

TIER 3 CATEGORICAL EXCLUSION

**ARDOT JOB NUMBER 090558
FAP NUMBER STPF-0004(85)
SULPHUR SPRINGS – DECATUR (PASSING LANE) (S)
ROUTE 59, SECTION 1
BENTON COUNTY**

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

By the

U.S. Department of Transportation

Federal Highway Administration

And the

Arkansas Department of Transportation

November 2020

November 4, 2020

Date of Approval



Randal Looney
Environmental Coordinator
Federal Highway Administration

The Environmental Division reviewed the referenced project and determined it falls within the definition of the Tier 3 Categorical Exclusion as defined by the ARDOT/FHWA Programmatic Agreement on the processing of Categorical Exclusions. The following information is included for your review and, if acceptable, approval as the environmental documentation for this project.

The purpose of this project is to provide a passing lane on Highway 59 between Sulphur Springs and Decatur in Benton County. The total length of the project is approximately 1.2 miles. A project location map is attached.

The existing roadway has two 12' wide paved travel lanes with 3' wide paved shoulders. The existing right of way width is 80'.

The proposed roadway will have two 12' wide paved travel lanes and a 12' wide southbound passing lane. The outside travel lane will have a 6' wide paved shoulder and the passing lane will have an 8' wide paved shoulder. Approximately 8.4 acres of new right of way will be acquired. The proposed right of way width will be 150'.

Design data for this project is as follows:

Design Year	Average Daily Traffic (vpd)	Percent Trucks	Design Speed (mph)
2021	6,800	19	55
2041	8,400		

There are no relocations, environmental justice concerns, floodplains, underground storage tanks/hazardous materials, wetlands, or cultural resources associated with this project. State Historic Preservation Officer clearance is attached. Approximately 0.9 acre of Prime Farmland and 6.8 acres of Farmland of Statewide Importance will be converted to highway right of way; Form NRCS-CPA-106 is attached.

Noise predictions were made for this project using the FHWA Traffic Noise Model Version 2.5. One noise sensitive receptor was predicted to experience noise impacts under future build conditions; however, this receptor was predicted to also be experiencing noise impacts under existing conditions. As detailed in the attached noise assessment report, future noise level increases would be minor (noise levels not exceeding a 1 to 2 dBA increase), and no substantial increases (≥ 10 dBA) were predicted.

This project has been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been linked with any special mobile source air toxic (MSAT) concerns. As such, this project will not result in changes in traffic volumes, vehicle mix, basic project location, or any other factor that would cause a meaningful increase in MSAT impacts of the project from that of the no-build alternative.

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

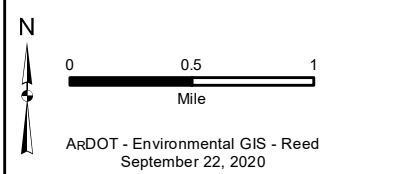
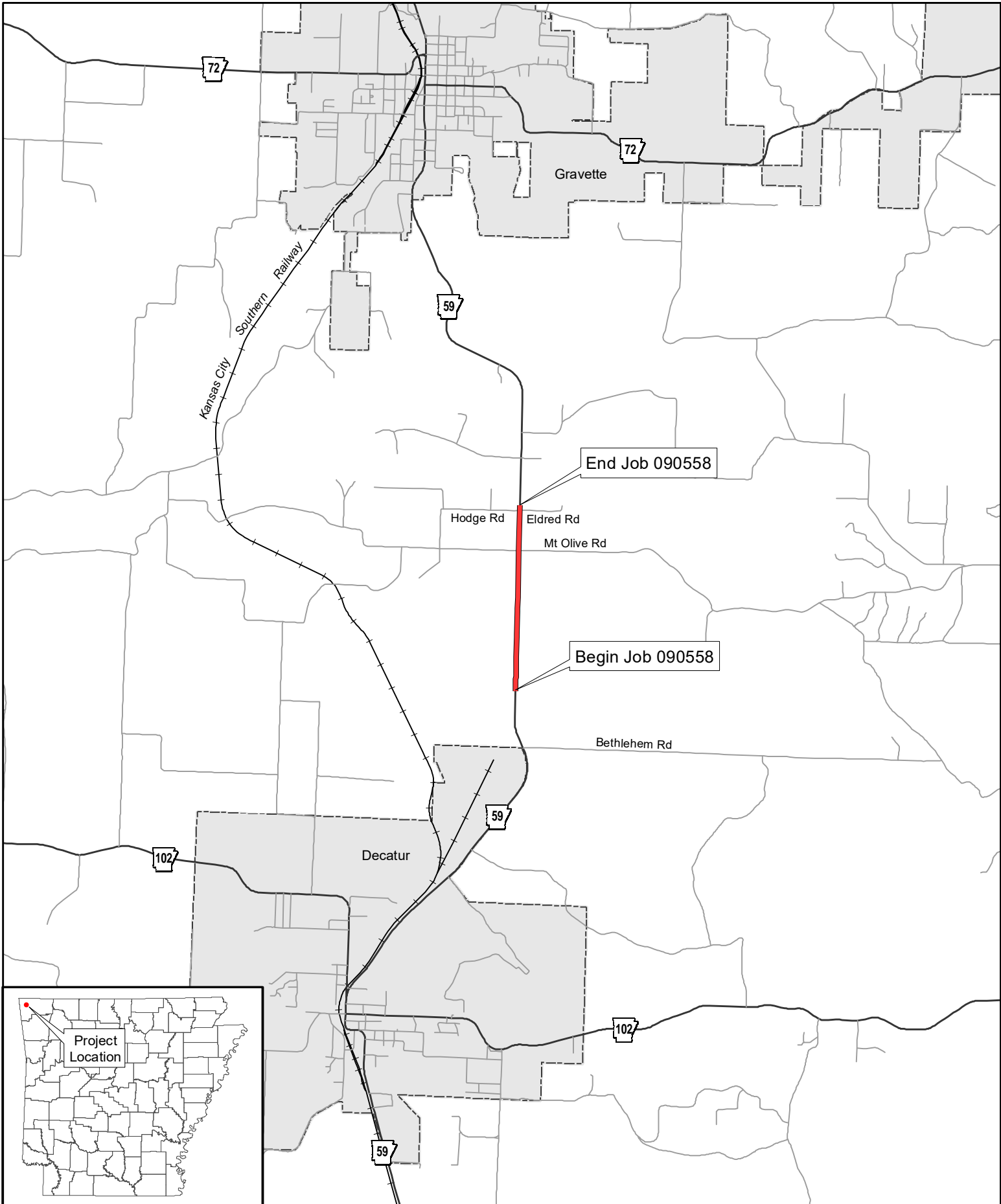
It has been determined that the project will have "no effect" on the Eastern Black Rail, Piping Plover, and Red Knot due to lack of habitat and distance to known populations. The Arkansas Determination Key provided a "may affect, but is not likely to adversely affect" determination for Ozark big-eared bat, gray bat, and Missouri bladderpod. The results of the Arkansas Determination Key are attached.

