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FOUNDED 1866

March 11, 2015

Daphne A. Fuller  
Assistant Chief Counsel  
Airports and Environmental Law Division  
FAA Office of the Chief Counsel  
800 Independence Ave., S.W.  
Washington, DC 20591

Michael Fineman  
Attorney - AIP  
FAA Southern Regional Office  
Office of the Regional Counsel  
Suite 530  
1701 Columbia Avenue  
College Park, Georgia 30337

Re: Paulding County Airport Authority Terminal Area Expansion Project

Dear Ms. Fuller and Mr. Fineman,

I am writing on behalf of our six landowner clients who live near the Paulding Northwest Atlanta Airport ("PUJ"). As you know, our clients reached a settlement agreement with the Federal Aviation Administration ("FAA") and the Department of Justice ("DOJ"),<sup>1</sup> which required full environmental review of the commercialization of PUJ to prevent the Paulding County Airport Authority ("PCAA") from evading federal and state environmental requirements by improperly segmenting its development of PUJ.

The PCAA has recently notified the U.S. Army Corps of Engineers that it has imminent plans to clear and grub (remove stumps) 70 acres of land for its terminal area expansion project ("Terminal Project"). (Attachment A). We request the FAA exercise its powers under the Council of Environmental Quality ("CEQ") regulations, 40 C.F.R. § 1506.1, and direct the PCAA to cease and desist from undertaking this and any other on-the-ground activity at PUJ that is actively undergoing National Environmental Policy Act ("NEPA") review by the FAA, except as

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<sup>1</sup> *Louie v Huerta*, No. 13-1285 (D.C. Cir. Dec. 23, 2013) ("Settlement Agreement").

Daphne A. Fuller and Michael Fineman  
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explicitly permitted by our Settlement Agreement. In addition, we urge the FAA to withhold any federal funding until the environmental review process now underway has been completed.

As you know, the CEQ regulations prohibit an applicant for a federal permit or federal funding from conducting any activity prior to the completion of the NEPA process if that activity could cause adverse environmental impact and/or jeopardize the integrity of the ongoing environmental process. CEQ calls upon the federal agency responsible for the NEPA process – here the FAA – to notify the PCAA that noncompliance with the regulatory requirement risks an interruption of the ongoing NEPA process and possibly even cancellation of the process for which federal authorization and funding are sought.

As background, the initial construction of PUJ followed the FAA’s issuance of a 2005 Environmental Assessment (“EA”). A Supplemental EA, dated September 2010 and signed in March 2011, reviewed PCAA plans to expand the existing terminal area at PUJ.<sup>2</sup> We understand from the Program Narrative portion of PUJ’s January 2015 Capital Improvement Program (“CIP”), which is included as Attachment B, that the PCAA asserts that it may move forward with the Terminal Project based on the Supplemental Environmental Assessment. The Authority is mistaken for at least three reasons.

*1. The FAA is Conducting a NEPA Review of the Entire Project*

Pursuant to the Settlement Agreement between our clients and the FAA, the FAA agreed to include PCAA’s Part 139 application and any connected proposed actions – including the Terminal Project – as part of a combined environmental assessment under NEPA (“Part 139 EA”). On April 21, 2014, the FAA issued a notice of intent (“NOI”) to prepare an environmental

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<sup>2</sup> Supplemental Environmental Assessment for Proposed Terminal Area Expansion, Paulding Northwest Atlanta Airport, Paulding County, GA at 2-1 (Sept. 2010). The Terminal Project would expand the terminal area by 70 acres — 30 of which would replace a shortfall of developable land for previously proposed terminal area facilities, 20 of which would accommodate additional aircraft storage and parking facilities, and 20 of which would be used for grading and temporary access roads. The terminal area expansion as described in the Supplemental EA would provide approximately 345,000 square feet of hangar development, along with associated tie down areas, parking areas, and office space. It requires removing the trees that cover much of the 70 acres and would permanently impact approximately 2,830 linear feet of a perennial stream and 1.07 acres of wetland. *Id.* at 2-5; Figures 1.1 and 1.2.

Alarming, the PCAA letter to the U.S. Army Corps of Engineers admits that PCAA has already timbered much of the Terminal Project as “the first step” in the project. We believe this statement is inconsistent with representations the PCAA would have had to make to the Georgia Environmental Protection Division about the timbering activity in order to avoid construction stormwater permitting. Specifically, PCAA would have had to claim that the timbering was normal “forestry land management practices” in order to avoid Georgia’s construction stormwater permitting requirements.

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assessment that specifically enumerated the above referenced Terminal Project as a “proposed action” that was subject to the pending Part 139 EA.<sup>3</sup>

Having reached this settlement with our clients and accepted public comments on the scope of the FAA’s NEPA review for, among other things, this Terminal Project, there is no legal justification or authorization for the PCAA moving forward with the work prior to completion of the FAA’s NEPA review.

*2. The Supplemental EA is No Longer Valid*

Even if the currently-planned Terminal Project was covered by the Supplemental EA and not subject to the Part 139 EA (which is clearly not the case), the FAA, at a minimum, would need to prepare a “written reevaluation . . . of the adequacy, accuracy, and validity of the EA” because more than three years have passed since the issuance of the FONSI.<sup>4</sup> More likely, the FAA would need to prepare a supplement to the Supplemental EA or a new environmental assessment altogether because there have been significant changes in the anticipated impacts, namely the Terminal Project’s adverse effect on water quality and critical darter habitat.<sup>5</sup>

In addition, since the Supplemental EA was finalized, the U.S. Fish & Wildlife Service (“USFWS”) has proposed listing the Northern long eared bat as a threatened species and, as the PCAA knows, Northern long eared bats have been found immediately adjacent to the Terminal Project. Furthermore, in March 2014, the USFWS explained that it could not concur with the Federal Highway Administration’s determination that a proposed roadway (immediately adjacent to the Terminal Project) would have no effect on the Cherokee darter and would not likely adversely affect the Northern long eared bat. (Attachment C). These developments alone preclude reliance on the Supplemental EA.

