

Authoritative Evidence

pertaining to Key Issues of
the Buffalo River Bridge at Pruitt
(Bridge # 01689)

Submitted by Justice Arlis Jones, Dist. 8
to the public, to the fellow Justices of the Newton County Quorum Court,
and to the various other public officials acquainted or involved with this matter.

December 2, 2019

Key Issues

including, but not limited to the following, and dispelling MIS-information about:

Misinformation #1: "No Takers" for the old bridge

(see attached pages A, A-1 of official documents proving otherwise)
and 1-28

Misinformation #2: County could not afford "liability" for the old bridge

(see attached pages B, B-1, B-2 of statutes and seminal case law containing current law on the subject which proves the "liability" scare tactic is invalid and has long been readily available to the public, and has been previously submitted to this court. Also, it is widely known that counties have "tort liability-immunity" (Ark Code Ann. 21-9-301 et seq. Also see Ark Code Ann. 18-11-301 et seq. regarding state Recreational Use Statutes) After reading this LAW on the matter, is there anyone who will dare to say that "liability" for the Pruitt Bridge will be any more than for any of the other county owned/maintained bridges/property???)

Misinformation #3: County "would no longer have access to the old bridge" according to

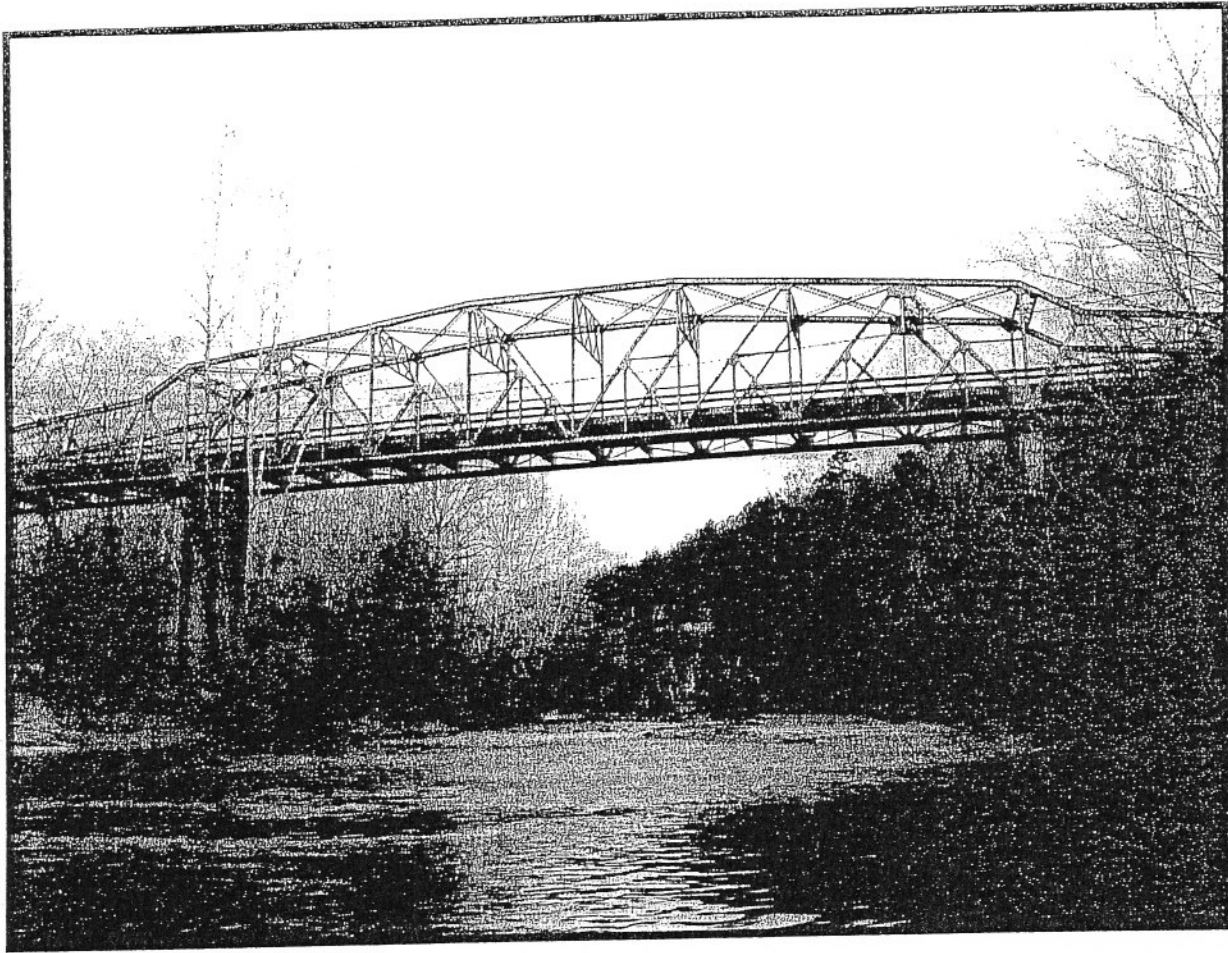
newspaper report that County Judge said "county agreed to trade the approaches... for approaches to the new bridge" (Question: How can county trade something it doesn't own?) (see attached pages C, C-1, C-2 of C-3 November 20, 2019 letter from the legal division of ARDOT stating plainly that "no such agreements exist", and that no such decisions "will be made until the new bridge is complete".)

Misinformation #4: "As a pedestrian bridge, safety would be too much of a concern"

(see attached pages D, D-1, and D-2 of Highway Department memo and other records confirming that the state Highway Department in 2008 performed a "20-year upgrade" and/or "routine maintenance" as a special bonus to the county for taking ownership of the old bridge, to make it safe for vehicular traffic until 2028, which may be translated *indefinitely safe* structurally for pedestrian use, or *certainly safe* for NO use, once vehicular traffic has ceased in 2021. More than \$200,000 available for minimal upkeep such as inspection, cleaning, periodic spot painting to prevent rust, deck patching, etc.)
(County would have option to simply bar access to it if there was no interest in developing it as a pedestrian bridge, letting it simply stand as a memory to our past heritage. OR if interest and activity arose to develop it as a pedestrian attraction to honor its greatly significant historic cultural and economic value to the development of this region, which would draw more visitors to help increase the *current* economic advantage to local businesses, be it known that there are demolition reimbursement and other various preservation funds that will belong to the county for the purpose of upkeep and development, and maintenance as a historic site.) Remember, at last estimate in 2013, the demolition reimbursement amount of \$200,000 that would be for the county or whoever takes ownership with appropriate stipulations. PLUS other preservation award funds also available.

