



June 7, 2018

Oklahoma Ecological Services Field Office  
U.S. Fish & Wildlife Service  
9014 East 21<sup>st</sup> Street  
Tulsa, OK 74129

Re: Protected Species Habitat Assessment for the Cimarron Environmental Response Trust Site  
in Logan County, Oklahoma  
Consultation Code: 02EKOK00-2018-SLI-1456 - Current  
(02EKOK00-2015-SLI-1367 - August 25, 2015)  
Burns & McDonnell Project Number: 104407

Dear Sir or Madam:

On behalf of Cimarron Environmental Response Trust (CERT), Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) completed a protected species habitat assessment for ongoing construction and operation activities at the Cimarron Environmental Response Trust Site (Project) in Logan County, Oklahoma (Appendix A). The purpose of this Project is to mitigate the uranium, nitrates, and fluorides in the groundwater through extraction, treatment, and discharge of affected groundwater. The Project is currently underway. Due to unexpected construction delays, the new estimated completion date is July 31, 2020. A U.S. Army Corps of Engineers (USACE) nationwide permit was issued for the project in 2015 and a request for an extension of that permit has been submitted. The USACE has requested a current project review be conducted to support the request for the nationwide permit extension.

## **PROJECT DESCRIPTION**

The Project is located at a site that was formerly owned and operated by Kerr-McGee Nuclear Corporation. The onsite facilities were utilized for the production of mixed oxide fuel and uranium fuel, including enriched uranium reactor fuel pellets and eventually fuel rods from 1966 to 1975. During this time, exposure of process water and material to the environment resulted in the contamination of the site groundwater. The site is now owned by the CERT. The concentration of uranium, nitrates, and fluorides in the groundwater must be reduced to achieve unrestricted release of the site and license termination from the Nuclear Regulatory Commission (NRC). Mitigation of these constituents will be achieved through the extraction, treatment, and discharge of affected groundwater. These processes will require the construction of groundwater extraction wells, groundwater extraction trenches, groundwater injection wells, groundwater injection trenches, process piping, two outfalls to the Cimarron River, and groundwater treatment facilities. All best management practices (BMPs) will be implemented in compliance with associated erosion and sedimentation regulations for disturbance; thereby minimizing those associated impacts.

## **PROTECTED SPECIES EVALUATION**

Available protected species information for Logan County was obtained from the Oklahoma Department of Wildlife Conservation (ODWC) and the U.S. Fish and Wildlife Service (USFWS)

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Information, Planning, and Conservation System (IPaC) internet website. According to the ODWC and USFWS, five protected species may occur within Logan County (Table 1, Appendix D). Critical habitat for the Arkansas River shiner (*Notropis girardi*) has been designated along the Cimarron River in Logan County; however, the Project will not impact the Cimarron River, all discharges will be compliant with all other permitting requirements, and appropriate best management practices for construction will be implemented to control for erosion and sedimentation.

### SUMMARY

Burns & McDonnell and CERT are requesting a concurrence with the findings of this habitat assessment that the Project would have no effect on the least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), whooping crane (*Grus americana*), and Arkansas River shiner (*Notropis girardi*). Additionally, the Project is not likely to adversely modify critical habitat for the Arkansas River shiner along the Cimarron River that is under the jurisdiction of the USFWS. All areas disturbed by the Project would be revegetated and restored to preconstruction conditions.

If you have any questions about the content of this protected species habitat assessment letter report, please contact Ken Gouvion at (972) 455-3157 or [kgouvion@burnsmcd.com](mailto:kgouvion@burnsmcd.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "Ken Gouvion".

