

TIER 3 CATEGORICAL EXCLUSION

ARDOT JOB NUMBER 100974

FAP NUMBER HSIP-0038(52)

INDEPENDENCE CO. LINE-BLACK ROCK (SAFETY IMPVTS.) (S)

ROUTE 25, SECTION 6

LAWRENCE COUNTY

Submitted Pursuant to 42 U.S.C. 4332(2)

By the

U.S. Department of Transportation

Federal Highway Administration

And the

Arkansas Department of Transportation

May 2020

May 11, 2020

Date of Approval

Randal Looney

Randal Looney
Environmental Coordinator
Federal Highway Administration

The Environmental Division reviewed the referenced project and determined it falls within the definition of the Tier 3 Categorical Exclusion as defined by the ARDOT/FHWA Programmatic 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 improve the safety of Highway 25 in Lawrence County from the Independence County line to the city of Black Rock. Total length of the project is 24.3 miles. A project location map is attached.

The existing roadway has two 10' wide paved travel lanes with 1' wide paved and unpaved shoulders. Existing right of way width ranges from 40' to 80'.

The northern 8.25 miles of the project will have two 11' wide paved travel lanes with 2' wide paved shoulders. The remainder of the roadway south to the Independence County line will be overlaid and meet up with a section of Highway 25 overlaid in a previous project up to the county line from the south. Additional safety improvements in select sections include: applying ultra-thin bond wearing course; installing guardrails and shoulder rumble stripes; adjusting superelevations; and improving clear zones. All work will be performed within existing right of way.

Design data for this project is as follows:

Design Year	Average Daily Traffic (vpd)	Percent Trucks	Design Speed (mph)
2020	1,400	9	55
2040	1,800		

There are no relocations, environmental justice concerns, floodplains, prime farmlands, underground storage tanks/hazardous wastes, wetlands, or cultural resources associated with this project. State Historic Preservation Officer clearance is attached.

Based on the ARDOT noise policy, a noise analysis is not required for this project. The project will not involve adding capacity, substantially changing the roadway alignment, or exposing noise sensitive land uses to traffic noise sources. In compliance with federal guidelines, local authorities will not require notification.

This project has been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been linked with any special mobile source air toxic (MSAT) concerns. As such, this project will not result in changes in traffic

volumes, vehicle mix, basic project location, or any other factor that would cause a meaningful increase in MSAT impacts of the project from that of the no-build alternative.

The official species list obtained through US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation website identifies the following endangered species as having the potential to occur in the project area: gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), Pink Mucket (pearly mussel, *Lampsilis abrupta*), Scaleshell Mussel (*Leptodea leptodon*), Snuffbox Mussel (*Epioblasma triquetra*), pondberry (*Lindera melissifolia*), and running buffalo clover (*Trifolium stoloniferum*) and the following threatened species: northern Long-eared Bat (*Myotis septentrionalis*), Eastern Black Rail (*Laterallus jamaicensis* ssp. *jamaicensis*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), (proposed threatened), Rabbitsfoot (*Theliderma cylindrica*), and Missouri bladderpod (*Physaria filiformis*). The project area also includes critical habitat for the Rabbitsfoot (*Theliderma cylindrica*). See attached official species list.

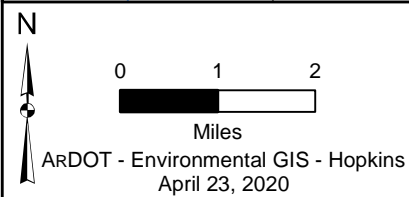
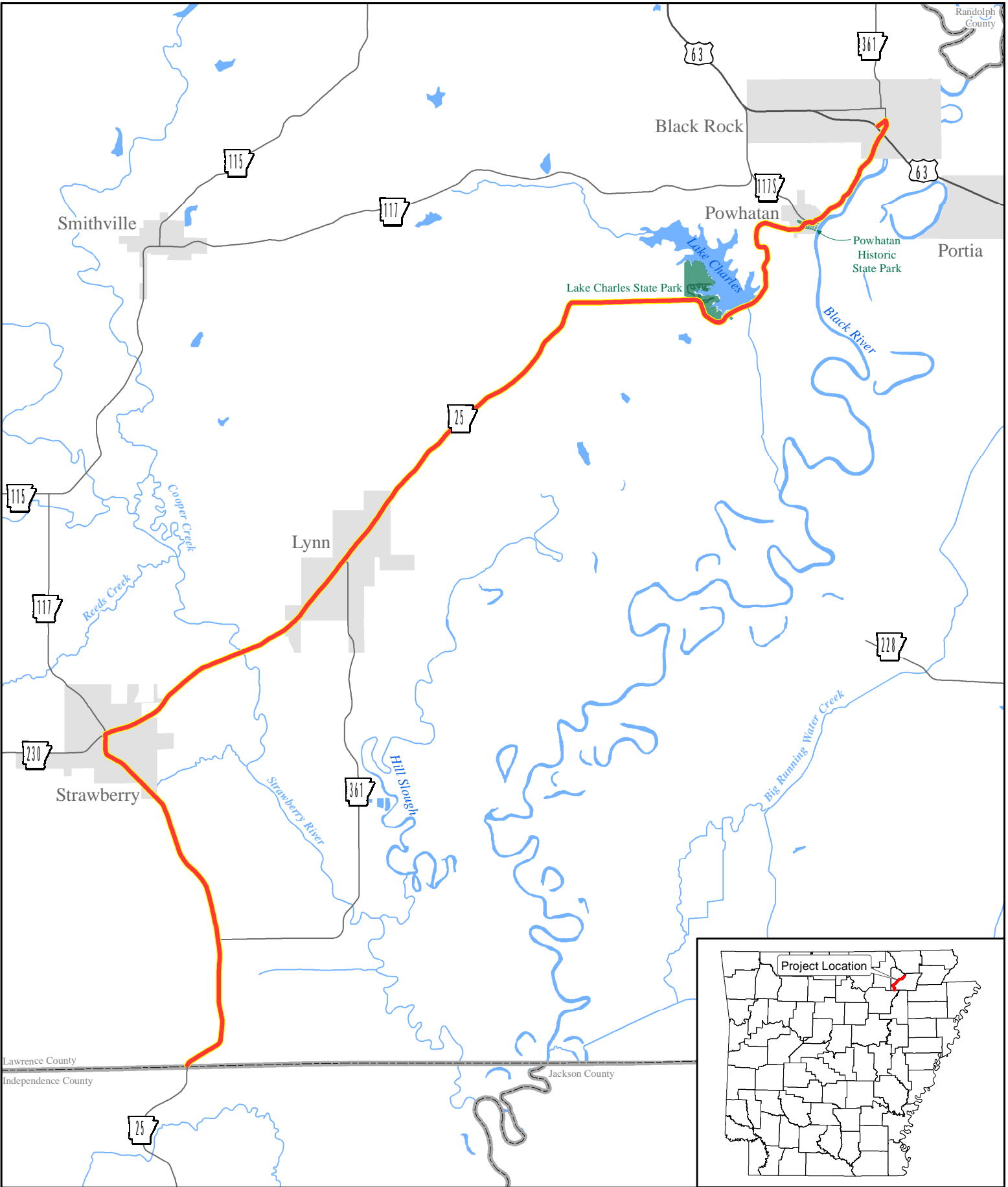
A determination of "may affect, not likely to adversely affect" was reached for the gray bat due to limited tree clearing and limited occurrences in the area. A determination of "may affect, not likely to adversely affect" was likewise reached for the listed mussels and the Rabbitsfoot critical habitat due to limited impacts on mussel habitat and limited disturbance to aquatic systems upstream of mussel habitat. A determination of "may affect, not likely to adversely affect" was reached for Running Buffalo Clover due to the low likelihood of occurrence along the roadside. The lack of marshes, dunes, tidal flats, gravel bars, glades, or isolated wetlands in the project area led to a determination of "no effect" for the listed birds, Missouri bladderpod, and pondberry. The USFWS concurred on May 1, 2020.

