

# 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

July 28, 2017

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

Re: Job Number 090501  
FAP Numbers ER-0051(18) &  
ER-0051(19)  
Hwy. 7 Slide Repair (Newton Co.) (S)  
Newton County  
Tier 3 Categorical Exclusion

Dear Mr. Correa:

The Environmental Division has reviewed the referenced project and it falls 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 this project.

The purpose of this project is to repair two slides on Highway 7 caused by flooding events in the fall and winter of 2015. Total length of the project is 0.3 mile. The slides are located at Log Mile 11.73 and 12.00, approximately 2.6-3.0 miles south of Highway 74 East in Newton County. A project location map is enclosed.

The project will involve constructing a rock buttress at both locations. This method of landslide stabilization involves excavating the slide area to bedrock then externally reinforcing the failed slope using the weight of riprap placed from the toe of the slope and up to resist the downward sliding forces. Approximately 3.8 acres of proposed right of way and 1.6 acre temporary construction easement will be required to construct the proposed project.

There are no relocations, hazardous materials, wetlands, streams, prime farmland, or cultural resources associated with this project. A special provision for wellhead protection will be added

to the project contract. There are no *Executive Order 12898* Environmental Justice issues involved with this project. Cultural resources clearance is enclosed.

The proposed project lies within the range of the following federally listed species: the endangered gray bat (*Myotis grisescens*), the endangered Indiana bat (*Myotis sodalis*), the endangered Ozark big-eared bat (*Corynorhinus townsendii ingens*), the threatened northern long-eared bat (*Myotis septentrionalis*), the threatened rabbitsfoot mussel (*Quadrula cylindrica cylindrica*) and the endangered snuffbox mussel (*Epioblasma triquetra*), see enclosed U.S. Fish and Wildlife Service (USFWS) correspondence. A bat survey was conducted for the project area, and no federally listed bat species were found.


The Final 4(d) Rule and the Programmatic Biological Opinion applies to this project's activities that have the potential to affect northern long-eared bats. The Final 4(d) Rule exempts the incidental take of northern long-eared bats from take prohibitions in the Endangered Species Act. The exemptions apply as long as the activities do not occur within 0.25 mile of a known hibernaculum or within 150 feet of a known occupied maternity roost from June 1 to July 31. No known hibernaculum or maternity roosts exist within the project limits; therefore, the project can proceed without restrictions. All offsite locations will require coordination with USFWS.

Based upon the AHTD's *Policy on Highway Traffic Noise Abatement*, a noise analysis is not required for this project. The project meets the criteria for a Type III project established in 23 CFR 772. Therefore, the project requires no 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. A noise analysis will be required if changes to the proposed project result in reclassification to a Type I project.

