

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Scott E. Bennett
Director
Telephone (501) 569-2000
Voice/TTY 711



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

June 2, 2017

Mr. Angel Correa
Division Administrator
Federal Highway Administration
700 West Capitol, Room 3130
Little Rock, Arkansas 72201-3298

Re: July 2017 Pavement Preservation
Projects
Benton County
Tier 3 Categorical Exclusion

Dear Mr. Correa:

The Environmental Division has reviewed the referenced projects and they fall within the definition of the Tier 3 Categorical Exclusion as defined by the AHTD/FHWA Memorandum of Agreement on the processing of Categorical Exclusions. The following information is included for your review and, if acceptable, approval as the environmental documentation for these projects.

The purpose of these projects is to preserve and rehabilitate deteriorated highway pavement. More information on the location and scope of each project can be found in the following table. The existing cross sections will not change as a result of the proposed projects and no additional right of way will be required. Project location maps are enclosed.

JOB NO.	FAP NO.	COUNTY	JOB NAME	ROUTE	TYPE OF WORK
050386	STPR-0032(31)	Independence	Hwy. 14 - North (S)	Hwy. 122	UTBWC/Polymer
090492	STPF-0004(68)	Benton	Hwys. 94 & 264 (Sel. Secs.) (S)	Hwys. 94 & 264	Overlay
012287	STPF-0076(137)	White/Woodruff/Cross	Hwy. 367 - Crittenden Co. Line (S)	Hwy. 64	Overlay/Polymer Bridge Deck Overlay/Guardrail Upgrade

Based upon the AHTD's *Policy on Highway Traffic Noise Abatement*, a noise analysis is not required for these projects. These projects meet the criteria for Type III projects as established in 23 CFR 772 and, therefore, do not require analysis for highway traffic noise impacts. Type III projects do not involve added capacity, construction of new through lanes or auxiliary lanes, changes in the horizontal or vertical alignment of the roadway or exposure of noise sensitive land uses to a new or existing highway noise source. AHTD acknowledges that a noise analysis is required if changes to the proposed projects result in reclassification to Type I.

There are no relocations, wetlands, cultural resources, hazardous materials, or prime farmland impacts associated with these projects. There are no *Executive Order 12898* Environmental Justice issues involved with these projects. Cultural resources clearances are enclosed.


Part of AHTD Job 050386 runs along the White River, which has known populations of endangered mussel species (rabbitsfoot, pink mucket, and scaleshell) and the endangered Ozark hellbender. Part of AHTD Job 090492 runs along the Cave Springs Cave, which has known populations of the endangered Ozark Cavefish. AHTD Job 012287 runs along various waterways with known populations of endangered mussel species (fat pocketbook, pink mucket, scaleshell, and rabbitsfoot) and the threatened northern long-eared bat. The U.S. Fish & Wildlife Service (USFWS) concurred with the effects determination for both projects of "may affect, but not likely to adversely affect" listed species and critical habitat with a special provision that incorporates additional water pollution control measures in the construction contracts. USFWS clearances are enclosed.

No streams will be impacted as part of AHTD Jobs 050386 or 090492. Several streams will be impacted as part of AHTD Job 012287 in order to relocate driveways at bridge ends to allow for additional guardrail treatments or guardrail extensions. Construction should be allowed under the terms of a Nationwide 14 Section 404 Clean Water Act Permit for Linear Transportation Projects as defined in the Federal Register 82(4):1860-2008.

If you have any questions, please contact the Environmental Division at 569-2281.

APPROVED

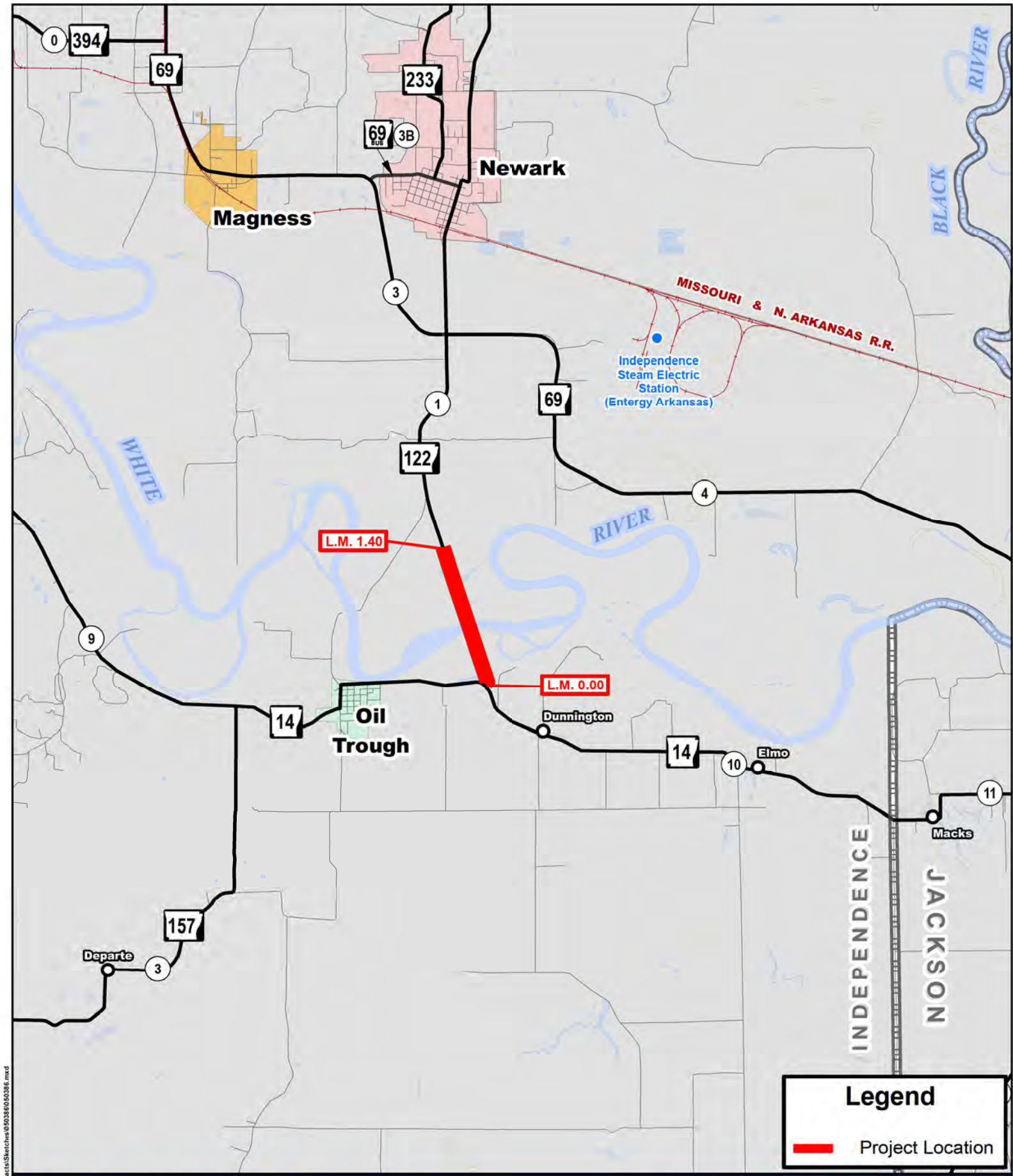
Environmental Specialist
Federal Highway Administration
Date: 6/2/2017

