

TIER 3 CATEGORICAL EXCLUSION

**ARDOT JOB 090672
FAP STPR-0064(20)
HWY. 66 REALIGNMENT (LESLIE) (S)
ROUTE 66, SECTION 1
SEARCY 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

March 2024

March 13, 2024

Date of Approval

Randal Looney

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 realign Hwy. 66 between Hwy. 65 and Main Street in the City of Leslie. The realignment includes constructing a new bridge across Cove Creek south of the existing Hwy. 66 bridge (Str. 00680). Hwy. 65 will be widened, and a center turn lane will be provided. Total length of the project is 0.18 mile. A project location map is attached.

Existing and proposed conditions are as follows:

Hwy. 65 has two 11' wide paved travel lanes with 8' wide paved shoulders. The average right of way width ranges from 80' to 140'. The proposed typical section will include: two 12' wide travel lanes with a 12' wide center turn lane; a 3' wide grass berm with 5' wide sidewalk on the east side of the roadway; an 8' wide grass berm on the west side; and concrete curb and gutter on both sides. The proposed right of way width will range from 80' to 140'.

Hwy. 66 has two paved travel lanes of widths varying from 9' to 12'; paved shoulder widths vary from 1' to 6' with concrete curb and gutter at select sections. The average right of way width varies from 50' to 60'. The proposed typical section will have two 14' wide travel lanes with concrete curb and gutter, 3' wide grass berms, and 5' wide sidewalks on both sides of the roadway. The proposed right of way width will vary from 60' to 170'.

A total of approximately 2.6 acres of new right of way and 0.1 acre of temporary construction easement will be acquired for this project.

Design data are as follows:

Site	Design Year	Average Daily Traffic	Percent Trucks	Design Speed (mph)
Hwy. 65	2026	6,000	19	45
	2046	7,400		
Hwy. 66	2026	2,900	9	30
	2046	3,200		

There are no environmental justice concerns, important farmlands, hazardous wastes/underground storage tanks, or wetlands associated with this project. One business relocation will be required. Public Law 91-646, Uniform Relocation Assistance Act of 1970, as amended, will apply.

The concrete continuous tee beam bridge carrying Hwy 66 over Cove Creek, built in 1930, is eligible for inclusion in the National Register of Historic Places (NRHP). As part of the ARDOT Historic Bridge Process, the Historic Bridge Analysis Committee determined that bridge rehabilitation was not a viable option due to the job's purpose and need. ARDOT will transfer the bypassed roadway, including the bridge, to the City of Leslie for local traffic use. FHWA, State Historic Preservation Officer (SHPO), City of Leslie, and ARDOT executed a Memorandum of Agreement (MOA) with guidelines to protect the bridge's historic integrity following its transfer of ownership to the City of Leslie for continued vehicular use. The NRHP-listed Leslie Commercial Historic District will be impacted by the proposed project, with a reduction of acreage and removal of a non-contributing building. The impact results in no adverse effect to the Leslie Commercial Historic District. The SHPO correspondence, MOA, and *de minimis* Section 4(f) evaluation are attached.

This project has been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been linked with any special mobile source air toxics (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 substantial increase in MSAT impacts of the project from that of the no-build alternative.

Noise predictions were made for this project using the FHWA Traffic Noise Model Version 2.5. As detailed in the attached noise assessment report, predicted noise levels for Hwy. 66 were below applicable FHWA noise impact criteria. One noise sensitive receptor on Hwy. 65 was predicted to experience noise impacts under both existing and future conditions. Future noise level increases would be minor (not exceeding a 1 to 2 dBA increase), and no substantial increases (≥ 10 dBA) were predicted. No additional noise analysis is warranted.

Searcy County participates in the National Flood Insurance Program; however, digital flood maps are not available for the project area. The final project design will be reviewed to confirm that the design is adequate and that the potential risk to life and property are minimized. Adjacent properties should not be impacted nor have a greater flood risk than existed before construction of the project. None of the encroachments will constitute a substantial floodplain encroachment or risk to property or life.

The attached official species list obtained through the U.S. Fish and Wildlife Service's (USFWS) Information for Planning and Consultation website identified the following endangered and threatened 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*); Tricolored Bat (*Perimyotis subflavus*); Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*); Piping Plover (*Charadrius melodus*); Rufa Red Knot (*Calidris canutus rufa*); Alligator Snapping Turtle (*Macrochelys temminckii*); Yellowcheek Darter (*Nothonotus moorei*); Rabbitsfoot (*Theliderma cylindrica*); Speckled Pocketbook (*Lampsilis streckeri*); Monarch butterfly (*Danaus plexippus*); and Missouri bladderpod (*Physaria filiformis*).

Using the "AFO Arkansas Multi-Species Determination Key" and "FHWA Programmatic Biological Opinion for Transportation Projects within the Range of Indiana Bat and Northern Long-eared Bat" determination keys, ARDOT has determined that the project will have "no effect" on Eastern Black Rail, Piping Plover, and Red Knot, and that the project "may affect but is not likely to adversely affect" Gray Bat, Indiana Bat, Northern Long-eared Bat, Ozark Big-eared Bat, Rabbitsfoot, Speckled Pocketbook, Yellowcheek Darter, and Missouri bladderpod. USFWS concurrence (dated February 28, 2024) is attached.

ARDOT has determined that this action will not jeopardize the continued existence of Monarch Butterfly, Tricolored Bat, and Alligator Snapping Turtle.

The Monarch Butterfly is a candidate species, and as such, is not federally protected under the Endangered Species Act. However, the USFWS recommends agencies implement conservation measures for candidate species in action areas, as these are, by definition, species that may warrant future protection under the Act. ARDOT has determined that this action will not jeopardize the continued existence of the Monarch Butterfly. ARDOT will plant native wildflowers after construction as a conservation measure.

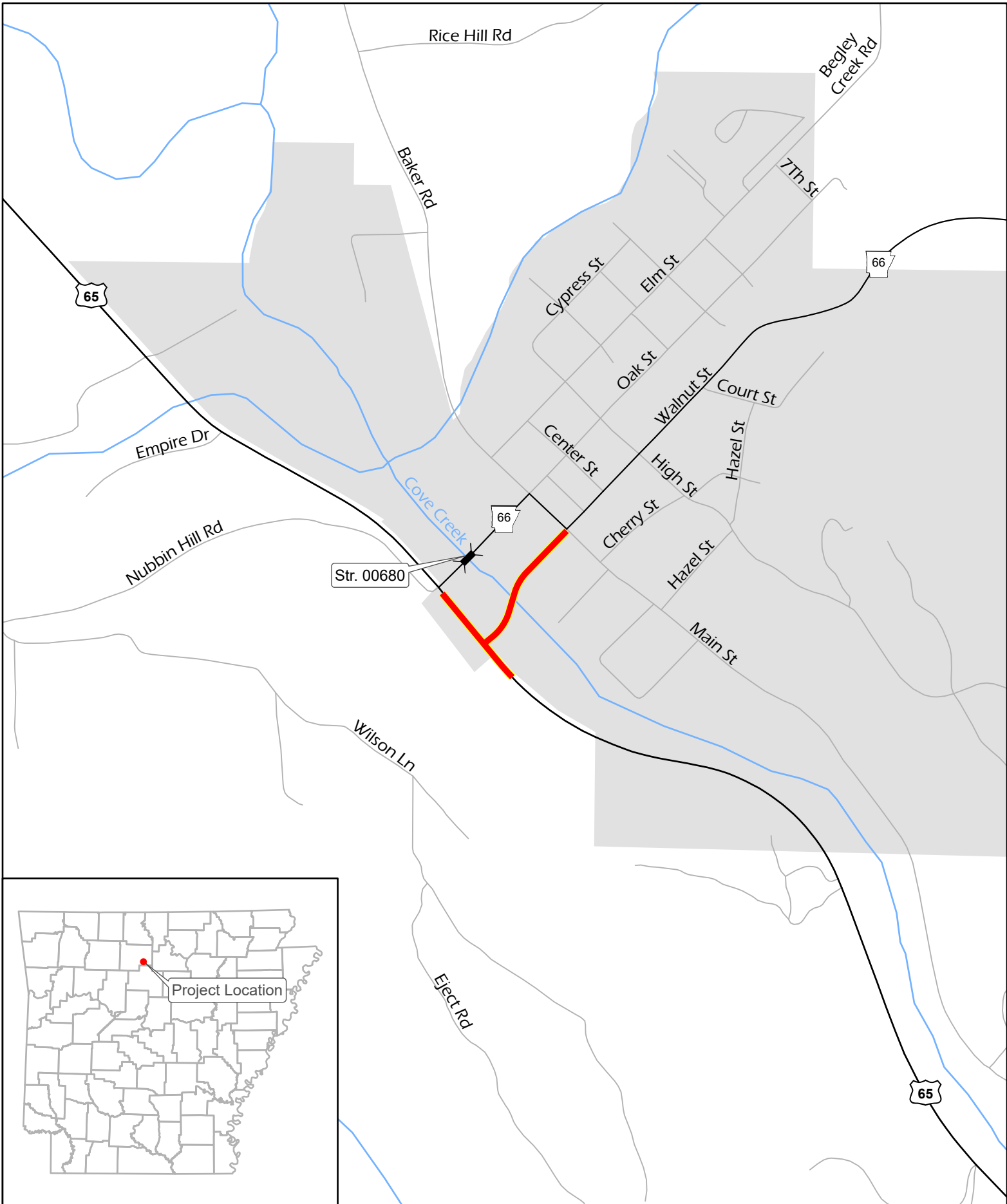
Impacts to Cove Creek total 48' due to bridge bent construction. Construction of the proposed project should be allowed under the terms of a Nationwide 14 Section 404 Permit for Linear Transportation Projects as defined in the Federal Register 86(245): 73522-73583. A preconstruction notification is not required.

Public Involvement meetings were held for the proposed project on February 23, 2023 and January 23, 2024. Project information was made available on the ARDOT website from February 23 through March 10, 2023 and January 18 through February 7, 2024, respectively. The meeting synopses are attached.

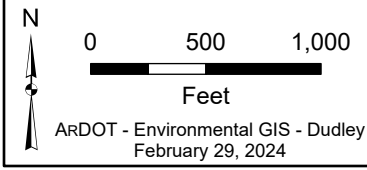
No other adverse environmental impacts were identified. The checklist used to verify consideration of potential environmental impacts is attached.

Commitments / Permits

- Special Provision will be prepared for Migratory Birds
- Wildflowers will be planted as a Monarch Butterfly conservation measure
- Section 404 Nationwide 14 required



Str. 00680



Job 090672
Hwy. 66 Realignment
(Leslie)
Searcy County





Sarah Huckabee Sanders
Governor
Shea Lewis
Secretary

October 04, 2023

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

RE: Searcy County: General
Section 106 Review: FHWA
Proposed Undertaking: Hwy. 66 Realignment (Leslie) (S)
Route 66, Section 1
ArDOT Job Number: 090672
AHPP Tracking Number: 111551

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) has reviewed the Cultural Resources Survey Report (CRS) for the above-referenced undertaking in Section 27, Township 14 North, Range 15 West in Searcy County. The project proposes to realign Highway 66 for a distance of 0.181 miles in a new location that connects to downtown Leslie, which will eliminate two 90-degree turns. The total area of potential effect is 2.672 acres, which includes 2.553 acres of proposed right-of-way (ROW) and 0.119 acres of Temporary Construction Easement (TCE).


A records check revealed one previously recorded archeological site (3SE0572) near the area of potential effect, which will not be affected by this undertaking. A pedestrian survey along with a shovel test survey were conducted of the APE. A total of six shovel tests were excavated, all of which were negative for cultural materials.

