

TIER 3 CATEGORICAL EXCLUSION

2021 PAVEMENT PRESERVATION PROGRAM PROJECTS

VARIOUS JOB NUMBERS

VARIOUS FAP NUMBERS

VARIOUS PROJECT NAMES

VARIOUS ROUTES, SECTIONS

VARIOUS COUNTIES

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

By the

U.S. Department of Transportation

Federal Highway Administration

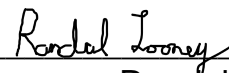
And the

Arkansas Department of Transportation

November 2020

November 30, 2020

Date of Approval



Randal Looney
Environmental Coordinator
Federal Highway Administration

The Environmental Division reviewed the referenced projects and has determined they fall 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 these projects.

The purpose of these projects is to rehabilitate deteriorated highway pavement. More information on the location and scope of each project can be found in Table 1. The existing cross sections will not change as a result of the proposed projects and no additional right of way will be required. Project location maps are attached.

There are no relocations, environmental justice issues, wetlands, prime farmlands, or cultural resources associated with these projects. Field inspections found no evidence of existing underground storage tanks or hazardous waste deposits involved with these projects.

The official species lists obtained through the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation (IPaC) identifies the following species as potentially occurring in the project areas: 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*), gray bat (*Myotis grisescens*), Missouri bladderpod (*Physaria filiformis*), pondberry (*Lindera melissifolia*), Curtis Pearlymussel (*Epioblasma curtisii*), Pink Mucket (*Lampsilis abrupta*), Scaleshell Mussel (*Leptodea leptodon*), Snuffbox Mussel (*Epioblasma triquetra*), and Rabbitsfoot (*Theliderma cylindrica*) and its critical habitat.

Utilizing the Arkansas Determination Key, it has been determined that the projects will have "no effect" on the following species due to the limited scope of the action, lack of suitable habitat, and distance to known species locations: Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), and Red Knot (*Calidris canutus rufa*). See the attached No Effect consistency letters and determinations from the Arkansas D-Key and FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) for the project.

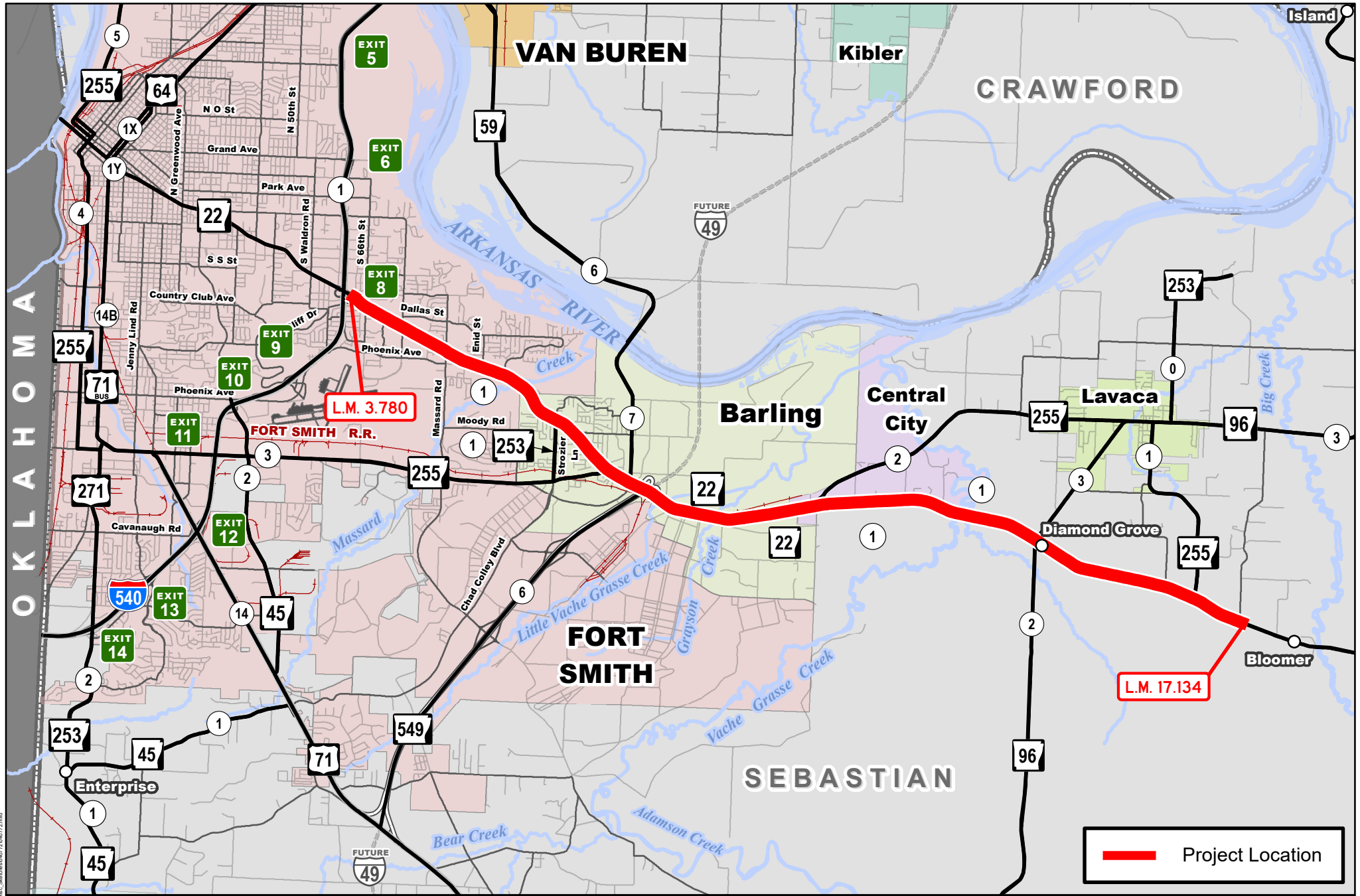
The Arkansas D-Key has determined the projects "may affect, but is not likely to adversely affect" the following species: gray bat (*Myotis grisescens*), Missouri bladderpod (*Physaria filiformis*), pondberry (*Lindera melissifolia*), Curtis Pearlymussel (*Epioblasma curtisii*), Pink Mucket (*Lampsilis abrupta*), Scaleshell Mussel (*Leptodea leptodon*), Snuffbox Mussel (*Epioblasma triquetra*), and Rabbitsfoot (*Theliderma cylindrica*) and its critical habitat (see attached). USFWS concurrence with these determinations was received November 4, 2020.

These projects will not have a discharge of dredged or fill material into waters of the United States; therefore, a Section 404 permit will not be required.

These projects have been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and have not been linked with any special mobile source air toxic (MSAT) concerns. As such, these projects 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 projects from that of the no-build alternative.

Table 1

Job Number	FAP #	Job Name	County	Route/Section	Scope
040772	NHPP-0065(60)	I-540 – East (S)	Sebastian	22/1	Mill & Inlay
090527	NHPP-0064(16)	S. of Marshall – Van Buren Co. Line (S)	Searcy	65/1	2" Overlay
A00004	N/A	Sharp Co. Line – Greene Co. Line (Sel. Secs.)	Lawrence	63/3 & 4	Resurfacing
A10006	N/A	Hwys. 1, 64B & 284 (Sel. Secs.) (S)	Cross	284/1 1/14 64/16C	Mill & Inlay/Joint Tape
A10008	N/A	Marianna – St. Francis Co. Line (Sel. Secs.) (S)	Lee	79/16	Mill & Inlay/Joint Tape
A50005	N/A	Cave City – North (S)	Sharp	167/19	2" Overlay
A60002	N/A	Hwy. 298 – Perry Co. Line (S)	Garland	7/10	Scrub, Seal & Overlay
A90007	N/A	Hwy. 102 – Missouri State Line (S)	Benton	279/1 72/2	Thin 1" Overlay (Hwy. 279)/Mill & Inlay (Hwy. 72)/Spot Level & UTBWC (Hwy. 279)/ 2" overlay (Hwy. 279)



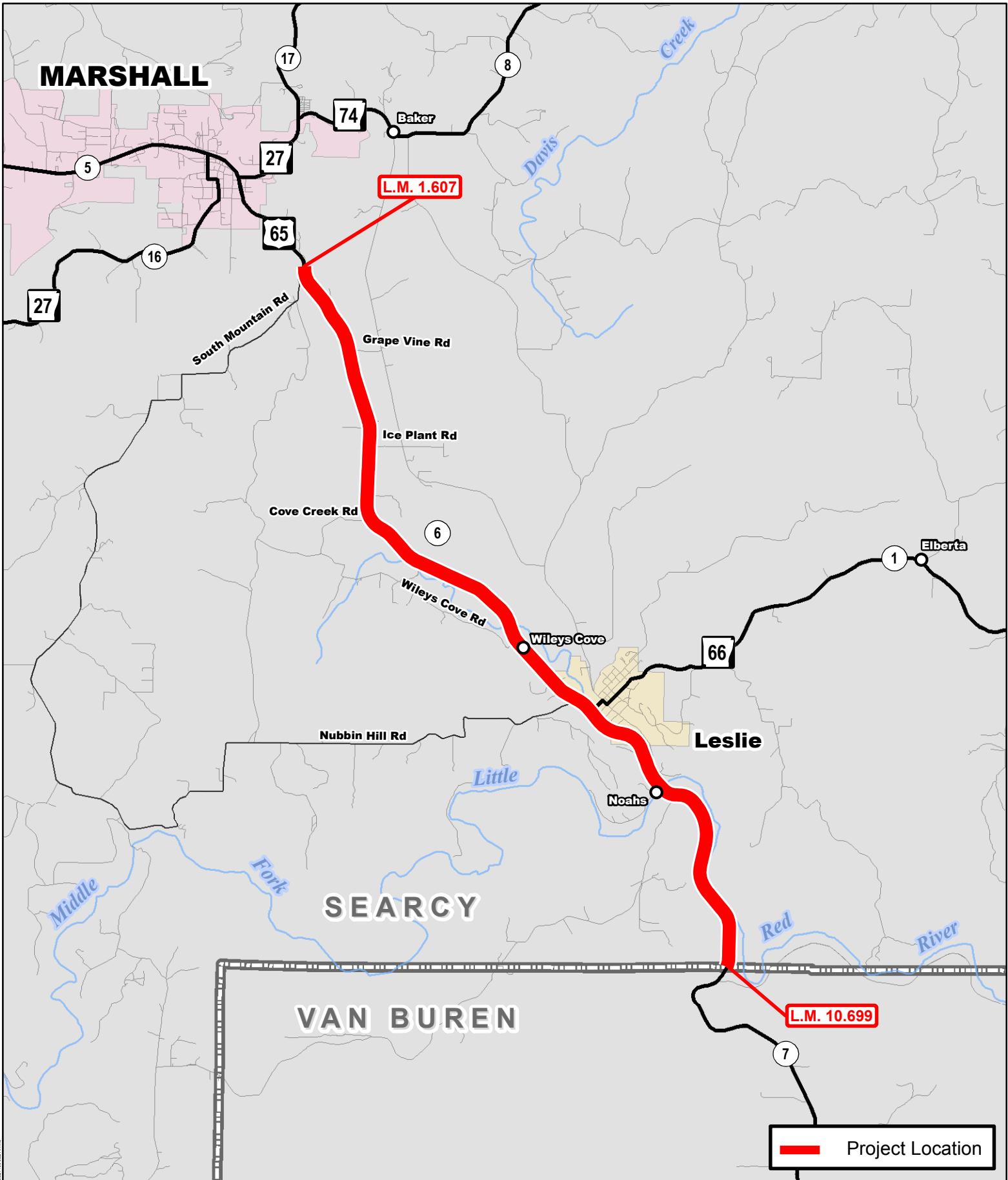
Job 040772
I-540 – East (S)
 Hwy. 22, Sec. 1
 Sebastian County



PM: PS: clide014: 5/14/2020



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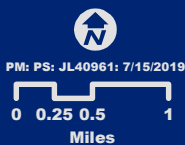
 Project Location

Job 090527

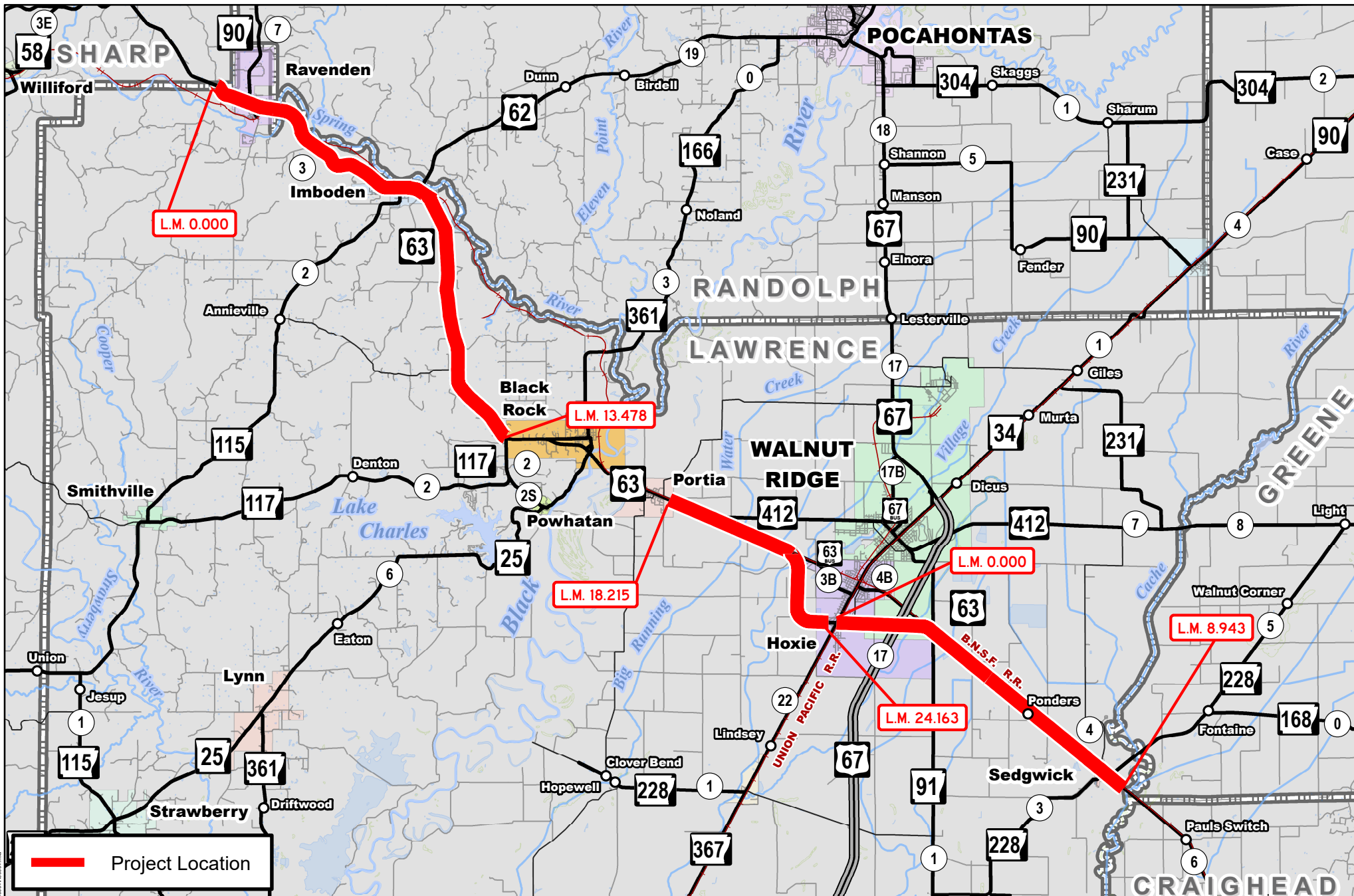
S. of Marshall - Van Buren Co. Line (S)