IMPORTANT NOTE: When all other bridges across the Buffalo were replaced *after* the Park arrived, former County officials apparently forfeited their *ownership* of the old bridges/accesses across the Park, probably being unaware that federal law says that such exchanges are to be "approximately equal", *and instead only received limited federal easements for the new bridges.* Now that we county officials have been informed of our rights, WHY would Newton County want to give up FEDERALLY FREE ACCESS across the river and the Park by letting the old bridge be torn down, when we could instead OWN IT and KEEP IT ourselves!!!!????!!

Misinformation #1: "No Takers" for the old bridge
(see attached pages A-1 of official documents proving otherwise)
and 1-28



The Buffalo River Bridge (Pruitt Bridge) was constructed in 1931 by Fred Luttjohann. It was listed on the National Register of Historic Places in 1990 as part of the Historic Bridges of Arkansas, Multiple Property Nomination. The bridge is a Pennsylvania Through Truss with two Warren Pony Trusses attached to the main span. The bridge is 375 feet (114 meters) in length with a 160 foot (49 meter) center span and two pony spans at 80 feet (24 meters) each. The bridge is the only known example of a Pennsylvania Through Truss with attached approach spans and is a unique example of bridge design by the AHTD. In addition to its eligibility to the NRHP under Criteria C for its architecture, it is also considered a contributing element to the District because its construction increased the traffic in the area and greatly contributed to the growth of Pruitt from the 1930s thru the 1960s.

ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Telephone (501) 569-2000



P.O. Box 2261
Little Rock, Arkansas 72203-2261
Telefax (501) 569-2400

May 29, 2003

Honorable Harold Smith
Newton County Judge
Newton County Courthouse
P.O. Box 435
Jasper, AR 72641

*This identical
letter went to
"all on the following" marketing
list" on the same
date. (See next page.)*

Subject: Historic Bridge No. 01689
AHTD Job Number 009784
Buffalo River Br. & Apprs.
Newton County

Dear Judge Smith:

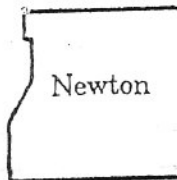
The Arkansas State Highway and Transportation Department Project 009784 will replace bridge number 01689 on Highway 7 in Newton County. This bridge was listed on the National Register of Historic Places as part of AHTD's 1987 Historic Bridge Inventory. The Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) Section 123(f) states: "prior to the demolition of a historic bridge, the State shall market (sell or donate) the bridge to a State or local government, agency or responsible private entity." As part of the mitigation process, AHTD is offering Bridge Number 01689 for sale or donation to any government or entity that demonstrates a willingness to accept title for, preserve the historic integrity of and assume the financial responsibility for the continued maintenance on the structure. AHTD will reimburse costs associated with preservation that could include modifications for recreational use, relocation, site preparation, reassembly, etc. The cost reimbursement to be determined by Federal Highway Administration will not exceed the cost of demolition of the bridge, which will be based on the estimate of AHTD. If you are interested in acquiring this bridge, please respond with a letter of interest within 30 days of receipt of this letter. For further information contact Robert Scoggin at (501) 569-2077.

Sincerely,

Marion Butler
Division Head
Environmental Division

MB:RS/al

c: FHWA
District Nine Engineer
Assistant Chief Engineer for Planning



HAROLD SMITH
NEWTON COUNTY JUDGE

P. O. BOX 435
JASPER, ARKANSAS 72641

PHONE: (870) 446-5127
FAX: (870) 446-5902

*BoD
my sig
DF*

November 20, 2003

Dear Mr. Flowers:

As plans proceed to construct a new bridge on Hwy. 7 at Pruitt, please advise the Commissioner that many of our local residents would like to see the Old Bridge preserved as an historic Landmark. As County Judge, I will work with the commissioner in any way necessary in order to take the current bridge into our County Road System. As always, your assistance and cooperation will be greatly appreciated.

Sincerely,

Harold Smith
Harold Smith
Newton County Judge

RECEIVED

NOV 24 2003

DIRECTOR'S OFFICE
ARKANSAS STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT

cc: Jon Barnett, Commissioner
Randy Laverty, Senator
Mike Hathorn, Representative

RECEIVED
A.H.T.D.

NOV 26 2003

ENVIRONMENTAL
DIVISION

RECEIVED

NOV 25 2003

Asst. Chief Engr.-Planning

RECEIVED

NOV 25 2003

CHIEF ENGINEER'S
OFFICE

2

009784

ARKANSAS STATE HIGHWAY COMMISSION

J.W. "BUDDY" BENAFIELD, CHAIRMAN
HICKORY PLAINS

MARY P. "PRISSY" HICKERSON,
VICE CHAIRMAN
TEXARKANA

JONATHAN BARNETT
SILOAM SPRINGS



CARL S. ROSENBAUM
LITTLE ROCK

R. MADISON MURPHY
EL DORADO

DAN FLOWERS
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-2261
PHONE (501) 569-2000 FAX (501) 569-2400
WWW.ARKANSASHIGHWAYS.COM

December 12, 2003

Honorable Harold Smith
Newton County Judge
Post Office Box 435
Jasper, Arkansas 72641

Dear Judge Smith:

Reference is made to your recent letter concerning the historic bridge on Highway 7 in Pruitt. The Arkansas State Highway and Transportation Department is very pleased you have expressed the willingness to assume responsibility for this bridge upon completion of our project for constructing a new structure. It is an excellent example of this bridge type, and one of only two examples remaining in the state.

We would appreciate correspondence from your office stating that: 1) the bridge will be preserved in place, 2) no significant architectural modifications will be made to the structure that would compromise the historic integrity of the bridge, and 3) you agree to abide by the enclosed Historic Bridge Preservation Guidelines. Upon completion of the construction project, the Department will initiate the transfer of ownership of the Pruitt Bridge to Newton County.

The Historic Bridge Preservation Guidelines also include information regarding the availability and use of Federal funds for historic bridge rehabilitation or reuse. Please advise me should you have questions or require additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dan Flowers", is written over the typed name.

