

**TIER 3 CATEGORICAL EXCLUSION**

**ARDOT JOB A40009  
FAP STPB-0017(51)  
FROG BAYOU STR. & APPRS. (S)  
ROUTE 282, SECTION 2  
CRAWFORD COUNTY**

Submitted Pursuant to 42 U.S.C. 4332(2)

By the

U.S. Department of Transportation

Federal Highway Administration

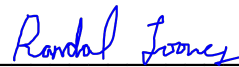
And the

Arkansas Department of Transportation

November 2022

November 22, 2022

Date of Approval



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 replace the existing low water crossing (Structure M2672) over Frog Bayou in Crawford County with a reinforced concrete box culvert on existing location. The road would be closed during the removal and construction of the structure. Total length of the project is approximately 0.1 mile. A project location map is attached.

The existing roadway consists of two 10' wide paved travel lanes with 2' wide unpaved shoulders. There is no right of way (ROW) of record.

The proposed roadway cross-section would remain the same. The average new ROW width would vary from 60'-130'. Approximately 1.4 acres of additional ROW and 0.02 acre temporary construction easement would be required for construction of this project.

Design data for this project is as follows:

Design Year	Average Daily Traffic	Percent Trucks	Design Speed
2024	250	5	20 mph
2044	300		

The project would not involve relocations, wetlands, underground storage tanks, hazardous materials, any environmental justice issues, or cultural resources. Approximately 0.7 acres of prime farmland would be converted to highway ROW. Form NRCS-CPA-106 and the State Historic Preservation Officer's clearance are attached.

Based on the ARDOT noise policy, a noise analysis is not required for this project. Replacing the low water crossing with a box culvert would not involve adding capacity, substantially changing the roadway alignment, or exposing noise sensitive land uses to traffic noise sources. In compliance with federal guidelines, local authorities would not require notification.

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. As such, this project will not result in changes in traffic

volumes, vehicle mix, basic project location, or any other factor that would cause a meaningful increase in MSAT impacts of the project from that of the no-build alternative.

The official species list obtained from the U.S. Fish and Wildlife Service's (USFWS) Information for Planning and Consultation website identified the following species as potentially occurring within the project boundaries: gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Ozark big-eared bat (*Corynorhinus townsendii ingens*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), American burying beetle (*Nicrophorus americanus*), monarch butterfly (*Danaus plexippus*), and Missouri bladderpod (*Physaria filiformis*). See attached USFWS species list.

Utilizing the Arkansas Determination Key and the lack of suitable habitat in the project, it has been determined that the project would have "no effect" on the Eastern Black Rail, Piping Plover, Red Knot, and Missouri bladderpod, while it has been determined that the project "may affect but is not likely to adversely affect" the gray bat and Ozark big-eared bat.

Utilizing the Programmatic Biological Opinion (PBO) for Transportation Projects within the Range of Indiana Bat and Northern Long-Eared Bat, it has been determined that the project "may affect and is likely to adversely affect" the Indiana bat. Suitable habitat clearing required for construction totals 0.22 acre, all within 0-100' from the existing road. In order to comply with the mitigation requirements of the PBO, the ARDOT will deduct \$1,839 from the previously approved Indiana bat spring migration research project as compensatory mitigation for the 0.22 acre impacts. In addition, a Special Clearing Pup Season Requirements Special Provision will be included in the job contract. USFWS sent their concurrence with these determinations 09/29/2022.

Upon assessment of the environmental effects of this project, ARDOT has concluded that this project would not jeopardize the continued existence of the northern long-eared bat. The Final 4(d) Rule applies to the project's activities that have the potential to affect northern long-eared bats. The Final 4(d) Rule exempts the incidental take of northern long-eared bats from take prohibitions in the Endangered Species Act (ESA). The exemptions apply as long as the activities do not occur within 0.25 mile of a known hibernaculum or within 150' of a known occupied maternity roost from June 1 to July 31. No known hibernacula or maternity roosts exist within the project limits.