Kenneth Gouvion, CPESC, CISEC  
Staff Environmental Scientist

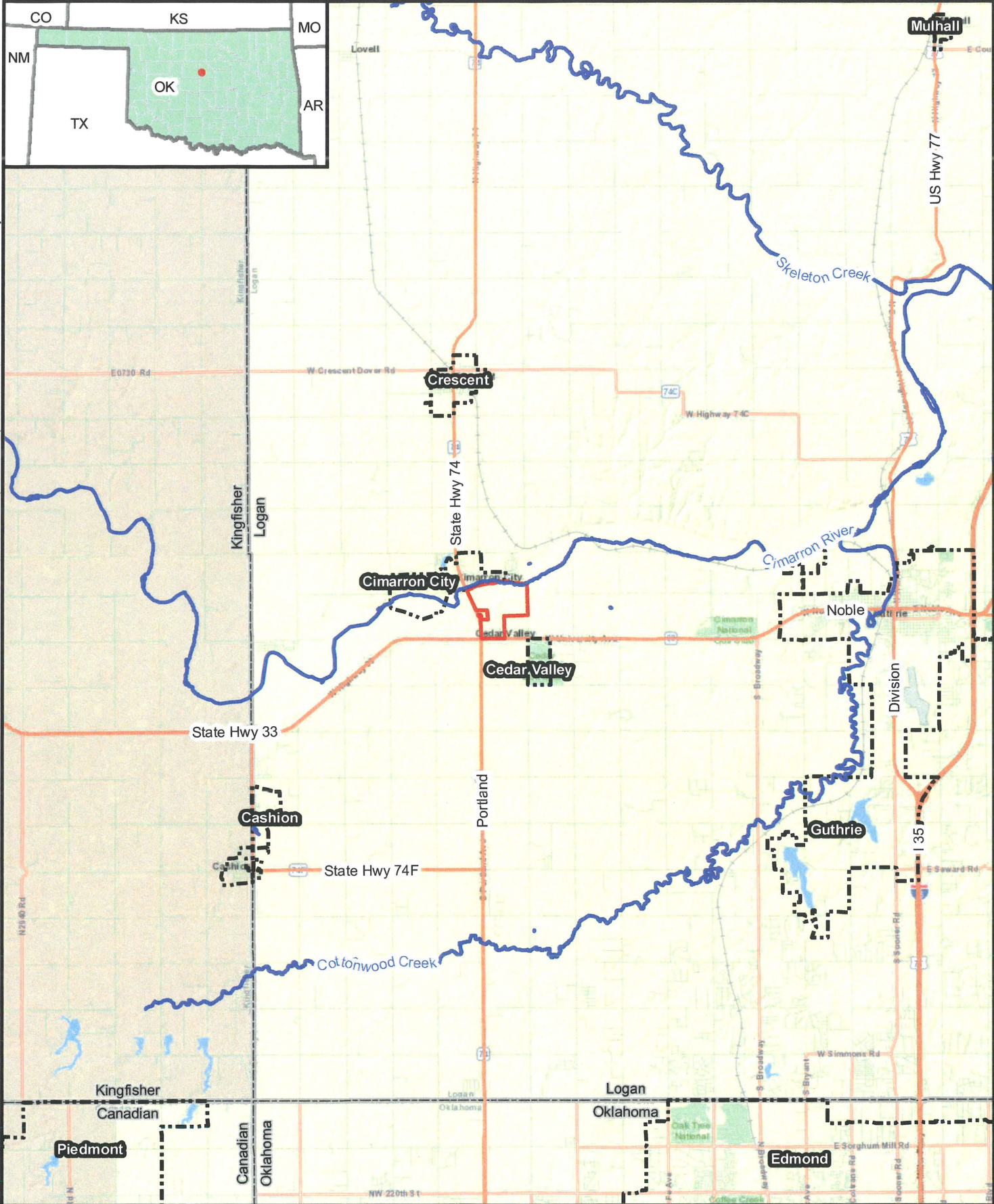
### Appendices:

- Appendix A - Figures
- Appendix B - Online Concurrence Letter
- Appendix C - Species List: Oklahoma Ecological Services Field Office
- Appendix D - Protected Species Determination Table
- Appendix E - Previously Issued Online Concurrence Letter

