

Attachment B

U.S. Fish and Wildlife Service Coordination



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Mississippi Ecological Services Field Office
6578 Dogwood View Parkway, Suite A
Jackson, Mississippi 39213
Phone: (601)965-4900 Fax: (601)965-4340

February 15, 2018

IN REPLY REFER TO:
2018-I-343

Ms. Andrea Carpenter
United States Army Corps of Engineers-Memphis District
167 North Main Street
Memphis, Tennessee 38103

Dear Ms. Carpenter:

The Fish and Wildlife Service (Service) has reviewed your correspondence dated February 6, 2018, regarding the proposed Rena Lara Seepage Control project located in Coahoma County, Mississippi. Our comments are submitted in accordance with the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

The proposed project falls within the range of the following federally listed species:

- Fat pocketbook mussel (*Potamilus capax*)
- Pallid Sturgeon (*Scaphirhynchus albus*)
- Interior least tern (*Sterna antillarum athalassos*)
- Wood stork (*Mycteria americana*)
- Northern long-eared bat (*Myotis septentrionalis*; NLEB)
- Pondberry (*Lindera melissifolia*)

Given borrow material is not recovered from suitable habitat for fat pocketbook mussel, pallid sturgeon and interior least tern, the Service has determined the proposed project will have “no effect” on the above mentioned species.

The NLEB was listed as threatened on May 4th, 2015. A final 4(d) rule was published in 2016 exempting incidental take of otherwise legal actions related to tree clearing, except when tree removal occurs within a hibernacula site or when tree removal activities: 1) occur within a quarter-mile of a known hibernacula; or 2) cut or destroy known occupied maternity roost trees, or any other trees within 150 feet of that maternity roost tree during the pup-rearing season (June 1–July 31). Currently, there are no known maternity roost trees in the state of Mississippi and one known hibernaculum located in Tishomingo County near Pickwick Lake. The Service has received your “Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form” and has

determined the proposed project may affect NLEB, however, any resulting incidental take of the NLEB is not prohibited by the final 4(d) rule.

The proposed project also falls within the range of the threatened wood stork. The wood stork is a large, long-legged wading bird, about 50 inches tall, with a wingspan of 60–65 inches. The plumage is white except for black primaries and secondaries and a short black tail. The head and neck are largely unfeathered and dark gray in color. Wood storks occur seasonally in Mississippi during the non-breeding season (May–October). Because these non-breeding adults would be expected to avoid the project area during construction, the Service has determined the proposed project “may affect, but is not likely to adversely affect” the wood stork.

Finally, the proposed project falls within the range of the endangered pondberry. In Mississippi, pondberry is associated with bottomland hardwood forests in the Delta region. Pondberry is threatened by loss of mature bottomland hardwood forests and activities that alter the natural hydrologic regimes that support habitat requirements of the species. Much of its habitat has been drained or cleared for logging and agricultural purposes. Given plans have not been finalized for the proposed project, the Service recommends a survey be completed for this species and forwarded to our office for review.

The Service has no additional comments or concerns regarding the proposed project as it relates to the ESA. If you have any questions, please contact Kelly Morris in our office, telephone: (601)321-1120, or visit our website at <http://www.fws.gov/mississippiES/>.

Sincerely,

for



Stephen M. Ricks
Field Supervisor
Mississippi Field Office



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IN REPLY REFER TO:
2018-I-344

Ms. Andrea Carpenter
United States Army Corps of Engineers-Memphis District
167 North Main Street
Memphis, Tennessee 38103

Dear Ms. Carpenter:

The Fish and Wildlife Service (Service) has reviewed your correspondence dated February 6, 2018, regarding the proposed Trotters Seepage Control project located in Tunica County, Mississippi. Our comments are submitted in accordance with the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

The proposed project falls within the range of the following federally listed species:

- Fat pocketbook mussel (*Potamilus capax*)
- Pallid Sturgeon (*Scaphirhynchus albus*)
- Interior least tern (*Sterna antillarum athalassos*)
- Wood stork (*Mycteria americana*)
- Northern long-eared bat (*Myotis septentrionalis*; NLEB)
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Given borrow material is not recovered from suitable habitat for fat pocketbook mussel, pallid sturgeon and interior least tern, the Service has determined the proposed project will have “no effect” on the above mentioned species.

