





## INTEROFFICE MEMORANDUM

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September 13, 2021

**TO:** Master Files

**FROM:**  John Fleming, Division Head, Environmental Division 

**SUBJECT:** Job 090490  
FAP NHPP-9191(9)  
Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (S)  
Route 65, Section 1  
Boone County  
Tier 1 Categorical Exclusion

The purpose of this project is to improve four intersections along US Highway 65 within the City of Harrison, Arkansas. The intersections are Forward Drive, Hester Drive, Wal-Mart Drive, and Highway 980 (Airport Rd.). The project length is 1.1 miles. A project location map is attached.

The typical intersection improvements will consist of adding additional turn lanes where needed, constructing new curb and gutter shoulders, retaining and extending existing drainage structures, island removal and reconstruction, and upgrading and synching the traffic signalization system. The average right of way width would remain 90'. Up to 1.3 acres of additional right of way will be required for construction of all the intersection improvements.

The project will not involve relocations, prime farmlands, 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 toxic concerns. The State Historic Preservation Officer's clearance is attached.

Design data for this project is as follows:

Design Year	Average Daily Traffic	Percent Trucks	Design Speed
2020	26,000	6	45 mph
2041	32,000		

The official species list was obtained through the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation website and lists the following species as possibly occurring within the project area: gray bat (*Myotis grisescens*), northern long-eared bat (*Myotis septentrionalis*), Ozark big-eared bat (*Corynorhinus townsendii ingens*), Indiana bat (*Myotis sodalis*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Red Knot (*Calidris canutus rufa*), Piping Plover (*Charadrius melodus*), and Missouri bladderpod (*Physaria filiformis*).

It has been determined that the project will have "no effect" on the Ozark big-eared bat, Eastern Black Rail, Piping Plover, and Red Knot due to lack of habitat and distance to known populations. Utilizing the Arkansas Determination Key, it has been determined that the project "may affect, but is not likely to adversely affect" the gray bat and Missouri bladderpod. The USFWS concurred on July 20, 2021.

Utilizing the FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) determination key, it has been determined that the project "may affect, not likely to adversely effect," the Indiana bat and northern long-eared bat. The USFWS concurred with these determinations on July 20, 2021.

The project will impact 18' of an unnamed tributary to Dry Jordan 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 82(4): 1860-2008. A preconstruction notification will not be required.

Boone County participates in the National Flood Insurance Program. The intersection of Highway 65 and Forward Drive is within a Zone AE Special Flood Hazard Area with a floodway crossing. 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 risk to property or life.

Based on the ARDOT noise policy, a noise analysis is not required for this project. The intersection improvements will not involve adding capacity, 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.

