**DEPARTMENT OF THE ARMY**
**CORPS OF ENGINEERS, TULSA DISTRICT**
**1645 SOUTH 101ST EAST AVENUE**
**TULSA, OKLAHOMA 74128-4609**

# GENERAL PERMIT NO. OKOOG30014 FOR TRANSPORTATION CROSSINGS IN CRITICAL RESOURCE WATERS IN OKLAHOMA

In accordance with Title 33 CFR 325.5(c), as published November 13, 1986, in the Federal Register, the District Engineer (DE), U.S. Army Corps of Engineers (Corps), Tulsa District, has authorized this general permit (GP) for the construction of transportation crossings in Critical Resource Waters (CRW). At the time of issuance of this GP, designated CRWs include Outstanding Resource Waters (ORW) and their watersheds and High Quality Waters (HQW) as identified and designated in Oklahoma Water Quality Standards (OWQS), OAC 785: Chapter 45, Appendix A (July 12, 1999). This GP is issued pursuant to Section 404 of the Clean Water Act (33 USC 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403).

Scope of Work: Work authorized by this GP is limited to activities required for the construction, expansion, modification, or improvement of linear transportation crossings (e.g., highways, railways, trails, airport runways, and taxiways) in waters of the United States (U.S.), including adjacent wetlands, provided the following:

(1) the permit applicant notifies the Corps prior to the use of this GP in accordance with the notification procedures below;

(2) the discharge does not cause the loss of greater than 1/2 acre of waters of the U.S. Waters of the U.S. temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours and elevation, is not included in the calculation of permanent loss of waters of the U.S.

(3) for discharges in special aquatic sites (wetlands, stream riffle and pool complexes, sanctuaries and refuges, and vegetated shallows) the notification must include a delineation of the affected special aquatic site;

(4) the width of the fill is limited to the minimum necessary for the crossing;

(5) the authorized activities must not cause more than minimal changes to the hydraulic flow characteristics of the stream, increase flooding, or cause more than minimal degradation of water quality of any stream;

(6) the crossing is a single and complete project for crossing waters of the U.S. Where a road segment has multiple crossings of streams the Corps will consider whether it should use its discretionary authority to require an individual permit.

This permit does not authorize stream channelization. Stream channelization for the purposes of this GP is defined as channel work that would require expanding the construction limits at the stream crossing by more than 25 percent of the standard transportation right-of-way.

This permit cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangers.

Note 1: Some discharges for the construction of farm roads, forest roads, or temporary roads for moving mining equipment may be eligible for an exemption from the need for Section 404 permit (see 33 CFR 323.4).

Note 2: Access roads used for construction may be authorized, provided they meet the terms and conditions if this GP. Access roads created and used solely in support of construction of the permanent transportation crossing must be removed upon completion of the work and the area must be restored to preconstruction contours, elevations, and hydrology conditions. Free flowing conditions must be maintained in the stream throughout construction of the project. To the maximum extent possible on intermittent and perennial streams, free flowing conditions will be maintained by restricting the construction of temporary work roads and access roads to one-half the width of the stream at any point in time. Where site conditions do not accommodate accessing the construction site from both sides of the stream independently, the permittee must provide a plan for maintenance of free flowing conditions with the project notification to the Corps. Temporary access roads for construction may be authorized by Nationwide Permit (NWP) 33 (Temporary Construction, Access, and Dewatering).

Location of Work: This GP is applicable to all CRWs (ORWs and all waters located in watersheds of ORWs, and HQWs) within the Oklahoma portion of the Tulsa District civil works boundary, excluding:

(1) defined archeological and historical sites,

(2) sites listed, or eligible for listing, in the National Register of Historic Places, and

(3) State Historic Sites.

The geographic location and extent of these waters are shown in the enclosures (Enclosures 1 through 6). A table providing a comprehensive listing of the CRWs is enclosed (Enclosure 7). As designated CRWs may be revised in the future, this table and maps will be updated as necessary.

Duration: This GP is in effect for a period of 5 years from the date of issuance, unless it is specifically modified, suspended, or revoked. Upon its expiration, the GP would be considered for renewal. The GP may be modified, suspended, or revoked, in whole or in part, at anytime, if the DE determines that the proposed project or cumulative effects of its activities would have more than minimal adverse environmental impacts or may be contrary to public interest. Work previously authorized by this GP would not be affected by subsequent modification, suspension, or revocation of the GP.

If the DE determines that the adverse effects of the proposed work are more than minimal, then he will notify the applicant either:

(1) that the project does not qualify for authorization under the GP and instruct the applicant on the procedures to seek authorization under an individual permit; or

(2) that the project is authorized under the GP subject to the applicant's submitting a mitigation proposal that would reduce the adverse effects to the minimal level; or

(3) that the project is authorized under the GP with specific modifications or conditions.

Water Quality Certification (WQC): A Section 401 WQC was issued for this GP by the Oklahoma Department of Environmental Quality (ODEQ) on July 17, 2003.

Other Authorizations: Individuals considering work on lands or waters under the jurisdiction of other Federal, State, or local agencies shall be responsible for obtaining any permits required by such agencies.

Endangered Species: The following HQWs have been designated as Critical Habitat for the leopard darter (Percina pantherina): Black Fork Creek, East Fork Glover Creek, West Fork Glover Creek, Glover Creek (River), Little River, and Mountain Fork Creek (River), in Pushmataha, Le Flore and McCurtain Counties, Oklahoma. The U.S. Fish and Wildlife Service (USFWS) may list additional species or designate additional Critical Habitat in the future. Special Condition f. of the GP requires that prior to authorizing a discharge under this GP that may affect a listed species or its Critical Habitat, the Corps will consult with the USFWS in accordance with Section 7 of the Endangered Species Act (ESA). Where any activity under this proposed GP would likely jeopardize the continued existence of a listed or proposed-to-be-listed species or result in the destruction or adverse modification of designated or proposed critical habitat, the proposed activity: (1) will not be authorized under this GP, or (2) will not be authorized to proceed until the ESA Section 7 consultation is concluded.

Mitigation: Discharges of dredged or fill material into waters of the U.S. must be avoided or minimized to the maximum extent practicable at the project site. Compensation for unavoidable discharge of fill materials may require appropriate mitigation measures. Compensatory mitigation will be required for any permanent loss of waters of the U.S. greater than 1/10 acre or any permanent impacts to special aquatic sites. Factors that the DE will consider when determining the acceptability of appropriate and practicable mitigation will include, but are not limited to:

a. The approximate functions and values of the aquatic resource being impacted, such as habitat value, aquifer recharge, sediment conveyance or retention, flood storage, etc.;

b. The permanence of the project's impacts on the resource; and

c. The potential long-term effects of the action on remaining functions and values of the impacted aquatic resource.

To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing wetland or upland buffer zones to protect aquatic resource values; replacing the loss of aquatic resource values by creating, restoring, or enhancing similar functions and values; or using bioremediation techniques in conjunction with other methods to offset project impacts.

