job Number 050344; and

WHEREAS, the old English Creek Bridge is an historic property that is listed in the National Register of Historic Places (NRHP); and

WHEREAS, through the Programmatic Section 4(f) Evaluation process the FHWA has determined that no feasible or prudent alternative to the demolition of the historic bridge exists; and

WHEREAS, the FHWA has marketed the old English Creek Bridge to federal and state agencies, the Fulton and Sharp County Judges, the Cities of Cherokee Village and Mammoth Spring, and state and local historic societies; and

WHEREAS, Sharp County (County) has agreed to accept title for the old English Creek Bridge from the ARDOT as a vehicular bridge in a new location; and

WHEREAS, the FHWA has determined that this undertaking will have an adverse effect on a property listed in the NRHP and in accordance with the 36 Code of Federal Regulation (CFR) Part 800, regulations implementing Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (54 U.S.C. 306108), must address this effect; and

ARDOT Job Number 050344
Memorandum of Agreement
Page 2 of 8

WHEREAS, the definitions set forth in 36 CFR Part 800 are applicable throughout this Memorandum of Agreement (MOA); and

WHEREAS, the FWHA has consulted with the Osage Nation, Quapaw Nation, and the United Keetoowah Band of Cherokee Indians in Oklahoma, for which the old English Creek Bridge or sites and properties in the immediate area might have religious and cultural significance; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the FHWA through ARDOT has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW THEREFORE, the FWHA, the ARDOT, the County and the State Historic Preservation Officer (SHPO) agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the adverse effect of this undertaking on the old English Creek Bridge.

STIPULATIONS

The FHWA, through the ARDOT, shall ensure that the following stipulations are carried out.

I. MITIGATION OF ADVERSE EFFECT TO THE HISTORIC PROPERTY

Upon the transfer of the old English Creek Bridge, in order to mitigate the adverse effect on this historic property, the ARDOT will transfer the property with an appropriate “Historic Bridge Preservation Covenant” as permitted in 36 CFR § 800.6. The “Historic Bridge Preservation Covenant” is to be inserted in all instruments of conveyance and will thereafter run with the bridge. The “Historic Bridge Preservation Covenant” is found in Appendix A. The FHWA, the ARDOT, and the County will inform the SHPO of any property transactions executed under this stipulation.

II. HUMAN REMAINS

Human remains are not expected to be discovered on this undertaking; however, if they are encountered during implementation of the project, all activity in the vicinity of the discovery shall cease. The treatment of human remains shall follow the guidelines developed for the *Arkansas Burial Law*

ARDOT Job Number 050344
Memorandum of Agreement
Page 3 of 8

(Act 753 of 1991, as amended) and the ACHP's *Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects* published February 23, 2007. As such a permit will be obtained from the Arkansas Historic Preservation Program prior to exaction of any remains.

III. DURATION

This MOA will expire if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, the FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

IV. PROFESSIONAL QUALIFICATION STANDARDS

The FHWA shall ensure that all archeological investigations and other historic preservation activities pursuant to this MOA are carried out by, or under the direct supervision of, a person or persons meeting the appropriate qualifications set forth in the Secretary of the Interior's professional qualification standards (36 CFR Part 61).

V. POST-REVIEW DISCOVERY SITUATIONS

Pursuant to 36 CFR § 800.13, if cultural material is discovered during implementation of the project, the FHWA shall ensure that all construction activities cease in the area of the discovery and the consulting parties are notified. The FHWA, in consultation with SHPO, shall determine if the discovery is eligible for inclusion in the NRHP. If so, the FHWA and the ARDOT will develop a treatment plan for the newly discovered historic properties which shall be reviewed by SHPO. Disputes arising from such review shall be resolved in accordance with Stipulation VI.

VI. DISPUTE RESOLUTION

Should the SHPO or any consulting party object with thirty (30) calendar days to any findings, proposed actions, or determinations made pursuant to this MOA, the FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines that the objection cannot be resolved, it shall request further comments from the ACHP pursuant to 36 CFR § 800.7. Any ACHP comment provided in response to such a request shall be taken in account by the FHWA in accordance with 36 CFR § 800.7 with reference only to the subject of the dispute, the FHWA responsibility to

carry out all actions under this MOA that are not subject to dispute shall remain unchanged.

