

BIOLOGICAL STUDIES TRACKING FORM

NEPA Project Manager	Kirsten McCullough / Kathy Koon
State or Local Government Project	State
USFWS Project Code #	02EKOK00-2022-SLI-0399
Original IPaC List	11/30/2021
Email used to request IpaC official species list	OKBiologist@GarverUSA.com
Last Updated Species List Date	Click here to enter a date.
ROW	2025
Let Date	None provided
90 Day Prior to Let IpaC List	Click here to enter a date.
Duration expected	Click here to enter text.
Original Biological Assessment and Waters and Wetlands Report Prepared By:	Garver
Most Recent Field Date:	12/2/2021
Original Report Date:	2/4/2022
USFWS Consultation Submittal:	2/18/2022
USFWS Concurrence:	2/22/2022
Original Tracking Form Prepared by:	Elizabeth Nichols
Original Tracking Form date:	2/22/2022
Update Reason	Click here to enter text.
Updated By Whom:	Click here to enter text.
Amended USFWS Consultation Submittal:	Click here to enter a date.
Amended USFWS Concurrence:	Click here to enter a date.
Tracking Form Updated By Whom:	Click here to enter text.
Tracking Form Updated Date:	Click here to enter a date.
<i>ADD MORE LINES AS NEEDED FOR EACH TIME PROJECT IS UPDATED</i>	

Form Date: October 2021

Project Name from Oracle

US-70 Over Lake Texoma (Roosevelt Bridge)

Project Description

Bridge and Approaches or bridge widening/structure extension

Check if any of the following is expected as part of the proposed action

- Work within the OHWM is expected
- Project is OFF-SET alignment
- Project is NEW alignment
- Project involves **NO OFF EXISTING PAVEMENT** work
- Project requires new ROW (permanent &/or temporary)

2. FEDERALLY LISTED SPECIES AND DESIGNATED CRITICAL HABITAT

Species	Listing Status	IPaC	Effect Determination for IPaC listed species
		Check if Yes	
Red-cockaded Woodpecker	Endangered	<input type="checkbox"/>	Choose an item.
Whooping Crane	Endangered	<input checked="" type="checkbox"/>	May Affect, Not likely to adversely affect
Gray Bat	Endangered	<input type="checkbox"/>	Choose an item.
Indiana Bat	Endangered	<input type="checkbox"/>	Choose an item.
Ozark Big-eared Bat	Endangered	<input type="checkbox"/>	Choose an item.
Neosho Mucket	Endangered	<input type="checkbox"/>	Choose an item.
Ouachita Rock Pocketbook	Endangered	<input type="checkbox"/>	Choose an item.
Scaleshell Mussel	Endangered	<input type="checkbox"/>	Choose an item.
Winged Mapleleaf	Endangered	<input type="checkbox"/>	Choose an item.
Harperella	Endangered	<input type="checkbox"/>	Choose an item.
American Burying Beetle	Threatened	<input checked="" type="checkbox"/>	Final Effect Analysis and Determination covered in the BO for the final 4(d) rule
Eastern Black Rail	Threatened	<input type="checkbox"/>	Choose an item.
Piping Plover	Threatened	<input checked="" type="checkbox"/>	May Affect, Not likely to adversely affect
Red Knot	Threatened	<input checked="" type="checkbox"/>	May Affect, Not likely to adversely affect
Northern Long-eared Bat	Threatened	<input type="checkbox"/>	Choose an item
Arkansas River Shiner	Threatened	<input type="checkbox"/>	Choose an item.
Leopard Darter	Threatened	<input type="checkbox"/>	Choose an item.
Neosho Madtom	Threatened	<input type="checkbox"/>	Choose an item.
Ozark Cavefish	Threatened	<input type="checkbox"/>	Choose an item.
American Alligator	Threatened	<input type="checkbox"/>	Choose an item.
Rabbitsfoot Mussel	Threatened	<input type="checkbox"/>	Choose an item.
Monarch Butterfly	Candidate	<input checked="" type="checkbox"/>	Not likely to jeopardize the continued existence
Rattlesnake-master Borer Moth	Candidate	<input type="checkbox"/>	Choose an item.
Peppered Chub	Proposed	<input type="checkbox"/>	Choose an item.
Whooping Crane Critical Habitat	Designated	<input type="checkbox"/>	Choose an item.
Arkansas River Shiner Critical Habitat	Designated	<input type="checkbox"/>	Choose an item.
Leopard Darter Critical Habitat	Designated	<input type="checkbox"/>	Choose an item.
Neosho Mucket Critical Habitat	Designated	<input type="checkbox"/>	Choose an item.
Rabbitsfoot Critical Habitat	Designated	<input type="checkbox"/>	Choose an item.
Peppered Chub Critical Habitat	Proposed	<input type="checkbox"/>	Choose an item.

	NEPA Footprint	Construction Footprint
Number of acres within the NEPA Study Footprint & Construction Footprint (if known)	404	Click here to enter text.
Number of acres of perennial plant vegetation (ABB habitat) within the NEPA & Construction Footprints (if known)	104.8	Click here to enter text.

ABB Conservation Lands adjacent	NO
Presence of milkweed and nectar plants	YES

Bald Eagle Assessment	May impact
Migratory Bird Assessment of Transportation Structures	Migratory birds found nesting on transportation structures
Migratory Bird Impacts	nesting habitat for migratory birds will be impacted
Birds of Conservation Concern	Listed BCC may be impacted
Interior Least Tern (MBTA)	No nesting habitat impacted

<u>Species (choose those that apply)</u>	<u>Seasonal Restriction Period</u>
Bald Eagle	September 16 – May 31
Migratory Birds: Swallows and Phoebe (NESTS PRESENT)	March 1 – August 31

Conservation Commitments

ODOT Commitment: All operators, employees, and contractors will be made aware of all environmental commitments, including the following Plan Notes.

ABB Commitment: Minimize habitat loss by reducing the amount of ground disturbance of suitable ABB habitat within the construction footprint to only what is necessary for project construction and document in the monitoring reports to the Service. Following construction, areas of ground disturbance outside of the safety clear zone will be revegetated with native plant species where applicable and practicable. Areas where revegetation with native plant species is not practicable will be revegetated with more traditional plantings such as solid slab sodding.

Monarch Commitment: ODOT, as a Certificate of Inclusion partner in the Nationwide Monarch Butterfly CCAA for Energy and Transportation lands, will adhere to the conservation measures, as well as minimize threats to the monarch butterfly as stipulated in this CCAA.

Tree Removal Minimization Commitment: In order to avoid impacts to tree nesting USFWS Birds of Conservation Concern, the removal of trees and shrubs will be restricted to areas within the actual limits of construction, and all aspects of the project (e.g. temporary work areas, alignments) will be modified to avoid tree removal, if possible, during the design of the project. Tree removal will be limited to that specified in the project plans provided to contractors.

Species Plan Notes

Non-Compliance: Failure to implement the commitments specified in the Plan Notes can result in non-compliance issues on the project. Work activities may be suspended on the project, for an undetermined duration, while working with regulators to bring the project back into compliance. The contractor will not be compensated for time lost.

Water Quality Conservation: Appropriate Best Management Practices to minimize impacts from storm water discharges and sedimentation in streams, as established by the Oklahoma Department of Environmental Quality, shall be conscientiously implemented throughout the proposed construction periods, in order to minimize any potential impacts to any listed species. The effectiveness of erosion controls shall be maintained for the duration of construction activities. Hazardous materials, chemicals, fuels, lubricating oils, and other such substances shall be stored at least 100 feet outside of the ordinary high water mark (OHWM). Refueling of construction equipment shall also be conducted at least 100 feet from the OHWMs. Sediment and erosion controls shall be installed around staging areas to prohibit discharge of materials from these sites. Construction waste materials and debris shall be stockpiled at least

25 feet outside of the OHWMs, and these materials shall be removed and disposed of properly following completion of the project. Preventative measure must be taken to prohibit the discharge of contaminants into any surface waters.

American Burying Beetle Note: The American Burying Beetle is a large carrion burying beetle that occurs within the project limits. Artificial lighting may be used during construction for night activities if the equipment specifications outlined in Special Provision 656-5(a-b)19 for ABB are adhered to and measures to minimize use of artificial lighting have been implemented. Carcasses and all food trash shall continuously be removed from the permanent and temporary right-of-way throughout the duration of project activities. Pollution Prevention Requirements as specified by the Oklahoma Department of Environmental Quality General Permit OKR10 for Storm Water Discharges shall be implemented when appropriate. Additionally, all equipment will be fueled, and all fuel and motor vehicle oil will not be stored within areas of native vegetation (ie. outside of ABB habitat).

Whooping Crane Plan Note: If Whooping Cranes are seen at or within one mile of the proposed work site, the Resident Engineer shall immediately contact the ODOT Biologist. If there is a confirmed sighting and/or Whooping Cranes are observed within one mile of the proposed work site, all construction activities shall cease until it is determined that Whooping Cranes have left the project vicinity without being harassed.

Bald Eagle Note: Suitable nesting, roosting or foraging habitat for the Bald Eagle occurs within the project's action area. The Bald Eagle nesting season in Oklahoma extends from September 16, through May 31. The Resident Engineer shall contact the ODOT Biologist to schedule a nest survey. Nest search surveys can only be conducted when leaves are not on the trees typically between December 1st and February 28th. No work may occur within suitable Bald Eagle habitat, located the full extent of the project area, during the nesting season (September 16, through May 31) until the completion of the survey by the ODOT Biologist. If nests are observed, a no-work buffer up to a distance of 660 feet shall be placed around the nest. The exact distance of the buffer zone shall be established by the ODOT Biologist in consultation with US Fish and Wildlife Services. If the buffer cannot be maintained, all clearing, external construction and landscaping activities, within the buffer, shall be conducted between June 1 and September 15 (outside the nesting season).

Migratory Bird Note: Migratory birds are protected by the federal Migratory Bird Treaty Act. Many birds commonly use bridges and culverts for nesting. The nesting season for most migratory bird species extends from March 1 to August 31. Migratory bird nesting use of the Roosevelt Bridge (NBI:10965) was observed. Painting, repair, retrofit, rehabilitation or demolition of the existing bridge shall be conducted between September 1, and February 28, when migratory bird nests are not occupied. If painting, repair, retrofit, rehabilitation or demolition cannot be completed between September 1 and February 28, the bridge shall be protected from new nest establishment prior to March 1, by means that do not result in bird death or injury. Options include the exclusion of adult birds from suitable nest sites on or within a structure by the placement of weather-resistant polypropylene netting with 0.25-inch or smaller openings, prior to March 1. Methods other than netting must be pre-approved by the ODOT Biologist.

Although no nests were observed on all other structures, the birds may occupy the structures in the future. The Resident Engineer shall contact the ODOT Biologist if any bird use of these structures is observed. If birds are observed then painting, repair, retrofit, rehabilitation or demolition of the existing bridge and culverts shall be conducted between September 1, and February 28 (when migratory bird nests are not occupied).

Waters and Wetlands Delineation Status

Original delineation

Wetlands and Ponds

Total Number of Sites	Water Body Type	Potential Jurisdiction Status	Acres within the NEPA Footprint
6	Scrub Shrub Wetland	Likely Jurisdictional	3.3
2	Lake	Likely Jurisdictional	217.25
Total Wetlands			220.55

Streams and Drainages

Total Number of sites	Water body name	USGS Designation	Potential Jurisdictional Status	Acres within the NEPA Footprint	Liner Feet within the NEPA Footprint
1	Tributary to Lake Texoma	mapped perennial	Likely Jurisdictional	0.06	267
1	Tributary to Lake Texoma	unmapped intermittent	Likely Jurisdictional	0.02	136
4	Tributaries to Lake Texoma	unmapped ephemeral drainages	Likely Jurisdictional	587.003	636
Total Likely Jurisdictional				587.083	1,039

Nichols, Elizabeth

From: Goins, Cassandra M <kassandra_goins@fws.gov>
Sent: Tuesday, February 22, 2022 1:01 PM
To: Nichols, Elizabeth
Cc: Echo-Hawk, Patricia; Amber McIntyre; Vonceil Harmon
Subject: Re: [EXTERNAL] 02EKOK00-2022-SLI-0399 ODOT Bryan-Marshall JP 33873(04) Consultation Review Package

Hello Liz,

The Service has reviewed consultation package 02EKOK00-2022-SLI-0399 ODOT Bryan-Marshall JP 33873(04).

Based on the information provided, the project will occur within the range of the American burying beetle (*Nicrophorus americanus*; ABB) and you have concluded that the project may affect the species. The Service agrees with this determination. Any take that may occur as a result of the project is not prohibited under the Endangered Species Act of 1973 (Act; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), Section 4(d) rule adopted for this species at 50 CFR 17.47(d) (85 FR 65241). The Service asks that the conservation measures as articulated in the assessment, and in conjunction with the guidelines set forth by the Federal Highway Administration, be implemented and maintained.

Additionally, you have concluded that the project may affect, but is not likely to adversely affect the endangered whooping crane (*Grus americana*). The Service concurs with the determination. The Service asks that the conservation/mitigation measures as articulated in the assessment, and in conjunction with the guidelines set forth by the Federal Highway Administration, be implemented and maintained.

You have further determined that the project may affect, but is also not likely to adversely affect the threatened piping plover (*Charadrius melodus*) and red knot (*Calidris canutus rufa*). The Service concurs with the determination. The Service asks that the conservation/mitigation measures as articulated in the assessment, and in conjunction with the guidelines set forth by the Federal Highway Administration, be implemented and maintained.

This project is also within the range of three Birds of Conservation Concern, which are known to breed in Oklahoma. The Service asks that all avoidance of impacts to this species be implemented in accordance with the direction set forth by the Federal Highway Administration.

Additionally, based on the reported presence of migratory birds/nests on structures involved in this project, the Services asks that ODOT proceed in conjunction with guidance set forth by the Federal Highway Administration to avoid and minimize potential impacts to migratory birds, nests, and/or eggs.

In order to avoid impacts to Bald Eagles, as Bald Eagles or their habitat have been observed during the biological assessment, a survey for eagles and their nests will be conducted within 660 feet of the work zone, during the winter prior to, and within one year of, the start of construction. If a nest is found, appropriate conservation measures based on the National Bald Eagle Management Guidelines will be implemented.

The Service also recommends ODOT/FHWA replace box culverts with structures that are fish passage friendly, as suggested in the Service email to ODOT dated 8/16/2021. This applies to project culverts (being demolished, repaired, retrofitted, maintained or rehabilitated) along perineal or intermittent streams still providing habitat to native fish species.

The online project review concurrence letter signed by the Field Supervisor is now valid, and the project may proceed accordingly. The Service asks that, within 90 days prior to construction, a new species list be obtained to see if any changes have occurred. If changes have occurred, please verify with the Oklahoma Ecological Services Field Office to determine if further consultation is needed. If you have any questions, please contact the Field Office.