Hwy. 65, Sec. 6

Searcy County



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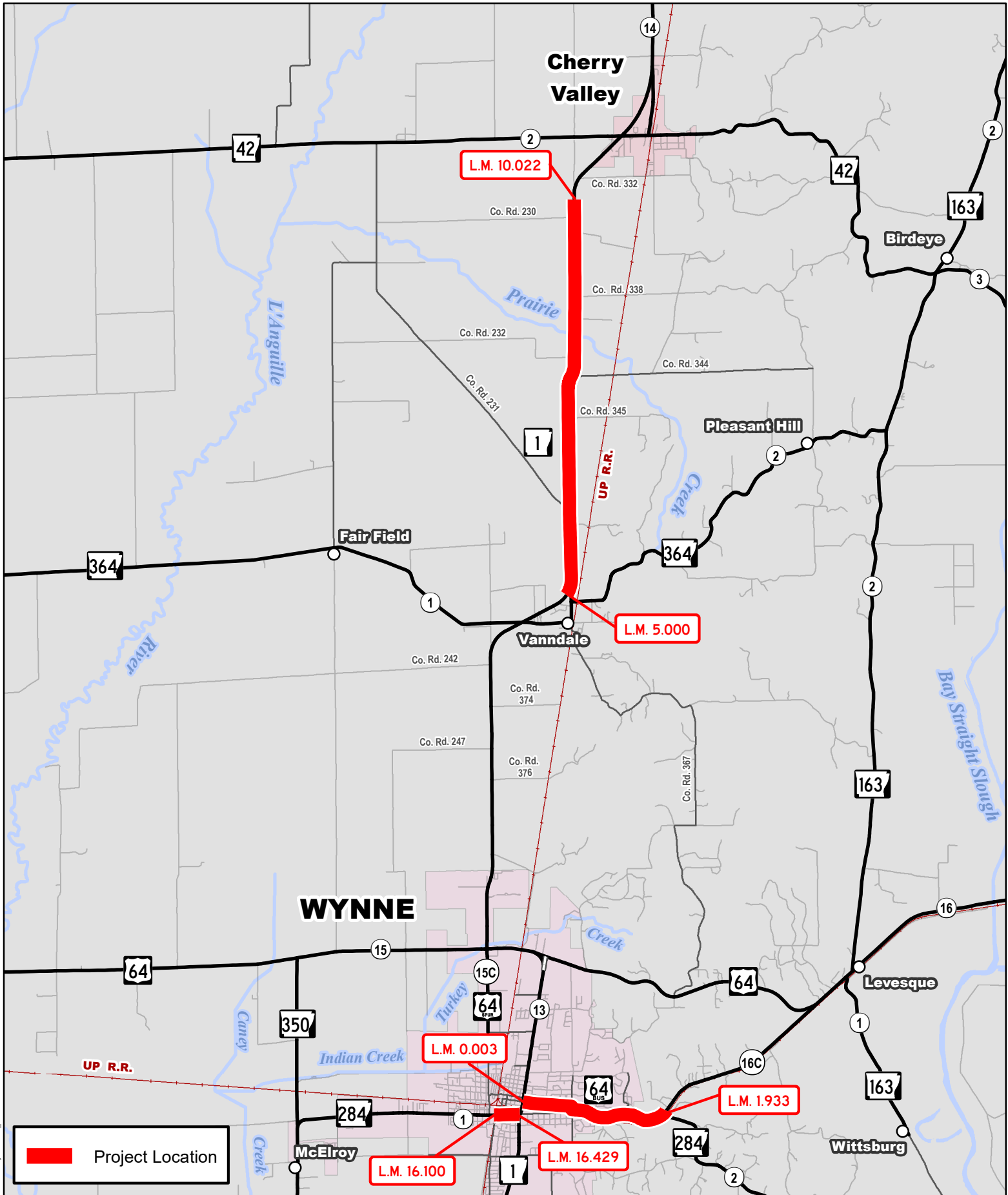


Job A00004
Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)
 Hwy. 63, Secs. 3 & 4
 Lawrence County

PM: PS: jj41577: 2/5/2020



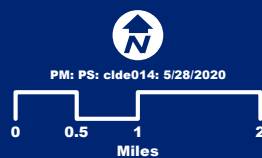
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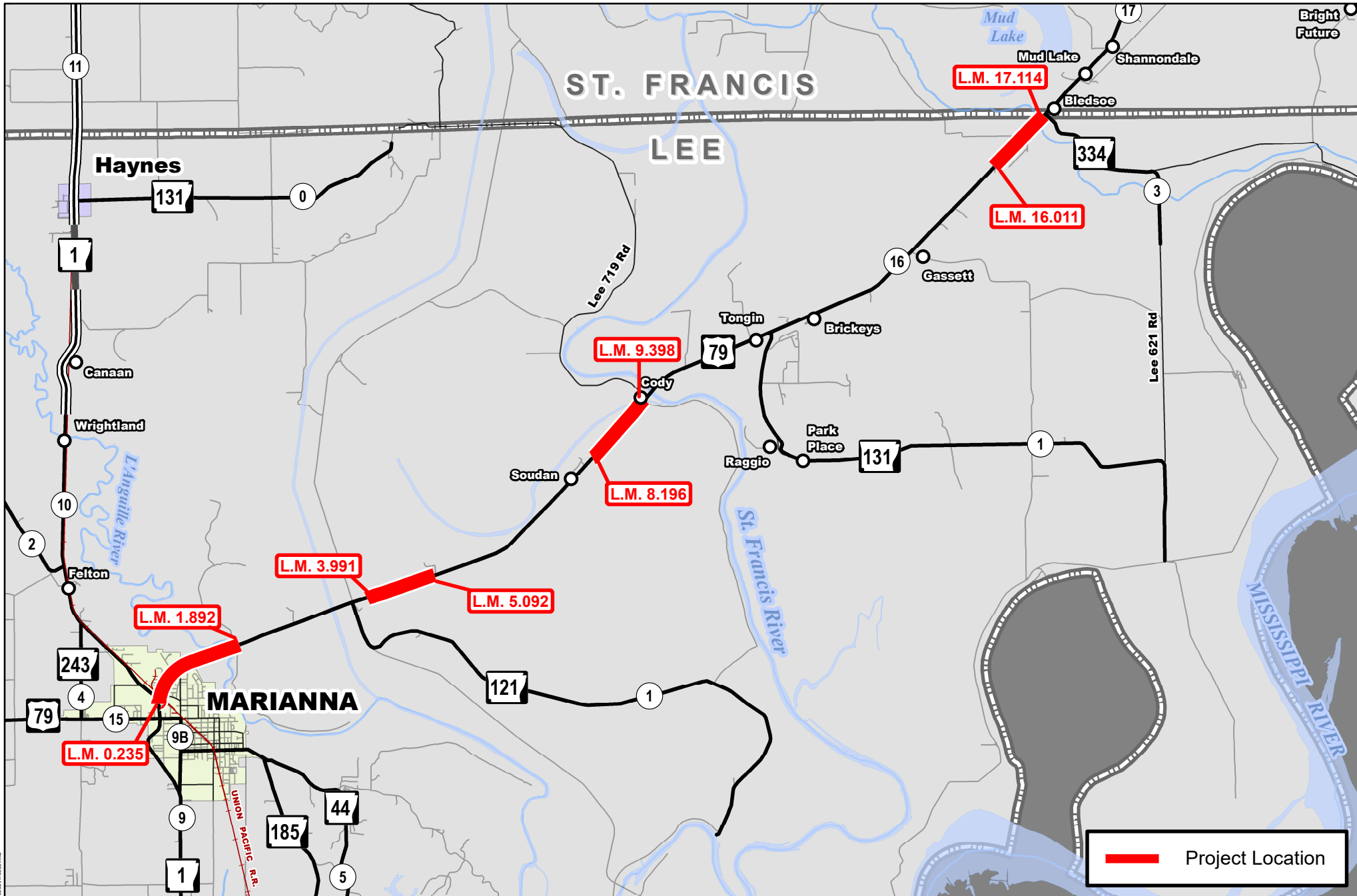
Job A10006

Hwys. 1, 64B & 284 (Sel. Secs.) (S)

Hwy. 1, Sec. 14
 Hwy. 64, Sec. 16C
 Hwy. 284, Sec. 1
 Cross County



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Job A10008

Marianna – St. Francis Co. Line (Sel. Secs.) (S)

Hwy. 79, Sec. 16

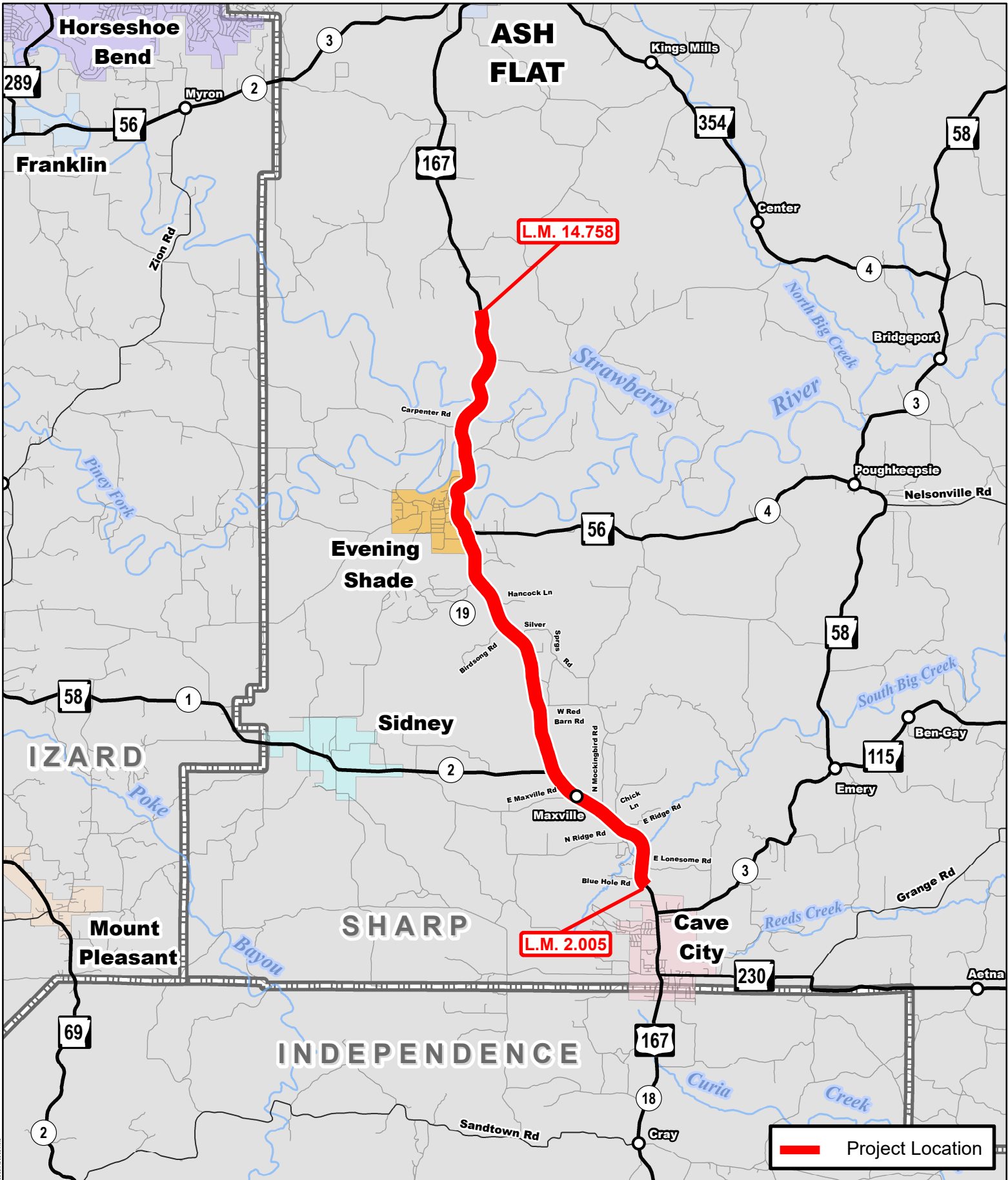
Lee County



PM: PS: jj41577: 2/4/2020



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Job A50005

Cave City – North (S)

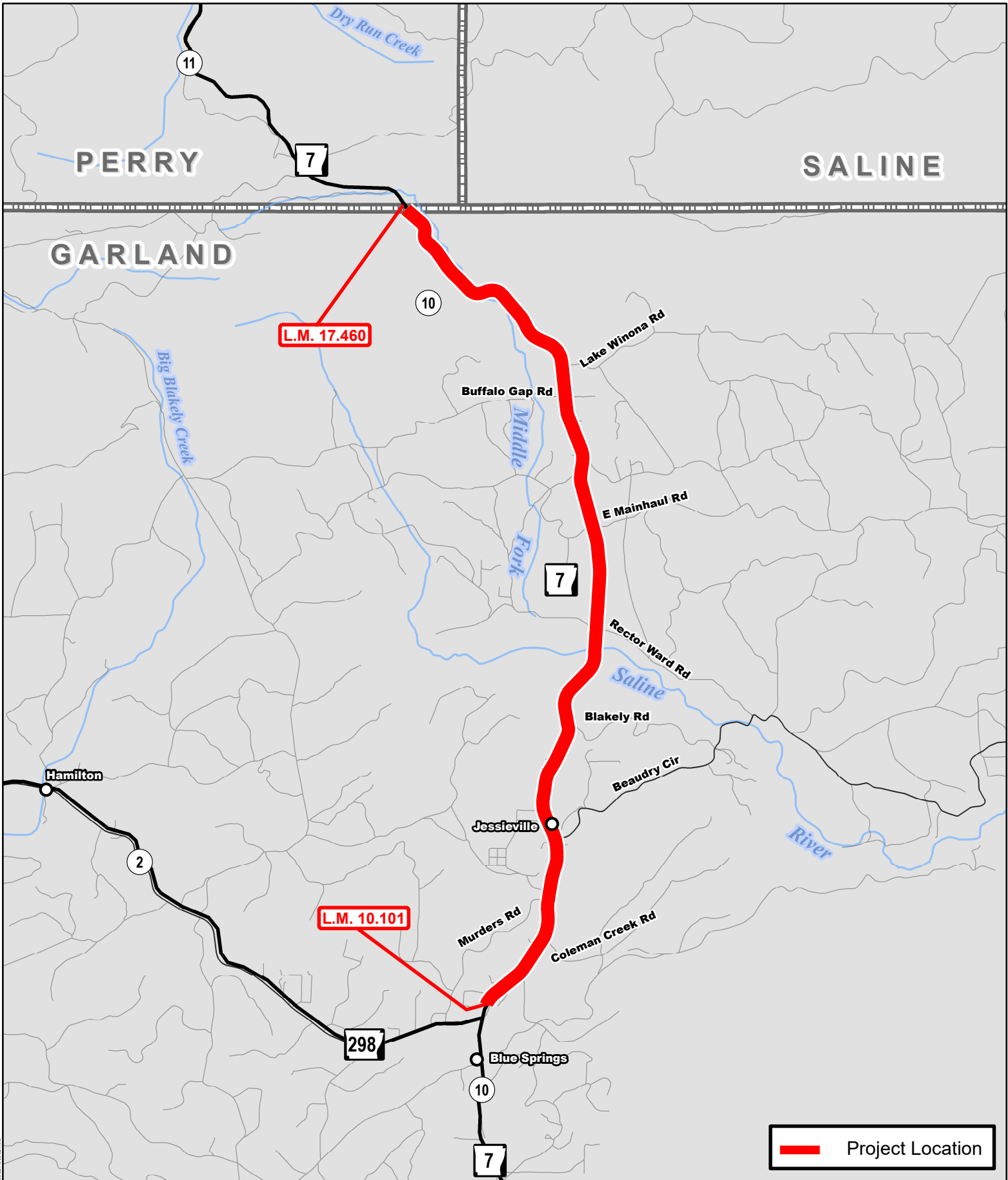
Hwy. 167, Sec. 19
Sharp County



PM: PS: jj41577: 2/4/2020



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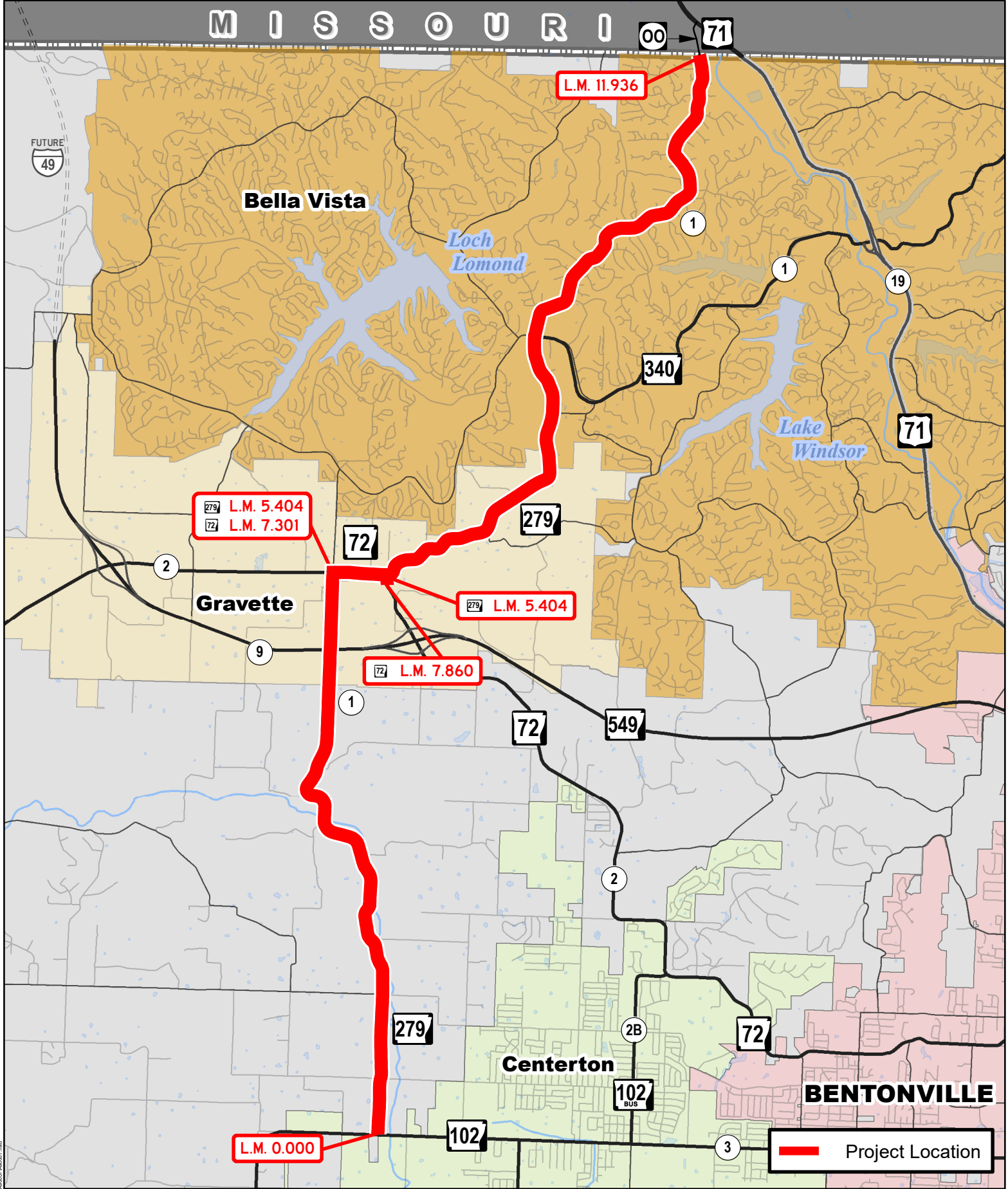


 Project Location

Job A60002
Hwy. 298 – Perry Co. Line (S)
 Hwy. 7, Sec. 10
 Garland County



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Job A90007

Hwy. 102 – Missouri State Line (S)

Hwy. 72, Sec. 2

Hwy. 279, Sec. 1

Benton County



PM: PS: cldc014: 9/10/2020





ARKANSAS DEPARTMENT OF TRANSPORTATION

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ENVIRONMENTAL DIVISION

10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261 | Phone: 501.569.2281 | Fax: 501.569.2009

10694p
FHWA

October 20, 2020

Secretary Stacy Hurst
Arkansas Historic Preservation Program
1100 North Street
Little Rock, Arkansas 72201

AHPP
OCT 20 2020

RE: Pavement Preservation Jobs
Various Routes & Sections
Various Counties


Dear Secretary Hurst:

The Arkansas Department of Transportation (ARDOT) proposes to mill and inlay on the existing paved surface for different highways across the state. All work will occur inside the existing ARDOT right-of-way. Jobs with these types of activities are referred to as pavement preservation.