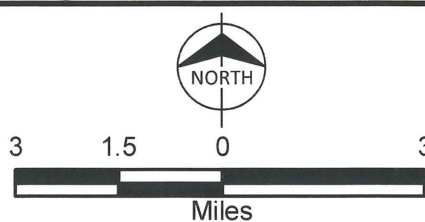
## **APPENDIX A - FIGURES**



Path: Z:\General\KCM\ENR\Depts\EH&S C&I\12) SWPPP\02) Working Documents\072) 89761 CERT Groundwater Remediation Project, OK\01) GIS\MapFiles\ArcDocs\CERT General Vicinity Map USFWS.mxd kqouivon 6/7/2018  
 COPYRIGHT © 2018 BURNS & McDONNELL ENGINEERING COMPANY, INC.  
 Service Layer Credits: Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

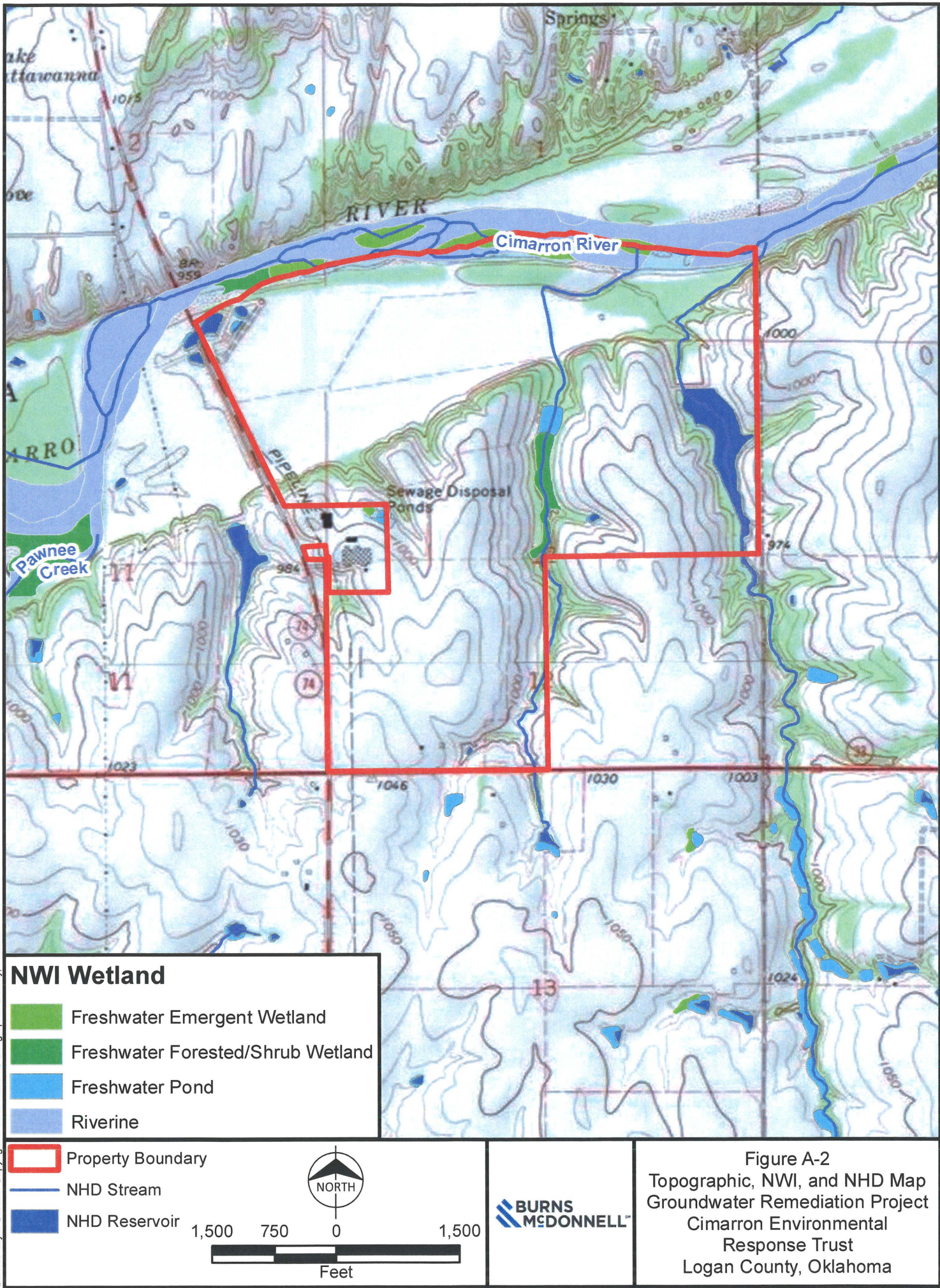


- Project
- NHD Stream
- Highway
- City Limit
- County Line



**Figure A-1**  
 General Vicinity Map  
 Groundwater Remediation Project  
 Cimarron Environmental  
 Response Trust  
 Logan County, Oklahoma







## **APPENDIX B - ONLINE CONCURRENCE LETTER**





# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

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



June 7, 2018

### Online Project Review Concurrence Letter

To: Kenneth Gouvion  
Burns & McDonnell Engineering Company, Inc.  
15950 N. Dallas Parkway, Tower II, Suite 700  
Dallas, TX 75248  
Phone: (972) 455-3157, Email: kgouvion@burnsmcd.com

Project Name: Cimarron Environmental Response Trust Site in Logan County, Oklahoma  
Burns & McDonnell Project No. 104407

Consultation Code: 02EKOK00-2018-SLI-1456 - Current  
(02EKOK00-2015-SLI-1367 - August 25, 2015)

Dear Applicant:

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

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

A copy of this letter and the project review package must be emailed to **okprojectreview@fws.gov** for this certification to be valid. This letter and the project review package will be maintained in Service records. **Please allow the Oklahoma ESFO 45 days to review your information. If the Oklahoma ESFO determines that the package is not complete, or that additional coordination is necessary, we will contact your office. If, after 45 days from the date of your email submittal of your project review package, the Oklahoma ESFO has not contacted your office, consider your section 7 consultation complete.**



The proposed action consists of:

Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) is providing environmental support services for the Cimarron Environmental Response Trust (CERT) at a site formerly owned and operated by Kerr-McGee Nuclear Corporation (KMNC) in Logan County, Oklahoma (Project) (Appendix A). For the purpose of informal consultation with the U.S. Fish and Wildlife Service (USFWS), Burns & McDonnell evaluated threats to species protected by the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668), and the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703).

Project start and completion dates:

Project is currently underway. Due to unexpected construction delays, the new estimated completion date is July 31, 2020.

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

