TIER 3 CATEGORICAL EXCLUSION

VARIOUS JOB NUMBERS
VARIOUS FAP NUMBERS
VARIOUS PROJECT NAMES
VARIOUS ROUTES, SECTIONS
VARIOUS COUNTIES

Submitted Pursuant to 42 U.S.C. 4332(2)
By the
U.S. Department of Transportation
Federal Highway Administration
And the
Arkansas Department of Transportation

February 2020

2/18/2020
Date of Approval

Randal Looney
Environmental Coordinator
Federal Highway Administration
The Environmental Division reviewed the referenced projects and has determined they fall 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 these projects.

The purpose of these projects is to rehabilitate deteriorated highway pavement. More information on the location and scope of each project can be found in Table 1. The existing cross sections will not change as a result of the proposed projects and no additional right of way will be required. Project location maps are attached.

There are no relocations, environmental justice issues, wetlands, prime farmlands or cultural resources associated with these projects. In addition, there are existing underground storage tanks or hazardous waste deposits involved with these projects.

The official species lists obtained through the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation (IPaC) website lists the Eastern Black Rail (Laterallus jamaicensis ssp. jamaicensis), Piping Plover (Charadrius melodus), and Red Knot (Calidris canutus rufa), gray bat (Myotis grisescens), Indiana bat (Myotis sodalis), northern long-eared bat (Myotis septentrionalis), pondberry (Lindera melissifolia), and Missouri bladderpod (Physaria filiformis) as protected species potentially occurring in the proposed project areas. Due to the limited scope of the projects' actions, lack of suitable habitat, and distance to known species occurrences, it has been determined that these projects will have “no effect” on the aforementioned species. The 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 a “no effect” consistency letter for the project dated January 22, 2020.

The official species lists also include Ouachita Rock Pocketbook (Arcidens wheeleri), Pink Mucket (Lampsilis abrupta), Rabbitsfoot (Theliderma cylindrica), Fat Pocketbook (Potamilus capax), yellowcheek darter (Etheostoma moorei) and its critical habitat, and Speckled Pocketbook (Lampsilis streckeri) as species potentially occurring in the project areas. It has been determined that these projects “may affect, but is not likely to adversely affect” the federally listed species and critical habitat listed above. A Water Pollution Control Special Provision will be added to the contracts to minimize potential affects for Job Numbers 030512 and 080597. The USFWS concurred on January 28, 2020. The USFWS’s official species list is attached along with the consistency and concurrence letters.

These projects will not have a discharge of dredged or fill material into waters of the United States; therefore, a Section 404 permit will not be required.
Based upon the ARDOT noise policy, noise analyses are not required for pavement preservation jobs. Construction will take place on existing location with only minor changes to the existing roadways. Any increases in roadway noise levels would not be attributable to the proposed projects, but instead result from traffic volume increases due to growth. In compliance with federal guidelines, local authorities will not require notification.

These projects have been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and have not been linked with any special mobile source air toxic (MSAT) concerns. As such, these projects 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 projects from that of the no-build alternative.
## 2020 Pavement Preservation Projects

<table>
<thead>
<tr>
<th>Job Number</th>
<th>FAP No.</th>
<th>Job Name</th>
<th>County</th>
<th>Route/Section</th>
<th>Scope</th>
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<td>030512</td>
<td>STPR-2941(1)</td>
<td>Hwy. 317 – East (S)</td>
<td>Hempstead &amp; Little River</td>
<td>Hwy. 32, Secs. 3 &amp; 4</td>
<td>Overlay/ Add Guardrail</td>
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<td>080597</td>
<td>NHPP-0071(40)</td>
<td>Hwy. 65B – Hwy. 95 (Clinton) (S)</td>
<td>Van Buren</td>
<td>Hwy. 65, Sec. 8</td>
<td>UTBWC</td>
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<td>101020</td>
<td>STPR-0056(54)</td>
<td>Marked Tree - Lepanto</td>
<td>Poinsett</td>
<td>Hwy. 140, Sec. 1</td>
<td>Patching &amp; Level (2”) &amp; Overlay</td>
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<tr>
<td>101034</td>
<td>NHPP-0061(23)</td>
<td>Pocahontas – Corning (Sel. Secs.) (S)</td>
<td>Clay &amp; Randolph</td>
<td>Hwy. 67, Secs. 19 &amp; 20</td>
<td>Overlay (Sec. 19: 0.37-8.55; Sec. 20: 4.54-6.95); Level &amp; Overlay (Sec. 20: 8.87-11.84)</td>
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Project Location

Job 030512
Hwy. 317 – East (S)
Hwy. 32, Secs. 3 & 4
Hempstead & Little River Counties
Job 080597
Hwy. 65B - Hwy. 95 (Clinton) (S)
Hwy. 65, Sec. 8
Van Buren County
Job 101020
Marked Tree - Lepanto (S)
Hwy. 140, Sec. 1
Poinsett County
Job 101034
Pocahontas - Corning (Sel. Secs.) (S)
Hwy. 67, Secs. 19 & 20
Randolph & Clay Counties
October 9, 2019

TO: Job File

FROM: Daniel Hildebran, Cultural Resources

SUBJECT: Cultural Resources Clearance
Job Number 030512
Hwy. 317 - East (S)
Route 32, Sections 3 & 4
Hempstead & Little River Counties

This project proposes to overlay 5.26 miles of Highway 32 in Hempstead & Little River Counties. A records check of the Arkansas Archeological Survey’s database shows four sites (3HE0004, 3LR0112, 3LR0113, and 3LR0114) near the right-of-way (ROW). No historic structures were shown on the Arkansas Historic Preservation Program’s database in or near the project.

