

APPENDIX C

USACE Jurisdictional Determination

Letter



DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A HAGOOD AVENUE
CHARLESTON, SOUTH CAROLINA 29403-5107

October 31, 2019

Regulatory Division

South Carolina Department of Transportation
Attn: Mr. Sean Connolly
Post Office Box 191
Columbia, South Carolina 29202-0191
ConnollyMS@scdot.org

Dear Mr. Connolly:

This is in response to your request for a Preliminary Jurisdictional Determination (PJD) (SAC-2019-00593) received in our office on July 15, 2019, for a 1,611.97-acre site located along I-526 and I-26, Charleston County, South Carolina. Along I-526 the project extends on the extern extent from the Cooper River near Virginia Avenue and continues west past Glenn McConnell Parkway and Paul Cantrell Boulevard, ending adjacent to the Citadel Mall. The north and south extent of the project extends from 108-ft north of Eagle Drive to 2,030-ft south of West Montague Drive, along I-26. (Center of project: Latitude: 32.883452°, Longitude: -80.019879°). A PJD is used to indicate the approximate location(s) and boundaries of wetlands and/or other aquatic resources presumed to be waters of the United States on a site pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. § 1344) and/or navigable waters of the United States pursuant to Section 10 of the Rivers and Harbors Act of 1899 (RHA) (33 U.S.C. § 403).

The site is shown on the referenced depictions, sheets 1 through 6 of 6, entitled "I-526 Lowcountry Corridor West Grid Index Layout" and dated October 31, 2019, and sheets 1 through 85 of 85, entitled "I-526 Lowcountry Corridor Aquatic Resources" and dated October 31, 2019, both prepared by Civil Engineering Consulting Services, Inc. Based upon on-site inspections, a review of aerial photography, topographic maps, National Wetlands Inventory maps, LiDar depictions, soil survey information, and Wetland Determination Data Forms, we conclude the boundaries shown on the referenced depiction are a reasonable approximation of the aquatic resources found within the site that are presumed to be subject to regulatory jurisdiction of the Corps of Engineers. While the project area expected to be evaluated in the permit application will encompass a project area of 1673.52 acres, 61.55 acres of that area is not included in this PJD as that area is subject to Department of the Army Permit SAC-2004-13767 (Boeing). Therefore, the project area evaluated in this PJD includes an area of 1,611.97 acres. The project area in question contains approximately 119.79 acres of federally defined wetlands and approximately 6.89 acres of open water and approximately 9.46 acres (or 28,390.01 linear feet) of other aquatic resources that are presumed to be waters of the United States subject to Corps' jurisdiction under Section 404 of the CWA. The site also contains 203.98 acres of federally defined wetlands and 13.25 acres of open water that are presumed to be waters of the United States subject to Corps' jurisdiction under Section 404 of the CWA and are also navigable waters of the United States subject to Corps' jurisdiction under Section 10 of the RHA.

You are cautioned the boundaries of the delineated wetlands and/or other aquatic resources presumed to be subject to regulatory jurisdiction of the Corps of Engineers shown on the attached depiction are approximate and subject to change.

By providing this PJD, the Corps of Engineers is making no legally binding determination of any type regarding whether jurisdiction exists over the particular aquatic resource(s) in question. This PJD is not a definitive determination of the presence or absence of areas within the Corps of Engineers' jurisdiction, and, therefore, it does not have an expiration date. Also note this PJD is not an appealable action under the Corps of Engineers' administrative appeal procedures defined at 33 CFR 331 as it is not a final action. A PJD is "preliminary" in the sense that a recipient of a PJD can later request and obtain an Approved Jurisdictional Determination (AJD) for a definitive, official determination of the presence or absence of jurisdictional aquatic resources on a site, including the identification of the geographic limits of the jurisdictional aquatic resources. To receive a definitive determination of jurisdiction, you must submit an AJD request.

Be aware a permit from this office may be required for certain activities in the areas identified as wetlands and/or other aquatic resources that are presumed to be subject to regulatory jurisdiction of the Corps of Engineers. These areas may further be subject to restrictions or requirements of other state or local government agencies. A PJD may be used as the basis of a permit decision however, when computing impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a PJD will treat all aquatic resources affected in any way by the permitted activity as jurisdictional. If you intend to request an AJD in the future, you are advised not to commence work in these wetlands and/or other aquatic resources presumed to be jurisdictional prior to receiving the AJD. Attached is a Preliminary Jurisdictional Determination Form describing the areas in question and clarifying the option to request an AJD.

If you submit a permit application as a result of this PJD, include a copy of this letter and the referenced depictions as part of the application. Not submitting the letter and depiction will cause a delay while we confirm a PJD was performed for the proposed permit project area. Note that some or all of these areas may be regulated by other state or local government entities, and you should contact the South Carolina Department of Health and Environmental Control, Bureau of Water, or Department of Ocean and Coastal Resource Management, to determine the limits of their jurisdiction.

This PJD was conducted to identify approximate location(s) of aquatic resources presumed to be subject to regulatory jurisdiction of the Corps of Engineers on the particular site identified in this request. This PJD may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

Attached is a copy of the Preliminary Jurisdictional Determination Form signed by our office. Please sign, retain a copy for your records, and return a signed copy to this office within 30 days of receipt of this letter.

In all future correspondence, please refer to file number SAC-2019-00593. A copy of this letter is being forwarded to State and/or Federal agencies for their information. If you have any questions, please contact Christopher Mims by phone at 843-329-8154, or by email at Christopher.D.Mims@usace.army.mil.

Sincerely,



Date: 2019.10.31
15:46:41 -04'00'

Amanda L. Heath
Chief, Special Projects Branch

Attachments:

Preliminary Jurisdictional Determination Form
Notification of Appeal Options
Delineation depiction: Titled "I-95 Bridge Replacement over Bagshaw Swamp", and dated August 2019

Copies Furnished:

South Carolina Department of Transportation
Attn: Mr. Will McGoldrick
Post Office Box 191
Columbia, South Carolina 29202-0191
BeckhamJC@scdot.org

Civil Engineering Consulting Services, Inc.
Attn: Mr. Robert Hibbitts
2000 Park Street, Suite 201
Columbia, South Carolina 29201
hibbittsr@cecsinc.com

Three Oaks Engineering
Attn: Russell Chandler
1310 Lady Street, Suite 400
Columbia, South Carolina 29201
russell.chandler@threeoaksengineering.com

SCDHEC - Bureau of Water
2600 Bull Street
Columbia, South Carolina 29201
WQCWetlands@dhec.sc.gov

SCDHEC - OCRM
1362 McMillan Avenue, Suite 400
North Charleston, South Carolina 29405
OCRMPermitting@dhec.sc.gov

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: October 31, 2019

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:

Applicant:

South Carolina Department of
Transportation
Attn: Mr. Will McGoldrick
955 Park Street
Columbia, South Carolina 29201
McGoldriWR@scdot.org

Consultant

Civil Engineering Consulting Services, Inc.
Attn: Mr. Robert Hibbitts
2000 Park Street, Suite 201
Columbia, South Carolina 29201
hibbittsr@cecsinc.com

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Charleston District, SCDOT I-526 and I-26 Lowcountry Corridor West in Charleston County Project ID P032102, SAC-2019-00593

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION: The project is located largely along I-526 and I-26. Along I-526 the project extends on the eastern extent from the Cooper River near Virginia Avenue and continues west past Glenn McConnell Parkway and Paul Cantrell Boulevard and ends adjacent to the Citadel Mall. The north and south extent of the project extends from 108-ft north of Eagle Drive to 2,030-ft south of West Montague Drive, along I-26.