Sincerely,

Kasey Goins

Fish & Wildlife Biologist (T&E Species)
U.S. Fish and Wildlife Service
Oklahoma Ecological Services Field Office



9014 E. 21st St.
Tulsa, OK 74129
[561.603.0556](tel:561.603.0556)

From: Goins, Cassandra M <kassandra_goins@fws.gov> on behalf of OK Project Review, FWS <OKProjectReview@fws.gov>
Sent: Friday, February 18, 2022 2:04 PM
To: Goins, Cassandra M <kassandra_goins@fws.gov>
Subject: Fw: [EXTERNAL] 02EKOK00-2022-SLI-0399 ODOT Bryan-Marshall JP 33873(04) Consultation Review Package

From: Nichols, Elizabeth <elizabeth.nichols@ou.edu>
Sent: Friday, February 18, 2022 6:16 PM
To: OK Project Review, FWS <OKProjectReview@fws.gov>
Cc: Amber McIntyre <amcintyre@odot.org>
Subject: [EXTERNAL] 02EKOK00-2022-SLI-0399 ODOT Bryan-Marshall JP 33873(04) Consultation Review Package

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Elizabeth Nichols
Assistant Manager, Natural Resources Program
Oklahoma Department of Transportation
Oklahoma Biological Survey
111 E. Chesapeake
Norman, OK 73019
405.325.6802 (office)
elizabeth.nichols@ou.edu
enichols@odot.org



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Oklahoma Ecological Services Field Office
9014 East 21st Street
Tulsa, OK 74129-1428
Phone: (918) 581-7458 Fax: (918) 581-7467
<http://www.fws.gov/southwest/es/Oklahoma/>

In Reply Refer To:
Project code: 2022-0010362
Project Name: Bryan & Marshall Counties JP 33783(04)

February 18, 2022

Subject: Verification letter for 'Bryan & Marshall Counties JP 33783(04)' project under the October 15, 2020, Programmatic Biological Opinion on Final 4(d) Rule for the American burying beetle and Activities Excepted from Take Prohibitions (50 CFR § 17.47(d), Federal Register Citation 85 FR 65241).

Dear Elizabeth Nichols:

The U.S. Fish and Wildlife Service (Service) received on **February 18, 2022** your effect determination(s) for the 'Bryan & Marshall Counties JP 33783(04)' (the Action) using the American burying beetle (*Nicrophorus americanus*) determination key within the Information for Planning and Consultation (IPaC) system.

This determination key assists users in determining whether a Federal action is consistent with the activities analyzed in the Service's October 15, 2020, Programmatic Biological Opinion (PBO). The PBO addresses activities excepted from incidental "take"^[1] prohibitions applicable to the American burying beetle under the Endangered Species Act of 1973 (Act) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based upon your IPaC submission, the Action is consistent with activities analyzed in the PBO. The Action may affect the American burying beetle; however, any incidental take that may occur as a result of the Action is not prohibited under the Act Section 4(d) rule adopted for this species at 50 CFR §17.47(d). **Unless the Service advises you within 30 days of the date of this letter that your IPaC-assisted determination was incorrect, this letter verifies that the PBO satisfies and concludes your responsibilities for this Action under Act Section 7(a)(2) with respect to the American burying beetle.**

Please report any changes to the information about the Action that you submitted in IPaC, the results of any American burying beetle surveys conducted in the Action area, and any dead, injured, or sick American burying beetles that are found during Action implementation. If the Action is not completed within one year of the date of this letter, you must update and resubmit the information required in the IPaC key.

This IPaC-assisted determination allows you to rely on the PBO for compliance with Act Section 7(a)(2) only for the American burying beetle.

[1]Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (Act, Section 3(19)).

This letter covers only the American burying beetle. It **does not** apply to the following ESA-protected species that also may occur in the Action area:

- Monarch Butterfly *Danaus plexippus* Candidate
- Piping Plover *Charadrius melodus* Threatened
- Red Knot *Calidris canutus rufa* Threatened
- Whooping Crane *Grus americana* Endangered

If your project may affect additional listed species, you must evaluate additional DKeys for other species, or submit a request for consultation for the additional species to your local Ecological Services Field Office.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

Bryan & Marshall Counties JP 33783(04)

2. Description

The following description was provided for the project 'Bryan & Marshall Counties JP 33783(04)':

The existing bridge on US-70 over Lake Texoma is 24 feet wide carrying two 12-foot lanes with a 38-foot wide approach roadway. The bridge itself is 4,943 feet long, and transitions to a causeway approximately 2.8 miles long. Also known as the Roosevelt Bridge, the existing bridge has been determined eligible for inclusion in the National Register of Historic Places (NRHP) under Criteria A and C. The bridge is the only example of a Warren with polygonal top chord truss bridge in Oklahoma. Current average annual daily traffic (AADT) is 8,000 vehicles per day (vpd), with a projected AADT of 11,200 vpd in 2039. This volume is anticipated to exceed the capacity of the two-lane roadway. The sufficiency rating of the bridge is 42.3 and the bridge is considered at risk of becoming structurally deficient. The bridge is also considered fracture critical. The bridge is classified as functionally obsolete due to the narrow width and lack of shoulders. There were 47 documented collisions on the bridge and approaches between 2014 and 2020, 29 of which occurred on the bridge. The length of the bridge combined with the lack of shoulders means that vehicles have no room to maneuver or stop in the event of an emergency. Collisions can be difficult for emergency responders to reach and cause significant congestion.

The project area is primarily owned and under the jurisdiction of the US Army Corps of Engineers (USACE), Tulsa District. Lake Texoma is a USACE recreational and flood control facility, and is also classified as navigable under the Rivers and Harbors Act. The USACE also owns the majority of land from the east side of the bridge to the end of the project at Willow Springs. West of the bridge, lands are owned both privately and by the Choctaw Nation. Much of the area west of the bridge is encompassed by Lake Texoma State Park, which is managed by the Oklahoma Tourism and Recreation Department. The purpose of the project is to correct the at-risk bridge, accommodate future traffic volumes, and improve safety.

The existing bridge is eligible for inclusion in the NRHP and is protected by Section 4(f) of the Department of Transportation Act, which dictates the bridge may not be used, or adversely affected, unless there is no feasible or prudent alternative. ODOT will analyze alternatives that will improve the bridge while maintaining its historic integrity, per the FHWA Programmatic Section 4(f) Evaluation for the Use of Historic Bridges. These alternatives include doing

nothing, rehabilitating the existing bridge, and building a new bridge in a new location while preserving the existing bridge as either half of a one-way pair, a pedestrian and/or bicycle facility, or as a historic monument. Until that analysis is complete, it is unknown if the bridge will be repaired or replaced and if replaced, if it will be on existing alignment or a new alignment. It is likely that new right-of-way (or easement) will be required regardless of the alternative selected. Due to the length of the detour if the bridge were closed, any plan to improve the bridge will keep US-70 open to traffic during construction.

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@33.99999875,-96.60554145936317,14z>



Qualification Interview

1. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

2. Have you determined that the proposed action will have “no effect” on the American burying beetle? (If you are unsure select "No")

No

3. Will your activity **purposefully take** American burying beetles?

No

4. Is your project wholly inside the 4d rule Analysis Area? For areas of your project occurring inside the Analysis Area (New England, Northern Plains, Southern Plains), your project may qualify for exemptions. For areas of your project occurring outside the Analysis Area, all incidental take is exempted according to the ABB 4d Rule.

Automatically answered

No

5. Is American burying beetle [suitable habitat](#) present within the action area?

Yes

6. Will suitable habitat be affected by the proposed action? Suitable habitat may be impacted if the action involves soil disturbance, use of vehicles or heavy equipment, artificial lighting, vegetation removal, use of herbicides, pesticides, other hazardous chemicals.

Yes

Project Questionnaire

Please select the activity that best matches your proposed action.

8. Soil disturbance related to road construction and maintenance

If you chose 13 above, please describe below. If you did not choose 13 above, please type "0".

0

Estimate the total acres of suitable American burying beetle habitat that may be affected.

104.8

Please estimate the total number of acres of **temporary impacts** to American burying beetle habitat. See definitions

104.8

Please estimate the total number of acres of **permanent impacts** to American burying beetle habitat. See definitions

104.8

IPaC User Contact Information

Name: Elizabeth Nichols
Address: 111 E. Chesapeake St.
City: Norman
State: OK
Zip: 73019
Email: elizabeth.nichols@ou.edu
Phone: 4053256802

August 2015



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Division of Ecological Services
9014 East 21st Street
Tulsa, Oklahoma 74129
918/581-7458 / (FAX) 918/581-7467



Online Project Review Concurrence Letter

To:

Project Name:

'Eqpuwncvkqp'Eqf g<

Dear Applicant:

Thank you for using the U.S. Fish and Wildlife Service (Service) Oklahoma Ecological Services Field Office (ESFO) online project review process. By providing this letter in conjunction with your complete project review package, you are certifying that you have accurately completed the online project review process for the referenced project in accordance with all instructions provided, using the best available information to reach your conclusions. Concurrence with “not likely to adversely affect” determinations does not provide any exemption for violations of section 9 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended (ESA) or “take” of federally-listed species. The Federal action agency is ultimately responsible for ensuring compliance with the ESA and any take that occurs due to your proposed action would be considered a violation under section 9 of the ESA.

This letter and the enclosed project review package complete the review of your project in accordance with the ESA. This letter also provides information for your project review under the National Environmental Policy Act (National Environmental Policy Act of 1969 (P.L. 91-190, 42 U.S.C.4321-4347, 83 Stat. 852), as amended.

A copy of this letter and the project review package must be emailed to **okprojectreview@fws.gov** for this certification to be valid. This letter and the project review package will be maintained in Service records. **Please allow the Oklahoma ESFO 60 days to review your information. If the Oklahoma ESFO determines that the package is not complete, or that additional coordination is necessary, we will contact your office. If, after 60 days from the date of your email submittal of your project review package, the Oklahoma ESFO has not contacted your office, consider your section 7 consultation complete.**

The proposed action consists of:

Project start and completion dates:

Federal agency or federal program providing a permit, funding, grant, authorization, loan, etc. associated with the proposed project and how that agency is associated with your project:

Federal Agency/Program Point of contact (Name, phone, and email address):

The species conclusions table in the enclosed project review package summarizes your ESA conclusions. These conclusions resulted in “not likely to adversely affect/modify” determinations for listed species and critical habitat in relation to potential effects of your proposed project. We certify that the use of the online project review process in strict accordance with the instructions provided as documented in the enclosed project review package results in reaching the appropriate determinations. Therefore, we concur with determinations of “not likely to adversely affect” for listed species and critical habitat reached by proper use of this process. For projects where this particular determination is reached, additional coordination with this office is not needed.

Candidate species are not legally protected pursuant to the ESA. However, the Service encourages efforts to avoid or minimize adverse impacts to them from project effects. Some federal agencies have standing policies that grant limited protections to candidate species. Conservation of candidate species now may preclude future needs to federally list them as endangered or threatened, at which point their legal protection would become required. Please contact this office for additional coordination if your project action area contains candidate species.

Should project plans change or if additional information on the distribution of listed species or critical habitat becomes available, this determination may be reconsidered. You should re-visit the Service's Information, Planning, and Conservation (IPaC) website at <http://ecos/fws.gov/ipac/> within 90 days of project initiation to ensure species information is correct. If new species or critical habitat is identified, this letter is no longer valid and a new project package should be submitted to the Oklahoma ESFO.

Information about the online project review process including instructions and use, species information, and other information regarding project reviews within Oklahoma is available at our website: <<http://www.fws.gov/southwest/es/oklahoma/>>. If you have any questions, please call 918-581-7458 or send an email message to OKProjectReview@fws.gov.

Sincerely,
/s/ Jonna Polk
Field Supervisor
Oklahoma Ecological Services Field Office

Enclosures:

- 1) ENTIRE PROJECT REVIEW
PACKAGE: Species Conclusion Table
IPaC Species List and Action Area map
This letter (Online Concurrence Letter)
(Optional) Additional maps
- 2) Other relevant project data/documents

**ENDANGERED, THREATENED AND CANDIDATE SPECIES, DESIGNATED
CRITICAL HABITAT, BALD EAGLE, AND MIGRATORY BIRD ASSESSMENTS**

For

USFWS TAILS #		02EKOK00-2022-SLI-0399			
Email used to request IPaC official species list			OKBiologist@GarverUSA.com		
County		JP Number	33873(04)	Project Number	J3-3873(004)
Road Number	US-70	Water Body Name		Lake Texoma	
ROW Date		Let Date	Not programmed	Project Length	4.45 Miles
Project General Location		5 miles east of Kingston, and 10 miles west of Durant, OK			
Project Description & Statement From Oracle		Bridge and Approaches on US-70 Over Lake Texoma (Roosevelt Bridge)			

Prepared for:
Oklahoma Department of Transportation
Environmental Programs Division
200 NE 21st Street
Oklahoma City, OK 73105

Prepared by:

Biologist Name	Megan Philips-Schaap
Company/Agency Name	Garver
Address	6100 S. Yale Avenue, Suite 1300
City, State Zip	Tulsa, Oklahoma 74136

Report Date:	February 4, 2022
Field Survey Date	December 1-2, 2021
Field Survey Biologist(s)	Megan Philips-Schaap & Lacey Stanley

Form Date: October 2021

1. PROJECT OVERVIEW

1.1 Federal Nexus

This biological assessment, prepared by the above named Company/Agency for the Oklahoma Department of Transportation (ODOT), addresses the above named project in compliance with Section 7(c) of the Endangered Species Act (ESA) of 1973, as amended. Section 7 of the ESA requires that, through consultation with the U.S. Fish and Wildlife Service (Service), federal actions do not jeopardize the continued existence of any threatened, endangered, or proposed species or result in the destruction or adverse modification of critical habitat. This assessment evaluates the potential effects of the proposed transportation project on species that are federally listed under the ESA. Specific project design elements are identified that avoid or minimize adverse effects of the proposed project on listed species and designated critical habitat.

1.2. Project Description

Bridge and Approaches or bridge widening/structure extension

Description of the **existing** bridge/roadway facility and reason for proposed project

The existing bridge on US-70 over Lake Texoma (NBI 10965) is a 24-foot-wide, 87-span bridge consisting of a Warren through truss central span, 63 steel girders spans, and 23 tower spans. The bridge has a sufficiency rating of 42.3 and is at risk of becoming structurally deficient. The bridge is classified as functionally obsolete. The vertical clearance on the truss span is 14 feet 9 inches, which does not meet today's standards. The bridge has been determined eligible for listing in the National Register of Historic Places. The US-70 approach roadway is 38 feet wide, consisting of two 12-foot-wide driving lanes and 7-foot-wide shoulders. The existing average annual daily traffic (AADT) on US-70 is 8,500 vehicles per day (vpd) with a 20-year future projected AADT of 13,200 vpd. The purpose of this project is to correct the narrow, at-risk bridge, provide adequate vertical clearance, and accommodate existing and future traffic demand.