*3. The Project Is Subject to Evaluation as Part of the Part 139 EA*

The planned work is explicitly part of the overall project scope that was stayed by the Settlement Agreement and set forth in the NOI.<sup>6</sup> As the FAA recognized by including the Terminal Project

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<sup>3</sup> Notice of Intent to Prepare an Environmental Assessment for the Proposed Part 139 Operating Certificate and related Actions at Paulding Northwest Atlanta Airport, 79 Fed. Reg. 22,177 (April 21, 2014).

<sup>4</sup> FAA Order 1050.1E, ¶ 402b.

<sup>5</sup> FAA Order 1050.1E, ¶ 402b.

<sup>6</sup> *Louie v Huerta*, No. 13-1285 (D.C. Cir. Dec. 23, 2013) (Settlement Agreement) at ¶A.2. (“The FAA further agrees that any Environmental Assessment that it prepares will assess the effects of actions contemplated in, and proposed actions connected with, the Part 139 application”); *see also* Notice of Intent to Prepare an Environmental Assessment for the Proposed Part 139 Operating Certificate and related Actions at Paulding Northwest Atlanta Airport, 79 Fed. Reg. 22,177 (April 21, 2014).

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in the NOI, the Part 139 EA must evaluate the Terminal Project because a project sponsor cannot “segment” a project in “an attempt to circumvent NEPA by breaking up one project into smaller projects and not studying the overall impacts of the single overall project.”<sup>7</sup>

Conclusion

In light of the PCAA’s disregard of the Settlement Agreement, a copy of which was served on PCAA, the FAA must take action to stop this Terminal Project pursuant to the CEQ regulations. The FAA’s authority to take such steps is also provided in FAA Order 1050.1E, ¶ 522b. We urge the FAA to investigate this matter promptly and take appropriate action to ensure that PCAA does not again circumvent federal environmental review. We further urge the FAA to withhold federal funding until the NEPA process has been completed.

Thank you in advance for your consideration.

Sincerely,



Peter R. Steenland, Jr.

cc: R. Govan  
E. Angeles  
B. Swafford  
N. Robertson

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<sup>7</sup> *Webster v. United States Dep’t of Agric.*, 685 F.3d 411, 426 (4th Cir. 2012) (quotations omitted). A project has been improperly segmented if the segmented project “has no independent justification, no life of its own, or is simply illogical when viewed in isolation.” *One Thousand Friends v. Mineta*, 364 F.3d 890, 894 (8th Cir. 2004) (quotations omitted). Likewise, a project that is inaccurately described may also lead to a substantively deficient environmental review because “NEPA places upon an agency the obligation to consider every significant aspect of the environmental impact of a proposed action.” *Or. Natural Desert Ass’n v. BLM*, 625 F.3d 1092, 1109 (9th Cir. 2010) (quotations omitted).

# ATTACHMENT A



**PAULDING**  
NORTHWEST ATLANTA  
**AIRPORT**

**Blake Swafford,**  
**Director**

**730 Airport Parkway**  
**Dallas, GA 30157**  
**(770) 505-7700**

Mr. Edward B. Johnson, Jr.  
Chief, Piedmont Branch  
Savannah District, Corps of Engineers  
1590 Adamson Parkway, Suite 200  
Morrow, Georgia 30260-1777

RE: Permit #SAS-2005-00964

Dear Mr. Johnson,

The purpose of this correspondence is to respond to the questions raised in your letter to me concerning our Terminal Apron Expansion project and Permit number SAS-2005-00964. The questions from your letter are repeated below along with a response to each question in blue.

- a. Have you started any construction work on the Terminal Expansion? If so, what work has been completed? If not, what is your timetable for commencement and completion of the work? Response: Yes, we contracted with a logging company to remove the timber from the property. Timbering is always the first step in a project of this type. However, trees within 75 feet of the stream channels were left standing to protect the quality of the resources until the next phase begins. The next phase will be to install the erosion control, remove the remaining trees and grub (remove the stumps from the timbering operation). The erosion control and grubbing will take place the first half of 2015 and we anticipate piping of the stream and mass grading to begin the latter half of 2015. The total project will be constructed in 3 phases that are each broken into multiple construction contracts. Build out of the entire project is expected to take about 5 years dependent upon FAA grant availability.
- b. Have your project plans or project purpose, for the Terminal Expansion, changed from those previously authorized? Response: No, the Terminal Apron Expansion project plans and purpose have not changed at all. The project will be constructed as indicated on the approved permit drawings.
- c. Is the regional aviation demand for hangar and tie down space for general aviation aircraft, provided by the Terminal Expansion, needed by the Paulding Northwest Atlanta Airport (Airport), as a general aviation facility? Would the Terminal Expansion be needed, if the Airport became a commercial aviation facility? Response: The need for this project is based solely on the growth in general aviation and support services for that industry. The potential commercial service does not require the Terminal Apron Expansion and commercial aircraft are not anticipated to use that area.

- d. Are there additional impacts to DA waters and wetlands jurisdiction required, beyond what has been previously authorized, to allow the existing airport to accommodate commercial passenger service? Response: No. All construction that is necessary for commercial passenger service will occur in previously disturbed upland areas on the airfield.
- e. Have staging and/or equipment maintenance areas for the Terminal Expansion been constructed within 200 feet of any streams? Response: No. All staging and equipment maintenance areas for the Terminal Apron Expansion have occurred in upland areas a minimum of 500 feet from any stream.
- f. Pursuant to Section 7(a)(2) of the Endangered Species Act, do any listed endangered or threatened species, or designated critical habitat(s) exist within the Terminal Expansion permit area? Was an endangered species survey conducted and if so, when? Response: A survey was conducted in August 2004 for the Cherokee darter and coordination with the U.S. Fish and Wildlife Service (FWS) occurred (see attachments). The post-construction water quality management plan for the Terminal Expansion was developed with input from the FWS to protect aquatic species located downstream of the project. Annual fish surveys have been conducted in streams on and adjacent to the Airport to monitor the population since completion of the initial Airport construction and the reports are submitted to the FWS annually.
- g. Is the Terminal Expansion related to the proposed Aerospace Technology Park that has been advertised for the existing airport? Does the airport plan to construct the proposed Aerospace Technology Park? Response: The Terminal Apron Expansion and the proposed Aerospace Technology Park are stand-alone projects with separate owners, separate funding sources and separate schedules. The Aerospace Technology Park is a project being considered by the Paulding County Industrial Building Authority and the Airport will not participate in that project in any way.

