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# Public Notice

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U.S. Army Corps  
of Engineers  
Tulsa District

Reply To:

U.S. Army Corps of Engineers  
ATTN: Regulatory Office  
1645 South 101st East Avenue  
Tulsa, OK 74128-4609

SWT-2013-639  
Public Notice No.

April 30, 2014  
Public Notice Date

May 30, 2014  
Expiration Date

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## PURPOSE

The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

## SECTION 10

The U.S. Army Corps of Engineers is directed by Congress through Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

## SECTION 404

The U.S. Army Corps of Engineers is directed by Congress through Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

## NOTICE TO PUBLISHERS

This public notice has been provided as a public service and may be reprinted at your discretion. However, any cost incurred as a result of reprinting or further distribution shall not be a basis for claim against the Government.

GENERAL PERMIT: 14  
Application No.: SWT-2013-639

JOINT PUBLIC NOTICE  
U.S. ARMY CORPS OF ENGINEERS  
AND  
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)  
(30-DAY COMMENT PERIOD)

In accordance with Title 33 CFR 325.5(c), published November 13, 1986, in the Federal Register, the District Engineer (DE), U.S. Army Corps of Engineers, Tulsa District, proposes to reissue a General Permit (GP) for the construction of transportation crossings activities in Outstanding Resource Waters (ORW) and their watersheds and High Quality Waters (HQW) as identified and designated in Oklahoma Water Quality Standards (OWQS), OAC 785: Chapter 45, Appendix A. This GP will be issued pursuant to Section 404 of the Clean Water Act (33 USC 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403).

Scope of Work: Work authorized by GP14 would be limited to activities required for the construction, expansion, modification, or improvement of linear transportation crossings (e.g., highways, railways, trails, airport runways, and taxiways) in waters of the United States.

Note: Some discharges for the construction of farm roads, forest roads, or temporary roads for moving mining equipment may be eligible for an exemption from the need for a Section 404 permit (see 33 CFR 323.4).

Location of Work: This GP is applicable to all Critical Resource Waters (CRW) within the state of Oklahoma, as identified in the GP, excluding: (1) defined archeological and historical sites, (2) sites listed in the National Register of Historic Places, and (3) State historic sites. The list below represents the up to date listing of CRW.

ORW: Waters of the United States designated ORW in Appendix A of the OWQS (July 1, 2013) include the following, and all associated water bodies located in their respective watersheds:

- (1) Flint Creek (all) in Adair County and the following tributary: Sager Creek.
- (2) Upper Illinois River, upstream from the confluence of the Barren Fork in Cherokee, Adair, and Delaware Counties, east to the Arkansas State line and the following tributaries: Tahlequah Creek and Ballard Creek.
- (3) Barren (Baron) Fork in Cherokee and Adair Counties, from its confluence with the Illinois River, upstream to the Arkansas State line, and including the following tributaries: Tyner Creek, Dennison Hollow, Peacheater Creek, Scraper Hollow, England Hollow, Green Creek, Shell Branch, and Evansville Creek.

- (4) Upper Mountain Fork River, upstream of the 600 feet above mean sea level (msl) elevation (upstream of Broken Bow Reservoir) in McCurtain and Le Flore Counties, and the following tributaries: Buktuklo Creek, Blue Creek, Big Eagle Creek, Little Eagle Creek, Cucumber Creek, Beech (Beach) Creek, Cow Creek, and Panther Creek.
- (5) Big Lee Creek, upstream from 420 feet msl elevation in Sequoyah County, and the following tributaries: Webbers Creek and Briar Creek (Bear Creek).
- (6) Little Lee Creek, in Adair and Sequoyah Counties, and the following tributary: Jenkins Creek.

HQW: Waters of the United States designated HQW listed in Appendix A of the OWQS (July 1, 2013) include the following:

- (1) Water Quality Management Basin 1: the Illinois River from headwater of Robert S. Kerr Reservoir to Barren Fork confluence, Fourteen Mile Creek, Spring Creek, Snake Creek, Little Spring Creek, Saline Creek, Little Saline Creek, Brush Creek, Beaty Creek, Honey Creek, Cave Springs Branch, and Warren Branch.
- (2) Water Quality Management Basin 2: Lee Creek downstream from 420 feet msl elevation, Black Fork upstream from Cedar Creek, Sallisaw Creek upstream from U.S. Route 64.
- (3) Water Quality Management Basin 3: Pennington Creek, Guy Sandy Creek, Honey Creek, Crater Creek, Panther Creek, West Cache Creek upstream from Panther Creek.
- (4) Water Quality Management Basin 4: Little River from the Arkansas State line to Pine Creek Dam, Mountain Fork River downstream from the Broken Bow Dam, Lukfata Creek, Glover River, Cedar Creek above Glover River, Carter Creek, Pine Creek, West Fork of Glover River, Bluff Creek, East Fork of Glover River, Cedar Creek, Carter Creek, Pine Creek, West Fork, Bluff Creek, East Fork, Cypress Creek, Little River upstream from and including the Pine Creek Reservoir, Pine Creek, Terrapin Creek, Houston Creek, Cloudy Creek, Jack Creek, Black Fork, Cedar Creek, Blue River upstream from State Hwy 48A bridge to State Hwy 7 bridge.
- (5) Water Quality Management Basin 7: North Canadian (Beaver) River upstream from Texas State line to New Mexico State line, Cimarron River upstream from the Colorado State line to the New Mexico State line.

Plans and Data: Plans typical for linear transportation crossings are to be submitted with each request. If additional information is desired, it may be obtained from Mr. Bryan Noblitt, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7400.

Purpose and Need for GP: Nationwide Permit (NWP) General Condition 22 provides for the designation of CRW by the Corps. The Tulsa District CRW designation applies to all HQW and ORW specifically listed in the OWQS, OAC 785: Chapter 45, Appendix A; which also includes all waters located in the watersheds of ORW. General Condition 22 prohibits the use of specific NWPs, including NWP for Linear Transportation Activities, within CRW and adjacent wetlands. Without a GP for linear transportation activities as

proposed herein, the regulated public is required to obtain an individual permit for those activities requiring a Section 404 permit. The Tulsa District has issued 38 authorizations for linear transportation activities within CRW since the reauthorization of this GP in September 2009. GP14 is designed to provide an expeditious review and authorization where appropriate for transportation crossing activities with minimal environmental impacts. By reissuing GP14, the Corps believes that the proposed provisions and conditions address the environmental and water quality issues particular to CRW.

Environmental Considerations: The preliminary determination to reissue GP14 is not expected to affect listed endangered species or their critical habitat. A copy of this notice is being furnished to the United States Fish and Wildlife Service (USFWS) and appropriate State agencies. This notice constitutes a request to those agencies for information on whether any other listed or proposed-to-be-listed endangered or threatened species may be present in the areas which would be affected by GP14.

Endangered Species: The following listed species are associated with CRW in Oklahoma:

- Leopard darter (*Percina pantherina*) in Choctaw, Le Flore, Pushmataha, and McCurtain Counties.
- Arkansas darter (*Etheostoma cragini*) in Cherokee, Delaware, Ottawa, and Mayes Counties.
- Neosho madtom (*Noturus placidus*) in Ottawa County.
- Ozark cavefish (*Amblyopsis rosae*) in Delaware and Ottawa Counties.
- Rabbitsfoot (*Quadrula cylindrica cylindrica*) in Adair, Cherokee, Delaware, Le Flore, Pushmataha, and McCurtain Counties.
- Quachita rock pocketbook mussel (*Arkansia wheeleri*) in Le Flore, Pushmataha, and McCurtain Counties.
- Scaleshell mussel (*Leptodea leptodon*) in Le Flore, Pushmataha, and McCurtain Counties.
- Winged mapleleaf mussel (*Quadrula fragosa*) in Le Flore, Pushmataha, and McCurtain Counties.
- Neosho mucket mussel (*Lampsilis rafinesqueana*) in Adair, Cherokee, Delaware, and Ottawa Counties.
- Gray bat (*Myotis grisescens*) in Adair, Cherokee, Delaware, Mayes, Ottawa, and Sequoyah Counties.
- Indiana bat (*Myotis sodalist*) in Choctaw, Delaware Le Flore, McCurtain, and Pushmataha Counties.
- Ozark big-eared bat (*Corynorhinus townsendii ingens*) in Adair, Cherokee, Delaware, Mayes, Ottawa, and Sequoyah Counties.
- American alligator (*Alligator mississippiensis*) in McCurtain and Choctaw Counties.
- Whooping crane (*Grus Americana*) in Adair, Cherokee, Comanche, Delaware, Garvin, Johnston, Mayes, Murray, Pontotoc, and Sequoyah Counties.

