DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT
4155 CLAY STREET
VICKSBURG, MS 39183-3435

SUBJECT: Highway 82 Weir FC/MRT, Boeuf River Basin, Boeuf River, Chicot County, AR EA #114

PUBLIC NOTICE

To Whom It May Concern:

A draft Finding of No Significant Impact (FONSI), along with the draft Environmental Assessment (EA) for the Highway 82 Weir Construction Project in Chicot County, Arkansas is enclosed for your review and comment. This project involves reducing head cutting on the Boeuf River by replacing a damaged weir with a newly constructed weir further downstream. Please provide comments by **28 June 2024**, to the above address, ATTN: CEMVN-PDN-UDP.

The documents may also be viewed at the following website:

https://www.mvk.usace.army.mil/Missions/Programs-and-Project-Management/Regional-Planning-Environment-Division-South/

If you have any questions or comments concerning the draft FONSI or EA, please contact Taylor Piefke of this office:

Telephone 601-631-5087
Email Taylor.Piefke@usace.army.mil.

Sincerely,

SMITH.MARK.R.1219443621

Digitally signed by SMITH.MARK.R.1219443621
Date: 2024.06.14 10:38:41 -05'00'

Mark Smith
Chief, Environmental Compliance Branch
Regional Planning and Environment Division South

Enclosure

Draft Finding of No Significant Impact

Highway 82 Weir FC/MRT, Boeuf River Basin, Boeuf River Chicot County, AR EA #114

As required by the Procedures for Implementing the National Environmental Policy Act (33 CFR Part 230), the attached draft Environmental Assessment (EA) of a proposal to build and replace a previously constructed weir that is in disrepair has been completed by the U.S. Army Corps of Engineers, Regional Planning and Environment Division South, Vicksburg District. The draft EA addressed reasonably foreseeable impacts associated with construction of the new weir.

Based on information provided in the draft EA, the proposed action would result in insignificant adverse effects on the environment. In addition, no historic properties listed in or determined eligible for inclusion in the National Register of Historic Places would be affected by the project. Therefore, an Environmental Impact Statement is not warranted, and a Finding of No Significant Impact is appropriate.

(Date)

Jeremiah A. Gipson
Colonel, Corps of Engineers
District Commander

Attachment

DRAFT ENVIRONMENTAL ASSESSMENT

HWY 82 WEIR
FC/MRT, BOEUF RIVER BASIN, BOEUF RIVER
CHICOT COUNTY, AR

EA #114

U.S. Army Corps of Engineers
Vicksburg District
Regional Planning and Environment Division South
Vicksburg Planning Branch

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EA #114

1.0 INTRODUCTION

The U.S. Army Corps of Engineers (USACE), Mississippi River Valley Division, Regional Planning and Environment Division South (RPEDS), has prepared this Environmental Assessment (EA) for the Vicksburg District (MVK) to evaluate the potential impacts of replacing a weir on the Boeuf River, in Chicot County, AR.

This EA has been prepared in accordance with the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality's Regulations (40 CFR §1500-1508), as reflected in the USACE Engineering Regulation 200-2-2. This EA provides sufficient information on potential reasonably foreseeable adverse and beneficial environmental effects to allow the District Commander, USACE, MVK, to make an informed decision on the appropriateness of an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI).

1.1 Proposed Action

This project proposes to build and replace a previously constructed weir that is now in disrepair. The original weir was built in the 1950's, where the Boeuf River meets U.S. Highway 82, to prevent further scouring and headcutting in the area. However, over time, the sheet pile rusted, and the rock washed away. Without a weir, headcutting in the area could occur again.

The new weir would be constructed slightly south of the original weir's location to avoid impacts to the U.S. Highway 82 bridge that crosses the Boeuf River. Construction would consist of placing a sheet pile and 6,900 tons (4,600 CYU) within the Boeuf River and along the stream bank (Figure 1). An access road would be built through an agricultural field. The project would also involve clearing and grubbing 3.8 acres of trees and shrubs along the river's edge where the riprap will be placed. An existing spoil bank would be utilized.

