

TIER 3 CATEGORICAL EXCLUSION

**ARDOT JOB 012494
FAP PRTT-0076(339)
SPECIALIZED BRIDGE SCOUR REMEDIATION (S)
VARIOUS ROUTES, VARIOUS 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

August 2024

August 5, 2024

Date of Approval

Randal Looney

Randal Looney
Environmental Coordinator
Federal Highway Administration

The Environmental Division reviewed the referenced project and has determined it falls 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 this project.

The purpose of this project is to repair scour issues on six bridges. The scour repairs would entail debris removal, repairing and patching the bridge piers, and adding riprap and/or geotextile to stabilize the area surrounding the pier. All work would take place in existing right of way. A project location map is attached.

There are no anticipated relocations or impacts to environmental justice populations, cultural resources, hazardous materials, underground storage tanks, Important Farmland, wetlands, or public water supplies associated with this project. Cultural resources clearance is attached.

The attached official species lists obtained from the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation identified the following endangered and threatened species as potentially occurring within the project boundaries: Gray Bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Tricolored Bat (*Perimyotis subflavus*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Rufa Red Knot (*Calidris canutus rufa*), Red-cockaded Woodpecker (*Picoides borealis*), Alligator Snapping Turtle (*Macrochelys temminckii*), Arkansas Fatmucket (*Lampsilis powellii*), Ouachita Fanshell (*Cyprogenia sp. cf. aberti*), Ouachita Rock Pocketbook (*Arcidens wheeleri*), Pink Mucket (*Lampsilis abrupta*), Rabbitsfoot (*Theliderma cylindrica*), Spectaclecase (*Cumberlandia monodonta*), Winged Mapleleaf (*Quadrula fragosa*), American Burying Beetle (*Nicrophorus americanus*), Monarch Butterfly (*Danaus plexippus*), harperella (*Ptilimnium nodosum*) and Missouri bladderpod (*Physaria filiformis*).

Using the “AFO Arkansas Multi-Species Determination Key” and the “FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat” or the “Northern Long-eared Bat Rangewide Determination Key”, it was determined that the project would have “no effect” on the American Burying Beetle, Eastern Black Rail and Missouri bladderpod, and “may affect, but is not likely to adversely affect” the Gray Bat, Indiana Bat, Northern Long-eared Bat, Piping Plover, Rufa Red Knot, Red-cockaded Woodpecker, Arkansas Fatmucket, Ouachita Rock Pocketbook, Rabbitsfoot, and Spectaclecase. USFWS concurrence is attached.

Freshwater mussel surveys were conducted at the Highway 53 bridge over the Little Missouri River (030476), the Interstate 30 bridge over the Ouachita River (A3424), and the Highways 7/79B bridge over the Ouachita River (02466). Due to positive survey results at the Highways 7/79B bridge over the Ouachita River, “may affect, likely to adversely affect” (LAA) determinations were made for the Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf and formal Section 7 consultation was initiated. The USFWS Biological Opinion, the USFWS Section 7 concurrence letter for the “no effect” and “may affect, not likely to adversely affect” determinations, and a table with the species determinations for each bridge are attached.

ARDOT has determined that this action would not jeopardize the continued existence of the Tricolored Bat and Alligator Snapping Turtle.

The Monarch Butterfly is a candidate species and is not federally protected under the Endangered Species Act. The USFWS recommends agencies implement conservation measures for candidate species in action areas, as these are species that may warrant future protection. ARDOT will plant native wildflowers on disturbed areas following construction as a conservation measure. This action would not jeopardize the continued existence of the Monarch Butterfly.

There are 1.4 acres of permanent stream impacts anticipated due to the placement of fill. Construction of the proposed project should be allowed under the terms of multiple Nationwide 14 Section 404 Permits for Linear Transportation Projects and a Nationwide 23 Permit for Categorical Exclusions as defined in the Federal Register 86(245): 73522-73583. Permanent stream impacts and the permit required for each bridge can be found in the attached table.

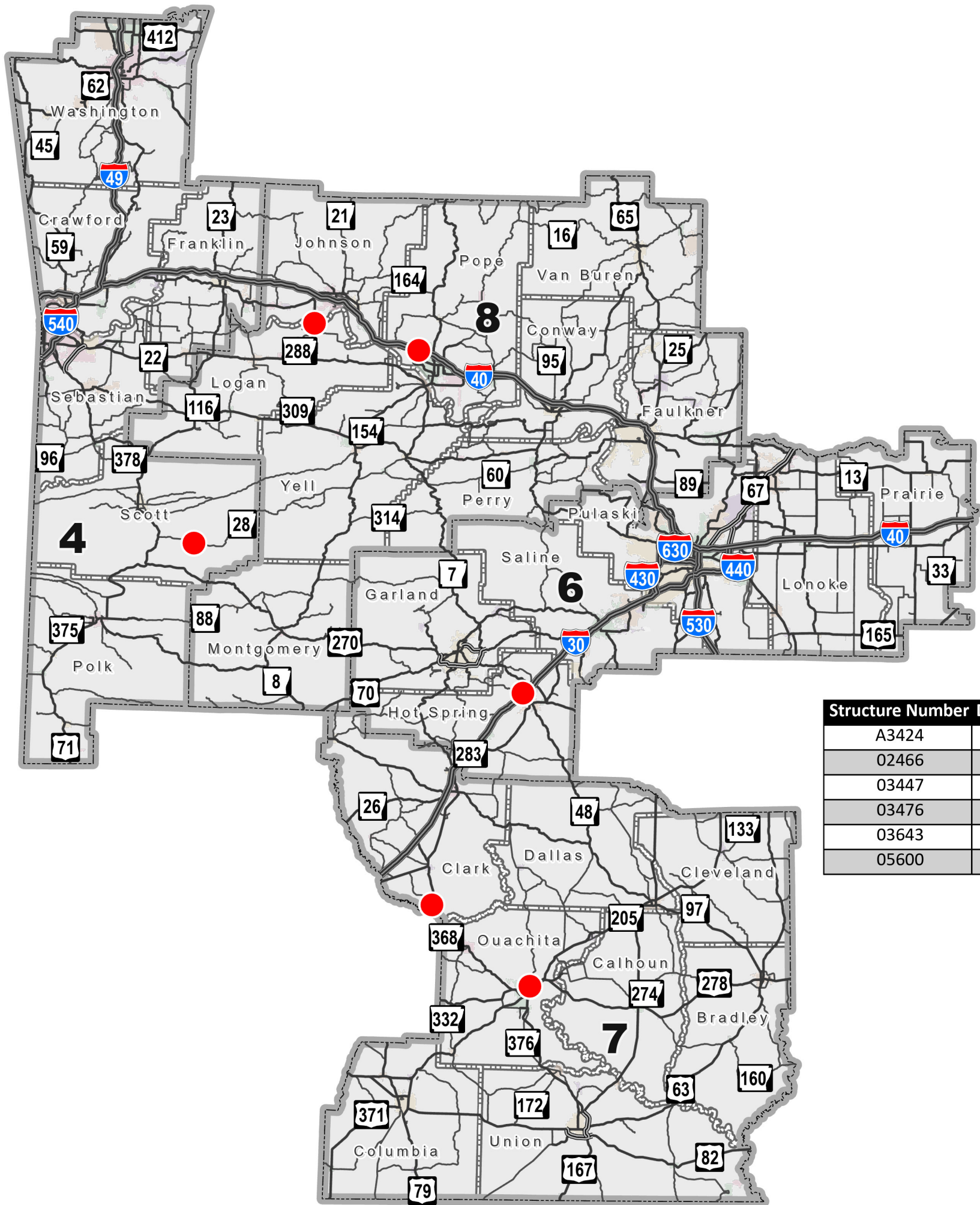
The project locations lie within multiple special flood hazard areas. The final project design will be reviewed to confirm that the design is adequate and that the potential risk to life and property are minimized. Adjacent properties should not be impacted nor have a greater flood risk than existed before construction of the project. None of the encroachments would constitute a substantial floodplain encroachment or a risk to property or life.

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 (MSAT) concerns. This project would 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 project from that of the no-build alternative.

Job 012494

Specialized Bridge Scour Remediation (S)

I-30, Hwy. 28, Hwy. 53, Hwy. 64, Hwy. 79 & Hwy. 109
Various Counties



Structure Number	District No	County Name	Route No	Section No	Log Mile	LM Direction	Features Intersected
A3424	6	Hot Spring	I-30	21	45.899	B	Ouachita River
02466	7	Ouachita	Hwy. 79	4B	2.293	A	Ouachita River
03447	4	Scott	Hwy. 28	2	6.930	A	Fourche La Fave River
03476	7	Clark	Hwy. 53	1	8.185	A	Little Missouri River
03643	8	Pope	Hwy. 64	6	6.568	A	Illinois Bayou
05600	8	Logan	Hwy. 109	3	7.785	A	Arkansas River

 **Project Location**





INTEROFFICE MEMORANDUM

January 22, 2024

TO: Environmental Job File

FROM: Mason Toms, Cultural Resources

SUBJECT: Cultural Resources Clearance Addendum
Job 012494
Specialized Bridge Scour Remediation (S)
I-30, I-440, Hwy. 28, Hwy. 53, Hwy. 64 & Hwy. 79
Various Counties

This job now proposes to perform scour remediation, including debris removal, repairing/patching, and rip rap addition, on the piers/piles on ten bridges on various routes in multiple counties. No new right-of-way (ROW) will be acquired. All work will occur within the existing roadway.

A records check at the Arkansas Archeological Survey shows no sites in or adjacent to the new bridge location, Bridge 05600 (built in 1980). The added bridge has been determined not eligible for inclusion in the NRHP due to age. Records check of historic maps and aerial imagery were not done based on the limited scope of the project.

The highway infrastructure and known construction practices were examined to assess previous ground disturbance. All work will be within the existing ROW, and the limited scope of the project occurs within previously disturbed areas around the bridge piers. This type of undertaking will not affect historic properties. Therefore, this project requires no Section 106 review under Appendix C, Activity 14, of the 2021 Programmatic Agreement.

USFWS Threatened & Endangered Species Determinations

Bridge	Hwy.	River	County	Gray Bat	Indiana Bat	Northern Long-eared Bat	Eastern Black Rail	Piping Plover	Rufa Red Knot	Woodpecker	Arkansas Fatmucket	Ouachita Fanshell	Ouachita Rock Pocketbook	Pink Mucket	Rabbitsfoot	Spectaclecase	Winged Mapleleaf	American Burying Beetle	Harperella	Missouri bladderpod
02466	79	Ouachita	Ouachita	X	NE	NE	NE	NE	NE	X	X	LAA	NLAA	LAA	NLAA	NLAA	LAA	X	X	X
05600	109	Arkansas	Johnson/Logan	NLAA	NE	NE	NE	NLAA	NLAA	X	X	X	X	X	X	X	X	NE	X	NLAA
A3424	I-30	Ouachita	Hot Spring	X	NE	NE	NE	NLAA	NLAA	X	NLAA	NLAA	NLAA	NLAA	NLAA	X	X	X	X	NE
03447	28	Fourche-LaFave	Scott	X	NLAA	NLAA	NE	NLAA	NLAA	NLAA	X	X	X	X	X	X	X	NE	NLAA	X
03476	53	Little Missouri	Clark/Nevada	X	NE	NE	NE	NLAA	NLAA	NLAA	X	NLAA	NLAA	NLAA	NLAA	X	NLAA	X	X	X
03643	64	Illinois Bayou	Pope	NLAA	NE	NE	NE	NE	NE	X	X	X	X	X	X	X	X	X	X	NE

NE: No effect

NLAA: May affect, not likely to adversely affect

LAA: May affect, likely to adversely affect

X: USFWS did not identify as potentially occurring in the project area

Permanent Stream Impacts

Bridge	Hwy.	River	County	Acres	Linear Feet	Permit
02466	79	Ouachita	Ouachita	0.1	88.3	NW14
05600	109	Arkansas	Johnson/Logan	0.9	111.5	NW23
A3424	I-30	Ouachita	Hot Spring	0.1	92	NW14
03447	28	Fourche-LaFave	Scott	0.1	62	NW14
03476	53	Little Missouri	Clark/Nevada	0.1	112.5	NW14
03643	64	Illinois Bayou	Pope	0.1	58.3	NW14

Biological Opinion

Effects of Specialized Bridge Scour Remediation Ouachita River at Highway 7/US-79B Ouachita County, Arkansas (ARDOT Job 012494)

FWS IPaC Project Code: 2023-0007402



Prepared by:

U.S. Fish and Wildlife Service
Arkansas Field Office
110 S. Amity Rd.
Conway, Arkansas 72032

CHRISTOPHER
DAVIDSON

Digitally signed by CHRISTOPHER
DAVIDSON
Date: 2024.05.24 13:51:43 -05'00'

Chris Davidson, Acting Field Supervisor

Date

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CONSULTATION HISTORY

This section lists key events and correspondence during this consultation between the U.S. Fish and Wildlife Service (Service) and the Federal Highway Administration (FHWA), the Action Agency, and Arkansas Department of Transportation (ARDOT), the state agency Action proponent. A complete administrative record of this consultation is on file in the Arkansas Ecological Services Field Office (AFO). This consultation is associated with FWS IPaC Project Code: 2023-0007402.

2022 September 19	ARDOT contacted the Service by email regarding the results of the statewide underwater bridge inspection and requested technical assistance regarding mussel surveys recommendations. The Service provided a technical assistance response the same day by email.
2022 October 26	ARDOT contacted the Service by email requesting technical assistance for determining mussel surveys areas and plans.
2022 October 28	The Service provided technical assistance recommendations for the locations and plans for mussel surveys.
2022 November 1	ARDOT provided the mussel survey proposal for review by email.
2022 November 4	The Service responded with an email approving the mussel survey proposal.
2023 September 28	ARDOT provided the results of their qualitative mussel survey to the Service by email along with a proposal for a quantitative survey for review.
2023 September 29	The Service provided an email response with technical assistance guidance for the surveys and approving the survey proposal.
2024 January 10	ARDOT provided the results of the quantitative mussel survey to the Service by email.
2024 January 24	The Information for Planning and Consultation (IPAC) provided a species list and technical assistance response to ARDOT.
2024 January 24	The FHWA, ARDOT, Arkansas Game and Fish Commission (AGFC), and the Service held a conference call meeting to discuss details of the proposed Action. The Service requested an assessment

for the Action and the group considered potential conservation measures including relocation and propagation options.

- 2024 April 15 IPAC provided a species list and technical assistance response.
- 2024 April 16 FHWA and ARDOT submitted a Biological Assessment (BA) for review by the Service. The Service acknowledged receipt of all information necessary to initiate consultation.
- 2024 April 17 FHWA and ARDOT submitted the BA with a request for Formal Consultation on the federally listed Ouachita Fanshell (*Cyprogenia sp. cf. aberti*), Pink Mucket (*Lampsilis abrupta*), and Winged Mapleleaf (*Quadrula fragosa*). The Service responded by letter acknowledging receipt of the Biological Assessment (BA), acknowledging the request, and initiating formal Section 7 consultation.
- 2024 April 23 The Service provided an informal consultation concurrence letter to FHWA for listed species identified within the BA, excluding Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf, which are addressed subsequently by the Service through formal consultation.
- 2024 May 16 The Service submitted the draft Biological Opinion (BO) by email to the FHWA and ARDOT for their review.
- 2024 May 22 The FHWA and ARDOT responded by email that they had reviewed the draft BO and gave their approval of the draft to be finalized.

BIOLOGICAL OPINION

A biological opinion (BO) is the document that states the opinion of the U.S. Fish and Wildlife Service (Service) under the Endangered Species Act of 1973, as amended (ESA), as to whether a federal action is likely to:

- jeopardize the continued existence of species listed as endangered or threatened, or
- result in the destruction or adverse modification of designated critical habitat.

The proposed federal action (Action) addressed in this BO and the purpose of which is to assess the FHWA and ARDOT Job 012494 Specialized Bridge Scour Remediation (S) project on the Ouachita River at Highways 7/US-79B in Ouachita County, Arkansas. This BO considers the effects of the Action on the Ouachita Fanshell (*Cyprogenia sp. cf. aberti*), Pink Mucket (*Lampsilis abrupta*), and Winged Mapleleaf (*Quadrula fragosa*). This Action does not affect designated critical habitat for these species. For the purposes of this BO, this Action by FHWA, the lead federal agency, and ARDOT, the state agency proponent, will be referred to as an Action by FHWA for the remainder of this document.

The Service previously concurred with the FHWA “no effect” and “may affect, not likely to adversely affect” determinations for all other species identified within the Biological Assessment (BA) by letter on April 23, 2024. This concurrence fulfills the Action Agency’s responsibilities for informal consultation pursuant to section 7(a)(2) of the ESA for these species. Therefore, we do not address these species or their associated designated critical habitats in this BO.

In September 2022, ARDOT contacted the Service about a federal action and plans to implement scour remediation measures on 9 bridges crossing the Arkansas River, Fourche Creek, Fourche LaFave River, Illinois Bayou, Little Missouri River, and Ouachita River in Clark, Hot Spring, Logan, Ouachita, Pope, Pulaski, and Scott counties in Arkansas. “No effect” and “may affect, not likely to adversely affect” Section 7 determinations were reached for all federally-listed species through programmatic and individual consultation on 8 of 9 project locations not covered under this BA. The project located at the US Hwy. 79B bridge over the Ouachita River at Camden was found to have federally listed mussels during a qualitative mussel survey conducted on September 25, 2023. After multiple discussions and a quantitative mussel survey, the FHWA and ARDOT submitted a BA on April 16, 2024, regarding the Action and request for formal consultation on the federally listed Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf.

A BO evaluates the effects of a federal action, along with those effects resulting from interrelated and interdependent actions and effects from non-federal actions unrelated to the proposed action (cumulative effects), relative to the status of listed species and the status of designated critical habitat. A BO that concludes a proposed federal action is *not* likely to *jeopardize the continued existence* of listed species and is *not* likely to result in the *destruction or adverse modification* critical habitat fulfills the Federal agency’s responsibilities under §7(a)(2) of the ESA of 1973, as amended.

“*Jeopardize the continued existence*” means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the

survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR §402.02).

“*Destruction or adverse modification*” means a direct or indirect alteration that appreciably diminishes the value of designated critical habitat for the conservation of a listed species (50 CFR §402.02).

1. PROPOSED ACTION

The FHWA proposes to place fill material in the Ouachita River for the purpose of scour remediation and protection of the existing bridge footing (Fig. 1). The proposed scour remediation activities are intended to be a permanent solution to restore the substrate morphological alteration caused by hydrologic induced scour and prevent scour from occurring in the future. This Action is necessary for the repair and maintenance of the bridge and for public safety.

A temporary barge loading area will be prepared on the upstream end of the east bridge abutment (left descending bank). This preparation will involve the temporary placement of a ramp constructed of clean fill, sloping from top of bank down to or slightly below the ordinary-high-water elevation. All fill material will be removed from the barge loading area prior to Action completion.

Work below the ordinary-high-water elevation consists of the placement of 45 m² (59 yds³) of clean riprap and 377.1 m² (451 yd²) geotextile fabric in a 433 m² scoured area around bent No. 3 of bridge 02466 over the Ouachita River, to the top of the existing footing or to a depth of 26.7 cm (10.5 inches) above the river bottom, whichever is higher. Fill material will be transported to the scour repair area (fill placement area) via barge, and vertically dropped into position, thus no in-stream work roads will be required.

1.1. Action Area

For purposes of consultation under ESA Section 7, 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 §402.02). The Service considers the Action Area for the scour remediation to include an area within the width of the Ouachita River 100 feet upstream from limits of construction to an area 300 feet downstream from the limits of construction, including the maximum footprint of the fill placement area being deposited on the river bottom and associated staging and loading areas on the adjacent riverbank. The direct footprint of the fill material is measured at 433 m² (0.11 acre) consisting of riprap and geotextile fabric to be placed in the scoured area around bent No. 3 of the bridge. Additional areas affected by the Action include the temporary staging area, access road, ramp, and loading area along the adjacent riverbank.

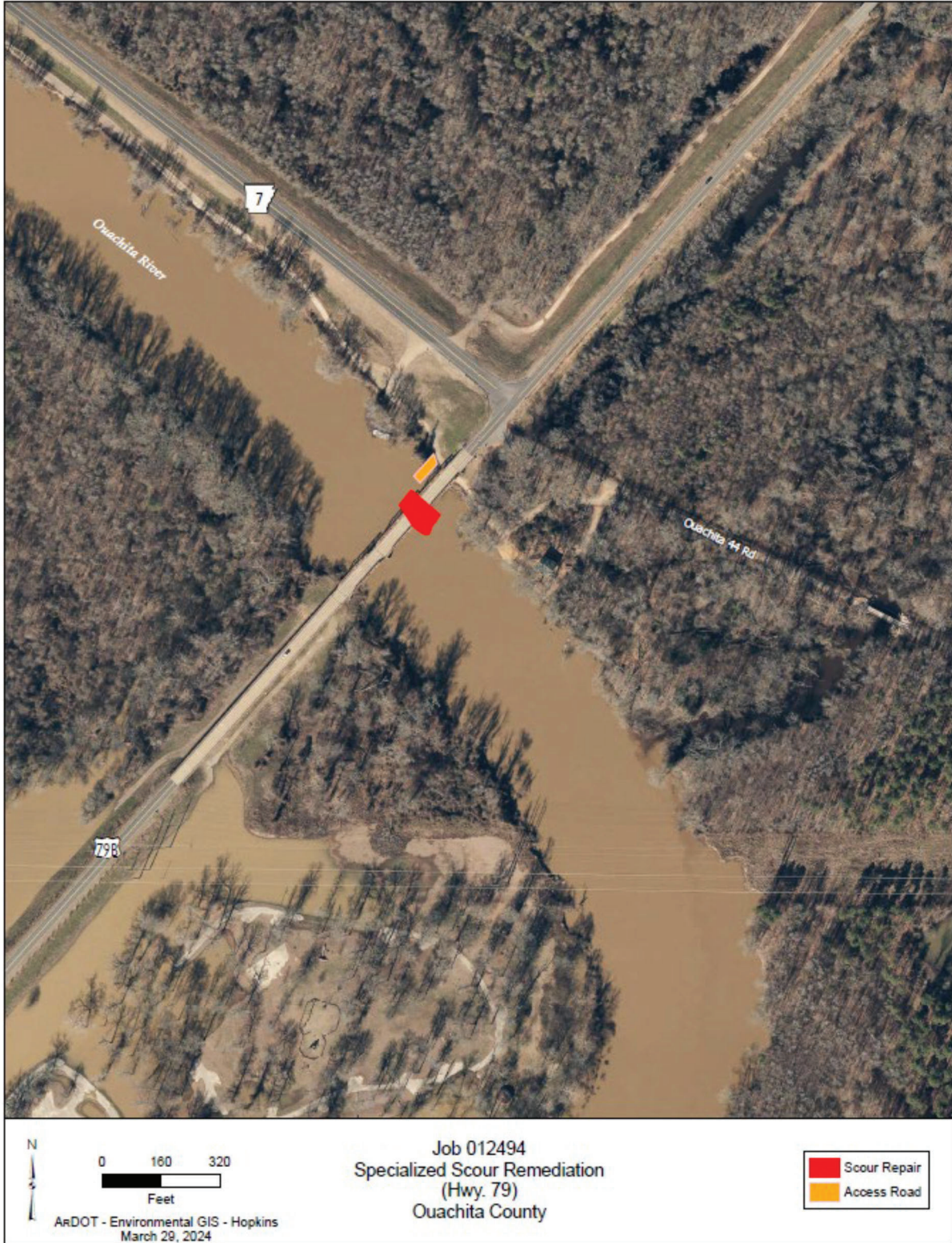


Figure 1. Action Area location for specialized fill placement area/scour remediation (From ARDOT 2024).

1.2. Action Components

The Service's evaluation of the proposed scour remediation resulted in the identification of two Action Components that may result in negative impacts to the federally listed mussel species: (1) Scour Remediation or placement of fill material on the riverbed; and, (2) Bank Erosion/Sedimentation from the construction of a temporary staging area, access road, ramp, and loading area. Based on the location of the fill material within the river and identified species locations, negative impacts to federally listed mussels from these Action Components are anticipated.

1.2.1. Scour Remediation

Action activities will consist of moving repair materials, consisting of riprap and geotextile fabric, from a staging area on the left descending bank, adjacent to the eastern bridge abutment, via barge, to an area approximately 433.4 m² (0.11 acre) referred to as the fill placement area. Material will be placed to the top of the existing footing or a minimum height of 26.7 cm above the river bottom surface, whichever is higher. Riprap placed higher than the top of the footing elevation shall be transitioned to the top of the footing at a 1V:1H slope.

Based on our evaluation of this Action Component, the scour remediation is reasonably certain to result in the following stressors on federally listed mussels: deposition of riprap and geotextile fabric causing crushing and striking of individuals, covering habitat and individuals, and sediment displacement. These stressors and their effects on federally listed mussels are discussed in Section 3.5.

1.2.2. Bank Erosion/Sedimentation

Action activities will consist of using large equipment for moving repair materials, consisting of riprap and geotextile fabric, from a staging area on the left descending bank, adjacent to the eastern bridge abutment to the barge loading area. Additionally, this Action will include using large equipment for the construction of the temporary staging area, access roads, ramp, and loading area.

Based on our evaluation of this Action Component, the riverbank disturbance is reasonably certain to result in the following stressors on federally listed mussels: erosion and sedimentation due to riverbank vegetation disturbance and sediment displacement. These stressors and their effects on federally listed mussels are discussed in Section 3.5.

1.3. Conservation Measures

The FHWA proposes propagation of Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf as a compensatory conservation measure for likely adverse impacts due to Action activities (ARDOT 2024; BA, Appendix D). The Service, through early consultation planning has coordinated an agreement between the FHWA, ARDOT, and AGFC to propagate and restore individuals for the federally listed species affected within the time constraints mandated by the BO. AGFC has the necessary expertise and facilities required to propagate and restore the federally listed mussel species affected by this Action. Collection of gravid females and propagation of juveniles will be performed by AGFC and ARDOT. Propagated juveniles will be reintroduced into suitable habitats in the Ouachita River near the vicinity of the Action Area.

The proposed agreement for funding of mussel propagation and restoration (the “Agreement”) will be between the Arkansas State Highway Commission (hereafter “Commission”), acting by and through its Assistant Chief Engineer - Planning, ARDOT and AGFC. The Commission will pay AGFC the sum of \$25,000 per species propagated and restored, the lump sum not to exceed \$75,000 for all equipment, supplies, materials, and labor required to perform the mussel propagation and restoration.

1.4. Interrelated and Interdependent Actions

A BO evaluates the effects of a proposed federal action. For purposes of consultation under ESA §7, the effects of a federal action on listed species or critical habitat include the direct and indirect effects caused by the action, plus the direct and indirect effects caused by interrelated or interdependent actions. “Indirect effects are those that are caused by the proposed action and are later in time, but still are reasonably certain to occur. Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration” (50 CFR §402.02).

In the BA, the FHWA identified the use of offsite areas, for borrow and waste pits, that have the potential to increase sediment entering waterways within the Action Area. The landowners and contractors associated with the work at these locations are responsible for obtaining NPDES permits for these sites, if applicable. BMPs required by the NPDES permit would reduce sediment from entering waterbodies. The Service is not aware of any other interrelated or interdependent actions associated with this Action.

2. CONCURRENCE

The Service provided an informal consultation concurrence letter on April 23, 2024, to FHWA for listed species identified within the BA, excluding Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf, which are addressed subsequently by the Service through formal consultation.

3. Species Accounts

3.1. Status of Ouachita Fanshell (*Cyprogenia sp. cf. aberti*)

This section summarizes the best available data about the biology and current condition of Ouachita Fanshell throughout its range that are relevant to formulating an opinion about the Action. The Service published its decision to list Ouachita Fanshell as threatened on June 27, 2023, with a Section 4(d) Rule. Additionally, critical habitat for Ouachita Fanshell was designated on segments of the Little Missouri, Ouachita, and Saline rivers (88 FR 2023–41724). The Service determined in the Species Status Assessment (Fanshell-SSA) for Western Fanshell (*Cyprogenia aberti*) and “Ouachita” Fanshell (*Cyprogenia cf. aberti*) Version 1.2, completed in December, 24 2022, that Ouachita Fanshell are threatened due to water quality degradation, altered flow, landscape changes, and habitat fragmentation, all of which are also exacerbated by continued urbanization, and threats of water quality (temperature) and flow are especially exacerbated by climate change (USFWS 2022). A Recovery Plan has not been completed; however, a Recovery Outline for Ouachita Fanshell was completed in August 2023.

3.1.1. Description

Recent molecular analysis of *Cyprogenia* identified the fanshell from the Ouachita River basin in Arkansas and Louisiana as an independent evolutionary lineage from the Western Fanshell (*Cyprogenia aberti*) (Kim and Roe 2021; Chong et al. 2016). The Ouachita Fanshell is a freshwater mussel in the Unionidae family. A complete species description is available in the Fanshell SSA (USFWS 2022). The lifespan for the Fanshell mussels is unknown, but *Cyprogenia stegaria* individuals have been observed living up to 26 years and having a mean age at death of 12-13 years (Jones and Neves 2002).

3.1.2. Life History

Most freshwater mussels, including Ouachita Fanshell, are found mostly aggregated in “mussel beds”, with other species, partially or completely buried in the stream bottom (Vaughn 2012). They prefer substrates of gravel and sand found in large creeks and rivers of good water quality and having moderate to swift flow (USFWS 2022). Their populations are often fragmented by inhabitable stream reaches where individual mussels are absent or rare (Vaughn 2012). Suitable habitat locations and conditions change over time along the stream reaches. There is no information on their microhabitat requirements. Mussels are omnivores that primarily filter feed on a wide variety of microscopic particulate matter suspended in the water column, including phytoplankton, zooplankton, bacteria, detritus, and dissolved organic matter (Haag, 2012).

The exact age of sexual maturity for Ouachita Fanshell is unknown, but other *Cyprogenia* have shown sexual maturity from ages 5 to 9 (Jones and Neves 2002; Haag 2012). The fanshell mussels are bradytictic (long-term) brooders typically spawning from August – October and release conglutinates in early spring. Like all other unionid freshwater mussels, fanshells have an obligatory parasitic larvae stage known as a glochidia. The natural host species of fanshells are believed to be darters (*Percidae*) and freshwater sculpins (*Cottidae*) (Barnhart 1997; Eckert 2003). Glochidia of Ouachita Fanshell remain encysted on the gills or fins of their host fish for about a month until transformation to the free-living juvenile stage (Barnhart 1997). Juvenile mussels likely pedal feed in the sediment, whereas adults filter feed from the water column (USFWS 2022). For a more detailed life history, refer to the Fanshell-SSA (USFWS 2022).