- Interior least tern (*Sterna antillarum*) in Adair, Cherokee, Cimarron, Choctaw, Comanche, Delaware, Garvin, Johnston, Le Flore, Mayes, McCurtain, Murray, Ottawa, Pontotoc, Pushmataha, and Sequoyah Counties.
- Piping plover (*Charadrius melodus*) in Adair, Cimarron, Cherokee, Choctaw, Comanche, Delaware, Garvin, Johnston, Le Flore, Mayes, McCurtain, Murray, Ottawa, Pontotoc, Pushmataha, and Sequoyah Counties.
- Sprague's pipit (*Anthus spragueii*) in Adair, Cherokee, Choctaw, Comanche, Delaware, Garvin, Johnston, Le Flore, Mayes, McCurtain, Murray, Pontotoc, Pushmataha, and Sequoyah Counties.
- Black-capped vireo (*Vireo atricapilla*) in Comanche County.
- Red-cockaded woodpecker (*Picoides borealis*) in Choctaw, Le Flore, McCurtain, and Pushmataha Counties.
- Lesser prairie chicken (*Tympanuchus pallidicinctus*) in Cimarron County.
- American burying beetle (*Nicrophorus americanus*) in Adair, Cherokee, Choctaw, Delaware, Garvin, Johnston, Le Flore, Mayes, McCurtain, Murray, Ottawa, Pontotoc, Pushmataha, and Sequoyah Counties.
- Harperella (*Ptilimnium nodosum*) in Choctaw, Le Flore, McCurtain, and Pushmataha Counties.

The decision to reissue GP14 will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownerships, and, in general, the needs and welfare of the people. The proposed permit will be denied if the GP does not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the 404(b)(1) guidelines and any other applicable guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

Comments: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of the reissuance of GP14. Comments concerning the reissuance of this permit should be received by the DE no later than 30 days from the date of this public notice. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above.

Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposal. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto. Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a water quality certification for the proposed project. A final decision on reissuance of GP14 will not be made until a decision has been made on the required water quality certification pursuant to Section 401 of the Clean Water Act.

Andrew R. Commer  
Chief, Regulatory Office

Enclosure



**DEPARTMENT OF THE ARMY**  
**CORPS OF ENGINEERS, TULSA DISTRICT**  
**1645 SOUTH 101ST EAST AVENUE**  
**TULSA, OKLAHOMA 74128-4609**

**GENERAL PERMIT NO. OKOOG30014**  
**FOR TRANSPORTATION CROSSINGS**  
**IN CRITICAL RESOURCE WATERS IN OKLAHOMA**

In accordance with Title 33 CFR 325.5(c), as published November 13, 1986, in the Federal Register, the District Engineer (DE), U.S. Army Corps of Engineers (Corps), Tulsa District, has authorized issuance of a general permit (GP) for the construction of transportation crossings in Critical Resource Waters (CRWs) in Oklahoma defined as, Outstanding Resource Waters (ORWs) and their watersheds and High Quality Waters (HQWs) as identified and designated in Oklahoma Water Quality Standards (OWQS), OAC 785: Chapter 45, Appendix A. This GP is reissued pursuant to Section 404 of the Clean Water Act (33 USC 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403).

**Scope of Work:** Work authorized by this GP would be limited to activities required for the construction, expansion, modification, or improvement of linear transportation crossings (e.g., highways, railways, trails, airport runways, and taxiways) in waters of the United States (U.S.), including adjacent wetlands, provided the following:

- (1) The permit applicant notifies the Corps prior to the use of this GP in accordance with the notification procedures below.
- (2) The discharge does not cause the loss of greater than 1/2 acre of waters of the U.S., Waters of the U.S. temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours and elevation, are not included in the calculation of permanent loss of waters of the U.S.
- (3) For discharges in special aquatic sites (wetlands, stream riffle and pool complexes, sanctuaries and refuges, and vegetated shallows), the notification must include a delineation of the affected special aquatic site.
- (4) The width of the fill is limited to the minimum necessary for the crossing.
- (5) The authorized activities must not cause more than minimal changes to the hydraulic flow characteristics of the stream, increase flooding, or cause more than minimal degradation of water quality of any stream.
- (6) The crossing is a single and complete project for crossing waters of the U.S. Where a road segment has multiple crossings of streams, the Corps will consider whether it should use its discretionary authority to require an individual permit.

The following activities are not authorized by this GP:

- (1) Stream channelization.
- (2) Non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangers.

**Note 1:** Some discharges for the construction of farm roads, forest roads, or temporary roads for moving mining equipment may be eligible for an exemption from the need for Section 404 permit (see 33 CFR 323.4).

**Note 2:** Access roads used for construction may be authorized, provided they meet the terms and conditions of this GP. Access roads used solely for construction of transportation crossing must be removed upon completion of the work and the area restored to preconstruction contours, elevations, and wetland conditions. Temporary access roads for construction may be authorized by Nationwide Permit (NWP) 33.

**Location of Work:** This GP is applicable to all CRWs, ORWs and HQWs within the Oklahoma portion of the Tulsa District civil works boundary. As shown in Enclosures 3 through 8, excluding:

- (1) defined archeological and historical sites,
- (2) sites listed, or eligible for listing, in the National Register of Historic Places, and
- (3) State Historic Sites.

**ORWs:** Waters designated ORWs in Appendix A of the OWQS (July 10, 2009) include the following, and all waters located in watersheds of these waters:

- (1) Flint Creek (all) in Adair County and the following tributary: Sager Creek.
- (2) Illinois River - North from the confluence of the Barren Fork River in Cherokee, Adair, and Delaware Counties, east to the Arkansas State Line, and the following tributaries: Tahlequah Creek and Ballard Creek.
- (3) Barren (Baron) Fork River - In Cherokee and Adair Counties, from its confluence with the Illinois River, upstream to the Arkansas State Line, and including the following tributaries: Tyner Creek, Dennison Hollow, Peacheater Creek, Scraper Hollow, England Hollow, Green Creek, Shell Branch, and Evansville Creek.
- (4) Mountain Fork River - Upstream of the 600 feet above mean sea level (msl) elevation (upstream of Broken Bow Reservoir) in McCurtain and Le Flore Counties, and the following tributaries: Buktuklo Creek, Blue Creek, Big Eagle Creek, Little Eagle Creek, Cucumber Creek, Beech (Beach) Creek, Cow Creek, and Panther Creek.

- (5) Big Lee Creek - Above 420 feet msl elevation in Sequoyah County, and the following tributaries: Webbers Creek and Briar Creek (Bear Creek).
- (6) Little Lee Creek, in Adair and Sequoyah Counties, and the following tributary: Jenkins Creek.

