

Appendix E: Agency and Tribal Correspondence

Agency Scoping Letters

The following agencies and tribes received copies of the following correspondence letters.

Agencies:

Environmental Protection Agency
Missouri Department of Conservation
Missouri Department of Natural Resources
Natural Resource Conservation Service
State Emergency Management Agency
U.S. Fish and Wildlife Service
Federal Emergency Management Agency

Tribes:

Delaware Tribe of Indians of Oklahoma
Delaware Nation
Eastern Shawnee Tribe of Oklahoma
Shawnee Tribe
Absentee-Shawnee Tribe of Indians of Oklahoma
Osage Nation
Quapaw Tribe of Oklahoma
Cherokee Nation
United Keetoowah Band of Cherokee.

June 25, 2015

<Agency contact information>

Dear,

Subject: Design, Environmental Section
Route 19, Shannon County
National Environmental Policy Act (NEPA) Study for Bridge Location over Sinking
Creek
MoDOT Job No. J9P0438
Invitation to Agency Scoping Meeting

The Federal Highway Administration (FHWA), in cooperation with the Missouri Department of Transportation (MoDOT), is initiating a NEPA study for the location of a bridge over Sinking Creek on Route 19 south of Salem, Missouri. The goal of the project, as currently defined, is to provide a reliable, safe, and cost-efficient Route 19 crossing over Sinking Creek.

MoDOT is currently preparing a NEPA study to document the development of the project as well as the impacts to the social and natural environments. Should the proposed alternatives require any additional environmental study because of significant impacts, appropriate agencies will be notified.

We invite your agency to attend the Route 19 Sinking Creek Bridge Agency Scoping Meeting in Rolla, Missouri on Monday, July 13, 2015. The meeting will be held at 10:00 a.m. in the Silver and Gold Room of the Havener Center at 1346 N. Bishop Avenue. A presentation on the project will be given and agency representatives will be invited to ask questions and provide input on the project. Enclosed are maps depicting the location of the proposed bridge project.



Please notify Mr. Pete Berry, MoDOT Southeast District Project Manager, by July 9, 2015, regarding your agency's representation at the meeting. An accurate count will help us plan appropriately for scoping materials and allow us to notify attendees of any schedule changes. He can be reached by telephone at (417) 469-6242 or by email at Pete.Berry@modot.mo.gov, should you have any questions.

Sincerely,

Gayle Unruh
Environmental and Historic Preservation Manager

Attachments

Copies: Pete Berry,-SE District

Cooperating Agency Letters

Missouri Department of Transportation

Roberta Broecker, Interim-Director

573.751.2551
Fax: 573.751.6555
1.888.ASK MODOT (275.6636)

June 25, 2015

Mr. Larry Johnson
Acting Superintendent
Ozark Nation Scenic Riverways
National Park Service
P.O. Box 490
Van Buren, MO 63965

Dear Mr. Johnson

Subject: Design, Environmental Section
Route 19, Shannon County
National Environmental Policy Act (NEPA) Study for Bridge Location over Sinking
Creek
MoDOT Job No. J9P0438
Cooperating Agency Request/Invitation to Agency Scoping Meeting

The Federal Highway Administration (FHWA), in cooperation with the Missouri Department of Transportation (MoDOT), is initiating a NEPA study for the location of a bridge over Sinking Creek on Route 19 south of Salem, Missouri. The goal of the project, as currently defined, is to provide a reliable, safe, and cost-efficient Route 19 crossing over Sinking Creek. Since the project may involve impacts to the Ozark National Scenic Riverway, and will require Section 4(f) documentation we are requesting the National Parks Service (NPS) to be a cooperating agency.

MoDOT is currently preparing a NEPA study to document the development of the project as well as the impacts to the social and natural environments. Should the proposed alternatives require any additional environmental study because of significant impacts, appropriate agencies will be notified.

We invite your agency to attend the Route 19 Sinking Creek Bridge Agency Scoping Meeting in Rolla, Missouri on Monday, July 13, 2015. The meeting will be held at 10:00 a.m. in the Silver and Gold Room of the Havener Center at 1346 N. Bishop Avenue. A presentation on the project will be given and agency representatives will be invited to ask questions and provide input on the project. Enclosed are maps depicting the location of the proposed bridge project.