3.1.3. Numbers, Reproduction, and Distribution

The following information was obtained from the Fanshell-SSA (USFWS 2022): The historical range of Ouachita Fanshell comprises multiple rivers within the Ouachita River basin in southern Arkansas and northern Louisiana Ouachita River upstream and downstream of lakes Ouachita, Hamilton, and Catherine; Caddo River, upstream of Lake DeGray; Little Missouri River; Alum Fork Saline River, and Saline River. Historically, it also occurred in the Antoine River, a tributary of the Little Missouri River. It also historically occurred in the Caddo River downstream of Lake DeGray. In Louisiana, the Ouachita Fanshell historically occurred in Bayou Bartholomew (Vidrine 1995). The Service assumes the historical distribution of the species included the entirety of these rivers described above, except Alum Fork Saline River, where connectivity was not an issue and conditions were suitable. Table 1 displays estimated length of each population or management unit in river kilometers (rkm) along with the number of sites where mussels have been found.

Table 1. Current known populations (2000 - 2022) of Ouachita Fanshell and estimated occupied stream length (river km) (From Table 4.2, Fanshell-SSA, USFWS 2022)

Management Unit	State	River	Length of Occupied Reach (rkm)	Number of Sites
Caddo	Arkansas	Caddo River (upstream of Lake DeGray)	1 site	1
Ouachita Headwaters	Arkansas	Ouachita River	43.0	14
Saline	Arkansas	Alum Fork Saline River	<2	1
		Saline River	304	153
Upper Ouachita	Arkansas	Ouachita River (Caddo River to Camden, AR)	81	7
		Little Missouri River	35	3

The Service used the cumulative number of individuals captured since 2000 as an estimate of population abundance in the Fanshell-SSA (2022). This method was used since population estimates are not available for all Ouachita Fanshell populations and techniques for available surveys are not always directly comparable. The Service defined high abundance as cumulative counts of over 400 individuals since the year 2000 as high, 100 – 400 individuals as medium, and 1 – 99 individuals as low. Populations with reasonable survey effort since the year 2000 and zero individuals captured were considered as likely extirpated (USFWS 2022).

Based on the Fanshell-SSA (USFWS 2022) analysis, the total combined stream length currently occupied by the 4 remaining Ouachita Fanshell populations was determined as approximately 465 rkm. It is difficult to determine the historical rkm occupied by the species prior to construction of dams and navigation projects. It is estimated that the Ouachita Fanshell currently persists in approximately 53% of its historical range with low resiliency in 50% of the extant populations.

According to the Fanshell-SSA (2022), the Saline River population is the last stronghold for Ouachita Fanshell. The species is widely distributed throughout the main stem except the lowermost 32 rkm. Since 2000, extensive comprehensive survey efforts of the main stem Saline River reported 2,651 individuals from 153 sites. Population estimates per mussel bed, where available, range from 933 ± 654 – $18,800 \pm 5,074$ individuals. Evaluation of current population factors found the Saline River population in high condition. Despite all habitat factors being medium, the current size, extent, and evidence of reproduction/recruitment elevate the overall current condition of this population to high.

The last comprehensive survey of the Ouachita River between the Little Missouri River confluence and Camden, Arkansas (the Action Area location) reported population estimates generally from 100 – 1,000 individuals at five locations on the Upper Ouachita (Management Unit or MU) (Posey 1997). A qualitative survey performed for the USACE on a reach of the Ouachita River in 2023, approximately 0.8 - 4 km downstream of the Action Area, produced 15 Ouachita Fanshell; however, there were likely more present than detected due to inefficiency of the methodology (EcoAnalysts, Inc. 2023). There is no comprehensive survey data available from the Caddo River confluence to the Little Missouri River confluence. However, since 2000, there have been observations of 45 live Ouachita Fanshell individuals from 13 sites and another

location situated between the Caddo and Little Missouri River confluences. Three live individuals from the Little Missouri River were discovered at three sites (USFWS 2022). The Service determined in the Fanshell-SSA (USFWS 2022) that the Upper Ouachita resiliency is moderate based on evaluation of population factors (USFWS 2022). All habitat factors scored medium except landscape was high, resulting in an overall current condition of medium (USFWS 2002).

3.1.4. Conservation Needs

The conservation actions needed for the Ouachita Fanshell are detailed in the Fanshell-SSA (USFWS 2022) and the Recovery Outline (RO), but a Recovery Plan has not yet been completed. These documents describe conservation and management actions needed to improve the status of the species such as reducing existing threats, avoiding new threats, and implementing methods to expand existing or reestablish extirpated populations so that there is increased population viability, resiliency, redundancy, and representation (USFWS 2022, USFWS 2023).

3.1.5. Summary of Species Status

According to the Fanshell-SSA (USFWS 2022), Ouachita Fanshell faces multiple environmental stressors, including hydrological alterations to their habitat, water quality degradation, loss of suitable substrates due to excessive sedimentation and other processes, habitat fragmentation, and population isolation. The loss of habitat alone or in combination with the other stressors and climate change, could result in the extirpation of additional populations. Under current conditions, restoration of the connectivity necessary for species resiliency to these stressors and natural changes on a range wide scale is not feasible; therefore, the viability of the species now primarily depends on maintaining the remaining isolated populations and potentially restoring new populations.

3.2. Status of Pink Mucket (*Lampsilis abrupta*)

This section summarizes best available data about the biology and current condition of Pink Mucket throughout its range that are relevant to formulating an opinion about the Action. The Service published its decision to list as endangered on June 14, 1976 (41 FR 24064-24069). Critical habitat has not been designated for this species. A Recovery Plan for the species was approved on January 24, 1985, and a 5-year Review was completed on July 23, 2019.

The 5-year Review (USFWS 2019) concluded the primary threats of habitat degradation from impoundments, sedimentation, and pollution remain since listing with the only exception being the decline in commercial harvest that is now nearly non-existent. However, new threats that were identified include habitat fragmentation and population isolation, stochasticity, toxic pharmaceuticals and personal care products, and emerging issues such as climate change. Currently, the primary effects result from navigational activities, reservoir releases, mining practices, inadequately treated wastewater discharges, and factors associated with small disjunct populations (e.g., stochasticity, low genetic diversity, habitat fragmentation and population isolation). At least 2 of 16 populations considered extant in the Recovery Plan are now deemed extirpated; however, the discovery or rediscovery of several stream populations has increased the total extant populations to 29.

Since its listing, numerous studies and surveys increased biological knowledge about the species, its habitats, and development of propagation technology for culturing and population restoration actions. For more detailed and updated information on the species, see the 2019 5-year review (USFWS 2019).

3.2.1. Description

The mature Pink Mucket is described as medium sized, having a shell with variable color from light yellow or yellowish-brown to dark brown, occasionally marked with broken fine to fairly wide dark-green rays. It is smooth with wide, dark, concentric growth lines and of elliptical, subovate, sub-quadrangle or circular shape with inflated thick and heavy valves. The anterior edges of the shells are rounded and slightly curved along their margins dorsally and ventrally. The posterior margins of male individuals are rounded or bluntly pointed with a well-defined posterior edge and females have slightly rounded to straight posterior margin. The nacre varies from an iridescent bluish white to pink to salmon color in the umbo cavity. Length may reach up to 11 cm (Fowler 2015; Parmalee and Bogan 1998; Watters et al. 2009). Females have a mantle flap with numerous teeth along its edge and projects at the anterior end in a free lobe. Additionally, an eye spot has been observed on the mantle flaps (USFWS 1985). The lifespan for the Pink Mucket is believed to be capable of achieving at least 36 years and could be much longer (USFWS 2019).

Mussels are omnivores that primarily filter feed on a wide variety of microscopic particulate matter suspended in the water column, including phytoplankton, zooplankton, bacteria, detritus, and dissolved organic matter (Vaughn 2008; Haag 2012). The specific food habits of the species are unknown.

3.2.2. Life History

Pink Mucket prefer substrates of gravel mixed with sand, relatively silt free in medium to large rivers with swift flows (USFWS 1985; McMurray et al. 2012). However, substrate habitats can include sand, gravel, and pockets between rocky ledges in high velocity areas to mud and sand in slower moving waters. Individuals have been found at depths up to one meter in swiftly moving currents and in much deeper waters with slower currents. They have also been found surviving and reproducing in impounded reaches of reservoirs with minimal flow having sand and gravel and sandy mud of large rivers (Gordon and Layzer 1989, Watters et al. 2009).

Spawning typically occurs in August and September. Suitable host fish species that have been identified are black basses (*Micropterus ssp.*), White Crappie (*Pomoxis annularis*), Sauger (*Sander canadensis*), and Walleye (*Sander vitreus*) (Barnhart et al. 1997; Watters et al. 2009). The predatory host fish are attracted to the gravid female Pink Mucket by the twitching motion of the fish-like mantle lure. Once the mantle lure is triggered the glochidia are released into the gills where they encyst, remaining until developed into fully formed juveniles that release and move into the stream substrate (USFWS 2019).

3.2.3. Numbers, Reproduction, and Distribution

The Pink Mucket is historically believed to have inhabited the Mississippi, Tennessee, Ohio, and Cumberland River systems in Alabama, Arkansas, Illinois, Kentucky, Louisiana, Missouri, Ohio, Tennessee, Virginia, and West Virginia (USFWS 1985). In Arkansas, it is historically known

from the Bayou Bartholomew, Black, Current, Eleven Point, Little Missouri, Ouachita, Poteau, Saline, Spring, and White Rivers (Harris and Gordon 1987, USFWS 2019).

The 5-year review found that, in Arkansas, there is a widespread and possibly the largest distribution of Pink Mucket in the White River, but its sporadic distribution and rarity over much of the inhabited reaches, and no evidence so far of recruitment, results in its status being unknown. The Black River population is considered stable due to it having the largest among the White River drainage populations, an extensive contiguous reach, and one of the best populations range-wide with evidence of recruitment. The Spring River populations status is considered stable but low and negative survey from 2005-2006 suggests that the species may be in decline. The current population in Ouachita River, Arkansas, was considered stable but low and has appeared to remain stable and recruiting for over the past ~25 years. A qualitative survey performed for the USACE on a reach of the Ouachita River in 2023, approximately 0.8 - 4 km downstream of the Action Area, produced 8 Pink Mucket; however, there were likely more present than detected due to inefficiency of the methodology (EcoAnalysts, Inc. 2023). The overall population of the Little Missouri River is very small and appears to be reach restricted. Its status is unknown, but the species may ultimately be dependent upon the Ouachita River population for sustainability. In the Saline River, it appears that the total Pink Mucket population size is substantial with estimates of a population in the high tens of thousands of individuals in the river. The population appears to be recruiting and is considered stable. The Saline River, representing one of the longest contiguous reaches of occupied habitat range-wide, clearly harbors the best Pink Mucket population west of the Mississippi River and probably one of the top two range-wide. The status of Pink Mucket from their historical range on the St. Francis River, Current River, Eleven Point River, and Bayou Bartholomew in Arkansas is currently unknown and the species may be extirpated from these streams.

3.2.4. Conservation Needs

The Recovery Plan provides reasons for listing the species as effects from impoundments, siltation, and pollution; however, it did not mention the deleterious effects of rarity, habitat fragmentation, population isolation on imperiled species, and other emerging issues such as climate change. The 5-year review suggested that species that are restricted in range and population size are more likely to suffer loss of genetic diversity due to genetic drift, increasingly susceptible to inbreeding depression, and less likely to adapt to environmental changes and disturbances. The deleterious effects of habitat fragmentation, sporadic distribution, and population isolation are a primary threat for imperiled mussels, including Pink Mucket, and conservation measures addressing this issue are critically important for their recovery (e.g., dam removals, modification of tailwater releases to improve water quality) (Haag 2012; Haag and Williams 2013; USFWS 2019).

3.2.5. Summary of Status

There are a relatively large number of extant populations across a relatively extensive range; however, the patchy distribution and occurrences lead to an overall rareness with limited linear connectivity for most stream populations. Additionally, there is the absence of evidence for recruitment in the vast majority of populations. This suggest that localized populations are highly susceptible to extirpations due to the species occurring in mostly disjunct locations in often small numbers. However, the current population in the Ouachita River was considered low but stable and has appeared to remain stable and recruiting for some time. (USFWS 2019).

3.3. Status of Winged Mapleleaf (*Quadrula fragosa*)

This section summarizes the best available data about the biology and current condition of Winged Mapleleaf throughout its range that are relevant to formulating an opinion about the Action. The Service published its decision to list as endangered on June 20, 1991 (56 FR 28345-28349). Critical habitat has not been designated for this species. A Recovery Plan for the species was approved on June 25, 1997, and a 5-year review was completed on May 6, 2015. The most recent 5-year review was completed on May 7, 2024.

The Winged Mapleleaf occurred historically in at least 41 rivers in 16 Midwestern states; however, this species is currently known from only 3-5 extant populations in 5 states; the Bourbeuse River in Missouri, Little River in Arkansas and Oklahoma, Saline and Ouachita rivers in Arkansas, and St. Croix River in Minnesota and Wisconsin (USFWS 2014). The 2024 5-year review indicated that the status of the species in the St. Croix River in Minnesota and Wisconsin has remained stable since the previous 5-year review in 2015 (USFWS 2024). Since listing, four additional populations have expanded the current range. Winged Mapleleaf were discovered in the Ouachita River and Saline River in Arkansas, Bourbeuse River in Missouri, and the Little River in both Arkansas and Oklahoma (USFWS 2015).

3.3.1. Description

The Winged Mapleleaf has a shell exterior that is light tan to dark brown, occasionally with green rays. The nacre is pearly white and iridescent with mantle tissue that is white to light-gray with darker gray striations. They are moderately thick (up to 90mm) and quadrate with a pronounced posterior wing at the hinge line and having two rows of blocky pustules separated by a sulcus. The posterior wing typically has rows of pustules or fluting. Adults may reach a length of up to approximately 10 cm and an age of 20 years (McMurray et al. 2012, Watters et al. 2009).

3.3.2. Life History

Winged Mapleleaf usually are found associated with highly diverse mussel beds in medium to large rivers. They appear to prefer shallow stable areas with low current velocity (Hornbach et al. 1996). There is no apparent preference for a specific substrate type. In Arkansas they typically are found downstream of long and deep pools that provide habitat for their reproductive hosts, Blue Catfish (*Ictalurus furcatus*) and Channel Catfish (*Ictalurus punctatus*) (USFWS 2015). Glochidia encyst on the gills of host fish and drop to the river bottom as fully formed juveniles. Adults are filter feeders, whereas juveniles have a higher tendency toward pedal feeding. This species has a long-life span (>25 years), relatively higher growth rates, low fecundity, a late age of sexual maturity (>3 years), and are short term-brooders (Heath et al. 2000, USFWS 2015).

3.3.3. Numbers, Reproduction, and Distribution

Currently the species is known from 9 extant populations in 6 states; the Bourbeuse River in Missouri; Little River in Arkansas and Oklahoma; Cossatot, Saline, and Ouachita rivers in Arkansas; St. Croix River in Minnesota and Wisconsin; Chippewa River (reintroduction) in Wisconsin; Mississippi River in Minnesota; and the Duck River (reintroduction) in Tennessee (Table 2). In the Ouachita River, they have been found in four beds within an approximately 72-km long reach with an estimated abundance ranging from 217 to 1770 with total river estimates around 3,388 (Table 4, USFWS 2015). Three new sites were found in 2013 in close proximity to

known sites having a total of 9 live Winged Mapleleaf and sizes giving indications of recruitment (USFWS 2024). A qualitative survey performed for the USACE on a reach of the Ouachita River in 2023, approximately 0.8 - 4 km downstream of the Action Area, produced 5 Winged Mapleleaf; however, there were likely more present than detected due to inefficiency of the methodology (EcoAnalysts, Inc. 2023). The 5-year review also indicated that Winged Mapleleaf occur in the lowermost reach of the Little Missouri River, a tributary, but that these mussels are considered to be an extension of the Ouachita River population.

Table 2. Summary of extant Winged Mapleleaf populations from 2009-2022. Large populations were defined as Winged Mapleleaf densities of 0.05 individuals per meter² or greater on average or populations of at least 500 individuals. (From Table 4, 2024 5-YR Review)

Population (River)	State	River Mile (Up)	River Mile (Down)	Year of Last Live or Fresh Dead	Evidence of Recruitment (Juveniles <4 yrs)	Population Size	Estimated Number of Occupied River Miles	2015 Status	2022 Status	Source
St. Croix River	MN/ WI	48	15	2022	Yes	Large	33	Unknown	Stable	Table 1
Mississippi River	MN	847	844	2021	No	Small	4	N/A	Newly Established	M. Bradley, USFWS, pers. comm., 8/29/22
Chippewa River	WI	36	35	2022	No	Small	1	N/A	Newly Established	M. Bradley, USFWS, pers. comm., 8/29/22
Bourbeuse River	MO	57	53	2009	Unknown	Small	4	Unknown	Unknown	M. Bradley, USFWS, unpublished data, 2022
Duck River	TN	86	85	2016	No	Small	1	Newly Established	Unknown	Barnhart, 2021
Little River	AR/ OK	115	42	2021	Yes	Large	73	Unknown	Stable	D. Martinez, USFWS, pers. comm., 9/17/22
Saline River	AR	81	9	2015	Yes	Large	72	Unknown	Stable to Increasing	C. Davidson, USFWS, pers. comm., 8/17/22
Ouachita River	AR	350	322	2013	Unknown	Small	28	Unknown	Stable	C. Davidson, USFWS, pers. comm., 8/17/22
Cassatot River	AR	4	3	2013	Unknown	Small	1	Unknown	Unknown	C. Davidson, USFWS, pers. comm., 8/17/22

The distribution in the Saline River is considered patchy and they are not common, although the total abundance may be substantial. The 2015 5-year Review identified population estimates from fourteen beds in which it had been recorded as ranging from 125 to 11,281 with some beds remaining unsampled. Surveys conducted in the Saline River continue to reveal new locations for the species; however, complete distribution in the river is not yet determined. Since the previous review, 3 new sites were identified producing five individuals. Sites that were resurveyed produced signs of recruitment and numbers suggesting stability or increasing numbers (USFWS 2024).

Winged Mapleleaf are also now known from three locations on the Little River in Arkansas. Additional surveys on the Little River in Arkansas and Oklahoma in recent years has expanded the distribution and numbers along with giving evidence of recruitment in the Oklahoma reaches,

but almost entirely in Oklahoma and well upstream of the Arkansas sites where they remain rare. A 2013 survey on the Cossatot River also indicates that while they are still considered extant, it is rare (USFWS 2024).

Table 3. Summary of data that may be used to assess viability of Winged Mapleleaf populations. (From Table 4, 2015 5-YR Review)

Population	Population Size	Population Size Comments	Recruitment/Age Structure	Genetic Structure	Receiving Tributary to Mississippi River	Years Persisted (through 2012)	Persistence
St. Croix River	13,000	Population estimate (Hornbach and Hove 2008, p. 1)	Evidence for recruitment for year classes, 3-14 (U.S. Fish and Wildlife Service, unpubl. data 2010-2011)	Possible evidence of inbreeding (Roe 2010)	Direct tributary to Mississippi River	≥43	Recent evidence of presence since 1969 (U.S. Fish and Wildlife Service 1997, p. 69)
Bourbeuse River	Unknown	Only five unique individuals have been recorded	Insufficient data	Population genetics study has not been conducted	Meramec River	≥13	First discovered in 2001
Ouachita River	At least approximately 3388	Sum of mean population estimates for four beds (U.S. Fish and Wildlife Service 1997, p. 29); only a minimum population estimate may be derived – some beds remain unsampled	No external annuli counts available; length frequency distribution available based on 20 individuals (Fig. 5).	Population genetics study has not been conducted	Red River	≥18	First discovered in 1996
Saline River	At least approximately 24,207	Sum of most recent mean population estimates for each of nine beds (Table 1)	Length frequency data available from Harris (unpubl. data) and Davidson (Fig. 6);	Population genetics study has not been conducted	Red River	≥13	First discovered in 2001
Little River	Unknown	Density estimates available for four of the eleven sites inhabited by <i>O. fragosa</i> on Little River, but bed sizes are unknown (D. Allen and C. Vaughn, unpubl. data, University of Oklahoma 2012).	Length frequency distribution (Fig. 7) based on only 13 specimens; additional data needed to assess recruitment and age structure	Population genetics study has not been conducted	Red River	≥9	First discovered in 2005

3.3.4. Conservation Needs

Only one extant population of Winged Mapleleaf was known prior to the species listing and the Recovery Plan completion. The stated goals of the Recovery Plan were to avoid extinction and delist the species, with the following criteria was deemed indicative of successful recovery: a) five discrete populations in at least three tributaries of the Mississippi River drainage basin (two beds of mussels may be considered a discrete population if they are sufficiently geographically isolated from each other that both are unlikely to be affected by a single stochastic event, such as a toxic spill or a disease outbreak), b) all five populations are viable, c) all five populations must have demonstrated persistence, and d) all five populations must have long-term habitat protection.

In the interim, the species has been discovered in 3 additional states and reintroduced to one thereby expanding the extant range and population numbers. This has led to discovering new information regarding the species life history, host fish, and other traits (Service 2015). While some populations are considered stable or increasing the species range and abundance remains small and at risk (USFWS 2024). As such, the recovery criteria remain unmet, and recovery efforts are continuing (USFWS 2015).

3.3.5. Summary of Status

Winged Mapleleaf is now known to occur in 6 of the 15 states in which it is believed to have occurred historically. Although a marked change from its presumed distribution in 1997, it is still absent from a substantial proportion of its historical range. The size and distribution of Winged Mapleleaf populations are directly related to their resiliency to stochastic events along with many other factors that must be considered to assess and mitigate the level of threat. These factors

include road effects, habitat shifts within streams, flow and water quality effects from dam operations, and current and future land use within the watershed (USFWS 2015, USFWS 2024).

The remaining populations of Winged Mapleleaf are subject to a high degree of threats due in part to their restricted distributions and isolation from other populations. Land use changes within the Saline River watershed may be causing habitat changes that may pose future concerns. Low flows associated with drought and flow manipulations pose a high degree of threat to the Little River population. However, the recovery potential is high due to the existence of at least two populations that appear to be large and somewhat resilient to stochastic disturbances, such as major floods. In addition, progress has been made to propagate the species and reintroductions are taking place (USFWS 2015, USFWS 2024).

4. Environmental Baseline for Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf

This section is an analysis of the effects of past and ongoing human and natural factors leading to the current status of the Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf, their habitat, and ecosystem within the Action Area. The environmental baseline is a “snapshot” of the species’ health in the Action Area at the time of the consultation and does not include the effects of the Action under review.

Land use in the vicinity of the Action Area includes urban development, as the city limit of Camden, Arkansas is adjacent to the project location, at the southwest (right descending bank) abutment of Highway 7/79B bridge (02466) (ARDOT 2024). The bridge has one of its cement piers (12.5’x47’) located within the wetted width that extends into the substrate resulting in hydrologic flow alterations and bottom scour resulting in the necessity of this Action. Land cover within the area surrounding the Action Area consists of bottomland hardwood forest, forested wetland, highway right-of-way, municipal park, mowed pasture, rural housing, pine plantation, oxbow lakes, swales, and railroad right-of-way. Additionally, there is a gravel mining operation on the right descending bank of the Ouachita River 1.6 km upstream of the Action Area, and the intake for the Camden municipal water supply is 1.1 km downstream on the Action Area on the right descending bank. No US Army Corps of Engineers (USACE) levees are within the Action Area; however, three USACE reservoirs (Ouachita, Hamilton, and Catherine) separate the Ouachita Headwaters population and another reservoir (Degray) on the Caddo create connectivity barriers that separate these headwater populations from the Upper Ouachita population and alter the water quality and hydrology affecting the Action Area through flood control and associated hydroelectric operations (SARP 2024; USACE 1989, USACE 2024). Additionally, the USACE maintains a navigation system beginning approximately 0.8 km downstream of the Action Area extending to the confluence with the Black River in Louisiana through a series of 4 locks and dams, river modifications, and maintenance dredging (USACE 1989). The USACE is currently assessing 4 sites along a reach approximately 0.8 - 4 km downstream of the Action Area for proposed dredging “to decrease accrued sediment and improve navigability” (EcoAnalysts, Inc. 2023).

Despite these effects, the Ouachita River provides a high level of aquatic habitat and aquatic species diversity. The river is well documented as having substantial and diverse mussel assemblages (mussel beds) (Fowler 2015; Benke and Cushing 2011, ARDOT 2024). ARDOT performed mussel surveys for this Action on October 3, 11, and 16, 2023. A total of 1053

mussels of 30 species were captured including 4 Ouachita Fanshell, 1 Pink Mucket, and 9 Winged Mapleaf. The one Pink Mucket was a gravid female. The only previous sampling data known for this site came from Posey 1997, where he captured 18 species and estimated a mean density of 62 mussels per m², compared to ARDOT’s 30 species and 39 per m² (Table 3) with a total number collected of 1053 and estimated site level abundance of 110,331 (Table 4). The discrepancy in estimated density is likely explained by the fact that Posey delineated and surveyed a 400m² bed compared to ARDOT’s 2,829 m² bed, thus Posey may have limited his survey to the densest area of the bed. (ARDOT 2024).

Within the Action Area, the Ouachita River flows from northwest to southeast and has a substantial wooded riparian zone on both banks. The river is approximately 90 m wide near the Action Area. Water depth within the Action Area ranges from 2.4 – 5.2 m. Substrates were variable with the mussel beds consisting primarily of gravel or mixed gravel/sand and surrounding areas without mussels having gravel and silt/sand fines over clay.

No other proposed projects are known within the Action Area.

Table 3. Mean quadrat density estimates, quadrat density lower and upper confidence intervals (CI) (80, 90, & 95%), and site-level abundance based on mean quadrat density. “All Species” CI assume a normal distribution of quadrat density estimates. Species CI assume a Poisson distribution (From Table 3, ARDOT 2024).

Species	Mean Density	Lower CI 95%	Upper CI 95%	Lower CI 90%	Upper CI 90%	Lower 80% CI	Upper CI 80%	Site-level Abund.
<i>Cyprogenia sp. cf. aberti</i>	0.148	-0.004	0.300	0.022	0.274	0.051	0.246	420
<i>Lampsilis abrupta</i>	0.037	-0.039	0.113	-0.026	0.100	-0.012	0.086	105
<i>Quadrula fragosa</i>	0.333	0.105	0.562	0.144	0.523	0.187	0.479	943
All Species	39.000	21.226	56.774	24.252	53.748	27.630	50.370	110331

Table 4. Quadrat survey results

N	Survey Hrs.	CPUE
1053	5.83	180.5

4.1. Action Area Numbers, Reproduction, and Distribution

A total of 7 Ouachita Fanshell, 1 Pink Mucket, and 9 Winged Mapleleaf were collected by ARDOT during their surveys (ARDOT 2024). All specimens were located in a bed upstream of the footprint of the proposed Action having a gravel or mixed gravel/sand substrate. Three Ouachita Fanshells were captured during the qualitative survey just a few meters upstream of the fill placement area. An additional four were captured during the quantitative surveys. One was found in quadrat 24, approximately 4.0 meters (12.7 feet) upstream of the fill placement area; three individuals were found in quadrat 25, approximately 12.8 meters

(42.0 feet) upstream of the fill placement area (Fig. 2). The specimens ranged in size from 52.5mm to 87.4mm in length and the mean quadrat density estimate is 0.148 and the site level abundance based on mean quadrat density is 420 individuals (Table 3).

A single Pink Mucket was found during the quantitative survey in quadrat 24, approximately 4.0 meters (12.7 feet) upstream of the fill placement area, was 87.4mm in length, and resulted in a mean quadrat density estimate of 0.037 and a site level abundance based on mean quadrat density of 105 individuals (Table 3).

Nine Winged Mapleleaf were captured during the quantitative surveys. One was found in quadrat 21, approximately 7.0 meters (22.9 feet) lateral (toward mid-stream) of the fill placement. Two were found in quadrat 23, approximately 4.3 meters (13.9 feet) upstream, and 4.4 meters (14.4 feet) lateral (toward mid-channel) of the fill placement area. Two were found in quadrat 25, and four were found in quadrat 26, approximately 12.8 meters (42.0 feet) upstream of the fill placement area. The specimens ranged in size from 50.9 mm to 72.4 mm in length and the mean quadrat density estimate is 0.333 and the site level abundance based on mean quadrat density is 943 individuals (Table 3).

4.2 Action Area Conservation Needs and Threats

The survey located all of the Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf individuals with other mussel species in a bed on the upstream end of the Action Area. This is likely due to the substrate disturbance associated with hydrologic alteration and scour caused by the bridge pier and footing resulting in degraded or no available habitat within the fill placement area. The mostly sand/silt/clay substrate found in the fill placement area is unsuitable for embedding and sustaining mussels. Individuals may be washed into the fill placement area during certain flow conditions and stranded would likely either become stranded in the scour hole over a mostly unsuitable sand/silt/clay mixed substrate; move, if capable, to an adjacent suitable substrate; or being unable to embed, be washed downstream by subsequent flow events. Without scour remediation, the scour area will continue to have these effects.

There is also the potential that the scour hole will expand which would increase these effects and cause the loss of additional adjacent habitat and dislocation of listed species. Additionally, if the scour is not repaired and maintained, there will be the need for either additional and more substantial remediations, bridge failure with significant adverse effects, and/or the need to construct a new bridge on or adjacent to this location.

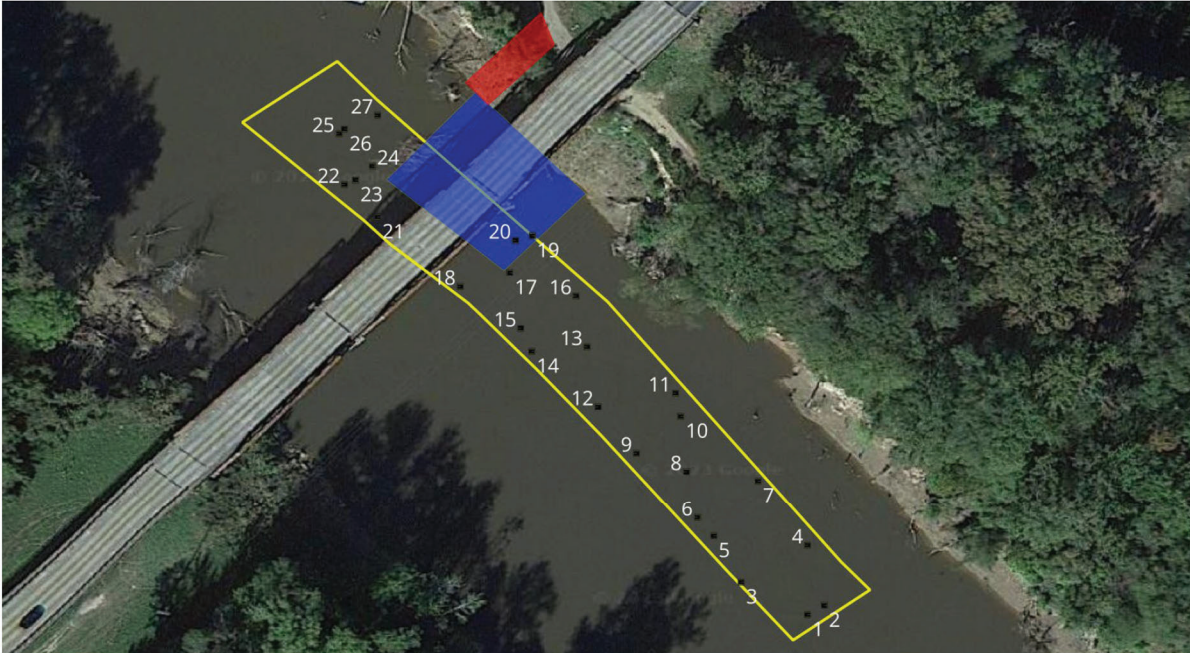


Figure 2 – Ouachita River at Hwys. 7/79B Bridge (02466) at Camden –Quadrat Quantitative Survey Area (Systematically Placed with 3 Random Starts). Figure elements are as follows; small black squares = 1m² quadrats, red polygon = barge staging area, blue polygon = fill placement area, yellow polygon = delineated survey area.