The NLEB was listed as threatened on May 4th, 2015. A final 4(d) rule was published in 2016 exempting incidental take of otherwise legal actions related to tree clearing, except when tree removal occurs within a hibernacula site or when tree removal activities: 1) occur within a quarter-mile of a known hibernacula; or 2) cut or destroy known occupied maternity roost trees, or any other trees within 150 feet of that maternity roost tree during the pup-rearing season (June 1–July 31). Currently, there are no known maternity roost trees in the state of Mississippi and one known hibernaculum located in Tishomingo County near Pickwick Lake. The Service has received your “Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form” and has

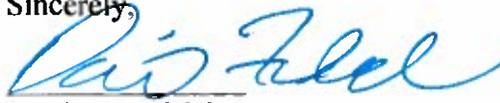
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Finally, the proposed project falls within the range of the endangered pondberry. In Mississippi, pondberry is associated with bottomland hardwood forests in the Delta region. Pondberry is threatened by loss of mature bottomland hardwood forests and activities that alter the natural hydrologic regimes that support habitat requirements of the species. Much of its habitat has been drained or cleared for logging and agricultural purposes. Given plans have not been finalized for the proposed project, the Service recommends a survey be completed for this species and forwarded to our office for review.

The Service has no additional comments or concerns regarding the proposed project as it relates to the ESA. If you have any questions, please contact Kelly Morris in our office, telephone: (601)321-1120, or visit our website at <http://www.fws.gov/mississippiES/>.

Sincerely,

for 

Stephen M. Ricks
Field Supervisor
Mississippi Field Office

Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form

Federal agencies should use this form for the optional streamlined consultation framework for the northern long-eared bat (NLEB). This framework allows federal agencies to rely upon the U.S. Fish and Wildlife Service's (USFWS) January 5, 2016, intra-Service Programmatic Biological Opinion (BO) on the final 4(d) rule for the NLEB for section 7(a)(2) compliance by: (1) notifying the USFWS that an action agency will use the streamlined framework; (2) describing the project with sufficient detail to support the required determination; and (3) enabling the USFWS to track effects and determine if reinitiation of consultation is required per 50 CFR 402.16.

This form is not necessary if an agency determines that a proposed action will have no effect to the NLEB or if the USFWS has concurred in writing with an agency's determination that a proposed action may affect, but is not likely to adversely affect the NLEB (i.e., the standard informal consultation process). Actions that may cause prohibited incidental take require separate formal consultation. Providing this information does not address section 7(a)(2) compliance for any other listed species.

Information to Determine 4(d) Rule Compliance:

	YES	NO
1. Does the project occur wholly outside of the WNS Zone ¹ ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Have you contacted the appropriate agency ² to determine if your project is near known hibernacula or maternity roost trees?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the project disturb hibernating NLEBs in a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Could the project alter the entrance or interior environment of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Does the project remove any trees within 0.25 miles of a known hibernaculum at any time of year?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Would the project cut or destroy known occupied maternity roost trees, or any other trees within a 150-foot radius from the maternity roost tree from June 1 through July 31.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

You are eligible to use this form if you have answered yes to question #1 **or** yes to question #2 **and** no to questions 3, 4, 5 and 6. The remainder of the form will be used by the USFWS to track our assumptions in the BO.

Agency and Applicant³ (Name, Email, Phone No.): USACE, Memphis District: Joshua Koontz; joshua.m.koontz@usace.army.mil; (901) 544-3975.