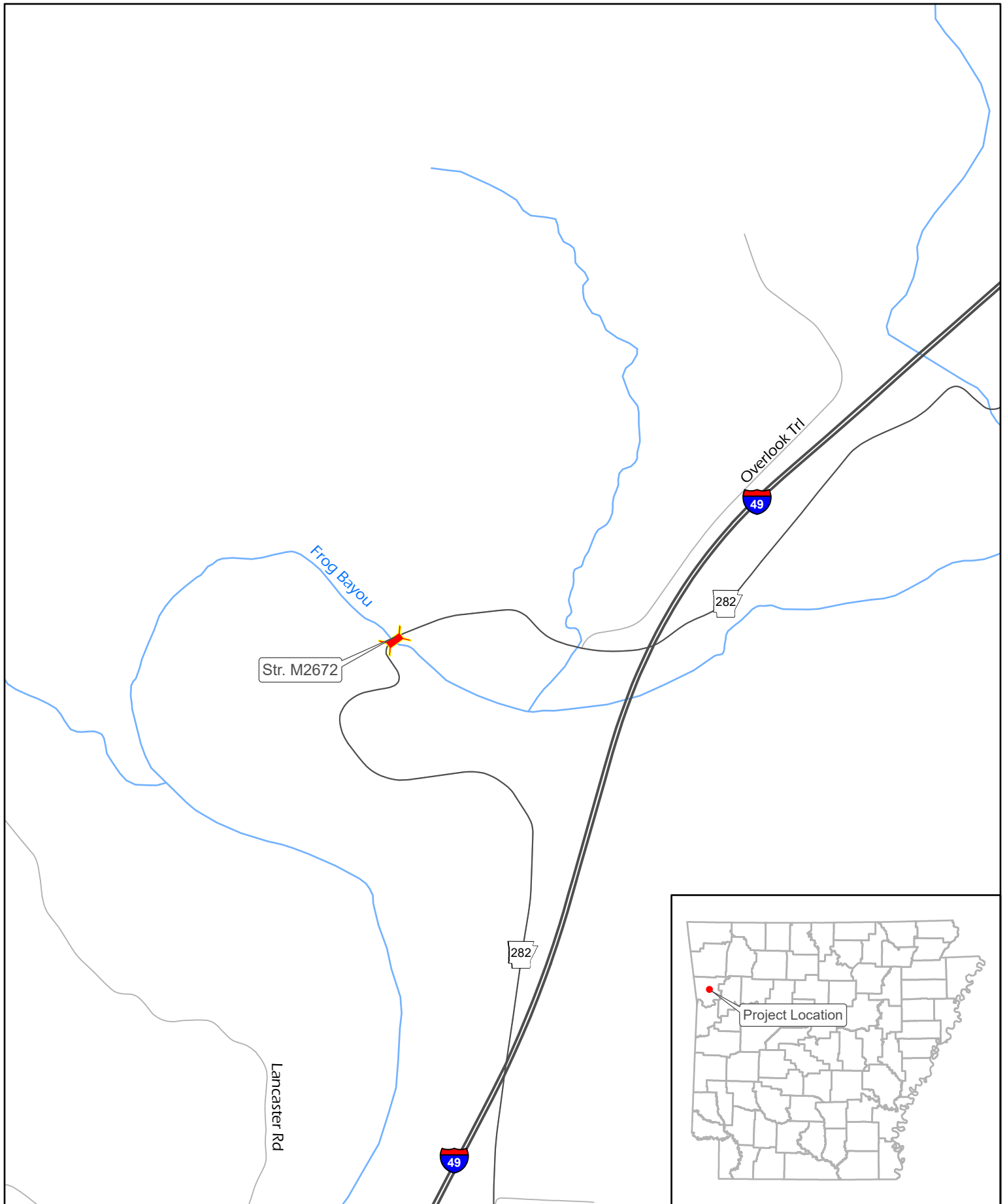
The ABB Final 4(d) Rule applies to the project's activities that have the potential to affect American burying beetles. The Final 4(d) Rule exempts the incidental take of American burying beetles from take prohibitions in the ESA. The

exemptions apply as long as the activities do not occur on certain conservation lands in the Southern Plains Analysis Areas. Within Arkansas, these conservation lands are entirely within the existing boundaries of Fort Chaffee. This project occurs outside of the existing boundaries of Fort Chaffee; therefore, the project can proceed without restrictions.

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.