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

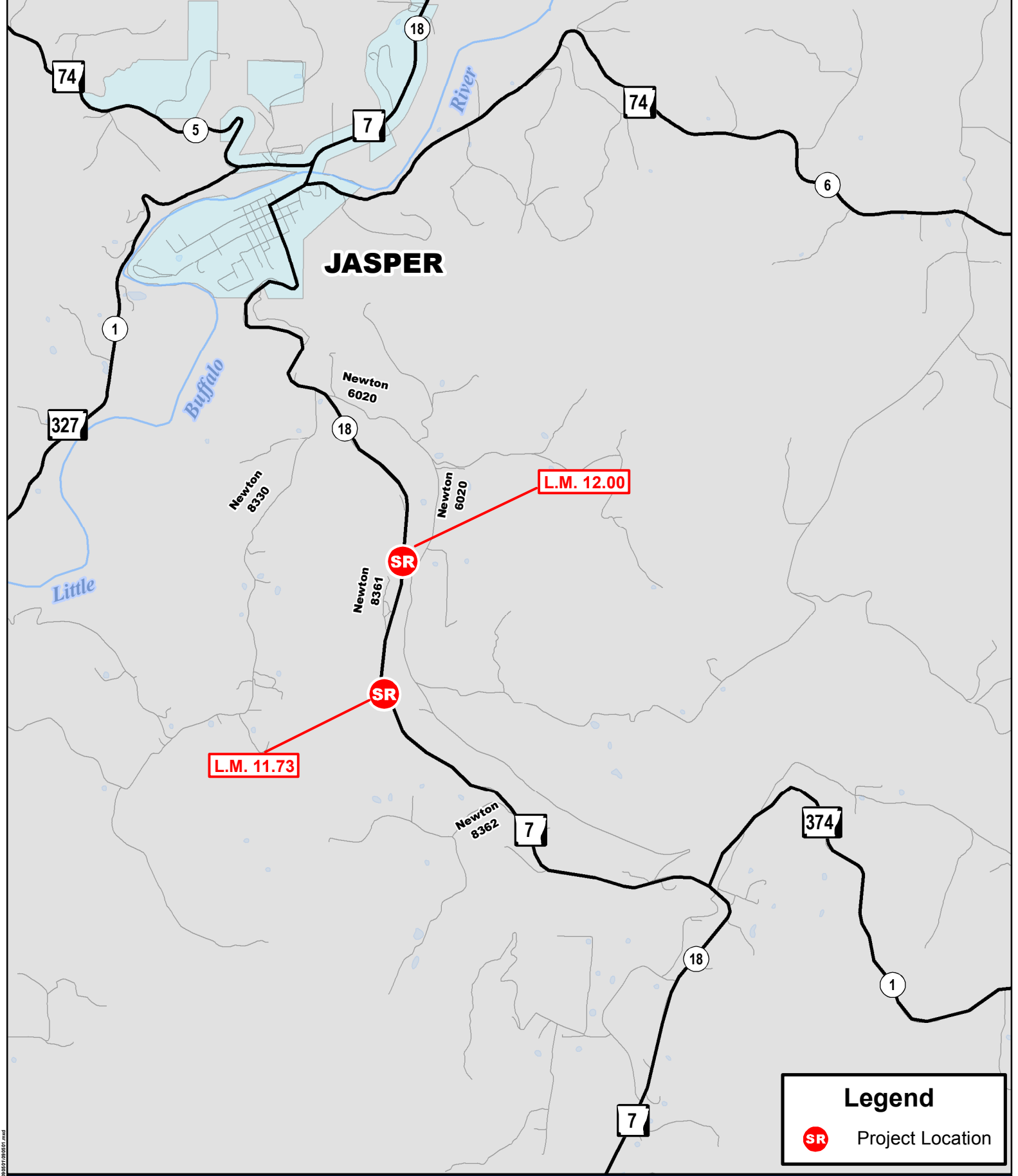
**APPROVED**  
  
\_\_\_\_\_  
Environmental Specialist  
Federal Highway Administration  
Date: 7/28/2017

Sincerely,


  
for John Fleming  
Division Head  
Environmental Division

Enclosures  
JF:SS:fc

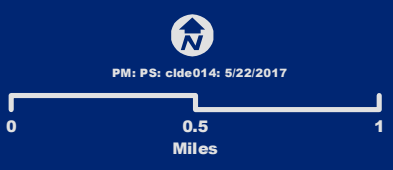
c: Program Management  
Right of Way  
Roadway Design  
District 9  
Master File



**Legend**

 Project Location

**Job 090501**  
**Hwy. 7 Slide Repair (Newton Co.) (S)**  
 Hwy. 7, Sec. 18  
 Newton County



Document Path: \\sart\GIS\Programs\Contract\Sketchup\090501\090501.mxd

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

98498  
FHWA

Scott E. Bennett, P.E.  
Director  
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Telefax (501) 569-2400  
www.arkansashighways.com

June 8, 2017

AHPP

JUN 09 2017

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

RE: AHTD Job No. 090501  
Hwy. 7 Slide Repair (Newton Co.) (S)  
Newton County

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,

John Fleming  
Division Head  
Environmental Division

Enclosure  
PIF

JF:DW:RJ:ym

RECEIVED  
AHTD  
JUN 14 2017  
ENVIRONMENTAL  
DIVISION

Date JUN 09 2017

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

  
Arkansas State Historic Preservation Officer

JUN 09 2017



IN REPLY REFER TO:

# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Arkansas Ecological Service Field Office  
110 South Amity Road, Suite 300  
Conway, Arkansas 72032



July 27, 2017

Mr. John Fleming  
c/o Kayti Ewing  
Arkansas Highway & Transportation Department  
10324 Interstate 30  
Little Rock, AR 72209

Dear Mr. Fleming,

The Service has reviewed your assessment and determinations for AHTD Job Number 090501 Hwy. 7 Slide Repairs. The project was described and assessed as follows (abbreviated):

The Arkansas Highway and Transportation Department (AHTD) is proposing to repair and stabilize two landslide areas that occurred along Highway 7, south of Jasper, during the May and December 2015 flooding events. A rock buttress will be used to repair and stabilize these landslides. This method includes excavation of the existing unstable material and replacement with rock fill as erosion protection. The proposed right-of-way at the first slide is 0.38 acre with a temporary construction easement footprint of 0.45 acre. At the second slide, the proposed right-of-way is 3.41 acres and the temporary construction easement footprint is 1.14 acres.

