



October 3, 2018

Mr. Angel Correa
Division Administrator
Federal Highway Administration
700 West Capitol, Room 3130
Little Rock, Arkansas 72201-3298

Re: Job Number FA6715
FAP Number STPR-0067(27)
Hwy. 58 – Co. Rd. 38
(Reconstruction) (S)
Sharp County
Tier 3 Categorical Exclusion

Dear Mr. Correa:

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 Memorandum of 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 reconstruct a section of County Road 40 (Buchanan Road) and replace minor drainage structures. The total length of the project is 1.3 miles. A project location map is enclosed.

The existing gravel roadway is 18-foot wide with no shoulders and an existing right of way width of 40 feet. Proposed improvements will consist of two 10-foot wide paved travel lanes with 4-foot wide gravel shoulders. Proposed new right of way width will be 90 feet. Approximately 9.5 acres of additional right of way will be required for this project.

Design data for this project is as follows:

| Design Year | Average Daily Traffic | Percent Trucks | Design Speed |
|-------------|-----------------------|----------------|--------------|
| 2018 | 80 | 3 | 30 mph |
| 2038 | 95 | 3 | 30 mph |

Based upon the ARDOTs *Policy on Highway Traffic Noise Abatement*, a noise analysis is not required for this project. This project does not involve added capacity, construction of new through lanes or auxiliary lanes, changes in the horizontal or vertical alignment of the roadway, or exposure of noise sensitive land uses to a new or existing highway noise source.

There are no relocations, prime farmland, floodplains, or wetlands associated with this project. No impacts to cultural resources are anticipated; concurrence from the State Historic Preservation Officer is enclosed. Field inspections found no evidence of existing underground storage tanks or hazardous waste deposits. The construction of the proposed project will not require a Section 404 Permit.

The official US Fish and Wildlife Service (USFWS) species list obtained for the project identified three threatened and five endangered species as potentially occurring within the project boundaries. The list includes: gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Rabbitsfoot (*Theliderma cylindrica*), Scaleshell (*Leptodea leptodon*), Snuffbox (*Epioblasma triquetra*), Turgid Blossom (*Epioblasma turgidula*), and Missouri bladderpod (*Physaria filliformis*). A "may affect, but not likely to adversely affect" determination was made for the Indiana bat and northern long-eared bat based on the commitment to clear only during the hibernation period. A USFWS concurrence letter is enclosed. An Off-site Restraining Conditions for Bats special provision will also be included in the job. Based on the lack of habitat and distance to known locations for these species, it is our determination that the proposed project will have no effect on the remaining listed species

If you have any questions, please contact the Environmental Division at 569-2281.

