



ARKANSAS DEPARTMENT OF TRANSPORTATION

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10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261 | Phone: 501.569.2000

INTEROFFICE MEMORANDUM

July 18, 2023

TO: Master Files

FROM:  John Fleming, Division Head, Environmental Division 

SUBJECT: Job 040836
FAP STPR-0065(65)
Hwy. 255 Impvts. (Sebastian Co.) (S)
Route 255, Section 1 & 2
Sebastian County
Tier 1 Categorical Exclusion

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

This project intends to level and provide a 1" overlay for Sections 1 and 2 of Highway 255 in Sebastian County. Additionally, 2' shoulders will be added to Section 1. The project would not involve relocations, prime farmlands, wetlands, underground storage tanks, hazardous materials, any environmental justice issues, or cultural resources. This project has been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been linked with any special mobile source air toxics concerns. The cultural resources clearance is attached.

The official species lists obtained through the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation identified the following species as potentially occurring within the project area: Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Tricolored Bat (*Perimyotis subflavus*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), Alligator Snapping Turtle (*Macrochelys temminckii*), American Burying Beetle (*Nicrophorus americanus*), geocarpon (*Geocarpon minimum*), and Monarch Butterfly (*Danaus plexippus*). The official species list is attached. This project would have "no effect" on the aforementioned species due to the limited scope of the action, lack of suitable habitat, and distance to known species locations.

The Tricolored Bat is currently a proposed endangered species, and the Alligator Snapping Turtle is a proposed threatened species; however, the proposed project would not jeopardize the continued existence of either species.

This 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.

Attachments

c: Program Management
District 4
FHWA

JF:DH:sw



Sebastian County





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INTEROFFICE MEMORANDUM

May 31, 2023

TO: Environmental Job File

M H

FROM: M. Hughes, Cultural Resources

SUBJECT: Cultural Resources Clearance
Job 040836
Hwy. 255 Impvts. (Sebastian Co.) (S)
Route 255, Sections 1 & 2
Sebastian County

This job proposes to conduct the following surface improvement activities along 7.38 miles of Sections 1 and 2 of Highway 255 in Sebastian County: 1" level up and overlay on both sections and add 2' shoulders to Section 1.

A records check at the Arkansas Archeological Survey found no previously recorded archeological sites located near the existing ROW along the project. No historic structures were shown on the Arkansas Historic Preservation Program's structure database eligible for inclusion or listed on the National Register of Historic Places near the project. An unidentified road is noted in Section 1 of the 1826 General Land Office (GLO) plat for T7N, 31W and was identified as "County road" on the 1829 GLO plat. The 1826 GLO plat of T8N, R30W shows a "Road from Crawford courthouse to Fort Smith" trending SW-NE south of Highway 255 in Section 31 and crossing the existing highway in the corner of Sections 28, 29, 32, and 33. No other cultural indicators were found on the 1832, 1829, 1826 GLO plats of 7N, 30W or the 1827 GLO plat of 8N, 31W. The 1936 Sebastian County road map shows a multitude of structures located along numerous roads for the project area. The 1987 7.5' Lavaca topographic map shows Highway 255 as the "Old Military Road", a carryover from the Civil War. The Lavaca and the Barling 7.5 topographic maps do not indicate any known cemeteries in the project area.

Cultural Resources Clearance

Job 040836

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All work will be within the existing ROW in Section 1 of Highway 255, and all work will be limited to existing paved surfaces on Section 2, that contains a portion of the Military Road.

The existing road infrastructure, known construction practices, utilities, and plans were examined to assess previous ground disturbance. The current scope of the project occurs within previously disturbed areas. This type of undertaking will not affect historic properties. Therefore, this project requires no Section 106 review under Appendix C, Activity 2, of the 2021 Programmatic Agreement.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Arkansas Ecological Services Field Office
110 South Amity Suite 300
Conway, AR 72032-8975
Phone: (501) 513-4470 Fax: (501) 513-4480



In Reply Refer To:

April 05, 2023

Project Code: 2023-0065144

Project Name: 040836 - Hwys. 96 & 255 Impvts. (Sebastian Co.) (S)

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

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

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

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

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

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

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

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

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

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

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

Attachment(s):

- Official Species List

ENDANGERED SPECIES ACT SPECIES

There is a total of 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 Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

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

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

MAMMALS

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

BIRDS

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

REPTILES

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

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

FLOWERING PLANTS

NAME	STATUS
Geocarpon minimum No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7699	Threatened

CRITICAL HABITATS

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

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Nicholas Dial

Address: 10324 I-30

City: Little Rock

State: AR

Zip: 72209

Email: nicholas.dial@ardot.gov

Phone: 5015692617

ARDOT ENVIRONMENTAL VERIFICATION CHECKLIST FOR CONSIDERATION OF POTENTIAL IMPACTS

ARDOT Job 040836 FAP STPR-0065(65)

Job Title Hwy. 255 Impvts. (Sebastian Co.) (S)


Environmental Resource	None	Minimal	Major	Comments
Air Quality	X			No impacts anticipated
Cultural Resources	X			No impacts anticipated
Economic	X			No impacts anticipated
Endangered Species	X			No effect determination
Environmental Justice/Title VI	X			No impacts anticipated
Fish and Wildlife	X			None in project area
Floodplains		X		Part of project lies in Zones A & AE SFHA
Forest Service Property	X			None in project area
Hazardous Materials/Landfills	X			None in project area
Land Use	X			No new ROW
Migratory Birds	X			No impacts anticipated
Navigation/Coast Guard	X			None in project area
Noise Levels	X			No impacts anticipated
Prime Farmland	X			No impacts anticipated
Protected Waters	X			None in project area
Public Recreation Lands	X			None in project area
Public Water Supply/WHPA	X			No impacts anticipated
Relocates	X			No relocations
Section 4(f)/6(f)	X			No impacts anticipated
Social	X			No impacts anticipated
Underground Storage Tanks	X			None in project area
Visual	X			No impacts anticipated
Streams	X			No impacts anticipated
Water Quality	X			No impacts anticipated
Wetlands	X			None in project area
Wildlife Refuges	X			None in project area

Section 401 Water Quality Certification Required? No

Short-term Activity Authorization Required? No

Section 404 Permit Required? No Type None

Remarks:

Signature of Evaluator  Date 07/06/2023