On behalf of the applicant, the South Carolina Department of Transportation, Civil Engineering Consulting Services, and Three Oaks Engineering prepared documentation in support of the preliminary presumption of jurisdiction described herein by this office. This Preliminary Jurisdictional Determination has been prepared in support of an in advance of an anticipated permit application for the widening and improvement of the existing Interstate 526 and Interstate 26, within the above referenced project location. While the project area expected to be evaluated in the permit application will encompass a project area of 1673.52 acres, 61.55 acres of that area is not included in this PJD as that area is subject to Department of the Army Permit number SAC-2004-13767 (Boeing). The project area evaluated in this PJD includes an area of 1,611.97 acres.

(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)

State: South Carolina County/parish/borough: Charleston City: Charleston

Center coordinates of site (lat/long in degree decimal format):

Lat.: 32.883452° Long.: -80.019879°

Locations of project termini:

Termini Location	Latitude	Longitude
East I-526	32.891526°	-79.966103°
West I-526	32.79735°	-80.034977°
North I-26	32.915766°	-80.031441°
South I-26	32.868551°	-80.006186°

Universal Transverse Mercator:

Name of nearest waterbody: Ashley River, Cooper River, Filbin Creek

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: October 31, 2019

Field Determination. Date(s): August 28, 2019, September 16, 2019, September 18, 2019, September 20, 2019.

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH “MAY BE” SUBJECT TO REGULATORY JURISDICTION.

1A. Freshwater Wetlands (area of waters in acres unless otherwise indicated)

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource “may be” subject (i.e., Section 404 or Section 10/404)
Wetland FA-1	32.810982	-80.052325	0.06	PFO	Section 404
Wetland FA-2	32.811417	-80.049709	0.49	PEM	Section 404
Wetland FA-3A	32.913783	-80.042550	0.04	PFO	Section 404
Wetland FA-3B	32.814413	-80.041902	0.11	PFO	Section 404
Wetland FB-1	32.809749	-80.040036	0.17	PEM	Section 404
Wetland FB-2	32.809485	-80.039749	0.93	PFO	Section 404
Wetland FB-3	32.809869	-80.038892	0.95	PFO	Section 404
Wetland FC-1	32.808074	-80.039532	3.50	PFO	Section 404
Wetland FD-1	32.810785	-80.038640	0.12	PFO	Section 404
Wetland FE-1	32.807052	-80.035022	4.47	PFO	Section 404
Wetland FF-1	32.802420	-80.035449	0.75	PFO	Section 404
Wetland FF-2	32.801659	-80.035198	0.25	PFO	Section 404
Wetland FF-3	32.800642	-80.035258	0.86	PFO	Section 404
Wetland FG-1	32.800238	-80.036479	0.50	PFO	Section 404
Wetland FG-2	32.825671	-80.029449	0.08	PFO	Section 404
Wetland FH-1A	32.813981	-80.034911	2.32	PEM	Section 404
Wetland FH-1B	32.913981	-80.034911	0.23	PFO	Section 404
Wetland FH-2	32.820140	-80.030219	0.42	PFO	Section 404
Wetland FI-1	32.820140	-80.030219	0.42	PFO	Section 404
Wetland FI-2	32.815408	-80.032262	0.18	PFO	Section 404
Wetland FI-3	32.816172	-80.031760	1.04	PFO	Section 404
Wetland FJ-1	32.817381	-80.032461	0.67	PFO	Section 404
Wetland FK-1	32.839325	-80.020128	0.47	PFO	Section 404
Wetland FL-2	32.857973	-80.023789	0.03	PEM	Section 404
Wetland FM-1	32.860479	-80.031146	0.25	PFO	Section 404
Wetland FN-1	32.866115	-80.026141	3.40	PFO	Section 404
Wetland FN-2	32.865978	-80.028411	1.28	PFO	Section 404
Wetland FN-3	32.868043	-80.023437	0.53	PFO	Section 404

SAC 2019-00593 Lowcountry Corridor West Widening (Highway 526 and 26)

Wetland FN-4	32.868534	-80.023210	0.68	PFO	Section 404
Wetland FO-1	32.872495	-80.027481	2.33	PFO	Section 404
Wetland FO-5	32.874086	-80.257200	24.77	PFO	Section 404
Wetland FO-6	32.877838	-80.025986	0.99	PFO	Section 404
Wetland FO-7	32.880685	-80.024038	1.52	PFO	Section 404
Wetland FP-1	32.882852	-80.017717	11.84	PFO	Section 404
Wetland FP-5	32.882890	-80.015424	0.31	PFO	Section 404
1A. Freshwater Wetlands					
Wetland FP-8	32.886235	-80.017516	5.58	PFO	Section 404
Wetland FQ-1A	32.899072	-80.022033	0.56	PEM	Section 404
Wetland FQ-1B	32.901005	-80.021325	0.36	PEM	Section 404
Wetland FR-1	32.912566	-80.028194	0.11	PFO	Section 404
Wetland FR-2	32.914086	-80.028842	0.05	PFO	Section 404
Wetland FS-1	32.889525	-80.015181	0.05	PEM	Section 404
Wetland FS-2A	32.890035	-80.015271	0.24	PEM	Section 404
Wetland FS-2B	32.889317	-80.016318	1.38	PFO	Section 404
Wetland FT-1	32.889329	-80.010560	0.12	PEM	Section 404
Wetland FT-2	32.889059	-80.009476	1.49	PEM	Section 404
Wetland FU-1	32.891298	-80.005928	7.93	PFO/PEM	Section 404
Wetland FU-2	32.890349	-80.007111	0.02	PEM	Section 404
Wetland FV-1	32.894168	-79.996537	113.72	PFO/PEM	Section 404/10
Wetland FV-1A	32.893575	-79.997256	10.60	PFO	Section 404
Wetland FW-1	32.847254	-80.016957	0.44	PFO	Section 404
Wetland FW-2	32.847575	-80.018537	0.61	PFO	Section 404
Wetland FW-6	32.886091	-80.886091	0.18	PFO	Section 404
Wetland FW-8	32.885638	-80.019219	0.21	PFO	Section 404
Wetland FZ-1	32.869414	-80.010169	0.12	PFO/PEM	Section 404
Wetland WWAB	32.897820	-79.974097	0.09	PEM	Section 404
Wetland WWAA	32.897645	-79.974885	0.17	PEM	Section 404
Wetland WAC	32.893336	-79.975259	3.02	PSS	Section 404
Wetland WWA	32.893613	-79.986402	0.22	PFO	Section 404
Wetland WAD	32.893743	-79.988457	0.21	PFO	Section 404
Wetland WAB	32.893173	-79.973691	0.21	PEM	Section 404
Wetland WWC	32.893143	-79.989387	0.12	PFO	Section 404
Wetland WWB	32.892730	-79.986320	1.13	PFO	Section 404
Wetland WRAR	32.897399	-79.980520	0.26	PFO	Section 404
Wetland WRV	32.893110	-79.983903	4.81	PFO	Section 404
Wetland WAE	32.894017	-79.978105	2.54	PFO	Section 404
Wetland WTA	32.896447	-79.986076	0.95	PFO	Section 404
Wetland WJV	32.897168	-79.974366	2.08	PFO	Section 404
Wetland WJY	32.893884	-79.990779	1.35	PFO	Section 404
Wetland WJU	32.897402	-79.977252	0.28	PFO	Section 404
Wetland WRS	32.893472	-79.980931	2.52	PFO	Section 404
Wetland WRU	32.893546	-79.982492	1.53	PFO	Section 404
Wetland WJX	32.893119	-79.979504	0.91	PFO	Section 404
Wetland WJT	32.895280	-79.973786	0.09	PFO	Section 404
Wetland WTZ	32.891302	-79.978222	0.29	PFO	Section 404

