



US Army Corps
of Engineers®
Little Rock District

PUBLIC NOTICE

CORPS OF ENGINEERS

Application Number: SWL-2014-00328-1

Date: October 11, 2023

Comments Due: November 6, 2023

TO WHOM IT MAY CONCERN: Comments are invited on the work described below. Please see the Public Involvement section for details on submitting comments.

Point of Contact. If additional information is desired, please contact the regulator, Johnny McLean, telephone number: (501) 324-5295, mailing address: Little Rock District Corps of Engineers, Regulatory Division, PO Box 867, Little Rock, Arkansas 72203-0867, email address: Johnny.L.McLean@usace.army.mil

Project Information. Pursuant to Section 404 of the Clean Water Act (33 U.S. Code 1344), notice is hereby given that

**John T Fleming
Arkansas Department of Transportation (ArDOT)
PO Box 2261
Little Rock, AR 72203**

has requested authorization for work, including the placement of dredged and fill material, in waters of the United States associated with constructing a new highway that will connect the Springdale Northern Bypass (SNB) at the intersection of Highway 112 and Highway 612, to U.S. Highway 412. The proposed project is located in sections 13, 14, 23, 24, 26, 33, 34, 35, 36, T. 18 N., R. 31 W., and sections 4 and 5, T. 17 N., R. 31 W., Benton and Washington Counties, Arkansas.

The project purpose is to improve traffic conditions in Northwest Arkansas, specifically in western Springdale.

The applicant proposes to construct a new 6.56-mile highway from the SNB, at the intersection of Highway 112 and Highway 612, to a termination point at Highway 412. Additionally, the highway will serve as connecting point for the future Northwest Arkansas National Airport (XNA) connector. The applicant, ArDOT, proposes the project will address existing and forecasted travel delays, and increase safety, resiliency, and economic competitiveness in Northwest Arkansas. Northwest Arkansas has experienced substantial population growth since 2000. The larger cities within these counties include Rogers, Fayetteville, Springdale and Bentonville. The smaller towns include Highfill, Elm Springs and Caves Springs. According to the U.S. Census Bureau, Northwest Arkansas experienced a considerable population growth from 2000 to 2019. Project area cities and towns experienced between 51% and 378% growth in population as compared to an average growth for the state of 13%.

This project is an extension of the previously permitted SNB corridor. A section from Interstate 49 to Highway 112, known as Highway 612, has been constructed, and is the starting location for this project. U.S. Highway 412 is currently the only continuous principal arterial parallel to, and north

of Interstate 40 in Arkansas. The overall corridor was evaluated under National Environmental Policy Act (NEPA) guidelines in 2014, and re-evaluated in 2019, by the Federal Highway Administration (FHWA) and ArDOT. The project alignment and design footprint have not changed for the main SNB corridor. Construction of the SNB interchange with the future XNA connector was added to this project since the 2019 NEPA re-evaluation, but the interchange has already gone through all environmental clearances under the XNA connector Environmental Assessment (EA). The design EA for the project was completed on January 21, 2021, and the finding of no significant impact (FONSI) was approved by the FHWA on June 14, 2022.

The project is located within the Illinois River watershed and will require the acquisition of an approximately 320 acres of right-of-way. Direct land use changes would primarily be the conversion of forest and pastureland with scattered low-density residential development to a maintained right-of-way for transportation use. The Corps notes that shifting the alignment to the north could cause impacts to Osage Creek, a designated Ecologically Sensitive Waterbody. Additionally, shifting the alignment to the south could cause additional impacts to private property, as this area is more densely developed.

The applicant proposes to adversely impact approximately 3,682 linear feet of intermittent stream with 1,023 cubic yards of fill material to be permanently placed within 0.90 acres of Waters of the United States for the highway embankment, bridge, and culvert construction. Additionally, two temporary work pads, consisting of approximately 0.07 acres and 0.04 acres of impacts, respectively, with a total of approximately 314 cubic yards of fill material, will be placed within waters to construct a bridge over Brush Creek. The streams within the project site consist of one perennial waterbody, Brush Creek, five intermittent and three ephemeral tributaries of Brush Creek. No wetlands are proposed to be impacted at this time. The project will impact karst terrain and is adjacent to at least three known karst features, including two springs and one sinkhole. Direct impacts to the known karst features are not proposed. Stream impacts that could not be avoided were minimized by bridging floodplains and modifying the alignment. ArDOT proposes to mitigate for permanent stream channel impacts by purchasing approximately 17,854.8 stream credits from an approved mitigation bank that services the area.

ArDOT has determined that seven Federally listed threatened and endangered species may be affected by the proposed project, but are not likely to be adversely affected, including the Benton County Cave Crayfish (*Cambarus aculabrum*), Missouri Bladderpod (*Physaria filiformis*), Neosho Mucket (*Lampsilis rafinesqueana*), Ozark Cavefish (*Troglichthys rosae*), Gray Bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*) and Northern Long-eared Bat (*Myotis septentrionalis*). Additionally, ArDOT has determined the proposed project would have no effect on four federally listed threatened and endangered species, including the Piping Plover (*Charadrius melodus*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Red Knot (*Calidris canutus rufa*) and the Ozark Big-eared Bat (*Corynorhinus (Plecotus) townsendii ingens*) due to limited scope of the project, lack of habitat and distance to known populations. Lastly, ARDOT has determined the project may impact but will not jeopardize the existence of three proposed threatened and endangered species, including the Alligator Snapping Turtle (*Macrochelys temminckii*), Tricolored Bat (*Perimyotis subflavus*) or the Monarch Butterfly (*Danaus plexippus*).