Dan Flowers
Director of Highways
and Transportation

Enclosure

c: Commissioner Jonathan Barnett
Chief Engineer
Assistant to the Director
DF:RS:al:bpm
bc: Assistant Chief Engineer - Planning
Environmental

HISTORIC BRIDGE PRESERVATION GUIDELINES

- Federal legislation makes Highway Bridge Rehabilitation and Replacement (HBRR) funds, which otherwise would have been used for bridge demolition, available for actions to preserve or reduce the impact of the project on a historic bridge.
- In the case of historic bridges that can no longer be used on a public road, reasonable costs associated with preservation could include modification for recreational use, relocation, site preparation, reassembly, etc. Once HBRR funds are used for preservation work on a Historic Bridge, no other Federal funds may be used for that bridge.
- FHWA will determine the reasonable level of funding that will not exceed the estimated cost of demolition as determined by the State Highway Bridge Engineer.
- Transportation Enhancement (TE) funds can be used to rehabilitate historic bridges for both vehicular and non-vehicular uses. Unlike HBRR funding, the use of TE funds does not preclude the use of HBRR or other Federal funding. The TEA-21 program includes 80 percent Federal funding with the remaining 20 percent a mixture of state and/or local funds.
- Maintenance costs (including prepaid annuities) are not eligible for reimbursement.
- Any reuse or rehabilitation of a historic bridge should be performed in a manner that provides a reasonable assurance that the public will be protected.
- No bridge will be donated to a party unless that party agrees to: (1) accept title, (2) maintain (preserve) the bridge and the features that give it historic significance (qualities that qualify it for the National Register), and (3) assume all future legal and financial responsibilities for the bridge and to hold the State highway agency and the FHWA harmless in any liability action.



Marion

BOL
DF

FV

P. O. BOX 435
JASPER, ARKANSAS 72641

HAROLD SMITH
NEWTON COUNTY JUDGE

PHONE: (870) 446-5127
FAX: (870) 446-5902

SC 08

February 10, 2004

RE: Historic Pruitt Bridge

To The Arkansas State Commission,

Newton County will except ownership of the Pruitt Bridge, for Historic Preservation for our County.

A handwritten signature of Harold Smith in cursive.

Harold Smith
Newton County Judge

RECEIVED

FEB 11 2004

CHIEF ENGINEER'S
OFFICE

Copy to DLF for handling
cc: JB
02-10-2004
LHW

RECEIVED

FEB 10 2004

DIRECTOR, CHIEF
ARKANSAS STATE HIGHWAY
TRANSPORTATION DEPARTMENT

RECEIVED

FEB 11 2004

Asst. Chief Engr.-Planning

5

ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Telephone (501) 569-2000



P.O. Box 2261
Little Rock, Arkansas 72203-
2261
Telefax (501) 569-2400

May 26, 2004

Honorable Harold Smith
Newton County Judge
Newton County Courthouse
P.O. Box 435
Jasper, Arkansas 72641

Re: Job Number 009784
Buffalo River Br. & Apprs. (Pruitt)
Newton County, Arkansas

Dear Judge Smith:

Enclosed for your signature is the Historic Preservation Covenant regarding the treatment of AHTD Bridge Number 01689 on State Highway 7 in Newton County. Please sign and return all attached copies (we usually require ten signed copies for our various files). If you need additional information please contact Robert Scoggin of my staff at 501-569-2595.

Sincerely,

Marion Butler
Division Head
Environmental Division

MB:RS/al

Enclosure

6

MEMORANDUM OF AGREEMENT
AMONG THE
FEDERAL HIGHWAY ADMINISTRATION, THE
ARKANSAS STATE HISTORIC PRESERVATION OFFICER, NEWTON COUNTY AND
THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT
REGARDING
THE TREATMENT OF

BUFFALO RIVER (PRUITT) BRIDGE
AHTD BRIDGE NUMBER 01689
ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT
JOB NUMBER 009784
BUFFALO RIVER BR. & APPRS. (PRUITT)
STATE HIGHWAY 7, NEWTON COUNTY, ARKANSAS

WHEREAS, the Buffalo River (Pruitt) Bridge located on State Highway 7 over the Buffalo River in Newton County, Arkansas, is a property listed on the National Register of Historic Places; and

WHEREAS, the Federal Highway Administration (hereafter the FHWA) and Newton County (hereafter the Grantee), both desire that the Buffalo River (Pruitt) Bridge be preserved and protected for the benefit of present and future generations, retaining its historically and architecturally significant features; and

WHEREAS, the FHWA proposes to transfer ownership of the Buffalo River (Pruitt) Bridge to the Grantee; and has determined that the transfer of ownership may result in an adverse effect to this historic property; and

WHEREAS, the FHWA in order to discharge its duties under applicable law desires to ensure that all undertakings will be considered and conducted in accordance with relevant regulatory provisions of Sections 106 and 110 of the National Historic Preservation Act of 1966, as amended, and other pertinent laws, ordinances, and regulations;

NOW THEREFORE, the FHWA and the Arkansas State Historic Preservation Officer (hereafter the SHPO) have agreed, that in order to mitigate the Adverse Effect of the disposal undertaking identified in 36 CFR Part 800.9(b) (5), FHWA will transfer its preservation responsibilities to the Grantee through a Historic Preservation Covenant, as permitted in 36 CFR 36 Part 800 (c) (3), so that a determination of no adverse effect on the Buffalo River (Pruitt) Bridge will occur as a result of the transfer of ownership to the Grantee. The following Historic Preservation Covenant shall be inserted in the instruments of conveyance and will thereafter run with the land:

HISTORIC PRESERVATION COVENANT

Grantee, by acceptance of this deed, covenants and agrees, for itself, its successors and assigns, and for every successor in interest to the property herein described, or any part thereof, it shall abide by each of the following covenants, each of which will be covenants running with the land. In addition, the United States of America, or its designee, shall be deemed a beneficiary of each of the following covenants without regard to whether it remains the owner of any land or interest therein in the locality of the Buffalo River (Pruitt) Bridge hereby conveyed and shall have a right to enforce each of the following covenants in any court of competent jurisdiction; provided, however, the United States, or its designee, shall have no affirmative duty to any successor in title to this conveyance to enforce any of the following covenants herein agreed:


1. The Buffalo River (Pruitt) Bridge will be preserved and maintained in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
2. No physical or structural changes or changes of color or surfacing will be made to the Buffalo River (Pruitt) Bridge, without first notifying in writing the Arkansas State Highway and Transportation Department (hereafter the AHTD) and consulting the SHPO for written approval.
3. Grantee must provide public access to the Buffalo River (Pruitt) Bridge or upon removal of public access must notify AHTD in writing and consult with the SHPO as to the disposition of this historic property.
4. If Grantee is unable to fulfill its preservation responsibilities to the Buffalo River (Pruitt) Bridge, which would dictate the abandonment or removal of the historic property, the Grantee must notify AHTD and the SHPO in writing and produce documentation for the historic property that meets the standards put forth by the Historic American Engineering Record of the National Park Service.
5. In the event of violation of the above restriction, the FHWA or the SHPO may institute an injunction or suit to enjoin such violation or for damages by reason of any breach thereof.
6. These restrictions shall be binding on the FHWA, SHPO and Grantee hereto, their successors, and assigns in perpetuity; however, the SHPO may, for good cause, and with the concurrence of FHWA, modify or cancel any or all of the foregoing restrictions upon written application of the Grantee, its successors or assigns.
7. The acceptance of the delivery of this Deed/Title shall constitute conclusive evidence of the agreement of the Grantee to be bound by the obligations herein set forth.
8. Any proposed changes or modification of the Historic Property shall be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The SHPO shall provide guidance in the planning

and change of the property according to those Standards. If the Grantee and the SHPO are unable to agree on proposed changes, the Grantee shall forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation (hereafter the ACHP). The Grantee, SHPO and ACHP shall reach agreement regarding the proposed changes. If such an agreement cannot be reached, the ACHP shall forward all relevant project materials with comments to the FHWA, or a designee. FHWA or designee will consider such comments and, if necessary, take action in accordance with the terms and conditions of these covenants.

Execution of this Historic Preservation Covenant and implementation of its terms evidence that the Arkansas SHPO agrees that the proposed transfer of ownership with the Historic Preservation Covenant constitutes an undertaking that has no adverse effect on Buffalo River (Pruitt) Bridge, a property listed on the National Register of Historic Places.

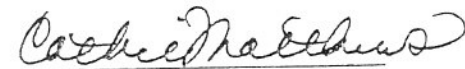
Signatories

FEDERAL HIGHWAY ADMINISTRATION


Sandra Otto
Division Administrator


May 25, 2004
Date

ARKANSAS STATE HISTORIC PRESERVATION OFFICER


Cathie Matthews
Arkansas SHPO

May 20, 2004
Date

NEWTON COUNTY


Harold Smith
Newton County Judge

8-3-04
Date

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Dan Flowers
Director

Date

ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Telephone (501) 569-2000



February 12, 2007

P.O. Box 2261
Little Rock, Arkansas 72203-
2261
Telefax (501) 569-2400

Mr. Randall Wester
Acting Superintendent
Buffalo National River
402 N. Walnut, Suite 136
Harrison, AR 72601

Re: Job Number 009784
Buffalo River Br. & Apprs. (Pruitt)
Newton County

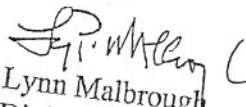
Dear Mr. Wester:

The referenced project proposes to replace the Historic Buffalo River (Pruitt) Bridge on Highway 7 in Newton County. The Pruitt Bridge was determined eligible to the National Register during the first AHTD Historic Bridge Inventory in 1987 and was listed on the Register in 1990.

As part of the NEPA process the Department is required to market any historic bridge that is programmed for replacement. This was done in 2003 and the Newton County Judge expressed an interest in taking over ownership of the Pruitt Bridge in a non-vehicular capacity in its current location, with the Department constructing a new bridge on new location.

The Department is seeking comments from the Buffalo National River on the Newton County Judge's proposal to assume ownership of the Pruitt Bridge in its current location. If you have any questions or need additional information please contact Robert Scoggin of my staff at 501-569-2077.

Sincerely,


Lynn Malbrough
Division Head
Environmental Division

v:RS/pb

Job Numbers
090213, and 009784

H-22

BNR Coordination and Meeting Synopses

Appendix H



IN REPLY REFER TO:

United States Department of the Interior
NATIONAL PARK SERVICE

Buffalo National River
402 N. Walnut, Suite 136
Harrison, AR 72601

RECEIVED
AHTD

APR - 5 2007

ENVIRONMENTAL
DIVISION

H32(BUFF_ORA)

April 3, 2007

Lynn Malbrough
Arkansas State Highway and
Transportation Department
P.O. Box 2261
Little Rock, Arkansas 72203-2261

Dear Lynn Malbrough:

Thank you for your letter regarding the Pruitt Bridge on Highway 7 in Newton County. The staff at Buffalo National River has recently been discussing the possibility of an Interagency Visitor Center on Highway 7 in Newton County with Arkansas Game and Fish Commission, Ozark National Forest and the Hillary Jones Wildlife Museum. The group looked at several potential sites for a visitor center and felt that the northeast side of the Pruitt Bridge could be a possible location. We talked about incorporating the historic bridge into the proposed visitor center grounds, making it safe and functional as a pedestrian bridge. We are not aware of the use Newton County would make of the bridge.

Buffalo National River will be getting a new Superintendent this summer and we would like to have him/her involved in these discussions. We would like to meet with your staff and discuss the old bridge and the new bridge and road alignment in July or August if that is possible. To coordinate a meeting please contact Mark DePoy at (870) 741-5446 ext. 270.

Sincerely,

Douglas A. Wilson
Acting Superintendent



United States Department of the Interior
NATIONAL PARK SERVICE

Buffalo National River
402 N. Walnut, Suite 136
Harrison, AR 72601

IN REPLY REFER TO:

D30 (BUFF)

Lynn P. Malbrough
Division Head
Environmental Division
Arkansas State Highway and Transportation Department
P.O. Box 2261
Little Rock, Arkansas 72203-2261

RECEIVED
AHTD

SEP 10 2007

ENVIRONMENTAL
DIVISION

Dear Mr. Malbrough:

The purpose of this letter is to respond to your August 15, 2007 letter regarding realignment of Highway 7 and replacement of the existing Pruitt Bridge. Please consider Buffalo National River (BNR) as a cooperating agency in this project. We have reviewed the coordination meeting minutes and found them to accurately reflect some of our resource, facility, and transportation access concerns.

In addition, we would like for your environmental document to include analysis of project impacts on downstream mussel beds which contain state listed rare and sensitive fresh water mussel species. Soil erosion and the resulting sedimentation are known to be deleterious to extant mussel communities. Consequently, the environmental analysis should consider mitigation measures that would attenuate and minimize erosion both during construction and subsequent to project completion. BNR Aquatic Ecologist Faron Usrey is very knowledgeable about the river's mussel community and stands ready to assist you with analysis and strategies to reduce erosion and ameliorate sedimentation.