Sincerely,



John Fleming
Division Head
Environmental Division

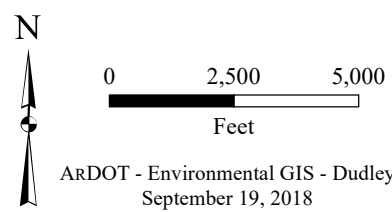
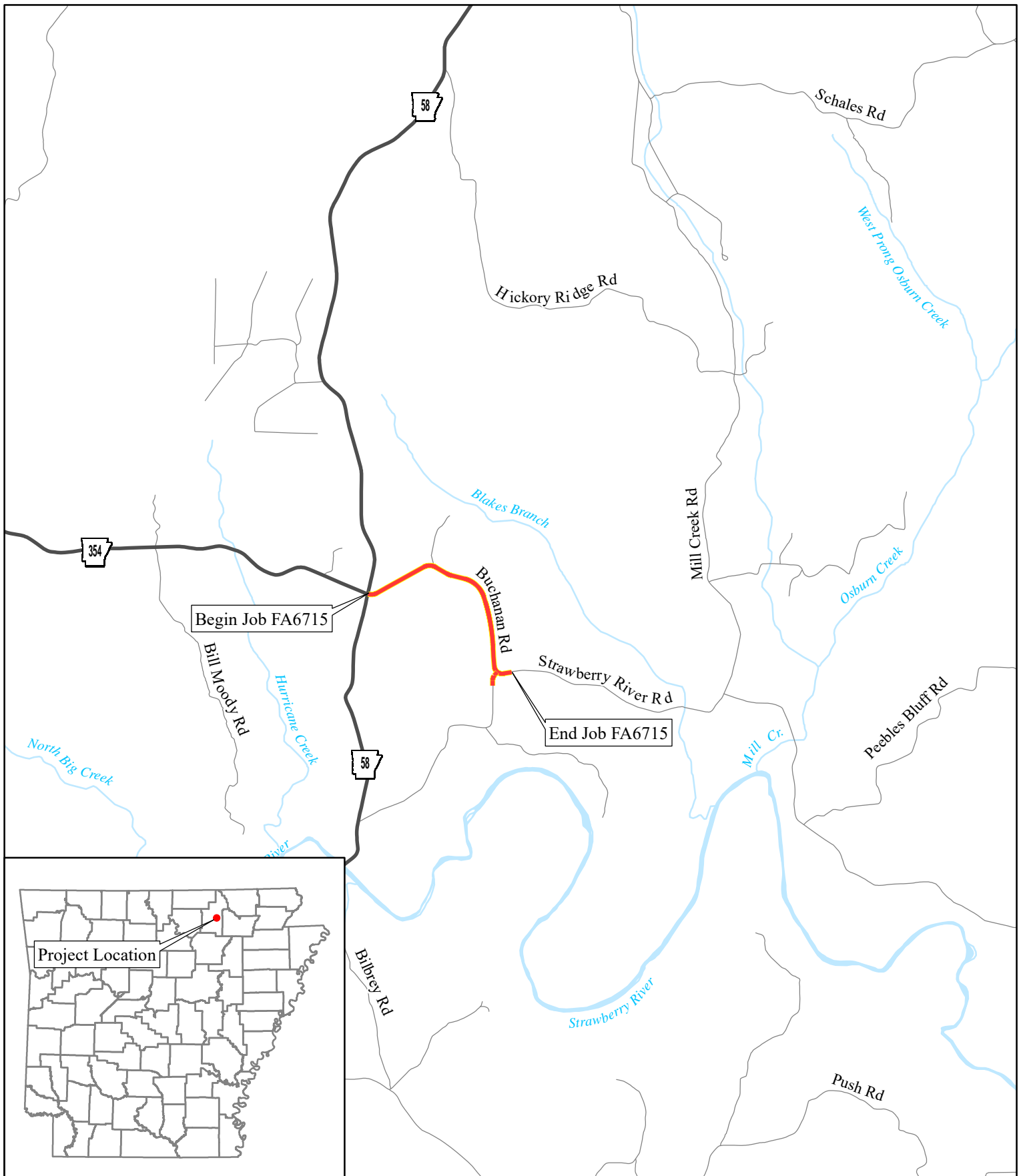
APPROVED

Environmental Specialist
Federal Highway Administration
Date: 10/4/2018

Enclosures

JF:JB:mr

c: Program Management
Right of Way
State Aid
District 5
Master File



Job FA6715
Hwy. 58 - Co. Rd. 38
(Reconstruction)
Sharp County





ARKANSAS DEPARTMENT OF TRANSPORTATION

ARDOT.gov | IDriveArkansas.com | Scott E. Bennett, P.E., Director

10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261
Phone: 501.569.2000 | Voice/TTY 711 | Fax: 501.569.2400

AHPP

SEP 20 2018

10223p
FHWA

September 20, 2018

Ms. Stacy Hurst
Arkansas Historic Preservation Program
1100 North Street
Little Rock, Arkansas 72201

RE: Job Number FA6715
Hwy. 58 – Co. Rd. 38
(Reconstruction) (S)
Co. Rd. 40
Sharp County

Dear Ms. Hurst:

Please find enclosed a Project Identification Form (PIF) for the above referenced project. This project proposes to reconstruct County Road 40 in Sharp County, Arkansas. If you have any questions or require additional information about the project, please contact William McAlexander of my staff at 501-569-2078.