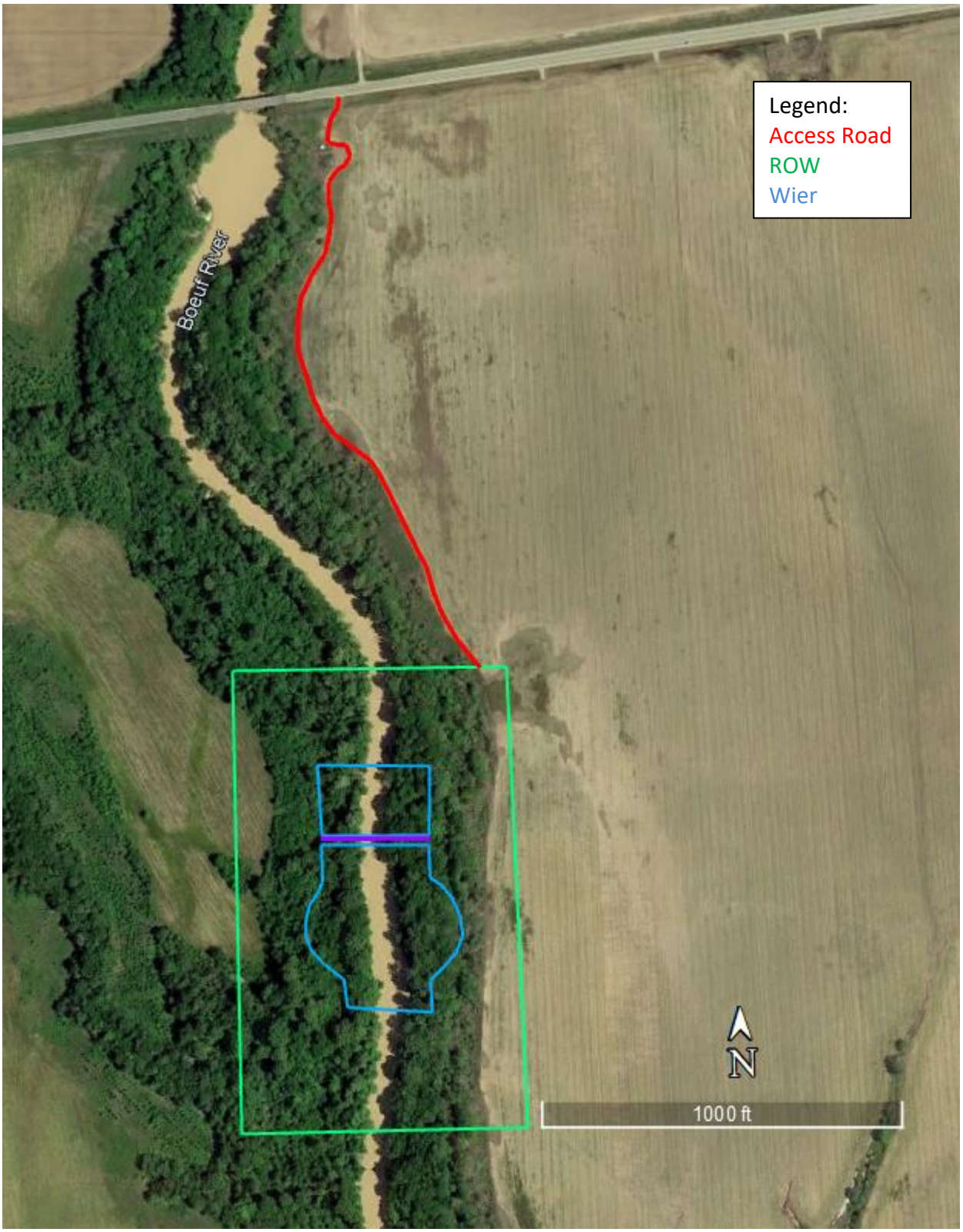

Figure 1. Project location and features of Highway 82 Weir, Chicot County, Arkansas.

1.2 Purpose and Need for the Proposed Action

The original weir was built in the 1950's where the Boeuf River meets U.S. Highway 82. The purpose of the weir was to prevent and reduce further scouring and headcutting in the area. However, over time the sheet pile rusted and broke, and the rocks washed away. Without the weir headcutting is increasing in the area again. This project would build a new weir to reduce and prevent the current headcutting that is occurring.

1.3 Authority

This Project is authorized by the Flood Control Act of 1928 (Public Law 70-391), as amended, including but not limited to, the Flood Control Act of 1936 (Public Law 74-738), the Flood Control Act of 1938 (Public Law 75-761), the Flood Control Act of 1941 (Public Law 77-228), the Flood Control Act of 1946 (Public Law 79-526), the Flood Control Act of 1950 (Public Law 81-516), the Flood Control Act of 1954 (Public Law 83-780), the Flood Control Act of 1962 (Public Law 87-874), the Flood Control Act of 1965 (Public Law 89-298), the River and Harbor and Flood Control Act of 1968 (Public Law 90-483), and the Water Resources Development Act (WRDA) of 1986 (Public Law 99-662).