Following architectural review, several properties were re-surveyed as a part of the ARS investigations. Property 3 (SE0004), Property 6 (SE0474), Property 6j (SE0234) and Property 15 (SE0267) were individually listed on the NRHP. Eight properties were within the Leslie Commercial Historic District, including the Farmers Bank Building (Property 6j/SE0234). One additional property, Property 22 (SE0243) was re-surveyed and recommended as eligible for inclusion on the NRHP. The AHPP concurs with the No Adverse Effect finding for these properties.

Based on the provided information, the AHPP concurs that there will be no adverse effect to the Leslie Commercial Historic District pursuant to 36 CFR § 800.5(b)(1) as a result of this undertaking and that no further archeological work is needed. In the event of a post-review discovery of historic properties within the area of potential effects, please contact the AHPP and other consulting parties in accordance with 36 CFR § 800.13(b)(3).

Thank you for the opportunity to review this CRS. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, please call Jessica Cogburn of my staff at 501-324-9357 or email jessica.cogburn@arkansas.gov.

Sincerely,
Jessica H.
Cogburn

 Digitally signed by Jessica
H. Cogburn
Date: 2023.10.04
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for

Scott Kaufman
State Historic Preservation Officer and Director, AHPP

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

MEMORANDUM OF AGREEMENT
AMONG THE
FEDERAL HIGHWAY ADMINISTRATION,
THE ARKANSAS STATE HISTORIC PRESERVATION OFFICER,
CITY OF LESLIE,
AND THE
ARKANSAS DEPARTMENT OF TRANSPORTATION,
REGARDING
ARDOT JOB 090672
HWY. 66 REALIGNMENT (LESLIE) (S)
HIGHWAY 66, SEARCY COUNTY, ARKANSAS
ARDOT BRIDGE NUMBER 00680

WHEREAS, the Federal Highway Administration (FHWA) and the Arkansas Department of Transportation (ARDOT) propose constructing a new bridge across Cove Creek along Highway 66 in Searcy County. The old Cove Creek Bridge (Bridge), also known as ARDOT Bridge Number 00680, will be left in place following completion of ARDOT Job 090672; and

WHEREAS, the Bridge is a historic property that is eligible for inclusion in the National Register of Historic Places (NRHP); and

WHEREAS, the FHWA through ARDOT has made the Bridge available for donation to the City of Leslie; and

WHEREAS, City of Leslie (City) has agreed to accept title for the Bridge from the Arkansas State Highway Commission (Commission) in its current location; and

WHEREAS, the FHWA agrees with this transfer of ownership of the Bridge to the City; and

WHEREAS, the FHWA and ARDOT have determined that this undertaking will have an adverse effect on a historic property and in accordance with the 36 Code of Federal Regulation (CFR) Part 800, regulations implementing Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (54 United States Code (USC) 306108), must address this effect; and

WHEREAS, the definitions set forth in 36 CFR § 800.16 are applicable throughout this Memorandum of Agreement (MOA); and

WHEREAS, the FWHA has consulted with the Shawnee, United Keetoowah Band of Cherokee Indians in Oklahoma, Cherokee Nation, Osage Nation, Quapaw Nation, and Absentee Shawnee Tribe of Oklahoma, for which the Bridge or sites and properties in the immediate area might have religious and cultural significance; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, FHWA through ARDOT will transfer its preservation responsibilities to the City through the attached Historic Bridge Preservation Covenant (see Appendix A), which contains enforceable conditions to ensure long-term preservation of the Bridge's historic significance; and

WHEREAS, the MOA mitigates the adverse effect to the Bridge from the transfer of ownership.

NOW, THEREFORE, the FHWA, the State Historic Preservation Officer (SHPO), the City, and ARDOT agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the adverse effect of this undertaking on the Bridge.

STIPULATIONS

The FHWA, through ARDOT, shall ensure that the following stipulations are carried out.

- I. MITIGATION OF ADVERSE EFFECT TO THE HISTORIC PROPERTY
 - A. ARDOT will perform repairs to the Bridge prior to its transfer to the City. Such repairs will include polymer overlay, joint rehab, rail repairs, and beam end repairs, as needed.
 - B. Upon the transfer of the Bridge, the Historic Bridge Preservation Covenant goes into effect (attached as Appendix A). The City shall follow the Historic Bridge Preservation Covenant to maintain the Bridge's

historic significance. The Historic Bridge Preservation Covenant is to be inserted in all instruments of conveyance and will thereafter run with the Bridge. The FHWA, the City, and ARDOT will inform SHPO of any property transactions executed for the Bridge as part of this undertaking.

II. HUMAN REMAINS

Human remains are not expected to be discovered on this undertaking; however, if they are encountered during implementation of the project, all activity in the vicinity of the discovery shall cease and procedures shall follow those as outlined in Stipulation XII of the *Programmatic Agreement Among the FHWA, the SHPO, the ACHP, the Osage Nation, and ARDOT Regarding Section 106 Implementation for Federal-Aid Transportation Projects*. The treatment of human remains shall follow the guidelines developed for the *Arkansas Burial Law* (Act 753 of 1991, as amended) and the ACHP's *Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects* published February 23, 2007. As such, a permit will be obtained from the Arkansas Historic Preservation Program (AHPP) prior to exaction of any remains.

III. DURATION

This MOA will expire if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, the FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

IV. PROFESSIONAL QUALIFICATION STANDARDS

The FHWA shall ensure that all archeological investigations and other historic preservation activities pursuant to this MOA are carried out by, or under the direct supervision of, a person or persons meeting the appropriate qualifications set forth in the Secretary of the Interior's (SOI) professional qualification standards (36 CFR § 61).

V. POST-REVIEW DISCOVERY SITUATIONS

Pursuant to 36 CFR § 800.13, if cultural material is discovered during implementation of the project, then procedures shall follow those as outlined in Stipulation XI of the *Programmatic Agreement Among the FHWA, the*

SHPO, the ACHP, the Osage Nation, and ARDOT Regarding Section 106 Implementation for Federal-Aid Transportation Projects.

VI. DISPUTE RESOLUTION

Should the SHPO or any consulting party object with thirty (30) calendar days to any findings, proposed actions, or determinations made pursuant to this MOA, the FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines that the objection cannot be resolved, it shall request further comments from the ACHP pursuant to 36 CFR § 800.7. Any ACHP comment provided in response to such a request shall be taken in account by the FHWA in accordance with 36 CFR § 800.7 with reference only to the subject of the dispute, the FHWA responsibility to carry out all actions under this MOA that are not subject to dispute shall remain unchanged.

VII. MONITORING

The consulting parties or one or cooperating parties may monitor the undertaking and stipulations carried out pursuant to this MOA.

VIII. AMENDING THE MEMORANDUM OF AGREEMENT

Should any of the signatories to this MOA believe that the terms of this MOA are not being met or cannot be met, that party shall immediately notify the other signatories and request consultation to amend this MOA in accordance with 36 CFR § 800. The process to amend this MOA shall be conducted in a manner similar to that leading to the execution of this MOA.

IX. TERMINATING THE MEMORANDUM OF AGREEMENT

If any signatory to this MOA determines that its terms of this MOA will not or cannot be carried out, that party shall immediately consult with other signatories to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories. In the event of termination, the FHWA shall comply with 36 CFR § 800.4 through 800.6 with regard to the undertaking covered by this MOA.

X. FAILURE TO CARRY OUT THE MEMORANDUM OF AGREEMENT


In the event that the FHWA does not carry out the terms of this MOA, the FHWA shall comply with 36 CFR § 800.4 through 800.6 with regard to the undertaking covered by this MOA.

XI. FULFILLMENT OF SECTION 106 RESPONSIBILITIES

Execution of this MOA and implementation of its terms serves as evidence that the FHWA and ARDOT have taken into account the adverse effect of the undertaking on the historic property and have fulfilled its Section 106 responsibilities under the NHPA of 1966, as amended.

Signatory

FEDERAL HIGHWAY ADMINISTRATION



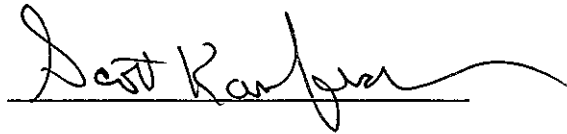
Vivien N. Hoang, P.E.
Arkansas Division Administrator

12/12/2023

Date

Signatory

ARKANSAS STATE HISTORIC PRESERVATION OFFICER



A handwritten signature in cursive script, reading "Scott Kaufman", written over a horizontal line.

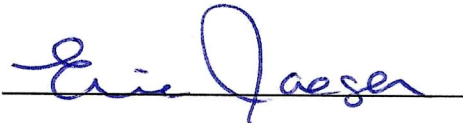
Director Scott Kaufman
Arkansas State Historic Preservation Officer

11-30-23

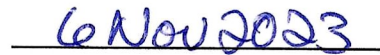
Date

Signatory

CITY OF LESLIE

A handwritten signature in blue ink that reads "Eric Jaeger". The signature is written in a cursive style and is positioned above a horizontal line.

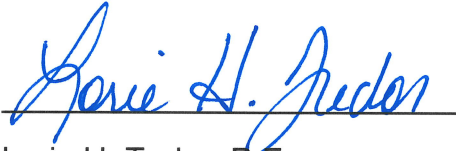
Eric Jaeger
Mayor

A handwritten date in blue ink that reads "6 Nov 2023". The date is written in a cursive style and is positioned above a horizontal line.

Date

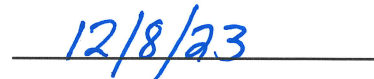
Signatory

ARKANSAS DEPARTMENT OF TRANSPORTATION



Lorie H. Tudor, P.E.
Director

JTW



Date

APPENDIX A
HISTORIC BRIDGE PRESERVATION COVENANT

HISTORIC BRIDGE PRESERVATION COVENANT

The City of Leslie, Arkansas (Grantee), by acceptance of this deed from the Commission, covenants and agrees, for itself, its heirs, its successor and assigns, and for every successor in interest to the historic property herein described, or any part thereof, shall abide by each of the following covenants, each of which will be covenants running with the land.

The historic property is described as the Cove Creek Bridge (Bridge), also known as ARDOT Bridge Number 00680, which consists of a concrete continuous tee beam design. The Bridge is located in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 27, Township 41 North, Range 15 West on the Leslie, Arkansas, (7.5) minute USGS topographic quadrangle where Highway 66 crosses Cove Creek. B.H. Heard of Little Rock, Arkansas, constructed the Cove Creek Bridge in 1930.

The Grantee covenants and agrees that:

- A. The Bridge will be preserved and maintained in place in accordance with the recommended approaches of the SOI's Standards for the Treatment of Historic Properties;
- B. No physical or structural changes or changes of color or surfacing will be made to the Bridge without first notifying, in writing, the FHWA, ARDOT, and consulting the SHPO for written approval;
- C. The Bridge will be opened to public access once any restoration is completed. Should removal or restriction of public access become necessary, ARDOT will be notified in writing and the SHPO consulted as to the disposition of this historic property;
- D. If Grantee is unable to fulfill its preservation responsibilities to the Bridge, which would dictate the abandonment or removal of the historic property, the Grantee must notify the FHWA, ARDOT, and SHPO in writing and produce any documents required by the SHPO for mitigation of the adverse effect from abandonment or removal of the historic property;
- E. Any proposed changes or modification of the historic property shall be in compliance with the SOI's Standards for Rehabilitation and

Guidelines for Rehabilitating Historic Buildings and must be reviewed and approved by the SHPO;

- F. An authorized representative of ARDOT or SHPO shall be permitted at all reasonable times to examine the Bridge in order to ascertain if the above conditions are being observed. Prior to examination the representative shall furnish properly written notification of their intent to inspect;
- G. The failure of the FHWA, ARDOT, or SHPO to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other remedy or the use of such right or remedy at any other time; and
- H. These covenants shall be a binding servitude upon the real property that includes the Bridge, which shall be deemed to run with the land and shall be incorporated into any deed or other legal instrument by which the Grantee divests itself of the property.