The project will require no new ROW. All work will be within the existing ROW and the extremely limited scope of the project does not have the potential to affect any undisturbed land surfaces or potential historic properties.

This project is subject to the 1999 MOA and falls under the exempted Work Category “Resurfacing”. This project is not considered an undertaking and requires no further work or Section 106 review.
January 14, 2020

TO: Job File

FROM: Shelby Linck, Cultural Resources Section, Environmental Division

SUBJECT: Cultural Resources Clearance
Job Number 080597
Hwy. 65B - Hwy. 95 Clinton (S)
Route 65, Section 8
Van Buren County

The Arkansas Department of Transportation (ArDOT) proposes to complete Ultra-Thin Bonded Waring Course (UTBWC) on a portion of Highway 65 stretching from Log Mile (L.M.) 0.850 to L.M. 2.956. This includes UTBWC on one bridge — ArDOT Bridge Number 07114. This bridge was built in 2011 and is not old enough to evaluate its eligibility for inclusion in the National Register of Historic Places (NRHP). No new right-of-way (ROW) will be acquired. All work will occur within the existing roadway.

An examination of the Arkansas Archeological Survey’s (ARAS) records was conducted for previously recorded archeological sites located on or adjacent to the proposed project area. According to ARAS records, two archeological sites were identified on or immediately adjacent to the proposed project area: sites 3VB103 and 3VB0052. These sites have been destroyed due to previous disturbance. Based on records check at the Arkansas Historic Preservation Program (AHPP) for NRHP properties, VB0165/Bridge Number 01486 is the only previously recorded historic structure located on or immediately adjacent to the proposed project area. This historic property is no longer extant.

In addition to checking ARAS and AHPP records, nineteenth through twentieth century maps were examined. The 1840 General Land Office plat maps of Township 11 North, Range 14 West show no development in the area. The 1892
Mountain View, AR quadrangle map shows the original alignment of Highway 65 and the development of Clinton, AR. The 1936 Van Buren County map shows various structures mapped along the corridor with significant development in Clinton. None of these structures, if still extant, will be affected by pavement preservation along the course of Highway 65. No cemeteries were found nearby.

The proposed project will occur in already disturbed areas inside the current ROW. This project, as designed, does not have the potential to affect any undisturbed land surfaces or potential cultural resources. Therefore, this project is subject to the 1999 Memorandum of Agreement (MOA) and falls under the exempted work category “Resurfacing.” Per the MOA, this project is not considered an “undertaking” and requires no further Section 106 review.
January 29, 2020

Secretary Stacy Hurst
Arkansas Historic Preservation Program
1100 North Street
Little Rock, Arkansas 72201

RE: Pavement Preservation Jobs
Various Routes & Sections
Various Counties

Dear Secretary Hurst:

The Arkansas Department of Transportation (ArDOT) proposes to mill and inlay on the existing paved surface for different highways across the state. All work will occur inside the existing ArDOT right-of-way. Jobs with these types of activities are referred to as pavement preservation.

These activities are not covered by the existing 1999 Memorandum of Agreement when historic properties are on or adjacent to the project. As agreed upon during phone correspondence with Eric Mills on January 15, 2020, the table on the following page is presented to address the pavement preservation jobs with recorded historic properties and National Register of Historic Places unevaluated archeological sites, cemeteries, and bridges. It is ArDOT's opinion that these jobs have no potential to cause effect to historic properties pursuant to 36 CFR 800.3(1).

If you have any questions or need additional information, contact Daniel Hildebran of my staff at (501) 569-2595.

Date 1-30-20
No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.

Arkansas State Historic Preservation Officer

Sincerely,

John Fleming
Division Head
Environmental Division
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<th>Job Number</th>
<th>Job Name</th>
<th>County</th>
<th>Route</th>
<th>Section</th>
<th>Log Miles</th>
<th>Activity Type</th>
<th>Historic Properties, Sites, &amp; Bridges (Nad 83 UTMs)</th>
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<td>Hwy. 9 – Hwy. 167 (Sel. Secs.) (S)</td>
<td>Fulton &amp; Sharp</td>
<td>62</td>
<td>13 &amp; 14</td>
<td>0.000–15.492; 0.000–1.610</td>
<td>Mill &amp; Inlay</td>
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<td>70;71</td>
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<td>5.172–8.635; 12.530–13.394</td>
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January 24, 2020

Secretary Stacy Hurst
Arkansas Historic Preservation Program
1100 North Street
Little Rock, Arkansas 72201

RE: Pavement Preservation Jobs
Various Routes & Sections
Various Counties

Dear Secretary Hurst:

The Arkansas Department of Transportation (ARDOT) proposes to mill and inlay on the existing paved surface for different highways across the state. All work will occur inside the existing ARDOT right-of-way. Jobs with those types of activities are referred to as pavement preservation.

These activities are not covered by an existing 1999 Memorandum of Agreement when historic properties are on or adjacent to the project. As agreed upon during phone correspondence with Eric Mills on January 15, 2020, the table on the following page is presented to address the pavement preservation jobs with recorded historic properties and National Register of Historic Places unevaluated archeological sites, cemeteries, and bridges. It is ARDOT’s opinion that these jobs have no potential to cause effect to historic properties pursuant to 36 CFR 800.3(1).

If you have any questions or need additional information, contact Richard Jenkins of my staff at (501) 569-2357.