I hope these responses have been thorough enough to meet your needs in determining that the claims of the June 24, 2014 letter from Sidley Austin are completely inaccurate and false. If you do need additional information or further clarification on any question raised above or anything to do with a Paulding Northwest Atlanta Airport project we are happy to meet with you at your convenience or provide additional documentation as you may need. As always, we will keep you apprised of any anticipated changes in scope or schedule for the project as we move forward.

Sincerely,



Blake Swafford, PE

CC: David Austin, Chairman PCBOC  
Calvin Thompson, Chairman PCAA  
Carol Comer, Intermodal Division Director, GDOT  
Lisa Favors, Environmental Program Manager, FAA  
Gordon Murphy, Michael Baker International  
Joseph Snyder, Michael Baker International



DEPARTMENT OF THE ARMY  
SAVANNAH DISTRICT, CORPS OF ENGINEERS  
1590 ADAMSON PARKWAY, SUITE 200  
MORROW, GEORGIA 30260-1777

REPLY TO  
ATTENTION OF

Regulatory Division  
SAS-2005-00964

Mr. R. Blake Swafford  
730 Airport Parkway  
Dallas, Georgia 30157

Dear Mr. Swafford:

This correspondence is in reference to the letter dated June 24, 2014, received by our office from Mr. Peter R. Steenland, Jr., of the law firm Sidley Austin, LLP, requesting that the U.S. Army Corps of Engineers (Corps) suspend and revoke your Department of the Army (DA) Permit number SAS-2005-00964 for the Paulding Northwest Atlanta Airport Terminal Expansion project (Terminal Expansion). The project site is located 0.5 miles south of U.S. Highway 278, at latitude 33.9133, longitude -84.9363, approximately 6 miles southwest of the City of Dallas, in Paulding County, Georgia. This project has been assigned number SAS-2005-00964 and it is important that you refer to this number in all communication concerning this matter.

For your information, in light of the issues raised by Mr. Steenland on behalf of Dallas and Temple residents (enclosed), the Corps is investigating whether to suspend the subject permit for the Terminal Expansion. Please note that the Corps is not considering suspension of the permit issued in 2006 authorizing the original airport facility. In order to assist the Corps in determining the appropriate course of action, we ask that you provide the following information:

- a. Have you started any construction work on the Terminal Expansion? If so, what work has been completed? If not, what is your timetable for commencement and completion of the work?
- b. Have your project plans or project purpose, for the Terminal Expansion, changed from those previously authorized?
- c. Is the regional aviation demand for hangar and tie down space for general aviation aircraft, provided by the Terminal Expansion, needed by the Paulding Northwest Atlanta Airport (Airport), as a general aviation facility? Would the Terminal Expansion be needed, if the Airport became a commercial aviation facility?



d. Are there additional impacts to DA waters and wetlands jurisdiction required, beyond what has been previously authorized, to allow the existing airport to accommodate commercial passenger service?

e. Have staging and/or equipment maintenance areas for the Terminal Expansion been constructed within 200 feet of any streams?

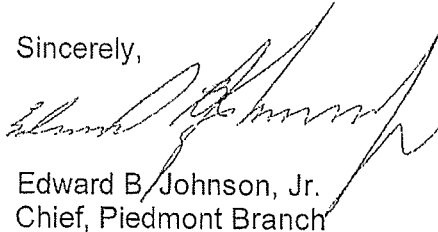
f. Pursuant to Section 7(a)(2) of the Endangered Species Act, do any listed endangered or threatened species, or designated critical habitat(s) exist within the Terminal Expansion permit area? Was an endangered species survey conducted and if so, when?

g. Is the Terminal Expansion related to the proposed Aerospace Technology Park that has been advertised for the existing airport? Does the airport plan to construct the proposed Aerospace Technology Park?

Please provide the requested information to our office as noted on the letterhead within 30 days of your receipt of this correspondence.

Thank you for your time and cooperation. If you have any questions, please contact Mr. Philip Shannin, Permits Section Chief, Piedmont Branch, at 678-422-2729.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward B. Johnson, Jr.", written over a faint, illegible typed name.

Edward B. Johnson, Jr.  
Chief, Piedmont Branch

Enclosure  
Sidley Austin LLP Inquiry Letter

## ATTACHMENT B

## **PROGRAM NARRATIVE**

### **PAULDING NORTHWEST ATLANTA AIRPORT PAULDING COUNTY, GEORGIA**

#### **REIMBURSEMENT FOR TERMINAL AREA ENVIRONMENTAL PERMITTING**

This reimbursement request for federal funding includes the Professional Services for the Stream and Wetland Mitigation associated with the Terminal Area Expansion project. At this time, it includes 17,546 linear feet of stream, as well as 9.77 wetland credits, that will be affected by this project. Georgia EPD has already issued an exemption for this terminal area expansion project for crossing waters of the state. Even though the Terminal Area Expansion will be constructed in phases, the permitting and filling of the stream will be done as a whole to reduce permitting costs and reduce construction impacts. (CATEX not required as this project was covered in the supplemental Environment Assessment submitted in 2011. Finding of No Significant Impact (FONSI) issued.)

#### **REIMBURSEMENT FOR LOCALIZER PLATFORM**

This request for federal funding includes reimbursement for erecting a localizer platform to facilitate the establishment of a more clear and reliable signal for the ILS. This additional work was approved by GDOT prior to construction, and this request seeks reimbursement for this construction work.