Project Name: Trotters Seepage Control

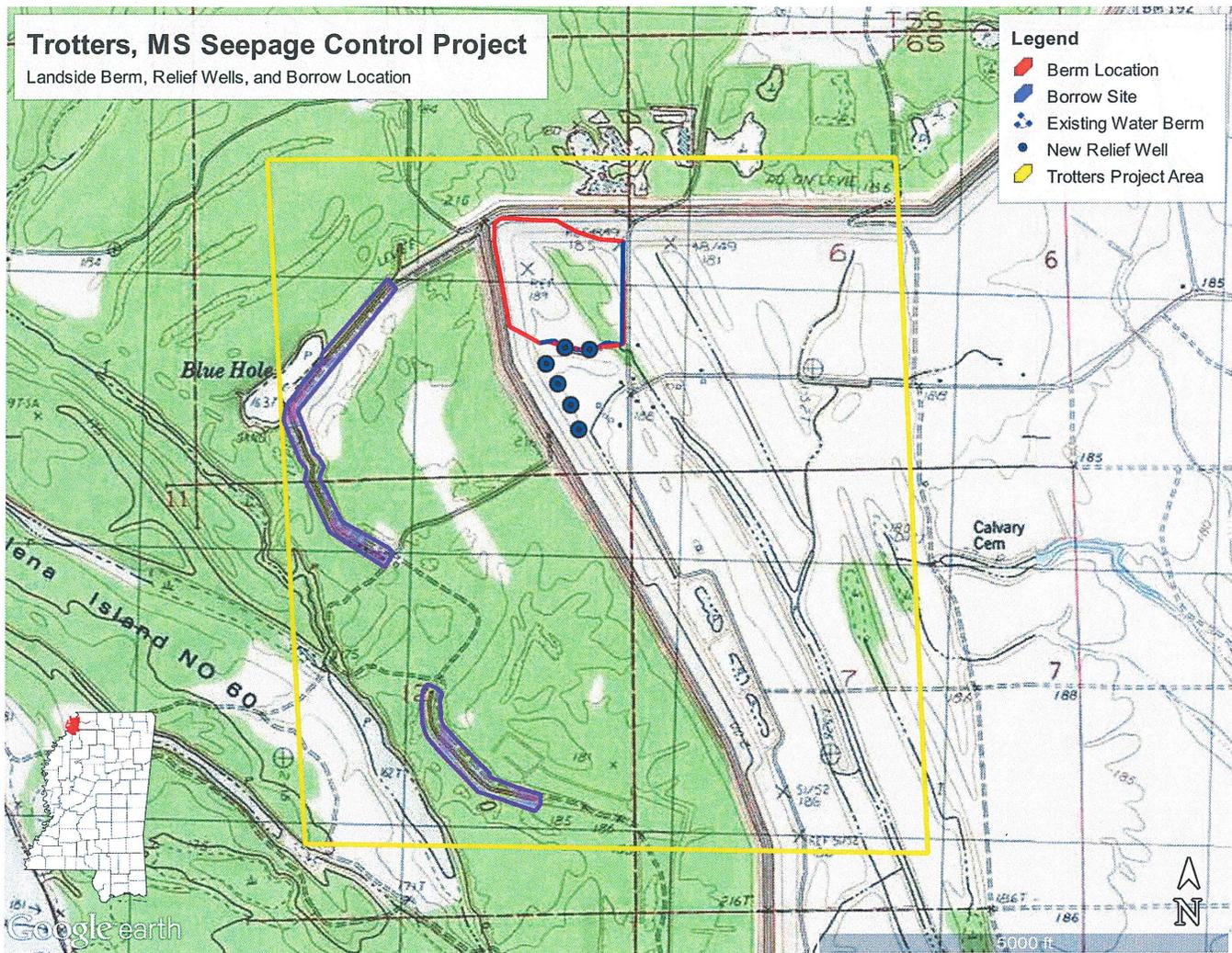
Project Location (include coordinates if known): Adjacent to mainline levee approximately 15 miles southwest of Tunica, Tunica County, Mississippi. Approximately 34.2590181°, -90.521739°.

Basic Project Description (provide narrative below or attach additional information): Relief wells and a seepage berm are being proposed to prevent seepage under the levee. Tree clearing is expected at the borrow location.

¹ <http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf>

² See <http://www.fws.gov/midwest/endangered/mammals/nleb/nhisites.html>

³ If applicable - only needed for federal actions with applicants (e.g., for a permit, etc.) who are party to the consultation.



General Project Information	YES	NO
Does the project occur within 0.25 miles of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project occur within 150 feet of a known maternity roost tree?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project include forest conversion ⁴ ? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of forest conversion		
If known, estimated acres ⁵ of forest conversion from April 1 to October 31		
If known, estimated acres of forest conversion from June 1 to July 31 ⁶		
Does the project include timber harvest? (if yes, report acreage below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Estimated total acres of timber harvest	29.3	
If known, estimated acres of timber harvest from April 1 to October 31	Unk.	
If known, estimated acres of timber harvest from June 1 to July 31	0	
Does the project include prescribed fire? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of prescribed fire		
If known, estimated acres of prescribed fire from April 1 to October 31		
If known, estimated acres of prescribed fire from June 1 to July 31		
Does the project install new wind turbines? (if yes, report capacity in MW below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated wind capacity (MW)		

⁴ Any activity that temporarily or permanently removes suitable forested habitat, including, but not limited to, tree removal from development, energy production and transmission, mining, agriculture, etc. (see page 48 of the BO).