VII. MONITORING

The consulting parties or one or cooperating parties may monitor the undertaking and stipulations carried out pursuant to this MOA.

VIII. AMENDING THE MEMORANDUM OF AGREEMENT

Should any of the signatories to this MOA believe that the terms of this MOA are not being met or cannot be met, that party shall immediately notify the other signatories and request consultation to amend this MOA in accordance with 36 CFR Part 800. The process to amend this MOA shall be conducted in a manner similar to that leading to the execution of this MOA.

IX. TERMINIATING THE MEMORANDUM OF AGREEMENT

If any signatory to this MOA determines that its terms of this MOA will not or cannot be carried out, that party shall immediately consult with other signatories to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories. In the event of termination, the FHWA shall comply with 36 CFR § 800.4 through 800.6 with regard to the undertaking covered by this MOA.

X. FAILURE TO CARRY OUT THE MEMORANDUM OF AGREEMENT

In the event that the FHWA does not carry out the terms of this MOA, the FHWA shall comply with 36 CFR § 800.4 through 800.6 with regard to the undertaking covered by this MOA.

XI. FULFILLMENT OF SECTION 106 RESPONSIBILITIES

Execution of this MOA and implementation of its terms evidences that the FHWA has taken into account the effect of the undertaking on the historic property and has fulfilled its Section 106 responsibilities under the NHPA of 1966, as amended.

ARDOT Job Number 050344
Memorandum of Agreement
Page 5 of 8

Signatory

FEDERAL HIGHWAY ADMINISTRATION



Angel Correa
Arkansas Division Administrator



Date

ARDOT Job Number 050344
Memorandum of Agreement
Page 6 of 8

Signatory

ARKANSAS STATE HISTORIC PRESERVATION OFFICER

A handwritten signature in blue ink, appearing to read "Stacy Hurst", written over a horizontal line.

Stacy Hurst
Arkansas State Historic Preservation Officer

A handwritten date "6-4-18" in blue ink, written over a horizontal line.

Date

Signatory

ARKANSAS DEPARTMENT OF TRANSPORTATION



Scott E. Bennett, P.E.
Director



6-15-18

Date

ARDOT Job Number 050344
Memorandum of Agreement
Page 8 of 8

Signatory

SHARP COUNTY, ARKANSAS

Gene A. Moore

The Honorable Gene Moore
Sharp County Judge

6/26/18

Date

APPENDIX A
HISTORIC BRIDGE PRESERVATION COVENANT

ARDOT Job Number 050344

Appendix A

Page 1 of 3

HISTORIC BRIDGE PRESERVATION COVENANT

Sharp County, Arkansas (Grantee), by acceptance of this deed from the ARDOT, covenants and agrees, for itself, its heirs, its successor and assigns, and for every successor in interest to the historic property herein described, or any part thereof, shall abide by each of the following covenants, each of which will be covenants running with the bridge.

The historic property is described as the English Creek Bridge (ARDOT Bridge Number M2728), which consists of a steel Pratt through truss that is 122 feet long and 20 feet wide. The bridge is located in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 25, Township 21 North, Range 6 West on the Mammoth Spring 7.5 minute USGS topographic quadrangle where Highway 289 crosses English Creek. The English Creek Bridge was constructed by Virginia Bridge and Iron Company in 1929.

The Grantee covenants and agrees that:

1. The Grantee has identified a location in which the old English Creek Bridge will be reassembled following its dismantling in its current location;
2. The old English Creek Bridge will be preserved and maintained in accordance with the recommended approaches of the Secretary of the Interior's Standards for the Treatment of Historic Properties;
3. No physical or structural changes or changes of color or surfacing, aside from those arising from the movement of the bridge to its new location, will be made to the old English Creek Bridge without first notifying, in writing, the Federal Highway Administration (FHWA), the Arkansas Department of Transportation (ARDOT), and consulting the Arkansas State Historic Preservation Officer (SHPO) for written approval;
4. The old English Creek Bridge will be opened to public access once relocation and restoration are completed. Should removal or restriction of public access become necessary, the ARDOT will be notified in writing and the SHPO consulted as to the disposition of this historic property;
5. Normally the ARDOT through the FHWA can reimburse costs associated with preservation. However, the cost reimbursement

funds allocated to this bridge will be exhausted when the bridge is dismantled and relocated;