These activities are not covered by the existing 1999 Memorandum of Agreement when historic properties are on or adjacent to the project. As agreed upon during phone correspondence with Eric Mills on January 15, 2020, the table on the following page is presented to address the pavement preservation jobs with recorded historic properties and National Register of Historic Places unevaluated archeological sites, cemeteries, and bridges. It is ARDOT's opinion that these jobs have no potential to cause effect to historic properties pursuant to 36 CFR 800.3(1).

If you have any questions or need additional information, contact Daniel Hildebran of my staff at (704) 640-6192.

Date 10.22.20
No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.
for Eric Mills
Arkansas State Historic Preservation Officer

Sincerely,

for John Fleming
Division Head
Environmental Division

JF:KB:DH:cb

Pavement Preservation Jobs
Page 2 of 6

Job Number	Job Name	County	Route	Section	Log Miles	Activity Type	Historic Properties, Sites, & Bridges (Nad 83 UTM's)
040765	Scott Co. Line – Hwy. 10 (S)	Sebastian	71	13	0.000 – 10.286; 0.000 – 0.261	Mill & Inlay	3SB1027, 3SB0986 <u>Bridges</u> M1372 (386416.11, 3881479.29) M1373 (384639.02, 3885226.28) 02240 (384491.61, 3885937.97) A5192 (382778.86, 3894029.36) B5192 (382802.43, 3894034.75) A5193 (382623.20, 3895581.59) B5193 (382648.47, 3895594.14)
040772	I-540 - East (S)	Sebastian	22	1	3.780-17.134	Mill & Inlay	3SB0426, 3SB1100, 3SB0446, 3SB0477, 3SB0476, 3SB1102, 3SB1101, 3SB1099, 3SB0579, 3SB1098, 3SB0527, 3SB0600 <u>Bridges</u> A0350 (379656.48, 3911853.84) A0351 (378406.96, 3912365.56)

Pavement Preservation Jobs
Page 3 of 6

040791	Hwy. 270 – Hwy. 28 North (Sel. Secs.) (S)	Scott	71	10	8.231- 13.920; 22.670- 25.210	Mill & Inlay	3SC2659, 3SC0095, 3SC1470, 3SC2481, 3SC0022, 3SC2751 <u>Bridges</u> 05290 (398849.05, 3863972.82) X0216 (399047.94, 3865351.42) X0217 (399345.16, 3866963.16)
040794	Hwy.45 - Hwy.64 (Sel. Secs.) (Fort Smith) (S)	Sebastian	255	3, 4	4.922- 5.260; 5.350- 6.148; 0.003- 4.489	Mill & Inlay	3SB1074; West Garrison Avenue Historic District
100987	Hwys. 49 & 49B (Sel. Secs.) (Brookland) (S)	Craighead	49	3, 3B	2.793- 8.029; 1.894- 3.588	Mill & Inlay (Sec. 3); Thin Overlay (Sec. 3B)	3CG1018, 3CG1251, 3CG1019, 3CG0117, 3CG0118, 3CG0394 <u>Bridges</u> 03746 (717749.66, 3974749.86) 03747 (718119.78, 3948321.09)
101039	Hwy. 349 – Hwy. 49 (Jonesboro) (S)	Craighead	91	2	10.536- 18.820	UTBWC; Fog Sealing Shoulders	3CG0044, 3CG0291, 3CG0644 <u>Bridges</u> M1660 (699691.09, 3970416.85) M1134 (703512.16, 3969847.34) M1135 (704337.15, 3969630.64) M1136 (704415.01, 3969615.53)

Pavement Preservation Jobs

Page 4 of 6

110718	S. of Haynes – Hwy.306 (S)	Lee & St. Francis	1	10, 11 & 12	6.448-9.409; 0.000-6.991; 0.000-9.907	Mill & Inlay	<p>3SF0338, 3SF0380, 3SF0381, 3SF0382, 3SF0152, 3SF0383, 3SF0386, 3SF0387, 3SF0102, 3SF0128, 3SF0123, 3SF0466, 3SF0421, 3SF0392, 3SF0396, 3SF0343; SF0093</p> <p><u>Bridges</u></p> <p>M0029 (701789.94, 3866607.22)</p> <p>M0035 (699344.43, 3885014.12)</p> <p>M0036 (699411.91, 3885508.19)</p> <p>M0038 (699406.54, 3889828.11)</p>
A00005	Carroll Rd. – Hwy. 49 (Paragould) (S)	Greene	412	8	17.253-18.354	Mill & Inlay	3GE0481

Pavement Preservation Jobs
Page 5 of 6

A10005	I-40 – I-555 (S)	Crittenden	I-55	11	7.151-23.154	Overlay	<p>3CT0433, 3CT0440, 3CT0054, 3CT0485</p> <p><u>Bridges</u></p> <p>02671 (755375.69, 3896680.51)</p> <p>A2617 (755362.99, 3896675.84)</p> <p>B3131 (754294.52, 3900078.86)</p> <p>A3131 (754277.58, 3900070.91)</p> <p>02808 (752985.43, 3904001.94)</p> <p>A2808 (752971.33, 3903985.74)</p> <p>02809 (747601.08, 3915475.69)</p> <p>A2809 (747582.73, 3915466.86)</p> <p>02810 (747146.78, 3918143.84)</p> <p>A2810 (747127.10, 3918142.58)</p>
A10006	Hwys. 1, 64B & 284 (Sel. Secs.) (S)	Cross	1, 64, 284	14, 16C, 1	5.757-10.000; 2.750-4.015; 16.100-16.429; 0.003-1.933	<p>Mill & Inlay (Hwy. 1 & Hwy. 64: .0-.61); Overlay (Hwy. 64: .61-1.93); Joint Tape (Hwy. 64: 0.00-0.61, Hwy. 284)</p>	<p><u>Bridges</u></p> <p>03578 (700822.12, 3907789.92)</p> <p>A0947 (702502.60, 3915909.36)</p>

Pavement Preservation Jobs
Page 6 of 6

A10008	Marianna – St. Francis Co. Line (Sel. Secs.) (S)	Lee	79	16	0.235-1.892; 3.991-5.092; 8.196-9.398; 16.011-17.114	Mill & Inlay; Joint Tape	3LE0187, 3LE0167, 3LE0252 <u>Bridges</u> 02501 (703872.12, 3850860.41) 02206 (705678.69, 3852081.05) 02508 (715419.43, 3857689.37)
A40006	Ozark – South (S)	Franklin	23	6	10.250-12.510	Mill & Inlay	<u>Bridges</u> A1210 (424474.16, 3926892.78)



ARKANSAS DEPARTMENT OF TRANSPORTATION

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ENVIRONMENTAL DIVISION

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195291
FHWA

October 20, 2020

Secretary Stacy Hurst
Arkansas Historic Preservation Program
1100 North Street
Little Rock, Arkansas 72201

AHPP
OCT 20 2020

RE: Pavement Preservation Jobs
Various Routes & Sections
Various Counties

Dear Secretary Hurst:

The Arkansas Department of Transportation (ARDOT) proposes to complete mill & inlay, overlays, or UTBWC on the existing paved surface for different highways across the state. All work will occur inside the existing ARDOT right-of-way. Jobs with these types of activities are referred to as pavement preservation.

These activities are not covered by the existing 1999 Memorandum of Agreement when historic properties are on or adjacent to the project. As agreed upon during phone correspondence with Eric Mills on January 15, 2020, the table on the following page is presented to address the pavement preservation jobs with recorded historic properties and National Register of Historic Places unevaluated archeological sites, cemeteries, and bridges. It is ARDOT's opinion that these jobs have no potential to cause effect to historic properties pursuant to 36 CFR 800.3(1).

If you have any questions or need additional information, contact Shelby Linck of my staff at 501-569-2283.

Date 10.23.20
No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.
for Eric Mills
Arkansas State Historic Preservation Officer

Sincerely,

for John Fleming
Division Head
Environmental Division

JF:KB:SL:cb

Pavement Preservation Jobs

Job Number	Job Name	County	Route	Section	Log Miles	Activity Type	Historic Properties, Sites, & Bridges (Nad 83 UTM's)
090527	S. of Marshall – Van Buren Co. Line (S)	Searcy	65	6	1.607–10.699	2" Overlay	3SE0523, SE0002, SE0385, SE0388 <u>Bridges</u> A0690 (35.816838, -92.549929) 07202 (35.840586, -92.577043) 05518 (35.893631, -92.614133)
090535	Pope Co. Line – Hwy. 16 (S)	Newton	7	17	0.000–13.371	Level and Chip Seal	3NW1160, 3NW1162, 3NW1161, 3NW0536, 3NW1274, 3NW1025, 3NW0565, 3NW1233, 3NW0563, 3NW1239, NW0088, NW0086 Unnamed Cemetery (35.818534, -93.161596)
090538	Hwys. 5 & 178 (Sel. Secs.) (S)	Baxter	5; 178	19; 2	1.401–15.403; 5.080–7.678	2" Overlay	BA0031 Three Brothers Cemetery (36.2705, -92.2753) Oakland Cemetery (36.2930, -92.2916)
A90004	Flippin – Mountain Home (Sel. Sec.) (S)	Baxter & Marion	62	9 & 10	4.501–10.542; 0.000–4.715	2" Overlay	3BA0314; MR0080, MR0070, BA0133, BA0135, BA0010, BA0002, BA0132, BA0134 <u>Bridges</u> 06058 (36.283392, -92.536857) 06059 (36.284953, -92.530470) M1115 (36.309624, -92.427780)

Pavement Preservation Jobs

A90005	Alpena – Hwy. 65 (S)	Carroll & Boone	62; 65	5, 6, 6Y, 6X; 1Y	15.679–17.120; 0.000–6.278; 0.000-1.399; 0.000-0.556; 0.000–0.140	UTBWC, Mill & Inlay, 2” Overlay	<p>3BA0314, 3BO0149, 3BO0243, 3BO0211, 3BO0254, 3BO0253; BO0185, BO0184, BO0015, BO0013, BO0216, BO0164, BO0181</p> <p><u>Bridges</u></p> <p>M1107 (36.294035, -93.288738)</p> <p>06398 (36.291940, -93.282681)</p> <p>X1013 (36.294840, -93.242660)</p> <p>X1023 (36.292545, -93.230447)</p> <p>06683 (36.298690, -93.193713)</p>
A90006	Hwy. 59 – Hwy. 549 (Gravette) (S)	Benton	72	2	0.000–5.001	Leveling & UTBWC	<p>BE3528, BE0665, BE0672, BE0666, BE0703, BE0707, BE0485, BE0704, BE0705, BE3786, BE0630, BE3785, BE0706, BE0631, BE0632, BE0708, BE0633, BE0709, BE0634, BE0710, BE0711</p> <p><u>Bridges</u></p> <p>X0681 (36.419897, -94.442826)</p>
A90007	Hwy. 102 – Missouri State Line (S)	Benton	72; 279	2; 1	0.000–7.301; 5.404–11.936	1” Overlay, Mill & Inlay, Spot Level & UTBWC, 2” Overlay	<p>3BE0612, 3BE0743; BE0725, BE0739, BE0729, BE3867, BE3447, BE3446, BE0714, BE0715, BE0713, BE0719, BE0720, BE0722, BE0696, BE0695, BE0694, BE0663, BE0654</p> <p><u>Bridges</u></p> <p>X0535 (36.399954, -94.334463)</p> <p>X0536 (36.400728, -94.334463)</p>

Pavement Preservation Jobs

Page 4 of 4

A90008	E. of Hwy. 21 – Dryfork (S)	Carroll	412	5	1.380–4.335	Overlay	3CR0307 Unnamed Cemetery (36.141835, -93.522155) Unnamed Cemetery (36.152910, -93.489458) <u>Bridges</u> 06576 (36.152283, -93.498578) 06577 (36.152212, -93.492764)
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ARKANSAS DEPARTMENT OF TRANSPORTATION

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ENVIRONMENTAL DIVISION

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105869
FHWA

May 18, 2020

Secretary Stacy Hurst
Arkansas Historic Preservation Program
1100 North Street
Little Rock, Arkansas 72201

AHPP
MAY 18 2020

RE: Job Number A00004
Sharp Co. Line – Greene Co. Line
(Sel. Secs.) (S)
Route 63, Sections 3 & 4
Lawrence County

Dear Secretary Hurst:

The Arkansas Department of Transportation (ARDOT) proposes to apply an Ultrathin Bonded Wearing Course on the existing paved surface of Highway 63 in Lawrence County. All work will occur inside the existing ARDOT right-of-way. Jobs with these types of activities are referred to as pavement preservation.

These activities are not covered by the existing 1999 Memorandum of Agreement when historic properties are on or adjacent to the project. As agreed upon during phone correspondence with Eric Mills on January 15, 2020, the table on the following page is presented to address the job with recorded historic properties and National Register of Historic Places unevaluated archeological sites, cemeteries, and bridges. It is ARDOT's opinion that this job has no potential to cause effect to historic properties pursuant to 36 CFR 800.3(1).

If you have any questions or need additional information, contact Daniel Hildebran of my staff at (501) 569-2595.

Date 5.28.20
No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.

Eric Mills
FOR Arkansas State Historic Preservation Officer

Sincerely,

John Fleming

for John Fleming
Division Head
Environmental Division

JF:KB:DH:cb

Job Number	Job Name	County	Route	Section	Log Miles	Activity Type	Historic Properties, Sites, & Bridges (Nad 83 UTM's)
A00004	Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)	Lawrence	63	3; 4	0.000 – 13.378; 18.215 – 24.163; 0.000 - 8.943	Ultrathin Bonded Wearing Course	3LW0729, 3LW0017, 3LW0019, 3LW0730, 3LW0728, 3LW0569, 3LW0747, 3LW0519, 3LW0565, 3LW0566, 3LW0520, 3LW0521, 3LW0587, 3LW0522, 3LW0783, 3LW0523, 3LW0643, 3LW0785, 3LW0786, 3LW0787, 3LW0609, 3LW0724 A0655 (666599.14, 3998917.80) X0888 (665721.05, 4000601.10) A0653 (665719.98, 4000842.40) A0652 (665258.45, 4003965.03) A0651 (665267.19, 4005328.87) A0650 (664883.03, 4006966.67) M1128 (661036.30, 4009038.65) 02540 (658271.00, 4011323.85)



ARKANSAS DEPARTMENT OF TRANSPORTATION

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ENVIRONMENTAL DIVISION

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170713
FHWA

September 23, 2020

Secretary Stacy Hurst
Arkansas Historic Preservation Program
1100 North Street
Little Rock, Arkansas 72201

AHPP
SEP 23 2020

RE: Pavement Preservation Jobs
Various Routes & Sections
Various Counties

Dear Secretary Hurst:

The Arkansas Department of Transportation (ARDOT) proposes to mill and inlay on the existing paved surface for different highways across the state. All work will occur inside the existing ARDOT right-of-way. Jobs with these types of activities are referred to as pavement preservation.

These activities are not covered by the existing 1999 Memorandum of Agreement when historic properties are on or adjacent to the project. As agreed upon during phone correspondence with Eric Mills on January 15, 2020, the table on the following page is presented to address the pavement preservation jobs with recorded historic properties and National Register of Historic Places unevaluated archeological sites, cemeteries, and bridges. It is ARDOT's opinion that these jobs have no potential to cause effect to historic properties pursuant to 36 CFR 800.3(1).