(From ARDOT 2024)

4.3. Summary of Environmental Baseline

Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf were all located entirely upstream of the fill placement area and the relative estimated densities of listed mussels within the Action Area are low. It is unlikely that suitable habitat is located in the fill placement area due to substrate scour disturbance associated with hydrologic alteration. A diverse bed of mussels is located within the Action Area in suitable habitat for these species surrounding the scour hole. There is also an abundance of mussels and suitable habitat along much of the Ouachita River; however, the Action Area is located downstream and outside of the designated critical habitat reach for Ouachita Fanshell and no critical habitat has been designated for Pink Mucket or Winged Mapleleaf.

5. Effects of the Action

This section analyzes the direct and indirect effects of the Action on Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf, which includes the direct and indirect effects of interrelated and interdependent actions. Direct effects are caused by the Action and occur at the same time and place. Indirect effects are caused by the Action, but are later in time and reasonably certain to occur. Our analyses are organized according to the description of the Action in section 1 of this BO.

Based on the description of the Action and the biology of the species, we have identified two Action Components or stressors to the Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf that may result from the Action: (1) crushing/shell damage of individuals and (2)

sedimentation/water quality degradation. Below, we discuss the best available science relevant to each stressor.

5.1. Effects of Action Component 1 (Scour Remediation)

The proposed Action is reasonably certain to result in the following effects to the Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf: direct injury or mortality as a result of being crushed or becoming physically covered and impaired due to the placement of fill material on the river bottom, direct injury or mortality as a result of turbidity, and/or deposition of sediment, created by instream construction activities obstructing their gills and reducing their ability to feed or respire. Crushing of mussels could occur when geotextile fabric and riprap is deposited in the river, making direct contact with individuals in the fill placement area.

The instream activity is also expected to result in the release and dislodging of sediment and silt associated with physical and hydrologic disturbance which is expected to increase turbidity during those activities. An excess of suspended sediment and downstream settling of sediments could lead to deteriorated instream water quality and habitat conditions necessary for normal behavior, growth, and survival of mussels adjacent to the fill placement area. Though sedimentation is expected to increase during the Action, we would expect turbidity to return to pre-construction levels quickly; downstream sedimentation to be minimal and widely distributed due to flows, mixing, and normal sediment transport; and each effect to later decrease from the improved bed morphological and hydrological conditions as a result of the Action.

Based on these factors, the preceding Action Component and the determination of may affect, and is likely to adversely affect for Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf is appropriate. Further discussion regarding the analysis of this Action Component and Incidental Take can be found in Section 4.1.

5.2. Effects of Action Component 2 (Bank Erosion/Sedimentation)

Temporary impacts to Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf and their potentially suitable habitat within the Action Area include bank erosion and sedimentation occurring as a result of construction near the banks of the river causing degraded water quality and habitat effects from post-construction stormwater runoff in the Action Area. An excess of suspended sediment and downstream settling of sediments could lead to deteriorated instream water quality and habitat conditions necessary for normal behavior, growth, and survival of mussels adjacent to the fill placement area. Though erosion and sedimentation are expected to increase during the Action, we would expect turbidity to return to pre-construction levels quickly; downstream sedimentation to be minimal and widely distributed due to flows, mixing, and normal sediment transport; and each effect to later decrease with completion of the Action and restoration of the bank vegetation.

Construction related activities have the potential to disrupt the reproductive cycle of mussels in a variety of ways. Vibrations, which are common during construction, have stimulated mussels to artificially release glochidia in lab settings. Also, temporary impacts to water quality may impact host fish by causing avoidance of the area, limiting the mussel's host attraction mechanism, or decreasing available food forage. Any disturbances that may reduce the number of fish within the Action Area have the potential to reduce mussel/host interactions. These effects will be temporary and limited in reach. The effects of vibrations are expected to be temporary and limited in reach. Fish

hosts will likely return to the site quickly following construction and normal behaviors will proceed for both mussel and hosts.

The FHWA have incorporated a number of standard conservation measures into the Action that may avoid, minimize, and mitigate the extent and duration of sedimentation, water quality, and vibratory effects that will occur within the Action Area and areas downstream. These measures include timing of the work during low flow/dry conditions during the summer/fall; completion of the work within a short duration (approximately 2 months); and ARDOT Special Provisions (SPs) for Water Pollution Control that will be implemented before construction, maintained during construction, and during site restoration. Temporary access roads and the ramp will be removed following construction and the surface habitat will be restored. Erosion control BMPs will be installed and maintained according to a DEQ-approved construction stormwater pollution prevention plan (SWPPP). ARDOT will also implement the erosion and sediment control BMPs in compliance with the National Pollutant Discharge Elimination System (NPDES) permit and current version of the ARDOT Erosion and Sediment Control Design and Construction Manual. Based on all of the aforementioned factors, we are reasonably certain that it would not be possible to meaningfully measure, detect, or evaluate any effects from this Action Component on Ouachita Fanshell, Pink Mucket, or Winged Mapleleaf. There will be no further discussion of this Action Component in this BO.

5.3. Effects of Interrelated and Interdependent Actions

In the BA, the FHWA identified the use of offsite areas, for borrow and waste pits, that have the potential to increase sediment entering waterways within the Action Area. The landowners and contractors associated with the work at these locations are responsible for obtaining NPDES permits for these sites, if applicable. BMPs required by the NPDES permit would reduce sediment from entering waterbodies. The Service is not aware of any other interrelated or interdependent actions associated with this Action. Effects from these offsite areas on mussels could include increased sediment deposition, turbidity, and herbicide/pesticide levels in localized portions of the Ouachita River. However, these effects should be avoided, minimized, and mitigated by the BMPs required by the NPDES permit for this activity and there is reasonable certainty that we would be unable to meaningfully measure, detect, or evaluate any effects that may occur despite these conservation measures.

6. Cumulative Effects

For the purposes of consultation under ESA Section 7, cumulative effects are those caused by future state, tribal, local, or private actions that are reasonably certain to occur in the Action Area. Future federal actions that are unrelated to the proposed Action are not considered, because they require separate consultation under Section 7 of the ESA. The Service is not aware of any future state, tribal, local, or private actions that are reasonably certain to occur within the Action Area at this time; therefore, no cumulative effects to these species are anticipated.

7. Conclusion

In this section, we summarize and interpret the findings of the previous sections relative to the purpose of the BO for the Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf, which is to determine whether the Action is likely to jeopardize the continued existence of any of these species. “Jeopardize the continued existence” means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the

survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR §402.02).

Status

The most significant impacts on the three listed species and their habitat are from activities related to flood control including impounding of the Ouachita and Caddo Rivers by the USACE which disconnected populations and altered water quality and flows. Other threats affecting these species include water quality and habitat degradation due to sediment and pollutant runoff, wastewater discharges, and inputs from non-point source pollutant runoff increasing siltation, nutrients, and toxins within the Ouachita River.

Baseline

The mussel survey results showed relatively low numbers of federally listed mussel species that could be adversely affected immediately adjacent in the available suitable habitat and beds. These survey results also indicate that the fill placement area does not contain habitat suitable for the species and that numbers of the species that may be directly affected there are very few to none.

Effects

The direct impacts to the suitable habitat and beds adjacent to the fill placement area are very minimal and the effects are anticipated to be temporary and ending after the Action is complete. The direct impacts to individuals of each species associated with the placement of geotextile fabric and riprap in the fill placement area are minimal and the effects are anticipated to be temporary. In addition, the contribution of funds to use for mussel propagation and culture will assist in recovery of the federally listed mussel species in the Ouachita River.

After reviewing the status of these species, the environmental baseline for the Action Area, the effects of the Action, and the cumulative effects, it is the Service's biological opinion that the Action is not likely to jeopardize the continued existence of Ouachita Fanshell, Pink Mucket, or Winged Mapleleaf.

This determination is based on reasonable certainty that: (a) the Action Area is small, so a limited amount of habitat for each of these species on a range wide basis will be affected; (b) the mussel survey results showed relatively low numbers of individuals that could be adversely affected within the Action Area and even fewer or none are likely to occur within the fill placement area, so significant effects on range wide populations are unlikely; (c) the impacts to the Action Area are anticipated to be temporary (~ 2 months) ending once the scour has been remediated; and (d) the contribution of funds to use for mussel propagation and culture will assist in recovery of these listed mussel species.

8. INCIDENTAL TAKE STATEMENT

ESA §9(a)(1) and regulations issued under §4(d) prohibit the take of endangered and threatened fish and wildlife species without special exemption. The term "take" in the ESA means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (ESA §3). In regulations at 50 CFR §17.3, the Service further defines:

- “harass” as “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering;”
- “harm” as “an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering;” and “incidental take” as “any taking otherwise prohibited, if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.”

Under the terms of ESA §7(b)(4) and §7(o)(2), taking that is incidental to and not intended as part of the federal agency action is not considered prohibited, provided that such taking is in compliance with the terms and conditions of an incidental take statement (ITS).

For the exemption in ESA §7(o)(2) to apply to the Action considered in this BO, the FHWA must undertake the non-discretionary measures described in this ITS and the conservation measures detailed in Section 1.3 of this BO, and these measures must become binding conditions of any permit, contract, or grant issued for implementing the Action. The FHWA has a continuing duty to regulate the activity covered by this ITS. The protective coverage of §7(o)(2) may lapse if the FHWA fails to (a) assume and implement the terms and conditions; or (b) require a permittee, contractor, or grantee to adhere to the terms and conditions of the ITS through enforceable terms that are added to the permit, contract, or grant document. In order to monitor the impact of incidental take, the FHWA must report the progress of the Action and its impact on the species throughout the construction period as specified in this ITS.

8.1. Amount or Extent of Take

This section specifies the amount or extent of take of the federally listed mussel species that the Action is reasonably certain to cause, which we estimated in the “Effects of the Action” section(s) of this BO. We do not repeat these analyses here.

The Service expects that incidental take of Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf will occur through one or more of the following:

1. Harm of individuals crushed or struck by placement of geotextile fabric and riprap in the fill placement area on the streambed.
2. Harm of individuals due to sediment displacement, siltation, and water quality degradation resulting from placement of geotextile fabric and riprap in the fill placement area affecting adjacent individuals and suitable habitat within the Action Area.

Anticipated Take of the three Federally Listed Mussels

Species	Amount	Form of Take
Ouachita Fanshell	420	Harm, Mortality
Pink Mucket	105	Harm, Mortality
Winged Mapleleaf	943	Harm, Mortality

The Service anticipates the incidental taking of the federally listed species associated with this Action will be difficult to detect due to the cryptic nature of mussels in the substrate of the river and due to the inherent safety-related issues associated with the Action (i.e., it is too dangerous to inspect or monitor the species and habitat while the work is on-going). The level of incidental taking anticipated in this BO resulting from the proposed Action is 420 Ouachita Fahshell individuals, 105 Pink Mucket individuals, and 943 Winged Mapleleaf individuals. This taking is expected in the form of harm and mortality. In summary, mortality and harm is reasonably certain to occur when mussels are crushed or struck by riprap and covered by geotextile fabric, and/or are covered with displaced sediments and stressed from water quality degradation.

8.2. Reasonable and Prudent Measures

The analysis of effects of the Action in this BO considers that the FHWA will authorize, fund, or carry out all activities under the Action in a manner that is consistent with the description of activities provided in the Biological Assessment, including all applicable conservation measures. Based on appropriate implementation of these measures, the Service believes that no additional “reasonable and prudent measures” will be necessary to minimize incidental take of the three federally listed mussels caused by the Action.

8.3. Terms and Conditions

No reasonable and prudent measures to minimize incidental take caused by the Action are provided in this BO; therefore, no terms and conditions for carrying out such measures are necessary.

8.4. Monitoring and Reporting Requirements

In order to monitor the impacts of incidental take, the FHWA must require any permittee to report the progress of the Action and its impact on the species to the Service as specified in the ITS (50 CFR §402.14(i)(3)). This section provides the specific instructions for such monitoring and reporting.

As necessary and appropriate to fulfill this responsibility, the FHWA must require any permittee, contractor, or grantee to accomplish the monitoring and reporting requirements that apply to Action activities under its jurisdiction through enforceable terms that the FHWA includes in the permit, contract, or grant document. Such enforceable terms must include a requirement to immediately notify the FHWA, ARDOT, and the Service if the amount or extent of incidental take specified in this ITS is exceeded during Action implementation.

The FHWA will require through Special Condition, that any permittee, agent, or contractor report any taking identified during implementation of the Action. Additionally, the FHWA will require through Special Condition: (1) that all of the identified Conservation Measures are implemented and maintained, as necessary, and (2) inform the Service as soon as possible if the amount of take is exceeded or if any federally listed mussels are observed, injured, or crushed within the Action Area. The FHWA will report any changes or deviations to the above monitoring requirements to the Service’s Arkansas Field Office as soon as possible.

9. CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the ESA directs Federal agencies to use their authorities to further the purposes of the ESA by conducting conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary activities that an action agency may undertake to avoid or minimize the adverse effects of a proposed action, implement recovery plans, or develop

information that is useful for the conservation of listed species. The Service offers the following recommendations that are relevant to the listed species addressed in this BO and that we believe are consistent with the authorities of the FHWA.

- Provide a contribution of funds through agreement with the the Arkansas Game and Fish Commission for the propagation and culture of these listed mussel species that will assist in their recovery.

10. REINITIATION NOTICE

Formal consultation for the Action considered in this BO is concluded. Reinitiating consultation is required if the FHWA retains discretionary involvement or control over the Action (or is authorized by law) when:

- a. the amount or extent of incidental take is exceeded;
- b. new information reveals that the Action may affect listed species or designated critical habitat in a manner or to an extent not considered in this BO;
- c. the Action is modified in a manner that causes effects to listed species or designated critical habitat not considered in this BO; or
- d. a new species is listed or critical habitat designated that the Action may affect.

In instances where the amount or extent of incidental take is exceeded, the FHWA is required to immediately request a re-initiation of formal consultation. Please note that the Service cannot exempt from the applicable ESA prohibitions any Action-caused take that exceeds the amount or extent specified in the ITS of this BO that may occur before the reinitiated consultation is concluded.

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IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Arkansas Ecological Service Field Office
110 South Amity Road, Suite 300
Conway, Arkansas 72032



April 23, 2024

Mr. Randal Looney
Environmental Coordinator
Federal Highway Administration
Arkansas Division
700 West Capitol Ave., Ste. 3130
Little Rock, Arkansas 72201-3298

Consultation Code: 2023-0007402

Dear Mr. Looney:

The U.S. Fish and Wildlife Service (Service) reviewed your April 16, 2024, request, biological assessment (BA), and determinations for Arkansas Department of Transportation (ArDOT) Job 012494, Specialized Bridge Scour Remediation (S), Ouachita River at Hwys. 7/US-79B Ouachita County, Arkansas. The FHWA and ArDOT propose to place fill material in the Ouachita River around bent No. 3 of the existing bridge footing for the purpose of scour remediation and protection. The Service offers the following review and guidance for federally listed species to satisfy agency informal consultation 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.; ESA.

Ten threatened and endangered species are listed as occurring in the action area according to the Information for Planning and Conservation (IPaC). Those species include the Northern Long-eared Bat (NLEB; *Myotis septentrionalis*), Eastern Black Rail (*Laterallus jamaicensis* ssp. *jamaicensis*), Piping Plover (*Charadrius melodus*), Rufa Red Knot (*Calidris canutus rufa*), Ouachita Fanshell (*Cyprogenia* sp. cf. *aberti*), Ouachita Rock Pocketbook (*Arcidens wheeleri*), Pink Mucket (*Lampsilis abrupta*), Rabbitsfoot (*Theliderma cylindrica*), Spectaclecase (*Cumberlandia mondonga*), and Winged Mapleleaf (*Quadrula fragosa*). Additionally, the project area intersects critical habitat for Rabbitsfoot. The Monarch Butterfly (*Danaus plexippus*) is listed as a candidate species, the Tricolored Bat (*Perimyotis subflavus*) and the Alligator Snapping Turtle (*Macrochelys temminckii*) are proposed for listing. The Service offers the following informal consultation response related to these listed species, excluding Ouachita Fanshell, Pink Mucket, and Winged Mapleleaf, which you determined this action “may affect, and is likely to adversely affect” and, therefore, these three species will be addressed subsequently by the Service through formal consultation.

As stated in the Consistency Letter of January 24, 2024, the Service concurs with the "no effect" and “may affect, not likely to adversely affect” determinations for Eastern Black Rail, Piping Plover, Rufa Red Knot, Ouachita Rock Pocketbook, Rabbitsfoot (species and critical habitat), and Spectaclecase. No further consultation for this project is required for these species. The verification letter confirms you may rely on the effect determinations provided in the

Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the ESA.

The Service also received your request dated April 15, 2024 to verify that the 012448 - Statewide Scour Remediation (02466), including this action – Job 012494, may rely on the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) 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 ESA.

Based on the information you provided within IPaC, you have determined that the Proposed Action will have “no effect” on the endangered Indiana Bat or the endangered Northern Long-eared Bat. If the Proposed Action is not modified, no consultation is required for these two species. If the Proposed Action is modified, or new information reveals that it may affect the Indiana Bat and/or Northern Long-eared Bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA section 7(a)(2) may be required.

FHWA and ArDOT determined that this action will not jeopardize the continued existence of the proposed endangered Tricolored Bat and proposed threatened Alligator Snapping Turtle. The Service concurs with the assessment and determinations for these two species.

The Monarch Butterfly is a candidate species, and as such, is not federally protected under the ESA. The Service agrees with the assessment for effects to this species and has no further guidance or technical assistance to offer at this time.

In summary, the Service has no additional comments or concerns, concurs with your determinations, and agrees with the assessments made by FHWA and ArDOT for this action. The Service recommends that your agency contact the Arkansas Ecological Services Field Office to re-initiate consultation or re-evaluate the determination key(s) in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information/surveys reveal the action may affect listed species, or designated critical habitat; or 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources are committed.

For further assistance or if you have any questions, please contact Lindsey Lewis at (501) 513-4489 or lindsey_lewis@fws.gov.

Sincerely,

**CHRISTOPHER
DAVIDSON**

Digitally signed by
CHRISTOPHER DAVIDSON
Date: 2024.04.23 15:38:41
-05'00'

Chris Davidson
Acting Field Supervisor

Mr. Randal Looney

3

cc: Project File

Read File

Filename: <https://doimsp->

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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:
Project code: 2023-0007402
Project Name: 012448 - Statewide Scour Remediation (02466)

January 24, 2024

Subject: Consistency letter for '012448 - Statewide Scour Remediation (02466)' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey)

Dear Matthew Schrum:

The U.S. Fish and Wildlife Service (Service) received on **January 24, 2024** your effect determination(s) for the '012448 - Statewide Scour Remediation (02466)' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed Action:

Species	Listing Status	Determination
Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	Threatened	No effect
Ouachita Rock Pocketbook (<i>Arcidens wheeleri</i>)	Endangered	NLAA
Pink Mucket (pearlymussel) (<i>Lampsilis abrupta</i>)	Endangered	LAA
Piping Plover (<i>Charadrius melodus</i>)	Threatened	NLAA
Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>)	Threatened	NLAA
Rufa Red Knot (<i>Calidris canutus rufa</i>)	Threatened	NLAA
Spectaclecase (mussel) (<i>Cumberlandia monodonta</i>)	Endangered	NLAA
Winged Mapleleaf (<i>Quadrula fragosa</i>)	Endangered	NLAA

Critical Habitat	Listing Status	Determination
Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>)	Final	NLAA

Status

Consultation with the Service is not complete. Further consultation or coordination with the Arkansas Ecological Services Office is necessary for those species with a determination of “may affect, likely to adversely affect” listed above. Please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

The Service concurs with the NLAA determination(s) for the species listed above. No further consultation for this project is required for these species. Your agency has met consultation requirements by informing the Service of the “No Effect” determinations. No further consultation for this project is required for species that you have determined will not be affected by this action. This letter confirms you may rely on effect determinations you reached by considering the Arkansas DKey to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

This letter only covers the listed species in the above table. The following species may also occur in the Action area:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
- Monarch Butterfly *Danaus plexippus* Candidate
- Northern Long-eared Bat *Myotis septentrionalis* Endangered
- Ouachita Fanshell *Cyprogenia sp. cf. aberti* Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

If you determine your project may affect additional listed or proposed listed species not covered by the Arkansas ESFO DKey, please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact Arkansas ESFO to discuss methods to avoid or minimize potential adverse effects to those species. Candidate species are not afforded protection under the ESA; however, we recommend they be considered in project planning and that conservation measures be implemented to avoid or minimize impacts to individuals or their habitat as much as possible.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the Bald and Golden Eagle Protection Act may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. Activity specific guidelines begin on page 10 of the document. To access a copy of the National Bald Eagle Management Guidelines please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Guidance and Tools section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. To obtain an application form or contact information for Regional Migratory Bird Permit Offices please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Permits section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

012448 - Statewide Scour Remediation (02466)

2. Description

The following description was provided for the project '012448 - Statewide Scour Remediation (02466)':

This project proposes to repair bridge pier scour on 02466 over the Ouachita River, Hwy.7 near Camden

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@33.59643065,-92.81864858804676,14z>



Species Protection Measures

QUALIFICATION INTERVIEW

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Are you the the action agency or the designated non-federal representative?

Yes

4. Choose the agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

5. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

6. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

9. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

Yes

10. Is the project likely to adversely affect any of the following physical or biological features essential to **Rabbitsfoot**? If you are uncertain, then please contact the Arkansas Field Office at 501-513-4481 for assistance in answering this question.
- 1) stable river channel and banks (e.g., activities that may destabilize portions of the river channel or banks)
 - 2) water flow (e.g., activities that may alter the natural hydrologic flow regime, such as reducing quantity and timing of flow); or
 - 3) water quality (e.g., inputs of sediment, nutrients, pesticides or any other pollutants that exceed levels necessary to sustain natural physiological processes of all life stages and its fish hosts);
 - 4) sediment quality (e.g., pollutant inputs with a harmful amount of heavy metals, chemical constituents, or other pollutants that bind to sediment).
- No*
11. [Semantic] Does the project intersect the American burying beetle consultation area?
Automatically answered
No
12. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?
Automatically answered
No
13. [Semantic] Does the project intersect the Eastern black rail AOI?
Automatically answered
Yes
14. Will the project take place in freshwater herbaceous wetlands and/or wet prairies?
No
15. [Semantic] Does the project intersect the red knot AOI?
Automatically answered
Yes
16. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Yes
17. Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?
Yes
18. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
19. [Semantic (same answer as "8.3" or "9.9")] Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?
Automatically answered
Yes

20. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
21. [Semantic] Does the project intersect the interior least tern AOI?
Automatically answered
No
22. [Semantic] Does the project intersect the Gray Bat AOI?
Automatically answered
No
23. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?
Automatically answered
No
24. [Semantic] Does the project intersect the Indiana bat AOI?
Automatically answered
No
25. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?
Automatically answered
No
26. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?
Automatically answered
No
27. [Semantic] Does the project intersect the Ozark cavefish AOI?
Automatically answered
No
28. [Semantic] Does the project intersect the Missouri bladderpod AOI?
Automatically answered
No
29. [Semantic] Does the project intersect the Geocarpon AOI?
Automatically answered
No
30. [Semantic] Does the project intersect the running buffalo clover AOI?
Automatically answered
No
31. [Semantic] Does the project intersect the Pondberry AOI?
Automatically answered
No

32. Does the project contain any of the following activity types: Dams or Impoundments (including berms or levees), Municipal or industrial effluent discharge, Mining, Mine reclamation, Disposal of mine wastewater or tailings, Construction of natural gas or oil well pads, Construction greater than 40 acres, Dredging or snag removal, Energy development within floodplain, or OHV trail construction or maintenance?

No

33. Does the project contain any of the following activity types: Boat Ramps, Bridges, Culverts, Residential or Commercial Development, Streambank Stabilization (or other streambank work), Pipeline and linear projects, Water intakes/withdrawals, Forest conversion within 100 ft of occupied streams, or Stream or ditch relocation, or straightening?

No

34. Will the project involve construction or other ground disturbance; riparian forest disturbance; or the application of herbicides, insecticides, or fertilizer within 100 feet of the streams?

Yes

35. [Semantic] Does the project intersect the rabbitsfoot AOI?

Automatically answered

Yes

36. [Semantic] Does the project intersect the Rabbitsfoot survey coordination area?

Automatically answered

Yes

37. Have you contacted the Arkansas Ecological Services Office to determine if a species or suitable habitat survey is recommended for this project?

Yes

38. Was a species survey recommended by the Arkansas ES Field Office?

Yes

39. Has a presence/absence survey been conducted by a permitted biologist with valid survey results?

Yes

SUBMITTED DOCUMENTS

- 012494 Ouachita River Camden Mussel Survey Report.pdf <https://ipac.ecosphere.fws.gov/project/ILCPSRLOEBBKXFVGX4BKE7OPVQ/projectDocuments/137545923>

40. Were Rabbitsfoot found on the survey?

No

SUBMITTED DOCUMENTS

- 012494 Ouachita River Camden Mussel Survey Report.pdf <https://ipac.ecosphere.fws.gov/project/ILCPSRLOEBBKXFVGX4BKE7OPVQ/projectDocuments/137545923>

41. [Semantic] Does the project intersect the neosho mucket AOI?

Automatically answered

No

42. [Semantic] Does the project intersect the Spectaclecase AOI?

Automatically answered

Yes

43. [Semantic] Does the project intersect the Spectaclecase survey coordination area?

Automatically answered

Yes

44. Have you contacted the Arkansas Ecological Services Office to determine if a species or suitable habitat survey is recommended for this project?

Yes

45. Was a species survey recommended by the Arkansas ES Field Office?

Yes

46. Has a presence/absence survey been conducted by a permitted biologist with valid survey results?

Yes

SUBMITTED DOCUMENTS

- 012494 Ouachita River Camden Mussel Survey Report.pdf <https://ipac.ecosphere.fws.gov/project/ILCPSRLOEBBKXFVGX4BKE7OPVQ/projectDocuments/137545923>

47. Were spectaclecase found on the survey?

No

SUBMITTED DOCUMENTS

- 012494 Ouachita River Camden Mussel Survey Report.pdf <https://ipac.ecosphere.fws.gov/project/ILCPSRLOEBBKXFVGX4BKE7OPVQ/projectDocuments/137545923>

48. [Semantic] Does the project intersect the snuffbox AOI?

Automatically answered

No

49. [Semantic] Does the project intersect the speckled pocketbook AOI?

Automatically answered

No

50. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?

Automatically answered

Yes

51. [Semantic] Does the project intersect the Ouachita rock pocketbook survey coordination area?

Automatically answered

Yes

52. Have you contacted the Arkansas Ecological Services Office to determine if a species or suitable habitat survey is recommended for this project?

Yes

53. Was a species survey recommended by the Arkansas ES Field Office?

Yes

54. Has a presence/absence survey been conducted by a permitted biologist with valid survey results?

Yes

SUBMITTED DOCUMENTS

- 012494 Ouachita River Camden Mussel Survey Report.pdf <https://ipac.ecosphere.fws.gov/project/ILCPSRLOEBBKXFGX4BKE7OPVQ/projectDocuments/137545923>

55. Were Ouachita rock pocketbook found on the survey?

No

56. [Semantic] Does the project intersect the fat pocketbook AOI?

Automatically answered

No

57. [Semantic] Does the project intersect the Curtis pearlymussel AOI?

Automatically answered

No

58. [Semantic] Does the project intersect the scaleshell AOI?

Automatically answered

No

59. [Semantic] Does the project intersect the pink mucket AOI?

Automatically answered

Yes

60. [Semantic] Does the project intersect the Pink mucket survey coordination area?

Automatically answered

Yes

61. Have you contacted the Arkansas Ecological Services Office to determine if a species or suitable habitat survey is recommended for this project?

Yes

62. Was a species survey recommended by the Arkansas ES Field Office?

Yes

63. Has a presence/absence survey been conducted by a permitted biologist with valid survey results?

Yes

SUBMITTED DOCUMENTS

- 012494 Ouachita River Camden Mussel Survey Report.pdf <https://ipac.ecosphere.fws.gov/project/ILCPSRLOEBBKXFGX4BKE7OPVQ/projectDocuments/137545923>

64. Were pink mucket found on the survey?

Yes

65. [Semantic] Does the project intersect the Arkansas fatmucket AOI?

Automatically answered

No

66. [Semantic] Does the project intersect the winged mapleleaf AOI?

Automatically answered

Yes

67. [Semantic] Does the project intersect the Winged mapleleaf survey coordination area?

Automatically answered

No

68. [Semantic] Does the project intersect the leopard darter AOI?

Automatically answered

No

69. [Semantic] Does the project intersect the Yellowcheek darter AOI?

Automatically answered

No

70. [Semantic] Does the project intersect the Ozark hellbender AOI?

Automatically answered

No

71. [Semantic] Does the project intersect the harperella AOI?

Automatically answered

No

72. [Semantic] Does the project intersect the pallid sturgeon AOI?

Automatically answered

No

73. [Semantic] Does the project intersect the interior least tern range?

Automatically answered

No

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Matthew Schrum

Address: 10324 I30

City: Little Rock

State: AR

Zip: 72209

Email: matthew.schrum@ardot.gov

Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration



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:
Project code: 2023-0007402
Project Name: 012448 - Statewide Scour Remediation (02466)

March 04, 2024

Federal Nexus: no
Federal Action Agency (if applicable): Federal Highway Administration

Subject: Technical assistance for '012448 - Statewide Scour Remediation (02466)'

Dear Matthew Schrum:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on March 04, 2024, for '012448 - Statewide Scour Remediation (02466)' (here forward, Project). This project has been assigned Project Code 2023-0007402 and all future correspondence should clearly reference this number. **Please carefully review this letter. Your Endangered Species Act (Act) requirements are not complete.**

Ensuring Accurate Determinations When Using IPaC

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into IPaC must accurately represent the full scope and details of the Project.

Failure to accurately represent or implement the Project as detailed in IPaC or the Northern Long-eared Bat Rangewide Determination Key (Dkey), invalidates this letter. ***Answers to certain questions in the DKey commit the project proponent to implementation of conservation measures that must be followed for the ESA determination to remain valid.***

Determination for the Northern Long-Eared Bat

Based upon your IPaC submission and a standing analysis, your project is not reasonably certain to cause incidental take of the northern long-eared bat. Unless the Service advises you within 15 days of the date of this letter that your IPaC-assisted determination was incorrect, this letter verifies that the Action is not likely to result in unauthorized take of the northern long-eared bat.