#### **REIMBURSEMENT FOR MITIGATION CREDITS FOR TERMINAL AREA EXPANSION**

This reimbursement request for federal funding includes the Purchase of Mitigation Credits associated with the Terminal Area Expansion project. At this time, it includes 17,546 linear feet of stream, as well as 9.77 wetland credits, that will be affected by this project. Georgia EPD has already issued an exemption for this terminal area expansion project for crossing waters of the state. Even though the Terminal Area Expansion will be constructed in phases, the permitting and filling of the stream will be done as a whole to reduce permitting costs and reduce construction impacts. (CATEX not required as this project was covered in the supplemental Environment Assessment submitted in 2011. Finding of No Significant Impact (FONSI) issued.)

## **REIMBURSEMENT FOR WATER QUALITY MONITORING – YEAR 8**

This reimbursement request for federal funding includes the eighth year of data collection and fish sampling required by the FAA for a period of 10 years. This data collection and sampling is to monitor the streams to determine the effect of the airport construction on the endangered Cherokee Darter.

## **WILDLIFE PERIMETER FENCING**

This request for federal funding includes the design and installation of a wildlife perimeter fence to facilitate the establishment of safer airport movement area. The airport is surrounded on two sides by a wildlife management area and has encountered numerous forms of wildlife on the airfield. Also, a wildlife strike occurred recently during the takeoff roll which caused damage to the aircraft. This strike was documented and filed.

## **CONSTRUCT TERMINAL AREA EXPANSION – MODULE 1 GRADING AND DRAINAGE**

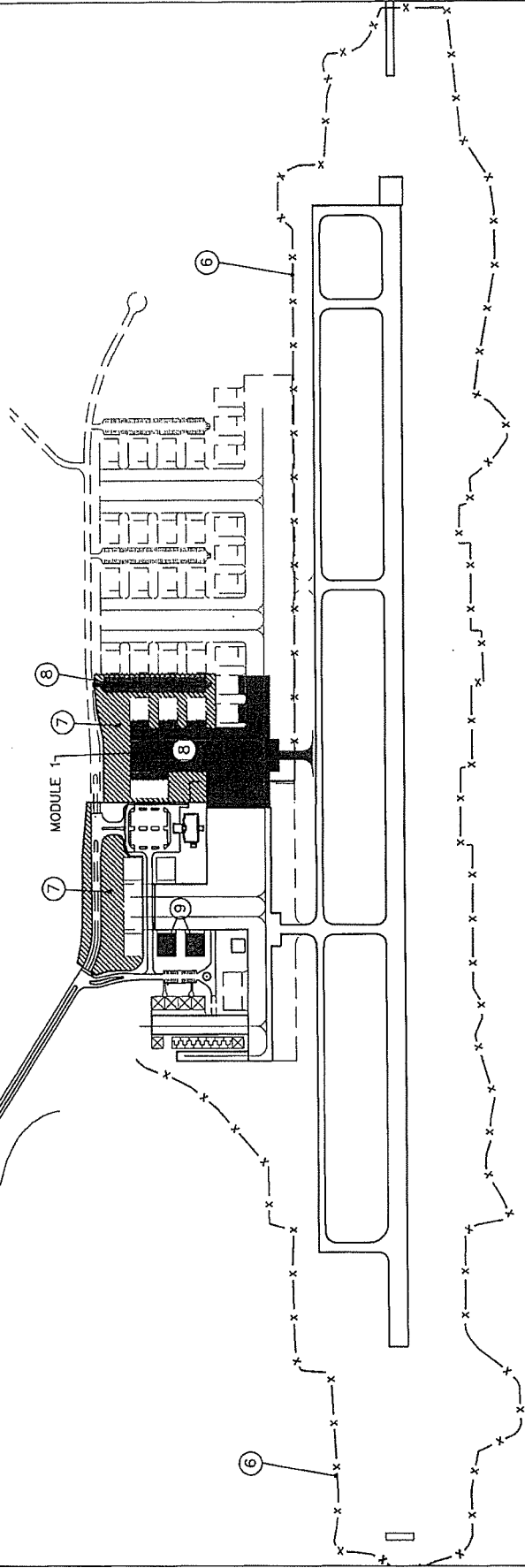
This request for federal funding includes the design and construction associated with the Grading and Drainage for Module 1, which is the first section of the Terminal Area Expansion Project. The project generally consists of major earthwork, anticipated to come from on-site borrow areas with a high percentage of rock excavation. Also included is storm drainage, water quality facilities to meet the requirements of the Etowah Habitat Conservation Plan (HCP), and clearing, grubbing, and erosion control.

## **CONSTRUCT TERMINAL AREA EXPANSION – MODULE 1 PAVING AND MARKING - DESIGN**

This request for federal funding includes the design and construction associated with the Paving and Marking for Module 1, which is the first section of the Terminal Area Expansion Project. The project generally consists of the paving and marking for PCC concrete pavement for the corporate hangar area located just east of the terminal building. This additional pavement will provide airfield access for corporate hangars.

**LEGEND**

- ⑥ WILDLIFE PERIMETER FENCING
- ⑦ CONSTRUCT TERMINAL AREA EXPANSION  
MODULE 1 - GRADING AND DRAINAGE
- ⑧ CONSTRUCT TERMINAL AREA EXPANSION  
MODULE 1 - PAVING AND MARKING DESIGN
- ⑨ CONSTRUCT CORPORATE/EXECUTIVE  
HANGARS - TERMINAL AREA



**PAULDING NORTHWEST ATLANTA AIRPORT  
DALLAS, GEORGIA**

**REQUEST FOR AID SKETCH**



NOT TO SCALE



**PAULDING NORTHWEST ATLANTA AIRPORT (PUJ)**

ACIP UPDATE  
FY2016 - FY2020  
( STATE FY)

