



ARKANSAS DEPARTMENT OF TRANSPORTATION

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10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261 | Phone: 501.569.2000

INTEROFFICE MEMORANDUM

August 6, 2024

TO: Master Files

FROM: Josh Seagraves, Division Head – Environmental 

SUBJECT: Job 050439
FAP STPR-0032(44)
Hwy. 25 Str. & Apprs. (Independence Co.) (S)
Route 25, Section 5
Independence County
Tier 1 Categorical Exclusion

After appropriate environmental review, it has been determined that the subject job is a Tier 1 Categorical Exclusion as described by the ARDOT/FHWA Programmatic Agreement on Categorical Exclusion Documentation and Processing. A public hearing will not be offered for this project.

The purpose of this job is to replace the existing bridge structure (M0591) on Highway 25 over Blue Creek just north of Batesville in Independence County, Arkansas. The bridge will be replaced on new location to the south of the existing structure. Traffic will be maintained on the existing bridge until the new bridge is completed, at which time traffic will shift to the new bridge and the old bridge will be removed. Total length of the project is approximately 0.6 mile. A project location map is attached.

The typical section of the road would be improved from two 11' wide paved travel lanes with 3' wide paved shoulders to two 12' wide paved travel lanes with 8' wide paved shoulders. The existing right of way (ROW) width varies from 80' to 100'. The proposed ROW width would vary from 120' to 195'. This project would require approximately 4.6 acres of new ROW and approximately 0.4 acre temporary construction easement. Approximately 1.8 acres of Prime Farmland and 0.3 acre of Farmland of Statewide Importance would be converted to highway ROW. Form NRCS-CPA-106 is attached.

Design data for this project is as follows:

Design Year	Average Daily Traffic	Percent Trucks	Design Speed
2025	5,400 vpd	7%	60 mph
2045	7,300 vpd		

The project would not involve relocations, wetlands, underground storage tanks, hazardous materials, any environmental justice issues, or cultural resources. This project has been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been linked with any special mobile source air toxics concerns. The State Historic Preservation Officer's clearance is attached.

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

The official species lists obtained through the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation identified the following species as potentially occurring within the project area: Gray Bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Tricolored Bat (*Perimyotis subflavus*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Rufa Red Knot (*Calidris canutus rufa*), Alligator Snapping Turtle (*Macrochelys temminckii*), Ozark Hellbender (*Cryptobranchus alleganiensis bishopi*), Missouri bladderpod (*Physaria filiformis*), pondberry (*Lindera melissifolia*), and Monarch Butterfly (*Danaus plexippus*). The official species list is attached.

The Arkansas Determination Key was evaluated for the project. It was determined that the project will have "no effect" on Eastern Black Rail, Piping Plover, and Rufa Red Knot due to the limited scope of the action, lack of suitable habitat, and distance to known species locations. It was also determined that the project "may affect, but is not likely to adversely affect," Gray Bat, Missouri bladderpod, Ozark Hellbender, and pondberry. The USFWS concurred on June 11, 2024.

The FHWA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat was also evaluated for the project. It was also determined that the project "may affect but is not likely to adversely affect," the Indiana Bat and the Northern Long-eared Bat. The USFWS concurred on June 11, 2024.

The Alligator Snapping Turtle is currently a proposed threatened species, and the Tri-colored Bat is a proposed endangered species; however, the proposed project will not jeopardize the continued existence of either species.

The Monarch Butterfly is a candidate species and as such is not federally protected under the Endangered Species Act (ESA). However, the US Fish and Wildlife Service recommends agencies implement conservation measures for candidate species in action areas as these are, by definition, species that may warrant future protection under the ESA. ARDOT will plant native wildflowers after construction as a conservation measure.