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, but is not likely to adversely affect" the Indiana bat and northern long-eared bat based on the negative survey results. The USFWS concurrence with these determinations is attached.

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

A Virtual Public Involvement meeting was held online between September 17 and October 2, 2020; the meeting synopsis is attached.

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



Job 090558
Sulphur Springs - Decatur
(Passing Lane) (Hwy. 59)
Benton County





Asa Hutchinson
Governor
Stacy Hurst
Secretary

July 24, 2020

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

Re: Benton County - General
Section 106 Review - FHWA
Sulphur Springs - Decatur
Passing Lanes (S)
Highway 59, Section 1
ARDOT Job Number 090558
AHPP Tracking Number 106158.01

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) reviewed the project identification form for the above-referenced job. As described, the proposed undertaking entails constructing a southbound passing lane on Highway 59 in Benton County. The proposed right-of way and temporary construction easement total 9.48 acres

Based on the provided information and the negative results of the thorough field investigation, the AHPP concurs with the finding of **no historic properties affected pursuant to 36 CFR § 800.4(d)(1)** for the proposed undertaking.

Tribes that have expressed an interest in the area include the Cherokee Nation, the Osage 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. If you have any questions, please contact Eric Mills of my staff at (501) 324-9784 or eric.mills@arkansas.gov.

Sincerely,

For Eric Mills
Scott Kaufman
Director, AHPP

cc: Mr. Randal Looney, Federal Highway Administration
Dr. George Sabo III, Arkansas Archeological Survey

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

PART I (To be completed by Federal Agency) Job 090558	3. Date of Land Evaluation Request	4. Sheet 1 of _____
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1. Name of Project	5. Federal Agency Involved
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2. Type of Project	6. County and State
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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 <input type="checkbox"/> NO <input type="checkbox"/>	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
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A. Total Acres To Be Converted Directly				
-----------------------------------------	--	--	--	--

B. Total Acres To Be Converted Indirectly, Or To Receive Services				
-------------------------------------------------------------------	--	--	--	--

C. Total Acres In Corridor				
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PART IV (To be completed by NRCS) Land Evaluation Information				
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A. Total Acres Prime And Unique Farmland				
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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				
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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)				
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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			
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1. Area in Nonurban Use	15			
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2. Perimeter in Nonurban Use	10			
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3. Percent Of Corridor Being Farmed	20			
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4. Protection Provided By State And Local Government	20			
------------------------------------------------------	----	--	--	--

5. Size of Present Farm Unit Compared To Average	10			
--------------------------------------------------	----	--	--	--

6. Creation Of Nonfarmable Farmland	25			
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7. Availability Of Farm Support Services	5			
------------------------------------------	---	--	--	--

8. On-Farm Investments	20			
------------------------	----	--	--	--

9. Effects Of Conversion On Farm Support Services	25			
---------------------------------------------------	----	--	--	--

10. Compatibility With Existing Agricultural Use	10			
--------------------------------------------------	----	--	--	--

TOTAL CORRIDOR ASSESSMENT POINTS	160			
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PART VII (To be completed by Federal Agency)				
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Relative Value Of Farmland (From Part V)	100			
------------------------------------------	-----	--	--	--

Total Corridor Assessment (From Part VI above or a local site assessment)	160			
---------------------------------------------------------------------------	-----	--	--	--

TOTAL POINTS (Total of above 2 lines)	260			
----------------------------------------------	------------	--	--	--

1. Corridor Selected:	2. Total Acres of Farmlands to be Converted by Project:	3. Date Of Selection:	4. Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>
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5. Reason For Selection:

Signature of Person Completing this Part:	DATE
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Joshua Graham

NOTE: Complete a form for each segment with more than one Alternate Corridor

NOISE ASSESSMENT REPORT
SCREENING LEVEL NOISE ANALYSIS
ARDOT JOB NUMBER 090558
SULPHUR SPRINGS – DECATUR (PASSING LANE) (S)

Fundamentals of Sound and Noise

Noise is defined as unwanted or undesirable sound. The three basic parameters of how noise affects people are summarized below.