HQWs: Waters designated HQW listed in Appendix A of the OWQS (July 10, 2009) include the following:

- (1) Water Quality Management Basin 1, Middle Arkansas River: Lower Illinois River from headwater of Robert S. Kerr Reservoir to Tenkiller Dam, Upper Illinois River from Tenkiller dam upstream, Fourteen Mile Creek, Spring Creek, Little Snake Creek, Spring Creek, Brush Creek, Beaty Creek, Honey Creek, Cave Springs Branch, Warren Branch.
- (2) Water Quality Management Basin 2, Lower Arkansas River: Lee Creek downstream from 420 feet msl, Black Fork upstream from Cedar Creek, Sallisaw Creek upstream from U.S. Route 64.
- (3) Water Quality Management Basin 3, Upper Red River: Pennington Creek, Guy Sandy Creek, Honey Creek, Crater Creek, Panther Creek, West Cache Creek upstream from Panther Creek.
- (4) Water Quality Management Basin 4, Lower Red River: Little River from the Arkansas State Line to Pine Creek Dam, Mountain Fork River downstream Broken Bow Dam, Mountain Fork River downstream from U.S. Highway 70 bridge, Lukfata Creek, Glover River, Cedar Creek above Glover River, Carter Creek, Pine Creek, West Fork of Glover River, Bluff Creek, East Fork of Glover River, Cypress Creek, Little River upstream from and including Pine Creek Reservoir, Pine Creek, Terrapin Creek, Houston Creek, Cloudy Creek, Jack Creek, Black Fork, Cedar Creek above Kiamichi River, Blue River upstream from State Route 48A Bridge.
- (5) Water Quality Management Basin 7, Panhandle Region: North Canadian (Beaver) River upstream from Texas State Line to New Mexico State Line, Cimarron River upstream from the Colorado State Line to the New Mexico State Line.

Duration: This GP would be in effect for a period of 5 years from date of issuance, unless it is specifically modified, suspended, or revoked. Upon its expiration, the GP would be considered for renewal. The GP may be modified, suspended, or revoked, in whole or in part, at anytime, if the DE determines that the proposed project or cumulative effects of its activities would have more than minimal adverse environmental impacts or may be contrary to public interest. Work previously authorized by this GP would not be affected by subsequent modification, suspension, or revocation of the GP.

If the DE determines that the adverse effects of the proposed work are more than minimal, then he would notify the applicant either (1) that the project does not qualify for authorization under the GP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the GP subject to the applicant's submitting a mitigation proposal that would reduce the adverse effects to the minimal level; or (3) that the project is authorized under the GP with specific modifications or conditions.

Water Quality Certification: A Section 401 Water Quality Certification has been issued without conditions from the Oklahoma Department of Environmental Quality (ODEQ).

Other Authorizations: Individuals considering work on lands or waters under the jurisdiction of other Federal, State, or local agencies would be responsible for obtaining any permits required by such agencies.

Notification Procedure: Persons desiring to perform work under this GP would furnish notification to the Corps, Tulsa District as early as possible prior to anticipated construction date. The prospective permittee shall not begin the activity:

- (1) Until notified by the DE that the activity may proceed under the GP with any special conditions imposed by the District or Division Engineer; or
- (2) If notified by the District or Division Engineer that an individual permit is required, until after the individual permit has been evaluated and issued.

The notification must be in writing and may be submitted on a Department of the Army Permit Application (Eng Form 4345). If construction and material placement is to be in a Corps lake, the information must be sent through the appropriate Area/Lake Manager. Information for work in other all locations should be sent directly to the District Engineer, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609. The content of the notification must include the following information:

- (1) Name, address, and telephone number(s) of the prospective permittee.
- (2) Location of the proposed project and a vicinity map. The location of the proposed work may be shown on a 7.5 minute USGS quadrangle map.
- (3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional GP(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity.



(4) Delineation of any special aquatic sites (wetlands, stream riffle and pool complexes, sanctuaries and refuges) to be affected by the proposed construction.

(5) A site plan view. This should be drawn to show any delineated wetland, existing embankments, flow direction, property boundaries, adjoining property owners, directional north, the proposed activity with distances and dimensions, excavation and fill areas, and the quantity of excavation and fill.

(6) A cross-section or profile view. This should be drawn to indicate excavation and fill areas, fill types, existing and proposed contours of the stream and embankment, and the water depth.

(7) Information on any temporary features to be constructed (such as a work road) including the location, dimensions, quantities, source of borrow materials, water management design, timing and duration, and removal and restoration parameters.

(8) A description of alternative routes and designs considered for avoiding and minimizing impacts to the aquatic ecosystem. The submitted information should support that the proposed project is the least environmentally damaging practicable alternative.

(9) Mitigation: Permit applicants are responsible for proposing an appropriate compensatory mitigation plan to offset unavoidable impacts. For activities involving any permanent loss of any special aquatic sites or loss of waters of the U.S. greater than 1/10 acre, the notification must include a statement describing how impacts to waters of the U.S. are to be avoided and minimized. The application must also include either a statement describing how impacts to waters of the U.S. are to be compensated for or a statement explaining why compensatory mitigation should not be required for the proposed impacts.

(10) A title block should be included on each page of the drawings. The title block should include the proposed activity, applicant, waterbody, and County/State.

(11) If the project is to be located in a lake not operated by the Corps, written approval from the owner/manager must be furnished.

**Verification Procedure:** Upon receipt of a notification by a prospective permittee, the Corps will expeditiously provide a copy of the applicant's request including project information to the following:

- State Historic Preservation Office (Oklahoma Archeological Survey and Oklahoma Historic Society)
- Oklahoma Department of Environmental Quality
- U.S. Fish and Wildlife Service (USFWS), if the Corps determines that the proposed project has the potential to affect Federally-listed threatened or endangered species.

These agencies will have 10 days to indicate they will be providing site-specific comments with regard to the proposed project. Their comments must relate to matters within their expertise (i.e., proximity to known archeological or cultural resources, special water quality considerations, endangered species, respectively) and must be provided in writing. Once they notify the Corps they will be providing site-specific comments, the Corps will wait 5 additional days for these comments before proceeding with GP verification. The Corps will fully consider comments provided by these agencies in the determination of whether the project should proceed under the GP.

If the DE determines that the proposed work meets the provisions of the GP, and no extraordinary conditions exist that would warrant filing a formal application, the Corps would notify the applicant by letter that the project falls under this GP.

If the DE determines that the proposed work does not meet the provisions of the GP, or that extraordinary conditions exist, the Corps would notify the applicant that filing a formal application would be necessary. The applicant should be aware that additional evaluation time will be required for a final decision on any individual permit application submitted subsequent to disqualification under the GP.

**Wetland Delineations Manual Region Supplements:** The Corps Manual provides technical guidance and procedures, from a National perspective, for identifying and delineating wetlands that may be subject to regulatory jurisdiction under Section 404 of the Clean Water Act (33 U.S.C. 1344) or Section 10 of the Rivers and Harbors Act (33 U.S.C. 403). According to the Corps Manual, identification of wetlands is based on a three-factor approach involving indicators of hydrophytic vegetation, hydric soil, and wetland hydrology.

Any wetland delineation performed by a consultant must be completed in accordance with the 1987 Corps of Engineers Wetland Delineation Manual or applicable Regional Supplement. The submitted wetland delineation should be accompanied by appropriate documentation and will be subject to review and validation by this office.

The Tulsa District includes geography that will ultimately be served by four Regional Supplements. Specifically these are:

- (1) Great Plains Region,
- (2) Midwest Region,

- (3) Eastern Mountains and Piedmont Region (formerly known as Mid-Atlantic and Southeast), and
- (4) Atlantic and Gulf Coastal Plain Region.

Each of these Regional Supplements addresses regional wetland characteristics and improves the accuracy and efficiency of wetland-delineation procedures. Regional differences in climate, geology, soils, hydrology, plant and animal communities, and other factors are important to the identification and functioning of wetlands.

For a Map of the Regional Supplements Applicable within Tulsa District (See Enclosure 9).