1B. Critical Area Wetlands

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non- wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Wetland CW-1B	32.811925	-80.050012	0.35	E2EM	Section 10 tidal
Wetland CW-1C	32.819614	-80.031591	5.88	E2EM	Section 10 tidal
Wetland CW-1E	32.823806	-80.031133	0.64	E2EM	Section 10 tidal
Wetland CW-2H	32.832757	-80.026918	16.43	E2EM	Section 10 tidal
Wetland CW-1I	32.838385	-80.022346	3.76	E2EM	Section 10 tidal
Wetland CW-1J	32.838772	-80.020506	2.30	E2EM	Section 10 tidal
Wetland CW-2C	32.818520	-80.030525	3.00	E2EM	Section 10 tidal
Wetland CW-1G	32.826757	-80.029174	1.86	E2EM	Section 10 tidal
Wetland CW-2G	32.827699	-80.030218	5.71	E2EM	Section 10 tidal
Wetland CW-1H	32.830243	-80.028896	11.88	E2EM	Section 10 tidal
Wetland CART	32.891433	-79.965432	38.45	E2EM	Section 10 tidal

1C. Non-wetlands waters (Freshwater Streams)

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non- wetland waters)	Geographic authority to which the aquatic resource “may be” subject (i.e., Section 404 or Section 10/404)
Non-wetlands waters FS-B1	32.806277	-80.037764	0.03 Acres/198.35 LF	R3UB	Section 404
Non-wetlands waters FS-C1	32.808298	-80.039691	0.31 Acres/1011.36 LF	R3UB	Section 404
Non-wetlands waters FS-D1	32.816979	-80.030525	0.04 Acres/95.16 LF	R3UB	Section 404
Non-wetlands waters FS-F1	32.859455	-80.020988	0.31 Acres/1575.16 LF	R3UB	Section 404
Non-wetlands waters FS-G1	32.860706	-80.031301	0.10 Acres/207.35 LF	R3UB	Section 404
Non-wetlands waters FS-G2	32.860027	-80.030486	0.01 Acres/485.54 LF	R3UB	Section 404
Non-wetlands waters FS-H1A	32.887423	-80.014750	4.14 Acres/8831.15 LF	R2UB	Section 404
Non-wetlands waters FS-H1B	32.894836	-79.995179	7.24 Acres/9204.92 LF	R2UB	Section 10/404
Non-wetlands waters FS-H2	32.878957	-80.017639	1.25 Acres/4568.80 LF	R3UB	Section 404
Non-wetlands waters FS-H3	32.878682	-80.016210	1.38 Acres/3028.81 LF	R3UB	Section 404
Non-wetlands waters FS-H4	32.882983	-80.016239	0.29 Acres/1236.77 LF	R3UB	Section 404
Non-wetlands waters FS-H5	32.884010	-80.015183	0.45 Acres/1278.41 LF	R3UB	Section 404
Non-wetlands waters FS-H7	32.888053	-80.018283	0.03 Acres/1081.98 LF	R3UB	Section 404
Non-wetlands waters FS-H8	32.890083	-80.014732	0.01 Acres/115.31 LF	R3UB	Section 404
Non-wetlands waters FS-H9	32.889516	-80.008745	0.05 Acres/264.60 LF	R3UB	Section 404
Non-wetlands waters FS-H10	32.890998	-80.007257	0.08 Acres/560.97 LF	R3UB	Section 404
Non-wetlands waters FS-H11	32.892436	-80.004275	0.09 Acres/590.61 LF	R3UB	Section 404
Non-wetlands waters FS-H12	32.893201	-80.000842	0.09 Acres/500.05 LF	R3UB	Section 404
Non-wetlands waters FS-J1	32.905371	-80.025474	0.06 Acres/144.98 LF	R3UB	Section 404
Non-wetlands waters FS-K2	32.912821	-80.028571	0.01 Acres/68.72 LF	R3UB	Section 404
Non-wetlands waters FS-L1	32.846030	-80.016313	0.12 Acres/625.65 LF	R3UB	Section 404
Non-wetlands waters FS-L2	32.848389	-80.015042	0.14 Acres/764.18 LF	R3UB	Section 404
Non-wetlands waters FS-L3	32.847671	-80.016144	0.24 Acres/851.18 LF	R3UB	Section 404
Non-wetlands waters FS-L4	32.848383	-80.016145	0.02 Acres/174.53 LF	R3UB	Section 404
Non-wetlands waters WRAR	32.897404	-79.980409	0.21 Acres/130.39 LF	R3UB	Section 404

1D. Non-wetlands waters (Tidal Stream Section 10)

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non- wetland waters)	Geographic authority to which the aquatic resource “may be” subject (i.e., Section 404 or Section 10/404)
Non-wetlands waters TCS-A1	32.818701	-80.030554	0.15 Acres/632.43 LF	R1UB	Section 10 tidal
Non-wetlands waters TCS-A2	32.820628	-80.030018	0.03 Acres/237.85 LF	R1UB	Section 10 tidal
Non-wetlands waters TCS-B1	32.820474	-80.03137	0.70 Acres/1405.30 LF	R1UB	Section 10 tidal
Non-wetlands waters TCS-C1	32.828709	-80.029313	1.52 Acres/1368.48 LF	R1UB	Section 10 tidal
Non-wetlands waters TCS-D1	32.831419	-80.028144	0.78 Acres/966.12 LF	R1UB	Section 10 tidal
Non-wetlands waters TCS-E1	32.835725	-80.02419	21.08 Acres/604.40 LF	R1UB	Section 10 tidal
Non-wetlands waters TCS-F1	31.83858	-80.022031	0.15 Acres/769.21 LF	R1UB	Section 10 tidal
Non-wetlands waters FS-H1C	32.891519	-79.96913	6.01 Acres/3575.42 LF	R1UB	Section 10 tidal

1E. Non-wetlands waters (Open Water)

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non- wetland waters)	Geographic authority to which the aquatic resource “may be” subject (i.e., Section 404 or Section 10/404)
Non-wetlands waters OA-1	32.803143	-80.037074	1.18	PUB	Section 404
Non-wetlands waters OC-1	32.799758	-80.034826	0.85	PUB	Section 404
Non-wetlands waters OG-1	32.887742	-80.016675	0.07	PUB	Section 404
Non-wetlands waters OH-1	32.845472	-80.018373	0.33	PUB	Section 404
Non-wetlands waters OB-1	32.799396	-80.036230	0.40	PUB	Section 404
Non-wetlands waters OE-1	32.843151	-80.019301	0.25	PUB	Section 404
Non-wetlands waters OF-1	32.842453	-80.017500	0.03	PUB	Section 404
Non-wetlands waters OJ-1	32.873874	-80.014181	0.21	PUB	Section 404
Non-wetlands waters OD-1	32.823633	-80.029503	3.38	PUB	Section 404
Non-wetlands waters OZ-1	32.881873	-80.014745	0.19	PUB	Section 404

- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring “pre-construction notification” (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant’s acceptance of the use of the PJD; (6) accepting a permit

authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there “*may be*” waters of the U.S. and/or that there “*may be*” navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

- Maps, plans, plots or plat submitted by or on behalf of the PJD requestor: Map: Civil Engineering Consulting Services, Inc.
- Data sheets prepared/submitted by or on behalf of the PJD requestor.
 - Office concurs with data sheets/delineation report. (This office does not necessarily concur with all of the data provided on the provided data sheets, however this office concurs with the conclusion reached.
 - Office does not concur with data sheets/delineation report. Rationale: NA
- Data sheets prepared by the Corps: NA
- Corps navigable waters’ study:
 - U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data. USGS 8 and 12-digit HUC maps – HUC 030502010605 Lower Ashley River; 030502020202 Stono River- Atlantic Intracoastal waterway; 030502010707 Lower Cooper River; 030502010706 Goose Creek
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000 – Johns Island, Ladson, North Charleston.
- Natural Resources Conservation Service Soil Survey. Citation: Charleston County Soil Survey (SC690) 1971.
- National wetlands inventory map(s). Cite name: USFWS, Charleston County
- State/local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

SAC 2019-00593 Lowcountry Corridor West Widening (Highway 526 and 26)

- Photographs: Aerial (Name & Date): Aerial Photos obtained online by Google, Inc. Aerial infrared photos by SCDNR 2006, Aerial photos provided by consultant, LiDar imaged provided by the consultant.
- Other (Name & Date): Photos provided by consultant in PJD
- Previous determination(s). File no. and date of response letter: SAC 2004-13767
- Other information (please specify): Site visits as cited above.