Intensity is determined by the level of sound expressed in units of decibels (dB). A 3 dB change in sound level is barely perceptible to most people in a common outdoor setting. However, a 5 dB increase presents a noticeable change and a 10 dB sound level increase is perceived to be twice as loud. Outdoor conversation at normal levels at a distance of 3 feet becomes difficult when the sound level exceeds the mid-60 dBA range.

Frequency is related to the tone or pitch of the sound. The amplification or attenuation of different frequencies of sound to correspond to the way the human ear “hears” these frequencies is referred to as “A-weighting.” The A-weighted sound level in decibels is expressed as dBA.

Variation with time occurs because most noise fluctuates from moment to moment. A single level called the equivalent sound level (L_{eq}) is used to compensate for this fluctuation. The L_{eq} is a steady sound level containing the same amount of sound energy as the actual time-varying sound evaluated over the same time period. The L_{eq} averages the louder and quieter moments, but gives more weight to the louder moments.

For highway noise assessment purposes, L_{eq} is typically evaluated over the worst 1-hour period and written as $L_{eq}(h)$. The $L_{eq}(h)$ commonly describes sound levels at locations of outdoor human use and activity, and reflects the conditions that will typically produce the worst traffic noise (e.g., the highest traffic volumes traveling at the highest possible speeds).

Noise Impact and Abatement Criteria

Traffic noise impacts are determined by comparing design year $L_{eq}(h)$ values to: (1) a set of Noise Abatement Criteria (NAC) for different land use categories; and (2) existing $L_{eq}(h)$ values. A noise impact occurs when design year (future build) levels approach, meet, or exceed the NAC value or when a substantial increase in noise occurs. “Approach” is defined as a level within 1 dBA of the NAC value, and a substantial increase is defined as 10 dBA or greater than existing noise levels. For screening level noise analysis (screening analysis) purposes, the

ARDOT *Policy on Highway Traffic Noise Abatement* requires determining noise levels within 4 decibels of the NAC.

A *noise sensitive receptor* (receptor) is defined as a representative location of a noise sensitive area for various land uses. Most receptors associated with highway traffic noise analysis are categorized as NAC Activity Category B (residential) and C (e.g., parks, hospitals, schools, places of worship). Since the NAC for Activity Categories B and C is 67 dBA, noise impacts would occur at the approach level of 66 dBA. The screening analysis threshold would be 63 dBA.

Consideration of noise abatement measures is required when the NAC value is approached or exceeded, or when a substantial increase is predicted. Noise barriers (e.g., walls or berms) are the most common noise abatement measures.

Screening Level Noise Analysis

A screening analysis may be performed for projects that are unlikely to cause noise impacts and/or where noise abatement measures are likely to be unfeasible for acoustical or engineering reasons. Factors common to these types of projects include low traffic volumes, slower speeds, the presence of few or no receptors, and the need for roadway access points (e.g., driveways, Main Street scenarios, etc.).

Screening analysis results represent a worst-case scenario with higher sound levels than would be expected in detailed modeling, and may be used to determine the need for detailed analysis if noise impacts are likely and the placement of noise barriers is feasible. It may also be used for projects that lack receptors in order to assess impacts on undeveloped or developing land.

The FHWA Traffic Noise Model Version 2.5 (TNM) software program is used to predict existing and future Leq(h) traffic noise levels. The TNM straight line model uses the existing year and design year traffic and roadway information. Receivers (discrete points modeled in the TNM program) are incrementally placed away from the roadway centerline to determine the distances to which noise impacts and noise levels within 4 dBA of the NAC extend. The model assumes that the roadway and receivers were located at the same elevation with no intervening barriers such as topography or dense vegetation.

Project Evaluation and Screening Analysis Results

Few potential receptors exist along the Highway 59 corridor. Noise barriers would likely not be feasible for engineering reasons because established land uses require driveways and intersecting roadways. A screening analysis was therefore considered appropriate for this project.

TNM modeling was completed using the existing year 2021 and design year 2041 (future build) traffic and roadway information. Receivers were incrementally extended from the centerline of Highway 59 to a maximum distance of 500 feet. The distances correlating to the 66 dBA noise impact level for existing and future build conditions and the 63 dBA screening analysis threshold for future build conditions were determined. The tenth value was used for rounding the decibel levels (e.g., 65.7 dBA reported as 66 dBA). The model calculation tables and input data are attached. The predicted noise impact and screening analysis distances are summarized below.

One receptor was identified within both the existing noise impact distance (approximately 125 feet from the centerline) or the predicted noise impact distance under future build conditions (approximately 150 feet from the centerline). One receptor was identified within the predicted screening analysis threshold distance under future build conditions (approximately 225 feet from the centerline). No substantial increases (≥ 10 dBA) were predicted. A detailed noise analysis is therefore not necessary for this project.

Information for Local Officials

The ARDOT encourages local communities and developers to practice noise compatibility planning. As presented in **Table 1**, noise level predictions for future build conditions were made at distances of 150, 225, 250, 300, and 500 feet. Exterior areas of Activity B and C land uses would be impacted within a distance of approximately 150 feet from the centerline of Highway 59. These predictions do not represent noise levels at every location at a particular distance back from the roadway. Noise levels will vary with changes in terrain and other site conditions.

Table 1. Noise Levels for Compatibility Planning

Distance (ft)*	Leq(h), dBA**
150	66
225	63
250	62
300	60
500	54

* Perpendicular to centerline of Highway 59

** Rounded to tenth value

Table 2 presents the NAC. This information is included to inform local officials and planners of anticipated noise levels so that future development will be compatible. In compliance with federal guidelines, a copy of this screening analysis will be transmitted to the Northwest Arkansas Regional Planning Commission for land use planning purposes.