Our mission is to provide a world-class transportation experience that delights our customers and promotes a prosperous Missouri.

www.modot.org

Your agency's involvement as a cooperating agency should include those areas under its jurisdiction and expertise, with no direct writing or analysis expected for preparation of the environmental document. We will take the following actions to maximize interagency coordinations:

- 1) Invite you to coordination meetings;
- 2) Consult with you on any relevant technical studies the project requires;
- 3) Provide you with project information, including study results;
- 4) Encourage you to use the above documents to express your agency's views on subjects within its jurisdiction or expertise; and
- 5) Include information in the project environmental documents that your agency needs to discharge its National Environmental Policy Act (NEPA) responsibilities and satisfy the requirements of the Section 404 (b)(1) guidelines and any other requirements regarding jurisdictional approvals, permits, licenses, and/or clearances.

The NPS has the right to expect that the environmental document will enable you to discharge your jurisdictional responsibilities. If at any point in the process your agency's needs are not being met, we need to be informed so steps can be taken to resolve the issue. We expect that at the end of the process the environmental document will satisfy your NEPA requirements including those related to project alternatives, environmental consequences, and mitigation. Further, we intend to use the environmental document and any subsequent decision-making document as the basis for any permit applications.

We look forward to your response to this request and your role as a cooperating agency on this project. Please respond in writing to Mr. Kevin Ward, Division Administrator, Federal Highway Administration, 3220 West Edgewood, Suite H, Jefferson City, Mo 65109 with an acceptance or denial of the invitation to be a cooperating agency by July 17, 2015. If your agency declines, please state your reason for declining the invitation.

Please notify Mr. Pete Berry, MoDOT Southeast District Project Manager, by July 9, 2015, regarding your agency's representation at the meeting. An accurate count will help us plan appropriately for scoping materials and allow us to notify attendees of any schedule changes. He can be reached by telephone at (417) 469-6242 or by email at Pete.Berry@modot.mo.gov, should you have any questions or want to discuss in more detail the project or out agencies' respective roles and responsibilities during the preparation of the environmental document.

Sincerely,

Gayle Unruh
Environmental and Historic Preservation Manager

Attachments

Copies: Pete Berry,-SE District
Joe Strenfel – NPS
Eric Daniels – OSNR
Raegan Ball - FHWA

Missouri Department of Transportation

Roberta Broecker, Interim-Director

573.751.2551

Fax: 573.751.6555

1.888.ASK MODOT (275.6636)

June 25, 2015

Louis Clarke
USACE – Little Rock District
1100 West Main Street
Walnut Ridge, AR 72476

Dear Mr. Clarke

Subject: Design, Environmental Section
Route 19, Shannon County
National Environmental Policy Act (NEPA) Study for Bridge Location over Sinking
Creek
MoDOT Job No. J9P0438
Cooperating Agency Request/Invitation to Agency Scoping Meeting

The Federal Highway Administration (FHWA), in cooperation with the Missouri Department of Transportation (MoDOT), is initiating a NEPA study for the location of a bridge over Sinking Creek on Route 19 south of Salem, Missouri. The goal of the project, as currently defined, is to provide a reliable, safe, and cost-efficient Route 19 crossing over Sinking Creek. Since the project may involve impacts to waters of the U.S. and will require a Section 404 permit we are requesting the U.S. Army Corps of Engineers (USCOE) to be a cooperating agency.

MoDOT is currently preparing a NEPA study to document the development of the project as well as the impacts to the social and natural environments. Should the proposed alternatives require any additional environmental study because of significant impacts, appropriate agencies will be notified.

We invite your agency to attend the Route 19 Sinking Creek Bridge Agency Scoping Meeting in Rolla, Missouri on Monday, July 13, 2015. The meeting will be held at 10:00 a.m. in the Silver and Gold Room of the Havener Center at 1346 N. Bishop Avenue. A presentation on the project will be given and agency representatives will be invited to ask questions and provide input on the project. Enclosed are maps depicting the location of the proposed bridge project.



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- 1) Invite you to coordination meetings;
- 2) Consult with you on any relevant technical studies the project requires;
- 3) Provide you with project information, including study results;
- 4) Encourage you to use the above documents to express your agency's views on subjects within its jurisdiction or expertise; and
- 5) Include information in the project environmental documents that your agency needs to discharge its National Environmental Policy Act (NEPA) responsibilities and satisfy the requirements of the Section 404 (b)(1) guidelines and any other requirements regarding jurisdictional approvals, permits, licenses, and/or clearances.