Your letter accurately documents consideration of the glade areas on the river's north side. These glades are sensitive to disturbance and contain rare plants such as ashes juniper, Echinacea and the collared lizard. BNR Biological Technician Ray Wiggs possesses a replete knowledge of these glade resources and will cooperate with you to analyze impacts and synthesize disturbance mitigation measures.

Since highway realignment requires removal of existing vegetation, we ask that you conduct a plant survey of the disturbed area. BNR contains several rare trees such as the American elm, Ozark chinquapin, and American butternut. Additionally, several rare herbaceous plants such as Alabama snow wreath, ginseng, goldenseal, and the yellow lady slipper orchid exist within the park. Therefore, we ask that your botanical survey focus on the above listed plants and if found, work with Chief of Resource Management Mark DePoy to mitigate vegetation community impacts.

Your letter accurately reflects our stated concerns about project impacts on the current day-use recreational area southwest of the existing bridge and the turn lanes that facilitate entrance into current and future recreational areas in the vicinity of the river.

We defer your question regarding the Mill Creek bridge replacement as a separate county project to Newton County. However, since the highway realignment may impact the Mill Creek low water crossing and Mill Creek as a stream, your environmental analysis should include potential impacts to Mill Creek biota, water quality and the existing low-water crossing.

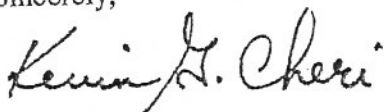
Buffalo National River concurs that the conceptual alternatives shown on the enclosed map and proposed at the meeting by AHTD are viable alternatives to be analyzed in the environmental document.

(BNR is willing to let the existing Highway 7 Bridge remain in-place. However, we do not desire to accept ownership of the bridge after a replacement bridge has been constructed.

BNR would like to be informed of all communications relative to cultural resource issues pertinent to this project. Our park archeologist and section 106 coordinator, Dr. Caven Clark was copied with correspondence dated August 29, 2007 from Ken Grunewald of the Arkansas State Historic Preservation Office to Mr. Lynn P. Malbrough of the Environmental Division of the Arkansas State Highway and Transportation Department with regard to a determination of eligibility. We have received no correspondence regarding the two structures mentioned in the letter, nor on the progress of the archeological survey conducted by John E. Miller of the Arkansas State Highway and Transportation Department under Archeological Resources Protection Act Permit Number 2005-3. We understand, based on a telephone conversation between Mr. Miller and Dr. Clark, that the archeological survey is not yet completed, but would like to remind you that a preliminary report of finding is due to Buffalo National River within six weeks of the conclusion of fieldwork, and a final report is due within six months. We would like the opportunity to be informed of these findings, and to weigh in on any decisions regarding treatment or potential significance of any archeological sites found within Buffalo National River.

We appreciate your cooperation with the environmental review of these projects and look forward to assisting AHTD with synthesis of an environmental impact document. We would like to have the opportunity to review the environmental analysis document prior to public release and to have BNR staff attend the public scoping meetings.

Sincerely,



Kevin G. Cheri
Superintendent

ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Telephone (501) 569-2000



P.O. Box 2261
Little Rock, Arkansas 72203-
2261
Telefax (501) 569-2400

October 10, 2007

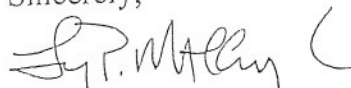
Honorable Harold Smith
Newton County Judge
Newton County Courthouse
P.O. Box 435
Jasper, Arkansas 72641

Re: Job Number 009784
Buffalo River Br. & Apprs. (Pruitt)
Newton County, Arkansas

Dear Judge Smith:

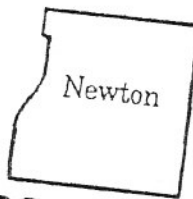
The Buffalo National River has agreed to allow the Arkansas State Highway and Transportation Department (AHTD) to leave Bridge Number 01689 (Pruitt Bridge) in place as part of the proposed project to build a new bridge at the State Highway 7 crossing of the Buffalo River. Due to the length of time since your first letter stating your interest in taking ownership of the Pruitt Bridge in a non-vehicular capacity at its current location, AHTD would appreciate your sending an updated letter stating your County's intention to assume ownership of the bridge. If you need additional information please contact Robert Scoggin of my staff at 501-569-2595.

Sincerely,


Lynn P. Malbrough

Division Head
Environmental Division

P. O. BOX 435
JASPER, ARKANSAS 72641



HAROLD SMITH
NEWTON COUNTY JUDGE

Job 009784

O-Master File-Job 0097
C: Bridge File-Job 0097
C/E. Am's
ENV
Bob Swain

PHONE: (870) 446-5127
FAX: (870) 446-5902

October 11, 2007

To Whom It May Concern:

Newton County is asking for ownership of the Pruitt Bridge (Number 01689) to be left in place for historical purposes. If you need any additional information, please feel free to call me.

Harold Smith
Harold Smith
Newton County Judge

RECEIVED
AUG 16 2007

OCT 16 2007

RECEIVED
BRIDGE DIVISION



United States Department of the Interior
NATIONAL PARK SERVICE

Buffalo National River
402 N. Walnut, Suite 136
Harrison, AR 72601

IN REPLY REFER TO:
D30 (BUFF)

October 8, 2008

Mr. Don Nichols
Arkansas Highway and Transportation Department
P.O. Box 2261
Little Rock, Arkansas 72203-2261

Dear Mr. Nichols:

Buffalo National River (BNR) is willing to take ownership and management responsibility for the existing Highway 7 Pruitt Bridge, subsequent to construction and operation of a new Highway 7 bridge. After the Highway 7 realignment is complete, BNR prefers that the existing highway remain intact from the Pruitt Visitor Station to where the existing highway would intersect with the new highway on the north side of the river. Please incorporate conveyance of bridge ownership from the Arkansas Highway and Transportation Department to Buffalo National River in the Memorandum of Agreement, and include this transaction as a component of the Environmental Assessment.

Your previous offer to convey bridge ownership to Newton County included a proposal to transfer the funding that would be expended to remove the bridge, to Newton County for long-term bridge maintenance. We also request that you transfer these same funds to BNR, so that the bridge infrastructure can be brought up to National Park Service standards and for bridge maintenance, subsequent to and as a condition of the property transfer.

Please contact me at (870) 741-5446 x 240, or email to buff_superintendent@nps.gov if you have further questions regarding these comments.