<b>PUJ</b>	<b>PRIORITY</b>	<b>PROJECT</b>	<b>SOURCE</b>	<b>TOTAL COST</b>	<b>FAA FUNDS</b>	<b>STATE FUNDS</b>	<b>LOCAL FUNDS</b>	<b>OTHER FUNDS</b>
	1	Environment Assessment for Airport Projects	FEDERAL	\$299,095	\$269,186	\$0	\$29,910	\$0
		<b>TOTAL PROGRAM - FY2015</b>		<b>\$299,095</b>	<b>\$269,186</b>	<b>\$0</b>	<b>\$29,910</b>	<b>\$0</b>
		<b>(FOR INFORMATION PURPOSES ONLY)</b>						
		<b>FY2016</b>						
	2	Reimbursement for Terminal Area Environmental Permitting	FEDERAL	\$151,078	\$135,970	\$0	\$15,108	\$0
	3	Reimbursement for Localizer Platform	FEDERAL	\$165,000	\$148,500	\$0	\$16,500	\$0
	4	Reimbursement for Mitigation Credits for Terminal Area Expansion	FEDERAL	\$984,970	\$886,473	\$0	\$98,497	\$0
	5	Reimbursable for Water Quality Monitoring - Year 8	FEDERAL	\$48,000	\$43,200	\$0	\$4,800	\$0
	6	Wildlife Perimeter Fencing	FEDERAL	\$400,000	\$360,000	\$20,000	\$20,000	\$0
	7	Construct Terminal Area Expansion - Module 1 - Grading and Drainage	FEDERAL	\$1,846,000	\$1,661,400	\$92,300	\$92,300	\$0
	8	Construct Terminal Area Expansion - Module 1 - Paving and Marking - Design	FEDERAL	\$125,000	\$112,500	\$6,250	\$6,250	\$0
	9	Construct Corporate / Executive Hangars - Terminal Area	OTHER	\$2,000,000	\$0	\$0	\$0	\$2,000,000
		<b>TOTAL PROGRAM - FY2016</b>		<b>\$5,720,048</b>	<b>\$5,348,043</b>	<b>\$118,550</b>	<b>\$253,455</b>	<b>\$2,000,000</b>

**PAULDING NORTHWEST ATLANTA AIRPORT (PUJ)**

ACIP UPDATE  
FY2016 - FY2020  
( STATE FY)

<b>PUJ</b>							
<b>PRIORITY</b>	<b>PROJECT</b>	<b>SOURCE</b>	<b>TOTAL COST</b>	<b>FAA FUNDS</b>	<b>STATE FUNDS</b>	<b>LOCAL FUNDS</b>	<b>OTHER FUNDS</b>
	<b>FY2017</b>						
10	Reimbursable for Water Quality Monitoring - Year 9	FEDERAL	\$55,000	\$49,500	\$0	\$5,500	\$0
11	Reimbursement for Partial Parallel Taxiway Extension and Widening to Runway 13 End	FEDERAL	\$3,520,000	\$3,168,000	\$0	\$352,000	\$0
12	Wildlife Hazard Assessment	FEDERAL	\$100,000	\$90,000	\$5,000	\$5,000	\$0
13	Construct Terminal Area Expansion - Module 1 - Paving and Marking - Construction	FEDERAL	\$2,575,000	\$2,317,500	\$128,750	\$128,750	\$0
14	Construct Runway 31 Safety Area Extension to 1,000', including Hills Parallel to Runway [Precision B-II to C-III ] - Design	FEDERAL	\$170,000	\$153,000	\$8,500	\$8,500	\$0
15	Construct Terminal Area Expansion - Module 2 - Grading and Drainage - Design	FEDERAL	\$175,000	\$157,500	\$8,750	\$8,750	\$0
16	Construct Airport Entrance Road Extension	OTHER	\$3,000,000	\$0	\$0	\$0	\$3,000,000
17	Construct Corporate / Executive Hangars - Terminal Area	OTHER	\$2,000,000	\$0	\$0	\$0	\$2,000,000
<b>TOTAL PROGRAM - FY2017</b>			<b>\$11,595,000</b>	<b>\$5,935,500</b>	<b>\$151,000</b>	<b>\$508,500</b>	<b>\$5,000,000</b>

**PAULDING NORTHWEST ATLANTA AIRPORT (PUJ)**

**PUJ**

ACIP UPDATE  
FY2016 - FY2020  
( STATE FY)

PRIORITY	PROJECT	SOURCE	TOTAL COST	FAA FUNDS	STATE FUNDS	LOCAL FUNDS	OTHER FUNDS
	<b>FY2018</b>						
18	Reimbursable for Water Quality Monitoring - Year 10	FEDERAL	\$55,000	\$49,500	\$0	\$5,500	\$0
19	Construct Runway 31 Safety Area Extension to 1,000', including Hills Parallel to Runway [Precision B-II to C-III ] - Construction	FEDERAL	\$2,500,000	\$2,250,000	\$125,000	\$125,000	\$0
20	Construct Terminal Area Expansion - Module 2 - Grading and Drainage (Construction)	FEDERAL	\$1,670,000	\$1,503,000	\$83,500	\$83,500	\$0
21	Corporate Hangar Area Expansion - Paving and Marking - Design	FEDERAL	\$75,000	\$67,500	\$3,750	\$3,750	\$0
22	Construct Terminal Area Expansion - Module 2 - Paving and Marking - Design	FEDERAL	\$125,000	\$112,500	\$6,250	\$6,250	\$0
23	Install Approach Lighting System - MALSR (including Tall Towers) - Design	STATE	\$50,000	\$0	\$37,500	\$12,500	\$0
24	Construct Corporate / Executive Hangar - Terminal Area	OTHER	\$1,000,000	\$0	\$0	\$0	\$1,000,000
<b>TOTAL PROGRAM - FY2018</b>			<b>\$5,475,000</b>	<b>\$3,982,500</b>	<b>\$256,000</b>	<b>\$236,500</b>	<b>\$1,000,000</b>








**PAULDING NORTHWEST ATLANTA AIRPORT (PUJ)**

ACIP UPDATE  
 FY2016 - FY2020  
 ( STATE FY)