Sincerely,

[Signature]
John Fleming
Division Head
Environmental Division

Date 1-27-20
No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.
Arkansas State Historic Preservation Officer

JF:KB:RJ:cb
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<th>Job Number</th>
<th>Job Name</th>
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<th>Activity Type</th>
<th>Historic Properties, Sites, &amp; Bridges (Nad 83 UTM)</th>
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<td>110687</td>
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<td>11</td>
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<td>8.41-14.60</td>
<td>Overlay and add 2 foot shoulders</td>
<td>M0341 (619347.2, 3760384.5) M0342 (619093.4, 3767545.8) 01229 (619108.0, 3766685.4)</td>
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<td>AR0301; AR0211 (Dewitt Commercial Hist. Dist.) M0019 (653000.6, 3795276.9) M4068 (652771.3, 3795265.9)</td>
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<td>Pocahontas - Corning (Sel. Secs.) (S)</td>
<td>Randolph &amp; Clay</td>
<td>67</td>
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<th>Historic Properties, Sites, &amp; Bridges (Nad 83 UTMs)</th>
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<td>101034</td>
<td>Pocahontas - Corning (Sel. Secs.) (S)</td>
<td>Randolph &amp; Clay</td>
<td>67</td>
<td>19 &amp; 20</td>
<td>0.39-8.54</td>
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<td>49</td>
<td>10</td>
<td>6.40-17.38</td>
<td>Mill &amp; Inlay</td>
<td>M0928 (694509.6, 3825816.5)</td>
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<td>A10004</td>
<td>Forrest City - West (S)</td>
<td>St. Francis</td>
<td>I-40</td>
<td>51</td>
<td>228.2 – 239.8</td>
<td>UTBWC</td>
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<td>A20002</td>
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<td>Drew</td>
<td>278</td>
<td>14 &amp; 15X</td>
<td>0.00-0.85</td>
<td>Mill &amp; Inlay</td>
<td>DR0371(Monticello Commercial Historic District);</td>
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<td>4.80-10.60</td>
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<td>DR0325 (Ridgeway Hotel Hist. Dist.)</td>
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<td>Job Number</td>
<td>Job Name</td>
<td>County</td>
<td>Route</td>
<td>Section</td>
<td>Log Miles</td>
<td>Activity Type</td>
<td>Historic Properties, Sites, &amp; Bridges (Nad 83 UTMs)</td>
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<td>A20003</td>
<td>Sheridan Rd. - Burnett St. (Pine Bluff) (S)</td>
<td>Jefferson</td>
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<td>9B</td>
<td>2.40-3.04</td>
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<td>20.84-18.69</td>
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<td>A70002</td>
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<td>Calhoun</td>
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<td>0.00-15.07</td>
<td>Overlay</td>
<td>CA0005 (Calhoun County Courthouse)</td>
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<td></td>
<td>Mill &amp; Inlay</td>
<td>02721 (526861.4, 3715794.9)</td>
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<td></td>
<td></td>
<td>02839 (547772.1, 3710965.4)</td>
</tr>
</tbody>
</table>
Mr. John Fleming  
c/o Mickey Matthews  
Arkansas Department of Transportation  
10324 Interstate 30  
Little Rock, Arkansas  72209  

January 28, 2020  

Dear Mr. Fleming:  

Thank you for your email of January 23, 2020. The U.S. Fish and Wildlife Service (Service) is responding to your request, regarding an Arkansas Department of Transportation (ArDOT) proposal to overlay Highway 32 in Hempstead and Little River Counties, Arkansas. The project was described and assessed as follows (abbreviated and summarized):  

The project is a mill and overlay of approximately 5.3 miles of Hwy. 32. I have attached the IPAC list for your convenience. The project should have no effect on the Eastern Black Rail (Laterallus jamaicensis ssp. jamaicensis), Piping Plover (Charadrius melodus), and Red Knot (Calidris canutus rufa) due to limited scope of the project, lack of habitat, and distance to known populations.  

ArDOT will be adding the water pollution control special provision to the contract to protect water quality. ArDot has determined the overlay "may affect, but is not likely to adversely affect" the Ouachita Rock Pocketbook (Arclidens wheeleri). ArDOT is seeking concurrence with this determination.  

The Service has reviewed our records for these species and assessed the habitats in these areas. Due to the limited effects from overlaying existing roadway, distance to known species locations, and standard special provision for water quality, pollution, and sediment control conservation measures, the Service concurs with the determination of "may affect, not likely to adversely affect" for all species identified in the assessment.  

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: C:\Users\ilewis\Documents\PROJECTS\FY2020\ARDOT\ArDOT Job # 030512\Comments-ArDOT Job 030512.docx
In Reply Refer To:
Consultation Code: 04ER1000-2020-SLI-0430
Event Code: 04ER1000-2020-E-00955
Project Name: 030512 - Hwy. 317 – East (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](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](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
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
Project Summary

Consultation Code: 04ER1000-2020-SLI-0430

Event Code: 04ER1000-2020-E-00955

Project Name: 030512 - Hwy. 317 – East (S)

Project Type: TRANSPORTATION

Project Description: Overlay of the asphalt

Project Location:
Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/place/33.6906716020806N93.97151962892025W

Counties: Hempstead, AR | Little River, AR
Endangered Species Act Species

There is a total of 4 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, 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.