The location and general plan for the proposed work are shown on the enclosed sheets, 1 through 11 of 11.

Water Quality Certification. The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 Code of Federal Regulations (CFR) Part 121), effective September 11, 2020, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification and providing required information to the certifying agency. As of the date of this public notice, the applicant has not submitted a certification request to the Arkansas Department of Energy and Environment, Division of Environmental Quality (certifying authority). In accordance with Certification Rule Part 121.6, once the applicant submits a certification request the Corps will determine the reasonable period of time for the certifying agency to act upon the certification and provide written notification. In accordance with Certification Rule Part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received the subject certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

Cultural Resources. ArDOT staff archeologists have reviewed topographic maps, the National Register of Historic Places, and completed a Cultural Resources Phase II Study for the project area. The FHWA has completed coordination with all associated Native American Nations and tribal governments. The District Engineer invites responses to this public notice from Federal, State, and local agencies; historical and archeological societies; and other parties likely to have knowledge of or concerns with historic properties in the area.

Endangered Species. ArDOT determined that the project is not likely to adversely affect the Benton County Cave Crayfish, Missouri Bladderpod, Neosho Mucket, Ozark Cavefish, Gray Bat, Indiana Bat, and Northern Long-eared Bat. Additionally, ArDOT has determined the proposed project would have no effect on the Piping Plover, Eastern Black Rail, Red Knot and the Ozark Big-eared Bat. Lastly, ArDOT determined the project may impact but will not jeopardize the existence of the Alligator Snapping Turtle, Tricolored Bat, or the Monarch Butterfly. A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies and constitutes a request to those agencies for information on whether any listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

Floodplain. ArDOT determined that the project will impact the 100-year floodplain associated with Brush Creek. We are providing copies of this notice to appropriate floodplain officials in accordance with 44 Code of Federal Regulations (CFR) Part 60 (Floodplain Management Regulations Criteria for Land Management and Use) and Executive Order 11988 on Floodplain Management.

Section 404(b)(1) Guidelines. The evaluation of activities to be authorized under this permit, which involves the discharge of dredged or fill material will include application of guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act. These guidelines are contained in 40 Code of Federal CFR 230.

Public Involvement. Any interested party is invited to submit to the above-listed POC written comments or objections relative to the proposed work on or before **November 6, 2023**. Substantive comments, both favorable and unfavorable, will be accepted and made a part of the record and will

receive full consideration in determining whether this work would be in the public interest. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request in writing within the comment period specified in this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision.

NOTE: The mailing list for this Public Notice is arranged by state and county(s) where the project is located, and includes any addressees who have asked to receive copies of all public notices. Please discard notices that are not of interest to you. If you have no need for any of these notices, please advise us so that your name can be removed from the mailing list.