Notification Procedure: Persons desiring to perform work under this GP shall furnish notification to the Corps, Tulsa District as early as possible prior to anticipated construction. The prospective permittee shall not begin the activity until:

(1) notified by the DE that the activity may proceed under the GP with any special conditions imposed by the District or Division Engineer; or

(2) if notified by the District or Division Engineer that an individual permit will be required, until after such individual permit has been evaluated and issued.

The notification must be in writing and may be submitted on a Department of the Army Permit Application (Eng Form 4345). If construction and material placement is to be in a Corps lake, the information must be sent through the appropriate Area/Lake Manager. Information for work in all other locations should be sent directly to the District Engineer, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Branch, 1645 South 101st East Avenue, Tulsa, OK 74128-4629.

The content of the notification must include the following information:

(1) Name, address, and telephone number(s) of the prospective permittee.

(2) Location of the proposed project and a vicinity map. The location of the proposed work may be shown on a 7.5 minute USGS quadrangle map.

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional GP(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity.

(4) Delineation of any special aquatic sites (wetlands, stream riffle and pool complexes, sanctuaries and refuges) to be affected by the proposed construction.

(5) A site plan view. This should be drawn to show any delineated wetland, existing embankments, flow direction, property boundaries, adjoining property owners, directional north, the proposed activity with distances and dimensions, excavation and fill areas, and the quantity of excavation and fill.

(6) A cross-section or profile view. This should be drawn to indicate excavation and fill areas, fill types, existing and proposed contours of the stream and embankment, and the water depth.

(7) Information on any temporary features to be constructed (such as a work road) including the location, dimensions, quantities, source of borrow materials, water management design, timing and duration, and removal and restoration parameters.

(8) Information on the removal of any existing structures being replaced by the proposed project, including pier/abutment removal plan, minimization of fallback, and streambed restoration.

(9) A description of alternative routes and designs considered for avoiding and minimizing impacts to the aquatic ecosystem. The submitted information should support that the proposed project is the least environmentally damaging practicable alternative.

(10) A compensatory mitigation proposal for any permanent loss of waters of the U.S. greater than 1/10 acre or any permanent impacts to special aquatic sites.

(11) A title block should be included on each page of the drawings. The title block should include the proposed activity, applicant, waterbody, and county/state.

(12) If the project is to be located in a lake not operated by the Corps, written approval from the owner/manager must be furnished.

Verification Procedure: Upon receipt of a notification by a prospective permittee, the Corps will expeditiously provide a copy of the applicant's request to the State Historic Preservation Office (Oklahoma Archeological Survey and Oklahoma Historic Society), the ODEQ, and the USFWS. If the Corps determines that the proposed project has the potential to effect Federally-listed threatened or endangered species or habitat critical for the survival of such species, the Corps will provide appropriate information to the USFWS. These agencies will have 10 days to indicate they will be providing site-specific comments with regard to the proposed project. Their comments must relate to matters within their expertise (i.e., proximity to known archeological or cultural resources, special water quality considerations, endangered species, waterfowl breeding areas, shellfish beds, or spawning areas) and must be provided in writing. Once they notify the Corps they will be providing site-specific comments, the Corps will wait fifteen (15) additional days for these comments before proceeding with GP verification. The Corps will fully consider comments provided by these agencies in the determination of whether the project should proceed under the GP. If the DE determines that the proposed work meets the provisions of the GP, and no extraordinary conditions exist that would warrant filing a formal application, he would notify the applicant by letter that the project falls under this GP.

If the DE determines that the proposed work does not meet the provisions of the GP, or that extraordinary conditions exist, he will notify the applicant that filing a formal application will be necessary. The applicant should be aware that additional evaluation time will be required for a final decision on any individual permit application submitted subsequent to disqualification under the GP.

Real Estate Easements: A request for an easement on Government property shall be sent to the appropriate Area/Lake Manager or the DE along with this GP.

Tribal Rights: No activity or its operation may impair reserved tribal rights, including but not limited to, reserved water rights and treaty fishing and hunting rights.

Conditions of GP: All work authorized under this GP shall be subject to the General Conditions stated in Enclosure 8.

Special Conditions

a. Stream-shading Trees: The permittee shall minimize to the maximum extent practicable the removal of stream-shading trees when preparing the project site and constructing the crossing.

b. Revegetation: The permittee shall only use native vegetation in revegetating the project site following completion of construction.

c. Pollutant Spills: All spills of fuel or other pollutants in excess of 5 gallons shall be reported to the ODEQ, within 24 hours, to the Pollution Prevention Hotline at 1-800-522-0206 and/or to the Oklahoma Scenic Rivers Commission at 918-456-3251.

d. Fueling and Servicing: All fueling and servicing of vehicles and equipment shall be done above the Ordinary High Water Mark (OHWM).

e. Flood Plain Development Permits: Activities authorized by Department of the Army permits sometimes require flood plain development permits. Communities participating in the National Flood Insurance Program are required by that program to review all proposed development to determine if a flood plain permit is required.

f. Inspection Access: Permittees shall provide access to the property to the ODEQ for inspection purposes.

g. Stockpiled Materials: Any material and fuels used in the project shall be stored and/or stockpiled above the OHWM and shall be removed from a likely flood zone prior to any predicted flood.

h. Permittee Construction Schedule Notification: Complete and return the enclosed "Permittee Construction Schedule" form. Should construction be initiated prior to 30 days from authorization of this project, please return the completed form as soon as possible. If you prefer, you may telephone 918-669-7400 to inform the Corps regarding the construction start date.

i. Bridge Debris: To the maximum extent practicable, all old bridge materials shall be removed from the stream. Subsurface support and structures shall be removed to below the bed of the stream and remaining portions covered with native streambed materials. Measures should be taken to ensure that fallback of debris to the stream is minimized and all pieces of debris 6-inches or larger (single dimension) are captured and disposed of properly off-site. No bridge and support demolition debris shall be used as riprap material or embankment or abutment stabilization in CRWs.

j. Discovery of Archeological or Cultural Materials: If you discover any previously unknown historical, archaeological, or cultural materials or remains, you shall immediately cease construction activities and contact the Regulatory Branch of Corps office at 918-669-7400.