Mitigation: The guidelines are located in Part 332, Compensatory Mitigation for Losses of Aquatic Resources, dated April 10, 2008. Discharges of dredged or fill material into waters of the U.S. must be avoided or minimized to the maximum extent practicable at the project site. Compensation for unavoidable discharge of fill materials may require appropriate mitigation measures. Factors that the DE will consider when determining the acceptability of appropriate and practicable mitigation will include, but are not limited to:

- a. The approximate functions and values of the aquatic resource being impacted, such as habitat value, aquifer recharge, sediment conveyance or retention, flood storage, effects special aquatic sites downstream of proposed project, etc.;
- b. The permanence of the project's impacts on the resource; and
- c. The potential long-term effects of the action on remaining functions and values of the impacted aquatic resource. To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. A watershed approach to compensatory mitigation must be used to consider how the types and locations of compensatory mitigation projects will provide the desired aquatic resource functions. In general, the required compensatory mitigation should be located within the same watershed as the impact site, and should be located where it is most likely to successfully replace lost functions and services. Restoration is the preferred form of compensatory mitigation for loss of aquatic resource functions. If avoidance and minimization is not practicable then compensatory mitigation, through in-kind rehabilitation, enhancement, or preservation is required since there is a greater uncertainty that these methods of compensation will successfully offset permitted impacts. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing wetland or upland buffer zones to protect aquatic resource values; replacing the loss of aquatic resource values by creating, restoring, or enhancing similar functions and values; or using bioremediation techniques in conjunction with other methods to offset project impacts.

Conditions of GP: All work authorized under this GP would be subject to the General Permit 14 Specific Conditions (Enclosure 1) and General Conditions (Enclosure 2).

/s/

September 2, 2009

\_\_\_\_\_  
David A. Manning  
Chief, Regulatory Office

\_\_\_\_\_  
Date of Issuance

Enclosures

GENERAL PERMIT 14  
SPECIFIC CONDITIONS

1. Permittee Construction Schedule Notification: Complete and return the enclosed "Permittee Construction Schedule" form. Should construction be initiated prior to 30 days from authorization of this project, please return the completed form as soon as possible. If you prefer, you may telephone 918-669-7400 to inform the U.S. Army Corps of Engineers (Corps) regarding the construction start date.
  
2. Bridge Debris: To the maximum extent practicable all old bridge materials shall be removed from the stream. Subsurface support and structures shall be removed to below the bed of the stream and remaining portions covered with native streambed materials. Measures should be taken to ensure that fallback of debris to the stream is minimized, and all pieces of debris 6 inches or larger (single dimension) are captured and disposed of properly off-site. No bridge and support demolition debris shall be used as riprap material or embankment or abutment stabilization in Critical Resource Waters.
  
3. Clearing of Vegetation:
  - a. The clearing of vegetation should be kept to a minimum necessary in the right-of-way (ROW). Blanket spraying of broadleaf herbicides in ROW should be avoided.
  - b. The periodic brush-hogging or mowing is required for ROW maintenance should be performed during the fall and winter months.
  - c. The periodic removal of tall woody vegetation within the ROW should be performed during the fall and winter months.
  
4. Erosion Control Measures (ECM): The ECM such as staked hay bales or silt screen barriers shall be implemented at the toe of the stream channel and maintained during construction. Barriers shall remain in place and effective until sufficient vegetation coverage on exposed areas is established. Upon inspection of erosion control barriers, if there is any damage to the barrier, it shall be replaced or repaired within 24 hours of discovery. All exposed earthen areas, disturbed or newly created by the construction, shall be seeded immediately, replanted, or provided equivalent protection against subsequent erosion.
  
5. Riparian Areas and Native Grasses:
  - a. The permittee shall only use native vegetation in re-vegetating the project site following completion of construction. The permittee shall plant native grasses in all disturbed areas that vegetative cover has been eliminated.
  - b. The permittee shall minimize to the maximum extent practicable the removal of stream-shading trees when preparing the project site and constructing the crossing.
  - c. Measures should be taken to ensure the survivability of all planted vegetation.
  - d. The use of non-native or cultivated plant species should be avoided. The use of presoaked willow or river birch stakes should be incorporated into restored banks.
  
6. Wetland Impacts: The use of the existing wetland seedbed shall be planted on top of the newly constructed slope during the appropriate planting season.
  
7. Stockpile Area: The stockpile area shall not be located in a jurisdictional wetland or stream. You shall incorporate Erosion Control Measures along the entire length of the stockpile area to prevent excavated material from eroding in the upland location.
  
8. Monitoring for Stream Impacts: The permittee shall monitor the stream bank for destabilization for a period of 2 years. If stream destabilization occurs during this period, the permittee shall notify the Corps, Regulatory Office immediately in writing. This report shall assess the condition of the stream. The permittee shall include photographs of the stream channel and degraded area. After notification is made, the permittee may be required to submit a detailed plan discussing how to repair the problem while providing minimal effects to the mitigation area.

## GENERAL CONDITIONS:

### 1. Navigation:

- a. The permittee understands and agrees that, if future operations by the United States (U.S.) require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his/her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the U.S. Army Corps of Engineers (Corps), to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration;
- b. No activity may cause more than a minimal adverse effect on navigation and;
- c. No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

2. Aquatic Life Movements: No activity may substantially disrupt the necessary lifecycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

3. Spawning Areas: Activities, including structures and work in navigable waters of the U.S. or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavation, filling, or smothering downstream by substantial turbidity) of an important spawning area are not authorized.

4. Waterfowl Breeding Areas: Activities, including structures and work in navigable waters of the U.S. or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

5. Shellfish Beds: No activity, including structures and work in navigable waters of the U.S. or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations.

6. Suitable Material: No activity, including structures and work in navigable waters of the U.S. or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. Water Supply Intakes: No activity, including structures and work in navigable waters of the U.S. or discharges of dredged or fill material, may occur in the proximity of a public water supply.

8. Property Rights: This permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations, nor does it obviate the requirement to obtain other Federal, State or local assent required by law for the activity authorized herein.

9. Management of Water Flows: To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream modification within the right-of-way of bridge structure will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow. This condition is only applicable to projects that have the potential to affect water flows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to State and local authorities regarding management of water flow.

10. Flood Plain Ordinances: Activities authorized by Department of the Army permits sometimes require flood plain development permits. Communities participating in the National Flood Insurance Program are required by that program to review all proposed development to determine if a flood plain permit is required. The permittee must comply with any applicable FEMA-approved State or local flood plain management requirements.

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

12. Soil Erosion and Sediment Controls:

a. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the Ordinary High Water Mark or high tide line, must be permanently stabilized at the earliest practicable date.

b. Permittees are encouraged to perform work within waters of the U.S. during periods of low or non-flowing conditions.

c. The areas de-vegetated during construction shall be immediately stabilized after project completion to avoid erosion and the runoff of turbid waters.

13. Removal of Temporary Fills: Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

14. Proper Maintenance: Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. Wild and Scenic Rivers: No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status.

Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service (USFWS)).

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

17. Endangered Species:

a. No activity is authorized under any General Permit (GP) which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, the permittee shall not begin work on the activity until notified by the DE that the requirements of the ESA have been satisfied and that the activity is authorized.

b. Authorization of an activity by a GP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the office of the USFWS or their World Wide Web pages at <http://www.fws.gov/southwest/es/EndangeredSpecies/>.

18. Historical Properties:

a. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer (DE) has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee shall immediately notify the DE, if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the DE that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. The DE may stop work, if he/she determines that archeological investigations are warranted.

b. If you discover any previously unknown historical or archaeological material/remains, you shall stop work and immediately contact the Corps, Regulatory Office at 918-669-7400.

19. Compliance: All activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension, or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions Number 24 hereto, and in the institution of such legal proceedings as the U.S. Government may consider appropriate, whether or not this permit has been previously modified, suspended, or revoked in whole or in part.

20. Mitigation: The DE will determine the appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment by considering the following:

a. The project must be designed and constructed to avoid and minimize adverse effects to waters of the U.S. to the maximum extent practicable at the project site.

b. To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: (1) Reducing the size of the project; (2) establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; (3) and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

c. The permittee will give preference to use of mitigation bank credits as the primary preference hierarchy for mitigation. Where potential impacts are not located in the service area of an approved mitigation bank, or the approved mitigation bank does not have the appropriate number and resource type of credits available to offset those impacts, in-lieu fee mitigation, if available, is generally preferable to permittee-responsible mitigation. Permittee-responsible mitigation, either on-site or off-site, shall be considered if a mitigation bank and/or in-lieu fee program is unavailable or the use of which would be impracticable.

d. Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts, unless the DE determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project specific waiver of this requirement. Consistent with National policy, the DE will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

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

21. Minimization: The permittee agrees to make every reasonable effort to implement the work authorized herein in a manner so as to minimize any degrading of water quality, adverse impact of the work on fish and wildlife habitat, aquatic resources, and other natural environmental values.

