

TIER 3 CATEGORICAL EXCLUSION

ARDOT JOB NUMBER 090472

FAP NUMBER NHPP-004(807)

LITTLE SUGAR & TANYARD CREEKS STRS. & APPRS. (BELLA VISTA) (S)

ROUTE 340, SECTION 1

BENTON COUNTY

Submitted Pursuant to 42 U.S.C. 4332(2)

By the

U.S. Department of Transportation

Federal Highway Administration

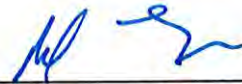
And the

Arkansas Department of Transportation

March 2019

3/4/2019

Date of Approval



Randal Looney
Environmental Coordinator
Federal Highway Administration

The Environmental Division has reviewed the referenced project and 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 two deficient bridges on Highway 340 within the City of Bella Vista in Benton County, Arkansas. Combined total length of the project is 0.39 mile. A project location map is enclosed.

The existing Tanyard Creek Bridge (Site 1) is 31' x 26' and the existing roadway consists of two 11' paved travel lanes with 2' paved shoulders. The existing Little Sugar Creek Bridge (Site 2) is 287' x 47' and the roadway consists of three 11' wide paved travel lanes, a 10' painted median, and variable width paved shoulders. The average right of way of width is 80'.

The proposed Tanyard Creek Bridge will be replaced on existing location with a 120' x 46' structure. The approaches will consist of two 14' paved travel lanes with curb and gutter shoulders, 3' grass berms, and 5' sidewalks on both sides of the roadway. Highway 340, from Chelsea Road to the Little Sugar Creek Bridge, will consist of three 12' paved travel lanes (one eastbound, two westbound) with curb and gutter shoulders, 3' grass berms, and 5' sidewalks. The Little Sugar Creek Bridge will be a 238' x 80' structure built on existing location. The bridge cross-section will consist of four 11' travel lanes, one 12' median, a 12' sidepath on the north side, and a 6.5' sidewalk along the south side of the bridge. The proposed average right of way width will be 180' and will require approximately 1.13 acres of new right of way and 0.67 acre of temporary construction easements for the project.

Design data for this project is as follows:

Design Year	Average Daily Traffic	Percent Trucks	Design Speed
2019	14,000	3	30 mph
2039	18,000	3	30 mph

There are no relocations, environmental justice issues, hazardous materials, prime farmland, or cultural resources associated with this project. Concurrence from the State Historic Preservation Officer is enclosed.

A 962' long detour road will be constructed on the south side of Tanyard Creek. Construction of the Little Sugar Creek Bridge will not require a detour road for the maintenance of traffic; however, a temporary work road will be constructed on the north side of the bridge structure. Impacts due to construction are estimated to be less than 0.1 acre per crossing. Construction should be allowed under the terms of Section 404 Nationwide Permit 14 for Linear Transportation Projects as defined in Federal Register 82 (4): 1860 – 2008.

The official species list obtained through the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation website lists the gray bat (*Myotis grisescens*), northern long-eared bat (*Myotis septentrionalis*), Indiana bat (*Myotis sodalis*), Ozark big-eared bat (*Corynorhinus townsendii ingens*), Piping Plover (*Charadrius melodus*), Ozark cavefish (*Amblyopsis rosae*), and Neosho Mucket (*Lampsilis rafinesqueana*) as species potentially affected by the proposed project. Based on the lack of available/suitable habitat and distance to any known species locations, it has been determined that the project will have "no effect" on the Ozark big-eared bat, Piping Plover, Ozark cavefish, and the Neosho Mucket. The proposed project may affect, and is likely to adversely affect the northern long-eared bat based on the results noted in the USFWS Consistency Letter. The northern long-eared bat will be covered under the USFWS programmatic biological opinion for the final 4(d) rule dated January 5, 2016. The proposed project may affect, but is not likely to adversely affect, the gray bat based on proximity to known hibernacula and available foraging habitat. The proposed project is likely to adversely affect the Indiana bat based on the results noted in the USFWS Consistency Letter and will be covered by the revised February 5, 2018, Programmatic Biological Opinion. The land clearing impacts, due to construction, will be mitigated at the Kings River Falls Natural Area in Madison County, Arkansas.

Benton County participates in the National Flood Insurance Program. The projects are both located within Zone A, Special Flood Hazard Area. The final project design will be reviewed to confirm that the design is adequate and that the potential risk to life and property are minimized. Adjacent properties should not be impacted nor have a greater flood risk than existed before construction of the project. None of the encroachments will constitute a substantial floodplain encroachment or risk to property or life.

Based upon the ARDOT's Policy on Highway Traffic Noise Abatement, a noise analysis is not required for this project. This project does not involve added capacity, construction of new through lanes or auxiliary lanes, changes in the horizontal or vertical alignment of the roadway, or exposure of noise sensitive land uses to a new or existing highway noise source.

This project has been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been linked with any special mobile source air toxic (MSAT) concerns. As such, this project will not result in changes in traffic volumes, vehicle mix, basic project location, or any other factor that would cause a meaningful increase in MSAT impacts of the project from that of the no-build alternative.

A Public Involvement Meeting was held on November 29, 2018. A synopsis of the meeting is enclosed.