Walter L. Garner 22 May 2004

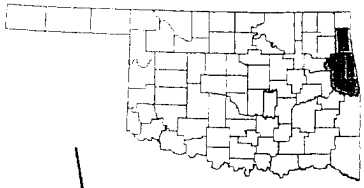
for Robert L. Suthard, Jr.
Colonel, U.S. Army
District Engineer

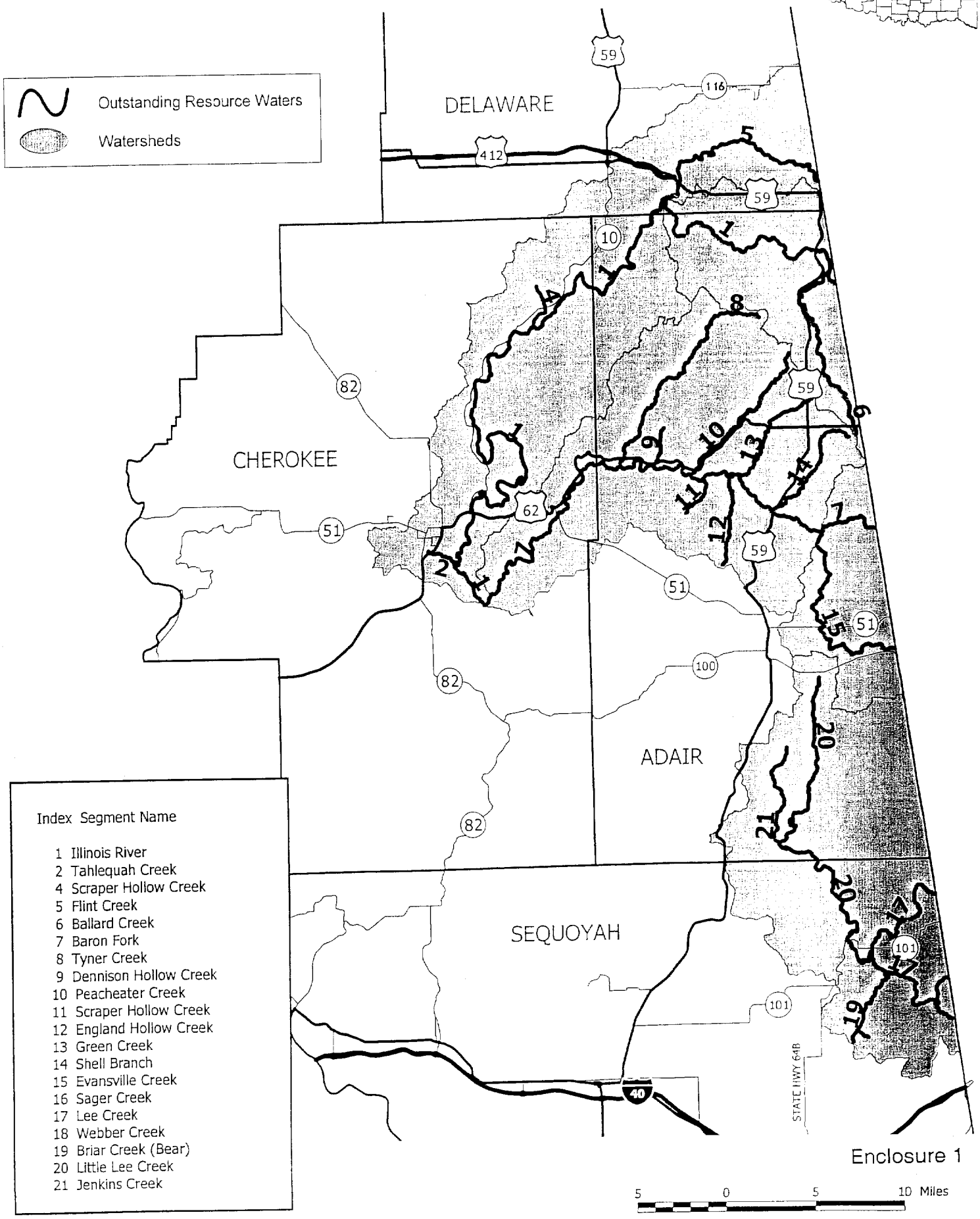
Date of Issuance

**Walter L. Garner, P.E.**
**Acting District Engineer**

Enclosures

# Outstanding Resource Waters - Northeast



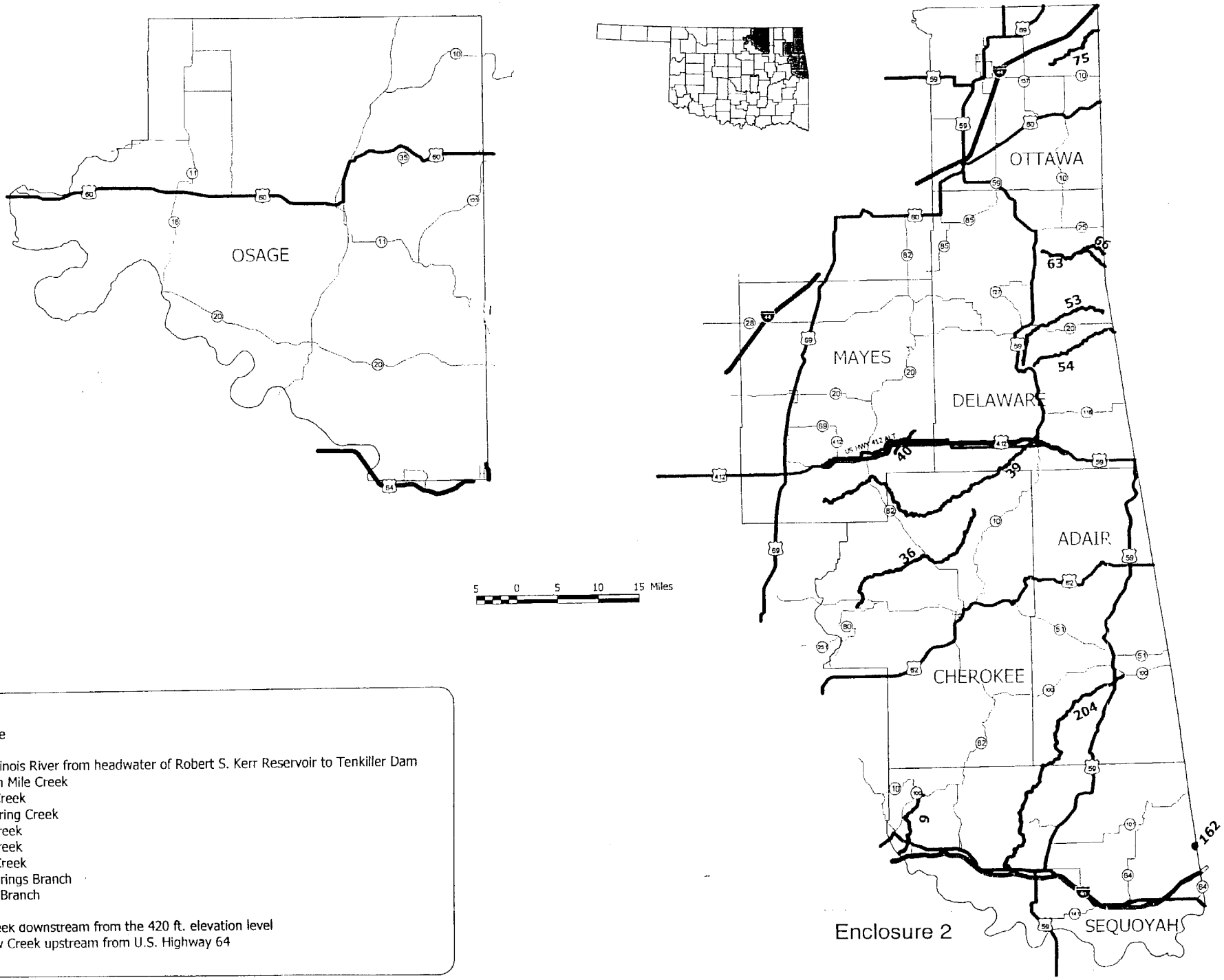



Index Segment Name

1 Illinois River
2 Tahlequah Creek
4 Scraper Hollow Creek
5 Flint Creek
6 Ballard Creek
7 Baron Fork
8 Tyner Creek
9 Dennison Hollow Creek
10 Peacheater Creek
11 Scraper Hollow Creek
12 England Hollow Creek
13 Green Creek
14 Shell Branch
15 Evansville Creek
16 Sager Creek
17 Lee Creek
18 Webber Creek
19 Briar Creek (Bear)
20 Little Lee Creek
21 Jenkins Creek

