

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

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



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

April 22, 2014

Ms. Sandra L. Otto
Division Administrator
Federal Highway Administration
700 West Capitol, Room 3130
Little Rock, Arkansas 72201-3298

Re: Job Number 080423
FAP Number NHPP-0071(30)
Bee Branch - North
Van Buren County
Tier 3 Categorical Exclusion

Dear Ms. Otto:

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

The purpose of this project is to widen Highway 65 from Bee Branch to Clinton in Van Buren County. Total length of the project is 8.12 miles. The enclosed figure illustrates the project location. The existing roadway cross section varies from two to five lanes. The existing right of way width averages 205 feet.

Proposed improvements in the rural section include four 12-foot wide paved travel lanes with 8-foot wide shoulders and an 11-foot wide painted median. The proposed urban section will include four 11-foot wide paved travel lanes and a 12-foot wide turn lane with curb and gutter and 5-foot wide sidewalks. The existing bridges over Choctaw Creek and Big Branch will be widened 13-feet to accommodate the additional lanes. The new right of way width will be 250 feet. Approximately 21.6 acres of additional 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
2016	13,000	12	60 mph rural 45 mph urban
2036	18,500	12	60 mph rural 45 mph urban

There are no environmental justice issues, wetlands or endangered species associated with this project. Field inspections found no evidence of existing underground storage tanks or hazardous waste deposits. Three residential owners will be relocated as a result of this project. Public Law 91-646, Uniform Relocation Assistance Act of 1970, as amended, will apply. Approximately 0.2 acre of prime farmland will be converted to highway right of way. Form NRCS-CPA-106 and a noise analysis are enclosed.

Construction of the proposed project should be allowed under the terms of Nationwide Permit 14 for Linear Transportation Crossings as defined in Federal Register 77(34):10184-10290.

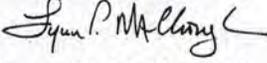
A public involvement meeting for this project was held on October 24, 2013 in Choctaw, Arkansas. A public involvement synopsis is enclosed.

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

APPROVED

Environmental Specialist
Federal Highway Administration
Date: 4/23/2014

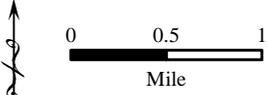
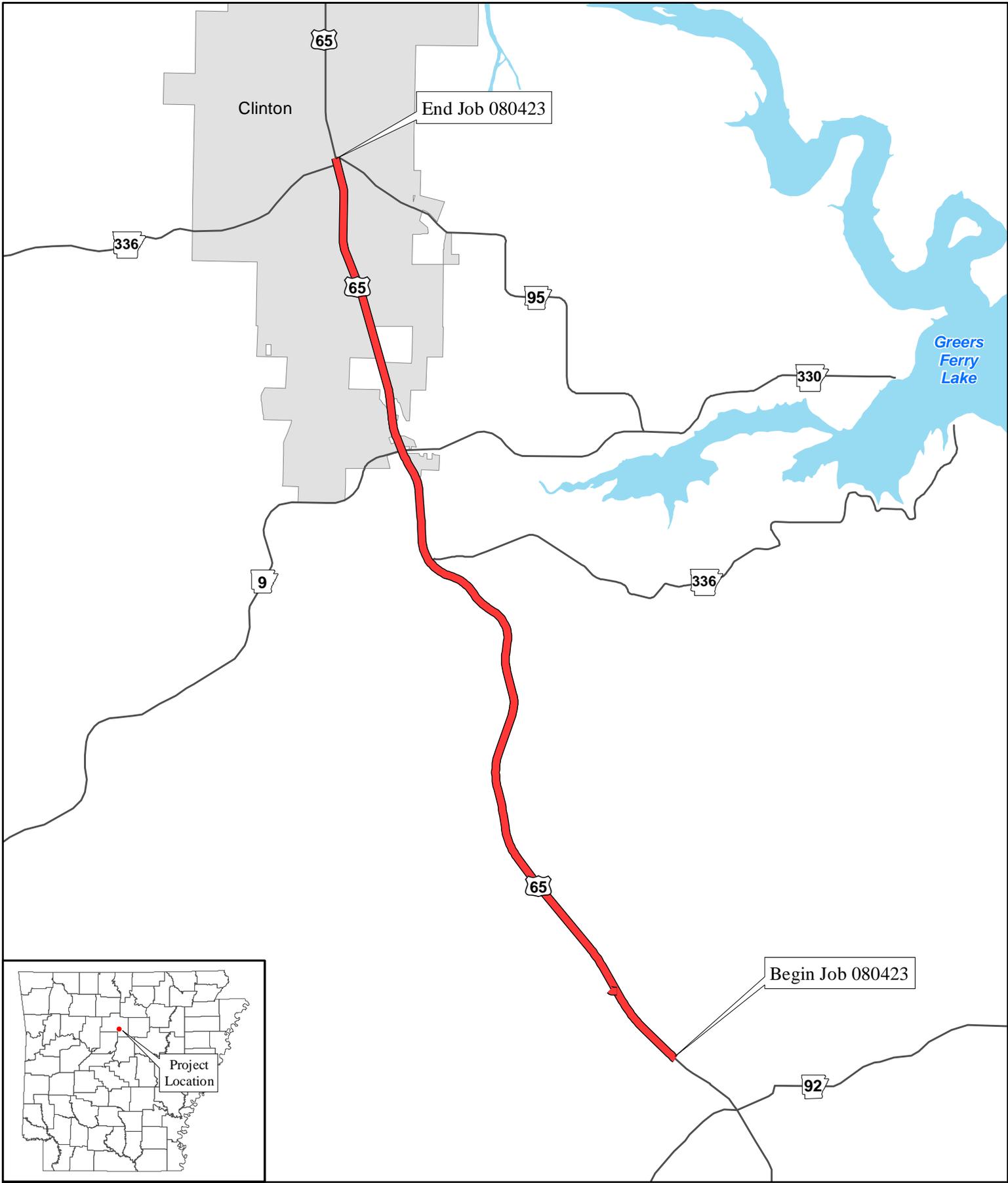
Sincerely,