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

Sincerely,

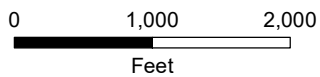
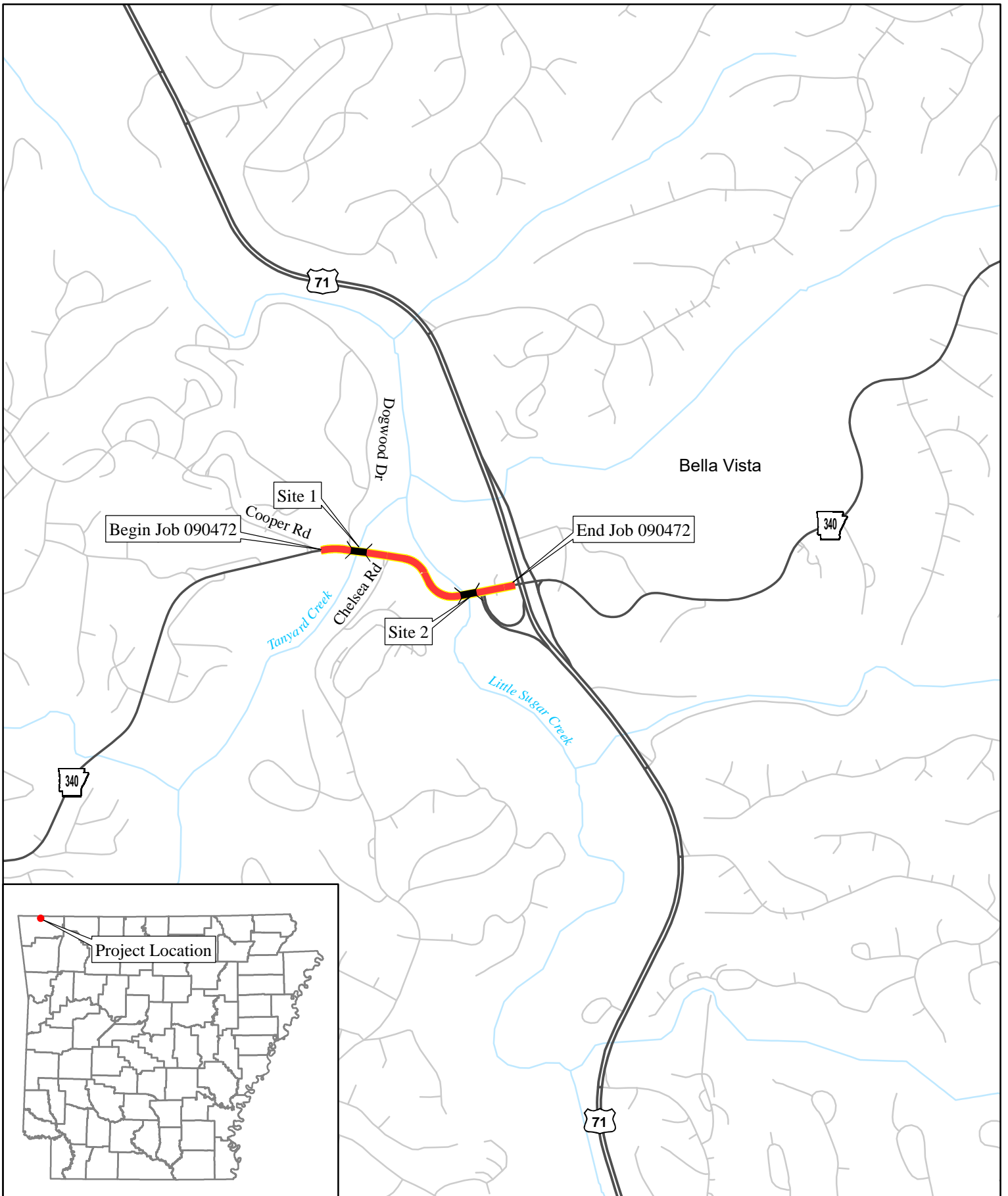


John Fleming
Division Head
Environmental Division

Enclosures

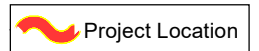
JF:TT:am

c: Program Management
Right of Way
Roadway Design
Bridge Division
District 9
Master File



ARDOT - Environmental GIS - Dudley
January 28, 2019

Job 090472
Little Sugar & Tanyard Creeks Strs. & Apprs.
(Hwy. 340)
Benton County





THE DEPARTMENT OF ARKANSAS
HERITAGE

Asa Hutchinson
Governor

Stacy Hurst
Director

April 19, 2018

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

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: Benton County – Bella Vista
Section 106 Review – FHWA
Report Titled *A Cultural Resources Survey of ARDOT Job Number
090472 Little Sugar & Tanyard Creeks Strs. & Apprs. (S)*
AHPP Tracking Number: 96906.01

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) has reviewed the documents included with your letter of April 19, 2018. The cultural resources survey report details the fieldwork done and is acceptable.

We have determined that site 3BE1061 is not eligible for listing in the National Register of Historic Places (NRHP). ARDOT Bridges 05515 and 3230 are also not eligible. Therefore, we concur that this undertaking will have no effect to historic properties.

Tribes that have expressed an interest in the area include the Cherokee Nation (Ms. Elizabeth Toombs), the Osage Nation (Dr. Andrea Hunter), the Shawnee Tribe of Oklahoma (Ms. Kim Jumper), and the United Keetoowah Band of Cherokee Indians (Mr. Eric Oosahwee-Voss). We recommend that they be consulted in accordance with 36 CFR § 800.2 (c) (2).

