

**TIER 3 CATEGORICAL EXCLUSION**

**ARDOT JOB FA0314  
FAP STPR-0003(49)  
HWY. 341 SOUTHEAST – STONE CO. LINE (PHASE 2) (S)  
COUNTY ROAD 73  
BAXTER COUNTY**

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

By the

U.S. Department of Transportation

Federal Highway Administration

And the

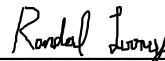
Arkansas Department of Transportation

February 2024

February 13, 2024

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Date of Approval



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Randal Looney  
Environmental Coordinator  
Federal Highway Administration

The Environmental Division reviewed the referenced project and has 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 reconstruct the roadway and replace drainage structures on Baxter County Road 73. The roadway is currently unpaved with no shoulders and has multiple curves that do not meet design standards and substandard drainage structures. Total project length is 1.5 miles, beginning 1.6 miles east of Highway 341 and extending east. A project location map is attached.

The existing roadway consists of two 10' wide unpaved travel lanes with no shoulders. Existing right of way width is approximately 50'. Proposed improvements include two 10' wide paved travel lanes with 4' wide unpaved shoulders. The existing culvert carrying Coldwater Creek under the road would be replaced with a bottomless concrete arch culvert to prevent scour and maintain aquatic habitat connectivity. An unpaved pullout for a spring used by the public would also be added. The proposed right of way width would be approximately 100'. Approximately 14.2 acres of additional right of way and 1.6 acres of temporary construction easements would be required for construction of the project.

Design data for this project is as follows:

| Design Year | Average Daily Traffic | Percent Trucks | Design Speed |
|-------------|-----------------------|----------------|--------------|
| 2023        | 75 vpd                | 2              | 30 mph       |
| 2043        | 85 vpd                |                |              |

There are no anticipated relocations or impacts to environmental justice populations, wetlands, public water supplies, hazardous materials, or underground storage tanks associated with this project. Approximately 2.3 acres of Prime Farmland and 0.4 acre of Farmland of Statewide Importance would be converted to highway right of way. The Farmland Conversion Impact Rating form is attached.

The proposed project involves impacts to property within ownership of the Ozark-St. Francis National Forests. Approximately 12.6 acres of right of way and 1.4 acres of temporary construction easements would be required from the U.S. Forest Service (USFS), a National Environmental Policy Act cooperating agency on the project. Native vegetation will be planted on the project following construction.

Based on the ARDOT noise policy, a noise analysis is not required for this project. The road reconstruction would 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 do not require notification.

A historic site, the Cold Water-McPhearson School, is located along the project. The site was listed in the National Register of Historic Places in 2008 and qualifies for protection under Section 106 of the National Historic Preservation Act and Section 4(f) of the U.S. Department of Transportation Act of 1966. Approximately 0.4 acre of the historic property would be required to accommodate the wider roadway footprint and 0.02 acre of temporary easements would be required to maintain vehicular access to the property. The State Historic Preservation Officer concurred in the attached letter that the project would have “no adverse effect” to historic properties, and the attached Section 4(f) evaluation found that the project would have only *de minimis* impacts to the site.

The attached official species list obtained through the U.S. Fish and Wildlife Service Information for Planning and Consultation website lists the following species as having the potential to occur in the project area: Gray Bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Ozark Big-eared Bat (*Corynorhinus townsendii ingens*), Tricolored Bat (*Perimyotis subflavus*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Rufa Red Knot (*Calidris canutus rufa*), Alligator Snapping Turtle (*Macrochelys temminckii*), Ozark Hellbender (*Cryptobranchus alleganiensis bishopi*), Missouri bladderpod (*Physaria filiformis*), and Monarch Butterfly (*Danaus plexippus*).

It was determined that the proposed project would have “no effect” on the federally-listed birds and “may affect but is not likely to adversely affect” the Gray Bat and Ozark Hellbender. Due to the distance of the project to known populations, it was determined that the project “may affect but is not likely to adversely affect” the Ozark Big-eared Bat. Due to the lack of glade habitat in the project area and the distance to known populations, it was determined that the proposed project would have “no effect” on the Missouri bladderpod.

A bat mist-net survey following the 2023 Range-wide Indiana Bat & Northern Long-eared Bat Survey Guidelines did not find either of these bat species. Following the Programmatic Biological Opinion for Transportation Projects in the Range of the Indiana Bat and Northern Long-Eared Bat, it was determined that the proposed project “may affect but is not likely to adversely affect” these bat species.

The Alligator Snapping Turtle and Tricolored Bat are proposed to be listed. This project would not jeopardize the continued existence of the Alligator Snapping Turtle or Tricolored Bat. The Monarch Butterfly is a candidate species and is not federally protected under the Endangered Species Act. The U. S. Fish and Wildlife Service recommends agencies implement conservation measures for candidate species in action areas as these species may warrant future protection under the Endangered Species Act. ARDOT will plant native wildflowers after construction as a conservation measure.

The project area was known to contain a stand of butternuts (*Junglans cinerea*), a tree species not federally listed but tracked by both the USFS and Arkansas Natural Heritage Commission. A survey identified three live butternuts within the project footprint. The project design was modified to avoid all three butternuts and a Biological Evaluation (available upon request) determined that "the proposed road construction activities 'may impact individuals but are not likely to cause a trend to Federal listing or loss of viability' for butternut." A commitment has been made to avoid the three known butternuts throughout construction, with a special provision added to the project contract to delineate their locations and ensure avoidance by the contractor.

Permanent impacts to Coldwater Creek are estimated at approximately 380 feet and 0.1 acre. Impacts include replacing the existing four-sided box culvert with a bottomless arch culvert and relocating approximately 230' of the channel south of the culvert to provide sufficient embankment between the creek and the new roadway. Permanent impacts to an unnamed, spring-fed, perennial tributary to Coldwater Creek are estimated at less than 50 feet and less than 0.01 acre. 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. Pre-construction notification is required. Mitigation for the impacts to Coldwater Creek will be acquired from an approved mitigation bank.

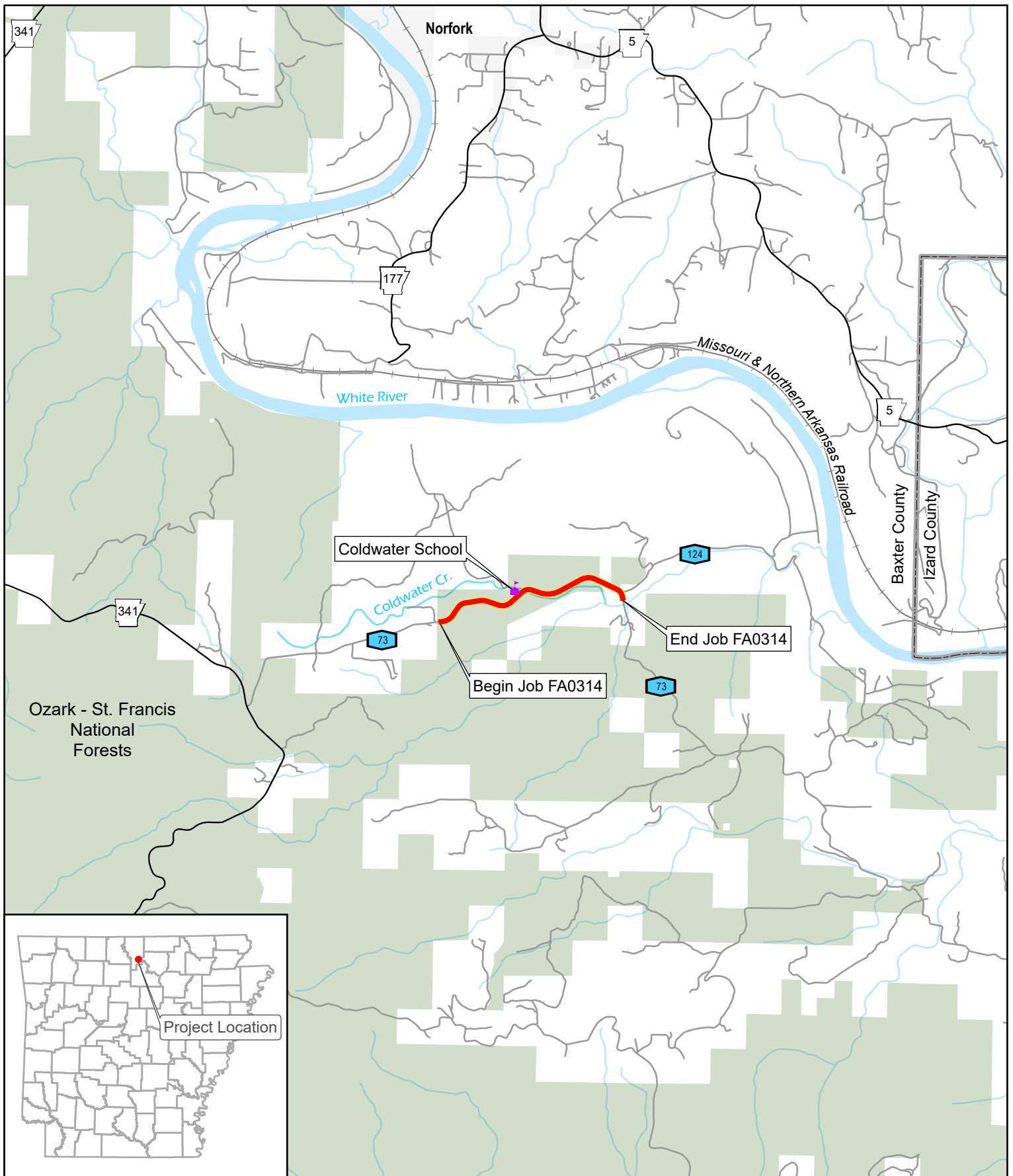
Baxter County participates in the National Flood Insurance Program. Part of the project lies within a Zone A Special Flood Hazard Area. The final project design will be reviewed to confirm that the design is adequate and that the potential risk to life and property are minimized. Adjacent properties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

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. This project would not result in changes in traffic volumes, vehicle mix, basic project location, or any other factor that would cause

a meaningful increase in MSAT impacts of the project from that of the no-build alternative.

Commitments made for the proposed project are as follows:

- Native vegetation will be planted on the project following construction, including native wildflowers.
- Known butternut trees will be avoided during construction.
- Prenotification for a Nationwide 14 Section 404 Permit will be obtained prior to construction.
- Mitigation for Coldwater Creek will be acquired from an approved mitigation bank.
- The final project design will be reviewed to confirm that the design is adequate and that the potential risk to life and property as a result of flooding are minimized.



0 2,500 5,000  
Feet

ARDOT - Environmental GIS - Dudley  
December 28, 2023

Job FA0314  
Hwy. 341 Southeast - Stone Co. Line (Phase 2)  
Baxter County

Project Location



Sarah Huckabee Sanders  
Governor  
Shea Lewis  
Secretary

September 13, 2023

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

RE: Baxter County: General  
Section 106 Review: FHWA  
Proposed Undertaking: Hwy. 341 Southeast – Stone Co. Line (Phase 2) (S)  
Baxter County Road 73  
ArDOT Job Number: FA0314  
AHPP Tracking Number: 96504.04

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) has reviewed the submission for the above-referenced undertaking in Section 5, Township 17 North, Range 12 West in Baxter County. The project proposes to reconstruct County Road Number 73, which will require elevating the roadway about five feet to bring it above flood levels of Cold Water Creek. The road is located parallel to the southern boundary of the Cold Water School, a National Register of Historic Places listed site (AHPP Structure BA0148, 3BA0489). When the road is raised, the gravel driveway for the school will also need to be raised. The area of potential effect encompasses a total of 0.6 acres of proposed right-of-way and temporary construction easement. FHWA has determined road construction will not have a direct impact on the Cold Water School or the Cold Water school sign, which contributes to its NRHP listing. The AHPP issued a previous determination of no adverse effect on October 18, 2018 (AHPP Tracking Number 96504.03)

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

Thank you for the opportunity to review this undertaking. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, 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: 2023.09.13  
13:56:59 -05'00'

Scott Kaufman  
State Historic Preservation Officer and Director, AHPP

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

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

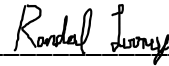
ARDOT Job FA0314  
FAP Number STPR-0003(49)  
Hwy. 341 Southeast - Stone Co. Line (Phase 2) (S)  
Baxter County

COLD WATER-MCPHEARSON SCHOOL

JANUARY 2024

February 13, 2024

Date of Approval



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 Cold Water-McPhearson School?

The Cold Water-McPhearson School (Figure 1) qualifies as a historic site; therefore, Section 4(f) applies. In 2008, the Cold Water-McPhearson School was listed in the National Register of Historic Places (NRHP).



Figure 1. Cold Water-McPhearson School.

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 the historic property. 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.

### 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 sites 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, or 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/>)

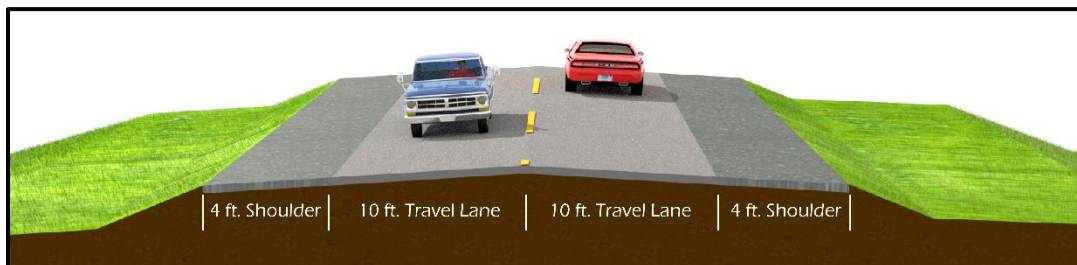
## SECTION 4(F) FINDING OF *DE MINIMIS* IMPACT

**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 site.                       | Yes                            |
| FHWA through ARDOT informed SHPO that the de minimis impact determination was based on their written concurrence in accordance with 23 CFR 774.5(1)(ii). | Yes                            |

### What is the proposed road project?

The Arkansas Department of Transportation (ARDOT), in conjunction with the Federal Highway Administration (FHWA), proposes to widen and pave about 1.5 miles of County Road 73 in Baxter County. The proposed improvements include paving two 10-foot wide travel lanes with two 4-foot wide gravel shoulders contained within an average Right of Way (ROW) of 50 feet (Figure 2). The roadway reconstruction requires elevating the roadway about 5 feet, bringing the new road above flood levels of Cold Water Creek. See Figure 3 for the project location.



**Figure 2. Design Typical Cross Section for Job FA0314.**

### Why is this historic site important?

The Cold Water-McPhearson School is notable for its association with the early education of children in Baxter County. The site is comprised of the one-room schoolhouse, a teacher's house, and an iron sign and rock-pier entry gate. While some alterations have occurred to the buildings, the site has retained its integrity of feeling and association to early education.

#### What is a one-room schoolhouse?

In the nineteenth and early twentieth centuries, teachers taught first through eighth grade students in one room. These type of school buildings generally discontinued use in the mid-twentieth century.



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

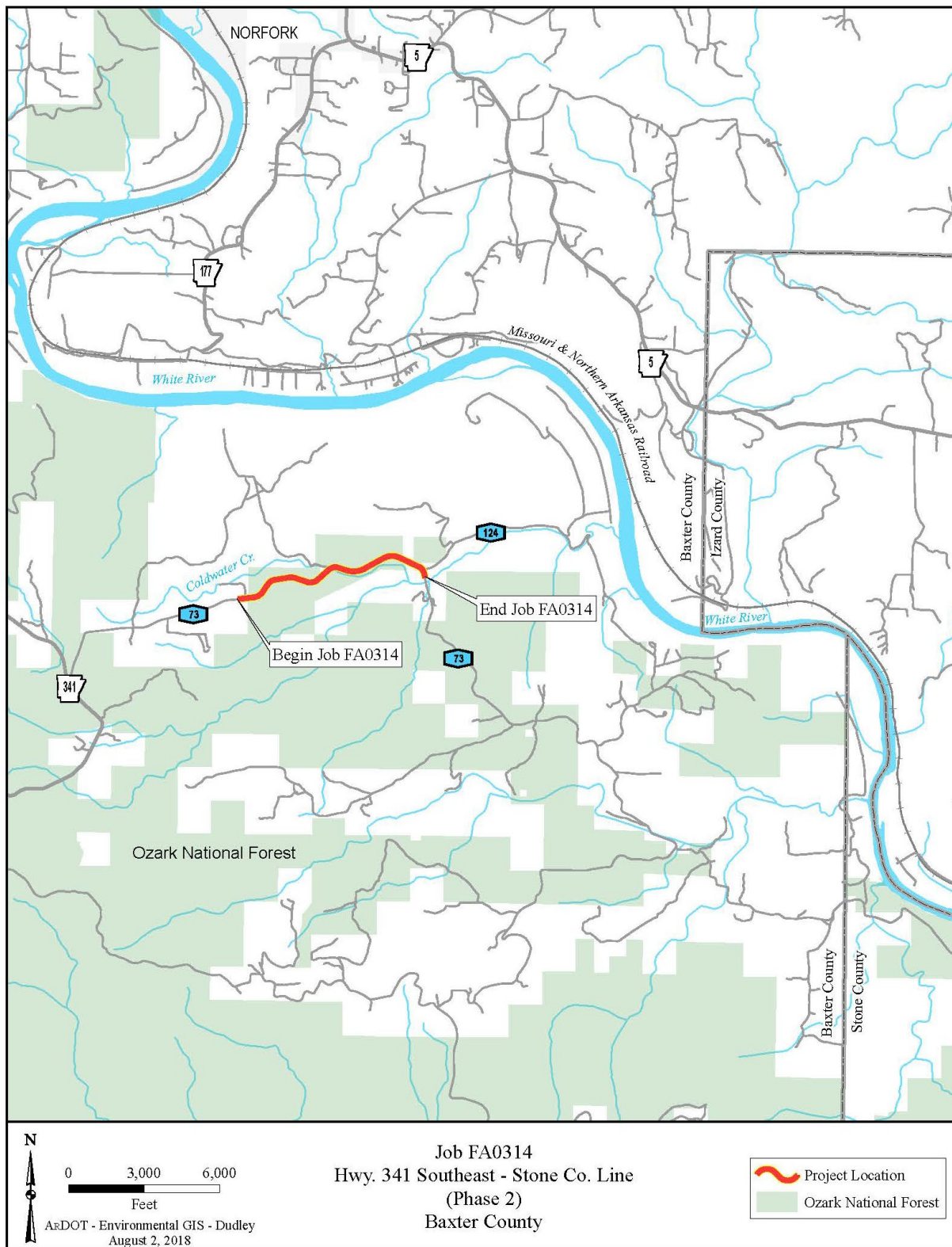


Figure 3. Project Location Map.

**How will the project affect the historic site?**

The roadway improvements will require 0.4 acres (17,424 square feet) of the Cold Water-McPhearson School land to be acquired on the west side of County Road 73, as shown below in Figure 4. The NRHP property boundary includes a portion of the current roadway. The acreage was figured as the difference between the original ROW and proposed ROW. A temporary construction easement of 0.02 acres (approximately 871 square feet) will also be required to raise the existing Cold Water-McPherson School gravel driveway to maintain property access. Construction will consist of placing two metal pipe culverts on the existing 10-foot wide gravel driveway and covering the culverts in gravel to provide access to and from the improved County Road 73.

The setting currently includes a gravel road at the edge of the property. The road will be relocated closer to the buildings, but it will remain at the edge of the property; thus, it will not diminish the integrity of setting. Vehicular access will remain at the existing entrance, and the improved driveway will still reflect the original 10-foot width. The new gravel drive will require no excavation and no tree removal. The iron Cold Water-McPhearson School sign – a contributing element to BA0148 – will not be impacted by the placement of either the culverts or the placement of the new gravel. The period of significance listed in the NRHP nomination form for this site is 1926-1958. Roads, whether dirt, gravel, or paved, existed within that period. The proximity of the road and any change to its pavement will not diminish the property's historic integrity.

The minor reduction in acreage from the property will not greatly alter the existing setting or any of the characteristics of the site that convey its historic significance. The archeological survey failed to find any intact deposits or features within the proposed ROW. Through consultation with the SHPO, a finding of No Adverse Effect for the Cold Water-McPhearson School was proposed and agreed upon pursuant to 36 CFR § 800.5(b).

**How are impacts to historic site 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.

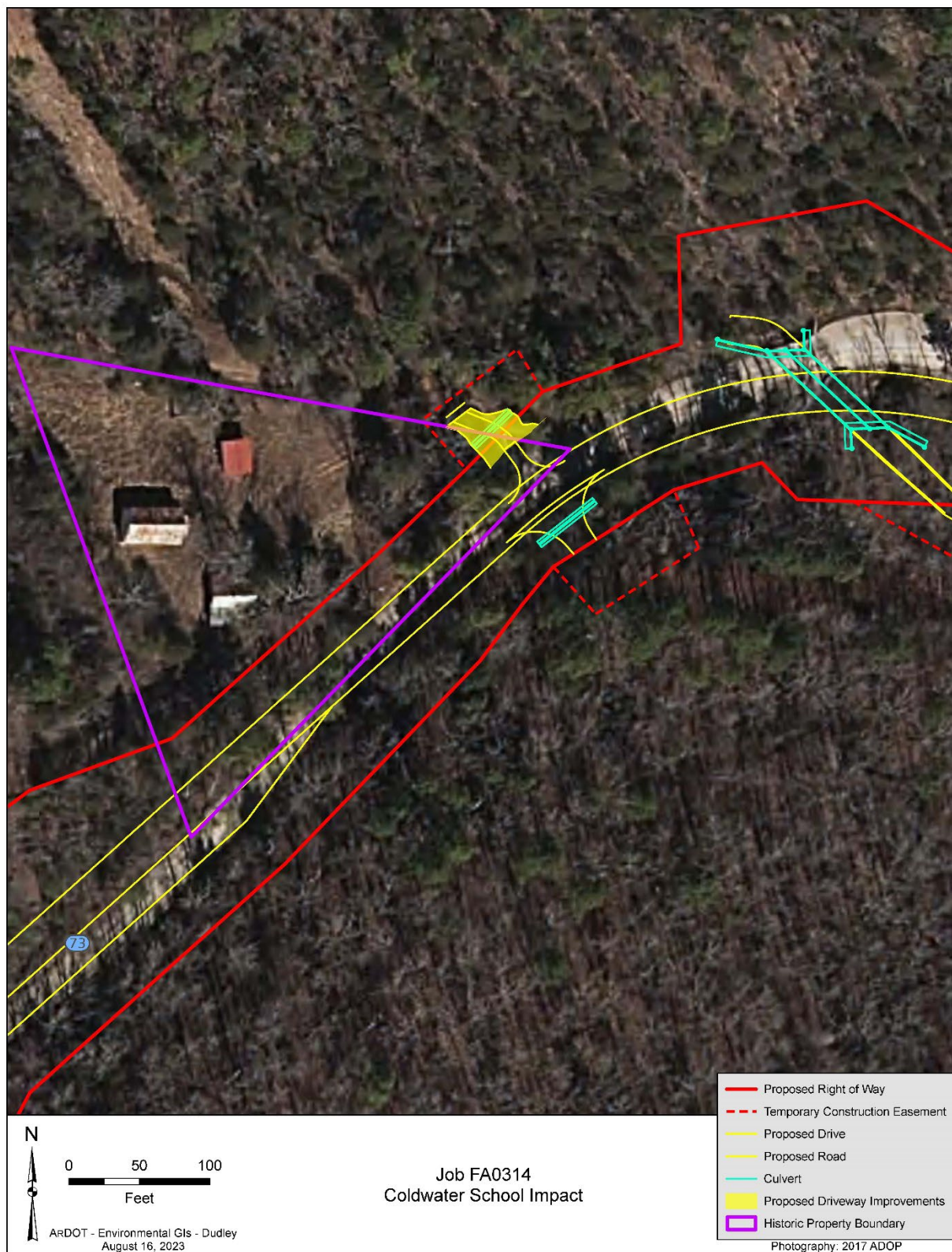


Figure 4. Impacts to the Cold Water-McPhearson School.

**What was done to reduce harm to the historic site?**

This historic site is on the west side of the current two-lane road. ROW acquisition was originally planned for the east side of the roadway; however, that alternative would have resulted in stream impacts to Cold Water Creek. The final improvements were shifted along the roadway to the west to reduce other environmental effects. The driveway improvements were planned to match current conditions as much as possible to reduce any effects to the school site. The previous TCE was modified to account for these driveway improvements, including matching existing location, materials, and width, reducing impacts to the historic property. The minimal land required for the current design ROW does not affect the structures, resulting in no harm to the historic site.

**Who was involved in this evaluation?**

The SHPO has agreed that this project will have No Adverse Effect on the Cold Water-McPhearson School. SHPO correspondence is included in Appendix A.

**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 Cold Water-McPhearson School.

**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).

**APPENDIX A**

**SHPO COORDINATION**



THE DEPARTMENT OF ARKANSAS  
**HERITAGE**

Asa Hutchinson  
Governor

Stacy Hurst  
Director

Arkansas Arts Council

Arkansas Natural  
Heritage Commission

Arkansas State Archives

Delta Cultural Center

Historic Arkansas Museum

Mosaic Templars  
Cultural Center

Old State House Museum



ARKANSAS HISTORIC  
PRESERVATION PROGRAM



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March 8, 2018

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

RECEIVED  
ARDOT  
MAR 11 2018  
ENVIRONMENTAL  
DIVISION

RE: Baxter County – General  
Section 106 Review – FHWA  
Report Titled: *A Cultural Resources Survey of ArDOT Job Number FA0314  
HWY 341 Southeast – Stone County Line Phase 2 (S) Baxter County, Arkansas*  
AHTD Job Number: FA0314  
AHPP Tracking Number: 96504.01

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) has reviewed the above-referenced Phase I cultural resources report.

Based on the information presented in this report, we concur that the appropriate archaeological, geophysical and historic work has been conducted in order to identify and minimize the impacts to cultural resources. The AHPP concurs that sites 3BA0147, 3BA0486, 3BA0487, 3BA0488 and structures BA148 & BA149 are outside the area of potential effect (APE). Given that the centerline has been shifted to the other side of the road, thereby avoiding the property, the AHPP also concurs that site 3BA0489 will not be impacted by the proposed undertaking.

We also concur with the recommendation that site 3BA0578 is not eligible for the National Register of Historic Places (NRHP).

Finally, we find that the project will have a *No Adverse Effect to Historic Properties* as long as the three suspected grave locations are monitored during construction and no human remains are encountered and that only Segment A and B of the historic road (3BA0578) is impacted. In the event that human remains are discovered all work should cease and ArDOT should contact this office and the local police department, as per the Arkansas Burial Law.

Thank you for the opportunity to review this undertaking. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, please call Tim Dodson of my staff at 501-324-9784.

Sincerely,

Scott Kaufman  
Director, AHPP

cc: Mr. Randall Looney, Federal Highway Administration  
Dr. Ann Early, Arkansas Archeological Survey



THE DEPARTMENT OF ARKANSAS  
**HERITAGE**

Asa Hutchinson  
Governor

Stacy Hurst  
Director

Arkansas Arts Council

Arkansas Natural  
Heritage Commission

Arkansas State Archives

Delta Cultural Center

Historic Arkansas Museum

Mosaic Templars  
Cultural Center

Old State House Museum

September 19, 2018

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

RE: Baxter County – General  
Section 106 Review – FHWA  
Report Titled: *An Addendum to the Cultural Resources Survey of ArDOT Job  
Number FA0314 HWY 341 Southeast – Stone County Line Phase 2 (S) Baxter  
County, Arkansas*  
AHTD Job Number: FA0314  
AHPP Tracking Number: 96504.02

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) has reviewed the above-referenced addendum.

Based on the nature of the proposed undertaking and the additional ROW that is being acquired associated with the Cold Water-McPherson School (BA0148), the AHPP is requesting that ArDOT provide more detailed information as to the new road location within the redesigned ROW. This additional information will help assess and ensure the integrity of the Cold Water-McPherson School.

Thank you for the opportunity to review this undertaking. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, please call Tim Dodson of my staff at 501-324-9784.

Sincerely,

  
Scott Kaufman  
Director, AHPP



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cc: Mr. Randall Looney, Federal Highway Administration  
Dr. Ann Early, Arkansas Archeological Survey

**RECEIVED  
ARDOT**

**SEP 24 2018**

**ENVIRONMENTAL  
DIVISION**

FA0314



Asa Hutchinson  
*Governor*

Stacy Hurst  
*Director*

October 10, 2018

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

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OCT 11 2018  
ENVIRONMENTAL  
DIVISION

Arkansas Arts Council

Arkansas Natural  
Heritage Commission

Arkansas State Archives

Delta Cultural Center

Historic Arkansas Museum

Mosaic Templars  
Cultural Center

Old State House Museum

RE: Baxter County – General  
Section 106 Review – FHWA  
Request for Technical Assistance  
Hwy. 341 – Southeast – Stone County Line, Phase 2 (S)  
County Road Number 73  
AHPP Tracking Number 96504.03

Dear Mr. Fleming:

This letter is written in response to the additional information submitted regarding the above reference undertaking. We have determined that the locations of the rights-of-way (ROW) associated with the Cold Water-McPherson School (BA0148), will have no adverse effect on historic properties.

Tribes that have expressed an interest in the area include the Cherokee Nation (Ms. Elizabeth Toombs), the Delaware Nation (Ms. Kim Penrod), the Eastern Shawnee Tribe of Oklahoma (Ms. Robin Dushane), the Osage Nation (Dr. Andrea Hunter), the Quapaw Nation of Oklahoma (Mr. Everett Bandy), and the Shawnee Tribe of Oklahoma (Ms. Tonya Tipton). We recommend that they be consulted in accordance with 36 CFR § 800.2 (c) (2).

Thank you for the opportunity to review this undertaking. If you should have any questions or comments, please do not hesitate to contact Theresa Russell of my staff at (501)-324-9357.

Sincerely,

  
Scott Kaufman  
Director, AHPP

cc: Mr. Randal Looney, Federal Highway Administration  
Dr. Ann Early, Arkansas Archeological Survey



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website:  
[www.arkansaspreservation.com](http://www.arkansaspreservation.com)

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Section 4(f) Finding of De Minimis Impact  
Job FA0314

Appendix A-4



Sarah Huckabee Sanders  
Governor  
Shea Lewis  
Secretary

September 13, 2023

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

RE: Baxter County: General  
Section 106 Review: FHWA  
Proposed Undertaking: Hwy. 341 Southeast – Stone Co. Line (Phase 2) (S)  
Baxter County Road 73  
ArDOT Job Number: FA0314  
AHPP Tracking Number: 96504.04

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) has reviewed the submission for the above-referenced undertaking in Section 5, Township 17 North, Range 12 West in Baxter County. The project proposes to reconstruct County Road Number 73, which will require elevating the roadway about five feet to bring it above flood levels of Cold Water Creek. The road is located parallel to the southern boundary of the Cold Water School, a National Register of Historic Places listed site (AHPP Structure BA0148, 3BA0489). When the road is raised, the gravel driveway for the school will also need to be raised. The area of potential effect encompasses a total of 0.6 acres of proposed right-of-way and temporary construction easement. FHWA has determined road construction will not have a direct impact on the Cold Water School or the Cold Water school sign, which contributes to its NRHP listing. The AHPP issued a previous determination of no adverse effect on October 18, 2018 (AHPP Tracking Number 96504.03).

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

Thank you for the opportunity to review this undertaking. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, 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: 2023.09.13  
13:56:59 -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 FA0314 | 3. Date of Land Evaluation Request<br><b>1/2/2024</b> | 4. Sheet 1 of <b>1</b> |
|--------------------------------------------------------------|-------------------------------------------------------|------------------------|

|                                                                         |                                        |
|-------------------------------------------------------------------------|----------------------------------------|
| 1. Name of Project <b>Hwy. 341 Southeast - Stone Co. Line (Ph.2)(S)</b> | 5. Federal Agency Involved <b>FHWA</b> |
| 2. Type of Project <b>Corridor Improvement</b>                          | 6. County and State <b>Baxter, AR</b>  |

|                                                                                                                                                                                                                                 |                                                         |                                                      |                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|------------------------------------------------------|---------------------------|
| <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> |                   |                   |                   |
|                                                                   | <b>Corridor A</b>                       | <b>Corridor B</b> | <b>Corridor C</b> | <b>Corridor D</b> |
| A. Total Acres To Be Converted Directly                           | <b>2.64 acres</b>                       |                   |                   |                   |
| B. Total Acres To Be Converted Indirectly, Or To Receive Services | <b>0 acre</b>                           |                   |                   |                   |
| C. Total Acres In Corridor                                        | <b>2.64 acres</b>                       |                   |                   |                   |

|                                                                                    |  |  |  |  |
|------------------------------------------------------------------------------------|--|--|--|--|
| <b>PART IV (To be completed by NRCS) Land Evaluation Information</b>               |  |  |  |  |
| 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> | <b>100</b> |  |  |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|--|--|--|

|                                                                                                                                  |                |           |          |          |          |
|----------------------------------------------------------------------------------------------------------------------------------|----------------|-----------|----------|----------|----------|
| <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 |           |          |          |          |
| 1. Area in Nonurban Use                                                                                                          | 15             | 15        |          |          |          |
| 2. Perimeter in Nonurban Use                                                                                                     | 10             | 10        |          |          |          |
| 3. Percent Of Corridor Being Farmed                                                                                              | 20             | 0         |          |          |          |
| 4. Protection Provided By State And Local Government                                                                             | 20             | 0         |          |          |          |
| 5. Size of Present Farm Unit Compared To Average                                                                                 | 10             | 0         |          |          |          |
| 6. Creation Of Nonfarmable Farmland                                                                                              | 25             | 0         |          |          |          |
| 7. Availability Of Farm Support Services                                                                                         | 5              | 5         |          |          |          |
| 8. On-Farm Investments                                                                                                           | 20             | 0         |          |          |          |
| 9. Effects Of Conversion On Farm Support Services                                                                                | 25             | 0         |          |          |          |
| 10. Compatibility With Existing Agricultural Use                                                                                 | 10             | 0         |          |          |          |
| <b>TOTAL CORRIDOR ASSESSMENT POINTS</b>                                                                                          | <b>160</b>     | <b>30</b> | <b>0</b> | <b>0</b> | <b>0</b> |

|                                                                           |            |            |          |          |          |
|---------------------------------------------------------------------------|------------|------------|----------|----------|----------|
| <b>PART VII (To be completed by Federal Agency)</b>                       |            |            |          |          |          |
| Relative Value Of Farmland (From Part V)                                  | 100        | 100        | 0        | 0        | 0        |
| Total Corridor Assessment (From Part VI above or a local site assessment) | 160        | 30         | 0        | 0        | 0        |
| <b>TOTAL POINTS (Total of above 2 lines)</b>                              | <b>260</b> | <b>130</b> | <b>0</b> | <b>0</b> | <b>0</b> |

|                                            |                                                                                               |                       |                                                                                                  |
|--------------------------------------------|-----------------------------------------------------------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------|
| 1. Corridor Selected:<br><b>Corridor A</b> | 2. Total Acres of Farmlands to be Converted by Project:<br><b>2.64 acres of Imp. Farmland</b> | 3. Date Of Selection: | 4. Was A Local Site Assessment Used?<br>YES <input type="checkbox"/> NO <input type="checkbox"/> |
|--------------------------------------------|-----------------------------------------------------------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------|

5. Reason For Selection:

|                                                                   |                         |
|-------------------------------------------------------------------|-------------------------|
| Signature of Person Completing this Part:<br><i>Joshua Graham</i> | DATE<br><b>1/2/2024</b> |
|-------------------------------------------------------------------|-------------------------|

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

Clear Form

## Ledvina, Joseph

---

**From:** Lewis, Lindsey <lindsey\_lewis@fws.gov>  
**Sent:** Thursday, October 19, 2023 3:23 PM  
**To:** Ledvina, Joseph  
**Subject:** Re: [EXTERNAL] Job FA0314

**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.

Joe,

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

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

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

The Service has no additional comments or concerns and agrees with the determinations, justifications provided, non-jeopardy determinations, and concurrences made through the Arkansas Dkey, concurs with the supplemental determination of "not likely to adversely affect" the Ozark Big-eared Bat, agrees with the supplemental determination of "no effect" for Missouri Bladderpod, and the FHWA PBO Dkey determinations.

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/>

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:** Ledvina, Joseph <Joseph.Ledvina@ardot.gov>  
**Sent:** Thursday, October 19, 2023 12:30 PM  
**To:** Lewis, Lindsey <lindsey\_lewis@fws.gov>  
**Subject:** [EXTERNAL] Job FA0314

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

Lindsey,

The Arkansas Department of Transportation proposes safety improvements, including paving, curve reduction, and the extension of a small box culvert, to County Road 73 in Baxter County, AR. The species list, MA Consistency Letter, NLAA Concurrence Verification Letter, and bat survey report are attached.

The Arkansas determination key provided determinations of **no effect** for the listed birds (Eastern Black Rail, *Laterallus jamaicensis* ssp. *jamaicensis*; Piping Plover, *Charadrius melodus*; and Red Knot, *Calidris canutus rufa*) and **not likely to adversely affect** for the Gray Bat (*Myotis grisescens*) and Ozark Hellbender (*Cryptobranchus alleganiensis bishopi*).

Due to the lack of glade habitat in the project area, we contest the determination key and determine that the project will have **no effect** on the Missouri Bladderpod (*Physaria filiformis*).

The Arkansas determination key provided a determination that the project **may affect** the Ozark Big-eared Bat (*Corynorhinus townsendii ingens*). The project is several miles east of the nearest known hibernaculum. Nevertheless, a night-time-construction-only provision will be applied to the contract to minimize the potential for impacts to this species. We therefore determine that this project is **not likely to adversely affect** the Ozark Big-eared Bat.

A bat mist-net survey following the USFWS Range-Wide Indiana Bat & Northern Long-eared Bat Survey Guidelines conducted by Environmental Solutions & Innovations, Inc. did not capture any Indiana (*Myotis sodalis*) or Northern Long-eared (*Myotis septentrionalis*) Bats. The IPaC key following the FHWA PBO for these species provided a determination of **not likely to adversely affect** for these two species.

This project will not jeopardize the continued existence of the Alligator Snapping Turtle (*Macrochelys temminckii*) or the Tricolored Bat (*Perimyotis subflavus*).

We seek your concurrence with these determinations.

Joe

**Joe Ledvina**



## 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:

January 18, 2024

Project Code: 2023-0079716

Project Name: ARDOT Job # FA0314 - Hwy. 341 Southeast - Stone Co. Line (Phase 2) (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 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: 2023-0079716

Project Name: ARDOT Job # FA0314 - Hwy. 341 Southeast - Stone Co. Line (Phase 2)  
(S)

Project Type: Road/Hwy - Maintenance/Modification

Project Description: Improve and straighten County Road 73, including extending pipe culverts

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@36.13972455,-92.27076953653807,14z>



Counties: Baxter County, Arkansas

## ENDANGERED SPECIES ACT SPECIES

There is a total of 12 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.<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 |

## AMPHIBIANS

| NAME                                                                                                                                                                                                                                  | STATUS     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Ozark Hellbender <i>Cryptobranchus alleganiensis bishopi</i><br>No critical habitat has been designated for this species.<br>Species profile: <a href="https://ecos.fws.gov/ecp/species/647">https://ecos.fws.gov/ecp/species/647</a> | Endangered |

## INSECTS

| NAME                                                                                                                                                                                                                 | STATUS    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| Monarch Butterfly <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     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Missouri Bladderpod <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: Joseph Ledvina

Address: 10324 I-30

City: Little Rock

State: AR

Zip: 72209

Email: joseph.ledvina@ardot.gov

Phone: 5015692025

## **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:

October 06, 2023

Project code: 2023-0079716

Project Name: ARDOT Job # FA0314 - Hwy. 341 Southeast - Stone Co. Line (Phase 2) (S)

Subject: Consistency letter for 'ARDOT Job # FA0314 - Hwy. 341 Southeast - Stone Co. Line (Phase 2) (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 Joseph Ledvina:

The U.S. Fish and Wildlife Service (Service) received on **October 06, 2023** your effect determination(s) for the 'ARDOT Job # FA0314 - Hwy. 341 Southeast - Stone Co. Line (Phase 2) (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          |
| Ozark Big-eared Bat ( <i>Corynorhinus (=Plecotus) townsendii ingens</i> ) | Endangered     | May affect    |
| Ozark Hellbender ( <i>Cryptobranchus alleganiensis bishopi</i> )          | Endangered     | NLAA          |
| Piping Plover ( <i>Charadrius melodus</i> )                               | Threatened     | No effect     |
| 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>

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**Action Description**

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

**1. Name**

ARDOT Job # FA0314 - Hwy. 341 Southeast - Stone Co. Line (Phase 2) (S)

**2. Description**

The following description was provided for the project 'ARDOT Job # FA0314 - Hwy. 341 Southeast - Stone Co. Line (Phase 2) (S)':

Improve and straighten County Road 73, including extending pipe culverts

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@36.13972455,-92.27076953653807,14z>



## **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>

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## 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

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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?  
*Yes*
24. [Semantic] Does the project intersect the Indiana bat AOI?  
**Automatically answered**  
*Yes*
25. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?  
**Automatically answered**  
*No*
-

26. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?  
**Automatically answered**  
*No*
27. [Semantic] Does the project intersect the Ozark cavefish AOI?  
**Automatically answered**  
*No*
28. [Semantic] Does the project intersect the Missouri bladderpod AOI?  
**Automatically answered**  
*Yes*
29. [Semantic] Does the project intersect the Geocarpon AOI?  
**Automatically answered**  
*No*
30. [Semantic] Does the project intersect the running buffalo clover AOI?  
**Automatically answered**  
*No*
31. [Semantic] Does the project intersect the Pondberry AOI?  
**Automatically answered**  
*No*
32. 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*
33. 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*
34. Does the project include Streambank Stabilization (or other streambank work)?  
*No*
35. Does the project include Boat Ramps?  
*No*
36. Does the project include Bridges and Culverts?  
*Yes*
37. Does the project include the Bridges and Culverts species [protective measures](#), as applicable to the project and site characteristics?  
*Yes*
-

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, Straightening, or Armoring?

*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**

*No*

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

**Automatically answered**

*No*

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

**Automatically answered**

*No*

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

**Automatically answered**

*No*

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

**Automatically answered**

*No*

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

**Automatically answered**

*No*

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

**Automatically answered**

*No*

51. [Semantic] Does the project intersect the scaleshell AOI?

**Automatically answered**

*No*

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

**IPAC USER CONTACT INFORMATION**

Agency: Arkansas Department of Transportation

Name: Joseph Ledvina

Address: 10324 I-30

City: Little Rock

State: AR

Zip: 72209

Email: joseph.ledvina@ardot.gov

Phone: 5015692025

**LEAD AGENCY CONTACT INFORMATION**

Lead Agency: Federal Highway Administration

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## United States Department of the Interior

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



In Reply Refer To:

October 06, 2023

Project code: 2023-0079716

Project Name: ARDOT Job # FA0314 - Hwy. 341 Southeast - Stone Co. Line (Phase 2) (S)

Subject: Concurrence verification letter for the 'ARDOT Job # FA0314 - Hwy. 341 Southeast - Stone Co. Line (Phase 2) (S)' project under the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (NLEB).

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated October 06, 2023 to verify that the **ARDOT Job # FA0314 - Hwy. 341 Southeast - Stone Co. Line (Phase 2) (S)** (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, and may affect, but 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
  - Ozark Hellbender *Cryptobranchus alleganiensis bishopi* Endangered
  - Piping Plover *Charadrius melodus* Threatened
  - Red Knot *Calidris canutus rufa* Threatened
  - Tricolored Bat *Perimyotis subflavus* Proposed Endangered
-

## **PROJECT DESCRIPTION**

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

### **NAME**

ARDOT Job # FA0314 - Hwy. 341 Southeast - Stone Co. Line (Phase 2) (S)

### **DESCRIPTION**

Improve and straighten County Road 73, including extending pipe culverts

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The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@36.13972455,-92.27076953653807,14z>



## 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

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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

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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**

- 2086.12 ARDOT FA0314 Bats - Final.pdf <https://ipac.ecosphere.fws.gov/project/JXF73EO5UBCMBKWT3D5FKHR7SI/projectDocuments/132967977>

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.

*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**<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*

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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?  
No
27. Will the removal of habitat or the removal/trimming of trees include installing new or replacing existing **permanent** lighting?  
No
28. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?  
No
29. Does the project include slash pile burning?  
No
30. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?  
No
31. Does the project include the removal, replacement, and/or maintenance of *any* structure other than a bridge? (e.g., rest areas, offices, sheds, outbuildings, barns, parking garages, etc.)  
No
32. Will the project involve the use of **temporary** lighting *during* the active season?  
No
33. Will the project install new or replace existing **permanent** lighting?  
No
34. Does the project include percussives or other activities (**not including tree removal/trimming or bridge/structure work**) that will increase noise levels above existing traffic/background levels?  
No
-

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

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

Yes

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

No

37. Are the project activities that are not associated with habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives consistent with a No Effect determination in this key?

**Automatically answered**

*Yes, other project activities are limited to actions that DO NOT cause any additional stressors to the bat species as described in the BA/BO*

38. Is the location of this project consistent with a Not Likely to Adversely Affect determination in this key?

**Automatically answered**

*Yes, because no bats were detected during presence/probable absence surveys conducted during the summer survey season and outside of the fall swarming/spring emergence periods. Additionally, all activities were at least 0.5 miles from any hibernaculum.*

39. **General AMM 1**

Will the project ensure *all* operators, employees, and contractors working in areas of known or presumed bat habitat are aware of *all* FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable Avoidance and Minimization Measures?

Yes

40. **Hibernacula AMM 1**

Will the project ensure that on-site personnel will use best management practices<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

41. **Hibernacula AMM 1**

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

Yes

## PROJECT QUESTIONNAIRE

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

No

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

Yes

3. How many acres<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.

2.1

4. How many acres<sup>[1]</sup> 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.

0.9

## AVOIDANCE AND MINIMIZATION MEASURES (AMMS)

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

### GENERAL AMM 1

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

### HIBERNACULA AMM 1

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

---

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

This key was last updated in IPaC on July 27, 2023. Keys are subject to periodic revision.

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

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

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**IPAC USER CONTACT INFORMATION**

Agency: Arkansas Department of Transportation

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**LEAD AGENCY CONTACT INFORMATION**

Lead Agency: Federal Highway Administration

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# ARDOT ENVIRONMENTAL VERIFICATION CHECKLIST FOR CONSIDERATION OF POTENTIAL IMPACTS

ARDOT Job FA0314 FAP STPR-0003(49)

Job Title Hwy. 341 Southeast – Stone Co. Line (Phase 2) (S)

| Environmental Resource         | None | Minimal | Major | Comments                                        |
|--------------------------------|------|---------|-------|-------------------------------------------------|
| Air Quality                    | X    |         |       | No impacts anticipated                          |
| Cultural Resources             |      | X       |       | "No adverse effect" to historic properties      |
| Economic                       | X    |         |       | No impacts anticipated                          |
| Endangered Species             |      | X       |       | "Not likely to adversely affect"/"No effect"    |
| Environmental Justice/Title VI | X    |         |       | No impacts anticipated                          |
| Fish and Wildlife              |      | X       |       | Temporary and minor during construction         |
| Floodplains                    |      | X       |       | Project within Zone A SFHA                      |
| Forest Service Property        |      | X       |       | 12.6 acres ROW / 1.4 acres TCE in USFS          |
| Hazardous Materials/Landfills  | X    |         |       | No impacts anticipated                          |
| Land Use                       |      | X       |       | 14.2 acres ROW / 1.6 acres TCE total            |
| Migratory Birds                |      | X       |       | Migratory Bird Special Provision added          |
| Navigation/Coast Guard         | X    |         |       | No impacts anticipated                          |
| Noise Levels                   | X    |         |       | No impacts anticipated                          |
| Prime Farmland                 |      | X       |       | 2.3 acres Prime / 0.4 acre Statewide Imp.       |
| Protected Waters               | X    |         |       | No impacts anticipated                          |
| Public Recreation Lands        | X    |         |       | No impacts anticipated                          |
| Public Water Supply/WHPA       | X    |         |       | No impacts anticipated                          |
| Relocates                      | X    |         |       | No relocations anticipated                      |
| Section 4(f)/6(f)              |      | X       |       | Evaluation determined <i>de minimis</i> impacts |
| Social                         | X    |         |       | No impacts anticipated                          |
| Underground Storage Tanks      | X    |         |       | No impacts anticipated                          |
| Visual                         |      | X       |       | Minor visual impacts paving gravel road         |
| Streams                        |      | X       |       | Total impacts approx. 430' and 0.1 acre         |
| Water Quality                  |      | X       |       | Temporary and minor during construction         |
| Wetlands                       | X    |         |       | No impacts anticipated                          |
| Wildlife Refuges               | X    |         |       | No impacts anticipated                          |

Section 401 Water Quality Certification Required? No

Short-term Activity Authorization Required? Yes

Section 404 Permit Required? Yes Type Nationwide Permit #14

Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature of Evaluator Simon Stapfield Date January 17, 2024

Date Submitted February 1, 2023

Date Returned \_\_\_\_\_

## STATE AID DESIGN REQUEST

Job Number: FA0314 FAP Number: STPR-0003(49) County: BaxterJob Name: Hwy. 341 Southeast - Stone Co. Line (Phase 2) (S)Design Engineer: Timothy Yu Environmental StaffBrief Project Description: Replace drainage structures and reconstruct on existing location

## A. Existing Conditions:

1. Roadway Width: Metric \_\_\_\_\_ English 20'
2. Shoulder Width: Metric \_\_\_\_\_ English N/A
3. Number of Lanes and Width: Metric \_\_\_\_\_ English 2 @ 10'
4. Existing Right-of-Way: Metric \_\_\_\_\_ English Var. 25' Lt./25' Rt.

## B. Proposed Improvements:

1. Roadway Width: Metric \_\_\_\_\_ English 28'
2. Shoulder Width: Metric \_\_\_\_\_ English 4' Each Side
3. Number of Lanes and Width: Metric \_\_\_\_\_ English 2 @ 10'
4. Average Right-of-Way: Metric \_\_\_\_\_ English 97.7'

If bridge(s) will be replaced by culverts give dimensions: 2 - 9' x 6' R.C.B.

## C. Construction Information:

Detour: (if applicable)

Where: N/A

Approximate total length of detour: \_\_\_\_\_ kilometer(s) \_\_\_\_\_ mile(s)

## D. Design Data:

2023 ADT: 75 2043 ADT: 85 Trucks: 2%Design Speed: 30 MPHE. Approximate total length of project: \_\_\_\_\_ kilometer(s) 1.525 mile(s)F. Justification for proposed improvements: Deficiencies in Drainage StructuresG. Total Relocates: 0 Residences: \_\_\_\_\_ Businesses: \_\_\_\_\_

H. Have you coordinated with any of the following: (Provide name and date.)

County Officials: Baxter County JudgeState Agency: NoFederal Agency: No