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

 Digitally signed by
MIMS, CHRISTOPHER.DALE.1289
378282
Date: 2019.10.31 15:40:52 -04'00'

Signature and date of
Regulatory staff member
completing PJD

Signature and date of
person requesting PJD
(REQUIRED, unless obtaining the
signature is impracticable)¹

¹ Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

APPENDIX D

USFWS Letter of Intent Response

USFWS Charleston County Protected

Species List



United States Department of the Interior

FISH AND WILDLIFE SERVICE

176 Croghan Spur Road, Suite 200
Charleston, South Carolina 29407



February 1, 2016

Mr. Chad Long
NEPA Coordinator
South Carolina Department of Transportation
P.O. Box 191
Columbia, SC 29202-0191

Re: Letter of Intent, I-526 Widening, SCDOT Project ID: P027507, Charleston County, SC
FWS Log No. 2016-CPA-0062

Dear Mr. Long:

The U.S. Fish and Wildlife Service (Service) has received your January 27, 2016, Letter of Intent (LOI) for the proposed widening of a portion of I-526 in Charleston County, South Carolina. The South Carolina Department of Transportation (SCDOT) is proposing to widen 7.5 miles of I-526 from its interchange at Rivers Avenue to the interchange at Paul Cantrell Boulevard. The SCDOT is soliciting comments for consideration and incorporation into an Environmental Assessment (EA) which is being prepared pursuant to the National Environmental Policy Act of 1969, as amended (43 U.S.C. 4321 *et seq.*) (NEPA).

The LOI states that study alternatives included considerations of roadways alignments shifts and bicycle/pedestrian path options. The Service encourages SCDOT to utilize such measures in order to avoid or minimize impacts, particularly near wetland resources. Widening I-526 to the inside of the existing median would result in the lowest amount of resource impacts. This is particularly important as improving the approach causeways for the General Westmoreland Bridge has the potential to impact critically important salt marsh wetlands of the Ashley River. Once a range of alternatives has been identified, the Service recommends that SCDOT schedule a multi-agency site visit to review the project's potential impacts.

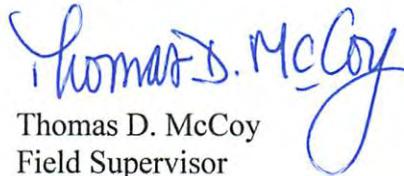
The Ashley River and its emergent salt marsh habitat is considered suitable habitat for the American wood stork and the West Indian manatee. The Service recommends that SCDOT conduct a survey for the presence of these two species, as well as other T&E species and their suitable habitats, during the planning phase for I-526. Once the survey is complete, it should be submitted to our office for review and approved by the Service before project begins.

For SCDOT's convenience, the Service has included with this letter a list of species that are currently protected under the Endangered Species Act of 1973 (ESA). This list includes species that are considered as a candidate for listing under the ESA and those that have been petitioned for listing under the ESA. Appropriate survey timeframes or windows for each species are included in the list. The species which have been petitioned for listing are considered "At-Risk Species" (ARS) and may occur in Charleston County, South Carolina. Although there are no Federal protections afforded to ARS, please consider including ARS in your survey efforts. Incorporating proactive measures to avoid or minimize harm to ARS may improve their status and assist with precluding the need to list these species. Additional information on ARS can be found at:

<http://www.fws.gov/southeast/candidateconservation>

The Service appreciates the opportunity to provide input at this early stage of the project's development. If you have any questions, please contact Mr. Mark Caldwell at (843) 727-4707 ext. 215, and reference FWS Log No. 2016-CPA-0062.

Sincerely,

Handwritten signature of Thomas D. McCoy in blue ink.

Thomas D. McCoy
Field Supervisor

TDM/MAC

South Carolina List of At-Risk, Candidate, Endangered, and Threatened Species - Charleston County

CATEGORY	COMMON NAME/STATUS	SCIENTIFIC NAME	SURVEY WINDOW/ TIME PERIOD	COMMENTS
Amphibian	Frosted flatwoods salamander (T, CH)	<i>Ambystoma cingulatum</i>	January 1-April 30	Larvae present in breeding ponds
	Gopher frog (ARS)	<i>Lithobates capito</i>	Breeding: October-March	Call survey: February-April
Bird	American wood stork (T)	<i>Mycteria americana</i>	February 15-September 1	Nesting season
	Bachman's warbler (E)	<i>Vermivora bachmanii</i>	May 1-June 15	Breeding
	Bald eagle (BGEPA)	<i>Haliaeetus leucocephalus</i>	October 1-May 15	Nesting season
	Black-capped petrel (ARS)	<i>Pterodroma hasitata</i>	April-October	offshore water primarily
	Black rail (ARS)	<i>Laterallus jamaicensis</i>	May-July	
	MacGillivray's seaside sparrow (ARS)	<i>Ammodramus maritimus macgillivrayi</i>	May-June	
	Piping plover (T, CH)	<i>Charadrius melodus</i>	July 15-May 1	Migration and wintering
	Red-cockaded woodpecker (E)	<i>Picoides borealis</i>	April 1-July 31	Nesting season
	Red knot (T)	<i>Calidris canutus rufa</i>	August 1-May 31	Migration and wintering
Crustacean	None Found			
Fish	American eel (ARS)	<i>Anguilla rostrata</i>	March 1-May 30; October 1-December 15	Temperature dependent: normally (17-20°C); can be found between 13-25°C
	Atlantic sturgeon* (E)	<i>Acipenser oxyrinchus*</i>	February 1-April 30	Spawning migration
	Blueback herring (ARS)	<i>Alosa aestivalis</i>	Mid-January-mid May	Peak: March-April
	Shortnose sturgeon* (E)	<i>Acipenser brevirostrum*</i>	February 1-April 30	Spawning migration
Insect	Monarch butterfly (ARS)	<i>Danaus plexippus</i>	August-December	Overwinter population departs: March-April
	Rare skipper (ARS)	<i>Problema bulenta</i>	May; July-September	Two brood periods
Mammal	Finback whale* (E)	<i>Balaenoptera physalus*</i>	November 1-April 30	Off the coast
	Humpback whale * (E)	<i>Megaptera novaengliae</i>	January 1-March 31	Migration off the coast
	Rafinesque's big-eared bat (ARS)	<i>Corynorhinus rafinesquii</i>	Year round	Found in mines, caves, large hollow trees, buildings, and bat towers
	Right whale* (E)	<i>Balaena glacialis</i>	November 1-April 30	Off the coast
	Tri-colored bat (ARS*)	<i>Perimyotis subflavus</i>	Year round	Found in mines and caves in the winter
	West Indian manatee (E)	<i>Trichechus manatus</i>	May 15-October 15	In coastal waters
Mollusk	None Found			
Plant	American chaffseed (E)	<i>Schwalbea americana</i>	May-August	1-2 months after a fire
	Bog asphodel (ARS*)	<i>Narthecium americanum</i>	June-July	
	Boykin's lobelia (ARS)	<i>Lobelia boykinii</i>	May-July/August	
	Canby's dropwort (E)	<i>Oxypolis canbyi</i>	Mid-July-September	
	Carolina bishopweed (ARS)	<i>Ptilimnium ahlesii</i>	May-July	
	Ciliate-leaf tickseed (ARS)	<i>Coreopsis integrifolia</i>	August-November	
	Godfrey's privet (ARS)	<i>Forestiera godfreyi</i>	April-June	
	Hedge-nettle	<i>Stachys caroliniana</i>	Late June-August	Can be confused with <i>S. floridana</i>
	Pondberry (E)	<i>Lindera melissifolia</i>	February-March	
	Seabeach amaranth (T)	<i>Amaranthus pumilus</i>	July-October	