The two proposed slide repairs are both located south of Jasper along Highway 7, just south of the Newton County Fair Grounds, please see attached kmz for exact locations. The area is predominantly oak-hickory-pine forest on an east facing slope. The entire proposed slide repair footprint is within 300 feet from the existing roadway (Highway 7), and is bounded by Highway 7 to the west and County Road 45 to the east. Intact oak-hickory-pine forest surround the project area, but the immediate area is fragmented. A bat survey was started on Tuesday, July 25th, and is to go through Friday, July 28th. As of Wednesday night, two Red Bats and 1 male Small-footed Bat have been caught. An acoustic survey shows multiple species, but the call have not yet been verified.

A review of IPaC shows that six endangered species have the potential to be affected by activities within the project area. These species include: the endangered Gray Bat (*Myotis grisescens*), the endangered Indiana Bat (*Myotis sodalis*), the endangered Ozark Big-eared Bat (*Corynorhinus townsendii ingens*),

the threatened Northern Long-eared Bat (*Myotis septentrionalis*), the threatened Rabbitsfoot mussel (*Quadrula cylindrica cylindrica*), and the endangered Snuffbox mussel (*Epioblasma triquetra*).

Gray Bats are mostly cave dwelling species year round. In the summer, Gray Bats primarily forage in forests along streams and rivers but will forage in upland areas too. Gray Bats prefer a densely forested corridor from cave entrance to forage site, which are typically only 1 mile, rarely over 2 miles, apart. According to ANHC records database, the closest known Gray Bat occurrence is 3.1 miles southwest of the project area; this occurrence is a historical record (1982) for the Diamond Cave bachelor roost. Although approximately 4 acres of oak-hickory-pine forest will be cleared for the proposed slide repair, a bat survey was conducted and no federally listed bat species were found in the project area; however, foraging habitat does exist. Also, a Cave Discovery SP will be included in the job contract. Therefore, it is our determination that the project is “not likely to adversely affect” Gray Bats.

Indiana Bats hibernate in caves during winter months. In summer months, Indiana Bats are known to roost in floodplain, riparian and upland forests with trees that have exfoliating bark. The closest known Indiana Bat occurrence (roost tree) is 6.5 miles south of the project area and was last observed in 2006, according to our records. Although approximately 4 acres of upland forests will be cleared for the proposed slide repair, it will be limited to only what is necessary to complete the project. Furthermore, a bat survey was conducted and no federally listed bat species were found in the project area; however, foraging habitat does exist. Therefore, it is our determination that the project is “not likely to adversely affect” Indiana Bats.

Northern Long-eared Bats hibernate in caves during winter months. In summer months, Northern Long-eared Bats roost underneath bark, in cavities or in crevices of both live and dead trees. They have been found to roost in forests with canopy coverages ranging from 56% (in Missouri) to greater than 84% (in Kentucky). Northern Long-eared Bats are variable in roost selection, as they use tree species based on bark retention or presence of cavities or crevices. Although, the project area is within the NLEB range, and, according to ANHC records, the closest known occurrence, a mist-net capture, is approximately 6.9 miles south of the project area. The upland forested areas are located near a major transportation corridor (Hwy 7). Furthermore, the project and its activities do not occur within 0.25 mile of a known hibernaculum or within 150 feet of a known occupied maternity roost, which exempts the project from incidental take of Northern Long-eared Bats, according to the Final 4(d) Rule and the accompanying programmatic biological opinion.

Based on the results of the survey, conservation measures, location of this action, the minimal habitat being affected, the distance to known species locations and hibernacula, and temporary and limited noise and vibrations; the Service agrees with your assessment and concurs with your determination for Gray Bat and Indiana Bat. No further consultation regarding these species is necessary at this time.