6. If Grantee is unable to fulfill its preservation responsibilities to the old English Creek Bridge, which would dictate the abandonment or removal of the historic property, the Grantee must notify the FHWA, the ARDOT, and the SHPO in writing and produce any documents required by the SHPO for mitigation of the adverse effect from abandonment or removal of the historic property;
7. Any proposed changes or modification of the historic property shall be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and must be reviewed and approved by the SHPO;
8. An authorized representative of the ARDOT or SHPO shall be permitted at all reasonable times to examine the old English Creek Bridge in order to ascertain if the above conditions are being observed. Prior to inspection the representative shall furnish properly written notification of their intent to inspect;
9. The failure of the FHWA, the ARDOT, or the SHPO to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other remedy or the use of such right or remedy at any other time; and
10. These covenants shall be a binding servitude upon the real property that includes the old English Creek Bridge which shall be deemed to run with the land and shall be incorporated into any deed or other legal instrument by which the Grantee divests itself of the property.

In the event of violation of the above covenants, the FHWA, ARDOT, or SHPO may institute an injunction or suit to enjoin such violation or for damages by reason of any breach thereof.

These covenants shall be binding on the Grantee hereto, their successors, and assigns in perpetuity; however, the SHPO may, for good cause, and with the concurrence of FHWA, modify or cancel any or all of the foregoing restrictions upon written application of the Grantee, its successors or assigns.

ARDOT Job Number 050344

Appendix A

Page 3 of 3

The acceptance of the delivery of the Historic Bridge Preservation Covenant shall constitute conclusive evidence of the agreement of the Grantee to be bound by the obligations herein set forth.

**ARDOT ENVIRONMENTAL VERIFICATION CHECKLIST
FOR CONSIDERATION OF POTENTIAL IMPACTS**

ARDOT Job Number 050344 FAP Number NHPP-0025(18)

Job Title English Creek Str. Apprs

Environmental Resource	None	Minimal	Major	Comments-required for each item
Air Quality	X			No impacts anticipated
Cultural Resources		X		Historic bridge impacted
Economic	X			Will not be impacted by project
Endangered Species		X		See USFWS correspondence
Environmental Justice/Title VI	X			No protected populations in project area
Fish and Wildlife		X		Temporary during construction
Floodplains	X			None occur in project area
Forest Service Property	X			None in project area
Hazardous Materials/Landfills	X			No sites in project area
Land Use	X			Will not be impacted by project
Migratory Birds		X		Bird SP required
Navigation/Coast Guard	X			No navigable waterways involved
Noise Levels	X			No increases due to project
Prime Farmland		X		4.51 acres FSI impacted
Protected Waters		X		English Creek is an ERW. Water Pollution Control Restraining Condition S.P.
Public Recreation Lands	X			None in project area
Public Water Supply/WHPA	X			No public water supplies in project area
Relocatees	X			No relocations
Section 4(f)/6(f)		X		Bridge M2728 is historic, a Programmatic Section 4(f) Evaluation is enclosed
Social	X			No impacts to the social environment
Underground Storage Tanks	X			No USTs in project area
Visual	X			No changes to visual environment
Streams		X		NWP 14 with mitigation
Water Quality		X		Temporary during construction
Wetlands	X			None in project area
Wildlife Refuges	X			None in the area

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

Remarks: 2625 stream credits from Wiseman

Signature of Evaluator John Baber Date 08/24/2018

ROADWAY DESIGN REQUESTJob Number 050344 FAP No. _____ County FeltonJob Name English Creek Str. & Apprs. (S)Design Engineer Andrew Hindman Environmental Staff _____Brief Project Description Bridge Relocation

A. Existing Conditions:

Roadway Width: 22 ft Shoulder Type/Width: No shoulderNumber of Lanes and Width: 2-11 ft Existing Right-of-Way: 80 ftSidewalks? N/A Location: N/A Width: N/ABike Lanes? N/A Location: N/A Width: N/A

B. Proposed Conditions:

Roadway Width: 34 ft Shoulder Type/Width: 6 ft, 2 ft pavedNumber of Lanes and Width: 2-11 ft Proposed Right-of-Way: Avg. 150'-200'Sidewalks? N/A Location: N/A Width: N/ABike Lanes? N/A Location: N/A Width: N/A