22. Inspection: The permittee shall allow the DE or his/her authorized representative(s) or designee(s) to make periodic inspections at anytime deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

23. Proper Maintenance: The permittee shall maintain the structure or work authorized herein in good condition, including maintenance to include public safety. If and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party, he/she must restore the area to a condition satisfactory to the DE.

24. Modification, Suspension, and Revocation of GPs:

a. This permit may be modified, suspended, or revoked by the DE in accordance with 33 CFR 1344, Part 325.7(a), (b), (c), (d), and (e).

b. The DE will immediately suspend activities authorized herein, upon finding the immediate suspension would be in the general public interest.

c. The DE upon suspension will provide the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the DE to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within 10 days following receipt of this notice of suspension, the permittee may request a meeting with the DE or request a hearing in order to present information relevant to a decision as to whether his/her permit should be reinstated, modified, or revoked.

- d. This permit may be either modified, suspended, or revoked, in whole or in part, if the Secretary of the Army or his/her authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest.
- e. In issuing this permit, the Government has relied on the information and data, which the permittee has provided in connection with his/her permit application. If subsequent to the issuance of this permit, such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.
- f. Any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the U.S.

25. Real Estate:

- a. Real Estate –Deed Restrictions: If the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility of maintaining records of title to and interests in real property.
- b. Real Estate Easements-Government Property: A request for an easement on Government property would be sent to the appropriate Area/Lake Manager or the DE along with this GP.

26. Compliance Certification: Every permittee who has received GP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification form will be provided by the Corps with the authorization letter and will require:

- a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;
- b. A statement that any required mitigation was completed in accordance with the permit conditions; and
- c. The signature of the permittee certifying the completion of the work and mitigation.

27. Disturbed Areas:

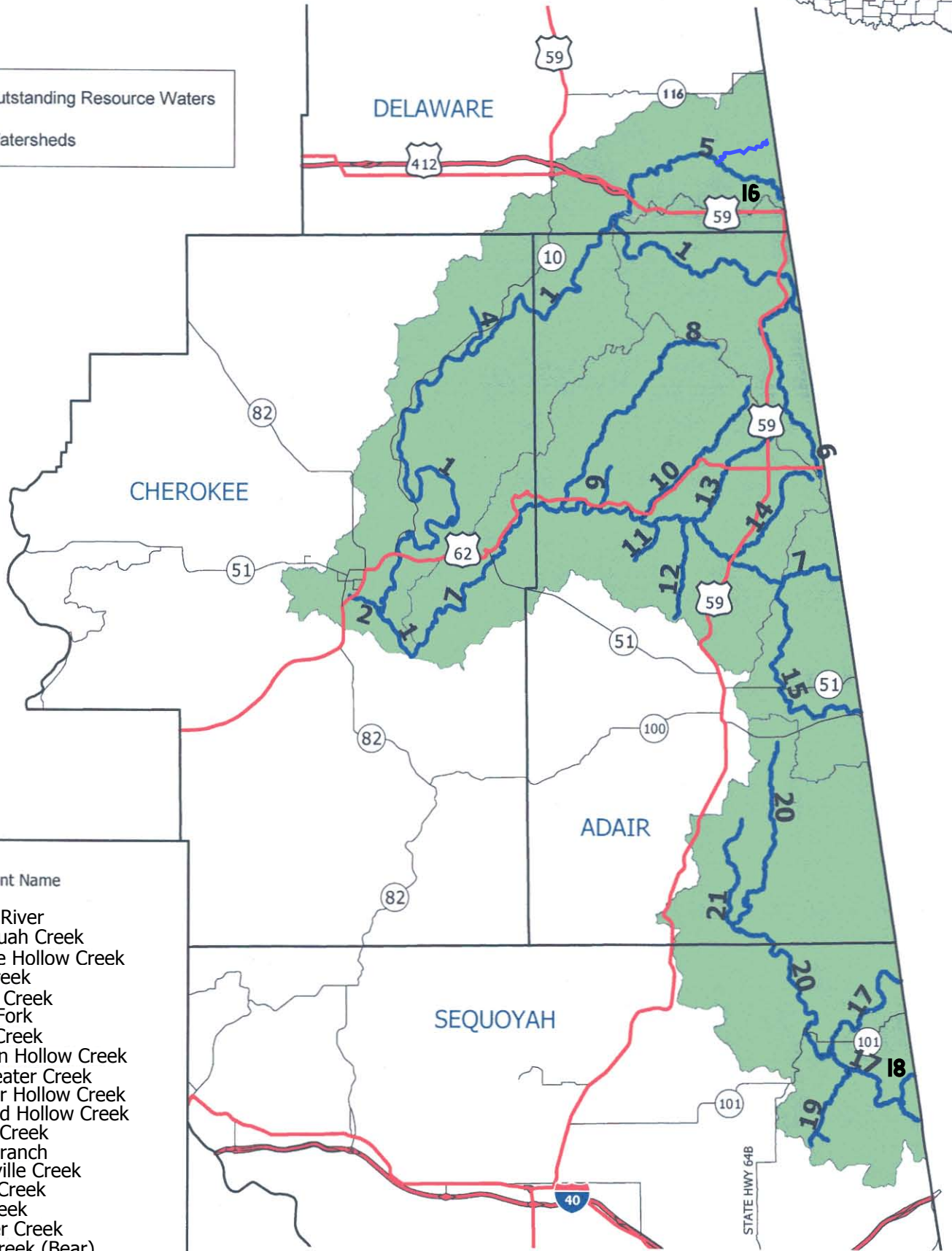
- a. The clearing of vegetation shall be minimized and limited to the immediate area of impact.
- b. Disturbed areas shall be returned as closely as possible to the original topographic contours and reestablished with stabilizing vegetation promptly following completion of construction.

28. Any material and fuels used in the project shall be stored and/or stockpiled above the OHWM and shall be removed from a likely flood zone prior to any predicted flood.