Permanent impacts to Frog Bayou due to box culvert construction total 79' (0.15 acre). Construction of the proposed project should be allowed under the terms of a Nationwide 14 Section 404 Permit for Linear Transportation Projects as defined in the Federal Register 86(245):73522-73583. A preconstruction notification is required.

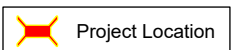
Crawford County participates in the National Flood insurance program. The project lies within a Zone A Special Flood Hazard Area. The final project design will be reviewed to confirm that the design is adequate and that the potential risk to life and property are minimized. Adjacent properties should not be impacted nor have a greater flood risk than existed prior to construction of the project. None of the encroachments would constitute a substantial floodplain encroachment or risk to property or life.



0 500 1,000  
Feet

ARDOT - Environmental GIS - Dudley  
September 27, 2022

Job A40009  
Frog Bayou Str. & Apprs.  
Crawford County





Asa Hutchinson  
Governor  
Stacy Hurst  
Secretary

September 29, 2022

Mr. John Fleming  
Division Head  
Environmental Division  
Arkansas Department of Transportation  
P.O. Box 2261  
Little Rock, AR 72203-2261

RE: Crawford County: General  
Section 106 Review: FHwA  
Proposed Undertaking: Frog Bayou Str. & Apprs. (S)  
Route 282, Section 2  
ARDOT Job Number: A40009  
AHPP Tracking Number: 109479.01

Dear Mr. Fleming:

The staff of the Arkansas Historic Preservation Program (AHPP) reviewed the cultural resources survey for the above referenced undertaking in Section 31, Township 11 North, Range 30 West in Crawford County, Arkansas. The proposed undertaking entails the replacement of ARDOT Bridge M2672 on highway 282 over Frog Bayou. The Bridge will be replaced on its current alignment.

An architectural resources survey recorded two properties. One, Bridge M2671 was identified as eligible for listing in the National Register of Historic Places (NRHP) and will not be affected by this undertaking (AHPP Tracking Number 109479); the second property, Bridge M2672, is not eligible for the NRHP.

Nine shovel tests were excavated in the area of potential effect (APE), resulting in the recording of a new archeological site, 3CW1374. The AHPP concurs that this site remain undetermined for inclusion in the NRHP. However, the portion of the site within the APE lacks integrity and the proposed undertaking will not diminish the integrity of the site.

Based on the provided information, the AHPP concurs with the finding of **no historic properties affected pursuant to 36 CFR § 800.4(d)(1)** for the proposed undertaking and that no further archeological work is needed.

Tribes that have expressed an interest in the area include the Cherokee Nation, the Choctaw Nation of Oklahoma, the Muscogee (Creek) Nation, the Osage Nation, the Quapaw Nation, the Shawnee Tribe, and the United Keetoowah Band of Cherokee Indians. We recommend consultation in accordance with 36 CFR § 800.2(c)(2).

Thank you for the opportunity to review this undertaking. Please refer to the AHPP Tracking Number listed above in all correspondence. If you have any questions, call Kathryn Bryles at 501-324-9784 or email [kathryn.bryles@arkansas.gov](mailto:kathryn.bryles@arkansas.gov).

Sincerely,

Kathryn  
Bryles

Digitally signed by  
Kathryn Bryles  
Date: 2022.09.29  
11:15:03 -05'00'

*for*  
Scott Kaufman  
Director, AHPP

cc: Dr. Melissa Zabecki, Arkansas Archeological Survey  
Mr. Randal Looney, Federal Highway Administration

