

Addendum #5

Construct Bridges at T2 R9 Training Site

Project No. 23TR17-602-D2, Bid Number #19-006

Directorate of Facilities Engineering

15 July 2019

This Addendum forms a part of the Contract Documents and modifies the original Bidding Documents dated 20 March 2019, as noted below. Acknowledge receipt of the Addendum in the space provided on the Bid Form. Failure to do so may subject the Bidder to disqualification. This Addendum consists of the following:

Specification items:

1. **Remove** Section 00 41 13 Contractor Bid Form and **Insert** Attached Section 00 41 13 Contractor Bid Form.
2. **Remove** pages 2 and 4, Section 01 00 00, Administrative Provisions, and **Insert** Attached pages 2 and 4, Section 01 00 00, Administrative Provisions
3. **Remove** Attachment 1, ABI Road Sections and **Insert** Attached Attachment 1, ABI Road Sections.
4. **Insert** USFWS Consultation Log Number 05E1ME00-2018-I-0903 (attached).

Clarification Items:

1. Road fabric is required on the entire section of rebuilt road.
2. Contractor will work with the Owner to establish "Borrow Pits" that would be closed out by the Owner as required.

Attachments:

- 1 – Section 00 41 13 Contractor Bid Form
- 2 - Section 01 00 00, pages 2 and 4, Administrative Provisions
- 3 – Attachment One ABI Road Sections
- 4 - USFWS Consultation Log Number 05E1ME00-2018-I-0903

00 41 13
Contractor Bid Form

Construct Bridges at T2 R9 Training Site
Project # 23TR17-602-D2

To: Mrs. Sherrill Hallett
Directorate of Facilities Engineering
Bldg. 8, Camp Keyes
194 Winthrop Street
Augusta, Maine 04333

The undersigned, or Bidder, having carefully examined the form of contract, general conditions, specifications and drawings dated 20 March 2019, prepared by CES, Inc. for Construct Bridges at T2 R9 Training Site, as well as the premises and conditions relating to the work, proposes to furnish all labor, equipment and materials necessary for and reasonably incidental to the construction and completion of this project for the **Base Bid plus allowances** amount of:

\$ _____ .00

1. Allowances *are included* on this project.

Allowance #1: Entrance road improvements: \$25,000.00
(Pea Ridge Road Access into site.)

2. Alternate Bids *are included* on this project.

Alternate Bids are as shown below

Any dollar amount line below that is left blank by the Bidder shall be taken as a bid of **\$0.00**.

- | | | |
|----|--|--------------|
| 1 | Reinstated and modified: 950 Linear feet. of gravel Road,
475 linear ft each side from center point of crossing B-02-01.
IAW Attachment 1 and Roadway Cross Section on Sheet
C-501. | \$ _____ .00 |
| 2 | 700 Linear feet of Gravel Road at Crossing A-13-01 IAW Plans | \$ _____ .00 |
| 3 | 700 Linear feet of Gravel Road at Crossing A-13-01 IAW Plans | \$ _____ .00 |
| 4 | 550 Linear feet of gravel Road at B-02-01 IAW Plans | \$ _____ .00 |
| 5 | 498 Linear feet of gravel Road at B-02-01 IAW Plans . | \$ _____ .00 |
| 6. | 200 Linear feet of gravel Road as shown in Attachment 1
and Roadway Cross Section on Sheet C-501. | \$ _____ .00 |
| 7. | 150 Linear feet of gravel Road as shown in Attachment 1
and Roadway Cross Section on Sheet C-501. | \$ _____ .00 |
| 8. | 500 Linear feet of gravel Road as shown in Attachment 1
and Roadway Cross Section on Sheet C-501. | \$ _____ .00 |
| 9. | 400 Linear feet of gravel Road as shown in Attachment 1
and Roadway Cross Section on Sheet C-501. | \$ _____ .00 |

**00 41 13
Contractor Bid Form**

- | | |
|--|--------------|
| 10. 1740 Linear feet of gravel road as shown in Attachment 1 and Roadway Cross Section on Sheet C-501. | \$ _____ .00 |
| 11. 650 Linear feet of gravel road as shown in Attachment 1 and Roadway Cross Section on Sheet C-501. | \$ _____ .00 |
| 12. 500 Linear feet of gravel road as shown in Attachment 1 and Roadway Cross Section on Sheet C-501. | \$ _____ .00 |
| 13. 500 Linear feet of gravel road as shown in Attachment 1 and Roadway Cross section on Sheet C-501. | \$ _____ .00 |