If you have any questions or need additional information, contact Daniel Hildebran of my staff at (704) 640-6192.

Date 9.25.20
No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.
[Signature]
Arkansas State Historic Preservation Officer

Sincerely,

[Signature: John Fleming]

John Fleming
Division Head
Environmental Division

JF:KB:DH:cb

Pavement Preservation Jobs
Page 2 of 2

Job Number	Job Name	County	Route	Section	Log Miles	Activity Type	Historic Properties, Sites, & Bridges (Nad 83 UTM's)
A30005	Blevins - Prescott (S)	Hempstead & Nevada	371	3, 4	17.745 – 26.970; 0.000 – 2.756	3/4" Rut Mill & 2" Overlay	3HE0369, 3HE0365, 3HE0377, 3NE0180 <u>Bridges</u> M0572 (448450.15, 3747700.49) M0573 (457238.84, 3742187.29)
A50005	Cave City – North (S)	Sharp	167	19	2.005-14.758	2" Overlay	3SH0243, 3SH0291, 3SH0236 <u>Bridges</u> 00799 (625191.91, 3995789.34) A0916 (625072.90, 3993865.11) A0798 (625084.80, 3993775.73) M2196 (624725.72, 3992691.35) 02692 (625551.93, 3990373.61) M2195 (627511.88, 3985271.56) M2194 (627976.68, 3984291.74) 02691 (630325.21, 3982607.46)



ARKANSAS DEPARTMENT OF TRANSPORTATION

ArDOT.gov | IDriveArkansas.com | Lorie H. Tudor, P.E., Director

ENVIRONMENTAL DIVISION

10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261 | Phone: 501.569.2281 | Fax: 501.569.2009

L95298
FHWA

October 20, 2020

AHPP

OCT 20 2020

Secretary Stacy Hurst
Arkansas Historic Preservation Program
1100 North Street
Little Rock, Arkansas 72201

RE: Pavement Preservation Jobs
Various Routes & Sections
Various Counties

Dear Secretary Hurst:


The Arkansas Department of Transportation (ARDOT) proposes to resurface the existing paved surface for different highways across the state. All work will occur inside the existing ARDOT right-of-way. Jobs with these types of activities are referred to as pavement preservation.

These activities are not covered by the existing 1999 Memorandum of Agreement when historic properties are on or adjacent to the project. As agreed upon during phone correspondence with Eric Mills on January 15, 2020, the table on the following page is presented to address the pavement preservation jobs with recorded historic properties and National Register of Historic Places unevaluated archeological sites, cemeteries, and bridges. It is ARDOT's opinion that these jobs have no potential to cause effect to historic properties pursuant to 36 CFR 800.3(1).

If you have any questions or need additional information, contact Milton Hughes of my staff at (501) 569 2080.

Date 10.23.20
No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.
For Eric C. Mills
Arkansas State Historic Preservation Officer

Sincerely,


for John Fleming
Division Head
Environmental Division

JF:KB:mh:cb

Pavement Preservation Jobs
Page 2 of 4

Job Number	Job Name	County	Route	Section	Log Miles	Activity Type	Historic Properties, Sites, & Bridges (Nad 83 UTM's)
A60002	Hwy. 298 – Perry Co. Line (S)	Garland	7	10	10.10 – 17.46	Scrub seal & Overlay	3GA0682, 3GA0625, 3GA0411; GA0004, GA0007, GA0080, GA0081, GA0402, GA0421 <u>Bridges</u> 01799 (494216.75, 3838706.75) 01780 (494470.53, 3841136.85) 01781 (494819.27, 3842122.68) 01782 (493106.99, 3846813.08)
A60003	Pinewood Dr. – Lincoln St. (Cabot) (S)	Lonoke	89	1	15.40 – 17.15	Ultrathin Bonded Wearing Course (overlay)	LN0015
A60004	Garland Co. Line – Stone Quarry Creek (S)	Hot Spring	270	7	0.00 – 4.70	Mill & Inlay	3HS0156, 3HS0679, 3HS0670; HS0161, HS0003 <u>Bridge</u> 06024 (511141.74, 3810814.24) X0533 (508999.89, 3813453.93) 05863 (508718.71, 3813524.65)

Job Number	Job Name	County	Route	Section	Log Miles	Activity Type	Historic Properties, Sites, & Bridges (Nad 83 UTM's)
A60005	I-30 – Hwy. 67 (Malvern) (S)	Hot Spring	270B	7, 7B	0.00 – 2.60; 8.24-8.39	Diamond Grinding and Mill & Inlay	<p>3HS0863, 3HS0614, 3HS0249, 3HS0250, 3HS0634, 3HS0635, 3HS0202; HS0039, HS0007, HS0009, HS0021; Malvern Historic Commercial District: HS0165, HS0166, HS0167, HS0168, HS0169, HS0017, HS0171, HS0010, HS0018, HS0172, HS0173, HS0011, HS0012, HS0174, HS0175, HS0176, HS0177, HS0178, HS0015, HS0179, HS0182, HS0183, HS0026, HS0184, HS0027, HS0181, HS0180, HS0014</p> <p><u>Bridges</u></p> <p>05177 (516308.08, 3803413.49)</p> <p>05833 (516768.44, 3803014.29)</p> <p>02195 (517001.91, 3802704.99)</p>

Pavement Preservation Jobs
Page 4 of 4

Job Number	Job Name	County	Route	Section	Log Miles	Activity Type	Historic Properties, Sites, & Bridges (Nad 83 UTM's)
A60006	Hollywood Ave. - Hwy. 270 (Hot Springs) (S)	Garland	270	6B	1.40 – 4.65	Mill & Inlay	GA0874, GA0398
061582	Brodie Creek – Hwy. 70 (Little Rock) (S)	Pulaski	5	9	5.63 – 8.25	Mill & Inlay	PU11246, PU11245, PU11248, PU11247 <u>Bridge</u> 05667 (559221.62, 3841939.50)



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:
Consultation Code: 04ER1000-2021-SLI-0135
Event Code: 04ER1000-2021-E-00365
Project Name: 040772 I-540 East

November 02, 2020

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.**

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: 04ER1000-2021-SLI-0135

Event Code: 04ER1000-2021-E-00365

Project Name: 040772 I-540 East

Project Type: TRANSPORTATION

Project Description: pavement preservation, mill & inlay

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.33007302188799N94.30713289948581W>



Counties: Sebastian, AR

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.

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
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	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

Insects

NAME	STATUS
American Burying Beetle <i>Nicrophorus americanus</i> Population: Wherever found, except where listed as an experimental population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/66	Threatened

Flowering Plants

NAME	STATUS
Geocarpon minimum No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7699	Threatened

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.



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:

November 02, 2020

Consultation Code: 04ER1000-2021-TA-0135

Event Code: 04ER1000-2021-E-00371

Project Name: 040772 I-540 East

Subject: Verification letter for '040772 I-540 East' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear William Bailey:

The U.S. Fish and Wildlife Service (Service) received on **November 02, 2020** your effect determination(s) for the '040772 I-540 East' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed action.

Species	Determination
Endangered American Burying Beetle (<i>Nicrophorus americanus</i>)	NLAA
Proposed Threatened Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	No Effect
Threatened Red Knot (<i>Calidris canutus rufa</i>)	No Effect
Threatened Piping Plover (<i>Charadrius melodus</i>)	No Effect
Threatened Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	May Affect
Threatened Geocarpon (<i>Geocarpon minimum</i>)	NLAA

Status

The Service concurs with the NLAA determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of the "No Effect" determinations. No further consultation for this project is required for these species. This letter confirms you may

rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 4) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

FHWA projects should not use this key for Northern Long-eared Bat determinations. Please complete the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat Release date: December 2, 2019

The key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened northern long-eared bat, which requires consultation with the USFWS under Section 7 of the ESA.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the BGEPA may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. This document may be downloaded from the following site: <https://www.fws.gov/southeast/our-services/permits/eagles/>

To determine if your proposed activity is likely to take or disturb Bald Eagles, complete our step-by-step online self-certification process, which is located at <https://www.fws.gov/southeast/our-services/eagle-technical-assistance/>.

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. The application form is located at <http://www.fws.gov/forms/3-200-72.pdf>.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

040772 I-540 East

2. Description

The following description was provided for the project '040772 I-540 East':

pavement preservation, mill & inlay

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.33007302188799N94.30713289948581W>



Species Protection Measures

Qualification Interview

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Choose the Federal agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

4. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

5. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

6. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

No

9. [Semantic] Does the project intersect the American burying beetle consultation area ?

Automatically answered

Yes

10. Will the project involve 3.0 acres or greater of ground-disturbing activities (including, but not limited to grubbing, bulldozing, tree and shrub removal, disking/plowing, compaction by heavy machinery, timber harvest or timber stand improvement)?

No

11. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?

Automatically answered

No

12. [Semantic] Does the project intersect the Eastern black rail AOI?

Automatically answered

Yes

13. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?

No

14. Does the project take place in marshy or flooded open field habitat?

No

15. [Semantic] Does the project intersect the red knot AOI?

Automatically answered

Yes

16. [Semantic (same answer as "8.1.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?

Automatically answered

No

17. [Semantic (same answer as "8.2")] Does the project take place in marshy or flooded open field habitat?

Automatically answered

No

18. [Semantic] Does the project intersect the Piping Plover AOI?

Automatically answered

Yes

19. [Semantic (same answer as "8.1.3 or 9.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?

Automatically answered

No

20. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
21. [Semantic] Does the project intersect the interior least tern AOI?
Automatically answered
No
22. [Semantic] Does the project intersect the Gray Bat AOI?
Automatically answered
No
23. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?
Automatically answered
No
24. [Semantic] Does the project intersect the Indiana bat AOI?
Automatically answered
No
25. [Semantic] Does the project intersect the Northern Long-eared bat AOI?
Automatically answered
Yes
26. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?
Automatically answered
No
27. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?
Automatically answered
No
28. [Semantic] Does the project intersect the Ozark cavefish AOI?
Automatically answered
No
29. [Semantic] Does the project intersect the Missouri bladderpod AOI?
Automatically answered
No
-

30. [Semantic] Does the project intersect the Geocarpon AOI?

Automatically answered

Yes

31. [Semantic] Does the project intersect the running buffalo clover AOI?

Automatically answered

No

32. [Semantic] Does the project intersect the Pondberry AOI?

Automatically answered

No

Project Questionnaire

1. **If the project includes forest conversion, report the appropriate acreages below. Otherwise, type '0' in questions 1-3.**

1. Estimated total acres of forest conversion:

0

2. 2. If known, estimated acres of forest conversion from April 1 to October 31

0

3. 3. If known, estimated acres of forest conversion from June 1 to July 31

0

4. **If the project includes timber harvest, report the appropriate acreages below. Otherwise, type '0' in questions 4-6.**

4. Estimated total acres of timber harvest

0

5. 5. If known, estimated acres of timber harvest from April 1 to October 31

0

6. 6. If known, estimated acres of timber harvest from June 1 to July 31

0

7. **If the project includes prescribed fire, report the appropriate acreages below. Otherwise, type '0' in questions 7-9.**

7. Estimated total acres of prescribed fire

0

8. 8. If known, estimated acres of prescribed fire from April 1 to October 31

0

9. 9. If known, estimated acres of prescribed fire from June 1 to July 31

0

10. If the project includes new wind turbines, report the megawatts of wind capacity below. Otherwise, type '0' in question 10.

10. What is the estimated wind capacity (in megawatts) of the new turbine(s)?

0



United States Department of the Interior



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

In Reply Refer To:

October 28, 2020

Consultation Code: 04ER1000-2021-SLI-0115

Event Code: 04ER1000-2021-E-00291

Project Name: 090527 S. of Marshall - Van Buren Co. Line

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.**

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: 04ER1000-2021-SLI-0115

Event Code: 04ER1000-2021-E-00291

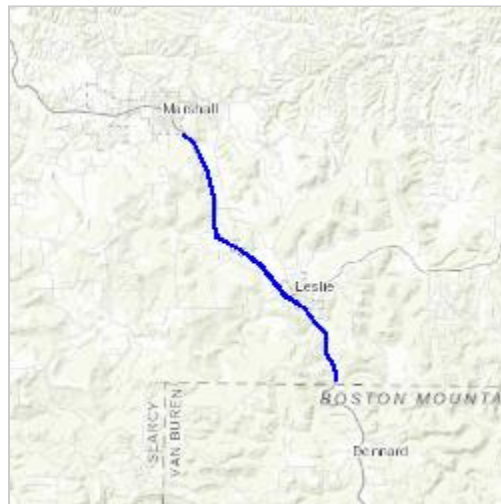
Project Name: 090527 S. of Marshall - Van Buren Co. Line

Project Type: TRANSPORTATION

Project Description: pavement preservation, 2" overlay

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.84562934895254N92.58405479443601W>



Counties: Searcy, AR

Endangered Species Act Species

There is a total of 11 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
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7245	Endangered

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	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

Fishes

NAME	STATUS
Yellowcheek Darter <i>Etheostoma moorei</i> There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/7871	Endangered

Clams

NAME	STATUS
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5165	Threatened
Speckled Pocketbook <i>Lampsilis streckeri</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7869	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

Critical habitats

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

NAME	STATUS
Yellowcheek Darter <i>Etheostoma moorei</i> https://ecos.fws.gov/ecp/species/7871#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: 876-24109142

November 02, 2020

Subject: Consistency letter for '090527 S. of Marshall - Van Buren Co. Line' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear William Bailey:

The U.S. Fish and Wildlife Service (Service) received on **November 02, 2020** your effect determination(s) for the '090527 S. of Marshall - Van Buren Co. Line' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed Action:

Species	Determination
Proposed Threatened Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	No Effect
Threatened Red Knot (<i>Calidris canutus rufa</i>)	No Effect
Threatened Piping Plover (<i>Charadrius melodus</i>)	No Effect
Endangered Gray Bat (<i>Myotis grisescens</i>)	NLAA
Endangered Ozark Big-eared Bat (<i>Corynorhinus townsendii ingens</i>)	NLAA
Endangered Indiana Bat (<i>Myotis sodalis</i>)	May Affect
Threatened Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	May Affect
Threatened Missouri bladderpod (<i>Physaria filiformis</i>)	NLAA
Threatened Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>)	NLAA
Endangered Speckled Pocketbook (<i>Lampsilis streckeri</i>)	NLAA
Endangered Yellowcheek Darter (<i>Etheostoma moorei</i>)	NLAA
Critical Habitats	Determination
Critical Habitat Yellowcheek Darter (<i>Etheostoma moorei</i>)	NLAA

Status

Consultation with the Service is not complete. Further consultation or coordination with the Arkansas Ecological Services Office is necessary for those species with a determination of “may affect” listed above. Please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

The Service concurs with the NLAA determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of the “No Effect” determinations. No further consultation for this project is required for these species. This letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 4) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

FHWA projects should not use this key for Northern Long-eared Bat determinations. Please complete the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat Release date: December 2, 2019

The key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened northern long-eared bat, which requires consultation with the USFWS under Section 7 of the ESA.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the BGEPA may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. This document may be downloaded from the following site: <https://www.fws.gov/southeast/our-services/permits/eagles/>

To determine if your proposed activity is likely to take or disturb Bald Eagles, complete our step-by-step online self-certification process, which is located at <https://www.fws.gov/southeast/our-services/eagle-technical-assistance/>.

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. The application form is located at <http://www.fws.gov/forms/3-200-72.pdf>.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

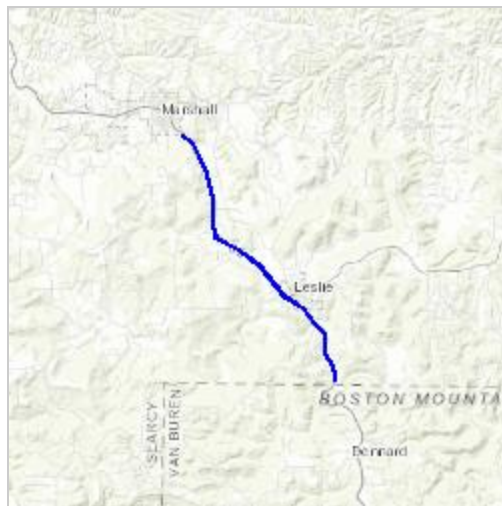
090527 S. of Marshall - Van Buren Co. Line

2. Description

The following description was provided for the project '090527 S. of Marshall - Van Buren Co. Line':

pavement preservation, 2" overlay

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.84562934895254N92.58405479443601W>



Species Protection Measures

Qualification Interview

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Choose the Federal agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

4. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

5. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

6. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

Yes

8. Is the project expected to alter any of the following physical or biological features essential to the Yellowcheek Darter?

1) riffle habitat (e.g., any change to a riffle-a rocky or shallow part of a stream or river with rough water);

3) stream bed stability, siltation rates, or the availability of gravel, cobble, or boulder substrates (e.g., the project will not contribute additional sediment, silt, or dirt to the water);

4) permanent surface water flow (e.g., no effect to the quantity of water entering the tributaries of or four forks of the Little Red River);

5) water quality (e.g., no additional sediment, nutrients, pesticides or any other pollutant will enter the water); or

6) food base for Yellowcheek Darter (e.g., no effect to aquatic insects including those effects caused by sediment, heavy metals, pesticide, temperature, or other water or streambed changes?).