2.0 ALTERNATIVES TO THE PROPOSED ACTION

Two alternatives were considered: No Action (Alternative 1), and the proposed action: Build a Weir to Prevent Headcutting (Alternative 2).

2.1 No Action – Future without Project Condition

Under the No-Action alternative, the MVK would not construct a replacement weir. In this scenario, the current headcutting would remain unaddressed at the proposed project site and the stream banks would continue to erode and be destroyed.

3.0 AFFECTED ENVIRONMENT

3.0.1 Environmental Setting

The project site is located just south of where the Boeuf River meets U.S. Highway 82 in Chicot County, AR. The project area falls within the Mississippi River alluvial plain and is comprised of mostly agricultural lands but also some riparian forested lands. Area soils are alluvial and generally level. There is little to no topographic relief in the project area. In the immediate vicinity of the proposed project site, in areas unaltered by modern agricultural production, flora is dominated by deciduous hardwood trees, including species of oak (*Quercus sp.*), elm (*Ulmus sp.*), green ash (*Fraxinus pennslyvanica*), cottonwood (*Populus deltoides*), and sugarberry (*Celtis laevigata*).

3.0.2 Climate

The hot season lasts for four months, from May to September, with an average daily high temperature above 85°F. The hottest month of the year in the project area is July, with an average high of 92°F and low of 74°F. The cool season lasts for three months, from November to February, with an average daily high temperature below 61°F. The coldest month of the year in the project area is January, with an average low of 37°F and high of 54°F. Rain falls throughout the year in Chicot County, AR. The month with the most rain is December, with an average rainfall of 4.9 inches and the month with the least rain is August, with an average rainfall of 2.5 inches (https://weatherspark.com/y/11405/Average-Weather-in-Lake-Village-Arkansas-United-States-Year-Round).

3.0.3 Geology

The project area occurs in the Mississippi River alluvial plain. Soils in the project area are mostly composed of Perry clay. Perry clay consists poorly drained soil with low permeability that is on a near level to gentle slope ranging from 0 to 1 percent.

3.1 Relevant Resources

This section contains a description of relevant resources that could be impacted by the project. The important resources described in this section are those recognized by laws, executive orders, regulations, and other standards of national, state, or regional agencies and organizations; technical or scientific agencies, groups, or individuals; and the general public. Table 1 provides summary information of the institutional, technical, and public importance of these resources.

The following resources have also been considered and determined not be affected by any alternative under consideration: Prime Farmland; Wetlands; Public Use of Lands; Unique or Rare Wildlife Habitat; Indian Trust Resources; Soundscapes/Noise; Recreation; and Aesthetics.

Table 1. Relevant Resources

Resource	Institutionally Important	Technically Important	Publicly Important
Wildlife	FWCA of 1958, as amended and the Migratory Bird Treaty Act of 1918.	Wildlife is a critical element of many valuable aquatic and terrestrial habitats; are an indicator of the health of various aquatic and terrestrial habitats; and many species are important commercial resources.	The high priority that the public places on their esthetic, recreational, and commercial value.
Terrestrial Resources	The Food Security Act of 1985, as amended; the Farmland Protection Policy Act of 1981; the Fish and Wildlife Coordination act of 1958, as amended.	The habitat provided for both open and forest-dwelling wildlife, and the provision or potential provision of forest products and human and livestock food products.	The present economic value or potential for future economic value.
Threatened and Endangered Species	The Endangered Species Act of 1973, as amended; the Marine Mammal Protection Act of 1972; and the Bald and Golden Eagle Protection Act of 1940.	USACE; USFWS; National Marine Fisheries Service; NRCS; Environmental Protection Agency (EPA); State Agencies; cooperate to protect these species. The status of such species provides an indication of the overall health of an ecosystem.	The public supports the preservation of rare or declining species and their habitats.
Hydrology and Water Quality	Clean Water Act of 1977, Fish and Wildlife Coordination Act, Coastal Zone Management Act of 1972.	USACE, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service, Natural Resources Conservation Service, U.S. Environmental Protection Agency, State Environmental Agencies, and wildlife/fishery offices recognize value of fisheries and good water quality. The national and state standards established to assess water quality.	Environmental organizations and the public support the preservation of water quality and fishery resources and the desire for clean drinking water.
Cultural Resources	NHPA of 1966, as amended; the Native American Graves Protection and Repatriation Act of 1990; and the Archeological Resources Protection Act of 1979.	State and Federal agencies document and protect sites. Their association or linkage to past events, historically important persons, and design and construction values and for their ability to yield important information about prehistory and history.	Preservation groups, Native American tribes, and private individuals support protection and enhancement of historical resources.
Environmental Justice	Executive Orders 12898 & 14008, Federal Actions to Address Environmental Justice in Communities of Color and People Experiencing Poverty, and the Department of Defense's Strategy on Environmental Justice of 1995, & Tackling the Climate Crisis at Home and Abroad 2021.	The social and economic welfare of communities of color and people experiencing poverty may be positively or disproportionately impacted by the preferred plan.	Public concerns about the fair and equitable treatment (fair treatment and meaningful involvement) of all people with respects to environmental and human health consequences of federal laws, regulations, policies, and actions.
Greenhouse Gas Emissions	Executive Order 13990.	Need to use science to reduce greenhouse gas emissions and bolster resilience to the impacts of climate change.	Virtually all citizens express a desire for clean air.