Table 2. Noise Abatement Criteria (NAC)

Activity Category	L _{eq(h)} dBA	Evaluation Location	Activity Description
A	57	Exterior	Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose.
B*	67	Exterior	Residential properties.
C*	67	Exterior	Active sport areas, amphitheaters, auditoriums, campgrounds, cemeteries, day care centers, hospitals, libraries, medical facilities, parks, picnic areas, places of worship, playgrounds, public meeting rooms, public or nonprofit institutional structure, radio stations, recording studios, recreation areas, Section 4(f) sites, schools, television studios, trails, and trail crossings.
D	52	Interior	Auditoriums, day care centers, hospitals, libraries, medical facilities, places of worship, public meeting rooms, public or nonprofit institutional structure, radio studios, recording studios, schools, and television studios.
E*	72	Exterior	Hotels, motels, offices, restaurants/bars, and other developed lands, properties or activities not included in A-D, or F.
F	---	---	Agriculture, airports, bus yards, emergency services, industrial, logging, maintenance facilities, manufacturing, mining, rail yards, retail facilities, shipyards, utilities (water resources, water treatment, electrical), and warehousing.
G	---	---	Undeveloped lands that are not permitted.

* Includes undeveloped lands permitted for this activity category.

NOISE DATA WORKSHEET

Job No:

Job Name:

Roadway Reference:

County:

Design Year:

Year(s) To Be Modeled:

Roadway Cross-Sections:

Note: DHV = (ADT)(K)
 DDHV = (ADT)(K)(D)
 K - Percent of ADT occuring in design hour
 D - Directional Distribution

Operating Speed:

Traffic Data:

YEAR	ADT	%TRUCK	DHV	CARS	MT	HT	CARS/2	MT/2	HT/2
				0	10%	90%	0	0	0
2021	6,800	19%	510	413	10	87	207	5	44

NOISE DATA WORKSHEET

Job No:

Job Name:

Roadway Reference:

County:

Design Year:

Year(s) To Be Modeled:

Roadway Cross-Sections:

Note: DHV = (ADT)(K)
 DDHV = (ADT)(K)(D)
 K - Percent of ADT occuring in design hour
 D - Directional Distribution

Operating Speed:

Traffic Data:

YEAR	ADT	%TRUCK	DHV	CARS	MT	HT	CARS/2	MT/2	HT/2
					10%	90%			
				0	0	0	0	0	0
2041	8,400	19%	672	544	13	115	272	6	57

RESULTS: SOUND LEVELS

Job 090558

ARDOT
M.Pearson

17 September 2020
TNM 2.5
Calculated with TNM 2.5

RESULTS: SOUND LEVELS

PROJECT/CONTRACT: Job 090558
RUN: Existing 2021
BARRIER DESIGN: INPUT HEIGHTS

Average pavement type shall be used unless a State highway agency substantiates the use of a different type with approval of FHWA.

ATMOSPHERICS: 68 deg F, 50% RH

Receiver

Name	No.	#DUs	Existing	No Barrier		Increase over existing		Type Impact	With Barrier		Noise Reduction Calculated	Goal	Calculated minus Goal
			LAeq1h	LAeq1h	Crit'n	Calculated	Crit'n		Calculated	Crit'n			
			dB	dB	dB	dB	dB		dB	dB			
25	1	1	0.0	73.5	66	73.5	10	Snd Lvl	73.5	0.0	8	-8.0	
50	2	1	0.0	70.2	66	70.2	10	Snd Lvl	70.2	0.0	8	-8.0	
75	3	1	0.0	68.3	66	68.3	10	Snd Lvl	68.3	0.0	8	-8.0	
100	4	1	0.0	66.8	66	66.8	10	Snd Lvl	66.8	0.0	8	-8.0	
125	5	1	0.0	65.5	66	65.5	10	----	65.5	0.0	8	-8.0	
150	6	1	0.0	63.6	66	63.6	10	----	63.6	0.0	8	-8.0	
175	7	1	0.0	62.0	66	62.0	10	----	62.0	0.0	8	-8.0	
200	9	1	0.0	60.7	66	60.7	10	----	60.7	0.0	8	-8.0	
250	10	1	0.0	58.4	66	58.4	10	----	58.4	0.0	8	-8.0	
300	11	1	0.0	56.7	66	56.7	10	----	56.7	0.0	8	-8.0	
350	12	1	0.0	55.2	66	55.2	10	----	55.2	0.0	8	-8.0	
400	13	1	0.0	53.9	66	53.9	10	----	53.9	0.0	8	-8.0	
500	14	1	0.0	51.8	66	51.8	10	----	51.8	0.0	8	-8.0	

Dwelling Units	# DUs	Noise Reduction		
		Min	Avg	Max
		dB	dB	dB
All Selected	13	0.0	0.0	0.0
All Impacted	4	0.0	0.0	0.0
All that meet NR Goal	0	0.0	0.0	0.0

RESULTS: SOUND LEVELS

Job 090558

ARDOT
M.Pearson

17 September 2020
TNM 2.5
Calculated with TNM 2.5

RESULTS: SOUND LEVELS

PROJECT/CONTRACT:

Job 090558

RUN:

Proposed 2041

BARRIER DESIGN:

INPUT HEIGHTS

Average pavement type shall be used unless a State highway agency substantiates the use of a different type with approval of FHWA.