Furthermore, the Service has reviewed your determination that the proposed action will not result in any prohibited incidental take for Northern Long-eared Bat. 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.

Furthermore, due to the limited size of the area being cleared, proximity to the existing right-of-way, minimal adjacent habitat being disturbed, minimal ground disturbance, and distance to known species locations; the Service has no concerns or recommendations to provide as further technical assistance related to this action for any other species identified for this area. No further action is required at this time.

For further assistance or if you have any questions, please contact Lindsey Lewis at (501) 513-4489 or [lindsey\\_lewis@fws.gov](mailto:lindsey_lewis@fws.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Melvin L. Tobin', is written over a light blue horizontal line.

Melvin L. Tobin  
Field Supervisor



## 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:

July 27, 2017

Consultation Code: 04ER1000-2017-SLI-1053

Event Code: 04ER1000-2017-E-01551

Project Name: 090501 Hwy. 7 Slide Repair (Newton Co.) (S)

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](http://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

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## Project Summary

Consultation Code: 04ER1000-2017-SLI-1053

Event Code: 04ER1000-2017-E-01551

Project Name: 090501 Hwy. 7 Slide Repair (Newton Co.) (S)

Project Type: TRANSPORTATION

**Project Description:** The Arkansas Highway and Transportation Department (AHTD) is proposing to repair and stabilize two landslide areas that occurred along Highway 7, south of Jasper, during the May and December 2015 flooding events. A rock buttress will be used to repair and stabilize these landslides. This method includes excavation of the existing unstable material and replacement with rock fill as erosion protection. The proposed right-of-way at the first slide is 0.38 acre with a temporary construction easement footprint of 0.45 acre. At the second slide, the proposed right-of-way is 3.41 acres and the temporary construction easement footprint is 1.14 acres.

**Project Location:**

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

<https://www.google.com/maps/place/35.98073666255276N93.17799121401244W>



Counties: Newton, AR

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## Endangered Species Act Species

There is a total of 6 threatened, endangered, or candidate species on this 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 under this office's jurisdiction. 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: <a href="https://ecos.fws.gov/ecp/species/6329">https://ecos.fws.gov/ecp/species/6329</a>	Endangered
Indiana Bat <i>Myotis sodalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/5949">https://ecos.fws.gov/ecp/species/5949</a>	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7245">https://ecos.fws.gov/ecp/species/7245</a>	Endangered

### Clams

NAME	STATUS
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is a <b>final critical habitat</b> designated for this species. Your location is outside the designated critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/5165">https://ecos.fws.gov/ecp/species/5165</a>	Threatened
Snuffbox Mussel <i>Epioblasma triquetra</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/4135">https://ecos.fws.gov/ecp/species/4135</a>	Endangered

### Critical habitats

There are no critical habitats within your project area under this office's jurisdiction.

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## 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  
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In Reply Refer To:

July 27, 2017

Consultation Code: 04ER1000-2017-SLI-1053

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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

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## Project Summary

Consultation Code: 04ER1000-2017-SLI-1053

Event Code: 04ER1000-2017-E-01551

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Counties: Newton, AR

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

### Clams

NAME	STATUS
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is a <b>final critical habitat</b> designated for this species. Your location is outside the designated critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/5165">https://ecos.fws.gov/ecp/species/5165</a>	Threatened
Snuffbox Mussel <i>Epioblasma triquetra</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/4135">https://ecos.fws.gov/ecp/species/4135</a>	Endangered

### Critical habitats

There are no critical habitats within your project area under this office's jurisdiction.

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**From:** [Lewis, Lindsey](#)  
**To:** [Ewing, Anne \(Kayti\)](#)  
**Subject:** Re: 090501 Hwy. 7 Slide Repairs  
**Date:** Thursday, July 27, 2017 4:46:04 PM  
**Attachments:** [AFO Letter-AHTD Number 090501 Hwy. 7 Slide Repairs.pdf](#)

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Please see attached letter.

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](mailto: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, Jul 27, 2017 at 1:52 PM, Ewing, Anne (Kayti) <[Anne.Ewing@ahtd.ar.gov](mailto:Anne.Ewing@ahtd.ar.gov)> wrote:

Hi Lindsey,

If we made the August letting (which doubtful at this point), work, mainly tree clearing, would begin in mid-August to early-September. If the contract goes into the November letting, clearing would start in mid-November to early-December. The contract is being let with 105 working days, and these are not concurrent, so the job is expected to be completed in September of 2018. But all the clearing would be done upfront.