Enclosure 1

# igh Quality Waters - Northeast



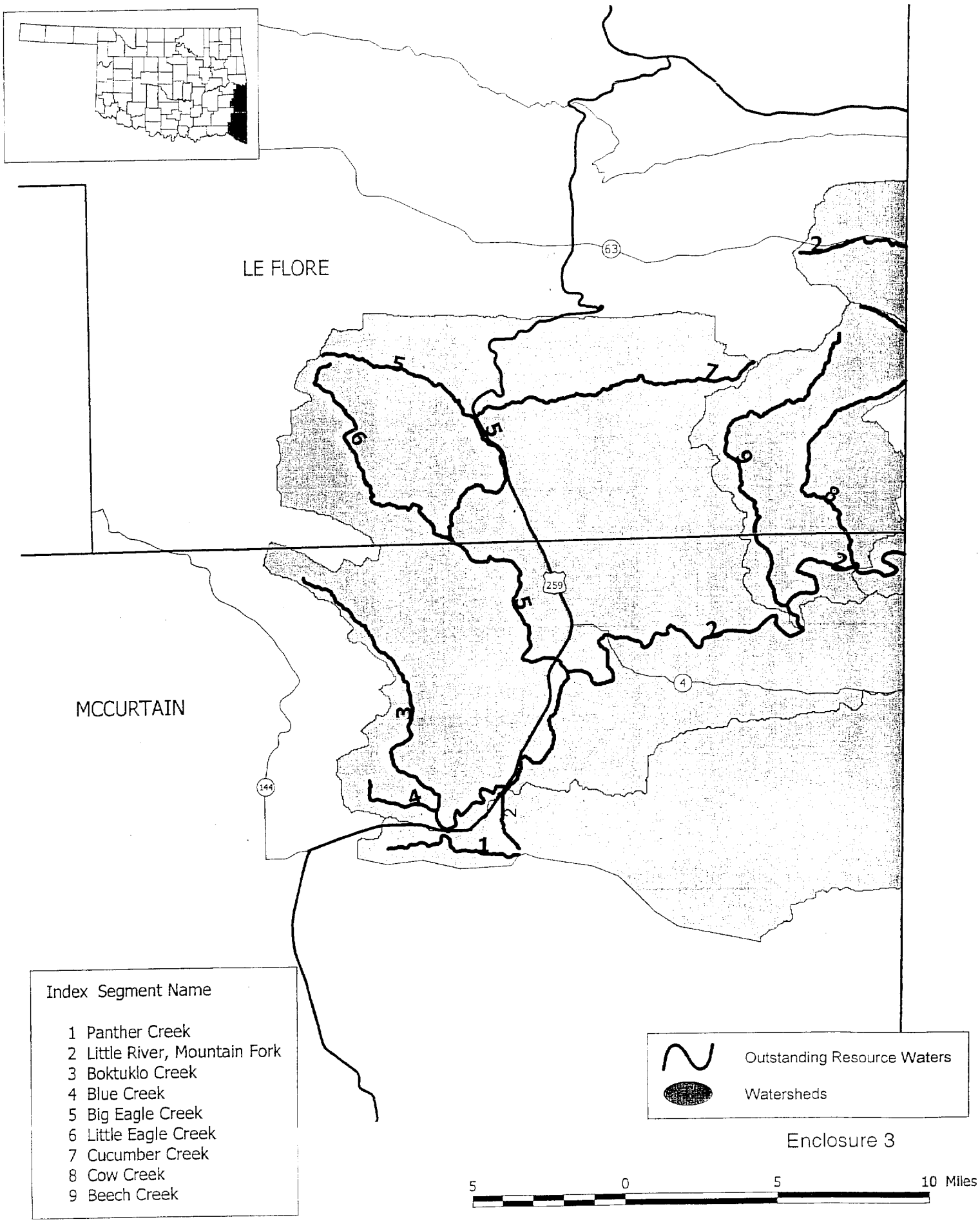

Standard_n Name

9 Lower Illinois River from headwater of Robert S. Kerr Reservoir to Tenkiller Dam
36 Fourteen Mile Creek
39 Spring Creek
40 Little Spring Creek
53 Brush Creek
54 Beaty Creek
63 Honey Creek
66 Cave Springs Branch
75 Warren Branch