3. The Bidder acknowledges receipt of the following addenda to the specifications and drawings:

- | | |
|--------------------|--------------|
| Addendum No. _____ | Dated: _____ |
| Addendum No. _____ | Dated: _____ |
| Addendum No. _____ | Dated: _____ |
| Addendum No. _____ | Dated: _____ |
| Addendum No. _____ | Dated: _____ |

4. Bid security *is required* on this project.
If noted above as required, the Bidder shall include a satisfactory Bid Bond (section 00 43 13) or a certified or cashier's check for 5% of the bid amount with this completed bid form submitted to the Owner.

5. Filed Sub-bids *are not required* on this project.

**00 41 13
Contractor Bid Form**

**Construct Bridges at T2 R9 Training Site
Project # 23TR17-602-D2**

6. The Bidder agrees, if this bid is accepted by the Owner, to sign the designated Owner-Contractor contract and deliver it, with any and all bonds and affidavits of insurance specified in the Bid Documents, within twelve calendar days after the date of notification of such acceptance, except if the twelfth day falls on a State of Maine government holiday or other closure day, or a Saturday, or a Sunday, in which case the aforementioned documents must be received before 12:00 noon on the first available business day following the holiday, other closure day, Saturday, or Sunday.

As a guarantee thereof, the Bidder submits, together with this bid, a bid bond or other acceptable instrument as and if required by the Bid Documents.

7. This bid is hereby submitted by:

Signature: _____

Printed name and title: _____

Company name: _____

Mailing address: _____

City, state, zip code: _____

Phone number: _____

Email address: _____

State of incorporation, if a corporation: _____

List of all partners, if a partnership: _____

5. The Contractor shall be responsible for his/her security in Construction Area until substantial completion. The contractor shall coordinate security of Building with Owner.

E. Owner Occupancy

1. Owner will occupy surrounding areas during entire period of construction, to conduct Owner's normal operations. The Contractor shall cooperate with Owner to minimize conflict to the Owner's operations.

F. Owner-furnished Products: Not Used

G. Schedule of Allowances: Allowance #1: Entrance road improvements:
(Pea Ridge Road Access into site.) \$25,000.00.

H. Additive Alternate:

- (1) ABI#1: 950 Linear feet. of gravel Road, 475 linear ft each side from center point of crossing B-02-01. IAW Attachment 1 and Roadway Cross Section on Sheet C-501.
- (2) ABI#2: 700 Linear feet of Gravel Road at Crossing A-13-01 IAW Plans and Specifications (0+00 to 7+00).
- (3) ABI#3: 700 Linear feet of Gravel Road at Crossing A-13-01 IAW Plans and Specifications (13+00 to 20+00).
- (4) ABI#4: 550 feet of gravel Road at B-02-01 IAW Plans and Specifications (0+00 to 5 +50).
- (5) ABI#5: 498 feet of gravel Road at B-02-01 IAW Plans and Specifications (14+50 to 19+48).
- (6) ABI#6 200 Linear feet of gravel Road as shown in Attachment 1 and Roadway Cross Section on Sheet C-501.
- (7) ABI#7 150 Linear feet of gravel Road as shown in Attachment 1 and Roadway Cross Section on Sheet C-501.
- (8) ABI#8 500 Linear feet of gravel Road as shown in Attachment 1 and Roadway Cross Section on Sheet C-501.
- (9) ABI#9 400 Linear feet of gravel Road as shown in Attachment 1 and Roadway Cross Section on Sheet C-501.
- (10) ABI#10 1740 Linear feet of gravel Road as shown in Attachment 1 and Roadway Cross Section on Sheet C-501.
- (11) ABI#11 650 Linear feet of gravel Road as shown in Attachment 1 and Roadway Cross Section on Sheet C-501.
- (12) ABI#12 500 Linear feet of gravel Road as shown in Attachment 1 and Roadway Cross Section on Sheet C-501.
- (13) ABI#13 500 Linear feet of gravel Road as shown in Attachment 1 and Roadway Cross Section on Sheet C-501.

I. Unit Prices: Not Used

J. Applications for Payment:

1. Submit One (1) copies of each application under procedures of 00 72 13 Section 31, on "Requisition for Payment", Form B.G.S. 17-A-61, revised 29 Feb. 08.