PRIORITY	PROJECT	SOURCE	TOTAL COST	FAA FUNDS	STATE FUNDS	LOCAL FUNDS	OTHER FUNDS
	<b>FY2019</b>						
25	Corporate Hangar Area Expansion - Paving and Marking - Construction	FEDERAL	\$335,000	\$301,500	\$16,750	\$16,750	\$0
26	Install Approach Lighting System - MALSR (including Tail Towers) - Construction	STATE	\$550,000	\$0	\$412,500	\$137,500	\$0
27	Itinerant Parking Area Expansion - Paving and Marking - Design	FEDERAL	\$75,000	\$67,500	\$3,750	\$3,750	\$0
28	T-Hangar Tie-down Area Expansion - Paving and Marking - Design	FEDERAL	\$75,000	\$67,500	\$3,750	\$3,750	\$0
29	Construct Terminal Area Expansion - Module 2 - Paving and Marking - Construction	FEDERAL	\$2,675,000	\$2,407,500	\$133,750	\$133,750	\$0
30	Construct Corporate / Executive Hangars - Module 1	OTHER	\$4,000,000	\$0	\$0	\$0	\$4,000,000
31	Construct Corporate / Executive Hangars - Terminal Area	OTHER	\$2,000,000	\$0	\$0	\$0	\$2,000,000

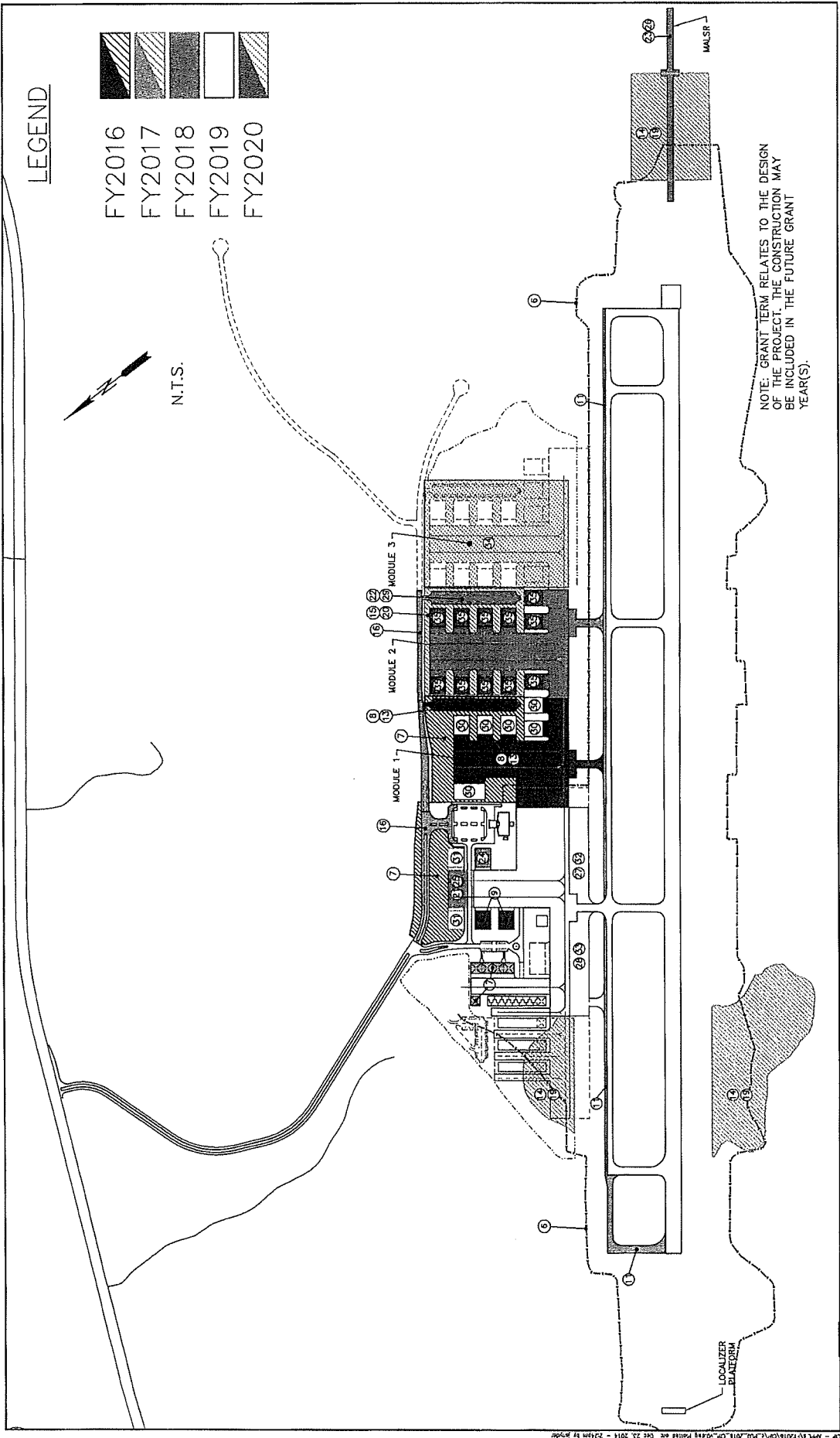
**TOTAL PROGRAM - FY2019 \$9,710,000 \$2,844,000 \$570,500 \$295,500 \$6,000,000**

**LEGEND**


-  FY2016
-  FY2017
-  FY2018
-  FY2019
-  FY2020



N.T.S.



NOTE: GRANT TERM RELATES TO THE DESIGN OF THE PROJECT. THE CONSTRUCTION MAY BE INCLUDED IN THE FUTURE GRANT YEAR(S).