Description of **proposed** improvements

Because the bridge is an eligible historic resource, several alternatives to improve the existing bridge are under consideration. These alternatives include rehabilitation (including a widened option), reuse as part of a one-way pair, reuse as a pedestrian/bicycle facility, and preservation as a historic monument. The last three options include construction of a new bridge on new alignment to the south. Should none of these alternatives be determined prudent or feasible, replacement options will be considered. In order to meet the purpose and need for the project, the new bridge should provide four 12-foot driving lanes and 8 to 10-foot paved shoulders. New right-of-way (ROW) would be required. The roadway would remain open during construction.

Check if any of the following is expected as part of the proposed action

- | | |
|---|-------------------------------------|
| Work within OHWM is expected | <input checked="" type="checkbox"/> |
| Project is OFF-SET alignment <input checked="" type="checkbox"/> or NEW alignment | <input checked="" type="checkbox"/> |
| Project involves NO OFF EXISTING PAVEMENT work | <input type="checkbox"/> |
| Project requires new ROW (permanent &/or temporary) | <input checked="" type="checkbox"/> |

1.3. Project Area and Setting

Project Location		Environmental Study Footprint		Ecoregion & Game Type	
<u>Section Range & Township</u>	<u>Lat/Long NAD 83</u>	<u>Dimensions</u>	<u>Acreage</u>	<u>Level IV Ecoregion (Woods et al. 2005)</u>	<u>Game Type (Duck and Fletcher 1943)</u>
S25, S26, S35 & S36, T6S, R6E S27-34, T6S, 7E	Center of NBI 10965: 34.001542, -96.618735 West End: 33.997445, -96.644033 East End: 33.998229, -96.567467	Beginning approximately 800 feet east of the US-70 and Johnson Road intersection and extending 4.45 miles, widths vary from 159 feet to 445 feet from the center of the roadway. At the lake bumpout, widths vary from 158 feet to 1,327 feet from the center of the roadway.	404	Northern Post Oak Savanna (33a) of the East Central Texas Plains Region	Postoak-Blackjack Forest

Action Area:

The Action Area for JP 33873(04) is the NEPA Environmental Footprint plus a 0.25-mile buffer for the migratory birds.

2. FEDERALLY LISTED SPECIES AND DESIGNATED CRITICAL HABITAT

Species Range and Occurrence Evaluation (Check all that apply)

Species	IPaC¹	Watershed²	Water Body³	Records⁴
	Check if Yes	Check if YES	Check if Yes	Check if Yes
Red-cockaded Woodpecker	<input type="checkbox"/>			<input type="checkbox"/>
Whooping Crane	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Gray Bat	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Indiana Bat	<input type="checkbox"/>			<input type="checkbox"/>
Ozark Big-eared Bat	<input type="checkbox"/>			<input type="checkbox"/>
Neosho Mucket	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ouachita Rock Pocketbook	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scaleshell Mussel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Winged Mapleleaf	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harperella	<input type="checkbox"/>			<input type="checkbox"/>
American Burying Beetle	<input checked="" type="checkbox"/>			<input type="checkbox"/>
Eastern Black Rail	<input type="checkbox"/>			<input type="checkbox"/>
Piping Plover	<input checked="" type="checkbox"/>			<input type="checkbox"/>
Red Knot	<input checked="" type="checkbox"/>			<input type="checkbox"/>

Species	IPaC ¹	Watershed ²	Water Body ³	Records ⁴
	Check if Yes	Check if YES	Check if Yes	Check if Yes
Northern Long-eared Bat	<input type="checkbox"/>			<input type="checkbox"/>
Arkansas River Shiner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leopard Darter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neosho Madtom	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ozark Cavefish	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
American Alligator	<input type="checkbox"/>			<input type="checkbox"/>
Rabbitsfoot Mussel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monarch Butterfly	<input checked="" type="checkbox"/>			<input type="checkbox"/>
Rattlesnake-master Borer Moth	<input type="checkbox"/>			<input type="checkbox"/>
Peppered Chub	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Alligator Snapping Turtle	<input type="checkbox"/>			<input checked="" type="checkbox"/>

¹Species is on the Proposed Project's IPaC List

²Action Area is within a watershed associated with occupied water bodies

³Action Area includes an occupied water body

⁴Project site within 5 miles of known records

Designated or Proposed Critical Habitat	Action Area includes Designated Critical Habitat (Check <input checked="" type="checkbox"/> if Yes)
Whooping Crane	<input type="checkbox"/>
Arkansas River Shiner	<input type="checkbox"/>
Leopard Darter	<input type="checkbox"/>
Neosho Mucket	<input type="checkbox"/>
Rabbitsfoot	<input type="checkbox"/>
Peppered Chub	<input type="checkbox"/>

Action area is adjacent to McAlester Army Ammunition Plant or Camp Gruber/Cherokee WMA

All of part of the action area is within the 10 mile **gray bat** priority area (ODOT will check)

All of part of the action area is within the 2 mile **gray bat** priority area (ODOT will check)

Action area is within what percentage **Whooping Crane** migratory corridor **100%**

Action area is within 15 miles of Salt Plains NWR, Hackberry Flat, or Foss Reservoir.

Action area is within the historic range of the **Red-cockaded Woodpecker**

Action area is within 10 miles of the McCurtain County Wilderness Area

Action area is within 10 miles of the Pushmataha Wildlife Management Area

3. ENVIRONMENTAL BASELINE

3.1. Ecological Processes and Conditions

Soils (Use Soil Map of Oklahoma by Carter and Gregory 2008)

Soil Class	Ouachita Mountains
Soil Name	Tuskahoma-Wetsaw-Muskogee-Neff-Sherwood-Wister
Soil Type	Loamy silty and clayey, moderately well-drained, and strongly acid soils on moderately steep slopes (up to 8%)
Soil Characteristics	Alfisols and Ultisols

Climate (Use Woods et al. 2005)

Precipitation	Mean annual inches	42-45
Growing Season	Number of days	230-235
Mean Temperatures	Summer min/max	71°F/93°F
	Winter min/max	29°F/51°F

River System

According to the 1982 Platter, Okla.-Tex., the 1967 Little City, Okla., the 1967 Kingston North, Okla., and the 1982 Kingston South, Okla. Tex. 7.5-minute U.S. Geological Survey (USGS) topographic quadrangles, one perennial waterbody (Lake Texoma), six perennial coves of Lake Texoma, and four intermittent streams (unnamed tributaries to Lake Texoma) occur within the Action Area.

Land Use and Land Ownership

From Woods et al. 2005	Cropland, pastureland, and riparian forest. Primary crops are peanuts, soybeans, grain sorghum, small grains, hay, and cotton.
From Field investigation	The study area primarily contains Lake Texoma, roadway, watercourses, upland wooded habitat, riparian zones, palustrine scrub-shrub (PSS) wetlands, and tall grass habitat. The remainder of the study area is occupied by ROW. The land adjacent to the study area and west of Lake Texoma includes undeveloped U.S. Army Corps of Engineers (USACE) and tribal land, a golf club, and a residential property further west. The land adjacent to the study area east of Lake Texoma includes undeveloped forest, State land, campgrounds, and residential properties (e.g., resorts, cabins, lake homes, etc.).

Terrestrial and Aquatic Community Descriptions (based on field site visit)

Field work was conducted December 1-2, 2021. According to the closest weather station (Newberry Creek, KOKMEAD9) to the study area, the area received no precipitation within the two weeks prior to December 1st. Two USGS-mapped perennial waterbodies (Lake Texoma and OW 3b), one perennial cove, one perennial overflow pond, one intermittent stream, four ephemeral streams, and six PSS wetlands were delineated within the study footprint. Multiple fish, reptile, amphibian, and mussel species are assumed to be present in Lake Texoma.

Terrestrial community types within the NEPA Footprint includes upland wooded habitat, riparian, PSS wetlands, tallgrass habitat, and ROW. Vegetation present within the upland wooded habitat predominately consists of American elm (*Ulmus americana*), sugar-berry (*Celtis laevigata*), common buttonbush (*Cephalanthus occidentalis*), willow oak (*Quercus phellos*), eastern red-cedar (*Juniperus virginiana*), osage-orange (*Maclura pomifera*), deciduous holly (*Ilex decidua*), peatree (*Sesbania herbacea*), eastern cottonwood (*Populus deltoides*), northern red oak (*Quercus rubra*), spotted crane’s-bill (*Geranium maculatum*), horsebrier (*Smilax rotundifolia*), bushy bluestem (*Andropogon glomeratus*), Alabama supplejack (*Berchemia scandens*), henbit deadnettle (*Lamium amplexicaule*), common chickweed (*Stellaria media*), nodding wild rye (*Elymus canadensis*), tapered rosette grass (*Dichanthelium acuminatum*), aster (*Symphotrichum* spp.), fringed greenbrier (*Smilax bona-nox*), sedge (*Carex* spp.), and southern dewberry (*Rubus trivialis*). Vegetation present within the riparian habitat predominately consists of honey-locust (*Gleditsia triacanthos*), common buttonbush, green ash (*Fraxinus pennsylvanica*), black willow (*Salix nigra*), eastern red- cedar, sedge, spotted crane’s-bill, aster, Johnson grass (*Sorghum halepense*), southern dewberry, nodding wild rye, tumble windmill grass (*Chloris verticillata*), tall false rye grass (*Schedonorus arundinaceus*), little barley (*Hordeum pusillum*), Bermuda grass (*Cynodon dactylon*), heliotrope (*Heliotropium* spp.), tapered rosette grass, speedwell (*Veronica* spp.), rough cocklebur (*Xanthium strumarium*), and hogwort (*Croton capitatus*). Vegetation present within the PSS wetlands consists of black willow, common buttonbush, sedge, and southern dewberry. Vegetation present within the tallgrass habitat consists of American elm, common buttonbush, Bermuda grass, southern dewberry, hogwort, tapered rosette grass, and aster. Vegetation present within the ROW habitat includes Bermuda grass, aster, crown grass (*Paspalum* spp.), spotted crane’s-bill, and Johnson grass.

During the site investigation, eight structures (i.e., bridges and culverts) were inspected for migratory bird use and evaluated for their suitability as a potential roosting and/or a nesting structure. Past use (> 100 cliff swallow nests) was observed under the existing Roosevelt Bridge (NBI 10965). Section 5.2 *Migratory Bird Assessment* includes a table of structures inspected for migratory bird use.

3.2 Species Habitat Analysis

- Pedestrian survey of entire NEPA study footprint (including 300-foot work zone buffer in karst areas)
- Bridge/Structure inspected for bat use (Complete the Bridge Inspection Form)

SPECIES	HABITAT	
Whooping Crane	Shallowly-submerged sandbars in large river channels occur within the 0.25 miles of the NEPA Environmental Study Footprint.	<input checked="" type="checkbox"/>
	If within the 75% migration corridor, provide the number of acres of emergent wetlands that occur within the NEPA Environmental Study Footprint.	NA
	Croplands suitable for foraging occur within the 0.25 miles of the NEPA Environmental Study Footprint and is within the 95% migration corridor.	<input type="checkbox"/>

SPECIES	HABITAT	
American Burying Beetle	Number of acres of native perennial plant vegetation (where native perennial vegetation is the dominant vegetation) within the NEPA Environmental Study Footprint (include shapefiles).	104.8
Piping Plover	Sparsely vegetated sandy or gravelly shorelines and islands associated with the major river systems occur within the 0.25 miles of the NEPA Environmental Study Footprint.	<input checked="" type="checkbox"/>
	Salt flats or mudflats associated with reservoirs occur within the 0.25 miles of the NEPA Environmental Study Footprint.	<input type="checkbox"/>
Red Knot	Mudflats associated with reservoirs occur within the 0.25 miles of the NEPA Environmental Study Footprint.	<input type="checkbox"/>
Monarch Butterfly	Presence of milkweed (<i>Asclepias sp.</i>) species within the NEPA Environmental Study Footprint.	<input type="checkbox"/>
	Presence of flowering or potentially flowering nectar plants (<i>defined as forbs that can provide nectar for monarchs at some point in the growing season</i>) within the NEPA Environmental Study Footprint.	<input checked="" type="checkbox"/>
	Presence of additional native habitat within the NEPA Environmental Study Footprint.	<input checked="" type="checkbox"/>

4. ANALYSIS OF EFFECTS

4.1 Direct Effects

Species/ Resource	Habitat impacts expected from project activities	<u>Describe specific ACTIONS of the project and the results of those actions on species habitats, including indirect impacts to prey or drinking water, as well as improvements to habitat as a result of specific actions.</u> <u>If habitat within the action area identified above will not be impacted, describe why.</u>
Whooping Crane	<input checked="" type="checkbox"/>	<p>Shallow sandbars and sandy shorelines occur within the NEPA Footprint and Action Area that could be used as foraging stopover habitat for Whooping Cranes during spring and fall migration periods. Approximately 0.70 acre of potential Whooping Crane habitat occurs within the NEPA Footprint along the shorelines of Lake Texoma. According to the Oklahoma Natural Heritage Inventory (ONHI), there are no occurrences of this species reported within 5 miles of the study area.</p> <p>Construction activities within the ordinary high water mark (OHWM) of Lake Texoma may include:</p> <ul style="list-style-type: none"> • Clearing, grubbing, removing, and disposing of vegetation and debris as necessary.

		<ul style="list-style-type: none"> • Removing and establishing piers. • Construction of work roads and drill pads to access the bridge. • Fill for new or widened causeway <p>These construction activities could remove suitable foraging/loafing habitat for this species. These activities could change as plans have not been finalized.</p> <p>Potential habitat for the Whooping Crane is within the NEPA Footprint, therefore, temporary impacts to the species (due to disturbance) may occur from the associated noise and presence of workers and equipment during construction.</p>
American Burying Beetle	☒	<p>Potential habitat occurs in the form of native perennial plant vegetation within the NEPA Environmental Study Footprint. Impacts from construction include vegetation removal, soil disturbance through ground clearing, and use of vehicles and heavy equipment. These actions will result in permanent conversion of some portions of suitable ABB habitat to maintained ROW. According to the ONHI, there are no occurrences of this species reported within 5 miles of the study area.</p> <p>Some of the habitat impacts, such as vegetation damage due to construction traffic and additional temporary ROW, are expected to be temporary in nature, as native perennial vegetation will be allowed to regrow. If construction occurs at night during the ABB active season, temporary impacts to the species (due to disturbance) may occur from the associated noise and presence of workers and equipment. No other habitat impacts are expected.</p>
Piping Plover	☒	<p>Potential habitat within the study footprint includes the sparsely vegetated sandy shorelines that occur along the east shoreline of Lake Texoma. The sandy shorelines provide potential roosting and foraging habitat for the Piping Plover. According to the ONHI, there are no occurrences of this species reported within 5 miles of the study area.</p> <p>Construction activities within the OHWM of Lake Texoma may include:</p> <ul style="list-style-type: none"> • Clearing, grubbing, removing, and disposing of vegetation and debris as necessary. • Removing and establishing piers. • Construction of work roads and drill pads to access the bridge. • Fill for a new or widened causeway.