### Birds

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Black Rail <em>Laterallus jamaicensis ssp. jamaicensis</em></td>
<td>Proposed Threatened</td>
</tr>
<tr>
<td>Piping Plover <em>Charadrius melodus</em></td>
<td>Threatened</td>
</tr>
<tr>
<td>Red Knot <em>Calidris canutus rufa</em></td>
<td>Threatened</td>
</tr>
</tbody>
</table>

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### Clams

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ouachita Rock Pocketbook <em>Arkansia wheeleri</em></td>
<td>Endangered</td>
</tr>
</tbody>
</table>

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Species profile: [https://ecos.fws.gov/ecp/species/10477](https://ecos.fws.gov/ecp/species/10477)

Species profile: [https://ecos.fws.gov/ecp/species/6039](https://ecos.fws.gov/ecp/species/6039)

Species profile: [https://ecos.fws.gov/ecp/species/1864](https://ecos.fws.gov/ecp/species/1864)

Species profile: [https://ecos.fws.gov/ecp/species/4509](https://ecos.fws.gov/ecp/species/4509)
Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE’S JURISDICTION.
Mr. John Fleming  
c/o Mickey Matthews  
Arkansas Department of Transportation  
10324 Interstate 30  
Little Rock, Arkansas  72209  

Dear Mr. Fleming:

Thank you for your email of January 23, 2020. The U.S. Fish and Wildlife Service (Service) is responding to your request regarding an Arkansas Department of Transportation (ArDOT) Job # 080597 proposal to overlay Highway 65 in Van Buren County, Arkansas. The project was described and assessed as follows (abbreviated and summarized):

The project is an overlay of approximately 2.1 miles of Hwy. 65. I have attached the IPAC list for your convenience. The project should have no effect on the Gray Bat (Myotis griseascens), Missouri Bladderpod (Physaria filiformis), Eastern Black Rail (Laterallus jamaicensis ssp. jamaicensis), Piping Plover (Charadrius melodus), and Red Knot (Calidris canutus rufa) due to limited scope of the project, lack of habitat, and distance to known populations. 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 a likely to no effect (NE) consistency letter (attached) for the project.

ArDOT will be adding the water pollution control special provision to the contract to protect water quality. ArDot has determined the overlay “may affect, but is not likely to adversely affect”, the following species; Yellowcheek Darter (Etheostoma moorei) and Speckled Pocketbook (Lampsilis streckeri). ArDOT is seeking concurrence with this determination.

The Service has reviewed our records for these species and assessed the habitats in these areas. Due to the limited effects from overlaying existing roadway, distance to known species locations, and standard special provision for water quality, pollution, and sediment control conservation measures, the Service concurs with the determination of "may affect, not likely to adversely affect" for all species identified in the assessment.
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: C:\Users\lilewis\Documents\PROJECTS\FY2020\ARDOT\ArDOT Job 080597\Comments-ArDOT Job 080597.docx
In Reply Refer To:
Consultation Code: 04ER1000-2020-SLI-0425
Event Code: 04ER1000-2020-E-00942
Project Name: 080597 - Hwy. 65B – Hwy. 95 (Clinton) (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.

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.

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
Project Summary

Consultation Code: 04ER1000-2020-SLI-0425
Event Code: 04ER1000-2020-E-00942
Project Name: 080597 - Hwy. 65B – Hwy. 95 (Clinton) (S)
Project Type: TRANSPORTATION
Project Description: Ultra thin bonded wearing course.

Project Location:
Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/place/35.5756043664808N92.45197493251061W

Counties: Van Buren, AR
Endangered Species Act Species

There is a total of 9 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, 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

<table>
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<tr>
<th>NAME</th>
<th>STATUS</th>
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</thead>
<tbody>
<tr>
<td>Gray Bat <em>Myotis grisescens</em></td>
<td>Endangered</td>
</tr>
<tr>
<td>Indiana Bat <em>Myotis sodalis</em></td>
<td>Endangered</td>
</tr>
<tr>
<td>Northern Long-eared Bat <em>Myotis septentrionalis</em></td>
<td>Threatened</td>
</tr>
</tbody>
</table>

---

1. 

**NAME**  
**STATUS**  
**Endangered**

**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.

**NAME**  
**STATUS**  
**Endangered**

**NAME**  
**STATUS**  
**Endangered**

**NAME**  
**STATUS**  
**Threatened**

**NAME**  
**STATUS**  
**Endangered**

**NAME**  
**STATUS**  
**Endangered**

**NAME**  
**STATUS**  
**Endangered**

**NAME**  
**STATUS**  
**Threatened**

**NAME**  
**STATUS**  
**Endangered**

**NAME**  
**STATUS**  
**Endangered**

**NAME**  
**STATUS**  
**Threatened**
### Birds

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
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</thead>
<tbody>
<tr>
<td>Eastern Black Rail <em>Laterallus jamaicensis ssp. jamaicensis</em></td>
<td>Proposed, Threatened</td>
</tr>
<tr>
<td>Piping Plover <em>Charadrius melodus</em></td>
<td>Threatened</td>
</tr>
<tr>
<td>Red Knot <em>Calidris canutus rufa</em></td>
<td>Threatened</td>
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### Fishes

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
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</thead>
<tbody>
<tr>
<td>Yellowcheek Darter <em>Etheostoma moorei</em></td>
<td>Endangered</td>
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</tbody>
</table>

### Clams

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speckled Pocketbook <em>Lampsilis streckeri</em></td>
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</table>

### Flowering Plants

<table>
<thead>
<tr>
<th>NAME</th>
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</thead>
<tbody>
<tr>
<td>Missouri Bladderpod <em>Physaria filiformis</em></td>
<td>Threatened</td>
</tr>
</tbody>
</table>

### Critical habitats

There is 1 critical habitat wholly or partially within your project area under this office's jurisdiction.