Lynn P. Malbrough
Division Head
Environmental Division

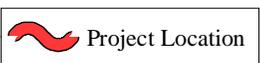
Enclosures

LPM:JB:fc

c: Programs and Contracts
Right of Way
Roadway Design
Districts 8
Master File



Job 080423
Bee Branch - North
(Hwy. 65)
Van Buren County



ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

FHW A
85215
NE

AHPP

APR 07 2014

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



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

April 7, 2014

Mr. Eric Gilliland
Section 106 Review Officer
1500 Tower Building
323 Center Street
Little Rock, Arkansas 72201

RECEIVED
AHTD

APR 15 2014

ENVIRONMENTAL
DIVISION

Re: AHTD Job 080423
Bee Branch – North (S)
Van Buren County

Dear Mr. Gilliland:

A Project Identification Form Addendum for the referenced project is enclosed. Please review for concurrence with the findings of my staff. If you have any questions or require additional information, please contact William McAlexander of my staff at 501-569-2078.

Sincerely,

A handwritten signature in blue ink that reads 'Lynn P. Malbrough'.

Lynn P. Malbrough
Division Head
Environmental Division

LPM:DW:WM:jh

Enclosure
Project Identification Form Addendum

Date 4/11/2014
No known historic properties will be
affected by this undertaking. This
effect determination could change
should new information come to light.
A handwritten signature in blue ink that reads 'Frances McSwain'.
Frances McSwain
Historic Preservation Officer

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

PART I (To be completed by Federal Agency) Job 080423		3. Date of Land Evaluation Request 2/6/14	4. Sheet 1 of _____
1. Name of Project Bee Branch - North		5. Federal Agency Involved FHWA	
2. Type of Project Widening		6. County and State Van Buren AR.	
PART II (To be completed by NRCS)		1. Date Request Received by NRCS	2. Person Completing Form
3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form). YES NO		4. Acres Irrigated Average Farm Size	
5. Major Crop(s)	6. Farmable Land in Government Jurisdiction Acres: %	7. Amount of Farmland As Defined in FPPA Acres: %	
8. Name Of Land Evaluation System Used	9. Name of Local Site Assessment System	10. Date Land Evaluation Returned by NRCS	

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

PART IV (To be completed by NRCS) Land Evaluation Information	Corridor A	Corridor B	Corridor C	Corridor D
A. Total Acres Prime And Unique Farmland	0.2			
B. Total Acres Statewide And Local Important Farmland				
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	10			
2. Perimeter in Nonurban Use	10	5			
3. Percent Of Corridor Being Farmed	20	5			
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	25			

PART VII (To be completed by Federal Agency)	Maximum Points	Corridor A	Corridor B	Corridor C	Corridor D
Relative Value Of Farmland (From Part V)	100	100			
Total Corridor Assessment (From Part VI above or a local site assessment)	160	25			
TOTAL POINTS (Total of above 2 lines)	260	125			

1. Corridor Selected: Existing	2. Total Acres of Farmlands to be Converted by Project: 0.2 Acres of Prime Farmland	3. Date Of Selection:	4. Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>
--------------------------------	--	-----------------------	--