Sincerely,

John Fleming
Division Head
Environmental Division

Enclosures
PIF

JF:DW:WM:fc

RECEIVED
ARDOT

SEP 24 2018

ENVIRONMENTAL
DIVISION

Date 9/20/2018
No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.

Arkansas State Historic Preservation Officer



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 26, 2018



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

Consultation Code: 04ER1000-2018-R-1571

Dear Mr. Fleming:

The U.S. Fish and Wildlife Service (Service) has reviewed your assessment and determinations for Arkansas Department of Transportation (ArDOT) Job Number FA6715 Hwy. 58 - Co Rd. 38 (Reconstruction) (S) project widening and reconstruction of the existing Buchanan Rd., Sharp County, Arkansas. The project was described and assessed as follows (abbreviated):

The Arkansas Department of Transportation (ArDOT) proposes to widen the existing County Road 38 in Sharp County from 19 feet to 28 feet. During the widening, an approximately total of 2 acres of trees will be removed.

The official species list obtained for the project identified three threatened and five endangered species as potentially occurring within the project boundaries. The Gray Bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Rabbitsfoot (*Quadrula cylindrica cylindrica*), Scaleshell Mussel (*Leptodea leptodon*), Snuffbox Mussel (*Epioblasma triquetra*), Turgid Blossom (*Epioblasma turgidula*), and Missouri Bladderpod (*Physaria filiformis*) were identified as listed species that may occur within the project area.

A determination of may affect, but not likely to adversely affect was made for the Indiana Bat and Northern Long-eared Bat based on the commitment to winter time clearing. An Off-site Restraining Conditions for Bats special provision will be included in the job. The Gray Bat, Rabbitsfoot, Scaleshell, Snuffbox, Turgid Blossom, and Missouri Bladderpod were also identified as possibly occurring within the project area. Based on the lack of habitat and distance to known species, it is our determination that the proposed project will have no effect on these species. The Department request your concurrence in these determinations.

The Service has reviewed your determination that the proposed action will not result in any prohibited incidental take for Northern Long-eared Bat. This project may affect the Northern Long-eared Bat; however, there are no effects beyond those previously disclosed in the Service's

programmatic biological opinion for the final 4(d) rule dated January 5, 2016. Any taking that may occur incidental to this project is not prohibited under the final 4(d) rule (50 CFR§17.40(o)).

This project is consistent with the description of the proposed action in the programmatic biological opinion, and the 4(d) rule does not prohibit incidental take of the Northern Long-eared Bat that may occur as a result of this project. Therefore, the programmatic biological opinion satisfies the "action agency" responsibilities under ESA section 7(a)(2) relative to the Northern Long-eared Bat for this project.

Please keep in mind that you must report any departures from the plans submitted; results of any surveys conducted; or any dead, injured, or sick Northern Long-eared Bats that are found to this office. If this project is not completed within one year of this letter, you must update your determination and resubmit the required information.

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.). As previously stated, the 4(d) rule was applied for Northern Long-eared Bat and all further discussion related to the PBO will pertain only to the Indiana Bat.

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, may affect, but is not likely to adversely affect (NLAA) the endangered Indiana Bat.

The Service concurs that this action may rely on the PBO. Furthermore, due to the limited size of the area being cleared off existing roadway and adjacent to existing right-of-way, distance to known species locations or hibernacula, time of year clearing restriction, and the standard provisions for stream sediment control and water quality conservation measures, the Service agrees with your assessment and "not likely to adversely affect" determinations for both Indiana Bat under the PBO. The Service also agrees with your assessment for all other species identified by IPaC. No further consultation is necessary at this time.

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. If the Proposed Action may affect any other federally listed or proposed species, and/or any designated critical habitat, additional consultation 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.