The USCOE has the right to expect that the environmental document will enable you to discharge your jurisdictional responsibilities. If at any point in the process your agency's needs are not being met, we need to be informed so steps can be taken to resolve the issue. We expect that at the end of the process the environmental document will satisfy your NEPA requirements including those related to project alternatives, environmental consequences, and mitigation. Further, we intend to use the environmental document and any subsequent decision-making document as the basis for any permit applications.

We look forward to your response to this request and your role as a cooperating agency on this project. Please respond in writing to Mr. Kevin Ward, Division Administrator, Federal Highway Administration, 3220 West Edgewood, Suite H, Jefferson City, Mo 65109 with an acceptance or denial of the invitation to be a cooperating agency by July 17, 2015. If your agency declines, please state your reason for declining the invitation.

Please notify Mr. Pete Berry, MoDOT Southeast District Project Manager, by July 9, 2015, regarding your agency's representation at the meeting. An accurate count will help us plan appropriately for scoping materials and allow us to notify attendees of any schedule changes. He can be reached by telephone at (417) 469-6242 or by email at Pete.Berry@modot.mo.gov, should you have any questions or want to discuss in more detail the project or out agencies' respective roles and responsibilities during the preparation of the environmental document.

Sincerely,

Gayle Unruh
Environmental and Historic Preservation Manager

Attachments

Copies: Pete Berry,-SE District
Raegan Ball - FHWA



DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
Walnut Ridge Regulatory Field Office - P.O. BOX 865
WALNUT RIDGE, ARKANSAS 72476-0865
www.swl.usace.army.mil/

REPLY TO
ATTENTION OF:

July 2, 2015

Regulatory Division

Mr. Kevin Ward
Division Administrator
Federal Highway Administration
3220 West Edgewood, Suite H
Jefferson City, Missouri 65109

Dear Mr. Ward:

This is to acknowledge receipt of your letter requesting that the US Army Corps of Engineers (USCOE) be a cooperating agency on the Missouri Department of Transportation (MoDOT) Job No. J9P0438. The USCOE accepts your request that we be a cooperating agency and that the Federal Highway Administration (FHA) will provide the USCOE with the information needed in the evaluation and verification of a Section 404 permit. You requested authorization for the placement of dredged and fill material in waters of the United States associated with the bridge replacement project. The proposed project is located in Sinking Creek, in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of section 7, T. 30 N., R. 4 W., north of Eminence, Shannon County, Missouri. You are hereby advised that no work should be initiated without prior Department of the Army permit authorization from this office.

Before we can process a Department of the Army permit for your project, we will need the following additional information:

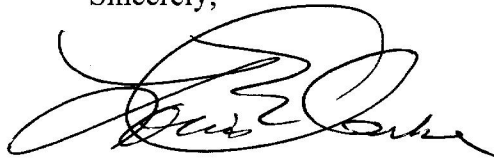
- a. Concurrence from the US Fish & Wildlife Service that no endangered or threatened species will be adversely impacted.
- b. Letter from SHPO stating that no cultural resources will be impacted by the proposed project. The bridge to be replaced, bridge H0079 or the Sinking Creek Bridge, was included on the Missouri Historic Bridge List in 2003 and is evaluated as eligible for the listing on the National Register of Historic Places.
- c. Project information as listed under general condition no. 31 of the nationwide permits (for your information NWP 3 with conditions is attached). If the footprint of permanent impacts exceed $\frac{1}{2}$ acre then a Public Notice process will need to be followed and additional information will be needed. The previously approved temporary crossing must be completely removed after the bridge is replaced, so these impacts do not contribute to the total permanent impacts.

Your request has been assigned No. **SWL-2015-00124-1**. Please reference this number when you write or call us concerning your project. Should you have any questions, please contact me at the address or phone number listed below.

US Army Corps of Engineers
Little Rock District
Regulatory Division
PO Box 867
Little Rock, Arkansas 72203