 <b>THE LPA GROUP</b>		<b>PAULDING NORTHWEST ATLANTA AIRPORT (PUJ)</b> DALLAS, GEORGIA		ORDER # JWS DRAWN BY CPC CHECKED BY JWS PROJECT NO.	DATE DECEMBER, 2014
THE LPA GROUP INCORPORATED, TRANSPORTATION CONSULTANTS ATLANTA, GA • BATON ROUGE, LA • CHARLESTON, SC • COLUMBIA, SC • GULFPORT/BILLOX, MS INDOXVILLE, TN • MOBILE, AL • ORLANDO, FL • SINGAPORE, FL • RALEIGH, NC • TAMPA, FL		<b>CAPITAL IMPROVEMENT PROGRAM</b> FY2016 – FY2020		REVISION # DATE DESCRIPTION BY	DRAWING NO. 1

# ATTACHMENT C



## United States Department of the Interior

Fish and Wildlife Service  
105 Westpark Drive, Suite D  
Athens, Georgia 30606

March 28, 2014

West Georgia Sub Office  
P.O. Box 52560  
Ft. Benning, Georgia 31995-2560

Coastal Sub Office  
4980 Wildlife Drive  
Townsend, Georgia 31331

Mr. Rodney Barry, P.E.  
Division Administrator  
GA Division of Federal Highway Administration  
61 Forsyth Street SW, Ste. 17T100  
Atlanta, Georgia 30303  
ATTN: Ms. Chetna Dixon

RE: USFWS Log# 04EG1000-2014-I-0478, GDOT P.I. No. 0007285/0008037, Paulding

Dear Mr. Barry:

Thank you for your January 14, 2014 electronic mail regarding Georgia Department of Transportation (GDOT) project # CSMSL-0007-00(285)/CSAPD-0008-00(037). We submit the following comments under provisions of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

GDOT proposes to construct the Paulding County Business and Technology Park Roadway to develop the Business and Technology Park in Paulding County, Georgia. The project length is approximately 2.2 miles. The site is in the headwaters of the Etowah River's Pumpkinvine Creek basin, and is drained by intermittent tributaries to Bluffy Creek and an unnamed tributary. Bluffy Creek is a known Cherokee darter (*Etheostoma scotti*) stream; we have no fish survey data for the unnamed Pumpkinvine tributary.

In addition, the project lies within the range of three myotis bat species of concern: endangered gray myotis (*Myotis grisescens*); endangered Indiana myotis (*Myotis sodalis*); and proposed endangered northern myotis (*Myotis septentrionalis*). Project studies performed in June 2013 by Copperhead Environmental Consulting determined that the project site is within the home range of a northern myotis maternity colony, as detailed in the December 4, 2013 Protected Bat Survey Report. Copperhead Consulting captured one lactating northern myotis female and one juvenile northern myotis. Studies did not indicate that gray or Indiana myotis were utilizing the site.

### Consultation History

- August 18, 2011: Phone conversation between Pete Pattavina, USFWS and Bruce Hart, Kennedy Engineering Group regarding protected species and aquatic surveys. Mr. Pattavina recommended surveys for threatened Cherokee darters (*Etheostoma scotti*) in streams that would receive increased runoff from impervious surface. Mr. Hart summarized this conversation in an August 19, 2011 email to Mr. Pattavina, stating that FHWA's Federal action would discuss impacts to species protected under the ESA from the roadway and future construction of an industrial business park. Mr. Pattavina concurred, via an August 30, 2011 email, that Mr. Hart's notes accurately reflected the verbal technical assistance provided.
- April 2012: Copperhead Environmental Consulting tracks a female Indiana bat to a maternity roost at Rich Mountain, Gilmer County, expanding the species' summer range into Georgia.
- October 24, 2012: Email from Mr. Pattavina to Rich Williams and Doug Chamblin, GDOT, regarding level of survey effort for bats on north Georgia transportation projects. Mr. Pattavina's

comments regarding project were as follows: “Project located in a large region of forested habitat and approx. 8 miles from historic gray bat caves to the northwest. Project could lie within migration corridor for Indiana bats. Acoustic surveys required. New location roadway, so large displacement of forest anticipated, in addition to accessory growth from technology park. Netting strongly advised to streamline section 7 process for Indiana and gray bats.”

- December 19, 2012: Email exchange between Mr. Chamblin and Mr. Pattavina. Mr. Chamblin relayed information regarding a conversation between Tim Nichols, Kennedy Engineering Group regarding this project and bat surveys. Mr. Pattavina stated that it would be cost effective and provide more reliable information to perform mist net surveys for bats at the same time as acoustic surveys.
- June 19, 2013: Email between Chris Leftwich, Copperhead Environmental Consulting, and Mr. Pattavina. Mr. Pattavina reviewed the proposed bat survey plan and asked Mr. Leftwich if additional studies would be conducted as part of the adjacent airport construction. Mr. Leftwich advised Pete Pattavina that he would forward the question to the engineering firm handling the airport/park construction.
- June 21, 2013: Email from Jeff Van Dyke, RS&H, to Mr. Pattavina. Mr. Van Dyke advised Mr. Pattavina that the airport National Environmental Policy Act Environmental assessment was approved prior to listed bats being an issue. Mr. Van Dyke was uncertain of future airport plans, but assumed that future airport construction would include bat surveys and assessment of effects to listed bat species.
- June 28-29, 2013: Copperhead Environmental Consulting completes bat acoustic and mist netting surveys. Northern myotis captured, indicating the roadway project is within the home range of a maternity colony for the species.
- August 6, 2013: Phone conversation and follow-up email between Collin Lane, Edwards-Pitman, Inc., and Mr. Pattavina. Mr. Pattavina provided updated information regarding aquatic surveys and advised that further aquatic surveys would not be required because indirect effects from increases in impervious surface from the roadway [and airport] would be attenuated in stormwater basins that were previously constructed for the airport.
- October 2, 2013: USFWS publishes in the Federal Register the 12-month finding for northern myotis and proposes the species for endangered status under the ESA.
- January 14, 2014: FHWA requests concurrence of their determination, that the project would have no effect on Cherokee darter, Etowah darter (*Etheostoma etowahae*), or fine-lined pocketbook (*Hamiota altalis*) and was not likely to adversely affect endangered gray myotis, endangered Indiana myotis, and proposed endangered northern myotis.