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yellowcheek Darter <em>Etheostoma moorei</em></td>
<td>Final</td>
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</table>

Species profile links:
- [https://ecos.fws.gov/ecp/species/10477](https://ecos.fws.gov/ecp/species/10477)
- [https://ecos.fws.gov/ecp/species/6039](https://ecos.fws.gov/ecp/species/6039)
- [https://ecos.fws.gov/ecp/species/1864](https://ecos.fws.gov/ecp/species/1864)
- [https://ecos.fws.gov/ecp/species/7871](https://ecos.fws.gov/ecp/species/7871)
- [https://ecos.fws.gov/ecp/species/7869](https://ecos.fws.gov/ecp/species/7869)
- [https://ecos.fws.gov/ecp/species/5361](https://ecos.fws.gov/ecp/species/5361)
Subject: Consistency letter for the '080597 - Hwy. 65B – Hwy. 95 (Clinton) (S)' project (TAILS 04ER1000-2020-R-0425) 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 to verify that the 080597 - Hwy. 65B – Hwy. 95 (Clinton) (S) (Proposed Action) may rely on 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 (Project Description shown below), you have determined that the Proposed Action will have no effect on the endangered Indiana bat (Myotis sodalis) or the threatened Northern long-eared bat (Myotis septentrionalis). If the Proposed Action is not modified, no consultation is required for these two species.

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 may affect any other federally-listed or proposed species and/or designated critical habitat, additional consultation between the lead Federal action agency and this Service Office is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please advise the lead Federal action agency accordingly.
The following species may occur in your project area and **are not** covered by this determination:

- Eastern Black Rail, *Laterallus jamaicensis ssp. jamaicensis* (Proposed Threatened)
- Gray Bat, *Myotis grisescens* (Endangered)
- Missouri Bladderpod, *Physaria filiformis* (Threatened)
- Piping Plover, *Charadrius melodus* (Threatened)
- Red Knot, *Calidris canutus rufa* (Threatened)
- Speckled Pocketbook, *Lampsilis streckeri* (Endangered)
- Yellowcheek Darter, *Etheostoma moorei* (Endangered)
**Project Description**

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

**Name**

080597 - Hwy. 65B – Hwy. 95 (Clinton) (S)

**Description**

Applying an ultra thin bonded wearing course.
Determination Key Result

Based on the information you provided, you have determined that the Proposed Action will have no effect on the endangered Indiana bat and/or the threatened Northern long-eared bat. Therefore, no 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 for these two species.

Qualification Interview

1. Is the project within the range of the Indiana bat\(^1\)?
   
   \(^1\) See Indiana bat species profile
   
   Automatically answered
   
   Yes

2. Is the project within the range of the Northern long-eared bat\(^1\)?
   
   \(^1\) See Northern long-eared bat species profile
   
   Automatically answered
   
   Yes

3. Which Federal Agency is the lead for the action?
   
   A) Federal Highway Administration (FHWA)

4. Are all project activities limited to non-construction\(^1\) activities only? (examples of non-construction activities include: bridge/abandoned structure assessments, surveys, planning and technical studies, property inspections, and property sales)
   
   \(^1\) Construction refers to activities involving ground disturbance, percussive noise, and/or lighting.
   
   No

5. Does the project include any activities that are greater than 300 feet from existing road/rail surfaces\(^1\)?
   
   \(^1\) Road surface is defined as the actively used [e.g. motorized vehicles] driving surface and shoulders [may be pavement, gravel, etc.] and rail surface is defined as the edge of the actively used rail ballast.
   
   No
6. Does the project include any activities within 0.5 miles of a known Indiana bat and/or NLEB hibernaculum[1]?

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

No

7. Is the project located within a karst area?

Yes

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

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

No

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

[1] See the Service’s summer survey guidance for our current definitions of suitable habitat.

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

Yes

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

[1] See the Service’s summer survey guidance for our current definitions of suitable habitat.

No
11. Does the project include activities within documented Indiana bat habitat\(^1\)[\(^2\)]?  

[1] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry triangulation 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*

12. Does the project include activities within documented NLEB habitat\(^1\)[\(^2\)]?  

[1] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry triangulation 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*

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

*No*

14. Does the project include slash pile burning?  

*No*

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

*No*

16. 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*
17. Will the project involve the use of temporary lighting during the active season?
   No

18. Will the project install new or replace existing permanent lighting?
   No

19. 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

20. Are all project activities limited to actions that DO NOT cause any stressors to the bat species, including as described in the BA/BO (i.e., habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives)?
    Examples: lining roadways, unlit signage, rail road crossing signals, signal lighting, and minor road repair such as asphalt fill of potholes, etc.
    Yes

21. Will the project raise the road profile above the tree canopy?
    No

22. Are all project activities consistent with a No Effect determination in this key?
    Automatically answered
    Yes, all project activities are limited to actions that DO NOT cause any stressors to the bat species as described in the BA/BO
Determination Key Description: FHWA, FRA, FTA
Programmatic Consultation For Transportation Projects
Affecting NLEB Or Indiana Bat

This key was last updated in IPaC on December 02, 2019. Keys are subject to periodic revision.

This decision key is intended for projects/activities funded or authorized by the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and/or Federal Transit Administration (FTA), which may require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act (ESA) for the endangered Indiana bat (Myotis sodalis) and the 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.
Mr. John Fleming  
c/o Mickey Matthews  
Arkansas Department of Transportation  
10324 Interstate 30  
Little Rock, Arkansas 72209

Dear Mr. Fleming:

Thank you for your email of January 23, 2020. The U.S. Fish and Wildlife Service (Service) is responding to your request, regarding an Arkansas Department of Transportation (ArDOT) Job # 101020 proposal to overlay Highway 140 in Poinsett County, Arkansas. The project was described and assessed as follows (abbreviated and summarized):

The project is an overlay of approximately 9.1 miles of Hwy. 140. I have attached the IPAC list for your convenience. The project should have no effect on the Eastern Black Rail (Laterallus jamaicensis ssp. jamaicensis), Piping Plover (Charadrius melodus), Red Knot (Calidris canutus rufa), and Pondberry (Lindera melissifolia) due to limited scope of the project, lack of habitat, and distance to known populations.