Mr. John Fleming

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

Sincerely,

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

Melvin L. Tobin
Field Supervisor

Project File

Read File

Filename: C:\Users\lilewis\Documents\PROJECTS\FY2018\ARDOT\FA6715 Hwy. 58 - Co Rd. 38
(Reconstruction)\AFO Letter - ArDOT Job FA6715 Hwy. 58 - Co Rd. 38 - Comments.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
<http://www.fws.gov/arkansas-es>

In Reply Refer To:

September 17, 2018

Consultation Code: 04ER1000-2018-SLI-1571

Event Code: 04ER1000-2018-E-02500

Project Name: FA6715 Hwy. 58 - Co Rd. 38 (Reconstruction) (S)

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

To Whom It May Concern:

The enclosed species list identifies endangered, threatened, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). **This letter only provides an official species list and technical assistance; if you determine that listed species and/or designated critical habitat may be affected in any way by the proposed project, even if the effect is wholly beneficial, consultation with the Service will be necessary.**

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found on our website.

Please visit our website at <http://www.fws.gov/arkansas-es/IPaC/home.html> for species-specific guidance to avoid and minimize adverse effects to federally endangered, threatened, proposed, and candidate species. Our web site also contains additional information on species life history and habitat requirements that may be useful in project planning.

If your project involves in-stream construction activities, oil and natural gas infrastructure, road construction, transmission lines, or communication towers, please review our project specific guidance at <http://www.fws.gov/arkansas-es/IPaC/ProjSpec.html>.

The karst region of Arkansas is a unique region that covers the **northern third of Arkansas** and we have specific guidance to conserve sensitive cave-obligate and bat species. **Please visit <http://www.fws.gov/arkansas-es/IPaC/Karst.html> to determine if your project occurs in the karst region and to view karst specific-guidance.** Proper implementation and maintenance of best management practices specified in these guidance documents is necessary to avoid adverse effects to federally protected species and often avoids the more lengthy formal consultation process.

If your species list includes any mussels, Northern Long-eared Bat, Indiana Bat, Yellowcheek Darter, Red-cockaded Woodpecker, or American Burying Beetle, your project may require a presence/absence and/or habitat survey prior to commencing project activities. Please check the appropriate species-specific guidance on our website to determine if your project requires a survey. We strongly recommend that you contact the appropriate staff species lead biologist (see office directory or species page) prior to conducting presence/absence surveys to ensure the appropriate level of effort and methodology.

Under the ESA, it is the responsibility of the Federal action agency or its designated representative to determine if a proposed action "may affect" endangered, threatened, or proposed species, or designated critical habitat, and if so, to consult with the Service further. Similarly, it is the responsibility of the Federal action agency or project proponent, not the Service, to make "no effect" determinations. If you determine that your proposed action will have "no effect" on threatened or endangered species or their respective critical habitat, you do not need to seek concurrence with the Service. Nevertheless, it is a violation of Federal law to harm or harass any federally-listed threatened or endangered fish or wildlife species without the appropriate permit.

Through the consultation process, we will analyze information contained in a biological assessment that you provide. If your proposed action is associated with Federal funding or permitting, consultation will occur with the Federal agency under section 7(a)(2) of the ESA. Otherwise, an incidental take permit pursuant to section 10(a)(1)(B) of the ESA (also known as a habitat conservation plan) is necessary to harm or harass federally listed threatened or endangered fish or wildlife species. In either case, there is no mechanism for authorizing incidental take "after-the-fact." For more information regarding formal consultation and HCPs, please see the Service's Consultation Handbook and Habitat Conservation Plans at www.fws.gov/endangered/esa-library/index.html#consultations.

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, **the accuracy of this species list should be verified after 90 days.** This verification can be

completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

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

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Arkansas Ecological Services Field Office

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

Project Summary

Consultation Code: 04ER1000-2018-SLI-1571

Event Code: 04ER1000-2018-E-02500

Project Name: FA6715 Hwy. 58 - Co Rd. 38 (Reconstruction) (S)

Project Type: TRANSPORTATION

Project Description: Widen and reconstruction existing Buchanan Rd.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/36.13053778393969N91.43443709057738W>



Counties: Sharp, AR

Endangered Species Act Species

There is a total of 8 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 |
|--|------------|
| Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329 | Endangered |
| Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949 | Endangered |
| Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045 | Threatened |

Clams

| NAME | STATUS |
|---|------------|
| Rabbitsfoot <i>Quadrula cylindrica cylindrica</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5165 | Threatened |
| Scaleshell Mussel <i>Leptodea leptodon</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5881 | Endangered |
| Snuffbox Mussel <i>Epioblasma triquetra</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4135 | Endangered |
| Turgid Blossom (pearlymussel) <i>Epioblasma turgidula</i> Population: Wherever found; Except where listed as Experimental Populations No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7659 | Endangered |

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.

