



INTEROFFICE MEMORANDUM

April 18, 2018

TO: Master Files

FROM: John Fleming, Division Head, Environmental Division 

SUBJECT: Job Number 110650
FAP Number STPC-9448(44)
Hwy. 70 – Southland Dr. (West Memphis) (S)
Route 38, Section 10
Crittenden County
Tier 2 Categorical Exclusion

The Environmental Division has reviewed the referenced project and it falls within the definition of a Tier 2 Categorical Exclusion under 23 Code of Federal Regulations, Section 771.117, and the ARDOT/FHWA Memorandum of Agreement on the processing of Categorical Exclusions. A public hearing will not be offered for this project.

The purpose of this project is to reconstruct approximately 0.8 mile of Highway 38 in West Memphis. The job extends from Highway 70 to Southland Drive in Crittenden County. A project location map is attached.

Highway 38 currently consists of four 12' wide travel lanes with a center lane that varies between a two-way left turn lane, northbound and southbound left turn lanes, and a painted or raised median. The highway has curb-and-gutter with isolated sections of sidewalk between the south frontage road and Highway 70. Between the south frontage road and Southland Dr., the highway has 8' wide paved shoulders and no sidewalks. The proposed job would not change the cross section of Highway 38 or require additional right of way. Traffic would be maintained on Highway 38 throughout construction.

There are no relocations, public water supplies, cultural resources, wetlands, streams, prime farmland, or environmental justice impacts associated with this project. There are underground storage tanks at fuel stations in the project area, including reports of known leaking underground storage tanks, but it is unlikely that any contamination has spread to the existing highway right of way. No Section 404 permit will be required for this project.

The official species list obtained through the United State Fish and Wildlife Service (USFWS) Information for Planning and Consultation website lists four endangered species and two threatened species as potentially occurring within the project area: the Piping Plover (*Charadrius melodus*), pallid sturgeon (*Scaphirhynchus albus*), Fat Pocketbook (*Potamilus capax*), Rabbitsfoot (*Theliderma cylindrica*), Scaleshell (*Leptodea leptodon*), and pondberry (*Lindera melissifolia*). Based on the lack of habitat and distance to known species, the project will have no effect on the listed species.

Based upon the ARDOT's Policy on Highway Traffic Noise Abatement, a noise analysis is not required for this project. This project does not involve added capacity, construction of new through lanes or auxiliary lanes, changes in the horizontal or vertical alignment of the roadway, or exposure of noise sensitive land uses to a new or existing highway noise source.

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

Attachments:

- Project Location Map
- Section 106 Clearance
- USFWS Species List
- Environmental Study Checklist

Approved:



Kevin Thornton
Assistant Chief Engineer-Planning

JF:SS:fc

- c: Program Management
- Right of Way
- Roadway Design
- District 1
- FHWA



INTEROFFICE MEMORANDUM

February 8, 2018

TO: Environmental Job Files

FROM: Wm. Lane Shields 

SUBJECT: Archeological Clearance
Job Number 110650
Beatty St.-Southland Dr. (West Memphis)(S)
Crittenden County

This job proposes to reconstruct Martin Luther King Jr. (MLK) Drive along slightly more than 0.8 miles from US 70/E. Broadway Avenue to Southland Drive, in West Memphis, Crittenden County. The Project Location is approximately 0.73 miles starting at US 70 to just south of Beatty St. With the exception of a bridge over I-55 which is four lanes, the route is a five lane/divided four lane corridor. No new right of way (ROW) or temporary construction easements will be required. The project is being conducted as a STIP job and no Native American consultation is required.

An archeological and historic records review was conducted for this project. It included the Arkansas Archeological Survey (AAS) site files of documented Native American and historic archeological sites, structures or features and the Arkansas Historic Preservation Program (AHPP) recorded structures and site/properties files. The National Register of Historic Places (NRHP) eligibility status is determined by the AHPP but presented in three databases. The NRHP status for archeological sites is in the AAS database, the status for architectural sites is in the AHPP database and the ARDOT tracks the status for bridges.

The AAS site files revealed no sites within a half mile from the project area. The AHPP site files did not show any properties adjacent to the project corridor. Three bridges are along the corridor and are evaluated as not significant and not eligible for nomination for inclusion in the NRHP.

