

MEMORANDUM OF AGREEMENT

BETWEEN

**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

AND

**DEPARTMENT OF THE INTERIOR
U. S. FISH AND WILDLIFE SERVICE
TENNESSEE FIELD OFFICE**

February 2012

SUBJECT:

This Memorandum of Agreement (MOA) is being instituted between United State Fish and Wildlife Service (USFWS) and Tennessee Department of Transportation (TDOT) to help streamline TDOT projects and activities which typically result in no adverse effects to threatened/endangered plant and animal species and/or their critical habitats in Tennessee.

PURPOSE:

USFWS is charged with protection of fish and wildlife resources, particularly wetlands and threatened/endangered (T/E) species and their habitats. In this role, FWS provides comments to TDOT regarding the potential effects of many specific highway-related construction activities which are funded and/or executed by TDOT. It is recognized that certain categories of TDOT activities typically result in no adverse effects to the natural environment and that a detailed project review by FWS is not warranted for such projects. This MOA is intended to define the categories of projects and activities that do not require written comments from FWS.

SCOPE:

This MOA does not supersede the responsibilities and obligations of FWS or TDOT which are mandated by the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*), Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), or related regulations and agency policy. The following categories of projects and activities have been evaluated in accordance with these statutes, regulations, and policies, and a conclusion reached by both FWS and TDOT that specific work within these categories will not result in

adverse effects to T/E species or their critical habitats. As a result, this MOA constitutes programmatic coordination pursuant to the Fish and Wildlife Coordination Act and a “programmatic consultation” pursuant to Section 7 of the Endangered Species Act.

CATEGORIES FOR EXEMPTIONS:

These exemptions are based on the project (1) not requiring removal of suitable roosting trees for Indiana bats, and (2) there will be no work in or disturbance to waters of the U. S.

1. Typical bridge repair projects confined to the structure above the waterline and not requiring disturbance of waterways or areas outside of the maintained right-of-way (ROW) at the site, provided that construction debris or other construction-related materials can be prevented from entering the waterway. Activities with this category include the following:

- Bridge deck repair (scarification, patching, replacement, etc.)
- Installation and repair of expansion joints
- Removal and resurfacing of bridge and approach roadway pavement
- Patching of substructures
- Removal, replacement, and repair of beams
- Removal and replacement of bridge deck cantilevers
- Modification of piers and abutments above the surface of the water
- Repair and replacement of bridge and approach guardrails
- Sand blasting, painting, and sealing

2. Installation of impact attenuators, providing substrate work is not involved, and they do not affect flow downstream

3. Bridge inspections, including the portions of the piers under the surface of the water, as long as no soil or substrate is disturbed

4. Addition of intersection turning lanes provided that work is confined to maintained ROW

5. Installation, replacement, or addition of traffic control signals or information signs within the current ROW. Included are Intelligent Transportation Systems (ITS), fog detection systems, traffic information systems, flashing lights, reflectors, striping, rumble strips and stripes, signs, and sidewalks.

6. Turning radius improvement at intersections, provided that work is confined to maintained ROW

7. Removal and replacement of existing pavement, provided that all old pavement is properly disposed of according to current regulations.

8. Installation and repair of guardrails, cable barriers, and jersey barriers
9. Installation of railroad signals, signs, and other improvements at crossings
10. Maintenance of roadway ditches and catch basins, provided that the original size and dimensions are not increased. This category is confined to sloped ditches which only convey water for a short period during storm events. No work under this exception can occur within 50 feet of any perennial stream.
11. Replacement of overpasses which span roadways or railways
12. Placement of riprap adjacent to existing bridge abutments to repair/prevent scour and protect the integrity of the structure. Work is limited to within 40 feet upstream and 40 feet downstream of the structure. Work may not extend past the historic shoreline location and no equipment is allowed in the stream channel.
13. Enhancement of Rest Areas (e.g., repaving, landscaping, sprinkler system installation, lighting, building replacement or additions, sidewalk refurbishing)
14. Addition of intersection lighting provided that work is confined to maintained ROW
15. Installation of noise walls, provided that work is confined to maintained ROW with no waters of the U. S. involved
16. Removal of vegetation along roads or under bridges
17. Any projects not involving construction, earth-moving activities, or disturbances of any kind, such as on-site educational programs, preliminary stream and wetland mitigation investigations, or activities involving the TDOT Transportation Management Centers.
18. Safe Routes to School Program. The Addendum of December 2008 (finalized in January 2009) to the MOA finalized in July 1999 remains valid as a separate agreement.

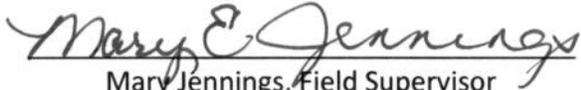
GENERAL PROVISIONS:

Either agency may unilaterally withdraw from this agreement with 30 days written notice.

This MOA will be reviewed every five years and revised as appropriate. Revisions may be requested at any time by either agency. All revisions will be made in writing and require the concurrence of both agencies.

AGREEMENT BY:

U. S. Fish and Wildlife Service, Tennessee Field Office


Mary Jennings, Field Supervisor

Date: 2/16/12

Tennessee Department of Transportation


John Schroer, Commissioner

Date: MAR 8 2012