Once the undertaking is further along in the planning stages, we look forward to reviewing the proposed project. If you should have any questions or comments, please do not hesitate to contact Theresa Russell of my staff at (501)-324-9880.

Sincerely,

Scott Kaufman
Director, AHPP

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



ARKANSAS HISTORIC
PRESERVATION PROGRAM



1100 North Street
Little Rock, AR 72201

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

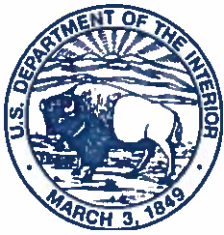
e-mail:

info@arkansaspreservation.org

website:

www.arkansaspreservation.com

An Equal Opportunity Employer



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



April 10, 2018

Mr. John Fleming
c/o William Bailey
Arkansas Department of Transportation
10324 Interstate 30
Little Rock, Arkansas 72209

Consultation Code: 04ER1000-2018-R-0775

Dear Mr. Fleming,

The U. S. Fish and Wildlife Service (Service) has reviewed your assessment and determinations for Arkansas Department of Transportation (ArDOT) Job Number 090472 that plans to widen the existing Little Sugar Creek Bridge and replace the Tanyard Creek structure with a new concrete box culvert, Benton County, Arkansas. This action may rely on the revised February 5, 2018, 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 the associated Project Submittal Form on October 20, 2017. The project was described and assessed as follows (abbreviated):

The official species list obtained through the U. S. Fish and Wildlife Service's (USFWS) Information for Planning and Consultation website lists the Gray Bat (*Myotis grisescens*), Northern Long-eared Bat (*Myotis septentrionalis*), Indiana Bat (*Myotis sodalis*), Ozark Big-eared Bat (*Corynorhinus townsendii ingens*), Piping Plover (*Charadrius melodus*), Ozark Cavefish (*Amblyopsis rosae*), and Neosho Mucket (*Lampsilis rafinesqueana*) as species potentially affected by the proposed project. Based on the lack of available/suitable habitat and distance to any known species locations, it has been determined that the project will have "no effect" on the Ozark Big-eared Bat, Piping Plover, Ozark Cavefish, and the Neosho Mucket. The proposed project may affect, and is likely to adversely affect the Northern Long-eared Bat based on the results of the USFWS Consistency Letter. However, the Northern Long-eared Bat will be covered under the USFWS programmatic biological opinion for the final 4(d) rule dated January 5, 2016. The proposed project is likely to adversely affect the Indiana Bat based on the results noted in the USFWS Consistency Letter and will be covered by the revised February 5, 2018, Programmatic Biological Opinion (BO). The land clearing impacts, due to construction, will be mitigated at the Kings River Natural Area in Madison County, Arkansas.

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 and Northern Long-eared Bat. Additionally, the Arkansas Department of Transportation has also determined that the Project is not likely to adversely affect (NLAA) Gray Bat.

The Service concurs with these determination(s), because of 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. A determination of LAA for Indiana Bat and Northern Long-eared 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 applicable mitigation measures (AMMs) will help to mitigate the effects in accordance with the PBO. Furthermore, the distance to known Gray Bat roosting and hibernacula sites, time of day restrictions, winter clearing only, off-site restraining conditions, and standard sediment controls, warrants a NLAA determination for this species. This concurrence concludes your ESA Section 7 responsibilities relative to Indiana Bat, Northern Long-eared Bat, Gray Bat, Ozark Big-eared Bat, Piping Plover, Ozark Cavefish, and the Neosho Mucket 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 AMMs 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 0.3 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, 0.3 acres are anticipated to result in adverse effects and the ArDOT will provide 0.45 acres (ratio 1.5/1) of forested habitat preservation at the ARDOT King River Falls Site near Witter, Madison County, Arkansas.

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. 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 Bats, 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 0.3 acres of habitat suitable for the Indiana Bat; or
- the Project takes more than 5 Indiana Bats resulting from work on bridges associated with the action.

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>

In Reply Refer To:

March 28, 2018

Consultation Code: 04ER1000-2018-SLI-0775

Event Code: 04ER1000-2018-E-01107

Project Name: Little Sugar & Tanyard Creeks Strs. & Apprs.

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-0775

Event Code: 04ER1000-2018-E-01107

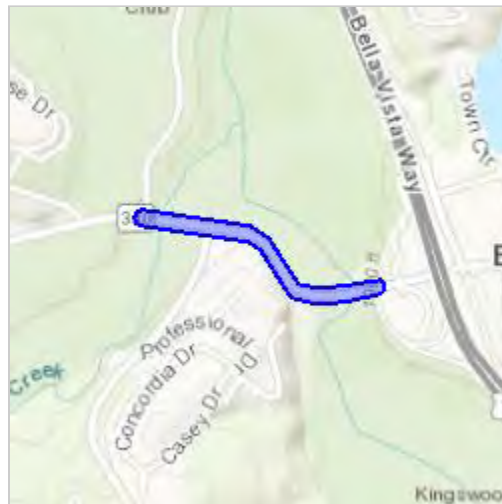
Project Name: Little Sugar & Tanyard Creeks Strs. & Apprs.