U.S. Nuclear Regulatory Commission is providing oversight. A U.S. Army Corps of Engineers (USACE) nationwide permit was issued for the project in 2015 and a request for an extension of that permit has been submitted. The USACE has requested a current project

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

Kenneth Kalman  
Phone: (301) 415-6664  
Email: kenneth.kalman@nrc.gov

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

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

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



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

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

Enclosures:

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

The USFWS concurrence letter form August 25, 2015, has been included with this submittal.

**APPENDIX C - SPECIES LIST: OKLAHOMA ECOLOGICAL SERVICES FIELD OFFICE**





## United States Department of the Interior

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



In Reply Refer To:

May 01, 2018

Consultation Code: 02EKOK00-2018-SLI-1456

Event Code: 02EKOK00-2018-E-03449

Project Name: Cimarron Environmental Response Trust Site in Logan County, Oklahoma

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

To Whom It May Concern:

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

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

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

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

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

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

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

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

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

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



**Attachment(s):**

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Migratory Birds
- Wetlands

# Official Species List

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

This species list is provided by:

**Oklahoma Ecological Services Field Office**

9014 East 21st Street

Tulsa, OK 74129-1428

(918) 581-7458

## Project Summary

Consultation Code: 02EKOK00-2018-SLI-1456

Event Code: 02EKOK00-2018-E-03449

Project Name: Cimarron Environmental Response Trust Site in Logan County, Oklahoma

Project Type: LAND - RESTORATION / ENHANCEMENT

Project Description: Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) is providing environmental support services for the Cimarron Environmental Response Trust (CERT) at a site formerly owned and operated by Kerr-McGee Nuclear Corporation (KMNC) in Logan County, Oklahoma (Project) (Appendix A). For the purpose of informal consultation with the U.S. Fish and Wildlife Service (USFWS), Burns & McDonnell conducted desktop analyses to evaluate threats to species protected by the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668), and the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703).

