

**TIER 3 CATEGORICAL EXCLUSION**

**ARDOT JOB NUMBER 050171**

**FAP NUMBER STPR-0067(29)**

**HWY. 175 & 175S STRS. & APPRS. (CHEROKEE VILLAGE) (S)**

**ROUTES 175 AND 175 SPUR, SECTION 2**

**SHARP COUNTY**

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

By the

U.S. Department of Transportation

Federal Highway Administration

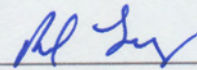
And the

Arkansas Department of Transportation

April 2020

4/16/2020

Date of Approval



Randal Looney  
Environmental Coordinator  
Federal Highway Administration

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

The purpose of this project is to replace two flood-prone structures over Big Otter Creek on Highway 175 and Highway 175 Spur in Cherokee Village. The total project length is 0.3 mile. A project location map is attached.

The existing roadway has two 11' wide paved travel lanes with 2' wide unpaved shoulders. Structure 16963 is approximately 266' x 21' and Structure 18834 is approximately 41' x 20'. There is no existing right of way in the project area.

The proposed roadway will have two 14' wide paved travel lanes with curb and gutter, 3' wide grass berms, and 5' wide sidewalks on both sides. The existing structures will be replaced with reinforced concrete box culverts. Approximately 2.6 acres of new right of way will be acquired. Average proposed right of way width is 90'.

Design data for this project is as follows:

Design Year	Average Daily Traffic (vpd)	Percent Trucks	Design Speed (mph)
2021	2,200	1	25
2041	2,500		

There are no relocations, environmental justice concerns, hazardous materials, prime farmlands, wetlands, or cultural resources associated with this project. State Historic Preservation Officer clearance is attached.

Noise predictions were made for this project using the FHWA Traffic Noise Model 2.5 procedures. As detailed in the attached noise assessment report, predicted noise levels were below applicable FHWA noise impact criteria; therefore, project related noise impacts are not anticipated.

A review of Arkansas Department of Environmental Quality regulated storage tank records indicated that an underground storage tank (UST) leak was reported in the project area; however, contaminated soil associated with the leak has reportedly been removed. Any previously unidentified USTs and/or contaminated soil encountered during construction will be removed in accordance with regulations.

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

Sharp County participates in the National Flood Insurance Program. The Project lies within the Zone AE, 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 will constitute a substantial floodplain encroachment or risk to property or life.

The attached official species list obtained through the U.S. Fish and Wildlife Service's (USFWS) Information for Planning and Consultation (IPaC) website lists the following federally-listed species as potentially affected by the proposed project: gray bat (*Myotis grisescens*); northern long-eared bat (*Myotis septentrionalis*); Indiana bat (*Myotis sodalis*); Ozark hellbender (*Cryptobranchus alleganiensis bishopi*); Pink Mucket (*Lampsilis abrupta*); Scaleshell (*Leptodea leptodon*); Snuffbox (*Epioblasma triquetra*); Turgid Blossom (*Epioblasma turgidula*); Curtis Pearlymussel (*Epioblasma curtisii*); Rabbitsfoot (*Theliderma cylindrica*); and Missouri bladderpod (*Physaria filiformis*). Missouri bladderpod is a glade species and is not known to exist in the project area; therefore, this project will have no effect on this species.

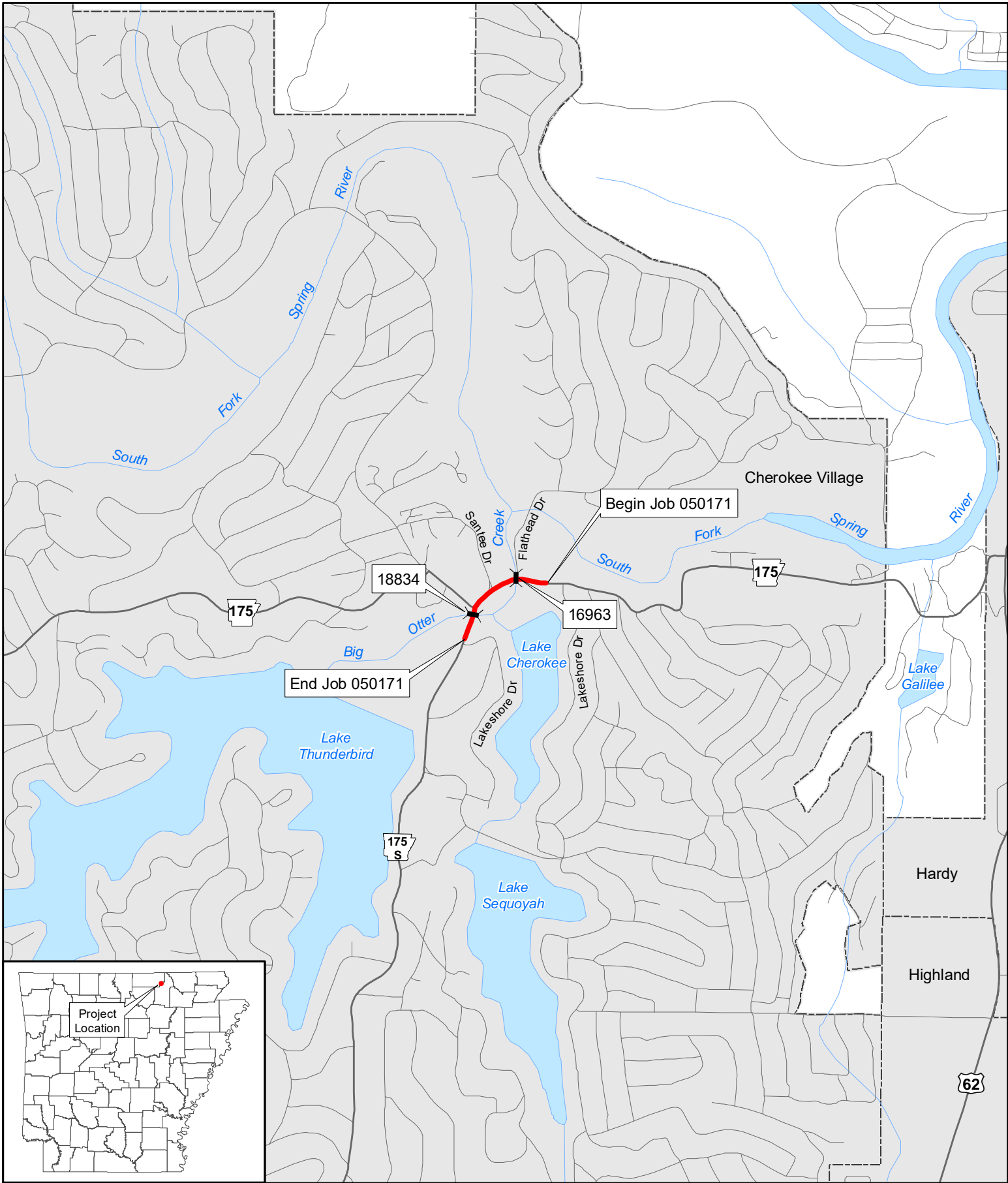
FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat determination key provided a "not likely to adversely affect" concurrence letter for the aforementioned species. Implementation of Best Management Practices will be included in the project contract to minimize any effects to the federally listed aquatic species; therefore, it has been determined that this project may affect, but is not likely to adversely affect the following species: Ozark hellbender (*Cryptobranchus alleganiensis bishopi*); Pink Mucket (*Lampsilis abrupta*); Scaleshell (*Leptodea leptodon*); Snuffbox (*Epioblasma triquetra*); Turgid Blossom (*Epioblasma turgidula*); Curtis Pearlymussel (*Epioblasma curtisii*); Rabbitsfoot (*Theliderma cylindrica*); and gray bat (*Myotis grisescens*). The USFWS correspondence is attached.

The project will have a discharge of dredged or fill material into waters of the United States associated with the box culverts; a Section 404 permit will therefore be required. The project should be authorized by Nationwide Permit 14 for Linear Transportation Projects as defined in Federal Register 82(4): 1860-2008.

The South Fork of the Spring River has the following special water resource designations: Extraordinary Resource Waterbody (ERW) and National Rivers Inventory. Correspondence to the National Park Service is attached. No response was received.

A Public Involvement meeting was held on May 9, 2019; the meeting synopsis is attached.


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



0 1,000 2,000  
Feet

ARDOT - Environmental GIS - Reed  
April 14, 2020

Job 050171  
Hwy. 175 & Hwy. 175S Strs. & Apprs.  
(Cherokee Village)  
Sharp County

 Project Location





THE DEPARTMENT OF ARKANSAS  
**HERITAGE**

Asa Hutchinson  
*Governor*

Stacy Hurst  
*Director*

Arkansas Arts Council

Arkansas Historic  
Preservation Program

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



1100 North Street  
Little Rock, AR 72201

(501) 324-9880  
fax: (501) 324-9184

[info@arkansaspreservation.org](mailto:info@arkansaspreservation.org)  
[www.arkansaspreservation.com](http://www.arkansaspreservation.com)

An Equal Opportunity Employer

June 7, 2019

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

RE: Sharp County — General  
Section 106 Review — FHWA  
Response Letter: Hwy. 175 & Hwy. 175S Str. & Apprs.  
(Cherokee Village) (S)  
Route 175, Section 2  
Route 175S, Section 2S  
ARDOT Job Number: 050171  
AHPP Tracking Number: 103970

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) reviewed the Project Identification Form for the above-referenced job. The undertaking entails replacing two low water crossings over Big Otter Creek on Arkansas Route 175 and 175S with new box culverts that will be higher than the current roadway. The project will require additional right-of-way (ROW) and a temporary construction easement. The project length is approximately 1,545 feet (470 meters) with a total area of approximately 2.96 acres (1.2 hectares).

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

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

Thank you for the opportunity to review this undertaking and well researched report. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, please call Eric Mills of my staff at 501-324-9784 or email [eric.mills@arkansas.gov](mailto:eric.mills@arkansas.gov).

Sincerely,

*Eric Mills*

For Scott Kaufman  
Director, AHPP

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

**NOISE ASSESSMENT REPORT**  
**SCREENING LEVEL NOISE ANALYSIS**  
**ARDOT JOB NUMBER 050171**

**HWY. 175 & 175S STRS. & APPRS. (CHEROKEE VILLAGE) (S)**

***Fundamentals of Sound and Noise***

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

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

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

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

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

***Noise Impact and Abatement Criteria***

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

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

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

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

### ***Screening Level Noise Analysis***

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

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

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



### ***Project Evaluation and Screening Analysis Results***

Both the existing and proposed roadways have low traffic volumes and few potential receptors. Additionally, noise barriers would not be feasible due to established land uses requiring access points. A screening analysis was therefore considered appropriate for this project.

TNM modeling was completed using the existing year 2021 and design year 2041 (future build) traffic and roadway information. The purpose of the modeling was to determine the distances correlating to the 66 dBA noise impact level for receptors under existing and future build conditions. Receivers were incrementally extended from the project centerline to a maximum distance of 500 feet. The model input data is attached, and the results are summarized below.

Noise impacts were not predicted under existing (55.8 dBA 25 feet from centerline) and future build (56.4 dBA 25 feet from centerline) conditions. These predictions indicate the sound level increases under future build conditions would be less than 1 dB, a change that is not discernable to the human ear. The predicted sound level values are also well below the noise impact level of 66 dBA and the screening level threshold of 63 dBA. A detailed noise analysis is therefore not needed for this project. In compliance with federal guidelines, local authorities will not require notification.

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

**Table 1** presents the NAC values.

**Table 1. Noise Abatement Criteria (NAC)**

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

\* Includes undeveloped lands permitted for this activity category.

## NOISE DATA WORKSHEET

Job No: 050171

Hwy. 175 & 175S Strs. & Apprs. (Cherokee Village)

Roadway Reference: Hwy. 175 & 175S

County: Sharp

Design Year: 2041

Year(s) To Be Modeled: 2021 2041

Roadway Cross-Sections: 2 11' lane 2 2' shoulder total 26' wide

2021 EXISTING

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

Operating Speed: 20 mph

Kfactor 11%

Traffic Data:

YEAR	ADT	%TRUCK	DHV	CARS	MT	HT	CARS/2	MT/2	HT/2
					10%	90%			
				0	0	0	0	0	0
2021	2,200	1%	242	240	0	2	120	0	1

## NOISE DATA WORKSHEET

Job No: 050171

Hwy. 175 & 175S Strs. & Apprs. (Cherokee Village)

Roadway Reference: Hwy. 175 & 175S

County: Sharp

Design Year: 2041

Year(s) To Be Modeled: 2021 2041

Roadway Cross-Sections: 2 14' lane 2 1' cc; 2 5' sidewalk total 40' wide

2041 PROPOSED

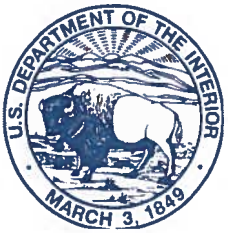
Note:  $DHV = (ADT)(K)$   
 $DDHV = (ADT)(K)(D)$   
 K - Percent of ADT occuring in design hour  
 D - Directional Distribution

Operating Speed: 20 mph

Kfactor 11%

Traffic Data:

YEAR	ADT	%TRUCK	DHV	CARS	MT	HT	CARS/2	MT/2	HT/2
					10%	90%			
				0	0	0	0	0	0
2041	2,500	1%	275	272	0	2	136	0	1



IN REPLY REFER TO:

# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Arkansas Ecological Service Field Office  
110 South Amity Road, Suite 300  
Conway, Arkansas 72032



June 26, 2019

Mr. John Fleming  
c/o Mickey Matthews  
Arkansas Department of Transportation  
10324 Interstate 30  
Little Rock, Arkansas 72209

Consultation Code: 04ER1000-2019-I-1059

Dear Mr. Fleming:

The U.S. Fish and Wildlife Service (Service) has reviewed your assessment and determinations for Arkansas Department of Transportation (ArDOT) Job # 050151 Cherokee Village, Hwy. 175 & Hwy. 175S Strs. & Apprs, Sharp County, Arkansas. The project was described and assessed as follows (abbreviated):

The Arkansas Department of Transportation (ArDOT) will be replacing two low water culvert crossings in Cherokee Village. I have attached the IPAC list for your convenience. The project should have no effect on the Missouri Bladderpod (*Physaria filiformis*) due to limited scope of the project, lack of habitat, and distance to known populations.

Implementation of Best Management Practices and the addition of the water pollution control special provision to the contract will minimize potential effects to the aquatic species. ArDot has determined the overlay may affect, but is not likely to adversely affect, the following species; Curtis Pearlymussel (*Epioblasma curtisii*), Pink Mucket (*Lampsilis abrupta*), Scaleshell Mussel (*Leptodea leptodon*), Snuffbox Mussel (*Epioblasma triquetra*), Turgid Blossom (*Epioblasma turgidula*), Rabbitsfoot (*Theliderma cylindrica*), and Gray Bat (*Myotis grisescens*).

FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) determination key within IPaC provided not likely to adversely affect concurrence letter (attached) for the project. The Arkansas Department of Transportation is requesting concurrence with these effects determinations.

The Service has reviewed your determination that the proposed action will not result in any prohibited incidental take for Northern Long-eared Bat. This project may affect the Northern Long-eared Bat; however, there are no effects beyond those previously disclosed in the Service's programmatic biological opinion for the final 4(d) rule dated January 5, 2016. Any taking that may occur incidental to this project is not prohibited under the final 4(d) rule (50 CFR§17.40(o)).

This project is consistent with the description of the proposed action in the programmatic biological opinion, and the 4(d) rule does not prohibit incidental take of the Northern Long-eared Bat that may occur as a result of this project. Therefore, the programmatic biological opinion satisfies the "action agency" responsibilities under ESA section 7(a)(2) relative to the Northern Long-eared Bat for this project.



Please keep in mind that you must report any departures from the plans submitted; results of any surveys conducted; or any dead, injured, or sick Northern Long-eared Bats that are found to this office. If this project is not completed within one year of this letter, you must update your determination and resubmit the required information.

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.).

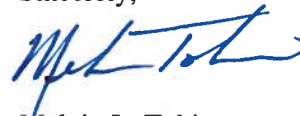
Based on the information you provided, you have determined that the Proposed Action is within the scope and adheres to the criteria of the PBO, including the adoption of applicable avoidance and minimization measures, may affect, but is not likely to adversely affect (NLAA) the Indiana Bat and Northern Long-Eared Bat.

The Service concurs that this action may rely on the PBO. Furthermore, due to the limited size of the area being affected along existing bridges and roadway, the action occurring on and adjacent to existing right-of-way, the distance to known species locations or hibernacula, the implementation of BMPs, and the standard provisions for stream sediment control and water quality conservation measures, the Service agrees with your determinations of "not likely to adversely affect" for Curtis Pearlymussel, Pink Mucket, Scaleshell Mussel, Snuffbox Mussel, Turgid Blossom, Rabbitsfoot, and Gray Bat. The Service also agrees with your assessment for all other listed species identified. No further consultation is necessary at this time.

If the Proposed Action is modified, or new information reveals that it may affect the Indiana Bat and/or Northern Long-eared Bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required. If the Proposed Action may affect any other federally-listed or proposed species, and/or any designated critical habitat, additional consultation 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.

For further assistance or if you have any questions, please contact Lindsey Lewis at (501) 513-4489 or [lindsey\\_lewis@fws.gov](mailto:lindsey_lewis@fws.gov).

Sincerely,



Melvin L. Tobin  
Field Supervisor

cc: Project File  
Read File

Filename: C:\Users\Wilewis\Documents\PROJECTS\FY2019\ARDOT\050151 Cherokee Village\AFO Letter  
-050151 Cherokee Village - Comments.docx



## United States Department of the Interior



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

In Reply Refer To:

June 20, 2019

Consultation Code: 04ER1000-2019-SLI-1059

Event Code: 04ER1000-2019-E-02059

Project Name: 050171 Hwy. 175 & Hwy. 175S Strs. & Apprs. (Cherokee Village) (S)

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

To Whom It May Concern:

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

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

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

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

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

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

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

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

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

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

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

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

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

Attachment(s):

- Official Species List

# Official Species List

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

This species list is provided by:

**Arkansas Ecological Services Field Office**

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

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## Project Summary

Consultation Code: 04ER1000-2019-SLI-1059

Event Code: 04ER1000-2019-E-02059

Project Name: 050171 Hwy. 175 & Hwy. 175S Strs. & Apprs. (Cherokee Village) (S)

Project Type: TRANSPORTATION

Project Description: Replace two low water culverted crossings.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.30788104402476N91.52811013303301W>



Counties: Sharp, AR

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## Endangered Species Act Species

There is a total of 11 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> No critical habitat has been designated for this species. 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> There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. 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> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened

## Amphibians

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

---

## Clams

NAME	STATUS
Curtis Pearlymussel <i>Epioblasma florentina curtisii</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/5628">https://ecos.fws.gov/ecp/species/5628</a>	Endangered
Pink Mucket (pearlymussel) <i>Lampsilis abrupta</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7829">https://ecos.fws.gov/ecp/species/7829</a>	Endangered
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/5165">https://ecos.fws.gov/ecp/species/5165</a>	Threatened
Scaleshell Mussel <i>Leptodea leptodon</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/5881">https://ecos.fws.gov/ecp/species/5881</a>	Endangered
Snuffbox Mussel <i>Epioblasma triquetra</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/4135">https://ecos.fws.gov/ecp/species/4135</a>	Endangered
Turgid Blossom (pearlymussel) <i>Epioblasma turgidula</i> Population: Wherever found; Except where listed as Experimental Populations No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7659">https://ecos.fws.gov/ecp/species/7659</a>	Endangered

## Flowering Plants

NAME	STATUS
Missouri Bladderpod <i>Physaria filiformis</i> No critical habitat has been designated for this species. 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.



## United States Department of the Interior



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

In Reply Refer To:

June 20, 2019

Consultation Code: 04ER1000-2019-I-1059

Event Code: 04ER1000-2019-E-02060

Project Name: 050171 Hwy. 175 & Hwy. 175S Strs. & Apprs. (Cherokee Village) (S)

Subject: Concurrence verification letter for the '050171 Hwy. 175 & Hwy. 175S Strs. & Apprs. (Cherokee Village) (S)' project under the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated to verify that the **050171 Hwy. 175 & Hwy. 175S Strs. & Apprs. (Cherokee Village) (S)** (Proposed Action) may rely on the concurrence provided in the February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C 1531 *et seq.*).

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

The Service has 14 calendar days to notify the lead Federal action agency or designated non-federal representative if we determine that the Proposed Action does not meet the criteria for a NLAA determination under the PBO. If we do not notify the lead Federal action agency or designated non-federal representative within that timeframe, you may proceed with the Proposed Action under the terms of the NLAA concurrence provided in the PBO. This verification period allows Service Field Offices to apply local knowledge to implementation of the PBO, as we may identify a small subset of actions having impacts that were unanticipated. In such instances, Service Field Offices may request additional information that is necessary to verify inclusion of the proposed action under the PBO.

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

If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or Northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required. If the Proposed Action may affect any other federally-listed or proposed species, and/or any designated critical habitat, additional consultation 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:

- Curtis Pearlymussel, *Epioblasma florentina curtisii* (Endangered)
  - Gray Bat, *Myotis grisescens* (Endangered)
  - Missouri Bladderpod, *Physaria filiformis* (Threatened)
  - Ozark Hellbender, *Cryptobranchus alleganiensis bishopi* (Endangered)
  - Pink Mucket (pearlymussel), *Lampsilis abrupta* (Endangered)
  - Rabbitsfoot, *Quadrula cylindrica cylindrica* (Threatened)
  - Scaleshell Mussel, *Leptodea leptodon* (Endangered)
  - Snuffbox Mussel, *Epioblasma triquetra* (Endangered)
  - Turgid Blossom (pearlymussel), *Epioblasma turgidula* (Endangered)
-



## Project Description

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

### Name

050171 Hwy. 175 & Hwy. 175S Strs. & Apprs. (Cherokee Village) (S)

### Description

Replace two low water culverted crossings.

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## Determination Key Result

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

## Qualification Interview

1. Is the project within the range of the Indiana bat<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*

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

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

*No*

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

*Yes*

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

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

*No*

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

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

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

*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.

*No*

13. 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*

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

*Yes*

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15. 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.

*B) During the inactive season*

16. 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*

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

*Yes*

18. 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?

*B) During the inactive season*

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

*Yes*

20. Will the tree removal alter *any* **documented** Indiana bat or NLEB roosts and/or alter any surrounding summer habitat **within** 0.25 mile of a documented roost?

*No*

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

*No*

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

*Yes*

---



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

*No*

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

*No*

25. Does the project include slash pile burning?

*No*

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

*No*

27. 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*

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

*No*

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

*No*

30. 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*

31. 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*

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

*No*

33. 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*

34. Is the habitat removal portion of this project consistent with a Not Likely to Adversely Affect determination in this key?

**Automatically answered**

*Yes, because the tree removal/trimming that occurs outside of the active season occurs greater than 0.5 miles from the nearest hibernaculum, is less than 100 feet from the existing road/rail surface, includes clear demarcation of the trees that are to be removed, and does not alter documented roosts and/or surrounding summer habitat within 0.25 miles of a documented roost*

35. Is the habitat removal portion of this project consistent with a Not Likely to Adversely Affect determination in this key?

**Automatically answered**

*Yes, because the tree removal/trimming that occurs outside of the active season occurs greater than 0.5 miles from the nearest hibernaculum, is less than 100 feet from the existing road/rail surface, includes clear demarcation of the trees that are to be removed, and does not alter documented roosts and/or surrounding summer habitat within 0.25 miles of a documented roost*

36. **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*

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**37. 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*

**38. 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*

**39. Tree Removal AMM 1**

Can *all* phases/aspects of the project (e.g., temporary work areas, alignments) be modified, to the extent practicable, to avoid tree removal<sup>[1]</sup> in excess of what is required to implement the project safely?

Note: Tree Removal AMM 1 is a minimization measure, the full implementation of which may not always be practicable. Projects may still be NLAA as long as Tree Removal AMMs 2, 3, and 4 are implemented and LAA as long as Tree Removal AMMs 3, 5, 6, and 7 are implemented.

[1] The word “trees” as used in the AMMs refers to trees that are suitable habitat for each species within their range. See the USFWS’ current summer survey guidance for our latest definitions of suitable habitat.

*Yes*

**40. Tree Removal AMM 2**

Can *all* tree removal activities be restricted to when Indiana bats are not likely to be present (e.g., the inactive season)<sup>[1]</sup>?

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

**Automatically answered**

*Yes*

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**41. Tree Removal AMM 2**

Can *all* tree removal activities be restricted to when Northern long-eared bats are not likely to be present (e.g., the inactive season)<sup>[1]</sup>?

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

**Automatically answered**

*Yes*

**42. Tree Removal AMM 3**

Can tree removal be limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits)?

*Yes*

**43. Tree Removal AMM 4**

Can the project avoid cutting down/removal of *all* (1) **documented**<sup>[1]</sup> Indiana bat or NLEB roosts<sup>[2]</sup> (that are still suitable for roosting), (2) trees **within** 0.25 miles of roosts, and (3) documented foraging habitat any time of year?

[1] The word documented means habitat where bats have actually been captured and/or tracked.

[2] 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.)

*Yes*

**44. Lighting AMM 1**

Will *all* **temporary** lighting used during the removal of suitable habitat and/or the removal/trimming of trees within suitable habitat be directed away from suitable habitat during the active season?

*Yes*

## Project Questionnaire

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

*No*

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

*Yes*

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

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

*0.1*

## 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.

### LIGHTING AMM 1

Direct temporary lighting away from suitable habitat during the active season.

### TREE REMOVAL AMM 1

Modify all phases/aspects of the project (e.g., temporary work areas, alignments) to avoid tree removal.

### TREE REMOVAL AMM 2

Apply time of year restrictions for tree removal when bats are not likely to be present, or limit tree removal to 10 or fewer trees per project at any time of year within 100 feet of existing road/rail surface and **outside of documented** roosting/foraging habitat or travel corridors; visual emergence survey must be conducted with no bats observed.

---

## TREE REMOVAL AMM 3

Ensure tree removal is limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits).

## TREE REMOVAL AMM 4

Do not remove **documented** Indiana bat or NLEB roosts that are still suitable for roosting, or trees within 0.25 miles of roosts, or **documented** foraging habitat any time of year.

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

This key was last updated in IPaC on March 16, 2018. 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 require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act (ESA) for the endangered **Indiana bat** (*Myotis sodalis*) and the threatened **Northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

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

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ARKANSAS DEPARTMENT OF TRANSPORTATION

ARDOT.gov | IDriveArkansas.com | Scott E. Bennett, P.E., Director

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

Phone: 501.569.2000 | Voice/TTY 711 | Fax: 501.569.2400

July 16, 2019

Mr. Hector Santiago, Arkansas NRI Coordinator  
National Park Service  
Midwest Regional Office  
601 Riverfront Dr.  
Omaha, Nebraska 68102-4226

Re: Job Number 050171  
Hwy. 175 & Hwy. 175 S Strs. & Apprs.  
Route 175, Section 2  
Sharp County


Dear Mr. Santiago,

The Federal Highway Administration requires coordination with the National Park Service on all Arkansas Department of Transportation (ARDOT) projects involving waterbodies on the Nationwide Rivers Inventory (NRI). Enclosed is a project location map for the referenced project.

The ARDOT is proposing to replace two low water crossings with box culverts on Big Otter Creek and Little Otter Creek that flow into the South Fork of the Spring River (NRI waterbody) within 0.3 miles. The first low water crossing is on Highway 175 and 175S in Sharp County (36.3086, -91.5267) and the second crossing is located on 175 (36.3074, -91.5284.) The enclosed Water Pollution Control SP and best management practices (BMPs) will be included in the project plans.

We believe this project will not affect the river or foreclose it from wild, scenic, or recreational status. If you have any comments on the project, please forward them to us at your soonest convenience. If you require further information, you may contact Sarah DeVries of my staff at (501) 569-2553.

Sincerely,

  
for John Fleming  
Division Head  
Environmental Division

Enclosure

JF:SD:cb



# ARDOT ENVIRONMENTAL VERIFICATION CHECKLIST FOR CONSIDERATION OF POTENTIAL IMPACTS

ARDOT Job Number 050171 FAP Number STPR-0067(29)

Job Title Hwy. 175 & Hwy. 175S Strs. & Apprs. (Cherokee Village) (S)

Environmental Resource	None	Minimal	Major	Comments-required for each item
Air Quality	X			In attainment; no MSAT
Cultural Resources	X			SHPO clearance attached
Economic	X			No adverse impacts
Endangered Species		X		NLAA and No Effect determinations; Bat BMPs SP included*
Environmental Justice/Title VI	X			EJ populations not identified in project area
Fish and Wildlife		X		Temporary impacts during construction
Floodplains		X		Zone AE; Floodplain SP included
Forest Service Property	X			None in project area
Hazardous Materials/Landfills	X			None identified in project area
Land Use		X		2.6 new ROW will be acquired
Migratory Birds	X			No structures with nests
Navigation/Coast Guard	X			None in project area
Noise Levels	X			Noise assessment attached
Prime Farmland	X			Project within city limits
Protected Waters	X			ERW and NRI. Water Pollution Control SP included.
Public Recreation Lands	X			None identified in project area
Public Water Supply/WHPA	X			Not impacted by project
Relocatees	X			No relocations required
Section 4(f)/6(f)	X			Papoose Park is privately owned
Social	X			No adverse effects
Underground Storage Tanks		X		Previous LUST adjacent to project footprint
Visual	X			No adverse impacts
Streams		X		Temporary impacts during construction
Water Quality		X		Temporary impacts during construction
Wetlands	X			None in Project Area
Wildlife Refuges	X			None in Project Area

Section 401 Water Quality Certification Required? Y

Short-term Activity Authorization Required? Y

Section 404 Permit Required? Y Type NWP 14

Remarks: \* Required for Indiana and Northern Long-eared Bat

Signature of Evaluator Mary Pearson Date April 1, 2020

Date Sent: March 19, 2020

## ROADWAY DESIGN REQUEST

Job Number 050171 FAP No. \_\_\_\_\_ County Sharp

Job Name Hwy. 175 & Hwy. 175S Strs. & Apprs. (Cherokee Village) (S)

Design Engineer Taylor Clark Environmental Staff \_\_\_\_\_

Brief Project Description Replace 2 low water crossings with box culverts

### A. Existing Conditions:

Roadway Width: 26' Shoulder Type/Width: 2' Unpaved

Number of Lanes and Width: 2 @ 11' Existing Right-of-Way: N/A

Sidewalks? N/A Location: N/A Width: N/A

Bike Lanes? N/A Location: N/A Width: N/A

### B. Proposed Conditions:

Roadway Width: 30' Shoulder Type/Width: 1' Gutter

Number of Lanes and Width: 2 @ 14' Proposed Right-of-Way: 102' Average

Sidewalks? Yes Location: Lt. & Rt. Width: 5'

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

### C. Construction Information:

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

### D. Design Traffic Data:

2021 ADT: 2200 2041 ADT: 2500 % Trucks: 1

Design Speed: 20 m.p.h.

E. Approximate total length of project: 0.269 mile(s)

F. Justification for proposed improvements: Replace bridges that are susceptible to flooding

G. Total Relocates: N/A Residences: N/A Businesses: N/A

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

Agency/Official	Person Contacted	Date
City of Cherokee Village		