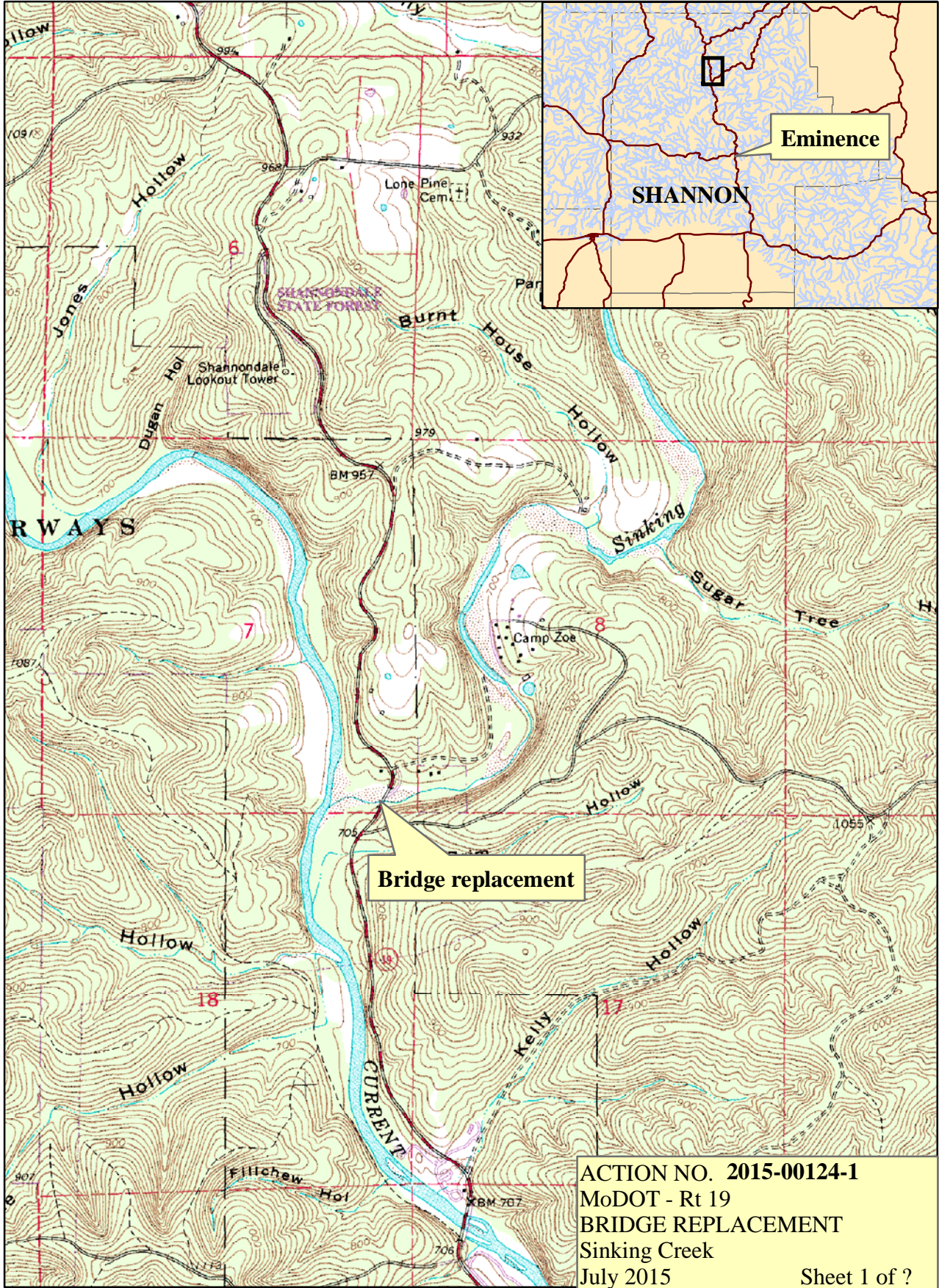
Telephone No. (870) 886-3610

Sincerely,

A handwritten signature in black ink, appearing to read "Louis E. Clarke", written in a cursive style.

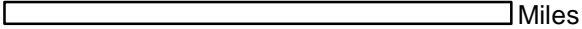
Louis E. Clarke
Project Manager

Enclosures



Bridge replacement

ACTION NO. 2015-00124-1
 MoDOT - Rt 19
 BRIDGE REPLACEMENT
 Sinking Creek
 July 2015
 Sheet 1 of ?



Nationwide Permit No. 3

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

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

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

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

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

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

Nationwide Permit General Conditions:

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

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

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

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

2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life

indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

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

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

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by 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 NHPs.

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

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

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

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

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate

compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

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

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

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

SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

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

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

(a) Discharges of dredged or fill material into waters of the United States are not authorized by 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 NWPs 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 NWPs. 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 NWPs.

(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(1)(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.