## FARMLAND CONVERSION IMPACT RATING FOR CORRIDOR TYPE PROJECTS

<b>PART I (To be completed by Federal Agency)</b> Job A40009		3. Date of Land Evaluation Request		4. Sheet 1 of _____	
1. Name of Project		5. Federal Agency Involved			
2. Type of Project		6. County and State			
<b>PART II (To be completed by NRCS)</b>		1. Date Request Received by NRCS		2. Person Completing Form	
3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form). YES <input type="checkbox"/> NO <input type="checkbox"/>		4. Acres Irrigated		Average Farm Size	
5. Major Crop(s)	6. Farmable Land in Government Jurisdiction Acres: _____ %		7. Amount of Farmland As Defined in FPPA Acres: _____ %		
8. Name Of Land Evaluation System Used	9. Name of Local Site Assessment System		10. Date Land Evaluation Returned by NRCS		
<b>PART III (To be completed by Federal Agency)</b>		<b>Alternative Corridor For Segment</b>			
		Corridor A	Corridor B	Corridor C	Corridor D
A. Total Acres To Be Converted Directly					
B. Total Acres To Be Converted Indirectly, Or To Receive Services					
C. Total Acres In Corridor					
<b>PART IV (To be completed by NRCS) Land Evaluation Information</b>					
A. Total Acres Prime And Unique Farmland					
B. Total Acres Statewide And Local Important Farmland					
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted					
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value					
<b>PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)</b>					
<b>PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))</b>		Maximum Points			
1. Area in Nonurban Use		15			
2. Perimeter in Nonurban Use		10			
3. Percent Of Corridor Being Farmed		20			
4. Protection Provided By State And Local Government		20			
5. Size of Present Farm Unit Compared To Average		10			
6. Creation Of Nonfarmable Farmland		25			
7. Availability Of Farm Support Services		5			
8. On-Farm Investments		20			
9. Effects Of Conversion On Farm Support Services		25			
10. Compatibility With Existing Agricultural Use		10			
TOTAL CORRIDOR ASSESSMENT POINTS		160			
<b>PART VII (To be completed by Federal Agency)</b>					
Relative Value Of Farmland (From Part V)		100			
Total Corridor Assessment (From Part VI above or a local site assessment)		160			
<b>TOTAL POINTS (Total of above 2 lines)</b>		260			
1. Corridor Selected:	2. Total Acres of Farmlands to be Converted by Project:	3. Date Of Selection:	4. Was A Local Site Assessment Used?  YES <input type="checkbox"/> NO <input type="checkbox"/>		
5. Reason For Selection:					

Signature of Person Completing this Part:

DATE

*Joshua Graham*

NOTE: Complete a form for each segment with more than one Alternate Corridor



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



September 29, 2022

Mr. John Fleming  
c/o Matthew Schrum  
Arkansas Department of Transportation  
10324 Interstate 30  
Little Rock, Arkansas 72209

Project code: 2022-0089892

RE: ARDOT Job # A40009 - Frog Bayou Str. & Apprs. (S)

Dear Mr. Fleming:

The U.S. Fish and Wildlife Service (Service) is responding to your project plans, mitigation calculations, and request to verify that the proposed Arkansas Department of Transportation (ARDOT) Job # A40009 - Frog Bayou Str. & Apprs. (S), Crawford County, Arkansas (the Project) may rely on the February 5, 2018, Programmatic Biological Opinion (BO) for federally funded or approved transportation projects that may affect the federally listed endangered Indiana Bat (IBAT) (*Myotis sodalis*) and/or federally listed threatened Northern Long-eared Bat (NLEB) (*Myotis septentrionalis*). This project is a bridge replacement along Hwy 282, over Frog Bayou. We received your request and the associated LAA Consistency Letter on September 28, 2022.

This letter provides the Service's response as to whether the Project may rely on the BO to comply with Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) for its effects to the IBAT and/or NLEB. This letter also responds to your request for Service concurrence that the Project may affect, but is not likely to adversely affect (NLAA) ESA listed species and/or designated critical habitats other than the IBAT and NLEB.

ARDOT has determined that the Project is likely to adversely affect (LAA) the IBAT. The Service concurs with this determination because of the proximity of known species sites and foraging range to the project location and the occurrence of suitable foraging habitat for this species that exists on and adjacent to the site. A determination of LAA for IBAT is appropriate based on the distance from the existing roadway and amount of suitable habitat being lost. The conservation measures being proposed, pup season clearing restriction provision, site assessment and bridge survey results, and the proposed implementation of all required AMMs will help to mitigate the effects in accordance with the BO.

As stated in the Consistency Letter, the Service concurs with the "no effect" and "NLAA" determination(s) for the listed species identified. 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 ESA of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA)." Furthermore, the Service concurs with your supplemental determination on "no effect" for Missouri Bladderpod (*Physaria filiformis*) based on the distance to known species locations.