Enclosures:
Project Maps

Approximate Coordinates of Project Center

Latitude: **36.202172°** Longitude: **-94.251371°**

UTM Zone: **15S** North: **4007098** East: **387502**

Project Location

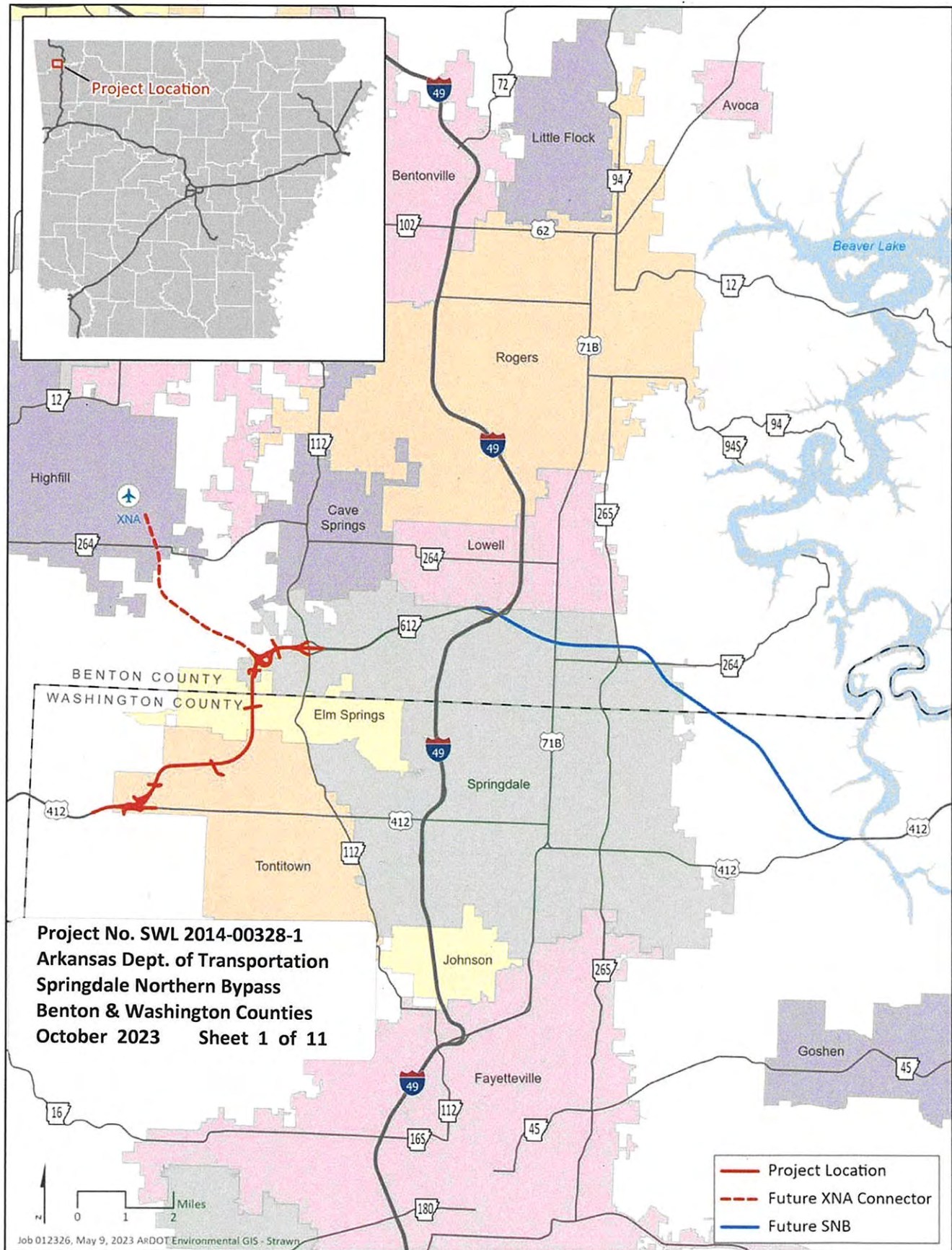
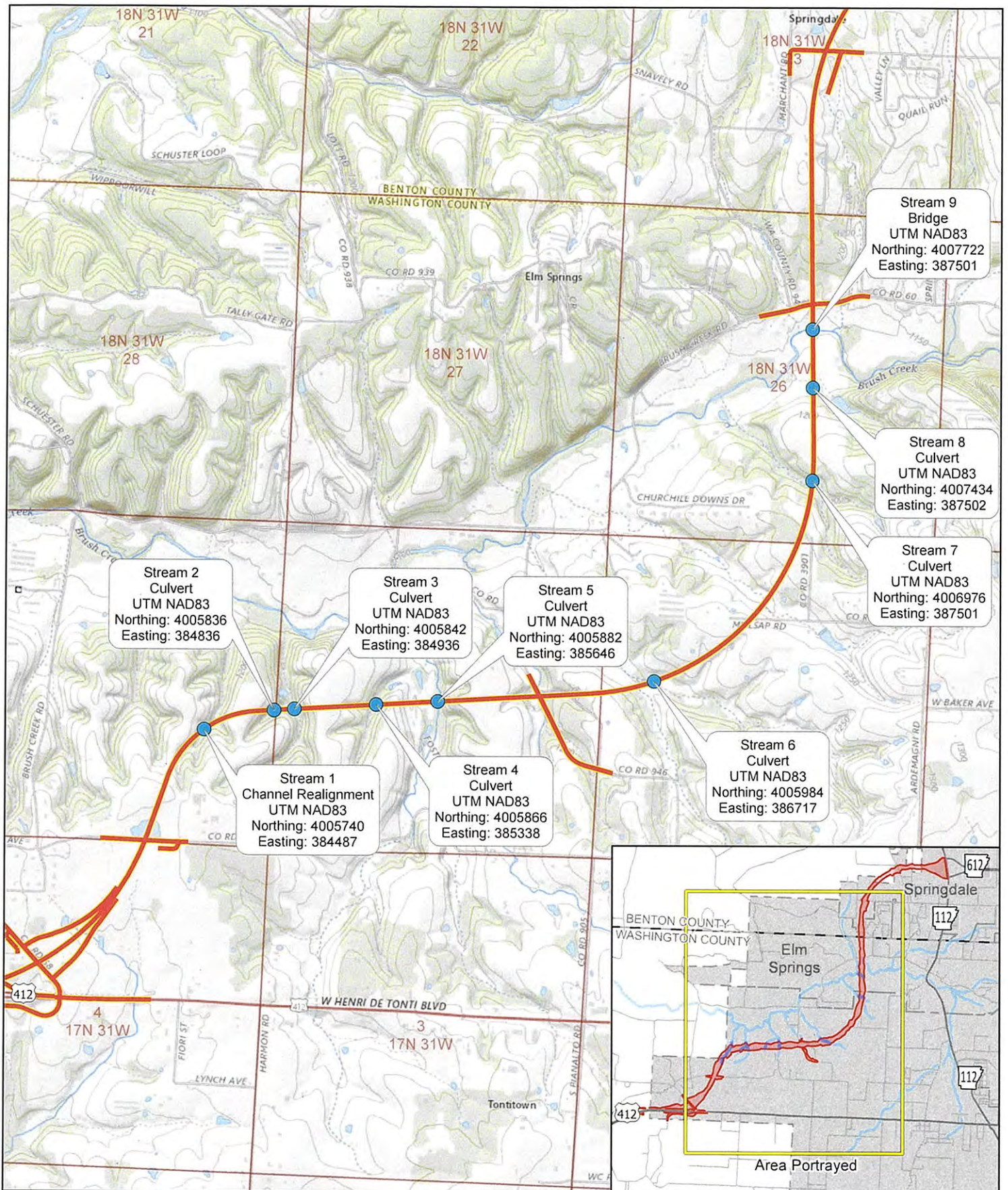


Figure 1



Scale - 1:24,000

ARDOT - Environmental GIS - Strawn
July 12, 2023

UTM Map
Job 012326
Hwy. 412 - Hwy. 112
(Springdale Bypass)
Benton and Washington Counties