⁵ If the project removes less than 10 trees and the acreage is unknown, report the acreage as less than 0.1 acre.

⁶ If the activity includes tree clearing in June and July, also include those acreage in April to October.

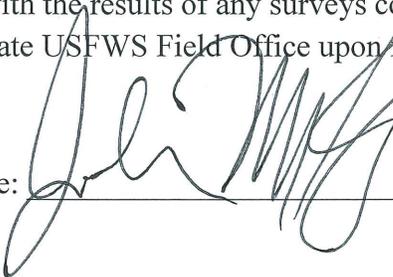
Agency Determination:

By signing this form, the action agency determines that this project may affect the NLEB, but that any resulting incidental take of the NLEB is not prohibited by the final 4(d) rule.

If the USFWS does not respond within 30 days from submittal of this form, the action agency may presume that its determination is informed by the best available information and that its project responsibilities under 7(a)(2) with respect to the NLEB are fulfilled through the USFWS January 5, 2016, Programmatic BO. The action agency will update this determination annually for multi-year activities.

The action agency understands that the USFWS presumes that all activities are implemented as described herein. The action agency will promptly report any departures from the described activities to the appropriate USFWS Field Office. The action agency will provide the appropriate USFWS Field Office with the results of any surveys conducted for the NLEB. Involved parties will promptly notify the appropriate USFWS Field Office upon finding a dead, injured, or sick NLEB.

Signature: _____

A handwritten signature in black ink, appearing to be "J. M. G.", written over a horizontal line.

Date Submitted: 18 DEC 18

Koontz, Joshua M CIV USARMY CEMVN (US)

From: Morris, Kelly <kelly_morris@fws.gov>
Sent: Friday, November 02, 2018 11:11 AM
To: Koontz, Joshua M CIV USARMY CEMVN (US)
Subject: [Non-DoD Source] Re: [EXTERNAL] Rena Lara/Trotters Seepage Control Project

Hi Josh,

Thanks again for touching base with me regarding this project. The Service has reviewed your email correspondence and concurs with your determination that the proposed projects "may affect, but are not likely to adversely affect" wood stork. We have also received your revised northern long-eared bat (NLEB) 4(d) Streamlined Consultation Form and concur with your determination that the proposed projects may affect the NLEB, but that any resulting incidental take of the NLEB is not prohibited by the final 4(d) rule. The Service has also reviewed your biological survey for pondberry, which found suitable habitat for this species was not found within the action area of the proposed project. The Service has no additional comments or concerns with regards to this species as it relates to the ESA. No further consultation is required with this office unless there are changes in scope or location of the proposed project. Please let me know if you have any additional questions.

Have a great weekend!

Kelly

On Thu, Oct 18, 2018 at 9:32 AM Koontz, Joshua M CIV USARMY CEMVN (US) <Joshua.M.Koontz@usace.army.mil <mailto:Joshua.M.Koontz@usace.army.mil> > wrote:

Kelly,

Thanks again for your ongoing assistance with the Rena Lara and Trotters seepage control projects in Coahoma and Tunica Counties, MS.

Based on USFWS recommendations for the project, a pondberry survey was completed at both Rena Lara and Trotters project area impact locations. No evidence of pondberry was noted at either project location.

Also, as the project has been through further designed since our original 4(d) streamlined consultation form submission, a revised 4(d) consultation form is attached reflecting the correct tree clearing acreage. The acreage would all be associated with the Trotters project; minor clearing (1.0 acres or less) would occur at the Rena Lara project area, however the clearing would consist of young (<2" DBH) cottonwood and willow.

Therefore, our ES determination for the project is as follows:

P. capax, S. albus, L. melissifolia, and S. antillarum - no effect
M. septentrionalis and M. americana - may affect, but not likely to adversely affect

Please let me know if there are any issues, or if you'd like us to mail a formal letter with our ES determinations.

Thanks again,

Josh

Joshua M. Koontz
Biologist
USACE, Memphis District
167 N. Main St., Rm. B-202
Memphis, TN 38103
Phone: 901-544-3975
Fax: 901-544-3955
Email: Joshua.M.Koontz@usace.army.mil <mailto:Joshua.M.Koontz@usace.army.mil>

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Kelly Morris
Fish and Wildlife Biologist
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NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.