





INTEROFFICE MEMORANDUM

November 22, 2022

TO: Master Files

FROM:  John Fleming, Division Head, Environmental Division 

SUBJECT: Job 090654
FAP FBP-0045(40)
Peel Ferry Dock Improvements
Route 125, Section 2
Marion County
Tier 1 Categorical Exclusion

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

The purpose of this job is to construct two new ferry docks to connect Highway 125 across Bull Shoals Lake in Marion County. Each dock would be approximately 40' x 40' with an approximately 46' long ramp section and solar lighting. The docks would be constructed off site and lowered into the lake with a crane. All work would take place within existing right of way. A project location map is attached.

The project would not involve relocations, Important Farmland, underground storage tanks, hazardous materials, environmental justice populations, or cultural resources. This project was determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been linked with any special mobile source air toxics concerns. No Waters of the United States would be impacted by this project, as defined by the Clean Water Act. A Section 404 permit is not required for the proposed work. Cultural resources clearance is attached.

The attached official species list obtained from the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation identified the following species as potentially occurring within the project boundaries: gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Ozark big-eared bat (*Corynorhinus townsendii ingens*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), monarch butterfly (*Danaus plexippus*), and the Missouri bladderpod (*Physaria filiformis*).

Utilizing the Arkansas Determination Key and the FHWA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-Eared Bat, it was determined that the project would have “no effect” on the Eastern Black Rail, Indiana bat, and northern long-eared bat. It was determined that the project “may affect but is not likely to adversely affect” the Piping Plover, Red Knot, gray bat, Ozark big-eared bat, and Missouri bladderpod. USFWS concurrence is attached.

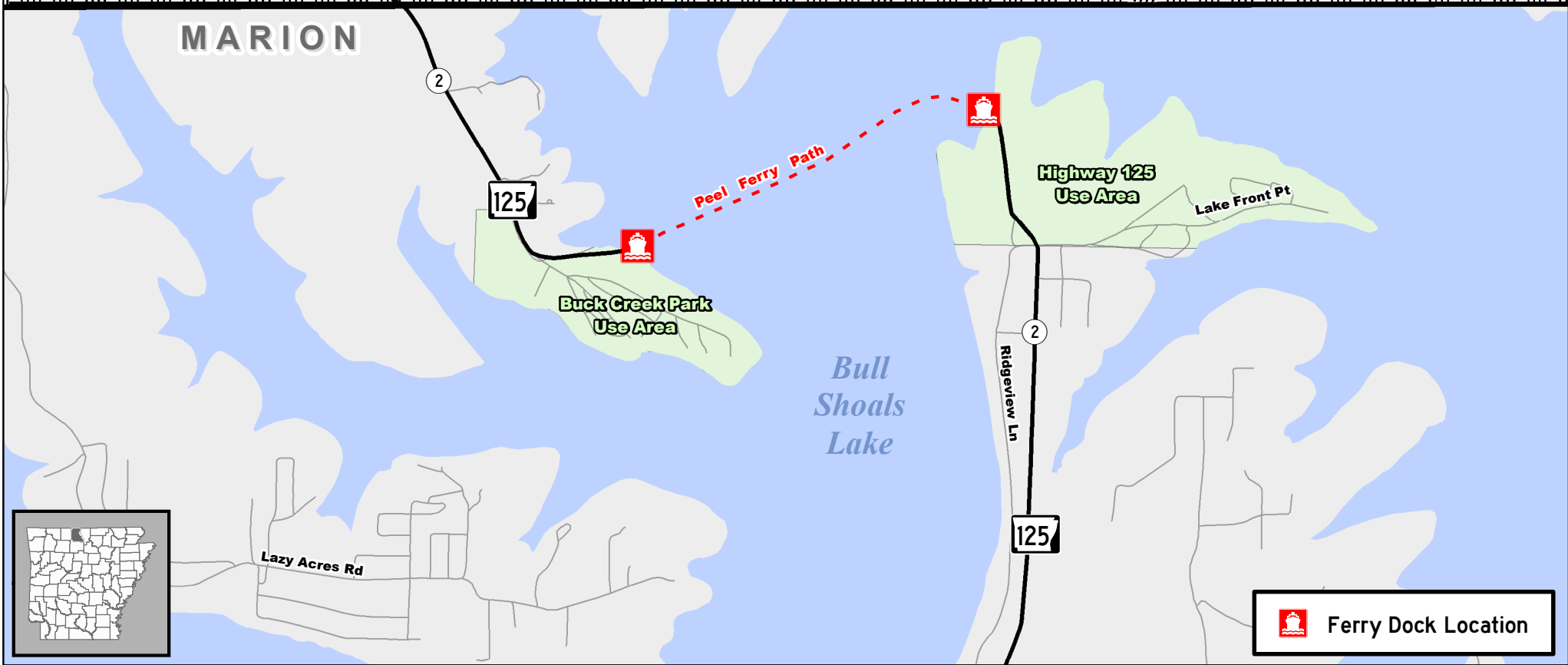
The project lies within a Zone A Special Flood Hazard Area. The final project design will be reviewed to confirm that the design is adequate and that the potential risk to life and property are minimized. Adjacent properties should not be impacted nor have a greater flood risk than existed before construction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