Thanks,

Kayti

**From:** Lewis, Lindsey [mailto:[lindsey\\_lewis@fws.gov](mailto:lindsey_lewis@fws.gov)]  
**Sent:** Thursday, July 27, 2017 12:27 PM  
**To:** Ewing, Anne (Kayti)  
**Subject:** Re: 090501 Hwy. 7 Slide Repairs

Kayti,

When will the project begin construction? When do you anticipate completion?

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](mailto:Lindsey.Lewis@fws.gov)

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

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On Thu, Jul 27, 2017 at 9:18 AM, Ewing, Anne (Kayti) <[Anne.Ewing@ahtd.ar.gov](mailto:Anne.Ewing@ahtd.ar.gov)> wrote:

Lindsey,

The Arkansas Highway and Transportation Department (AHTD) is proposing to repair and stabilize two landslide areas that occurred along Highway 7, south of Jasper, during the May and December 2015 flooding events. A rock buttress will be used to repair and stabilize these landslides. This method includes excavation of the existing unstable material and replacement with rock fill as erosion protection. The proposed right-of-way at the first slide is 0.38 acre with a temporary construction easement footprint of 0.45 acre. At the second slide, the proposed right-of-way is 3.41 acres and the temporary construction easement footprint is 1.14 acres. See the attached proposed plans and the attached kmz shows the proposed footprint of the landslide repairs for Job# 090501.

The two proposed slide repairs are both located south of Jasper along Highway 7, just south of the Newton County Fair Grounds, please see attached kmz for exact locations. The area is predominantly oak-hickory-pine forest on an east facing slope. The entire proposed slide repair footprint is within 300 feet from the existing roadway (Highway 7), and is bounded by Highway 7 to the west and County Road 45 to the east. Intact oak-hickory-pine forest surround the project area, but the immediate area is fragmented. A bat survey was started on Tuesday, July 25<sup>th</sup>, and is to go through Friday, July 28<sup>th</sup>. As of Wednesday night, two red bats and 1 male small-footed bat have been caught. An acoustic survey shows multiple species, but the call have not yet been verified.

A review of IPaC shows that six endangered species have the potential to be affected by activities within the project area. These species include: the endangered gray bat (*Myotis grisescens*), the endangered Indiana bat (*Myotis sodalis*), the endangered Ozark big-eared bat (*Corynorhinus townsendii ingens*), the threatened northern long-eared bat (*Myotis septentrionalis*), the threatened rabbitsfoot mussel (*Quadrula cylindrica cylindrica*) and the endangered snuffbox mussel (*Epioblasma triquetra*).

The proposed project will have **‘no effect’** on the two federally listed mussel species since no habitat, i.e., streams, are present within the immediate or near the project area.

Ozark big-eared bats inhabit caves year-round, typically located in oak-hickory forests. Weyandt et al. (2005) and Graening et al. (2011) suggest that Ozark big-eared bats could also use bluff lines and bluff faces as roosting habitat. During the summer months, Ozark big-eared bats primarily forage in forests and along forest edges. Ozark big-eared bat typically only forage a little over a mile from their roosting sites (Graening et al. 2011). A Cave Discovery SP will included in the job contract. The closest known Ozark big-eared occurrence is from Marion County; therefore, it is our determination that the project will have **‘no effect’** on Ozark big-eared bats.

Gray bats are mostly cave dwelling species year round. In the summer, gray bats primarily forage in forests along streams and rivers but will forage in upland areas too. Gray bats prefer a densely forested corridor from cave entrance to forage site, which are typically only 1 mile, rarely over 2 miles, apart. According to ANHC records database, the closest known gray bat occurrence is 3.1 miles southwest of the project area; this occurrence is a historical record (1982) for the Diamond Cave bachelor roost. Although approximately 4 acres of oak-hickory-pine forest will be cleared for the proposed slide repair, a bat survey was conducted and no federally listed bat species were found in the project area; however, foraging habitat does exist. Also, a Cave Discovery SP will included in the job contract. Therefore, it is our determination that the project is **“not likely to adversely affect”** gray bats.