Project Type: TRANSPORTATION

Project Description: replace 2 drainage structures

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.47598008868183N94.25171441505385W>



Counties: Benton, AR

Endangered Species Act Species

There is a total of 7 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.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

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.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

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
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/7245	Endangered

Birds

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened

Fishes

NAME	STATUS
Ozark Cavefish <i>Amblyopsis rosae</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6490	Threatened

Clams

NAME	STATUS
Neosho Mucket <i>Lampsilis rafinesqueana</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3788	Endangered

Critical habitats

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

PUBLIC INVOLVEMENT SYNOPSIS

Job Number 090472

Little Sugar & Tanyard Creeks Strs. & Apprs. (Hwy. 340)

Benton County

Thursday, November 29, 2018

An open forum public involvement meeting for the proposed bridge replacement projects on Hwy. 340 over Little Sugar and Tanyard Creeks was held in the Fellowship Hall of the Bella Vista Baptist Church in Bella Vista, Arkansas from 4:00 – 7:00 p.m. on Thursday, November 29, 2018. Efforts to involve minorities and the public in the meeting included the following.

- Display advertisement placed in *The Weekly Vista* on Wednesday, November 21, 2018 and Wednesday, November 28, 2018.
- Public Service Announcements were placed on LA Zeta 95.7 FM, which aired on Monday, November 26, 2018 through Thursday, November 29, 2018.
- Outreach letters mailed to Public Officials.
- Distribution of flyers in the project area.

The following information was available for inspection and comment. Small-scale copies of the displays are attached.

- Displays included two aerial photographs at a scale of 1"= 67'.
- Preliminary design of the proposed project at a scale of 1"=50'.

Handouts for the public included a comment sheet and a small-scale map illustrating the project area. Copies of these are attached.

Table 1 describes the results of the public participation at the meeting.

TABLE 1	
Public Participation	Totals
Attendance at meeting (including ARDOT staff)	78
Comments received	24

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

An analysis of the responses received as a result of the public survey is shown in Table 2.

TABLE 2	
Comment Responses	Totals
Supports the proposed bridge replacements	21
Does not support the proposed bridge replacements	1
Knowledge of historical, archeological or cemetery sites	0
Knowledge of area environmental constraints	3
Home or property offers limitations to the project	0
Suggestions to better serve the needs of the community	11
Beneficial impacts due to the proposed project	15
Adverse impacts due to the proposed project	32

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

- Five individuals were glad to see accommodations for pedestrians and bicyclists included in the plans.
- Three individuals wanted signalization placed at Chelsea, two wanted signalization at Cooper, and one wanted signalization placed at Dogwood.

A listing of general comments concerning the proposed project follows:

- “Better flow of traffic.”
- “It will provide easier passage for both pedestrians and cyclists.”
- “Helps my commute.”
- “Adds value to the area.”
- “Consider 4 lanes on Hwy. 340 as population grows”
- “This project will enhance the community of Bella Vista”

Attachments:

Public handouts, including blank comment form

Small-scale display copies

RS RJ
DN DN

**ARKANSAS DEPARTMENT OF TRANSPORTATION (ARDOT)
CITIZEN COMMENT FORM**

**AHTD JOB NUMBER 090472
Little Sugar & Tanyard Creeks Strs. & Apprs. (Hwy. 340)
BENTON COUNTY**

**LOCATION:
BELLA VISTA BAPTIST CHURCH
(FELLOWSHIP HALL)
50 EAST LANCASHIRE BLVD.
BELLA VISTA, AR 72714
4:00 – 7:00 P.M.
THURSDAY, NOVEMBER 29, 2018**

Make your comments on this form and leave it with ARDOT personnel at the meeting or mail it by 4:30 p.m. on **Friday, December 14, 2018** to: Arkansas Department of Transportation, Environmental Division, Post Office Box 2261, Little Rock, Arkansas 72203-2261. Email: environmentalpimeetings@ardot.gov.

Yes No

Do you feel there is a need for the proposed bridge replacements on Highway 340 over Little Sugar and Tanyard Creeks in Bella Vista? Comment (optional) _____

Do you know of any historical sites, family cemeteries, or archaeological sites in the project area? Please note and discuss with staff. _____

Do you know of any environmental constraints, such as endangered species, hazardous waste sites, existing or former landfills, or parks and public lands in the vicinity of the project? Please note and discuss with ARDOT staff. _____

Yes No

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

Do you have a suggestion that would make this proposed project better serve the needs of the community? _____

Do you feel that the proposed improvements project will have any impacts (Beneficial or Adverse) on your property and/or community (economic, environmental, social, etc.)? Please explain. _____

It is often necessary for ARDOT to contact property owners along potential routes. If you are a property owner along or adjacent to the route under consideration, please provide information below. Thank you.

Name : _____ (Please Print)

Address: _____ Phone: (_____) _____ -- _____

E-mail: _____

Please make additional comments here. _____



Notes:



0 100 200
 Feet
 ARDOT - Environmental GIS - Hopkins
 Map Date: November 26, 2018
 Meeting Date: November 29, 2018
 Public Involvement Handout



Job 090472
 Little Sugar & Tanyard Creeks
 Structures & Approaches
 (Highway 340)
 Benton County

Preliminary
 Subject to Revision



Photography: ARDOT 2015

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

ARDOT Job Number 090472 FAP Number NHPP-004(807)


Job Title Little Sugar & Tanyard Creeks Strs. & Apprs. (Bella Vista) (S)

