




INTEROFFICE MEMORANDUM

March 27, 2024

TO: Master Files

FROM: Josh Seagraves, Division Head, Environmental Division 

SUBJECT: Job 061769
FAP STPLC-9210(48)
Hwys. 70/270/270B Signal Impvts. (Hot Springs) (S)
Route 70, Section 9
Route 270, Section 6 & 6B
Garland County
Tier 1 Categorical Exclusion

The project proposes to upgrade the existing traffic signal at the intersection of Highways 70, 270, and 270B in Garland County. All project work will take place in existing right of way. A project location map is attached.

The project will not involve relocations, prime farmlands, wetlands, underground storage tanks, hazardous materials, any environmental justice issues, or cultural resources. This project has been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been linked with any special mobile source air toxics concerns. The cultural resources clearance is attached.

The official species list obtained through US Fish and Wildlife Service's (USFWS) Information for Planning and Consultation identified the following federally listed species as having the potential to occur in the project area: Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Tricolored Bat (*Perimyotis subflavus*), Eastern Black Rail (*Laterallus jamaicensis* ssp. *jamaicensis*), Red Knot (*Calidris canutus rufa*), Piping Plover (*Charadrius melodus*), Alligator Snapping Turtle (*Macrochelys temminckii*), Monarch Butterfly (*Danaus plexippus*) and Missouri bladderpod (*Physaria filiformis*). See the attached species list.

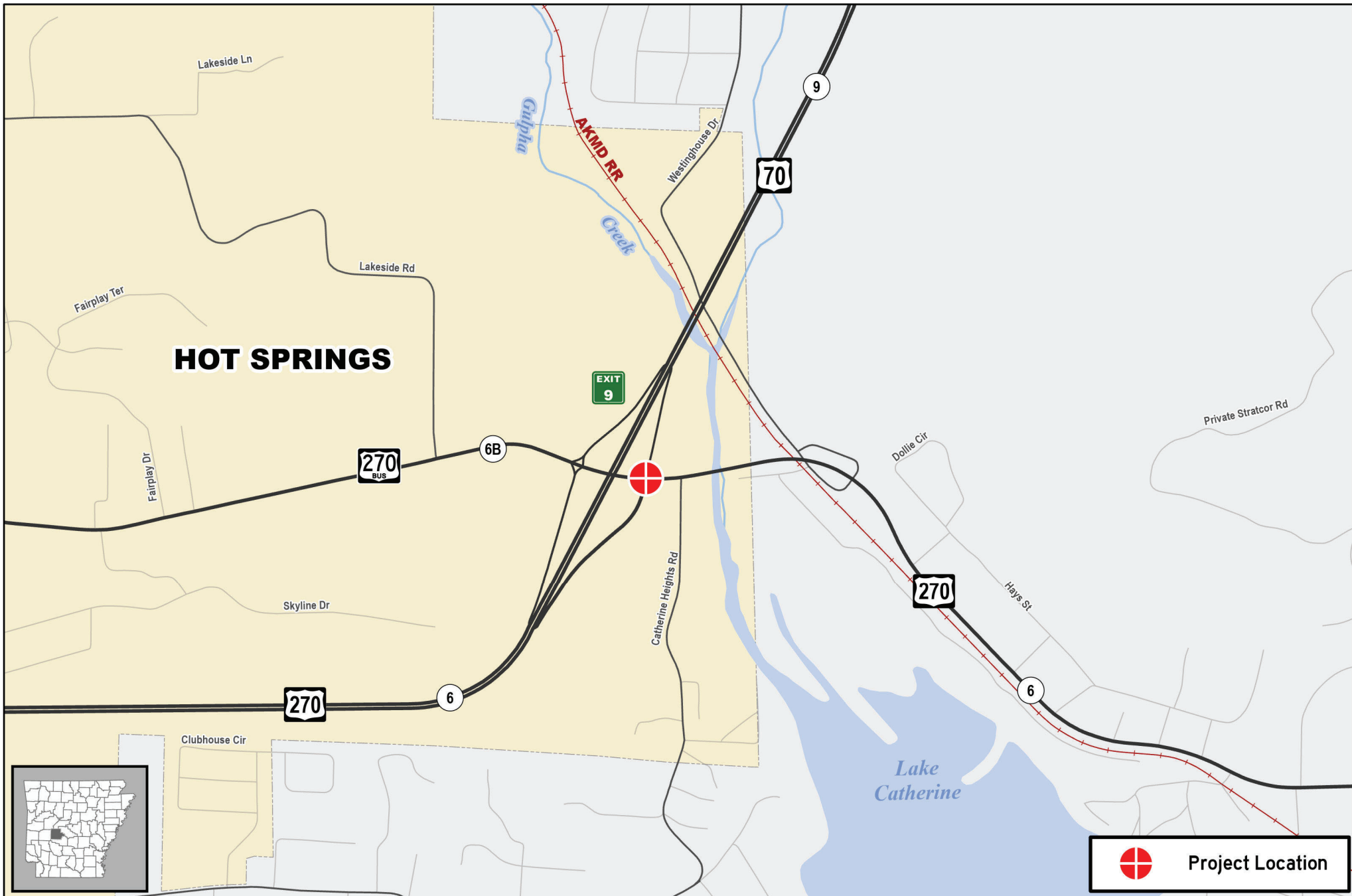
Due to the lack of streams, marshes, and glades in the project area, it has been determined that this project will have "no effect" on the listed birds and the Missouri bladderpod. Utilizing the FHWA Programmatic Biological Opinion for Transportation Projects within the Range of Indiana Bat and Northern Long-eared Bat, it has been determined that the project "may affect but is not likely to adversely affect" the Indiana and Northern Long-eared Bats. See the attached concurrence verification letter. This project will not jeopardize the continued existence of any proposed or candidate species: the Alligator Snapping Turtle, Tricolored Bat, and Monarch Butterfly. The US Fish and Wildlife Service concurred with these determinations on March 22, 2024. A section 404 permit will not be required for this project.