5. Reason For Selection:

Signature of Person Completing this Part: DATE: 2/13/14

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

AHTD JOB NUMBER 080423

NOISE ANALYSIS

Fundamentals of Sound and Noise

“Noise” is defined as an unwanted sound. Sounds are described as noise if they interfere with an activity or disturb the person hearing them. Sound is measured in a logarithmic unit called a decibel (dB). The human ear is more sensitive to middle and high frequency sounds than it is to low frequency sounds, so sound levels are weighted to more closely reflect human perceptions. These “A-weighted” sounds are measured using the decibel unit dB(A). Because the dB(A) is based on a logarithmic scale, a 10 dB(A) increase in sound level is generally perceived as twice as loud while a 3 dB(A) increase is just barely perceptible to the human ear.

Sound levels fluctuate with time depending on the sources of the sound audible at a specific location. In addition, the degree of annoyance associated with certain sounds varies by time of day, depending on other ambient sounds affecting the listener and the activities of the listener. The time-varying fluctuations in sound levels at a fixed location can be quite complex, so they are typically reported using statistical or mathematical descriptors that are a function of sound intensity and time. A commonly used descriptor of the equivalent sound level is Leq , which represents the equivalent of a steady, unvarying level over a defined period of time containing the same level of sound energy as the time varying noise environment. $Leq(h)$ is a sound level averaged over one hour. For highway projects, the $Leq(h)$ is commonly used to describe traffic-generated sound levels at locations of outdoor human use and activity (such as residences).

Noise Impact Criteria

Traffic noise impacts take place when the predicted traffic noise levels approach or exceed the noise abatement standard, or when the predicted traffic noise levels exceed the existing noise level by ten dB(A) (decibels on the A-scale). The noise abatement standard of 67 dB(A) is used for sensitive noise receptors such as residences, schools, churches, and parks. The term “approach” is considered to be one dB(A) less than the noise abatement standard.

The number of noise receptors was estimated for this project utilizing the Federal Highway Administration’s Traffic Noise Model 2.5, existing and proposed roadway information, existing traffic information, and projected traffic levels for 2035.

Traffic noise analyses

Traffic noise analyses were performed for the project utilizing two roadway cross-sections for Highway 65 consisting of four 12-foot paved travel lanes, an 11-foot painted median and eight-foot wide paved shoulders in the rural portion of the project and four 11-foot paved travel lanes, a 12-foot wide turn lane, curb and gutter with sidewalk and storm sewer in the urban portion of the project.

Effects of Project

The traffic noise estimates for the project resulted in a noise abatement distance of 182 feet from the centerline of Highway 65 in the rural portion of the project and 121 feet from the centerline of Highway 65 in the urban portion of the project. Approximately 30 receptors could be affected by future noise levels greater than 66 dB(A). Of those 30 receptors, all are currently being affected by noise levels from Highway 65 and would experience a one to two dB(A) noise increase from the proposed project. This increase would not be discernible to the impacted receptors because it usually takes a 3 dB(A) increase to be perceived by humans in this type of setting.

Traffic Noise Abatement

Since noise impacts are predicted within 500 feet of the proposed project, the feasibility and reasonableness of potential noise abatement measures must be evaluated. Based upon AHTD's "Policy on Highway Traffic Noise Abatement", any noise abatement effort using barrier walls or berms is not warranted for this project. In order to provide direct access to the highway from adjacent properties, breaks in the barrier walls or berms would be required. These necessary breaks for highway access would render any noise barrier ineffective.

To avoid noise levels in excess of design levels, any future receptors should be located a minimum of 10 feet beyond the distance that the noise abatement standard is projected to occur. This distance should be used as a general guide and not a specific rule since the noise will vary depending upon the roadway grades and other noise contributions.

Any excessive project noise, due to construction operations, should be of short duration and have a minimum adverse effect on land uses or activities associated with this project area.

In compliance with Federal guidelines, a copy of this analysis will be transmitted to the White River Planning and Development District for possible use in present and future land use planning.

PUBLIC INVOLVEMENT SYNOPSIS

Job Number 080423
Bee Branch – North (Hwy. 65)
Van Buren County
Thursday, October 24, 2013

An open forum meeting for the proposed project was held at the Choctaw Church of Christ (Fellowship Hall) from 4:00 – 7:00 p.m. on Thursday, October 24, 2013. Special efforts to involve minorities and the public in the meeting included:

- Display advertisement placed in the *Van Buren County Democrat* on Wednesday, October 16, 2013 and Wednesday, October 23, 2013.
- Distribution of flyers in the project area.