Sincerely,

Kevin G. Cheri

Kevin G. Cheri
Superintendent

ARKANSAS STATE HIGHWAY COMMISSION

MINUTE ORDER

Page 1 of 1 Page

District: Nine
County: Newton
Category: Miscellaneous

WHEREAS, IN NEWTON COUNTY, Job 009784, Buffalo River Br. & Apprs. (Pruitt) on Highway 7 requires the removal of Bridge 01689, commonly known as the Buffalo River Bridge; and

WHEREAS, the U.S. Department of the Interior, National Park Service, Buffalo National River has requested that the Department transfer Bridge 01689 to the National Park Service for transportation use as a pedestrian bridge; and

WHEREAS, the National Park Service shall agree to adopt a release of title holding the Department, its officers and employees harmless from any action of any kind; to prohibit vehicular traffic on the bridge in perpetuity; and to assume responsibility for maintenance and inspection of the bridge in consideration for the transfer of the bridge to the National Park Service.

NOW THEREFORE, the Director is authorized to release the bridge commonly known as the Buffalo River Bridge (Bridge 01689) to the National Park Service upon completion of Job 009784.

Approved:

Chairman

Vice-Chairman

Member

Member

Member

Env.

Submitted By:

Assistant Chief Engineer - Planning

Approved:

Director

Minute Order No.

Date Passed

JAN 7 2009

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

INTER OFFICE MEMORANDUM

January 9, 2009

TO: Mr. Phillip McConnell, Assistant Chief Engineer for Design

FROM: Phil Brand, Chairman-Historical Bridge Analysis Committee

SUBJECT: Job No. 009784, Buffalo River Br. & Apprs. (Pruitt) (S)
Historic Bridge Analysis Committee Recommendation for
Buffalo River Bridge

CJB

Bridge No. 01689 on State Highway 7, Log 20.15 in Newton County over Buffalo River was built in 1931. The bridge has a current sufficiency rating of 7.3, SD. It is eligible for replacement using Federal Bridge Replacement funding and has been programmed for replacement by Job No. 009784.

This bridge is listed on the National Register of Historic Places. The bridge is 375' long and has a 20' clear roadway. It is a 320 feet, 3-span continuous Pennsylvania through truss, which is considered historically significant. One reinforced concrete tee-beam approach span abuts the south approach.

As part of the process used when historic bridges are programmed for replacement, the Historic Bridge Analysis Committee (HBAC) reviewed five options for AHTD retaining the bridge:

- 1) Take no action;
- 2) Rehabilitate Bridge;
 - a. Rehabilitate the existing bridge for two lanes of traffic;
 - b. Rehabilitate the existing bridge for one lane of traffic, and construct a new bridge with one lane of traffic, with each conforming to minimum design standards;
 - c. Rehabilitate the existing bridge to below the minimum design standards for one lane of traffic, and construct a new bridge to minimum design standards for one lane of traffic;
- 3) New Location Alternative;
 - a. Construct a new bridge for two lanes of traffic with the Department maintaining ownership of the bridge;

- b. Construct a new bridge for two lanes of traffic with another entity maintaining ownership of the bridge.

Since the purpose of this project is to improve the facility, and given that the Department does not wish to reduce its minimum design standards for safety reasons, the HBAC determined that the options for rehabilitating the bridge were not viable due to the increased costs to the project or adverse impacts to the historic integrity of the bridge, and recommended that the bridge be marketed.

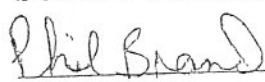
Through the subsequent marketing efforts of the Environmental Division, the Buffalo National River (BNR) has requested that the bridge be left in place and ownership transferred to them for use in a non-vehicular capacity.

The Department has estimated the contract demolition costs for this bridge to be \$82,000. In accordance with FHWA rules, the amount of funds equal to the estimated demolition costs can be applied to preserving the historic bridge.

The HBAC discussed BNR's request and recommended it be approved and that the bridge be left in place, with the BNR accepting title to the bridge and that the \$82,000 would be made available for reimbursement to the BNR for historic preservation work on the bridge until 18 months after the contract completion of Job No. 009784.

Appropriate agreements to provide for the transfer of ownership reflecting the above stipulations will be prepared for the signatures of the proper officials upon approval of this recommendation.

SUBMITTED: Historical Bridge Analysis Committee


Chairman

1/9/2009
Date


RECOMMENDED: Historical Bridge Analysis Review Committee


ACE-Design


ACE-Planning


FHWA

APPROVED:


Deputy Director & Chief Engineer

1/23/09
Date



United States Department of the Interior

NATIONAL PARK SERVICE

Buffalo National River
402 N. Walnut, Suite 136
Harrison, AR 72602

IN REPLY REFER TO

L7617 (BUFF-ONR)

May 21, 2009

RECEIVED
AHTD

MAY 21 2009

ENVIRONMENTAL
DIVISION

Lynn P. Malbrough
Division Head
Environmental Division
Arkansas State Highway and Transportation Department
P.O. Box 2261
Little Rock, Arkansas 72203-2261

Dear Mr. Malbrough:

The purpose of this letter is to provide a written response to the Draft Environmental Assessment and Section 4(f) Evaluation for the Highway 7 Passing Lanes, Safety Improvements, and Buffalo River Bridge and Approaches. On May 14, 2009, we met with Arkansas Highway and Transportation Department (AHTD) representatives Don Nichols and John Harris and Randal Looney of the Federal Highway Administration this morning to provide suggestions and discuss several concerns related to the draft document. The comments are arranged by topic.

We have found a few errors of the editorial type throughout the document.

1. On page 1, paragraph 2, the county roads are mislabeled, CR 78 goes to the Pruitt Maintenance Shop.
2. The Pruitt Day Use Area has no CR number that we are aware of.
3. On page 6, paragraph 1, the description of the shoulder width should have meters in the parentheses.
4. On page 40 in the first full paragraph, hunting should be added to the list of recreational activities.
5. On page B-6, Section 5, the second sentence should be changed to "A bat hibernaculum for the gray bat that also hosts a summer colony of gray bats was identified approximately 0.33 mile (0.53 kilometer) from AHTD Job Number 009784, the Buffalo River Bridge Replacement Section."
6. On page B-8, section 6, second paragraph, remove "transient" from the third sentence.
7. On page E-6 second paragraph, remove "as a natural recreation area" in the first sentence, and change "recreation area" in the fourth sentence to "national river".

8. The reference to canoeists in the second paragraph of page E-7 should be changed to "boaters".
9. On page E-12 in the last paragraph, add hunting to the list of recreational opportunities in the area.
10. On page E-19 in the first sentence the word "additional" should be added in front of "right of way"

We feel the analysis is insufficient to comprehensively evaluate all feasible options and all the potential alternatives have not been identified within the existing document. We prefer that you obtain public comments before a preferred alternative is selected. We request, once again, that one of the alternatives examines removal of the existing bridge. This could be done by developing additional alternatives for the Buffalo River West (BRW) and Buffalo River East (BRE) corridors, without the bridge. There are a number of reasons we are requesting this change.