Sincerely,

for John Fleming
Division Head
Environmental Division

Enclosures

JF:SS:fc

c: Program Management
Right of Way
Districts 1, 5, & 9
Master File



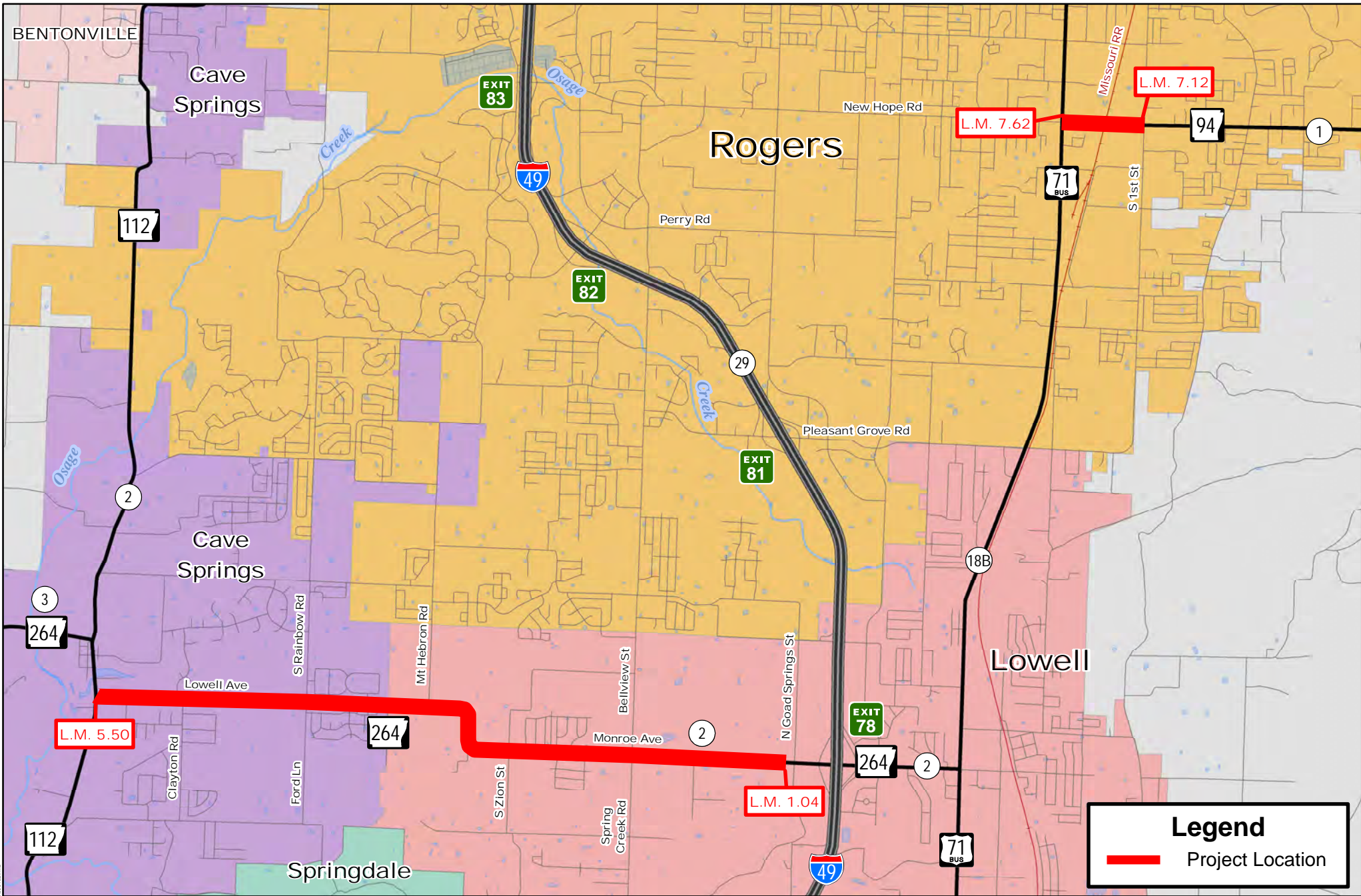
Legend

█ Project Location

Job 050386
Hwy. 14 - North (S)
Hwy. 122, Sec. 1
Independence County



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Job 090492

Hwys. 94 & 264 (Sel. Secs.) (S)