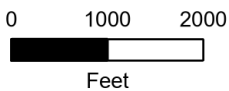
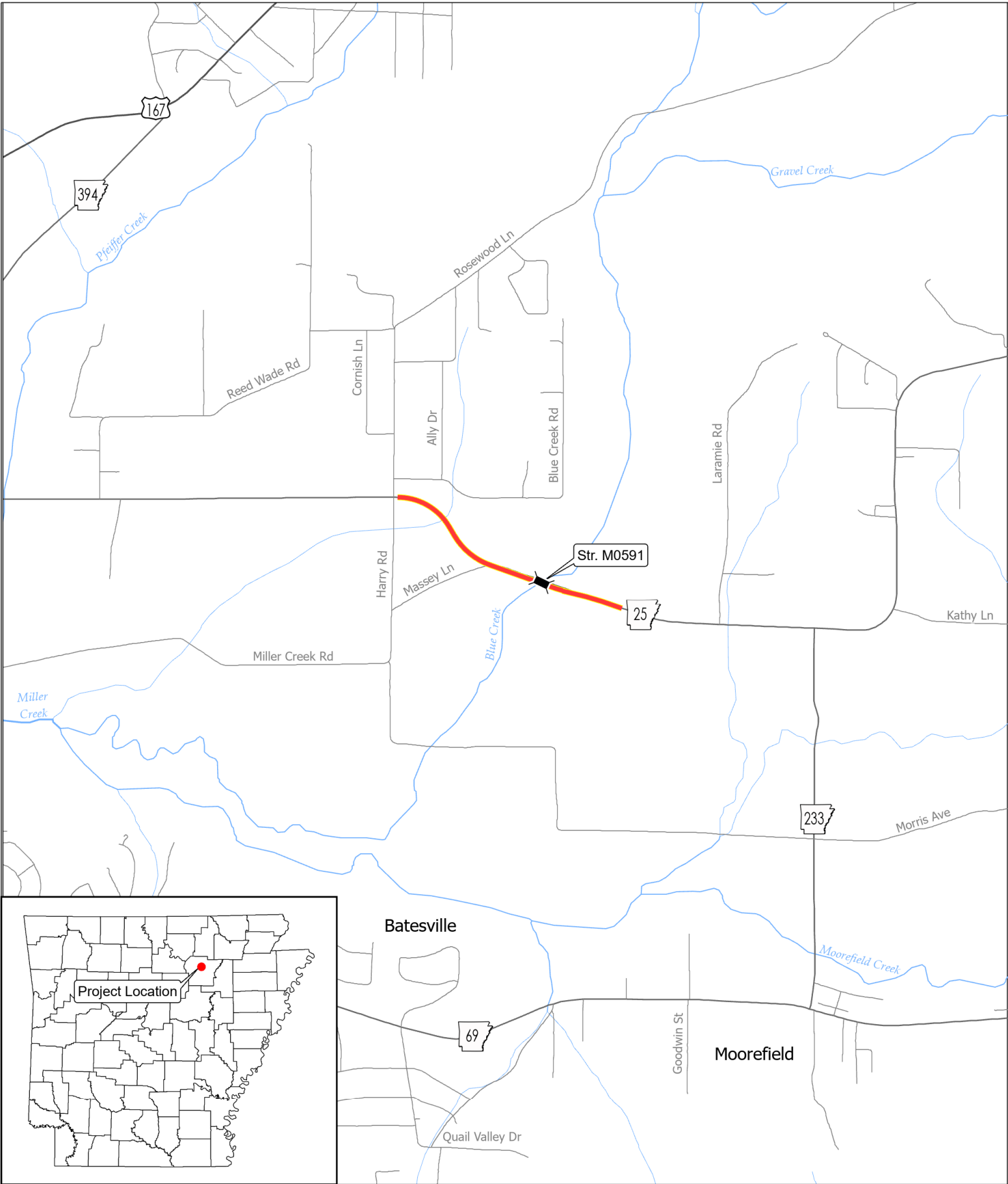
This project will impact approximately 80 linear feet (0.01 acre) of Blue Creek; therefore, a Section 404 permit will be required. The project should be authorized by Nationwide Permit 14 for Linear Transportation Projects as defined in Federal Register 86(245): 73522-73583. A preconstruction notification will not be required.

Independence County participates in the National Flood Insurance Program. The project lies within a Zone A and Zone AE Special Flood Hazard Area. The final project design will be reviewed to confirm that the design is adequate and that the potential risk to life and property are minimized. Adjacent properties should not be impacted nor have a greater flood risk than existed before construction of the project. None of the encroachments will constitute a substantial floodplain encroachment or a risk to property or life.