CHARLESTON COUNTY

CATEGORY	COMMON NAME/STATUS	SCIENTIFIC NAME	SURVEY WINDOW/ TIME PERIOD	COMMENTS
Amphibians	Frosted flatwoods salamander (T, CH)	<i>Ambystoma cingulatum</i>	January 1-April 30	Larvae present in breeding ponds
	Gopher frog (ARS)	<i>Lithobates capito</i>	Breeding: October-March	Call survey: February-April
Birds	American wood stork (T)	<i>Mycteria americana</i>	February 15-September 1	Nesting season
	Bachman's warbler (E)	<i>Vermivora bachmanii</i>	May 1-June 15	Breeding
	Bald eagle (BGEPA)	<i>Haliaeetus leucocephalus</i>	October 1-May 15	Nesting season
	Black-capped petrel (ARS)	<i>Pterodroma hasitata</i>	April-October	Offshore water primarily
	Eastern black rail (P)	<i>Laterallus jamaicensis jamaicensis</i>	April-June	Minimum of five surveys/survey point
	Piping plover (T, CH)	<i>Charadrius melodus</i>	July 15-May 1	Migration and wintering
	Red-cockaded woodpecker (E)	<i>Picoides borealis</i>	March 1-July 31	Nesting season
	Red knot (T)	<i>Calidris canutus rufa</i>	August 1-May 31	Migration and wintering
	Saltmarsh sparrow (ARS)	<i>Ammodramus caudacuta</i>	Fall/winter	Fall/winter surveys
Crustaceans	None Found			
Fishes	Atlantic sturgeon* (E)	<i>Acipenser oxyrinchus*</i>	February 1-April 30	Spawning migration
	Shortnose sturgeon* (E)	<i>Acipenser brevirostrum*</i>	February 1-April 30	Spawning migration
Insects	Frosted elfin (ARS)	<i>Callophrys irus</i>	March - June	
	Monarch butterfly (ARS)	<i>Danaus plexippus</i>	August-December	Overwinter population departs: March-April
Mammals	Finback whale* (E)	<i>Balaenoptera physalus*</i>	November 1-April 30	Off the coast
	Humpback whale * (E)	<i>Megaptera novaengliae</i>	January 1-March 31	Migration off the coast
	Northern long-eared bat (T)	<i>Myotis septentrionalis</i>	Year round	Winter surveys not as successful
	Right whale* (E)	<i>Balaena glacialis</i>	November 1-April 30	Off the coast
	Sei whale* (E)	<i>Balaenoptera borealis</i>		
	Sperm whale* (E)	<i>Physeter macrocephalus</i>		
	Tri-colored bat (ARS)	<i>Perimyotis subflavus</i>	Year round	Found in mines and caves in the winter
	West Indian manatee (T)	<i>Trichechus manatus</i>	May 1-November 15	In coastal waters
Mollusks	None Found			

CHARLESTON COUNTY

CATEGORY	COMMON NAME/STATUS	SCIENTIFIC NAME	SURVEY WINDOW/ TIME PERIOD	COMMENTS
Plants	American chaffseed (E)	<i>Schwalbea americana</i>	May-August	1-2 months after a fire
	Boykin's lobelia (ARS)	<i>Lobelia boykinii</i>	May-July/August	
	Canby's dropwort (E)	<i>Oxypolis canbyi</i>	Mid-July-September	
	Ciliate-leaf tickseed (ARS)	<i>Coreopsis integrifolia</i>	August-November	
	Pondberry (E)	<i>Lindera melissifolia</i>	February-March	
	Seabeach amaranth (T)	<i>Amaranthus pumilus</i>	July-October	
Reptiles	Eastern diamondback rattlesnake (ARS)	<i>Crotalus adamanteus</i>	Most of the year	Peak: April-November
	Green sea turtle ** (T)	<i>Chelonia mydas</i> **	May 1-October 31	Nesting and hatching
	Kemp's ridley sea turtle ** (E)	<i>Lepidochelys kempii</i> **	May 1-October 31	In coastal waters
	Leatherback sea turtle ** (E)	<i>Dermochelys coriacea</i> **	May 1-October 31	Nesting and hatching
	Loggerhead sea turtle ** (T, CH)	<i>Caretta caretta</i> **	May 1-October 31	Nesting and hatching
	Southern hognose snake (ARS)	<i>Heterodon simus</i>	Most of the year	
	Spotted turtle (ARS)	<i>Clemmys guttata</i>	February-mid April	

* Contact National Marine Fisheries Service (NMFS) for more information on this species.

** The U.S. Fish and Wildlife Service (FWS) and NMFS share jurisdiction of this species.

ARS Species that the FWS has been petitioned to list and for which a positive 90-day finding has been issued (listing may be warranted); information is provided only for conservation actions as no Federal protections currently exist.

ARS* Species that are either former Candidate Species or are emerging conservation priority species.

BGEPA Federally protected under the Bald and Golden Eagle Protection Act

C FWS or NMFS has on file sufficient information on biological vulnerability and threat(s) to support proposals to list these species.

CH Critical Habitat

E Federally Endangered

P or P – CH Proposed for listing or critical habitat in the Federal Register

S/A Federally protected due to similarity of appearance to a listed species

T Federally Threatened

These lists should be used only as a guideline, not as the final authority. The lists include known occurrences and areas where the species has a high possibility of occurring. Records are updated as deemed necessary and may differ from earlier lists.

For a list of State endangered, threatened, and species of concern, please visit <https://www.dnr.sc.gov/species/index.html>.

APPENDIX E

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

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 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 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.

Lead Federal Agency: Federal Highway Administration

Applicant³ (Name, Email, Phone No.): South Carolina Department of Transportation

Will McGoldrick, mcgoldriWR@scdot.org, 803-737-1326

Project PIN/Project Number: P032012

Project County: Charleston County

Project Name: I-526 West Lowcountry Corridor

Project Location (include coordinates if known): Charleston and North Charleston

The project extends 11.4 miles from near Paul Cantrell Boulevard in West Ashley to Virginia Avenue.

32.811417; -80.049709

Basic Project Description (provide narrative below or attach additional information):

SCDOT proposes to add two travel lanes in each direction along I-526 and to upgrade the interchange of I-526 and I-26. Improvements to access I-526 from Paul Cantrell Boulevard, North Rhett Avenue, and Virginia Avenue are also proposed.

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-mile 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 type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of timber harvest	N/A	
If known, estimated acres of timber harvest from April 1 to October 31		
If known, estimated acres of timber harvest from June 1 to July 31		
Does the project include prescribed fire? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of prescribed fire	N/A	
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)	N/A	

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: Will M. Baker

Date Submitted: 4-1-20

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.