C. Construction Information:

If detour: Where: N/A Length: N/A

D. Design Traffic Data:

2018 ADT: 500 2038 ADT: 600 % Trucks: 10
Design Speed: 55 m.p.h.E. Approximate total length of project: 0.48 mile(s)F. Justification for proposed improvements: New Bridge is neededG. Total Relocates: 0 Residences: 0 Businesses: 0H. Have you coordinated with any outside agencies (e.g., FHWA, City, County, etc.)? No

Agency/Official	Person Contacted	Date

BRIDGE INFORMATION – PRELIMINARY

Job Number: 050344 FAP Number: Z001-0025-018 County: Fulton
 Job Name: English Creek Str. & Apprs. (S)
 Design Engineer: Steven Peyton Environmental Staff: Terry Tucker

A. Description of Existing Bridge:

1. Bridge Number M2728 over English Creek
2. Location: Rte.: 289 Section: 4 Log Mile: 16.29
3. Length: 153 ft Br. Rdwy. Width: 20 ft Deck Width (Out-to-Out): 22.9 ft
4. Type Construction: 31' precast concrete span and 122' steel thru truss
5. Deficiencies: Pack rust and section loss at gusset plates, floor beams and lower lateral connections. Heavy scaling & cracking to top of deck with exposed rebar.
6. HBRRP Eligibility: Qualif. Code: SD Sufficiency Rating: 49.4
7. Are any Condition Component Ratings at 3 or less? No

B. Proposed Improvements:

1. Length: 253.12 ft Br. Rdwy. Width: 30 ft Deck Width (Out-to-Out): 33'- 2" ft
2. Travel Lanes: 2 – 11 ft lanes
3. Shoulder Width: 2 – 4 ft shoulders
4. Sidewalks? No Location: _____ Width: _____ ft

C. Construction Information:

1. Location in relation to existing bridge: 110' downstream of existing
2. Superstructure Type: Continuous Composite W-Beam Unit
3. Span Lengths: 55, 70, 70, 55
4. Substructure Type: Steel Pile End Bents & Concrete Multi-Column Intermediate Bents supported on Drilled Shafts
5. Ordinary High Water Elev. (OHW): 477 No. of Bents inside OHW Contours: 2
6. Concrete Vol. below OHW: TBD yd³ Vol. Bent Excavation: _____ yd³ Vol. Backfill _____ yd³
7. Is Channel Excavation below OHW Required? TBD Surface Area: _____ ft² Volume: _____ yd³
8. Is Fill below OHW Req'd.? No Surface Area: _____ ft² Volume: _____ yd³
9. Is Riprap below OHW Required? TBD Volume: _____ yd³

D. Work Road Information:

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

E. Detour Information:

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

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

Has Bridge Division coordinated with any outside agencies? _____

Agency	Person Contacted	Date



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

May 29, 2019

Regulatory Division

NATIONWIDE PERMIT NO. **SWL 2019-00165**

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

Dear Mr. Fleming:

Please refer to your recent request concerning Department of the Army permit requirements pursuant to Section 404 of the Clean Water Act. You requested authorization for the placement of dredged and fill material in waters of the United States associated with upgrading the approaches and replacing the bridge over English Creek near Mammoth Spring. The existing roadway consists of two 11-foot-wide lanes with no shoulders. Upgrades include two 11-foot-wide lanes with 6-foot-wide shoulders. The new bridge will be constructed 110 feet downstream from the existing bridge and a temporary work road across the stream will be required. Approximately 500 linear feet of an unnamed intermittent tributary will be relocated. ArDOT determined that the project is not likely to adversely affect the Gray Bat (*Myotis grisescens*), Rabbitsfoot Mussel (*Thiladerma cylindrica*), Scaleshell Mussel (*Leptodea leptodon*), Snuffbox Mussel (*Epioblasma triquetra*), Pink Mucket Mussel (*Lampsilis abrupta*) and Ozark Hellbender (*Cryptobranchus alleganiensis*). ArDOT determined that the project is likely to adversely affect the Indiana Bat (*Myotis sodalis*) and Northern Long-eared Bat (NLEB) (*Myotis septentrionalis*), and agreed to mitigate for the impacts to the Indiana Bat. The U.S. Fish and Wildlife Service concluded that the project will not result in a prohibited take of the NLEB in accordance with the Programmatic Biological Opinion and Final 4(d) Rule. The existing bridge over English Creek is listed on the National Register of Historic Places. Sharp County will take ownership of the bridge and relocate it. The project was approved as a Tier 3 Categorical Exclusion by the Federal Highway Administration on August 29, 2018. The project is located on State Highway 289, approximately three miles south of Mammoth Spring, in section 25, T. 21 N., R. 6 W., and in section 30, T. 21 N., R. 5 W., Fulton County, Arkansas. A vicinity map, project location map and stream credits worksheet are enclosed.