Environmental Resource	None	Minimal	Major	Comments-required for each item
Air Quality	X			No air quality impacts anticipated
Cultural Resources	X			SHPO approval letter attached
Economic	X			Will not be impacted by project
Endangered Species		X		USFWS Concurrence 4/10/2018, SP's
Environmental Justice/Title VI	X			No protected populations in project area
Fish and Wildlife		X		No impacts expected
Floodplains		X		Floodplain SP required
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		Migratory Bird SP required
Navigation/Coast Guard	X			No navigable waterways involved
Noise Levels	X			No increases due to project
Prime Farmland	X			None in project area
Protected Waters	X			None occur in project area
Public Recreation Lands	X			None in project area
Public Water Supply/WHPA		X		Off-site area SP needed
Relocatees	X			No relocations
Section 4(f)/6(f)	X			No 4(f)/6(f) resources not present
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		During construction
Water Quality		X		During construction
Wetlands	X			None in project area
Wildlife Refuges	X			None in the area

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

Remarks:

0.45 acres of bat mitigation will be required from the Kings River Natural Area.

Signature of Evaluator  Date January 29, 2019

ROADWAY DESIGN REQUESTJob Number 090472 FAP No. NHPP-004(807) County BentonJob Name Little Sugar & Tanyard Creeks Strs. & Apprs. (Bella Vista) (S)Design Engineer Crafton Tull Environmental Staff _____Brief Project Description Bridge Replacements at Little Sugar and Tanyard Creeks

A. Existing Conditions:

Roadway Width: 26' Shoulder Type/Width: Asph.-2'Number of Lanes and Width: 2-11' Existing Right-of-Way: 80'Sidewalks? No Location: _____ Width: _____Bike Lanes? No Location: _____ Width: _____

B. Proposed Conditions:

Roadway Width: 30'-58' Shoulder Type/Width: C&GNumber of Lanes and Width: 2@ 14',
3@12', &
4-11' & 1-12' Proposed Right-of-Way: 180'Sidewalks? Yes Location: Hwy. 340 Width: 5' & 10'Bike Lanes? No Location: _____ Width: _____

C. Construction Information:

If detour: _____ Where: Tanyard Creek Length: 961.77'

D. Design Traffic Data:

2019 ADT: 14,000 2039 ADT: 18,000 % Trucks: 3%
Design Speed: 30 m.p.h.E. Approximate total length of project: 0.388 mile(s)F. Justification for proposed improvements: Replace Deficient BridgesG. Total Relocates: 0 Residences: 0 Businesses: 0H. Have you coordinated with any outside agencies (e.g., FHWA, City, County, etc.)? yes

Agency/Official	Person Contacted	Date
City of Bella Vista	Mayor Christie & Kay Curry	April 2018-Nov. 2018
NW AR Trailblazers	Aaron Rushing	April 2018-Nov. 2018
NWARPC	Tim Conklin	Nov. 1, 2018



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

February 5, 2020

Regulatory Division

NATIONWIDE PERMIT NO. **SWL 2019-00102**

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

Dear Mr. Fleming:

Please refer to your recent request concerning Department of the Army permit requirements pursuant to Section 404 of the Clean Water Act. You requested authorization for the placement of dredged and fill material in waters of the United States associated with replacing the bridges over Little Sugar Creek and Tanyard Creek and upgrading the approaches on State Highway 340. Both bridges will be replaced on existing location. The Tanyard Creek approaches will consist of two 14-foot-wide travel lanes with 3-foot-wide grass berms and 5-foot-wide sidewalks. The Little Sugar Creek approaches will consist of three 12-foot-wide travel lanes with 3-foot-wide grass berms and 5-foot-wide sidewalks. A temporary detour road will be constructed on the south side of the Tanyard Creek Bridge. A temporary work road will be constructed on the north side of the Little Sugar Creek bridge. Total length of the project is 0.4 miles and will require the acquisition of approximately 1.1 acres of additional right-of-way. Permanent impacts at each stream crossing will less than 300 linear feet and 0.1 acres. The project may affect but is not likely to adversely affect the Gray Bat (*Myotis grisescens*). The project is likely to adversely affect the Northern Long-eared Bat (*Myotis septentrionalis*) and Indiana Bat (*Myotis sodalis*). Land clearing in the uplands that will likely adversely impact these bats will be mitigated at the Kings River Falls Natural Area. There are no cultural resources impacts. The Federal Highway Administration approved this project as a Tier 3 Categorical Exclusion on March 4, 2019. The project is located on State Highway 340 at Bella Vista, in section 23, T. 21 N., R. 31 W., Benton County, Arkansas. A vicinity map, project location maps and drawing of the temporary work road are enclosed.

The proposed activities are authorized by two Department of the Army Nationwide Permit (NWP's) **No. 14** (copy enclosed), provided that the General Conditions therein and the **Special Conditions** below 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 Conditions:

- 1. ArDOT agrees to consult with the U.S. Fish and Wildlife Service for all on-site and off-site clearing of trees between March 15 and November 14, to avoid potential impacts to the Northern Long-eared Bat and Indiana Bat.**
- 2. Should any cave openings be exposed during excavation activities authorized by this permit, ArDOT agrees stop work immediately and contact the Little Rock District Corps of Engineers Regulatory Division. The Corps of Engineers will initiate the Federal and State coordination necessary to determine if threatened or endangered species are present. ArDOT will make all practical and reasonable efforts to protect the site from further damage. These efforts should include, but are not limited to, the construction of a ring levee with silt fence and straw bales as soon as possible around the opening to reduce silt-laden runoff from entering the opening.**

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. If you have any questions concerning compliance with the conditions of the individual Section 401 WQC certification, you should contact Mr. Jim Wise or Ms. Melanie Treat 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. 14 is modified, suspended, or revoked during this period, your project may not be authorized unless you have begun or are under contract to begin the project. If work has started or the work is under contract, you would then have twelve (12) months to complete the work.