- Stream Crossing
- Project Location



Scale - 1:38,000

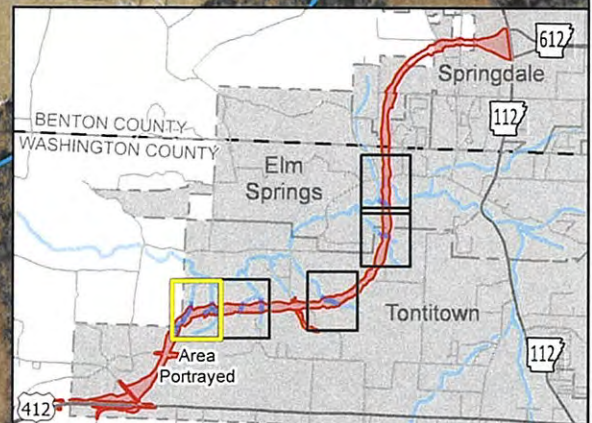
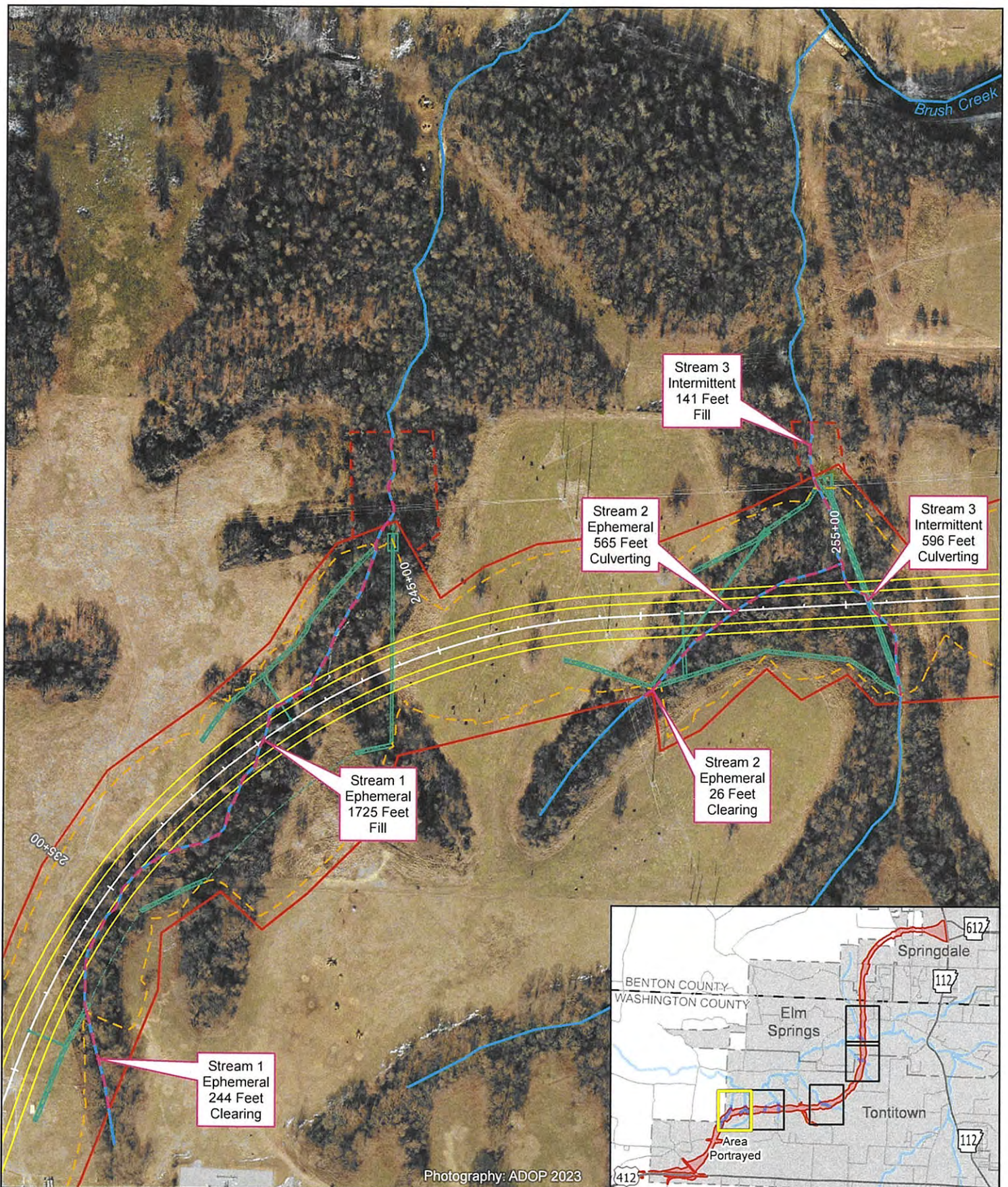
ARDOT - Environmental GIS - Strawn
October 6, 2023

UTM Map
Job 012326
Hwy. 412 - Hwy. 112
(Springdale Bypass)
Benton and Washington Counties