Hwy. 94 & 264 Secs. 1 & 2

Benton County

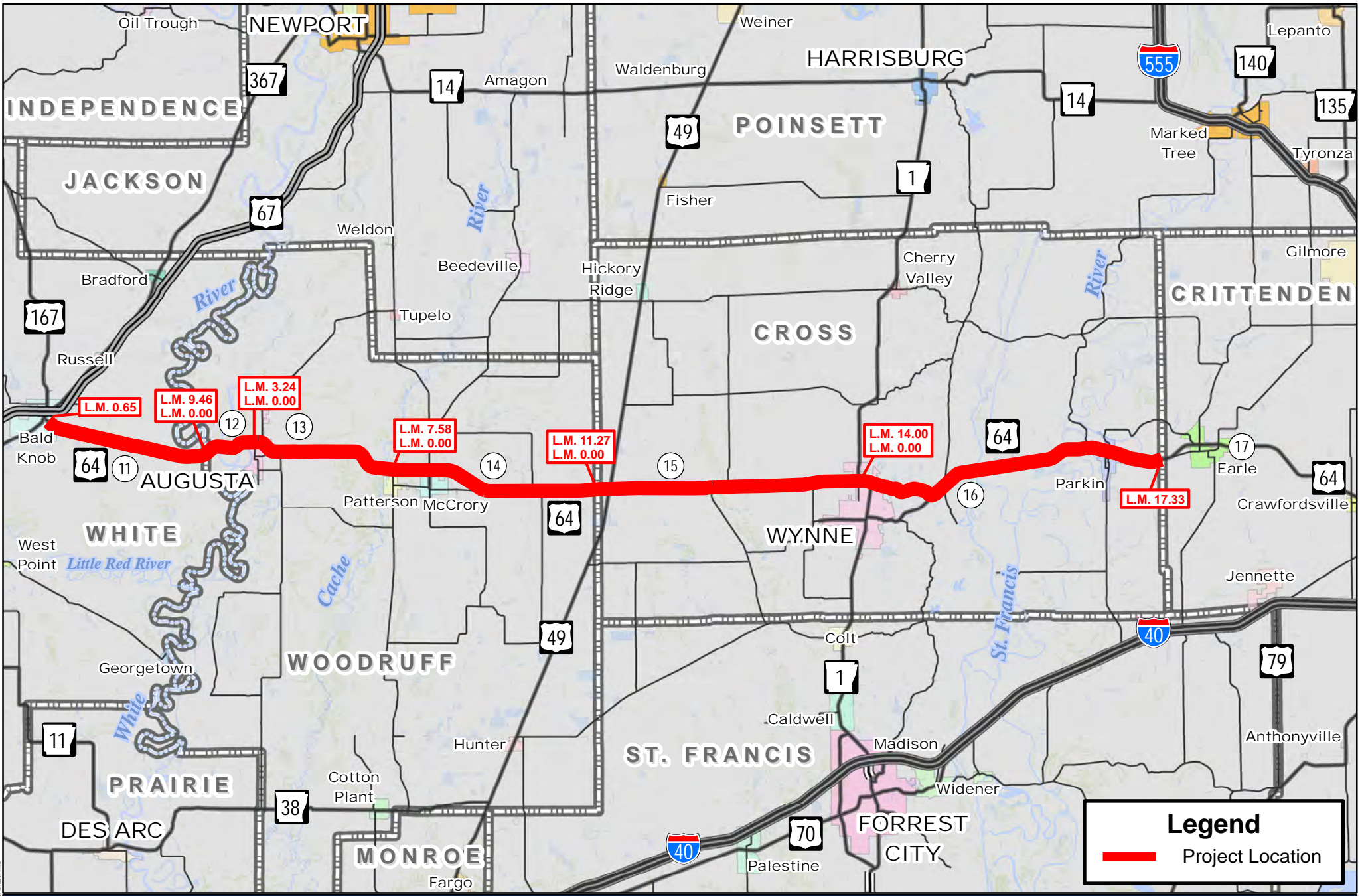


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PM: PS: dmsp211: 7/21/2016



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Job 012287
 Hwy. 367 - Crittenden Co. Line (S)
 Hwy. 64, Secs. 11, 12, 13, 14, 15 & 16
 White, Woodruff & Cross Counties

PM: PS: dmsp211: 1/23/2017

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ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

INTEROFFICE MEMORANDUM

September 8, 2016

TO: Environmental Job Files

FROM: William McAlexander, Environmental Scientist I *W M Alexander*

SUBJECT: Archeological Clearance
AHTD Job No. 050386
Hwy. 14 - North (S)
Independence County

The above referenced project involves resurfacing the roadway in Independence County. There will be no excavation of the road base. The project is designed to improve traffic safety and flow along this portion of the route.

An examination of the Arkansas Archeological Survey's (AAS) records was conducted for previously recorded archeological sites. No recorded sites are located within the proposed project area. A records check at the Arkansas Historic Preservation Program (AHPP) for properties listed in or eligible for the National Register revealed none for the area. The Newark topographical map was examined for cemeteries, potentially historic structures, and landforms conducive to hold archeological sites. The 1855 General Land Office plat showed no improvements or cultural features in the immediate vicinity of the project area. The 1936 Independence County road map showed several structures near the project area. A visual survey found no historic properties.

The project will be constructed within the existing roadbed and does not have the potential to affect any undisturbed land surfaces or potential cultural resources. This project is subject to the 1999 MOA and falls under the exempted work category "Resurfacing". This project is not considered an undertaking and requires no further work or Section 106 review.