Your cooperation in the Regulatory Program is appreciated. If you have any additional questions about this permit or any of its provisions, please contact Mr. Johnny McLean at (501)

324-5295 and refer to Permit No. **SWL 2019-00102, ArDOT-Little Sugar Creek and Tanyard Creek Structures and Approaches on State Highway 340 at Bella Vista (ArDOT Job No. 090472).**

Sincerely,



Sarah Chitwood
Chief, Regulatory Evaluation Branch

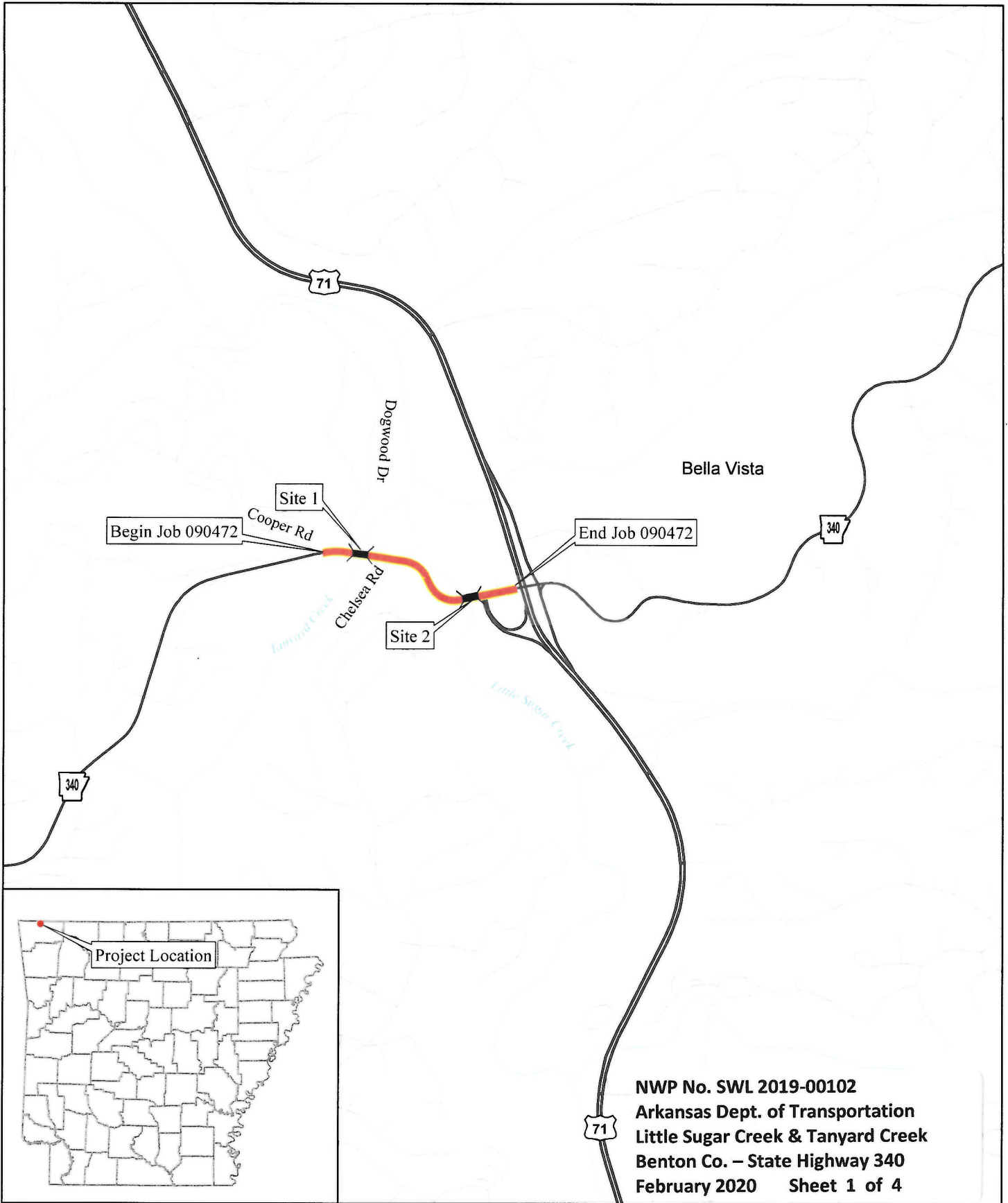
Enclosures

Copy Furnished:

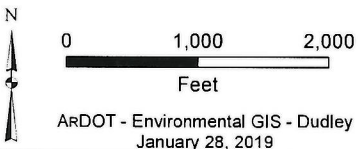
Ms. Melanie Treat, Arkansas Department of Environmental Quality, w/cy encls.

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

Regulatory Enforcement, w/cy encls.