No

9. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

No

10. [Semantic] Does the project intersect the American burying beetle consultation area ?

Automatically answered

No

11. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?

Automatically answered

No

12. [Semantic] Does the project intersect the Eastern black rail AOI?

Automatically answered

Yes

13. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?

No

14. Does the project take place in marshy or flooded open field habitat?

No

15. [Semantic] Does the project intersect the red knot AOI?

Automatically answered

Yes

16. [Semantic (same answer as "8.1.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Automatically answered
No
17. [Semantic (same answer as "8.2")] Does the project take place in marshy or flooded open field habitat?
Automatically answered
No
18. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
19. [Semantic (same answer as "8.1.3 or 9.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Automatically answered
No
20. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
21. [Semantic] Does the project intersect the interior least tern AOI?
Automatically answered
No
22. [Semantic] Does the project intersect the Gray Bat AOI?
Automatically answered
Yes
23. Does the project involve changes to an existing bridge or large culvert?
No
24. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?
Automatically answered
Yes
25. Are there any caves within 0.5 mile of the project area?
No
-

26. Does the project occur in a subdivision or urban area?

No

27. Does the project involve blasting of any type or tree removal of greater than 10 acres?

No

28. [Semantic] Does the project intersect the Ozark Big-eared Bat cAOI?

Automatically answered

No

29. Will the activity affect the roosting environment of cave-dwelling bats (e.g., prescribed fire where smoke may enter hibernacula, filling of karst feature with material or liquid of any type, change in the structure or opening of the cave or feature)?

No

30. [Semantic (same answer as "1.6")] Will project proponents follow [Special Provisions for avoidance and minimization measures](#) for listed species in Arkansas?

Automatically answered

Yes

31. [Semantic] Does the project intersect the Indiana bat AOI?

Automatically answered

Yes

32. [Semantic] Does the project intersect the Northern Long-eared bat AOI?

Automatically answered

Yes

33. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?

Automatically answered

No

34. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?

Automatically answered

No

35. [Semantic] Does the project intersect the Ozark cavefish AOI?

Automatically answered

No

36. [Semantic] Does the project intersect the Missouri bladderpod AOI?

Automatically answered

Yes

37. [Semantic] Does the project intersect the Geocarpon AOI?

Automatically answered

No

38. [Semantic] Does the project intersect the running buffalo clover AOI?

Automatically answered

No

39. [Semantic] Does the project intersect the Pondberry AOI?

Automatically answered

No

40. [Semantic] Does the project occur within the survey coordination area?

Automatically answered

Yes

41. This project intersects a waterbody where listed aquatic species may occur. Have you contacted the Arkansas Ecological Services Office to determine if a fish, mussel, or amphibian species survey or suitable habitat survey is recommended for this project?

Yes

42. Was a species survey recommended by the Arkansas ES Field Office?

No

43. Does the project contain any of the following activity types:

Boat Ramps,

Bridges,

Culverts,

Development,

Dams or Impoundments (including berms and levees),

Streambank Stabilization (or other streambank work),

Pipeline and linear projects,

Water intakes/withdrawals, or

Stream or ditch relocation?

No

44. Will the project involve construction or other ground disturbance; riparian forest disturbance; or the application of herbicides, insecticides, or fertilizer within 200 feet of the streams?

No

45. Will the project result in discharge or runoff of sediment, erosion, or any other pollutant, including nutrients, into the stream?

No

46. Will the project involve gravel mining or large construction projects (over 5 acres)?

No

47. Will the project include any of the following agricultural practices?

Livestock crossing facility,
Grade stabilization structure,
Fencing,
Pond construction,
Road construction,
Riparian buffer establishment,
Conservation Structure restoration,
Wetland restoration,
Drop pipe/spillway, or
Sediment retention basin?

Yes

48. Will the practice include the following [best management practices](#) applicable to the project?

Yes

49. [Semantic] Does the project intersect the rabbitsfoot AOI?

Automatically answered

Yes

50. [Semantic] Does the project intersect the neosho mucket AOI?

Automatically answered

No

51. [Semantic] Does the project intersect the Spectaclecase AOI?

Automatically answered

No

52. [Semantic] Does the project intersect the snuffbox AOI?

Automatically answered

No

53. [Semantic] Does the project intersect the speckled pocketbook AOI?

Automatically answered

Yes

54. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?

Automatically answered

No

55. [Semantic] Does the project intersect the fat pocketbook AOI?

Automatically answered

No

56. [Semantic] Does the project intersect the Curtis pearlymussel AOI?

Automatically answered

No

57. [Semantic] Does the project intersect the scaleshell AOI?

Automatically answered

No

58. [Semantic] Does the project intersect the pink mucket AOI?

Automatically answered

No

59. [Semantic] Does the project intersect the Arkansas fatmucket AOI?

Automatically answered

No

60. [Semantic] Does the project intersect the winged mapleleaf AOI?

Automatically answered

No

61. [Semantic] Does the project intersect the leopard darter AOI?

Automatically answered

No

62. [Semantic] Does the project intersect the Yellowcheek darter AOI?

Automatically answered

Yes

63. [Semantic] Does the project intersect the Ozark hellbender AOI?

Automatically answered

No

64. [Semantic] Does the project intersect the harperella AOI?

Automatically answered

No

65. [Semantic] Does the project intersect the pallid sturgeon AOI?

Automatically answered

No

Project Questionnaire

1. **If the project includes forest conversion, report the appropriate acreages below. Otherwise, type '0' in questions 1-3.**

1. Estimated total acres of forest conversion:

0

2. 2. If known, estimated acres of forest conversion from April 1 to October 31

0

3. 3. If known, estimated acres of forest conversion from June 1 to July 31

0

4. **If the project includes timber harvest, report the appropriate acreages below. Otherwise, type '0' in questions 4-6.**

4. Estimated total acres of timber harvest

0

5. 5. If known, estimated acres of timber harvest from April 1 to October 31

0

6. 6. If known, estimated acres of timber harvest from June 1 to July 31

0

7. **If the project includes prescribed fire, report the appropriate acreages below. Otherwise, type '0' in questions 7-9.**

7. Estimated total acres of prescribed fire

0

8. 8. If known, estimated acres of prescribed fire from April 1 to October 31

0

9. 9. If known, estimated acres of prescribed fire from June 1 to July 31

0

10. If the project includes new wind turbines, report the megawatts of wind capacity below. Otherwise, type '0' in question 10.

10. What is the estimated wind capacity (in megawatts) of the new turbine(s)?

0



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:

October 30, 2020

Consultation Code: 04ER1000-2021-SLI-0128

Event Code: 04ER1000-2021-E-00345

Project Name: A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (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.**

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: 04ER1000-2021-SLI-0128

Event Code: 04ER1000-2021-E-00345

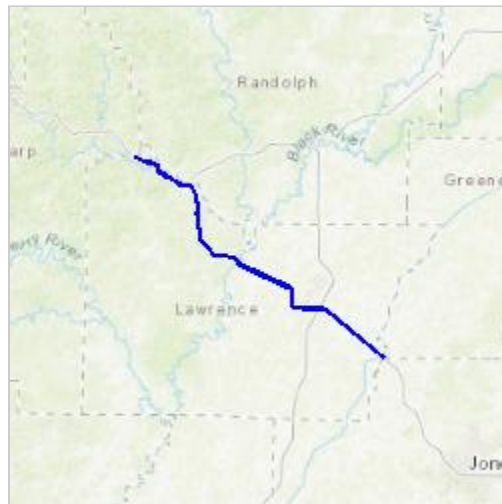
Project Name: A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)

Project Type: TRANSPORTATION

Project Description: 28.26 miles of ultra thin bonded wearing course.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.10516536390401N91.10203404370131W>



Counties: Craighead, AR | Greene, AR | Lawrence, AR | Randolph, 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	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
Curtis Pearlymussel <i>Epioblasma florentina curtisii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5628	Endangered
Pink Mucket (pearlymussel) <i>Lampsilis abrupta</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7829	Endangered
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is 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

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
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Phone: (501) 513-4470 Fax: (501) 513-4480
<http://www.fws.gov/arkansas-es>

IPaC Record Locator: 639-24130304

November 03, 2020

Subject: Consistency letter for 'A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear Mickey Matthews:

The U.S. Fish and Wildlife Service (Service) received on **November 03, 2020** your effect determination(s) for the 'A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed Action:

Species	Determination
Proposed Threatened Eastern Black Rail (<i>Laterallus jamaicensis</i> ssp. <i>jamaicensis</i>)	No Effect
Threatened Red Knot (<i>Calidris canutus rufa</i>)	No Effect
Threatened Piping Plover (<i>Charadrius melodus</i>)	No Effect
Endangered Gray Bat (<i>Myotis grisescens</i>)	NLAA
Endangered Indiana Bat (<i>Myotis sodalis</i>)	May Affect
Threatened Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	May Affect
Threatened Missouri bladderpod (<i>Physaria filiformis</i>)	NLAA
Endangered Pondberry (<i>Lindera melissifolia</i>)	NLAA
Threatened Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>)	NLAA
Endangered Snuffbox (<i>Epioblasma triquetra</i>)	NLAA
Endangered Curtis pearlymussel (<i>Epioblasma curtisi</i>)	NLAA
Endangered Scaleshell (<i>Leptodea leptodon</i>)	NLAA
Endangered Pink Mucket (<i>Lampsilis abrupta</i>)	NLAA

Critical Habitats

Determination

Critical Habitat Rabbitsfoot (*Quadrula cylindrica cylindrica*)

NLAA

Status

Consultation with the Service is not complete. Further consultation or coordination with the Arkansas Ecological Services Office is necessary for those species with a determination of “may affect” listed above. Please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

The Service concurs with the NLAA determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of the “No Effect” determinations. No further consultation for this project is required for these species. This letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 4) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

FHWA projects should not use this key for Northern Long-eared Bat determinations. Please complete the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat Release date: December 2, 2019

The key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened northern long-eared bat, which requires consultation with the USFWS under Section 7 of the ESA.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the BGEPA may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. This document may be downloaded from the following site: <https://www.fws.gov/southeast/our-services/permits/eagles/>

To determine if your proposed activity is likely to take or disturb Bald Eagles, complete our step-by-step online self-certification process, which is located at <https://www.fws.gov/southeast/our-services/eagle-technical-assistance/>.

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. The application form is located at <http://www.fws.gov/forms/3-200-72.pdf>.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

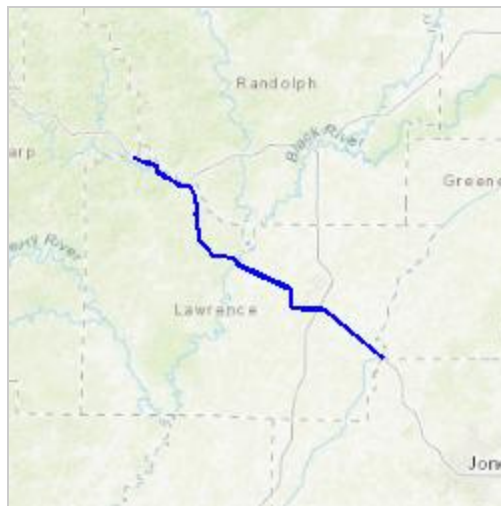
A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)

2. Description

The following description was provided for the project 'A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)':

28.26 miles of ultra thin bonded wearing course.

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.10516536390401N91.10203404370131W>



Species Protection Measures

Qualification Interview

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Choose the Federal agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

4. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

5. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

6. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

Yes

9. Is the project expected to alter any of the following physical or biological features essential to Rabbitsfoot?
- 1) stable river channel and banks (e.g., removal of trees at the streambank edge, diversion of the channel, armoring or stabilizing the streambank, or other activities that may destabilize portions of the river channel)
 - 2) water flow (e.g., the amount, time of year, how often, or how much water moves through the project site and downstream of the project); or
 - 3) water quality (e.g., sediment, nutrients, pesticides or any other pollutant entering the water);
 - 4) sediment quality (e.g., sediment inputs with less than a harmful amount of heavy metals, chemical constituents, or other pollutants bound to sediment).
- No*
10. [Semantic] Does the project intersect the American burying beetle consultation area ?
- Automatically answered**
- No*
11. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?
- Automatically answered**
- No*
12. [Semantic] Does the project intersect the Eastern black rail AOI?
- Automatically answered**
- Yes*
13. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
- No*
14. Does the project take place in marshy or flooded open field habitat?
- No*
15. [Semantic] Does the project intersect the red knot AOI?
- Automatically answered**
- Yes*
16. [Semantic (same answer as "8.1.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
- Automatically answered**
- No*
-

17. [Semantic (same answer as "8.2")] Does the project take place in marshy or flooded open field habitat?

Automatically answered

No

18. [Semantic] Does the project intersect the Piping Plover AOI?

Automatically answered

Yes

19. [Semantic (same answer as "8.1.3 or 9.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?

Automatically answered

No

20. [Semantic] Does the project intersect the Whooping Crane AOI?

Automatically answered

No

21. [Semantic] Does the project intersect the interior least tern AOI?

Automatically answered

No

22. [Semantic] Does the project intersect the Gray Bat AOI?

Automatically answered

Yes

23. Does the project involve changes to an existing bridge or large culvert?

No

24. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?

Automatically answered

No

25. [Semantic] Does the project intersect the Indiana bat AOI?

Automatically answered

Yes

26. [Semantic] Does the project intersect the Northern Long-eared bat AOI?

Automatically answered

Yes

27. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?
Automatically answered
No
28. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?
Automatically answered
No
29. [Semantic] Does the project intersect the Ozark cavefish AOI?
Automatically answered
No
30. [Semantic] Does the project intersect the Missouri bladderpod AOI?
Automatically answered
Yes
31. [Semantic] Does the project intersect the Geocarpon AOI?
Automatically answered
No
32. [Semantic] Does the project intersect the running buffalo clover AOI?
Automatically answered
No
33. [Semantic] Does the project intersect the Pondberry AOI?
Automatically answered
Yes
34. [Semantic] Does the project occur within the survey coordination area?
Automatically answered
Yes
35. This project intersects a waterbody where listed aquatic species may occur. Have you contacted the Arkansas Ecological Services Office to determine if a fish, mussel, or amphibian species survey or suitable habitat survey is recommended for this project?
Yes
36. Was a species survey recommended by the Arkansas ES Field Office?
No
-

37. Does the project contain any of the following activity types:

Boat Ramps,
Bridges,
Culverts,
Development,
Dams or Impoundments (including berms and levees),
Streambank Stabilization (or other streambank work),
Pipeline and linear projects,
Water intakes/withdrawals, or
Stream or ditch relocation?

No

38. Will the project involve construction or other ground disturbance; riparian forest disturbance; or the application of herbicides, insecticides, or fertilizer within 200 feet of the streams?

No

39. Will the project result in discharge or runoff of sediment, erosion, or any other pollutant, including nutrients, into the stream?

No

40. Will the project involve gravel mining or large construction projects (over 5 acres)?

No

41. Will the project include any of the following agricultural practices?

Livestock crossing facility,
Grade stabilization structure,
Fencing,
Pond construction,
Road construction,
Riparian buffer establishment,
Conservation Structure restoration,
Wetland restoration,
Drop pipe/spillway, or
Sediment retention basin?

No

42. [Semantic] Does the project intersect the rabbitsfoot AOI?

Automatically answered

Yes

43. [Semantic] Does the project intersect the neosho mucket AOI?
Automatically answered
No
44. [Semantic] Does the project intersect the Spectaclecase AOI?
Automatically answered
No
45. [Semantic] Does the project intersect the snuffbox AOI?
Automatically answered
Yes
46. [Semantic] Does the project intersect the speckled pocketbook AOI?
Automatically answered
No
47. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?
Automatically answered
No
48. [Semantic] Does the project intersect the fat pocketbook AOI?
Automatically answered
No
49. [Semantic] Does the project intersect the Curtis pearlymussel AOI?
Automatically answered
Yes
50. [Semantic] Does the project intersect the scaleshell AOI?
Automatically answered
Yes
51. [Semantic] Does the project intersect the pink mucket AOI?
Automatically answered
Yes
52. [Semantic] Does the project intersect the Arkansas fatmucket AOI?
Automatically answered
No
-

53. [Semantic] Does the project intersect the winged mapleleaf AOI?

Automatically answered

No

54. [Semantic] Does the project intersect the leopard darter AOI?

Automatically answered

No

55. [Semantic] Does the project intersect the Yellowcheek darter AOI?

Automatically answered

No

56. [Semantic] Does the project intersect the Ozark hellbender AOI?

Automatically answered

No

57. [Semantic] Does the project intersect the harperella AOI?

Automatically answered

No

58. [Semantic] Does the project intersect the pallid sturgeon AOI?