Burns & McDonnell and CERT are requesting a concurrence with the findings of this desktop habitat assessment that the proposed Project has not effect or is not likely to adversely affect species protected under the jurisdiction of the USFWS.

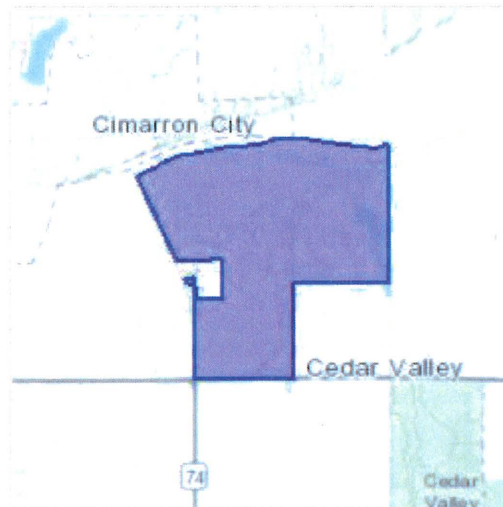
The Project is located at a site that was formerly owned and operated by Kerr-McGee Nuclear Corporation. The onsite facilities were utilized for the production of mixed oxide fuel and uranium fuel, including enriched uranium reactor fuel pellets and eventually fuel rods from 1966 to 1975. During this time, exposure of process water and material to the environment resulted in the contamination of the site groundwater. The site is now owned by the CERT. The concentration of uranium, nitrates, and fluorides in the groundwater must be reduced to achieve unrestricted release of the site and license termination from the Nuclear Regulatory Commission (NRC). Mitigation of these constituents will be achieved through the extraction, treatment, and discharge of affected groundwater. These processes will require the construction of groundwater extraction wells, groundwater extraction trenches, groundwater injection wells, groundwater injection trenches, process piping, two outfalls to the Cimarron River, and groundwater treatment facilities. All best management practices (BMPs) will be implemented in compliance with



associated erosion and sedimentation regulations for disturbance; thereby minimizing those associated impacts.

**Project Location:**

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.88045145911566N97.5770481123075W>



Counties: Logan, OK

## Endangered Species Act Species

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

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

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

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

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

## Birds

NAME	STATUS
<b>Least Tern <i>Sterna antillarum</i></b> Population: interior pop. No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/8505">https://ecos.fws.gov/ecp/species/8505</a>	Endangered
<b>Piping Plover <i>Charadrius melodus</i></b> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/6039">https://ecos.fws.gov/ecp/species/6039</a>	Threatened
<b>Red Knot <i>Calidris canutus rufa</i></b> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a>	Threatened
<b>Whooping Crane <i>Grus americana</i></b> Population: Wherever found, except where listed as an experimental population There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/758">https://ecos.fws.gov/ecp/species/758</a>	Endangered

## Fishes

NAME	STATUS
Arkansas River Shiner <i>Notropis girardi</i> Population: Arkansas River Basin (AR, KS, NM, OK, TX) There is <b>final</b> critical habitat for this species. Your location overlaps the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/4364">https://ecos.fws.gov/ecp/species/4364</a>	Threatened

## Critical habitats

There is 1 critical habitat wholly or partially within your project area under this office's jurisdiction.

NAME	STATUS
Arkansas River Shiner <i>Notropis girardi</i> <a href="https://ecos.fws.gov/ecp/species/4364#crithab">https://ecos.fws.gov/ecp/species/4364#crithab</a>	Final



# USFWS National Wildlife Refuge Lands And Fish Hatcheries

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

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

# Migratory Birds

Certain birds are protected under the Migratory Bird Treaty Act<sup>1</sup> and the Bald and Golden Eagle Protection Act<sup>2</sup>.