162 Lee Creek downstream from the 420 ft. elevation level
204 Sallisaw Creek upstream from U.S. Highway 64

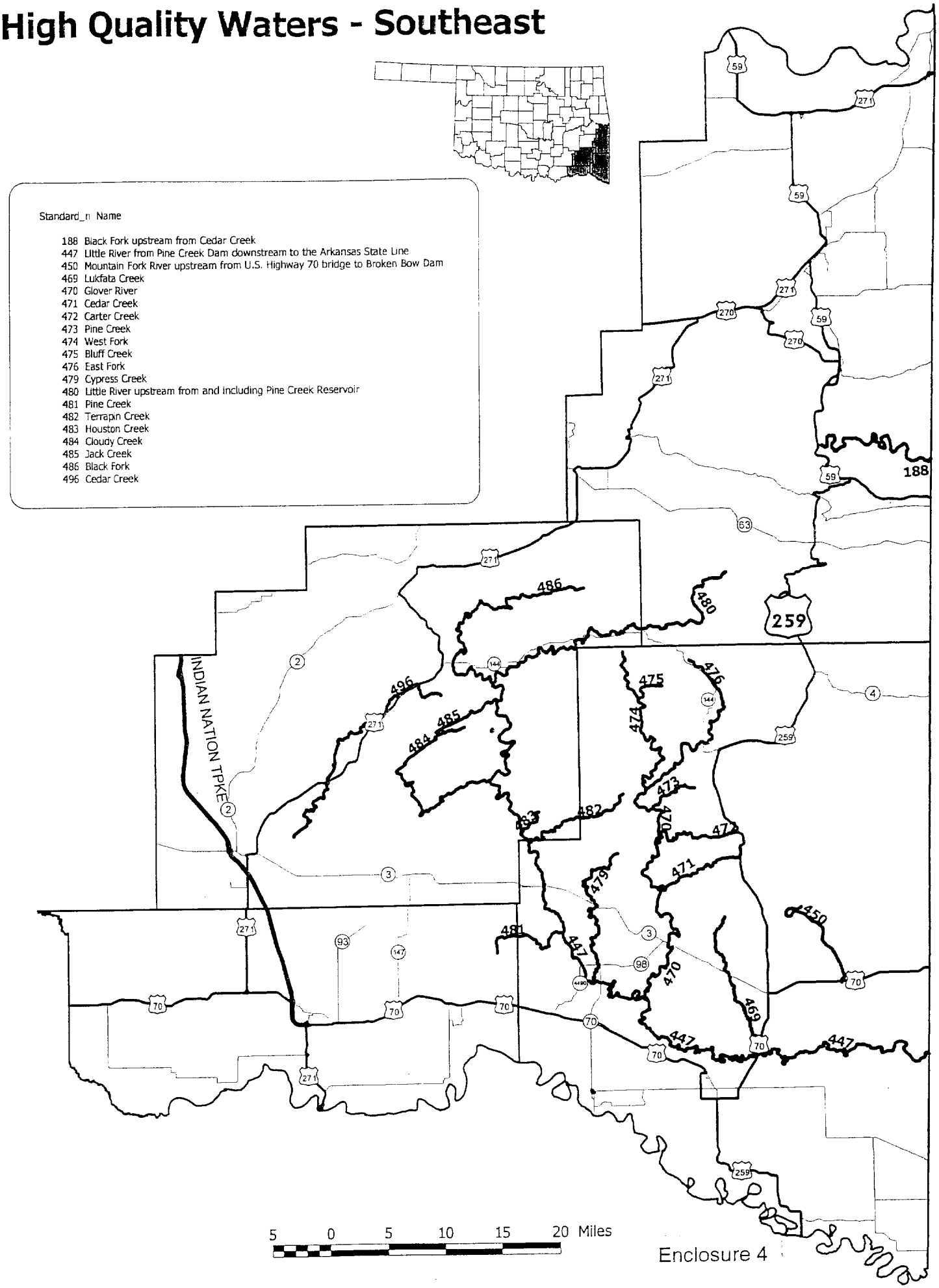
Enclosure 2

# Outstanding Resource Waters - Southeast



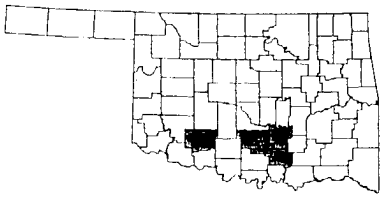

Enclosure 3

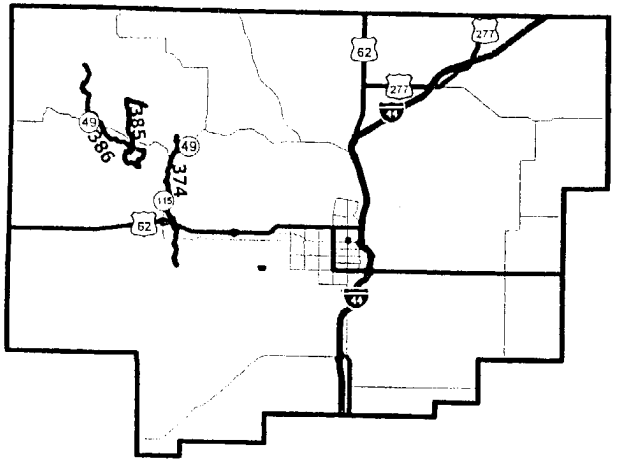
# High Quality Waters - Southeast

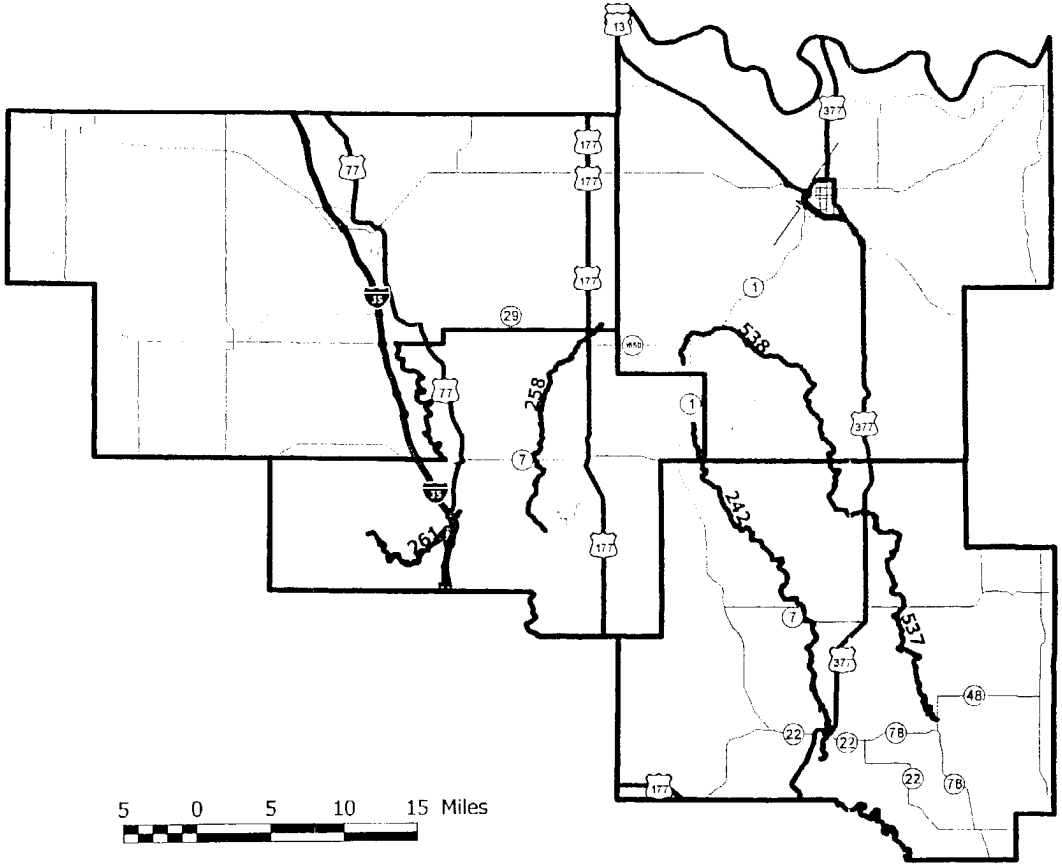



Enclosure 4

# High Quality Waters - Southwest



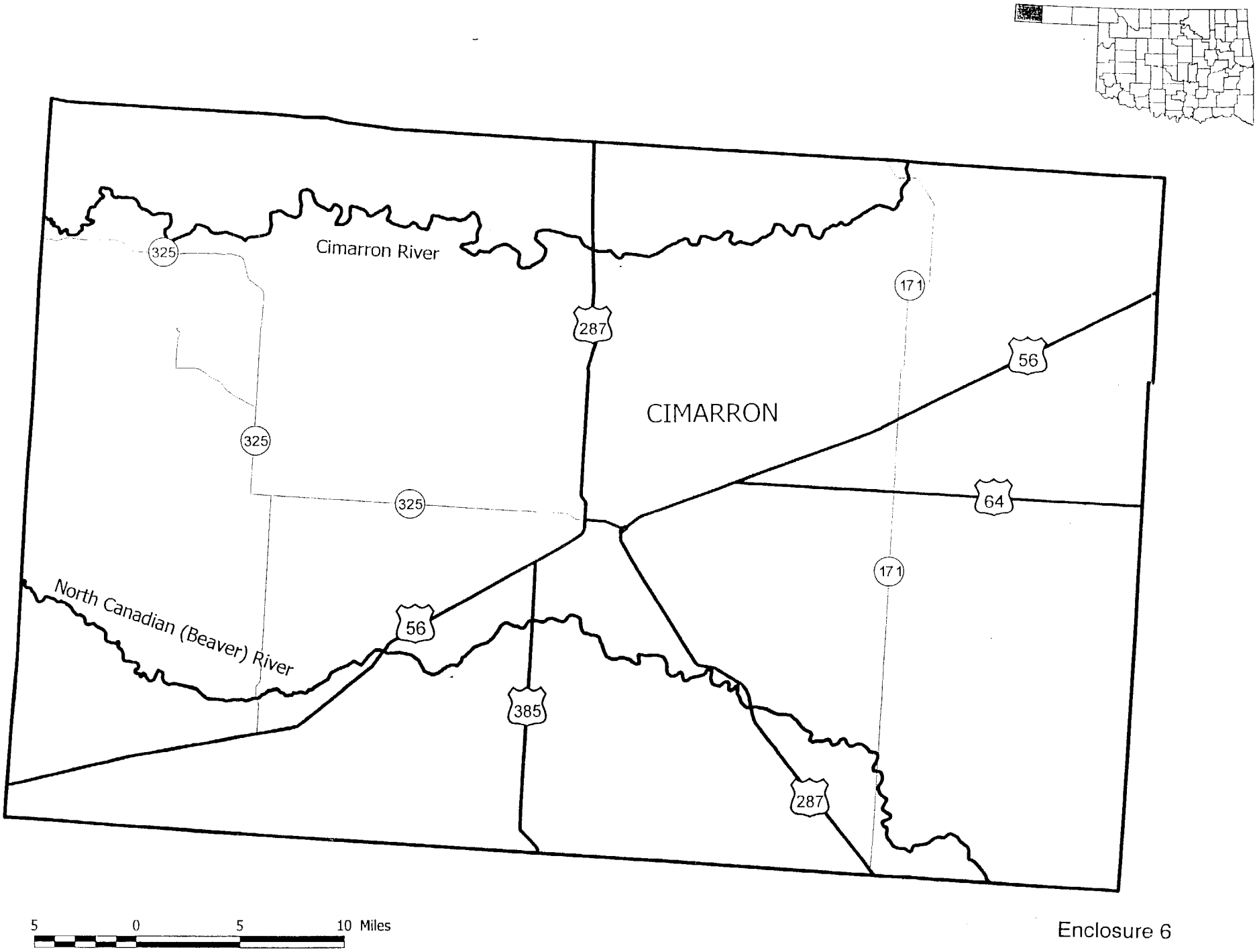



| Standard_n | Name |
|---|---|
| 242 | Pennington Creek |
| 258 | Guy Sandy Creek |
| 261 | Honey Creek |
| 374 | Crater Creek |
| 385 | Panther Creek |
| 386 | West Cache Creek upstream from Panther Creek |
| 537 | Blue River upstream from State Highway 48A Bridge to State Highway 7 Bridge |
| 538 | Blue River upstream from State Highway 7 Bridge |

Enclosure 5

# High Quality Waters - Panhandle




Enclosure 6

# CRITICAL RESOURCE WATER DESIGNATION
# AND
# IDENTIFICATION OF ENDANGERED SPECIES WATERS
# TULSA DISTRICT
# FEBRUARY 2004

This document contains two parts. Part I identifies the specific waterbodies that the District Engineer of the U.S. Army Corps of Engineers, Tulsa District, has designated as CRWs subject to Nationwide Permit (NWP) General Condition (GC) 25. Part II identifies waterbodies within the Tulsa District geographic area that provide habitat for threatened or endangered species. Portions of these waters have been designated as Critical Habitat for one or more listed species. Critical Habitat waters are automatically designated as CRW. Project proponents are advised to coordinate project details with the Tulsa District Regulatory Branch regarding proposed construction activities in these waters subject to the authorities of Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

## Definitions and Applicability

NWP GC 25: Critical Resource Waters include NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, state natural heritage sites, and outstanding National resource waters or other waters officially designated by a State as having particular environmental or ecological significance and identified by the DE after notice and opportunity for public comment. The DE may also designate additional CRWs after notice and opportunity for comment.

a. Except as noted below, discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, CRWs, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the United States may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with GC 7. Further, such discharges may be authorized in designated critical habitat for Federally-listed threatened or endangered species if the activity complies with GC 11 and the U.S. Fish and Wildlife Service (USFWS) has concurred in a determination of compliance with this condition.