The proposed activities are authorized by Department of the Army Nationwide Permit (NWP) **No. 23** (copy enclosed), provided that the following **Special Condition** and General Conditions therein are met. For your convenience, we have highlighted the General Conditions of the NWP that are the most pertinent to your project. You should become familiar with the

conditions and maintain a copy of the permit at the worksite for ready reference. If changes are proposed in the design or location of the project, you should submit revised plans to this office for approval before construction of the change begins.

Special Condition:

ArDOT agrees to mitigate for the adverse impacts to 500 linear feet of stream with 1,900 credits from their Wiseman Mitigation Bank. ArDOT will provide documentation of the mitigation bank transaction to the U.S. Army Corps of Engineers Little Rock District Transportation Program Manager.

Please pay particular attention to General Condition No. 12 which stipulates that appropriate erosion and siltation controls be used during construction and all exposed soil be permanently stabilized. Erosion control measures must be implemented before, during and after construction.

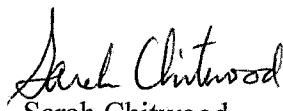
For your information, we have enclosed a copy of the Arkansas Department of Environmental Quality (ADEQ) Section 401 Water Quality Certification conditions, which are conditions of your permit. If you have any questions concerning compliance with the conditions of the 401 certification, you should contact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

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.

The NWP determination will be valid until March 18, 2022. If NWP No. 23 is modified, suspended, or revoked during this period, your project may not be authorized unless you have begun or are under contract to begin the project. If work has started or the work is under contract, you would then have twelve (12) months to complete the work.

Your cooperation in the Regulatory Program is appreciated. If you have any additional questions about this permit or any of its provisions, please contact Mr. Johnny McLean at (501) 324-5295 and refer to Permit No. **SWL 2019-00165, English Creek Bridge and Approaches on State Highway 289 south of Mammoth Spring (ArDOT Project No. 050344).**