3.2 Aquatic Resources/ Fisheries

Existing Conditions

The aquatic resources of the project area are associated with the Boeuf River. Some of the major fish that occur in the Boeuf River watershed includes various species of catfish, bass, crappie, and bream.

3.3 Wildlife

Existing Conditions

Wildlife in vicinity of the proposed action are those recreational and esthetic species typical for the southern United States and include the usual compliment of wildlife species pursued by the public such as white-tailed deer (*Odocoileus virginianus*), squirrels (*Sciuridae spp*.), rabbits (*Sylvilagus spp.*), Northern mockingbirds (*Mimus polyglottos*), and various migratory waterfowl species, as well as other terrestrial mammals such as raccoons (*Procyon lotor*) and brown rats (*Rattus norvegicus*). No individual species of significant commercial value occur within the project area. Wildlife habitat resources in the project area consists of mostly agricultural fields and some forested areas.

3.4 Terrestrial Resources

Existing Conditions

Terrestrial habitat types within the project area include riparian forest and agricultural lands. The surrounding area is mostly agricultural with narrow bands of hardwoods growing along the edge of the river. Dominant species of the riverfron communities include cottonwood *(Populus deltoides),* sycamore *(Platanus occidentalis),* black willow (*Salix nigra),* oaks *(Quercus* spp.), and elms *(Ulmus* spp.).

3.5 Threatened and Endangered Species

Existing Conditions

According to results obtained on 30 April 2024 from the USFWS Information, Planning, and Conservation (IPaC) planning tool, there are a total of eight threatened, endangered, or candidate species listed in Chicot County that could potentially inhabit the immediate project area (Attachment 1). These species are the northern long-eared bat (*Myotis septentrionalis*) (NLEB), tricolored bat (*Perimyotis* subflavus), the alligator snapping turtle (*Macrochelys* temminckii), Eastern black rail (*Laterallus jamaicensis spp.* Jamaicensis), piping plover (*Charadrius* melodus), rufa red knot (*Calidris canutus* rufa), pondberry (*Lindera melissifolia*), and the monarch butterfly (*Danaus plexippus*).

The NLEB is a threatened mammal species found throughout the continental US. During summer, NLEB roost singly or in colonies underneath bark, in cavities, or in crevices of both live and dead trees. The NLEB seems opportunistic in selecting roosts, using tree species based on suitability to retain bark or provide cavities or crevices. It has also been found, rarely, roosting in structures like barns and sheds. In winter, NLEBs hibernate in caves and mines.

The tricolored bat is a proposed endangered small insectivorous bat that is distinguished by its unique tricolored fur and often appears yellowish to nearly orange. The once common species is wide ranging across the eastern and central United States and portions of southern Canada, Mexico, and Central America. During the winter, tricolored bats are often found in caves and abandoned mines, although in the southern United States, where caves are sparse, tricolored bats are often found roosting in road-associated culverts where they exhibit shorter torpor bouts and forage during warm nights. During the spring, summer, and fall, tricolored bats are found in forested habitats where they roost in trees, primarily among leaves of live or recently dead deciduous hardwood trees, but may also be found in Spanish moss, pine trees, and occasionally human structures. Tricolored bats face extinction due primarily to the range wide impacts of white-nose syndrome, a deadly disease affecting cave-dwelling bats across the continent.