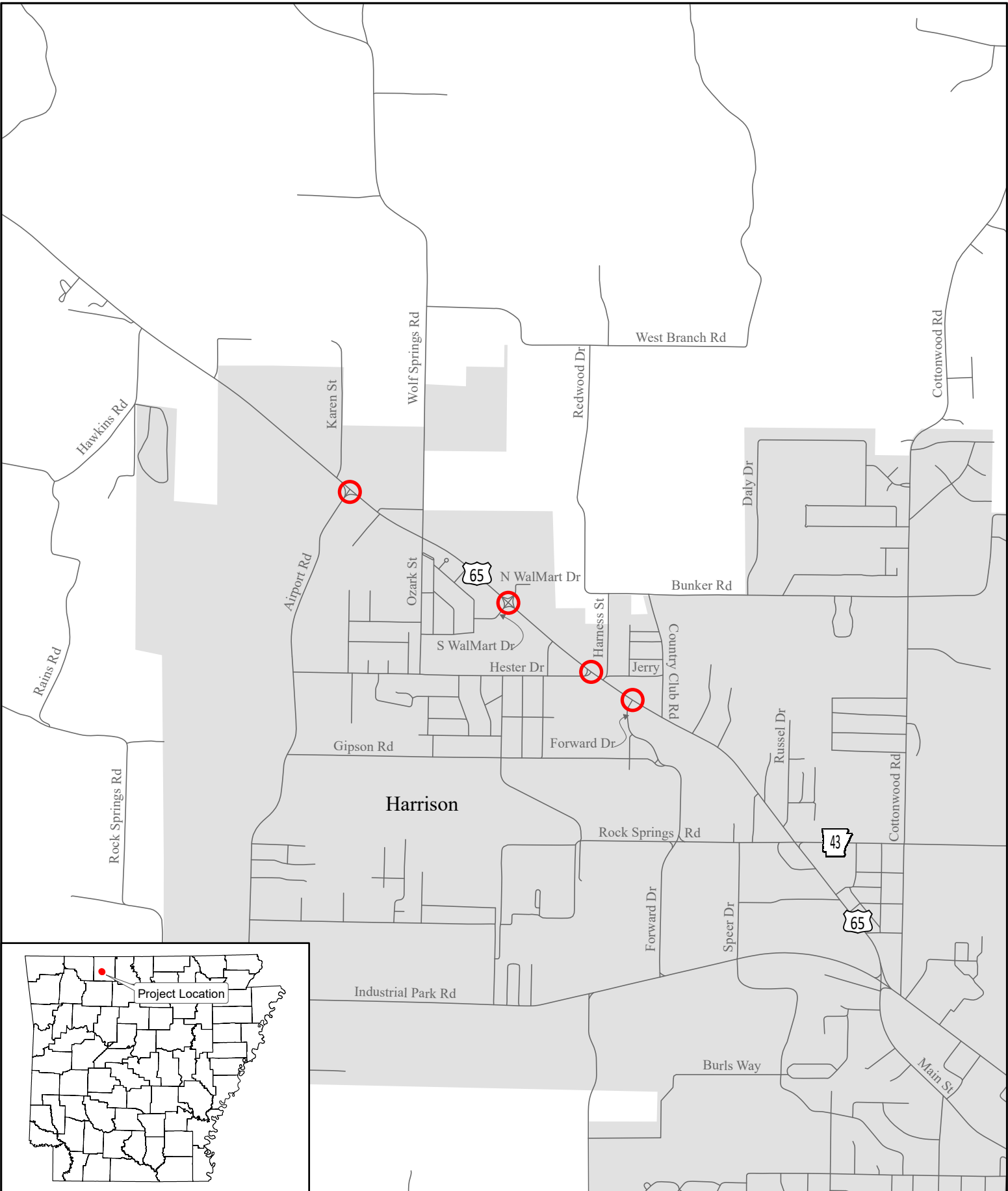
After appropriate environmental review, it has been determined that the subject job is a Tier 1 Categorical Exclusion as described by the ARDOT/FHWA Programmatic Agreement on Categorical Exclusion Documentation and Processing. A public hearing will not be offered for this project.

JF:TT:sw


Attachments:


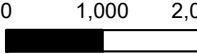
- Location Map
- SHPO Clearance
- Environmental Study Checklist

c: Program Management  
Right of Way  
Roadway Design  
District 9  
FHWA



Job 090490  
 Hwy. 65 Inters. Impvts. & Signal Coordination  
 (Harrison)  
 Boone County

 Project Location

N  
  
 0 1,000 2,000  
  
 Feet  
 ARDOT - Environmental GIS - Hopkins  
 April 1, 2021



**Asa Hutchinson**  
Governor  
**Stacy Hurst**  
Secretary

September 8, 2021

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

RE: Boone County: Harrison  
Section 106 Review: FHwA  
Proposed Undertaking: Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (S)  
Route 65, Section 1  
ARDOT Job Number: 090490  
AHPP Tracking Number: 108433.01

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) reviewed the submission for the above referenced undertaking in Boone County, Arkansas. The project proposes to make improvements at four intersections along Highway 65 in Sections 29, 30 and 32, Township 19 North, Range 20 West in Harrison. Additional right-of-way is needed at the four intersections (Forward Drive, Hester Drive, Wal Mart Drive and Airport Road) for a total area of potential effect (APE) of 1.27 acres. Three historic structures were identified near the APEs, all of which were determined to be not eligible for inclusion in the National Register of Historic Places (NRHP) (AHPP Tracking Number 108433). No previously recorded archeological sites were found within a mile of the APEs and no new archeological sites were observed during a pedestrian survey of the APEs.