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

Attachments

- c: Program Management
- Right of Way
- Roadway Design
- District 6
- FHWA

JS:DH:sw



 **Project Location**

Job 061769
Hwys. 70/270/270B Signal Impvts. (Hot Springs) (S)

Hwy. 70, Sec. 9
 Hwy. 270, Secs. 6 & 6B
 Garland County




AR DOT
 ARKANSAS DEPARTMENT
 OF TRANSPORTATION



0 250 500 1,000
 Feet



INTEROFFICE MEMORANDUM

February 13, 2024

TO: Environmental Job File

MH

FROM: M. Hughes, Cultural Resources

SUBJECT: Cultural Resources Clearance
Job 061769
Hwy. 70/270/270B Signal Impvts. (Hot Springs) (S)
Route 70, Section 9
Route 270, Sections 6 & 6B
Garland County

The project proposes to upgrade the existing traffic signals at the Highway 70/270/270B intersection in Hot Springs. No new right-of-way (ROW) or temporary construction easement (TCE) will be utilized. All work will be confined to previously disturbed areas within the existing ROW.

A records review at the Arkansas Archeological Survey found no previously recorded archeological sites in or near the project area. The Arkansas Historic Preservation Program's database shows that GA0044 – the Steve Holliman House – was located inside of the interchange. The property is listed as unknown with regards to eligibility to the NRHP. If it had been located within the interchange, it has been destroyed by subsequent highway construction. The 1841 GLO plat for T3S, R19E shows a road near the area. Judging by the orientation of it, this was probably the precursor to Highway 270. A small portion of an older road is located between the Highway 70 offramp ROW and Catherine Heights Road, east of the project area. The 1936 Garland County highway map shows a road in place (probably Hwy. 270) with structures nearby. The 1978 7.5' Lake Catherine, ARK topographic map does not provide any additional cultural resource information.

The existing topography, known construction practices, utilities, and plans were examined to assess previous ground disturbance. The work involves upgrading existing traffic signals in heavily disturbed areas of the existing ROW. This type of undertaking will not affect historic properties. Therefore, this project requires no Section 106 review under Appendix C, Activity 23, of the 2021 Programmatic Agreement.

Re: [EXTERNAL] ARDOT Job 061769 - Signal Improvements Hot Springs

Lewis, Lindsey <lindsey_lewis@fws.gov>

Fri 3/22/2024 8:51 AM

To:Ledvina, Joseph <Joseph.Ledvina@ardot.gov>

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.

Joe,

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; 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, "no effect" determinations, justifications provided, non-jeopardy determinations, and concurrences made through the FHWA PBO Dkey.