The alligator snapping turtle is a proposed threatened species that has a large range across many states and encompasses several large river basins. Over the last century, it has undergone declines throughout its range, due mainly to overharvesting and habitat loss and degradation. Restrictions on harvest have apparently started to reverse declines in a few river systems. Overall, the population remains reduced compared to historical levels. The turtle's habitat consists of slow-moving, deep water of rivers, sloughs, oxbows, and canals or lakes associated with rivers (e.g., large impoundments including reservoirs); also swamps, bayous, and ponds near rivers, and shallow creeks that are tributary to occupied rivers, sometimes including swift upland streams. This turtle sometimes enters brackish waters near river mouths. Usually, it occurs in water with a mud bottom and some aquatic vegetation but uses sand-bottomed river and creeks in Florida. Within streams, alligator snapping turtles may occur under or in logjams, beneath undercut banks, under rock shelters, or in deep holes. These turtles are highly aquatic and rarely are found out of water, except during nesting.

The eastern black rail is listed as threatened due to habitat loss, sea level rise, and tidal flooding from increasing storm intensity and frequency. They are extremely secretive and are rarely seen in flight. Adult eastern black rails are gray black in coloration, with white speckled upperparts, and has a grayish crown, a chestnut-colored nape of the neck, and a short tail. These secretive birds have red eyes, black bills and dusty pink or wine-colored legs. Black rails require dense vegetative cover that allows movement underneath the canopy. Because birds are found in a variety of salt, brackish, and freshwater marsh habitats that can be tidally or non-tidally influenced, plant structure is considered more important than plant species composition in predicting habitat suitability. Along portions of the Gulf Coast, eastern black rails can be found in higher elevation wetland zones with some shrubby vegetation.

The piping plover is a threatened small sand-colored, sparrow-sized shorebird that nests and feeds along coastal sand and gravel beaches in North America. The adult has yellow-orange-red legs, a black band across the forehead from eye to eye, and a black stripe running along the breast line. This chest band is usually thicker in males during the breeding season, and it is the only reliable way to tell the sexes apart. There are two subspecies of piping plovers: the eastern population is known as Charadrius m. melodus and the mid-west population is known as C. m. circumcinctus. The bird's name is derived from its plaintive bell-like whistles which are often heard before the bird is visible.

Red Knots are threatened plump, neatly proportioned sandpipers that in summer sport brilliant terracotta-orange underparts and intricate gold, buff, rufous, and black upperparts. This cosmopolitan species occurs on all continents except Antarctica and migrates exceptionally long distances, from High Arctic nesting areas to wintering spots in southern South America, Africa, and Australia. Red Knots from eastern North America have declined sharply in recent decades owing in part to unsustainable harvest of horseshoe crab eggs, and they have become a flagship species for shorebird conservation in the twenty-first century.

Pondberry is an endangered deciduous shrub, growing from less than 1 ft. (30 cm) to, infrequently, more than 6 ft. (2 m) in height. Leaves are aromatic, alternate, elliptical, somewhat thin, and membranaceous, with entire margins. Shrubs usually are sparsely branched, with fewer branches on smaller plants. Plants are rhizomatous, frequently propagating by vegetative sprouts and forming clonal colonies. Plants are dioecious (each plant is either a male or a female) and produce clusters of small, yellow flowers in early spring prior to leaf development from buds on branches produced from the growth during the preceding year. Fruits are drupes that green when immature and ripen to red by fall.

The monarch butterfly is a candidate insect species, thus there are no section 7 requirements for this species, but conservation is strongly encouraged by the USFWS and others of conservation interest. Adult monarch butterflies are large and conspicuous, with bright orange wings surrounded by a black border and covered with black veins. During the breeding season, monarchs lay their eggs on their obligate milkweed host plant (primarily Asclepias spp.), and larvae emerge after two to five days. There are multiple generations of monarchs produced during the breeding season, with most adult butterflies living approximately two to five weeks. In many regions where monarchs are present, monarchs breed year-round. Individual monarchs in temperate climates, such as eastern and western North America, undergo long-distance migration, and live for an extended period of time. In the fall, in both eastern and western North America, monarchs begin migrating to their respective overwintering sites. This migration can take monarchs distances of over 3,000 km and last for over two months. In early spring (February-March), surviving monarchs break diapause and mate at the overwintering sites before dispersing. The same individuals that undertook the initial southward migration begin flying back through the breeding grounds and their offspring start the cycle of generational migration over again.