ATMOSPHERICS:

68 deg F, 50% RH

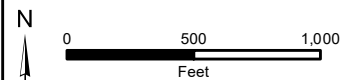
Receiver

Name	No.	#DUs	Existing	No Barrier		Increase over existing		Type Impact	With Barrier			
			L _{Aeq} 1h	L _{Aeq} 1h	Crit'n	Calculated	Crit'n		Calculated	Noise Reduction	Goal	Calculated minus Goal
			dBA	dBA	dBA	dB	dB		dBA	dB	dB	dB
25	1	1	0.0	0.0	66	0.0	10	invalid	0.0	0.0	8	0.0
50	2	1	0.0	71.4	66	71.4	10	Snd Lvl	71.4	0.0	8	-8.0
75	3	1	0.0	69.5	66	69.5	10	Snd Lvl	69.5	0.0	8	-8.0
100	4	1	0.0	68.0	66	68.0	10	Snd Lvl	68.0	0.0	8	-8.0
125	5	1	0.0	66.9	66	66.9	10	Snd Lvl	66.9	0.0	8	-8.0
150	6	1	0.0	65.9	66	65.9	10	----	65.9	0.0	8	-8.0
175	7	1	0.0	65.1	66	65.1	10	----	65.1	0.0	8	-8.0
200	9	1	0.0	64.3	66	64.3	10	----	64.3	0.0	8	-8.0
225	10	1	0.0	63.0	66	63.0	10	----	63.0	0.0	8	-8.0
250	11	1	0.0	61.8	66	61.8	10	----	61.8	0.0	8	-8.0
300	12	1	0.0	59.7	66	59.7	10	----	59.7	0.0	8	-8.0
400	13	1	0.0	56.5	66	56.5	10	----	56.5	0.0	8	-8.0
500	14	1	0.0	54.1	66	54.1	10	----	54.1	0.0	8	-8.0

Dwelling Units	# DUs	Noise Reduction		
		Min	Avg	Max
		dB	dB	dB
All Selected	13	0.0	0.0	0.0
All Impacted	4	0.0	0.0	0.0
All that meet NR Goal	0	0.0	0.0	0.0



	Impacted Receptor
	Receptor
	225 ft - Proposed
	150 ft - Proposed
	125 ft - Existing



Noise Level Distances

Job 090558
 ArDOT - Environmental GIS - Reed
 September 29, 2020

Photography Date:
 January - February 2017



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Arkansas Ecological Services Field Office
110 South Amity Suite 300
Conway, AR 72032-8975
Phone: (501) 513-4470 Fax: (501) 513-4480
<http://www.fws.gov/arkansas-es>

In Reply Refer To:

September 01, 2020

Consultation Code: 04ER1000-2020-SLI-1407

Event Code: 04ER1000-2020-E-03534

Project Name: 090558 - Sulphur Springs – Decatur (Passing Lane) (S)

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

To Whom It May Concern:

The enclosed species list identifies endangered, threatened, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). **This letter only provides an official species list and technical assistance; if you determine that listed species and/or designated critical habitat may be affected in any way by the proposed project, even if the effect is wholly beneficial, consultation with the Service will be necessary.**

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

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found on our website.

Please visit our website at <http://www.fws.gov/arkansas-es/IPaC/home.html> for species-specific guidance to avoid and minimize adverse effects to federally endangered,

threatened, proposed, and candidate species. Our web site also contains additional information on species life history and habitat requirements that may be useful in project planning.

If your project involves in-stream construction activities, oil and natural gas infrastructure, road construction, transmission lines, or communication towers, please review our project specific guidance at <http://www.fws.gov/arkansas-es/IPaC/ProjSpec.html>.

The karst region of Arkansas is a unique region that covers the **northern third of Arkansas** and we have specific guidance to conserve sensitive cave-obligate and bat species. **Please visit <http://www.fws.gov/arkansas-es/IPaC/Karst.html> to determine if your project occurs in the karst region and to view karst specific-guidance.** Proper implementation and maintenance of best management practices specified in these guidance documents is necessary to avoid adverse effects to federally protected species and often avoids the more lengthy formal consultation process.

If your species list includes any mussels, Northern Long-eared Bat, Indiana Bat, Yellowcheek Darter, Red-cockaded Woodpecker, or American Burying Beetle, your project may require a presence/absence and/or habitat survey prior to commencing project activities. Please check the appropriate species-specific guidance on our website to determine if your project requires a survey. We strongly recommend that you contact the appropriate staff species lead biologist (see office directory or species page) prior to conducting presence/absence surveys to ensure the appropriate level of effort and methodology.

Under the ESA, it is the responsibility of the Federal action agency or its designated representative to determine if a proposed action "may affect" endangered, threatened, or proposed species, or designated critical habitat, and if so, to consult with the Service further. Similarly, it is the responsibility of the Federal action agency or project proponent, not the Service, to make "no effect" determinations. If you determine that your proposed action will have "no effect" on threatened or endangered species or their respective critical habitat, you do not need to seek concurrence with the Service. Nevertheless, it is a violation of Federal law to harm or harass any federally-listed threatened or endangered fish or wildlife species without the appropriate permit.

Through the consultation process, we will analyze information contained in a biological assessment that you provide. If your proposed action is associated with Federal funding or permitting, consultation will occur with the Federal agency under section 7(a)(2) of the ESA. Otherwise, an incidental take permit pursuant to section 10(a)(1)(B) of the ESA (also known as a habitat conservation plan) is necessary to harm or harass federally listed threatened or endangered fish or wildlife species. In either case, there is no mechanism for authorizing incidental take "after-the-fact." For more information regarding formal consultation and HCPs, please see the Service's Consultation Handbook and Habitat Conservation Plans at www.fws.gov/endangered/esa-library/index.html#consultations.