		<p>These construction activities could remove suitable foraging/loafing habitat for this species. These activities could change as plans have not been finalized.</p> <p>Potential habitat for the Piping Plover is within the NEPA Footprint, therefore, temporary impacts to the species (due to disturbance) may occur from the associated noise and presence of workers and equipment during construction.</p>
Red Knot	☒	<p>Potential habitat within the study footprint includes the sparsely vegetated sandy shorelines that occur along the east shoreline of Lake Texoma and exposed shallow mudflats and shorelines near inlets. These provide potential foraging habitat for the Red Knot. According to the ONHI, there are no occurrences of this species reported within 5 miles of the study area.</p> <p>Construction activities within the OHWM of Lake Texoma may include:</p> <ul style="list-style-type: none"> • Clearing, grubbing, removing, and disposing of vegetation and debris as necessary. • Removing and establishing piers. • Construction of work roads and drill pads to access the bridge. • Fill for a new or widened causeway. <p>These construction activities could remove suitable foraging/loafing habitat for this species. These activities could change as plans have not been finalized.</p> <p>Potential habitat for the Red Knot is within the NEPA Footprint, therefore, temporary impacts to the species (due to disturbance) may occur from the associated noise and presence of workers and equipment during construction.</p>
Monarch butterfly	☒	<p>Potential habitat occurs in the form of native perennial plant vegetation within the NEPA Environmental Study Footprint. Impacts from construction include vegetation removal, soil disturbance through ground clearing, and use of vehicles and heavy equipment. These actions will result in permanent conversion of some portions of suitable monarch foraging habitat to maintained ROW.</p> <p>Some of the habitat impacts, such as vegetation damage due to construction traffic and additional temporary ROW, are expected to be temporary in nature, as native perennial vegetation will be allowed to regrow.</p>

4.2 Indirect Effects

Long-term habitat alterations

Species/ Resource	<u>Identify long-term, permanent changes in habitat</u>
Whooping Crane	Work within the OHWM of Lake Texoma is planned for this project. Siltation of the lakebed could occur and would be an indirect effect. Siltation can degrade water quality by increasing the turbidity of the water, causes cloudiness, and obstructs sunlight for aquatic life. Siltation could also create additional foraging habitat by creating shallow sandbars. Erosion along the lake banks could also be an indirect effect.
American Burying Beetle	Long-term habitat alterations include a relatively minor reduction in the amount of overall habitat available to the ABB (from the conversion of potential habitat to roadway or to a maintained state within the proposed ROW limits). No other indirect and long-term habitat alterations are expected from the project.
Piping Plover	Work within the OHWM of Lake Texoma is planned for this project. Siltation of the lakebed could occur and would be an indirect effect. Siltation can degrade water quality by increasing the turbidity of the water, causes cloudiness, and obstructs sunlight for aquatic life. Siltation could also create additional foraging habitat by creating shallow sandbars. Erosion along the lake banks could also be an indirect effect.
Red Jbit	Work within the OHWM of Lake Texoma is planned for this project. Siltation of the lakebed could occur and would be an indirect effect. Siltation can degrade water quality by increasing the turbidity of the water, causes cloudiness, and obstructs sunlight for aquatic life. Siltation could also create additional foraging habitat by creating shallow sandbars. Erosion along the lake banks could also be an indirect effect.
Monarch butterfly	Long-term habitat alterations include a relatively minor reduction in the amount of overall habitat available to the monarch (from the conversion of potential habitat to roadway or to a maintained state within the proposed ROW limits). No other indirect and long-term habitat alterations are expected from the project.

Indirect land use impacts

Most of the land adjacent to the study area is either federal, private, or tribal owned. A private developer has plans for a mixed use development on the north side of US-70 west of Lake Texoma. The Chickasaw Nation is currently building a casino on the south side of US-70 west of Lake Texoma. The purpose of this project is to correct the narrow bridge (Roosevelt Bridge) over Lake Texoma. Providing additional capacity on US-70 over Lake Texoma could encourage additional development.

4.3 Interrelated and Interdependent Actions and Activities

This project involves potentially replacing the existing bridge structure on a new alignment to the south over Lake Texoma. Utilities may need to be relocated to accommodate changes to the bridge. Increased development surrounding the project is not likely to occur.

USFWS TAILS Number:	02EKOK00-2022-SLI-0399
ODOT Project JP Number:	33873(04)

SPECIES / DESIGNATED CRITICAL HABIT	CONCLUSION		ESA SECTION 7			NOTES AND DOCUMENTATION Check <input checked="" type="checkbox"/> all that apply			
	Species Habitat present within the action area	Project Activities expected to impact habitat	No Effect	May affect, not likely to adversely affect	May affect, Likely to adversely affect	Field Studies	ONHI database / ABB	USFWS occupied waterbodies & watersheds	Whooping Crane Migration Corridor
American Burying Beetle	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Project uses the BO for the final 4(d) rule	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Whooping Crane	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Piping Plover	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Red Knot	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monarch Butterfly	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CONCLUSIONS

No Effect	
May affect, not likely to adversely affect	Whooping Crane, American Burying Beetle, Piping Plover, Red Knot
May affect, likely to adversely affect	
Not likely to jeopardize the continued existence of the species – Candidate species only	Monarch Butterfly
Appropriate Effect Determination for ABB has been made under the BO for the final 4(d) rule	☒

RECOMMENDED AVOIDANCE AND MINIMIZATION MEASURES

Suitable habitat for the **American Burying Beetle** occurs within the immediate vicinity of the proposed project. In order to minimize adverse impacts to the ABB, the following conservation measures will be implemented:

- a) The areas of suitable habitat will be field mapped.
- b) The amount of ground disturbance to suitable ABB habitat within the construction footprint will be minimized to only what is necessary for project construction.
- c) Following construction, areas of ground disturbance outside of the safety clear zone will be revegetated with native plant species where applicable and practicable. Areas where revegetation with native plant species is not practicable will be revegetated with more traditional planting such as solid slab sodding.
- d) Pollution Prevention Requirements as specified by the Oklahoma Department of Environmental Quality General Permit OKR10 for Storm Water Discharges shall be implemented. Additionally, all equipment will be fueled, and all fuel and motor vehicle oil will be stored outside ABB habitat.
- e) The use of artificial lighting will be minimized. If night construction is necessary, direct light will be shielded to the work area and prevent light from projecting upwards. A special provision will be included in the project contract which outlines approved lighting for use during night work.
- f) Carcasses and trash will continuously be removed from any permanent and temporary construction rights-of-way, throughout the duration of the project.

If **Whooping Cranes** are seen at or within one mile of the proposed work site, the Resident Engineer shall immediately contact the ODOT Biologist. The location and time a Whooping Crane was seen shall be recorded and provided to the ODOT Biologist. If there is a confirmed sighting and/or Whooping Cranes are observed within one mile of the proposed work site, all construction activities shall cease until it is determined that Whooping Cranes have left the project vicinity without being harassed. An 8x10 photograph of the Whooping Crane along with a written description of the bird, as well as ODOT contact information, shall be posted at the construction site at all times.

Appropriate Best Management Practices to minimize impacts from storm water discharges and sedimentation in streams, as established by the Oklahoma Department of Environmental Quality, shall be conscientiously implemented throughout the proposed construction periods, in order to minimize any potential impacts to any listed species. The effectiveness of erosion controls shall be maintained for the duration of construction activities. Hazardous materials, chemicals, fuels, lubricating oils, and other such substances shall be stored at least 100 feet outside of the ordinary high water mark (OHWM). Refueling of construction equipment shall also be conducted at least 100 feet from the OHWMs. Sediment and erosion controls shall be installed around staging areas to prohibit discharge of materials from these sites.

Construction waste materials and debris shall be stockpiled at least 25 feet outside of the OHWMs, and these materials shall be removed and disposed of properly following completion of the project. Preventative measure must be taken to prohibit the discharge of contaminants into any surface waters.

ODOT, as a Certificate of Inclusion partner in the Nationwide **Monarch Butterfly** CCAA for Energy and Transportation lands, will adhere to the conservation measures, as well as minimize threats to the monarch butterfly as stipulated in this CCAA.

5. BALD AND GOLDEN EAGLE PROTECTION ACT ASESMENT

5.1. Bald Eagle Assessment

The Bald Eagle (*Haliaeetus leucocephalus*) is a large predatory bird protected by the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. Activities that would disturb eagles are prohibited under the Bald and Golden Eagle Protection Act. “Disturb” means to agitate an eagle to the degree that causes or is likely to (1) cause injury, (2) interfere with breeding, feeding or sheltering behavior, or (3) nest abandonment.

Potential Bald Eagle Habitat Present	w/in NEPA Footprint	w/in 660 ft Buffer of NEPA Footprint	DO NOT LEAVE BLANK
Presence of Cottonwood, Sycamore, Pecan or Pine	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Large cottonwood and pine trees were observed along the banks of Lake Texoma within the NEPA Footprint and scattered throughout the wooded habitat within the 660-foot buffer. These trees are large enough to support bald eagles and are adjacent to a perennial waterbody, Lake Texoma.
Open foraging areas with large trees	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Open foraging habitat with large trees directly adjacent to a large perennial waterbody (Lake Texoma) occur within the NEPA Footprint and the 660-foot buffer. These trees are considered super canopy trees and would likely support bald eagles.
Distance to closest perennial water body	River or Lake	0 ft	Lake Texoma, a mapped perennial waterbody, is located within the NEPA Footprint. There are also multiple perennial coves within the NEPA Footprint and the 660-foot buffer.
	Stream or Pond	0 ft.	
Potential Bald Eagle Nests Observed	<input type="checkbox"/>	<input type="checkbox"/>	There are multiple known nests within 10-12 miles associated with Lake Texoma. No bald eagle nests were observed within the NEPA Footprint or 660-foot buffer during the field studies.

Potential Bald Eagle Habitat Present	w/in NEPA Footprint	w/in 660 ft Buffer of NEPA Footprint	DO NOT LEAVE BLANK
Bald Eagles Observed in the general vicinity	<input type="checkbox"/>	<input type="checkbox"/>	No bald eagles were observed within the NEPA Footprint or 660-foot buffer during the field studies.
General Description of Bald Eagle Nesting Habitat and Impact Determination, within the NEPA Footprint and within 660-ft of the NEPA Footprint	Large cottonwood and pine trees were observed along the banks of Lake Texoma as well as the bottomland wooded areas within the NEPA Footprint. These super canopy trees could potentially be nesting habitat for bald eagles. The ONHI did not report any bald eagle occurrences within 5 miles of the study area. Approximately 41.02 acres of potential bald eagle nesting habitat was observed within the NEPA Footprint and the 660-foot buffer.		
Station #s for Buffered Bald Eagle Habitat	Located the full extent of the project area. Specific locations: 33.997742, -96.639928 to 33.998965, -96.632267 34.000571, -96.602883 to 33.999800, -96.594900 33.998259, -96.581209 to 33.998200, -96.567134 However, work outside these buffers would result in heavy machinery and staging within the bald eagle habitat buffers above. Therefore, the area of concern extends the full extent of the project area.		
In order to avoid impacts to Bald Eagles, if Bald Eagles or their habitat are observed during the biological assessment, a survey for eagles and their nests will be conducted within 660 feet of the work zone, during the winter prior to, and within one year of, the start of construction. If a nest is found, appropriate conservation measures based on the National Bald Eagle Management Guidelines will be implemented.			

6. MIGRATORY BIRD TREATY ACT (MBTA) ASSESSMENT

6.1 Structure Assessment

Cliff Swallows (*Petrochelidon pyrrhonota*) and Barn Swallows (*Hirundo rustica*) are small colonial and semi-colonial nesting birds protected by the federal Migratory Bird Treaty Act. Barn Swallows use man-made structures for nesting and live in close association with humans. Both species commonly use bridges and culverts in Oklahoma for nesting. Other migratory birds can also nest on transportation structures.

Identify <u>ALL</u> structures including pipe culverts and whether positive or negative for migratory birds (identify named streams where possible rather than just FS#). Provide shapefiles and map of structures identifying pos/neg swallow structures.	Approx. Number of Cliff Swallow Nests	Approx. Number of Barn Swallow Nests	Approx. Number of Eastern Phoebe Nests
Corrugated, Galvanized, Metal Pipe (CGMP), Golf Course Road, Lat/Long: 33.997642, -96.642805	None	None	None
CGMP, Construction Drive, Lat/Long: 33.998489, -96.634468	None	None	None

Identify <u>ALL</u> structures including pipe culverts and whether positive or negative for migratory birds (identify named streams where possible rather than just FS#). Provide shapefiles and map of structures identifying pos/neg swallow structures.	Approx. Number of Cliff Swallow Nests	Approx. Number of Barn Swallow Nests	Approx. Number of Eastern Phoebe Nests
NBI 10965, US-70, over Lake Texoma (could not be fully inspected)*	> 100 Nests (Past Use)	Unknown	Unknown
Reinforced Concrete Pipe (RCP), US-70, Lat/Long: 33.999329, -96.590783	None	None	None
RCP, US-70, Lat/Long: 33.997626, -96.641075	None	None	None
RCP, US-70, Lat/Long: 33.998186, -96.636800	None	None	None
RCB, US-70, Lat/Long: 33.998245, -96.573544	None	None	None
CGMP, Johnson Creek Road, Lat/Long: 33.998375, -96.570151	None	None	None
Other MB and Nests Observed	No other migratory bird use of transportation structures was observed within the NEPA Footprint.		
Based on existing plans, no work on suitable drainage structures will occur		<input type="checkbox"/>	
In order to avoid impacts to migratory birds, if structures are being used by these birds, any activities that may destroy active nests, eggs or birds shall be completed between September 1, and February 28, when nests are not occupied. If seasonal avoidance cannot be accomplished, structures shall be protected from new nest establishment prior to March 1, by means that do not result in death or injury to these birds.			

* Entire bridge structure could not be surveyed due to height of bridge and depth of water in lake.