The following information was available for inspection and comment:

- Displays including an aerial photograph at a scale of 1 inch equals 1200 feet.
- Preliminary plans at a scale of 1 inch equals 100 feet.

Handouts for the public included a comment sheet and a small-scale map illustrating the project location, which was identical to the aerial photograph display. Copies of the handouts are attached.

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

TABLE 1	
Public Participation	Totals
Attendance at meeting (including AHTD staff)	67
Total comment forms received	16

AHTD 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	
Survey Results	Totals
Supports improvements to Highway 65	11
Does not support improvements to Highway 65	5
Knowledge of historical, archeological or cemetery sites	0
Knowledge of environmental constraints	0
Home or property limitations to the project	2
Beneficial impacts due to the proposed project	6
Adverse impacts due to the proposed project	8
No response to beneficial/adverse impacts	2

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

- The Post Master said it would take too much parking from the Choctaw Post Office.
- One individual was concerned about a drainage problem.
- Two individuals indicated it would take the Main Line Full Gospel Church.
- One individual indicated it would take their home.
- Three individuals indicated the project was not needed.
- Two individuals indicated the curve at Highway 65 and Highway 336 needed straightened.

Attachments:

Public handouts, including blank comment form
Small-scale display copy

RJ *RJ*
DN *DN*

JB:ym

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT (AHTD)

CITIZEN COMMENT FORM

**AHTD JOB NUMBER 080423
Bee Branch-North (Hwy. 65)
VAN BUREN COUNTY**

**LOCATION:
Choctaw Church of Christ (Fellowship Hall)
233 HWY. 330E
CHOCTAW, AR
4:00 – 7:00 P.M.
THURSDAY, OCTOBER 24, 2013**

Make your comments on this form and leave it with AHTD personnel at the meeting or mail it within 15 days to: Arkansas State Highway and Transportation Department, Environmental Division, Post Office Box 2261, Little Rock, Arkansas 72203-2261. Email: environmentalpimeetings@ahtd.ar.gov.

- Yes No
- Do you feel there is a need for the proposed widening of Highway 65 between Bee Branch and Clinton? 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 UST's, asbestos, 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 AHTD staff. _____
- _____
- _____
- Does your home or property offer any limitations to the project, such as septic systems, springs or wells that the Department needs to consider in its design? _____

Yes No

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

Do you feel that the proposed widening 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 the AHTD 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. _____

For additional information, please visit our website at www.arkansashighways.com





 0 0.5 1

 Mile

 AHTD - Environmental GIS - Reed

 Map Date: October 16, 2013

 Meeting Date: October 24, 2013

 Public Involvement Meeting Display

Job 080423
 Bee Branch - North
 (Hwy. 65)
 Van Buren County

 Project Location

Photography Date: Summer 2010

Notes:

AHTD ENVIRONMENTAL IMPACTS ASSESSMENT FORM

AHTD Job Number 080423 FAP Number NHPP-0071(30)
 Job Title Bee Branch - North

Environmental Impacts	None	Minor	Significant	Comments
Air Quality	X			
Construction Impacts		X		Temporary
Cultural Resources	X			
Economic	X			
Endangered Species	X			
Energy Resources	X			
Environmental Justice/Title VI	X			
Fish and Wildlife		X		Minor loss of habitat
Floodplains	X			
Forest Service Property	X			
Hazardous Materials/Landfills	X			
Land Use Impacts	X			
Migratory Birds		X		Migratory Bird SP
Navigation/Coast Guard	X			
Noise Levels		X		30 receptors
Prime Farmland		X		0.2 acre
Protected Waters	X			
Public Recreation Lands	X			
Public Water Supply/WHPA	X			
Relocatees		X		Three residential
Section 4(f)/6(f)	X			
Social	X			
Underground Storage Tanks	X			
Visual Impacts	X			
Stream Impacts		X		NW14
Water Quality		X		Temporary during construction
Wetlands	X			
Wildlife Refuges	X			

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

Remarks: _____

Signature of Evaluator  Date 2/13/14

Date Submitted: November 25, 2013
Date Revised:

ROADWAY DESIGN REQUEST

Job Number: 080423 FAP Number:
County: Van Buren
Job Name: Bee Branch-North (S)
Design Engineer: Brooke Perkins Environmental Staff: _____

Brief Project Description: The Purpose of this project is to widen 8.124 miles of Highway 65 to five lanes. 5.227 miles of which will be Open Shoulder (four 12' travel lanes and one 11' painted median) and the remaining 2.897 will be Curb and Gutter (four 11' travel lanes and one 12' center turn lane) with sidewalk and storm sewer. Two bridges within the project limits will be widened to accommodate the wider roadway.