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to

federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, **the accuracy of this species list should be verified after 90 days.** This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. **Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.**

Attachment(s):

- Official Species List

Official Species List

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

This species list is provided by:

Arkansas Ecological Services Field Office

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

Project Summary

Consultation Code: 04ER1000-2020-SLI-1407

Event Code: 04ER1000-2020-E-03534

Project Name: 090558 - Sulphur Springs – Decatur (Passing Lane) (S)

Project Type: TRANSPORTATION

Project Description: widen Hwy. 59 to add a passing lane.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.37425126429306N94.44182395935059W>



Counties: Benton, AR

Endangered Species Act Species

There is a total of 8 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

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

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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

Mammals

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7245	Endangered

Birds

NAME	STATUS
Eastern Black Rail <i>Laterallus jamaicensis ssp. jamaicensis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10477	Proposed Threatened
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

Flowering Plants

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

Critical habitats

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



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

IPaC Record Locator: 927-23324602

September 03, 2020

Subject: Consistency letter for '090558 - Sulphur Springs – Decatur (Passing Lane) (S)' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear Mickey Matthews:

The U.S. Fish and Wildlife Service (Service) received on **September 03, 2020** your effect determination(s) for the '090558 - Sulphur Springs – Decatur (Passing Lane) (S)' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

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

Species	Determination
Proposed Threatened Eastern Black Rail (<i>Laterallus jamaicensis</i> ssp. <i>jamaicensis</i>)	No Effect
Threatened Red Knot (<i>Calidris canutus rufa</i>)	No Effect
Threatened Piping Plover (<i>Charadrius melodus</i>)	No Effect
Endangered Gray Bat (<i>Myotis grisescens</i>)	NLAA
Endangered Ozark Big-eared Bat (<i>Corynorhinus townsendii ingens</i>)	NLAA
Endangered Indiana Bat (<i>Myotis sodalis</i>)	May Affect
Threatened Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	May Affect
Threatened Missouri bladderpod (<i>Physaria filiformis</i>)	NLAA

Status

Consultation with the Service is not complete. Further consultation or coordination with the Arkansas Ecological Services Office is necessary for those species with a determination of “may affect” listed above. Please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov,

or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

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

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

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

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

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

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

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

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

Action Description

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

1. Name

090558 - Sulphur Springs – Decatur (Passing Lane) (S)

2. Description

The following description was provided for the project '090558 - Sulphur Springs – Decatur (Passing Lane) (S)':

widen Hwy. 59 to add a passing lane.

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.37425126429306N94.44182395935059W>



Species Protection Measures

Qualification Interview

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

No

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

Yes

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

d. Federal Highway Administration

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

Yes

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

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

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

Automatically answered

No

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

Automatically answered

Yes

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

No

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

Automatically answered

Yes

24. Are there any caves within 0.5 mile of the project area?

No

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

No

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

No

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

Automatically answered

No

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

No

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

Automatically answered

Yes

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

Automatically answered

Yes

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

Automatically answered

Yes

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

Yes

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

Project Questionnaire

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

1. Estimated total acres of forest conversion:

0.2

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

0

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

0

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

4. Estimated total acres of timber harvest

0

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

0

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

0

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

7. Estimated total acres of prescribed fire

0

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

0

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

0

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

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

0



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In Reply Refer To:

October 15, 2020

Consultation Code: 04ER1000-2020-I-1407

Event Code: 04ER1000-2021-E-00152

Project Name: 090558 - Sulphur Springs – Decatur (Passing Lane) (S)

Subject: Concurrence verification letter for the '090558 - Sulphur Springs – Decatur (Passing Lane) (S)' project under the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request to verify that the **090558 - Sulphur Springs – Decatur (Passing Lane) (S)** (Proposed Action) may rely on the concurrence provided in the February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action is within the scope and adheres to the criteria of the PBO, including the adoption of applicable avoidance and minimization measures, and may affect, but is not likely to adversely affect (NLAA) the endangered Indiana bat (*Myotis sodalis*) and/or the threatened Northern long-eared bat (*Myotis septentrionalis*).

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

If the Proposed Action 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. 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:

- Eastern Black Rail, *Laterallus jamaicensis ssp. jamaicensis* (Threatened)
 - Gray Bat, *Myotis grisescens* (Endangered)
 - Missouri Bladderpod, *Physaria filiformis* (Threatened)
 - Ozark Big-eared Bat, *Corynorhinus (=Plecotus) townsendii ingens* (Endangered)
 - Piping Plover, *Charadrius melodus* (Threatened)
 - Red Knot, *Calidris canutus rufa* (Threatened)
-

Project Description

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

Name

090558 - Sulphur Springs – Decatur (Passing Lane) (S)

Description

widen Hwy. 59 to add a passing lane.

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 threatened Northern long-eared bat, therefore, consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required. However, also based on your answers provided, this project may rely on the 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.