b. For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with GC 13, for any activity proposed in the designated CRWs including wetlands adjacent to those waters. The DE may authorize activities under these NWPs only after he determines that the impacts to the CRWs will be no more than minimal.

Waters of the United States: The term *waters of the United States* includes all lakes, rivers, streams, tributary creeks (both intermittent and ephemeral creeks), natural ponds, impoundments of such waters, and wetlands adjacent to such waters (see 33 CFR 328.3).

Watershed: The term *watershed* describes an area of land that drains downslope to the lowest point. As applies to this designation, *entire watershed* includes all *waters of the United States* that drain to a listed body of water.

## PART I

Critical Resource Water (CRW) Designation

The U.S. Army Corps of Engineers, Tulsa District, has designated the following waters as CRWs. The location and extent of these waters are shown in the enclosures (Encl 1 thru 6).

**Waters designated Outstanding Resource Water (ORW) in Appendix A of the Oklahoma Water Quality Standards (OWQS) (July 12, 1999) and all waters located in watersheds of these ORWs**

| Water Name | County | Location and CRW Extent |
|---|---|---|
| Flint Creek (*Scenic River*) | Adair County | Entire watershed |
| Sager Creek | Adair County | Entire watershed |
| Illinois River (*Scenic River*) | Adair, Cherokee, Delaware | Entire watershed upstream from confluence with Barren Fork River |
| Tahlequah Creek | Cherokee | Entire watershed |
| Ballard Creek | Adair | Entire watershed |
| Barren (Baron) Fork River (*Scenic River*) | Adair, Cherokee | Entire watershed upstream from confluence with Illinois River |
| Tyner Creek | Adair | Entire watershed |
| Dennison Hollow | Adair | Entire watershed |
| Peacheater Creek | Adair | Entire watershed |
| Scraper Hollow | Adair | Entire watershed |
| England Hollow | Adair | Entire watershed |
| Green Creek | Adair | Entire watershed |
| Shell Branch | Adair | Entire watershed |
| Evansville Creek | Adair | Entire watershed |
| Mountain Fork River (*Scenic River*) | Le Flore, McCurtain, | Entire watershed upstream of the 600-foot elevation (upstream of Broken Bow Reservoir) |
| Panther Creek | McCurtain | Entire watershed |
| Boktuklo Creek | McCurtain | Entire watershed |
| Blue Creek | McCurtain | Entire watershed |
| Big Eagle Creek | Le Flore, McCurtain, | Entire watershed |
| Little Eagle | Le Flore | Entire watershed |
| Cucumber Creek | Le Flore | Entire watershed |
| Beech (Beach) Creek | Le Flore, McCurtain | Entire watershed |
| Cow Creek | Le Flore, McCurtain | Entire watershed |
| Lee Creek (*Scenic River*) | Adair, Sequoyah | Entire watershed upstream of the 420-foot elevation |
| Webber Creek | Sequoyah | Entire watershed |
| Briar (Bear) Creek | Sequoyah | Entire watershed |
| Little Lee Creek (*Scenic River*) | Adair | Entire watershed |
| Jenkins Creek | Adair | Entire watershed |