**ARDOT ENVIRONMENTAL VERIFICATION CHECKLIST
FOR CONSIDERATION OF POTENTIAL IMPACTS**

ARDOT Job Number FA6715 FAP Number STPR-0067(27)

Job Title Hwy. 58 – Co. Rd. 38 (Reconstruction) (S)

| Environmental Resource | None | Minimal | Major | Comments-required for each item |
|--------------------------------|------|---------|-------|---|
| Air Quality | X | | | No impacts anticipated |
| Cultural Resources | X | | | None in project area |
| Economic | X | | | Will not be impacted by project |
| Endangered Species | | X | | USFWS concurrence letter received 9/26/2018 |
| Environmental Justice/Title VI | X | | | No protected populations in project area |
| Fish and Wildlife | X | | | No impacts expected |
| Floodplains | X | | | None occur in project area |
| Forest Service Property | X | | | None in project area |
| Hazardous Materials/Landfills | X | | | No sites in project area |
| Land Use | X | | | Will not be impacted by project |
| Migratory Birds | X | | | No structures with nests |
| Navigation/Coast Guard | X | | | No navigable waterways involved |
| Noise Levels | X | | | No increases due to project |
| Prime Farmland | X | | | None in project area |
| Protected Waters | X | | | None occur in project area |
| Public Recreation Lands | X | | | None in project area |
| Public Water Supply/WHPA | X | | | No public water supplies in project area |
| Relocates | X | | | No relocations |
| Section 4(f)/6(f) | X | | | 4f resources not present |
| Social | X | | | No impacts to the social environment |
| Underground Storage Tanks | X | | | No USTs in project area |
| Visual | X | | | No changes to visual environment |
| Streams | X | | | None in project area |
| Water Quality | X | | | No runoff issues expected |
| Wetlands | X | | | None in project area |
| Wildlife Refuges | X | | | None in the area |

Section 401 Water Quality Certification Required? No

Short-term Activity Authorization Required? No

Section 404 Permit Required? No Type _____

Remarks: .

Signature of Evaluator John Baber Date 10/2/18

Date Submitted October 2, 2018

Date Returned _____

STATE AID DESIGN REQUEST

Job Number: FA6715 FAP Number: STPR-0067(27) County: Sharp County

Job Name: Hwy. 58 - Co. Rd. 38 (reconstruction) (S)

Design Engineer: Al Fleagle Environmental Staff _____

Brief Project Description: Widen and reconstruct existing roadway to Federal Aid standards

A. Existing Conditions:

1. Roadway Width: Metric _____ English 18'-0"
2. Shoulder Width: Metric _____ English NONE
3. Number of Lanes and Width: Metric _____ English 2 @ 9'-0"
4. Existing Right-of-Way: Metric _____ English 40'

B. Proposed Improvements:

1. Roadway Width: Metric _____ English 28'-0"
2. Shoulder Width: Metric _____ English 4'-0"
3. Number of Lanes and Width: Metric _____ English 2 @ 10'-0"
4. Average Right-of-Way: Metric _____ English 90'

If bridge(s) will be replaced by culverts give dimensions: N/A

C. Construction Information:

Detour: (if applicable)

Where: N/A

Approximate total length of detour: _____ kilometer(s) _____ mile(s)

D. Design Data:

2018 ADT: 80 2038 ADT: 95 Trucks: 3 %

Design Speed: 30 MPH

E. Approximate total length of project: _____ kilometer(s) 1.288 mile(s)

F. Justification for proposed improvements: Widen and reconstruct existing roadway to Federal Aid standards.

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

H. Have you coordinated with any of the following: (Provide name and date.)

County Officials: Sharp County Judge Gene Moore / 4-13-17

State Agency: No

Federal Agency: No