A Bridge and Structure Assessment was conducted and found no signs of any bat activity. A Special Clearing Requirements for Indiana and Northern Long-eared Bats Special Provision will be placed on the job contract to ensure no direct impacts to IBATs and/or NLEB. A Water Pollution Control Special Provision will be placed on the job contract to minimize the impacts of project activities on aquatic insects, an important food source for this species.

### Conclusion

The Service has reviewed the effects of the proposed Project, which includes the ARDOT's commitment to implement any applicable mitigation measures, as indicated on the Project Submittal Form. We confirm that the proposed Project's effects are consistent with those analyzed in the BO. The Service has determined that projects consistent with the conservation measures and scope of the program analyzed in the BO are not likely to jeopardize the continued existence of the IBAT and/or the NLEB. In coordination with your agency and the other sponsoring Federal Transportation Agencies, the Service will re-evaluate this conclusion annually in-light-of any new pertinent information under the adaptive management provisions of the BO.

### Incidental Take: Indiana Bat

The Service anticipates that tree removal associated with the proposed Project will cause incidental take of IBATs. As described in the Incidental Take Statement (ITS) of the BO, such taking will be difficult to detect. The Service determined that it is appropriate to measure the amount or extent of incidental taking resulting from BO projects using the proposed acreage of tree removal from IBAT suitable habitat as a surrogate for the numbers of individuals taken.

The proposed Project will remove 0.22 acre of trees from habitat that is suitable for the IBAT. All tree removal will occur in winter and comply with all other conservation measures in the BO. Based on the BO, 0.0 acre are anticipated to not result in adverse effects, and 0.22 acre are anticipated to result in adverse effects. ARDOT uses the mitigation ratio of 1.25 from Table 3 of the BO<sup>1</sup> to calculate the compensatory mitigation required to offset these adverse impacts for a total of 0.28 acre of trees that is suitable for the IBAT.

In order to comply with the mitigation requirements of the BO, the ARDOT will contribute \$1,839 to The Conservation Fund (TCF), the Program Sponsor, to compensate for clearing approximately 0.3 acre of trees in suitable habitat within 1 year of this letter or prior to the start of construction, whichever is earliest. These calculations are based on the mitigation identified above<sup>2</sup> and the 2021 Land Use Values in Table 2 of Exhibit E in TCF's ILF Instrument<sup>3</sup>.

<sup>1</sup> [https://www.fws.gov/midwest/endangered/section7/fhwa/pdf/IBAT\\_ILF\\_ratios\\_transportation\\_agencies.pdf](https://www.fws.gov/midwest/endangered/section7/fhwa/pdf/IBAT_ILF_ratios_transportation_agencies.pdf)

<sup>2</sup> XX acres \* XX ratio

<sup>3</sup> <https://www.fws.gov/media/exhibit-e-fee-schedule-range-wide-indiana-bat-licu-fee-program>

If payment is made later than 1 year from the date of this letter, the mitigation cost may change as a result of updated land use values in Table 2 of Exhibit E.

The purchase of species conservation credits and/or in-lieu fee contributions shall occur prior to construction of a transportation project covered under this programmatic consultation. Exceptions to this program stipulation include emergency projects that do not require a letting prior to construction. In these cases, purchase of credits and/or in-lieu fee contributions shall occur within three months of completion of the project. This timeframe allows for measuring the acres of habitat affected by the emergency project and for financial processing.

The Service will add the acreage of Project-related tree removal to the annual total acreage attributed to the BO as a surrogate measure of IBAT take and exempted from the prohibitions against incidental taking. Such exemption is effective as long as your agency implements the reasonable and prudent measure (RPM) and accompanying terms and conditions of the BO's ITS.

The sole RPM of the BO's ITS requires the Federal Transportation Agencies to ensure that state/local transportation agencies, who choose to include eligible projects under the programmatic action, incorporate all applicable conservation measures in the project proposals submitted to the Service for ESA section 7 compliance using the BO. The implementing terms and conditions for this RPM require the Federal Transportation Agencies to offer training to appropriate personnel about using the BO, and about promptly reporting sick, injured, or dead bats (regardless of species) (or any other federally listed species) located in project action areas.