In the event of violation of the above covenants, the FHWA, ARDOT, or SHPO may institute an injunction or suit to enjoin such violation or for damages by reason of any breach thereof.

These covenants shall be binding on the Grantee hereto, their successors, and assigns in perpetuity; however, the SHPO may, for good cause, and with the concurrence of FHWA, modify or cancel any or all of the foregoing restrictions upon written application of the Grantee, its successors or assigns.

The acceptance of the delivery of the Historic Bridge Preservation Covenant shall constitute conclusive evidence of the agreement of the Grantee to be bound by the obligations herein set forth.

**EVALUATION AND DOCUMENTATION OF A
DE MINIMIS FINDING TO SECTION 4(F) PROPERTY
FOR HISTORIC SITES**

ARDOT Job 090672
FAP Number STPR-0064(20)
Hwy. 66 Realignment (Leslie) (S)
Searcy County

The Leslie Commercial Historic District (SE0474)

February 2024

March 13, 2024
Date of Approval

Randal Looney
Randal Looney
Environmental Coordinator
Federal Highway Administration

Submitted Pursuant to 49 U.S.C. Section 303 and 23 U.S.C. Section 138 by the U.S. Department of Transportation Federal Highway Administration and the Arkansas Department of Transportation



Section 4(f) Finding of *De Minimis* Impact

What is Section 4(f)?

Section 4(f) of the Department of Transportation Act of 1966 is intended to protect public parks, recreation areas, wildlife/waterfowl refuges, and important historic sites from being harmfully affected by transportation projects.

Does Section 4(f) apply to the Leslie Commercial Historic District (SE0474)?

The Leslie Commercial Historic District (SE0474) (Figures 1 and 2) qualifies as a historic site; therefore, Section 4(f) applies. On July 3, 2017, the Leslie Commercial Historic District (SE0474) was listed in the National Register of Historic Places (NRHP).



Figure 1: Buildings within the Leslie Commercial Historic District (SE0474).

What properties does Section 4(f) protect?

Properties protected by Section 4(f) include significant publicly owned parks, recreation areas, wildlife or waterfowl refuges, and historic site listed or eligible for listing in the NRHP with national, state, or local significance.

How is the significance of a historic site determined?

The NRHP criteria apply to determine if a property has enough significance to be a historic site. Such properties qualify only if they hold significance in American history, architecture, archeology, engineering, and culture and retain aspects of integrity, and are:

- A) associated with an event, broad patterns, or trends of history;
- B) associated with an important person(s);
- C) embody typical features of a type, period, or construction method, that represent the work of a master, or possess high artistic values; or
- D) that have or will likely yield significant information for history or prehistory.

(National Register Bulletin No.15:<https://www.nps.gov/NR/PUBLICATIONS/bulletins/nrb15/>)



Figure 2: Buildings within the Leslie Commercial Historic District (SE0474).

After we do an evaluation like this one, some Section 4(f) impacts can be recognized as “*de minimis*,” which means relatively minor. We will present information to prove no harmful impacts will occur to either historic site. We can use a Section 4(f) *de minimis* finding on projects that meet the conditions shown in Table 1. The *de minimis* impact determination finding does not require an evaluation of alternatives.

Table 1

When Can We Use A Section 4(f) <i>De Minimis</i> Finding on a Historic Site?	Does It Apply To This Project?
The Section 106 consultation process results in a determination of “no adverse effects” or “no historic properties affected”.	Yes
Written concurrence from the State Historic Preservation Officer (SHPO) that “no adverse effects” will occur to the historic sites.	Yes
FHWA through ARDOT informed SHPO that the <i>de minimis</i> impact determination was based on their written concurrence in accordance with 23 CFR 774.5(1)(ii).	Yes

What is the proposed road project?

ARDOT, in conjunction with the Federal Highway Administration (FHWA), proposes to construct a two-lane highway realignment on new location that connects Highway 65 to Cherry Street in Leslie in Searcy County (Figure 3). The current Highway 66 (Oak Street) alignment will be removed from the highway system. This project requires minor right-of-way (ROW) acquisition and temporary construction easement (TCE) from the Leslie Commercial Historic District (SE0474) (Figure 4). Additionally, one non-contributing building (Property 6k/SE0233) to the historic district will be demolished.

Why is this historic site important?

Leslie Commercial Historic District (SE0474)

The Leslie Commercial Historic District is a late 19th century to early 20th century commercial historic district located at 319–424 Main Street and 205 Oak Street on the north side of Walnut Street. It was listed in the NRHP on July 3, 2017, under Criterion A for its association with Leslie’s commerce, social history, and entertainment and recreation and under Criterion C for its architecture. The district consists of 18 buildings, Leslie City Park, one public playground/park, and one vacant lot; eleven resources are contributing while 10 are non-contributing. The non-contributing resources were either constructed after the period of significance or no longer retain sufficient integrity. The commercial buildings of the district were constructed between 1905 and 1988 and form a cohesive grouping that conveys the significance of the district as the commercial center of the City of Leslie. It includes mainly one to two story brick commercial buildings with a predominant Early Twentieth and Mid-Twentieth Century Standard Commercial style (SE0474 NRHP Nomination Form). Also included within the district as a contributing property is the Farmers Bank Building (SE0234) that is not adversely affected by this project.

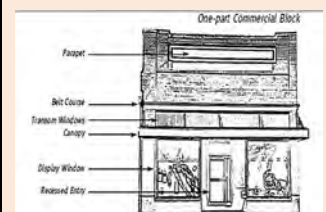
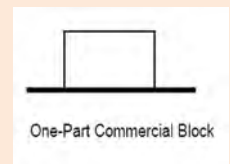
What is a historic district?

“A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.” –NRHP Bulletin 15

Historic Districts are seen as a unified entity, even though they can have a wide variety of resources and have a definable geographic area distinguishable from surrounding properties. Districts can be composed of both contributing and non-contributing resources that range from buildings, structures, sites, objects, or open spaces. A district’s identity is derived from the connection between its resources.

What is a one-part commercial block building?

The one-part commercial block building emerged during the mid-19th century as a means of conveying a more urban style to new communities and to rapidly developing older communities. It is generally one-story in height and displays a storefront with transoms and display windows.



SECTION 4(F) FINDING OF *DE MINIMIS* IMPACT

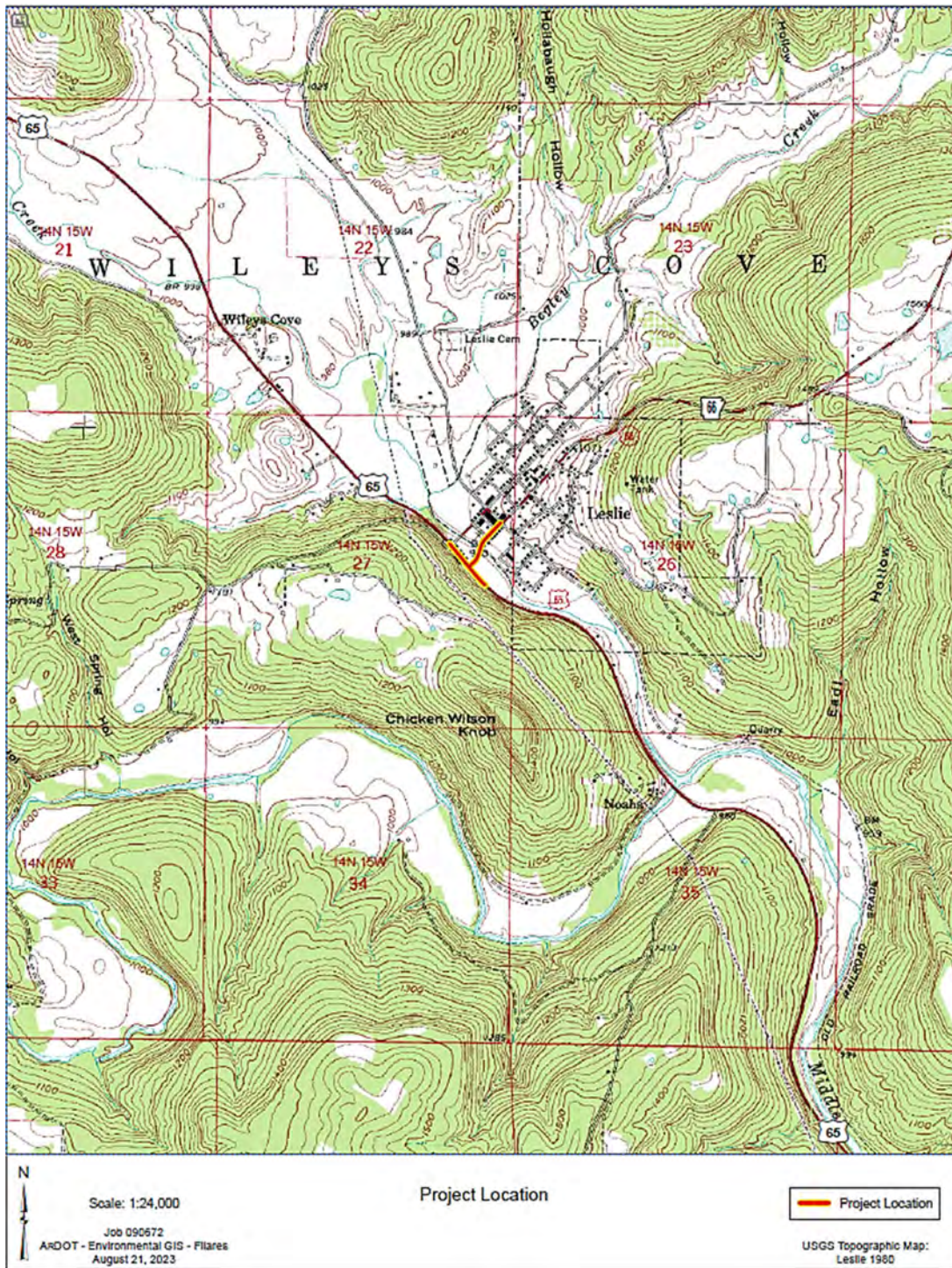


Figure 3: Project Location.