APPENDIX F

Representative Site Photolog



Photo #: 1
Description: Upland maintained development habitat type (4/26/19)



Photo #: 2
Description: Upland maintained development habitat type (10/21/2016)



Photo #: 3

Description: Upland pine/ mixed-hardwood forest habitat type (10/21/2016)



Photo #: 4

Description: Upland young pine/ mixed-hardwood forest habitat type (1/4/17)



Photo #: 5
Description: Upland scrub/shrub habitat type (12/16/16)



Photo #: 6
Description: Upland scrub/shrub habitat type (1/19/17)



Photo #: 7
Description: Upland maritime forest habitat type (4/17/19)



Photo #: 8
Description: Bottomland hardwood forest type (1/6/17)



Photo #: 9

Description: Bottomland hardwood forest habitat type (5/16/19)



Photo #: 10

Description: Tidal marsh habitat type (10/14/16)



Photo #: 11
Description: Brackish marsh habitat type (10/14/16)



Photo #: 12
Description: Freshwater wetland habitat type (1/4/17)



Photo #: 13
Description: Freshwater wetland habitat type (4/15/19)



Photo #: 14
Description: Forested wetland habitat type (4/15/19)



Photo #: 15
Description: Forested wetland habitat type (2/22/17)



Photo #: 16
Description: Cypress-tupelo wetland habitat type (11/9/16)



Photo #: 17

Description: Open water pond habitat type (10/14/16)



Photo #: 18

Description: Open water pond habitat type (7/24/2017)



Photo #: 19

Description: Open water stream habitat type (7/24/17)



Photo #: 20

Description: Open water stream habitat type (1/11/17)



Photo #: 21
Description: Wildlife habitat (4/17/19)



Photo #: 22
Description: Wildlife habitat (4/17/19)



Photo #: 23
Description: Wildlife habitat (9/28/16)



Photo #: 24
Description: Wildlife habitat (11/9/2016)



Photo #: 25
Description: Wildlife habitat (10/14/2016)



Photo #: 26
Description: Potential wildlife habitat (10/21/16)



Photo #: 27
Description: Potential wildlife habitat (10/21/16)



Photo #: 28
Description: Potential wildlife habitat (6/28/19)



United States Department of the Interior



FISH AND WILDLIFE SERVICE

176 Croghan Spur Road, Suite 200
Charleston, South Carolina 29407

February 1, 2016

Mr. Chad Long
NEPA Coordinator
South Carolina Department of Transportation
P.O. Box 191
Columbia, SC 29202-0191

Re: Letter of Intent, I-526 Widening, SCDOT Project ID: P027507, Charleston County, SC
FWS Log No. 2016-CPA-0062

Dear Mr. Long:

The U.S. Fish and Wildlife Service (Service) has received your January 27, 2016, Letter of Intent (LOI) for the proposed widening of a portion of I-526 in Charleston County, South Carolina. The South Carolina Department of Transportation (SCDOT) is proposing to widen 7.5 miles of I-526 from its interchange at Rivers Avenue to the interchange at Paul Cantrell Boulevard. The SCDOT is soliciting comments for consideration and incorporation into an Environmental Assessment (EA) which is being prepared pursuant to the National Environmental Policy Act of 1969, as amended (43 U.S.C. 4321 *et seq.*) (NEPA).

The LOI states that study alternatives included considerations of roadways alignments shifts and bicycle/pedestrian path options. The Service encourages SCDOT to utilize such measures in order to avoid or minimize impacts, particularly near wetland resources. Widening I-526 to the inside of the existing median would result in the lowest amount of resource impacts. This is particularly important as improving the approach causeways for the General Westmoreland Bridge has the potential to impact critically important salt marsh wetlands of the Ashley River. Once a range of alternatives has been identified, the Service recommends that SCDOT schedule a multi-agency site visit to review the project's potential impacts.

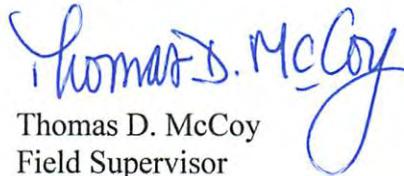
The Ashley River and its emergent salt marsh habitat is considered suitable habitat for the American wood stork and the West Indian manatee. The Service recommends that SCDOT conduct a survey for the presence of these two species, as well as other T&E species and their suitable habitats, during the planning phase for I-526. Once the survey is complete, it should be submitted to our office for review and approved by the Service before project begins.

For SCDOT's convenience, the Service has included with this letter a list of species that are currently protected under the Endangered Species Act of 1973 (ESA). This list includes species that are considered as a candidate for listing under the ESA and those that have been petitioned for listing under the ESA. Appropriate survey timeframes or windows for each species are included in the list. The species which have been petitioned for listing are considered "At-Risk Species" (ARS) and may occur in Charleston County, South Carolina. Although there are no Federal protections afforded to ARS, please consider including ARS in your survey efforts. Incorporating proactive measures to avoid or minimize harm to ARS may improve their status and assist with precluding the need to list these species. Additional information on ARS can be found at:

<http://www.fws.gov/southeast/candidateconservation>

The Service appreciates the opportunity to provide input at this early stage of the project's development. If you have any questions, please contact Mr. Mark Caldwell at (843) 727-4707 ext. 215, and reference FWS Log No. 2016-CPA-0062.

Sincerely,

Handwritten signature of Thomas D. McCoy in blue ink.

Thomas D. McCoy
Field Supervisor

TDM/MAC

South Carolina List of At-Risk, Candidate, Endangered, and Threatened Species - Charleston County

CATEGORY	COMMON NAME/STATUS	SCIENTIFIC NAME	SURVEY WINDOW/ TIME PERIOD	COMMENTS
Amphibian	Frosted flatwoods salamander (T, CH)	<i>Ambystoma cingulatum</i>	January 1-April 30	Larvae present in breeding ponds
	Gopher frog (ARS)	<i>Lithobates capito</i>	Breeding: October-March	Call survey: February-April
Bird	American wood stork (T)	<i>Mycteria americana</i>	February 15-September 1	Nesting season
	Bachman's warbler (E)	<i>Vermivora bachmanii</i>	May 1-June 15	Breeding
	Bald eagle (BGEPA)	<i>Haliaeetus leucocephalus</i>	October 1-May 15	Nesting season
	Black-capped petrel (ARS)	<i>Pterodroma hasitata</i>	April-October	offshore water primarily
	Black rail (ARS)	<i>Laterallus jamaicensis</i>	May-July	
	MacGillivray's seaside sparrow (ARS)	<i>Ammodramus maritimus macgillivrayi</i>	May-June	
	Piping plover (T, CH)	<i>Charadrius melodus</i>	July 15-May 1	Migration and wintering
	Red-cockaded woodpecker (E)	<i>Picoides borealis</i>	April 1-July 31	Nesting season
	Red knot (T)	<i>Calidris canutus rufa</i>	August 1-May 31	Migration and wintering
Crustacean	None Found			
Fish	American eel (ARS)	<i>Anguilla rostrata</i>	March 1-May 30; October 1-December 15	Temperature dependent: normally (17-20°C); can be found between 13-25°C
	Atlantic sturgeon* (E)	<i>Acipenser oxyrinchus*</i>	February 1-April 30	Spawning migration
	Blueback herring (ARS)	<i>Alosa aestivalis</i>	Mid-January-mid May	Peak: March-April
	Shortnose sturgeon* (E)	<i>Acipenser brevirostrum*</i>	February 1-April 30	Spawning migration
Insect	Monarch butterfly (ARS)	<i>Danaus plexippus</i>	August-December	Overwinter population departs: March-April
	Rare skipper (ARS)	<i>Problema bulenta</i>	May; July-September	Two brood periods
Mammal	Finback whale* (E)	<i>Balaenoptera physalus*</i>	November 1-April 30	Off the coast
	Humpback whale * (E)	<i>Megaptera novaengliae</i>	January 1-March 31	Migration off the coast
	Rafinesque's big-eared bat (ARS)	<i>Corynorhinus rafinesquii</i>	Year round	Found in mines, caves, large hollow trees, buildings, and bat towers
	Right whale* (E)	<i>Balaena glacialis</i>	November 1-April 30	Off the coast
	Tri-colored bat (ARS*)	<i>Perimyotis subflavus</i>	Year round	Found in mines and caves in the winter
	West Indian manatee (E)	<i>Trichechus manatus</i>	May 15-October 15	In coastal waters
Mollusk	None Found			
Plant	American chaffseed (E)	<i>Schwalbea americana</i>	May-August	1-2 months after a fire
	Bog asphodel (ARS*)	<i>Narthecium americanum</i>	June-July	
	Boykin's lobelia (ARS)	<i>Lobelia boykinii</i>	May-July/August	
	Canby's dropwort (E)	<i>Oxypolis canbyi</i>	Mid-July-September	
	Carolina bishopweed (ARS)	<i>Ptilimnium ahlesii</i>	May-July	
	Ciliate-leaf tickseed (ARS)	<i>Coreopsis integrifolia</i>	August-November	
	Godfrey's privet (ARS)	<i>Forestiera godfreyi</i>	April-June	
	Hedge-nettle	<i>Stachys caroliniana</i>	Late June-August	Can be confused with <i>S. floridana</i>
	Pondberry (E)	<i>Lindera melissifolia</i>	February-March	
	Seabeach amaranth (T)	<i>Amaranthus pumilus</i>	July-October	