#### *Northern Long-eared Bat*

The Service anticipates that tree removal associated with the proposed Project will cause incidental take of NLEBs. However, the Project is consistent with the BO, and such projects will not cause take of NLEB that is prohibited under the ESA section 4(d) rule for this species (50 CFR §17.40(o)). Therefore, the take of NLEBs resulting from this project does not require exemption from the Service.

#### *American Burying Beetle*

The ABB Final 4(d) Rule applies to the project's activities that have the potential to affect American Burying Beetles. The final 4(d) rule exempts the incidental take of American Burying Beetles from take prohibitions in the Endangered Species Act. The exemptions apply as-long-as the activities do not occur on certain conservation lands in the Southern Plains Analysis Areas. Within Arkansas, these conservation lands are entirely within the existing boundaries of Fort Chaffee. This project occurs outside of the existing boundaries of Fort Chaffee; therefore, the project can proceed without restrictions.

#### *Monarch Butterfly*

The Monarch Butterfly is a candidate species, and as such, is not federally protected under the Endangered Species Act. 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 Act. ARDOT will plant native wildflowers after construction as a conservation measure.

#### Reporting Dead or Injured Bats

The ARDOT, its state/local cooperators, and any contractors must take care when handling dead or injured IBATs and/or NLEBs, or any other federally listed species that are found at the Project site to preserve biological material in the best possible condition and to protect the handler from exposure to diseases, such as rabies. Project personnel are responsible for ensuring that any evidence about determining the cause of death or injury is not unnecessarily disturbed.

Reporting the discovery of dead or injured listed species is required in all cases to enable the Service to determine whether the level of incidental take exempted by this BO is exceeded, and to ensure that the terms and conditions are appropriate and effective. Parties finding a dead, injured, or sick specimen of any endangered or threatened species must promptly notify this Service Office.

#### Re-initiation Notice

This letter concludes consultation for the proposed Project, which qualifies for inclusion in the BO issued to the Federal Transportation Agencies. To maintain this inclusion, a re-initiation of this Project-level consultation is required where the ARDOT's discretionary involvement or control over the Project has been retained (or is authorized by law) and if:

1. the amount or extent of incidental take of IBAT is exceeded;
2. new information reveals that the Project may affect listed species or critical habitat in a manner or to an extent not considered in the BO;
3. the Project is subsequently modified in a manner that causes an effect to listed species or designated critical habitat not considered in the BO; or
4. a new species is listed or critical habitat designated that the Project may affect.

Per condition #1 above, the anticipated incidental take is exceeded when:

- the Project removes trees from more than 0.22 acre of habitat suitable for the IBAT.
- the Project takes more than 5 IBATs resulting from work on the HWY 282/Frog Bayou Bridge.

In instances where the amount or extent of incidental take is exceeded, the Federal Highway Administration/Arkansas Department of Transportation 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.

Mr. John Fleming

5

We appreciate your continued efforts to ensure that this Project is fully consistent with all applicable provisions of the BO. If you have any questions regarding our response or if you need additional information, please contact Lindsey Lewis at [lindsey\\_lewis@fws.gov](mailto:lindsey_lewis@fws.gov) or (501) 513-4489.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. L. Tobin', with a stylized flourish at the end.

Melvin L. Tobin  
Field Supervisor

cc: Project File  
Read File

Filename: C:\Users\lilewis\Documents\PROJECTS\FY2022\ARDOT\ARDOT Job # A40009 - Frog Bayou  
Str. & Apprs. (S)\20220929\_Ltr\_ARDOT Job A40009\_Concurrence\_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: 2022-0073990  
Project Name: A40009 - Frog Bayou Str. & Apprs. (S)

August 11, 2022

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

### To Whom It May Concern:

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

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

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

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

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

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

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

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

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

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

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

---

Attachment(s):

- Official Species List

## Endangered Species Act Species

There is a total of 10 threatened, endangered, or candidate species on this species list.