3.6 Cultural Resources

Existing Conditions

Background and literature review was conducted by U.S. Corps of Engineers, Vicksburg District (CEMVK) archaeologist in May 2024. Historic properties in the project vicinity were identified based on a review of the National Register of Historic Places (NRHP) database, the Arkansas Historic Preservation Program (AHPP) Automated Management of Archeological Site Data in Arkansas (AMASDA) cultural database, historic aerial photography, historic map research, and a review of cultural resources survey reports. The background and literature review revealed no historic properties (archaeological or standing structures) within the project right-of-way (ROW). Per 36 CFR 800.3(a)(1), additional cultural investigations of the project footprint and consultation/engagements with SHPO and Tribal parties are ongoing.

3.7 Air Quality

Existing Conditions

The air quality within the study area is in attainment of national air quality standards and is currently considered moderate. Air quality index data for the project area have indices averaging around 63. Principal sources of air pollutants in the county include industries, agricultural operations, and emissions from internal combustion engines.

3.8 Water Quality

Existing Conditions

Section 303(d) of the Clean Water Act requires states to identify water bodies that are considered impaired due to not meeting one or more applicable water quality standards. Within the same watershed as the project area there are no impaired bodies of water and no scenic and wild rivers.

3.9 Environmental Justice

Existing Conditions

The Department of Defense's Strategy on Environmental Justice (EJ), which incorporates Executive Orders No. 12898, 59 Fed. Reg. 7629 (11 Feb. 1994), No. 13990 (20 Jan. 2021), and No. 14008, 86 Fed. Reg. 7619 (20 July 2021), directs federal agencies to identify and address any adverse human health or environmental effects, as well as climate crisis issues, caused by federal actions that have a disproportionately high effect on communities of color and/or people/households with incomes below the federal poverty line.

The Justice40 Initiative implements the guidance set forth in Executive Order 14008 (Tackling the Climate Crisis at Home and Abroad) and mandates that "40 percent of the overall benefits" of federal investments from covered programs should flow to disadvantaged/ environmental justice communities. This is a shift from minimizing adverse impacts to sharing benefits.

The Environmental Protection Agency's (EPA) EJ Screen tool and the Council of Environmental Quality's (CEQ) Climate and Economic Screening Justice Tool (CEJST) were used to analyze impacts to people/households with incomes below the federal poverty line and racial and ethnic groups in the project area. Since there are no residents in the direct project area, a three-mile radius was added. According to the EPA's CEJST tool, the project area is designated as disadvantaged (Figure 2). Within the project area approximately 57% of residents have incomes below the federal poverty line and approximately 25% of residents are classified as people of color (Attachment 2).