Automatically answered

No

Project Questionnaire

1. **If the project includes forest conversion, report the appropriate acreages below. Otherwise, type '0' in questions 1-3.**

1. Estimated total acres of forest conversion:

0

2. 2. If known, estimated acres of forest conversion from April 1 to October 31

0

3. 3. If known, estimated acres of forest conversion from June 1 to July 31

0

4. **If the project includes timber harvest, report the appropriate acreages below. Otherwise, type '0' in questions 4-6.**

4. Estimated total acres of timber harvest

0

5. 5. If known, estimated acres of timber harvest from April 1 to October 31

0

6. 6. If known, estimated acres of timber harvest from June 1 to July 31

0

7. **If the project includes prescribed fire, report the appropriate acreages below. Otherwise, type '0' in questions 7-9.**

7. Estimated total acres of prescribed fire

0

8. 8. If known, estimated acres of prescribed fire from April 1 to October 31

0

9. 9. If known, estimated acres of prescribed fire from June 1 to July 31

0

10. If the project includes new wind turbines, report the megawatts of wind capacity below. Otherwise, type '0' in question 10.

10. What is the estimated wind capacity (in megawatts) of the new turbine(s)?

0



United States Department of the Interior



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IPaC Record Locator: 639-24100201

October 30, 2020

Subject: Consistency letter for the 'A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)' project (TAILS 04ER1000-2021-R-0128) 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 **A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)** (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 will have no effect on the endangered Indiana bat (*Myotis sodalis*) or the threatened Northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, **no consultation is required for these two species.**

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:

- Curtis Pearlymussel, *Epioblasma florentina curtisii* (Endangered)
 - Eastern Black Rail, *Laterallus jamaicensis ssp. jamaicensis* (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)
 - 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

A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)

Description

28.26 miles of ultra thin bonded wearing course.

Determination Key Result

Based on the information you provided, you have determined that the Proposed Action will have no effect on the endangered Indiana bat and/or the threatened Northern long-eared bat. Therefore, no 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 for these two species.

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.

No

11. 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 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

12. 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

13. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?

No

14. Does the project include slash pile burning?

No

15. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?

No

16. 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

17. Will the project involve the use of **temporary** lighting *during* the active season?

No

18. Will the project install new or replace existing **permanent** lighting?

No

19. 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

20. Are *all* project activities limited to actions that DO NOT cause any stressors to the bat species, including as described in the BA/BO (i.e., habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives)?

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

Yes

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

No

22. Are *all* project activities consistent with a No Effect determination in this key?

Automatically answered

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

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.

From: [Lewis, Lindsey](#)
To: [Matthews, Mickey W.](#)
Subject: Re: [EXTERNAL] A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)
Date: Wednesday, November 4, 2020 9:06:18 AM

CAUTION: This email originated from outside of ARDOT. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mickey,

As stated in the Consistency Letter, "The Service concurs with these "No Effect" and "NLAA" determination(s) for the listed species identified. No further consultation for this project is required for these species. The verification letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA)."

"The Service has received your concurrence verification letter and request to verify that the Proposed Action may rely on the concurrence 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 (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 will have no effect on the endangered Indiana bat (*Myotis sodalis*) or the threatened Northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, no consultation is required for these two species."

The Service has no additional comments or concerns and agrees with the determinations and concurrences made through the Arkansas Dkey and Indiana Bat and Northern Long-eared Bat (PBO) Dkey.

Thanks,

Lindsey Lewis
Biologist

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

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov

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

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

From: Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Sent: Tuesday, November 3, 2020 9:46 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Lindsey,

The project is the application of an ultra thin bonded wearing course to approximately 28 miles of Hwy. 63. I have attached the IPAC list for your convenience. The project should have no effect on the Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), and Red Knot (*Calidris canutus rufa*). See attached No Effect (NE) consistency letters determinations from the Arkansas D-Key and FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) for the project.

ArDOT will be adding the water pollution control special provision to the contract to protect water quality. The Arkansas D-Key has determined the overlay may affect, but is not likely to adversely affect, the following species; gray bat (*Myotis grisescens*), Missouri bladderpod (*Physaria filiformis*), pondberry (*Lindera melissifolia*), Curtis Pearlymussel (*Epioblasma curtisii*), Pink Mucket (*Lampsilis abrupta*), Scaleshell Mussel (*Leptodea leptodon*), Snuffbox Mussel (*Epioblasma triquetra*) and Rabbitsfoot (*Theliderma cylindrica*) and its critical habitat (see attached). ArDOT is seeking concurrence with these determinations.

Thanks

Mickey Matthews
Advanced Natural Resources Specialist
Environmental Division-Natural Resources Section
Arkansas Department of Transportation
10324 I-30 P.O. Box 2261
Little Rock, Arkansas 72203
Office: (501) 569-2594
Fax: (501) 569-2009

<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.

From: Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Sent: Tuesday, November 3, 2020 9:46 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] A00004 - Sharp Co. Line – Greene Co. Line (Sel. Secs.) (S)

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Lindsey,

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Thanks

Mickey Matthews
Advanced Natural Resources Specialist
Environmental Division-Natural Resources Section
Arkansas Department of Transportation
10324 I-30 P.O. Box 2261
Little Rock, Arkansas 72203
Office: (501) 569-2594
Fax: (501) 569-2009

From: [Lewis, Lindsey](#)
To: [Bailey, William](#)
Subject: Re: [EXTERNAL] A10006
Date: Wednesday, November 4, 2020 7:58:22 AM

CAUTION: This email originated from outside of ARDOT. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Bill,

The Service agrees with these “No Effect” determinations for the listed species identified. No further consultation for this project is required for these species.

The Service has no additional comments or concerns.

Thanks,

Lindsey Lewis
Biologist

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

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

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

From: Bailey, William <William.Bailey@ardot.gov>
Sent: Monday, November 2, 2020 12:30 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] A10006

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Lindsey....please review the attached documents and let us know if you concur with our findings. Based on the lack of habitat, distance to known species occurrences, no impacts outside existing ROW, and scope of the project, it is our determination that the proposed project will have “no

effect” on all listed species.

Bill Bailey

Advanced Water Resource Specialist
Environmental Division
Arkansas Department of Transportation
501-569-2617



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:
Consultation Code: 04ER1000-2021-SLI-0133
Event Code: 04ER1000-2021-E-00361
Project Name: A10006 Hwys. 1, 64B & 284 (Sel. Secs.)

November 02, 2020

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.**

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: 04ER1000-2021-SLI-0133

Event Code: 04ER1000-2021-E-00361

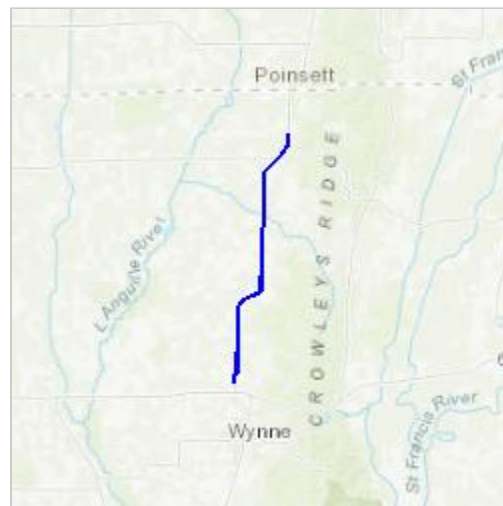
Project Name: A10006 Hwys. 1, 64B & 284 (Sel. Secs.)

Project Type: TRANSPORTATION

Project Description: pavement preservation, mill & inlay

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.337981278721855N90.77288487345808W>



Counties: Cross, AR

Endangered Species Act Species

There is a total of 4 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.

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	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

Flowering Plants

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

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.



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: 228-24114955

November 02, 2020

Subject: Consistency letter for 'A10006 Hwys. 1, 64B & 284 (Sel. Secs.)' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear William Bailey:

The U.S. Fish and Wildlife Service (Service) received on **November 02, 2020** your effect determination(s) for the 'A10006 Hwys. 1, 64B & 284 (Sel. Secs.)' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, the proposed Action, including species protective measures that you confirmed will be implemented, is consistent with a determination(s) of "no effect" and/or "may affect, but not likely to adversely affect (NLAA)" for the following species.

Species	Determination
Proposed Threatened Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	No Effect
Threatened Red Knot (<i>Calidris canutus rufa</i>)	No Effect
Threatened Piping Plover (<i>Charadrius melodus</i>)	No Effect
Endangered Pondberry (<i>Lindera melissifolia</i>)	NLAA

Status

Consultation with the Service is not complete. The above effect determination(s) becomes applicable when the lead Federal action agency or designated non-federal representative submits them as a request to the Service to rely on the Arkansas DKey in order 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 with a request for its review, and as the agency deems appropriate, to submit for concurrence verification through the IPaC system. The lead Federal action agency or designated non-federal representative should log into IPaC using their agency email account and click "Search by record locator". They will need to enter the record locator 228-24114955.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate the project in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 4) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the BGEPA may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. This document may be downloaded from the following site: <https://www.fws.gov/southeast/our-services/permits/eagles/>

To determine if your proposed activity is likely to take or disturb Bald Eagles, complete our step-by-step online self-certification process, which is located at <https://www.fws.gov/southeast/our-services/eagle-technical-assistance/>.

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. The application form is located at <http://www.fws.gov/forms/3-200-72.pdf>.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

A10006 Hwys. 1, 64B & 284 (Sel. Secs.)

2. Description

The following description was provided for the project 'A10008 Hwys. 1, 64B & 284 (Sel. Secs.)':

pavement preservation, mill & inlay

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.337981278721855N90.77288487345808W>



Species Protection Measures

Qualification Interview

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Choose the Federal agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

4. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

5. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

6. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

No

9. [Semantic] Does the project intersect the American burying beetle consultation area ?

Automatically answered

No

10. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?
Automatically answered
No
 11. [Semantic] Does the project intersect the Eastern black rail AOI?
Automatically answered
Yes
 12. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
No
 13. Does the project take place in marshy or flooded open field habitat?
No
 14. [Semantic] Does the project intersect the red knot AOI?
Automatically answered
Yes
 15. [Semantic (same answer as "8.1.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Automatically answered
No
 16. [Semantic (same answer as "8.2")] Does the project take place in marshy or flooded open field habitat?
Automatically answered
No
 17. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
 18. [Semantic (same answer as "8.1.3 or 9.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Automatically answered
No
 19. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
-

20. [Semantic] Does the project intersect the interior least tern AOI?
Automatically answered
No
21. [Semantic] Does the project intersect the Gray Bat AOI?
Automatically answered
No
22. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?
Automatically answered
No
23. [Semantic] Does the project intersect the Indiana bat AOI?
Automatically answered
No
24. [Semantic] Does the project intersect the Northern Long-eared bat AOI?
Automatically answered
No
25. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?
Automatically answered
No
26. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?
Automatically answered
No
27. [Semantic] Does the project intersect the Ozark cavefish AOI?
Automatically answered
No
28. [Semantic] Does the project intersect the Missouri bladderpod AOI?
Automatically answered
No
29. [Semantic] Does the project intersect the Geocarpon AOI?
Automatically answered
No
-

30. [Semantic] Does the project intersect the running buffalo clover AOI?

Automatically answered

No

31. [Semantic] Does the project intersect the Pondberry AOI?

Automatically answered

Yes



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:

October 28, 2020

Consultation Code: 04ER1000-2021-SLI-0118

Event Code: 04ER1000-2021-E-00300

Project Name: A10008 Marianna - St. Francis Co. Line (Sel. Secs.)

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.**

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: 04ER1000-2021-SLI-0118

Event Code: 04ER1000-2021-E-00300

Project Name: A10008 Marianna - St. Francis Co. Line (Sel. Secs.)

Project Type: TRANSPORTATION

Project Description: pavement preservation, mill & inlay, joint tape

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/34.841682217942235N90.64092579889146W>



Counties: Lee, AR | St. Francis, AR

Endangered Species Act Species

There is a total of 5 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.

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	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
Fat Pocketbook <i>Potamilus capax</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2780	Endangered
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

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.



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: 312-24109439

November 02, 2020

Subject: Consistency letter for 'A10008 Marianna - St. Francis Co. Line (Sel. Secs.)' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear William Bailey:

The U.S. Fish and Wildlife Service (Service) received on **November 02, 2020** your effect determination(s) for the 'A10008 Marianna - St. Francis Co. Line (Sel. Secs.)' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, the proposed Action, including species protective measures that you confirmed will be implemented, is consistent with a determination(s) of "no effect" and/or "may affect, but not likely to adversely affect (NLAA)" for the following species.

Species	Determination
Proposed Threatened Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	No Effect
Threatened Red Knot (<i>Calidris canutus rufa</i>)	No Effect
Threatened Piping Plover (<i>Charadrius melodus</i>)	No Effect
Endangered Fat Pocketbook (<i>Potamilus capax</i>)	NLAA
Endangered Scaleshell (<i>Leptodea leptodon</i>)	NLAA

Status

Consultation with the Service is not complete. The above effect determination(s) becomes applicable when the lead Federal action agency or designated non-federal representative submits

them as a request to the Service to rely on the Arkansas DKey in order 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 with a request for its review, and as the agency deems appropriate, to submit for concurrence verification through the IPaC system. The lead Federal action agency or designated non-federal representative should log into IPaC using their agency email account and click "Search by record locator". They will need to enter the record locator 312-24109439.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate the project in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 4) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the BGEPA may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. This document may be downloaded from the following site: <https://www.fws.gov/southeast/our-services/permits/eagles/>

To determine if your proposed activity is likely to take or disturb Bald Eagles, complete our step-by-step online self-certification process, which is located at <https://www.fws.gov/southeast/our-services/eagle-technical-assistance/>.

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. The application form is located at <http://www.fws.gov/forms/3-200-72.pdf>.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

A10008 Marianna - St. Francis Co. Line (Sel. Secs.)

2. Description

The following description was provided for the project 'A10008 Marianna - St. Francis Co. Line (Sel. Secs.)':

pavement preservation, mill & inlay, joint tape

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/34.841682217942235N90.64092579889146W>



Species Protection Measures

Qualification Interview

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Choose the Federal agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

4. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

5. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

6. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

No

9. [Semantic] Does the project intersect the American burying beetle consultation area ?

Automatically answered

No

10. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?
Automatically answered
No
 11. [Semantic] Does the project intersect the Eastern black rail AOI?
Automatically answered
Yes
 12. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
No
 13. Does the project take place in marshy or flooded open field habitat?
No
 14. [Semantic] Does the project intersect the red knot AOI?
Automatically answered
Yes
 15. [Semantic (same answer as "8.1.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Automatically answered
No
 16. [Semantic (same answer as "8.2")] Does the project take place in marshy or flooded open field habitat?
Automatically answered
No
 17. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
 18. [Semantic (same answer as "8.1.3 or 9.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Automatically answered
No
 19. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
-

20. [Semantic] Does the project intersect the interior least tern AOI?

Automatically answered

No

21. [Semantic] Does the project intersect the Gray Bat AOI?

Automatically answered

No

22. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?

Automatically answered

No

23. [Semantic] Does the project intersect the Indiana bat AOI?

Automatically answered

No

24. [Semantic] Does the project intersect the Northern Long-eared bat AOI?

Automatically answered

No

25. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?

Automatically answered

No

26. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?

Automatically answered

No

27. [Semantic] Does the project intersect the Ozark cavefish AOI?

Automatically answered

No

28. [Semantic] Does the project intersect the Missouri bladderpod AOI?

Automatically answered

No

29. [Semantic] Does the project intersect the Geocarpon AOI?

Automatically answered

No

30. [Semantic] Does the project intersect the running buffalo clover AOI?
Automatically answered
No
31. [Semantic] Does the project intersect the Pondberry AOI?
Automatically answered
No
32. [Semantic] Does the project occur within the survey coordination area?
Automatically answered
Yes
33. This project intersects a waterbody where listed aquatic species may occur. Have you contacted the Arkansas Ecological Services Office to determine if a fish, mussel, or amphibian species survey or suitable habitat survey is recommended for this project?
Yes
34. Was a species survey recommended by the Arkansas ES Field Office?
No
35. Does the project contain any of the following activity types:
Boat Ramps,
Bridges,
Culverts,
Development,
Dams or Impoundments (including berms and levees),
Streambank Stabilization (or other streambank work),
Pipeline and linear projects,
Water intakes/withdrawals, or
Stream or ditch relocation?
No
36. Will the project involve construction or other ground disturbance; riparian forest disturbance; or the application of herbicides, insecticides, or fertilizer within 200 feet of the streams?
No
37. Will the project result in discharge or runoff of sediment, erosion, or any other pollutant, including nutrients, into the stream?
No
-

38. Will the project involve gravel mining or large construction projects (over 5 acres)?

No

39. Will the project include any of the following agricultural practices?

Livestock crossing facility,
Grade stabilization structure,
Fencing,
Pond construction,
Road construction,
Riparian buffer establishment,
Conservation Structure restoration,
Wetland restoration,
Drop pipe/spillway, or
Sediment retention basin?

Yes

40. Will the practice include the following [best management practices](#) applicable to the project?

Yes

41. [Semantic] Does the project intersect the rabbitsfoot AOI?

Automatically answered

No

42. [Semantic] Does the project intersect the neosho mucket AOI?

Automatically answered

No

43. [Semantic] Does the project intersect the Spectaclecase AOI?

Automatically answered

No

44. [Semantic] Does the project intersect the snuffbox AOI?

Automatically answered

No

45. [Semantic] Does the project intersect the speckled pocketbook AOI?

Automatically answered

No

46. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?

Automatically answered

No

47. [Semantic] Does the project intersect the fat pocketbook AOI?

Automatically answered

Yes

48. [Semantic] Does the project intersect the Curtis pearlymussel AOI?