SECTION 4(F) FINDING OF *DE MINIMIS* IMPACT

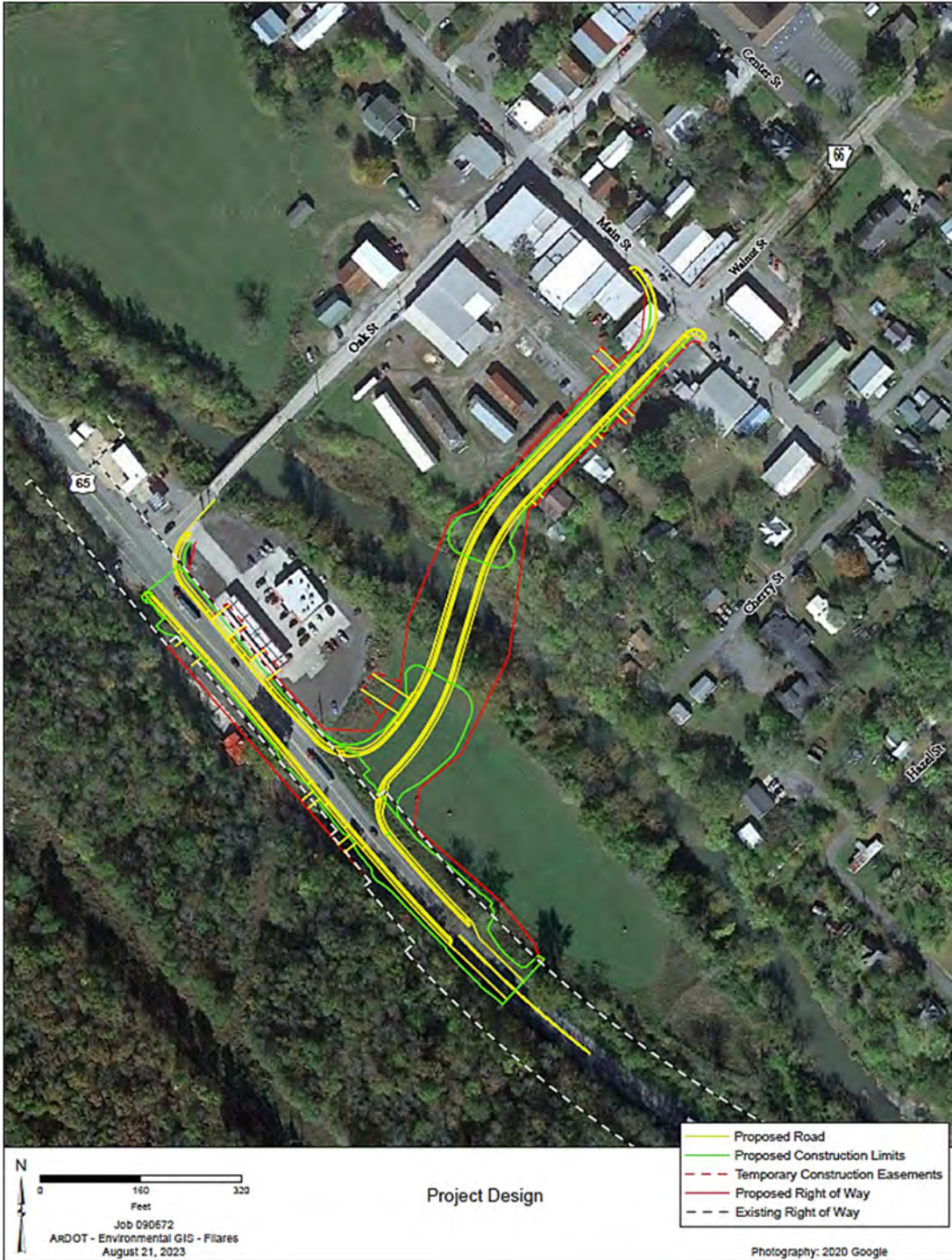


Figure 4: Project Design.



Figure 5: Proposed ROW and TCE to be acquired from the Leslie Commercial Historic District (SE0474).

How will the project affect the historic site?

Leslie Commercial Historic District (SE0474)

The improvements will require 0.115 acres (5,009 square feet) of ROW and 0.002 acres (87 square feet) of TCE from the 4.77-acre (207,781 square feet) Leslie Commercial Historic District. The ROW and TCE will be acquired on the south side of Main Street and the east side of Walnut Street. The impacts are shown in Figure 5. The property denoted as 6k is the Building and Lot at 422-424 Main Streets (SE0233) and will be demolished to accommodate traffic turning onto the new Highway 66 route (Figure 6). The TCE borders the western boundary line of the Leslie Historic District to make improvements to where the gravel alley will tie-in with the new Highway 66 route.

How are impacts to historic sites determined?

The National Historic Preservation Act of 1966, includes a provision for historic properties known as Section 106 that applies if federal funds, permits, or properties are involved. Section 106 is implemented in 36 CFR Part 800. These regulations require consultation with the SHPO.

Impacts may be direct, indirect, or foreseeable.

The lead federal agency must determine if the effects of the project alter the characteristics of a historic property that qualify it for inclusion in the National Register of Historic Places in a manner that diminishes the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.



Figure 6: Building and Lot at 422-424 Main Streets (Property 6k/SE0233).

No visual impacts are expected to occur. A concrete/asphalt surface already exists adjacent and within the Leslie Commercial Historic District, and it is already a main corridor for traffic. The minor reduction of acreage from the property will not alter any of the characteristics of the site that convey its significance. Through consultation with the SHPO, a finding of No Adverse Effect to the Leslie Commercial Historic District was proposed and agreed upon pursuant to 36 CFR § 800.5(b).

What was done to reduce harm to the historic site?

The historic site is on a current two-lane road (Main Street) and borders Walnut Street. ROW acquisition from Main Street would have potentially resulted in an Adverse Effect determination, and the plans were altered to reduce harm along this portion of the historic site. ROW acquisition from only one side of the roadway on Walnut Street would have potentially resulted in an Adverse Effect determination to the Leslie Commercial Historic District (SE0474) as well as other NRHP-listed historic properties within the area. The improvements are centered along the roadway to reduce ROW acquisition on both sides of the roadway from the historic site as well as only expanding ROW into the residences and businesses on the opposite side.

Who was involved in this evaluation?

Public Notices in the *Marshall Mountain Wave* and *Arkansas Democrat-Gazette* newspapers invited everyone to review and comment on the proposed project's impacts. Additionally, letters were mailed to Public Officials, flyers were mailed to citizens, and information was also available on ARDOT's website. The website included the following information: the public meeting notice, an introductory video presentation, the project location map, the design plans, an interactive project map, frequently asked questions with answers, and an online comment form.

A public involvement meeting was held on February 23, 2023. At this meeting, the proposed project's impacts were presented on displays and handouts, with the opportunity to comment on the project. No comments regarding specific impacts to the Leslie Commercial Historic District (SE0474) were received; however, comments identifying the commercial district as historic and other historic resources were received.

A second public involvement meeting was held January 23, 2024. At this meeting, more details of the proposed project's impacts were presented on displays and handouts, with the opportunity to comment on the project. One comment stated that the project would cause negative impacts for Property 6k (SE0233) because it will be removed. No other comments about the Leslie Commercial Historic District (SE0474) were received.

The SHPO has agreed that this project will have No Adverse Effect on the Leslie Commercial Historic District (SE0474). SHPO correspondence is included in Appendix A.

How is a *de minimis* impact determination reached?

A *de minimis* impact is one that, after taking into account any measures to minimize harm (such as avoidance, minimization, mitigation or enhancement measures), results in either:

- A) A Section 106 finding of no adverse effect or no historic properties affected on a historic property; or
- B) A determination that the project would not adversely affect the activities, features, or attributes qualifying a park, recreation area, or refuge for protection under Section 4(f).

What is the decision?

This evaluation shows that the proposed roadway improvements will not harm the protected features or qualities that make the historic site important under Section 4(f), thus qualifying for a *de minimis* finding on the Leslie Commercial Historic District (SE0474).

APPENDIX A

SHPO COORDINATION



Sarah Huckabee Sanders
Governor
Shea Lewis
Secretary

October 04, 2023

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

RE: Searcy County: General
Section 106 Review: FHWA
Proposed Undertaking: Hwy. 66 Realignment (Leslie) (S)
Route 66, Section 1
ArDOT Job Number: 090672
AHPP Tracking Number: 111551

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) has reviewed the Cultural Resources Survey Report (CRS) for the above-referenced undertaking in Section 27, Township 14 North, Range 15 West in Searcy County. The project proposes to realign Highway 66 for a distance of 0.181 miles in a new location that connects to downtown Leslie, which will eliminate two 90-degree turns. The total area of potential effect is 2.672 acres, which includes 2.553 acres of proposed right-of-way (ROW) and 0.119 acres of Temporary Construction Easement (TCE).

A records check revealed one previously recorded archeological site (3SE0572) near the area of potential effect, which will not be affected by this undertaking. A pedestrian survey along with a shovel test survey were conducted of the APE. A total of six shovel tests were excavated, all of which were negative for cultural materials.


Following architectural review, several properties were re-surveyed as a part of the ARS investigations. Property 3 (SE0004), Property 6 (SE0474), Property 6j (SE0234) and Property 15 (SE0267) were individually listed on the NRHP. Eight properties were within the Leslie Commercial Historic District, including the Farmers Bank Building (Property 6j/SE0234). One additional property, Property 22 (SE0243) was re-surveyed and recommended as eligible for inclusion on the NRHP. The AHPP concurs with the No Adverse Effect finding for these properties.

Based on the provided information, the AHPP concurs that there will be no adverse effect to the Leslie Commercial Historic District pursuant to 36 CFR § 800.5(b)(1) as a result of this undertaking and that no further archeological work is needed. In the event of a post-review discovery of historic properties within the area of potential effects, please contact the AHPP and other consulting parties in accordance with 36 CFR § 800.13(b)(3).

AHPP Tracking Number 111551

Thank you for the opportunity to review this CRS. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, please call Jessica Cogburn of my staff at 501-324-9357 or email jessica.cogburn@arkansas.gov.

Sincerely,
Jessica H.
Cogburn

 Digitally signed by Jessica
H. Cogburn
Date: 2023.10.04
15:37:31 -05'00'

for

Scott Kaufman
State Historic Preservation Officer and Director, AHPP

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

NOISE ASSESSMENT REPORT

SCREENING LEVEL ANALYSIS

ARDOT JOB 090672

HWY. 66 REALIGNMENT (LESLIE) (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 or exceed the NAC value or a substantial increase in noise occurs. A substantial increase is defined as 10 dBA or greater than existing noise levels.

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 threshold for Activity Categories B and C is 67 dBA, the approach level is 66 dBA.

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. The screening analysis threshold for Activity Categories B and C is 63 dBA.

Consideration of noise abatement measures is required when the NAC threshold is approached or exceeded, when a substantial increase is predicted, and/or when receptors are identified within the screening analysis threshold. Noise barriers (e.g., walls or berms) are the most common noise abatement measures.

Screening Level Noise Analysis

A screening level noise analysis (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, intersections, 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 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 distance to which impacts 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

Activity Category B receptors were identified in the project corridor. However, noise abatement measures were determined to not be feasible because the established land uses require driveways and intersecting roadways. A screening analysis was therefore considered an appropriate level of noise assessment for this project.

TNM modeling was completed using the existing year 2026 and design year 2046 (future build) traffic and roadway information. The No Build Alternative was also modeled. Receivers were extended from the centerlines of Hwy. 66 and Hwy. 65 to distances correlating to approximately 66 dBA for existing and future build conditions to determine potential impacts, and 63 dBA for future build conditions to determine receptors within the 63 dBA screening analysis threshold. The tenth value was used for rounding the decibel levels (e.g., 63.3 dBA reported as 63 dBA). The model calculation tables and input data are attached.

No noise impacts were predicted for Hwy. 66 due to the low traffic volumes and speed. One receptor was predicted to experience noise impacts within a distance of 85 feet under existing conditions and 100 feet under future build conditions. No receptors were predicted to experience noise levels within the 63 dBA screening analysis threshold at a distance of 175 feet under future build conditions. The predicted noise impact and screening analysis threshold distances and receptor are shown on the attached figure.

No substantial increases (≥ 10 dBA) were predicted. Because noise levels in the project area are already dominated by traffic noise from the existing roadway network, the impacts caused by the proposed project would be minor (e.g., noise levels not exceeding a 1 to 2 dB increase).

As previously noted, access points such as driveways and intersections are needed along the project corridor. For engineering reasons, it would not be possible to construct an effective noise barrier accommodating these access points. For the reasons described above, a detailed noise analysis is not warranted for this project.

Project construction operations typically increase noise levels. These increases would be temporary and have minimal to minor adverse effects on land uses and activities in the project area. Local ordinances may prohibit construction activities or restrict noise levels or high noise levels between certain time periods (e.g., nighttime and/or weekend work). Other temporary construction noise reduction measures may also be considered.