Based on the provided information, the AHPP concurs that there will be no affect to historic properties pursuant to 36 CFR § 800.5(b)(1) as a result of this undertaking. 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).

Tribes that have expressed an interest in the area include the Cherokee Nation, the Eastern Shawnee Tribe, the Osage Nation, the Quapaw Nation, the Shawnee Tribe, and the United Keetoowah Band of Cherokee Indians. We recommend consultation in accordance with 36 CFR § 800.2(c)(2).

Thank you for the opportunity to review this undertaking. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, call Jessica Cogburn at 501-324-9357 or email [jessica.cogburn@arkansas.gov](mailto:jessica.cogburn@arkansas.gov).

Sincerely,

Jessica H.  
Cogburn

 Digitally signed by Jessica H.  
Cogburn  
Date: 2021.09.08 16:15:58  
-05'00'

*for*

Scott Kaufman  
Director, AHPP

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

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

ARDOT Job 090490 FAP NHPP-9191(9)

Job Title Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (S)

Environmental Resource	None	Minimal	Major	Comments-required for each item
Air Quality	X			No impacts anticipated
Cultural Resources	X			SHPO Clearance attached
Economic	X			No impacts anticipated
Endangered Species		X		NLAA determination
Environmental Justice/Title VI	X			No impacts anticipated
Fish and Wildlife		X		Temporary during construction
Floodplains		X		Zone AE impacts anticipated
Forest Service Property	X			None in project area
Hazardous Materials/Landfills	X			No impacts anticipated
Land Use		X		1.3 acres of additional ROW needed
Migratory Birds	X			No impacts anticipated
Navigation/Coast Guard	X			None in project area
Noise Levels	X			No impacts anticipated
Prime Farmland	X			No impacts anticipated
Protected Waters	X			None in project area
Public Recreation Lands	X			No impacts anticipated
Public Water Supply/WHPA	X			None in project area
Relocatees	X			No relocatees
Section 4(f)/6(f)	X			No impacts anticipated
Social	X			No impacts anticipated
Underground Storage Tanks	X			No impacts anticipated
Visual	X			No impacts anticipated
Streams		X		18' culvert extension; NW14, no PCN
Water Quality		X		Minor decrease 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 NWP 14

Remarks: A preconstruction notification (PCN) will not be required.


Signature of Evaluator  Date September 3, 2021



# INTEROFFICE MEMORANDUM

March 19, 2024

**TO:** Master Files

**FROM:** John Fleming, Division Head, Environmental Division 

**SUBJECT:** Job 090490  
FAP NHPP-9191(9)  
Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (S)  
Route 65, Section 1  
Boone County  
Tier 1 Categorical Exclusion Re-Evaluation

A Tier 1 Categorical Exclusion was completed for the referenced project on September 13, 2021. Since that time, design modifications have resulted in a geometry realignment of the intersection improvement at Harness Street. In addition, the intersection improvement of Forward Drive and Highway 65 has been removed from the project. This resulted in a decrease in proposed right of way of 0.65 acre for a total of 0.62 acre. The design change has created a total of 1.01 acres of temporary construction easement. The State Historic Preservation Officer's clearances and project location map are attached.

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*), Ozark Big-eared Bat (*Corynorhinus townsendii ingens*), Tricolored Bat (*Perimyotis subflavus*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), Alligator Snapping Turtle (*Macrochelys temminckii*), Missouri bladderpod (*Physaria filiformis*), and Monarch Butterfly (*Danaus plexippus*). This project will have "no effect" on the aforementioned species due to the limited scope of the action, lack of suitable habitat, and distance to known species locations. The official USFWS species list is attached.

The Alligator Snapping Turtle is currently a proposed threatened species; the Tricolored Bat is a proposed endangered species, and the Monarch Butterfly is a candidate species; however, the proposed project will not jeopardize the continued existence of either species.

