



INTEROFFICE MEMORANDUM

January 23, 2018

TO: Master Files

FROM: *JF* John Fleming, Division Head, Environmental Division *hPrice*

SUBJECT: Job Number BB0401
FAP Number BIM-B40-1(95)
Oklahoma State Line – Dyer (S)
Crawford County
Tier 1 Categorical Exclusion

After appropriate environmental review, it has been determined that the subject job is a Tier 1 Categorical Exclusion as described by the ARDOT/FHWA Memorandum of Agreement on Categorical Exclusion Documentation and Processing. A public hearing will not be offered for this project.

The purpose of this project is to rehabilitate a portion of Interstate 40 in Crawford County. Work will include mill, inlay, and overlay of the roadway, with hydro-demolition and rehabilitation of the bridges. The existing cross-section will not change as a result of the proposed project and no additional right of way will be required. A project location map is attached.

The official species list obtained through the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation website lists northern long-eared bat (*Myotis septentrionalis*), gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), Ozark big-eared bat (*Plecotus townsendii ingens*) Piping Plover (*Charadrius melodus*), Least Tern (*Sterna antillarum*), Scaleshell mussel (*Leptodea leptodon*), Spectaclecase mussel (*Cumberlandia monodonta*), and the American burying beetle (*Nicrophorus americanus*) as species potentially affected by the proposed project. This project, based on the limited scope of the action, no acquisition of new right-of-way, and the absence of tree clearing, will have "no effect" on the listed species.

Job Number BB0401
Tier 1 Categorical Exclusion
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The project 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. A cultural resources clearance is attached.

JF:JB:fc

Attachments:

- Section 106 Clearance
- USFWS Species List
- Environmental Study Checklist

c: Program Management
Right of Way
Roadway Design
District 4
FHWA



INTEROFFICE MEMORANDUM

December 4, 2017

TO: Job File

FROM: Jason Eads, Cultural Resources Section, Environmental Division

A handwritten signature in black ink that reads 'Jason Eads'.

SUBJECT: Archeological Clearance
Job Number BB0401
Oklahoma St. Line-Dyer (S)
Crawford County

This job proposes to overlay an existing 17 miles of road surface with asphalt pavement on Interstate 40, from the Oklahoma State Line to west of Dyer in Crawford County. A records check at the Arkansas Archeological Survey shows four sites within the right-of-way (ROW), five sites near the ROW, and the National Historic Trail of Tears crossing the project area. The four sites within the ROW were completely destroyed by the original construction of I-40 and I-49. Two of the five sites near the ROW were isolated finds. The five sites near the ROW will not be impacted by this project. No cultural indicators were found on the 1831, 1838, 1839, or 1840 General Land Office (GLO) maps near the project. The 1936 Crawford County road map shows several structures along the existing highways near I-40, but no structures appear to be within the ROW of I-40. One recorded historic structure (The Judge Ward House) is shown on the AHPP structure database near the project. The Judge Ward House (CW0133) lies outside of the ROW and will not be affected.

The Trail of Tears is a National Historic Trail. The Trail enters the interstate corridor from the north at Arkansas Highway 59 (exit 5, also known as the Fayetteville Road). It then heads east and is plotted a short distance south of the corridor to North Rudy Road/Pointer Trail East where it turns north and exits the corridor along the Arkansas Missouri Railroad. No trace of the Trail is present in or near the project area due to urban development. 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". The project is not considered an undertaking and requires no further work 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:

January 10, 2018

Consultation Code: 04ER1000-2018-SLI-0348

Event Code: 04ER1000-2018-E-00569

Project Name: Oklahoma St. Line - Dyer

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

This project's location is within the jurisdiction of multiple offices. Expect additional species list documents from the following office, and expect that the species and critical habitats in each document reflect only those that fall in the office's jurisdiction:

Oklahoma Ecological Services Field Office

9014 East 21st Street

Tulsa, OK 74129-1428

(918) 581-7458

Project Summary

Consultation Code: 04ER1000-2018-SLI-0348

Event Code: 04ER1000-2018-E-00569

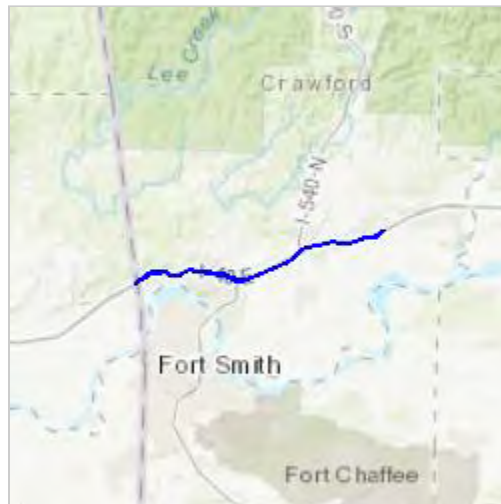
Project Name: Oklahoma St. Line - Dyer

Project Type: TRANSPORTATION

Project Description: mill, inlay and overlay, hydrodemolition of bridge surfaces

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.47771606009226N94.25194612150176W>



Counties: Crawford, AR | Sequoyah, OK

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. 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.

Mammals

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/7245	Endangered

Birds

NAME	STATUS
Least Tern <i>Sterna antillarum</i> Population: interior pop. No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8505	Endangered
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

Clams

NAME	STATUS
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
Spectaclecase (mussel) <i>Cumberlandia monodonta</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7867	Endangered

Insects

NAME	STATUS
American Burying Beetle <i>Nicrophorus americanus</i> Population: Wherever found, except where listed as an experimental population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/66	Endangered
American Burying Beetle <i>Nicrophorus americanus</i> Population: Ex Pop, SW Missouri No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/66	Experimental Population, Non-Essential

Critical habitats

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

ARDOT ENVIRONMENTAL IMPACTS ASSESSMENT FORM

ARDOT Job Number BB0401 FAP Number BI M-B40-1(95)

Job Title Oklahoma State Line – Dyer (S)

Environmental Impacts	None	Minor	Significant	Comments
Air Quality	X			
Construction Impacts		X		Temporary
Cultural Resources	X			
Economic	X			
Endangered Species	X			No Effect
Energy Resources	X			
Environmental Justice/Title VI	X			
Fish and Wildlife	X			
Floodplains	X			
Forest Service Property	X			
Hazardous Materials/Landfills	X			
Land Use Impacts	X			
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			
Relocates	X			
Section 4(f)/6(f)	X			
Social	X			
Underground Storage Tanks	X			
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 _____

Remarks: _____

Signature of Evaluator  Date January 22, 2018