Tree clearing will be restricted to occur outside the Indiana bat pup season, May 31 to July 31. The removal of an estimated 5.5 acres of trees is anticipated to have adverse effects on the Indiana bat, for a determination of "may affect, likely to adversely affect". Under the terms of the Programmatic Biological Opinion for Transportation Projects within the range of the IBAT and NLEB, ARDOT will contribute \$71,639 to the previously approved Indiana Bat Mitigation Research Project. See the attached LAA Consistency and Concurrence Letters.


Stream impacts are estimated at less than 0.1 acre per waterbody. Construction of the proposed project should be allowed under the terms of a Nationwide 14 Section 404 Permit for Linear Transportation Projects as defined in the Federal Register 82(4):1860-2008. Migratory Bird, Water Pollution Control, and Wellhead Protection Area Special Provisions will be included in the project contract.

Job Number 100974
Tier 3 Categorical Exclusion
Page 3 of 3

No other adverse environmental impacts were identified. The checklist used to verify consideration of potential environmental impacts is attached.



Job 100974
 Independence Co. Line – Black Rock
 (Safety Impvts.) (Hwy.25)
 Lawrence County

 Project Location



Asa Hutchinson
Governor
Stacy Hurst
Secretary

May 1, 2020

Mr. John Fleming
Division Head
Environmental Division
Arkansas Department of Transportation
P.O. Box 2261
Little Rock, AR 72203-2261

RE: Lawrence County – Black Rock
Section 106 Review – FHWA
Proposed Undertaking – Independence Co. Line – Black Rock (Safety Impvt.) (S)
Route 25, Section 6
ARDOT Job Number: 100974
AHPP Tracking Number: 105772

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) reviewed the Project Identification Form for the above-referenced job. As described, the actions associated with the proposed undertaking will all occur within the existing right-of-way on paved surfaces.

Based on the provided information, the AHPP concurs with the finding of **no historic properties affected pursuant to 36 CFR § 800.4(d)(1)**.

Tribes that have expressed an interest in the area include the Cherokee Nation (Ms. Elizabeth Toombs), the Osage Nation (Dr. Andrea Hunter), the Quapaw Nation (Mr. Everett Bandy), and the Shawnee Tribe (Ms. Tonya Tipton). We recommend consultation in accordance with 36 CFR § 800.2(c)(2).

Thank you for the opportunity to review this undertaking. Please refer to the AHPP Tracking Number shown above in all correspondence. If you have any questions, please call Eric Mills of my staff at 501-324-9784 or email eric.mills@arkansas.gov.

Sincerely,

FOR Eric Mills
Scott Kaufman
Director, AHPP

cc: Mr. Randal Looney, Federal Highway Administration
Dr. Ann Early, Arkansas Archeological Survey



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



May 1, 2020

Mr. John Fleming
c/o Joseph Ledvina
Arkansas Department of Transportation
10324 Interstate 30
Little Rock, Arkansas 72209

Consultation Code: 04ER1000-2019-R-1067

RE: Job
100974 Independence County Line – Black Rock (Safety Improvements) Highway 25,
Section 6

Dear Mr. Fleming:

The U.S. Fish and Wildlife Service (Service) is responding to your request dated April 29, 2020, to verify that the proposed Arkansas Department of Transportation (ARDOT) Job Number 100974, Lawrence County, Arkansas (the Project) may rely on the February 5, 2018, Programmatic Biological Opinion (BO) for federally funded or approved transportation projects that may affect the federally listed endangered Indiana Bat (IBAT) (*Myotis sodalis*) and/or federally listed threatened Northern Long-eared Bat (NLEB) (*Myotis septentrionalis*). We received your request and the associated LAA Consistency Letter on April 29, 2020, stating the following:

ARDOT proposes to implement safety improvements on Highway 25 in Lawrence County. This is replacing consultation 04ER1000-2019-R-1067 to add minimal tree clearing to an additional portion of the project and to specify that clearing will be done during the bat active season but outside of the pupping season. An ultra-thin bonded wearing course will be added throughout the 24.3 mile extent of the job (with the exception of the surface of the bridge over the Strawberry River). Other activities include the addition of shoulder rumble stripes to several sections, the addition of bridgerails and/or guardrails at two locations, adjustments to superelevation along several curves in the northern third, and widening lanes by one foot and shoulders by up to two feet, accompanied by tree trimming, in the northern third. Minimal tree trimming, within 25 feet of the centerline of the existing roadway, is anticipated in the southern 16 miles. Widening will also be accompanied by the replacement of several reinforced concrete pipe culverts with corrugated metal pipe culverts. More details were included in an attached scope memo.