Indiana bats hibernate in caves during winter months. In summer months, Indiana bats are known to roost in floodplain, riparian and upland forests with trees that have exfoliating

bark. The closest known Indiana bat occurrence (roost tree) is 6.5 miles south of the project area and was last observed in 2006, according to our records. Although approximately 4 acres of upland forests will be cleared for the proposed slide repair, it will be limited to only what is necessary to complete the project. Furthermore, a bat survey was conducted and no federally listed bat species were found in the project area; however, foraging habitat does exist. Therefore, it is our determination that the project is **“not likely to adversely affect”** gray bats.

Northern Long-eared Bats hibernate in caves during winter months. In summer months, Northern Long-eared Bats roost underneath bark, in cavities or in crevices of both live and dead trees. They have been found to roost in forests with canopy coverages ranging from 56% (in Missouri) to greater than 84% (in Kentucky)(Timone et al. 2010; Lacki and Schwierjohann 2001). Northern Long-eared Bats are variable in roost selection, as they use tree species based on bark retention or presence of cavities or crevices. Although, the project area is within the NLEB range, and, according to ANHC records, the closest known occurrence, a mist-net capture, is approximately 6.9 miles south of the project area. The upland forested areas are located near an major transportation corridor (Hwy 7). Furthermore, the project and its activities do not occur within 0.25 mile of a known hibernaculum or within 150 feet of a known occupied maternity roost, which exempts the project from incidental take of northern long-eared bats, according to the Final 4(d) Rule and the accompanying programmatic biological opinion. See attached Final 4(d) Rule form.

If you have questions, please let me know.

Thanks,

Kayti Ewing

## 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 <sup>1</sup> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Have you contacted the appropriate agency <sup>2</sup> 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 Applicant**<sup>3</sup> (Name, Email, Phone No.): Kayti Ewing, kayti.ewing@ahtd.ar.gov, 501-569-2083

**Project Name:** AHTD Job No. 090501

**Project Location** (include coordinates if known): Newton County, 35.979410°, -93.178649°

**Basic Project Description** (provide narrative below or attach additional information): The AHTD is proposing to repair and stabilize two landslide areas that occurred along Hwy 7, south of Jasper, during the May and December 2015 flooding events. A rock buttress will be used to repair and stabilize these landslides. This method includes excavation of the existing unstable material and replacement with rock fill as erosion protection. The proposed right-of-way at the first slide is 0.38 acre with a temporary construction easement footprint of 0.45 acre. At the second slide, the proposed right-of-way is 3.41 acres and the temporary construction easement footprint is 1.14 acres.

### General Project Information

**YES    NO**

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

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

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



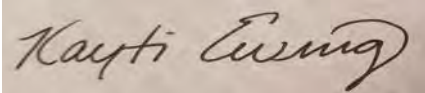
Does the project occur within 0.25 miles of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project occur within 150 feet of a known maternity roost tree?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project include forest conversion <sup>4</sup> ? (if yes, report acreage below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Estimated total acres of forest conversion	~ 4.0 acre	
If known, estimated acres <sup>5</sup> of forest conversion from April 1 to October 31	4.0	
If known, estimated acres of forest conversion from June 1 to July 31 <sup>6</sup>	0	
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: 7/27/2017

<sup>4</sup> 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).

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

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

## AHTD ENVIRONMENTAL IMPACTS ASSESSMENT FORM

AHTD Job Number 090501 FAP Number ER-0051(18) & ER-0051(19)

Job Title Hwy. 7 Slide Repair (Newton Co.) (S)

Environmental Impacts	None	Minor	Significant	Comments
Air Quality	X			
Construction Impacts		X		Minor during construction
Cultural Resources	X			
Economic	X			
Endangered Species		X		"Not likely to adversely affect"
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		3.8 acres proposed ROW, 1.6 acre TCE
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			Wellhead Protection SP added
Relocatees	X			
Section 4(f)/6(f)	X			
Social	X			
Underground Storage Tanks	X			
Visual Impacts	X			
Stream Impacts	X			
Water Quality	X			
Wetlands	X			
Wildlife Refuges	X			

Section 401 Water Quality Certification Required? No

Short-term Activity Authorization Required? No

Section 404 Permit Required? No Type None

Remarks: \_\_\_\_\_

Signature of Evaluator Brenda Price Date July 28, 2017