Thanks,

Lindsey Lewis
BiologistUS 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: Ledvina, Joseph <Joseph.Ledvina@ardot.gov>
Sent: Monday, March 18, 2024 12:47 PM
To: Lewis, Lindsey <lindsey_lewis@fws.gov>
Subject: [EXTERNAL] ARDOT Job 061769 - Signal Improvements Hot Springs

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

Lindsey,

ARDOT proposes to upgrade existing signals and install new signals at the Highway 70/270 eastbound ramps at Malvern Ave. Construction will not include any tree clearing or impacts to waterbodies.

IPaC lists the following species as having the potential to occur in the project area: Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Tricolored Bat (*Perimyotis subflavus*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Piping Plover (*Charadrius melodus*), Rufa Red Know (*Calidris canutus rufa*), Alligator Snapping Turtle (*Macrochelys temminckii*), Monarch Butterfly (*Danaus plexippus*), and Missouri bladderpod (*Physaria filiformis*). See the attached species list.

This project includes the installation of new, permanent lighting. All lights to be installed will have a bug rating of zero. This project therefore may affect, but is “not likely to adversely affect” the Indiana and Northern Long-eared Bats. See the attached concurrence verification letter.

This project will not jeopardize the continued existence of the Alligator Snapping Turtle or Tricolored Bat.

Due to the lack of streams, marshes, native wildflower meadows, and glades in the project area, this project will have no effect on the remaining species.

We seek your concurrence with these determinations. Please let me know if you need anything else.

Joe

Joe Ledvina

Botanist | Arkansas Department of Transportation | Environmental Division

📞 501.569.2520 📠 702.281.4610 ✉️ Joseph.Ledvina@ardot.gov



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:

03/18/2024 13:23:50 UTC

Project Code: 2024-0063986

Project Name: ARDOT Job #061769 - Hwys. 70/270/270B Signal Impvts. (Hot Springs) (S)

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

To Whom It May Concern:

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

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through IPaC 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 [Migratory Bird Permit | What We Do | U.S. Fish & Wildlife Service \(fws.gov\)](#).

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

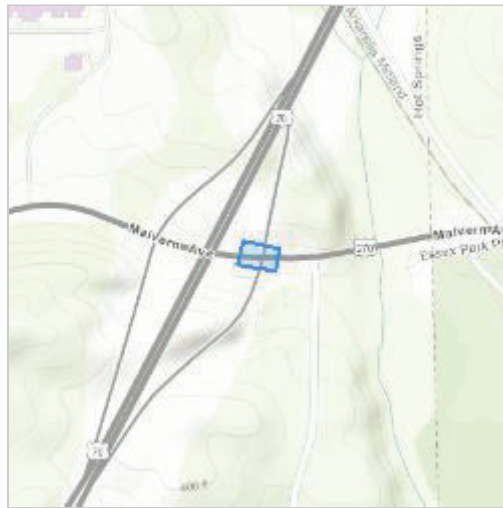
PROJECT SUMMARY

Project Code: 2024-0063986
Project Name: ARDOT Job #061769 - Hwys. 70/270/270B Signal Impvts. (Hot Springs)
(S)

Project Type: Road/Hwy - Maintenance/Modification
Project Description: Adding traffic signals (lights) on new poles to a freeway ramp intersection. All lights installed by ARDOT are rated BUG U0.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@34.4712535,-92.98835064760684,14z>



Counties: Garland County, Arkansas

ENDANGERED SPECIES ACT SPECIES

There is a total of 9 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
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. 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: Joseph Ledvina

Address: 10324 I-30

City: Little Rock

State: AR

Zip: 72209

Email: joseph.ledvina@ardot.gov

Phone: 5015692025

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:

03/18/2024 13:29:14 UTC

Project code: 2024-0063986

Project Name: ARDOT Job #061769 - Hwys. 70/270/270B Signal Impvts. (Hot Springs) (S)

Subject: Concurrence verification letter for the 'ARDOT Job #061769 - Hwys. 70/270/270B Signal Impvts. (Hot Springs) (S)' 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 March 18, 2024 to verify that the **ARDOT Job #061769 - Hwys. 70/270/270B Signal Impvts. (Hot Springs) (S)** (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
- Eastern Black Rail *Laterallus jamaicensis ssp. jamaicensis* Threatened
- 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.