6.2 Birds of Conservation Concern

<u>Species Identified on IPaC list</u>	<u>Breeding Season</u>
Lesser Yellowlegs (<i>Tringa flavipes</i>)	Breeds elsewhere
Prothonotary Warbler (<i>Protonotaria citrea</i>)	April 1 to July 31
Red-headed Woodpecker (<i>Melanerpes erythrocephalus</i>)	May 10 to September 10
Tree clearing related to the proposed project may have an adverse effect for the Red-headed Woodpecker and Prothonotary Warbler. The Red-headed Woodpecker is a cavity nester and prefers dead trees/snags or dead parts of live tree species including pines, maples, birches, cottonwoods, and oaks. The Prothonotary Warbler breeds in flooded bottomland forests, wooded swamps, and forests near waterbodies. This species is also a cavity nester and relies on holes created by woodpeckers and chickadees, natural cavities, and nest boxes.	
In order to avoid impacts to ground nesting and tree nesting USFWS Birds of Conservation Concern, ground disturbance and/or the removal of trees and shrubs will be restricted to areas within the actual limits of construction, and all aspects of the project (e.g. temporary work areas, alignments) will be modified to avoid ground disturbance and/or tree removal, if possible.	

6.3 Interior Least Tern

Sparsely vegetated islands or sandbars along large rivers, with nearby areas of shallow water, occur within the 0.25 miles of the NEPA Environmental Study Footprint.	<input checked="" type="checkbox"/>
The habitat that is described above occurs along the east banks of Lake Texoma within the NEPA Footprint. The ONHI did not find any occurrences of Interior Least Tern within 5 miles of the project area. However, no nesting habitat occurs in this area.	

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United States Department of the Interior. 1990. National Wetlands Inventory, 1:58,000 scale Little City, Okla. Map.

United States Department of the Interior. 1990. National Wetlands Inventory, 1:58,000 scale Platter, Okla-Tex. Map.

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United States Geological Survey. 1967. 7.5 minute, 1:24,000 scale Little City, Okla. Topographic Quadrangle Map.

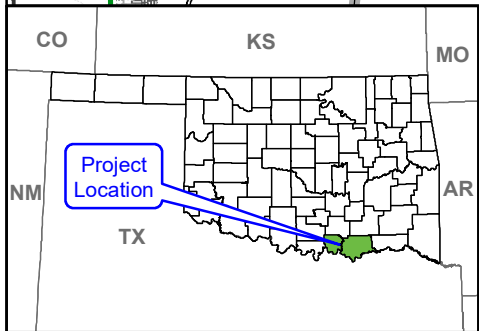
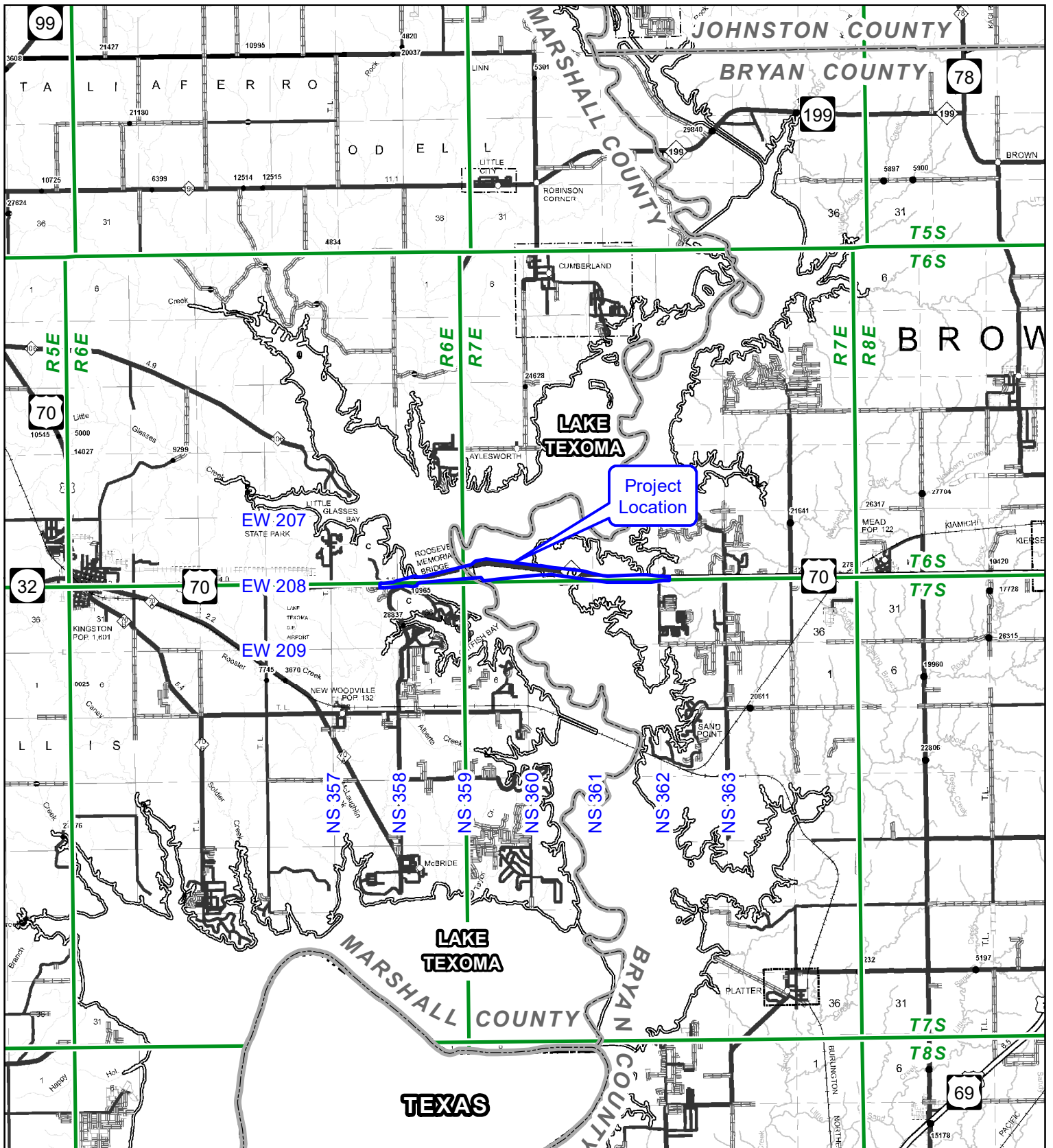
United States Geological Survey. 1982. 7.5 minute, 1:24,000 scale Kingston South, Okla-Tex. Topographic Quadrangle Map.

United States Geological Survey. 1982. 7.5 minute, 1:24,000 scale Platter, Okla-Tex. Topographic Quadrangle Map.

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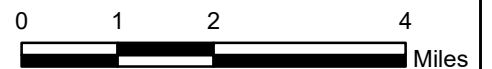
8. FIGURES



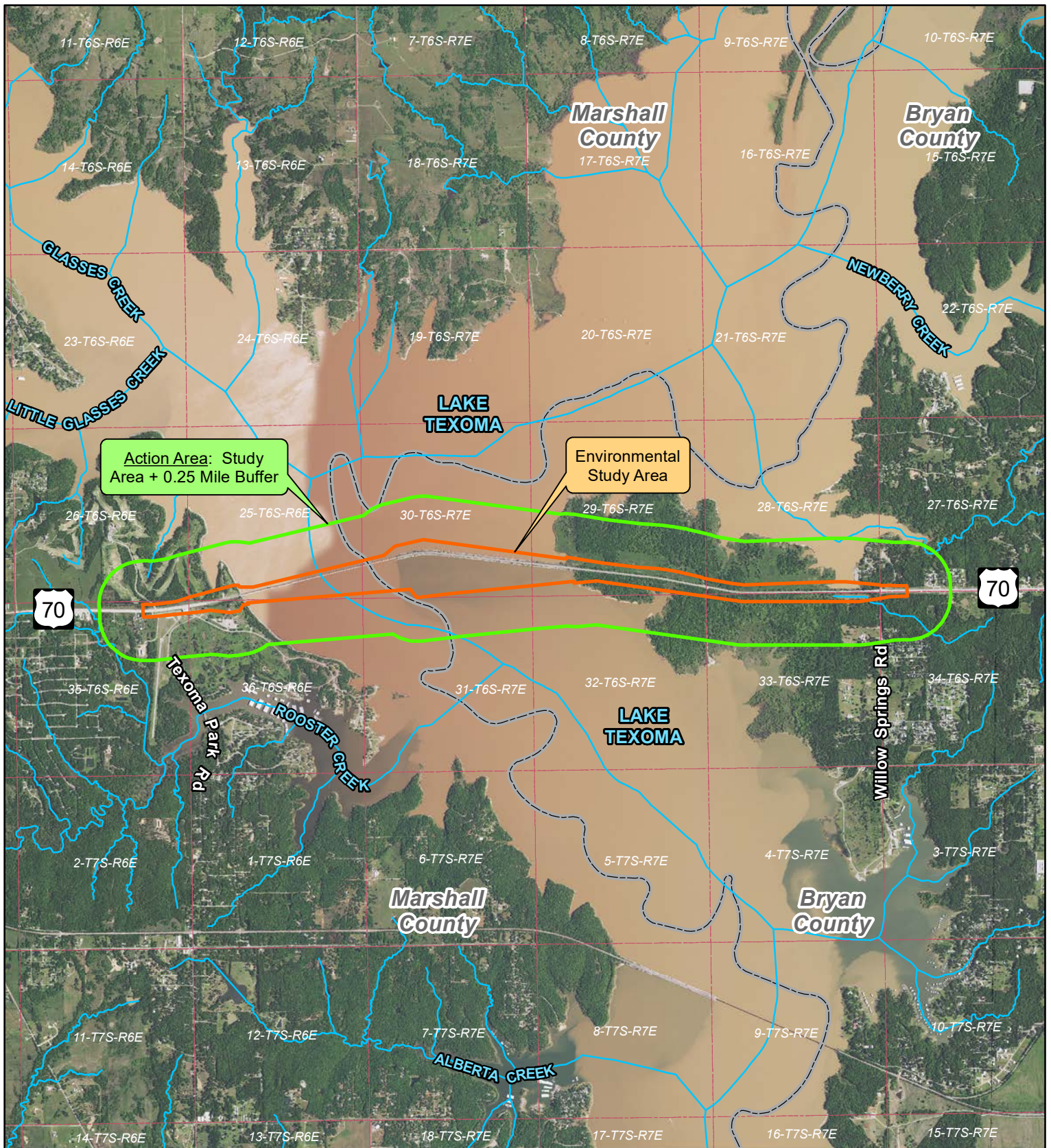
- Study Area
- County Line
- Township/Range

Figure 1 - Project Location Map

**JP 33873(04) US-70 over
Lake Texoma (Roosevelt Bridge)
Bryan & Marshall Counties, Oklahoma**

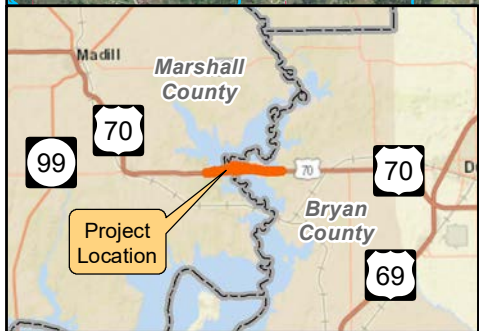


Source: ODOT General Highway Map



Action Area: Study Area + 0.25 Mile Buffer

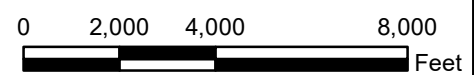
Environmental Study Area



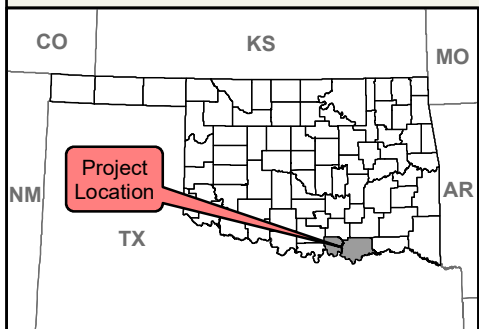
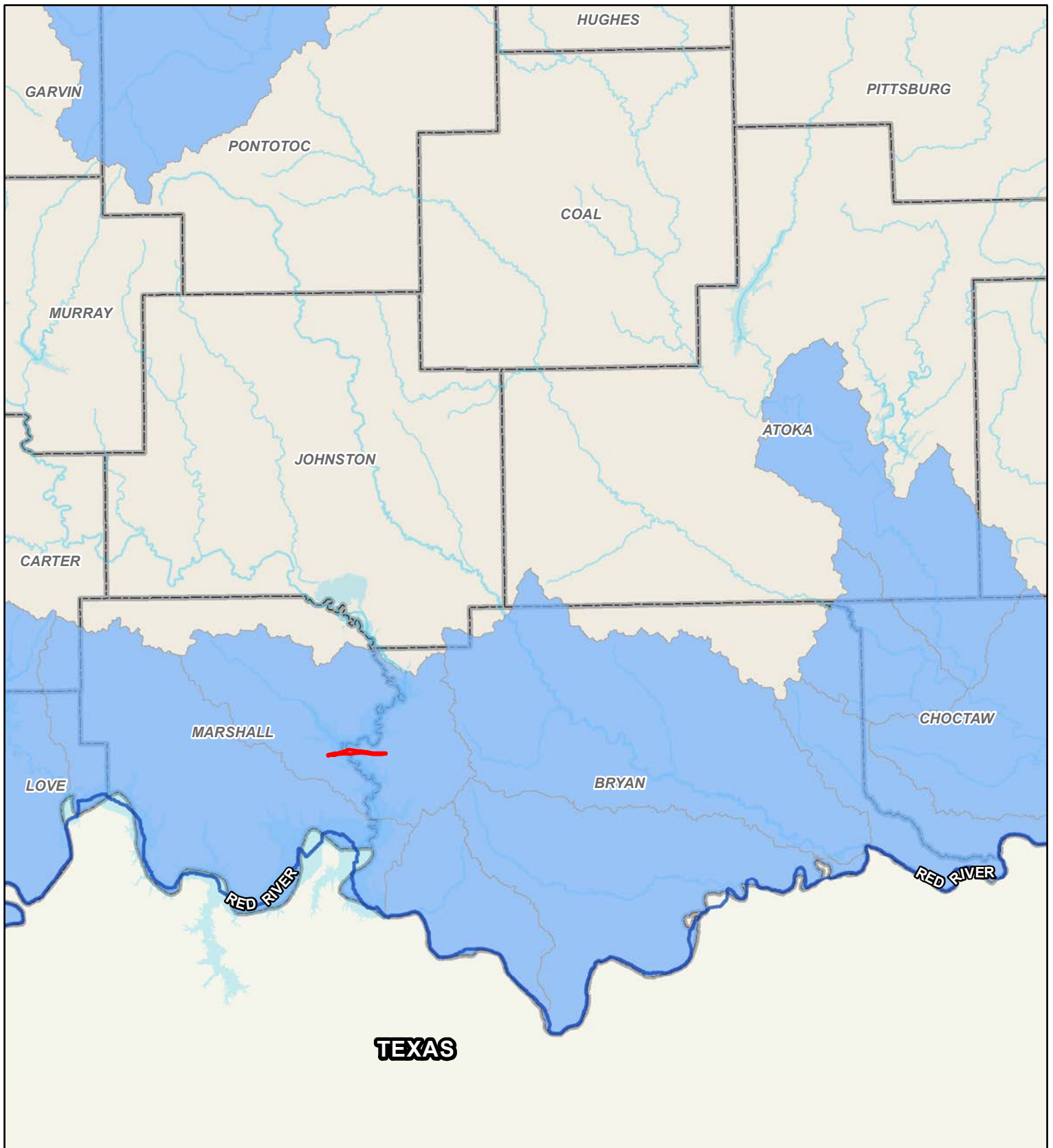
- Study Area
- Action Area
- County Line
- Section Line
- USGS Stream

