

August 27, 2024

Ms. Rachel Miller
Oklahoma Department of Environmental Quality
707 North Robinson
Oklahoma City, OK 73101

Mr. James Smith
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852-2738

Re: Docket No. 07000925; License No. SNM-928
Cimarron Environmental Response Trust
Response to Questions re: Bat and Aquatic Habitat Assessments

Dear Recipients:

Solely as Trustee for the Cimarron Environmental Response Trust (CERT), Environmental Properties Management LLC (EPM) submits herein responses to and Oklahoma Department of Environmental Quality (DEQ) August 21, 2024, letter. That letter requested information regarding the Bat Habitat and Aquatic Habitat Assessment reports submitted to the DEQ and the U. S. Nuclear Regulatory Commission (NRC) on March 29, 2024.

EPM contacted Mr. Bryan Gaspar, an Associate Environmental Scientist with Burns & McDonnell, who managed the conduct of both habitat assessments. He provided the following feedback to the DEQ's questions.

DEQ Question 1: Is a desktop survey sufficient for the aquatic assessment, or is a field assessment necessary?

Response: The analysis presented in the submittal based on the current project design included a desktop assessment only. No additional field effort to support this presumption is required by the U.S. Fish and Wildlife Service (USFWS) for the protected aquatic species or habitats. Such an assessment is in fact unwarranted.

- Both the Arkansas River shiner and peppered chub are presumed to be extirpated from this reach of the Cimarron River. Field assessments would not provide additional information material in the determination of effects to the Primary Constituent Elements (PCEs) for the protected aquatic species identified by the USFWS.
- Project impacts to the waterway are anticipated to be negligible, as detailed in the habitat assessment. It is Burns & McDonnell's professional opinion that the Project will not result in any adverse modifications to designated critical habitat for the Arkansas River shiner or peppered chub.

DEQ Question 2: Please confirm whether the identified bat roost locations are confirmed or potential roosts.

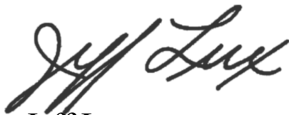
Response: Determination of bat habitat follows USFWS guidance for terminology and identification. The trees identified were designated as *potential* bat roost trees based on habitat characteristics. At the time of analysis, no bat presence/absence surveys have been completed, and such surveys are not needed for the project.

DEQ Question 3: Which agency, NCR or (US)FWS, will assume jurisdiction for clearing?

Response: Burns & McDonnell assumes this question is specific to clearing of potential bat roost trees and not general clearing of other aspects of the project. Determination of federal jurisdiction would be made by the respective agencies. It is anticipated that the USFWS would defer to the NCR so long as all appropriate federal guidelines are implemented, including time-of-year restrictions for potential bat roost tree removals, are met.

If you have any questions or desire clarification, please call me at (405) 642-5152.

Sincerely,



Jeff Lux
Project Manager

cc: (electronic copies only)

Office of the United States Attorney for the Southern District of New York
Stephanie Anderson and Linda Gersey, NRC Region IV
Paul Davis, Keisha Cornelius, Courtney Redmond, Lee Dooley, David Cates, and Jonathan Reid, DEQ
NRC Public Document Room
vcpsubmittals@deq.ok.gov