Following the Programmatic Biological Opinion, a determination of "may affect, likely to adversely affect" was reached for IBAT and/or NLEBs (see attached consistency letter). Highway 25 passes near Shirey Bay Wildlife Management Area (WMA), where IBAT roost colonies were recently documented; however, tree trimming will only occur along the northern portion of the route, beginning about 2.5 miles north of the WMA (see attached image). Moreover, tree trimming will be limited to trees adjacent to the existing pavement, with few tree removals expected. Tree trimming will be conducted during the

active season, but will be restricted to be conducted outside of the pup season, May 31 to July 31. We seek a concurrence for this "likely to adversely affect" determination. ARDOT proposes to use 12.4 acre credits as compensatory mitigation for the approximately 5.5 acres of suitable IBAT habitat being cleared (mitigation worksheet was provided).

Known populations of Gray Bats have been documented in Jones Cave approximately 5 miles west of the project location. With the known population distance and potential impacts to forage availability, we seek a concurrence of "may affect, but not likely to adversely affect" Gray Bat.

Running Buffalo Clover occurs in mesic woodlands with partial sunlight and periodic disturbance, usually on soils over limestone or other calcareous rock. Very little of the project includes woodlands or any other type of forest, but suitable habitat may occur in the project area. On the other hand, the occurrence of Running Buffalo Clover in Arkansas is based on a single 1896 specimen from a railroad yard in Independence County, so the existence of persistent populations is unlikely. We therefore seek a concurrence of "may affect, but not likely to adversely affect" Running Buffalo Clover.

All four listed mussel species are known from the Black and/or Strawberry Rivers near the project area, though the Snuffbox is only known from at least 1.5 miles upstream of the project. The culvert replacements will temporarily increase sedimentation to the Black River. All activities will apply best management practices of sediment control to minimize sedimentation into the Black River. We therefore seek concurrence of "may affect, but not likely to adversely affect" for the four mussel species.

Two rivers in or near the project area are listed as critical habitat for the Rabbitsfoot: Highway 25 crosses the Strawberry River via a bridge at about log mile 8.8, and Highway 25 passes as close as 120 feet from the Black River near the northern end of the project. Near the Strawberry River, the plans include only the pavement overlay and addition of rumble stripes to the shoulders, and we would not expect any effect on the critical habitat in that river. The culvert replacements will temporarily increase sedimentation to the Black River. All

activities will apply best management practices of sediment control to minimize sedimentation into the Black River. We therefore seek a concurrence that the project "may affect, but not likely to adversely affect" on the Rabbitsfoot critical habitat.

The lack of marshes, dunes, tidal flats, gravel bars, glades, or isolated wetlands leads us to a "no effect" determination for the three bird species and the two additional plant species identified by IPaC.

FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the IBAT and NLEB (PBO) determination key within IPaC provided a likely to adversely affect (LAA) concurrence letter. For the impacts to approximately 5.5 acres of suitable habitat, ARDOT will be deducting \$71,639 from the approved IBAT tracking research funding. The ARDOT is requesting concurrence with these effects determinations. This action may rely on the revised February 5, 2018, Programmatic Biological Opinion (BO) for federally funded or approved transportation projects that may

affect the IBAT and/or NLEB. We received your request and the associated Project Submittal Form on April 30, 2019.

This letter provides the Service's response as to whether the Project may rely on the BO to comply with Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) for its effects to the IBAT and/or NLEB. This letter also responds to your request for Service concurrence that the Project may affect, but is not likely to adversely affect (NLAA) ESA-listed species and/or designated critical habitats other than the IBAT and NLEB.

The official species list obtained through U.S. Fish and Wildlife Service's Information for Planning and Consultation website identified a total of 13 threatened or endangered species listed (attached) by IPaC: Gray Bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), Pink Mucket (*Lampsilis abrupta*), Rabbitsfoot (*Theliderma cylindrica*), Scaleshell Mussel (*Leptodea leptodon*), Snuffbox Mussel (*Epioblasma triquetra*), Missouri Bladderpod (*Physaria filiformis*), Pondberry (*Lindera melissifolia*), and Running Buffalo Clover (*Trifolium stoloniferum*). The project area also includes critical habitat for the Rabbitsfoot (*Theliderma cylindrica*).

Utilizing the FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the range of the IBAT and NLEB, it has been determined that the project "may affect, and is likely to adversely affect" both the IBAT and the NLEB. See the attached Consistency Letter generated by IPaC. Compensatory mitigation, in the form of a \$71,639 contribution to The Conservation Fund's (TCF) In Lieu Fee (ILF) Instrument, will be provided for adverse impacts to the IBAT associated with this project.

The ARDOT has determined that the Project is likely to adversely affect (LAA) the IBAT and/or the NLEB. The Service concurs with these determinations, because of the proximity of known species sites and foraging range to the project location and the occurrence of suitable foraging habitat for these species that exists on and adjacent to the site. A determination of LAA for IBAT and/or the NLEB is appropriate based on the distance to known species locations from the existing roadway and amount of suitable habitat being lost. The conservation measures being proposed and the proposed implementation of all required AMMs will help to mitigate the effects in accordance with the PBO.