# Outstanding Resource Waters - Northeast



 Outstanding Resource Waters  
 Watersheds



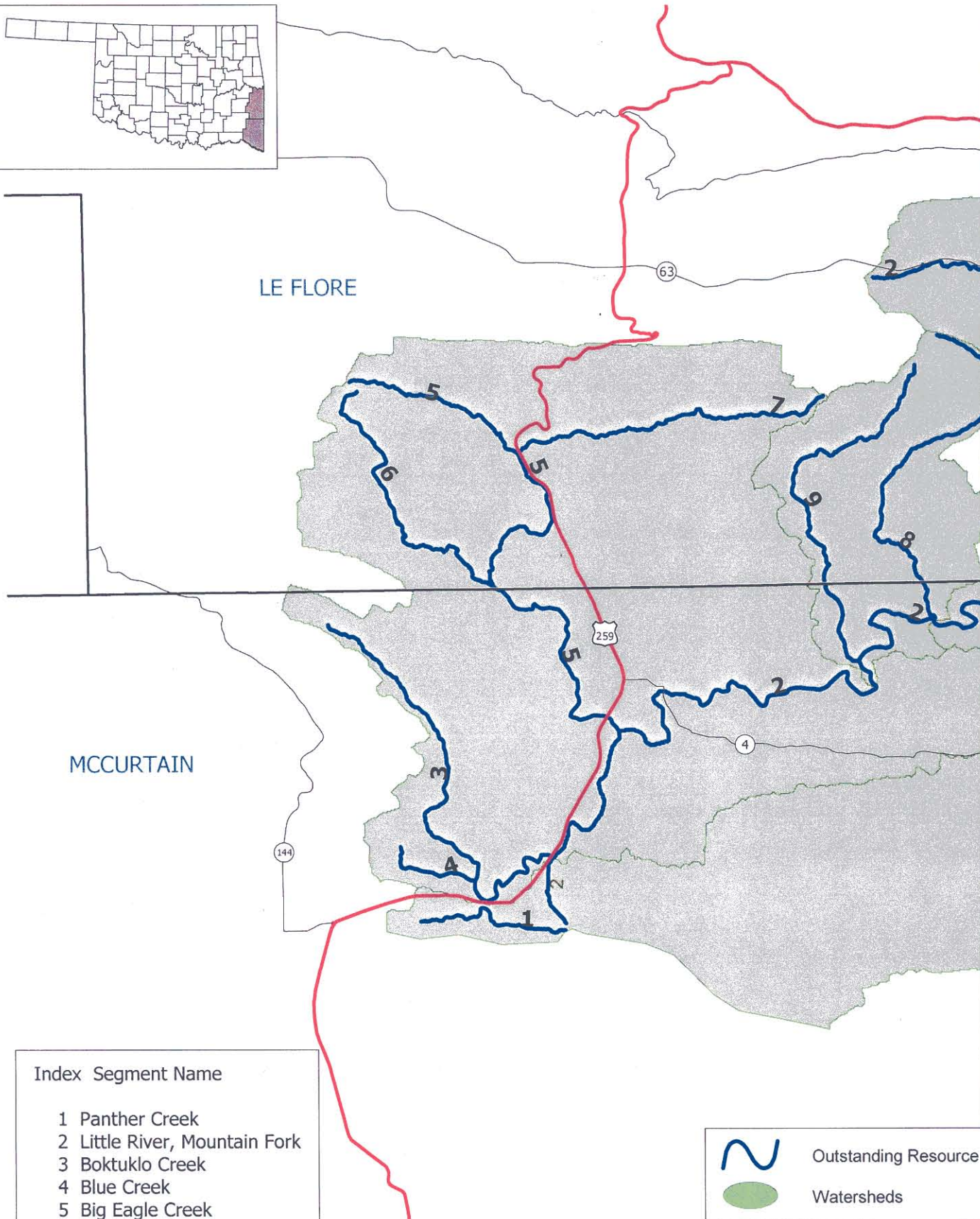
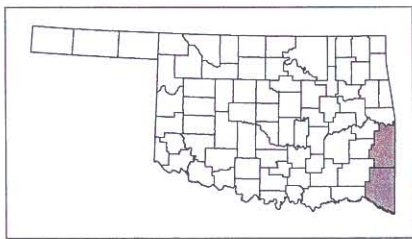
Index	Segment Name
1	Illinois River
2	Tahlequah Creek
4	Peavine Hollow Creek
5	Flint Creek
6	Ballard Creek
7	Baron Fork
8	Tyner Creek
9	Denison Hollow Creek
10	Peachater Creek
11	Scraper Hollow Creek
12	England Hollow Creek
13	Green Creek
14	Shell Branch
15	Evansville Creek
16	Sager Creek
17	Lee Creek
18	Webber Creek
19	Briar Creek (Bear)
20	Little Lee Creek
21	Jenkins Creek

**Enclosure 3**





# Outstanding Resource Waters - Southeast



**Index Segment Name**

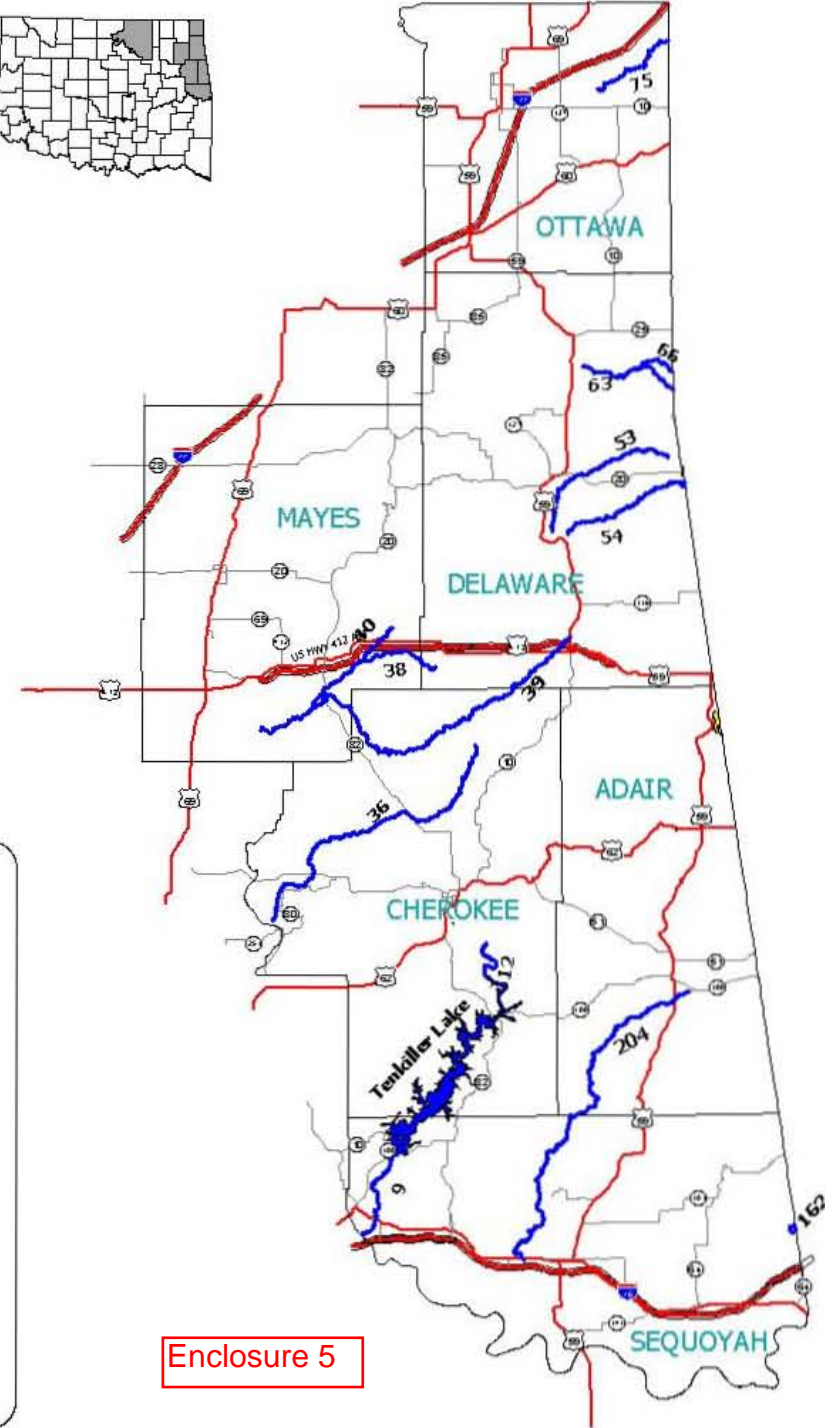
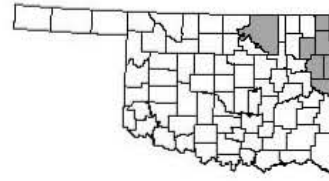
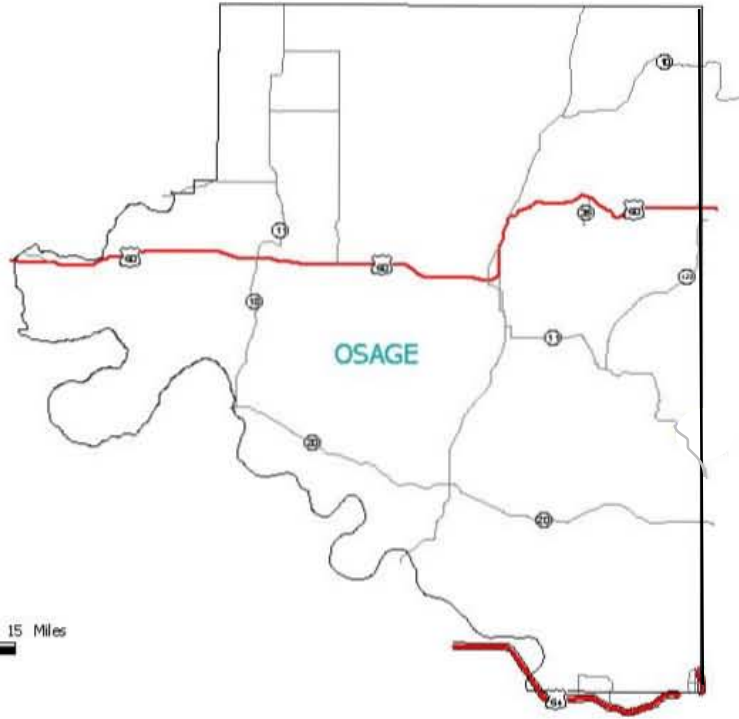
- 1 Panther Creek
- 2 Little River, Mountain Fork
- 3 Boktuklo Creek
- 4 Blue Creek
- 5 Big Eagle Creek
- 6 Little Eagle Creek
- 7 Cucumber Creek
- 8 Cow Creek
- 9 Beech Creek