K. Coordination:

1. Work of this Contract includes coordination of the entire Work of the Project.

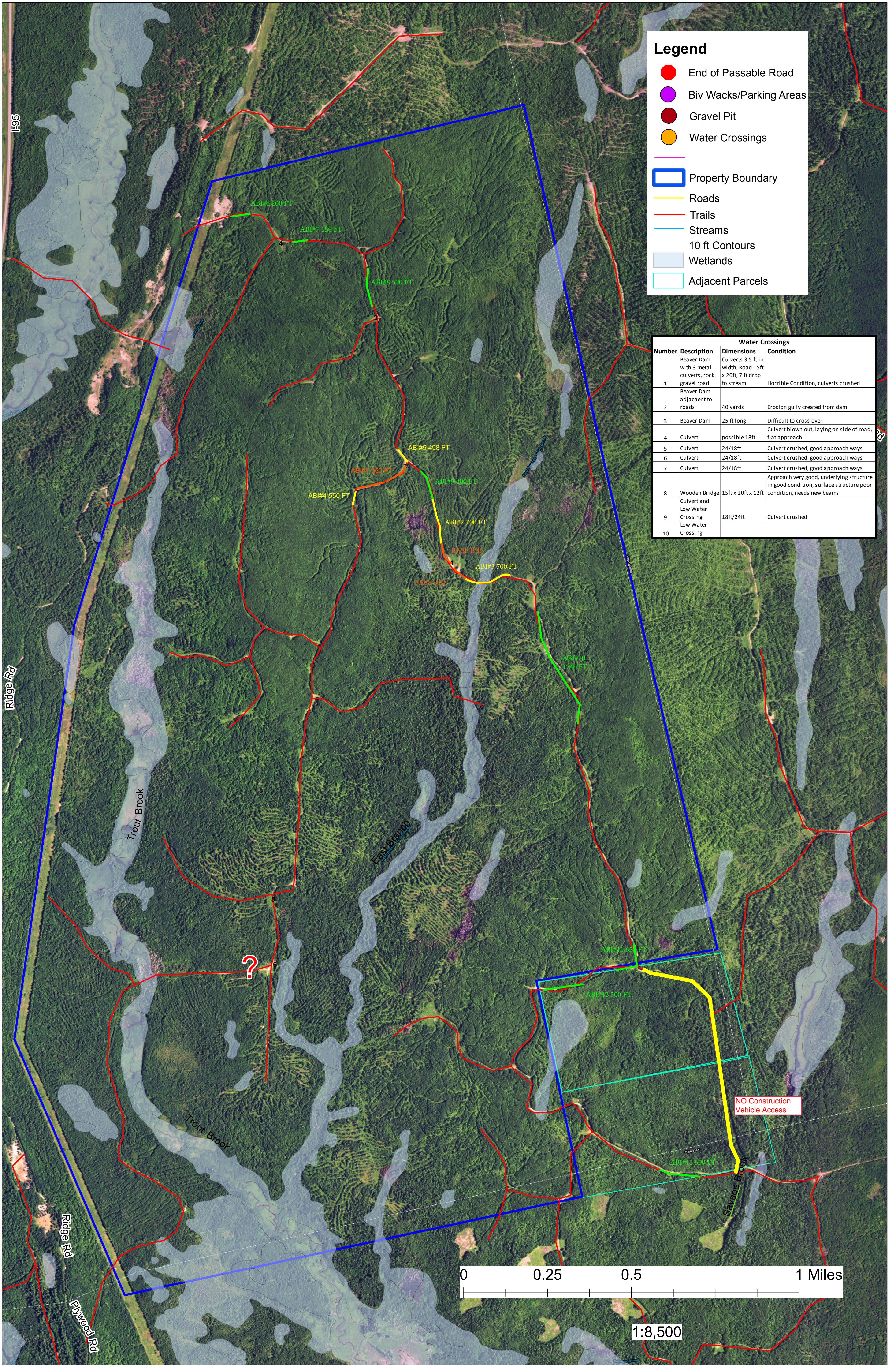
2. The date of the standard is that in effect as of the Bid date, or date of Owner-Contractor Agreement when there are no bids, except when a specific date is given.
3. Obtain copies of standards when required by Contract Documents. Maintain copy at job site during progress of the specific work.