Sincerely,



Sarah Chitwood
Chief, Regulatory Evaluation Branch

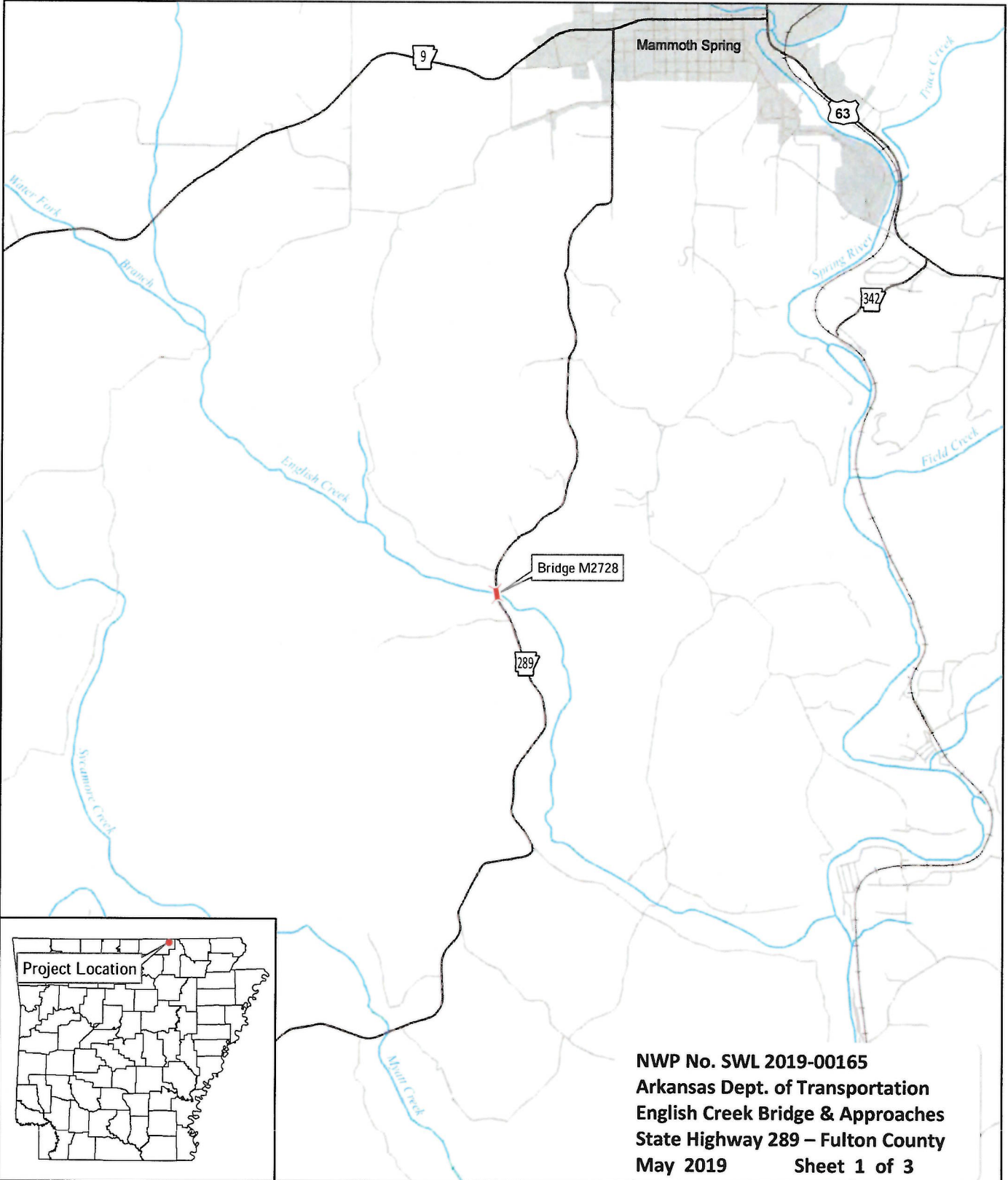
Enclosures

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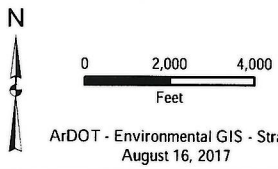
Ms. Melanie Treat, Arkansas Department of Environmental Quality, w/cy encls.

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

Chief, Regulatory Enforcement, w/cy encls.