Attachments

c: Program Management
Right of Way
Roadway Design
District 5
FHWA

JS:KR:sw



Job 050439
Hwy. 25 Str. & Apprs.
Independence County





Sarah Huckabee Sanders
Governor
Shea Lewis
Secretary

July 31, 2024

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

RE: Independence County: General
Section 106 Review: FHwA
Project Undertaking: Hwy. 25 Str. & Apprs. (Independence Co.) (S)
Route 25, Section 5
ARDOT Job Number: 050439
AHPP Tracking Number: 112627

Dear Mr. Seagraves:

The staff of the Arkansas Historic Preservation Program (AHPP) reviewed the Project Identification Form (PIF) and Architectural Resource Survey (ARS) for the aforementioned undertaking in Section 12, Township 13 North, Range 6 West near Batesville in Independence County, Arkansas. The project proposes to replace Bridge M0591 on Highway 25. The area of potential effect (APE) consists of 4.58 acres of additional right-of-way (ROW) and 0.43 acres of Temporary Construction Easement (TCE) for a total of 5.01 acres.

There are two previously recorded archeological sites located over 500 meters from the APE (3IN0149 – Ebenezer Church and 3IN1299 – Mack Cemetery). One historic property, AHPP IN0450, the Mack Dairy Farm House is north of Highway 25 near the APE. One precontact mound site (3IN1520) was recorded at the same location as IN0450.

A total of fifty-nine shovel tests were excavated within the APE, one of which was positive for cultural material which consisted of a single flake. No new archeological sites were recorded within the APE.

The AHPP concurs that Property 1, Property 2, Property 2a, Property 2b and Property 2d are Not Eligible for inclusion on the National Register of Historic Places (NRHP). Additionally, the AHPP concurs that Property 2c is eligible for inclusion on the NRHP.

Based on the provided information, the AHPP concurs with the finding of **no historic properties affected pursuant to 36 CFR § 800.4(d)(1)** for the proposed undertaking and that no further archeological work is needed. In the event of a post-review discovery of historic properties within the area of potential effects, please contact the AHPP and other consulting parties in accordance with 36 CFR § 800.13(b)(3).

Thank you for the opportunity to review this PIF and ARS. If you have any questions, please contact Jessica Cogburn at 501-324-9357 or email jessica.cogburn@arkansas.gov.

Sincerely,
**Jessica H.
Cogburn**

 Digitally signed by Jessica
H. Cogburn
Date: 2024.07.31
09:38:26 -05'00'

for
Scott Kaufman
State Historic Preservation Officer and Director, AHPP

cc: Mr. Randal Looney, Federal Highway Administration
Dr. Melissa Zabecki, Arkansas Archeological Survey

**FARMLAND CONVERSION IMPACT RATING
FOR CORRIDOR TYPE PROJECTS**

PART I (To be completed by Federal Agency)	Job 050439	3. Date of Land Evaluation Request 8/6/2024	4. Sheet 1 of 1
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1. Name of Project Hwy. 25 Str. & Apprs. (Independence Co.)(S)	5. Federal Agency Involved FHWA
2. Type of Project Bridge Replacement	6. County and State Independence County, AR

PART II (To be completed by NRCS)		1. Date Request Received by NRCS	2. Person Completing Form
3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form). YES ☐ NO ☐		4. Acres Irrigated Average Farm Size	
5. Major Crop(s)	6. Farmable Land in Government Jurisdiction Acres: %	7. Amount of Farmland As Defined in FPPA Acres: %	
8. Name Of Land Evaluation System Used	9. Name of Local Site Assessment System	10. Date Land Evaluation Returned by NRCS	

PART III (To be completed by Federal Agency)	Alternative Corridor For Segment			
	Corridor A	Corridor B	Corridor C	Corridor D
A. Total Acres To Be Converted Directly	2.17 acres			
B. Total Acres To Be Converted Indirectly, Or To Receive Services	0 acre			
C. Total Acres In Corridor	2.17 acres			

PART IV (To be completed by NRCS) Land Evaluation Information				
A. Total Acres Prime And Unique Farmland				
B. Total Acres Statewide And Local Important Farmland				
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted				
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value				

PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)	100			
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PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))	Maximum Points				
1. Area in Nonurban Use	15	5			
2. Perimeter in Nonurban Use	10	10			
3. Percent Of Corridor Being Farmed	20	20			
4. Protection Provided By State And Local Government	20	0			
5. Size of Present Farm Unit Compared To Average	10	10			
6. Creation Of Nonfarmable Farmland	25	0			
7. Availability Of Farm Support Services	5	5			
8. On-Farm Investments	20	0			
9. Effects Of Conversion On Farm Support Services	25	0			
10. Compatibility With Existing Agricultural Use	10	0			
TOTAL CORRIDOR ASSESSMENT POINTS	160	50	0	0	0

PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)	100	100	0	0	0
Total Corridor Assessment (From Part VI above or a local site assessment)	160	50	0	0	0
TOTAL POINTS (Total of above 2 lines)	260	150	0	0	0

1. Corridor Selected: Corridor A	2. Total Acres of Farmlands to be Converted by Project: 2.17 acres of Imp. Farmland	3. Date Of Selection: 8/6/24	4. Was A Local Site Assessment Used? YES ☐ NO ☐
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5. Reason For Selection:

Signature of Person Completing this Part: <i>Joshua Graham</i>	DATE 8/6/2024
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NOTE: Complete a form for each segment with more than one Alternate Corridor

Clear Form

From: [Dial, Nicholas T.](#)
To: [Graham, Joshua D.](#)
Subject: FW: [EXTERNAL] 050439 NLAA Concurrence Request
Date: Tuesday, August 6, 2024 1:38:59 PM
Attachments: [image001.png](#)

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Tuesday, June 11, 2024 7:06 AM
To: Dial, Nicholas T. <Nicholas.Dial@ardot.gov>
Subject: Re: [EXTERNAL] 050439 NLAA Concurrence Request

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.

Nick,

As stated in the Consistency Letter, the Service concurs with the "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 will "not likely adversely affect" 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. If the Proposed Action is modified, or new information reveals that it may affect the Indiana Bat and/or Northern Long-eared Bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office to re-initiate consultation or re-evaluate the determination key(s) in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information/surveys reveal the action may affect listed species, karst habitat, or designated critical habitat; or 3) 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 are committed.

The Service has no additional comments or concerns and agrees with the determinations,

justifications provided, non-jeopardy determinations, Monarch Butterfly conservation measures, and concurrences made through the Arkansas Dkey and FHWA 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: Dial, Nicholas T. <Nicholas.Dial@ardot.gov>
Sent: Friday, June 7, 2024 10:56 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] 050439 NLAA Concurrence Request

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

Hi Lindsey,

I hope you are doing well. I have a job in Independence County that will be replacing a bridge over Blue Creek. A recent bridge inspection did not observe any signs of bats and an acoustic survey detected TCB but no IBAT or NLEB.

I am requesting your concurrence on the NLAA determinations made in the attached documents.

Thanks!

Nicholas Dial
Botanist
Environmental Division – Natural Resources Section
Arkansas Department of Transportation
10324 Interstate 30 P.O Box 2261
Little Rock, Arkansas 72203
(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



In Reply Refer To:

06/07/2024 15:41:21 UTC

Project Code: 2024-0101125

Project Name: 050439 - Hwy. 25 Str. & Apprs. (Independence Co.) (S)

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

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, 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.*).

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 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 IPaC system by completing the same process used to receive the enclosed list.

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.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/program/migratory-bird-permit/what-we-do>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

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 Code 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

Project Code: 2024-0101125

Project Name: 050439 - Hwy. 25 Str. & Apprs. (Independence Co.) (S)

Project Type: Bridge - Replacement

Project Description: Bridge Replacement

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.7873471,-91.5858097501569,14z>



Counties: Independence County, Arkansas

ENDANGERED SPECIES ACT SPECIES

There is a total of 12 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 does not overlap 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. This species only needs to be considered under the following conditions: This species only needs to be considered if the project includes wind turbine operations. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed 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 does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Rufa Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

REPTILES

NAME	STATUS
Alligator Snapping Turtle <i>Macrochelys temminckii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4658	Proposed Threatened

AMPHIBIANS

NAME	STATUS
Ozark Hellbender <i>Cryptobranchus alleganiensis bishopi</i> No critical habitat has been designated for this species.	Endangered

NAME	STATUS
Species profile: https://ecos.fws.gov/ecp/species/647	

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

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

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Nicholas Dial

Address: 10324 I-30

City: Little Rock

State: AR

Zip: 72209

Email: nicholas.dial@ardot.gov

Phone: 5015692617

You have indicated that your project falls under or receives funding through the following special project authorities:

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)



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



In Reply Refer To:

06/07/2024 15:45:35 UTC

Project code: 2024-0101125

Project Name: 050439 - Hwy. 25 Str. & Apprs. (Independence Co.) (S)

Subject: Consistency letter for '050439 - Hwy. 25 Str. & Apprs. (Independence Co.) (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 Nicholas Dial:

The U.S. Fish and Wildlife Service (Service) received on **June 07, 2024** your effect determination(s) for the '050439 - Hwy. 25 Str. & Apprs. (Independence Co.) (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	Listing Status	Determination
Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	Threatened	No effect
Gray Bat (<i>Myotis grisescens</i>)	Endangered	NLAA
Indiana Bat (<i>Myotis sodalis</i>)	Endangered	May affect
Missouri Bladderpod (<i>Physaria filiformis</i>)	Threatened	NLAA
Ozark Hellbender (<i>Cryptobranchus alleganiensis bishopi</i>)	Endangered	NLAA
Piping Plover (<i>Charadrius melodus</i>)	Threatened	No effect
Pondberry (<i>Lindera melissifolia</i>)	Endangered	NLAA
Rufa Red Knot (<i>Calidris canutus rufa</i>)	Threatened	No effect

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” (MA) 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).

FHWA projects should not use the Arkansas Dkey for the Northern Long-eared Bat (NLEB) or Indiana Bat. Please complete the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat determination key. This key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened NLEB, which requires consultation with the Service under Section 7 of the 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; 3) 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.

This letter only covers the listed species in the above table. The following species may also occur in the Action area:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
- Monarch Butterfly *Danaus plexippus* Candidate
- Northern Long-eared Bat *Myotis septentrionalis* Endangered
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

If you determine your project may affect additional listed or proposed listed species not covered by the Arkansas ESFO DKey, please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact Arkansas ESFO to discuss methods to avoid or minimize potential adverse effects to those species. Candidate species are not afforded protection under the ESA; however, we recommend they be considered in project planning and that conservation measures be implemented to avoid or minimize impacts to individuals or their habitat as much as possible.

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 Bald and Golden Eagle Protection Act may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. Activity specific guidelines begin on page 10 of the document. To access a copy of the National Bald Eagle Management Guidelines please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Guidance and Tools section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

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. To obtain an application form or contact information for Regional Migratory Bird Permit Offices please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Permits section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

Action Description

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

1. Name

050439 - Hwy. 25 Str. & Apprs. (Independence Co.) (S)

2. Description

The following description was provided for the project '050439 - Hwy. 25 Str. & Apprs. (Independence Co.) (S)':

Bridge Replacement

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.7873471,-91.5858097501569,14z>



Species Protection Measures

Bridges and Culverts

<https://www.fws.gov/southeast/pdf/species-protective-measures/bridge-and-culvert-projects.pdf>

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. Are you the the action agency or the designated non-federal representative?

Yes

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

d. Federal Highway Administration

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

Yes

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

10. [Semantic] Does the project intersect designated critical habitat for Ouachita Fanshell?

Automatically answered

No

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

Automatically answered

No

12. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?
Automatically answered
No
13. [Semantic] Does the project intersect the Eastern black rail AOI?
Automatically answered
Yes
14. Will the project take place in freshwater herbaceous wetlands and/or wet prairies?
No
15. [Semantic] Does the project intersect the red knot AOI?
Automatically answered
Yes
16. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
No
17. Does the project take place in marshy or flooded open field habitat?
No
18. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
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
Yes
22. Does the project involve changes to an existing bridge or large culvert?
Yes
23. Does the project involve changes to an existing bridge or large culvert?
Yes
24. Were bats of any species noted on inspection?
No
25. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?
Automatically answered
No
26. [Semantic] Does the project intersect the Indiana 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 Pondberry AOI?
Automatically answered
Yes
33. Does the project contain any of the following activity types: Dams or Impoundments (including berms or levees), Municipal or industrial effluent discharge, Mining, Mine reclamation, Disposal of mine wastewater or tailings, Construction of natural gas or oil well pads, Construction greater than 40 acres, Dredging or snag removal, Energy development within floodplain, or OHV trail construction or maintenance?
No
34. Does the project contain any of the following activity types: Boat Ramps, Bridges, Culverts, Residential or Commercial Development, Streambank Stabilization (or other streambank work), Pipeline and linear projects, Water intakes/withdrawals, Forest conversion within 100 ft of occupied streams, or Stream or ditch relocation, or straightening?
Yes
35. Does the project include Streambank Stabilization (or other streambank work)?
No
36. Does the project include Boat Ramps?
No
37. Does the project include Bridges and Culverts?
Yes
38. Does the project include the Bridges and Culverts species [protective measures](#), as applicable to the project and site characteristics?
Yes