1.02 SCHEDULING AND PHASING OF WORK

- A. Substantial Completion: Work of the Contract must be Substantially Completed by in accordance with the following provisions:
 - a. Water crossing must be completed to the extent that vehicles may cross without limitations and in accordance with design specifications no later than **30 November 2019**. All in water work must be completed no later than **30 September 2019**.
 - b. All Awarded Road Work must be substantially completed no later than **30 November 2019** with the exception of the final surface which must be completed no later than **31 July 2020**. Roads must be stabilized and able to withstand traffic prior to the temporary suspension of work for winter and before the installation of the final surface. Any ABI's awarded subsequent to the initial contract award will have adjusted completion dates.
 - c. Roads and water crossings must be completed to allow for unlimited use of Maine Army National Guard vehicles by **1 June 2020**.
 - d. Access to the second water crossing (ABI#1) must be allowed no later than **1 Oct 2019**. Access is defined as **passable** for construction vehicles.
1. Except as otherwise specified, Substantial Completion is hereby defined to mean a stage of completion sufficient for the Owner to have full beneficial use and occupancy of the structure involved, less only minor corrections and repairs that can be performed without undue annoyance to building occupants which shall be documented on the "punch list" as specified hereinafter. Beneficial use and occupancy means removal of all debris, interior and exterior scaffolding, surplus equipment and material and cleaning as required
- B. Final Completion of all Work of this Contract shall be by **30 August 2020**.
 1. Except as otherwise specified, Final Completion is when the Work of the Contract has been completed in accordance with the terms and conditions of the contract documents with no "punch list" items open, and is ready for final payment.
- C. The expiration date of this Contract is **30 September 2020**.
 1. Except as otherwise specified, Expiration Date is hereby defined to mean the date when all engagements of the parties has ended, except to those which arise from the non-fulfillment of obligations created during its existence, such as warranties.
- D. Within ten (10) working days following receipt of the fully executed formal Contract Agreement by the Contractor, the Contractor shall prepare a proposed Phasing and Progress Schedule. The final Schedule shall be as mutually agreed to by the Owner and Contractor.

T2R9

ATTACHMENT ONE - ABI ROAD SECTIONS



Legend

- End of Passable Road
- Biv Wacks/Parking Areas
- Gravel Pit
- Water Crossings
- Property Boundary
- Roads
- Trails
- Streams
- 10 ft Contours
- Wetlands
- Adjacent Parcels

Water Crossings			
Number	Description	Dimensions	Condition
1	Beaver Dam with 3 metal culverts, rock gravel road	Culverts 3.5 ft in width, Road 15ft x 20ft, 7 ft drop to stream	Horrible Condition, culverts crushed
2	Beaver Dam adjacent to roads	40 yards	Erosion gully created from dam
3	Beaver Dam	25 ft long	Difficult to cross over
4	Culvert	possible 18ft	Culvert blown out, laying on side of road, flat approach
5	Culvert	24/18ft	Culvert crushed, good approach ways
6	Culvert	24/18ft	Culvert crushed, good approach ways
7	Culvert	24/18ft	Culvert crushed, good approach ways
8	Wooden Bridge	15ft x 20ft x 12ft	Approach very good, underlying structure in good condition, surface structure poor condition, needs new beams
9	Culvert and Low Water Crossing	18ft/24ft	Culvert crushed
10	Low Water Crossing		



1:8,500



United States Department of the Interior



MAINE FISH AND WILDLIFE SERVICE COMPLEX

Ecological Services
Maine Field Office
P.O. Box A
306 Hatchery Road
East Orland, Maine 04431
207/469-7300 Fax: 207/902-1588

July 12, 2019

Andrew Flint
Environmental Branch Chief
Maine Army National Guard
33 State House Station
Augusta, Maine 04333

REF: USFWS Consultation Log Number 05E1ME00-2018-I-0903

Dear Mr. Flint:

This letter responds to the Maine Army National Guard's (Guard) submission to the U.S. Fish and Wildlife Service (Service) dated March 22, 2019 regarding a proposal by the Guard to replace an existing road-stream crossing on an unpaved road in T2 R9 NWP, Penobscot County, Maine. Since the proposed project also requires a permit from the Corps of Engineers (Corps) under section 404 of the Clean Water Act to place fill materials in the East Branch Trout Brook, the Guard's submission includes the Corps as a joint Federal action agency. The Guard's biological evaluation (BE) requests the Service's concurrence with your determination that this action is not likely to adversely affect the federally endangered Atlantic salmon (*Salmo salar*) and its designated critical habitat and the federally threatened Canada lynx (*Lynx canadensis*).