**Waters designated High Quality Waters (HQW) in Appendix A of the OWQS (July 12, 1999)**

| Water Name | County | Location and CRW Extent |
|---|---|---|
| **OWQS Water Quality Management Basin 1, Middle Arkansas River** | | |
| Lower Illinois River | Sequoyah | Mainstem from headwater of Robert S. Kerr Reservoir to Tenkiller Dam |
| Fourteen Mile Creek | Cherokee | Mainstem only |
| Spring Creek | Cherokee, Delaware, Mayes | Mainstem only |

| | | |
|---|---|---|
| Little Spring Creek | Mayes | Mainstem only |
| Brush Creek | Delaware | Mainstem only |
| Beaty Creek | Delaware | Mainstem only |
| Honey Creek | Delaware | Mainstem only |
| Cave Springs Branch | Delaware | Mainstem only |
| Warren Branch | Ottawa | Mainstem only |
| **OWQS Water Quality Management Basin 2, Lower Arkansas River** | | |
| Lee Creek | Sequoyah | Mainstem downstream from 420-foot elevation |
| Black Fork Creek | Le Flore | Mainstem upstream from Cedar Creek |
| Sallisaw Creek | Adair, Sequoyah | Mainstem upstream from U.S. Highway 64 |
| **OWQS Water Quality Management Basin 3, Upper Red River** | | |
| Pennington Creek | Johnston, Murray | Mainstem only |
| Guy Sandy Creek | Murray, Garvin | Mainstem only |
| Honey Creek | Murray | Mainstem only |
| Crater Creek | Comanche | Mainstem only |
| Panther Creek | Comanche | Mainstem only |
| West Cache Creek | Comanche | Mainstem upstream from Panther Creek |
| **OWQS Water Quality Management Basin 4, Lower Red River** | | |
| Little River | McCurtain | Mainstem from the Arkansas State Line upstream to Pine Creek Dam |
| Mountain Fork River | McCurtain | Mainstem from U.S. Route 70 bridge upstream to Broken Bow Dam |
| Lukfata Creek | McCurtain | Mainstem only |
| Glover River | McCurtain | Mainstem only |
| Cedar Creek | McCurtain | Mainstem only |
| Carter Creek | McCurtain | Mainstem only |
| Pine Creek | McCurtain | Mainstem only |
| West Fork of Glover River | McCurtain | Mainstem only |
| Bluff Creek | McCurtain | Mainstem only |
| East Fork of Glover River | McCurtain | Mainstem only |
| Cypress Creek | McCurtain | Mainstem only |
| Little River | Le Flore, McCurtain, Pushmataha | Mainstem, upstream from and including Pine Creek Reservoir |
| Pine Creek | Choctaw, McCurtain | Mainstem only |
| Terrapin Creek | McCurtain, Pushmataha | Mainstem only |
| Houston Creek | Pushmataha | Mainstem only |
| Cloudy Creek | Pushmataha | Mainstem only |
| Jack Creek | Pushmataha | Mainstem only |
| Black Fork | Pushmataha | Mainstem only |
| Cedar Creek | Pushmataha | Mainstem above Kiamichi River |
| Blue River | Johnston, Pontotoc | Mainstem uptream from State Highway 48A Bridge (includes portion upstream of State Highway 7 bridge) |
| **OWQS Water Quality Management Basin 7, Panhandle Region** | | |
| North Canadian (Beaver) River | Cimarron | Mainstem upstream from Texas State Line to New Mexico State Line |
| Cimarron River | Cimarron | Mainstem upstream from the Colorado State Line to the New Mexico State Line |

## PART II

Identification of Endangered Species Waters - Aquatic Resource of Concern

Numerous aquatic areas within the Tulsa District geographic area provide habitat for threatened or endangered species. Portions of these waters have been designated by the U.S. Fish and Wildlife Service (USFWS) as Critical Habitat for one or more listed species. By the terms of NWP GC 25, waters designated as Critical Habitat by the U.S. Fish and Wildlife Service are automatically granted status as CRW based on their designation as Critical Habitat for endangered species. Project proponents are advised to keep abreast of the status of endangered species and Critical Habitat designations. Information on endangered species and their habitat is available from the USFWS webpage: http://ifw2es.fws.gov/EndangeredSpecies/.
The latest information on Aquatic Resources of Concern in Oklahoma can be obtained from the USFWS webpage: http://ifw2es.fws.gov/Oklahoma/spplist.htm. The following information is current as of February 2004.

| **Existing Designations of Critical Habitat in the Tulsa District** | | | |
|---|---|---|---|
| **Water Name** | **County** | **Location and Extent of Critical Habitat** | **Species of Concern** |
| Black Fork Creek | Pushmataha | Mainstem from its junction with Little River upstream to State Highway 144 | Leopard Darter (*Percina pantherina*) |
| East Fork of Glover Creek (River) | McCurtain | Mainstem from its junction with the West Fork Glover Creek (River) upstream to 4 air-miles north-northwest of the community of Bethel. | Leopard Darter |
| West Fork Glover Creek (River), | McCurtain | Mainstem from its junction with the East Fork Glover River upstream to the community of Battiest | Leopard Darter |
| Glover Creek (River) | McCurtain | Mainstem from State Highway 7 Bridge upstream to the junction of the East Fork and West Fork | Leopard Darter |
| Little River | Pushmataha | Mainstem from the mouth to Cloudy Creek upstream to the Pushmataha – Le Flore County Line | Leopard Darter |
| Little River | McCurtain | Mainstem below Pine Creek Reservoir | Leopard Darter |
| Mountain Fork Creek (River) | McCurtain | Mainstem from the mouth of Boktukola Creek upstream to the Oklahoma - Arkansas State Line | Leopard Darter |
| Salt Plains National Wildlife Refuge | Alfalfa | NWR lands around Great Salt Plains Lake | Whooping Crane (*Grus americana*) |
| Canadian River | Numerous counties | 1) from Hanna OK upstream to Canadian TX; and<br>2) from Lake Meredith upstream to Logan Village NM [1] | Arkansas River Shiner (*Notropis girardi*) |
| North Canadian River | Beaver, Texas, Woodward | From Seiling OK upstream to Hardesty OK [1] | Arkansas River Shiner |
| Cimarron River | Beaver, Harper, Woods, Woodward | From Waynoka OK upstream to Kismet KS [1] | Arkansas River Shiner |
| Arkansas River | Contact Kansas City District, Kansas State Office – (316)322-8247 | From Arkansas City KS vicinity upstream to Syracuse KS [1] | Arkansas River Shiner |