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

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

THERE ARE NO FWS MIGRATORY BIRDS OF CONCERN WITHIN THE VICINITY OF YOUR PROJECT AREA.

## Migratory Birds FAQ

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

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

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

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

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



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

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

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

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

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

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

### **What are the levels of concern for migratory birds?**

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

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

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

### **Details about birds that are potentially affected by offshore projects**

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

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

### **What if I have eagles on my list?**

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

### **Proper Interpretation and Use of Your Migratory Bird Report**

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ “What does IPaC use to generate the migratory birds potentially occurring in my specified location”. Please be aware this report provides the “probability of presence” of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the “no data” indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ “Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds” at the bottom of your migratory bird trust resources page.

# Wetlands

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

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

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

## FRESHWATER EMERGENT WETLAND

- [PEM1Fx](#)
- [PEM1C](#)

## FRESHWATER FORESTED/SHRUB WETLAND

- [PSS2C](#)
- [PSS/EM1Fh](#)

## FRESHWATER POND

- [PUBHx](#)
- [PAB4Hx](#)
- [PUBHh](#)

## LAKE

- [L1UBHh](#)

## RIVERINE

- [R2UBH](#)
- [R2USC](#)



**APPENDIX D - PROTECTED SPECIES DETERMINATION TABLE**

**Table 1: Species Conclusion Table**

Project Name: Cimarron Environmental Response Trust Site in Logan County, Oklahoma

Date: June 7, 2018

Name	Status	Habitat Determination	Notes / Documentation	Effect Determination
Least tern ( <i>Sterna antillarum</i> )	Endangered	No Potential Habitat Present	Project impacts will not include areas in the Cimarron River. No exposed salt flats, beaches, or sand bars within the vicinity of the action are.	No Effect
Piping plover ( <i>Charadrius melodus</i> )	Threatened	No Potential Habitat Present	Project impacts will not include areas in the Cimarron River. No exposed salt flats, beaches, or sand bars within the vicinity of the action are.	No Effect
Red knot ( <i>Calidris canutus rufa</i> )	Threatened	No Potential Habitat Present	Project impacts will not include areas in the Cimarron River. No exposed salt flats, beaches, or sand bars within the vicinity of the action are.	No Effect
Whooping crane ( <i>Grus americana</i> )	Endangered	No Potential Habitat Present	No stop-over habitat is present. Project impacts will not include areas in the Cimarron River. No other suitable habitat is present.	No Effect
Arkansas River shiner ( <i>Notropis girardi</i> )	Threatened	No Potential Habitat Present	Project impacts will not include areas in the Cimarron River. Project discharges will be compliant with all other permitting requirements and include all appropriate best management practices for construction to control for erosion and sedimentation.	No Effect
Arkansas River Shiner Critical Habitat	Threatened	Critical Habitat Not Present	Project impacts will not include areas in the Cimarron River. Project discharges will be compliant with all other permitting requirements and include all appropriate best management practices for construction to control for erosion and sedimentation.	Not Likely to Adversely Modify Critical Habitat

Information confirmed through the USFWS Information, Planning, and Conservation System (IPaC) official species list for the Project (<http://ecos.fws.gov/ipac> accessed May 01, 2018) and the ODWC list of threatened, endangered, and rare species, ([http://www.wildlifedepartment.com/wildlifemgmt/endangered/State\\_Listed\\_by\\_County.pdf](http://www.wildlifedepartment.com/wildlifemgmt/endangered/State_Listed_by_County.pdf) accessed June 7, 2018).