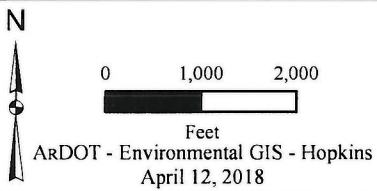
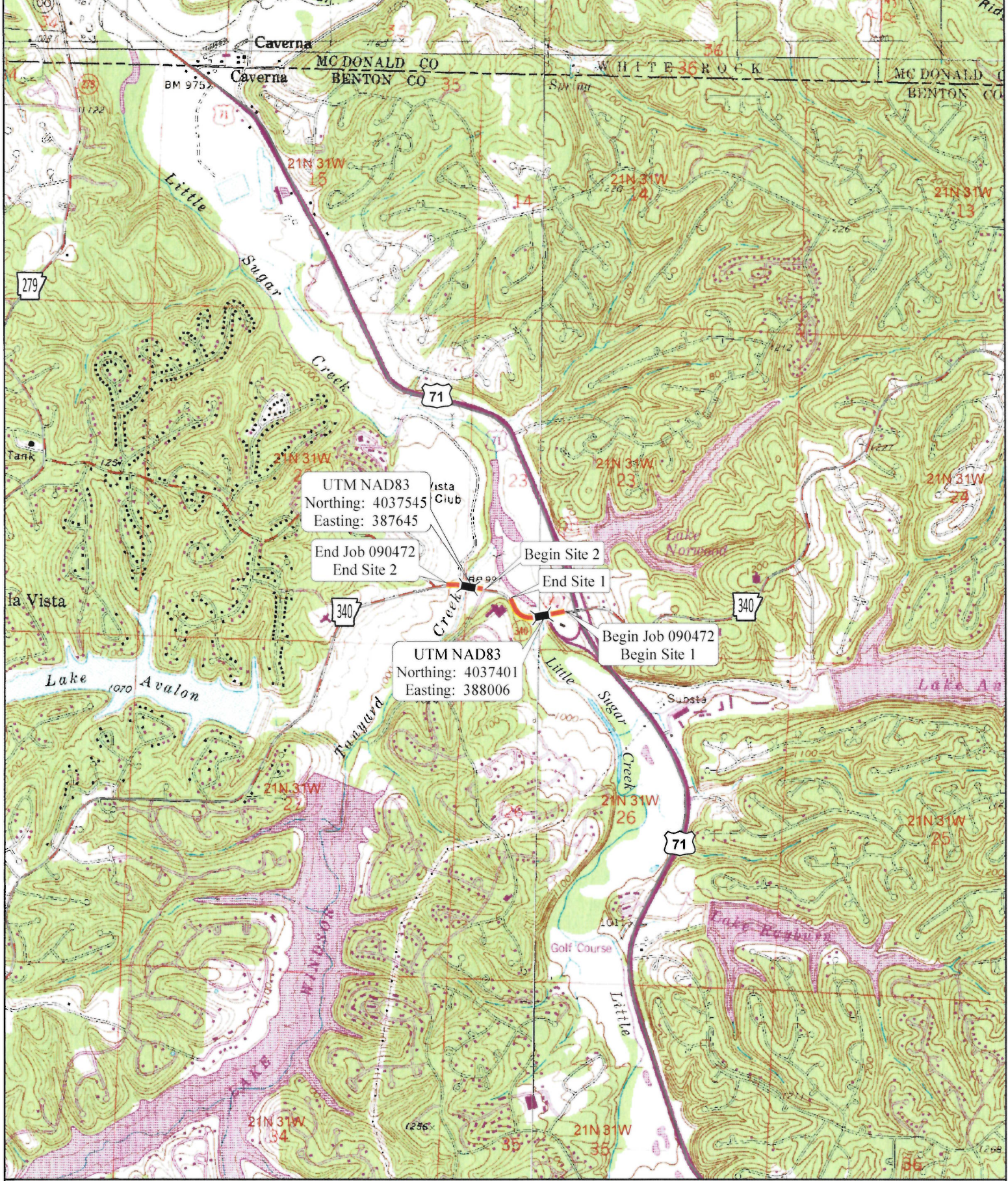


NWP No. SWL 2019-00102
Arkansas Dept. of Transportation
Little Sugar Creek & Tanyard Creek
Benton Co. – State Highway 340
February 2020 Sheet 1 of 4



Job 090472
Little Sugar & Tanyard Creeks Strs. & Apprs.
(Hwy. 340)
Benton County





Job 090472.
 Little Sugar & Tanyard Creeks
 Strs. & Apprs. (Hwy. 340).
 Benton County.

Sheet 2 of 4

Project Location

USGS Topographic Maps:
 Bentonville North 1982; Hiwasse 1982

Notes:



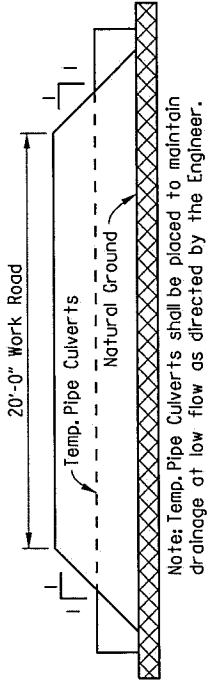
Job 090472
 Little Sugar & Tanyard Creeks
 Structures & Approaches
 (Highway 340)
 Benton County



AR DOT - Environmental GIS - Hopkins
 Map Date: November 26, 2018
 M: 11:17 AM
 Public Involvement Handbook

Preliminary
 Subject to Revision

Photography: ARDOT 2015



SECTION THROUGH WORK ROAD

No Scale

Approximate Quantities

	Below OHW	Total
Work Road Fill Area	4293 sq ft	4316 sq ft
Work Road Fill Volume	940 cu yd	1042 cu yd

Note: OHW Is Ordinary High Water

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

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

The Contractor is responsible for maintenance of the work roads during the contract period. See SP Job 090472 "Construction in Special Flood Hazard Areas" and Section 10.06(c) in the Standard Specifications for additional information.