Other Species and Critical Habitat that May be Present in the Action Area

The IPaC-assisted determination for the northern long-eared bat does not apply to the following ESA-protected species and/or critical habitat that also may occur in your Action area:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
- Eastern Black Rail *Laterallus jamaicensis ssp. jamaicensis* Threatened
- Monarch Butterfly *Danaus plexippus* Candidate
- Ouachita Fanshell *Cyprogenia sp. cf. aberti* Threatened
- Ouachita Rock Pocketbook *Arcidens wheeleri* Endangered
- Pink Mucket (pearlymussel) *Lampsilis abrupta* Endangered
- Piping Plover *Charadrius melodus* Threatened
- Rabbitsfoot *Theliderma cylindrica* Threatened
- Rufa Red Knot *Calidris canutus rufa* Threatened
- Spectaclecase (mussel) *Cumberlandia monodonta* Endangered
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered
- Winged Mapleleaf *Quadrula fragosa* Endangered

Critical Habitats:

- Rabbitsfoot *Theliderma cylindrica* Threatened

You may coordinate with our Office to determine whether the Action may cause prohibited take of the animal species and/or critical habitat listed above. Note that if a new species is listed that may be affected by the identified action before it is complete, additional review is recommended to ensure compliance with the Endangered Species Act.

Next Steps

Coordination with the Service is complete. This letter serves as technical assistance. All conservation measures should be implemented as proposed. Thank you for considering federally listed species during your project planning.

We are uncertain where the northern long-eared bat occurs on the landscape outside of known locations. Because of the steep declines in the species and vast amount of available and suitable forest habitat, the presence of suitable forest habitat alone is a far less reliable predictor of their presence. Based on the best available information, most suitable habitat is now expected to be unoccupied. During the interim period, while we are working on potential methods to address this uncertainty, we conclude take is not reasonably certain to occur in areas of suitable habitat where presence has not been documented.

If no changes occur with the Project or there are no updates on listed species, no further consultation/coordination for this project is required for the northern long-eared bat. However, the Service recommends that project proponents re-evaluate the Project in IPaC if: 1) the scope,

timing, duration, or location of the Project changes (includes any project changes or amendments); 2) new information reveals the Project may impact (positively or negatively) federally listed species or designated critical habitat; or 3) a new species is listed, or critical habitat designated. If any of the above conditions occurs, additional coordination with the Service should take place before project implements any changes which are final or commits additional resources.

If you have any questions regarding this letter or need further assistance, please contact the Arkansas Ecological Services Field Office and reference Project Code 2023-0007402 associated with this Project.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

012448 - Statewide Scour Remediation (02466)

2. Description

The following description was provided for the project '012448 - Statewide Scour Remediation (02466)':

This project proposes to repair bridge pier scour on 02466 over the Ouachita River, Hwy.7 near Camden

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@33.5963815,-92.8187002546567,14z>



DETERMINATION KEY RESULT

Based on the answers provided, the proposed Action is consistent with a determination of “may affect, but not likely to adversely affect” for the Endangered northern long-eared bat (*Myotis septentrionalis*).

QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of the northern long-eared bat or any other listed species?

Note: Intentional take is defined as take that is the intended result of a project. Intentional take could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered or proposed species?

No

2. The proposed action does not intersect an area where the northern long-eared bat is likely to occur, based on the information available to U.S. Fish and Wildlife Service as of the most recent update of this key. If you have data that indicates that northern long-eared bats are likely to be present in the action area, answer "NO" and continue through the key.

Do you want to make a no effect determination?

No

3. The action area does not overlap with an area for which U.S. Fish and Wildlife Service currently has data to support the presumption that the northern long-eared bat is present. Are you aware of other data that indicates that northern long-eared bats (NLEB) are likely to be present in the action area?

Bat occurrence data may include identification of NLEBs in hibernacula, capture of NLEBs, tracking of NLEBs to roost trees, or confirmed NLEB acoustic detections. Data on captures, roost tree use, and acoustic detections should post-date the year when white-nose syndrome was detected in the relevant state. With this question, we are looking for data that, for some reason, may have not yet been made available to U.S. Fish and Wildlife Service.

No

4. Does any component of the action involve construction or operation of wind turbines?

Note: For federal actions, answer ‘yes’ if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

No

5. Is the proposed action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

No

PROJECT QUESTIONNAIRE

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Matthew Schrum

Address: 10324 I30

City: Little Rock

State: AR

Zip: 72209

Email: matthew.schrum@ardot.gov

Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration



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:

07/16/2024 17:34:23 UTC

Project Code: 2023-0007402

Project Name: 012494 -Specialized Bridge Scour Remediation (02466)

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 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 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:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.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/program/migratory-bird-permit/what-we-do>.

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/library/collections/threats-birds>.

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/partner/council-conservation-migratory-birds>.

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

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

Project Code: 2023-0007402
Project Name: 012494 -Specialized Bridge Scour Remediation (02466)
Project Type: Bridge - Maintenance
Project Description: This project proposes to repair bridge pier scour on 02466 over the Ouachita River, Hwy.7 near Camden

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@33.59643065,-92.81864858804676,14z>



Counties: Ouachita County, Arkansas

ENDANGERED SPECIES ACT SPECIES

There is a total of 13 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. Note that 1 of these species should be considered only under certain conditions.

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.

-
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
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: <ul style="list-style-type: none"> This species only needs to be considered if the project includes wind turbine operations. 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
Rufa 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

CLAMS

NAME	STATUS
Ouachita Fanshell <i>Cyprogenia sp. cf. aberti</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/10889	Threatened
Ouachita Rock Pocketbook <i>Arcidens wheeleri</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4509	Endangered
Pink Mucket (pearlymussel) <i>Lampsilis abrupta</i> No critical habitat has been designated for this species.	Endangered

NAME	STATUS
Species profile: https://ecos.fws.gov/ecp/species/7829	
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5165	Threatened
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
Winged Mapleleaf <i>Quadrula fragosa</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/4127	Endangered

INSECTS

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

CRITICAL HABITATS

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

NAME	STATUS
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> https://ecos.fws.gov/ecp/species/5165#crithab	Final

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation
Name: Matthew Schrum
Address: 10324 I30
City: Little Rock
State: AR
Zip: 72209
Email: matthew.schrum@ardot.gov
Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

You have indicated that your project falls under or receives funding through the following special project authorities:

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)

From: [Lewis, Lindsey](#)
To: [Schrum, Matthew C.](#)
Subject: Re: [EXTERNAL] RE: 012494 - Specialized Bridge Scour Remediation (S)
Date: Monday, July 15, 2024 8:13:35 AM

CAUTION: This email originated from outside of ARDOT. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Matt,

As stated in the Consistency Letter, the Service concurs with the "No Effect" and "NLAA" determination(s) for the listed species identified. No further consultation for this project is required for these species. The verification letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA)."

The Service has received your concurrence verification letter and request to verify that the Proposed Action may rely on the concurrence provided in 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, you have determined that the Proposed Action will have "No Effect" on the Indiana Bat (*Myotis sodalis*) or the Northern Long-eared Bat (*Myotis septentrionalis*). If the Proposed Action is not modified, no consultation is required for these two species. If the Proposed Action is modified, or new information reveals that it may affect the Indiana Bat and/or Northern Long-eared Bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office to re-initiate consultation or re-evaluate the determination key(s) in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information/surveys reveal the action may affect listed species or designated critical habitat; or 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources are committed.

The Service has no additional comments or concerns and agrees with the determinations, contested "no effect" determination for Missouri Bladderpod, justifications provided, non-jeopardy determinations, Monarch Butterfly conservation measures, and concurrences made through the Arkansas Dkey and FHWA PBO Dkey.

Thanks,

Lindsey Lewis
Biologist

US Fish & Wildlife Service

Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, July 12, 2024 1:37 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] RE: 012494 - Specialized Bridge Scour Remediation (S)

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Lindsey,

Never mind my question below. I didn't realize that you had already sent concurrence on all but the last site in the table below. This email will be a concurrence request for the remaining site, the Hwy. 109 bridge 05600 over the Arkansas River.

ARDOT proposes to conduct scour repair on bents 25-28 and 42 on the Hwy. 109 bridge (05600) over the Arkansas River, south of Clarksville in Logan and Johnson Counties. Repair methods will consist of filling the scoured holes with gravel-filled geotextile containers and covering this material with a layer of 2' concrete armor units (a-jacks), meeting the grade of the existing concrete bridge bent footings. Materials will be moved into place via barge from the closest available boat ramp or barge-loading dock. Designs for the repairs to 05600 are detailed on pages 39-81 of the attached 90% submittal document.

The official species list obtained from the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation (IPaC) identified the following endangered and threatened species as potentially occurring within the project boundaries; the endangered Gray Bat (*Myotis grisescens*), the endangered Indiana Bat (*Myotis sodalis*), the endangered Northern Long-eared Bat (*Myotis septentrionalis*), the proposed endangered Tricolored Bat (*Perimyotis subflavus*), the threatened Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), the threatened Piping Plover (*Charadrius melodus*), the threatened Rufa Red Knot (*Calidris canutus rufa*), the proposed threatened Alligator Snapping Turtle (*Macrochelys temminckii*), the threatened American Burying Beetle (*Nicrophorus americanus*), the candidate Monarch Butterfly (*Danaus plexippus*), and the threatened Missouri

bladderpod (*Physaria filiformis*). See attached USFWS Species List.

The “AFO Arkansas Multi-Species Determination Key” and “FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat” were evaluated for this project. See the attached USFWS concurrence and consistency letters.

“No effect” determinations were given for Indiana Bat, Northern Long-eared Bat, American Burying Beetle, and Eastern Black Rail.

“May affect, not likely to adversely affect” (NLAA) determinations were given for Gray Bat, Piping Plover, Rufa Red Knot, and Missouri bladderpod.

This action will not jeopardize the continued existence of Tricolored Bat, Alligator Snapping Turtle, and Monarch butterfly. No Monarch butterfly habitat will be impacted by project actions.

ARDOT contests the NLAA determination for Missouri bladderpod, as there is no glade habitat within the project area. We propose a “no effect” determination for this species.

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449

From: Schrum, Matthew C.
Sent: Friday, July 12, 2024 12:12 PM
To: Lewis, Lindsey (lindsey_lewis@fws.gov) <lindsey_lewis@fws.gov>
Subject: 012494 - Specialized Bridge Scour Remediation (S)

Lindsey,
The 6 sites included in Job 012494 – Specialized Bridge Scour Remediation (S) are listed in the table below. I already have from you the BO for the 3 LAA mussel species at Camden and a separate concurrence letter for the NLAA and “no effect” species at Camden. For the remaining 5 sites, should I ask for a single concurrence letter or separate concurrence letters for each site?

Hwy.	River	County	Bridge
I-30	Ouachita R. Fourche LaFave	Hot Spring Co.	A3424
Hwy. 28	R.	Scott Co.	03447
Hwy. 79	Ouachita R.	Ouachita Co. Clark & Nevada	02466
Hwy. 53	Little Missouri R.	Cos.	03476
Hwy. 64	Illinois Bayou	Pope Co.	03643

Hwy.
109

Arkansas R.

Logan & Johnson
Cos.

05600

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449



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:

07/12/2024 17:32:03 UTC

Project code: 2024-0035410

Project Name: 012494 - Specialized Bridge Scour REmediation (S) - 05600 Arkansas River

Subject: Consistency letter for '012494 - Specialized Bridge Scour REmediation (S) - 05600 Arkansas River' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear Matthew Schrum:

The U.S. Fish and Wildlife Service (Service) received on **July 12, 2024** your effect determination(s) for the '012494 - Specialized Bridge Scour REmediation (S) - 05600 Arkansas River' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed Action:

Species	Listing Status	Determination
American Burying Beetle (<i>Nicrophorus americanus</i>)	Threatened	No effect
Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	Threatened	No effect
Gray Bat (<i>Myotis grisescens</i>)	Endangered	NLAA
Indiana Bat (<i>Myotis sodalis</i>)	Endangered	May affect
Missouri Bladderpod (<i>Physaria filiformis</i>)	Threatened	NLAA
Piping Plover (<i>Charadrius melodus</i>)	Threatened	NLAA
Rufa Red Knot (<i>Calidris canutus rufa</i>)	Threatened	NLAA

Status

Consultation with the Service is not complete. Further consultation or coordination with the Arkansas Ecological Services Office is necessary for those species with a determination of "may

affect” (MA) listed above. Please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

The Service concurs with the NLAA determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of the “No Effect” determinations. No further consultation for this project is required for these species. This letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

FHWA projects should not use the Arkansas Dkey for the Northern Long-eared Bat (NLEB) or Indiana Bat. Please complete the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat determination key. This key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened NLEB, which requires consultation with the Service under Section 7 of the ESA.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

This letter only covers the listed species in the above table. The following species may also occur in the Action area:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
- Monarch Butterfly *Danaus plexippus* Candidate
- Northern Long-eared Bat *Myotis septentrionalis* Endangered
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

If you determine your project may affect additional listed or proposed listed species not covered by the Arkansas ESFO DKey, please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact Arkansas ESFO to discuss methods to avoid or minimize potential adverse effects to those species. Candidate species are not afforded protection under the ESA; however, we recommend they be considered in project planning and that conservation measures be implemented to avoid or minimize impacts to individuals or their habitat as much as possible.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not

included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the Bald and Golden Eagle Protection Act may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. Activity specific guidelines begin on page 10 of the document. To access a copy of the National Bald Eagle Management Guidelines please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Guidance and Tools section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. To obtain an application form or contact information for Regional Migratory Bird Permit Offices please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Permits section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

012494 - Specialized Bridge Scour REmediation (S) - 05600 Arkansas River

2. Description

The following description was provided for the project '012494 - Specialized Bridge Scour REmediation (S) - 05600 Arkansas River':

This project proposes to repair scoured bridge piers on the Hwy. 109 bridge over the Arkansas River.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.40122345,-93.5311389,14z>



Species Protection Measures

QUALIFICATION INTERVIEW

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Are you the the action agency or the designated non-federal representative?

Yes

4. Choose the agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

5. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

6. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

9. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

No

10. [Semantic] Does the project intersect designated critical habitat for Ouachita Fanshell?

Automatically answered

No

11. [Semantic] Does the project intersect the American burying beetle consultation area?

Automatically answered

Yes

12. Have you determined that the proposed action will have “no effect” on the American burying beetle? (If you are unsure select "No")
Yes
13. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?
Automatically answered
No
14. [Semantic] Does the project intersect the Eastern black rail AOI?
Automatically answered
Yes
15. Will the project take place in freshwater herbaceous wetlands and/or wet prairies?
No
16. [Semantic] Does the project intersect the red knot AOI?
Automatically answered
Yes
17. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Yes
18. Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?
Yes
19. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
20. [Semantic (same answer as "8.3" or "9.9")] Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?
Automatically answered
Yes
21. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
22. [Semantic] Does the project intersect the interior least tern AOI?
Automatically answered
No
23. [Semantic] Does the project intersect the Gray Bat AOI?
Automatically answered
Yes
24. Does the project involve changes to an existing bridge or large culvert?
No

25. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?
Automatically answered
No
26. [Semantic] Does the project intersect the Indiana bat AOI?
Automatically answered
Yes
27. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?
Automatically answered
No
28. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?
Automatically answered
No
29. [Semantic] Does the project intersect the Ozark cavefish AOI?
Automatically answered
No
30. [Semantic] Does the project intersect the Missouri bladderpod AOI?
Automatically answered
Yes
31. [Semantic] Does the project intersect the Geocarpon AOI?
Automatically answered
No
32. [Semantic] Does the project intersect the Pondberry AOI?
Automatically answered
No
33. [Semantic] Does the project intersect the interior least tern range?
Automatically answered
Yes

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Matthew Schrum

Address: 10324 I30

City: Little Rock

State: AR

Zip: 72209

Email: matthew.schrum@ardot.gov

Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

You have indicated that your project falls under or receives funding through the following special project authorities:

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)



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:

07/12/2024 18:11:54 UTC

Project code: 2024-0115542

Project Name: 012494 - Specialized Bridge Scour Remediation (S) - 05600 Arkansas River (BATS)

Subject: Consistency letter for the '012494 - Specialized Bridge Scour Remediation (S) - 05600 Arkansas River (BATS)' project under the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (NLEB).

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated July 12, 2024 to verify that the **012494 - Specialized Bridge Scour Remediation (S) - 05600 Arkansas River (BATS)** (Proposed Action) may rely on the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) 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 endangered northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, **no consultation is required for these two species**. If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA section 7(a)(2) may be required.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities:

If your initial bridge/culvert or structure assessment failed to detect Indiana bats and/or NLEBs use or occupancy, yet later detected prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of the incident. In these instances, potential incidental

take of Indiana bats and/or NLEBs 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:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
- American Burying Beetle *Nicrophorus americanus* Threatened
- Eastern Black Rail *Laterallus jamaicensis ssp. jamaicensis* Threatened
- Gray Bat *Myotis grisescens* Endangered
- Missouri Bladderpod *Physaria filiformis* Threatened
- Monarch Butterfly *Danaus plexippus* Candidate
- Piping Plover *Charadrius melodus* Threatened
- Rufa Red Knot *Calidris canutus rufa* Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

PROJECT DESCRIPTION

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

NAME

012494 - Specialized Bridge Scour Remediation (S) - 05600 Arkansas River (BATS)

DESCRIPTION

This IPaC project covers the evaluation of the IBAT NLEB FHWA PBO for this bridge repair.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.40122345,-93.5311389,14z>



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 endangered 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.

Yes

6. Are *all* project activities **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

7. 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

8. Is the project located **within** a karst area?

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 [User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat](#).

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. Have presence/probable absence (P/A) summer surveys^{[1][2]} been conducted^{[3][4]} **within** the suitable habitat located within your project action area?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] Presence/probable absence summer surveys conducted within the fall swarming/spring emergence home range of a documented Indiana bat hibernaculum (contact local Service Field Office for appropriate distance from hibernacula) that result in a negative finding requires additional consultation with the local Service Field Office to determine if clearing of forested habitat is appropriate and/or if seasonal clearing restrictions are needed to avoid and minimize potential adverse effects on fall swarming and spring emerging Indiana bats.

[3] For projects within the range of either the Indiana bat or NLEB in which suitable habitat is present, and no bat surveys have been conducted, the transportation agency will assume presence of the appropriate species. This assumption of presence should be based upon the presence of suitable habitat and the capability of bats to occupy it because of their mobility.

[4] Negative presence/probable absence survey results obtained using the [summer survey guidance](#) are valid for a minimum of two years from the completion of the survey unless new information (e.g., other nearby surveys) suggest otherwise.

No

12. 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/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 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/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

14. Does the project include maintenance of the surrounding landscape at existing facilities (e.g., rest areas, stormwater detention basins)?

No

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

No

16. Does the project include slash pile burning?

No

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

Yes

18. Is there *any* suitable habitat^[1] for Indiana bat or NLEB **within** 1,000 feet of the bridge? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

[1] See the Service's current [summer survey guidance](#) for our current definitions of suitable habitat.

Yes

19. Has a bridge assessment^[1] been conducted **within** the last 24 months^[2] to determine if the bridge is being used by bats?

[1] See [User Guide Appendix D](#) for bridge/structure assessment guidance

[2] Assessments must be completed no more than 2 years prior to conducting any work below the deck surface on all bridges that meet the physical characteristics described in the Programmatic Consultation, regardless of whether assessments have been conducted in the past. Due to the transitory nature of bat use, a negative result in one year does not guarantee that bats will not use that bridge/structure in subsequent years.

Yes

SUBMITTED DOCUMENTS

- 05600_Apr_2024.pdf <https://ipac.ecosphere.fws.gov/project/HQLUMRFJQBANBGK26ASONS7ASQ/projectDocuments/146245869>

20. Did the bridge assessment detect *any* signs of Indiana bats and/or NLEBs roosting in/under the bridge (bats, guano, etc.)^[1]?

[1] If bridge assessment detects signs of *any* species of bats, coordination with the local FWS office is needed to identify potential threatened or endangered bat species. Additional studies may be undertaken to try to identify which bat species may be utilizing the bridge prior to allowing *any* work to proceed.

Note: There is a small chance bridge assessments for bat occupancy do not detect bats. Should a small number of bats be observed roosting on a bridge just prior to or during construction, such that take is likely to occur or does occur in the form of harassment, injury or death, the PBO requires the action agency to report the take. Report all unanticipated take within 2 working days of the incident to the USFWS. Construction activities may continue without delay provided the take is reported to the USFWS and is limited to 5 bats per project.

No

21. Will the bridge removal, replacement, and/or maintenance activities include installing new or replacing existing **permanent** lighting?

No

22. 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

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

No

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

No

25. 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

26. Are *all* of the project activities that will be conducted **greater than** 0.5 miles of a known Indiana bat and/or NLEB hibernaculum^[1] and **greater than** 300 feet from the existing road/rail surface^[2] limited to one or more of the following activities:

- maintenance of the surrounding landscape at existing facilities (e.g., rest areas, stormwater detention basins);
- wetland or stream protection activities associated with compensatory wetland/stream mitigation that will not clear suitable habitat (i.e. tree removal/trimming);
- involves slash pile burning;
- within an area with negative presence/probable absence (P/A) summer surveys^[3];
- limited to activities that **DO NOT** cause any stressors to the bat species, including, but not limited to those described in the BA/BO (i.e. do not involve habitat removal, tree removal/trimming, bridge or structure activities, temporary or permanent lighting, or use of percussives) (e.g., lining roadways, unlighted signage , rail road crossing signals, signal lighting, and minor road repair such as asphalt fill of potholes, etc.))?

[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.

[2] 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. (example activities include road line painting)

[3] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

Yes, all of the project activities that are greater than 0.5 miles from a hibernaculum and greater than 300' from the road/rail surface are limited to one or more of these activities

27. Are *all* project activities that are **not associated with** habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives, limited to actions that DO NOT cause any additional stressors to the bat species?

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

Yes

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

No

29. Are the project activities that are not associated with habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives consistent with a No Effect determination in this key?

Automatically answered

Yes, other project activities are limited to actions that DO NOT cause any additional stressors to the bat species as described in the BA/BO

30. Is the bridge removal, replacement, or maintenance activities portion of this project consistent with a No Effect determination in this key?

Automatically answered

Yes, because the bridge has been assessed using the criteria documented in the BA and no signs of bats were detected

PROJECT QUESTIONNAIRE

1. Please enter the date of the bridge assessment:

04/15/2024

DETERMINATION KEY DESCRIPTION: FHWA, FRA, FTA PROGRAMMATIC CONSULTATION FOR TRANSPORTATION PROJECTS AFFECTING NLEB OR INDIANA BAT

This key was last updated in IPaC on October 30, 2023. 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 endangered **northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion \(dated March 23, 2023\) 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.

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Matthew Schrum

Address: 10324 I30

City: Little Rock

State: AR

Zip: 72209

Email: matthew.schrum@ardot.gov

Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

You have indicated that your project falls under or receives funding through the following special project authorities:

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)



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:

07/12/2024 16:06:43 UTC

Project Code: 2024-0035410

Project Name: 012494 - Specialized Bridge Scour REmediation (S) - 05600 Arkansas River

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 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 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:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.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/program/migratory-bird-permit/what-we-do>.

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/library/collections/threats-birds>.

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/partner/council-conservation-migratory-birds>.

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

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

Project Code: 2024-0035410
Project Name: 012494 - Specialized Bridge Scour REmediation (S) - 05600 Arkansas River
Project Type: Bridge - Maintenance
Project Description: This project proposes to repair scoured bridge piers on the Hwy. 109 bridge over the Arkansas River.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.40122345,-93.5311389,14z>



Counties: Johnson and Logan counties, Arkansas

ENDANGERED SPECIES ACT SPECIES

There is a total of 11 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. Note that 1 of these species should be considered only under certain conditions.

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.

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

MAMMALS

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: <ul style="list-style-type: none"> This species only needs to be considered if the project includes wind turbine operations. 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
Rufa 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	Threatened

NAME	STATUS
No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/66	
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

FLOWERING PLANTS

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

CRITICAL HABITATS

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

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation
Name: Matthew Schrum
Address: 10324 I30
City: Little Rock
State: AR
Zip: 72209
Email: matthew.schrum@ardot.gov
Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

You have indicated that your project falls under or receives funding through the following special project authorities:

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)

From: [Lewis, Lindsey](#)
To: [Schrum, Matthew C.](#)
Subject: Re: [EXTERNAL] 012448 - scour remediation - Ouachita River I30 bridge at Rockport, AR
Date: Tuesday, November 28, 2023 9:05:44 AM

CAUTION: This email originated from outside of ARDOT. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Matt,

As stated in the Consistency Letter, the Service concurs with the "No Effect" and "NLAA" determination(s) for the listed species identified. No further consultation for this project is required for these species. The verification letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a) (2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA)."

The Service has received your concurrence verification letter and request to verify that the Proposed Action may rely on the concurrence provided in 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, you have determined that the Proposed Action will "not likely adversely affect" 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. If the Proposed Action is modified, or new information reveals that it may affect the Indiana Bat and/or Northern Long-eared Bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office to re-initiate consultation or re-evaluate the determination key(s) in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information/surveys reveal the action may affect listed species or designated critical habitat; a karst feature is encountered; or 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources are committed.

The Service has no additional comments or concerns and agrees with the determinations, contested "no effect" determination for Missouri Bladderpod, mussel survey results, justifications provided, non-jeopardy determinations, Monarch Butterfly conservation measures, and concurrences made through the Arkansas Dkey and FHWA PBO Dkey.

Thanks,

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Tuesday, November 21, 2023 1:11 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

The 90% plans and a kmz of scour repair locations for 012448 are attached. The 3 separate submittal design documents cover all the scour repair locations. The South Fourche LaFave bridge repair was removed from this job. This email only covers the Ouachita River I30 bridge at Rockport, AR. The other sites will be covered by subsequent emails. Work at Rockport will include construction of a temporary ramp/work road (staging area) on the left descending bank between the two i30 bridges, and placement of riprap around the foundation of pier 3 on the westbound bridge. The repair materials will be moved by barge from the staging area to the repair area.

The official species list obtained from the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation identified the following endangered and threatened species as potentially occurring within the project boundaries; the endangered Indiana Bat (*Myotis sodalis*), the endangered Northern Long-eared Bat (*Myotis septentrionalis*), the proposed threatened Tricolored Bat (*Perimyotis subflavus*), the threatened Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), the threatened Piping Plover (*Charadrius melodus*), the threatened Red Knot (*Calidris canutus rufa*), the proposed threatened Alligator Snapping Turtle (*Macrochelys temminckii*), the threatened Arkansas Fatmucket (*Lampsilis powellii*), the threatened Ouachita Fanshell (*Cyprogenia sp. cf. aberti*), the endangered Ouachita Rock Pocketbook (*Arcidens wheeleri*), the endangered Pink Mucket (*Lampsilis abrupta*), the threatened Rabbitsfoot (*Theliderma cylindrica*), the candidate Monarch butterfly (*Danaus plexippus*), and the threatened Missouri bladderpod (*Physaria filiformis*). See the attached USFWS species list.

ARDOT conducted a mussel survey October 18, 19, and 23 2023. No federally endangered or threatened mussels were found. See the attached mussel survey report.

The "AFO Arkansas Multi-Species Determination Key" and "FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat" determination keys were

evaluated for this project. See the attached MA and NE consistency letters.

“No effect” determinations were given for Indiana Bat, Northern Long-eared Bat, and Eastern Black Rail.

“May affect, not likely to adversely affect” (NLAA) determinations were given for Piping Plover, Red Knot, Arkansas Fatmucket, Ouachita Rock Pocketbook, Pink Mucket, Rabbitsfoot, and Missouri bladderpod.

ARDOT has determined that this action will not jeopardize the continued existence of Tricolored Bat and Alligator Snapping Turtle.

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

We contest the NLAA determination for Missouri bladderpod, as there is no glade habitat within the project area. Additionally, the nearest occurrence record is approximately 13.5 miles W of the project area at Ross Foundation Glades (ANHC 2021). We propose a “no effect” determination.

If you need any additional information, please let me know.

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449

From: Schrum, Matthew C.
Sent: Tuesday, November 21, 2023 11:47 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
I planned on submitting the concurrence requests for these scour repairs in 7 separate emails based on location (some requests will be multiple bridges in close proximity to one another). Four of them required mussel surveys, and one (the Ouachita at Camden) I’m still working on the report and it’ll be an LAA. Will there be multiple concurrence letters for this job?

-Matt

From: Schrum, Matthew C.
Sent: Tuesday, November 7, 2023 10:39 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
You are correct. Sorry for the oversight. The revised report is attached.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Tuesday, November 7, 2023 8:55 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Matt,

FYI, the lat/long on this report looks to be for the S. Fourche instead of the L. Missouri.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Wednesday, October 18, 2023 4:20 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
Attached is the mussel survey report for the Little Missouri at Hwy. 53. If you need anything else, let me know.
-Matt

From: Schrum, Matthew C.
Sent: Tuesday, October 17, 2023 9:42 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
We completed mussel surveys at the Hwy 79B/7 bridge on the Ouachita River at Camden yesterday, and found *Cyprogenia* sp. cf. *aberti*, *Lampsilis abrupta*, and *Quadrula fragosa*. A report is forthcoming.
-Matt

From: Schrum, Matthew C.
Sent: Monday, October 2, 2023 2:52 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, October 2, 2023 2:41 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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What you said makes sense, but Chris says ESA requires you to have a BO first to do a relocation.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, October 2, 2023 2:26 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

We're planning on heading back to Camden tomorrow to perform the quantitative mussels surveys. Would it be appropriate to relocate T&Es outside of the area of impact tomorrow, in order to minimize take from handling the mussels multiple times (ie. a separate relocation effort) or does USFWS need to see the results of quantitative surveys before we proceed with relocation?
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, September 29, 2023 10:30 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Thanks Matt! Proceed.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, September 29, 2023 10:20 AM

To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

Please see the revised survey grid. This grid contains 27 m² quadrats. The quadrats are placed at a regular interval along the grid with 3 random starts (3 sets of 9) as described in Strayer and Smith 2003. This gives more even coverage of the bed than the previously submitted grid with completely random quadrat placement.

Even with the systematic quadrat placement, there are still only 2 quadrats within the fill placement area. We propose to spend additional time following quadrat surveys performing timed visual searches within the fill placement area in order to enumerate any mussels potentially occurring within this area.

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, September 29, 2023 8:17 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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BTW, I am now considered exempt from the furlough. So, let everyone there know, that it's business as usual, except that I might not be able to get letters signed. Also, Chris just sent this:

"We're not only looking for rare species, but also trying to get an estimate of how many are there, particularly in the area of direct impact and areas in close proximity that might be more prone to adverse effects of fill placement.