CHARLESTON COUNTY

CATEGORY	COMMON NAME/STATUS	SCIENTIFIC NAME	SURVEY WINDOW/ TIME PERIOD	COMMENTS
Amphibians	Frosted flatwoods salamander (T, CH)	<i>Ambystoma cingulatum</i>	January 1-April 30	Larvae present in breeding ponds
	Gopher frog (ARS)	<i>Lithobates capito</i>	Breeding: October-March	Call survey: February-April
Birds	American wood stork (T)	<i>Mycteria americana</i>	February 15-September 1	Nesting season
	Bachman's warbler (E)	<i>Vermivora bachmanii</i>	May 1-June 15	Breeding
	Bald eagle (BGEPA)	<i>Haliaeetus leucocephalus</i>	October 1-May 15	Nesting season
	Black-capped petrel (ARS)	<i>Pterodroma hasitata</i>	April-October	Offshore water primarily
	Eastern black rail (P)	<i>Laterallus jamaicensis jamaicensis</i>	April-June	Minimum of five surveys/survey point
	Piping plover (T, CH)	<i>Charadrius melodus</i>	July 15-May 1	Migration and wintering
	Red-cockaded woodpecker (E)	<i>Picoides borealis</i>	March 1-July 31	Nesting season
	Red knot (T)	<i>Calidris canutus rufa</i>	August 1-May 31	Migration and wintering
	Saltmarsh sparrow (ARS)	<i>Ammodramus caudacuta</i>	Fall/winter	Fall/winter surveys
Crustaceans	None Found			
Fishes	Atlantic sturgeon* (E)	<i>Acipenser oxyrinchus*</i>	February 1-April 30	Spawning migration
	Shortnose sturgeon* (E)	<i>Acipenser brevirostrum*</i>	February 1-April 30	Spawning migration
Insects	Frosted elfin (ARS)	<i>Callophrys irus</i>	March - June	
	Monarch butterfly (ARS)	<i>Danaus plexippus</i>	August-December	Overwinter population departs: March-April
Mammals	Finback whale* (E)	<i>Balaenoptera physalus*</i>	November 1-April 30	Off the coast
	Humpback whale * (E)	<i>Megaptera novaengliae</i>	January 1-March 31	Migration off the coast
	Northern long-eared bat (T)	<i>Myotis septentrionalis</i>	Year round	Winter surveys not as successful
	Right whale* (E)	<i>Balaena glacialis</i>	November 1-April 30	Off the coast
	Sei whale* (E)	<i>Balaenoptera borealis</i>		
	Sperm whale* (E)	<i>Physeter macrocephalus</i>		
	Tri-colored bat (ARS)	<i>Perimyotis subflavus</i>	Year round	Found in mines and caves in the winter
West Indian manatee (T)	<i>Trichechus manatus</i>	May 1-November 15	In coastal waters	
Mollusks	None Found			

CHARLESTON COUNTY

CATEGORY	COMMON NAME/STATUS	SCIENTIFIC NAME	SURVEY WINDOW/ TIME PERIOD	COMMENTS
Plants	American chaffseed (E)	<i>Schwalbea americana</i>	May-August	1-2 months after a fire
	Boykin's lobelia (ARS)	<i>Lobelia boykinii</i>	May-July/August	
	Canby's dropwort (E)	<i>Oxypolis canbyi</i>	Mid-July-September	
	Ciliate-leaf tickseed (ARS)	<i>Coreopsis integrifolia</i>	August-November	
	Pondberry (E)	<i>Lindera melissifolia</i>	February-March	
	Seabeach amaranth (T)	<i>Amaranthus pumilus</i>	July-October	
Reptiles	Eastern diamondback rattlesnake (ARS)	<i>Crotalus adamanteus</i>	Most of the year	Peak: April-November
	Green sea turtle ** (T)	<i>Chelonia mydas</i> **	May 1-October 31	Nesting and hatching
	Kemp's ridley sea turtle ** (E)	<i>Lepidochelys kempii</i> **	May 1-October 31	In coastal waters
	Leatherback sea turtle ** (E)	<i>Dermochelys coriacea</i> **	May 1-October 31	Nesting and hatching
	Loggerhead sea turtle ** (T, CH)	<i>Caretta caretta</i> **	May 1-October 31	Nesting and hatching
	Southern hognose snake (ARS)	<i>Heterodon simus</i>	Most of the year	
	Spotted turtle (ARS)	<i>Clemmys guttata</i>	February-mid April	

* Contact National Marine Fisheries Service (NMFS) for more information on this species.

** The U.S. Fish and Wildlife Service (FWS) and NMFS share jurisdiction of this species.

ARS Species that the FWS has been petitioned to list and for which a positive 90-day finding has been issued (listing may be warranted); information is provided only for conservation actions as no Federal protections currently exist.

ARS* Species that are either former Candidate Species or are emerging conservation priority species.

BGEPA Federally protected under the Bald and Golden Eagle Protection Act

C FWS or NMFS has on file sufficient information on biological vulnerability and threat(s) to support proposals to list these species.

CH Critical Habitat

E Federally Endangered

P or P – CH Proposed for listing or critical habitat in the Federal Register

S/A Federally protected due to similarity of appearance to a listed species

T Federally Threatened

These lists should be used only as a guideline, not as the final authority. The lists include known occurrences and areas where the species has a high possibility of occurring. Records are updated as deemed necessary and may differ from earlier lists.

For a list of State endangered, threatened, and species of concern, please visit <https://www.dnr.sc.gov/species/index.html>.