ARDOT has determined that the Project is not likely to adversely affect (NLAA) the Gray Bat, Pink Mucket, Scaleshell Mussel, Snuffbox Mussel, and Rabbitsfoot. A water pollution control special provision will be put in place to prevent material and debris from entering the waterway, minimizing the effects of the project on aquatic macroinvertebrates, the bats' forage base. A cave discovery special provision will be in place on this project, which will halt construction activity in the Project area if a cave is discovered. Due to the preventive measures that will be in place during this project, the Service concurs that the Project "may affect, but is not likely to adversely affect" Gray Bat, Pink Mucket, Scaleshell Mussel, Snuffbox Mussel, and Rabbitsfoot or Rabbitsfoot critical habitat. Furthermore, the Service agrees with ARDOT's assessment for all other species identified.

This concurrence concludes your ESA Section 7 responsibilities relative to these species for this Project, subject to the Reinitiation Notice below.

Conclusion

The Service has reviewed the effects of the proposed Project, which includes the ARDOT's commitment to implement any applicable mitigation measures as indicated on the Project Submittal Form. We confirm that the proposed Project's effects are consistent with those analyzed in the BO. The Service has determined that projects consistent with the conservation measures and scope of the program analyzed in the BO are not likely to jeopardize the continued existence of the IBAT and/or the NLEB. In coordination with your agency and the other sponsoring federal transportation agencies, the Service will reevaluate this conclusion annually in light of any new pertinent information under the adaptive management provisions of the BO.

Incidental Take: Indiana Bat

The Service anticipates that tree removal associated with the proposed Project will cause incidental take of IBAT. As described in the Incidental Take Statement (ITS) of the BO, such taking will be difficult to detect. The Service determined that it is appropriate to measure the amount or extent of incidental taking resulting from BO projects using the proposed acreage of tree removal from IBAT suitable habitat as a surrogate for the numbers of individuals taken.

The proposed Project will remove 5.5 acres of trees from habitat that is suitable for the IBAT. All tree removal will occur during the active season but outside of the pupping season and comply with all other conservation measures in the BO. Based on the BO, 0.0 acres are anticipated to not result in adverse effects, and 5.5 acres are anticipated to result in adverse effects.

The ARDOT uses the mitigation ratio of 1.5 from Table 3 of the BO¹ to calculate the compensatory mitigation required to offset these adverse impacts for a total of 12.4² acres of trees that is suitable for the IBAT. Mitigation will be provided in the form of a \$71,639 contribution to the IBAT migration study program, will be provided for adverse impacts to the IBAT associated with this project.

Based on the mitigation identified above² and the information provided in Table 2 of Exhibit E in The Conservation Fund's (TCF) In Lieu Fee (ILF) Instrument¹, the Federal Transportation Agency will contribute [\$71,639] to TCF prior to the start of construction in order to comply with the mitigation requirements of the program of transportation projects reviewed in the BO. These calculations are based on the [2020] Land Use Values in Table 2 of Exhibit E in TCF's ILF Instrument, which are applicable even if the project construction should occur in a different calendar year. At the time of payment, the federal transportation agency or designated non-federal representative shall notify the Service of compliance with the compensatory mitigation requirements as described above.

The Service will add the acreage of Project-related tree removal to the annual total acreage attributed to the BO as a surrogate measure of IBAT take and exempted from the prohibitions against incidental taking. Such exemption is effective as long as your agency implements the reasonable and prudent measure (RPM) and accompanying terms and conditions of the BO's ITS.

The sole RPM of the BO's ITS requires the federal transportation agencies to ensure that state/local transportation agencies, who choose to include eligible projects under the programmatic action,

¹ https://www.fws.gov/midwest/angered/section7/fhwa/pdf/IBAT_ILF_ratios_transportation_agencies.pdf

² XX acres * XX ratio

³ https://www.fws.gov/midwest/angered/section7/fhwa/pdf/IBAT_ExhibitE_Table2_FeeSchedule_LandValues.pdf

incorporate all applicable conservation measures in the project proposals submitted to the Service for ESA section 7 compliance using the BO. The implementing terms and conditions for this RPM require the federal transportation agencies to offer training to appropriate personnel about using the BO, and about promptly reporting sick, injured, or dead bats (regardless of species) (or any other federally listed species) located in project action areas.

Northern Long-eared Bat

The Service anticipates that tree removal associated with the proposed Project will cause incidental take of NLEBs. However, the Project is consistent with the BO, and such projects will not cause take of NLEB that is prohibited under the ESA section 4(d) rule for this species (50 CFR §17.40(o)). Therefore, the take of NLEBs resulting from this project does not require exemption from the Service.

Reporting Dead or Injured Bats

The ARDOT, its state/local cooperators, and any contractors must take care when handling dead or injured IBAT and/or NLEBs, or any other federally listed species that are found at the Project site to preserve biological material in the best possible condition and to protect the handler from exposure to diseases, such as rabies. Project personnel are responsible for ensuring that any evidence about determining the cause of death or injury is not unnecessarily disturbed. Reporting the discovery of dead or injured listed species is required in all cases to enable the Service to determine whether the level of incidental take exempted by this BO is exceeded, and to ensure that the terms and conditions are appropriate and effective. Parties finding a dead, injured, or sick specimen of any endangered or threatened species must promptly notify this Service Office.

Reinitiation Notice

This letter concludes consultation for the proposed Project, which qualifies for inclusion in the BO issued to the federal transportation agencies. To maintain this inclusion, a reinitiation of this Project-level consultation is required where the ADOT's discretionary involvement or control over the Project has been retained (or is authorized by law) and if:

1. the amount or extent of incidental take of IBAT is exceeded;
2. new information reveals that the Project may affect listed species or critical habitat in a manner or to an extent not considered in the BO;
3. the Project is subsequently modified in a manner that causes an effect to listed species or designated critical habitat not considered in the BO; or
4. a new species is listed or critical habitat designated that the Project may affect.

Per condition #1 above, the anticipated incidental take is exceeded when:

- the Project removes trees from more than 5.5 acres of habitat suitable for the IBAT.