I'm okay with their initial 25 randomly selected samples, but it only includes one quadrat in the fill placement area. I would like to see them increase their sampling effort within the fill placement area and the first cell downstream with additional random samples within those two areas. They also could follow up after pulling quadrats with additional timed searches within those two areas."

Lindsey Lewis

Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, September 29, 2023 8:05 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, September 29, 2023 8:04 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Yes, but he is really busy with the shutdown planning and last minute priorities. I just sent him a reminder, so he should respond today if he can.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, September 29, 2023 7:54 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.

I guess Chris is looking at the quantitative survey plan for Camden?

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, September 29, 2023 7:51 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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No, you don't need to complete the qualitative.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Thursday, September 28, 2023 2:26 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

Also, I forgot to ask on the Little Missouri bridge, we found the *Cyprogenia* and *Lampsilis abrupta* while surveying cells 1, 2, and 3 on the downstream end of the site. We moved away from the bed to avoid disturbing it and finished cells 9-14. We left cells 4-8 unfinished because they overlapped the bed and left cells 15-16 (upstream of the bridge) unfinished because we ran out of time. Do you all want us to complete these qualitative searches?

-Matt

From: Schrum, Matthew C.

Sent: Thursday, September 28, 2023 8:18 AM

To: Lewis, Lindsey <lindsey_lewis@fws.gov>

Cc: Seagraves, Josh H. <Josh.Seagraves@ardot.gov>; Matthews, Mickey W. <Mickey.Matthews@ardot.gov>

Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

Attached is a document containing the results of our qualitative survey at the Ouachita river at Camden for ARDOT Job 012448, and a proposal for quantitative surveys. Also attached are the USFWS species list and a kmz of the proposed survey design.

-Matt

From: Schrum, Matthew C.

Sent: Wednesday, September 27, 2023 12:03 PM

To: Lewis, Lindsey <lindsey_lewis@fws.gov>

Cc: Seagraves, Josh H. <Josh.Seagraves@ardot.gov>; Matthews, Mickey W. <Mickey.Matthews@ardot.gov>

Subject: RE: [EXTERNAL] 012448 - scour remediation

Awesome, thanks Lindsey.

-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>

Sent: Wednesday, September 27, 2023 12:02 PM

To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>

Subject: Re: [EXTERNAL] 012448 - scour remediation

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No, you're good.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Wednesday, September 27, 2023 11:52 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

We found *Lampsilis abrupta* and *Cyprogenia* within the first 20 minutes (3 concurrent grid cells) of our surveys at Little MO yesterday. At that point we stopped doing the proposed 20-minute timed visual searches within the 16-cell grid. We switched to running transects to delineate the boundaries of the bed. Next, we performed timed visual searches with the 6 cells that overlapped the scour repair area in proximity to the bridge, that we determined did not overlap the bed. We did not complete the remaining 7 cells, as to avoid further disturbance to the bed.

Josh called Chris Davidson as we were leaving to inform him that 2 listed species were found and to ask for guidance as to how to proceed. Over the phone, Josh told Chris that he believed the upstream end of the bed was greater than 100' downstream of the area of impact (fill placement). Chris told Josh that we would be able to get to an NLAA without further surveys and/or mitigation if the impact was >100' from the edge of the bed. When I measured the distance on GIS today, it's actually about 92.5'. Does this discrepancy change our determination?

-Matt

From: Schrum, Matthew C.
Sent: Monday, September 25, 2023 6:11 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

Mickey, Josh and I started the survey for the Ouachita at Camden today (Hwys. 79B/7). We had proposed to survey 8 cells, but we found 3 *Cyprogenia* within the first cell. We decided to delineate the bed with transects rather than continuing qualitative surveys. A proposal for quantitative surveys and relocation will be forthcoming.

We're planning on the Little Missouri at Hwy. 53 (south of Gurdon) tomorrow.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Wednesday, September 20, 2023 8:44 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Thanks Matt!

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Tuesday, September 19, 2023 3:28 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Cc: Matthews, Mickey W. <Mickey.Matthews@ardot.gov>; Seagraves, Josh H. <Josh.Seagraves@ardot.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
See the attached survey report for The South Fourche LaFave River Bridge over Shepherd Ford Rd. in Perry County. We did not find any listed mussels.
-Matt

From: Schrum, Matthew C.
Sent: Friday, July 21, 2023 10:31 AM
To: Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Subject: FW: [EXTERNAL] 012448 - scour remediation

Lindsey says we're still good to proceed with this survey plan.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, July 21, 2023 10:28 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Yes

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, July 21, 2023 10:24 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Cc: Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
We didn't end up doing these mussel surveys for the bridge scour repairs last year. Do we still have approval to carry forward with the previous survey plan?
-Matt

From: Schrum, Matthew C.
Sent: Friday, November 4, 2022 3:05 PM

To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, November 4, 2022 1:39 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation

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You are good to go. Please see Chris's email below.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Davidson, Chris <chris_davidson@fws.gov>
Sent: Friday, November 4, 2022 1:24 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

I concur with the survey methods.

Note - the proposed threatened western fanshell does not occur in the Ouachita River basin. It should be the proposed threatened "Ouachita" fanshell (*Cyprogenia cf aberti*).

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Wednesday, November 2, 2022 10:52 AM
To: Davidson, Chris <chris_davidson@fws.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation

Chris,

How does this look?

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Tuesday, November 1, 2022 3:48 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
I've attached a mussel survey proposal for 012448 – Statewide Scour Remediation P.E. (S). We're looking to get these surveys done by the end of November if possible. It's getting cold, lol.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, October 31, 2022 9:32 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation

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Matt,

Chris says that in his opinion, the cells are better for many reasons (more defensible, better coverage, better site-specific data within survey reach, etc.).

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Davidson, Chris <chris_davidson@fws.gov>
Sent: Monday, October 31, 2022 9:29 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

In my opinion, the cells are better for many reasons (more defensible, better coverage, better site-specific data within survey reach, etc.).

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, October 31, 2022 9:03 AM
To: Davidson, Chris <chris_davidson@fws.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation

Chris,

ARDOT is asking if they can do their traditional timed visual searches within a polygon 100' upstream 300' downstream 30' lateral to each impact zone, or would they need to divide it into cells with discrete search times like the 101131 Current River survey?

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, October 31, 2022 8:15 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Could we propose doing our traditional timed visual searches within a polygon 100' upstream 300' downstream 30' lateral to each impact zone, or would we need to divide it into cells with discrete search times like the 101131 Current River survey?
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, October 28, 2022 4:41 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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The kmz is sufficient.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, October 28, 2022 3:30 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Would this KMZ be sufficient to base a survey plan off of, or would you need to see detailed plans in order to sign off and give concurrence?
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, October 28, 2022 3:21 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Hey Matt,

I asked Chris about this and here is what he had to say.

“This activity is similar to placing riprap on banks. We've been recommending 100' upstream, 30' lateral, and 300' downstream buffers. To be consistent, we should treat this activity with similar survey buffers.”

Lindsey

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Wednesday, October 26, 2022 8:29:32 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

I've attached a KMZ of the bridges that will require scour repair for ARDOT Job 012448. IPaC identified T&E mussels on the species lists for the following bridges;

- 23131 – South Fourche LaFave @ Shepherds Ford Rd., Perry County
- 03476 – Little Missouri River @ AR-53, Clark & Nevada Counties
- 020466 – Ouachita River @ US-79, Camden, Ouachita County
- A3424 – Ouachita River @ I-30, Hot Spring County

The KMZ shows the bridge locations, and a red and a yellow polygon. The yellow polygon represents a conservative approximation of the area where clean riprap will be placed. The red polygon represents the loading area required to fill barges with riprap. I've been told that each of these repairs will be made by barge, and that in-stream work roads will not be required. Will this KMZ be enough to base mussel survey plans on, or will a more detailed pdf of designs be required?

Also, based on these designs, will a localized search within the areas of fill and areas adjacent to barge loading be sufficient?

-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, September 19, 2022 8:53 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Matt,

I am assuming that there will be placement of rock or some other fill being placed in the streams around the scour holes/piers. If that is the case, then there would need to be surveys of the fill area at minimal if it is just stone fill. If there is other material being placed in the stream for the scour holes and/or an access road into the stream that could result in downstream sedimentation, then there would need to be additional area surveyed downstream.

It really depends on the expected extent of the effect for determining whether take is reasonably certain to occur because of species presence in the action area, exposure to stressors caused by the proposed action, and/or the response to such exposure corresponds to a form of take.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, September 19, 2022 8:23 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] 012448 - scour remediation

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Lindsey,

The results of the statewide underwater bridge inspection (012387) are starting to come in. The Department is contracting the designs for the scour repair under PE job 012448. The actual repair work will be broken out into a few different job numbers grouped by timing and type of repair work. Some of these jobs will likely require barges or work roads to deploy the repair material. So far, there are 3 locations with mussels on the species list. See the attached KMZ. Will these jobs require mussel surveys with the same level of effort as a bridge replacement? Program Management is wanting to start letting these jobs in January. Additional jobs may be forthcoming.

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449



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:
Project code: 2023-0007409
Project Name: 012448 - Statewide Scour Remediation (A3424)

November 21, 2023

Subject: Consistency letter for '012448 - Statewide Scour Remediation (A3424)' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear Matthew Schrum:

The U.S. Fish and Wildlife Service (Service) received on **November 21, 2023** your effect determination(s) for the '012448 - Statewide Scour Remediation (A3424)' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed Action:

Species	Listing Status	Determination
Arkansas Fatmucket (<i>Lampsilis powellii</i>)	Threatened	NLAA
Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	Threatened	No effect
Indiana Bat (<i>Myotis sodalis</i>)	Endangered	May affect
Missouri Bladderpod (<i>Physaria filiformis</i>)	Threatened	NLAA
Ouachita Rock Pocketbook (<i>Arcidens wheeleri</i>)	Endangered	NLAA
Pink Mucket (pearlymussel) (<i>Lampsilis abrupta</i>)	Endangered	NLAA
Piping Plover (<i>Charadrius melodus</i>)	Threatened	NLAA
Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>)	Threatened	NLAA
Rufa Red Knot (<i>Calidris canutus rufa</i>)	Threatened	NLAA

Status

Consultation with the Service is not complete. Further consultation or coordination with the Arkansas Ecological Services Office is necessary for those species with a determination of “may affect” (MA) listed above. Please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

The Service concurs with the NLAA determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of the “No Effect” determinations. No further consultation for this project is required for these species. This letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

FHWA projects should not use the Arkansas Dkey for the Northern Long-eared Bat (NLEB) or Indiana Bat. Please complete the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat determination key. This key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened NLEB, which requires consultation with the Service under Section 7 of the ESA.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

This letter only covers the listed species in the above table. The following species may also occur in the Action area:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
- Monarch Butterfly *Danaus plexippus* Candidate
- Northern Long-eared Bat *Myotis septentrionalis* Endangered
- Ouachita Fanshell *Cyprogenia sp. cf. aberti* Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

If you determine your project may affect additional listed or proposed listed species not covered by the Arkansas ESFO DKey, please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact Arkansas ESFO to discuss methods to avoid or minimize potential adverse effects to those species. Candidate species are not afforded protection under the ESA; however, we recommend they be considered in project planning and that conservation measures be implemented to avoid or minimize impacts to individuals or their habitat as much as possible.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the Bald and Golden Eagle Protection Act may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. Activity specific guidelines begin on page 10 of the document. To access a copy of the National Bald Eagle Management Guidelines please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Guidance and Tools section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. To obtain an application form or contact information for Regional Migratory Bird Permit Offices please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Permits section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

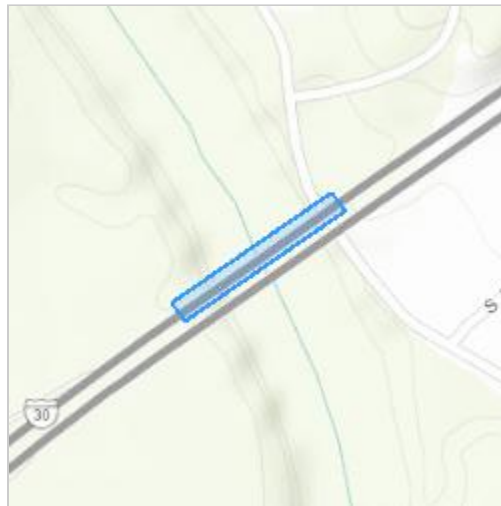
012448 - Statewide Scour Remediation (A3424)

2. Description

The following description was provided for the project '012448 - Statewide Scour Remediation (A3424)':

This project proposes to repair bridge scour on A 3424 over the Ouachita River, I-30 Malvern.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@34.3900387,-92.83985544694826,14z>



Species Protection Measures

Streambank Stabilization

<https://www.fws.gov/southeast/pdf/species-protective-measures/streambank-stabilization-projects.pdf>

Bridges and Culverts

<https://www.fws.gov/southeast/pdf/species-protective-measures/bridge-and-culvert-projects.pdf>

QUALIFICATION INTERVIEW

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Are you the the action agency or the designated non-federal representative?

Yes

4. Choose the agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

5. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

6. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

9. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

No

10. [Semantic] Does the project intersect the American burying beetle consultation area?

Automatically answered

No

11. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?

Automatically answered

No

12. [Semantic] Does the project intersect the Eastern black rail AOI?
Automatically answered
Yes
13. Will the project take place in freshwater herbaceous wetlands and/or wet prairies?
No
14. [Semantic] Does the project intersect the red knot AOI?
Automatically answered
Yes
15. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Yes
16. Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?
Yes
17. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
18. [Semantic (same answer as "8.3" or "9.9")] Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?
Automatically answered
Yes
19. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
20. [Semantic] Does the project intersect the interior least tern AOI?
Automatically answered
No
21. [Semantic] Does the project intersect the Gray Bat AOI?
Automatically answered
No
22. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?
Automatically answered
No
23. [Semantic] Does the project intersect the Indiana bat AOI?
Automatically answered
Yes
24. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?
Automatically answered
No
-

25. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?
Automatically answered
No
26. [Semantic] Does the project intersect the Ozark cavefish AOI?
Automatically answered
No
27. [Semantic] Does the project intersect the Missouri bladderpod AOI?
Automatically answered
Yes
28. [Semantic] Does the project intersect the Geocarpon AOI?
Automatically answered
No
29. [Semantic] Does the project intersect the running buffalo clover AOI?
Automatically answered
No
30. [Semantic] Does the project intersect the Pondberry AOI?
Automatically answered
No
31. Does the project contain any of the following activity types: Dams or Impoundments (including berms or levees), Municipal or industrial effluent discharge, Mining, Mine reclamation, Disposal of mine wastewater or tailings, Construction of natural gas or oil well pads, Construction greater than 40 acres, Dredging or snag removal, Energy development within floodplain, or OHV trail construction or maintenance?
No
32. Does the project contain any of the following activity types: Boat Ramps, Bridges, Culverts, Residential or Commercial Development, Streambank Stabilization (or other streambank work), Pipeline and linear projects, Water intakes/withdrawals, Forest conversion within 100 ft of occupied streams, or Stream or ditch relocation, or straightening?
Yes
33. Does the project include Streambank Stabilization (or other streambank work)?
Yes
34. Does the project include the Streambank Stabilization species [protective measures](#), as applicable to the project and site characteristics?
Yes
35. Does the project include Boat Ramps?
No
36. Does the project include Bridges and Culverts?
Yes
-

37. Does the project include the Bridges and Culverts species [protective measures](#), as applicable to the project and site characteristics?
Yes
38. Does the project include Development?
No
39. Is the project a Pipeline or Linear Project?
No
40. Does the project include Water Intakes/Withdrawals?
No
41. Does the project include Stream or Ditch Relocation, or Straightening?
No
42. [Semantic] Does the project intersect the rabbitsfoot AOI?
Automatically answered
Yes
43. [Semantic] Does the project intersect the Rabbitsfoot survey coordination area?
Automatically answered
No
44. [Semantic] Does the project intersect the neosho mucket AOI?
Automatically answered
No
45. [Semantic] Does the project intersect the Spectaclecase AOI?
Automatically answered
No
46. [Semantic] Does the project intersect the snuffbox AOI?
Automatically answered
No
47. [Semantic] Does the project intersect the speckled pocketbook AOI?
Automatically answered
No
48. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?
Automatically answered
Yes
49. [Semantic] Does the project intersect the Ouachita rock pocketbook survey coordination area?
Automatically answered
No
50. [Semantic] Does the project intersect the fat pocketbook AOI?
Automatically answered
No
-

51. [Semantic] Does the project intersect the Curtis pearlymussel AOI?

Automatically answered

No

52. [Semantic] Does the project intersect the scaleshell AOI?

Automatically answered

No

53. [Semantic] Does the project intersect the pink mucket AOI?

Automatically answered

Yes

54. [Semantic] Does the project intersect the Pink mucket survey coordination area?

Automatically answered

Yes

55. Have you contacted the Arkansas Ecological Services Office to determine if a species or suitable habitat survey is recommended for this project?

Yes

56. Was a species survey recommended by the Arkansas ES Field Office?

Yes

57. Has a presence/absence survey been conducted by a permitted biologist with valid survey results?

Yes

SUBMITTED DOCUMENTS

- 012448 Ouachita River Rockport Mussel Survey Report.pdf <https://ipac.ecosphere.fws.gov/project/JK357I6QBJCVPDYECK7EZNFKII/projectDocuments/134938858>

58. Were pink mucket found on the survey?

No

59. [Semantic] Does the project intersect the Arkansas fatmucket AOI?

Automatically answered

Yes

60. [Semantic] Does the project intersect the Arkansas fatmucket survey coordination area?

Automatically answered

Yes

61. Have you contacted the Arkansas Ecological Services Office to determine if a species or suitable habitat survey is recommended for this project?

Yes

62. Was a species survey recommended by the Arkansas ES Field Office?

Yes

63. Has a presence/absence survey been conducted by a permitted biologist with valid survey results?

Yes

SUBMITTED DOCUMENTS

- 012448 Ouachita River Rockport Mussel Survey Report.pdf <https://ipac.ecosphere.fws.gov/project/JK357I6QBJCVPDYECK7EZNFKII/projectDocuments/134938858>

64. Were Arkansas fatmucket found on the survey?

No

65. [Semantic] Does the project intersect the winged mapleleaf AOI?

Automatically answered

No

66. [Semantic] Does the project intersect the leopard darter AOI?

Automatically answered

No

67. [Semantic] Does the project intersect the Yellowcheek darter AOI?

Automatically answered

No

68. [Semantic] Does the project intersect the Ozark hellbender AOI?

Automatically answered

No

69. [Semantic] Does the project intersect the harperella AOI?

Automatically answered

No

70. [Semantic] Does the project intersect the pallid sturgeon AOI?

Automatically answered

No

71. [Semantic] Does the project intersect the interior least tern range?

Automatically answered

No

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Matthew Schrum

Address: 10324 I30

City: Little Rock

State: AR

Zip: 72209

Email: matthew.schrum@ardot.gov

Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration



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:
Project code: 2024-0018689
Project Name: 012448 - Statewide Scour Remediation (A3424)

November 21, 2023

Subject: Consistency letter for the '012448 - Statewide Scour Remediation (A3424)' project under the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (NLEB).

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated November 21, 2023 to verify that the **012448 - Statewide Scour Remediation (A3424)** (Proposed Action) may rely on the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) 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 endangered northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, **no consultation is required for these two species**. If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA section 7(a)(2) may be required.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities:

If your initial bridge/culvert or structure assessment failed to detect Indiana bats and/or NLEBs use or occupancy, yet later detected prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of the incident. In these instances, potential incidental take of Indiana bats and/or NLEBs 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:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
 - Arkansas Fatmucket *Lampsilis powellii* Threatened
 - Eastern Black Rail *Laterallus jamaicensis ssp. jamaicensis* Threatened
 - Missouri Bladderpod *Physaria filiformis* Threatened
 - Monarch Butterfly *Danaus plexippus* Candidate
 - Ouachita Fanshell *Cyprogenia sp. cf. aberti* Threatened
 - Ouachita Rock Pocketbook *Arcidens wheeleri* Endangered
 - Pink Mucket (pearlymussel) *Lampsilis abrupta* Endangered
 - Piping Plover *Charadrius melodus* Threatened
 - Rabbitsfoot *Quadrula cylindrica cylindrica* Threatened
 - Rufa Red Knot *Calidris canutus rufa* Threatened
 - Tricolored Bat *Perimyotis subflavus* Proposed Endangered
-

PROJECT DESCRIPTION

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

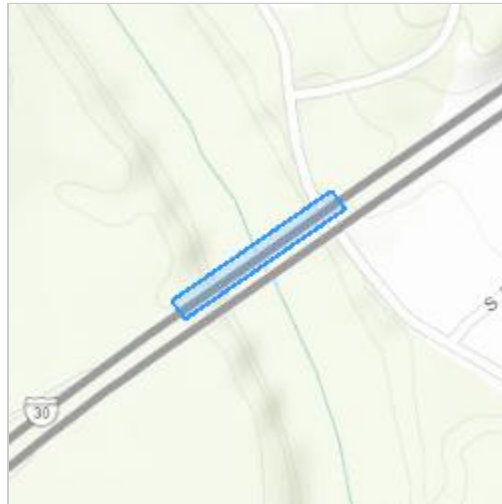
NAME

012448 - Statewide Scour Remediation (A3424)

DESCRIPTION

This IPaC project is a copy for the purposes of evaluating the IBAT/NLEB FHWA PBO determination key.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@34.3900387,-92.83985544694826,14z>



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 endangered 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?

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 [User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat](#).

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.

No

10. Have presence/probable absence (P/A) summer surveys^{[1][2]} been conducted^{[3][4]} **within** the suitable habitat located within your project action area?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] Presence/probable absence summer surveys conducted within the fall swarming/spring emergence home range of a documented Indiana bat hibernaculum (contact local Service Field Office for appropriate distance from hibernacula) that result in a negative finding requires additional consultation with the local Service Field Office to determine if clearing of forested habitat is appropriate and/or if seasonal clearing restrictions are needed to avoid and minimize potential adverse effects on fall swarming and spring emerging Indiana bats.

[3] For projects within the range of either the Indiana bat or NLEB in which suitable habitat is present, and no bat surveys have been conducted, the transportation agency will assume presence of the appropriate species. This assumption of presence should be based upon the presence of suitable habitat and the capability of bats to occupy it because of their mobility.

[4] Negative presence/probable absence survey results obtained using the [summer survey guidance](#) are valid for a minimum of two years from the completion of the survey unless new information (e.g., other nearby surveys) suggest otherwise.

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/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/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)?

Yes

16. Is there *any* suitable habitat^[1] for Indiana bat or NLEB **within** 1,000 feet of the bridge? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

[1] See the Service's current [summer survey guidance](#) for our current definitions of suitable habitat.

Yes

17. Has a bridge assessment^[1] been conducted **within** the last 24 months^[2] to determine if the bridge is being used by bats?

[1] See [User Guide Appendix D](#) for bridge/structure assessment guidance

[2] Assessments must be completed no more than 2 years prior to conducting any work below the deck surface on all bridges that meet the physical characteristics described in the Programmatic Consultation, regardless of whether assessments have been conducted in the past. Due to the transitory nature of bat use, a negative result in one year does not guarantee that bats will not use that bridge/structure in subsequent years.

Yes

SUBMITTED DOCUMENTS

- A3424_Jun_2022.pdf <https://ipac.ecosphere.fws.gov/project/HXZD6GROSS5BUPL4HNAHUZI4E4Q/projectDocuments/134940146>

18. Did the bridge assessment detect *any* signs of Indiana bats and/or NLEBs roosting in/under the bridge (bats, guano, etc.)^[1]?

[1] If bridge assessment detects signs of *any* species of bats, coordination with the local FWS office is needed to identify potential threatened or endangered bat species. Additional studies may be undertaken to try to identify which bat species may be utilizing the bridge prior to allowing *any* work to proceed.

Note: There is a small chance bridge assessments for bat occupancy do not detect bats. Should a small number of bats be observed roosting on a bridge just prior to or during construction, such that take is likely to occur or does occur in the form of harassment, injury or death, the PBO requires the action agency to report the take. Report all unanticipated take within 2 working days of the incident to the USFWS. Construction activities may continue without delay provided the take is reported to the USFWS and is limited to 5 bats per project.

No

19. Will the bridge removal, replacement, and/or maintenance activities include installing new or replacing existing **permanent** lighting?

No

20. 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

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

No

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

No

23. 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

24. Are *all* project activities that are **not associated with** habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives, limited to actions that DO NOT cause any additional stressors to the bat species?

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

Yes

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

No

26. Are the project activities that are not associated with habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives consistent with a No Effect determination in this key?

Automatically answered

Yes, other project activities are limited to actions that DO NOT cause any additional stressors to the bat species as described in the BA/BO

27. Is the bridge removal, replacement, or maintenance activities portion of this project consistent with a No Effect determination in this key?

Automatically answered

Yes, because the bridge has been assessed using the criteria documented in the BA and no signs of bats were detected

PROJECT QUESTIONNAIRE

1. Please enter the date of the bridge assessment:

06/20/2022

DETERMINATION KEY DESCRIPTION: FHWA, FRA, FTA PROGRAMMATIC CONSULTATION FOR TRANSPORTATION PROJECTS AFFECTING NLEB OR INDIANA BAT

This key was last updated in IPaC on October 30, 2023. 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 endangered **northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion \(dated March 23, 2023\) 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.

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Matthew Schrum

Address: 10324 I30

City: Little Rock

State: AR

Zip: 72209

Email: matthew.schrum@ardot.gov

Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration



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:

07/16/2024 17:45:13 UTC

Project Code: 2023-0007409

Project Name: 012494 - Specialized Bridge Scour Remediation (S) (A3424)

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 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 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:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.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/program/migratory-bird-permit/what-we-do>.

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/library/collections/threats-birds>.

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/partner/council-conservation-migratory-birds>.

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

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

Project Code: 2023-0007409

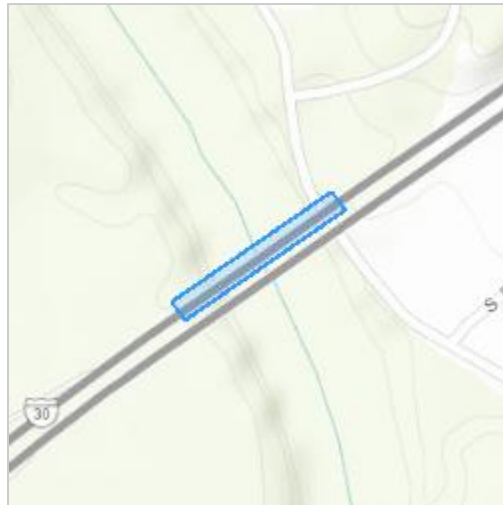
Project Name: 012494 - Specialized Bridge Scour Remediation (S) (A3424)

Project Type: Bridge - Maintenance

Project Description: This project proposes to repair bridge scour on A 3424 over the Ouachita River, I-30 Malvern.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@34.3900409,-92.83985154612806,14z>



Counties: Hot Spring County, Arkansas

ENDANGERED SPECIES ACT SPECIES

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

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions.

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.

-
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. This species only needs to be considered under the following conditions: <ul style="list-style-type: none"> ▪ This species only needs to be considered if the project includes wind turbine operations. 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
Rufa 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

CLAMS

NAME	STATUS
Arkansas Fatmucket <i>Lampsilis powellii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2213	Threatened
Ouachita Fanshell <i>Cyprogenia sp. cf. aberti</i> There is final critical habitat for this species. Your location does not overlap the critical habitat.	Threatened

NAME	STATUS
Species profile: https://ecos.fws.gov/ecp/species/10889	
Ouachita Rock Pocketbook <i>Arcidens wheeleri</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4509	Endangered
Pink Mucket (pearlymussel) <i>Lampsilis abrupta</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7829	Endangered
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5165	Threatened

INSECTS

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

FLOWERING PLANTS

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

CRITICAL HABITATS

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

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation
Name: Matthew Schrum
Address: 10324 I30
City: Little Rock
State: AR
Zip: 72209
Email: matthew.schrum@ardot.gov
Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

You have indicated that your project falls under or receives funding through the following special project authorities:

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)

From: [Lewis, Lindsey](#)
To: [Schrum, Matthew C.](#)
Subject: Re: [EXTERNAL] 012448 scour repair Fourche LaFave River Scott County
Date: Friday, December 8, 2023 7:03:26 AM

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Matt,

As stated in the Consistency Letter, the Service concurs with the "No Effect" and "may affect, and is not likely to adversely affect" determination(s) for the listed species identified. No further consultation for this project is required for these species. The verification letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

Based on the information you provided, you have determined that the Proposed Action is within the scope and adheres to the criteria of the PBO, including the adoption of applicable avoidance and minimization measures. At least one of the qualification interview questions indicated an activity or portion of your project is consistent with a not likely to adversely affect determination therefore, the overall determination for your project is, may affect, and is not likely to adversely affect the endangered Indiana bat (*Myotis sodalis*) and/or the endangered Northern Long-eared Bat (*Myotis septentrionalis*). Consultation with the Service pursuant to section 7(a)(2) of ESA (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) is required.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office to re-initiate consultation or re-evaluate the determination key(s) in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information/surveys reveal the action may affect listed species or designated critical habitat; or 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources are committed.

The Service has no additional comments or concerns and concurs with the determinations provided, justifications provided, non-jeopardy determinations, and concurrences made through the Arkansas Dkey and FHWA PBO Dkey.

Thanks,

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice

(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, December 4, 2023 5:01 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] 012448 scour repair Fourche LaFave River Scott County

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Lindsey,

ARDOT proposes to implement scour repair on pier 3 of bridge 03447 over the Fourche LaFave River along Hwy. 28 in Scott County, AR. The repair material will consist of riprap or a-jacks that will be moved from a staging area near the west end of the bridge via barge. The designs for this scour repair are included in the submittal 1 pdf included in a previous email.

The official species list obtained from the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation identified the following endangered and threatened species as potentially occurring within the project boundaries; the endangered Indiana Bat (*Myotis sodalis*), the endangered Northern Long-eared Bat (*Myotis septentrionalis*), the proposed endangered Tricolored Bat (*Perimyotis subflavus*), the threatened Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), the threatened Piping Plover (*Charadrius melodus*), the endangered Red-cockaded Woodpecker (*Picoides borealis*), the threatened Rufa Red Knot (*Calidris canutus rufa*), the proposed threatened Alligator Snapping Turtle (*Macrochelys temminckii*), the threatened American Burying Beetle (*Nicrophorus americanus*), the candidate Monarch butterfly (*Danaus plexippus*), and the endangered Harperella (*Ptilimnium nodosum*). See the attached USFWS Species List.

The " AFO Arkansas Multi-Species Determination Key" and "FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat" determination keys were evaluated for this job.

"No effect" determinations were given for American Burying Beetle and Eastern Black Rail.

"May affect, not likely to adversely affect" (NLAA) determinations were given for Indiana Bat, Northern Long-eared Bat, Piping Plover, Red-cockaded Woodpecker, and Rufa Red Knot.

We propose an NLAA determination for Tricolored Bat, was no suitable roosting habitat will be

removed. This action will not jeopardize the continued existence of Tricolored Bat and Alligator Snapping Turtle.