ArDOT will be adding the water pollution control special provision to the contract to protect water quality. ArDot has determined the overlay “may affect, but is not likely to adversely affect” the following species: Fat Pocketbook (Potamilus capax). ArDOT is seeking concurrence with this determination.

The Service has reviewed our records for these species and assessed the habitats in these areas. Due to the limited effects from overlaying existing roadway, distance to known species locations, and standard special provision for water quality, pollution, and sediment control conservation measures, the Service concurs with the determination of "may affect, not likely to adversely affect" for all species identified in the assessment.

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,

[Signature]

Melvin L. Tobin  
Field Supervisor
In Reply Refer To:  
Consultation Code: 04ER1000-2020-SLI-0431  
Event Code: 04ER1000-2020-E-00957  
Project Name: 101020 - Marked Tree – Lepanto (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.

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.

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
Project Summary

Consultation Code: 04ER1000-2020-SLI-0431

Event Code: 04ER1000-2020-E-00957

Project Name: 101020 - Marked Tree – Lepanto (S)

Project Type: TRANSPORTATION

Project Description: overlay ashpalt

Project Location:
Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/place/35.57366308464515N90.4100278114184W

Counties: Poinsett, AR
Endangered Species Act Species

There is a total of 5 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, 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.

## Birds

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Black Rail <em>Laterallus jamaicensis ssp. jamaicensis</em></td>
<td>Proposed Threatened</td>
</tr>
<tr>
<td>No critical habitat has been designated for this species.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/10477">https://ecos.fws.gov/ecp/species/10477</a></td>
<td></td>
</tr>
<tr>
<td>Piping Plover <em>Charadrius melodus</em></td>
<td>Threatened</td>
</tr>
<tr>
<td>Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered.</td>
<td></td>
</tr>
<tr>
<td>There is final critical habitat for this species. Your location is outside the critical habitat.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/6039">https://ecos.fws.gov/ecp/species/6039</a></td>
<td></td>
</tr>
<tr>
<td>Red Knot <em>Calidris canutus rufa</em></td>
<td>Threatened</td>
</tr>
<tr>
<td>No critical habitat has been designated for this species.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a></td>
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</tbody>
</table>

## Clams

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fat Pocketbook <em>Potamilus capax</em></td>
<td>Endangered</td>
</tr>
<tr>
<td>No critical habitat has been designated for this species.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/2780">https://ecos.fws.gov/ecp/species/2780</a></td>
<td></td>
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</tbody>
</table>

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## Flowering Plants

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pondberry <em>Lindera melissifolia</em></td>
<td><strong>Endangered</strong></td>
</tr>
</tbody>
</table>

   *No critical habitat has been designated for this species.*
   *Species profile: [https://ecos.fws.gov/ecp/species/1279](https://ecos.fws.gov/ecp/species/1279)*

## Critical habitats

*There are no critical habitats within your project area under this Office's jurisdiction.*
Mr. John Fleming  
c/o Mickey Matthews  
Arkansas Department of Transportation  
10324 Interstate 30  
Little Rock, Arkansas 72209  

Dear Mr. Fleming:

Thank you for your email of January 23, 2020. The U.S. Fish and Wildlife Service (Service) is responding to your request, regarding an Arkansas Department of Transportation (ArDOT) Job # 101034 proposal to overlay Highway 67 in Randolph County, Arkansas. The project was described and assessed as follows (abbreviated and summarized):

The project is an overlay of approximately 13.7 miles of Hwy. 67. I have attached the IPAC list for your convenience. The project should have no effect on the Gray Bat (Myotis grisescens), Missouri Bladderpod (Physaria filiformis), Pondberry (Lindera melissifolia), Eastern Black Rail (Laterallus jamaicensis ssp. jamaicensis), Piping Plover (Charadrius melodus), and Red Knot (Calidris canutus rufia) due to limited scope of the project, lack of habitat, and distance to known populations. 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 a likely no effect (NE) consistency letter (attached) for the project.

ArDOT will be adding the water pollution control special provision to the contract to protect water quality. ArDot has determined the overlay “may affect, but is not likely to adversely affect” the following species; Rabbitsfoot (Theiiderma cylindrica) and Pink Mucket (Lampsilis abrupta). ArDOT is seeking concurrence with this determination.

The Service has reviewed our records for these species and assessed the habitats in these areas. Due to the limited effects from overlaying existing roadway, distance to known species locations, and standard special provision for water quality, pollution, and sediment control conservation measures, the Service concurs with the determination of "may affect, not likely to adversely affect" for all species identified in the assessment.
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: C:\Users\llewis\Documents\PROJECTS\FY2020\ARDOT\ArDOT job 101034\Comments-ArDOT Job 101034.docx
In Reply Refer To: Consultation Code: 04ER1000-2020-SLI-0436
Event Code: 04ER1000-2020-E-00967
Project Name: 101034 - Pocahontas – Corning (Sel. Secs.) (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](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](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
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
Project Summary

Consultation Code: 04ER1000-2020-SLI-0436

Event Code: 04ER1000-2020-E-00967

Project Name: 101034 - Pocahontas – Corning (Sel. Secs.) (S)

Project Type: TRANSPORTATION

Project Description: Overly of Hwy. 67

Project Location:
Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/place/36.274045738652205N90.95718876178648W

Counties: Randolph, AR
Endangered Species Act Species

There is a total of 10 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, 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