| Other waters which provide habitat for endangered or threatened species (not currently designated as Critical Habitat) | | | |
|---|---|---|---|
| **Water Name** | **County** | **Location and Extent** | **Species of Concern** |
| Kiamichi River | Pushmataha, Le Flore | Upstream from Hugo Reservoir | Ouachita Rock Pocketbook Mussel (*Arkansia wheeleri*) |
| Neosho (Grand) River | Craig, Ottawa | Upstream from Miami | Neosho madtom (*Noturus placidus*) |
| Red River | Numerous | | Interior Least Tern (*Sterna antilarrum*)<br>American Alligator (*Alligator mississippiensis*) |
| Canadian River | Numerous | | Interior Least Tern |
| North Canadian River | Numerous | | Interior Least Tern |
| Cimarron River | Numerous | | Interior Least Tern |
| Salt Fork Arkansas River | Numerous | | Interior Least Tern |
| Arkansas River | Numerous | | Interior Least Tern |

[1] Critical Habitat for Arkansas River Shiner vacated per September 2003 Memorandum Opinion of Senior U. S. District Judge C. LeRoy Hansen, N.M. District Court. As a result USFWS must propose new Critical Habitat within one year.

General Conditions:

1. Compliance: All activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension, or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions Number 8 hereto, and in the institution of such legal proceedings as the United States (U.S.) Government may consider appropriate, whether or not this permit has been previously modified, suspended, or revoked in whole or in part.

2. Water Quality Standards:

a. All activities authorized herein shall, if they involve a discharge or deposit into waters of the U.S., be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to the Clean Water Act (CWA) (33 USC 1344) or pursuant to applicable State and local law.

b. When the activity authorized herein involves a discharge or deposit of dredged or fill material into waters of the U.S., the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer (DE), in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

c. Measures shall be implemented to prevent the discharge of oil, gasoline, or other fuels or materials capable of causing pollution to waters of the U.S..

d. The discharge of material shall not contain unacceptable levels of pathogenic organisms in areas used for recreation or water-related recreation, including physical contact with the water.

e. You shall minimize increases in turbidity in the vicinity of the authorized work.

3. Minimization: The permittee agrees to make every reasonable effort to implement the work authorized herein in a manner so as to minimize any degrading of water quality, adverse impact of the work on fish and wildlife habitat, aquatic resources, and other natural environmental values.

4. Inspection: The permittee shall allow the DE or his/her authorized representative(s) or designee(s) to make periodic inspections at anytime deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

5. Proper Maintenance: The permittee shall maintain the structure or work authorized herein in good condition, including maintenance to include public safety. If and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party, he must restore the area to a condition satisfactory to the DE.

6. Property Rights: This permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations, nor does it obviate the requirement to obtain other Federal, State, or local assent required by law for the activity authorized herein.

7. Interference with Federal Projects: This permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the U.S. in the public interest.

8. Modification, Suspension, and Revocation of General Permits (GP):

a. This permit may be modified, suspended, or revoked by the DE in accordance with 33 CFR 1344, Part 325.7 (a), (b), (c), (d), and (e).

b. The DE will immediately suspend activities authorized herein, upon finding the immediate suspension would be in the general public interest.

c. The DE upon suspension will provide the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the DE to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within 10 days following receipt of this notice of suspension, the permittee may request a meeting with the DE or request a hearing in order to present information relevant to a decision as to whether his/her permit should be reinstated, modified, or revoked.

d. This permit may be either modified, suspended, or revoked, in whole or in part, if the Secretary of the Army or his/her authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest.

e. In issuing this permit, the Government has relied on the information and data, which the permittee has provided in connection with his/her permit application. If subsequent to the issuance of this permit, such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

f. Any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the U.S.

9. Navigation:

a. The permittee understands and agrees that, if future operations by the U.S. 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/her 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 U.S. Army Corps of Engineers (Corps), to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration;

b. No activity may cause more than a minimal adverse effect on navigation and;

c. No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

10. Real Estate Condition: If the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility of maintaining records of title to and interests in real property.

11. Equipment: Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Wild and Scenic Rivers: No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

13. Tribal Rights: No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

14. Historical Properties:

a. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee shall immediately notify the DE, if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the DE that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. The DE may stop work, if he determines that archeological investigations are warranted.

b. If you discover any previously unknown historical or archaeological material/remains, you shall immediately contact the Regulatory Branch, Corps office at 918-669-7400.

15. Endangered Species:

a. No activity is authorized under this GP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, the permittee shall not begin work on the activity until notified by the DE that the requirements of the ESA have been satisfied and that the activity is authorized.

b. Authorization of an activity by a GP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS or their World Wide Web page at http://www.fws.gov/r9endspp/endspp.html.

16. Compliance Certification: Every permittee who has received GP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification form will be provided by the Corps with the authorization letter and will require:

a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;

b. A statement that any required mitigation was completed in accordance with the permit conditions; and

c. The signature of the permittee certifying the completion of the work and mitigation.

17. Mitigation: The DE will determine the appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment by considering the following:

a. The project must be designed and constructed to avoid and minimize adverse effects to waters of the U.S. to the maximum extent practicable at the project site.

b. To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: (1) Reducing the size of the project; (2) establishing and maintaining wetland or upland vegetated buffers to

protect open waters such as streams; (3) and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

c. Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts, unless the DE determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project specific waiver of this requirement. Consistent with National policy, the DE will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances,

d. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

18. Spawning Areas: Activities, including structures and work in navigable waters of the U.S. or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavation, filling, or smothering downstream by substantial turbidity) of an important spawning area are not authorized.

19. Management of Water Flows: To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelization will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow. This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

20. Waterfowl Breeding Areas: Activities, including structures and work in navigable waters of the U.S. or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

21. Removal of Temporary Fills: Any temporary fills must be removed in their entirety, and the affected areas returned to their preexisting elevation.

22. Water Supply Intakes: No activity, including structures and work in navigable waters of the U.S. or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

23. Soil Erosion and Sediment Controls:

a. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.

b. Permittees are encouraged to perform work within waters of the U.S. during periods of low or non-flowing conditions.

c. The areas devegetated during construction shall be reseeded to the extent practicable after project completion to avoid excessive erosion and the runoff of turbid waters.

24. Suitable Material: No activity, including structures and work in navigable waters of the U.S. or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the CWA).

25. Aquatic Life Movements: No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

26. Shellfish Beds: No activity, including structures and work in navigable waters of the U.S. or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations.

27. Disturbed Areas:

a. The clearing of vegetation shall be minimized and limited to the immediate area of impact.

b. Disturbed areas shall be returned as closely as possible to the original topographic contours and reestablished with stabilizing vegetation promptly following completion of construction.

28. Flood Plain Ordinances: The permittee must comply with any applicable Federal Emergency Management Agency approved State or local flood plain management requirements.