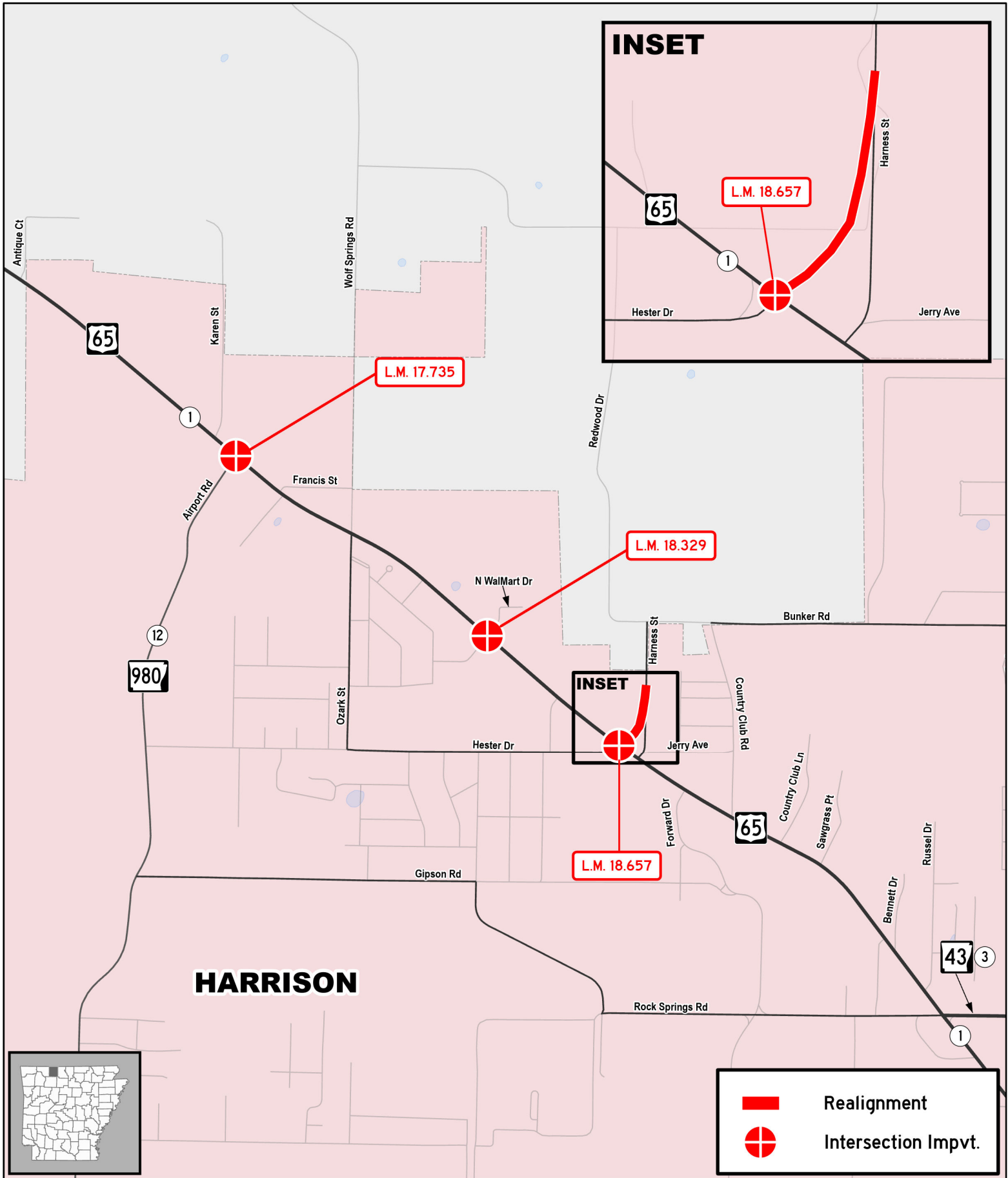
This project will impact approximately 18' of an unnamed tributary to Dry Jordan Creek; therefore, a Section 404 permit will be required. The project should be authorized by Nationwide Permit 14 for Linear Transportation Project as defined in Federal Register 86(245): 73522-73583. A preconstruction notification will not be required.