Figure 2 - Environmental Study Footprint & Action Area Map

JP 33873(04) US-70 over Lake Texoma (Roosevelt Bridge) Bryan & Marshall Counties, Oklahoma



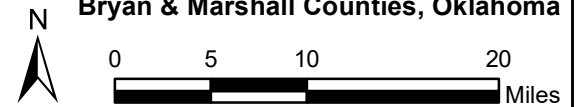
Source: USDA NAIP 2021 Digital Orthophotography



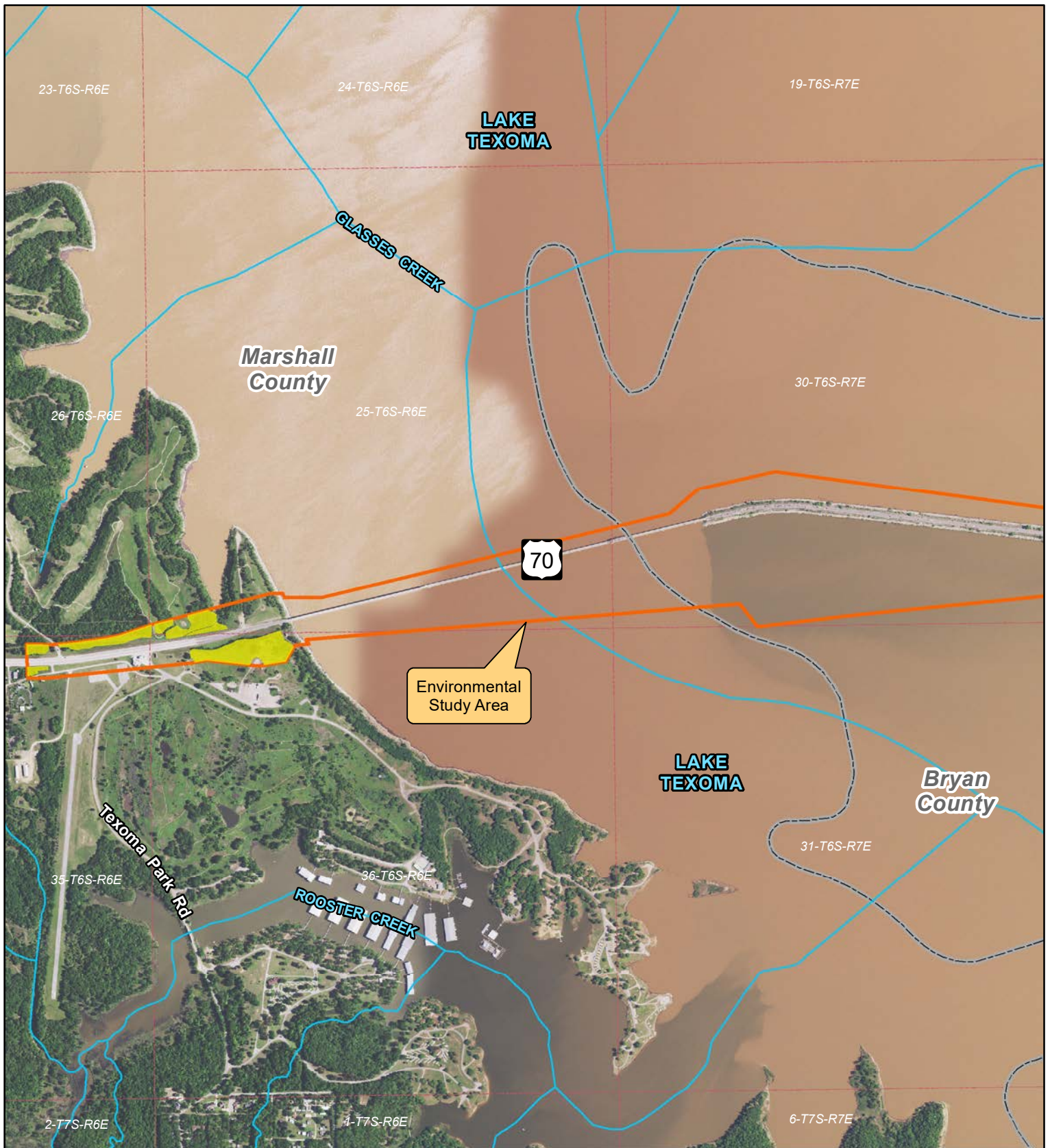
- Project Location
- Interior Least Tern
- Occupied Waterbody

**Figure 3a - Federally-Listed Aquatic
Dependent Species Watersheds**

**JP 33873(04) US-70 over
Lake Texoma (Roosevelt Bridge)
Bryan & Marshall Counties, Oklahoma**



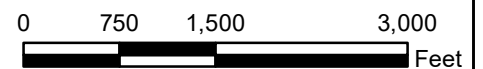
Source: USFWS 11 digit HUC Watersheds



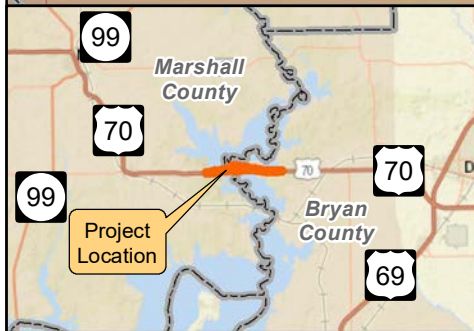
- Study Area
- County Line
- Section Line
- USGS Stream
- ABB Habitat

Figure 6a - American Burying Beetle (ABB) Habitat Delineation Map

JP 33873(04) US-70 over Lake Texoma (Roosevelt Bridge) Bryan & Marshall Counties, Oklahoma



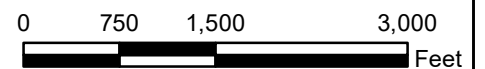
Source: USDA NAIP 2021 Digital Orthophotography



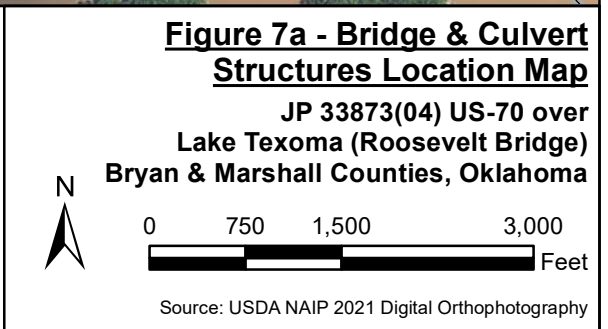
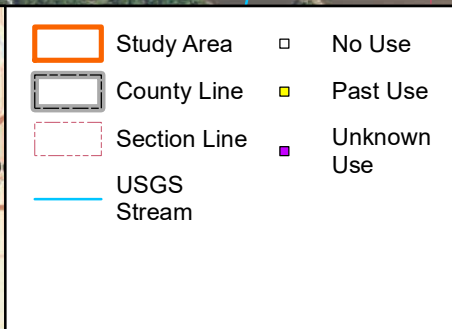
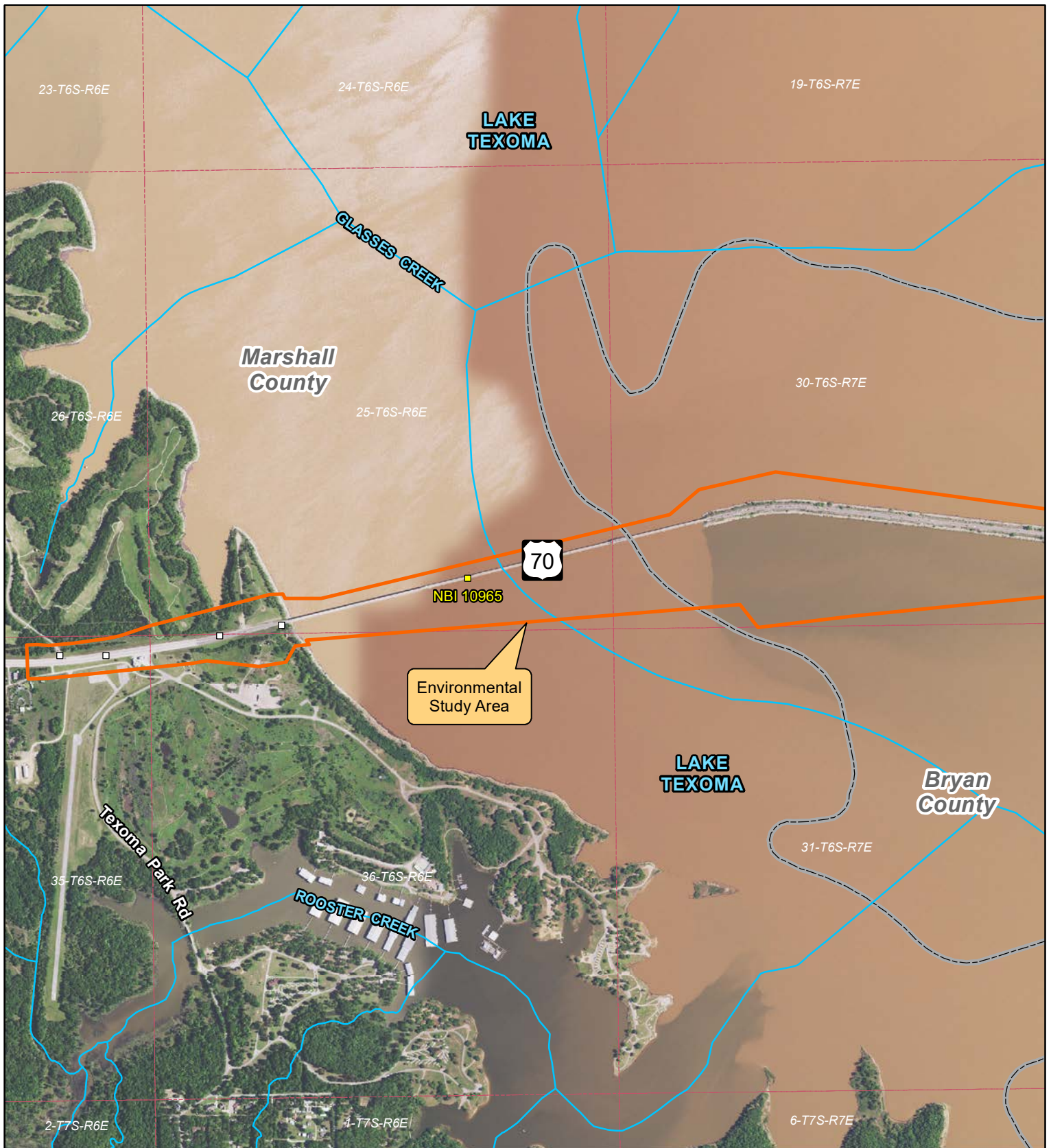
- Study Area
- County Line
- Section Line
- USGS Stream
- ABB Habitat

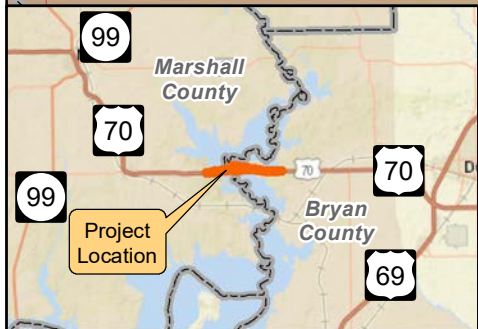
Figure 6b - American Burying Beetle (ABB) Habitat Delineation Map

JP 33873(04) US-70 over Lake Texoma (Roosevelt Bridge) Bryan & Marshall Counties, Oklahoma