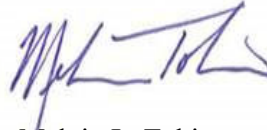
In instances where the amount or extent of incidental take is exceeded, the Federal Highway Administration/Arkansas Department of Transportation is required to immediately request a reinitiation of formal consultation. Please note that the Service cannot exempt from the applicable ESA prohibitions any Action-caused take that exceeds the amount or extent specified in the ITS of this BO that may occur before the reinitiated consultation is concluded.

Mr. John Fleming

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We appreciate your continued efforts to ensure that this Project is fully consistent with all applicable provisions of the BO. If you have any questions regarding our response or if you need additional information, please contact Lindsey Lewis at (501) 513-4489 or lindsey_lewis@fws.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. L. Tobin', with a stylized flourish at the end.

Melvin L. Tobin
Field Supervisor

cc: Project File
Read File

Filename: <C:\Users\lilewis\Documents\PROJECTS\FY2020\ARDOT\ARDOT Job 100974\AFO Letter -Job 100974 - Highway 25 Safety Improvements - Comments.docx>



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 23, 2020

Consultation Code: 04ER1000-2019-SLI-1067

Event Code: 04ER1000-2020-E-02035

Project Name: Job 100974 Independence County Line – Black Rock (Safety Improvements)
Highway 25, Section 6

Subject: Updated 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.**

If you determine that this project will have no effect on listed species and their habitat in any way, then you have completed Section 7 consultation with the Service and may use this letter in your project file or application.

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: 04ER1000-2019-SLI-1067

Event Code: 04ER1000-2020-E-02035

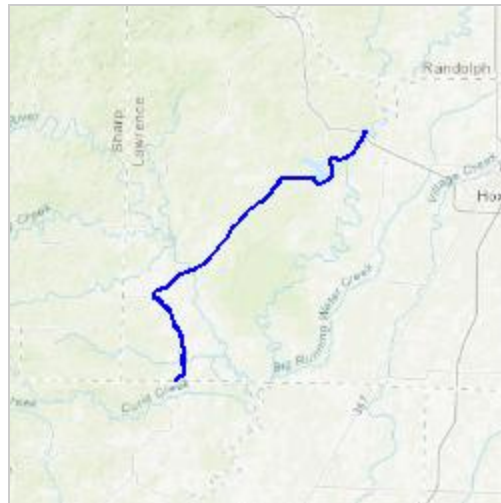
Project Name: Job 100974 Independence County Line – Black Rock (Safety Improvements) Highway 25, Section 6

Project Type: TRANSPORTATION

Project Description: safety improvements on Highway 25 in Lawrence County including minor widening, rumble strips, superelevation adjustments, and guardrail replacement. Tree trimming will only take place along the northernmost 8 miles

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.99813963380795N91.26169503966338W>



Counties: Independence, AR | Lawrence, AR

Endangered Species Act Species

There is a total of 13 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.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

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.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

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
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	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
Eastern Black Rail <i>Laterallus jamaicensis ssp. jamaicensis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10477	Proposed Threatened
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location is outside the 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

Clams

NAME	STATUS
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 final critical habitat for this species. Your location overlaps the 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
Snuffbox Mussel <i>Epioblasma triquetra</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4135	Endangered

Flowering Plants

NAME	STATUS
Missouri Bladderpod <i>Physaria filiformis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5361	Threatened
Pondberry <i>Lindera melissifolia</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1279	Endangered
Running Buffalo Clover <i>Trifolium stoloniferum</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2529	Endangered

Critical habitats

There is 1 critical habitat wholly or partially within your project area under this office's jurisdiction.

NAME	STATUS
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> https://ecos.fws.gov/ecp/species/5165#crithab	Final



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>

IPaC Record Locator: 920-21421001

April 29, 2020

Subject: Consistency letter for the 'Job 100974 Independence County Line – Black Rock (Safety Improvements) Highway 25, Section 6' project (TAILS 04ER1000-2019-R-1067) under the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request to verify that the **Job 100974 Independence County Line – Black Rock (Safety Improvements) Highway 25, Section 6** (Proposed Action) may rely on the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action is within the scope and adheres to the criteria of the PBO, including the adoption of applicable avoidance and minimization measures, and may affect, and is likely to adversely affect the endangered Indiana bat (*Myotis sodalis*) and/or the threatened Northern long-eared bat (*Myotis septentrionalis*). Consultation with the Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) is required.

This "may affect - likely to adversely affect" determination becomes effective when the lead Federal action agency or designated non-federal representative requests the Service rely on the PBO to satisfy the agency's consultation requirements for this project. Please provide this consistency letter to the lead Federal action agency or its designated non-federal representative for review, and as the agency deems appropriate, transmit to this Service Office for verification that the project is consistent with the PBO.

This Service Office will respond by letter to the requesting Federal action agency or designated non-federal representative within 30 calendar days to:

- verify that the Proposed Action is consistent with the scope of actions covered under the PBO;
- verify that all applicable avoidance, minimization, and compensation measures are included in the action proposal;
- identify any action-specific monitoring and reporting requirements, consistent with the monitoring and reporting requirements of the PBO, and
- identify anticipated incidental take.

ESA Section 7 compliance for this Proposed Action is not complete until the Federal action agency or its designated non-federal representative receives a verification letter from the Service.

For Proposed Actions that include bridge/structure removal, replacement, and/or maintenance activities: If your initial bridge/structure assessments failed to detect Indiana bats, but you later detect bats during construction, please submit the Post Assessment Discovery of Bats at Bridge/Structure Form (User Guide Appendix E) to this Service Office. In these instances, potential incidental take of Indiana bats may be exempted provided that the take is reported to the Service.

If the Proposed Action may affect any other federally-listed or proposed species and/or designated critical habitat, additional consultation between the lead Federal action agency and this Service Office is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please advise the lead Federal action agency accordingly.