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

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, 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: <a href="https://ecos.fws.gov/ecp/species/6329">https://ecos.fws.gov/ecp/species/6329</a>	Endangered
Indiana Bat <i>Myotis sodalis</i> There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/5949">https://ecos.fws.gov/ecp/species/5949</a>	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7245">https://ecos.fws.gov/ecp/species/7245</a>	Endangered

---

## Birds

NAME	STATUS
Eastern Black Rail <i>Laterallus jamaicensis ssp. jamaicensis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/10477">https://ecos.fws.gov/ecp/species/10477</a>	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 <b>final</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/6039">https://ecos.fws.gov/ecp/species/6039</a>	Threatened
Red Knot <i>Calidris canutus rufa</i> There is <b>proposed</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a>	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: <a href="https://ecos.fws.gov/ecp/species/66">https://ecos.fws.gov/ecp/species/66</a>	Threatened
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a>	Candidate

## Flowering Plants

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

## Critical habitats

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

## **IPaC User Contact Information**

Agency: Arkansas Department of Transportation  
Name: 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

---

# ARDOT ENVIRONMENTAL VERIFICATION CHECKLIST FOR CONSIDERATION OF POTENTIAL IMPACTS

ARDOT Job A40009 FAP STPB-0017(51)

Job Title Frog Bayou Str. & Apprs. (S)

Environmental Resource	None	Minimal	Major	Comments
Air Quality	X			No MSAT analysis required
Cultural Resources	X			SHPO attached
Economic	X			No impacts anticipated
Endangered Species		X		LAA determinations, see USFWS letter
Environmental Justice/Title VI	X			No impacted populations
Fish and Wildlife		X		Temporary during construction
Floodplains		X		Zone A SFHA
Forest Service Property	X			None in project area
Hazardous Materials/Landfills	X			None in project area
Land Use		X		Approximately 1.4 acres new ROW and 0.02 acre TCE
Migratory Birds		X		Bird SP included
Navigation/Coast Guard	X			No impacts anticipated
Noise Levels	X			No impacts anticipated
Prime Farmland		X		0.7 acre of PFL converted to ROW
Protected Waters	X			None in project area
Public Recreation Lands	X			None in project area
Public Water Supply/WHPA	X			None in project area
Relocates	X			No relocations
Section 4(f)/6(f)	X			No 4(f)/6(f) properties affected
Social	X			No impacts anticipated
Underground Storage Tanks	X			None in project area
Visual	X			No impacts anticipated
Streams		X		79' (0.15 acres) of permanent impacts
Water Quality		X		Temporary during construction
Wetlands	X			None in project area
Wildlife Refuges	X			None in project area

Section 401 Water Quality Certification Required? No

Short-term Activity Authorization Required? Yes

Section 404 Permit Required? Yes Type NW14

Remarks:

WPC SP needed due to karst

Signature of Evaluator Kathryn Rose Date 10/20/2022

Date Sent: August 10, 2022  
Revised: November 14, 2022

## ROADWAY DESIGN REQUEST

Job Number A40009 FAP No. STPB-0017(51) County Crawford

Job Name Frog Bayou Str. & Apprs. (S)

Design Engineer Nick Dail Environmental Staff \_\_\_\_\_

Detailed Project Description This project consists of replacing one low water crossing with a R.C. box culvert on existing location. The road will be closed during the removal and construction of the structures.

A. Existing Conditions:

Roadway Width: 24' Shoulder Type/Width: 2' Unpaved

Number of Lanes and Width: 2 / 10' Existing Right-of-Way: N/A

Sidewalks? None Location: N/A Width: N/A

Bike Lanes? None Location: N/A Width: N/A

B. Proposed Conditions:

Roadway Width: 24' Shoulder Type/Width: 2' Unpaved

Number of Lanes and Width: 2 / 10' Proposed Right-of-Way: 60'-130'

Sidewalks? None Location: N/A Width: N/A

Bike Lanes? None Location: N/A Width: N/A

C. Construction Information:

If detour: Where: None Length: N/A

D. Design Traffic Data:

2024 ADT: 250 2044 ADT: 300 % Trucks: 5

Design Speed: 20 m.p.h.

E. Approximate total length of project: 0.07 mile(s)

F. Justification for proposed improvements: Structure replacement required

G. Total Relocates: 0 Residences: 0 Businesses: 0

H. Have you coordinated with any outside agencies (e.g., FHWA, City, County, etc.)? None

Agency/Official	Person Contacted	Date