 Outstanding Resource Waters  
 Watersheds

**Enclosure 4**



# High Quality Waters - Northeast



## Standard\_n Name

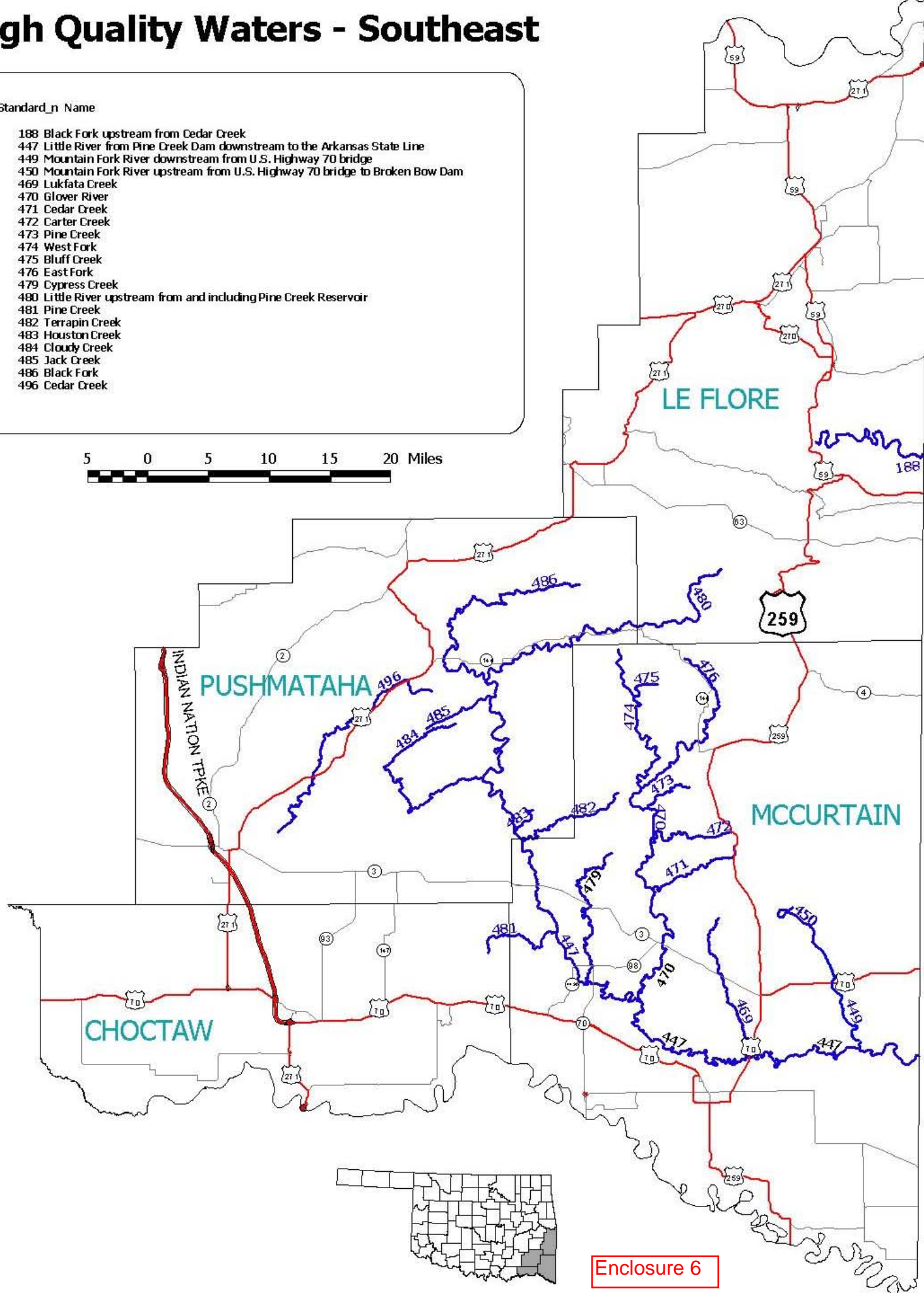
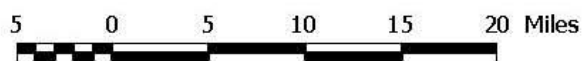
- |     |  |
|-----|--|
| 9   | Lower Illinois River from headwater of Robert S. Kerr Reservoir to Tenkiller Dam           |
| 12  | Upper Illinois River from Tenkiller Dam, including Tenkiller Lake, upstream to Barren Fork |
| 36  | Fourteen Mile Creek  |
| 38  | Snake Creek  |
| 39  | Spring Creek   |
| 40  | Little Spring Creek  |
| 53  | Brush Creek  |
| 54  | Beaty Creek  |
| 63  | Honey Creek  |
| 66  | Cave Springs Branch  |
| 75  | Warren Branch  |
| 162 | Lee Creek downstream from the 420 ft. elevation level                                      |
| 204 | Sallisaw Creek upstream from U.S. Highway 64   |