Planning 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 incremental distances. As previously described, exterior areas of Activity Category B (residential) would be impacted within a distance of approximately 115 feet from the centerline of Hwy. 102. 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**
100	66
175	63
250	59
300	57
400	54

* Perpendicular to centerline of Hwy. 65

** 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 and the City of Centerton for land use planning purposes. Guidance documents on noise compatible land use planning are available from the FHWA at the following link:

https://www.fhwa.dot.gov/ENVIRONMENT/noise/noise_compatible_planning/federal_approach/audible_landscape/al01.cfm

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
2026	6,000	19%	600	486	11	103	243	6	51

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
2046	7,400	19%	740	599	14	127	300	7	63

RESULTS: SOUND LEVELS

Job 090672

ARDOT
M.Pearson

6 March 2024
TNM 2.5
Calculated with TNM 2.5

RESULTS: SOUND LEVELS

PROJECT/CONTRACT:

Job 090672

RUN:

Existing 2046 - Hwy. 65

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			With Barrier			Calculated	Noise Reduction		Calculated minus Goal
			LAeq1h	LAeq1h	Crit'n	Increase over existing	Type	Calculated	LAeq1h		Calculated	Goal	
			Calculated	Calculated									
dB	dB	dB	dB	dB	dB	dB	dB	dB	dB	dB	dB		
25	1	1	35.0	72.1	66	37.1	10	Both	72.1	0.0	8	-8.0	
50	2	1	70.0	68.8	66	-1.2	10	Snd Lvl	68.8	0.0	8	-8.0	
85	3	1	95.0	66.2	66	-28.8	10	Snd Lvl	66.2	0.0	8	-8.0	
100	4	1	120.0	64.8	66	-55.2	10	----	64.8	0.0	8	-8.0	
125	5	1	145.0	62.7	66	-82.3	10	----	62.7	0.0	8	-8.0	
150	6	1	170.0	61.1	66	-108.9	10	----	61.1	0.0	8	-8.0	
175	7	1	195.0	59.7	66	-135.3	10	----	59.7	0.0	8	-8.0	
200	9	1	230.0	58.6	66	-171.4	10	----	58.6	0.0	8	-8.0	
225	10	1	255.0	57.5	66	-197.5	10	----	57.5	0.0	8	-8.0	
250	11	1	300.0	56.6	66	-243.4	10	----	56.6	0.0	8	-8.0	
300	12	1	400.0	55.1	66	-344.9	10	----	55.1	0.0	8	-8.0	
400	13	1	500.0	52.7	66	-447.3	10	----	52.7	0.0	8	-8.0	

Dwelling Units	# DUs	Noise Reduction		
		Min	Avg	Max
		dB	dB	dB
All Selected	12	0.0	0.0	0.0
All Impacted	3	0.0	0.0	0.0
All that meet NR Goal	0	0.0	0.0	0.0

RESULTS: SOUND LEVELS

Job 090672

ARDOT
M.Pearson

6 March 2024
TNM 2.5
Calculated with TNM 2.5

RESULTS: SOUND LEVELS

PROJECT/CONTRACT:

Job 090672

RUN:

Proposed 2046 - Hwy. 65

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			With Barrier			Type Impact	Calculated LAeq1h	Noise Reduction		Calculated minus Goal
			LAeq1h	LAeq1h	Crit'n	Increase over existing	Crit'n	Calculated	Calculated			Goal		
			dB	dB	dB	dB	dB	dB		dB	dB	dB	dB	
25	1	1	35.0	73.2	66	38.2	10	Both	73.2	0.0	8	-8.0		
50	2	1	70.0	69.7	66	-0.3	10	Snd Lvl	69.7	0.0	8	-8.0		
75	3	1	95.0	67.7	66	-27.3	10	Snd Lvl	67.7	0.0	8	-8.0		
100	4	1	120.0	66.3	66	-53.7	10	Snd Lvl	66.3	0.0	8	-8.0		
125	5	1	145.0	65.2	66	-79.8	10	----	65.2	0.0	8	-8.0		
150	6	1	170.0	64.2	66	-105.8	10	----	64.2	0.0	8	-8.0		
175	7	1	195.0	62.7	66	-132.3	10	----	62.7	0.0	8	-8.0		
200	9	1	230.0	61.3	66	-168.7	10	----	61.3	0.0	8	-8.0		
225	10	1	255.0	60.1	66	-194.9	10	----	60.1	0.0	8	-8.0		
250	11	1	300.0	59.0	66	-241.0	10	----	59.0	0.0	8	-8.0		
300	12	1	400.0	57.2	66	-342.8	10	----	57.2	0.0	8	-8.0		
400	13	1	500.0	54.4	66	-445.6	10	----	54.4	0.0	8	-8.0		

Dwelling Units

	# DUs	Noise Reduction		
		Min	Avg	Max
		dB	dB	dB
All Selected	12	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 090672

ARDOT
M.Pearson

11 March 2024
TNM 2.5
Calculated with TNM 2.5

RESULTS: SOUND LEVELS

PROJECT/CONTRACT:

Job 090672

RUN:

Proposed 2046 Hwy. 66

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.

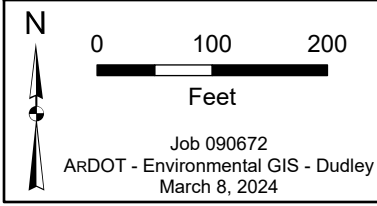
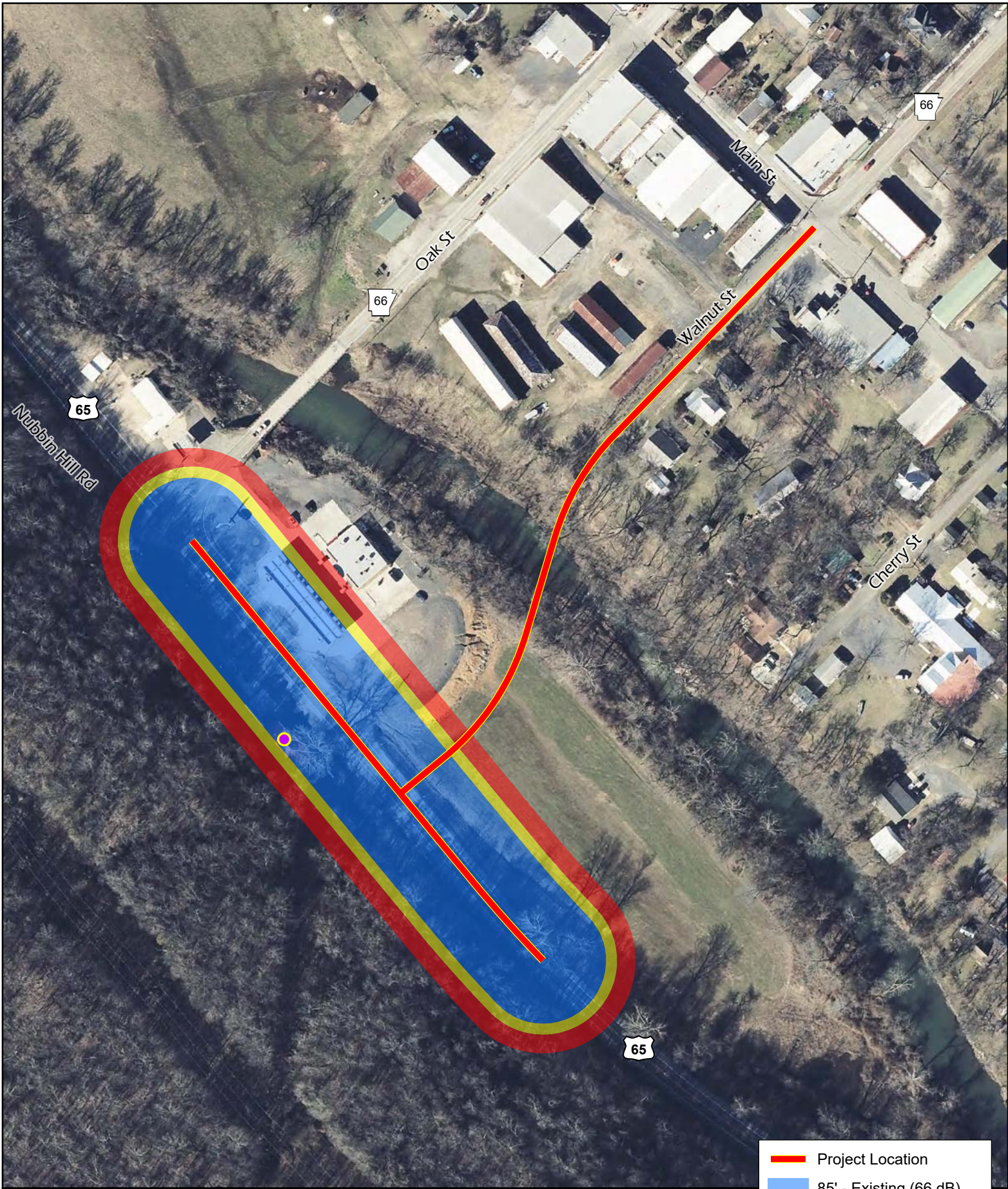
ATMOSPHERICS:

68 deg F, 50% RH

Receiver

Name	No.	#DUs	Existing	No Barrier		Increase over existing		Type Impact	With Barrier		Noise Reduction		Calculated minus Goal
			LAeq1h	LAeq1h	Crit'n	Calculated	Crit'n		Calculated	LAeq1h	Calculated	Goal	
			dB	dB	dB	dB	dB		dB	dB	dB	dB	
25	1	1	35.0	64.2	66	29.2	10	Sub'l Inc	64.2	0.0	8	-8.0	
50	2	1	70.0	60.8	66	-9.2	10	----	60.8	0.0	8	-8.0	
75	3	1	95.0	58.8	66	-36.2	10	----	58.8	0.0	8	-8.0	
100	4	1	120.0	57.4	66	-62.6	10	----	57.4	0.0	8	-8.0	
125	5	1	145.0	56.2	66	-88.8	10	----	56.2	0.0	8	-8.0	
150	6	1	170.0	54.4	66	-115.6	10	----	54.4	0.0	8	-8.0	
175	7	1	195.0	53.0	66	-142.0	10	----	53.0	0.0	8	-8.0	
200	9	1	230.0	51.7	66	-178.3	10	----	51.7	0.0	8	-8.0	
225	10	1	255.0	50.7	66	-204.3	10	----	50.7	0.0	8	-8.0	
250	11	1	300.0	49.7	66	-250.3	10	----	49.7	0.0	8	-8.0	
300	12	1	400.0	48.1	66	-351.9	10	----	48.1	0.0	8	-8.0	
400	13	1	500.0	45.7	66	-454.3	10	----	45.7	0.0	8	-8.0	

Dwelling Units	# DUs	Noise Reduction		
		Min	Avg	Max
		dB	dB	dB
All Selected	12	0.0	0.0	0.0
All Impacted	1	0.0	0.0	0.0
All that meet NR Goal	0	0.0	0.0	0.0



Noise Level Distances

- Project Location
- 85' - Existing (66 dB)
- 100' - Proposed (66 dB)
- 125' - Proposed (63 dB)
- Noise Receptor

From: [Lewis, Lindsey](#)
To: [Schrum, Matthew C.](#)
Subject: Re: [EXTERNAL] [WARNING: UNSCANNABLE EXTRACTION FAILED]090672 - Hwy. 66 Realignment (Leslie) (S)
Date: Wednesday, February 28, 2024 8:51:48 AM

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

Matt,

As stated in the Consistency Letter, the Service concurs with the "No Effect" and "may affect, and is not likely to adversely affect" 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).

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

The Service recommends that your agency contact the Arkansas Ecological Services Field Office to re-initiate consultation or re-evaluate the determination key(s) in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information/surveys reveal the action may affect listed species or designated critical habitat, karst habitat; or 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources are committed.