Automatically answered

No

49. [Semantic] Does the project intersect the scaleshell AOI?

Automatically answered

Yes

50. [Semantic] Does the project intersect the pink mucket AOI?

Automatically answered

No

51. [Semantic] Does the project intersect the Arkansas fatmucket AOI?

Automatically answered

No

52. [Semantic] Does the project intersect the winged mapleleaf AOI?

Automatically answered

No

53. [Semantic] Does the project intersect the leopard darter AOI?

Automatically answered

No

54. [Semantic] Does the project intersect the Yellowcheek darter AOI?

Automatically answered

No

55. [Semantic] Does the project intersect the Ozark hellbender AOI?

Automatically answered

No

56. [Semantic] Does the project intersect the harperella AOI?

Automatically answered

No

57. [Semantic] Does the project intersect the pallid sturgeon AOI?

Automatically answered

No

From: [Lewis, Lindsey](#)
To: [Bailey, William](#)
Subject: Re: [EXTERNAL] A10008
Date: Tuesday, November 3, 2020 7:43:29 AM

CAUTION: This email originated from outside of ARDOT. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Bill,

As stated in the Consistency Letter, "The Service concurs with these "No Effect" "NLAA" determination(s) for the listed species identified. No further consultation for this project is required for these species. The verification letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA)."

The Service has no additional comments or concerns and agrees with the determinations and concurrences made through the Arkansas Dkey.

Thanks,

Lindsey Lewis
Biologist

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

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

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

From: Bailey, William <William.Bailey@ardot.gov>
Sent: Monday, November 2, 2020 12:26 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] A10008

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Lindsey.....please review the attached USFWS Species List and let us know if you concur with our determinations. Based on the scope of the project, distance to known species occurrences, and no suitable habitat, it is our determination that the proposed project will have “no effect” on the Eastern Black Rail, Piping Plover, and Red Knot. Based on the scope of the project, no stream impacts, and minimization measures which include Water Pollution Control Special Provision, it is our determination that the proposed project may affect, but is not likely to adversely affect the Fat Pocketbook and Scaleshell Mussel.

Bill Bailey

Advanced Water Resource Specialist
Environmental Division
Arkansas Department of Transportation
501-569-2617



United States Department of the Interior



FISH AND WILDLIFE SERVICE
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In Reply Refer To:
Consultation Code: 04ER1000-2021-SLI-0134
Event Code: 04ER1000-2021-E-00363
Project Name: A50005 Cave City - North

November 02, 2020

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.**

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: 04ER1000-2021-SLI-0134

Event Code: 04ER1000-2021-E-00363

Project Name: A50005 Cave City - North

Project Type: TRANSPORTATION

Project Description: pavement preservation, 2" overlay

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.0469720820941N91.60339129714515W>



Counties: Sharp, AR

Endangered Species Act Species

There is a total of 10 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	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
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

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
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Phone: (501) 513-4470 Fax: (501) 513-4480
<http://www.fws.gov/arkansas-es>

IPaC Record Locator: 099-24115214

November 02, 2020

Subject: Consistency letter for 'A50005 Cave City - North' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear William Bailey:

The U.S. Fish and Wildlife Service (Service) received on **November 02, 2020** your effect determination(s) for the 'A50005 Cave City - North' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed Action:

Species	Determination
Proposed Threatened Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	No Effect
Threatened Red Knot (<i>Calidris canutus rufa</i>)	No Effect
Threatened Piping Plover (<i>Charadrius melodus</i>)	No Effect
Endangered Gray Bat (<i>Myotis grisescens</i>)	NLAA
Endangered Indiana Bat (<i>Myotis sodalis</i>)	May Affect
Threatened Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	May Affect
Threatened Missouri bladderpod (<i>Physaria filiformis</i>)	NLAA
Threatened Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>)	NLAA
Endangered Snuffbox (<i>Epioblasma triquetra</i>)	NLAA
Endangered Scaleshell (<i>Leptodea leptodon</i>)	NLAA
Critical Habitats	Determination
Critical Habitat Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>)	NLAA

Status

Consultation with the Service is not complete. Further consultation or coordination with the Arkansas Ecological Services Office is necessary for those species with a determination of “may affect” listed above. Please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

The Service concurs with the NLAA determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of the “No Effect” determinations. No further consultation for this project is required for these species. This letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 4) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

FHWA projects should not use this key for Northern Long-eared Bat determinations. Please complete the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat Release date: December 2, 2019

The key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened northern long-eared bat, which requires consultation with the USFWS under Section 7 of the ESA.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the BGEPA may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. This document may be downloaded from the following site: <https://www.fws.gov/southeast/our-services/permits/eagles/>

To determine if your proposed activity is likely to take or disturb Bald Eagles, complete our step-by-step online self-certification process, which is located at <https://www.fws.gov/southeast/our-services/eagle-technical-assistance/>.

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. The application form is located at <http://www.fws.gov/forms/3-200-72.pdf>.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

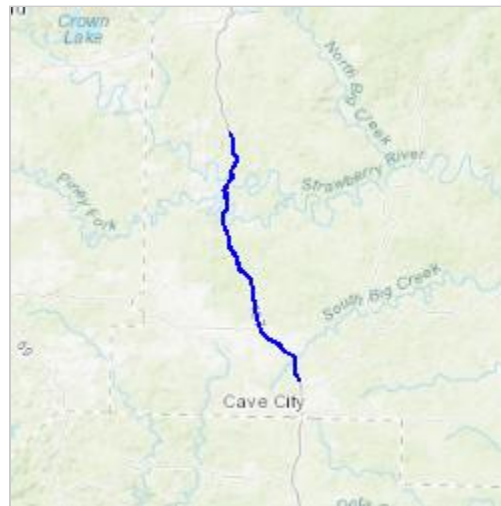
A50005 Cave City - North

2. Description

The following description was provided for the project 'A50005 Cave City - North':

pavement preservation, 2" overlay

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.0469720820941N91.60339129714515W>



Species Protection Measures

Qualification Interview

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Choose the Federal agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

4. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

5. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

6. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

Yes

9. Is the project expected to alter any of the following physical or biological features essential to Rabbitsfoot?
- 1) stable river channel and banks (e.g., removal of trees at the streambank edge, diversion of the channel, armoring or stabilizing the streambank, or other activities that may destabilize portions of the river channel)
 - 2) water flow (e.g., the amount, time of year, how often, or how much water moves through the project site and downstream of the project); or
 - 3) water quality (e.g., sediment, nutrients, pesticides or any other pollutant entering the water);
 - 4) sediment quality (e.g., sediment inputs with less than a harmful amount of heavy metals, chemical constituents, or other pollutants bound to sediment).
- No*
10. [Semantic] Does the project intersect the American burying beetle consultation area ?
- Automatically answered**
- No*
11. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?
- Automatically answered**
- No*
12. [Semantic] Does the project intersect the Eastern black rail AOI?
- Automatically answered**
- Yes*
13. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
- No*
14. Does the project take place in marshy or flooded open field habitat?
- No*
15. [Semantic] Does the project intersect the red knot AOI?
- Automatically answered**
- Yes*
16. [Semantic (same answer as "8.1.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
- Automatically answered**
- No*
-

17. [Semantic (same answer as "8.2")] Does the project take place in marshy or flooded open field habitat?

Automatically answered

No

18. [Semantic] Does the project intersect the Piping Plover AOI?

Automatically answered

Yes

19. [Semantic (same answer as "8.1.3 or 9.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?

Automatically answered

No

20. [Semantic] Does the project intersect the Whooping Crane AOI?

Automatically answered

No

21. [Semantic] Does the project intersect the interior least tern AOI?

Automatically answered

No

22. [Semantic] Does the project intersect the Gray Bat AOI?

Automatically answered

Yes

23. Does the project involve changes to an existing bridge or large culvert?

No

24. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?

Automatically answered

No

25. [Semantic] Does the project intersect the Indiana bat AOI?

Automatically answered

Yes

26. [Semantic] Does the project intersect the Northern Long-eared bat AOI?

Automatically answered

Yes

27. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?
Automatically answered
No
28. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?
Automatically answered
No
29. [Semantic] Does the project intersect the Ozark cavefish AOI?
Automatically answered
No
30. [Semantic] Does the project intersect the Missouri bladderpod AOI?
Automatically answered
Yes
31. [Semantic] Does the project intersect the Geocarpon AOI?
Automatically answered
No
32. [Semantic] Does the project intersect the running buffalo clover AOI?
Automatically answered
No
33. [Semantic] Does the project intersect the Pondberry AOI?
Automatically answered
No
34. [Semantic] Does the project occur within the survey coordination area?
Automatically answered
Yes
35. This project intersects a waterbody where listed aquatic species may occur. Have you contacted the Arkansas Ecological Services Office to determine if a fish, mussel, or amphibian species survey or suitable habitat survey is recommended for this project?
Yes
36. Was a species survey recommended by the Arkansas ES Field Office?
No
-

37. Does the project contain any of the following activity types:

Boat Ramps,
Bridges,
Culverts,
Development,
Dams or Impoundments (including berms and levees),
Streambank Stabilization (or other streambank work),
Pipeline and linear projects,
Water intakes/withdrawals, or
Stream or ditch relocation?

No

38. Will the project involve construction or other ground disturbance; riparian forest disturbance; or the application of herbicides, insecticides, or fertilizer within 200 feet of the streams?

No

39. Will the project result in discharge or runoff of sediment, erosion, or any other pollutant, including nutrients, into the stream?

No

40. Will the project involve gravel mining or large construction projects (over 5 acres)?

No

41. Will the project include any of the following agricultural practices?

Livestock crossing facility,
Grade stabilization structure,
Fencing,
Pond construction,
Road construction,
Riparian buffer establishment,
Conservation Structure restoration,
Wetland restoration,
Drop pipe/spillway, or
Sediment retention basin?

Yes

42. Will the practice include the following [best management practices](#) applicable to the project?

Yes

43. [Semantic] Does the project intersect the rabbitsfoot AOI?
Automatically answered
Yes
44. [Semantic] Does the project intersect the neosho mucket AOI?
Automatically answered
No
45. [Semantic] Does the project intersect the Spectaclecase AOI?
Automatically answered
No
46. [Semantic] Does the project intersect the snuffbox AOI?
Automatically answered
Yes
47. [Semantic] Does the project intersect the speckled pocketbook AOI?
Automatically answered
No
48. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?
Automatically answered
No
49. [Semantic] Does the project intersect the fat pocketbook AOI?
Automatically answered
No
50. [Semantic] Does the project intersect the Curtis pearlymussel AOI?
Automatically answered
No
51. [Semantic] Does the project intersect the scaleshell AOI?
Automatically answered
Yes
52. [Semantic] Does the project intersect the pink mucket AOI?
Automatically answered
No
-

53. [Semantic] Does the project intersect the Arkansas fatmucket AOI?

Automatically answered

No

54. [Semantic] Does the project intersect the winged mapleleaf AOI?

Automatically answered

No

55. [Semantic] Does the project intersect the leopard darter AOI?

Automatically answered

No

56. [Semantic] Does the project intersect the Yellowcheek darter AOI?

Automatically answered

No

57. [Semantic] Does the project intersect the Ozark hellbender AOI?

Automatically answered

No

58. [Semantic] Does the project intersect the harperella AOI?

Automatically answered

No

59. [Semantic] Does the project intersect the pallid sturgeon AOI?

Automatically answered

No

Project Questionnaire

1. **If the project includes forest conversion, report the appropriate acreages below. Otherwise, type '0' in questions 1-3.**

1. Estimated total acres of forest conversion:

0

2. 2. If known, estimated acres of forest conversion from April 1 to October 31

0

3. 3. If known, estimated acres of forest conversion from June 1 to July 31

0

4. **If the project includes timber harvest, report the appropriate acreages below. Otherwise, type '0' in questions 4-6.**

4. Estimated total acres of timber harvest

0

5. 5. If known, estimated acres of timber harvest from April 1 to October 31

0

6. 6. If known, estimated acres of timber harvest from June 1 to July 31

0

7. **If the project includes prescribed fire, report the appropriate acreages below. Otherwise, type '0' in questions 7-9.**

7. Estimated total acres of prescribed fire

0

8. 8. If known, estimated acres of prescribed fire from April 1 to October 31

0

9. 9. If known, estimated acres of prescribed fire from June 1 to July 31

0

10. **If the project includes new wind turbines, report the megawatts of wind capacity below. Otherwise, type '0' in question 10.**

10. What is the estimated wind capacity (in megawatts) of the new turbine(s)?

0



United States Department of the Interior



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110 South Amity Suite 300
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Phone: (501) 513-4470 Fax: (501) 513-4480
<http://www.fws.gov/arkansas-es>

IPaC Record Locator: 099-24115466

November 02, 2020

Subject: Consistency letter for the 'A50005 Cave City - North' project (TAILS 04ER1000-2021-R-0134) 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 **A50005 Cave City - North** (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 will have **no effect** on the endangered Indiana bat (*Myotis sodalis*) or the threatened Northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, **no consultation is required for these two species**.

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* (Threatened)
 - Gray Bat, *Myotis grisescens* (Endangered)
 - Missouri Bladderpod, *Physaria filiformis* (Threatened)
 - Piping Plover, *Charadrius melodus* (Threatened)
 - Rabbitsfoot, *Quadrula cylindrica cylindrica* (Threatened)
 - Red Knot, *Calidris canutus rufa* (Threatened)
 - 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

A50005 Cave City - North

Description

pavement preservation, 2" overlay

Determination Key Result

Based on the information you provided, you have determined that the Proposed Action will have no effect on the endangered Indiana bat and/or the threatened Northern long-eared bat. Therefore, no 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 for these two species.

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](#).

No

10. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?

No

11. Does the project include slash pile burning?

No

12. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?

No

13. 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

14. Will the project involve the use of **temporary** lighting *during* the active season?

No

15. Will the project install new or replace existing **permanent** lighting?

No

16. 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

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

No

18. Is the location of this project consistent with a No Effect determination in this key?

Automatically answered

Yes, because the project action area is not within suitable Indiana bat and/or NLEB summer habitat and is outside of 0.5 miles of a hibernaculum.

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.



United States Department of the Interior



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

In Reply Refer To:

October 28, 2020

Consultation Code: 04ER1000-2021-SLI-0116

Event Code: 04ER1000-2021-E-00293

Project Name: A60002 Hwy. 298 - Perry Co. Line

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.**

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: 04ER1000-2021-SLI-0116

Event Code: 04ER1000-2021-E-00293

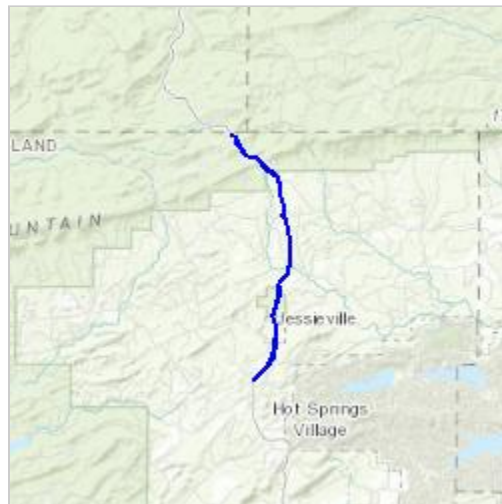
Project Name: A60002 Hwy. 298 - Perry Co. Line

Project Type: TRANSPORTATION

Project Description: pavement preservation, scrub seal and overlay

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/34.72513046625758N93.05616301928335W>



Counties: Garland, AR | Perry, AR

Endangered Species Act Species

There is a total of 7 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
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	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
Red-cockaded Woodpecker <i>Picoides borealis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7614	Endangered

Clams

NAME	STATUS
Arkansas Fatmucket <i>Lampsilis powellii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2213	Threatened

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

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.



United States Department of the Interior



FISH AND WILDLIFE SERVICE
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<http://www.fws.gov/arkansas-es>

In Reply Refer To:

November 02, 2020

Consultation Code: 04ER1000-2021-TA-0116

Event Code: 04ER1000-2021-E-00355

Project Name: A60002 Hwy. 298 - Perry Co. Line

Subject: Verification letter for 'A60002 Hwy. 298 - Perry Co. Line' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear William Bailey:

The U.S. Fish and Wildlife Service (Service) received on **November 02, 2020** your effect determination(s) for the 'A60002 Hwy. 298 - Perry Co. Line' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed action.

Species	Determination
Endangered Red-cockaded Woodpecker (<i>Picoides borealis</i>)	NLAA
Proposed Threatened Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	No Effect
Threatened Red Knot (<i>Calidris canutus rufa</i>)	No Effect
Threatened Piping Plover (<i>Charadrius melodus</i>)	No Effect
Threatened Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	May Affect
Threatened Missouri bladderpod (<i>Physaria filiformis</i>)	NLAA
Threatened Arkansas Fatmucket (<i>Lampsilis powellii</i>)	NLAA

Status

The Service concurs with the NLAA determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of the “No Effect” determinations. No further consultation for this project is required for these species. This letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 4) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

FHWA projects should not use this key for Northern Long-eared Bat determinations. Please complete the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat Release date: December 2, 2019

The key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened northern long-eared bat, which requires consultation with the USFWS under Section 7 of the ESA.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the BGEPA may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. This document may be downloaded from the following site: <https://www.fws.gov/southeast/our-services/permits/eagles/>

To determine if your proposed activity is likely to take or disturb Bald Eagles, complete our step-by-step online self-certification process, which is located at <https://www.fws.gov/southeast/our-services/eagle-technical-assistance/>.