Purpose and Need Review Letters

September 22, 2015

Raegan Ball
Program Development Team Leader
FHWA, Missouri Division
3220 West Edgewood, Suite H
Jefferson City, Mo 65109

Dear: Mrs. Ball

Subject: Draft Purpose and Need Review and Initial Range of Alternatives
Shannon County, Missouri
Route 19 Sinking Creek Bridge
Job No. J3P2209

Enclosed for your review are the initial range of alternatives and the draft purpose and need for the proposed project to provide a safe and reliable crossing over Sinking Creek on Route 19, in Shannon County, Missouri. As a co-lead agency, you are asked to comment on the attached documents and provide any comments that your agency may have by October 16, 2015. Your agency's involvement early on in the preparation of the environmental document is greatly appreciated and will aid in avoiding potential permitting or consultation delays.

In addition, a public meeting will be held on October 5, 2015 at the Shannon County Government Office located at 113 Main Street, Eminence, Missouri. At this meeting, the public will be presented with the initial range of alternatives being considered and the need for the proposed project. Comments received at this meeting will be taken into consideration when moving forward with the choice of the preferred alternative.

If you have any questions or need additional information, for engineering or general project concerns, please contact MoDOT's project manager Pete Berry, at (417) 469-6242. For environmental concerns, contact Richard Moore, Environmental Compliance Manager, at (573) 526-2909.

Sincerely,

Gayle Unruh
Environmental and Historic Preservation Manager

Enclosures



September 22, 2015

Mr. Larry Johnson
Superintendent
Ozark Nation Scenic Riverways, National Park Service
P.O. Box 490
Van Buren, MO 63965

Dear: Mr. Johnson

Subject: Draft Purpose and Need Review and Initial Range of Alternatives
Shannon County, Missouri
Route 19 Sinking Creek Bridge
Job No. J3P2209

Enclosed for your review are the initial range of alternatives and the draft purpose and need for the proposed project to provide a safe and reliable crossing over Sinking Creek on Route 19, in Shannon County, Missouri. As a cooperating agency, you are asked to comment on the attached documents and provide any comments that your agency may have by October 16, 2015. Your agency's involvement early on in the preparation of the environmental document is greatly appreciated and will aid in avoiding potential permitting or consultation delays.

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Sincerely,

Gayle Unruh
Environmental and Historic Preservation Manager

Enclosures



OFFICIAL ELECTRONIC MAIL: NO HARD COPY TO FOLLOW

National Park Service
Ozark National Scenic Riverways
404 Watercress Drive
P.O. Box 490
Van Buren, Missouri 63965
(573) 323-4270

1.A.1 (OZAR L76)

October 16, 2015

Gayle Unruh
Environmental and Historic Preservation Manager
Missouri Department of Transportation
105 West Capitol Avenue
P.O. Box 270
Jefferson City, Missouri 65102

Gayle Unruh <Gayle.Unruh@modot.mo.gov>

Dear Ms. Unruh:

Thank you for the opportunity to review and comment on the draft Purpose and Need and the Initial Range of Alternatives for the Proposed Project to provide a safe and reliable crossing over Sinking Creek on Route 19 in Shannon County, Missouri. As you know, this bridge lies in the heart of the Ozark National Scenic Riverways. We are interested in the planning and decision making process as the permanent solution will help us preserve the scenic value, cultural and natural resources, and free-flowing nature of the Ozark National Scenic Riverways.

We offer the following comments as shown by section:

- Chapter 1: Purpose and Need, Why is this Environmental Assessment being prepared?
Please add a sentence toward the end of the paragraph that states “This undertaking is also subject to review as an undertaking under Section 106 of the National Historic Preservation Act. Assessing potential impacts to cultural resources will as part of the decision making process will improve project planning.”
- Chapter 1: Existing Bridge and Roadway.
Please add a sentence about how the bridge is one of three in the surrounding area that could potentially make up a National Register Historic Transportation District.
- Map Showing Alternates.
At this point, we support Initial Alternate 1; Replace the Existing Bridge in Place as it will minimize the impacts on the natural and cultural resources of Ozark National Scenic Riverways.

If you have any questions, please do not hesitate to call Chief of Resource Management Eric Daniels at 573-323-4868.

Sincerely,

A handwritten signature in blue ink that reads "Lawrence E. Johnson". The signature is written in a cursive style with a large, stylized initial "L".