The Service has no additional comments or concerns and concurs with the determinations provided, justifications provided, non-jeopardy determinations, bat survey results, commitment to re-initiate for Tri-colored Bat when listing is finalized, 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: Tuesday, February 27, 2024 1:42 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] [WARNING: UNSCANNABLE EXTRACTION FAILED]090672 - Hwy. 66 Realignment (Leslie) (S)

Lindsey,
ARDOT proposes to replace the Hwy. 66 bridge over Cover Creek in Leslie on new alignment. See the attached 50% designs pdf and kmz. The existing Hwy. 66 bridge will remain, and the city of Leslie will take over ownership and management. An acoustic bat survey was conducted in August 2023. IBAT and NLEB were not detected, but positive MLE results were given for Tricolored Bat. See the attached bat survey report.

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; Gray Bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Ozark big-eared Bat (*Corynorhinus townsendii ingens*), Tricolored Bat (*Perimyotis subflavus*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Rufa Red Knot (*Calidris canutus rufa*), Alligator Snapping Turtle (*Macrochelys temminckii*), Yellowcheek Darter (*Nothonotus moorei*), Rabbitsfoot (*Theliderma cylindrica*), Speckled Pocketbook (*Lampsilis streckeri*), Monarch butterfly (*Danaus plexippus*), and 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 keys were evaluated for this project.

It was determined that the project will have "no effect" on Eastern Black Rail, Piping Plover and Red Knot. The project "may affect but is not likely to adversely affect" Gray Bat, Indiana Bat, Northern Long-eared Bat, Ozark Big-eared Bat, Rabbitsfoot, Speckled Pocketbook, Yellowcheek Darter, and Missouri bladderpod.

ARDOT has determined that this action will not jeopardize the continued existence of Monarch Butterfly, Tricolored Bat, and Alligator Snapping Turtle. ARDOT will reinstate Section 7 consultation for Tricolored Bat when the listing is finalized.

The Monarch butterfly is a candidate species, and as such, is not federally protected under the ESA. However, The USFWS recommends agencies implement conservation measures for candidate species in action areas, as these are, by definition, species that may warrant future protection under the Act. ARDOT has determined that this action will not jeopardize the continued existence of the Monarch butterfly.

If you need any additional information please let me know.

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

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, August 11, 2023 12:22 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] [WARNING: UNSCANNABLE EXTRACTION FAILED]090672 - Hwy. 66 Realignment (Leslie) (S)

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

Thanks Matt

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, August 11, 2023 11:07 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>

Cc: Ewing, Kayti K. <Anne.Ewing@ardot.gov>

Subject: RE: [EXTERNAL] [WARNING: UNSCANNABLE EXTRACTION FAILED]090672 - Hwy. 66 Realignment (Leslie) (S)

Lindsey,

See the attached IBAT/NLEB survey report for 090672. I moved detector 2 to your suggested location. No IBAT or NLEB were detected, but PESU was detected every night at both sites.

-Matt

From: Schrum, Matthew C.

Sent: Wednesday, July 26, 2023 10:14 AM

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

Subject: RE: [EXTERNAL] [WARNING: UNSCANNABLE EXTRACTION FAILED]090672 - Hwy. 66 Realignment (Leslie) (S)

I can certainly move the detector there. It actually looks like a better deployment site.

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

Sent: Wednesday, July 26, 2023 9:53 AM

To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>

Subject: Re: [EXTERNAL] [WARNING: UNSCANNABLE EXTRACTION FAILED]090672 - Hwy. 66 Realignment (Leslie) (S)

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

Matt,

This is fine, but why not in the field closest to the proposed construction? Just curious.

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: Monday, July 24, 2023 4:55 PM

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

Subject: [EXTERNAL] [WARNING: UNSCANNABLE EXTRACTION FAILED]090672 - Hwy. 66 Realignment (Leslie) (S)

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

Lindsey,

The IBAT & NLEB acoustic survey plan, designs, and species list for 090672 are attached. I've not yet consulted on this job.

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: 2022-0090514
Project Name: 090672 - Hwy. 66 Realignment (Leslie) (S)

February 27, 2024

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

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through IPaC by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

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

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

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

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see [Migratory Bird Permit | What We Do | U.S. Fish & Wildlife Service \(fws.gov\)](#).

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

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

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

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

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

This species list is provided by:

Arkansas Ecological Services Field Office

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

PROJECT SUMMARY

Project Code: 2022-0090514

Project Name: 090672 - Hwy. 66 Realignment (Leslie) (S)

Project Type: Bridge - Replacement

Project Description: This project proposes to eliminate the 2 90-degree turns in the Leslie Central Business District.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.82826095,-92.5610659850893,14z>



Counties: Searcy County, Arkansas

ENDANGERED SPECIES ACT SPECIES

There is a total of 14 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 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	Endangered
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
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

BIRDS

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

REPTILES

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

FISHES

NAME	STATUS
Yellowcheek Darter <i>Etheostoma moorei</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/7871	Endangered

CLAMS

NAME	STATUS
Rabbitsfoot <i>Theliderma cylindrica</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/5165	Threatened
Speckled Pocketbook <i>Lampsilis streckeri</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7869	Endangered

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.

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

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: 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



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:

February 27, 2024

Project code: 2024-0055005

Project Name: 090672 - Hwy. 66 Realignment (Leslie) (S) - BATS

Subject: Concurrence verification letter for the '090672 - Hwy. 66 Realignment (Leslie) (S) - BATS' project under the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (NLEB).

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated February 27, 2024 to verify that the **090672 - Hwy. 66 Realignment (Leslie) (S) - BATS** (Proposed Action) may rely on the concurrence provided in the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 *et seq.*).

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

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

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

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

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

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

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

If the Proposed Action may affect any other federally-listed or proposed species, and/or any designated critical habitat, additional consultation between the lead Federal action agency and this Service Office is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please contact this Service Office.

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

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
- Eastern Black Rail *Laterallus jamaicensis ssp. jamaicensis* Threatened
- Gray Bat *Myotis grisescens* Endangered
- Missouri Bladderpod *Physaria filiformis* Threatened
- Monarch Butterfly *Danaus plexippus* Candidate
- Ozark Big-eared Bat *Corynorhinus (=Plecotus) townsendii ingens* Endangered
- Piping Plover *Charadrius melodus* Threatened
- Rabbitsfoot *Theliderma cylindrica* Threatened
- Rufa Red Knot *Calidris canutus rufa* Threatened
- Speckled Pocketbook *Lampsilis streckeri* Endangered
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

- Yellowcheek Darter *Etheostoma moorei* Endangered

PROJECT DESCRIPTION

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

NAME

090672 - Hwy. 66 Realignment (Leslie) (S) - BATS

DESCRIPTION

This IPaC project is a copy for the purposes of evaluating the IBAT/NLEB PBO determination key.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.82826095,-92.5610659850893,14z>



DETERMINATION KEY RESULT

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

QUALIFICATION INTERVIEW

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

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

Automatically answered

Yes

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

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

Automatically answered

Yes

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

A) *Federal Highway Administration (FHWA)*

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

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

No

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

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

No

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

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

No

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

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

Yes

10. Will the project remove *any* suitable summer habitat^[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

- *090672 Bat Acoustic Survey Report.pdf* <https://ipac.ecosphere.fws.gov/project/FTRCPLS655BSLPWW5Y5BUKYPAY/projectDocuments/139273854>

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 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

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. 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

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

Yes

21. 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

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

Yes

23. Will *any* tree trimming or removal occur **between** 100-300 feet of existing road/rail surfaces?
Yes
24. Are *any* trees being removed **greater than** 9 inches diameter at breast height (dbh)?
Yes
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?
Yes
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?
Yes
30. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?
Yes
31. Is there *any* suitable habitat^[1] for Indiana bat or NLEB **within** 1,000 feet of the bridge? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)
- [1] See the Service's current [summer survey guidance](#) for our current definitions of suitable habitat.
Yes
32. Has a bridge assessment^[1] been conducted **within** the last 24 months^[2] to determine if the bridge is being used by bats?

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

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

Yes

SUBMITTED DOCUMENTS

- 00680_Sep_2022.pdf <https://ipac.ecosphere.fws.gov/project/FTRCPLS655BSLPWW5Y5BUKYPAY/projectDocuments/139274493>

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

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

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

No

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

No

35. 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

36. Will the project involve the use of *any* **temporary** lighting in addition to the lighting already indicated for habitat removal (including the removal or trimming of trees), or bridge/structure removal, replacement or maintenance activities?

No

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

No

38. 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

39. 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

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

No

41. Is the slash pile burning portion of this project consistent with a Not Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because it is near suitable habitat and >0.5 miles from any hibernaculum

42. 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

43. 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.

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

Automatically answered

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

45. **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

46. **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

47. **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.

0.475

4. How many acres^[1] of trees are proposed for removal between 100-300 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.

0.571

5. Please describe the proposed bridge work:

The existing Hwy. 66 bridge 00680 over Cove Creek at Leslie will be replaced on new alignment to the southeast. The existing bridge may remain as a pedestrian

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

The project is currently scheduled to let in April of 2025. Under this schedule, construction would likely begin in June or July.

7. Please enter the date of the bridge assessment:

09/21/2022

AVOIDANCE AND MINIMIZATION MEASURES (AMMS)

This determination key result includes the commitment to implement the following Avoidance and Minimization Measures (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.

GENERAL AMM 1

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

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

This key was last updated in IPaC on October 30, 2023. Keys are subject to periodic revision.

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

This decision key should only be used to verify project applicability with the Service's [amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion \(dated March 23, 2023\) for Transportation Projects](#). The programmatic biological opinion covers limited transportation activities that may affect either bat species, and addresses situations that are both likely and not likely to adversely affect either bat species. This decision key will assist in identifying the effect of a specific project/activity and applicability of the programmatic consultation. The programmatic biological opinion is not intended to cover all types of transportation actions. Activities outside the scope of the programmatic biological opinion, or that may affect ESA-listed species other than the Indiana bat or NLEB, or any designated critical habitat, may require additional ESA Section 7 consultation.

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: 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



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: 2022-0090514
Project Name: 090672 - Hwy. 66 Realignment (Leslie) (S)

February 27, 2024

Subject: Consistency letter for '090672 - Hwy. 66 Realignment (Leslie) (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 Matthew Schrum:

The U.S. Fish and Wildlife Service (Service) received on **February 27, 2024** your effect determination(s) for the '090672 - Hwy. 66 Realignment (Leslie) (S)' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

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

Species	Listing Status	Determination
Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	Threatened	No effect
Gray Bat (<i>Myotis grisescens</i>)	Endangered	NLAA
Indiana Bat (<i>Myotis sodalis</i>)	Endangered	May affect
Missouri Bladderpod (<i>Physaria filiformis</i>)	Threatened	NLAA
Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	Endangered	May affect
Ozark Big-eared Bat (<i>Corynorhinus (=Plecotus) townsendii ingens</i>)	Endangered	NLAA
Piping Plover (<i>Charadrius melodus</i>)	Threatened	No effect
Rabbitsfoot (<i>Theliderma cylindrica</i>)	Threatened	NLAA
Rufa Red Knot (<i>Calidris canutus rufa</i>)	Threatened	No effect
Speckled Pocketbook (<i>Lampsilis streckeri</i>)	Endangered	NLAA
Yellowcheek Darter (<i>Etheostoma moorei</i>)	Endangered	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” (MA) listed above. Please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

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

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

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

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

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the Bald and Golden Eagle Protection Act may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. Activity specific guidelines begin on page 10 of the document. To access a copy of the National Bald Eagle Management Guidelines please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Guidance and Tools section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. To obtain an application form or contact information for Regional Migratory

Bird Permit Offices please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Permits section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