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. The application form is located at <http://www.fws.gov/forms/3-200-72.pdf>.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

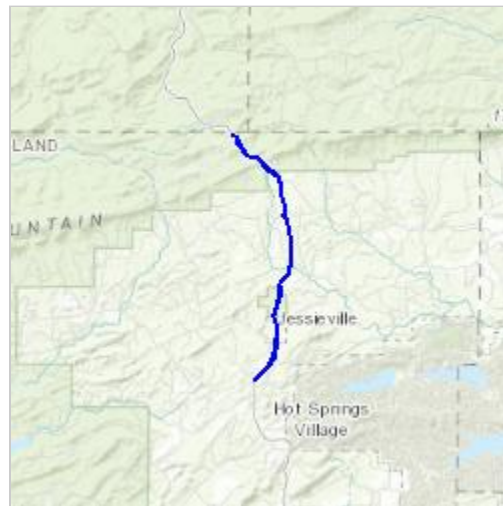
A60002 Hwy. 298 - Perry Co. Line

2. Description

The following description was provided for the project 'A60002 Hwy. 298 - Perry Co. Line':

pavement preservation, scrub seal and overlay

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/34.72513046625758N93.05616301928335W>



Species Protection Measures

Qualification Interview

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Choose the Federal agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

4. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

5. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

6. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

No

9. [Semantic] Does the project intersect the American burying beetle consultation area ?

Automatically answered

No

10. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?
Automatically answered
Yes
 11. [Semantic] Does the project intersect the Eastern black rail AOI?
Automatically answered
Yes
 12. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
No
 13. Does the project take place in marshy or flooded open field habitat?
No
 14. [Semantic] Does the project intersect the red knot AOI?
Automatically answered
Yes
 15. [Semantic (same answer as "8.1.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Automatically answered
No
 16. [Semantic (same answer as "8.2")] Does the project take place in marshy or flooded open field habitat?
Automatically answered
No
 17. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
 18. [Semantic (same answer as "8.1.3 or 9.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Automatically answered
No
 19. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
-

20. [Semantic] Does the project intersect the interior least tern AOI?

Automatically answered

No

21. [Semantic] Does the project intersect the Gray Bat AOI?

Automatically answered

No

22. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?

Automatically answered

No

23. [Semantic] Does the project intersect the Indiana bat AOI?

Automatically answered

No

24. [Semantic] Does the project intersect the Northern Long-eared bat AOI?

Automatically answered

Yes

25. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?

Automatically answered

No

26. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?

Automatically answered

No

27. [Semantic] Does the project intersect the Ozark cavefish AOI?

Automatically answered

No

28. [Semantic] Does the project intersect the Missouri bladderpod AOI?

Automatically answered

Yes

29. [Semantic] Does the project intersect the Geocarpon AOI?

Automatically answered

No

30. [Semantic] Does the project intersect the running buffalo clover AOI?
Automatically answered
No
31. [Semantic] Does the project intersect the Pondberry AOI?
Automatically answered
No
32. [Semantic] Does the project occur within the survey coordination area?
Automatically answered
Yes
33. This project intersects a waterbody where listed aquatic species may occur. Have you contacted the Arkansas Ecological Services Office to determine if a fish, mussel, or amphibian species survey or suitable habitat survey is recommended for this project?
Yes
34. Was a species survey recommended by the Arkansas ES Field Office?
No
35. Does the project contain any of the following activity types:
Boat Ramps,
Bridges,
Culverts,
Development,
Dams or Impoundments (including berms and levees),
Streambank Stabilization (or other streambank work),
Pipeline and linear projects,
Water intakes/withdrawals, or
Stream or ditch relocation?
No
36. Will the project involve construction or other ground disturbance; riparian forest disturbance; or the application of herbicides, insecticides, or fertilizer within 200 feet of the streams?
No
37. Will the project result in discharge or runoff of sediment, erosion, or any other pollutant, including nutrients, into the stream?
No
-

38. Will the project involve gravel mining or large construction projects (over 5 acres)?
No
39. Will the project include any of the following agricultural practices?
Livestock crossing facility,
Grade stabilization structure,
Fencing,
Pond construction,
Road construction,
Riparian buffer establishment,
Conservation Structure restoration,
Wetland restoration,
Drop pipe/spillway, or
Sediment retention basin?
Yes
40. Will the practice include the following [best management practices](#) applicable to the project?
Yes
41. [Semantic] Does the project intersect the rabbitsfoot AOI?
Automatically answered
No
42. [Semantic] Does the project intersect the neosho mucket AOI?
Automatically answered
No
43. [Semantic] Does the project intersect the Spectaclecase AOI?
Automatically answered
No
44. [Semantic] Does the project intersect the snuffbox AOI?
Automatically answered
No
45. [Semantic] Does the project intersect the speckled pocketbook AOI?
Automatically answered
No
46. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?
Automatically answered
No
-

47. [Semantic] Does the project intersect the fat pocketbook AOI?

Automatically answered

No

48. [Semantic] Does the project intersect the Curtis pearlymussel AOI?

Automatically answered

No

49. [Semantic] Does the project intersect the scaleshell AOI?

Automatically answered

No

50. [Semantic] Does the project intersect the pink mucket AOI?

Automatically answered

No

51. [Semantic] Does the project intersect the Arkansas fatmucket AOI?

Automatically answered

Yes

52. [Semantic] Does the project intersect the winged mapleleaf AOI?

Automatically answered

No

53. [Semantic] Does the project intersect the leopard darter AOI?

Automatically answered

No

54. [Semantic] Does the project intersect the Yellowcheek darter AOI?

Automatically answered

No

55. [Semantic] Does the project intersect the Ozark hellbender AOI?

Automatically answered

No

56. [Semantic] Does the project intersect the harperella AOI?

Automatically answered

No

57. [Semantic] Does the project intersect the pallid sturgeon AOI?

Automatically answered

No

Project Questionnaire

1. **If the project includes forest conversion, report the appropriate acreages below. Otherwise, type '0' in questions 1-3.**

1. Estimated total acres of forest conversion:

0

2. 2. If known, estimated acres of forest conversion from April 1 to October 31

0

3. 3. If known, estimated acres of forest conversion from June 1 to July 31

0

4. **If the project includes timber harvest, report the appropriate acreages below. Otherwise, type '0' in questions 4-6.**

4. Estimated total acres of timber harvest

0

5. 5. If known, estimated acres of timber harvest from April 1 to October 31

0

6. 6. If known, estimated acres of timber harvest from June 1 to July 31

0

7. **If the project includes prescribed fire, report the appropriate acreages below. Otherwise, type '0' in questions 7-9.**

7. Estimated total acres of prescribed fire

0

8. 8. If known, estimated acres of prescribed fire from April 1 to October 31

0

9. 9. If known, estimated acres of prescribed fire from June 1 to July 31

0

10. If the project includes new wind turbines, report the megawatts of wind capacity below. Otherwise, type '0' in question 10.

10. What is the estimated wind capacity (in megawatts) of the new turbine(s)?

0

From: [Lewis, Lindsey](#)
To: [Bailey, William](#)
Subject: Re: [EXTERNAL] A50005
Date: Tuesday, November 3, 2020 8:07:37 AM

CAUTION: This email originated from outside of ARDOT. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Bill,

As stated in the Consistency Letter, "The Service concurs with these "No Effect" and "NLAA" determination(s) for the listed species identified. No further consultation for this project is required for these species. The verification letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA)."

"The Service has received your concurrence verification letter and request to verify that the Proposed Action may rely on the concurrence 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 (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, 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, may affect, but is not likely to adversely affect (NLAA) Indiana Bat and Northern Long-Eared Bat. The Service verification letter confirms the concurrence that this action may rely on the PBO."

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 listed 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.

The Service has no additional comments or concerns and agrees with the determinations and concurrences made through the Arkansas Dkey and Indiana Bat and Northern Long-eared Bat (PBO) Dkey.

Thanks,

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office

110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice

(501) 513-4480 - fax

Lindsey_Lewis@fws.gov

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

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

From: Bailey, William <William.Bailey@ardot.gov>

Sent: Monday, November 2, 2020 12:37 PM

To: Lewis, Lindsey <lindsey_lewis@fws.gov>

Subject: [EXTERNAL] A50005

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Lindsey.....please review the attached documents and let us know if you concur with our determinations. Based on the lack of habitat, distance to known species occurrences, scope of the project, and no impacts outside existing ROW, it is our determination that the proposed project will "no effect" on the gray bat, Indiana bat, northern long-eared bat, Eastern Black Rail, Piping Plover, Red Knot, and Missouri bladderpod. Based on the scope of the project, no stream impacts, and minimization measure which include Water Pollution Control Special Provision, it is our determination that the proposed project may affect, but is not likely to adversely affect the Rabbitsfoot, Scaleshell Mussel, and Snuffbox Mussel.

Bill Bailey

Advanced Water Resource Specialist

Environmental Division

Arkansas Department of Transportation

501-569-2617



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



November 4, 2020

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

Consultation Code: 04ER1000-2021-R-0101
03E14000-2021-R-0146

Dear Mr. Fleming:

The U.S. Fish and Wildlife Service (Service) has reviewed your request, assessment, and determinations for Arkansas Department of Transportation (ARDOT) Job Number A90007 Hwy. 102 – Missouri State Line (S) in Benton County, Arkansas. We received your request and the associated determinations on October 30, 2020.

The project was described and assessed as follows (abbreviated):

The project is a combination of various applications including ultra thin bonded wearing course, overlay, and mill and inlay to approximately 12 miles of Hwys. 72 and 279. I have attached the IPaC list for your convenience. The project should have no effect on the Gray Bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Ozark Big-eared Bat (*Corynorhinus townsendii ingens*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), and Missouri Bladderpod (*Physaria filiformis*) due to limited scope of the project, lack of habitat, and distance to known populations. FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) determination key within IPaC provided a likely to no effect (NE) consistency letter for the project.

ARDOT will be adding the water pollution control special provision to the contract to protect water quality. ARDOT has determined the overlay may affect, but is not likely to adversely affect, the following species; Benton County Cave Crayfish (*Cambarus aculabrum*) and Ozark Cavefish (*Troglichthys rosae*). ARDOT is seeking concurrence with this determination.

The Service has received your request to verify that the A90007 - Hwy. 102 – Missouri State Line (S) (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, you have determined that the Proposed Action will have no effect on the endangered Indiana Bat (*Myotis sodalis*) or the threatened Northern Long-eared Bat (*Myotis septentrionalis*). If the Proposed Action is not modified, no consultation is required for these two species.

Due to the limited scope of the action (i.e., overlays, mill and inlay, and ultra-thin bonded wearing course), minimal to no adjacent habitat effects, distance to known species locations, minimal potential foraging habitat effects, the standard special provision for sediment control, and the special provision for water pollution control, the Service concurs with the determination of "may affect, not likely to adversely affect" for Benton County Cave Crayfish and Ozark Cavefish. No further consultation regarding this species or any of the species identified within the assessment is necessary at this time.

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 'Melvin 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\FY2021\ARDOT\ARDOT Job A90007 Hwy. 102 – Missouri State Line\AFO Letter -ARDOT Job Number A90007 - 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:

October 26, 2020

Consultation Code: 04ER1000-2021-SLI-0101

Event Code: 04ER1000-2021-E-00255

Project Name: A90007 - Hwy . 102 – Missouri State Line (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.**

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

This project's location is within the jurisdiction of multiple offices. Expect additional species list documents from the following office, and expect that the species and critical habitats in each document reflect only those that fall in the office's jurisdiction:

Missouri Ecological Services Field Office

101 Park Deville Drive
Suite A
Columbia, MO 65203-0057
(573) 234-2132

Project Summary

Consultation Code: 04ER1000-2021-SLI-0101

Event Code: 04ER1000-2021-E-00255

Project Name: A90007 - Hwy . 102 – Missouri State Line (S)

Project Type: TRANSPORTATION

Project Description: 12.5 miles of pavement treatments along hwy. 72 and hwy. 279. The treatments will include overlays, mill and inlay, and ultra-thin bonded wearing course.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.4293148596474N94.33366667568141W>



Counties: Benton, AR | McDonald, MO

Endangered Species Act Species

There is a total of 10 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. Note that 1 of these species should be considered only under certain conditions.

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
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7245	Endangered

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	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

Fishes

NAME	STATUS
Ozark Cavefish <i>Amblyopsis rosae</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: <ul style="list-style-type: none"> ▪ Buffer of Ozark Cavefish Areas Species profile: https://ecos.fws.gov/ecp/species/6490	Threatened

Crustaceans

NAME	STATUS
Benton County Cave Crayfish <i>Cambarus aculabrum</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5011	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

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Assistant Director-Ecological Services
1849 C Street Nw
Room 3345
Washington, DC 20240-0001
Phone: (202) 208-4646 Fax: (202) 208-5618

IPaC Record Locator: 402-24009223

October 26, 2020

Subject: Consistency letter for the 'A90007 - Hwy . 102 – Missouri State Line (S)' project (TAILS 04ER1000-2021-R-0101, 03E14000-2021-R-0146) 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 **A90007 - Hwy . 102 – Missouri State Line (S)** (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 will have no effect on the endangered Indiana bat (*Myotis sodalis*) or the threatened Northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, **no consultation is required for these two species.**

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:

- Benton County Cave Crayfish, *Cambarus aculabrum* (Endangered)
 - Eastern Black Rail, *Laterallus jamaicensis ssp. jamaicensis* (Threatened)
 - Gray Bat, *Myotis grisescens* (Endangered)
 - Missouri Bladderpod, *Physaria filiformis* (Threatened)
 - Neosho Mucket, *Lampsilis rafinesqueana* (Endangered)
 - Ozark Big-eared Bat, *Corynorhinus (=Plecotus) townsendii ingens* (Endangered)
 - Ozark Cavefish, *Amblyopsis rosae* (Threatened)
 - Piping Plover, *Charadrius melodus* (Threatened)
 - Red Knot, *Calidris canutus rufa* (Threatened)
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Project Description

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

Name

A90007 - Hwy . 102 – Missouri State Line (S)

Description

12.5 miles of pavement treatments along hwy. 72 and hwy. 279. The treatments will include overlays, mill and inlay, and ultra-thin bonded wearing course.

Determination Key Result

Based on the information you provided, you have determined that the Proposed Action will have no effect on the endangered Indiana bat and/or the threatened Northern long-eared bat. Therefore, no 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 for these two species.

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](#).

No

10. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?

No

11. Does the project include slash pile burning?

No

12. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?

No

13. 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

14. Will the project involve the use of **temporary** lighting *during* the active season?

No

15. Will the project install new or replace existing **permanent** lighting?

No

16. 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

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

No

18. Is the location of this project consistent with a No Effect determination in this key?

Automatically answered

Yes, because the project action area is not within suitable Indiana bat and/or NLEB summer habitat and is outside of 0.5 miles of a hibernaculum.

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.

U.S. Fish & Wildlife Service Contact List

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101 Park Deville Drive
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(573) 234-2132

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Conway, AR 72032-8975
(501) 513-4470

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

ARDOT Job Number See Table 1 FAP Number See Table 1

Job Title See Table 1


Environmental Resource	None	Minimal	Major	Comments-required for each item
Air Quality	X			No air quality/MSAT impacts
Cultural Resources	X			CR clearances attached
Economic	X			No adverse impacts
Endangered Species		X		USFWS concurrence 11/3/2020
Environmental Justice/Title VI	X			EJ populations not impacted
Fish and Wildlife	X			No impacts anticipated
Floodplains	X			No impacts expected
Forest Service Property	X			None in the project area
Hazardous Materials/Landfills	X			No sites in project area
Land Use	X			Will not be impacted by project
Migratory Birds	X			No impacts anticipated
Navigation/Coast Guard	X			None in the project area
Noise Levels	X			No increases due to project
Prime Farmland	X			None in project area
Protected Waters	X			WPC SP included
Public Recreation Lands	X			None in project area
Public Water Supply/WHPA		X		WHP SP included
Relocates	X			No relocations
Section 4(f)/6(f)	X			4(f)/6(f) resources not impacted
Social	X			No impacts to the social environment
Underground Storage Tanks	X			No UST's in the project area
Visual	X			No changes to visual environment
Streams	X			No impacts anticipated
Water Quality	X			No impacts anticipated
Wetlands	X			None in the project area
Wildlife Refuges	X			None in the project area

Section 401 Water Quality Certification Required? No

Short-term Activity Authorization Required? No

Section 404 Permit Required? No Type N/A

Remarks: 303d &TMDL for Silt Turbidity, and a NRI waterbody, The St. Francis River ESW(A10008); Strawberry River, ESW & ERW (A50005);Tributaries to Middle Fork of Saline River, ERW and ESW; Mtn. Valley Spring-w/in source of spring (A60002); Crossing tributaries to Spring River; ERW, ESW and NRI waterbodies; Village Creek-impaired for Silt Turbidity, and tributary to Cache River-303d & TMDL for silt turbidity(A00004); WPC SP for Middle Fork Red River, ERW & ESW (090527)

Signature of Evaluator  Date November 24, 2020