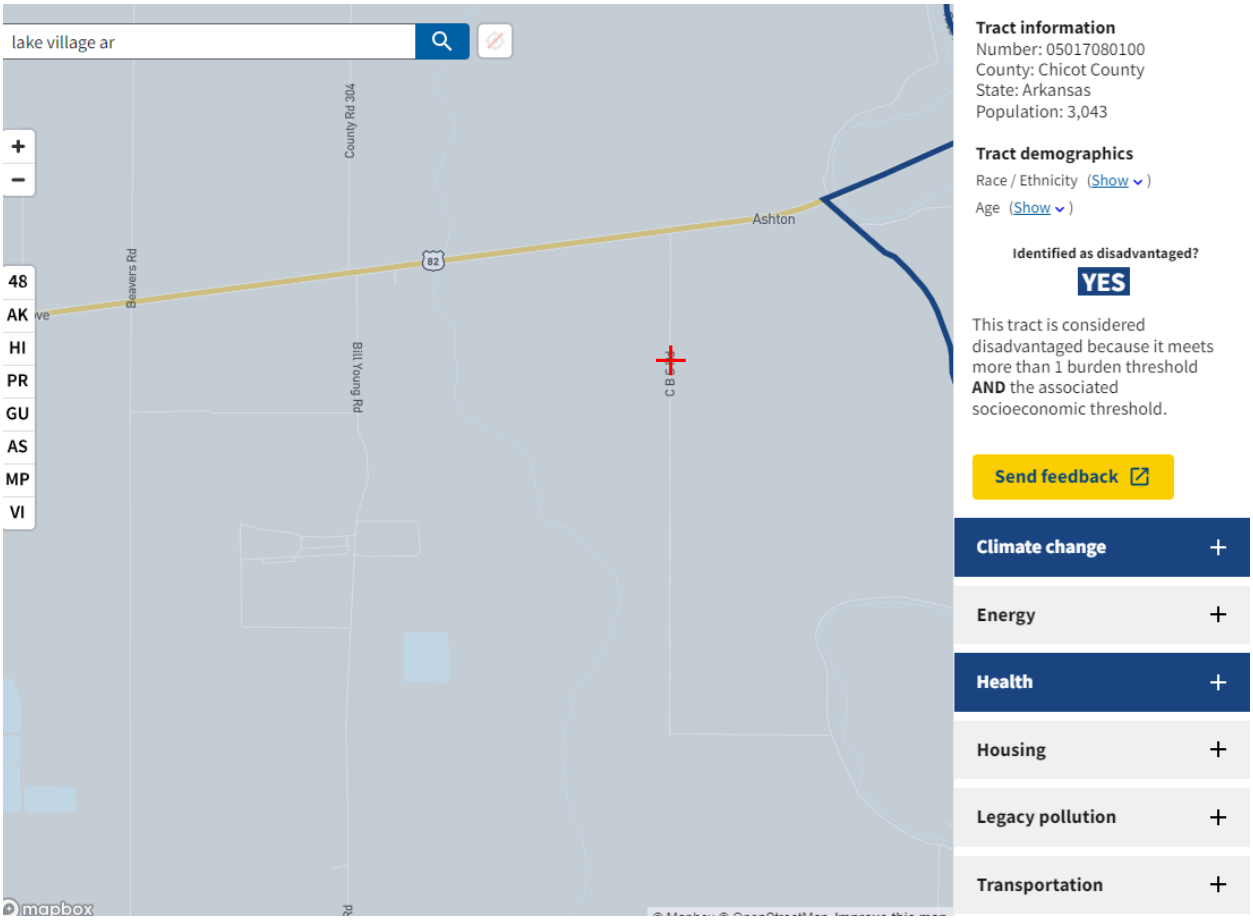

Figure 2. CEJST results showing project area as disadvantaged.

4 ENVIRONMENTAL CONSEQUENCES

4.0 Aquatic Resources /Fisheries

Future Conditions with No Action

Without implementation, no impacts to aquatic resources or fisheries would occur within the project area.

Future Conditions with the Proposed Action

Construction activity is anticipated to result in some short-term and minor negative impacts to aquatic resources in the immediate construction area. Flora and fauna present in the project footprint could be buried or crushed by the placement of riprap along the streambed and riverbank. However, other benthic and aquatic organisms would be expected to quickly recolonize the new rock substrate. Fish and other mobile aquatic life would avoid the area during construction but are expected to return upon completion. The aquatic system would also be positively impacted from placement of the structures, which would create a ripple effect around the stone placed in the water, thereby increasing the amount of dissolved oxygen in the water and lowering average temperature in the river. The stone would also provide smaller fish and invertebrate species shelter when submerged.

The Project would not contribute toward the long-term impairments for fish and invertebrates. Alternative 2 would stabilize the streambank, reduce probability of bank failure and erosion of bank materials, and benefit the aquatic habitat.

4.1 Wildlife

Future Conditions with No Action

Without implementation, no direct impacts to wildlife resources would occur within the project area.

Future Conditions with the Proposed Action

With implementation of Alternative 2 wildlife movement and activity patterns would be temporarily influenced during project construction, due to the general traffic and noise generated by equipment operation. However, this temporary impact is not significant, as many species would become tolerant to the disturbance. Any species temporarily dispersed by the activity should return to the vicinity once construction is complete.

4.2 Terrestrial Resources

Future Conditions with No Action

Without implementation, no long-term impacts to terrestrial resources would occur within the project area.

Future Conditions with the Proposed Action

Most of the surrounding habitat is farmland, but with thin rows of trees running along the riverbank. The proposed actions would cause minor impacts to terrestrial habitat in the direct project area but would not lead to adverse long-term effects in the surrounding area. Construction would require clearing 3.8 acres of trees and undergrowth along the riverbank for the placement of rock. By stopping the river from headcutting the weir will also help prevent trees from collapsing into the river as the streambank further erodes.

4.3 Threatened or Endangered Species

Future Conditions with No Action

Without implementation of the proposed action, no direct or indirect impacts to threatened or endangered species or their critical habitat would occur.