**APPENDIX E - PREVIOUSLY ISSUED ONLINE CONCURRENCE LETTER**





# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

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



July 28, 2015

### Online Project Review Concurrence Letter

To: Bryan R. Gasper  
Burns & McDonnell Engineering Company, Inc.  
9400 Ward Parkway  
Kansas City, Missouri 64114

Project Name: Cimarron Environmental Response Trust Site in Logan County, Oklahoma  
Burns & McDonnell Project No. 72454  
USFWS Consultation Code: 02EKOK00-2015-SLI-1367

Dear Applicant:

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

This letter and the enclosed project review package complete the review of your project in accordance with the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended (ESA). This letter also provides information for your project review under the National Environmental Policy Act (National Environmental Policy Act of 1969 (P.L. 91-190, 42 U.S.C. 4321-4347, 83 Stat. 852), as amended. A copy of this letter and the project review package must be emailed to [okprojectreview@fws.gov](mailto:okprojectreview@fws.gov) for this certification to be valid. This letter and the project review package will be maintained in Service records. **Please allow the OKESFO 60 days to review your information. If the OKESFO determines that the package is not complete, or that additional coordination is necessary, we will contact your office. If after 60 days from the time you emailed your project review package the OKESFO has not contacted your office, consider your section 7 consultation complete.**



The proposed action consists of

Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) is providing environmental support services for the Cimarron Environmental Response Trust (CERT) at a site formerly owned and operated by Kerr-McGee Nuclear Corporation (KMNC) in Logan County, Oklahoma (Project) (Appendix A). For the purpose of informal consultation with the U.S. Fish and Wildlife Service (USFWS), Burns & McDonnell conducted desktop analyses to evaluate threats to species protected by the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668), and the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703).

Burns & McDonnell and CERT are requesting a concurrence with the findings of this desktop habitat assessment that the proposed Project has not effect or is not likely to adversely affect species protected under the jurisdiction of the USFWS.

The Project is located at a site that was formerly owned and operated by Kerr-McGee Nuclear Corporation. The onsite facilities were utilized for the production of mixed oxide fuel and uranium fuel, including enriched uranium reactor fuel pellets and eventually fuel rods from 1966 to 1975. During this time, exposure of process water and material to the environment resulted in the contamination of the site groundwater. The site is now owned by the CERT. The concentration of uranium, nitrates, and fluorides in the groundwater must be reduced to achieve unrestricted release of the site and license termination from the Nuclear Regulatory Commission (NRC). Mitigation of these constituents will be achieved through the extraction, treatment, and discharge of affected groundwater. These processes will require the construction of groundwater extraction wells, groundwater extraction trenches, groundwater injection wells, groundwater injection trenches, process piping, two outfalls to the Cimarron River, and groundwater treatment facilities. All best management practices (BMPs) will be implemented in compliance with associated erosion and sedimentation regulations for disturbance; thereby minimizing those associated impacts.



The project is expected to be completed:

July 2018

This project review is needed for:

The concentration of uranium, nitrates, and fluorides in the groundwater must be reduced to achieve unrestricted release of the site and license termination from the NRC.

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

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

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



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

Sincerely,  
/s/ Jontie Aldrich  
Acting Field Supervisor  
Oklahoma Ecological Services Field Office

Enclosures:

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

ODWC state list of protected species by county - Logan County, OK.

## Gouvion, Kenneth

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**From:** OK Project Review, FW2 <okprojectreview@fws.gov>  
**Sent:** Thursday, June 7, 2018 2:01 PM  
**To:** Gouvion, Kenneth  
**Subject:** OK Project Review Response Re: [EXTERNAL] Cimarron Environmental Trust Site Consultation Code 02EKOK00-2018-SLI-1456

Thank you for submitting your project through the U.S. Fish and Wildlife Service's Oklahoma Ecological Service Field Office project review website. This email serves as verification of your submission to [OKprojectreview@fws.gov](mailto:OKprojectreview@fws.gov).

For future requests, please note the following Issues and Updates with the Project Review Webpage:

### Project Review Website Known Issues

6/24/2014	Our email return receipt for <a href="mailto:okprojectreview@fws.gov">okprojectreview@fws.gov</a> can provide only one response per email address every four hours. If you submit multiple requests within a four hour window, you may use the return receipt email from your initial project request as proof of additional project submittals.
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