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gray Bat <em>Myotis grisescens</em></td>
<td>Endangered</td>
</tr>
<tr>
<td>There is no critical habitat for this species.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/6329">https://ecos.fws.gov/ecp/species/6329</a></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indiana Bat <em>Myotis sodalis</em></th>
<th>Endangered</th>
</tr>
</thead>
<tbody>
<tr>
<td>There is final critical habitat for this species. Your location is outside the critical habitat.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/5949">https://ecos.fws.gov/ecp/species/5949</a></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Northern Long-eared Bat <em>Myotis septentrionalis</em></th>
<th>Threatened</th>
</tr>
</thead>
<tbody>
<tr>
<td>No critical habitat has been designated for this species.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a></td>
<td></td>
</tr>
</tbody>
</table>
### Birds

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Black Rail <em>Laterallus jamaicensis ssp. jamaicensis</em></td>
<td>Proposed</td>
</tr>
<tr>
<td>No critical habitat has been designated for this species.</td>
<td>Threatened</td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/10477">https://ecos.fws.gov/ecp/species/10477</a></td>
<td></td>
</tr>
<tr>
<td>Piping Plover <em>Charadrius melodus</em></td>
<td>Threatened</td>
</tr>
<tr>
<td>Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered.</td>
<td></td>
</tr>
<tr>
<td>There is final critical habitat for this species. Your location is outside the critical habitat.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/6039">https://ecos.fws.gov/ecp/species/6039</a></td>
<td></td>
</tr>
<tr>
<td>Red Knot <em>Calidris canutus rufa</em></td>
<td>Threatened</td>
</tr>
<tr>
<td>No critical habitat has been designated for this species.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a></td>
<td></td>
</tr>
</tbody>
</table>

### Clams

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pink Mucket (pearlymussel) <em>Lampsilis abrupta</em></td>
<td>Endangered</td>
</tr>
<tr>
<td>No critical habitat has been designated for this species.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/7829">https://ecos.fws.gov/ecp/species/7829</a></td>
<td></td>
</tr>
<tr>
<td>Rabbitsfoot <em>Quadrula cylindrica cylindrica</em></td>
<td>Threatened</td>
</tr>
<tr>
<td>There is final critical habitat for this species. Your location is outside the critical habitat.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/5165">https://ecos.fws.gov/ecp/species/5165</a></td>
<td></td>
</tr>
</tbody>
</table>

### Flowering Plants

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Missouri Bladderpod <em>Physaria filiformis</em></td>
<td>Threatened</td>
</tr>
<tr>
<td>No critical habitat has been designated for this species.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/5361">https://ecos.fws.gov/ecp/species/5361</a></td>
<td></td>
</tr>
<tr>
<td>Pondberry <em>Lindera melissifolia</em></td>
<td>Endangered</td>
</tr>
<tr>
<td>No critical habitat has been designated for this species.</td>
<td></td>
</tr>
<tr>
<td>Species profile: <a href="https://ecos.fws.gov/ecp/species/1279">https://ecos.fws.gov/ecp/species/1279</a></td>
<td></td>
</tr>
</tbody>
</table>

### Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.
Subject: Consistency letter for the '101034 - Pocahontas – Corning (Sel. Secs.) (S)' project (TAILS 04ER1000-2020-R-0436) 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 to verify that the **101034 - Pocahontas – Corning (Sel. Secs.) (S)** (Proposed Action) may rely on 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 (Project Description shown below), you have determined that the Proposed Action will have no effect on the endangered Indiana bat (*Myotis sodalis*) or the threatened Northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, no consultation is required for these two species.

**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 may affect any other federally-listed or proposed species and/or designated critical habitat, additional consultation between the lead Federal action agency and this Service Office is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please advise the lead Federal action agency accordingly.
The following species may occur in your project area and are not covered by this determination:

- Eastern Black Rail, *Laterallus jamaicensis ssp. jamaicensis* (Proposed Threatened)
- Gray Bat, *Myotis grisescens* (Endangered)
- Missouri Bladderpod, *Physaria filiformis* (Threatened)
- Pink Mucket (pearlymussel), *Lampsilis abrupta* (Endangered)
- Piping Plover, *Charadrius melodus* (Threatened)
- Pondberry, *Lindera melissifolia* (Endangered)
- Rabbitsfoot, *Quadrula cylindrica cylindrica* (Threatened)
- Red Knot, *Calidris canutus rufa* (Threatened)
Project Description

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

Name

101034 - Pocahontas – Corning (Sel. Secs.) (S)

Description

Overly of Hwy. 67
Determination Key Result

Based on the information you provided, you have determined that the Proposed Action will have no effect on the endangered Indiana bat and/or the threatened Northern long-eared bat. Therefore, no 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 for these two species.

Qualification Interview

1. Is the project within the range of the Indiana bat\(^{[1]}\)?

\(^{[1]}\) See Indiana bat species profile

Automatically answered

Yes

2. Is the project within the range of the Northern long-eared bat\(^{[1]}\)?

\(^{[1]}\) See Northern long-eared bat species profile

Automatically answered

Yes

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

   A) Federal Highway Administration (FHWA)

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

\(^{[1]}\) Construction refers to activities involving ground disturbance, percussive noise, and/or lighting.

   No

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

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

   No
6. Does the project include any activities within 0.5 miles of a known Indiana bat and/or NLEB hibernaculum\(^1\)?

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

\[\text{No}\]

7. Is the project located within a karst area?

\[\text{No}\]

8. Is there any suitable\(^1\) summer habitat for Indiana Bat or NLEB within the project action area\(^2\)? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

\(^1\) See the Service’s summer survey guidance for our current definitions of suitable habitat.