A. Existing Conditions:

1. Roadway Width: Metric: _____ English: 36'
2. Shoulder Width: Metric: _____ English: 8'
3. Number of Lanes and Width: Metric: _____ English: 3 @ 12'
4. Existing Right-of-Way: Metric: _____ English: 205'

B. Proposed Conditions:

1. Roadway Width: Metric: _____ English: 59' Open Shoulder; 56' Curb & Gutter
2. Shoulder Width: Metric: _____ English: 8' Open Shoulder
3. Number of Lanes and Width: Metric: _____ English: 4 @ 12', w/11' median in Open Shoulder
4 @ 11'w/12' center turn lane in C&G
4. Average Right-of-Way: Metric: _____ English: 250'

C. Construction Information:

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

D. Design Data:

2016 ADT: 13,000 2036 ADT: 18,500 Trucks 12 %

Design Speed: _____ km/h 60 m.p.h. in Open Shoulder
45 m.p.h. in Curb & Gutter

E. Approximate total length of project: _____ kilometer(s) 8.124 mile(s)

F. Justification for proposed improvements: Traffic volume exceeds capacity.

G. Total Relocates: 3 Residences: 3 Businesses: 0

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

City and or County Officials: _____

State Agency: _____

Federal Agency: _____

BRIDGE INFORMATION-PRELIMINARY

**RECEIVED
AHTD**

Number: 080423 FAP Number: 999 County: Van Buren

Job Name: Bee Branch - North (S)

JAN 10 2014

Design Engineer: Stewart Linz Environmental Staff: _____

**ENVIRONMENTAL
DIVISION**

A. Description of Existing Bridge(s):

1. Bridge Number: 06913 over Choctaw Creek
2. Location: Rte. 65 Section: 8 Log Mile: 5.85
3. Length: 210.14 ft ; Br. Rdwy. Width: 56.00 ft; Deck Width (Out to Out): 59.166 ft
4. Type Construction: Continuous composite w-beam with multi column int bents on spread footings and pile end bents
5. Deficiencies: NA
6. HBRRP Eligibility: Qualif. Code NQ ; Suff. Rating 85.0

B. Proposed Improvements: **WIDENING**

1. Length: 210.14 ft ; Br. Rdwy. Width: 56.00 ft; Deck Width (Out to Out): 72.166 ft
2. Travel Lanes: No. 5; Width 11-11-12-11-11 ft
3. Shoulder Width: Left: 1.00 ft ; Right: 1.00 ft
4. Sidewalks? yes ; Location: Both ; Width: 6.50 ft

C. Construction Information:

1. Location in relation to existing bridge: Widening to both sides
2. Superstructure Type: Cont. Comp. W-Beam
3. Span Lengths: 64'-80'-64'
4. Substructure Type: Single Column Bent w/ Spread Footing
5. Ordinary High Water Elevation: TBD
6. Number bents inside Ordinary High Water (OHW) Contours:
7. Concrete Volume below OHW: yd3; Volume bent excavation: yd3; Is backfill req'd?
8. Is Channel Excavation Required? ; Surface Area: ft2; Volume: yd3
9. Is Fill below OHW req'd? ; Surface Area: ft2; Volume: yd3
10. Is Riprap required? ; Volume: yd3

D. Work Road Information:

1. Is Work Road(s) required? yes ; Location: ft left right cl; Top Width: 20.0 ft
2. Is fill below OHW req'd? yes ; Surface Area: ft2; Volume: yd3
3. Are Pipes required to meet Backwater Criteria? ; Waterway opening: ft2

E. Detour Information:

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

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

Has Bridge Div. coordinated with any outside agencies?

Agency	Person Contacted	Date

BRIDGE INFORMATION-PRELIMINARY

Job Number: 080423 FAP Number: 999 County: Van Buren

Job Name: Bee Branch - North (S)

Design Engineer: Stewart Linz Environmental Staff: _____

A. Description of Existing Bridge(s):

1. Bridge Number: 06914 over Big Branch
2. Location: Rte. 65 Section: 8 Log Mile: 5.09
3. Length: 132.45 ft ; Br. Rdwy. Width: 56.00 ft; Deck Width (Out to Out): 59.166 ft
4. Type Construction: Continuous composite w-beam with multi column int bents on spread footings and pile end bents
5. Deficiencies: NA
6. HBRRP Eligibility: Qualif. Code NQ ; Suff. Rating 94.5

B. Proposed Improvements: **WIDENING**

1. Length: 132.45 ft ; Br. Rdwy. Width: 56.00 ft; Deck Width (Out to Out): 72.166 ft
2. Travel Lanes: No. 5; Width 11-11-12-11-11 ft
3. Shoulder Width: Left: 1.00 ft ; Right: 1.00 ft
4. Sidewalks? yes ; Location: Both ; Width: 6.50 ft