Source: USDA NAIP 2021 Digital Orthophotography












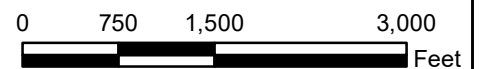
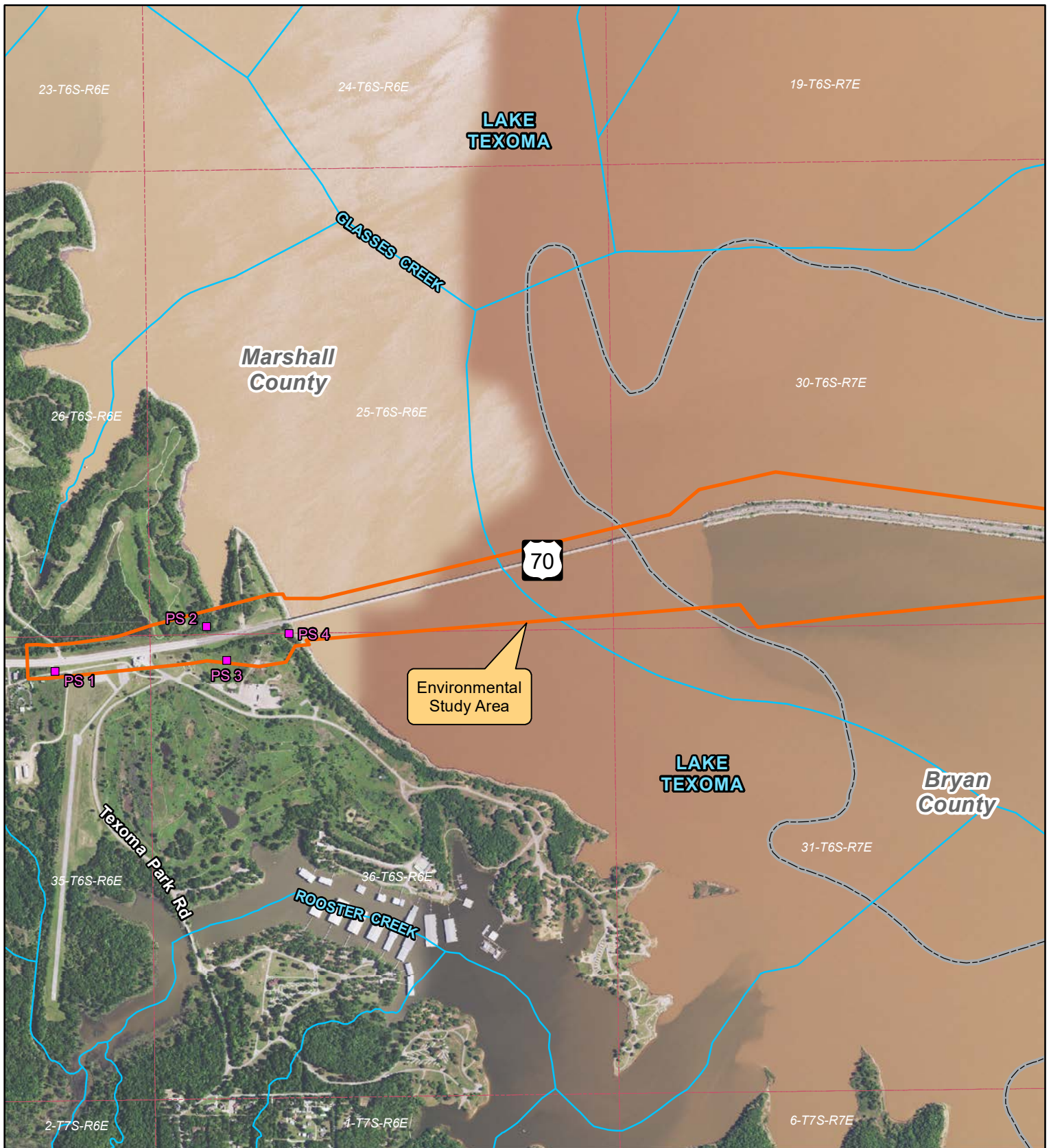
- | | | | |
|---|--------------|---|-------------|
|  | Study Area |  | No Use |
|  | County Line |  | Past Use |
|  | Section Line |  | Unknown Use |
|  | USGS Stream | | |

Figure 7b - Bridge & Culvert Structures Location Map
JP 33873(04) US-70 over Lake Texoma (Roosevelt Bridge)
Bryan & Marshall Counties, Oklahoma



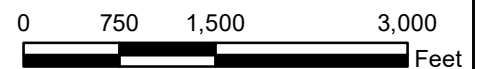
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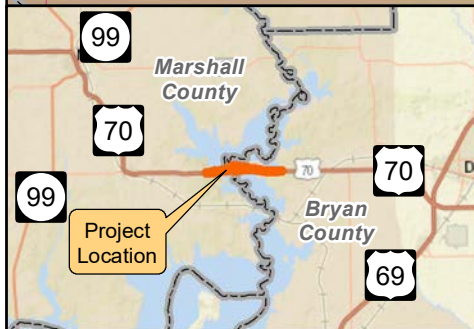
- Study Area
- County Line
- Section Line
- USGS Stream
- Photo Site (PS)

Figure 8a - Photo Log Location Map

**JP 33873(04) US-70 over
Lake Texoma (Roosevelt Bridge)
Bryan & Marshall Counties, Oklahoma**



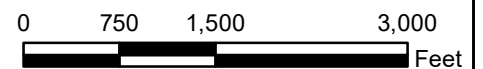
Source: USDA NAIP 2021 Digital Orthophotography



- Study Area
- County Line
- Section Line
- USGS Stream
- Photo Site (PS)

Figure 8b - Photo Log Location Map

**JP 33873(04) US-70 over
Lake Texoma (Roosevelt Bridge)
Bryan & Marshall Counties, Oklahoma**



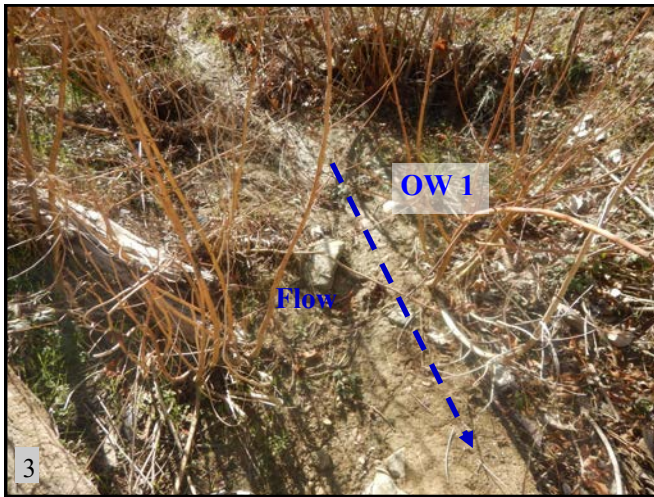
Source: USDA NAIP 2021 Digital Orthophotography



▲ (PS 1): Typical view of US-70, west of Lake Texoma. View is to the west.



▲ (PS 1): Typical view of US-70, west of Lake Texoma. View is to the east.



▲ (PS 2): View of OW 1, a small ephemeral stream that drains into a cove. View is upstream to the south.



▲ (PS 2): View of OW 1 and the disturbed riparian habitat. View is downstream to the north.



▲ (PS 2): View of disturbed habitat from construction to the east. No stream characteristics were observed.



▲ (PS 2): View of disturbed habitat from construction to the east. No stream characteristics were observed.



▲ (PS 2): View of Wetland 1, a small PSS wetland. View is to the east.



▲ (PS 2): View of hydric soils collected at DP 2 from Wetland 1.



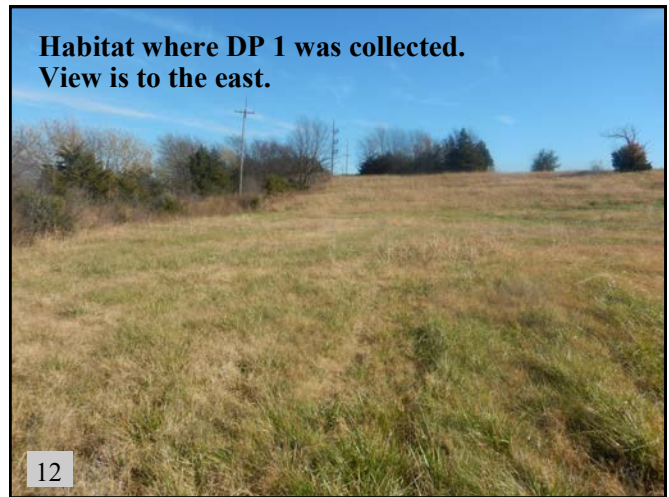
▲ (PS 2): View of OW 2, a rock lined ephemeral stream that flows into OW 1. View is upstream to the west.



▲ (PS 2): View of OW 2, a rock lined ephemeral stream that flows into OW 1. View is downstream to the north.



▲ (PS 2): View of wooded habitat around OWs 1 and 2. View is to the north.



▲ (PS 3): View of upland herbaceous habitat located south of US-70 and west of Lake Texoma.



13

▲ (PS 3): View of nonhydryc soils collected at DP 1.



14

▲ (PS 4): View of shoreline and riparian habitat along the west bank of Lake Texoma. View is to the south.



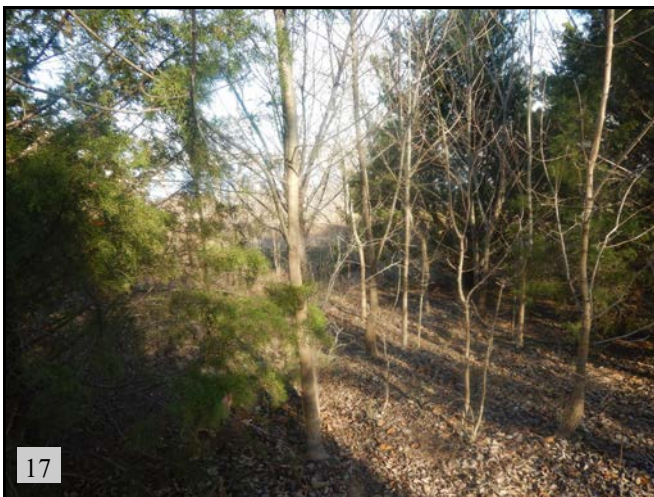
15

▲ (PS 4): View of shoreline and riparian habitat along the west bank of Lake Texoma (OW 3a).



16

▲ (PS 4): View of the Roosevelt Bridge and Lake Texoma (OW 3a). View is to the east.



17

▲ (PS 4): View of upland wooded habitat at DP 5. View is to the east.



18

▲ (PS 4): View of the Roosevelt Bridge from the west side of Lake Texoma. View is to the east.



19

▲ (PS 5): View of Lake Texoma (OW 3a) taken from the east side of the lake. View is to the west.



20

▲ (PS 5): View of habitat along the east bank of Lake Texoma. View is to the west.



21

▲ (PS 5): View of area, on the east bank of Lake Texoma, where DP 17 was collected (circled).



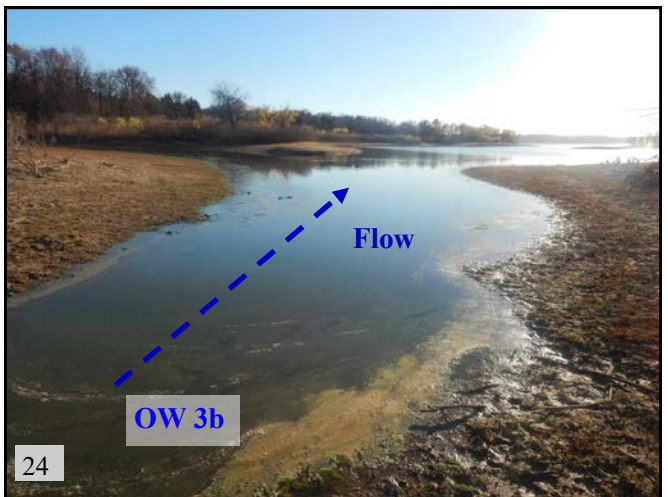
22

▲ (PS 5): View of nonhydryc soils collected at DP 17.



23

▲ (PS 6): View of perennial stream, OW 3b. View is upstream to the northeast.



24

▲ (PS 6): View of OW 3b that flows into Lake Texoma. View is downstream to the southwest.



▲ (PS 6): View of Wetland 2, a large PSS wetland around OW 3b. View is to the west.



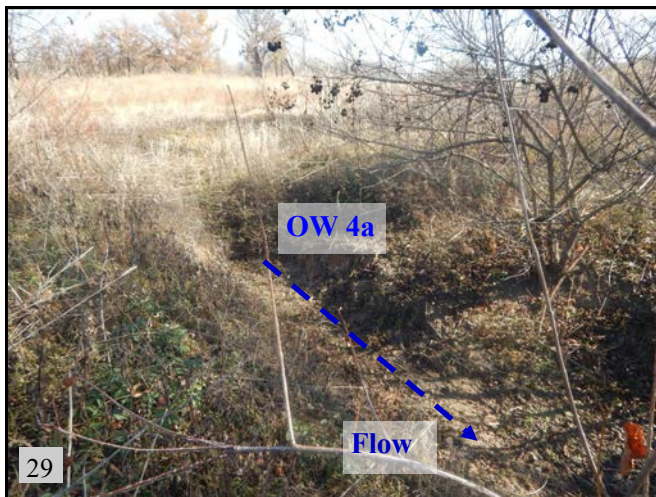
▲ (PS 6): View of hydric soils excavated at Wetland 2 at DP 7.



▲ (PS 6): View of Wetland 3, a PSS wetland located west of Wetland 2. View is to the north.



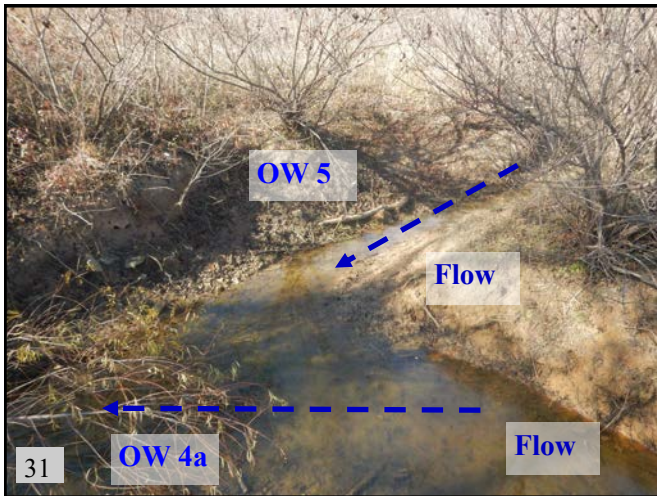
▲ (PS 6): View of hydric soils excavated at Wetland 3 at DP 8.



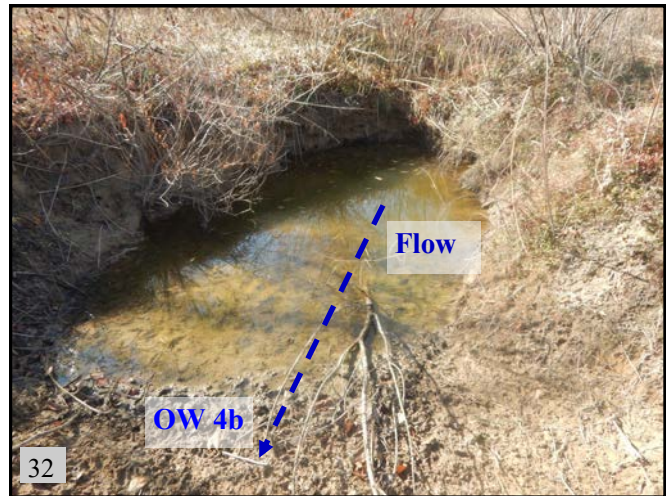
▲ (PS 7): View of headwaters of OW 4a. View is upstream to the northeast.



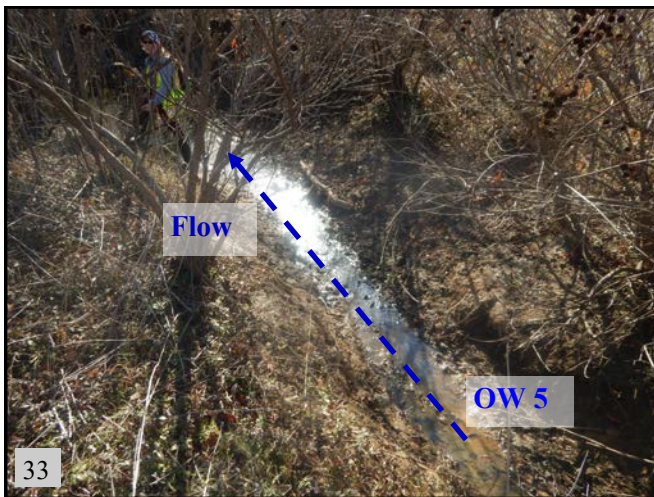
▲ (PS 7): View of flooded structure that OW 4a, 4b, and OW 5 flow into. View is to the south.