Qualification Interview

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

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

Automatically answered

Yes

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

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

Automatically answered

Yes

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

A) *Federal Highway Administration (FHWA)*

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

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

No

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

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

No

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

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

No

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

Yes

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

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

No

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

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

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

Yes

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

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

Yes

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

No

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

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

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

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

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

Yes

SUBMITTED DOCUMENTS

- *ARDOT 2020 Job 090558 Benton Co SR-59 Bat Report.pdf* <https://ecos.fws.gov/ipac/project/QQKDE25XFFAVXAHB27ASRJXM6Y/projectDocuments/23870454>

13. 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

14. 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

15. 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

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

Yes

17. 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

18. 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

19. Will the removal or trimming of habitat or trees **within** suitable but **undocumented Indiana bat** roosting/foraging habitat or travel corridors that occurs between May 1 and July 31 be limited such that all trees can be visually assessed for use by bats?

No

20. 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 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

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

Yes

22. 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

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

Yes

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

No

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

Yes

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

No

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

No

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

No

29. Does the project include slash pile burning?

No

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

No

31. 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

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

No

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

No

34. 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

35. 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

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

No

37. 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

38. 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.

39. **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

40. **Hibernacula AMM 1**

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

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

Yes

41. **Hibernacula AMM 1**

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

Yes

Project Questionnaire

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

No

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

Yes

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

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

0.2

Avoidance And Minimization Measures (AMMs)

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

GENERAL AMM 1

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

HIBERNACULA AMM 1

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

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

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

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

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

VIRTUAL PUBLIC INVOLVEMENT SYNOPSIS

Job Number 090558

Sulphur Springs – Decatur (Passing Lane) (S)

Benton County

September 17 through October 2, 2020

A Virtual Public Involvement (VPI) meeting was held on the ARDOT website between September 17 and October 2, 2020 for the proposed Hwy. 59 passing lane project. Efforts to involve minorities and the public in the meeting included:

- Display advertisement placed in *The Democrat-Gazette* on Sunday, September 6, 2020 and Sunday, September 13, 2020
- Letters mailed to public officials
- Flyers mailed to residents in the project area

The following information and links were available on the website:

- Short video presentation about the project
- Public meeting notice
- Project location map
- Project design plans
- Link to submit comments
- Interactive project map
- Frequently asked questions with answers

Copies of the public meeting notice, project location map, and comment form are attached.

Table 1 summarizes VPI meeting participation.

TABLE 1	
Public Participation	Totals
Online registration of attendance at website	16
Number of website viewers (383 in English; 17 in Spanish)	400
Total comments received	14

Table 2 summarizes Comment Form question responses.

TABLE 2	
Survey Results	Totals
Feel proposed project is needed	11
Do not feel proposed project is needed	2
Beneficial impacts due to the proposed project	7
Adverse impacts due to the proposed project	4
Offered suggestions to better serve the needs of the community	9

Comments regarding why the proposed project would be beneficial included the need to allow motorists to pass slower-moving vehicles.

Comments regarding how the project could better serve the needs of the community included:

- Continue the passing lane to Decatur with two lanes on each side
- Add passing lanes between Gentry and Decatur
- Widen the roadway to four lanes to allow better traffic flow in both directions
- Avoid developed property and structures
- Include a northbound passing lane

Attachments:

- Public Meeting Notice
- Project Location Map
- Blank Comment Form

DN:MP:am



ONLINE VIRTUAL PUBLIC INVOLVEMENT MEETING

WHAT: Online Virtual Public Meeting via a pre-recorded presentation to gather public input on the proposed plans to construct one south-bound passing lane on Hwy. 59 between Sulphur Springs and Decatur in Benton County.

WHEN: **Thursday, September 17, 2020 through Friday, October 2, 2020. Comments will be accepted until 4:30 p.m. Friday, October 2, 2020.**

Due to the COVID-19 restrictions, we are unable to conduct a public involvement meeting in the traditional sense. (no in person meeting).

Purpose

The Arkansas Department of Transportation (ARDOT) will conduct an online public involvement meeting. **The public is invited to listen, view meeting materials and provide written comments. The site will be available for comments until 4:30 p.m. Friday, October 2, 2020.**

[Link To Virtual Meeting: \(click here\)](#)

In order to access the online public meeting, click on the link above. It will take you to the online public meeting website. This web site will provide project materials and handouts that would have been shown at the in-person meetings. A separate link will provide a Spanish version of the presentation. There will also be an option to send online comment forms to ARDOT's staff, or you can print the form and mail it to, P.O. Box 2261, Little Rock, AR 72203-2261. If you do not have internet access, please contact Karla Sims at 501-569-2000 to ask questions about the proposed project and how to access project information at karla.sims@ardot.gov.

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

ARDOT Job No. **090558**

Virtual Web Link:

Click Here: www.ardot.gov

September 17 through

October 2, 2020

To log into the online public meeting, go to the following web link at the date and time indicated above.

Special Accommodations: Anyone needing project information or special accommodations under the Americans with Disabilities Act (ADA) is encouraged to write to Ruby Jordan-Johnson, P.O. Box 2261, Little Rock, AR 72203-2261, call (501)569-2379, fax (501) 569-2009 or email

environmentalpimeetings@ardot.gov.

Hearing or speech impaired, please contact the Arkansas Relay System at (Voice/TTY 711). Requests should be made at least four days prior to the public meeting.