1. We believe that Structures A or B will lose their historic value and current function when the new highway and bridge are constructed.
2. We believe the historic significance of the Pruitt district will be diminished by the construction of a second bridge.
3. We do not feel the public has been afforded adequate opportunity to discuss this topic.
4. We feel the visitor enjoyment of the area will be significantly degraded by the construction of a second bridge across the river at Pruitt.
5. The southern approach to the 1937 bridge constricts the floodplain of the Buffalo River. We prefer to minimize impacts to the floodplain, and feel removal of this earthen dike would improve floodplain function.
6. The impacts to the Pruitt day use area have been inadequately analyzed.

The Biological Analysis needs to evaluate potential impacts to the collared lizard (*Crotaphytus collaris*) by the BRW alternative. The actions described in the alternatives will impact the edge of the Pruitt glade via the relocation of a portion of county road 80. The Pruitt glade provides habitat for this species. The road work required to build the BRW alternative may diminish collared lizard populations and impair recovery of the species.

The Biological Assessment also needs to examine the potential impacts of the alternatives upon the chorus frog and tree frog. Both species are present in the Buffalo River and are considered sensitive, but population impacts are not discussed. The BRW alternatives are less likely to cause harm to other sensitive aquatic resources than the BRE alternative.

The sensitive plant resources present at the Pruitt day use area need to be evaluated for transplanting in the BA. For example, Alabama snow wreath is extant within the BRW footprint and can be successfully relocated. Consequently, the BA should evaluate transplanting rare plants.

Prevention of water pollution from the construction activities is a prime concern. We ask that AHTD ensure the Storm Water Pollution Prevention Plan consider impacts to the

Buffalo River and Mill Creek and other streams that exist within the construction corridor.

We would like to see utilization of native plants and rock in a manner that harmonizes with the existing landscape.

1. We are not in favor of retaining walls as they will be visually distracting and will not harmonize with the natural curvature of the landscape.
2. We would like to see rip-rap or ditch liners used with vegetative inter-plantings wherever possible.
3. We prefer rip-rap that is stacked in place rather than dumped.
4. The geology of the Buffalo River valley in the Pruitt area starts out in the Ordovician age Everton formation near river level. At approximately 900 feet in elevation on the south side of the bridge, the rock changes to the Boone limestone of Mississippian age. It remains in the Boone formation for most of the remaining distance to the southern terminus of the passing lane section. North of the river, the entire project is located in the Everton formation. To place rip-rap and ditch linings in the context of the environment, it is important to try and match the color and texture of the bedrock geology. We suggest Everton formation materials be used in the Everton sections, with Boone formation materials used in the Boone formation sections of the project.
5. The EA fails to discuss the impact of fill areas on the view of the landscape. This should be corrected.

We do not believe the noise impacts as presented in the EA and Appendix F adequately address or model the noise impacts the bridges will create. We would like to see noise modeling with a larger number of points. Some of these points should be on the river, below, upstream, and downstream of the current bridge. Other points should be scattered through the picnic area, around the visitor contact station, and at the canoe launch and parking area. We expect the new bridge to be louder simply as a function of size, increased traffic speed, and increased traffic volume. We are very sensitive to intrusion of man-made sounds on this natural environment.

We feel the EA needs to describe the impacts of placing the telephone line underground for the length of the project on NPS property. This will include design of conduit or some other method to bring the line across the new bridge. We also suggest AHTD be prepared to meet a demand to place a rural water system line in the new bridge design. In the alternatives where the 1937 bridge is removed, we request AHTD incorporate a pedestrian walkway or walkways on the bridge to accommodate foot traffic, viewing of the river, and photography.

The increased sight distance that would be created on the north side of the bridge is likely to improve the safety of equestrians crossing the highway from the horse trail. We request AHTD evaluate the sight distances that may be created on both the north and south side of the new bridge, and evaluate the influence this may have on people and horse riders crossing the road.

We believe the bridge alternatives, other than no-action, will severely degrade the cultural and historic integrity of the viewshed and the district. We feel the structures will lose their context in the district with the build alternatives. We also feel the function these structures have served since the mid 1970's will be lost. We are in favor of removing these structures with proper documentation rather than attempting to save two structures that will lose their adaptive use and serve no purpose. These structures will require continued maintenance to preserve and to keep our visitors safe from structural deficiencies.

With regards to archeological resources, there is insufficient information in the EA to make a determination of a preferred alternative. We strongly recommend AHTD begin Phase 1 evaluation of archeological deposits as soon as practicable. We routinely find deeply buried deposits in the floodplains of the Buffalo River, and fully expect this to continue. The Phase 1 investigations should look at both the BRE and BRW alternatives so a fair comparison of impacts may be developed before a preferred alternative is chosen.

We request an analysis in Tables 4 and E-2 of the total footprint of direct impact for each alternative. This will allow for better comparisons.

The NPS has been considering the construction of a new visitor center northeast of the 1937 bridge. This is contrary to the information provided in section 4.25.

The NPS concurrence on the BRW alternative was based upon scoping, and not the result of thorough analysis of impacts. The text in section 7.1 should be modified to reflect this.

Thank you for the opportunity to meet with your staff and comment on this draft. If you have any specific questions regarding these items contact Chuck Bitting at (870) 365-2762

Sincerely,



Kevin G. Cheri
Superintendent

ARKANSAS STATE HIGHWAY COMMISSION

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CLIFF HOOFFMAN
NORTH LITTLE ROCK

DICK TRAMMEL
ROGERS

DAN FLOWERS
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

July 20, 2009

RECEIVED
AHTD

JUL 21 2009

ENVIRONMENTAL
DIVISION

The Honorable Randy Lavery
State Senator
P.O. Box 303
Jasper, AR 72641

Dear Senator Lavery:

Reference is made to your past inquiries into the status of the passing lane and bridge replacement work proposed for Highway 7 near Pruitt.

Coordination efforts between the Department and the Buffalo National River (BNR) regarding the existing Highway 7 bridge have been ongoing since October 2002. As you are aware, the existing bridge is on the National Register of Historic Places. The Department has been consistent throughout the discussions that the existing bridge would remain in place after the new bridge is constructed if an entity agreed to take ownership of the existing bridge.