The following species may occur in your project area and **are not** covered by this determination:

- Eastern Black Rail, *Laterallus jamaicensis ssp. jamaicensis* (Proposed Threatened)
 - Gray Bat, *Myotis grisescens* (Endangered)
 - Missouri Bladderpod, *Physaria filiformis* (Threatened)
 - Pink Mucket (pearlymussel), *Lampsilis abrupta* (Endangered)
 - Piping Plover, *Charadrius melodus* (Threatened)
 - Pondberry, *Lindera melissifolia* (Endangered)
 - Rabbitsfoot, *Quadrula cylindrica cylindrica* (Threatened)
 - Red Knot, *Calidris canutus rufa* (Threatened)
 - Running Buffalo Clover, *Trifolium stoloniferum* (Endangered)
 - Scaleshell Mussel, *Leptodea leptodon* (Endangered)
 - Snuffbox Mussel, *Epioblasma triquetra* (Endangered)
-

Project Description

The following project name and description was collected in IPaC as part of the endangered species review process.

Name

Job 100974 Independence County Line – Black Rock (Safety Improvements) Highway 25, Section 6

Description

safety improvements on Highway 25 in Lawrence County including minor widening, rumble strips, superelevation adjustments, and guardrail replacement. Tree trimming will be limited to within 40 feet of the centerline (about 28 feet from the existing pavement) in the northernmost 8 miles and will be limited to 25 feet from the centerline (about 13 feet from the existing pavement) in the rest.

Determination Key Result

Based on your answers provided, this project is likely to adversely affect the endangered Indiana bat and/or the threatened Northern long-eared bat. Therefore, consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required. However, also based on your answers provided, this project may rely on the conclusion and Incidental Take Statement provided in the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

Qualification Interview

1. Is the project within the range of the Indiana bat^[1]?

[1] See [Indiana bat species profile](#)

Automatically answered

Yes

2. Is the project within the range of the Northern long-eared bat^[1]?

[1] See [Northern long-eared bat species profile](#)

Automatically answered

Yes

3. Which Federal Agency is the lead for the action?

A) Federal Highway Administration (FHWA)

4. Are *all* project activities limited to non-construction^[1] activities only? (examples of non-construction activities include: bridge/abandoned structure assessments, surveys, planning and technical studies, property inspections, and property sales)

[1] Construction refers to activities involving ground disturbance, percussive noise, and/or lighting.

No

5. Does the project include *any* activities that are **greater than** 300 feet from existing road/rail surfaces^[1]?

[1] Road surface is defined as the actively used [e.g. motorized vehicles] driving surface and shoulders [may be pavement, gravel, etc.] and rail surface is defined as the edge of the actively used rail ballast.

No

6. Does the project include *any* activities **within** 0.5 miles of a known Indiana bat and/or NLEB hibernaculum^[1]?

[1] For the purpose of this consultation, a hibernaculum is a site, most often a cave or mine, where bats hibernate during the winter (see suitable habitat), but could also include bridges and structures if bats are found to be hibernating there during the winter.

No

7. Is the project located **within** a karst area?

Yes

8. Will the project include *any* type of activity that could impact a **known** hibernaculum^[1], or impact a karst feature (e.g., sinkhole, losing stream, or spring) that could result in effects to a **known** hibernaculum?

[1] For the purpose of this consultation, a hibernaculum is a site, most often a cave or mine, where bats hibernate during the winter (see suitable habitat), but could also include bridges and structures if bats are found to be hibernating there during the winter.

No

9. Is there *any* suitable^[1] summer habitat for Indiana Bat or NLEB **within** the project action area^[2]? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] The action area is defined as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR Section 402.02). Further clarification is provided by the [national consultation FAQs](#).

Yes

10. Will the project remove *any* suitable summer habitat^[1] and/or remove/trim any existing trees **within** suitable summer habitat?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

Yes

11. Will the project clear more than 20 acres of suitable habitat per 5-mile section of road/rail?

No

12. Have presence/probable absence (P/A) summer surveys^{[1][2]} been conducted^{[3][4]} **within** the suitable habitat located within your project action area?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] Presence/probable absence summer surveys conducted within the fall swarming/spring emergence home range of a documented Indiana bat hibernaculum (contact local Service Field Office for appropriate distance from hibernacula) that result in a negative finding requires additional consultation with the local Service Field Office to determine if clearing of forested habitat is appropriate and/or if seasonal clearing restrictions are needed to avoid and minimize potential adverse effects on fall swarming and spring emerging Indiana bats.

[3] For projects within the range of either the Indiana bat or NLEB in which suitable habitat is present, and no bat surveys have been conducted, the transportation agency will assume presence of the appropriate species. This assumption of presence should be based upon the presence of suitable habitat and the capability of bats to occupy it because of their mobility.

[4] Negative presence/probable absence survey results obtained using the [summer survey guidance](#) are valid for a minimum of two years from the completion of the survey unless new information (e.g., other nearby surveys) suggest otherwise.

No

13. Does the project include activities **within documented Indiana bat habitat**^{[1][2]}?

[1] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry triangulation/triangulation to estimate foraging areas; or (3) foraging areas with repeated use documented using acoustics. Documented roosting habitat is also considered as suitable summer habitat within 0.25 miles of documented roosts.)

[2] For the purposes of this key, we are considering documented corridors as that where Indiana bats and/or NLEB have actually been captured and tracked to using (1) radio telemetry; or (2) treed corridors located directly between documented roosting and foraging habitat.

No

14. Will the removal or trimming of habitat or trees occur **within** suitable but **undocumented Indiana bat** roosting/foraging habitat or travel corridors?

Yes

15. What time of year will the removal or trimming of habitat or trees **within** suitable but **undocumented Indiana bat** roosting/foraging habitat or travel corridors occur^[1]?

[1] Coordinate with the local Service Field Office for appropriate dates.

A) During the active season

16. When in the active season will the removal or trimming of habitat or trees occur **within** suitable but **undocumented Indiana bat** roosting/foraging habitat or travel corridors?