RECEIVED
AHTD

NOV 08 2016

ENVIRONMENTAL
DIVISION

ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

AHPP

OCT 27 2016

96762

FHWA

Scott E. Bennett
Director
Telephone (501) 569-2000
Voice/TTY 711



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

October 26, 2016

Mr. Robert Scoggin
Arkansas Historic Preservation Program
1100 North Street
Little Rock, AR 72201

RE: AHTD Job No. 090492
Hwys. 94 7 264 (Sel. Secs) (S)
Benton County

Dear Mr. Scoggin:

Enclosed for your review is a Project Identification Form regarding the above referenced project. Please provide your effect finding as soon as possible. If you have any questions, contact Kristina Boykin of my staff at 569-2079.

Sincerely,

A handwritten signature in blue ink that reads 'John Fleming'.

John Fleming
Division Head
Environmental Division

Enclosure
PIF

JF:DW:KB:ym

Date **NOV 04 2016**
No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.
A handwritten signature in black ink that reads 'Frances McSwain'.
Frances McSwain, Deputy State
Historic Preservation Officer

ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

98356
FHWA

Scott E. Bennett, P.E.
Director
Telephone (501) 569-2000
Voice/TTY 711



P.O. Box 2261
Little Rock, Arkansas 72203-2261
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www.arkansashighways.com

May 16, 2017

RECEIVED
AHTD

MAY 19 2017

AHPP

ENVIRONMENTAL
DIVISION

MAY 17 2017

Ms. Stacy Hurst
Arkansas Historic Preservation Program
1100 North Street
Little Rock, AR 72201

RE: AHTD Job No. 012287
Hwy. 367 – Crittenden Co. Line (S)
White, Woodruff, & Cross Counties

Dear Ms. Hurst:

Enclosed for your review is a Project Identification Form regarding the above referenced project. Please provide your effect finding as soon as possible. If you have any questions, contact Richard Jenkins of my staff at 569-2357.

Sincerely,

Brenda Price

for John Fleming
Division Head
Environmental Division

Enclosure
PIF

JF:DW:RJ:ym

MAY 17 2017

Date: _____

No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.

Russell

Arkansas State Historic Preservation Office

MAY 17 2017



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Arkansas Ecological Services Field Office
110 South Amity Suite 300
Conway, AR 72032-8975
Phone: (501) 513-4470 Fax: (501) 513-4480
<http://www.fws.gov/arkansas-es>

In Reply Refer To:

June 02, 2017

Consultation Code: 04ER1000-2017-SLI-0834

Event Code: 04ER1000-2017-E-01236

Project Name: 050386

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies endangered, threatened, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). **This letter only provides an official species list and technical assistance; if you determine that listed species and/or designated critical habitat may be affected in any way by the proposed project, even if the effect is wholly beneficial, consultation with the Service will be necessary.**

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found on our website.

Please visit our website at <http://www.fws.gov/arkansas-es/IPaC/home.html> for species-specific guidance to avoid and minimize adverse effects to federally endangered, threatened, proposed, and candidate species. Our web site also contains additional information on species life history and habitat requirements that may be useful in project planning.

If your project involves in-stream construction activities, oil and natural gas infrastructure, road construction, transmission lines, or communication towers, please review our project

specific guidance at <http://www.fws.gov/arkansas-es/IPaC/ProjSpec.html>.

The karst region of Arkansas is a unique region that covers the **northern third of Arkansas** and we have specific guidance to conserve sensitive cave-obligate and bat species. **Please visit <http://www.fws.gov/arkansas-es/IPaC/Karst.html> to determine if your project occurs in the karst region and to view karst specific-guidance.** Proper implementation and maintenance of best management practices specified in these guidance documents is necessary to avoid adverse effects to federally protected species and often avoids the more lengthy formal consultation process.

If your species list includes any mussels, Northern Long-eared Bat, Indiana Bat, Yellowcheek Darter, Red-cockaded Woodpecker, or American Burying Beetle, your project may require a presence/absence and/or habitat survey prior to commencing project activities. Please check the appropriate species-specific guidance on our website to determine if your project requires a survey. We strongly recommend that you contact the appropriate staff species lead biologist (see office directory or species page) prior to conducting presence/absence surveys to ensure the appropriate level of effort and methodology.

Under the ESA, it is the responsibility of the Federal action agency or its designated representative to determine if a proposed action "may affect" endangered, threatened, or proposed species, or designated critical habitat, and if so, to consult with the Service further. Similarly, it is the responsibility of the Federal action agency or project proponent, not the Service, to make "no effect" determinations. If you determine that your proposed action will have "no effect" on threatened or endangered species or their respective critical habitat, you do not need to seek concurrence with the Service. Nevertheless, it is a violation of Federal law to harm or harass any federally-listed threatened or endangered fish or wildlife species without the appropriate permit.

Through the consultation process, we will analyze information contained in a biological assessment that you provide. If your proposed action is associated with Federal funding or permitting, consultation will occur with the Federal agency under section 7(a)(2) of the ESA. Otherwise, an incidental take permit pursuant to section 10(a)(1)(B) of the ESA (also known as a habitat conservation plan) is necessary to harm or harass federally listed threatened or endangered fish or wildlife species. In either case, there is no mechanism for authorizing incidental take "after-the-fact." For more information regarding formal consultation and HCPs, please see the Service's Consultation Handbook and Habitat Conservation Plans at www.fws.gov/endangered/esa-library/index.html#consultations.

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, **the accuracy of this species list should be verified after 90 days.** This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and

implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. **Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.**

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Arkansas Ecological Services Field Office

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

Project Summary

Consultation Code: 04ER1000-2017-SLI-0834
Event Code: 04ER1000-2017-E-01236
Project Name: 050386
Project Type: TRANSPORTATION
Project Description: Overlay existing highway surface.