The Environmental Division has reviewed these changes and no additional environmental impacts were identified. This project will remain a Tier 1 Categorical Exclusion as defined by the ARDOT/FHWA Programmatic Agreement on the processing of Categorical Exclusion. A public hearing will not be offered for this project.

#### Attachments

c: Program Management  
Right of Way  
Roadway Design  
District 9  
FHWA

JF:JG:sw



**Job 090490**  
**Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (S)**  
 Hwy. 65, Sec. 1  
 Boone County

**AR DOT**  
 ARKANSAS DEPARTMENT OF TRANSPORTATION

0 0.05 0.1 0.2  
 Mile



Sarah Huckabee Sanders  
Governor  
Shea Lewis  
Secretary

February 26, 2024

Mr. John Fleming  
Division Head  
Environmental Division  
Arkansas Department of Transportation  
10324 Interstate 30  
Little Rock, AR 72203-2261

RE: Boone County: Harrison  
Section 106 Review: FHWA  
Proposed Undertaking: Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison)  
Route 65, Section 1  
ArDOT Job Number: 090490  
AHPP Tracking Number: 108433.03

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) has reviewed the Project Identification Form (PIF) for the abovementioned undertaking in Sections 29, 30, and 32, Township 19 North, Range 20 West in Harrison, Boone County, Arkansas. The undertaking proposes to make improvements at four intersections along Highway 65 at Forward Drive, Hester Drive, WalMart Drive, and Airport Road. Originally, a total area of potential effect (APE) was calculated at 1.27 acres, but this has since increased to 1.57 acres with the additional right-of-way (ROW) being added at Hester Drive. The APE is primarily paved and highly disturbed, therefore no shovel tests were excavated.

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 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 additional PIF. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, please call Jessica Cogburn of my staff at 501-324-9357 or email [jessica.cogburn@arkansas.gov](mailto:jessica.cogburn@arkansas.gov).

Sincerely,  
Jessica H.  
Cogburn

Digitally signed by Jessica H.  
Cogburn  
Date: 2024.02.26 09:45:43  
-06'00'

for  
Scott Kaufman  
State Historic Preservation Officer and Director, AHPP

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



## 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:

October 19, 2023

Project Code: 2024-0006637

Project Name: 090490 - Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (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.

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Attachment(s):

- Official Species List

## **OFFICIAL SPECIES LIST**

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

This species list is provided by:

**Arkansas Ecological Services Field Office**

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

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## PROJECT SUMMARY

Project Code: 2024-0006637  
Project Name: 090490 - Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (S)  
Project Type: Road/Hwy - Maintenance/Modification  
Project Description: Signal upgrades  
Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@36.26516315,-93.137506312276,14z>



Counties: Boone County, Arkansas

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## 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 Fisheries<sup>1</sup>, 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: <a href="https://ecos.fws.gov/ecp/species/6329">https://ecos.fws.gov/ecp/species/6329</a>	Endangered
Indiana Bat <i>Myotis sodalis</i> There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/5949">https://ecos.fws.gov/ecp/species/5949</a>	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Endangered
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7245">https://ecos.fws.gov/ecp/species/7245</a>	Endangered
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/10515">https://ecos.fws.gov/ecp/species/10515</a>	Proposed Endangered

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**BIRDS**

NAME	STATUS
Eastern Black Rail <i>Laterallus jamaicensis ssp. jamaicensis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/10477">https://ecos.fws.gov/ecp/species/10477</a>	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 <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/6039">https://ecos.fws.gov/ecp/species/6039</a>	Threatened
Red Knot <i>Calidris canutus rufa</i> There is <b>proposed</b> critical habitat for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a>	Threatened

**REPTILES**

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

**INSECTS**

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

**FLOWERING PLANTS**

NAME	STATUS
Missouri Bladderpod <i>Physaria filiformis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/5361">https://ecos.fws.gov/ecp/species/5361</a>	Threatened

**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](mailto:nicholas.dial@ardot.gov)

Phone: 5015692617

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## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Arkansas Ecological Services Field Office  
110 South Amity Suite 300  
Conway, AR 72032-8975  
Phone: (501) 513-4470 Fax: (501) 513-4480

In Reply Refer To:

October 19, 2023

Project code: 2024-0006637

Project Name: 090490 - Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (S)

Subject: Consistency letter for the '090490 - Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (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 October 19, 2023 to verify that the **090490 - Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (S)** (Proposed Action) may rely on 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 will have no effect on the endangered Indiana bat (*Myotis sodalis*) or the endangered 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.