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

\[\text{Yes}\]

9. Will the project remove any suitable summer habitat\(^1\) and/or remove/trim any existing trees within suitable summer habitat?

\(^1\) See the Service’s summer survey guidance for our current definitions of suitable habitat.

\[\text{No}\]

10. Does the project include activities within documented Indiana bat habitat\(^1\)[\(^2\)]?  

\(^1\) Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry 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.

\[\text{No}\]
11. Does the project include activities within documented NLEB habitat\(^[1][2]\)?

\(^{[1]}\) Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry 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

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

No

13. Does the project include slash pile burning?

No

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

No

15. 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

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

No

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

No

18. 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
19. Are all project activities limited to actions that DO NOT cause any stressors to the bat species, including as described in the BA/BO (i.e., habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives)?

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

Yes

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

   No

21. Are all project activities consistent with a No Effect determination in this key?

   Automatically answered

   Yes, all project activities are limited to actions that **DO NOT** cause any stressors to the bat species as described in the BA/BO
Determination Key Description: FHWA, FRA, FTA Programmatic Consultation For Transportation Projects Affecting NLEB Or Indiana Bat

This key was last updated in IPaC on December 02, 2019. Keys are subject to periodic revision.

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

**FOR CONSIDERATION OF POTENTIAL IMPACTS**

<table>
<thead>
<tr>
<th>Environmental Resource</th>
<th>None</th>
<th>Minimal</th>
<th>Major</th>
<th>Comments-required for each item</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Quality</td>
<td>X</td>
<td></td>
<td></td>
<td>No air quality/MSAT impacts</td>
</tr>
<tr>
<td>Cultural Resources</td>
<td>X</td>
<td></td>
<td></td>
<td>CR clearances attached</td>
</tr>
<tr>
<td>Economic</td>
<td>X</td>
<td></td>
<td></td>
<td>No adverse impacts</td>
</tr>
<tr>
<td>Endangered Species</td>
<td>X</td>
<td></td>
<td></td>
<td>No effect &amp; NLAA determinations</td>
</tr>
<tr>
<td>Environmental Justice/Title VI</td>
<td>X</td>
<td></td>
<td></td>
<td>EJ populations not impacted</td>
</tr>
<tr>
<td>Fish and Wildlife</td>
<td>X</td>
<td></td>
<td></td>
<td>No impacts due to scope of the project</td>
</tr>
<tr>
<td>Floodplains</td>
<td>X</td>
<td></td>
<td></td>
<td>No impacts expected</td>
</tr>
<tr>
<td>Forest Service Property</td>
<td>X</td>
<td></td>
<td></td>
<td>None in project area</td>
</tr>
<tr>
<td>Hazardous Materials/Landfills</td>
<td>X</td>
<td></td>
<td></td>
<td>None sites in project area</td>
</tr>
<tr>
<td>Land Use</td>
<td>X</td>
<td></td>
<td></td>
<td>Will not be impacted by project</td>
</tr>
<tr>
<td>Migratory Birds</td>
<td>X</td>
<td></td>
<td></td>
<td>No impacts expected</td>
</tr>
<tr>
<td>Navigation/Coast Guard</td>
<td>X</td>
<td></td>
<td></td>
<td>No navigable waterways involved</td>
</tr>
<tr>
<td>Noise Levels</td>
<td>X</td>
<td></td>
<td></td>
<td>No increases due to project</td>
</tr>
<tr>
<td>Prime Farmland</td>
<td>X</td>
<td></td>
<td></td>
<td>None in project area</td>
</tr>
<tr>
<td>Protected Waters</td>
<td>X</td>
<td></td>
<td></td>
<td>Water Pollution Control SP included</td>
</tr>
<tr>
<td>Public Recreation Lands</td>
<td>X</td>
<td></td>
<td></td>
<td>None in project area</td>
</tr>
<tr>
<td>Public Water Supply/WHPA</td>
<td>X</td>
<td></td>
<td></td>
<td>None in project area</td>
</tr>
<tr>
<td>Relocatees</td>
<td>X</td>
<td></td>
<td></td>
<td>No relocations</td>
</tr>
<tr>
<td>Section 4(f)/6(f)</td>
<td>X</td>
<td></td>
<td></td>
<td>4f/6f resources not impacted</td>
</tr>
<tr>
<td>Social</td>
<td>X</td>
<td></td>
<td></td>
<td>No impacts to the social environment</td>
</tr>
<tr>
<td>Underground Storage Tanks</td>
<td>X</td>
<td></td>
<td></td>
<td>No USTs in project area</td>
</tr>
<tr>
<td>Visual</td>
<td>X</td>
<td></td>
<td></td>
<td>No changes to visual environment</td>
</tr>
<tr>
<td>Streams</td>
<td>X</td>
<td></td>
<td></td>
<td>No impacts due to the scope of the project</td>
</tr>
<tr>
<td>Water Quality</td>
<td>X</td>
<td></td>
<td></td>
<td>No impacts due to the scope of the project</td>
</tr>
<tr>
<td>Wetlands</td>
<td>X</td>
<td></td>
<td></td>
<td>None in the project area</td>
</tr>
<tr>
<td>Wildlife Refuges</td>
<td>X</td>
<td></td>
<td></td>
<td>None in the project area</td>
</tr>
</tbody>
</table>

**Section 401 Water Quality Certification Required?**  No

**Short-term Activity Authorization Required?**  No

**Section 404 Permit Required?**  No  Type N/A

**Remarks:**
Water Pollution Control SP required – 030512 & 080597

**Signature of Evaluator**  

**Date**  2-4-2020