Project Location:

Approximate location of the project can be viewed in Google Maps:

<https://www.google.com/maps/place/35.641201828451415N91.4414405822754W>



Counties: Independence, AR

Endangered Species Act Species

There is a total of 8 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area. Please contact the designated FWS office if you have questions.

Mammals

NAME	STATUS
<p>Gray Bat (<i>Myotis grisescens</i>)</p> <p>No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329</p>	Endangered
<p>Indiana Bat (<i>Myotis sodalis</i>)</p> <p>No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5949</p>	Endangered
<p>Northern Long-eared Bat (<i>Myotis septentrionalis</i>)</p> <p>No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045</p>	Threatened

Amphibians

NAME	STATUS
<p>Ozark Hellbender (<i>Cryptobranchus alleganiensis bishopi</i>)</p> <p>No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/647</p>	Endangered

Clams

NAME	STATUS
<p>Pink Mucket (pearlymussel) (<i>Lampsilis abrupta</i>)</p> <p>No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7829</p>	Endangered
<p>Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>)</p> <p>There is a final critical habitat designated for this species. Your location overlaps the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5165</p>	Threatened
<p>Scaleshell Mussel (<i>Leptodea leptodon</i>)</p> <p>No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5881</p>	Endangered

Flowering Plants

NAME

STATUS

Running Buffalo Clover (*Trifolium stoloniferum*)

Endangered

No critical habitat has been designated for this species.

Species profile: <https://ecos.fws.gov/ecp/species/2529>

Critical habitats

There is 1 critical habitat wholly or partially within your project area.

NAME

STATUS

Rabbitsfoot (*Quadrula cylindrica cylindrica*)Final
designated

Staffeld, Susan

From: Lewis, Lindsey [mailto:lindsey_lewis@fws.gov]
Sent: Thursday, March 02, 2017 1:39 PM
To: Matthews, Mickey W.
Subject: Re: 050386 overlay

Mickey,

Due to the limited scope of the action (i.e., paving existing roadway), minimal adjacent habitat effected, distance to known species locations, and the special provision for water pollution control, the Service concurs with the determination of "may affect, not likely to adversely affect" for designated critical habitat for Rabbitsfoot (*Quadrula cylindrical*), rabbitsfoot, pink mucket (*Lampsilis abrupta*) and possibly the Ozark Hellbender (*Cryptobranchus alleganiensis bishopi*) and scaleshell mussel (*Leptodea leptodon*).
Thanks,

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

On Thu, Mar 2, 2017 at 10:58 AM, Matthews, Mickey W. <Mickey.Matthews@ahtd.ar.gov> wrote:

Lindsey,

Approximately 1.4 miles of Highway 122 beginning at Hwy 14 in Oil Trough, AR will receive an asphalt overlay. The White River is designated critical habitat for Rabbitsfoot (*Quadrula cylindrical*) and known to have populations of pink mucket (*Lampsilis abrupta*) and possibly the Ozark Hellbender (*Cryptobranchus alleganiensis bishopi*) and scaleshell mussel (*Leptodea leptodon*). The contract will have the attached a special provision to minimize any potential affects to listed species. With the added special provision to the work order, the AHTD has determined that the highway resurfacing "may affect, but not likely to adversely affect," the 3 mussels, the hellbender, or the critical habitat for rabbitsfoot. AHTD is requesting concurrence with this determination.

Thank you

Mickey Matthews



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Arkansas Ecological Services Field Office
110 South Amity Suite 300
Conway, AR 72032-8975
Phone: (501) 513-4470 Fax: (501) 513-4480
<http://www.fws.gov/arkansas-es>

In Reply Refer To:

June 02, 2017

Consultation Code: 04ER1000-2017-SLI-0829

Event Code: 04ER1000-2017-E-01226

Project Name: 090492

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies endangered, threatened, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). **This letter only provides an official species list and technical assistance; if you determine that listed species and/or designated critical habitat may be affected in any way by the proposed project, even if the effect is wholly beneficial, consultation with the Service will be necessary.**

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found on our website.

Please visit our website at <http://www.fws.gov/arkansas-es/IPaC/home.html> for species-specific guidance to avoid and minimize adverse effects to federally endangered, threatened, proposed, and candidate species. Our web site also contains additional information on species life history and habitat requirements that may be useful in project planning.

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specific guidance at <http://www.fws.gov/arkansas-es/IPaC/ProjSpec.html>.

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Through the consultation process, we will analyze information contained in a biological assessment that you provide. If your proposed action is associated with Federal funding or permitting, consultation will occur with the Federal agency under section 7(a)(2) of the ESA. Otherwise, an incidental take permit pursuant to section 10(a)(1)(B) of the ESA (also known as a habitat conservation plan) is necessary to harm or harass federally listed threatened or endangered fish or wildlife species. In either case, there is no mechanism for authorizing incidental take "after-the-fact." For more information regarding formal consultation and HCPs, please see the Service's Consultation Handbook and Habitat Conservation Plans at www.fws.gov/endangered/esa-library/index.html#consultations.

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This species list is provided by:

Arkansas Ecological Services Field Office

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

Project Summary

Consultation Code: 04ER1000-2017-SLI-0829

Event Code: 04ER1000-2017-E-01226

Project Name: 090492

Project Type: TRANSPORTATION

Project Description: Overlay of the hwy.

Project Location:

Approximate location of the project can be viewed in Google Maps:

<https://www.google.com/maps/place/36.25700910983458N94.19070438357477W>



Counties: Benton, AR

Endangered Species Act Species

There is a total of 8 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area. Please contact the designated FWS office if you have questions.