C. Construction Information:

1. Location in relation to existing bridge: Widening to both sides
2. Superstructure Type: Cont. Comp. W-Beam
3. Span Lengths: 64'-80'-64'
4. Substructure Type: Single Column Bent w/ Spread Footing
5. Ordinary High Water Elevation: TBD
6. Number bents inside Ordinary High Water (OHW) Contours:
7. Concrete Volume below OHW: yd3; Volume bent excavation: yd3; Is backfill req'd?
8. Is Channel Excavation Required? ; Surface Area: ft2; Volume: yd3
9. Is Fill below OHW req'd? ; Surface Area: ft2; Volume: yd3
10. Is Riprap required? ; Volume: yd3

D. Work Road Information:

1. Is Work Road(s) required? yes ; Location: ft left right cl; Top Width: 20.0 ft
2. Is fill below OHW req'd? yes ; Surface Area: ft2; Volume: yd3
3. Are Pipes required to meet Backwater Criteria? ; Waterway opening: ft2

E. Detour Information:

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

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

Has Bridge Div. coordinated with any outside agencies?

Agency	Person Contacted	Date

080423



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

November 6, 2014

Regulatory Division

NATIONWIDE PERMIT NO. **2002-17609-1**

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

RECEIVED
AHTD
NOV 10 2014
ENVIRONMENTAL
DIVISION

Dear Mr. Fleming:

Please refer to your request dated September 26, 2014, concerning Department of the Army permit requirements pursuant to Section 404 of the Clean Water Act (33 U.S. Code 1344). You requested authorization for the placement of dredged and fill material in waters of the United States associated with widening an 8.12-mile segment of Highway 65 from Bee Branch to Clinton. The proposed improvements include four 12-foot-wide travel lanes with 8-foot-wide shoulders and an 11-foot-wide median. The existing bridges over Choctaw Creek and Big Branch will be widened 13 feet to accommodate the additional lanes. The project is located in sections 2 and 12, T. 10 N., R. 14 W., Van Buren County, Arkansas. A vicinity map, project location map, and drawings are enclosed.

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

Please pay particular attention to General Condition No. 12, which stipulates that appropriate erosion and siltation controls be used during construction and all exposed soil be permanently stabilized. Erosion control measures must be implemented during and after construction of the proposed project to comply with this permit condition.

Also, in order to fully comply with the conditions of the NWP, you must submit the enclosed compliance certification within 30 days of completion of the project. This is required pursuant to General Condition No. 30 of the permit.

For your information, we have enclosed a copy of the Section 401 Water Quality Certification conditions, which are conditions of your permit. If you have any questions concerning compliance with the conditions of the 401 certification, you should contact Mr. Mark Hathcote at the Arkansas Department of Environmental Quality, Water Division, 5301

Northshore Drive, North Little Rock, Arkansas 72118, telephone (501) 682-0645.

The NWP determination will be valid until March 18, 2017. If NWP No. 14 is modified, suspended, or revoked during this period, your project may not be authorized unless you have begun or are under contract to begin the project. If work has started or the work is under contract, you would then have twelve months to complete the work.

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

Your cooperation in the Regulatory Program is appreciated. If you have any questions about this permit or any of its provisions, please contact Gerald Dickson at (501) 324-5295 and refer to Permit No. **2002-17609-1, Hwy 65 Bridge Widening near Choctaw.**

Sincerely,



Sarah Chitwood
Chief, Regulatory Evaluation Branch

Enclosures

cc:
Arkansas Department of Environmental Quality, w/cy dwgs
Mr. Johnny McLean, AHTD Program Manager, w/cy dwgs
Ch, Regulatory Enf, w/cy dwgs

Nationwide Permit No. 14

Linear Transportation Projects. Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 31.) (Sections 10 and 404)

Note: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Nationwide Permit General Conditions:

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR §§ 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR § 330.5

relating to the modification, suspension, or revocation of any NWP authorization.