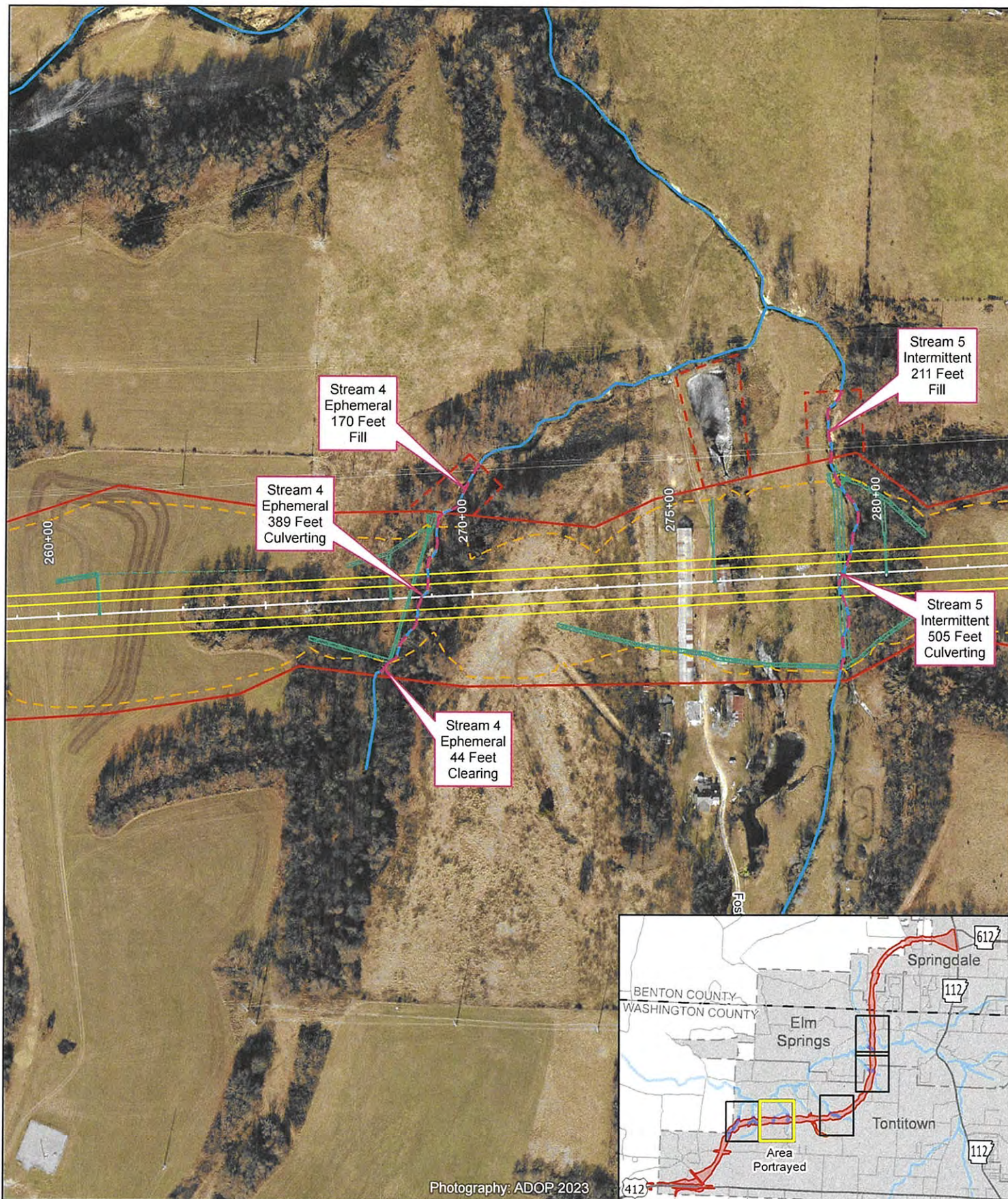
Sheet 3 of 11

- Stream Crossing
- Project Location

Photography: ADOP 2023



- Proposed Right of Way
- - - Temporary Construction Easement
- - - Proposed Construction Limits
- Proposed Roadway
- Proposed Drainage