Further, the Guard determined that the project may affect the threatened northern long-eared bat (*Myotis septentrionalis*). The Guard submitted a northern long-eared bat 4(d) rule streamlined consultation form stating that this project may affect this species but that any resulting incidental take is not prohibited by the final 4(d) rule. The Service considers consultation for the northern long-eared bat concluded. If this project is not completed within one year of this letter, you must update your determination and resubmit the required information. Your determinations regarding all three species and Atlantic salmon critical habitat were made in accordance with section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.).

Proposed Action Description

The Guard proposes to replace an unsafe and deficient logging bridge over the East Branch Trout Brook on an unpaved access road within a training site. The new stream crossing will consist of a 26-foot-span and 26-foot wide bridge on concrete abutments. The clear span between

abutments is 22 feet. The concrete abutments will be protected with rock rip-rap, providing a structure width at bankfull depth of 14 feet 5 inches. The project will also include the replacement of four existing culverts in forested wetlands on the road approaches to the bridge, as well as other repairs and upgrades to approximately 2,000 linear feet of the existing road on either side of the bridge. This project is part of an ongoing effort to develop this property into a new training site for the Guard in Maine and provide adequate access for military vehicles and equipment.

The instream work for this project is anticipated to take no more than four days to complete and will be done during low stream flows between July 15 and September 30. The new bridge is designed to allow for natural stream processes and aquatic organism movement by incorporating a natural stream bottom and a crossing structure that is 1.2 times the bankfull width of the stream. Based on field measurements, the bankfull width of East Branch Trout Brook in the vicinity of the project is 11 feet.

A more thorough project description, including construction details, are available in the Guard's BE, including a set of detailed construction plans. Additional project information was provided by the Guard or their consulting engineer in several emails in June and July 2019. The Guard and the Corps are proposing the following conservation measures designed to avoid and minimize effects to federally listed species or designated critical habitat. These conservation measures will be included as permit conditions by the Corps and are nondiscretionary (text as provided by the Corps via email on June 28, 2019).

- 1. The permittee shall ensure that a copy of this permit is at the work site whenever work is being performed and that all personnel performing work at the site of the work authorized by this permit are fully aware of the terms and conditions of the permit. This permit, including its drawings and any appendices and other attachments, shall be made a part of any and all contracts and sub-contracts for work which affects areas of Corps of Engineers' jurisdiction at the site of the work authorized by this permit. This shall be done by including the entire permit in the specifications for the work. If the permit is issued after construction specifications but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. The term "entire permit" includes permit amendments. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions of the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps of Engineers jurisdiction.*
- 2. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.*
- 3. This authorization requires you to 1) notify us before beginning work so we may inspect the project, and 2) submit a Compliance Certification Form. You must complete and return the*

enclosed Work Start Notification Form(s) to this office before the anticipated starting date. You must complete and return the enclosed Compliance Certification Form within one month following the completion of the authorized work and any required mitigation (but not mitigation monitoring, which requires separate submittals). The permittee shall hold a pre-construction meeting with the construction contractor, and all subcontractors to review all permits, procedures, and requirements for avoiding and minimizing effects of erosion and to prevent impacts to Atlantic salmon and its critical habitat. The permittee shall notify the Corps and U.S. Fish & Wildlife Service (USFWS) of the meeting.

4. The permittee and contractor shall comply with all terms and conditions of this permit and with the permittee's final plan(s) as shown on the attached plans entitled "T2 R9 Training Site, Trail and Water Crossing Repair, T2 R9 Twp, Maine" in six (6) sheets dated "March 20, 2019". Modifications to the approved plan may require re-initiation of Endangered Species Act Section 7 consultation between the USFWS, Maine Army National Guard (MEARNG), and the Corps. Therefore, modifications should not be implemented without first contacting the USFWS, MERNG and the Corps.

5. "TAKE" of Atlantic salmon is not authorized by this permit. In the event salmon are observed or otherwise determined to be within the project area, all construction activities below the ordinary water line of East Branch Trout Brook shall immediately cease and staff from the Service and the Corps will be notified. The U.S. Fish & Wildlife Service's (USFWS) point of contact is Wende Mahaney (wende_mahaney@fws.gov) at 207-9021569. The Corps point of contact is Shawn Mahaney (shawn.b.mahaney@usace.army.mil) at 978-318-8492.