Mammals

NAME	STATUS
<p>Gray Bat (<i>Myotis grisescens</i>)</p> <p>No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329</p>	Endangered
<p>Indiana Bat (<i>Myotis sodalis</i>)</p> <p>No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5949</p>	Endangered
<p>Northern Long-eared Bat (<i>Myotis septentrionalis</i>)</p> <p>No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045</p>	Threatened
<p>Ozark Big-eared Bat (<i>Corynorhinus (=Plecotus) townsendii ingens</i>)</p> <p>No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7245</p>	Endangered

Birds

NAME	STATUS
<p>Piping Plover (<i>Charadrius melodus</i>)</p> <p>Population: except Great Lakes watershed There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039</p>	Threatened

Fishes

NAME	STATUS
<p>Ozark Cavefish (<i>Amblyopsis rosae</i>)</p> <p>No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6490</p>	Threatened

Clams

NAME	STATUS
Neosho Mucket (<i>Lampsilis rafinesqueana</i>) There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3788	Endangered
Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>) There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5165	Threatened

Critical habitats

There are no critical habitats within your project area.

Staffeld, Susan

From: Lewis, Lindsey [mailto:lindsey_lewis@fws.gov]

Sent: Wednesday, March 08, 2017 8:07 AM

To: Matthews, Mickey W.

Subject: Re: 090492 overlay

Mickey,

Due to the limited scope of the action (i.e., paving existing roadway), minimal adjacent habitat effect, distance to known species locations, and the special provision for water pollution control, the Service concurs with the determination of "may affect, not likely to adversely affect" for Ozark Cavefish (*Amblyopsis rosae*).

Thanks,

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice

(501) 513-4480 - fax

Lindsey_Lewis@fws.gov

<http://www.fws.gov/arkansas-es/>

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

On Thu, Mar 2, 2017 at 10:58 AM, Matthews, Mickey W. <Mickey.Matthews@ahtd.ar.gov> wrote:

Approximately 4.5 miles of Highway 264 beginning at Hwy 112 in Cave Springs, AR will receive an asphalt overlay. The project area is within the recharge area of the Cave Springs Cave which has populations of the Ozark Cavefish (*Amblyopsis rosae*). The contract will have the attached a special provision to minimize any potential affects to listed species. With the added special provision to the work order, the AHTD has determined that the highway resurfacing "may affect, but not likely to adversely affect," the Ozark Cavefish. AHTD is requesting concurrence with this determination.

Thank you

Mickey Matthews



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Arkansas Ecological Services Field Office
110 South Amity Suite 300
Conway, AR 72032-8975
Phone: (501) 513-4470 Fax: (501) 513-4480
<http://www.fws.gov/arkansas-es>

In Reply Refer To:

April 27, 2017

Consultation Code: 04ER1000-2017-SLI-0710

Event Code: 04ER1000-2017-E-00957

Project Name: 012287

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies endangered, threatened, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). **This letter only provides an official species list and technical assistance; if you determine that listed species and/or designated critical habitat may be affected in any way by the proposed project, even if the effect is wholly beneficial, consultation with the Service will be necessary.**

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found on our website.

Please visit our website at <http://www.fws.gov/arkansas-es/IPaC/home.html> for species-specific guidance to avoid and minimize adverse effects to federally endangered, threatened, proposed, and candidate species. Our web site also contains additional information on species life history and habitat requirements that may be useful in project planning.

If your project involves in-stream construction activities, oil and natural gas infrastructure, road construction, transmission lines, or communication towers, please review our project

specific guidance at <http://www.fws.gov/arkansas-es/IPaC/ProjSpec.html>.

The karst region of Arkansas is a unique region that covers the **northern third of Arkansas** and we have specific guidance to conserve sensitive cave-obligate and bat species. **Please visit <http://www.fws.gov/arkansas-es/IPaC/Karst.html> to determine if your project occurs in the karst region and to view karst specific-guidance.** Proper implementation and maintenance of best management practices specified in these guidance documents is necessary to avoid adverse effects to federally protected species and often avoids the more lengthy formal consultation process.

If your species list includes any mussels, Northern Long-eared Bat, Indiana Bat, Yellowcheek Darter, Red-cockaded Woodpecker, or American Burying Beetle, your project may require a presence/absence and/or habitat survey prior to commencing project activities. Please check the appropriate species-specific guidance on our website to determine if your project requires a survey. We strongly recommend that you contact the appropriate staff species lead biologist (see office directory or species page) prior to conducting presence/absence surveys to ensure the appropriate level of effort and methodology.

Under the ESA, it is the responsibility of the Federal action agency or its designated representative to determine if a proposed action "may affect" endangered, threatened, or proposed species, or designated critical habitat, and if so, to consult with the Service further. Similarly, it is the responsibility of the Federal action agency or project proponent, not the Service, to make "no effect" determinations. If you determine that your proposed action will have "no effect" on threatened or endangered species or their respective critical habitat, you do not need to seek concurrence with the Service. Nevertheless, it is a violation of Federal law to harm or harass any federally-listed threatened or endangered fish or wildlife species without the appropriate permit.

Through the consultation process, we will analyze information contained in a biological assessment that you provide. If your proposed action is associated with Federal funding or permitting, consultation will occur with the Federal agency under section 7(a)(2) of the ESA. Otherwise, an incidental take permit pursuant to section 10(a)(1)(B) of the ESA (also known as a habitat conservation plan) is necessary to harm or harass federally listed threatened or endangered fish or wildlife species. In either case, there is no mechanism for authorizing incidental take "after-the-fact." For more information regarding formal consultation and HCPs, please see the Service's Consultation Handbook and Habitat Conservation Plans at www.fws.gov/endangered/esa-library/index.html#consultations.