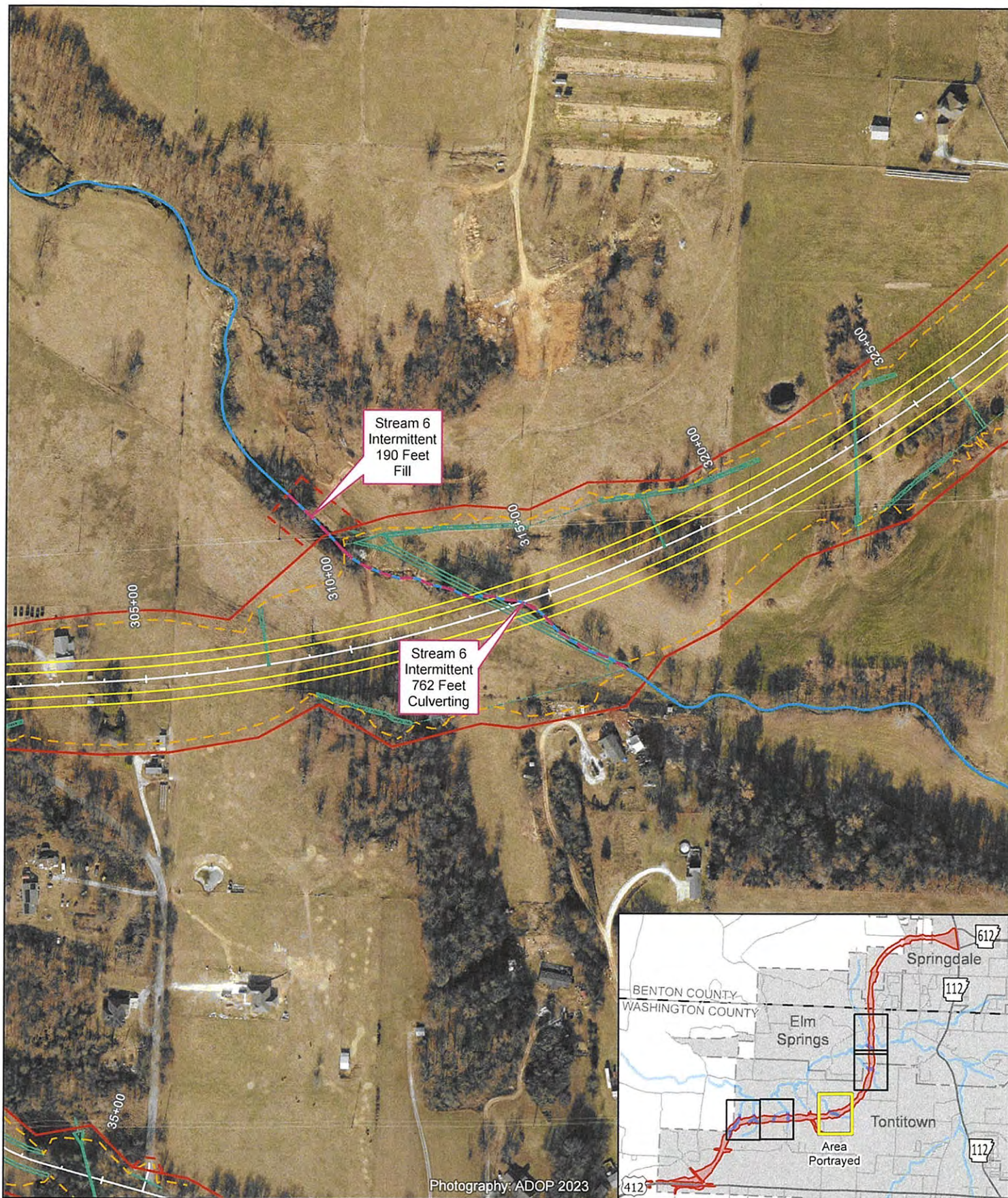


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Feet

Job 012326
ARDOT - Environmental GIS - Strawn
July 11, 2023

Stream Impacts Page 2 of 5

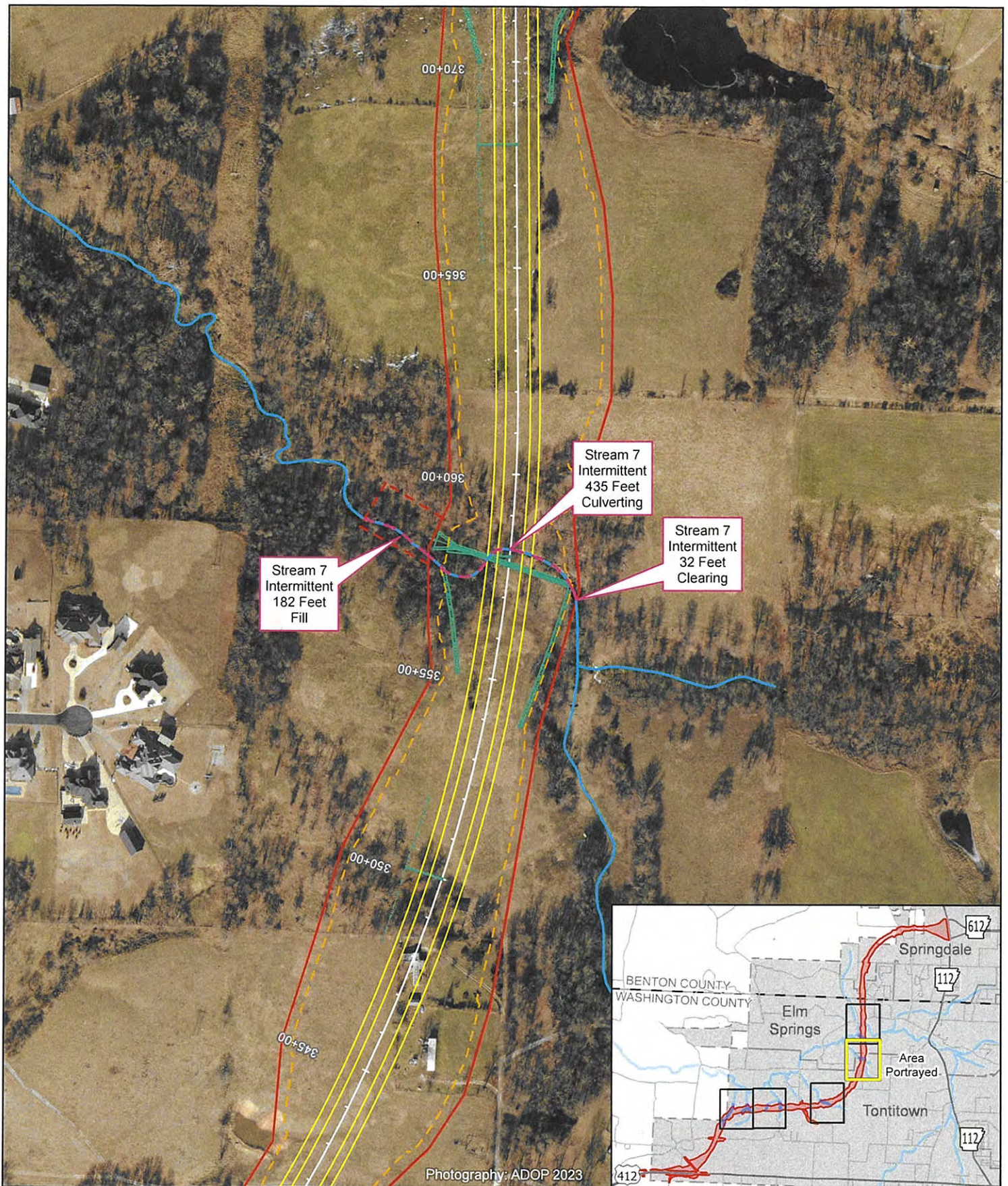
- Proposed Right of Way
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- Proposed Drainage