39. Does the project include Development?

No

40. Is the project a Pipeline or Linear Project?

No

41. Does the project include Water Intakes/Withdrawals?

No

42. Does the project include Stream or Ditch Relocation, or Straightening?

No

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

Automatically answered

No

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

No

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

No

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 Ouachita fanshell AOI?
Automatically answered
No
58. [Semantic] Does the project intersect the Ozark hellbender AOI?
Automatically answered
Yes
59. [Semantic] Does the project intersect the Ozark hellbender survey coordination area?
Automatically answered
No
60. [Semantic] Does the project intersect the harperella AOI?
Automatically answered
No
61. [Semantic] Does the project intersect the pallid sturgeon AOI?
Automatically answered
No
62. [Semantic] Does the project intersect the interior least tern range?
Automatically answered
No

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Nicholas Dial

Address: 10324 I-30

City: Little Rock

State: AR

Zip: 72209

Email: nicholas.dial@ardot.gov

Phone: 5015692617

You have indicated that your project falls under or receives funding through the following special project authorities:

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)



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



In Reply Refer To:

06/07/2024 15:52:24 UTC

Project code: 2024-0101125

Project Name: 050439 - Hwy. 25 Str. & Apprs. (Independence Co.) (S)

Subject: Concurrence verification letter for the '050439 - Hwy. 25 Str. & Apprs. (Independence Co.) (S)' project under the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (NLEB).

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated June 07, 2024 to verify that the **050439 - Hwy. 25 Str. & Apprs. (Independence Co.) (S)** (Proposed Action) may rely on the concurrence provided in the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action is within the scope and adheres to the criteria of the PBO, including the adoption of applicable avoidance and minimization measures. **At least one of the qualification interview questions indicated an activity or portion of your project is consistent with a not likely to adversely affect determination therefore, the overall determination for your project is, may affect, and is not likely to adversely affect (NLAA) the endangered Indiana bat (*Myotis sodalis*) and/or the endangered northern long-eared bat (*Myotis septentrionalis*).** Consultation with the Service pursuant to section 7(a)(2) of ESA (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) is required.

The Service has 14 calendar days to notify the lead Federal action agency or designated non-federal representative if we determine that the Proposed Action does not meet the criteria for a NLAA determination under the PBO. If we do not notify the lead Federal action agency or designated non-federal representative within that timeframe, you may proceed with the Proposed Action under the terms of the NLAA concurrence provided in the PBO. This verification period allows Service Field Offices to apply local knowledge to implementation of the PBO, as we may

identify a small subset of actions having impacts that were unanticipated. In such instances, Service Field Offices may request additional information that is necessary to verify inclusion of the proposed action under the PBO.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities: If your initial bridge/culvert or structure assessment documented signs of bat use or occupancy, or an assessment failed to detect Indiana bats and/or NLEBs, yet are later detected prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of any potential take. In these instances, potential incidental take of Indiana bats and/or NLEBs is covered under the Incidental Take Statement in the 2018 FHWA, FRA, FTA PBO (provided that the take is reported to the Service).

If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities:

If your initial bridge/culvert or structure assessments failed to detect Indiana bats and/or NLEB use or occupancy, yet bats are later detected prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of the incident. In these instances, potential incidental take of Indiana bats and/or NLEBs 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 any 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 contact this Service Office.

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

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
- Eastern Black Rail *Laterallus jamaicensis ssp. jamaicensis* Threatened
- Gray Bat *Myotis grisescens* Endangered
- Missouri Bladderpod *Physaria filiformis* Threatened
- Monarch Butterfly *Danaus plexippus* Candidate
- Ozark Hellbender *Cryptobranchus alleganiensis bishopi* Endangered
- Piping Plover *Charadrius melodus* Threatened
- Pondberry *Lindera melissifolia* Endangered
- Rufa Red Knot *Calidris canutus rufa* Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

PROJECT DESCRIPTION

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

NAME

050439 - Hwy. 25 Str. & Apprs. (Independence Co.) (S)

DESCRIPTION

Bridge Replacement

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.7873471,-91.5858097501569,14z>



DETERMINATION KEY RESULT

Based on your answers provided, this project(s) may affect, but is not likely to adversely affect the endangered Indiana bat and/or the endangered northern long-eared bat, therefore, consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required. However, also based on your answers provided, this project may rely on the concurrence provided in the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

QUALIFICATION INTERVIEW

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

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

Automatically answered

Yes

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

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

Automatically answered

Yes

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

A) Federal Highway Administration (FHWA)

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

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

No

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

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

No

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

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

No

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

No

8. 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 [User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat](#).