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, **the accuracy of this species list should be verified after 90 days.** This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and

implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. **Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.**

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Arkansas Ecological Services Field Office

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

Project Summary

Consultation Code: 04ER1000-2017-SLI-0710

Event Code: 04ER1000-2017-E-00957

Project Name: 012287

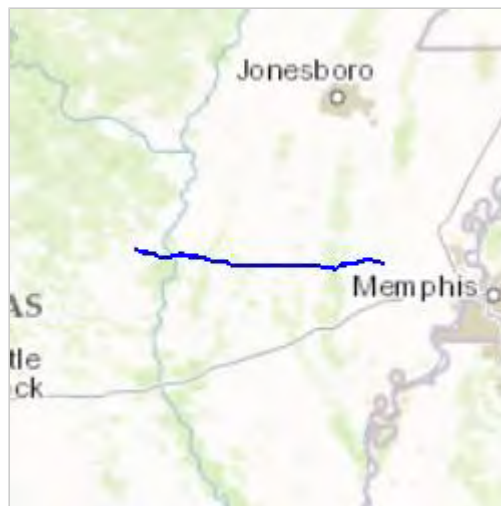
Project Type: TRANSPORTATION

Project Description: Overlay and bridge rehabilitation.

Project Location:

Approximate location of the project can be viewed in Google Maps:

<https://www.google.com/maps/place/35.27662059886552N91.25958531656916W>



Counties: Crittenden, AR | Cross, AR | White, AR | Woodruff, AR

Endangered Species Act Species

There is a total of 11 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area. Please contact the designated FWS office if you have questions.

Mammals

NAME	STATUS
Gray Bat (<i>Myotis grisescens</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329	Endangered
Northern Long-eared Bat (<i>Myotis septentrionalis</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Ivory-billed Woodpecker (<i>Campephilus principalis</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8230	Endangered
Piping Plover (<i>Charadrius melodus</i>) Population: except Great Lakes watershed There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot (<i>Calidris canutus rufa</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

Fishes

NAME	STATUS
Pallid Sturgeon (<i>Scaphirhynchus albus</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7162	Endangered

Clams

NAME	STATUS
Fat Pocketbook (<i>Potamilus capax</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2780	Endangered
Pink Mucket (pearlymussel) (<i>Lampsilis abrupta</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7829	Endangered
Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>) There is a final critical habitat designated for this species. Your location overlaps the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5165	Threatened
Scaleshell Mussel (<i>Leptodea leptodon</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5881	Endangered

Flowering Plants

NAME	STATUS
Pondberry (<i>Lindera melissifolia</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1279	Endangered

Critical habitats

There is 1 critical habitat wholly or partially within your project area.

NAME	STATUS
Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>)	Final designated

Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form

Federal agencies should use this form for the optional streamlined consultation framework for the northern long-eared bat (NLEB). This framework allows federal agencies to rely upon the U.S. Fish and Wildlife Service's (USFWS) January 5, 2016, intra-Service Programmatic Biological Opinion (BO) on the final 4(d) rule for the NLEB for section 7(a)(2) compliance by: (1) notifying the USFWS that an action agency will use the streamlined framework; (2) describing the project with sufficient detail to support the required determination; and (3) enabling the USFWS to track effects and determine if reinitiation of consultation is required per 50 CFR 402.16.

This form is not necessary if an agency determines that a proposed action will have no effect to the NLEB or if the USFWS has concurred in writing with an agency's determination that a proposed action may affect, but is not likely to adversely affect the NLEB (i.e., the standard informal consultation process). Actions that may cause prohibited incidental take require separate formal consultation. Providing this information does not address section 7(a)(2) compliance for any other listed species.

Information to Determine 4(d) Rule Compliance:

YES NO

Information to Determine 4(d) Rule Compliance:	YES	NO
1. Does the project occur wholly outside of the WNS Zone ¹ ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Have you contacted the appropriate agency ² to determine if your project is near known hibernacula or maternity roost trees?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the project disturb hibernating NLEBs in a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Could the project alter the entrance or interior environment of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Does the project remove any trees within 0.25 miles of a known hibernaculum at any time of year?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Would the project cut or destroy known occupied maternity roost trees, or any other trees within a 150-foot radius from the maternity roost tree from June 1 through July 31.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

You are eligible to use this form if you have answered yes to question #1 **or** yes to question #2 **and** no to questions 3, 4, 5 and 6. The remainder of the form will be used by the USFWS to track our assumptions in the BO.

Agency and Applicant³ (Name, Email, Phone No.): Arkansas Highway and Transportation Dept.

Project Name: 012287

Project Location (include coordinates if known):

Basic Project Description (provide narrative below or attach additional information): Hwy 64 overlay Bald Knob to Crittenden Co Line

¹ <http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf>

² See <http://www.fws.gov/midwest/endangered/mammals/nleb/nhisites.html>

³ If applicable - only needed for federal actions with applicants (e.g., for a permit, etc.) who are party to the consultation.

General Project Information

YES NO

Does the project occur within 0.25 miles of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project occur within 150 feet of a known maternity roost tree?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project include forest conversion ⁴ ? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of forest conversion		
If known, estimated acres ⁵ of forest conversion from April 1 to October 31		
If known, estimated acres of forest conversion from June 1 to July 31 ⁶		
Does the project include timber harvest? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of timber harvest		
If known, estimated acres of timber harvest from April 1 to October 31		
If known, estimated acres of timber harvest from June 1 to July 31		
Does the project include prescribed fire? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of prescribed fire		
If known, estimated acres of prescribed fire from April 1 to October 31		
If known, estimated acres of prescribed fire from June 1 to July 31		
Does the project install new wind turbines? (if yes, report capacity in MW below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated wind capacity (MW)		

Agency Determination:

By signing this form, the action agency determines that this project may affect the NLEB, but that any resulting incidental take of the NLEB is not prohibited by the final 4(d) rule.

If the USFWS does not respond within 30 days from submittal of this form, the action agency may presume that its determination is informed by the best available information and that its project responsibilities under 7(a)(2) with respect to the NLEB are fulfilled through the USFWS January 5, 2016, Programmatic BO. The action agency will update this determination annually for multi-year activities.