Newton County agreed in 2004 to take ownership of the bridge. In April 2007, the BNR expressed interest in incorporating the existing bridge into its plans for a new visitor center. In September 2007, the BNR stated that they would be willing to let the existing bridge remain in place, but they were not interested in ownership of the bridge. In October 2008, the BNR stated that they were willing to take ownership of the existing bridge.

However, in recent coordination with the BNR, they have stated that they are no longer willing to accept ownership of the existing bridge, and that the existing bridge remaining in place is not acceptable to them. Their current position stems mainly from concerns over continuing maintenance costs and having a restriction to water flow in the floodplain.

This change in position by the BNR is again stalling the completion of the environmental documentation for the bridge replacement, the passing lane construction, and the safety improvements that are scheduled in Newton County within the BNR boundary.

ARKANSAS STATE HIGHWAY COMMISSION
LITTLE ROCK, ARKANSAS

The Honorable Randy Laverty
July 20, 2009

Page Two

If the existing bridge is to be demolished, the BNR will concur and the environmental documentation can be completed, thus allowing project development to proceed. The historic bridge will be pictorially documented, and the document kept on file at the Department, the BNR visitor center, and any other desired location(s).

In order to keep the existing bridge from being demolished, the Department will again have to market the bridge to determine if any public entity is interested in taking over ownership and relocating the bridge. For your information, the current Newton County Judge has indicated that he is not interested in taking ownership of and relocating the existing bridge. This additional marketing effort will continue to delay project development.

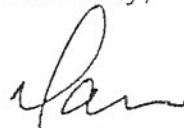
Again, it appears that the BNR will no longer agree to an environmental document that includes leaving the existing bridge in place, no matter who the owner of the existing bridge would be.

For your information, the aesthetics of the new bridge will be coordinated with the BNR and local officials to ensure that it is "context sensitive," that is, that it will fit in with the history and nature of the area. Also, for boaters and canoers on the river, the new bridge will be located upstream of the existing bridge, and will therefore be the first bridge in sight by those traveling down the river.

I would appreciate it if you would contact me to provide your thoughts on this issue.

Should you have further questions or need additional information, please advise. Thank you for your interest in this matter.

Sincerely,



Dan Flowers
Director of Highways
and Transportation

c: Commissioner Dick Trammel
Deputy Director and Chief Engineer
Assistant Chief Engineer-Planning
Environmental
District 9 Engineer

AP IMPACT: Bad bridges passed up for stimulus cash Associated Press

By BRETT J. BLACKLEDGE and MATT APUZZO, Associated Press Writers
Fri Jul 31, 8:16 am ET

WASHINGTON — Tens of thousands of unsafe or decaying bridges carrying 100 million drivers a day must wait for repairs because states are spending stimulus money on spans that are already in good shape or on easier projects like repaving roads, an Associated Press analysis shows.

President Barack Obama urged Congress last winter to pass his \$787 billion stimulus package so some of the economic recovery money could be used to rebuild what he called America's "crumbling bridges." Lawmakers said it was a historic chance to chip away at the \$65 billion backlog of deficient structures, often neglected until a catastrophe like the Minneapolis bridge that collapsed two years ago this Saturday.

States, however, have other plans. Of the 2,476 bridges scheduled to receive stimulus money so far, nearly half have passed inspections with high marks, according to federal data. Those 1,123 sound bridges received such high inspection ratings that they normally would not qualify for federal bridge money, yet they will share in more than \$1.2 billion in stimulus money.

The wooden bridge built in 1900 carrying Harlan Springs Road in Berkeley County, W.Va., is one of the nation's unsafe structures not being repaired. About 2,700 cars cross it every day. But with holes in the wooden deck and corroded railings and missing steel poles, only one car at a time can travel the 300-foot rickety span.

The bridge is an example of how Obama's call to spend recovery money quickly — on "shovel ready" projects to get people back to work — has clashed with other goals of the stimulus, such as targeting high-unemployment areas and rebuilding the nation's infrastructure. State transportation officials say the need for speed makes it hard to funnel money into needy counties or to take on extensive bridge repairs that can involve years of planning and construction.

Repaving or widening roads requires less planning and can be done quickly, which is why such projects account for 70 percent of the \$17 billion in transportation stimulus money approved so far. Bridge projects represent 12 percent.

The spending decisions by states are OK with the Obama administration.

Ed Deseve, the president's chief executive of the stimulus, said the administration understands the desire to tackle "longer-term, gleam-in-the-eye projects" but told states "please, give us your shovel-ready projects."

The idea, he said, was to provide an immediate jolt to the nation's economy.

"We're delighted states are able to move quickly," Deseve said.

A few states, such as Virginia and South Carolina, are targeting their troubled bridges. In all, 1,286 deficient or obsolete bridges are expected to share \$2.2 billion in stimulus money for repairs, the AP analysis shows.

But that's less than 1 percent of the more than 150,000 bridges nationwide that engineers have labeled deficient or obsolete. Of those, more than 39,000 are considered the worst, rated poor in at least one structural component and eligible to be replaced with federal money.

William Stubblefield, a Berkeley County, W.Va., commissioner, said he's confident state transportation officials are monitoring bridge safety and money will come soon for his county's bridges. The wooden bridge in Berkeley County is among more than a third of the state's 7,064 bridges deemed deficient or obsolete by inspectors.

Safety problems are so obvious on some spans, like the Harlan Springs bridge, that engineers have restricted traffic.

"If we're seeing some obvious deterioration, that's too late," Stubblefield said.

For its analysis, the AP asked each state and the District of Columbia to identify every bridge on which it planned some work using stimulus money. In some states that represented a final list. In others, new projects could be added. Most states provided project costs, but some did not. Some states included in their costs other road work related to the bridge project, like paving or widening nearby roads.

The AP then researched each bridge using the latest inspection data available from the Transportation Department.

operation — scoring a 3 out of 100 for structural sufficiency.

State officials couldn't commit stimulus money to the project, which already was getting local and state funds, said Paula Hammond, the state's transportation secretary. The South Park bridge was not a state priority, and officials needed to focus on projects that could be completed quickly, Hammond said.

"Every state is going through this because speed was a major, major factor for us," she said.

More than a quarter of Washington's 7,763 bridges are either deficient or obsolete, inspection records show.

With \$27 billion in highway and bridge money, the stimulus provided an important stopgap but is too little to remake the U.S. transportation infrastructure, she added.

"If you wanted that to happen," Hammond said, "you'd probably have to multiply that number by 10."