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Feet

Job 012326
ARDOT - Environmental GIS - Strawn
July 11, 2023

Stream Impacts
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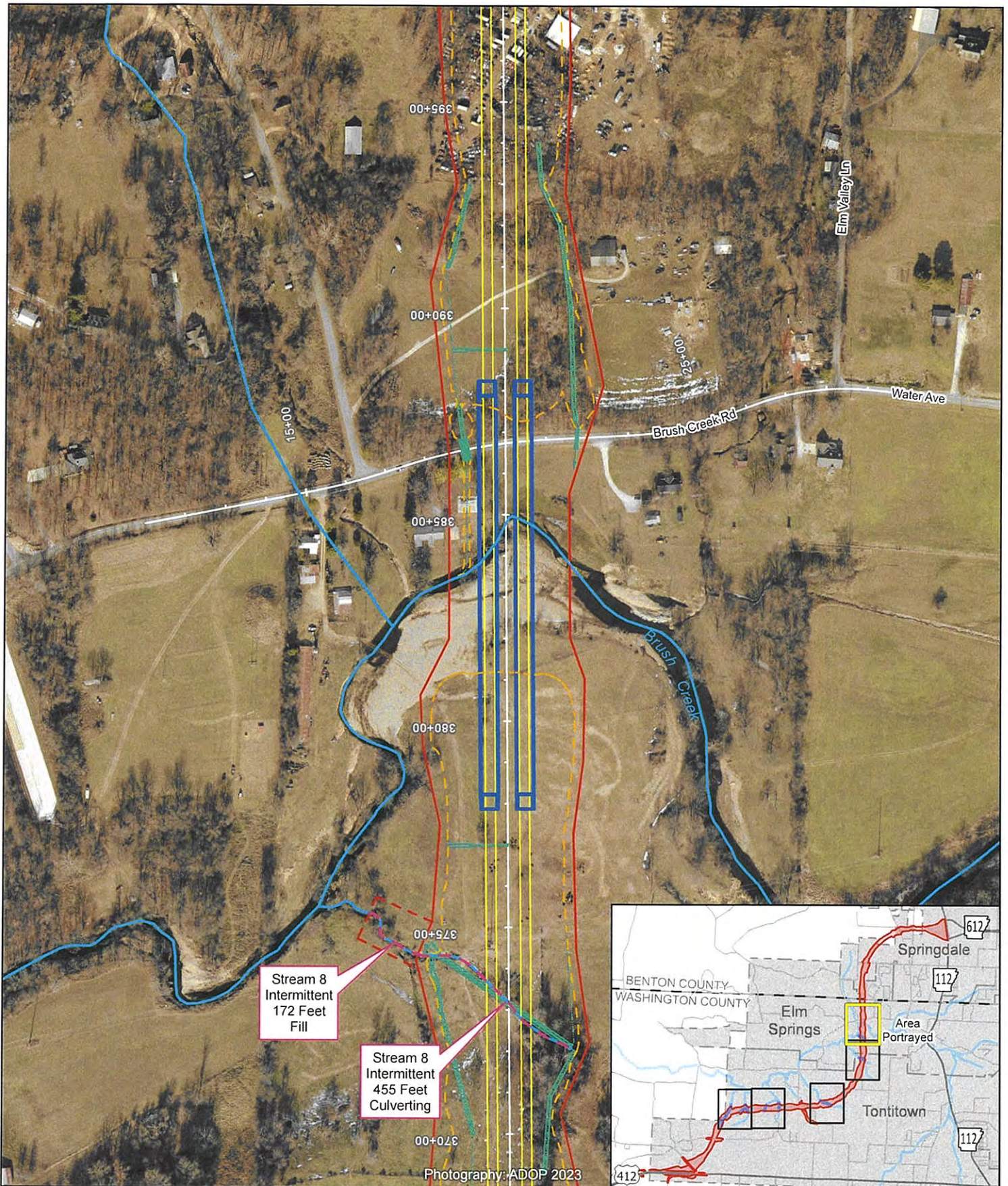


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Feet

Job 012326
ARDOT - Environmental GIS - Strawn
July 11, 2023

Stream Impacts Page 4 of 5

- Proposed Right of Way
- - - Temporary Construction Easement
- - - Proposed Construction Limits
- Proposed Roadway
- Proposed Drainage



Stream Impacts
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Job 012326
ARDOT - Environmental GIS - Strawn
July 11, 2023

- Proposed Right of Way
- - - Temporary Construction Easement
- - - Proposed Construction Limits
- Proposed Roadway
- Proposed Drainage
- Proposed Bridge