1. **Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

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

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where

it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

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

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

20. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

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

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

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

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical

resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWP's only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require

compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWP's. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP's.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by

similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

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

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

engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

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

the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

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

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

(2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

District Engineer's Decision:

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. For a linear project, this determination will include an evaluation of the individual crossings to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to intermittent or ephemeral streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51 or 52, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in minimal adverse effects. When making minimal effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

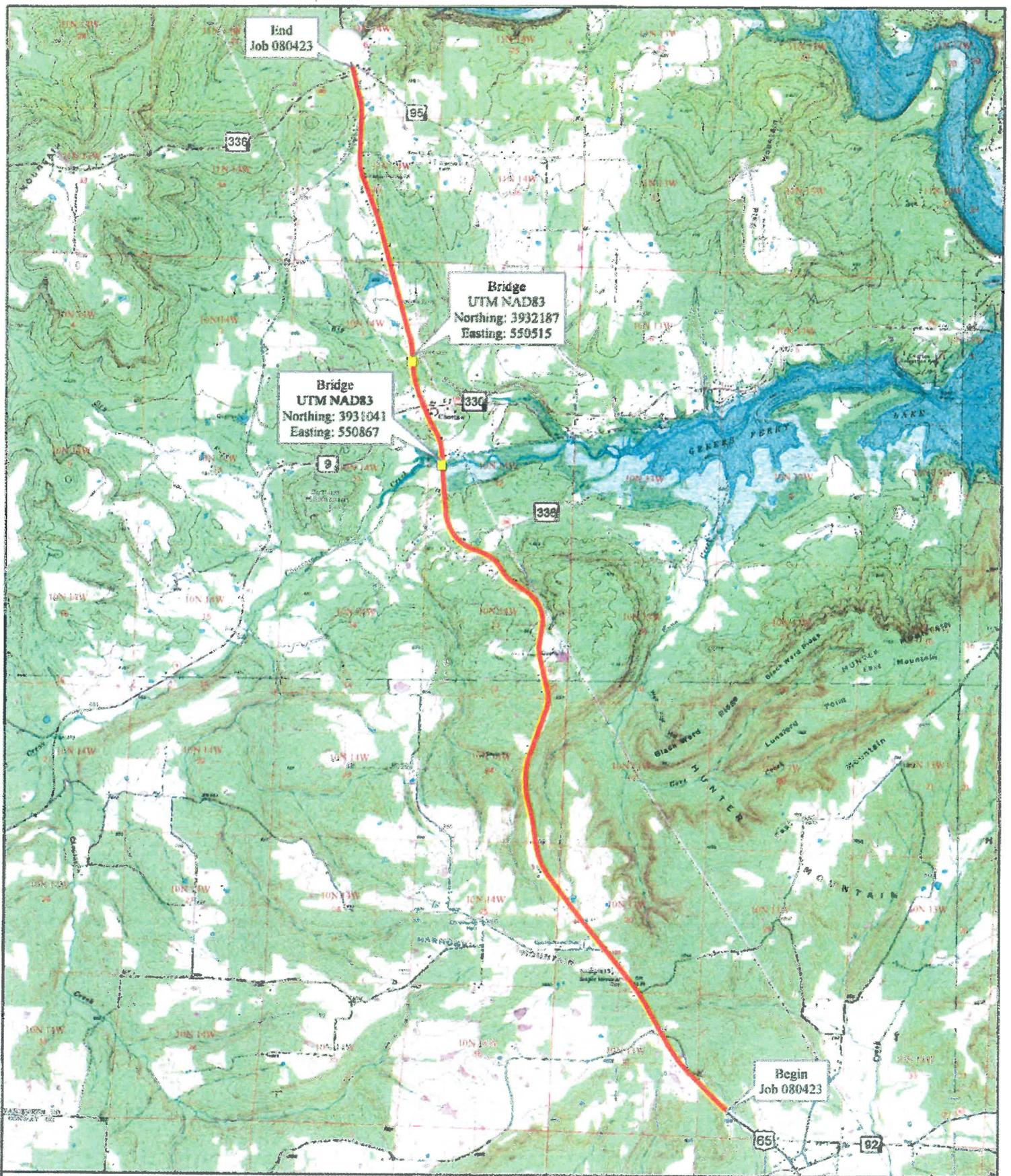
2. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether

the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

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

Further Information:

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



Job 080423
September 25, 2014

AHTD - Environmental GIS - Strawn

Job 080423
Bee Branch - North (Hwy. 65)
Van Buren County

ACTION NO. 2002-17609-1

AHTD

Hwy 65 Bridge Widening Near Choctaw
Secs 2 & 12 , T. 10 N., R. 14 W.