Action Description

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

1. Name

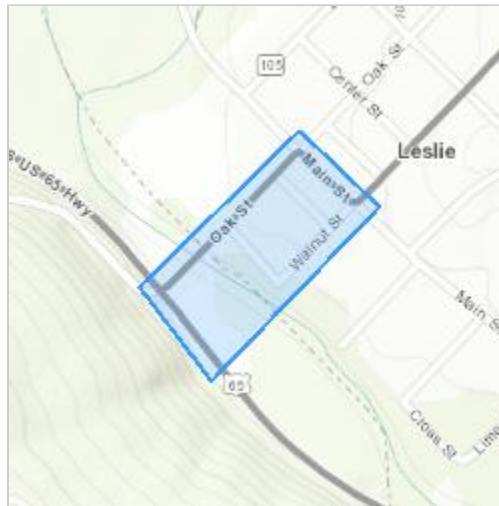
090672 - Hwy. 66 Realignment (Leslie) (S)

2. Description

The following description was provided for the project '090672 - Hwy. 66 Realignment (Leslie) (S)':

This project proposes to eliminate the 2 90-degree turns in the Leslie Central Business District.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.82826095,-92.5610659850893,14z>



Species Protection Measures

Bridges and Culverts

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

Pipeline and Linear Projects

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

QUALIFICATION INTERVIEW

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

No

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

Yes

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

Yes

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

d. Federal Highway Administration

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

Yes

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

12. [Semantic] Does the project intersect the Eastern black rail AOI?
Automatically answered
Yes
13. Will the project take place in freshwater herbaceous wetlands and/or wet prairies?
No
14. [Semantic] Does the project intersect the red knot AOI?
Automatically answered
Yes
15. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
No
16. Does the project take place in marshy or flooded open field habitat?
No
17. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
18. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
19. [Semantic] Does the project intersect the interior least tern AOI?
Automatically answered
No
20. [Semantic] Does the project intersect the Gray Bat AOI?
Automatically answered
Yes
21. Does the project involve changes to an existing bridge or large culvert?
No
22. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?
Automatically answered
Yes
23. Are there any caves within 0.5 mile of the project area?
No
24. Does the project occur in a subdivision or urban area?
No
25. Does the project involve blasting of any type or tree removal of greater than 10 acres?
No
26. [Semantic] Does the project intersect the Ozark Big-eared Bat cAOI?
Automatically answered
No

27. 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

28. [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

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

Automatically answered

Yes

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

Automatically answered

Yes

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

Yes

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

Automatically answered

No

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

Automatically answered

No

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

Automatically answered

No

38. Does the project contain any of the following activity types: Dams or Impoundments (including berms or levees), Municipal or industrial effluent discharge, Mining, Mine reclamation, Disposal of mine wastewater or tailings, Construction of natural gas or oil well pads, Construction greater than 40 acres, Dredging or snag removal, Energy development within floodplain, or OHV trail construction or maintenance?

No

39. Does the project contain any of the following activity types: Boat Ramps, Bridges, Culverts, Residential or Commercial Development, Streambank Stabilization (or other streambank work), Pipeline and linear projects, Water intakes/withdrawals, Forest conversion within 100 feet of occupied streams, or Stream or ditch relocation, straightening, or armoring?

Yes

40. Does the project include Streambank Stabilization (or other streambank work)?

No

41. Does the project include Boat Ramps?

No

42. Does the project include Bridges and Culverts?

Yes

43. Does the project include the Bridges and Culverts species [protective measures](#), as applicable to the project and site characteristics?

Yes

44. Does the project include Development?

No

45. Is the project a Pipeline or Linear Project?

Yes

46. Does the project include the Pipeline and Linear Projects species [protective measures](#), as applicable to the project and site characteristics?

Yes

47. Does the project include Water Intakes/Withdrawals?

No

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

No

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

Automatically answered

Yes

50. [Semantic] Does the project intersect the Rabbitsfoot survey coordination area?

Automatically answered

No

51. [Semantic] Does the project intersect the neosho mucket AOI?
Automatically answered
No
52. [Semantic] Does the project intersect the Spectaclecase AOI?
Automatically answered
No
53. [Semantic] Does the project intersect the snuffbox AOI?
Automatically answered
No
54. [Semantic] Does the project intersect the speckled pocketbook AOI?
Automatically answered
Yes
55. [Semantic] Does the project intersect the speckled pocketbook survey coordination area?
Automatically answered
No
56. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?
Automatically answered
No
57. [Semantic] Does the project intersect the fat pocketbook AOI?
Automatically answered
No
58. [Semantic] Does the project intersect the Curtis pearlymussel AOI?
Automatically answered
No
59. [Semantic] Does the project intersect the scaleshell AOI?
Automatically answered
No
60. [Semantic] Does the project intersect the pink mucket AOI?
Automatically answered
No
61. [Semantic] Does the project intersect the Arkansas fatmucket AOI?
Automatically answered
No
62. [Semantic] Does the project intersect the winged mapleleaf AOI?
Automatically answered
No
63. [Semantic] Does the project intersect the leopard darter AOI?
Automatically answered
No

64. [Semantic] Does the project intersect the Yellowcheek darter AOI?
Automatically answered
Yes
65. [Semantic] Does the project intersect the Yellowcheek darter survey coordination area?
Automatically answered
No
66. [Semantic] Does the project intersect the Ozark hellbender AOI?
Automatically answered
No
67. [Semantic] Does the project intersect the harperella AOI?
Automatically answered
No
68. [Semantic] Does the project intersect the pallid sturgeon AOI?
Automatically answered
No
69. [Semantic] Does the project intersect the interior least tern range?
Automatically answered
No

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

PUBLIC INVOLVEMENT SYNOPSIS

Job 090672

Hwy. 66 Realignment (Leslie) (Hwy 66)

Searcy County

Thursday, February 23, 2023

An “In-person” Public Involvement (PI) Meeting for the proposed project to realign Hwy. 66 in the City of Leslie was held on Thursday, February 23, 2023 at the Leslie Elementary School. Information about the project was available on the ARDOT website from February 23 through March 10, 2023. Efforts to involve the public, including minority groups, in the meeting included:

- Display advertisement placed in the *Arkansas Democrat-Gazette* on Sunday, February 19, 2023 and the *Marshall Mountain Wave* on Thursday, February 9 and Thursday, February 16, 2023
- Letters were mailed to Public Officials on Thursday, February 9, 2023
- Flyers were mailed to citizens

The following information and links were available on the website:

- Public meeting notice
- Introductory video presentation
- Project location map
- Design plans
- Online comment form
- Interactive project map
- Frequently asked questions with answers

Copies of the public meeting notice, blank comment form, and public meeting exhibit are attached.

Table 1 summarizes PI meeting participation.

TABLE 1	
Public Participation	Totals
In-person meeting attendees (including ARDOT staff)	97
Number of website viewers (English/Spanish)	197 / 8
Total comment forms received	47

ARDOT staff reviewed and evaluated all comments. The summary of comments below reflects commenter perceptions or opinions and staff interpretations. Some of the comments were combined and/or paraphrased to simplify this synopsis.

Table 2 summarizes responses received during the PI comment period.

TABLE 2	
Survey Results	Totals
Feel proposed project is needed / not needed	36 / 9
Feel proposed project would have beneficial impacts	26
Feel proposed project would have adverse impacts	17
Had suggestions to better serve the needs of the community	29
Home/property requires design considerations	0
Identified cultural and/or environmental constraints	16

The following summarizes comments regarding need for and/or benefits of the proposed project:

- Better accommodates truck traffic; current truck traffic is detrimental to downtown businesses
- Will prevent businesses from being struck by trucks
- Improves pedestrian access downtown / provides a walkable historic commercial district
- Economically beneficial
- Improves safety and business access, including the gas station

The following summarizes comments regarding why the proposed project is not necessary and/adverse impacts of the proposed project:

- Tourism-dependent Main St. businesses will be harmed due to loss of vehicular traffic
- Bypassing towns is never beneficial
- The sale or rental opportunities of properties will be harmed

The following summarizes comments regarding knowledge of historic sites and/or other environmental constraints:

- Commercial district is historic; new alignment would improve access and economic opportunities
- The Serenity Farms Bakery building was an historic post office/is on National Register of Historic Places
- The train depot is historic
- Endangered species are present in Cove Creek
- A yellow salamander listed as extinct is present in Cove Creek

Suggestions for how the proposed project could better serve the needs of the community and/or other comments include:

- Existing bridge must be retained; community and local business depends on the existing bridge
- Retaining the existing bridge will provide system redundancy should new bridge require closures (accident, maintenance activities, etc.)
- Acquire the former bank building so the curve can be moved
- Maintain access to businesses/driveways at all times
- Layton's Lumber mill location needs to be considered; logging trucks may not be able to turn right or exit Hwy. 66 and Main St.
- Provide a four-way stop at Hwy. 66/Main St. intersection
- Retain the existing bridge and remove commercial traffic from it to create a business loop
- Retain the existing bridge for light vehicles / prohibit heavy trucks
- Access from Hwy. 66 to Wade's gas station/convenience store and to Ryan's Main Street Grill should be provided.
- Provide a "drive over sidewalk" in front of Ryan's Main Street Grill
- Remove shrubbery/vegetation/trees at Hwy. 65 and Hwy. 66 to improve visibility
- Make existing Hwy. 66 a business route through downtown; doing so would lessen opposition
- Hwy. 65/Dennard Hill signage regarding brake check/set lane should be duplicated at Leslie
- Provide a runaway truck ramp
- Provide three lanes at the Hwy. 65/Hwy. 66 intersection, including a left turn and right turn lane and a Hwy. 65 exit lane
- Provide a traffic light at the Hwy. 65/Hwy. 66 intersection
- Bollards should be provided at Serenity Farms Bakery building

- Project is overdue
- Design elements reflecting Ozarks heritage should be included on the new bridge
- Ensure traffic to and from schools will not be affected
- Turning from Hwy. 65 into town will be complicated and truck traffic will become more dangerous; rear-end collisions of vehicles making turns will increase
- Proposed roundabout will cause more accidents and disrupt traffic flow; traffic lights or no action would be preferable
- Plan and build for future growth
- Construction on/near April 8, 2024 should be avoided due to expected total solar eclipse tourism

Attachments:

Public Meeting Notice

Blank Comment Form

Public Meeting Exhibit

DN:MP:sw



PUBLIC INVOLVEMENT MEETING NOTICE

Hwy. 66 Realignment (Leslie) (Hwy. 66)
(Searcy County)

Job 090672

You're Invited!

Visit anytime during the scheduled hours.

What: The Arkansas Department of Transportation (ARDOT) will conduct a Public Involvement meeting to discuss the proposed realignment of Hwy. 66 from Main Street to Hwy. 65 in Leslie, Searcy County.

When: Thursday, February 23, 2023
4:00 p.m.- 7:00 p.m.

Where: Leslie Middle School
(Cafeteria)
800 Elm Street
Leslie, AR 72645

Link to Project Information:

www.ardot.gov/publicmeetings

Comment form availability begins **February 23, 2023** and ends at 4:30p.m. on **March 10, 2023**.

For further assistance, contact Karla Sims:
Phone: (501) 569-2000 or e-mail: karla.sims@ardot.gov

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 environmentalmeetings@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 (ARDOT) 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 EEO/DBE Officer (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 upon request.. This notice is available from the ADA/504/Title VI Coordinator in large print, on audio tape and in Braille.

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

**ARDOT JOB NUMBER 090672
Hwy. 66 Realignment (Leslie) (Hwy. 66)
SEARCY COUNTY**

**LOCATION:
LESLIE ELEMENTARY SCHOOL
(CAFETERIA)
800 ELM STREET
LESLIE, AR 72645
4:00PM – 7:00PM
FEBRUARY 23, 2023**

Make your comments on this form and mail it by 4:30 p.m. on **Friday, March 10, 2023**
to: Arkansas Department of Transportation, Environmental Division, P.O. Box 2261, Little Rock,
AR, 72203-2261. Email: environmentalmeetings@ardot.gov.

Yes No

Do you feel there is a need for the proposed realignment of Hwy. 66 from Main Street to Hwy. 65 in Leslie, Searcy 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 [Error! Hyperlink reference not valid.](#)




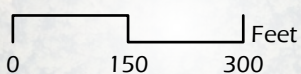
Job 090672
Highway 66 Realignment
(Leslie)
Searcy County



Preliminary Subject to Revision



 Project Location



AR DOT - Environmental GIS - Dudley
Map: January 27, 2023
Phase III Public Involvement Exhibit

PUBLIC INVOLVEMENT SYNOPSIS

Job 090672

Hwy. 66 Realignment (Leslie) (Hwy 66)

Searcy County

January 23, 2024

An “In-person” Public Involvement (PI) Meeting for the proposed project to realign Hwy. 66 in the City of Leslie was held at the Leslie Elementary School on January 23, 2024. Information about the project was available on the ARDOT website from January 18 through February 7, 2024. Efforts to involve the public, including minority groups, in the meeting included:

- Display advertisement placed in the *Arkansas Democrat-Gazette* on January 14 and 21, 2024 and the *Marshall Mountain Wave* on January 17, 2024
- Letters were mailed to public officials and citizens on January 16, 2024
- Mayor of Leslie assisted with outreach efforts

The following information and links were available on the website:

- Public meeting notice
- Introductory video presentation
- Project location map
- Design plans
- Online comment form
- Interactive project map
- Frequently asked questions with answers

Copies of the public meeting invitation, blank comment form, and public meeting exhibit are attached.

Table 1 summarizes PI meeting participation.

TABLE 1	
Public Participation	Totals
In-person public officials meeting attendees (including ARDOT staff)	23
In-person public involvement meeting attendees (including ARDOT staff)	54
Online registration	1
Number of website viewers (English/Spanish)	493 / 3
In-person public officials meeting comment forms received	1
In-person public involvement meeting comment forms received	12
Online comment forms received	2
Mailed comment forms received	3
Emailed comment forms received	1
Total comments received	19

ARDOT staff reviewed and evaluated all comments. The summary of comments below reflects commenter perceptions or opinions and staff interpretations. Some of the comments were combined and/or paraphrased to simplify this synopsis.

Table 2 summarizes responses received during the PI comment period.

TABLE 2	
Survey Results	Totals
Feel proposed project is needed / not needed	18 / 0
Feel proposed project would have beneficial impacts	16
Feel proposed project would have adverse impacts	3
Had suggestions to better serve the needs of the community	8
Home/property requires design considerations	0
Identified cultural and/or environmental constraints	2

The following summarizes comments regarding need for and/or benefits of the proposed project:

- Improves access, traffic control, and safety
- Overall project and existing bridge retention will be beneficial for downtown businesses
- Removes downtown truck traffic

The following summarizes comments regarding why the proposed project is not necessary and/adverse impacts of the proposed project:

- Residence at 104 Walnut St. will not be livable due to bridge proximity
- Construction operations will have adverse effects

The following summarizes comments regarding knowledge of historic sites and/or other environmental constraints:

- Residence at 104 Walnut St. was once associated with railroad buildings and underground storage tanks could be present on/near the property
- Train depot presence in former lumber yard
- Endangered species present in Cove Creek
- Cove Creek floodplain

Suggestions for how the proposed project could better serve the needs of the community and/or other comments include:

- Overall project aesthetics and bridge aesthetics should be an important consideration
- Bridge aesthetics should reflect importance of Leslie as a gateway to the Buffalo National River and other tourism/outdoor recreation activities
- Downtown parking and/or a recreational park should be developed, potentially using grant funding
- Utilities should be relocated underground
- Turning lanes and pedestrian/bicycling facilities should be provided
- Markings and signage for the intersection opposite Hwy. 66/Nubbin Hill Rd. should be provided
- Methods for slowing traffic – particularly trucks traveling downhill – should be incorporated
- Sand pit and/or other runaway truck protection methods should be considered

Job 090672 – Public Involvement Synopsis

January 23, 2024

Page 4 of 4

- Trees and other vegetation clearing throughout the area should be used to improve sight lines
- Retained bridge should be used exclusively for pedestrians/bicyclists
- Hwy. 65 / Hwy. 66 intersection should be signalized

Attachments:

Public Meeting Notice

Blank Comment Form

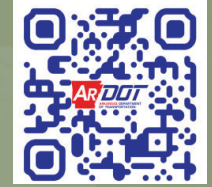
Project Location Exhibit

DN:MP:sw



PUBLIC INVOLVEMENT MEETING NOTICE

Hwy. 66 Realignment (Leslie) (Hwy. 66)
(Searcy County)
Job 090672



You're Invited!

Visit anytime during the scheduled hours.

What: The Arkansas Department of Transportation (ARDOT) will conduct a Public Involvement meeting to discuss the proposed design modifications, that resulted from the previous meeting held on February 23, 2023, for the realignment of Hwy. 66 from Main Street to Hwy. 65 in Leslie, AR (Searcy County).

When: Tuesday, January 23, 2024
4:00 p.m. - 7:00 p.m.

Where: Leslie Middle School
(Cafeteria)
800 Elm Street
Leslie, AR 72645

Link to Project Information:

www.ardot.gov/publicmeetings

Comment form availability begins **January 18, 2024**
and ends at 4:30p.m. on **February 7, 2024.**

For further assistance, contact Ricardo Ramirez:

Phone: (501) 569-2085 or e-mail: Ricardo.Ramirez@ardot.gov

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 (ARDOT) complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal financial assistance. Therefore, ARDOT 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 ARDOT's programs and activities, as well as ARDOT's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding ARDOT's nondiscrimination policies may be directed to Civil Rights Officer Joanna P. McFadden (ADA/504/Title VI Coordinator), PO Box 2261, Little Rock, Arkansas 72203-2261, (501) 569-2298, (Voice/TTY 711), or to the following email address: Joanna.Mcfadden@ardot.gov

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

**ARDOT JOB NUMBER 090672
Hwy. 66 Realignment (Leslie) (Hwy. 66)
SEARCY COUNTY**

**LOCATION:
LESLIE ELEMENTARY SCHOOL
(CAFETERIA)
800 ELM STREET
LESLIE, AR 72645
4:00PM – 7:00PM
TUESDAY, JANUARY 23, 2024**

Make your comments on this form and mail it by 4:30 p.m. on **Wednesday, February 7, 2024** to: Arkansas Department of Transportation, Environmental Division, P.O. Box 2261, Little Rock, AR, 72203-2261. Email: environmentalmeetings@ardot.gov.

Yes No

Do you feel there is a need for the proposed design modifications to the realignment of Hwy. 66 from Main Street to Hwy. 65 in Leslie, Searcy 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 near 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)

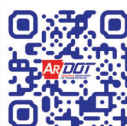
Address: _____ Phone: (_____) _____--_____

E-mail: _____

Please make additional comments here. _____

For additional information, please visit our website at

[www.http://ardot.gov/publicmeetings](http://www.ardot.gov/publicmeetings)



Job 090672
Highway 66 Realignment
(Leslie)
Searcy County



Preliminary Subject to Revision

Project Location



ArDOT - Environmental GIS - Dudley
Map: December 11, 2023
Phase III Public Involvement Exhibit



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

ARDOT Job 090672 FAP STPR-0064(20)
Job Title Hwy. 66 Realignment (Leslie) (S)

Environmental Resource	None	Minimal	Major	Comments-required for each item
Air Quality	X			No MSAT; no impacts
Cultural Resources	X			SHPO clearance/MOA attached
Economic	X			No adverse impacts
Endangered Species		X		NLAAs; USFWS correspondence attached
Environmental Justice/Title VI	X			EJ populations not identified in area
Fish and Wildlife		X		Temporary during construction
Floodplains	X			Digital flood maps not available
Forest Service Property	X			None in the project area
Hazardous Materials/Landfills	X			None in the project area
Land Use		X		Approx. 2.6 acres new ROW; 0.1 acre TCE
Migratory Birds	X			Migratory Bird SP included
Navigation/Coast Guard	X			None in project area
Noise Levels		X		Noise assessment is attached
Prime Farmland	X			None; project within city limits
Protected Waters	X			None in project area
Public Recreation Lands	X			None in the project area
Public Water Supply/WHPA	X			No wellheads or public water supplies
Relocatees		X		One business relocation required
Section 4(f)/6(f)	X			No 4(f)/6(f) resources in project area
Social	X			No adverse impacts
Underground Storage Tanks	X			None identified in project footprint
Visual	X			Visual analysis not required
Streams		X		48' of stream impacts; bridge bents
Water Quality		X		Temporary during construction
Wetlands	X			None in project area
Wildlife Refuges	X			None in project area

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

Remarks: .

Signature of Evaluator Mary Pearson Date 02/28/24

ROADWAY DESIGN REQUEST

Job Number 090672 FAP No. _____ County Searcy

Job Name Hwy. 66 Realignment (Leslie) (S)

Design Engineer Nick Dail Environmental Staff _____

Detailed Project Description The purpose of this project is to realign Hwy. 66 in Searcy County. This project will include the construction of a new bridge structure over Cove Creek.

A. Existing Conditions: (1) = Hwy. 65
(2) = Hwy. 66

Roadway Width: (1) 22' – 34' (2) N/A Shoulder Type/Width: (1) 8' Paved (2) N/A

Number of Lanes and Width: (1) 2 – 11' (2) N/A Existing Right-of-Way: (1) 80'-140' (2) N/A

Sidewalks? (1)(2) N/A Location: (1)(2) N/A Width: (1)(2) N/A

Bike Lanes? (1)(2) N/A Location: (1)(2) N/A Width: (1)(2) N/A

B. Proposed Conditions:

Roadway Width: (1) 38' face to face (2) 30' face to face Shoulder Type/Width: (1)(2) C.C.C.&G

Number of Lanes and Width: (1) 3 – 12' (2) 2 – 14' Proposed Right-of-Way: (1) 80'-140' (2) 60'-170'

Sidewalks? (1)(2) Yes Location: (1)(2) LT. (2) RT. Width: (1)(2) 5'

Bike Lanes? (1)(2) No Location: (1)(2) N/A Width: (1)(2) N/A

C. Construction Information:

If detour: Where: N/A Length: N/A

D. Design Traffic Data:

2026 ADT: 2,900 2046 ADT: 3,200 % Trucks: 9%
 Design Speed: 30 m.p.h.

E. Approximate total length of project: 0.181 mile(s)

F. Justification for proposed improvements: Improve safety and facilitate better traffic flow

G. Total Relocatees: 1 Residences: 0 Businesses: 1

H. Have you coordinated with any outside agencies (e.g., FHWA, City, County, etc.)? _____

Agency/Official	Person Contacted	Date

Nationwide Permit No. 14

Linear Transportation Projects. Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) The loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 32.) (Sections 10 and 404)

Note 1: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d).

Note 2: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Note 3: For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and

distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization.

Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. **Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of

aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction

notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP

activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (e) Prospective permittees should be aware that section 110k of the NHPA (54

U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that

may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory

mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects.

Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a

forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to

the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army

Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP

may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed activity;
- (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
- (4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);
- (5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
- (6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal

and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

- (7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;
 - (8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;
 - (9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and
 - (10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.
- (c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.
- (d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP(s) and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.
- (2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss

of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the individual crossings of waters of the United States to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51, 52, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects. For those NWPs that have a waivable 300 linear foot limit for losses of intermittent and ephemeral stream bed and a 1/2-acre limit (i.e., NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52), the loss of intermittent and ephemeral stream bed, plus any other losses of jurisdictional waters and wetlands, cannot exceed 1/2-acre.

1. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

District Engineer's Decision

2. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters (e.g., streams). The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

3. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless

additional time is required to comply with general conditions 18, 20, and/or 31, or to evaluate PCNs for activities authorized by NWPs 21, 49, and 50), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31)