Other records reviewed included the 1825 General Land Office (GLO) plat for T6N-R9E, the 1936 Crittenden County highway map and a total of 14 versions of United States Geological Survey (USGS) quadrangles from 1916 to 1972. The GLO shows a nearby field and plots the railroad to the south but there are no cultural features adjacent to the corridor. The earlier USGS quadrangles show the area to be swampy and without nearby structures. The route in 1915 lies between the communities of Hulbert and Banzippi and extended to between the communities of Blanton and Briark. The county map shows the route lying between West Memphis and a cluster of buildings to the east that would correspond to Briark, which continues to be noted on the current USGS map.

All work will take place within disturbances now covered by paved surfaces with no cultural resources and bridges directly or indirectly impacted. As a result, this project is subject to the 1999 MOA (enclosed) and falls under the exempted Work Category "Reconstruction". The project is not considered an undertaking and requires no further archeological research, fieldwork or Section 106 review.



United States Department of the Interior



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

In Reply Refer To:

February 05, 2018

Consultation Code: 04ER1000-2018-SLI-0485

Event Code: 04ER1000-2018-E-00726

Project Name: Beatty St. - Southland Dr. (West Memphis)

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.**

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: 04ER1000-2018-SLI-0485

Event Code: 04ER1000-2018-E-00726

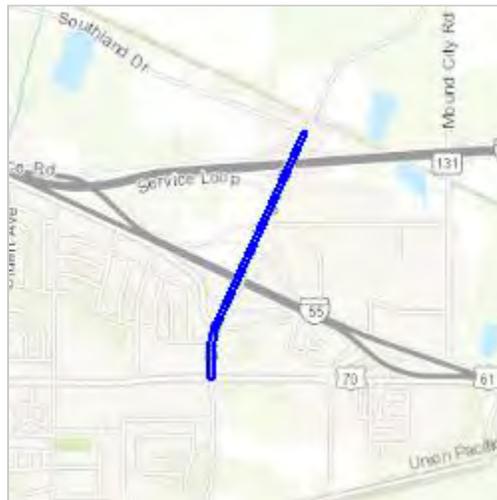
Project Name: Beatty St. - Southland Dr. (West Memphis)

Project Type: TRANSPORTATION

Project Description: reconstruction of existing roadway on existing location

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.15208108833447N90.13852282932334W>



Counties: Crittenden, AR

Endangered Species Act Species

There is a total of 6 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. 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.

Birds

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened

Fishes

NAME	STATUS
Pallid Sturgeon <i>Scaphirhynchus albus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7162	Endangered

Clams

NAME	STATUS
Fat Pocketbook <i>Potamilus capax</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2780	Endangered
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5165	Threatened
Scaleshell Mussel <i>Leptodea leptodon</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5881	Endangered

Flowering Plants

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

Critical habitats

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

ARDOT ENVIRONMENTAL IMPACTS ASSESSMENT FORM

ARDOT Job Number 110650 FAP Number STPC-9448(44)

Job Title Hwy. 70 – Southland Dr. (West Memphis) (S)

Environmental Impacts	None	Minor	Significant	Comments
Air Quality	X			
Construction Impacts		X		Temporary during construction
Cultural Resources	X			
Economic	X			
Endangered Species	X			
Energy Resources	X			
Environmental Justice/Title VI	X			
Fish and Wildlife	X			
Floodplains	X			SFHAs in area, but not impacted
Forest Service Property	X			
Hazardous Materials/Landfills	X			LUST in area; no impacts anticipated
Land Use Impacts	X			All work within existing right of way
Migratory Birds	X			
Navigation/Coast Guard	X			
Noise Levels	X			
Prime Farmland	X			
Protected Waters	X			
Public Recreation Lands	X			
Public Water Supply/WHPA	X			Wellhead Protection SP added
Relocates	X			
Section 4(f)/6(f)	X			
Social	X			
Underground Storage Tanks	X			LUST in area; no impacts anticipated
Visual Impacts	X			
Stream Impacts	X			
Water Quality	X			
Wetlands	X			
Wildlife Refuges	X			

Section 401 Water Quality Certification Required? No
 Short-term Activity Authorization Required? No
 Section 404 Permit Required? No Type None

Remarks: _____

Signature of Evaluator Susan Stafford Date April 13, 2018