JF:KR:sw

Attachments:

- Location Map
- Cultural Resources Clearance
- USFWS Coordination
- Environmental Study Checklist

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

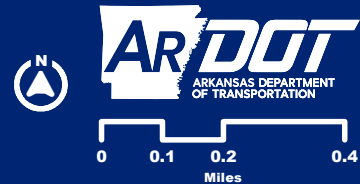


 Ferry Dock Location

Job 090654

Peel Ferry Dock Improvements (S)

Hwy. 125, Sec. 2
Marion County






ARKANSAS DEPARTMENT OF TRANSPORTATION

ARDOT.gov | IDriveArkansas.com | Lorie H. Tudor, P.E., Director
10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261 | Phone: 501.569.2000

INTEROFFICE MEMORANDUM

October 20, 2022

TO: Environmental Job File

FROM: Jason Eads, Cultural Resources


SUBJECT: Cultural Resources Clearance
Job 090654
Peel Ferry Dock Improvements (S)
Route 125, Section 2
Marion County

The Arkansas Department of Transportation proposes to replace the existing docks (X1652 and X1653) at Peel Ferry on Hwy. 125, at Bull Shoals Lake, in Marion County. All work will occur in previously disturbed areas (above and below the water) and involve no new ground disturbances. This type of undertaking has no potential to cause effects on historic properties as defined in 36 CFR § 800.3(a)(1). This project requires no further work or Section 106 review.

From: [Lewis, Lindsey](#)
To: [Schrum, Matthew C.](#)
Subject: Re: [EXTERNAL] 090654 - Peel Ferry Dock Improvements (S)
Date: Friday, October 21, 2022 3:23:46 PM

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Matt,

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

The Service has received your concurrence verification letter and request to verify that the Proposed Action may rely on the concurrence provided in the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C 1531 et seq.). Based on the information you provided, you have determined that the Proposed Action will have no effect on the endangered Indiana Bat (*Myotis sodalis*) or the threatened Northern Long-eared Bat (*Myotis septentrionalis*). If the Proposed Action is not modified, no consultation is required for these two species. If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or Northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office 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.

The Service has no additional comments or concerns and agrees with the determinations, justifications provided, and concurrences made through the Arkansas Dkey and FHWA PBO Dkey.

Thanks,

Lindsey Lewis
Biologist

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

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

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

From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, October 21, 2022 12:44 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] 090654 - Peel Ferry Dock Improvements (S)

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Lindsey,
ARDOT proposes to make improvements to the dock and rail system for the Peel Ferry at Bull Shoals Lake in Marion County AR. See the 90% plans at the link below. According to ARDOT District 9 Maintenance Engineer Jeffrey Wheeler, this project will not require any tree clearing. The project is scheduled to let January 2023.

https://ashtd-my.sharepoint.com/:f:/g/personal/matthew_schrum_ardot_gov/EIH7-M4sRX5PgK-Rv2yq4-cBIP5Z4OBgPmQ5FofHh3r0zA?email=lindsey_lewis%40fws.gov&e=Mc7M4q