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

If your initial bridge/culvert or structure assessment failed to detect Indiana bats and/or NLEBs use or occupancy, yet 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 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:

- 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 Big-eared Bat *Corynorhinus (=Plecotus) townsendii ingens* Endangered
  - Piping Plover *Charadrius melodus* Threatened
  - 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**

090490 - Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (S)

### **DESCRIPTION**

Signal upgrades

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The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@36.26516315,-93.137506312276,14z>



## 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 endangered 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<sup>[1]</sup>?

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

**Automatically answered**

Yes

2. Is the project within the range of the northern long-eared bat<sup>[1]</sup>?

[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<sup>[1]</sup> 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<sup>[1]</sup>?

[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<sup>[1]</sup>?

[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

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8. Will the project include *any* type of activity that could impact a **known** hibernaculum<sup>[1]</sup>, 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<sup>[1]</sup> summer habitat for Indiana Bat or NLEB **within** the project action area<sup>[2]</sup>? (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

10. Will the project remove *any* suitable summer habitat<sup>[1]</sup> 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. Have presence/probable absence (P/A) summer surveys<sup>[1][2]</sup> been conducted<sup>[3][4]</sup> **within** the suitable habitat located within your project action area?

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

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

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

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

No

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12. Does the project include activities **within documented Indiana bat habitat**<sup>[1][2]</sup>?

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

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

No

13. Does the project include activities **within documented NLEB habitat**<sup>[1][2]</sup>?

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

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

No

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

No

15. Does the project include slash pile burning?

No

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

No

17. 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

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

No

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

No

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20. 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*

21. 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*

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

*No*

23. 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*

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## **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 10, 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.

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## **IPAC USER CONTACT INFORMATION**

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

ARDOT Job 090490 – Re-evaluation FAP NHPP-9191(9)

Job Title Hwy. 65 Inters. Impvts. & Signal Coordination (Harrison) (S)

Environmental Resource	None	Minimal	Major	Comments
Air Quality	X			No air quality/MSAT impacts
Cultural Resources	X			SHPO clearances included
Economic	X			No adverse impacts
Endangered Species		X		A NLAA determination was made
Environmental Justice/Title VI	X			No impacts anticipated
Fish and Wildlife		X		Temporary during construction
Floodplains	X			Within Floodplain Zone AE not impacted
Forest Service Property	X			None in the project area
Hazardous Materials/Landfills	X			No impacts anticipated
Land Use		X		Total of 0.62 acre of new ROW & 1.01 acres of TCE for the project
Migratory Birds	X			No impacts anticipated
Navigation/Coast Guard	X			No navigable waterways involved
Noise Levels	X			No increases due to project
Important Farmland	X			No impacts anticipated, project within city limits
Protected Waters	X			None in the project area
Public Recreation Lands	X			None in the project area
Public Water Supply/WHPA	X			None in the project area
Relocateses	X			No relocations
Section 4(f)/6(f)	X			No 4f/6f resources present
Social	X			No impacts to the social environment
Underground Storage Tanks	X			No USTs in project area
Visual	X			No changes to visual environment
Streams		X		18 feet of stream impacts; NW 14 required
Water Quality		X		Temporary impacts during construction
Wetlands	X			No impacts anticipated
Wildlife Refuges	X			No impacts anticipated

Section 401 Water Quality Certification Required? No

Short-term Activity Authorization Required? Yes

Section 404 Permit Required? Yes Type Nationwide 14

Remarks: Pre-construction notification not required.

Signature of Evaluator  Date 3/13/2024