Lawrence E. Johnson
Superintendent

September 22, 2015

Louis Clarke
USACE – Little Rock District
1100 West Main Street
Walnut Ridge, AR 72476

Dear: Mr. Clarke

Subject: Draft Purpose and Need Review and Initial Range of Alternatives
Shannon County, Missouri
Route 19 Sinking Creek Bridge
Job No. J3P2209

Enclosed for your review are the initial range of alternatives and the draft purpose and need for the proposed project to provide a safe and reliable crossing over Sinking Creek on Route 19, in Shannon County, Missouri. As a cooperating agency, you are asked to comment on the attached documents and provide any comments that your agency may have by October 16, 2015. Your agency's involvement early on in the preparation of the environmental document is greatly appreciated and will aid in avoiding potential permitting or consultation delays.

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If you have any questions or need additional information, for engineering or general project concerns, please contact MoDOT's project manager Pete Berry, at (417) 469-6242. For environmental concerns, contact Richard Moore, Environmental Compliance Manager, at (573) 526-2909.

Sincerely,

Gayle Unruh
Environmental and Historic Preservation Manager

Enclosure





DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
Walnut Ridge Regulatory Field Office - P.O. BOX 865
WALNUT RIDGE, ARKANSAS 72476-0865
www.swl.usace.army.mil/

October 2, 2015

REPLY TO
ATTENTION OF:

Regulatory Division

Ms. Gayle Unruh
Environmental and Historic Preservation Manager
Missouri Department of Transportation
PO Box 270
Jefferson City, Missouri 65102

Dear Ms. Unruh:

This is to acknowledge receipt of your request dated September 22, 2015, to provide comments, as a cooperating agency, on your draft purpose and need review and initial range of alternatives. These are in reference to the Route 19 crossing of Sinking Creek. The crossing is located in Sinking Creek, in the SE ¼ of the SE ¼ of section 7, T. 30 N., R. 4 W., north of Eminence, Shannon County, Missouri. You are hereby advised that no work should be initiated without prior Department of the Army permit authorization from this office.

The purpose and need of the project lays out the problem and the public's concern/need to have this addressed. The photos showing the 'bandaid' in the form of a small metal bracket displays the severity of the condition of the existing bridge. Although the temporary structure has improved on the ability of traffic to pass on the bridge; it is a temporary bridge and was not designed as a replacement bridge.

The alternatives presently appear to cover all the possible alignments for Route 19 to cross Sinking Creek at this location. Alternative #2 would use the present temporary crossing alignment. This replacement bridge would have an elevation at least 7 feet higher and likely higher than that, since the locals had indicated that at least on one occasion the water in Sinking Creek had reached the height of the decking material of the old bridge that is closed. However, alternative #2 would require the traffic to again use the closed bridge structure during construction of a new larger bridge along the temporary crossing alignment. Not only would this require a single lane of traffic, but those greater loads would again need to be re-routed since there would still be a load restriction on this structurally deficient and functionally obsolete bridge. Alternative #1A would rehabilitate the old bridge. It might be possible to address the structural aspects, but you can't address the functional obsolescence of the bridge. A big problem was the lane width, especially when two large trucks met each other. The current lane width standard is 12 feet and the old bridge has two lanes that are 9 feet in width. It is also hard to see how a retrofitted bridge can be as strong and provide the same longevity as a new structure would provide. Alternative #4 will impact existing infrastructure at the public camp site west of Route 19 and north of Sinking Creek. Although Camp Zoe is being developed by State Parks, the current public camp sites would provide

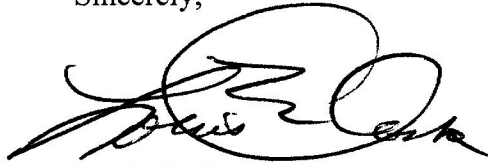
overflow accommodations and alternative camping experiences. Alternative #4 is physically close to the Current River; there is a notch on the east side of the Current River upstream of the public camp area that might be working downstream; if so it will take out the western portion of the public camp area and place the Current River closer to Route 19. Both alternatives #3 and #4 cross lower terrain with a soil type that does have a hydric soil inclusion. There is a greater potential of wetland impacts along alternatives #3 and #4. Only the accomplishment of wetland delineations along the proposed alignments can determine the location and amounts of potential wetland impacts. Also, placing Route 19 through the lower terrain, will likely result in a greater potential of flooding Route 19. Alternatives #3, #4, and #5 will remove habitat for the endangered and threatened bat species. Finally, Alternative #1 which removes and replaces the old bridge in the present Route 19 alignment, would result in less additional impacts to the environment and the general aesthetics of the area. Totally replacing the bridge addresses the functional obsolescence of the structure and provides appropriate passing clearance for large heavy vehicles.