B) During the active season but not between May 1 and July 31

17. Does the project include activities **within documented NLEB habitat**^{[1][2]}?

[1] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry biangulation/triangulation to estimate foraging areas; or (3) foraging areas with repeated use documented using acoustics. Documented roosting habitat is also considered as suitable summer habitat within 0.25 miles of documented roosts.)

[2] For the purposes of this key, we are considering documented corridors as that where Indiana bats and/or NLEB have actually been captured and tracked to using (1) radio telemetry; or (2) treed corridors located directly between documented roosting and foraging habitat.

No

18. Will the removal or trimming of habitat or trees occur **within** suitable but **undocumented NLEB** roosting/foraging habitat or travel corridors?

Yes

19. What time of year will the removal or trimming of habitat or trees **within** suitable but **undocumented NLEB** roosting/foraging habitat or travel corridors occur?

A) During the active season

20. Will *any* tree trimming or removal occur **within** 100 feet of existing road/rail surfaces?

Yes

21. Will **more than** 10 trees be removed **between** 0-100 feet of the road/rail surface *during* the active season^[1]?

[1] Areas containing more than 10 trees will be assessed by the local Service Field Office on a case-by-case basis with the project proponent.

Yes

22. Will *any* tree trimming or removal occur **between** 100-300 feet of existing road/rail surfaces?
No
23. Are *all* trees that are being removed clearly demarcated?
Yes
24. Will the removal of habitat or the removal/trimming of trees involve the use of **temporary** lighting?
No
25. Will the removal of habitat or the removal/trimming of trees include installing new or replacing existing **permanent** lighting?
No
26. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?
No
27. Does the project include slash pile burning?
No
28. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?
No
29. Does the project include the removal, replacement, and/or maintenance of *any* structure other than a bridge? (e.g., rest areas, offices, sheds, outbuildings, barns, parking garages, etc.)
No
30. Will the project involve the use of **temporary** lighting *during* the active season?
No
31. Will the project install new or replace existing **permanent** lighting?
No
-

32. Does the project include percussives or other activities (**not including tree removal/trimming or bridge/structure work**) that will increase noise levels above existing traffic/background levels?

No

33. Are *all* project activities that are **not associated with** habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives, limited to actions that DO NOT cause any additional stressors to the bat species?

Examples: lining roadways, unlighted signage , rail road crossing signals, signal lighting, and minor road repair such as asphalt fill of potholes, etc.

Yes

34. Will the project raise the road profile **above the tree canopy**?

No

35. Are the project activities that are not associated with habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives consistent with a No Effect determination in this key?

Automatically answered

Yes, other project activities are limited to actions that DO NOT cause any additional stressors to the bat species as described in the BA/BO

36. Is the habitat removal portion of this project consistent with a Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because tree removal that occurs within the Indiana bat's active season (but not between May 1 - July 31) occurs greater than 0.5 miles from the nearest hibernaculum, is not greater than 300 feet from the existing road/rail surface, and is not in documented Indiana bat roosting/foraging habitat or travel corridors.

37. Is the habitat removal portion of this project consistent with a Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because tree removal that occurs within the NLEB's active season occurs greater than 0.5 miles from the nearest hibernaculum, is less than 100 feet from the existing road/rail surface, and is not in documented NLEB roosting/foraging habitat or travel corridors, and a visual emergence survey has not been conducted

38. General AMM 1

Will the project ensure *all* operators, employees, and contractors working in areas of known or presumed bat habitat are aware of *all* FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable Avoidance and Minimization Measures?

Yes

39. Hibernacula AMM 1

Will the project ensure that on-site personnel will use best management practices^[1], secondary containment measures, or other standard spill prevention and countermeasures to avoid impacts to possible hibernacula?

[1] Coordinate with the appropriate Service Field Office on recommended best management practices for karst in your state.

Yes

40. Hibernacula AMM 1

Will the project ensure that, where practicable, a 300 foot buffer will be employed to separate fueling areas and other major containment risk activities from caves, sinkholes, losing streams, and springs in karst topography?

Yes

41. Tree Removal AMM 1

Can *all* phases/aspects of the project (e.g., temporary work areas, alignments) be modified, to the extent practicable, to avoid tree removal^[1] in excess of what is required to implement the project safely?

Note: Tree Removal AMM 1 is a minimization measure, the full implementation of which may not always be practicable. Projects may still be NLAA as long as Tree Removal AMMs 2, 3, and 4 are implemented and LAA as long as Tree Removal AMMs 3, 5, 6, and 7 are implemented.

[1] The word “trees” as used in the AMMs refers to trees that are suitable habitat for each species within their range. See the USFWS’ current summer survey guidance for our latest definitions of suitable habitat.

Yes

42. Tree Removal AMM 3

Can tree removal be limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits)?

Yes

43. For Indiana bat, if applicable, compensatory mitigation measures are required to offset adverse effects on the species (see Section 2.10 of the BA). Please select the mechanism in which compensatory mitigation will be implemented:

6. Not Applicable

Project Questionnaire

1. Have you made a No Effect determination for *all* other species indicated on the FWS IPaC generated species list?

No

2. Have you made a May Affect determination for *any* other species on the FWS IPaC generated species list?

Yes

3. How many acres^[1] of trees are proposed for removal between 0-100 feet of the existing road/rail surface?

[1] If described as number of trees, multiply by 0.09 to convert to acreage and enter that number.

5.5

4. Please verify:

All tree removal will occur greater than 0.5 mile from any hibernaculum.

Yes, I verify that all tree removal will occur greater than 0.5 miles from any hibernaculum.

5. Is the project location 0-100 feet from the edge of existing road/rail surface?

Yes

6. Is the project location 100-300 feet from the edge of existing road/rail surface?

No

7. Please verify:

No documented Indiana bat roosts or surrounding summer habitat within 0.25 mile of documented roosts will be impacted between May 1 and July 31.

Yes, I verify that no documented Indiana bat roosts or surrounding summer habitat within 0.25 mile of documented roosts will be impacted during this period.