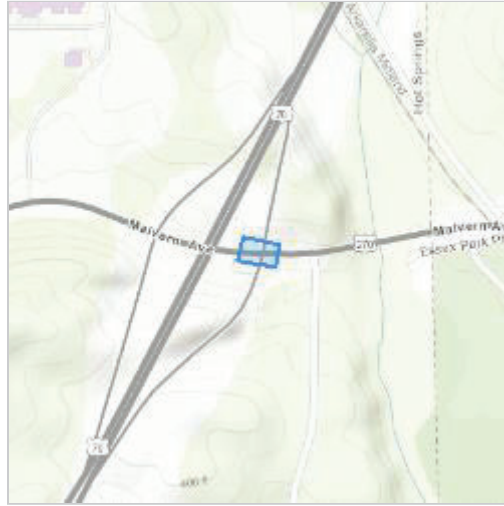
NAME

ARDOT Job #061769 - Hwys. 70/270/270B Signal Impvts. (Hot Springs) (S)

DESCRIPTION

Adding traffic signals (lights) on new poles to a freeway ramp intersection. All lights installed by ARDOT are rated BUG U0.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@34.4712535,-92.98835064760684,14z>



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](#).

No

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

No

10. Does the project include slash pile burning?

No

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

No

12. 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

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

No

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

Yes

15. Is there *any* suitable habitat **within** 1,000 feet of the location(s) where **permanent** lighting will be installed or replaced?

Yes

16. 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

17. 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

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

No

19. Is the location of this project consistent with a No Effect determination in this key?

Automatically answered

Yes, because the project action area is not within suitable Indiana bat and/or NLEB summer habitat and is outside of 0.5 miles of a hibernaculum.

20. **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

21. **Lighting AMM 2**

Does the lead agency use the BUG (Backlight, Uplight, and Glare) system developed by the Illuminating Engineering Society^[1] to rate the amount of light emitted in unwanted directions?

[1] Refer to [The BUG System—A New Way To Control Stray Light](#)

Yes

22. **Lighting AMM 2**

Will the **permanent** lighting be designed to be as close to 0 for all three BUG ratings as possible, with a priority of "uplight" of 0 and "backlight" as low as practicable?

Yes

PROJECT QUESTIONNAIRE

1. Have you made a No Effect determination for *all* other species indicated on the FWS IPaC generated species list?

Yes

2. Have you made a May Affect determination for *any* other species on the FWS IPaC generated species list?

No

AVOIDANCE AND MINIMIZATION MEASURES (AMMS)

This determination key result includes the commitment to implement the following Avoidance and Minimization Measures (AMMs):

LIGHTING AMM 2

When installing new or replacing existing permanent lights, use downward-facing, full cut-off lens lights (with same intensity or less for replacement lighting); or for those transportation agencies using the BUG system developed by the Illuminating Engineering Society, be as close to 0 for all three ratings with a priority of "uplight" of 0 and "backlight" as low as practicable.

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: Joseph Ledvina

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State: AR

Zip: 72209

Email: joseph.ledvina@ardot.gov

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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 061769 FAP STPLC-9210(48)

Job Title Hwys. 70/270/270B Signal Impvts. (Hot Springs) (S)

Environmental Resource	None	Minimal	Major	Comments
Air Quality	X			No impacts anticipated
Cultural Resources	X			See attached clearance
Economic	X			No impacts anticipated
Endangered Species		X		NLAA under IBAT and NLEB PBO
Environmental Justice/Title VI	X			No impacts anticipated
Fish and Wildlife		X		Minimal during construction
Floodplains	X			No impacts anticipated
Forest Service Property	X			None in project area
Hazardous Materials/Landfills	X			No impacts anticipated
Land Use	X			No new ROW or TCE
Migratory Birds	X			No nesting structures in project area
Navigation/Coast Guard	X			None in project area
Noise Levels	X			No impacts anticipated
Prime Farmland	X			No impacts anticipated
Protected Waters	X			None in project area
Public Recreation Lands	X			No impacts anticipated
Public Water Supply/WHPA	X			None in project area
Relocatees	X			No relocations
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			None in project area
Water Quality	X			None in project area
Wetlands	X			None in project area
Wildlife Refuges	X			None in project area

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

Remarks: _____

Signature of Evaluator *Daniel E. Henry* Date 03/26/2024