NOTICE OF NONDISCRIMINATION: The Arkansas Department of Transportation complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal financial assistance. Therefore, the Department does not discriminate on the basis of race, sex, color, age, national origin, religion (not applicable as a protected group under the Federal Motor Carrier Safety Administration Title VI Program), disability, Limited English Proficiency (LEP), or low-income status in the admission, access to and treatment in the Department's programs and activities, as well as the Department's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Department's nondiscrimination policies may be directed to Joanna P. McFadden Section Head - EEO/DBE (ADA/504/Title VI Coordinator), P. O. Box 2261, Little Rock, AR 72203, (501)569- 2298, (Voice/TTY 711), or the following email address: joanna.mcfadden@ardot.gov Free language assistance for Limited English Proficient individuals is available

Job 090558
Sulphur Springs to Decatur
(Passing Lane) (Highway 59)
Benton County



PRELIMINARY
Subject To Revision

End Job 090558

Begin Job 090558

N

Project Location

0 500 1,000 Feet

Photography Date: January - February 2017

AR DOT - Environmental GIS - Reed
Map: August 20, 2020; Meeting:
Design Public Hearing VPI Exhibit

DECATUR

BETHLEHEM RD



**ARKANSAS DEPARTMENT OF TRANSPORTATION (ARDOT)
CITIZEN COMMENT FORM**

**ARDOT JOB NUMBER 090558
SULPHUR SPRINGS – DECATUR (PASSING LANE) (S)
BENTON COUNTY**

**LOCATION:
ONLINE VIRTUAL PUBLIC INVOLVEMENT MEETING
SEPTEMBER 17 THROUGH OCTOBER 2, 2020**

Make your comments on this form and mail it by 4:30 p.m. on **Friday, October 2, 2020** to: Arkansas Department of Transportation, Environmental Division, P.O. Box 2261, Little Rock, AR, 72203-2261. Email: environmentalpimeetings@ardot.gov.

Yes No

Do you feel there is a need for the proposed southbound passing lane on Highway 59 between Sulphur Springs – Decatur in Benton County?
Comment (optional)

Do you feel that the proposed project will have any impacts
(Beneficial or Adverse) on your property and/or community
(economic, environmental, social, etc.)? Please explain. _____

Do you have a suggestion that would make this proposed project better serve the needs of the community? _____

Does your home or property offer any limitations to the project, such as septic systems, that the Department needs to consider in its design?

(Continue on Back)

Yes No
 Do you know of any historical sites, family cemeteries, or archaeological sites in the project area? Please note and discuss with staff. _____

 Do you know of any environmental constraints, such as endangered species, hazardous waste sites, existing or former landfills, or parks and public lands in the vicinity of the project? Please note and discuss with ARDOT staff. _____

It is often necessary for the ARDOT to contact property owners along potential routes. If you are a property owner along or adjacent to the route under consideration, please provide information below. Thank you.

Name: _____ (Please Print)

Address: _____ Phone: (____) _____ -- _____

E-mail: _____

Please make additional comments here. _____

For additional information, please visit our website at www.ardot.gov



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

ARDOT Job Number 090558 FAP Number STPF-0004(85)

Job Title Suphur Springs – Decatur (Passing Lane) (S)

Environmental Resource	None	Minimal	Major	Comments-required for each item
Air Quality	X			MSAT not required
Cultural Resources	X			SHPO clearance attached
Economic	X			No adverse economic impacts
Endangered Species	X			"No effect" & NLAA determination
Environmental Justice/Title VI	X			EJ populations not identified in area
Fish and Wildlife		X		Minor impacts during construction
Floodplains	X			Mapped flood zones not identified
Forest Service Property	X			None in project area
Hazardous Materials/Landfills	X			None identified in project area
Land Use		X		8.4 acres of new ROW
Migratory Birds	X			No impacts anticipated
Navigation/Coast Guard	X			No navigable waters in project area
Noise Levels		X		Minor increase; noise assessment report attached
Prime Farmland	X			0.9 acre Prime FL; 6.8 acres Farmland of Statewide Importance
Protected Waters	X			WPC SP included in project contract
Public Recreation Lands	X			None identified in project area
Public Water Supply/WHPA	X			WHP SP for offsite areas included
Relocates	X			Relocations not required
Section 4(f)/6(f)	X			4(f)/6(f) resources not in project area
Social	X			No adverse social impacts
Underground Storage Tanks	X			None located in project area
Visual	X			No adverse visual impacts
Streams		X		STAA required; No 404 permit
Water Quality		X		Temporary impacts during construction
Wetlands	X			None in the project area
Wildlife Refuges	X			None in the project area

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

Remarks: Tawanee Spring (PWS) is less than 2 miles from project, ESW springs are also in vicinity.

Signature of Evaluator Mary Pearson Date 09/24/2020

Date Sent: August 27, 2020

ROADWAY DESIGN REQUEST

Job Number 090558 FAP No. _____ County Benton

Job Name Sulphur Springs – Decatur (Passing Lane) (S)

Design Engineer Bridgefarmer Environmental Staff _____

Brief Project Description Construct 1 southbound passing lane

A. Existing Conditions:

Roadway Width: 30' Shoulder Type/Width: 3'/Paved

Number of Lanes and Width: 2 @ 12' Existing Right-of-Way: 80'

Sidewalks? No Location: _____ Width: _____

Bike Lanes? No Location: _____ Width: _____

B. Proposed Conditions:

Roadway Width: 50' Shoulder Type/Width: 8'/Paved (Passing Lane side)
6'/Paved (Other side)

Number of Lanes and Width: 3 @ 12' Proposed Right-of-Way: 150'

Sidewalks? No Location: _____ Width: _____

Bike Lanes? No Location: _____ Width: _____

C. Construction Information:

If detour: Where: N/A Length: _____

D. Design Traffic Data:

2021 ADT: 6800 2041 ADT: 8400 % Trucks: 19
Design Speed: _____ m.p.h.

E. Approximate total length of project: 1.182 mile(s)

F. Justification for proposed improvements: An opportunity for cars to pass large trucks going uphill

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

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

Agency/Official	Person Contacted	Date