United States Department of the Interior



FISH AND WILDLIFE SERVICE
176 Croghan Spur Road, Suite 200
Charleston, South Carolina 29407

April 6, 2020

Mr. Will McGoldrick
Design Build Environmental Coordinator
S.C. Department of Transportation
P.O. Box 191
Columbia, South Carolina 29202-0191

Re: S.C. Department of Transportation, I-526 Low Country Corridor West,
Charleston County, FWS Log # 2016-CPA-0062

Dear Mr. McGoldrick:

The South Carolina Ecological Services Field Office for the U.S. Fish and Wildlife Service (Service) received the South Carolina Department of Transportation's (SCDOT) biological assessment (BA), and other project documentation for the I-526 Low Country Corridor West (I-526 West) in Charleston County, SC. The BA has evaluated potential impacts to threatened and endangered (T&E) species protected under the Endangered Species Act of 1973 (ESA). The SCDOT is seeking our review of the BA and its findings for inclusion into an Environmental Impact Statement (EIS) being developed for I-526 West project pursuant to the National Environmental Policy Act of 1969.

The proposed I-526 West project extends approximately 11 miles from near Paul Cantrell Boulevard in West Ashley to Virginia Avenue in North Charleston in Charleston County, SC. Two travel lanes are proposed to be added in each direction along I-526 as well as upgrade the current interchange between I-526 and I-26. Improvements to access I-526 from Paul Cantrell Boulevard, North Rhett Avenue, and Virginia Avenue are also proposed. Proposed improvements also include widening of the existing bridge over the Ashley River to match the upland improvements.

The BA provided a list of all T&E species known to occur in Charleston County, including species in offshore waters. A more in depth review was afforded to T&E that may occur in project area based upon habitat within the project area. The SCDOT identified eight species under the jurisdiction of the Service that may occur in the project area; the Bachman's warbler, piping plover, eastern black rail, West Indian manatee, pondberry, Canby's dropwort, northern long-eared bat, and American wood stork. Field reconnaissance by SCDOT personnel did not find any T&E species in the corridor but did find suitable habitat for the eight species.

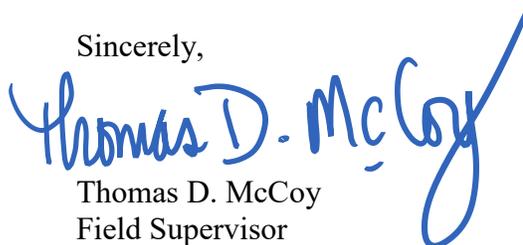
Therefore, a determination of “may effect, not likely to adversely affect” was made for all eight T&E species that may occur in the project area.

Upon review of your information the Service concurs with SCDOT’s determination. For those species in which SCDOT determined the project would have “no effect”, no further consultation is required. Please note that obligations under the ESA must be reconsidered if: (1) new information reveals impacts of this identified action may affect any federally listed species or critical habitat in a manner not previously considered; (2) this action is subsequently modified in a manner, which was not considered in this assessment; or (3) a new species is listed or critical habitat is designated that may be affected by the identified action.

For SCDOT’s convenience the Service has included with this letter a list of species that may occur in Charleston County and are currently protected under the Endangered Species Act of 1973 (ESA). This list also includes species that are considered At Risk Species (ARS) that are either candidates for listing or have been petitioned for listing under the ESA. Appropriate survey time frames or windows for each species are included in the list. Although there are no Federal protections afforded to ARS, please consider including them in your project efforts. Incorporating proactive measures to avoid or minimize harm to ARS may improve their status and assist with precluding the need to list these species. Additional information on ARS can be found at: <http://www.fws.gov/southeast/candidateconservation>.

The Service appreciates the opportunity to provide input at this early stage of the projects’ development. If you have any questions regarding our comments, please do not hesitate to contact Mr. Mark Caldwell of the South Carolina Ecological Services Field Office at (843) 727-4707 ext. 215 and reference FWS Log# 2016-CPA-0062.

Sincerely,



Thomas D. McCoy
Field Supervisor

TDM/MAC
EC: Jane Ledwin, USFWS HQ

I-526 Low Country Corridor

Beckham, Chris <BeckhamJC@scdot.org>

Tue, Mar 31, 2020 at 3:14 PM

To: "nmfs.ser.esa.consultations@noaa.gov" <nmfs.ser.esa.consultations@noaa.gov>

Cc: "andrew.herndon@noaa.gov" <andrew.herndon@noaa.gov>, "Mary.Wunderlich@noaa.gov"

<Mary.Wunderlich@noaa.gov>, "Belcher, Jeffery - FHWA" <Jeffrey.Belcher@dot.gov>, "McGoldrick, Will"

<McGoldriWR@scdot.org>, "Riley, Joy S." <RileyJ@scdot.org>, "Rick.Day@stantec.com" <Rick.Day@stantec.com>, "Kally

McCormick (mccormickk@cecsinc.com)" <mccormickk@cecsinc.com>, "Long, Chad C." <LongCC@scdot.org>, Heather

Robbins <heather.robbins@threeoaksengineering.com>

Mr. Herndon,

The South Carolina Department of Transportation (SCDOT) on behalf of the Federal Highway Administration (FHWA), is requesting consultation with NOAA-NMFS for species under their jurisdiction in compliance with Section 7 of the Endangered Species Act (ESA) for the above referenced project. Please find the attached copy of the cover letter, the Natural Resource Technical Memorandum (NRTM), the Biological Assessment, and the Biological Assessment Appendices. If you have any questions or need any additional information about this project, please let me know.

Thanks,

Chris Beckham

SCDOT

Environmental Services Office

Office: (803) 737-1332

Mobile: (803) 609-9464

4 attachments



2020-03-27_I-526_West_NOAA-NMFS_BA.pdf

678K



I-526_West_NaturalResourcesTechMemo_03_30_2020.pdf

1256K



2020-03-25_I-526_West_NOAA-NMFS_BA_Appendices.pdf

4299K



NMFSESAS7_consultcover_CB.pdf

65K

April 1, 2020

Mr. Andrew Herndon
Atlantic and Shortnose Sturgeon Recovery Coordinator
Protected Resources Division
NOAA Fisheries - Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701

**RE Section 7 NOAA-NMFS Consultation Request for I-526 Lowcountry
Corridor, Charleston County, South Carolina; SCDOT PIN P027507**

Dear Mr. Herndon:

The South Carolina Department of Transportation (SCDOT) on behalf of the Federal Highway Administration (FHWA), is requesting consultation with NOAA-NMFS for species under their jurisdiction in compliance with Section 7 of the Endangered Species Act (ESA) for the above referenced project. The project's Environmental Impact Statement (EIS) is being developed under the One Federal Decision/FAST Act 41 guidance.

This submittal is being provided directly to you for your review and comment. Another package is being submitted via the online web link for official tracking and documentation per our coordination earlier. Attached you should find a copy of a Biological Assessment and accompanying Appendix describing construction activities with effects determinations based upon the described activities, a copy of the EIS's Natural Resource Technical Memorandum (NRTM) documenting all federal and state threatened or endangered species, and a completed Section 7 checklist for quick reference.

As noted above, this request is being provided per the One Federal Decision guidance under which this project falls. Per the schedule agreement with NOAA, this request is being submitted to your agency for a timely and complete review. Please contact myself or Shane Belcher with FHWA with any questions or comments.

Sincerely,

Chris Beckham

Chris Beckham
Environmental Permits Coordinator

CB/wm

enclosures

Biological Assessment with Appendix
NOAA-NMFS S7 Checklist
Copy of EIS Natural Resource Technical Memorandum



Mr. Andrew Herndon
I-526 S7 Consultation
April 1, 2020
Page 2 of 2

ec: Shane Belcher, FHWA
Mary Wunderlich, NOAA
Chad Long, SCDOT
Joy Riley, SCDOT
Kally McCormick, CECS,
Heather Robbins, Three Oaks Engineering
Rick Day, Stantec

File: Env/DesignBuild