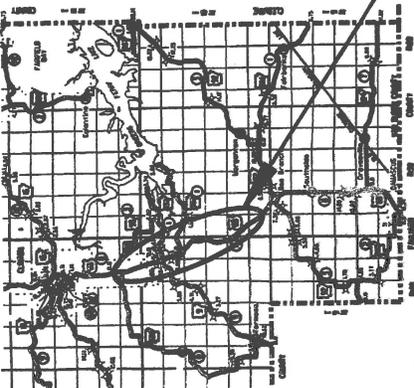
November 2014

Sheet 1 of 4

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT
CONSTRUCTION PLANS FOR STATE HIGHWAY

DATE	BY	CHKD	DATE	BY	CHKD
JOB NO. 080423					
JOB NAME: BEE BRANCH-NORTH IS					

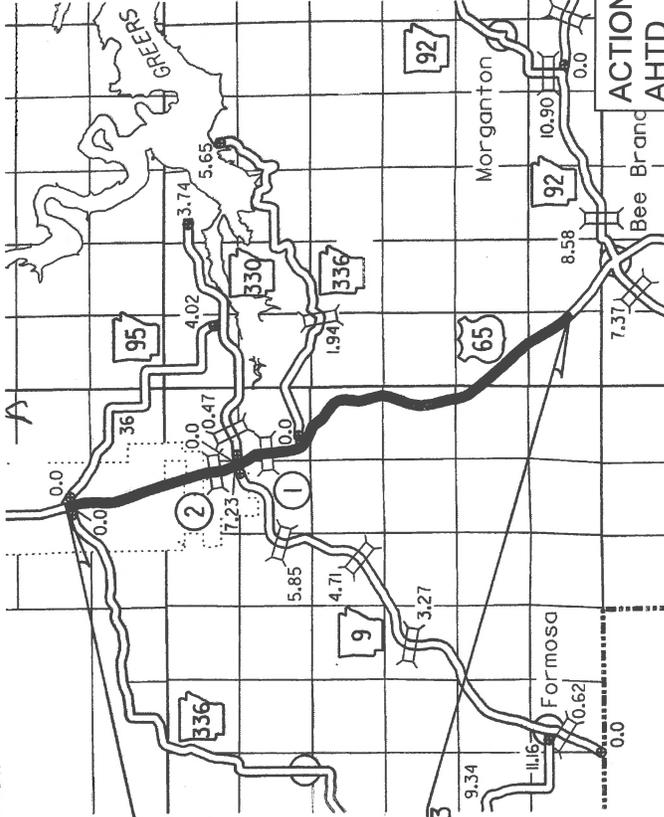
BEE BRANCH-NORTH (S)
VAN BUREN COUNTY
ROUTE 65 SECTION 8
F.A.P.
JOB 080423



PROJECT LOCATION

VICINITY MAP

NOT TO SCALE



STA. 928+92.71
END JOB 080423

STA. 500+00.00
BEGIN JOB 080423
LOG MILE 11.14

BRIDGE DATA

- ①
- ②

ARKANSAS HWY. DIST. 8



DESIGN TRAFFIC DATA

DESIGN YEAR	2036
2036 ADT	13,000
2036 ADT	16,500
2036 DAY	0.60
DIRECTIONAL DISTRIBUTION	12
TRUCKS	12
DESIGN SPEED (SECT. 1)	60 MPH
DESIGN SPEED (SECT. 2)	45 MPH



ACTION NO. 2002-17609-1
AHTD

Hwy 65 Bridge Widening Near Choctaw
Secs 2 & 12, T. 10 N., R. 14 W.
November 2014

BEGIN PROJECT	MID-POINT OF PROJECT	END PROJECT
N35°31'40"		
W92°26'29"		
LATITUDE		
LONGITUDE		

PROJECT LENGTH CALCULATED ALONG C.L. CONSTRUCTION
GROSS LENGTH OF PROJECT 42892.71 FEET OR 8.124 MILES
NET LENGTH OF ROADWAY 42750.11 FEET OR 8.059 MILES
NET LENGTH OF BRIDGES 342.60 FEET OR 0.065 MILES
NET LENGTH OF PROJECT 42892.71 FEET OR 8.124 MILES

P.E.
NOI

Sheet 2 of 4

ADEQ

ARKANSAS
Department of Environmental Quality

March 16, 2012

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

RE: **Public Notice: Re-issuance of Nationwide Permits**

Dear Colonel Masset:

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

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

Therefore, pursuant to §401(a)(1) of the Clean Water Act, the ADEQ hereby issues water quality certification for this project contingent upon the following conditions:

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

Sincerely,



Steve Drown
Chief, Water Division

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

PERMITTEE COMPLIANCE CERTIFICATION

PERMIT NO.: 2002-17609-1 **NWP/S NO.:** 14

PERMITTEE NAME: AHTD

DATE OF ISSUANCE: November 6, 2014

PROJECT MANAGER: Gerald Dickson

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

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

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

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

DATE WORK COMPLETED: _____

SIGNATURE OF PERMITTEE

DATE