Thank you for this opportunity to provide comments. I hope these help. Your request has been assigned No. **SWL-2015-00124-1**. Please reference this number when you write or call us concerning your project. Should you have any questions, please contact me at the address or phone number listed below.

Louis Clarke
USACE - Little Rock District
1100 West Main Street
Walnut Ridge, Arkansas 72476

Telephone No. (870) 886-3610

Sincerely,

A handwritten signature in black ink, appearing to read 'Louis Clarke', written in a cursive style.

Louis E. Clarke
Project Manager

Tribal Letters

June __, 2015

<tribal contact information>

Dear <tribal contact>:

Subject: Design
Shannon County, Route 19
Job No. J9P0438
Bridge H0079 at Sinking Creek
Initiating Section 106

The Federal Highway Administration, in cooperation with the Missouri Department of Transportation (MoDOT) is initiating the process to prepare a National Environmental Protection Act assessment for the construction of a new crossing at Sinking Creek in Shannon County. The primary purpose of the project is to provide a reliable, safe, and cost-efficient Route 19 crossing over Sinking Creek. Through past consultation with the State Historic Preservation Office on the Sinking Creek Bridge (H0079) it has been determined that it is individually eligible for the National Register of Historic Places and is a contributing element of a larger cultural landscape centered on Route 19. In addition, a previously recorded archaeological site, 23SH97, is located northeast of the bridge in the Ozark National Scenic Riverways' Sinking Creek campground.

Attached are maps showing the location of the proposed roadway improvements to Route 19 in Shannon County and the proposed study limits (i.e., area of potential effects). If your tribe is interested in participating in the Section 106 process for this project please contact me at raegan.ball.dot.gov or (573) 638-2620. Should you or any of your staff have any questions, please contact Mike Meinkoth, MoDOT Historic Preservation Manager, at michael.meinkoth@modot.mo.gov or (573) 526-3593.

Sincerely,

Raegan Ball
Program Development Team Leader

Attachments

Copies: Dr. Toni Prawl – MDNR
Mr. Michael Meinkoth – MoDOT

Michael Meinkoth

From: Brice Obermeyer <bobermeyer@delawaretribe.org>
Sent: Tuesday, June 21, 2016 4:51 PM
To: Michael Meinkoth
Subject: Job # J9PO38, Sinking Creek Bridge, Shannon County

Dear Michael,

Thank you for sending the survey report for the above reference project. I am sending an email instead of formal correspondence in order to tailor my response to address this specific project. I have reviewed the report and appreciate the thoroughness to which it documented the presence of sites 23SH97 and 23SH1566 along the Current River. As the prehistoric and historic components appear to represent occupations that are either earlier or later than the Delaware Tribe's presence in the Current River valley, the Delaware Tribe does not have any particular objection to any of the three alternatives. Although we do always want to protect archaeological resources, we are not against the possibility of further mitigation to either archaeological site and attach no cultural or religious significance to the Sinking Creek Bridge. As such we will defer to the recommendations of the other tribes that have a more clear connection to the prehistoric archaeological sites in the region.

Sincerely,
Brice Obermeyer
Delaware Tribe Historic Preservation Office
Roosevelt Hall, Rm 212
1 Kellog Drive
Emporia, KS 66801

JUN 29 2015



Delaware Tribe Historic Preservation Office

1 Kellogg Circle
Roosevelt Hall, RM 212
Emporia State University
Emporia, KS 66801
(620) 341-6699

bobermeyer@delawaretribe.org

June 23, 2015

U.S. Department of Transportation
Federal Highway Administration
Attn: Raegan Ball
3220 W. Edgewood, Suite H
Jefferson City, MO 65109

Re: Shannon County, Route 19
Job # J9P0438; Bridge H0079 at Sinking Creek

Dear Raegan Ball,

Thank you for providing the report documenting the location of the archaeological site during the planning for the above referenced project. We agree that the site should either be avoided or further investigated if it will be impacted by the construction project and we look forward to reviewing the results of any archaeological survey that is potentially performed. However, our review does indicate that there are no religious or culturally significant sites in the proposed project area and we have no objection to the proposed project.