The action agency understands that the USFWS presumes that all activities are implemented as described herein. The action agency will promptly report any departures from the described activities to the appropriate USFWS Field Office. The action agency will provide the appropriate USFWS Field Office with the results of any surveys conducted for the NLEB. Involved parties will promptly notify the appropriate USFWS Field Office upon finding a dead, injured, or sick NLEB.

Signature: _____

Date Submitted: _____

⁴ Any activity that temporarily or permanently removes suitable forested habitat, including, but not limited to, tree removal from development, energy production and transmission, mining, agriculture, etc. (see page 48 of the BO).

⁵ If the project removes less than 10 trees and the acreage is unknown, report the acreage as less than 0.1 acre.

⁶ If the activity includes tree clearing in June and July, also include those acreage in April to October.

Staffeld, Susan

From: Matthews, Mickey W.
Sent: Thursday, June 01, 2017 8:35 AM
To: Staffeld, Susan
Subject: FW: 012287 - Species List_ Arkansas Ecological Services Field Office.pdf

FYI

From: Lewis, Lindsey [mailto:lindsey_lewis@fws.gov]
Sent: Thursday, June 01, 2017 8:17 AM
To: Matthews, Mickey W.
Subject: Re: 012287 - Species List_ Arkansas Ecological Services Field Office.pdf

Mickey,

Due to the limited size of the area being cleared, proximity to the existing right-of-way, minimal adjacent habitat being disturbed, special provisions being applied for water quality protection, and distance to known species locations, the Service agrees with your assessment and concurs with your determination of "may affect, but not likely to adversely affect" for Fat Pocketbook (*Potamilus capax*), Pink Mucket (pearlymussel) (*Lampsilis abrupta*), Scaleshell Mussel (*Leptodea leptodon*), and Rabbitsfoot (*Quadrula cylindrica cylindrica*) and its Critical Habitat.

The Service has reviewed your determination that the proposed action will not result in any prohibited incidental take for Northern Long-eared Bat (*Myotis septentrionalis*). This project may affect the Northern Long-eared Bat; however, there are no effects beyond those previously disclosed in the Service's programmatic biological opinion for the final 4(d) rule dated January 5, 2016. Any taking that may occur incidental to this project is not prohibited under the final 4(d) rule (50 CFR §17.40(o)). This project is consistent with the description of the proposed action in the programmatic biological opinion, and the 4(d) rule does not prohibit incidental take of the Northern Long-eared Bat that may occur as a result of this project. Therefore, the programmatic biological opinion satisfies the "action agency" responsibilities under ESA section 7(a)(2) relative to the Northern Long-eared Bat for this project.

Please keep in mind that you must report any departures from the plans submitted; results of any surveys conducted; or any dead, injured, or sick Northern Long-eared Bats that are found to this office. If this project is not completed within one year of this letter, you must update your determination and resubmit the required information.

No other listed species identified during the assessment are known to occur in the affected area of the action. No further action is required at this time.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice

(501) 513-4480 - fax

Lindsey.Lewis@fws.gov

<http://www.fws.gov/arkansas-es/>

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On Wed, May 31, 2017 at 3:12 PM, Matthews, Mickey W. <Mickey.Matthews@ahtd.ar.gov> wrote:

Lindsey,

The project is an approximately 60 mile mill and overlay of Hwy 64 from Bald Knob to the Crittenden County line. The project will involve the existing road surface and shoulders. I have attached the IPAC list for your convenience. The project should have no affect on the following species due to limited scope of the project, lack of habitat, and distance to known populations; Ivory-billed Woodpecker (*Campephilus principalis*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), Pallid Sturgeon (*Scaphirhynchus albus*), and Pondberry (*Lindera melissifolia*).

Implementation of Best Management Practices will minimize potential effects to the aquatic species. The AHTD have determined the overlay may affect, but is not likely to adversely affect, the following species; Gray Bat (*Myotis grisescens*), Northern Long-eared Bat (*Myotis septentrionalis*), Fat Pocketbook (*Potamilus capax*), Pink Mucket (pearlymussel) (*Lampsilis abrupta*), Scaleshell Mussel (*Leptodea leptodon*), and Rabbitsfoot (*Quadrula cylindrica cylindrica*) and its Critical Habitat.

The Arkansas Highway and Transportation Dept is requesting concurrence with these effects determinations. Please contact me if you have any questions.

Thanks,

Mickey Matthews

AHTD ENVIRONMENTAL IMPACTS ASSESSMENT FORM

AHTD Job Number 050386/090492/012287 FAP Number Various

Job Title Various – see CE table

Environmental Impacts	None	Minor	Significant	Comments
Air Quality	X			
Construction Impacts		X		Temporary and minor during construction
Cultural Resources	X			Section 106 clearance attached
Economic	X			
Endangered Species	X			USFWS – “Not Likely to Adversely Effect”
Energy Resources	X			
Environmental Justice/Title VI	X			
Fish and Wildlife	X			
Floodplains	X			
Forest Service Property	X			
Hazardous Materials/Landfills	X			
Land Use Impacts	X			
Migratory Birds	X			
Navigation/Coast Guard	X			
Noise Levels	X			
Prime Farmland	X			
Protected Waters	X			
Public Recreation Lands	X			
Public Water Supply/WHPA	X			
Relocatees	X			
Section 4(f)/6(f)	X			
Social	X			
Underground Storage Tanks	X			
Visual Impacts	X			
Stream Impacts		X		Job 012287
Water Quality	X			Water Pollution Control SP added
Wetlands	X			
Wildlife Refuges	X			

Section 401 Water Quality Certification Required? No

Short-term Activity Authorization Required? Yes

Section 404 Permit Required? Yes Type Nationwide Permit #14

Remarks: Section 404 permit required only for job 012287

Signature of Evaluator *Jan Aivi* Date June 2, 2017