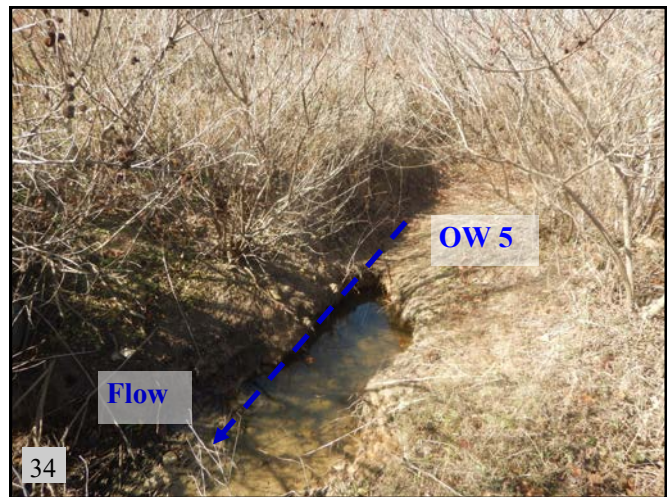
▲(PS 7): View of OW 4a and OW 5 confluence.



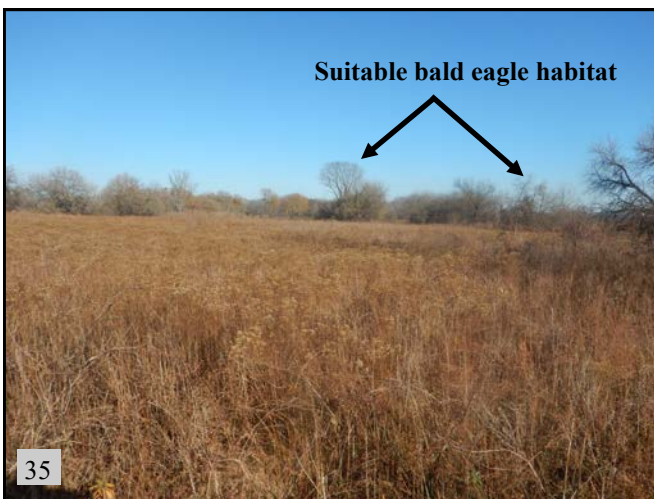
▲(PS 7): Headwaters and potential spring at OW 4b. View is upstream to the west.



▲(PS 7): View of OW 5, an ephemeral stream. View is downstream to the south.



▲(PS 7): View of OW 5 and riparian habitat. View is to the north.



▲(PS 8): View of tall grass habitat at DP 14, which is suitable ABB habitat. View is to the north.



▲(PS 8): View of wooded habitat at DP 15, which is suitable ABB habitat. View is to the north.



37

▲ (PS 9): View of the west section of OW 3c, a perennial cove of Lake Texoma. View is to the east.



38

▲ (PS 9): View of Wetland 4, a linear PSS wetland. View is to the north.



39

▲ (PS 9): View of hydric soils collected at DP 13 at Wetland 4.



40

▲ (PS 9): View of streambed and riparian habitat of OW 3c. View is to the west.



41

▲ (PS 10): View of the east section of OW 3c, a perennial cove of Lake Texoma. View is to the west.



42

▲ (PS 10): View of habitat along OW 3c. View is to the east.



43

▲ (PS 11): View of Wetland 5, a large PSS wetland on the east side of OW 3d. View is to the north.



44

▲ (PS 11): View of hydric soils collected at DP 18 at Wetland 5.



45

▲ (PS 11): View of OW 3d, a large perennial lake overflow area south of US-70. View is to the west.



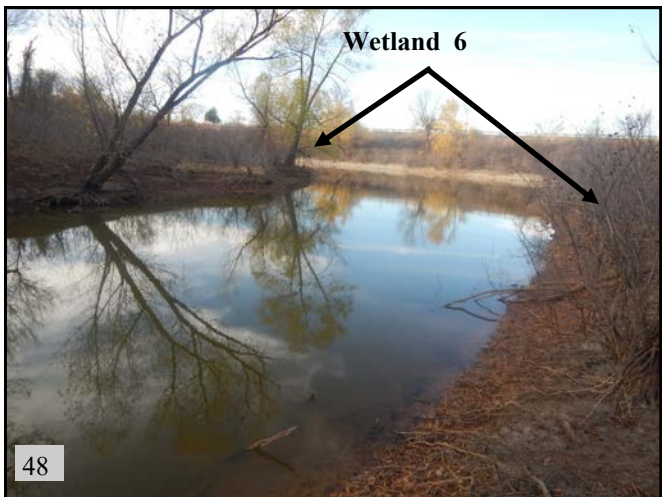
46

▲ (PS 11): View of OW 3d. View is to the north.



47

▲ (PS 11): View of upland herbaceous habitat south of OW 3d and west of Wetland 5. View is to the north.



48

▲ (PS 12): View of Wetland 6, a fringe PSS around OW 3d. View is to the north.



▲ (PS 12): View of Wetland 6 section on the east side of OW 3d. View is to the north.



▲ (PS 12): View of Wetland 6 section on the west side of OW 3d. View is to the west.



▲ (PS 12): View of hydric soils collected at DP 20 at Wetland 6.



▲ (PS 12): View of the west section of OW 3d and fringe Wetland 6. View is to the west.



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Oklahoma Ecological Services Field Office
9014 East 21st Street
Tulsa, OK 74129-1428
Phone: (918) 581-7458 Fax: (918) 581-7467
<http://www.fws.gov/southwest/es/Oklahoma/>

In Reply Refer To:
Consultation Code: 02EKOK00-2022-SLI-0399
Event Code: 02EKOK00-2022-E-01414
Project Name: Bryan & Marshall Counties JP 33783(04)

November 30, 2021

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

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Non-federal entities conducting activities that may result in take of listed species should consider seeking coverage under section 10 of the ESA, either through development of a Habitat Conservation Plan (HCP) or, by becoming a signatory to the General Conservation Plan (GCP) currently under development for the American burying beetle. Each of these mechanisms provides the means for obtaining a permit and coverage for incidental take of listed species during otherwise lawful activities.

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at:

<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>;

<http://www.towerkill.com>; and

[http://](http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html)

www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit through our Project Review step-wise process <http://www.fws.gov/southwest/es/oklahoma/OKESFO%20Permit%20Home.htm>.

Attachment(s):

- Official Species List
-

- USFWS National Wildlife Refuges and Fish Hatcheries
 - Migratory Birds
 - Wetlands
-

Official Species List

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

This species list is provided by:

Oklahoma Ecological Services Field Office

9014 East 21st Street

Tulsa, OK 74129-1428

(918) 581-7458

Project Summary

Consultation Code: 02EKOK00-2022-SLI-0399

Event Code: Some(02EKOK00-2022-E-01414)

Project Name: Bryan & Marshall Counties JP 33783(04)

Project Type: TRANSPORTATION

Project Description: The existing bridge on US-70 over Lake Texoma is 24 feet wide carrying two 12-foot lanes with a 38-foot wide approach roadway. The bridge itself is 4,943 feet long, and transitions to a causeway approximately 2.8 miles long. Also known as the Roosevelt Bridge, the existing bridge has been determined eligible for inclusion in the National Register of Historic Places (NRHP) under Criteria A and C. The bridge is the only example of a Warren with polygonal top chord truss bridge in Oklahoma. Current average annual daily traffic (AADT) is 8,000 vehicles per day (vpd), with a projected AADT of 11,200 vpd in 2039. This volume is anticipated to exceed the capacity of the two-lane roadway. The sufficiency rating of the bridge is 42.3 and the bridge is considered at risk of becoming structurally deficient. The bridge is also considered fracture critical. The bridge is classified as functionally obsolete due to the narrow width and lack of shoulders. There were 47 documented collisions on the bridge and approaches between 2014 and 2020, 29 of which occurred on the bridge. The length of the bridge combined with the lack of shoulders means that vehicles have no room to maneuver or stop in the event of an emergency. Collisions can be difficult for emergency responders to reach and cause significant congestion.

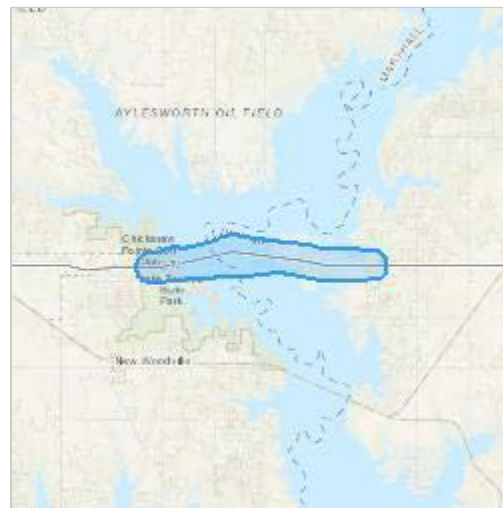
The project area is primarily owned and under the jurisdiction of the US Army Corps of Engineers (USACE), Tulsa District. Lake Texoma is a USACE recreational and flood control facility, and is also classified as navigable under the Rivers and Harbors Act. The USACE also owns the majority of land from the east side of the bridge to the end of the project at Willow Springs. West of the bridge, lands are owned both privately and by the Choctaw Nation. Much of the area west of the bridge is encompassed by Lake Texoma State Park, which is managed by the Oklahoma Tourism and Recreation Department. The purpose of the project is to correct the at-risk bridge, accommodate future traffic volumes, and improve safety.

The existing bridge is eligible for inclusion in the NRHP and is protected by Section 4(f) of the Department of Transportation Act, which dictates the bridge may not be used, or adversely affected, unless there is no feasible or prudent alternative. ODOT will analyze alternatives that will improve the bridge while maintaining its historic integrity, per the FHWA Programmatic Section 4(f) Evaluation for the Use of Historic Bridges. These alternatives include doing nothing, rehabilitating the existing

bridge, and building a new bridge in a new location while preserving the existing bridge as either half of a one-way pair, a pedestrian and/or bicycle facility, or as a historic monument. Until that analysis is complete, it is unknown if the bridge will be repaired or replaced and if replaced, if it will be on existing alignment or a new alignment. It is likely that new right-of-way (or easement) will be required regardless of the alternative selected. Due to the length of the detour if the bridge were closed, any plan to improve the bridge will keep US-70 open to traffic during construction.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@34.000007,-96.6055407803805,14z>



Counties: Bryan and Marshall counties, Oklahoma

Endangered Species Act Species

There is a total of 5 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

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

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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

Birds

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
Whooping Crane <i>Grus americana</i> Population: Wherever found, except where listed as an experimental population There is final critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/758	Endangered

Insects

NAME	STATUS
American Burying Beetle <i>Nicrophorus americanus</i> Population: Wherever found, except where listed as an experimental population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/66	Threatened
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

Critical habitats

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

USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

Migratory Birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

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1. The [Migratory Birds Treaty Act](#) of 1918.
 2. The [Bald and Golden Eagle Protection Act](#) of 1940.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Sep 1 to Jul 31
Lesser Yellowlegs <i>Tringa flavipes</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9679	Breeds elsewhere

NAME	BREEDING SEASON
Prothonotary Warbler <i>Protonotaria citrea</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Apr 1 to Jul 31
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Sep 10

Probability Of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

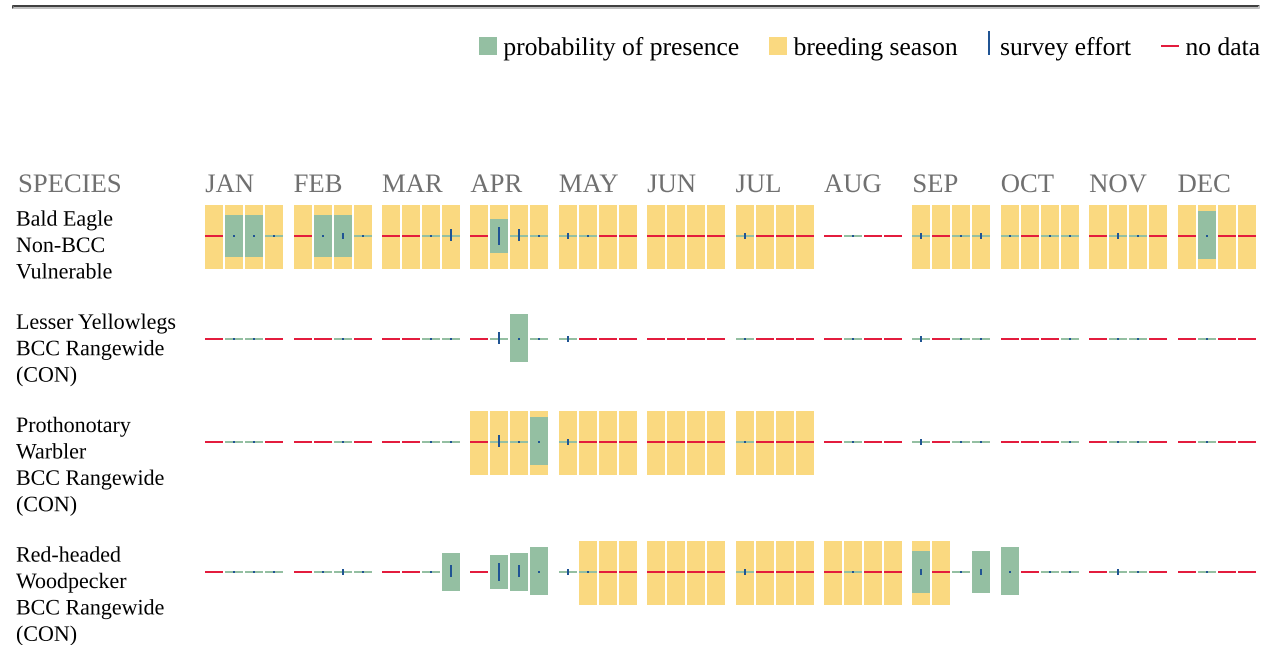
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

No Data (-)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

Migratory Birds FAQ

Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the migratory birds potentially occurring in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of

certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

WETLAND INFORMATION WAS NOT AVAILABLE WHEN THIS SPECIES LIST WAS GENERATED.
PLEASE VISIT [HTTPS://WWW.FWS.GOV/WETLANDS/DATA/MAPPER.HTML](https://www.fws.gov/wetlands/data/mapper.html) OR CONTACT THE FIELD OFFICE FOR FURTHER INFORMATION.