**CONCEPTUAL WORK PLAN
FOR TEMPORARY FILL
LITTLE SUGAR CREEK
LITTLE SUGAR & TANYARD
CREEKS STRS. & APPRS. (S)
BENTON COUNTY**

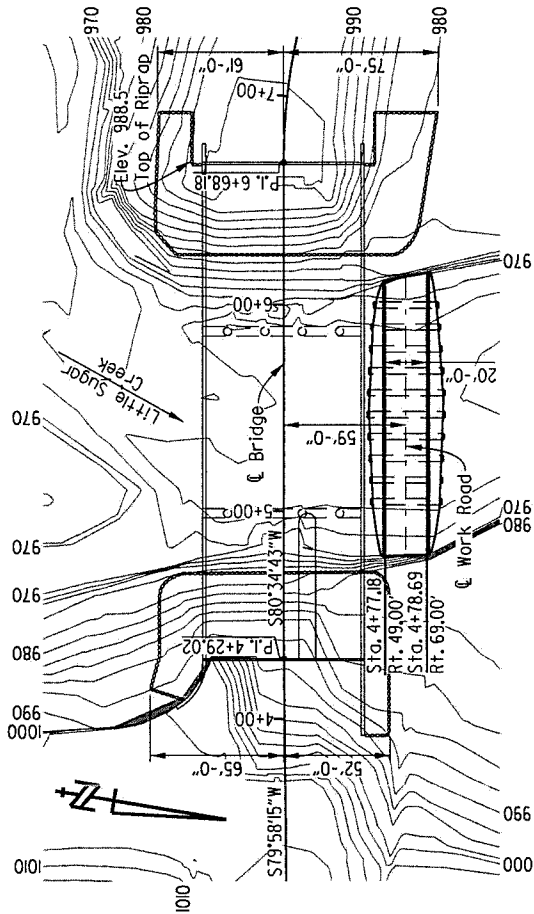
ROUTE 340 SEC. 1

ARKANSAS STATE HIGHWAY COMMISSION

LITTLE ROCK, ARK.

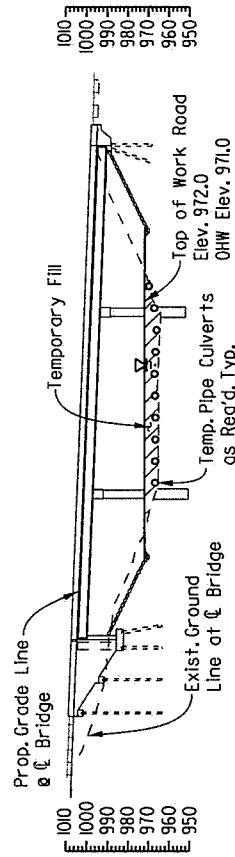
DRAWN BY: BNC DATE: 04-03-18

FILENAME: b090472_CWP.dgn



PLAN

No Scale



ELEVATION

No Scale



MAR 16 2017

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

RE: Public Notice: Re-issuance of Nationwide Permits

Dear Colonel Dixon:

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

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

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

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

- 6) If a construction site will disturb equal to or greater than one (1) acre and less than five (5) acres, the applicant shall comply with the requirements in Reg.6.203 for Stormwater discharge associated with a small construction site, as defined in APC&EC Regulation No. 6. If the construction site will disturb five (5) acres or more, the applicant shall comply with the terms of the Stormwater Construction General Permit Number ARR 150000 prior to the start of construction. BMPs must be implemented regardless of the size. More information can be obtained by contacting the NPDES Stormwater Section of ADEQ at (501) 682-0621.

For NWPs 14, 29, and 43, where a Pre-Construction Notification (PCN) is required, in addition to conditions 1-6 listed above, an individual water quality certification request must be submitted to ADEQ in cases and the activity occurs in:

- a. Waterbodies on the most currently approved 303(d) list for turbidity/siltation, including tributaries of the listed stream (within 1 mile) and waters upstream of the listed segment (within 1 mile).
- b. Waterbodies with an approved Total Maximum Daily Load (TMDL) for turbidity/siltation, including their tributaries (within 1 mile) and waters upstream of the listed segment (within 1 mile).

If you have additional questions regarding this certification, please contact Ms. Lazendra Hairston at (501) 682-0946.

Sincerely,



Caleb Osborne
Associate Director, Office of Water Quality

cc: Elaine Edwards, Chief Regulatory Division USACE
Jim Ellis, Project Manager USACE
Wanda Boyd, U.S. EPA,

PERMITTEE COMPLIANCE CERTIFICATION

PERMIT NO.: SWL 2019-00102, ArDOT-Little Sugar Creek and Tanyard Creek Structures and Approaches on State Highway 340 at Bella Vista (ArDOT Job No. 090472)

NWP/S NO.: 14

PERMITTEE NAME:

DATE OF ISSUANCE: _____

PROJECT MANAGER: Johnny McLean

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

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

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

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

DATE WORK COMPLETED: _____

SIGNATURE OF PERMITTEE

DATE