Enclosure 5

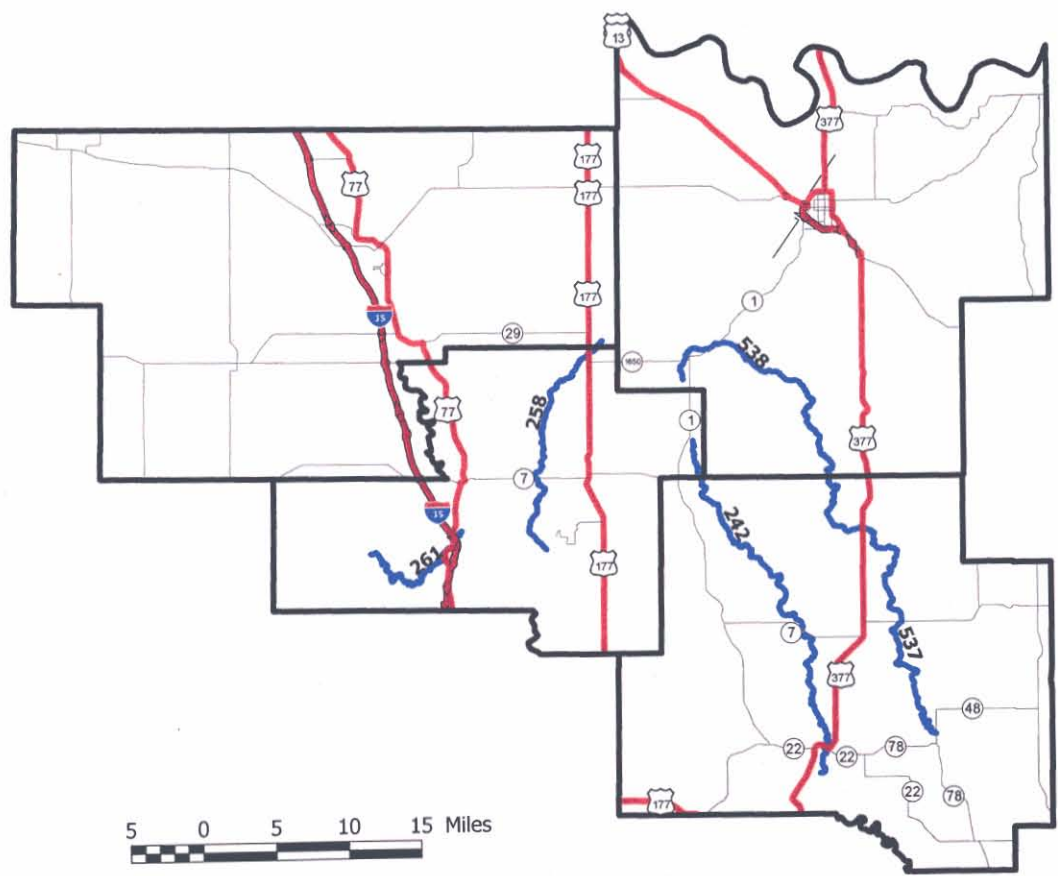
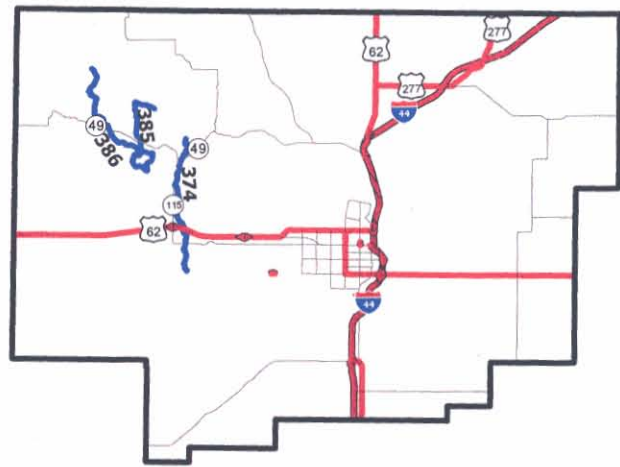
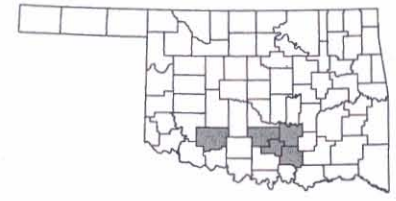
# High Quality Waters - Southeast

## Standard\_n Name

- 188 Black Fork upstream from Cedar Creek
- 447 Little River from Pine Creek Dam downstream to the Arkansas State Line
- 449 Mountain Fork River downstream from U.S. Highway 70 bridge
- 450 Mountain Fork River upstream from U.S. Highway 70 bridge to Broken Bow Dam
- 469 Lukfata Creek
- 470 Glover River
- 471 Cedar Creek
- 472 Carter Creek
- 473 Pine Creek
- 474 West Fork
- 475 Bluff Creek
- 476 East Fork
- 479 Cypress Creek
- 480 Little River upstream from and including Pine Creek Reservoir
- 481 Pine Creek
- 482 Terrapin Creek
- 483 Houston Creek
- 484 Cloudy Creek
- 485 Jack Creek
- 486 Black Fork
- 496 Cedar Creek



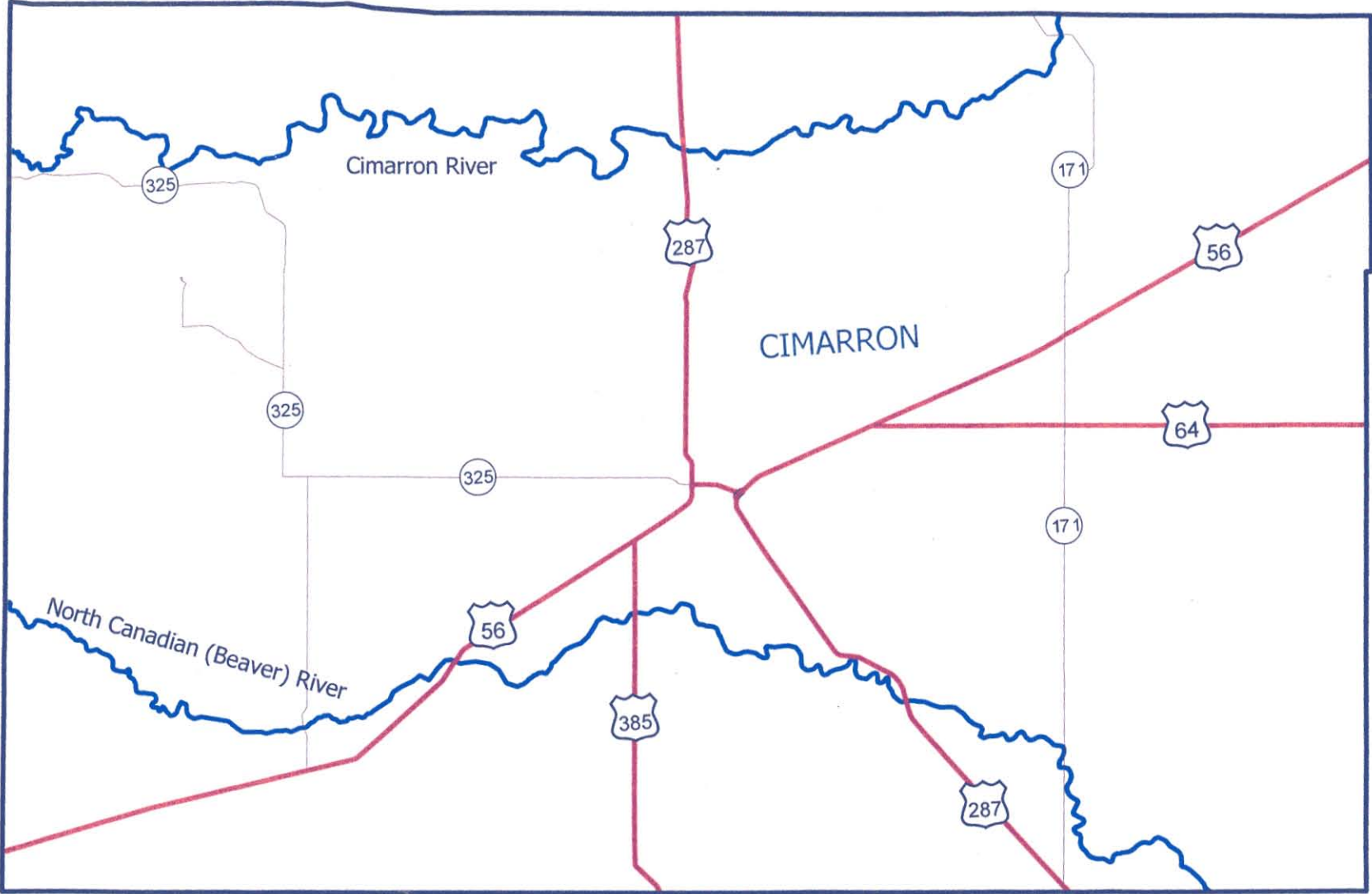
# High Quality Waters - Southwest



- | Standard_n | Name  |
|------------|---|
| 242        | Pennington Creek  |
| 258        | Guy Sandy Creek   |
| 261        | Honey Creek   |
| 374        | Crater Creek  |
| 385        | Panther Creek   |
| 386        | West Cache Creek upstream from Panther Creek                                |
| 537        | Blue River upstream from State Highway 48A Bridge to State Highway 7 Bridge |
| 538        | Blue River upstream from State Highway 7 Bridge                             |

Enclosure 7

# High Quality Waters - Panhandle



Enclosure 8