We propose an NLAA determination for Harperella due to a lack of suitable habitat, ie. rocky/gravelly shoals or cracks in bedrock outcrops beneath the water surface in clear swift-flowing streams. The areas that will be impacted by this project, deep water within proximity to the scour damaged pier and the staging area on the west bank of Fourche LaFave River do not represent suitable habitat. Additionally, the nearest occurrence record is approximately 4.7 miles ENE of the project area, 6.3 miles downstream on Fourche LaFave River (ANHC 2021). The nearest upstream occurrence record is approximately 16.3 miles upstream on Fourche LaFave River.

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

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, December 4, 2023 8:39 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 scour repair Fourche Creek western end

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Matt,

As stated in the Consistency Letter, the Service concurs with the "NLAA" determination(s) for the listed species identified. No further consultation for this project is required for these species. The verification letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA)."

The Service has received your concurrence verification letter and request to verify that the Proposed Action may rely on the concurrence provided. Based upon your IPaC submission and a standing analysis, your project has reached the determination of "No Effect" on the Northern Long-eared Bat. The Service agrees with your assessment and concurs with this

determination.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office to re-initiate consultation or re-evaluate the determination key(s) in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information/surveys reveal the action may affect listed species or designated critical habitat; or 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources are committed.

The Service has no additional comments or concerns and concurs with the determinations, justifications provided, conservation measures for Monarch Butterfly, non-jeopardy determinations, and concurrences made through the Arkansas Dkey and NLEB Dkey.

Thanks,

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Tuesday, November 28, 2023 3:33 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] 012448 scour repair Fourche Creek western end

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Lindsey,
ARDOT proposes to perform scour repair on piers WE-39 and WE-59 of bridge 5700B in the vicinity of the I30/440 interchange in Little Rock. The fill material, consisting of riprap and/or a-jacks, will be transported along existing work roads (that may require improvement) and will be moved into place

via barge or an excavator. Some material may be moved into place from atop the roadway deck when feasible. The designs for this work are contained in the submittal 3 document in a previous email.

The official species list obtained from the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation identified the following endangered and threatened species as potentially occurring within the project boundaries; the endangered Northern Long-eared Bat (*Myotis septentrionalis*), the proposed endangered Tricolored Bat (*Perimyotis subflavus*), the threatened Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), the threatened Piping Plover (*Charadrius melodus*), the threatened Red Knot (*Calidris canutus rufa*), the proposed threatened Alligator Snapping Turtle (*Macrochelys temminckii*), and the candidate Monarch butterfly (*Danaus plexippus*). See the attached USFWS species list.

The "AFO Arkansas Multi-Species Determination Key" and "Northern Long-eared Bat Rangewide Determination Key" were evaluated for this job.

A "no effect" determination was given for Northern Long-eared Bat.

"May affect, not likely to adversely affect" determinations were given for Eastern Black Rail, Piping Plover, Red Knot.

ARDOT has determined that this action will not jeopardize the continued existence of Tricolored Bat and Alligator Snapping Turtle.

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

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449

From: Lewis, Lindsey <lindsey_lewis@fws.gov>

Sent: Tuesday, November 28, 2023 9:24 AM

To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>

Subject: Re: [EXTERNAL] 012448 - scour remediation - Hwy. 64 bridge over the Illinois Bayou

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Matt,

As stated in the Consistency Letter, the Service concurs with the "No Effect" and "NLAA" determination(s) for the listed species identified. No further consultation for this project is required for these species. The verification letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA)."

The Service has received your concurrence verification letter and request to verify that the Proposed Action may rely on the concurrence provided in 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, you have determined that the Proposed Action will "not likely adversely affect" 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. If the Proposed Action is modified, or new information reveals that it may affect the Indiana Bat and/or Northern Long-eared Bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office to re-initiate consultation or re-evaluate the determination key(s) in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information/surveys reveal the action may affect listed species or designated critical habitat; a karst feature is encountered; or 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources are committed.

The Service has no additional comments or concerns and agrees with the determinations, contested "no effect" determination for Missouri Bladderpod, justifications provided, non-jeopardy determinations, Monarch Butterfly conservation measures, and concurrences made through the Arkansas Dkey and FHWA PBO Dkey.

Thanks,

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, November 27, 2023 4:04 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation - Hwy. 64 bridge over the Illinois Bayou

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, November 27, 2023 3:54 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
ARDOT proposes to repair scour at the Hwy. 64 bridge over the Illinois Bayou arm of Lake Dardanelle NW of Russellville in Pope County, AR. The designs are included in the submittal 2 pdf document attached in a previous email. Repair activities will include the placement of riprap and/or concrete A-jacks along the foundations of piers 5 and 6. These materials will be loaded onto a barge and moved into place from one of the two existing boat ramps at the western end of the bridge.

The official species list obtained from the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation identified the following endangered and threatened

species as potentially occurring within the project boundaries; the endangered Gray Bat (*Myotis grisescens*), the endangered Indiana Bat (*Myotis sodalis*), the endangered Northern Long-eared Bat (*Myotis septentrionalis*), the proposed endangered Tricolored Bat (*Perimyotis subflavus*), the threatened Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), the threatened Piping Plover (*Charadrius melodus*), the threatened Red Knot (*Calidris canutus rufa*), the proposed threatened Alligator Snapping Turtle (*Macrochelys temminckii*), the candidate Monarch butterfly (*Danaus plexippus*), and the threatened Missouri bladderpod (*Physaria filiformis*). See the attached USFWS species list.

The “AFO Arkansas Multi-Species Determination Key” and “FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat” determination keys were evaluated for this project. See the attached MA and NE consistency letters.

“No effect” determinations were given for Indiana Bat, Northern Long-eared Bat, Eastern Black Rail, Piping Plover, and Red Knot.

“May affect, not likely to adversely affect” (NLAA) determinations were given for Gray Bat and Missouri bladderpod.

ARDOT has determined that this action will not jeopardize the continued existence of Tricolored Bat and Alligator Snapping Turtle.

We contest the NLAA determination for Missouri bladderpod as there is no glade habitat within the project area. Additionally, the nearest occurrence record for this species is 45.3 miles S of the project area at Cedar Fourche Glades on Lake Ouachita (ANHC 2021). We propose a “no effect” determination.

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

If you need any additional information, please let me know.

-Matt

From: Schrum, Matthew C.
Sent: Tuesday, November 21, 2023 4:40 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

From: Schrum, Matthew C.
Sent: Tuesday, November 21, 2023 1:11 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

The 90% plans and a kmz of scour repair locations for 012448 are attached. The 3 separate submittal design documents cover all the scour repair locations. The South Fourche LaFave bridge repair was removed from this job. This email only covers the Ouachita River I30 bridge at Rockport, AR. The other sites will be covered by subsequent emails. Work at Rockport will include construction of a temporary ramp/work road (staging area) on the left descending bank between the two i30 bridges, and placement of riprap around the foundation of pier 3 on the westbound bridge. The repair materials will be moved by barge from the staging area to the repair area.

The official species list obtained from the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation identified the following endangered and threatened species as potentially occurring within the project boundaries; the endangered Indiana Bat (*Myotis sodalis*), the endangered Northern Long-eared Bat (*Myotis septentrionalis*), the proposed threatened Tricolored Bat (*Perimyotis subflavus*), the threatened Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), the threatened Piping Plover (*Charadrius melodus*), the threatened Red Knot (*Calidris canutus rufa*), the proposed threatened Alligator Snapping Turtle (*Macrochelys temminckii*), the threatened Arkansas Fatmucket (*Lampsilis powellii*), the threatened Ouachita Fanshell (*Cyprogenia sp. cf. aberti*), the endangered Ouachita Rock Pocketbook (*Arcidens wheeleri*), the endangered Pink Mucket (*Lampsilis abrupta*), the threatened Rabbitsfoot (*Theliderma cylindrica*), the candidate Monarch butterfly (*Danaus plexippus*), and the threatened Missouri bladderpod (*Physaria filiformis*). See the attached USFWS species list.

ARDOT conducted a mussel survey October 18, 19, and 23 2023. No federally endangered or threatened mussels were found. See the attached mussel survey report.

The "AFO Arkansas Multi-Species Determination Key" and "FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat" determination keys were evaluated for this project. See the attached MA and NE consistency letters.

"No effect" determinations were given for Indiana Bat, Northern Long-eared Bat, and Eastern Black Rail.

"May affect, not likely to adversely affect" (NLAA) determinations were given for Piping Plover, Red Knot, Arkansas Fatmucket, Ouachita Rock Pocketbook, Pink Mucket, Rabbitsfoot, and Missouri bladderpod.

ARDOT has determined that this action will not jeopardize the continued existence of Tricolored Bat and Alligator Snapping Turtle.

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

We contest the NLAA determination for Missouri bladderpod, as there is no glade habitat within the project area. Additionally, the nearest occurrence record is approximately 13.5 miles W of the project area at Ross Foundation Glades (ANHC 2021). We propose a “no effect” determination.

If you need any additional information, please let me know.

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449

From: Schrum, Matthew C.
Sent: Tuesday, November 21, 2023 11:47 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
I planned on submitting the concurrence requests for these scour repairs in 7 separate emails based on location (some requests will be multiple bridges in close proximity to one another). Four of them required mussel surveys, and one (the Ouachita at Camden) I’m still working on the report and it’ll be an LAA. Will there be multiple concurrence letters for this job?
-Matt

From: Schrum, Matthew C.
Sent: Tuesday, November 7, 2023 10:39 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
You are correct. Sorry for the oversight. The revised report is attached.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Tuesday, November 7, 2023 8:55 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Matt,

FYI, the lat/long on this report looks to be for the S. Fourche instead of the L. Missouri.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Wednesday, October 18, 2023 4:20 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
Attached is the mussel survey report for the Little Missouri at Hwy. 53. If you need anything else, let me know.
-Matt

From: Schrum, Matthew C.
Sent: Tuesday, October 17, 2023 9:42 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
We completed mussel surveys at the Hwy 79B/7 bridge on the Ouachita River at Camden yesterday, and found *Cyprogenia* sp. cf. *aberti*, *Lampsilis abrupta*, and *Quadrula fragosa*. A report is forthcoming.
-Matt

From: Schrum, Matthew C.
Sent: Monday, October 2, 2023 2:52 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, October 2, 2023 2:41 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>

Subject: Re: [EXTERNAL] 012448 - scour remediation

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What you said makes sense, but Chris says ESA requires you to have a BO first to do a relocation.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, October 2, 2023 2:26 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
We're planning on heading back to Camden tomorrow to perform the quantitative mussels surveys. Would it be appropriate to relocate T&Es outside of the area of impact tomorrow, in order to minimize take from handling the mussels multiple times (ie. a separate relocation effort) or does USFWS need to see the results of quantitative surveys before we proceed with relocation?
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, September 29, 2023 10:30 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Thanks Matt! Proceed.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, September 29, 2023 10:20 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
Please see the revised survey grid. This grid contains 27 m² quadrats. The quadrats are placed at a regular interval along the grid with 3 random starts (3 sets of 9) as described in Strayer and Smith 2003. This gives more even coverage of the bed than the previously submitted grid with completely random quadrat placement.

Even with the systematic quadrat placement, there are still only 2 quadrats within the fill placement area. We propose to spend additional time following quadrat surveys performing timed visual searches within the fill placement area in order to enumerate any mussels potentially occurring within this area.

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, September 29, 2023 8:17 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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BTW, I am now considered exempt from the furlough. So, let everyone there know, that it's

business as usual, except that I might not be able to get letters signed. Also, Chris just sent this:

"We're not only looking for rare species, but also trying to get an estimate of how many are there, particularly in the area of direct impact and areas in close proximity that might be more prone to adverse effects of fill placement.

I'm okay with their initial 25 randomly selected samples, but it only includes one quadrat in the fill placement area. I would like to see them increase their sampling effort within the fill placement area and the first cell downstream with additional random samples within those two areas. They also could follow up after pulling quadrats with additional timed searches within those two areas."

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, September 29, 2023 8:05 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, September 29, 2023 8:04 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Yes, but he is really busy with the shutdown planning and last minute priorities. I just sent him a reminder, so he should respond today if he can.

Lindsey Lewis

Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, September 29, 2023 7:54 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.

I guess Chris is looking at the quantitative survey plan for Camden?

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, September 29, 2023 7:51 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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No, you don't need to complete the qualitative.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Thursday, September 28, 2023 2:26 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

Also, I forgot to ask on the Little Missouri bridge, we found the *Cyprogenia* and *Lampsilis abrupta* while surveying cells 1, 2, and 3 on the downstream end of the site. We moved away from the bed to avoid disturbing it and finished cells 9-14. We left cells 4-8 unfinished because they overlapped the bed and left cells 15-16 (upstream of the bridge) unfinished because we ran out of time. Do you all want us to complete these qualitative searches?
-Matt

From: Schrum, Matthew C.
Sent: Thursday, September 28, 2023 8:18 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Cc: Seagraves, Josh H. <Josh.Seagraves@ardot.gov>; Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

Attached is a document containing the results of our qualitative survey at the Ouachita river at Camden for ARDOT Job 012448, and a proposal for quantitative surveys. Also attached are the USFWS species list and a kmz of the proposed survey design.
-Matt

From: Schrum, Matthew C.
Sent: Wednesday, September 27, 2023 12:03 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Cc: Seagraves, Josh H. <Josh.Seagraves@ardot.gov>; Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Awesome, thanks Lindsey.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Wednesday, September 27, 2023 12:02 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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No, you're good.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Wednesday, September 27, 2023 11:52 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
We found *Lampsilis abrupta* and *Cyprogenia* within the first 20 minutes (3 concurrent grid cells) of our surveys at Little MO yesterday. At that point we stopped doing the proposed 20-minute timed visual searches within the 16-cell grid. We switched to running transects to delineate the boundaries of the bed. Next, we performed timed visual searches with the 6 cells that overlapped the scour repair area in proximity to the bridge, that we determined did not overlap the bed. We did not complete the remaining 7 cells, as to avoid further disturbance to the bed.

Josh called Chris Davidson as we were leaving to inform him that 2 listed species were found and to ask for guidance as to how to proceed. Over the phone, Josh told Chris that he believed the upstream end of the bed was greater than 100' downstream of the area of impact (fill placement). Chris told Josh that we would be able to get to an NLAA without further surveys and/or mitigation if the impact was >100' from the edge of the bed. When I measured the distance on GIS today, it's actually about 92.5'. Does this discrepancy change our determination?

-Matt

From: Schrum, Matthew C.
Sent: Monday, September 25, 2023 6:11 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
Mickey, Josh and I started the survey for the Ouachita at Camden today (Hwys. 79B/7). We had proposed to survey 8 cells, but we found 3 *Cyprogenia* within the first cell. We decided to delineate the bed with transects rather than continuing qualitative surveys. A proposal for

quantitative surveys and relocation will be forthcoming.

We're planning on the Little Missouri at Hwy. 53 (south of Gurdon) tomorrow.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Wednesday, September 20, 2023 8:44 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Thanks Matt!

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Tuesday, September 19, 2023 3:28 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Cc: Matthews, Mickey W. <Mickey.Matthews@ardot.gov>; Seagraves, Josh H. <Josh.Seagraves@ardot.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
See the attached survey report for The South Fourche LaFave River Bridge over Shepherd Ford Rd. in Perry County. We did not find any listed mussels.
-Matt

From: Schrum, Matthew C.
Sent: Friday, July 21, 2023 10:31 AM
To: Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Subject: FW: [EXTERNAL] 012448 - scour remediation

Lindsey says we're still good to proceed with this survey plan.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, July 21, 2023 10:28 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Yes

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, July 21, 2023 10:24 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Cc: Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
We didn't end up doing these mussel surveys for the bridge scour repairs last year. Do we still have approval to carry forward with the previous survey plan?
-Matt

From: Schrum, Matthew C.
Sent: Friday, November 4, 2022 3:05 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, November 4, 2022 1:39 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation

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You are good to go. Please see Chris's email below.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Davidson, Chris <chris_davidson@fws.gov>
Sent: Friday, November 4, 2022 1:24 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

I concur with the survey methods.

Note - the proposed threatened western fanshell does not occur in the Ouachita River basin. It should be the proposed threatened "Ouachita" fanshell (*Cyprogenia cf aberti*).

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Wednesday, November 2, 2022 10:52 AM
To: Davidson, Chris <chris_davidson@fws.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation

Chris,

How does this look?

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Tuesday, November 1, 2022 3:48 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
I've attached a mussel survey proposal for 012448 – Statewide Scour Remediation P.E. (S). We're looking to get these surveys done by the end of November if possible. It's getting cold, lol.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, October 31, 2022 9:32 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation

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Matt,

Chris says that in his opinion, the cells are better for many reasons (more defensible, better coverage, better site-specific data within survey reach, etc.).

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax

Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Davidson, Chris <chris_davidson@fws.gov>
Sent: Monday, October 31, 2022 9:29 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

In my opinion, the cells are better for many reasons (more defensible, better coverage, better site-specific data within survey reach, etc.).

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, October 31, 2022 9:03 AM
To: Davidson, Chris <chris_davidson@fws.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation

Chris,

ARDOT is asking if they can do their traditional timed visual searches within a polygon 100' upstream 300' downstream 30' lateral to each impact zone, or would they need to divide it into cells with discrete search times like the 101131 Current River survey?

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, October 31, 2022 8:15 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Could we propose doing our traditional timed visual searches within a polygon 100' upstream 300' downstream 30' lateral to each impact zone, or would we need to divide it into cells with

discrete search times like the 101131 Current River survey?
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, October 28, 2022 4:41 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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The kmz is sufficient.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

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(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, October 28, 2022 3:30 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Would this KMZ be sufficient to base a survey plan off of, or would you need to see detailed plans in order to sign off and give concurrence?
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, October 28, 2022 3:21 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Hey Matt,

I asked Chris about this and here is what he had to say.

“This activity is similar to placing riprap on banks. We've been recommending 100' upstream, 30' lateral, and 300' downstream buffers. To be consistent, we should treat this activity with similar survey buffers.”

Lindsey

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Wednesday, October 26, 2022 8:29:32 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

I've attached a KMZ of the bridges that will require scour repair for ARDOT Job 012448. IPaC identified T&E mussels on the species lists for the following bridges;

- 23131 – South Fourche LaFave @ Shepherds Ford Rd., Perry County
- 03476 – Little Missouri River @ AR-53, Clark & Nevada Counties
- 020466 – Ouachita River @ US-79, Camden, Ouachita County
- A3424 – Ouachita River @ I-30, Hot Spring County

The KMZ shows the bridge locations, and a red and a yellow polygon. The yellow polygon represents a conservative approximation of the area where clean riprap will be placed. The red polygon represents the loading area required to fill barges with riprap. I've been told that each of these repairs will be made by barge, and that in-stream work roads will not be required. Will this KMZ be enough to base mussel survey plans on, or will a more detailed pdf of designs be required?

Also, based on these designs, will a localized search within the areas of fill and areas adjacent to barge loading be sufficient?

-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, September 19, 2022 8:53 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Matt,

I am assuming that there will be placement of rock or some other fill being placed in the streams around the scour holes/piers. If that is the case, then there would need to be surveys of the fill area at minimal if it is just stone fill. If there is other material being placed in the stream for the scour holes and/or an access road into the stream that could result in downstream sedimentation, then there would need to be additional area surveyed downstream.

It really depends on the expected extent of the effect for determining whether take is reasonably certain to occur because of species presence in the action area, exposure to stressors caused by the proposed action, and/or the response to such exposure corresponds to a form of take.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, September 19, 2022 8:23 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] 012448 - scour remediation

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Lindsey,
The results of the statewide underwater bridge inspection (012387) are starting to come in. The Department is contracting the designs for the scour repair under PE job 012448. The actual repair work will be broken out into a few different job numbers grouped by timing and type of repair work. Some of these jobs will likely require barges or work roads to deploy the repair material. So far, there are 3 locations with mussels on the species list. See the attached KMZ. Will these jobs require mussel surveys with the same level of effort as a bridge replacement? Program Management is wanting to start letting these jobs in January. Additional jobs may be forthcoming.

Matthew Schrum

Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449



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:
Project code: 2023-0036946
Project Name: 012448 - Statewide Scour Remediation (03447)

December 04, 2023

Subject: Consistency letter for '012448 - Statewide Scour Remediation (03447)' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear Matthew Schrum:

The U.S. Fish and Wildlife Service (Service) received on **December 04, 2023** your effect determination(s) for the '012448 - Statewide Scour Remediation (03447)' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed Action:

Species	Listing Status	Determination
American Burying Beetle (<i>Nicrophorus americanus</i>)	Threatened	No effect
Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	Threatened	No effect
Harperella (<i>Ptilimnium nodosum</i>)	Endangered	May affect
Indiana Bat (<i>Myotis sodalis</i>)	Endangered	May affect
Piping Plover (<i>Charadrius melodus</i>)	Threatened	NLAA
Red-cockaded Woodpecker (<i>Picoides borealis</i>)	Endangered	NLAA
Rufa Red Knot (<i>Calidris canutus rufa</i>)	Threatened	NLAA

Status

Consultation with the Service is not complete. Further consultation or coordination with the Arkansas Ecological Services Office is necessary for those species with a determination of "may affect" (MA) listed above. Please contact our office at 501-513-4470,

arkansas_es_clearance@fws.gov, or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

The Service concurs with the NLAA determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of the “No Effect” determinations. No further consultation for this project is required for these species. This letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

FHWA projects should not use the Arkansas Dkey for the Northern Long-eared Bat (NLEB) or Indiana Bat. Please complete the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat determination key. This key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened NLEB, which requires consultation with the Service under Section 7 of the ESA.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

This letter only covers the listed species in the above table. The following species may also occur in the Action area:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
- Monarch Butterfly *Danaus plexippus* Candidate
- Northern Long-eared Bat *Myotis septentrionalis* Endangered
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

If you determine your project may affect additional listed or proposed listed species not covered by the Arkansas ESFO DKey, please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact Arkansas ESFO to discuss methods to avoid or minimize potential adverse effects to those species. Candidate species are not afforded protection under the ESA; however, we recommend they be considered in project planning and that conservation measures be implemented to avoid or minimize impacts to individuals or their habitat as much as possible.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the Bald and Golden Eagle Protection Act may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. Activity specific guidelines begin on page 10 of the document. To access a copy of the National Bald Eagle Management Guidelines please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Guidance and Tools section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. To obtain an application form or contact information for Regional Migratory Bird Permit Offices please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Permits section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

012448 - Statewide Scour Remediation (03447)

2. Description

The following description was provided for the project '012448 - Statewide Scour Remediation (03447)':

This project proposes to repair scour around bridge piers on 03447 over the fourche lafave river.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@34.7920633,-93.92129007137433,14z>



Species Protection Measures

Bridges and Culverts

<https://www.fws.gov/southeast/pdf/species-protective-measures/bridge-and-culvert-projects.pdf>

QUALIFICATION INTERVIEW

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Are you the the action agency or the designated non-federal representative?

Yes

4. Choose the agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

5. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

6. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

9. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

No

10. [Semantic] Does the project intersect the American burying beetle consultation area?

Automatically answered

Yes

11. Have you determined that the proposed action will have "no effect" on the American burying beetle? (If you are unsure select "No")

Yes

12. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?
Automatically answered
Yes
 13. [Semantic] Does the project intersect the Eastern black rail AOI?
Automatically answered
Yes
 14. Will the project take place in freshwater herbaceous wetlands and/or wet prairies?
No
 15. [Semantic] Does the project intersect the red knot AOI?
Automatically answered
Yes
 16. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Yes
 17. Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?
Yes
 18. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
 19. [Semantic (same answer as "8.3" or "9.9")] Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?
Automatically answered
Yes
 20. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
 21. [Semantic] Does the project intersect the interior least tern AOI?
Automatically answered
No
 22. [Semantic] Does the project intersect the Gray Bat AOI?
Automatically answered
No
 23. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?
Automatically answered
No
 24. [Semantic] Does the project intersect the Indiana bat AOI?
Automatically answered
Yes
-

25. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?
Automatically answered
No
26. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?
Automatically answered
No
27. [Semantic] Does the project intersect the Ozark cavefish AOI?
Automatically answered
No
28. [Semantic] Does the project intersect the Missouri bladderpod AOI?
Automatically answered
No
29. [Semantic] Does the project intersect the Geocarpon AOI?
Automatically answered
No
30. [Semantic] Does the project intersect the running buffalo clover AOI?
Automatically answered
No
31. [Semantic] Does the project intersect the Pondberry AOI?
Automatically answered
No
32. Does the project contain any of the following activity types: Dams or Impoundments (including berms or levees), Municipal or industrial effluent discharge, Mining, Mine reclamation, Disposal of mine wastewater or tailings, Construction of natural gas or oil well pads, Construction greater than 40 acres, Dredging or snag removal, Energy development within floodplain, or OHV trail construction or maintenance?
No
33. Does the project contain any of the following activity types: Boat Ramps, Bridges, Culverts, Residential or Commercial Development, Streambank Stabilization (or other streambank work), Pipeline and linear projects, Water intakes/withdrawals, Forest conversion within 100 ft of occupied streams, or Stream or ditch relocation, or straightening?
Yes
34. Does the project include Streambank Stabilization (or other streambank work)?
No
35. Does the project include Boat Ramps?
No
36. Does the project include Bridges and Culverts?
Yes
-

37. Does the project include the Bridges and Culverts species [protective measures](#), as applicable to the project and site characteristics?

Yes

38. Does the project include Development?

No

39. Is the project a Pipeline or Linear Project?

No

40. Does the project include Water Intakes/Withdrawals?

No

41. Does the project include Stream or Ditch Relocation, or Straightening?

No

42. [Semantic] Does the project intersect the rabbitsfoot AOI?

Automatically answered

No

43. [Semantic] Does the project intersect the neosho mucket AOI?

Automatically answered

No

44. [Semantic] Does the project intersect the Spectaclecase AOI?

Automatically answered

No

45. [Semantic] Does the project intersect the snuffbox AOI?

Automatically answered

No

46. [Semantic] Does the project intersect the speckled pocketbook AOI?

Automatically answered

No

47. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?

Automatically answered

No

48. [Semantic] Does the project intersect the fat pocketbook AOI?

Automatically answered

No

49. [Semantic] Does the project intersect the Curtis pearlymussel AOI?

Automatically answered

No

50. [Semantic] Does the project intersect the scaleshell AOI?

Automatically answered

No

51. [Semantic] Does the project intersect the pink mucket AOI?
Automatically answered
No
52. [Semantic] Does the project intersect the Arkansas fatmucket AOI?
Automatically answered
No
53. [Semantic] Does the project intersect the winged mapleleaf AOI?
Automatically answered
No
54. [Semantic] Does the project intersect the leopard darter AOI?
Automatically answered
No
55. [Semantic] Does the project intersect the Yellowcheek darter AOI?
Automatically answered
No
56. [Semantic] Does the project intersect the Ozark hellbender AOI?
Automatically answered
No
57. [Semantic] Does the project intersect the harperella AOI?
Automatically answered
Yes
58. [Semantic] Does the project intersect the Ouachita National Forest ?
Automatically answered
Yes
59. [Semantic] Does the project intersect the Harperella survey coordination area?
Automatically answered
Yes
60. Have you contacted the Arkansas Ecological Services Office to determine if a species or suitable habitat survey is recommended for this project?
No
61. [Semantic] Does the project intersect the pallid sturgeon AOI?
Automatically answered
No
62. [Semantic] Does the project intersect the interior least tern range?
Automatically answered
No
-

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Matthew Schrum

Address: 10324 I30

City: Little Rock

State: AR

Zip: 72209

Email: matthew.schrum@ardot.gov

Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration



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:
Project code: 2023-0036946
Project Name: 012448 - Statewide Scour Remediation (03447)

December 04, 2023

Subject: Concurrence verification letter for the '012448 - Statewide Scour Remediation (03447)' project under the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (NLEB).

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated December 04, 2023 to verify that the **012448 - Statewide Scour Remediation (03447)** (Proposed Action) may rely on the concurrence provided in the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) 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 is within the scope and adheres to the criteria of the PBO, including the adoption of applicable avoidance and minimization measures. **At least one of the qualification interview questions indicated an activity or portion of your project is consistent with a not likely to adversely affect determination therefore, the overall determination for your project is, may affect, and is not likely to adversely affect (NLAA) the endangered Indiana bat (*Myotis sodalis*) and/or the endangered northern long-eared bat (*Myotis septentrionalis*).** Consultation with the Service pursuant to section 7(a)(2) of ESA (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) is required.

The Service has 14 calendar days to notify the lead Federal action agency or designated non-federal representative if we determine that the Proposed Action does not meet the criteria for a NLAA determination under the PBO. If we do not notify the lead Federal action agency or designated non-federal representative within that timeframe, you may proceed with the Proposed Action under the terms of the NLAA concurrence provided in the PBO. This verification period allows Service Field Offices to apply local knowledge to implementation of the PBO, as we may identify a small subset of actions having impacts that were unanticipated. In such instances,

Service Field Offices may request additional information that is necessary to verify inclusion of the proposed action under the PBO.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities: If your initial bridge/culvert or structure assessment documented signs of bat use or occupancy, or an assessment failed to detect Indiana bats and/or NLEBs, yet are later detected prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of any potential take. In these instances, potential incidental take of Indiana bats and/or NLEBs is covered under the Incidental Take Statement in the 2018 FHWA, FRA, FTA PBO (provided that the take is reported to the Service).

If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities:

If your initial bridge/culvert or structure assessments failed to detect Indiana bats and/or NLEB use or occupancy, yet bats are later detected prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of the incident. In these instances, potential incidental take of Indiana bats and/or NLEBs 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 any 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 contact this Service Office.

The following species may occur in your project area and **are not** covered by this determination:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
 - American Burying Beetle *Nicrophorus americanus* Threatened
 - Eastern Black Rail *Laterallus jamaicensis ssp. jamaicensis* Threatened
 - Harperella *Ptilimnium nodosum* Endangered
 - Monarch Butterfly *Danaus plexippus* Candidate
 - Piping Plover *Charadrius melodus* Threatened
 - Red-cockaded Woodpecker *Picoides borealis* Endangered
 - Rufa Red Knot *Calidris canutus rufa* Threatened
 - Tricolored Bat *Perimyotis subflavus* Proposed Endangered
-

PROJECT DESCRIPTION

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

NAME

012448 - Statewide Scour Remediation (03447)

DESCRIPTION

This project proposes to repair scour around bridge piers on 03447 over the fourche lafave river.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@34.7920633,-93.92129007137433,14z>



DETERMINATION KEY RESULT

Based on your answers provided, this project(s) may affect, but is not likely to adversely affect the endangered Indiana bat and/or the endangered northern long-eared bat, therefore, 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. However, also based on your answers provided, this project may rely on the concurrence provided in the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

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?

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 [User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat](#).

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.