The official species list obtained from the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation identified the following endangered and threatened species as potentially occurring within the project boundaries; the endangered gray bat (*Myotis grisescens*), the endangered Indiana bat (*Myotis sodalis*), the threatened northern long-eared bat (*Myotis septentrionalis*), the endangered Ozark big-eared bat (*Corynorhinus (=Plecotus) townsendii ingens*), the threatened Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), the threatened Piping Plover (*Charadrius melodus*), the threatened Red Knot (*Calidris canutus rufa*), the candidate Monarch butterfly (*Danaus plexippus*), and the threatened Missouri bladderpod (*Physaria filiformis*). See the attached USFWS Species List.

The AFO Arkansas Multi-species Determination Key and FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat determination key were evaluated for this project. See the attached consistency letters.

“No effect” determinations were given for Indiana bat, northern long-eared bat, and Eastern Black Rail.

“May affect, not likely to adversely affect” determinations were given for gray bat, Ozark big-eared bat, Piping Plover, Red Knot, and Missouri bladderpod.

If any additional info is required, please let me know.

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449



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:
Project Code: 2022-0075202
Project Name: 090654 - Peel Ferry Dock Improvements (S)

November 16, 2022

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 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.

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:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.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/birds/policies-and-regulations.php>.

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/birds/bird-enthusiasts/threats-to-birds.php>.

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/birds/policies-and-regulations/executive-orders/e0-13186.php>.

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

Attachment(s):

- Official Species List

Endangered Species Act Species

There is a total of 9 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.

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

Mammals

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7245	Endangered

Birds

NAME	STATUS
Eastern Black Rail <i>Laterallus jamaicensis ssp. jamaicensis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10477	Threatened
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

Insects

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

Flowering Plants

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

Critical habitats

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

IPaC User Contact Information

Agency: Arkansas Department of Transportation
Name: Matthew Schrum
Address: 10324 I30
City: Little Rock
State: AR
Zip: 72209
Email: matthew.schrum@ardot.gov
Phone: 5015692083

Lead Agency Contact Information

Lead Agency: Federal Highway Administration

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

ARDOT Job 090654 FAP FBP-0045(40)

Job Title Peel Ferry Dock Improvements (S)

Environmental Resource	None	Minimal	Major	Comments
Air Quality	X			No MSAT analysis required
Cultural Resources	X			"No potential to cause effects" on CR
Economic	X			No impacts anticipated
Endangered Species		X		"No effect" & "Not likely to adversely affect"
Environmental Justice/Title VI	X			No impacted populations
Fish and Wildlife		X		Temporary during construction
Floodplains		X		Zone A Special Flood Hazard Area
Forest Service Property	X			None in project area
Hazardous Materials/Landfills	X			None in project area
Land Use	X			No new ROW or TCE required
Migratory Birds	X			No impacts anticipated
Navigation/Coast Guard	X			No impacts anticipated due to scope
Noise Levels	X			No impacts anticipated
Prime Farmland	X			None in project area
Protected Waters		X		Bull Shoals Reservoir is an ERW
Public Recreation Lands	X			No impacts anticipated
Public Water Supply/WHPA	X			No impacts anticipated
Relocatees	X			No relocations
Section 4(f)/6(f)	X			No impacts anticipated
Social	X			No impacts anticipated
Underground Storage Tanks	X			None in project area
Visual	X			No impacts anticipated
Streams	X			No impacts anticipated
Water Quality	X			No impacts anticipated
Wetlands	X			None in project area
Wildlife Refuges	X			None in project area

Section 401 Water Quality Certification Required? No
 Short-term Activity Authorization Required? No
 Section 404 Permit Required? No Type None

Remarks:

Water Pollution Control Special Provision added to project contract due to a public water supply in the project vicinity, but no impacts are anticipated. The White River is a Section 10 waterbody, but coordination will not be required due to the limited scope of work.

Signature of Evaluator Kathryn Rose Date 11/10/2022