8. **Please verify:**

No documented NLEB roosts or surrounding summer habitat within 150 feet of documented roosts will be impacted between June 1 and July 31.

Yes, I verify that no documented NLEB roosts or surrounding summer habitat within 150 feet of documented roosts will be impacted during this period.

9. You have indicated that the following Avoidance and Minimization Measures (AMMs) will be implemented as part of the proposed project:

- *General AMM 1*
- *Hibernacula AMM 1*
- *Tree Removal AMM 1*
- *Tree Removal AMM 3*

Avoidance And Minimization Measures (AMMs)

This determination key result includes the commitment to implement the following Avoidance and Minimization Measures (AMMs):

GENERAL AMM 1

Ensure all operators, employees, and contractors working in areas of known or presumed bat habitat are aware of all FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable AMMs.

HIBERNACULA AMM 1

For projects located within karst areas, on-site personnel will use best management practices, secondary containment measures, or other standard spill prevention and countermeasures to avoid impacts to possible hibernacula. Where practicable, a 300 foot buffer will be employed to separate fueling areas and other major containment risk activities from caves, sinkholes, losing streams, and springs in karst topography.

TREE REMOVAL AMM 1

Modify all phases/aspects of the project (e.g., temporary work areas, alignments) to avoid tree removal.

TREE REMOVAL AMM 3

Ensure tree removal is limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits).

Determination Key Description: FHWA, FRA, FTA Programmatic Consultation For Transportation Projects Affecting NLEB Or Indiana Bat

This key was last updated in IPaC on December 02, 2019. Keys are subject to periodic revision.

This decision key is intended for projects/activities funded or authorized by the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and/or Federal Transit Administration (FTA), which may require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act (ESA) for the endangered **Indiana bat** (*Myotis sodalis*) and the threatened **Northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects](#). The programmatic biological opinion covers limited transportation activities that may affect either bat species, and addresses situations that are both likely and not likely to adversely affect either bat species. This decision key will assist in identifying the effect of a specific project/activity and applicability of the programmatic consultation. The programmatic biological opinion is not intended to cover all types of transportation actions. Activities outside the scope of the programmatic biological opinion, or that may affect ESA-listed species other than the Indiana bat or NLEB, or any designated critical habitat, may require additional ESA Section 7 consultation.

**ARDOT ENVIRONMENTAL VERIFICATION CHECKLIST
FOR CONSIDERATION OF POTENTIAL IMPACTS**

ARDOT Job Number 100974 FAP Number HSIP-0038(52)

Job Title Independence Co. Line – Black Rock (Safety Impvts.) (S)

Environmental Resource	None	Minimal	Major	Comments-required for each item
Air Quality	X			MSAT not required
Cultural Resources	X			SHPO clearance attached
Economic	X			No adverse economic impacts
Endangered Species		X		Both NLAA and no effect determinations
Environmental Justice/Title VI	X			EJ populations not identified in area
Fish and Wildlife		X		Temporary impacts during construction
Floodplains	X			Mapped flood zones not identified
Forest Service Property	X			None in project area
Hazardous Materials/Landfills	X			None identified in project area
Land Use	X			All work occurring within existing ROW
Migratory Birds		X		Migratory Bird SP included
Navigation/Coast Guard	X			No navigable waters in project area
Noise Levels	X			No noise level increases
Prime Farmland	X			All work occurring within existing ROW
Protected Waters	X			Black River, Strawberry River; WPC SP to be included
Public Recreation Lands	X			None identified in project area
Public Water Supply/WHPA	X			Requires WHP SP and coordination due to proximity to Strawberry, Lynn, and Black Rock Water Works
Relocates	X			Relocations not required
Section 4(f)/6(f)	X			4(f)/6(f) resources not in project area
Social	X			No adverse social impacts
Underground Storage Tanks	X			None located in project area
Visual	X			No adverse visual impacts
Streams		X		Nationwide 14 <0.1 acre per waterbody
Water Quality		X		Temporary decline during construction
Wetlands	X			None in project area
Wildlife Refuges	X			None in project area

Section 401 Water Quality Certification Required? No
 Short-term Activity Authorization Required? Yes
 Section 404 Permit Required? Yes Type NW14

Remarks: .

Signature of Evaluator Mary Pearson Date 05/05/2020

ROADWAY DESIGN REQUEST

Job Number 100974 FAP No. HSIP-0038(52) County Lawrence

Job Name Independence Co. Line – Black Rock (Safety Impvts.) (S)

Design Engineer S. Wood / S. Richey Environmental Staff _____

Brief Project Description Improve Hwy. 25 utilizing various safety improvement techniques including lane and shoulder widening, ultra-thin bonded wearing course, shoulder rumble stripes, superelevation adjustments, and clear zone improvements.

A. Existing Conditions:

Roadway Width: 20' - 23' Shoulder Type/Width: Unpaved / 1'

Number of Lanes and Width: 2 - 10' Existing Right-of-Way: 40' - 80'

Sidewalks? N/A Location: _____ Width: _____

Bike Lanes? N/A Location: _____ Width: _____

B. Proposed Conditions:

Roadway Width: 26' - 27' Shoulder Type/Width: Paved / 2'

Number of Lanes and Width: 2 - 11' Proposed Right-of-Way: 40'-80'

Sidewalks? N/A Location: _____ Width: _____

Bike Lanes? N/A Location: _____ Width: _____

C. Construction Information:

If detour: Where: N/A Length: N/A

D. Design Traffic Data:

2020 ADT: 1400 2040 ADT: 1800 % Trucks: 9
Design Speed: 55 m.p.h.

E. Approximate total length of project: 24.29 mile(s)

F. Justification for proposed improvements: Hwy. 25 Safety Study

G. Total Relocates: 0 Residences: 0 Businesses: 0

H. Have you coordinated with any outside agencies (e.g., FHWA, City, County, etc.)? No

Agency/Official	Person Contacted	Date