No

10. Have presence/probable absence (P/A) summer surveys^{[1][2]} been conducted^{[3][4]} **within** the suitable habitat located within your project action area?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] Presence/probable absence summer surveys conducted within the fall swarming/spring emergence home range of a documented Indiana bat hibernaculum (contact local Service Field Office for appropriate distance from hibernacula) that result in a negative finding requires additional consultation with the local Service Field Office to determine if clearing of forested habitat is appropriate and/or if seasonal clearing restrictions are needed to avoid and minimize potential adverse effects on fall swarming and spring emerging Indiana bats.

[3] For projects within the range of either the Indiana bat or NLEB in which suitable habitat is present, and no bat surveys have been conducted, the transportation agency will assume presence of the appropriate species. This assumption of presence should be based upon the presence of suitable habitat and the capability of bats to occupy it because of their mobility.

[4] Negative presence/probable absence survey results obtained using the [summer survey guidance](#) are valid for a minimum of two years from the completion of the survey unless new information (e.g., other nearby surveys) suggest otherwise.

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/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/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)?

Yes

16. Is there *any* suitable habitat^[1] for Indiana bat or NLEB **within** 1,000 feet of the bridge? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

[1] See the Service's current [summer survey guidance](#) for our current definitions of suitable habitat.

Yes

17. Has a bridge assessment^[1] been conducted **within** the last 24 months^[2] to determine if the bridge is being used by bats?

[1] See [User Guide Appendix D](#) for bridge/structure assessment guidance

[2] Assessments must be completed no more than 2 years prior to conducting any work below the deck surface on all bridges that meet the physical characteristics described in the Programmatic Consultation, regardless of whether assessments have been conducted in the past. Due to the transitory nature of bat use, a negative result in one year does not guarantee that bats will not use that bridge/structure in subsequent years.

Yes

SUBMITTED DOCUMENTS

- 03447_Apr_2022.pdf <https://ipac.ecosphere.fws.gov/project/WT5HAQI3GJAZXPRULJPYFF6WEY/projectDocuments/135420784>

18. Did the bridge assessment detect *any* signs of Indiana bats and/or NLEBs roosting in/under the bridge (bats, guano, etc.)^[1]?

[1] If bridge assessment detects signs of *any* species of bats, coordination with the local FWS office is needed to identify potential threatened or endangered bat species. Additional studies may be undertaken to try to identify which bat species may be utilizing the bridge prior to allowing *any* work to proceed.

Note: There is a small chance bridge assessments for bat occupancy do not detect bats. Should a small number of bats be observed roosting on a bridge just prior to or during construction, such that take is likely to occur or does occur in the form of harassment, injury or death, the PBO requires the action agency to report the take. Report all unanticipated take within 2 working days of the incident to the USFWS. Construction activities may continue without delay provided the take is reported to the USFWS and is limited to 5 bats per project.

No

19. Will the bridge removal, replacement, and/or maintenance activities include installing new or replacing existing **permanent** lighting?

No

20. 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

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

Yes

22. Is there *any* suitable habitat **within** 1,000 feet of the location(s) where **temporary** lighting will be used?

Yes

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

No

24. 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?

Yes

25. Will the activities that use percussives (**not including tree removal/trimming or bridge/structure work**) and/or increase noise levels above existing traffic/background levels be conducted *during* the active season^[1]?

[1] Coordinate with the local Service Field Office for appropriate dates.

Yes

26. Will *any* activities that use percussives (**not including tree removal/trimming or bridge/structure work**) and/or increase noise levels above existing traffic/background levels be conducted *during* the inactive season^[1]?

[1] Coordinate with the local Service Field Office for appropriate dates.

Yes

27. Are *all* project activities that are **not associated with** habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives, limited to actions that DO NOT cause any additional stressors to the bat species?

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

Yes

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

No

29. Are the project activities that use percussives (not including tree removal/trimming or bridge/structure work) consistent with a Not Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because the activities are within 300 feet of the existing road/rail surface, greater than 0.5 miles from a hibernacula, and conducted during the active season within undocumented habitat.

30. Are the project activities that use percussives (not including tree removal/trimming or bridge/structure work) and/or increase noise levels above existing traffic/background levels consistent with a No Effect determination in this key?

Automatically answered

Yes, because the activities are within 300 feet of the existing road/rail surface, greater than 0.5 miles from a hibernacula, and conducted during the inactive season

31. Is the bridge removal, replacement, or maintenance activities portion of this project consistent with a No Effect determination in this key?

Automatically answered

Yes, because the bridge has been assessed using the criteria documented in the BA and no signs of bats were detected

32. **General AMM 1**

Will the project ensure *all* operators, employees, and contractors working in areas of known or presumed bat habitat are aware of *all* FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable Avoidance and Minimization Measures?

Yes

33. **Lighting AMM 1**

Will *all* **temporary** lighting be directed away from suitable habitat during the active season?

Yes

PROJECT QUESTIONNAIRE

1. Have you made a No Effect determination for *all* other species indicated on the FWS IPaC generated species list?

No

2. Have you made a May Affect determination for *any* other species on the FWS IPaC generated species list?

Yes

3. Please describe the proposed bridge work:

scour repair, rip rap and/or a-jacks will be moved via barge from a staging area on the west bank to the scoured area of pier 3.

4. Please state the timing of all proposed bridge work:

work will likely take place during summer 2024

5. Please enter the date of the bridge assessment:

04/25/2022

AVOIDANCE AND MINIMIZATION MEASURES (AMMS)

This determination key result includes the commitment to implement the following Avoidance and Minimization Measures (AMMs):

LIGHTING AMM 1

Direct temporary lighting away from suitable habitat during the active season.

GENERAL AMM 1

Ensure all operators, employees, and contractors working in areas of known or presumed bat habitat are aware of all FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable AMMs.

DETERMINATION KEY DESCRIPTION: FHWA, FRA, FTA PROGRAMMATIC CONSULTATION FOR TRANSPORTATION PROJECTS AFFECTING NLEB OR INDIANA BAT

This key was last updated in IPaC on October 30, 2023. 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 endangered **northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion \(dated March 23, 2023\) 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.

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Matthew Schrum

Address: 10324 I30

City: Little Rock

State: AR

Zip: 72209

Email: matthew.schrum@ardot.gov

Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration



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:

07/12/2024 17:22:50 UTC

Project Code: 2023-0036946

Project Name: 012494 - Statewide Bridge Scour Remediation (S) (03447 Fourche LaFave)

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 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 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:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.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/program/migratory-bird-permit/what-we-do>.

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/library/collections/threats-birds>.

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/partner/council-conservation-migratory-birds>.

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

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

Project Code: 2023-0036946

Project Name: 012494 - Statewide Bridge Scour Remediation (S) (03447 Fourche LaFave)

Project Type: Bridge - Maintenance

Project Description: This project proposes to repair scour around bridge piers on 03447 over the fourche lafave river.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@34.7920633,-93.92129007137433,14z>



Counties: Scott County, Arkansas

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.

-
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

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-cockaded Woodpecker <i>Picoides borealis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7614	Endangered
Rufa 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
Harperella <i>Ptilimnium nodosum</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/3739	Endangered

CRITICAL HABITATS

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

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation
Name: Matthew Schrum
Address: 10324 I30
City: Little Rock
State: AR
Zip: 72209
Email: matthew.schrum@ardot.gov
Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

You have indicated that your project falls under or receives funding through the following special project authorities:

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Arkansas Ecological Service Field Office
110 South Amity Road, Suite 300
Conway, Arkansas 72032



November 27, 2023

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

Consultation Code: 2023-0007411

Dear Mr. Fleming:

The U.S. Fish and Wildlife Service (Service) reviewed your November 21, 2023, request, assessment, and determinations for Arkansas Department of Transportation (ArDOT) Job 012448 - HWY 53 Bridge Scour Remediation in Nevada and Clark counties, Arkansas. This project covers the repair scour at the Highway 53 Little Missouri River bridge which will include the placement of riprap and/or concrete A-jacks along the foundation of Pier 3 and along the foundation of Pier 4 extending up onto the left descending bank toward the east abutment. These materials will be loaded onto a barge at the existing AGFC boat ramp and moved into place.

As stated in the Consistency Letter, the Service concurs with the “No Effect” and “not likely to adversely affect” (NLAA) determinations for the listed species identified. No further consultation for this project is required for these species. The verification letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA)(87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

The Service received your concurrence verification letter and request to verify that the Proposed Action may rely on the concurrence provided in 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, ArDOT determined that the Proposed Action will have "No Effect" on the Indiana Bat (*Myotis sodalis*) or Northern Long-eared Bat (*Myotis septentrionalis*). If the Proposed Action is not modified, no consultation is required for these two species. If the Proposed Action is modified, or new information reveals that it may affect the Indiana Bat and/or Northern Long-eared Bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required.

On September 26, 2023 ARDOT conducted a mussel survey and found single specimens of Pink Mucket (*Lampsilis abrupta*) and Ouachita Fanshell (*Cyprogenia sp. cf. aberti*). The specimen locations and mussel bed was found to taper off approximately 92.5' downstream of the proposed fill placement area. Due to the distance from the placement of the fill, the temporary impacts of fill placement, and the inclusion of water pollution control special provisions on the job contract, ARDOT made a determination of "may affect, not likely to adversely affect" for these two species and critical habitat for Ouachita Fanshell. The Service concurs with the NLAA determination for both species and critical habitat for Ouachita Fanshell. Furthermore, the Service concurs with your non-jeopardy determinations for Tricolored Bat and Alligator Snapping Turtle.

The Monarch Butterfly is a candidate species, and as such, is not federally protected under the ESA. However, the Service recommends agencies implement conservation measures for candidate species in action areas, as these are species by definition that may warrant future protection under the ESA. In accordance with the 2020 Voluntary Prelisting Species Conservation Program (VPL Program), ArDOT will plant and maintain native wildflowers after construction as a conservation measure. The Service appreciates and supports this voluntary conservation action.

In summary, the Service has no additional comments or concerns, concurs with your determinations, and agrees with the assessments made by ARDOT for this action. The Service recommends that your agency contact the Arkansas Ecological Services Field Office to re-initiate consultation or re-evaluate the determination key(s) in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information/surveys reveal the action may affect listed species, or designated critical habitat; or 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources are committed.

For further assistance or if you have any questions, please contact Lindsey Lewis at (501) 513-4489 or lindsey_lewis@fws.gov.

Sincerely,

Chris Davidson
Acting Field Supervisor

cc: Project File
Read File

Filename: <https://doimsp->

[my.sharepoint.com/personal/lindsey_lewis_fws_gov/Documents/Documents/PROJECTS/FY2024/ARDO T/ARDOT Job 012448 - HWY 53 Bridge Scour Remediation/20231127_Ltr_Concurrence_ARDOT Job 012448_LCL.docx](https://doimsp-my.sharepoint.com/personal/lindsey_lewis_fws_gov/Documents/Documents/PROJECTS/FY2024/ARDO%20T/ARDOT%20Job%20012448%20-%20HWY%2053%20Bridge%20Scour%20Remediation/20231127_Ltr_Concurrence_ARDOT%20Job%20012448_LCL.docx)



United States Department of the Interior



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

In Reply Refer To:
Project code: 2023-0007411
Project Name: 012448 - Statewide Scour Remediation (03476)

November 21, 2023

Subject: Consistency letter for '012448 - Statewide Scour Remediation (03476)' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear Matthew Schrum:

The U.S. Fish and Wildlife Service (Service) received on **November 21, 2023** your effect determination(s) for the '012448 - Statewide Scour Remediation (03476)' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed Action:

Species	Listing Status	Determination
Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	Threatened	No effect
Indiana Bat (<i>Myotis sodalis</i>)	Endangered	May affect
Ouachita Rock Pocketbook (<i>Arcidens wheeleri</i>)	Endangered	NLAA
Pink Mucket (pearly mussel) (<i>Lampsilis abrupta</i>)	Endangered	NLAA
Piping Plover (<i>Charadrius melodus</i>)	Threatened	NLAA
Rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>)	Threatened	NLAA
Red-cockaded Woodpecker (<i>Picoides borealis</i>)	Endangered	NLAA
Rufa Red Knot (<i>Calidris canutus rufa</i>)	Threatened	NLAA
Winged Mapleleaf (<i>Quadrula fragosa</i>)	Endangered	NLAA

Status

Consultation with the Service is not complete. Further consultation or coordination with the Arkansas Ecological Services Office is necessary for those species with a determination of “may affect” (MA) listed above. Please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

The Service concurs with the NLAA determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of the “No Effect” determinations. No further consultation for this project is required for these species. This letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

FHWA projects should not use the Arkansas Dkey for the Northern Long-eared Bat (NLEB) or Indiana Bat. Please complete the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat determination key. This key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened NLEB, which requires consultation with the Service under Section 7 of the ESA.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

This letter only covers the listed species in the above table. The following species may also occur in the Action area:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
- Monarch Butterfly *Danaus plexippus* Candidate
- Northern Long-eared Bat *Myotis septentrionalis* Endangered
- Ouachita Fanshell *Cyprogenia sp. cf. aberti* Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

If you determine your project may affect additional listed or proposed listed species not covered by the Arkansas ESFO DKey, please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact Arkansas ESFO to discuss methods to avoid or minimize potential adverse effects to those species. Candidate species are not afforded protection under the ESA; however, we recommend they be considered in project planning and that conservation measures be implemented to avoid or minimize impacts to individuals or their habitat as much as possible.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the Bald and Golden Eagle Protection Act may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. Activity specific guidelines begin on page 10 of the document. To access a copy of the National Bald Eagle Management Guidelines please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Guidance and Tools section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. To obtain an application form or contact information for Regional Migratory Bird Permit Offices please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Permits section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

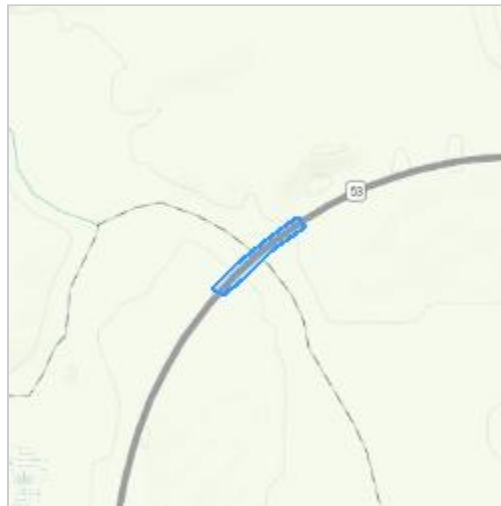
012448 - Statewide Scour Remediation (03476)

2. Description

The following description was provided for the project '012448 - Statewide Scour Remediation (03476)':

This project proposes to repair bridge scour on 03476 over Little Missouri River Hwy. 53 west of Whelen Springs

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@33.8153376,-93.13986127352948,14z>



Species Protection Measures

Streambank Stabilization

<https://www.fws.gov/southeast/pdf/species-protective-measures/streambank-stabilization-projects.pdf>

Boat Ramp

<https://www.fws.gov/southeast/pdf/species-protective-measures/boat-ramp-projects.pdf>

Bridges and Culverts

<https://www.fws.gov/southeast/pdf/species-protective-measures/bridge-and-culvert-projects.pdf>

QUALIFICATION INTERVIEW

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Are you the the action agency or the designated non-federal representative?

Yes

4. Choose the agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

5. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

6. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

9. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

No

10. [Semantic] Does the project intersect the American burying beetle consultation area?

Automatically answered

No

11. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?

Automatically answered

Yes

12. [Semantic] Does the project intersect the Eastern black rail AOI?
Automatically answered
Yes
 13. Will the project take place in freshwater herbaceous wetlands and/or wet prairies?
No
 14. [Semantic] Does the project intersect the red knot AOI?
Automatically answered
Yes
 15. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
Yes
 16. Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?
Yes
 17. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
 18. [Semantic (same answer as "8.3" or "9.9")] Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?
Automatically answered
Yes
 19. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
 20. [Semantic] Does the project intersect the interior least tern AOI?
Automatically answered
No
 21. [Semantic] Does the project intersect the Gray Bat AOI?
Automatically answered
No
 22. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?
Automatically answered
No
 23. [Semantic] Does the project intersect the Indiana bat AOI?
Automatically answered
Yes
 24. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?
Automatically answered
No
-

25. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?
Automatically answered
No
26. [Semantic] Does the project intersect the Ozark cavefish AOI?
Automatically answered
No
27. [Semantic] Does the project intersect the Missouri bladderpod AOI?
Automatically answered
No
28. [Semantic] Does the project intersect the Geocarpon AOI?
Automatically answered
No
29. [Semantic] Does the project intersect the running buffalo clover AOI?
Automatically answered
No
30. [Semantic] Does the project intersect the Pondberry AOI?
Automatically answered
No
31. Does the project contain any of the following activity types: Dams or Impoundments (including berms or levees), Municipal or industrial effluent discharge, Mining, Mine reclamation, Disposal of mine wastewater or tailings, Construction of natural gas or oil well pads, Construction greater than 40 acres, Dredging or snag removal, Energy development within floodplain, or OHV trail construction or maintenance?
No
32. Does the project contain any of the following activity types: Boat Ramps, Bridges, Culverts, Residential or Commercial Development, Streambank Stabilization (or other streambank work), Pipeline and linear projects, Water intakes/withdrawals, Forest conversion within 100 ft of occupied streams, or Stream or ditch relocation, or straightening?
Yes
33. Does the project include Streambank Stabilization (or other streambank work)?
Yes
34. Does the project include the Streambank Stabilization species [protective measures](#), as applicable to the project and site characteristics?
Yes
35. Does the project include Boat Ramps?
Yes
36. Does the project include the Boat Ramp species [protective measures](#), as applicable to the project and site characteristics?
Yes
-

37. Does the project include Bridges and Culverts?

Yes

38. Does the project include the Bridges and Culverts species [protective measures](#), as applicable to the project and site characteristics?

Yes

39. Does the project include Development?

No

40. Is the project a Pipeline or Linear Project?

No

41. Does the project include Water Intakes/Withdrawals?

No

42. Does the project include Stream or Ditch Relocation, or Straightening?

No

43. [Semantic] Does the project intersect the rabbitsfoot AOI?

Automatically answered

Yes

44. [Semantic] Does the project intersect the Rabbitsfoot survey coordination area?

Automatically answered

No

45. [Semantic] Does the project intersect the neosho mucket AOI?

Automatically answered

No

46. [Semantic] Does the project intersect the Spectaclecase AOI?

Automatically answered

No

47. [Semantic] Does the project intersect the snuffbox AOI?

Automatically answered

No

48. [Semantic] Does the project intersect the speckled pocketbook AOI?

Automatically answered

No

49. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?

Automatically answered

Yes

50. [Semantic] Does the project intersect the Ouachita rock pocketbook survey coordination area?

Automatically answered

No

51. [Semantic] Does the project intersect the fat pocketbook AOI?
Automatically answered
No
52. [Semantic] Does the project intersect the Curtis pearlymussel AOI?
Automatically answered
No
53. [Semantic] Does the project intersect the scaleshell AOI?
Automatically answered
No
54. [Semantic] Does the project intersect the pink mucket AOI?
Automatically answered
Yes
55. [Semantic] Does the project intersect the Pink mucket survey coordination area?
Automatically answered
No
56. [Semantic] Does the project intersect the Arkansas fatmucket AOI?
Automatically answered
No
57. [Semantic] Does the project intersect the winged mapleleaf AOI?
Automatically answered
Yes
58. [Semantic] Does the project intersect the Winged mapleleaf survey coordination area?
Automatically answered
No
59. [Semantic] Does the project intersect the leopard darter AOI?
Automatically answered
No
60. [Semantic] Does the project intersect the Yellowcheek darter AOI?
Automatically answered
No
61. [Semantic] Does the project intersect the Ozark hellbender AOI?
Automatically answered
No
62. [Semantic] Does the project intersect the harperella AOI?
Automatically answered
No
63. [Semantic] Does the project intersect the pallid sturgeon AOI?
Automatically answered
No
-

64. [Semantic] Does the project intersect the interior least tern range?

Automatically answered

No

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Matthew Schrum

Address: 10324 I30

City: Little Rock

State: AR

Zip: 72209

Email: matthew.schrum@ardot.gov

Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration



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:

November 21, 2023

Project code: 2024-0018849

Project Name: 012448 - Statewide Scour Remediation (03476) - (BATS)

Subject: Consistency letter for the '012448 - Statewide Scour Remediation (03476) - (BATS)' project under the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (NLEB).

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated November 21, 2023 to verify that the **012448 - Statewide Scour Remediation (03476) - (BATS)** (Proposed Action) may rely on the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) 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 endangered northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, **no consultation is required for these two species**. If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA section 7(a)(2) may be required.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities:

If your initial bridge/culvert or structure assessment failed to detect Indiana bats and/or NLEBs use or occupancy, yet later detected prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of the incident. In these instances, potential incidental take of Indiana bats and/or NLEBs 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:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
 - Eastern Black Rail *Laterallus jamaicensis ssp. jamaicensis* Threatened
 - Monarch Butterfly *Danaus plexippus* Candidate
 - Ouachita Fanshell *Cyprogenia sp. cf. aberti* Threatened
 - Ouachita Rock Pocketbook *Arcidens wheeleri* Endangered
 - Pink Mucket (pearlymussel) *Lampsilis abrupta* Endangered
 - Piping Plover *Charadrius melodus* Threatened
 - Rabbitsfoot *Quadrula cylindrica cylindrica* Threatened
 - Red-cockaded Woodpecker *Picoides borealis* Endangered
 - Rufa Red Knot *Calidris canutus rufa* Threatened
 - Tricolored Bat *Perimyotis subflavus* Proposed Endangered
 - Winged Mapleleaf *Quadrula fragosa* Endangered
-

PROJECT DESCRIPTION

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

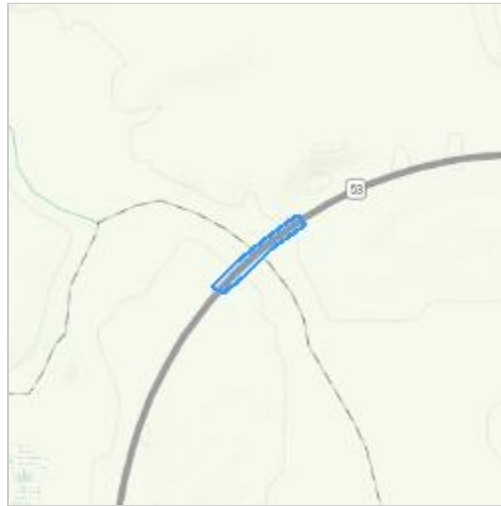
NAME

012448 - Statewide Scour Remediation (03476) - (BATS)

DESCRIPTION

This IPaC project is a copy for the purposes of evaluating the FHWA IBAT/NLEB PBO determination key.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@33.8153376,-93.13986127352948,14z>



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 endangered 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?

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 [User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat](#).

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.

No

10. Have presence/probable absence (P/A) summer surveys^{[1][2]} been conducted^{[3][4]} **within** the suitable habitat located within your project action area?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] Presence/probable absence summer surveys conducted within the fall swarming/spring emergence home range of a documented Indiana bat hibernaculum (contact local Service Field Office for appropriate distance from hibernacula) that result in a negative finding requires additional consultation with the local Service Field Office to determine if clearing of forested habitat is appropriate and/or if seasonal clearing restrictions are needed to avoid and minimize potential adverse effects on fall swarming and spring emerging Indiana bats.

[3] For projects within the range of either the Indiana bat or NLEB in which suitable habitat is present, and no bat surveys have been conducted, the transportation agency will assume presence of the appropriate species. This assumption of presence should be based upon the presence of suitable habitat and the capability of bats to occupy it because of their mobility.

[4] Negative presence/probable absence survey results obtained using the [summer survey guidance](#) are valid for a minimum of two years from the completion of the survey unless new information (e.g., other nearby surveys) suggest otherwise.

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/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/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)?

Yes

16. Is there *any* suitable habitat^[1] for Indiana bat or NLEB **within** 1,000 feet of the bridge? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

[1] See the Service's current [summer survey guidance](#) for our current definitions of suitable habitat.

Yes

17. Has a bridge assessment^[1] been conducted **within** the last 24 months^[2] to determine if the bridge is being used by bats?

[1] See [User Guide Appendix D](#) for bridge/structure assessment guidance

[2] Assessments must be completed no more than 2 years prior to conducting any work below the deck surface on all bridges that meet the physical characteristics described in the Programmatic Consultation, regardless of whether assessments have been conducted in the past. Due to the transitory nature of bat use, a negative result in one year does not guarantee that bats will not use that bridge/structure in subsequent years.

Yes

SUBMITTED DOCUMENTS

- *03476_Feb_2022.pdf* <https://ipac.ecosphere.fws.gov/project/PQPEUM7OWNGCTJQW2NTYM7D7BQ/projectDocuments/134963265>

18. Did the bridge assessment detect *any* signs of Indiana bats and/or NLEBs roosting in/under the bridge (bats, guano, etc.)^[1]?

[1] If bridge assessment detects signs of *any* species of bats, coordination with the local FWS office is needed to identify potential threatened or endangered bat species. Additional studies may be undertaken to try to identify which bat species may be utilizing the bridge prior to allowing *any* work to proceed.

Note: There is a small chance bridge assessments for bat occupancy do not detect bats. Should a small number of bats be observed roosting on a bridge just prior to or during construction, such that take is likely to occur or does occur in the form of harassment, injury or death, the PBO requires the action agency to report the take. Report all unanticipated take within 2 working days of the incident to the USFWS. Construction activities may continue without delay provided the take is reported to the USFWS and is limited to 5 bats per project.

No

19. Will the bridge removal, replacement, and/or maintenance activities include installing new or replacing existing **permanent** lighting?

No

20. 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

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

No

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

No

23. 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

24. Are *all* project activities that are **not associated with** habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives, limited to actions that DO NOT cause any additional stressors to the bat species?

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

Yes

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

No

26. Are the project activities that are not associated with habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives consistent with a No Effect determination in this key?

Automatically answered

Yes, other project activities are limited to actions that DO NOT cause any additional stressors to the bat species as described in the BA/BO

27. Is the bridge removal, replacement, or maintenance activities portion of this project consistent with a No Effect determination in this key?

Automatically answered

Yes, because the bridge has been assessed using the criteria documented in the BA and no signs of bats were detected

PROJECT QUESTIONNAIRE

1. Please enter the date of the bridge assessment:

02/22/2022

DETERMINATION KEY DESCRIPTION: FHWA, FRA, FTA PROGRAMMATIC CONSULTATION FOR TRANSPORTATION PROJECTS AFFECTING NLEB OR INDIANA BAT

This key was last updated in IPaC on October 30, 2023. 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 endangered **northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion \(dated March 23, 2023\) 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.

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation

Name: Matthew Schrum

Address: 10324 I30

City: Little Rock

State: AR

Zip: 72209

Email: matthew.schrum@ardot.gov

Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration



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:

07/16/2024 17:25:36 UTC

Project Code: 2023-0007411

Project Name: 012494 - Specialized Bridge Scour Remediation (03476)

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 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 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:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.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/program/migratory-bird-permit/what-we-do>.

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/library/collections/threats-birds>.

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/partner/council-conservation-migratory-birds>.

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

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

Project Code: 2023-0007411

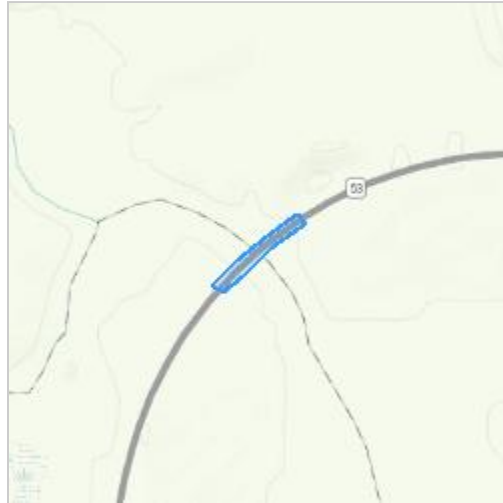
Project Name: 012494 - Specialized Bridge Scour Remediation (03476)

Project Type: Bridge - Maintenance

Project Description: This project proposes to repair bridge scour on 03476 over Little Missouri River Hwy. 53 west of Whelen Springs

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@33.8153298,-93.1398716284691,14z>



Counties: Clark and Nevada counties, Arkansas

ENDANGERED SPECIES ACT SPECIES

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

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

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

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

-
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-cockaded Woodpecker <i>Picoides borealis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7614	Endangered
Rufa 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

CLAMS

NAME	STATUS
Ouachita Fanshell <i>Cyprogenia sp. cf. aberti</i> There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/10889	Threatened

NAME	STATUS
Ouachita Rock Pocketbook <i>Arcidens wheeleri</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4509	Endangered
Pink Mucket (pearlymussel) <i>Lampsilis abrupta</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7829	Endangered
Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5165	Threatened
Winged Mapleleaf <i>Quadrula fragosa</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/4127	Endangered

INSECTS

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

CRITICAL HABITATS

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

NAME	STATUS
Ouachita Fanshell <i>Cyprogenia sp. cf. aberti</i> https://ecos.fws.gov/ecp/species/10889#crithab	Final

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation
Name: Matthew Schrum
Address: 10324 I30
City: Little Rock
State: AR
Zip: 72209
Email: matthew.schrum@ardot.gov
Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

You have indicated that your project falls under or receives funding through the following special project authorities:

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)

From: [Lewis, Lindsey](#)
To: [Schrum, Matthew C.](#)
Subject: Re: [EXTERNAL] 012448 - scour remediation - Hwy. 64 bridge over the Illinois Bayou
Date: Tuesday, November 28, 2023 9:24:19 AM

CAUTION: This email originated from outside of ARDOT. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Matt,

As stated in the Consistency Letter, the Service concurs with the "No Effect" and "NLAA" determination(s) for the listed species identified. No further consultation for this project is required for these species. The verification letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a) (2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA)."

The Service has received your concurrence verification letter and request to verify that the Proposed Action may rely on the concurrence provided in 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, you have determined that the Proposed Action will "not likely adversely affect" 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. If the Proposed Action is modified, or new information reveals that it may affect the Indiana Bat and/or Northern Long-eared Bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office to re-initiate consultation or re-evaluate the determination key(s) in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information/surveys reveal the action may affect listed species or designated critical habitat; a karst feature is encountered; or 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources are committed.

The Service has no additional comments or concerns and agrees with the determinations, contested "no effect" determination for Missouri Bladderpod, justifications provided, non-jeopardy determinations, Monarch Butterfly conservation measures, and concurrences made through the Arkansas Dkey and FHWA PBO Dkey.

Thanks,

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, November 27, 2023 4:04 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation - Hwy. 64 bridge over the Illinois Bayou

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, November 27, 2023 3:54 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
ARDOT proposes to repair scour at the Hwy. 64 bridge over the Illinois Bayou arm of Lake Dardanelle NW of Russellville in Pope County, AR. The designs are included in the submittal 2 pdf document attached in a previous email. Repair activities will include the placement of riprap and/or concrete

A-jacks along the foundations of piers 5 and 6. These materials will be loaded onto a barge and moved into place from one of the two existing boat ramps at the western end of the bridge.