6. In water work (which includes the installation and removal of cofferdams) is limited to low flow level periods between July 15 and September 30 to avoid impacts to Atlantic salmon, its critical habitat, other fisheries and local water quality. In water work during this period shall cease whenever a thunderstorm is imminent and shall not resume until storm runoff has ceased and river has returned to normal low levels. No work is authorized outside these dates unless authorized by the Corps of Engineers after consultation between the MEARNG, the Corps and USFWS.

7. All in-stream or near stream operations will cease under high flow conditions that may inundate the project area, except as necessary to avoid or minimize resource damage.

8. Cofferdams shall be used during construction to isolate the construction area and to prevent turbidity from reaching the stream channel outside the enclosed construction area. In the event of a cofferdam failure, the contractor shall attempt to move all water pumps away from the brook. The contractor shall attempt to minimize turbidity releases as much as feasible. After the high water event subsides, the site shall be stabilized as soon as practicable. The rebuilt cofferdams shall be inspected prior to the beginning of pumping procedures.

9. Adequate sedimentation and erosion control devices, such as geo-textile silt fences or other devices capable of filtering the fines involved, shall be installed and properly maintained to minimize impacts during construction. These devices must be removed upon completion of work

and stabilization of disturbed areas. The sediment collected by these devices must also be removed and placed upland, in a manner that will prevent its later erosion and transport to a waterway or wetland. All work shall be performed in compliance with all environmental permits and authorizations and the Maine Erosion and Sedimentation Control Best Management Practices (BMP) Manual for Designers and Engineers (October 2016).

10. No temporary fill (e.g., access roads, cofferdams) may be placed in waters or wetlands unless specifically authorized by this permit. If temporary fill is used, it shall be disposed of at an upland site and suitably contained to prevent its subsequent erosion into a water of the U.S., and the area shall be restored to its original contours (but not higher) and character upon completion of the project. During use, such temporary fill must be stabilized to prevent erosion or, in the case fill placed in flowing water (rivers or streams), clean washed stone should be used.

11. All areas of temporary waterway or wetland fill will be restored to their original contour and character upon completion of the projects.

12. The permittee shall minimize vegetation clearing adjacent to the stream to the maximum extent practicable. Cutting of trees and shrubs, where necessary, shall occur at ground level, leaving the root stock in place, to facilitate soil stabilization, reduce post construction erosion, and promote regrowth. Areas of disturbed soil adjacent to the waterways will be stabilized and re-vegetated with a native conservation seed mix appropriate for riparian areas in Maine. If, due to the lateness of the season such seed mix is not likely to take root sufficiently well enough to stabilize the banks, protection against erosion will be provided by geotextile in combination with staked hay bales and additional rip-rap as needed. Geotextile, hay bales, and excessive riprap is to be removed once vegetation can be established in the following growing season.

13. The permittee shall follow spill prevention control and countermeasures designed to avoid effects to the waterway from hazardous materials associated with construction activities. These measures shall include:

- a) Vehicle refueling shall occur more than 100 feet from any water course.*
- b) All vehicles carrying fuel shall have specific equipment and materials needed to contain or clean up any incidental spills at the project site. Equipment and materials would include spill kits appropriately sized for specific quantities of fuel, shovels, absorbent pads, straw bales, containment structures and liners, and/or booms.*
- c) During use, pumps, generators, etc. shall have appropriate spill containment or absorbent pads in place.*
- d) All equipment used for work below OHW of the brook shall be cleaned of external oil, grease, dirt, and mud. Any leaks or accumulations of grease would be corrected before working near or in rivers, streams or areas that drain directly to streams or wetlands.*

14. A post-project report, confirming completion of construction and the successful application of all terms and conditions of this permit, shall be submitted within four (4) weeks of project completion. The report shall include, but not be limited to, a narrative, as built plans/drawings, and photos documenting project elements outlined in the construction plan and referenced in

these conditions. This report may accompany the Compliance Certification Form referenced in Special Condition 3.

ESA Listed Species in the Action Area

Action Area

The action area includes all areas to be affected directly or indirectly by the proposed Federal action and not merely the immediate area involved in the action. The project action area includes the following:

- An approximately 1,000-foot segment of East Branch Trout Brook from the upstream cofferdam to as far downstream as any temporary increase in suspended sediment resulting from construction activities.
- The upstream portion of the East Branch Trout Brook watershed that would be temporarily disconnected from upstream fish passage during instream construction activities.
- Approximately 8,163 square feet of wetland adjacent to the inlet of the bridge extensions where riprap will be placed to stabilize the intersection of the bridge and roadway within the East Branch Trout Brook drainage.
- Approximately 12,000 square feet of upland vegetation adjacent to the road to be removed to accommodate road widening and installation of ditches and erosion control best management practices.
- Approximately 23,300 square feet of existing compacted gravel road surface.

