



ARKANSAS DEPARTMENT OF TRANSPORTATION

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

# INTEROFFICE MEMORANDUM

September 24, 2024

**TO:** Master Files

**FROM:** Josh Seagraves, Division Head – Environmental 

**SUBJECT:** Job 090702  
FAP STPF-0004(106)  
Hwy. 72/Plentywood Rd. Inters. Impvts. (S)  
Route 72, Section 3  
Benton County  
Tier 1 Categorical Exclusion

The purpose of the project is to improve the intersection of Highway 72 and Plentywood Road by installing a left only turn lane on Highway 72 in Benton County. The need for the project was identified in the Highway 72 Improvement Study. The total length of the project is approximately 0.2 mile. A project location map is attached.

The typical section of the Highway 72 intersection would be improved from two 11' wide paved travel lanes with 2' wide unpaved shoulders to two 12' wide paved travel lanes and one 12' wide paved turn lane with 8' wide paved shoulders. The existing right of way (ROW) width averages 96'; however, the proposed ROW width would average 119'. The project will require 1.28 acres of proposed ROW and 0.05 acre of temporary construction easement. This proposed ROW includes 1.28 acres of Important Farmlands impacted by the project. Form NRCS-CPA 106 is attached.

Design data for this project is as follows:

| Design Year | Average Daily Traffic | Percent Trucks | Design Speed |
|-------------|-----------------------|----------------|--------------|
| 2025        | 13,000                | 5              | 55 mph       |
| 2045        | 17,000                |                |              |

The project will not involve relocations, endangered species, wetlands, floodplains, underground storage tanks, hazardous materials, any environmental justice issues, or cultural resources. Waters of the United States will not be impacted; therefore, a Section 404 permit will not be required. This project has been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been

linked with any special mobile source air toxics concerns. The State Historic Preservation Officer's clearance is attached.

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

The official species 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*), Ozark Cavefish (*Amblyopsis rosae*), Neosho Mucket (*Lampsilis rafinesqueana*), Monarch Butterfly (*Danaus plexippus*) and Missouri bladderpod (*Physaria filiformis*). The official USFWS species list is attached.

Utilizing the Determination Keys in IPaC, it has been determined that this project will have "no effect" on Eastern Black Rail, Piping Plover, Rufa Red Knot, Neosho Mucket, and Missouri bladderpod, and "may affect but is not likely to adversely affect" Gray Bat, Indiana Bat, Northern Long-eared Bat, Ozark Big-eared Bat, and Ozark Cavefish. The USFWS concurrence email dated August 27, 2024 is attached.

ARDOT has determined that this project will not jeopardize the continued existence of the Tricolored Bat and the Alligator Snapping Turtle.

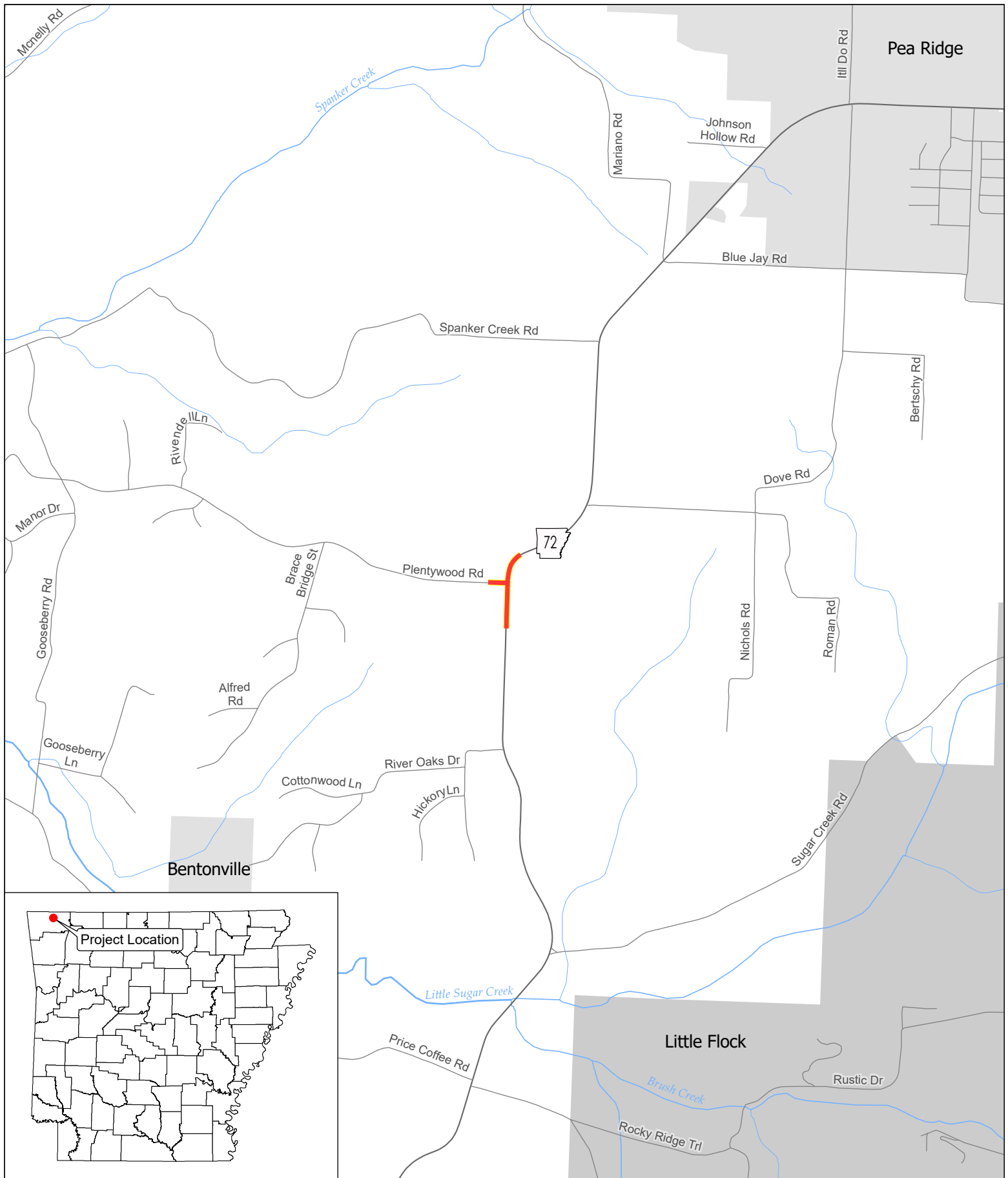
The Monarch butterfly is a candidate species, and as such, is not federally protected under the ESA. However, the USFWS recommends agencies implement conservation measures for candidate species in action areas, as these are, by definition, species that may warrant future protection under the ESA. ARDOT will plant native wildflowers after construction as a conservation measure.

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

#### Attachments

c: Program Management  
Right of Way  
Roadway  
District 9  
FHWA

JS:JG:sw



0 1000 2000  
Feet

Job 090702  
Hwy. 72/Plentywood Rd. Inters. Impvts.  
Benton County

 Project Location



**Sarah Huckabee Sanders**  
Governor  
**Shea Lewis**  
Secretary

September 16, 2024

Mr. Josh Seagraves  
Division Head  
Environmental Division  
Arkansas Department of Transportation  
10324 Interstate 30  
P.O. Box 2261  
Little Rock, AR 72203-2261

RE: Benton County: General  
Section 106 Review: FHWA  
Proposed Undertaking: Hwy. 72/Plentywood Rd. Inters. Impvts. (S)  
Route 72, Section 3  
ArDOT Job Number: 090702  
AHPP Tracking Number: 112588.02

Dear Mr. Seagraves:

The staff of the Arkansas Historic Preservation Program (AHPP) has reviewed Project Identification Form (PIF) for the aforementioned undertaking in Section 10, Township 20 North, Range 30 West between Bentonville and Pea Ridge in Benton County, Arkansas. The project proposes to construct a turning lane at the intersection of Highway 72 and Plentywood Road just east of the existing highway. Proposed additional right-of-way consists of 1.28 acres along with 0.05 acres of Temporary Construction Easement (TCE) for a total area of potential (APE) effect of 1.33 acres.

There are two previously recorded archeological sites within a mile of the APE (3BE0866 and 3BE0867) along with one historic property (BE1735 – Patterson Ray House). None of these sites will be affected by this undertaking. A total of 14 shovel tests were excavated within the APE, all of which were negative for cultural material.

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

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

Sincerely,  
**Jessica H.  
Cogburn**  
for

Digitally signed by Jessica  
H. Cogburn  
Date: 2024.09.16  
10:20:49 -05'00'

Scott Kaufman  
State Historic Preservation Officer and Director, AHPP

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

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

|                                                              |                                    |                     |
|--------------------------------------------------------------|------------------------------------|---------------------|
| <b>PART I (To be completed by Federal Agency)</b> Job 090702 | 3. Date of Land Evaluation Request | 4. Sheet 1 of _____ |
|--------------------------------------------------------------|------------------------------------|---------------------|

|                    |                            |
|--------------------|----------------------------|
| 1. Name of Project | 5. Federal Agency Involved |
| 2. Type of Project | 6. County and State        |

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

| <b>PART III (To be completed by Federal Agency)</b>               | <b>Alternative Corridor For Segment</b> |            |            |            |
|-------------------------------------------------------------------|-----------------------------------------|------------|------------|------------|
|                                                                   | Corridor A                              | Corridor B | Corridor C | Corridor D |
| A. Total Acres To Be Converted Directly                           |                                         |            |            |            |
| B. Total Acres To Be Converted Indirectly, Or To Receive Services |                                         |            |            |            |
| C. Total Acres In Corridor                                        |                                         |            |            |            |

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

| <b>PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)</b> | Corridor A | Corridor B | Corridor C | Corridor D |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|------------|------------|
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|------------|------------|

| <b>PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))</b> | Maximum Points | Corridor A | Corridor B | Corridor C | Corridor D |
|----------------------------------------------------------------------------------------------------------------------------------|----------------|------------|------------|------------|------------|
| 1. Area in Nonurban Use                                                                                                          | 15             |            |            |            |            |
| 2. Perimeter in Nonurban Use                                                                                                     | 10             |            |            |            |            |
| 3. Percent Of Corridor Being Farmed                                                                                              | 20             |            |            |            |            |
| 4. Protection Provided By State And Local Government                                                                             | 20             |            |            |            |            |
| 5. Size of Present Farm Unit Compared To Average                                                                                 | 10             |            |            |            |            |
| 6. Creation Of Nonfarmable Farmland                                                                                              | 25             |            |            |            |            |
| 7. Availability Of Farm Support Services                                                                                         | 5              |            |            |            |            |
| 8. On-Farm Investments                                                                                                           | 20             |            |            |            |            |
| 9. Effects Of Conversion On Farm Support Services                                                                                | 25             |            |            |            |            |
| 10. Compatibility With Existing Agricultural Use                                                                                 | 10             |            |            |            |            |
| <b>TOTAL CORRIDOR ASSESSMENT POINTS</b>                                                                                          | <b>160</b>     |            |            |            |            |

| <b>PART VII (To be completed by Federal Agency)</b>                       | Maximum Points | Corridor A | Corridor B | Corridor C | Corridor D |
|---------------------------------------------------------------------------|----------------|------------|------------|------------|------------|
| Relative Value Of Farmland (From Part V)                                  | 100            |            |            |            |            |
| Total Corridor Assessment (From Part VI above or a local site assessment) | 160            |            |            |            |            |
| <b>TOTAL POINTS (Total of above 2 lines)</b>                              | <b>260</b>     |            |            |            |            |

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

5. Reason For Selection:

Signature of Person Completing this Part: \_\_\_\_\_ DATE \_\_\_\_\_

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

**From:** [Lewis, Lindsey](#)  
**To:** [Schrum, Matthew C.](#)  
**Subject:** Re: [EXTERNAL] 090702 - Hwy. 72/Plentywood Rd. Inters. Impvts. (S)  
**Date:** Tuesday, August 27, 2024 8:38:06 AM

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**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 "not likely to adversely affect" and "No Effect" determinations for the listed species identified. No further consultation for this project is required for these species. The verification letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA)."

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

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

The Service has no additional comments or concerns and agrees with the determinations, contested "no effect" determinations, non-jeopardy determinations, justifications provided, Monarch Butterfly conservation measures, and concurrences made through the Arkansas Dkey and FHWA PBO Dkey.

Thanks,

Lindsey Lewis  
Biologist

US Fish & Wildlife Service

Arkansas Field Office  
110 South Amity Rd., Suite 300  
Conway, Arkansas 72032

(501) 513-4489 - voice  
(501) 513-4480 - fax  
[Lindsey\\_Lewis@fws.gov](mailto:Lindsey_Lewis@fws.gov)  
<http://www.fws.gov/arkansas-es/>

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**From:** Schrum, Matthew C. <Matthew.Schrum@ardot.gov>  
**Sent:** Monday, August 26, 2024 2:04 PM  
**To:** Lewis, Lindsey <lindsey\_lewis@fws.gov>  
**Subject:** [EXTERNAL] 090702 - Hwy. 72/Plentywood Rd. Inters. Impvts. (S)

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

Lindsey,

ARDOT proposes to construct a left-turn lane at the intersection of Hwy. 72 and Plentywood Rd. in Benton County, 3 miles SW of Pea Ridge, AR. The 50% plans are attached. Bat surveys were conducted for the PE Job 090648 in June 2023. Two adult male Gray Bats were captured. No other federally-listed bat species were captured. See the attached bat survey report. The project is currently scheduled to let November 2025.

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*), Ozark Cavefish (*Amblyopsis rosae*), Neosho Mucket (*Lampsilis rafinesqueana*), Monarch butterfly (*Danaus plexippus*), and Missouri bladderpod (*Physaria filiformis*). See the attached USFWS Species List.

The "AFO Arkansas Multi-Species" and "FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat" determination keys were evaluated for this project.

“No effect” determinations were given for Eastern Black Rail, Piping Plover, and Rufa Red Knot.

“May affect, not likely to adversely affect” (NLAA) determinations were given for Gray Bat, Indiana Bat, Ozark Big-eared Bat, Ozark Cavefish, Neosho Mucket, and Missouri bladderpod

ARDOT contests the NLAA determination for Neosho Mucket due to the lack of riverine habitat in the project area. We propose a “no effect” determination for this species.

ARDOT contests the NLAA determination for Missouri bladderpod due to the lack of glade habitat in the project area. Additionally, the nearest AR occurrence record is 19.5 miles SE of the project area at Blue Springs Rec Area on Beaver Lake. We propose a “no effect” determination for this species.

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

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 species by definition, that may warrant future protection under the Act. ARDOT will plant native wildflowers after construction as a conservation measure.

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:

08/26/2024 18:33:13 UTC

Project code: 2024-0135250

Project Name: Hwy. 72/Plentywood Rd. Inters. Impvts. (S) - BATS

Subject: Concurrence verification letter for the 'Hwy. 72/Plentywood Rd. Inters. Impvts. (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 August 26, 2024 to verify that the **Hwy. 72/Plentywood Rd. Inters. Impvts. (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
- Neosho Mucket *Lampsilis rafinesqueana* Endangered
- Ozark Big-eared Bat *Corynorhinus (=Plecotus) townsendii ingens* Endangered
- Ozark Cavefish *Amblyopsis rosae* Threatened
- Piping Plover *Charadrius melodus* Threatened
- Rufa Red Knot *Calidris canutus rufa* Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

## **PROJECT DESCRIPTION**

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

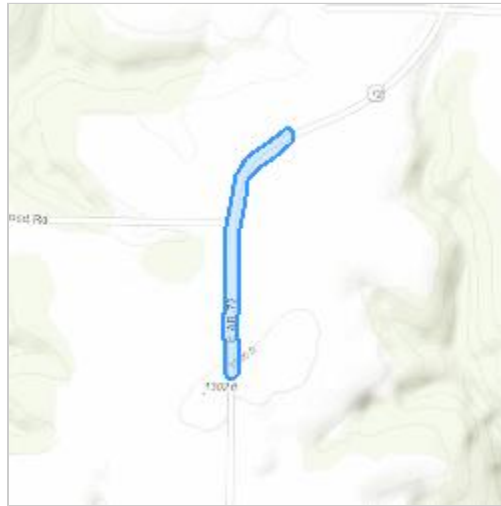
### **NAME**

Hwy. 72/Plentywood Rd. Inters. Impvts. (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/@36.4206789,-94.1593122,14z>



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

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

**Automatically answered**

Yes

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

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

**Automatically answered**

Yes

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

*A) Federal Highway Administration (FHWA)*

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

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

No

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

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

No

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

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

No

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

Yes

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

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

No

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

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

[2] The action area is defined as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR Section 402.02). Further clarification is provided by the [User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat](#).

Yes

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

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

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<sup>[1][2]</sup> been conducted<sup>[3][4]</sup> **within** the suitable habitat located within your project action area?

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

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

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

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

Yes

**SUBMITTED DOCUMENTS**

- 2086.09 ARDOT 090648 Bats - Final PDF.pdf <https://ipac.ecosphere.fws.gov/project/DECRRBE4MJHYJFI3O5V3CJPMBI/projectDocuments/148524682>

13. Did the presence/probable absence (P/A) summer surveys detect Indiana bats and/or NLEB<sup>[1]</sup>?

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

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

No

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

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

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

*No*

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

*Yes*

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

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

*A) During the active season*

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**<sup>[1][2]</sup>?

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

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

*No*

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?  
No
24. Are *all* trees that are being removed clearly demarcated?  
Yes
25. Will the removal of habitat or the removal/trimming of trees involve the use of **temporary** lighting?  
Yes
26. Will the removal of habitat or the removal/trimming of trees include installing new or replacing existing **permanent** lighting?  
No
27. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?  
No
28. Does the project include slash pile burning?  
Yes
29. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?  
No
30. 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
31. 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?  
Yes
32. Is there *any* suitable habitat **within** 1,000 feet of the location(s) where **temporary** lighting (other than the lighting already indicated for habitat removal (including the removal or trimming of trees) or bridge/structure removal, replacement or maintenance activities) will be used?  
Yes
33. Will the project install new or replace existing **permanent** lighting?  
No
34. Does the project include percussives or other activities (**not including tree removal/trimming or bridge/structure work**) that will increase noise levels above existing traffic/background levels?  
Yes

35. Will the activities that use percussives (**not including tree removal/trimming or bridge/structure work**) and/or increase noise levels above existing traffic/background levels be conducted *during* the active season<sup>[1]</sup>?

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

Yes

36. Will *any* activities that use percussives (**not including tree removal/trimming or bridge/structure work**) and/or increase noise levels above existing traffic/background levels be conducted *during* the inactive season<sup>[1]</sup>?

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

Yes

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

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

Yes

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

No

39. 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*

40. Are the project activities that use percussives (not including tree removal/trimming or bridge/structure work) consistent with a Not Likely to Adversely Affect determination in this key?

**Automatically answered**

*Yes, because the activities are within 300 feet of the existing road/rail surface, greater than 0.5 miles from a hibernacula, and conducted during the active season within undocumented habitat.*

41. Are the project activities that use percussives (not including tree removal/trimming or bridge/structure work) and/or increase noise levels above existing traffic/background levels consistent with a No Effect determination in this key?

**Automatically answered**

*Yes, because the activities are within 300 feet of the existing road/rail surface, greater than 0.5 miles from a hibernacula, and conducted during the inactive season*

42. 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.*

43. **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

44. **Hibernacula AMM 1**

Will the project ensure that on-site personnel will use best management practices<sup>[1]</sup>, 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

45. **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<sup>[1]</sup> 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.

0.14

## 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

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

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)



## United States Department of the Interior

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



In Reply Refer To:

08/26/2024 17:57:50 UTC

Project Code: 2024-0135236

Project Name: Hwy. 72/Plentywood Rd. Inters. Impvts. (S)

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

To Whom It May Concern:

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

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

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

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

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

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

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

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

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

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

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

Attachment(s):

- Official Species List

## OFFICIAL SPECIES LIST

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

This species list is provided by:

**Arkansas Ecological Services Field Office**

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

## PROJECT SUMMARY

Project Code: 2024-0135236

Project Name: Hwy. 72/Plentywood Rd. Inters. Impvts. (S)

Project Type: Road/Hwy - New Construction

Project Description: This IPaC project covers the construction of a left-turn lane at the intersection of Hwy. 72 and Plentywood Rd.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@36.4206789,-94.1593122,14z>



Counties: Benton County, Arkansas

## ENDANGERED SPECIES ACT SPECIES

There is a total of 13 threatened, endangered, or candidate species on this species list.

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

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

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

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

## MAMMALS

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

## BIRDS

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

## REPTILES

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

## FISHES

| NAME                                                                                                                                                                                                                     | STATUS     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <b>Ozark Cavefish</b> <i>Amblyopsis rosae</i><br>No critical habitat has been designated for this species.<br>Species profile: <a href="https://ecos.fws.gov/ecp/species/6490">https://ecos.fws.gov/ecp/species/6490</a> | Threatened |

## CLAMS

| NAME                                                                                                                                                                                                                                                                               | STATUS     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <b>Neosho Mucket</b> <i>Lampsilis rafinesqueana</i><br>There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat.<br>Species profile: <a href="https://ecos.fws.gov/ecp/species/3788">https://ecos.fws.gov/ecp/species/3788</a> | Endangered |

## INSECTS

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

## FLOWERING PLANTS

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

## CRITICAL HABITATS

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

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

## IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: 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

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

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)



## United States Department of the Interior

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



In Reply Refer To:

08/26/2024 18:06:29 UTC

Project code: 2024-0135236

Project Name: Hwy. 72/Plentywood Rd. Inters. Impvts. (S)

Subject: Consistency letter for 'Hwy. 72/Plentywood Rd. Inters. Impvts. (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 **August 26, 2024** your effect determination(s) for the 'Hwy. 72/Plentywood Rd. Inters. Impvts. (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          |
| Neosho Mucket ( <i>Lampsilis rafinesqueana</i> )                          | Endangered     | NLAA          |
| Ozark Big-eared Bat ( <i>Corynorhinus (=Plecotus) townsendii ingens</i> ) | Endangered     | May affect    |
| Ozark Cavefish ( <i>Amblyopsis rosae</i> )                                | Threatened     | NLAA          |
| Piping Plover ( <i>Charadrius melodus</i> )                               | Threatened     | No effect     |
| Rufa Red Knot ( <i>Calidris canutus rufa</i> )                            | Threatened     | No effect     |

**Status**

**Consultation with the Service is not complete.** Further consultation or coordination with the Arkansas Ecological Services Office is necessary for those species with a determination of “may affect” (MA) listed above. Please contact our office at 501-513-4470, [arkansas\\_es\\_clearance@fws.gov](mailto:arkansas_es_clearance@fws.gov), or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

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

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

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

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

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

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

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

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

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. To obtain an application form or contact information for Regional Migratory Bird Permit Offices please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Permits section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

**Action Description**

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

**1. Name**

Hwy. 72/Plentywood Rd. Inters. Impvts. (S)

**2. Description**

The following description was provided for the project 'Hwy. 72/Plentywood Rd. Inters. Impvts. (S)':

This IPaC project covers the construction of a left-turn lane at the intersection of Hwy. 72 and Plentywood Rd.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@36.4206789,-94.1593122,14z>



## **Species Protection Measures**

### **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 designated critical habitat for Ouachita Fanshell?

**Automatically answered**

No

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

**Automatically answered**

No

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

26. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?  
**Automatically answered**  
*No*
27. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?  
**Automatically answered**  
*No*
28. [Semantic] Does the project intersect the Ozark cavefish AOI?  
**Automatically answered**  
*Yes*
29. Does the project involve boring?  
*No*
30. [Semantic] Does the project intersect the Missouri bladderpod AOI?  
**Automatically answered**  
*Yes*
31. [Semantic] Does the project intersect the Geocarpon AOI?  
**Automatically answered**  
*No*
32. [Semantic] Does the project intersect the Pondberry AOI?  
**Automatically answered**  
*No*
33. Does the project contain any of the following activity types: Dams or Impoundments (including berms or levees), Municipal or industrial effluent discharge, Mining, Mine reclamation, Disposal of mine wastewater or tailings, Construction of natural gas or oil well pads, Construction greater than 40 acres, Dredging or snag removal, Energy development within floodplain, or OHV trail construction or maintenance?  
*No*
34. Does the project contain any of the following activity types: Boat Ramps, Bridges, Culverts, Residential or Commercial Development, Streambank Stabilization (or other streambank work), Pipeline and linear projects, Water intakes/withdrawals, Forest conversion within 100 ft of occupied streams, or Stream or ditch relocation, or straightening?  
*Yes*
35. Does the project include Streambank Stabilization (or other streambank work)?  
*No*
36. Does the project include Boat Ramps?  
*No*
37. Does the project include Bridges and Culverts?  
*No*

38. Does the project include Development?

*No*

39. Is the project a Pipeline or Linear Project?

*Yes*

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

*Yes*

41. Does the project include Water Intakes/Withdrawals?

*No*

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

*No*

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

**Automatically answered**

*No*

44. [Semantic] Does the project intersect the neosho mucket AOI?

**Automatically answered**

*Yes*

45. [Semantic] Does the project intersect the Neosho mucket survey coordination area?

**Automatically answered**

*No*

46. [Semantic] Does the project intersect the Spectaclecase AOI?

**Automatically answered**

*No*

47. [Semantic] Does the project intersect the snuffbox AOI?

**Automatically answered**

*No*

48. [Semantic] Does the project intersect the speckled pocketbook AOI?

**Automatically answered**

*No*

49. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?

**Automatically answered**

*No*

50. [Semantic] Does the project intersect the fat pocketbook AOI?

**Automatically answered**

*No*

51. [Semantic] Does the project intersect the Curtis pearlymussel AOI?

**Automatically answered**

*No*

52. [Semantic] Does the project intersect the scaleshell AOI?  
**Automatically answered**  
*No*
53. [Semantic] Does the project intersect the pink mucket AOI?  
**Automatically answered**  
*No*
54. [Semantic] Does the project intersect the Arkansas fatmucket AOI?  
**Automatically answered**  
*No*
55. [Semantic] Does the project intersect the winged mapleleaf AOI?  
**Automatically answered**  
*No*
56. [Semantic] Does the project intersect the leopard darter AOI?  
**Automatically answered**  
*No*
57. [Semantic] Does the project intersect the Yellowcheek darter AOI?  
**Automatically answered**  
*No*
58. [Semantic] Does the project intersect the Ouachita fanshell AOI?  
**Automatically answered**  
*No*
59. [Semantic] Does the project intersect the Ozark hellbender AOI?  
**Automatically answered**  
*No*
60. [Semantic] Does the project intersect the harperella AOI?  
**Automatically answered**  
*No*
61. [Semantic] Does the project intersect the pallid sturgeon AOI?  
**Automatically answered**  
*No*
62. [Semantic] Does the project intersect the interior least tern range?  
**Automatically answered**  
*No*

## IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: 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

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

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)

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

**ARDOT Job** 090702 **FAP** STPF-0004(106)  
**Job Title** Hwy. 72/Plentywood Rd. Inters. Impvts. (S)

| Environmental Resource         | None | Minimal | Major | Comments                                                     |
|--------------------------------|------|---------|-------|--------------------------------------------------------------|
| Air Quality                    | X    |         |       | No air quality/MSAT impacts                                  |
| Cultural Resources             | X    |         |       | SHPO clearance attached                                      |
| Economic                       | X    |         |       | No adverse impacts                                           |
| Endangered Species             |      | X       |       | No effect and NLAA determinations made                       |
| Environmental Justice/Title VI | X    |         |       | No impacts anticipated                                       |
| Fish and Wildlife              |      | X       |       | Temporary during construction                                |
| Floodplains                    | X    |         |       | None within the project limits                               |
| Forest Service Property        | X    |         |       | None in the project area                                     |
| Hazardous Materials/Landfills  | X    |         |       | No impacts anticipated                                       |
| Land Use                       |      | X       |       | Approximately 1.28 acres of additional ROW; 0.05 acre of TCE |
| Migratory Birds                | X    |         |       | No impacts anticipated                                       |
| Navigation/Coast Guard         | X    |         |       | No navigable waterways involved                              |
| Noise Levels                   | X    |         |       | No increases due to project                                  |
| Important Farmland             |      | X       |       | Approximately 1.28 acres of Imp Farmland impacted            |
| Protected Waters               | X    |         |       | None in the project area                                     |
| Public Recreation Lands        | X    |         |       | None in project area                                         |
| Public Water Supply/WHPA       | X    |         |       | None in the project area                                     |
| Relocates                      | X    |         |       | No relocations anticipated by the project                    |
| Section 4(f)/6(f)              | X    |         |       | No 4f/6f resources present                                   |
| Social                         | X    |         |       | No impacts to the social environment                         |
| Underground Storage Tanks      | X    |         |       | No USTs in impacted by the project                           |
| Visual                         | X    |         |       | No changes to visual environment                             |
| Streams                        | X    |         |       | No stream impacts anticipated                                |
| Water Quality                  |      | X       |       | Temporary impacts during construction                        |
| Wetlands                       | X    |         |       | No wetland impacts anticipated                               |
| Wildlife Refuges               | X    |         |       | None in the project area                                     |

Section 401 Water Quality Certification Required? No  
Short-term Activity Authorization Required? No  
Section 404 Permit Required? No Type N/A

Remarks:

A Phase I virtual public involvement meeting will be held at a later date.

Signature of Evaluator  Date 9/24/2024

Date Returned: August 12, 2024

## ROADWAY DESIGN REQUEST

Job Number 090702 FAP No. STPF-0004(106) County Benton

Job Name Hwy. 72/Plentywood Rd. Inters. Impvts. (S)

Design Engineer Hannah LyBrand Environmental Staff \_\_\_\_\_

Detailed Project Description The project consists of providing a left turn lane from Hwy. 72 onto E. Plentywood Rd. The turning lane section will consist of 12' lanes and 8' shoulders. The project also includes erosion control, earthwork, and ACHM pavement.

A. Existing Conditions:

Roadway Width: 22' Shoulder Type/Width: 2' Unpaved

Number of Lanes and Width: 2 @ 11' Existing Right-of-Way: 96'

Sidewalks? No Location: N/A Width: N/A

Bike Accommodations? No Location: N/A Width: N/A

B. Proposed Conditions:

Roadway Width: 36' Shoulder Type/Width: 8' Paved

Number of Lanes and Width: 3 @ 12' Proposed Right-of-Way: 99'-138'

Sidewalks? No Location: N/A Width: N/A

Bike Accommodations? No Location: N/A Width: N/A

C. Construction Information:

If Detour: Where: N/A Length: N/A

D. Design Traffic Data:

2025 ADT: 13,000 2045 ADT: 17,000 % Trucks: 5

Design Speed: 55 mph

E. Approximate total length of project: 0.200 mile(s)

F. Justification for proposed improvements: The Highway 72 Improvement Study identified needed improvements to Highway 72 between Interstate 49 in Bentonville and Pea Ridge.

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

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

| Agency/Official | Person Contacted | Date |
|-----------------|------------------|------|
|                 |                  |      |
|                 |                  |      |