The official species list obtained from the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation identified the following endangered and threatened species as potentially occurring within the project boundaries; the endangered Gray Bat (*Myotis grisescens*), the endangered Indiana Bat (*Myotis sodalis*), the endangered Northern Long-eared Bat (*Myotis septentrionalis*), the proposed endangered Tricolored Bat (*Perimyotis subflavus*), the threatened Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), the threatened Piping Plover (*Charadrius melodus*), the threatened Red Knot (*Calidris canutus rufa*), the proposed threatened Alligator Snapping Turtle (*Macrochelys temminckii*), the candidate Monarch butterfly (*Danaus plexippus*), and the threatened Missouri bladderpod (*Physaria filiformis*). See the attached USFWS species list.

The "AFO Arkansas Multi-Species Determination Key" and "FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat" determination keys were evaluated for this project. See the attached MA and NE consistency letters.

"No effect" determinations were given for Indiana Bat, Northern Long-eared Bat, Eastern Black Rail, Piping Plover, and Red Knot.

"May affect, not likely to adversely affect" (NLAA) determinations were given for Gray Bat and Missouri bladderpod.

ARDOT has determined that this action will not jeopardize the continued existence of Tricolored Bat and Alligator Snapping Turtle.

We contest the NLAA determination for Missouri bladderpod as there is no glade habitat within the project area. Additionally, the nearest occurrence record for this species is 45.3 miles S of the project area at Cedar Fourche Glades on Lake Ouachita (ANHC 2021). We propose a "no effect" determination.

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

If you need any additional information, please let me know.

-Matt

From: Schrum, Matthew C.

Sent: Tuesday, November 21, 2023 4:40 PM

To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

From: Schrum, Matthew C.
Sent: Tuesday, November 21, 2023 1:11 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

The 90% plans and a kmz of scour repair locations for 012448 are attached. The 3 separate submittal design documents cover all the scour repair locations. The South Fourche LaFave bridge repair was removed from this job. This email only covers the Ouachita River I30 bridge at Rockport, AR. The other sites will be covered by subsequent emails. Work at Rockport will include construction of a temporary ramp/work road (staging area) on the left descending bank between the two I30 bridges, and placement of riprap around the foundation of pier 3 on the westbound bridge. The repair materials will be moved by barge from the staging area to the repair area.

The official species list obtained from the US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation identified the following endangered and threatened species as potentially occurring within the project boundaries; the endangered Indiana Bat (*Myotis sodalis*), the endangered Northern Long-eared Bat (*Myotis septentrionalis*), the proposed threatened Tricolored Bat (*Perimyotis subflavus*), the threatened Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), the threatened Piping Plover (*Charadrius melodus*), the threatened Red Knot (*Calidris canutus rufa*), the proposed threatened Alligator Snapping Turtle (*Macrochelys temminckii*), the threatened Arkansas Fatmucket (*Lampsilis powellii*), the threatened Ouachita Fanshell (*Cyprogenia sp. cf. aberti*), the endangered Ouachita Rock Pocketbook (*Arcidens wheeleri*), the endangered Pink Mucket (*Lampsilis abrupta*), the threatened Rabbitsfoot (*Theliderma cylindrica*), the candidate Monarch butterfly (*Danaus plexippus*), and the threatened Missouri bladderpod (*Physaria filiformis*). See the attached USFWS species list.

ARDOT conducted a mussel survey October 18, 19, and 23 2023. No federally endangered or threatened mussels were found. See the attached mussel survey report.

The "AFO Arkansas Multi-Species Determination Key" and "FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat" determination keys were evaluated for this project. See the attached MA and NE consistency letters.

"No effect" determinations were given for Indiana Bat, Northern Long-eared Bat, and Eastern Black Rail.

"May affect, not likely to adversely affect" (NLAA) determinations were given for Piping Plover, Red Knot, Arkansas Fatmucket, Ouachita Rock Pocketbook, Pink Mucket, Rabbitsfoot, and Missouri bladderpod.

ARDOT has determined that this action will not jeopardize the continued existence of Tricolored Bat and Alligator Snapping Turtle.

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

We contest the NLAA determination for Missouri bladderpod, as there is no glade habitat within the project area. Additionally, the nearest occurrence record is approximately 13.5 miles W of the project area at Ross Foundation Glades (ANHC 2021). We propose a “no effect” determination.

If you need any additional information, please let me know.

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449

From: Schrum, Matthew C.
Sent: Tuesday, November 21, 2023 11:47 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
I planned on submitting the concurrence requests for these scour repairs in 7 separate emails based on location (some requests will be multiple bridges in close proximity to one another). Four of them required mussel surveys, and one (the Ouachita at Camden) I'm still working on the report and it'll be an LAA. Will there be multiple concurrence letters for this job?
-Matt

From: Schrum, Matthew C.
Sent: Tuesday, November 7, 2023 10:39 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
You are correct. Sorry for the oversight. The revised report is attached.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Tuesday, November 7, 2023 8:55 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Matt,

FYI, the lat/long on this report looks to be for the S. Fourche instead of the L. Missouri.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Wednesday, October 18, 2023 4:20 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
Attached is the mussel survey report for the Little Missouri at Hwy. 53. If you need anything else, let me know.
-Matt

From: Schrum, Matthew C.
Sent: Tuesday, October 17, 2023 9:42 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
We completed mussel surveys at the Hwy 79B/7 bridge on the Ouachita River at Camden yesterday,

and found *Cyprogenia* sp. cf. *aberti*, *Lampsilis abrupta*, and *Quadrula fragosa*. A report is forthcoming.

-Matt

From: Schrum, Matthew C.
Sent: Monday, October 2, 2023 2:52 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, October 2, 2023 2:41 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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What you said makes sense, but Chris says ESA requires you to have a BO first to do a relocation.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, October 2, 2023 2:26 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>

Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

We're planning on heading back to Camden tomorrow to perform the quantitative mussels surveys. Would it be appropriate to relocate T&Es outside of the area of impact tomorrow, in order to minimize take from handling the mussels multiple times (ie. a separate relocation effort) or does USFWS need to see the results of quantitative surveys before we proceed with relocation?

-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>

Sent: Friday, September 29, 2023 10:30 AM

To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>

Subject: Re: [EXTERNAL] 012448 - scour remediation

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Thanks Matt! Proceed.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice

(501) 513-4480 - fax

Lindsey_Lewis@fws.gov

<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>

Sent: Friday, September 29, 2023 10:20 AM

To: Lewis, Lindsey <lindsey_lewis@fws.gov>

Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

Please see the revised survey grid. This grid contains 27 m2 quadrats. The quadrats are placed at a regular interval along the grid with 3 random starts (3 sets of 9) as described in Strayer and Smith 2003. This gives more even coverage of the bed than the previously submitted grid with completely random quadrat placement.

Even with the systematic quadrat placement, there are still only 2 quadrats within the fill placement area. We propose to spend additional time following quadrat surveys performing timed visual searches within the fill placement area in order to enumerate any mussels potentially occurring within this area.

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, September 29, 2023 8:17 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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BTW, I am now considered exempt from the furlough. So, let everyone there know, that it's business as usual, except that I might not be able to get letters signed. Also, Chris just sent this:

"We're not only looking for rare species, but also trying to get an estimate of how many are there, particularly in the area of direct impact and areas in close proximity that might be more prone to adverse effects of fill placement.

I'm okay with their initial 25 randomly selected samples, but it only includes one quadrat in the fill placement area. I would like to see them increase their sampling effort within the fill placement area and the first cell downstream with additional random samples within those two areas. They also could follow up after pulling quadrats with additional timed searches within those two areas."

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice

(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, September 29, 2023 8:05 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, September 29, 2023 8:04 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Yes, but he is really busy with the shutdown planning and last minute priorities. I just sent him a reminder, so he should respond today if he can.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, September 29, 2023 7:54 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>

Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.

I guess Chris is looking at the quantitative survey plan for Camden?

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, September 29, 2023 7:51 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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No, you don't need to complete the qualitative.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Thursday, September 28, 2023 2:26 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

Also, I forgot to ask on the Little Missouri bridge, we found the *Cyprogenia* and *Lampsilis abrupta* while surveying cells 1, 2, and 3 on the downstream end of the site. We moved away from the bed to avoid disturbing it and finished cells 9-14. We left cells 4-8 unfinished because they overlapped the bed and left cells 15-16 (upstream of the bridge) unfinished because we ran out of time. Do you all want us to complete these qualitative searches?

-Matt

From: Schrum, Matthew C.
Sent: Thursday, September 28, 2023 8:18 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Cc: Seagraves, Josh H. <Josh.Seagraves@ardot.gov>; Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
Attached is a document containing the results of our qualitative survey at the Ouachita river at Camden for ARDOT Job 012448, and a proposal for quantitative surveys. Also attached are the USFWS species list and a kmz of the proposed survey design.
-Matt

From: Schrum, Matthew C.
Sent: Wednesday, September 27, 2023 12:03 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Cc: Seagraves, Josh H. <Josh.Seagraves@ardot.gov>; Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Awesome, thanks Lindsey.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Wednesday, September 27, 2023 12:02 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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No, you're good.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov

<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Wednesday, September 27, 2023 11:52 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

We found *Lampsilis abrupta* and *Cyprogenia* within the first 20 minutes (3 concurrent grid cells) of our surveys at Little MO yesterday. At that point we stopped doing the proposed 20-minute timed visual searches within the 16-cell grid. We switched to running transects to delineate the boundaries of the bed. Next, we performed timed visual searches with the 6 cells that overlapped the scour repair area in proximity to the bridge, that we determined did not overlap the bed. We did not complete the remaining 7 cells, as to avoid further disturbance to the bed.

Josh called Chris Davidson as we were leaving to inform him that 2 listed species were found and to ask for guidance as to how to proceed. Over the phone, Josh told Chris that he believed the upstream end of the bed was greater than 100' downstream of the area of impact (fill placement). Chris told Josh that we would be able to get to an NLAA without further surveys and/or mitigation if the impact was >100' from the edge of the bed. When I measured the distance on GIS today, it's actually about 92.5'. Does this discrepancy change our determination?

-Matt

From: Schrum, Matthew C.
Sent: Monday, September 25, 2023 6:11 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

Mickey, Josh and I started the survey for the Ouachita at Camden today (Hwys. 79B/7). We had proposed to survey 8 cells, but we found 3 *Cyprogenia* within the first cell. We decided to delineate the bed with transects rather than continuing qualitative surveys. A proposal for quantitative surveys and relocation will be forthcoming.

We're planning on the Little Missouri at Hwy. 53 (south of Gurdon) tomorrow.

-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Wednesday, September 20, 2023 8:44 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Thanks Matt!

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Tuesday, September 19, 2023 3:28 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Cc: Matthews, Mickey W. <Mickey.Matthews@ardot.gov>; Seagraves, Josh H. <Josh.Seagraves@ardot.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
See the attached survey report for The South Fourche LaFave River Bridge over Shepherd Ford Rd. in Perry County. We did not find any listed mussels.
-Matt

From: Schrum, Matthew C.
Sent: Friday, July 21, 2023 10:31 AM
To: Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Subject: FW: [EXTERNAL] 012448 - scour remediation

Lindsey says we're still good to proceed with this survey plan.
-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, July 21, 2023 10:28 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>

Subject: Re: [EXTERNAL] 012448 - scour remediation

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Yes

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, July 21, 2023 10:24 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Cc: Matthews, Mickey W. <Mickey.Matthews@ardot.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,
We didn't end up doing these mussel surveys for the bridge scour repairs last year. Do we still have approval to carry forward with the previous survey plan?
-Matt

From: Schrum, Matthew C.
Sent: Friday, November 4, 2022 3:05 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Thanks Lindsey.

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, November 4, 2022 1:39 PM

To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>

Subject: Fw: [EXTERNAL] 012448 - scour remediation

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You are good to go. Please see Chris's email below.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Davidson, Chris <chris_davidson@fws.gov>
Sent: Friday, November 4, 2022 1:24 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

I concur with the survey methods.

Note - the proposed threatened western fanshell does not occur in the Ouachita River basin. It should be the proposed threatened "Ouachita" fanshell (*Cyprogenia cf aberti*).

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Wednesday, November 2, 2022 10:52 AM
To: Davidson, Chris <chris_davidson@fws.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation

Chris,

How does this look?

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Tuesday, November 1, 2022 3:48 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

I've attached a mussel survey proposal for 012448 – Statewide Scour Remediation P.E. (S). We're looking to get these surveys done by the end of November if possible. It's getting cold, lol.

-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, October 31, 2022 9:32 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation

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Matt,

Chris says that in his opinion, the cells are better for many reasons (more defensible, better coverage, better site-specific data within survey reach, etc.).

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax

Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

From: Davidson, Chris <chris_davidson@fws.gov>
Sent: Monday, October 31, 2022 9:29 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

In my opinion, the cells are better for many reasons (more defensible, better coverage, better site-specific data within survey reach, etc.).

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, October 31, 2022 9:03 AM
To: Davidson, Chris <chris_davidson@fws.gov>
Subject: Fw: [EXTERNAL] 012448 - scour remediation

Chris,

ARDOT is asking if they can do their traditional timed visual searches within a polygon 100' upstream 300' downstream 30' lateral to each impact zone, or would they need to divide it into cells with discrete search times like the 101131 Current River survey?

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, October 31, 2022 8:15 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Could we propose doing our traditional timed visual searches within a polygon 100' upstream 300' downstream 30' lateral to each impact zone, or would we need to divide it into cells with discrete search times like the 101131 Current River survey?

-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, October 28, 2022 4:41 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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The kmz is sufficient.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
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Conway, Arkansas 72032

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(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

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From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Friday, October 28, 2022 3:30 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Would this KMZ be sufficient to base a survey plan off of, or would you need to see detailed plans in order to sign off and give concurrence?

-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Friday, October 28, 2022 3:21 PM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Hey Matt,

I asked Chris about this and here is what he had to say.

“This activity is similar to placing riprap on banks. We've been recommending 100' upstream, 30' lateral, and 300' downstream buffers. To be consistent, we should treat this activity with similar survey buffers.”

Lindsey

Get [Outlook for iOS](#)

From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Wednesday, October 26, 2022 8:29:32 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: RE: [EXTERNAL] 012448 - scour remediation

Lindsey,

I've attached a KMZ of the bridges that will require scour repair for ARDOT Job 012448. IPaC identified T&E mussels on the species lists for the following bridges;

- 23131 – South Fourche LaFave @ Shepherds Ford Rd., Perry County
- 03476 – Little Missouri River @ AR-53, Clark & Nevada Counties
- 020466 – Ouachita River @ US-79, Camden, Ouachita County
- A3424 – Ouachita River @ I-30, Hot Spring County

The KMZ shows the bridge locations, and a red and a yellow polygon. The yellow polygon represents a conservative approximation of the area where clean riprap will be placed. The red polygon represents the loading area required to fill barges with riprap. I've been told that each of these repairs will be made by barge, and that in-stream work roads will not be required. Will this KMZ be enough to base mussel survey plans on, or will a more detailed pdf of designs be required?

Also, based on these designs, will a localized search within the areas of fill and areas adjacent to barge loading be sufficient?

-Matt

From: Lewis, Lindsey <lindsey_lewis@fws.gov>
Sent: Monday, September 19, 2022 8:53 AM
To: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Subject: Re: [EXTERNAL] 012448 - scour remediation

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Matt,

I am assuming that there will be placement of rock or some other fill being placed in the streams around the scour holes/piers. If that is the case, then there would need to be surveys of the fill area at minimal if it is just stone fill. If there is other material being placed in the stream for the scour holes and/or an access road into the stream that could result in downstream sedimentation, then there would need to be additional area surveyed downstream.

It really depends on the expected extent of the effect for determining whether take is reasonably certain to occur because of species presence in the action area, exposure to stressors caused by the proposed action, and/or the response to such exposure corresponds to a form of take.

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
<http://www.fws.gov/arkansas-es/>

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

From: Schrum, Matthew C. <Matthew.Schrum@ardot.gov>
Sent: Monday, September 19, 2022 8:23 AM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] 012448 - scour remediation

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Lindsey,

The results of the statewide underwater bridge inspection (012387) are starting to come in. The Department is contracting the designs for the scour repair under PE job 012448. The actual repair work will be broken out into a few different job numbers grouped by timing and type of repair work. Some of these jobs will likely require barges or work roads to deploy the repair material. So far, there are 3 locations with mussels on the species list. See the attached KMZ. Will these jobs require mussel surveys with the same level of effort as a bridge replacement? Program Management is wanting to start letting these jobs in January. Additional jobs may be forthcoming.

Matthew Schrum
Aquatic Biologist
Environmental Division
Arkansas DOT
Office: (501) 569-2083
Cell: (573) 330-6449



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:
Project code: 2023-0041509
Project Name: 012448 - Statewide Scour Remediation (03643)
IPaC Record Locator: 555-121979539

February 03, 2023

Subject: Consistency letter for '012448 - Statewide Scour Remediation (03643)' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear Matthew Schrum:

The U.S. Fish and Wildlife Service (Service) received on **February 03, 2023** your effect determination(s) for the '012448 - Statewide Scour Remediation (03643)' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed Action:

Species	Listing Status	Determination
Eastern Black Rail (<i>Laterallus jamaicensis ssp. jamaicensis</i>)	Threatened	No effect
Gray Bat (<i>Myotis grisescens</i>)	Endangered	NLAA
Indiana Bat (<i>Myotis sodalis</i>)	Endangered	May affect
Missouri Bladderpod (<i>Physaria filiformis</i>)	Threatened	NLAA
Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	Threatened	May affect
Piping Plover (<i>Charadrius melodus</i>)	Threatened	No effect
Red Knot (<i>Calidris canutus rufa</i>)	Threatened	No effect

Status

Consultation with the Service is not complete. Further consultation or coordination with the Arkansas Ecological Services Office is necessary for those species with a determination of "may

affect” (MA) listed above. Please contact our office at 501-513-4470, arkansas_es_clearance@fws.gov, or your agency point of contact in the Arkansas Ecological Services Office to discuss methods to avoid or minimize potential adverse effects to those species.

The Service concurs with the NLAA determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of the “No Effect” determinations. No further consultation for this project is required for these species. This letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

FHWA projects should not use the Arkansas Dkey for the Northern Long-eared Bat (NLEB) or Indiana Bat. Please complete the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat determination key. This key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened NLEB, which requires consultation with the Service under Section 7 of the ESA.

The Service recommends that your agency contact the Arkansas Ecological Services Field Office or re-evaluate this key in IPaC if: 1) the scope, timing, duration, or location of the proposed project changes, 2) new information reveals the action may affect listed species or designated critical habitat; 3) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Arkansas Ecological Services Field Office should take place before project changes are final or resources committed.

Bald and Golden Eagle Protection Act: The following resources are provided to project proponents and consulting agencies as additional information. Bald and golden eagles are not included in this section 7(a)(2) consultation and this information does not constitute a determination of effects by the Service.

The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with Bald Eagles when and under what circumstances the protective provisions of the Bald and Golden Eagle Protection Act may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. Activity specific guidelines begin on page 10 of the document. To access a copy of the National Bald Eagle Management Guidelines please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Guidance and Tools section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. To obtain an application form or contact information for Regional Migratory Bird Permit Offices please visit the Service's Bald and Golden Eagle Management webpage and scroll down to the Permits section: <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

012448 - Statewide Scour Remediation (03643)

2. Description

The following description was provided for the project '012448 - Statewide Scour Remediation (03643)':

This project proposes to repair scour around the piers on bridge 030643 on Illinois Bayou near russellville.

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.31751515,-93.1847199513651,14z>



Species Protection Measures

Qualification Interview

1. Have you made an effects determination of "no effect" for all species in the area of the project? A "no effect" determination means the project will have no beneficial effect, no short-term adverse effects, and no long-term adverse effects on any of the species on the IPaC-generated species list for the proposed project or those species habitat. A project with effects that cannot be meaningfully measured, detected or evaluated, effects that are extremely unlikely to occur, or entirely beneficial effects should not have a "no effect" determination. (If unsure, select "No").

No

2. Is the action authorized, funded, or being carried out by a Federal agency?

Yes

3. Are you the the action agency or the designated non-federal representative?

Yes

4. Choose the agency you represent in this consultation with the U.S. Fish and Wildlife Service:

d. Federal Highway Administration

5. Will project proponents follow [Special Provisions for avoidance and minimization](#) measures for listed species in Arkansas?

Yes

6. [Semantic] Does the project intersect designated critical habitat for the Leopard Darter?

Automatically answered

No

7. [Semantic] Does the project intersect designated critical habitat for the Neosho Mucket?

Automatically answered

No

8. [Semantic] Does the project intersect designated critical habitat for Yellowcheek Darter?

Automatically answered

No

9. [Semantic] Does the project intersect designated critical habitat for Rabbitsfoot?

Automatically answered

No

10. [Semantic] Does the project intersect the American burying beetle consultation area?

Automatically answered

No

11. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?

Automatically answered

No

12. [Semantic] Does the project intersect the Eastern black rail AOI?
Automatically answered
Yes
 13. Will the project take place in freshwater herbaceous wetlands and/or wet prairies?
No
 14. [Semantic] Does the project intersect the red knot AOI?
Automatically answered
Yes
 15. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
No
 16. Does the project take place in marshy or flooded open field habitat?
No
 17. [Semantic] Does the project intersect the Piping Plover AOI?
Automatically answered
Yes
 18. [Semantic] Does the project intersect the Whooping Crane AOI?
Automatically answered
No
 19. [Semantic] Does the project intersect the interior least tern AOI?
Automatically answered
No
 20. [Semantic] Does the project intersect the Gray Bat AOI?
Automatically answered
Yes
 21. Does the project involve changes to an existing bridge or large culvert?
Yes
 22. Does the project involve changes to an existing bridge or large culvert?
Yes
 23. Were bats of any species noted on inspection?
No
 24. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?
Automatically answered
No
 25. [Semantic] Does the project intersect the Indiana bat AOI?
Automatically answered
Yes
 26. [Semantic] Does the project intersect the Northern Long-eared bat AOI?
Automatically answered
Yes
-

27. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?

Automatically answered

No

28. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?

Automatically answered

No

29. [Semantic] Does the project intersect the Ozark cavefish AOI?

Automatically answered

No

30. [Semantic] Does the project intersect the Missouri bladderpod AOI?

Automatically answered

Yes

31. [Semantic] Does the project intersect the Geocarpon AOI?

Automatically answered

No

32. [Semantic] Does the project intersect the running buffalo clover AOI?

Automatically answered

No

33. [Semantic] Does the project intersect the Pondberry AOI?

Automatically answered

No

IPaC User Contact Information

Agency: Arkansas Department of Transportation
Name: Matthew Schrum
Address: 10324 I30
City: Little Rock
State: AR
Zip: 72209
Email: matthew.schrum@ardot.gov
Phone: 5015692083

Lead Agency Contact Information

Lead Agency: Federal Highway Administration



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:

February 03, 2023

Project code: 2023-0041605

Project Name: 012448 - Statewide Scour Remediation (03643) - BATS

IPaC Record Locator: 333-121984420

Subject: Consistency letter for the '012448 - Statewide Scour Remediation (03643) - BATS' project 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 dated February 03, 2023 to verify that the **012448 - Statewide Scour Remediation (03643) - BATS** (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**. If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or Northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities: If your initial bridge/culvert or structure assessments failed to detect Indiana bats, but you later detect bats prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of the incident. In these instances, potential incidental take of 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:

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
 - Eastern Black Rail *Laterallus jamaicensis ssp. jamaicensis* Threatened
 - Gray Bat *Myotis grisescens* Endangered
 - Missouri Bladderpod *Physaria filiformis* Threatened
 - Monarch Butterfly *Danaus plexippus* Candidate
 - Piping Plover *Charadrius melodus* 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

012448 - Statewide Scour Remediation (03643) - BATS

Description

This IPaC project is a copy for the purposes of evaluating the IBAT/NLEB FHWA PBO determination key.

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?

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 [User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat](#).

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.

No

10. Have presence/probable absence (P/A) summer surveys^{[1][2]} been conducted^{[3][4]} **within** the suitable habitat located within your project action area?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] Presence/probable absence summer surveys conducted within the fall swarming/spring emergence home range of a documented Indiana bat hibernaculum (contact local Service Field Office for appropriate distance from hibernacula) that result in a negative finding requires additional consultation with the local Service Field Office to determine if clearing of forested habitat is appropriate and/or if seasonal clearing restrictions are needed to avoid and minimize potential adverse effects on fall swarming and spring emerging Indiana bats.

[3] For projects within the range of either the Indiana bat or NLEB in which suitable habitat is present, and no bat surveys have been conducted, the transportation agency will assume presence of the appropriate species. This assumption of presence should be based upon the presence of suitable habitat and the capability of bats to occupy it because of their mobility.

[4] Negative presence/probable absence survey results obtained using the [summer survey guidance](#) are valid for a minimum of two years from the completion of the survey unless new information (e.g., other nearby surveys) suggest otherwise.

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/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/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)?

Yes

16. Is there *any* suitable habitat^[1] for Indiana bat or NLEB **within** 1,000 feet of the bridge? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

[1] See the Service's current [summer survey guidance](#) for our current definitions of suitable habitat.

Yes

17. Has a bridge assessment^[1] been conducted **within** the last 24 months^[2] to determine if the bridge is being used by bats?

[1] See [User Guide Appendix D](#) for bridge/structure assessment guidance

[2] Assessments must be completed no more than 2 years prior to conducting any work below the deck surface on all bridges that meet the physical characteristics described in the Programmatic Consultation, regardless of whether assessments have been conducted in the past. Due to the transitory nature of bat use, a negative result in one year does not guarantee that bats will not use that bridge/structure in subsequent years.

Yes

SUBMITTED DOCUMENTS

- *03643_Feb_2023.pdf* <https://ipac.ecosphere.fws.gov/project/SGNO3SUPDJFY3BAZ5R4AHFBBF4/projectDocuments/121984154>

18. Did the bridge assessment detect *any* signs of Indiana bats and/or NLEBs roosting in/under the bridge (bats, guano, etc.)^[1]?

[1] If bridge assessment detects signs of *any* species of bats, coordination with the local FWS office is needed to identify potential threatened or endangered bat species. Additional studies may be undertaken to try to identify which bat species may be utilizing the bridge prior to allowing *any* work to proceed.

Note: There is a small chance bridge assessments for bat occupancy do not detect bats. Should a small number of bats be observed roosting on a bridge just prior to or during construction, such that take is likely to occur or does occur in the form of harassment, injury or death, the PBO requires the action agency to report the take. Report all unanticipated take within 2 working days of the incident to the USFWS. Construction activities may continue without delay provided the take is reported to the USFWS and is limited to 5 bats per project.

No

19. Will the bridge removal, replacement, and/or maintenance activities include installing new or replacing existing **permanent** lighting?

No

20. 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

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

No

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

No

23. 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

24. Are *all* project activities that are **not associated with** habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives, limited to actions that DO NOT cause any additional stressors to the bat species?

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

Yes

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

No

26. Are the project activities that are not associated with habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives consistent with a No Effect determination in this key?

Automatically answered

Yes, other project activities are limited to actions that DO NOT cause any additional stressors to the bat species as described in the BA/BO

27. Is the bridge removal, replacement, or maintenance activities portion of this project consistent with a No Effect determination in this key?

Automatically answered

Yes, because the bridge has been assessed using the criteria documented in the BA and no signs of bats were detected

Project Questionnaire

1. Please enter the date of the bridge assessment:

08/24/2022

Determination Key Description: FHWA, FRA, FTA Programmatic Consultation For Transportation Projects Affecting NLEB Or Indiana Bat

This key was last updated in IPaC on February 02, 2023. 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.

IPaC User Contact Information

Agency: Arkansas Department of Transportation
Name: Matthew Schrum
Address: 10324 I30
City: Little Rock
State: AR
Zip: 72209
Email: matthew.schrum@ardot.gov
Phone: 5015692083

Lead Agency Contact Information

Lead Agency: Federal Highway Administration



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:

07/16/2024 17:12:16 UTC

Project Code: 2023-0041509

Project Name: 012494 - Specialized Bridge Scour Remediation (03643)

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 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 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:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.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/program/migratory-bird-permit/what-we-do>.

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/library/collections/threats-birds>.

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/partner/council-conservation-migratory-birds>.

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

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

Project Code: 2023-0041509

Project Name: 012494 - Specialized Bridge Scour Remediation (03643)

Project Type: Bridge - Maintenance

Project Description: This project proposes to repair scour around the piers on bridge 030643 on Illinois Bayou near Russellville.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.31755455,-93.18476806900465,14z>



Counties: Pope County, Arkansas

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. Note that 1 of these species should be considered only under certain conditions.

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

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

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

MAMMALS

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: <ul style="list-style-type: none"> ▪ This species only needs to be considered if the project includes wind turbine operations. 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
Rufa 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
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species.	Candidate

NAME	STATUS
Species profile: https://ecos.fws.gov/ecp/species/9743	

FLOWERING PLANTS

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

CRITICAL HABITATS

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

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Arkansas Department of Transportation
Name: Matthew Schrum
Address: 10324 I30
City: Little Rock
State: AR
Zip: 72209
Email: matthew.schrum@ardot.gov
Phone: 5015692083

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

You have indicated that your project falls under or receives funding through the following special project authorities:

- BIPARTISAN INFRASTRUCTURE LAW (BIL) (OTHER)

**ARDOT ENVIRONMENTAL VERIFICATION CHECKLIST
FOR CONSIDERATION OF POTENTIAL IMPACTS**

ARDOT Job Number 012494 FAP Number PRTT-0076(339)

Job Title Specialized Bridge Scour Remediation (S)

Environmental Resource	None	Minimal	Major	Comments
Air Quality	X			No impacts anticipated
Cultural Resources	X			Falls under Section 106 Programmatic
Economic	X			No impacts anticipated
Endangered Species		X		See attached table
Environmental Justice/Title VI	X			No impacts anticipated
Fish and Wildlife		X		Temporary during construction
Floodplains		X		Minor impacts
Forest Service Property	X			No impacts anticipated
Hazardous Materials/Landfills	X			No impacts anticipated
Land Use	X			All work in existing right of way
Migratory Birds		X		Migratory Bird SP to prevent impacts
Navigation/Coast Guard		X		Temporary impacts to Arkansas River
Noise Levels	X			No impacts anticipated
Prime Farmland	X			No impacts anticipated
Protected Waters		X		Water Quality SP to prevent impacts
Public Recreation Lands	X			No impacts anticipated
Public Water Supply/WHPA		X		Wellhead Protection SP to prevent impacts
Relocatees	X			No relocations anticipated
Section 4(f)/6(f)	X			No impacts anticipated
Social	X			No impacts anticipated
Underground Storage Tanks	X			No impacts anticipated
Visual	X			No impacts anticipated
Streams		X		1.4 acres of permanent stream impacts
Water Quality		X		Temporary during construction
Wetlands	X			No impacts anticipated
Wildlife Refuges	X			No impacts anticipated

Section 401 Water Quality Certification Required? Yes
 Short-term Activity Authorization Required? Yes
 Section 404 Permit Required? Yes Type Nationwide Permits

Remarks: _____

Signature of Evaluator *Susan Stafford* Date August 2, 2024