Yes

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

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

Yes

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

No

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

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

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

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

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

Yes

SUBMITTED DOCUMENTS

- 050439_AcousticSurveyReport.pdf <https://ipac.ecosphere.fws.gov/project/MDGPXIQWHRCJJOPYORGZ6TZTFY/projectDocuments/144557127>
- 050439 ARDOT-study-plan-bat-surveys_v-2.1.pdf <https://ipac.ecosphere.fws.gov/project/MDGPXIQWHRCJJOPYORGZ6TZTFY/projectDocuments/144557132>

12. Did the presence/probable absence (P/A) summer surveys detect Indiana bats and/or NLEB^[1]?

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

No

13. Were the P/A summer surveys conducted **within** the fall swarming/spring emergence range of a documented Indiana bat hibernaculum^[1]?

[1] Contact the local Service Field Office for appropriate distance from hibernacula.

No

14. 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

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

Yes

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

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

C) During both the active and inactive seasons

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

C) During the active season both during and outside of the period May 1 to July 31

18. 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

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

Yes

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

C) During both the active and inactive seasons

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

Yes

22. Will *any* tree trimming or removal occur **between** 100-300 feet of existing road/rail surfaces?

No

23. Are *all* trees that are being removed clearly demarcated?

Yes

24. Will the removal of habitat or the removal/trimming of trees involve the use of **temporary** lighting?

No

25. Will the removal of habitat or the removal/trimming of trees include installing new or replacing existing **permanent** lighting?

No

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

No

27. Does the project include slash pile burning?

No

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

Yes

29. Is there *any* suitable habitat^[1] for Indiana bat or NLEB **within** 1,000 feet of the bridge? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

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

Yes

30. Has a bridge assessment^[1] been conducted **within** the last 24 months^[2] to determine if the bridge is being used by bats?

[1] See [User Guide Appendix D](#) for bridge/structure assessment guidance

[2] Assessments must be completed no more than 2 years prior to conducting any work below the deck surface on all bridges that meet the physical characteristics described in the Programmatic Consultation, regardless of whether assessments have been conducted in the past. Due to the transitory nature of bat use, a negative result in one year does not guarantee that bats will not use that bridge/structure in subsequent years.

Yes

SUBMITTED DOCUMENTS

- 050439-bridge-bat-assessment-form_2024-05-29.pdf <https://ipac.ecosphere.fws.gov/project/MDGPXIQWHRCJJOPYORGZ6TZTFY/projectDocuments/144557324>

31. Did the bridge assessment detect *any* signs of Indiana bats and/or NLEBs roosting in/under the bridge (bats, guano, etc.)^[1]?

[1] If bridge assessment detects signs of *any* species of bats, coordination with the local FWS office is needed to identify potential threatened or endangered bat species. Additional studies may be undertaken to try to identify which bat species may be utilizing the bridge prior to allowing *any* work to proceed.

Note: There is a small chance bridge assessments for bat occupancy do not detect bats. Should a small number of bats be observed roosting on a bridge just prior to or during construction, such that take is likely to occur or does occur in the form of harassment, injury or death, the PBO requires the action agency to report the take. Report all unanticipated take within 2 working days of the incident to the USFWS. Construction activities may continue without delay provided the take is reported to the USFWS and is limited to 5 bats per project.

No

32. Will the bridge removal, replacement, and/or maintenance activities include installing new or replacing existing **permanent** lighting?

No

33. 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

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

No

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

No

36. 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

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

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

Yes

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

No

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

Automatically answered

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

40. Is the location of this project consistent with a Not Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because no bats were detected during presence/probable absence surveys conducted during the summer survey season and outside of the fall swarming/spring emergence periods. Additionally, all activities were at least 0.5 miles from any hibernaculum.

41. Is the bridge removal, replacement, or maintenance activities portion of this project consistent with a No Effect determination in this key?