**ADVERSE IMPACT
FACTORS FOR RIVERINE SYSTEMS WORKSHEET**

Stream Type Impacted	Ephemeral 0.1			Intermittent 0.4			Perennial-OHWM width		
							<15' 0.4	15'-30' 0.6	>30' 0.8
Priority Area	Tertiary 0.1			Secondary 0.4			Primary 0.8		
Existing Condition	Functionally Impaired 0.1			Moderately Functional 0.8			Fully Functional 1.6		
Duration	Temporary 0.05			Recurrent 0.1			Permanent 0.3		
Activity	Clearing 0.05	Utility Crossing/Bridge Footing 0.15	Below Grade Culvert 0.3	Armor 0.5	Detention 0.75	Morphologic Change 1.5	Impoundment (dam) 2.0	Pipe >100' 2.2	Fill 2.5
Cumulative Linear Impact	<100' 0	100'-200' 0.05	201-500' 0.1	501-1000' 0.2	>1000 linear feet (LF) 0.1 reach 500 LF of impact (example: scaling factor for 5,280 LF of impacts = 1.1)				

Factor	Stream 3 Impact 1	Stream 3 Impact 2	Stream 5 Impact 1	Stream 5 Impact 2	Stream 6 Impact 1
Stream Type Impacted	Intermittent	Intermittent	Intermittent	Intermittent	Intermittent
Priority Area	Tertiary	Tertiary	Tertiary	Tertiary	Tertiary
Existing condition	Fully Functional	Fully Functional	Moderately Functional	Moderately Functional	Moderately Functional
Duration	Permanent	Permanent	Permanent	Permanent	Permanent
Activity	Fill	Morphologic Change	Fill	Morphologic Change	Fill
Cumulative Linear Impact	0.9	0.9	0.9	0.9	0.9
Sum of Factors	M = 5.6	4.6	4.8	3.8	4.8
Linear feet of stream impacted in reach	LF= 596	141	505	211	762
M X LF	3337.6	648.6	2424	801.8	3657.6

Sheet Total Mitigation Credits Required = (M X LF) 10869.60

**ADVERSE IMPACT
FACTORS FOR RIVERINE SYSTEMS WORKSHEET**

Stream Type Impacted	Ephemeral 0.1			Intermittent 0.4			Perennial-OHWM width		
							<15' 0.4	15'-30' 0.6	>30' 0.8
Priority Area	Tertiary 0.1			Secondary 0.4			Primary 0.8		
Existing Condition	Functionally Impaired 0.1			Moderately Functional 0.8			Fully Functional 1.6		
Duration	Temporary 0.05			Recurrent 0.1			Permanent 0.3		
Activity	Clearing 0.05	Utility Crossing/Bridge Footing 0.15	Below Grade Culvert 0.3	Armor 0.5	Detention 0.75	Morphologic Change 1.5	Impoundment (dam) 2.0	Pipe >100' 2.2	Fill 2.5
Cumulative Linear Impact	<100' 0	100'-200' 0.05	201-500' 0.1	501-1000' 0.2	>1000 linear feet (LF) 0.1 reach 500 LF of impact (example: scaling factor for 5,280 LF of impacts = 1.1)				

Factor	Stream 6 Impact 2	Stream 7 Impact 1	Stream 7 Impact 2	Stream 7 Impact 3	Stream 8 Impact 1
Stream Type Impacted	Intermittent	Intermittent	Intermittent	Intermittent	Intermittent
Priority Area	Tertiary	Tertiary	Tertiary	Tertiary	Tertiary
Existing condition	Moderately Functional	Fully Functional	Fully Functional	Fully Functional	Moderately Functional
Duration	Permanent	Permanent	Permanent	Permanent	Permanent
Activity	Morphologic Change	Clearing	Fill	Morphologic Change	Fill
Cumulative Linear Impact	0.7	0.7	0.7	0.7	0.7
Sum of Factors	M = 3.8	3.15	5.6	4.6	4.8
Linear feet of stream impacted in reach	LF= 190	32	435	182	455
M X LF	722	100.8	2436	837.2	2184

Total Mitigation Credits Required = (M X LF) = 6280.00

**ADVERSE IMPACT
FACTORS FOR RIVERINE SYSTEMS WORKSHEET**

Stream Type Impacted	Ephemeral 0.1			Intermittent 0.4			Perennial-OHWM width		
							<15' 0.4	15'-30' 0.6	>30' 0.8
Priority Area	Tertiary 0.1			Secondary 0.4			Primary 0.8		
Existing Condition	Functionally Impaired 0.1			Moderately Functional 0.8			Fully Functional 1.6		
Duration	Temporary 0.05			Recurrent 0.1			Permanent 0.3		
Activity	Clearing 0.05	Utility Crossing/Bridge Footing 0.15	Below Grade Culvert 0.3	Armor 0.5	Detention 0.75	Morphologic Change 1.5	Impoundment (dam) 2.0	Pipe >100' 2.2	Fill 2.5
Cumulative Linear Impact	<100' 0	100'-200' 0.05	201-500' 0.1	501-1000' 0.2	>1000 linear feet (LF) 0.1 reach 500 LF of impact (example: scaling factor for 5,280 LF of impacts = 1.1)				

Factor	Stream 8 Impact 2				
Stream Type Impacted	Intermittent	Intermittent	Intermittent	Intermittent	
Priority Area	Tertiary	Tertiary	Tertiary	Tertiary	
Existing condition	Functionally Impaired	Functionally Impaired	Moderately Functional	Moderately Functional	
Duration	Permanent	Permanent	Permanent	Permanent	
Activity	Fill	Morphologic Change	Fill	Morphologic Change	
Cumulative Linear Impact	0.7				
Sum of Factors	M = 4.1	3.1	4.8	3.8	0.7
Linear feet of stream impacted in reach	LF= 172				
M X LF	705.2	0	0	0	0

Total Mitigation Credits Required = (M X LF) = 705.20