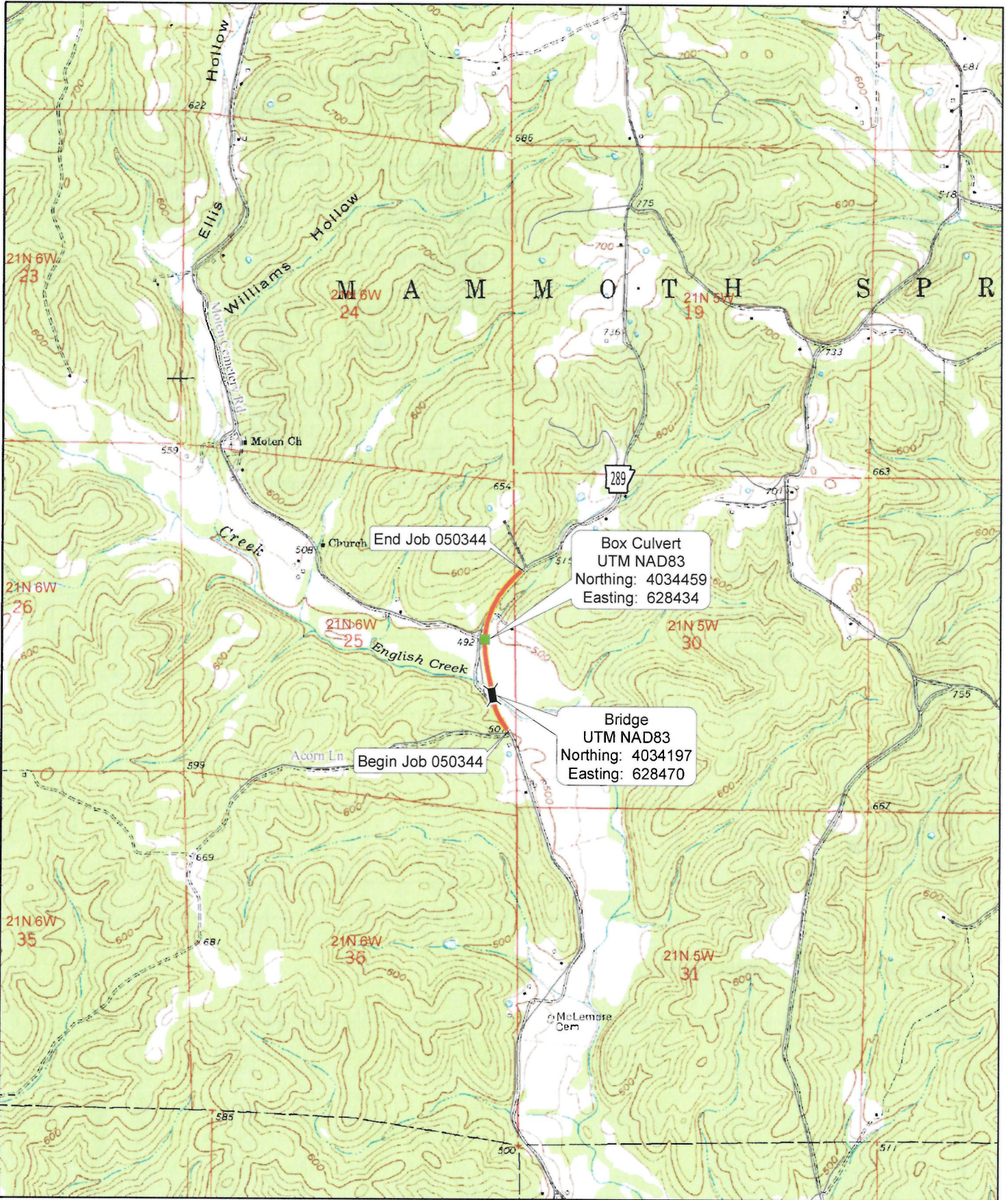


NWP No. SWL 2019-00165
Arkansas Dept. of Transportation
English Creek Bridge & Approaches
State Highway 289 – Fulton County
May 2019 Sheet 1 of 3



Job 050344.
Bridge M2728.
English Creek Str. & Apprs.
(Hwy. 289).
Fulton County.





**LITTLE ROCK STREAM METHOD
ADVERSE IMPACT FACTORS FOR RIVERINE SYSTEM WORKSHEET**

Stream Type Impacted	Ephemeral			Intermittent			Perennial - OHWM Width		
	0.1			0.4			<15' 0.4	15' - 30' 0.6	>30' 0.8
Priority Area	Tertiary 0.1			Secondary 0.4			Primary 0.8		
Existing Condition	Functionally Impaired 0.1			Moderately Functional 0.8			Fully Functional 1.6		
Duration	Temporary 0.05			Recurrent 0.1			Permanent 0.3		
Activity	Clearing 0.05	Utility Crossing/ Bridge Footing 0.15	Below Grade Culvert 0.3	Armor 0.5	Detention 0.75	Morpho- logical Change 1.5	Impound- ment (Dam) 2.0	Pipe >100' 2.2	Fill 2.5
Cumulative Linear Impact	<100' 0	100' - 200' 0.05	201' - 500' 0.1	501' - 1000' 0.2	> 1000 linear feet (LF) 0.1 reach 500 LF of impact (example: scaling factor for 5,280 LF of impacts = 1.1)				

Factors	English Creek	Net Impact Area	Net Impact Area	Net Impact Area	Net Impact Area
Stream Type Impacted	Intermittent				
Priority Area	Secondary				
Existing Conditions	Funct. Impaired				
Duration	Permanent				
Activity	Fill				
Cumulative Linear Impact	0.10				
Sum of Factors (M)	3.8				
Linear Feet of Stream Impacted in Reach (LF)	500				
M x LF	1,900				

Total Mitigation Credits Required = (M x LF) = 1,900

Notes: