



INTEROFFICE MEMORANDUM

July 26, 2023

TO: Master Files

FROM:  John Fleming, Division Head, Environmental Division 

SUBJECT: Job 050478
FAP NHPP-0032(40)
Hwy. 167 Emergency Route (Ramsey Mountain) (S)
Route 167, Section 17
Independence County
Tier 1 Categorical Exclusion

After appropriate environmental review, it has been determined that the subject job is a Tier 1 Categorical Exclusion as described by the ARDOT/FHWA Programmatic Agreement on Categorical Exclusion Documentation and Processing.

The purpose of this project is to add emergency lanes to a section of Highway 167 south of Batesville in Independence County, AR to provide a route for through traffic and emergency vehicles during closures of the main lanes. The new emergency lanes will be separated from the main lanes by a concrete barrier wall and will be gated when not in use. The lanes will be two 16' wide paved travel lanes with 6' wide paved shoulders. Approximately 0.9 acre of new right of way would be required for construction of this project. A project location map is attached.

The project will not involve relocations, prime farmlands, wetlands, underground storage tanks, hazardous materials, any environmental justice issues, or cultural resources. This project has been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been linked with any special mobile source air toxics concerns. The State Historic Preservation Officer's clearance is attached.

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

A public involvement meeting was held on June 1, 2023, and project information was available on the ARDOT website from June 1 through June 16, 2023. The meeting synopsis is attached.

The official species list obtained from the U.S. Fish and Wildlife Service's (USFWS) Information for Planning and Consultation (IPaC) identified the following species as potentially occurring within the project boundaries: Gray Bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Tricolored Bat (*Perimyotis subflavus*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), Alligator Snapping Turtle (*Macrochelys temminckii*), Ozark Hellbender (*Cryptobranchus alleganiensis bishopi*), Pink Mucket (*Lampsilis abrupta*), Rabbitsfoot (*Theliderma cylindrica*), Monarch Butterfly (*Danaus plexippus*), Missouri bladderpod (*Physaria filiformis*), and pondberry (*Lindera melissifolia*). See the attached USFWS species list.

Utilizing the Arkansas Determination Key in IPaC, it has been determined that the project will have "no effect" on the Eastern Black Rail, Piping Plover, Red Knot, Missouri bladderpod, and pondberry, and "may affect but is not likely to adversely affect" Gray Bat, Ozark Hellbender, Pink Mucket, and Rabbitsfoot,

Utilizing the FHWA Programmatic Biological Opinion for Transportation Projects within the Range of Indiana Bat and Northern Long-Eared Bat, it has been determined that the project "may affect but is not likely to adversely affect" the Indiana Bat and Northern Long-eared Bat. ARDOT will deduct \$9,245 from the previously approved Indiana Bat spring migration research project as compensatory mitigation. USFWS sent their concurrence 4/26/2023. See the attached USFWS concurrence letter.

A "no effect" determination was made for Alligator Snapping Turtle. This action will not jeopardize the continued existence of the Alligator Snapping Turtle and Tricolored Bat.

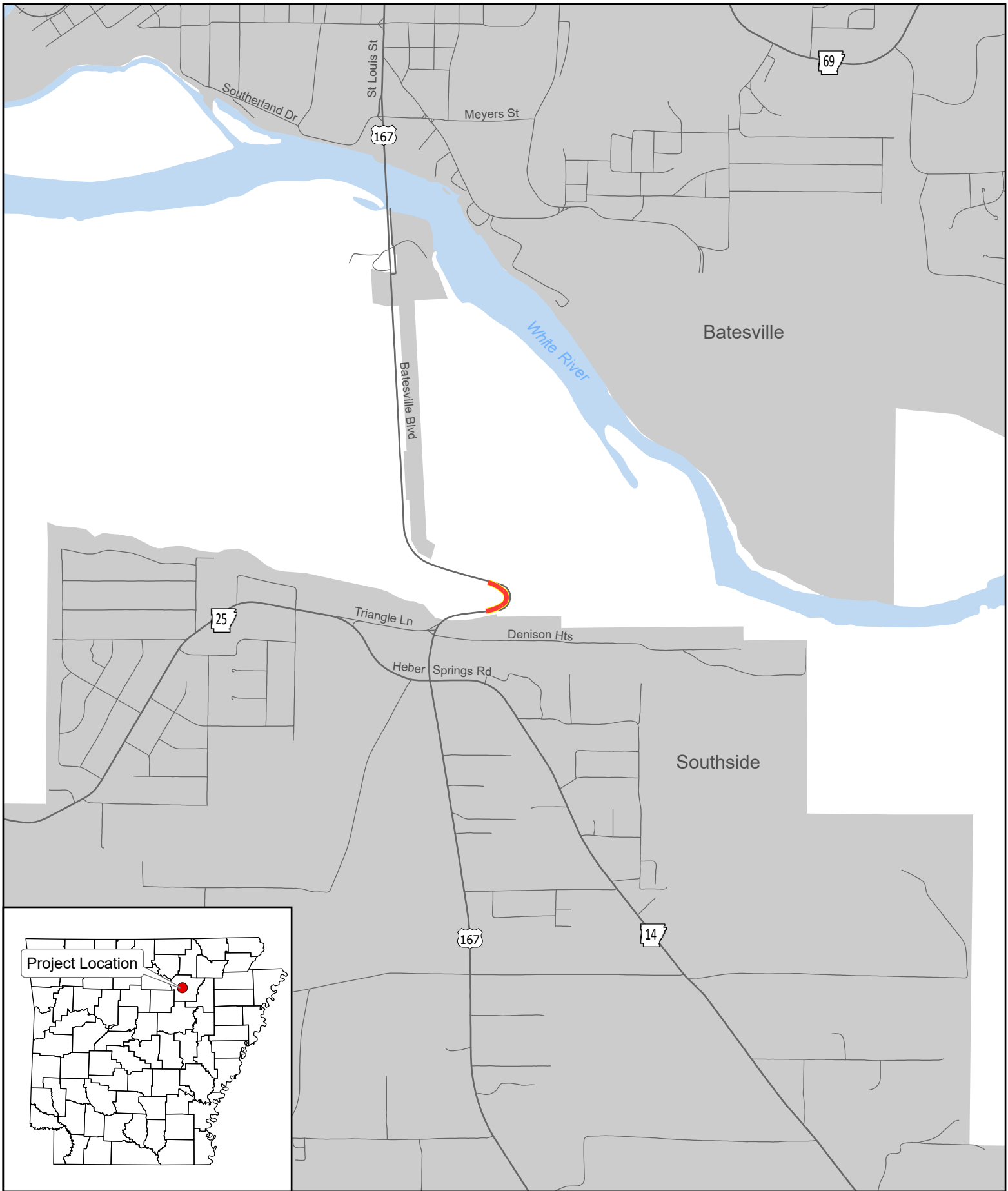
The Monarch Butterfly is a candidate species, and as such, is not federally protected under the ESA. However, the USFWS recommends agencies implement conservation measures for candidate species in action areas because they are, by definition, species that may warrant future protection under the Act.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

Permanent impacts to an ephemeral stream total 403' (0.019 acre) due to fill. 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. Preconstruction notification will not be required.

Attachments

c: Program Management
Right of Way
Roadway Design
District 5
FHWA


JF:KR:sw



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Feet

ARDOT - Environmental GIS - Strawn
April 25, 2023

Job 050478
Hwy. 167 Emergency Route
(Ramsey Mountain)
Independence County

 Project Location



Sarah Huckabee Sanders
Governor
Mike Mills
Secretary

May 16, 2023

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

RE: Independence County: General
Section 106 Review: FHwA
Proposed Undertaking: Hwy. 167 Emergency Route (Ramsey Mountain) (S)
ARDOT Number: 050478
AHPP Tracking Number: 111090

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) reviewed the submitted project identification form for the above referenced undertaking in Section 28, Township 13 North, Range 6 West in Independence County, Arkansas. The proposed project entails the widening of a curved section of Hwy. 167, north of Ramsey Hill, which will function as an emergency bypass which will have locked gates at either end.

There are no previously recorded archeological sites or historic properties located within the area of potential effect (APE). One previously recorded archeological site, 3IN1466, is located within 1-mile of the APE and is considered eligible for listing on the National Register of Historic Places (NRHP). No shovel tests were excavated within the APE due to the steep slope and the project location falling under a previous archeological survey ArDOT Job 050115).


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, the Eastern Shawnee Tribe, the Osage Nation, the Quapaw Nation, and the Shawnee Tribe. We recommend consultation in accordance with 36 CFR § 800.2(c)(2).

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, call Kathryn Bryles at 501-324-9784 or email kathryn.bryles@arkansas.gov.

Sincerely,

Kathryn
Bryles

 Digitally signed by
Kathryn Bryles
Date: 2023.05.16
10:23:13 -05'00'

for

Scott Kaufman
AHPP Director and State Historic Preservation Officer

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



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



April 26, 2023

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

Consultation Code: 2023-0055043

RE: ARDOT Job 050478 - Hwy. 167 Emergency Route (Ramsey Mountain) (S)

Dear Mr. Fleming:

The U.S. Fish and Wildlife Service (Service) has reviewed your assessment and determinations for Arkansas Department of Transportation (ARDOT) Job 050478 - Hwy. 167 Emergency Route (Ramsey Mountain) (S). ARDOT proposes to construct an emergency route down Ramsey Mountain along Hwy. 167 south of Batesville, Arkansas. The emergency route will consist of 2 16' travel lanes with 6' shoulders and will be separated from the existing lanes by a concrete barrier. This action may rely on the revised February 5, 2018, Programmatic Biological Opinion (BO) (dated March 23, 2023) for federally funded or approved transportation projects that may affect the Indiana Bat (IBAT) (*Myotis sodalis*) and/or Northern Long-eared Bat (NLEB) (*Myotis septentrionalis*). We received your request and the associated Project Submittal Form on April 24, 2023.

This letter provides the Service's response as to whether ARDOT may rely on the BO to comply with Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) for the Project's effects to the Indiana bat and/or NLEB. This letter also responds to your request for Service concurrence that the Project may affect but is not likely to adversely affect (NLAA) ESA-listed species and/or designated critical habitats other than the Indiana bat and NLEB.

The ARDOT has determined that the Project is likely to adversely affect (LAA) the IBAT and/or the NLEB. The Service concurs with these determinations because of the proximity of known species sites and foraging range to the project location and the occurrence of suitable foraging habitat for these species that exists on and adjacent to the site. A determination of LAA for IBAT and/or the NLEB is appropriate based on the amount and distance from the existing roadway of suitable habitat being lost. The conservation measures being proposed, avoidance of pup season, and the proposed implementation of all required avoidance and minimalization measures (AMMs) will help to mitigate the effects in accordance with the PBO. The Service also agrees with your assessment for all other listed species identified. This concurrence concludes your ESA Section 7 responsibilities relative to these species for this Project, subject to the Re-initiation Notice below.

As stated in the Consistency Letter (304-123531068), 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)", subject to the Re-initiation Notice below.

ARDOT contests the NLAA determination for Missouri Bladderpod, as there is no glade habitat within the project area. Additionally, the nearest Arkansas Natural Heritage Commission (ANHC) 2021 occurrence record for this species is approximately 24 miles north of the project location at Carpenter Road dolomite glades in Sharp County Arkansas. We propose a "no effect" determination for this species. The Service concurs as there is no suitable habitat in the affected area.

ARDOT contests the NLAA determination for Pondberry as there is no suitable wetland habitat in the project area. Additionally, the nearest ANHC 2021 occurrence record for this species is approximately 19 miles east of the project location at Lamberson Cemetery in Jackson County Arkansas. We propose a "no effect" determination for this species. The Service concurs as there is no suitable habitat in the affected area.

Conclusion

The Service has reviewed the effects of the proposed Project, which includes the ARDOT's commitment to implement any applicable mitigation measures, as indicated on the Project Submittal Form. We confirm that the proposed Project's effects are consistent with those analyzed in the BO. The Service has determined that projects consistent with the conservation measures and scope of the program analyzed in the BO are not likely to jeopardize the continued existence of the IBAT and/or the NLEB. In coordination with your agency and the other sponsoring federal transportation agencies, the Service will re-evaluate this conclusion annually in-light-of any new pertinent information under the adaptive management provisions of the BO.

Incidental Take

Indiana Bat and Northern Long-eared Bat

The Service anticipates that tree removal associated with the proposed Project will cause incidental take of IBAT and/or NLEB. As described in the Incidental Take Statement (ITS) of the BO, quantifying the specific number of individuals affected is not practicable. Therefore, the Services uses a surrogate (acreage of tree removal) to provide a means of expressing and monitoring take of the IBAT and/or NLEB.

The proposed Project will remove 0.92 acre of trees from habitat that is suitable for the IBAT. All tree removal will occur during the active season but outside of the pupping season and

comply with all other conservation measures in the BO. Based on the BO, 0 acre are anticipated to not result in adverse effects, and 0.92 acre are anticipated to result in adverse effects.

The ARDOT uses the mitigation ratio of 1.25, 2 for each habitat type from Table 3 of the BO¹ to calculate the compensatory mitigation required to offset these adverse impacts for a total of 1.38 acres of trees that is suitable for the IBAT. Mitigation will be provided in the form of a deduction of \$9,245 from the approved Indiana Bat tracking research funding to compensate for adverse impacts to the IBAT and/or NLEB associated with this project.

In order to comply with the mitigation requirements of the BO, the Federal Transportation Agency will contribute \$12,505 to The Conservation Fund (TCF), the Program Sponsor, within 1 year of this letter or prior to the start of construction, whichever is earliest. These calculations are based on the mitigation identified above² and the 2023 Land Use Values in Table 2 of Exhibit E in TCF's ILF Instrument³. If payment is made later than 1 year from the date of this letter, the mitigation cost may change as a result of updated land use values in Table 2 of Exhibit E. The Federal Transportation Agency or designated non-federal representative must notify TCF at least five days prior to payment so that TCF can verify that the appropriate land value has been used. At the time of payment, the Federal Transportation Agency or designated non-federal representative shall notify the Service of compliance with the compensatory mitigation requirements as described above.

The purchase of species conservation credits and/or in-lieu fee contributions shall occur prior to construction of a transportation project covered under this programmatic BO. Exceptions to this program stipulation include emergency projects that do not require a letting prior to construction. In these cases, purchase of credits and/or in-lieu fee contributions shall occur within three months of completion of the project. This timeframe allows for measuring the acres of habitat affected by the emergency project and for financial processing.

Bridge, Culvert, and/or Structure Activities

Incidental take of IBATs and/or NLEBs is reasonably certain to occur at up to 10 bridges/culverts or structures range-wide in a 12-month period when signs of bat use or occupancy was observed (five or fewer bats observed), as covered under the ITS in the BO. If your initial bridge/culvert or structure bat assessment failed to detect IBAT 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 IBATs and/or NLEBs may be exempted provided that the take is reported to the Service.

¹ <https://www.fws.gov/media/compensatory-mitigation-ratios-indiana-bat-table-3-biological-opinion>

² XX acres * XX ratio

³ <https://www.fws.gov/sites/default/files/documents/IBAT-NLEB-ILF-Exhibit-E-Fee-Schedule-2023-01-04.pdf>

Tricolored Bat

On September 13, 2022, the Service published a proposal in the Federal Register to list the Tricolored Bat (*Perimyotis subflavus*) as endangered under the ESA. The Service has up to 12-months from the date the proposal was published to make a final determination, either to list the Tricolored Bat under the ESA or to withdraw the proposal. The Service determined the bat faces extinction primarily due to the range-wide impacts of white-nose syndrome (WNS), a deadly fungal disease affecting cave-dwelling bats across North America. Because Tricolored Bat populations have been greatly reduced due to WNS, surviving bat populations are now more vulnerable to other stressors such as human disturbance and habitat loss. Species proposed for listing are not afforded protection under the ESA; however, as soon as a listing becomes effective (typically 30 days after publication of the final rule in the Federal Register), the prohibitions against jeopardizing its continued existence and “take” will apply. Therefore, if this project or other future or existing projects have the potential to adversely affect Tricolored Bats after the potential new listing goes into effect, we recommend that the effects of the project on Tricolored Bat and their habitat be analyzed to determine whether authorization under the ESA Section 7 is necessary. Projects or programs with an existing Section 7 biological opinion may require re-initiation of consultation.

The Tricolored Bat is a small insectivorous bat that typically overwinters in caves, abandoned mines and tunnels, and road-associated culverts (southern portion of the range) and spends the rest of the year in forested habitats, typically roosting among live and dead leaf clusters. For more information on Tricolored Bats and the proposed rule, please see: <https://www.fws.gov/species/tricolored-bat-perimyotis-subflavus> and for more information on WNS, please see: <https://www.whitenosesyndrome.org/>

ARDOT has determined that this action will not jeopardize the continued existence of the proposed endangered Tricolored Bat.

Alligator Snapping Turtle

The Alligator Snapping Turtle (AST) (*Macrochelys temminckii*) was recently proposed for listing as a threatened species under the ESA and is also proposing a Section 4(d) rule to provide for its conservation. The ESA requires all federal agencies to consult on actions that may affect species proposed for listing. Section 7(a)(4) of the Act requires federal agencies to confer with the Secretary on any action that is likely to jeopardize the continued existence of proposed species or result in the destruction or adverse modification of proposed critical habitat. The Service decided that critical habitat for the AST is not determinable at this time. Currently, this means that an action agency has to determine if the action is likely to jeopardize a proposed species. Further updating of the assessments and conservation measures may be necessary through on-going coordination and consultation as new information on these species becomes available and the Section 4(d) rules are implemented.

ARDOT proposes a “no effect” determination for AST, as there is no suitable habitat within the project area. ARDOT has determined that this action will not jeopardize the continued existence of the AST.

Monarch Butterfly

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

Reasonable and Prudent Measures

The Service will add the acreage of Project-related tree removal to the annual total acreage attributed to the BO as a surrogate measure of IBAT and/or NLEB incidental take and exempted from the prohibitions of Section 9 of the ESA. Such exemption is effective as long as your agency implements the reasonable and prudent measure (RPM) and accompanying terms and conditions of the BO’s ITS.

The sole RPM of the BO’s ITS requires the Federal Transportation Agencies to ensure that state/local transportation agencies, who choose to include eligible projects under the programmatic action, incorporate all applicable conservation measures in the project proposals submitted to the Service for ESA Section 7 compliance using the BO. The implementing terms and conditions for this RPM require the Federal Transportation Agencies to offer training to appropriate personnel about using the BO, and promptly report sick, injured, or dead bats (regardless of species) or any other federally listed species located at the project site.

Reporting Dead or Injured Bats

The ARDOT, its state/local cooperators, and any contractors must take care when handling dead or injured IBATs and/or NLEBs, or any other federally listed species that are found at the Project site to preserve biological material in the best possible condition and to protect the handler from exposure to diseases, such as rabies. Project personnel are responsible for ensuring that any evidence about determining the cause of death or injury is not unnecessarily disturbed.

Reporting the discovery of dead or injured listed species is required in all cases to enable the Service to determine whether the level of incidental take exempted by this BO is exceeded, and to ensure that the terms and conditions are appropriate and effective. Parties finding a dead, injured, or sick specimen of any endangered or threatened species must promptly notify this Service office.

Re-initiation Notice

This letter concludes consultation for the proposed Project, which qualifies for inclusion in the BO issued to the Federal Transportation Agencies. To maintain this inclusion, a re-initiation of this Project-level consultation is required where the ARDOT's discretionary involvement or control over the Project has been retained (or is authorized by law) and if:

1. the amount or extent of incidental take of IBAT/NLEB is exceeded;
2. new information reveals that the Project may affect listed species or critical habitat in a manner or to an extent not considered in the BO or in the Project information that supported Service concurrence with NLAA determinations;
3. the Project is subsequently modified in a manner that causes an effect to listed species or designated critical habitat not considered in the BO or in the Project information that supported Service concurrence with NLAA determinations; or
4. a new species is listed or critical habitat designated that the Project may affect.

Per condition #1 above, the anticipated incidental take is exceeded when:

- the Project removes trees from more than 0.92 acre of habitat suitable for the IBAT/NLEB; and/or
- the Project takes more than 5 IBAT and/or 5 NLEB resulting from a bridge, culvert, or structure activity at no more than 10 bridges, culverts, or structures range-wide in a 12 month period.

In instances where the amount or extent of incidental take is exceeded, the Federal Highway Administration/Arkansas Department of Transportation is required to immediately request a re-initiation of this Project-level consultation.

We appreciate your continued efforts to ensure that this Project is fully consistent with all applicable provisions of the BO and conservation of at-risk and imperiled species. If you have any questions regarding our response or if you need additional information, please contact Lindsey Lewis at (501) 513-4489 or lindsey_lewis@fws.gov.

Sincerely,



Melvin L. Tobin
Field Supervisor

cc: Project File

Read File

Filename: [https://doimspp-](https://doimspp-my.sharepoint.com/personal/lindsey_lewis_fws_gov/Documents/Documents/PROJECTS/FY2023/ARDO)

[my.sharepoint.com/personal/lindsey_lewis_fws_gov/Documents/Documents/PROJECTS/FY2023/ARDO](https://doimspp-my.sharepoint.com/personal/lindsey_lewis_fws_gov/Documents/Documents/PROJECTS/FY2023/ARDO)
T/ARDOT Job 050478 - HWY 167 Emergency Route - Ramsey Mt/20230425_Ltr_ARDOT Job
#050478_Concurrence-LCL.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



In Reply Refer To:

April 24, 2023

Project Code: 2023-0055043

Project Name: 050478 - Hwy. 167 Emergency Route (Ramsey Mountain) (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 ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

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

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

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

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

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

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

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

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php>.

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

Attachment(s):

- Official Species List

ENDANGERED SPECIES ACT SPECIES

There is a total of 14 threatened, endangered, or candidate species on this species list.

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

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

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

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

MAMMALS

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

BIRDS

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

REPTILES

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

AMPHIBIANS

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

CLAMS

NAME	STATUS
Pink Mucket (pearlymussel) <i>Lampsilis abrupta</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7829	Endangered
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5165	Threatened

INSECTS

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

FLOWERING PLANTS

NAME	STATUS
Missouri Bladderpod <i>Physaria filiformis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5361	Threatened
Pondberry <i>Lindera melissifolia</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1279	Endangered

CRITICAL HABITATS

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

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Matthew Schrum

Address: 10324 I30

City: Little Rock

State: AR

Zip: 72209

Email: matthew.schrum@ardot.gov

Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

PUBLIC INVOLVEMENT SYNOPSIS

Job 050478

Hwy. 167 Emergency Route (Ramsey Mountain) (Hwy. 167)

Independence County

Thursday June 1, 2023

An in-person public involvement (PI) meeting for the proposed addition of an emergency lane on Highway 167 at Ramsey Mountain was held at the Batesville Community Center in Batesville, AR from 4:00 – 7:00 p.m. on Thursday, June 1, 2023. The project information was made available on ARDOT's website from June 1, 2023 through June 16, 2023. Efforts to involve minorities and the public in the meeting(s) included:

- Display advertisement placed in the *Batesville Daily Guard* on May 29, 2023 and May 31, 2023
- A Public Service Announcement was placed on La Raza 97.7 FM to run May 30 through June 1, 2023
- Letters mailed to Public Officials on May 23, 2023
- Flyers mailed to citizens

The following information was available for inspection and comment. Small-scale copies of the displays are attached.

- Project design plans
- Typical sections
- Project location map
- Comment form/Online comment form
- Laptops showing project website
- Short video presentation about the project
- Interactive project map
- Frequently asked questions with answers

Copies of the public meeting notice, comment form, and project location map are attached.

Table 1 describes the results of the public participation at the meeting.

TABLE 1	
Public Participation	Totals
Public Officials at meeting	22
Citizens registered at meeting	21
Online registration	5
English/Spanish website views	320/29
Total comments received	7
In-Person comment forms received	5
Mailed comment forms received	2

ARDOT staff reviewed all comments received and evaluated their contents. The summary of comments listed below reflects the personal perception or opinion of the person or organization making the statement. The sequencing of the comments is random and is not intended to reflect importance or numerical values. Some of the comments were combined and/or paraphrased to simplify the synopsis process.

An analysis of the responses received as a result of the public survey is shown in Table 2.

TABLE 2	
Questions	Totals
Believes there is a need for the proposed project	7
Believes the project will have beneficial impacts	6
Believes the project will have adverse impacts	0
Had a suggestion to make project better serve community	3
Knowledge of property limitations	0
Knowledge of cultural resources limitations	0
Knowledge of environmental resource limitations	0

Suggestions regarding how the project could better serve community needs included:

- That the access be managed, maintained, and accessed appropriately and timely
- Suggested adding a safer sidewalk along the mountain. That pedestrians currently use the shoulder.
- Add lighting along the mountain, which would make it safer for pedestrians that walk along the mountain.

A listing of general comments received:

- The comments received were in favor of the project, stating that this would improve safety, allow emergency access, and that it would help ease the minds of daily commuters knowing this is available during emergencies.

Attachments:

Public Meeting Notice

Blank Comment Form

Project Location Exhibit

DN:KR:sw



PUBLIC INVOLVEMENT MEETING NOTICE

Hwy. 167 Emergency Route (Ramsey Mountain) (Hwy. 167)
(Independence County)

Job 050478

You're Invited!

Visit anytime during the scheduled hours.

What: The Arkansas Department of Transportation (ARDOT) will conduct a Public Involvement meeting to discuss the proposed plans to construct an emergency path adjacent to Hwy. 167 on Ramsey Mountain in Independence County.

When: Thursday, June 1, 2023
4:00 p.m. - 7:00 p.m.

Where: Batesville Community Center
(Meeting Rooms A & B)
1420 20th Street
Batesville, AR 72501

Link to Project Information:

www.ardot.gov/publicmeetings

Comment form availability begins **June 1, 2023** and ends at 4:30 p.m. on **June 16, 2023**.

For further assistance, contact Karla Sims:

Phone: (501) 569-2000 or e-mail: karla.sims@ardot.gov

Special Accommodations:

Anyone needing project information or special accommodations under the Americans with Disabilities Act (ADA) is encouraged to write to Ruby Jordan-Johnson, P.O. Box 2261, Little Rock, AR 72203-2261, call (501)569-2379, fax (501)569-2009 or email environmentalpublicmeetings@ardot.gov. Hearing or speech impaired, please contact the Arkansas Relay System at (Voice/TTY 711). Requests should be made at least four days prior to the public meeting.

Notice of Nondiscrimination

The Arkansas Department of Transportation (ARDOT) complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal financial assistance.

Therefore, the Department does not discriminate on the basis of race, sex, color, age, national origin, religion (not applicable as a protected group under the Federal Motor Carrier Safety Administration Title VI Program), disability, Limited English Proficiency (LEP), or low-income status in the admission, access to and treatment in the Department's programs and activities, as well as the Department's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Department's nondiscrimination policies may be directed to Joanna P. McFadden EEO/DBE Officer (ADA/504/Title VI Coordinator), P. O. Box 2261, Little Rock, AR 72203, (501) 569-2298, (Voice/TTY 711), or the following email address: joanna.mcfadden@ardot.gov

Free language assistance for Limited English Proficient individuals is available upon request.. This notice is available from the ADA/504/Title VI Coordinator in large print, on audio tape and in Braille.

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

**ARDOT JOB 050478
HWY. 167 EMERGENCY ROUTE (RAMSEY MOUNTAIN) (HWY. 167)
INDEPENDENCE COUNTY**

**LOCATION:
BATESVILLE COMMUNITY CENTER
MEETING ROOMS A&B
1420 20TH STREET
BATESVILLE, AR 72501
THURSDAY, JUNE 1, 2023
4:00 P.M. – 7:00 P.M.**

Make your comments on this form and mail it by 4:30 p.m. on **Friday, June 16, 2023** to:
Arkansas Department of Transportation, Environmental Division, P.O. Box 2261, Little
Rock, AR, 72203-2261. Email: environmentalmeetings@ardot.gov.

Yes No
☐ ☐

Do you feel there is a need for the proposed plans to construct an
emergency path adjacent to Hwy. 167 on Ramsey Mountain in
Independence County? Comment (optional)

Do you feel that the proposed project will have any impacts

(☐ Beneficial or ☐ Adverse) on your property and/or community
(economic, environmental, social, etc.)? Please explain. _____

☐ ☐

Do you have a suggestion that would make this proposed project better
serve the needs of the community? _____

(Continue on Back)

Yes No

☐☐

Does your home or property offer any limitations to the project, such as septic systems, that the Department needs to consider in its design?

☐☐

Do you know of any historical sites, family cemeteries, or archaeological sites in the project area? Please note and discuss with staff. _____

☐☐

Do you know of any environmental constraints, such as endangered species, hazardous waste sites, existing or former landfills, or parks and public lands in the vicinity of the project? Please note and discuss with ARDOT staff. _____

It is often necessary for the ARDOT to contact property owners along potential routes. If you are a property owner along or adjacent to the route under consideration, please provide information below. Thank you.

Name: _____ (Please Print)

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

E-mail: _____

Please make additional comments here. _____

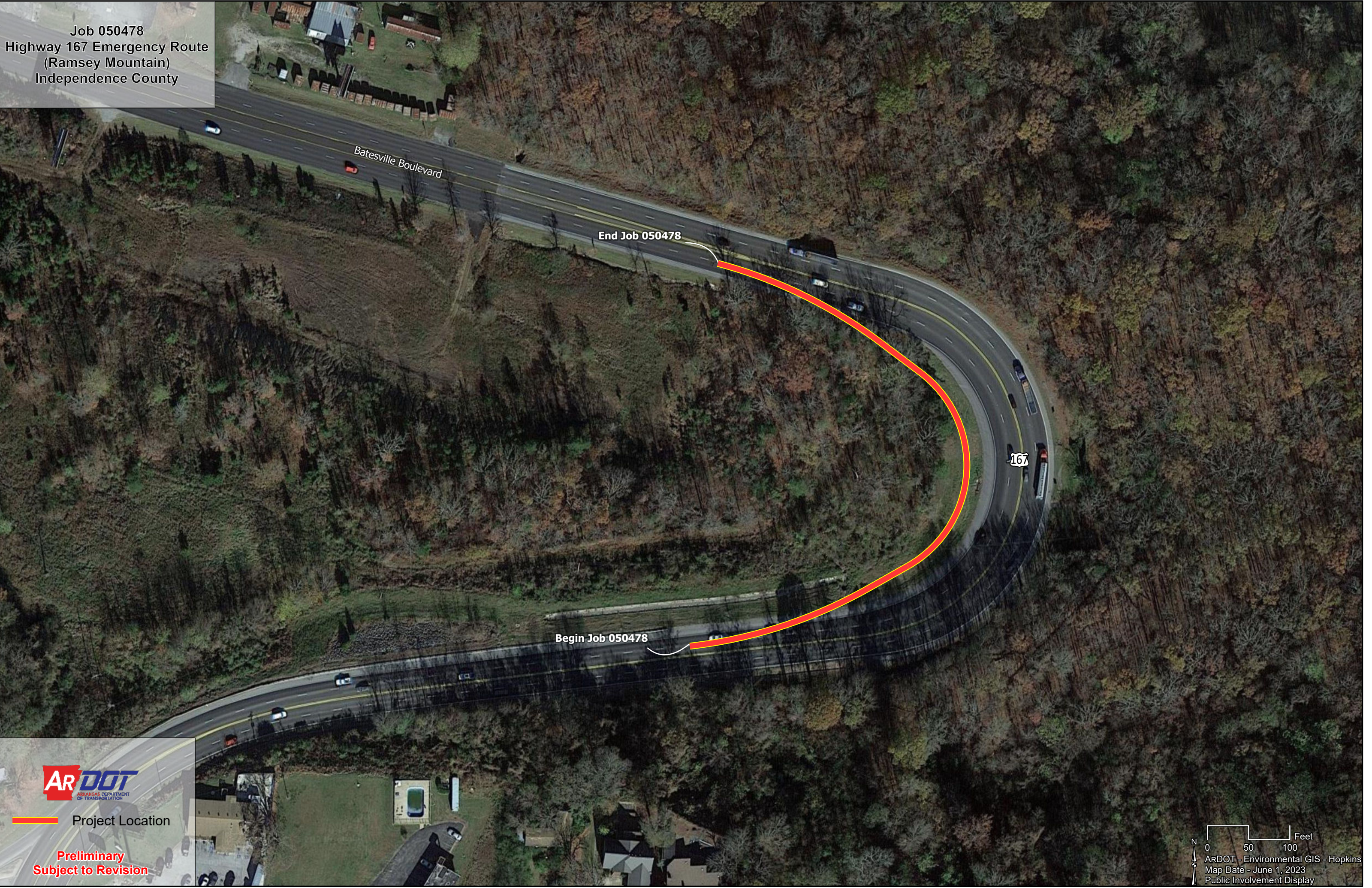


For additional information, please visit our website at

www.ardot.gov/publicmeetings



Job 050478
Highway 167 Emergency Route
(Ramsey Mountain)
Independence County





Project Location

Preliminary
Subject to Revision

ARDOT ENVIRONMENTAL VERIFICATION CHECKLIST FOR CONSIDERATION OF POTENTIAL IMPACTS

ARDOT Job Number 050478 FAP Number NHPP-0032(40)
Job Title Hwy. 167 Emergency Route (Ramsey Mountain) (S)

Environmental Resource	None	Minimal	Major	Comments
Air Quality	X			No MSAT analysis required
Cultural Resources	X			SHPO correspondence attached
Economic	X			No impacts anticipated
Endangered Species		X		LAA, see USFWS concurrence
Environmental Justice/Title VI	X			No impacted populations
Fish and Wildlife		X		Temporary during construction
Floodplains	X			None in project area
Forest Service Property	X			None in project area
Hazardous Materials/Landfills	X			None in project area
Land Use		X		~0.9 acre of new ROW required
Migratory Birds	X			No bridge or large culvert work
Navigation/Coast Guard	X			None in project area
Noise Levels	X			No impacts anticipated
Prime Farmland	X			None in project area
Protected Waters	X			None in project area
Public Recreation Lands	X			None in project area
Public Water Supply/WHPA	X			None in project area
Relocates	X			No relocations
Section 4(f)/6(f)	X			No impacted properties
Social	X			No impacts anticipated
Underground Storage Tanks	X			None in project area
Visual	X			No impacts anticipated
Streams		X		403' (0.019 acre) ephem. stream impacts
Water Quality		X		Temporary during construction
Wetlands	X			No impacts anticipated
Wildlife Refuges	X			None in project area

Section 401 Water Quality Certification Required? N
Short-term Activity Authorization Required? Y
Section 404 Permit Required? Y Type NW 14

Remarks: .

WPC SP: Karst Vulnerability area

Signature of Evaluator Kathryn Rose Date 7/20/2023

Date Sent: July 25, 2023

ROADWAY DESIGN REQUEST

Job Number 050478 FAP No. NHPP-0032(40) County Independence

Job Name Hwy. 167 Emergency Route (Ramsey Mountain) (S)

Design Engineer Garver Environmental Staff _____

detailed Project Description This project consists of widening a curved section of Hwy. 167 by constructing two additional lanes of traffic to improve the flow of traffic through this area. This

Purpose of this widening is to create an emergency access for through traffic and emergency main Vehicles during a blockage.

A. Existing Conditions:

Roadway Width: 48' Shoulder Type/Width: 6' (Paved)

Number of Lanes and Width: 4 – 12' Existing Right-of-Way: Var. (160' avg.)

Sidewalks? No Location: _____ Width: _____

Bike
Lanes? No Location: _____ Width: _____

B. Proposed Conditions:

Roadway Width: Var. Shoulder Type/Width: 6' (Paved)

Number of Lanes and Width: 2 – 16' Proposed Right-of-Way: Var. (160'-250')

Sidewalks? No Location: _____ Width: _____

Bike Lanes? No Location: _____ Width: _____

C. Construction Information:

If detour: Where: N/A Length: _____

D. Design Traffic Data:

2023 ADT: N/A 2043 ADT: N/A % Trucks: N/A

Design Speed: 25 m.p.h.

E. Approximate total length of project: 0.160 mile(s)

F. Justification for proposed improvements: Traffic flow improvements

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

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

Agency/Official	Person Contacted	Date