Automatically answered

Yes, because the bridge has been assessed using the criteria documented in the BA and no signs of bats were detected

42. **General AMM 1**

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

Yes

PROJECT QUESTIONNAIRE

1. Please describe the proposed bridge work:

Bridge replacement

2. Please state the timing of all proposed bridge work:

Spring - Fall 2026

3. Please enter the date of the bridge assessment:

5-29-2024

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

No

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

Yes

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

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

0.75

AVOIDANCE AND MINIMIZATION MEASURES (AMMS)

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

GENERAL AMM 1

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

DETERMINATION KEY DESCRIPTION: FHWA, FRA, FTA PROGRAMMATIC CONSULTATION FOR TRANSPORTATION PROJECTS AFFECTING NLEB OR INDIANA BAT

This key was last updated in IPaC on October 30, 2023. 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 endangered **northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion \(dated March 23, 2023\) 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.

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Nicholas Dial

Address: 10324 I-30

City: Little Rock

State: AR

Zip: 72209

Email: nicholas.dial@ardot.gov

Phone: 5015692617

You have indicated that your project falls under or receives funding through the following special project authorities:

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)

ARDOT ENVIRONMENTAL VERIFICATION CHECKLIST FOR CONSIDERATION OF POTENTIAL IMPACTS

ARDOT Job 050439 FAP STPR-0032(44)
Job Title Hwy. 25 Str. & Apprs. (Independence Co.) (S)

Environmental Resource	None	Minimal	Major	Comments
Air Quality	X			No impacts anticipated
Cultural Resources	X			SHPO clearance attached
Economic	X			No impacts anticipated
Endangered Species		X		NLAA – see attached
Environmental Justice/Title VI	X			No impacted populations
Fish and Wildlife		X		Temporary during construction
Floodplains		X		Zone A and Zone AE SFHAs
Forest Service Property	X			None in project area
Hazardous Materials/Landfills	X			None in project area
Land Use		X		~4.6 acres new ROW and ~0.4 acre TCE
Migratory Birds	X			Bird SP
Navigation/Coast Guard	X			None in project area
Noise Levels	X			No impacts anticipated
Prime Farmland		X		~1.8 acres PFL and ~0.3 acre FSI
Protected Waters	X			None in project area
Public Recreation Lands	X			None in project area
Public Water Supply/WHPA	X			No impacts
Relocates	X			No relocations
Section 4(f)/6(f)	X			No impacted properties
Social	X			No impacts anticipated
Underground Storage Tanks	X			None in project area
Visual	X			No impacts anticipated
Streams		X		80 linear feet (0.01 acres)
Water Quality		X		Temporary during construction
Wetlands	X			None in project area
Wildlife Refuges	X			None in project area

Section 401 Water Quality Certification Required? N
 Short-term Activity Authorization Required? Y
 Section 404 Permit Required? Y Type NW14

Remarks: No PCN

Bird SP, Off-site Restraining Conditions for Indiana and Northern Long-eared Bats SP,

Signature of Evaluator Kathryn Rose Date 8/6/2024

Date Returned: April 30, 2024

ROADWAY DESIGN REQUEST

Job Number 050439 FAP No. _____ County Independence

Job Name Hwy. 25 Str. & Apprs. (Independence Co.) (S)

Design Engineer David Baker Environmental Staff _____

Detailed Project Description Job 050439 consists of replacing an existing bridge structure along Hwy. 25 in Independence County. The roadway section will include two 12' lanes with 8' paved shoulders. The bridge will be replaced on new location, and traffic will be maintained on the existing lanes until the new structure is substantially completed.

A. Existing Conditions:

Roadway Width: 28' Shoulder Type/Width: 3' Paved

Number of Lanes and Width: 2 – 11' Existing Right-of-Way: Varies (80' - 100')

Sidewalks? No Location: _____ Width: _____

Bike Accommodations? No Location: _____ Width: _____

B. Proposed Conditions:

Roadway Width: 40' Shoulder Type/Width: 8' Paved

Number of Lanes and Width: 2 – 12' Proposed Right-of-Way: Varies (120' – 195')

Sidewalks? No Location: _____ Width: _____

Bike Accommodations? No Location: _____ Width: _____

C. Construction Information:

If Detour: Where: N/A Length: _____

D. Design Traffic Data:

2025 ADT: 5,400 2045 ADT: 7,300 % Trucks: 7%

Design Speed: 60 mph

E. Approximate total length of project: 0.60 mile(s)

F. Justification for proposed improvements: Bridge replacement required

G. Estimated Total Relocates: 0 Estimated Residences: N/A Estimated Businesses: N/A

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

Agency/Official	Person Contacted	Date