We do ask that if any human remains are accidentally unearthed during the course of the project that you cease development immediately and inform the Delaware Tribe of Indians of the inadvertent discovery.

If you have any questions, feel free to contact this office by phone at (620) 340-0111 or by e-mail at bobermeyer@delawaretribe.org.

Sincerely,

A handwritten signature in cursive script that reads "Brice Obermeyer".

Brice Obermeyer
Delaware Tribe Historic Preservation Office
1 Kellogg Drive
Roosevelt Hall, Rm 212
Emporia State University
Emporia, KS 66801



JUL 20 2015

TRIBAL HISTORIC PRESERVATION OFFICE

Date: July 16, 2015

File: 1415-1776MO-6

RE: MODOT Route 19 Bridge H0079 at Sinking Creek Job No. J9P0438 in Shannon Co, MO


Missouri Department of Transportation
Raegan Ball
3220 W Edgewood, Suite H
Jefferson City, MO 65109

Dear Ms. Ball,

The Osage Nation Historic Preservation Office has received notification and accompanying information for the proposed project listed as MODOT Route 19 Bridge H0079 at Sinking Creek Job No. J9P0438 in Shannon County, MO. This office looks forward to reviewing the final report.

Should you have any questions or need any additional information, please feel free to contact me at the number listed below. Thank you for consulting with the Osage Nation on this matter.

Sincerely,



Jackie Rodgers
Archaeologist



TRIBAL HISTORIC PRESERVATION OFFICE

Date: August 8, 2016

File: 1516-895MO-10

RE: MODOT Project J9P0438 Rte 76 Bridge Replacement for Sinking Creek Bridge (Bridge H0079) in Shannon County, MO

FHWA - Missouri
Reagan Ball
3220 W Edgewood, Suite H
Jefferson City, MO 65109

Dear Ms. Ball,

The Osage Nation Historic Preservation Office has received notification and accompanying information for the proposed project listed as MODOT Project J9P0438 Rte 76 Bridge Replacement for Sinking Creek Bridge (Bridge H0079) in Shannon County, MO. The Osage Nation Historic Preservation Office concurs that further testing be conducted on sites 23ST97 and 23SH1566 if an alternative is chosen that will involve ground disturbance at either site. The Osage Nation further requests that locations for borrow pits and staging areas be surveyed for cultural resources. Although none of the alternatives avoid adversely affecting the current bridge, it is recommended that the design for the new bridge reflect the original to mitigate adversely affecting the Three Bridges Historical District as much as possible.

In accordance with the National Historic Preservation Act, (NHPA) [16 U.S.C. 470 §§ 470-470w-6] 1966, undertakings subject to the review process are referred in S101 (d)(6)(A), which clarifies that historic properties may have religious and cultural significance to Indian tribes. Additionally, Section 106 of NHPA requires Federal agencies to consider the effects of their actions on historic properties (36 CFR Part 800) as does the National Environmental Policy Act (43 U.S.C. 4321 and 4331-35 and 40 CFR 1501.7(a) of 1969).

Should you have any questions or need any additional information, please feel free to contact me at the number listed below. Thank you for consulting with the Osage Nation on this matter.

Jackie Rodgers
Archaeologist

Michael Meinkoth

From: raegan.ball.dot.gov
Sent: Wednesday, July 01, 2015 12:18 PM
To: Michael Meinkoth
Cc: Roopa.Banerjee@dot.gov
Subject: FW: Route 19, SInking Creek in Shannon County, MO

FYI

Raegan Ball
Program Development Team Leader
FHWA, Missouri Division
573-638-2620

-----Original Message-----

From: Lisa LaRue-Baker - UKB THPO [<mailto:ukbthpo-larue@yahoo.com>]
Sent: Wednesday, July 01, 2015 12:14 PM
To: Ball, Raegan (FHWA)
Cc: ebird@unitedkeetoowahband.org
Subject: Route 19, Sinking Creek in Shannon County, MO

The United Keetoowah Band of Cherokee Indians in Oklahoma has reviewed your project under Section 106 of the NHPA, and at this time, have no comments or objections. However, should any human remains be inadvertently discovered, please cease all work and contact us immediately. In addition, the UKB reserves the right to re-enter consultation at any time on this project.

Thank you,

Lisa C. Baker
Acting THPO
United Keetoowah Band of Cherokee Indians in Oklahoma PO Box 746 Tahlequah, OK 74465

c 918.822.1952
ukbthpo-larue@yahoo.com

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