Atlantic Salmon

The Gulf of Maine Distinct Population Segment (GOM DPS) of Atlantic salmon is a federally endangered species under the joint jurisdiction of the Service and the NMFS (74 FR 29344; June 19, 2009). The Atlantic salmon GOM DPS encompasses all naturally spawned and conservation hatchery populations of anadromous Atlantic salmon whose freshwater range occurs in the watersheds from the Androscoggin River northward along the Maine coast to the Dennys River and wherever these fish occur in the estuarine and marine environment. The upstream extent of the freshwater range of the GOM DPS is delimited by seven impassable natural falls located within the Androscoggin, Kennebec, and Penobscot drainages¹. Also included in the GOM DPS are all associated conservation hatchery populations used to supplement natural populations. Excluded are landlocked Atlantic salmon (also *Salmo salar*) and those Atlantic salmon raised in commercial hatcheries for aquaculture purposes.

¹ See the final rule listing the Gulf of Maine Distinct Population Segment as an endangered species for the specific locations of the seven impassable falls (74 FR 29346; June 19, 2009).

On June 19, 2009, the NMFS designated critical habitat for listed Atlantic salmon pursuant to section 4(b)(2) of the ESA². The critical habitat designation for the GOM DPS includes 45 specific areas occupied by Atlantic salmon at the time of listing that include approximately 12,161 miles of perennial river, stream, and estuary habitat and 308 square miles of lake habitat within the range of the GOM DPS and within which are found those physical and biological features essential to the conservation of the species. At the time that critical habitat for Atlantic salmon was designated, these essential features of critical habitat were described using two terms, *primary constituent elements* (PCEs) and *physical and biological features* (PBFs). Since that time, new critical habitat regulations (81 FR 7414; February 11, 2016) eliminate use of the term PCE but retain and define the term PBF. In this letter, however, we continue to use the term PCE for consistency sake and because there is no implication for any conclusions in this letter by doing so.

Critical habitat for Atlantic salmon includes two PCEs as follows: 1) sites for spawning and rearing and 2) sites for migration, both of which include several PBFs. All designated critical habitat is considered occupied by endangered Atlantic salmon at the HUC³-10 watershed level, although not all water bodies within a given watershed are necessarily occupied by Atlantic salmon at any given time.

The proposed project is located within the geographic range of the GOM DPS. The project will affect a perennial stream that is located in a HUC-10 watershed (Mattamiscontis Stream-Piscataquis River; 0102000502) that is designated as critical habitat for Atlantic salmon. Therefore, the project has the potential to affect both endangered Atlantic salmon and their designated critical habitat.

Canada Lynx

The federally threatened Canada lynx (65 FR 16053; March 24, 2000) may occur within the vicinity of the proposed project; however, the project site is not within designated Canada lynx critical habitat in Maine. Although Canada lynx prefer boreal forest types, like spruce/fir forests with healthy snowshoe hare populations, they will use a variety of habitats within their home ranges. A Canada lynx was captured in T2 R9 NWP in 2010 (west of Interstate 95) and three Canada lynx records from the adjacent township to the north (TA R7 WELS) were recorded in 2007 and 2009, all indicating the possibility that Canada lynx may occur on the Guard's property.

Effects of Action

Atlantic Salmon

Based on the best available scientific information, Atlantic salmon are not expected to occur in the project action area in East Branch Trout Brook (P. Ruksznis, Maine Department of Marine Resources, pers. comm., 2017). Trout Brook is a tributary of the Medunkeunk Stream. Although the larger Penobscot River watershed is currently occupied by Atlantic salmon and the

² The designation of critical habitat for Atlantic salmon was revised on August 10, 2009 (74 FR 39903).

³ HUC = hydrologic unit code as defined by the U.S. Geological Survey.

focus of a variety of ongoing efforts aimed at Atlantic salmon recovery, including stocking of various life stages of Atlantic salmon, the Medunkeunk Stream watershed is not known to be occupied by Atlantic salmon and is not stocked. Furthermore, an eDNA study conducted for the Guard in the Trout Brook watershed in 2018 did not detect the presence of Atlantic salmon.