### **Potential Indirect Effects on Listed and Proposed Listed Species**

Based on a review of aerial photographs, the majority of proposed road right-of-way was cleared of forest between December 30, 2010 and November 19, 2012. GDOT’s December 2013 Ecology Report and consultation documents indicate that 8.0-11.28 acres of forest would be displaced directly through roadway construction and that future economic development made possible by road construction was likely to have additional indirect impacts on downstream aquatic environments and bats due to additional tree clearing, noise disturbance, chemical contamination, and increased stormwater runoff.

**Cherokee Darters:** The December 2013 Ecology Report states that the project will not impact Cherokee darters because no perennial streams were observed within the project survey area. The report, however, does not evaluate indirect impacts to Cherokee darters and their habitat in reaches downstream of the project where stormwater runoff from the proposed land conversion and associated urban development could result in:

- increased turbidity in Bluffy Creek, the unnamed Pumpkinvine Creek tributary, and Pumpkinvine Creek;
- decreased water quality in these reaches due to increased concentrations of herbicides, pesticides, sediment, and other pollutants in stormwater flowing from the site; and/or
- altered downstream hydrology in these reaches, with resulting downstream channel scour, reduced bank stability, and increased long-term sedimentation and turbidity.

Stormwater management from the roadway was not discussed in the Ecology Report, although information provided verbally by Edwards-Pitman, Inc. indicated indirect effects from increases in impervious surface from the roadway would be attenuated in stormwater basins previously constructed for the airport. The Ecology Report states simply that no federally-protected fish would be impacted by the project and there was no need to analyze avoidance and minimization measures.

**Bats:** GDOT proposes to restrict clearing for road construction to times when myotis bats are not likely to be on the project site. This restriction should minimize potential take of rare bats directly associated with construction activities. However, GDOT's restriction does not limit the timing or scope of future economic development that is dependent on the roadway project or account for permanent removal of northern myotis maternity habitat. The current schedule for the project predicts that construction would occur in 2015. Based on current guidance by your agency, we are treating northern myotis as if it were listed to provide consistency for projects that may be implemented subsequent to the anticipated status of northern myotis as endangered under the ESA.

In addition to the indirect effects discussed in GDOT's consultation package, we believe that additional indirect effects to northern myotis could occur from roadway operation, including mortality associated with car strikes, depending upon the speed limit of the road and its usage during evening hours. To assist you with evaluating this potential impact in this and future consultations, we researched the topic and provided some research papers at the end of this letter.

### **Conclusion**

We concur with your determination that the project will have no effect on Etowah darters and fine-lined pocketbooks. Neither of these aquatic species is known to occur in the Pumpkinvine Creek system. We also concur with your determination that the project and is not likely to adversely affect gray or Indiana myotis. Survey results suggest that these bat species are not using the project area, or are present in numbers too low to detect by current FWS methodology. Gray bat foraging and roosting habitat is not present in the project area, and potential Indiana bat habitat is poor.

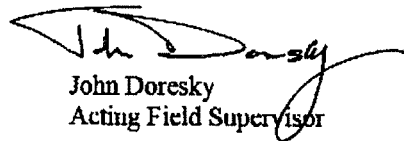
However, we are unable to concur with your determination that the project would have no effect on Cherokee darters and is not likely to adversely affect northern myotis. We respectfully request that your agency and GDOT provide us with:

- An evaluation of stormwater management measures that GDOT or others will implement to minimize impacts of runoff on downstream aquatic habitats;
- An evaluation of total forest acreage that would be converted to technology park development due to construction of the proposed access roads, including a map showing site boundaries that would be developed as part of the county's master development plan, and a description of what indirect effects would be attributable to your agency's Federal action;
- An evaluation of whether the future expansion for the airport/technology park constitutes a separate Federal action from the proposed roadway;

- An evaluation of whether Paulding County's existing Environmental Assessment and corresponding Federal Aviation Administration 2005 Record of Decision for the terminal, runway, and hanger construction included effects of economic development on the whole site;
- An explanation of future Federal actions on the site that may be the subject of our reviews at a later date. It should be noted that, currently, the U.S. Army Corps of Engineers does not consider indirect effects outside of affected waters of the United States, so a permit for wetland or stream fill may not account for impacts to upland bat habitat.

If you have any questions or require further information, please contact staff biologist Pete Pattavina, at 706-613-9493.

Sincerely,



John Doresky  
Acting Field Supervisor

#### **Relevant Literature Regarding Bats and Roadways**

- Bennett, V.J., and A.A. Zurcher. 2013. When corridors collide: Road-related disturbance in commuting bats. *The Journal of Wildlife Management* 77(1):93-101.
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- Butchkoski, C. M., and J. M. Hassinger. 2002. Ecology of a maternity colony roosting in a building. Pp. 130–142, *in* *The Indiana bat: biology and management of an endangered species* (A. KURTA and J. KENNEDY, eds.). Bat Conservation International, Austin, Texas, 253 pp.
- Gaisler, J., Z. Rechak, and T. Bartonicka. 2009. Bat casualties by road traffic (Brno-Vienna). *Acta Theriologica*, 54, 147–155.
- Kiefer A., H. Merz, W. Rackow, H. Roer, and D. Schlegel. 1995. Bats as traffic casualties in Germany. *Myotis* 32-33:215–220
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- Orbach, D.N., and B. Feuton. 2010. Vision Impairs the Abilities of Bats to Avoid Colliding with Stationary Obstacles. *PLoS ONE* 5(11):e13912.
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- U.S. Fish and Wildlife Service. 2007. Indiana Bat (*Myotis sodalis*) Draft Recovery Plan: First Revision. U.S. Fish and Wildlife Service, Fort Snelling, MN. 258 pp.
- Wray, S., P. Reason, D. Wells, W. Cresswell, and H. Walker. 2006. Design, installation and monitoring of safe crossing points for bats on a new highway scheme in Wales. Pages 369-379 In Irwin, C.L., P. Garrett and K.P. McDermott eds. *Proceedings of the 2005 International Conference on Ecology and Transportation*, August 29 – September 2, 2005, Center for Transportation and the Environment, North Carolina State University, Raleigh, NC.

cc: Doug Chamblin, GDOT  
Katrina Morris, GADNR

Enclosures  
File