Although instream and riparian construction activities associated with this project could have direct effects on Atlantic salmon were they to occur in the East Branch Trout Brook in or near the project site (e.g., effects due to a temporary increase in instream sediment or temporary dewatering), such effects are considered to be highly unlikely to happen or discountable, given the lack of Atlantic salmon stocking or known occurrences in the vicinity of the proposed project. Since we expect that the replacement bridge structure will accommodate fish passage and natural stream functions, any Atlantic salmon that may occupy the Trout Brook watershed in the future should not experience any adverse effects from the project. Therefore, we concur with the Guard's determination that the proposed project is not likely to adversely affect the endangered Atlantic salmon because all effects are expected to be discountable.

Canada Lynx

Canada lynx may occur in the general project vicinity and occasionally in the action area but the current forest habitat on the Guard property (young forest dominated by hardwood species like red maple, birch, beech and aspen) is not the preferred habitat of Canada lynx or their primary prey species, snowshoe hare. The project will use an existing roadway and will result in no further habitat fragmentation than currently exists. Although there will be some impact to roadside vegetation from the project, the amount of vegetation clearing is relatively small (less than ½ acre) and the quality of this habitat for Canada lynx is relatively low. Construction activities will create temporary disturbances associated with noise, human and equipment presence and vegetation clearing. Given the limited scope of these construction activities, we expect that any effects to Canada lynx will be insignificant. Therefore, we concur with the Guard's determination that the proposed project is not likely to adversely affect the threatened Canada lynx because all effects are expected to be insignificant.

Atlantic Salmon Critical Habitat

The project action area is within a perennial stream, East Branch Trout Brook that is within a HUC-10 watershed where perennial streams have been designated as critical habitat for Atlantic salmon. Atlantic salmon habitat has not been field mapped anywhere in the Medunkeunk Stream watershed, including East Branch Trout Brook. This brook, especially in the action area, is likely too small to offer the PBFs of Atlantic salmon spawning habitat but may offer some of the PBFs associated with juvenile rearing habitat.

According to a GIS-based habitat model designed to predict the occurrence of habitat for juvenile Atlantic salmon in Maine rivers, East Branch Trout Brook may provide some juvenile rearing habitat (Wright et al. 2008). According to the model, there are approximately 19.3 units (one unit of habitat = 100 square meters of stream bottom) of Atlantic salmon habitat, distributed over about one mile of stream channel, above the project site. Additional juvenile rearing habitat is also predicted by the model downstream of the road crossing to the confluence with Trout

Brook. The existing stream crossing structure likely allows for upstream fish passage during most stream flow conditions.

Although the proposed project will have both short-term and long-term effects to aquatic habitat in East Branch Trout Brook, we believe that these effects to critical habitat are insignificant because 1) the scope of the proposed project is limited both spatially and temporally, 2) a variety of typical conservation measures will be used to limit impacts to the stream during construction, 3) and the proposed road stream crossing structure will provide for both fish passage and natural stream function given its size and other design features. Therefore, we concur with the Guard's determination that the proposed project is not likely to adversely affect Atlantic salmon critical habitat because all effects will be insignificant.

Conclusion

Based on the analysis discussed above, the Service has determined that the effects of the proposed action to individual Atlantic salmon and the GOM DPS are discountable and that the effects to critical habitat in the East Branch Trout Brook are insignificant. The Service has also determined that all effects to Canada lynx are insignificant. Therefore, we concur with the Guard's determination that the proposed project may affect but is not likely to adversely affect the Atlantic salmon and its designated critical habitat and the Canada lynx. Our concurrence is contingent on the project being carried out as described in the Guard's BE, including adherence to the conservation measures stated on pages 2-5 of our letter.

With the conclusion of this consultation, should the project change or new information become available, reinitiation may be required as described in 50 CFR §402.16. Thank you for your cooperation in completing this section 7 consultation. Please contact Wende Mahaney by telephone at 207/902-1569 or by email at *wende_mahaney@fws.gov* if you have any questions.

Sincerely,



Peter Lamothe
Complex Manager
Ecological Services
Maine Field Office
Maine Fish and Wildlife Service Complex

cc: Shawn Mahaney, Corps – Augusta, ME
Timothy Bickford, Guard – Augusta, ME
Peter Ruksznis, MEDMR – Bangor, ME

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