Future Conditions with the Proposed Action

With implementation of the proposed action, there would be little reason to expect any adverse effects to threatened, endangered, and candidate species. USACE completed Section 7 consultation through USFWS's Information for Planning and Consultation (IPaC) website. A determination was made that the project would have no effect on the eastern black rail, pondberry, alligator snapping turtle, or the monarch butterfly and that the project may affect but is not likely to adversely affect the NLEB, tricolored bat, piping plover, and rufa red knot. No consultation is required for species with a "no effect" determination and on 22 May 2024 a verification letter was received through the IPaC system stating concurrence from the USFWS on the NLEB, eastern black rail, piping plover, pondberry, and rufa red knot determinations (Attachments 3 and 4).

4.4 Cultural Resources

Future Conditions with No Action

Without implementation of the proposed action, there would be no direct or indirect impacts to cultural resources. The conditions within the existing environment would continue as they have in the past and would be dictated by the natural land use patterns and processes that have dominated the area in the past.

Future Conditions with the Proposed Action

The background and literature review revealed no historic properties (archaeological or standing structures) within the project right-of-way (ROW). Per 36 CFR 800.3(a)(1), additional cultural investigations of the project footprint and consultation/engagements with SHPO and Tribal parties are ongoing. All required cultural resource work will be completed before construction takes place.

4.5 Air Quality

Future Conditions with No Action

Without implementation, no impacts to air quality would occur.

Future Conditions with the Proposed Action

Construction of Alternative 2 would result in minor adverse impacts to air quality in the project area. Increased emissions from internal combustion engines and dust would occur for a short period of time. Impacts would be expected to be minimal as well as temporary.

4.6 Water Quality

Future Conditions with No Action

Without implementation of the proposed action, degradation of the Boeuf River would continue and could contribute to the decline of water quality conditions if a new structure is not implemented. The excess sediment from erosion of the channel bed and banks would increase turbidity. That excess sediment would also lead to a loss in water storage capacity downstream of the failed structure further reducing flood control potential.

Future Conditions with the Proposed Action

With implementation of the proposed actions, there would be minimal disturbances to ambient water quality. Placement of the rock would temporarily increase turbidity within the waterway;

however, conditions would be expected to quickly return to normal. The aquatic system would also be positively impacted from construction of the weir, which would create a ripple effect, thereby increasing the amount of dissolved oxygen in the water and lowering the average temperature in the river. Within the same watershed as the proposed project area there are no impaired bodies of water and no scenic and wild rivers.

4.7 Environmental Justice

Future Conditions with No Action

Without implementation of the proposed action, no direct or indirect environmental justice impacts would occur.

Future Conditions with the Proposed Action

Executive Orders No. 14008, No. 13990, and No. 12898 were considered while the project was analyzed in this EA. The EPA's EJ Screen and the CEQ's CEJST tools were utilized to locate people/households with incomes below the federal poverty line and racial and ethnic groups that live within the project areas (Attachment 2).

It was determined that the construction of this project would not have any disproportionate effect on communities of color or people experiencing poverty in the surrounding area due to its relatively small footprint, lack of residents in the project area, and lack of adverse environmental impacts. This project is not anticipated to have any significant adverse direct or indirect impacts on environmental justice.

4.8 Greenhouse Gasses

Carbon dioxide (CO2) is the primary greenhouse gas emitted from human activities, chiefly through combustion of fossil fuels. Additionally, carbon levels in soil used for agricultural purposes tend to decrease over time as carbon is oxidized and released into the atmosphere. Increasing quantities of atmospheric greenhouse gases have resulted in measurable changes to the Earth's surface and ecosystems. CO2 equivalent is a unit that represents the warming effect of any given greenhouse gas on the global climate and is calculated by multiplying the mass of the gas by its warming potential, which describes the relative potency and residence time of the gas in the atmosphere. Thus, using a CO2 equivalent provides a common scale for measuring effects of different gases. The estimated existing and with-project CO2 equivalent conditions consist of the anticipated emissions produced by project area vehicular and construction emissions as well as anticipated carbon release from agricultural land soils.

In accordance with EO 13990 Sec. 5, the social cost of greenhouse gas emissions (SC-GHG) was considered in this EA. SC-GHG is an estimate of the monetized damages associated with incremental increases in greenhouse gas emissions and is intended to include changes in net agricultural productivity, human health, property damage from increased flood risk, and the value of ecosystem services. The SC-GHG is intended to be used for alternative comparison purposes and is determined as: SC-GHG = CO2 equivalent (metric tons) X social cost in dollars per metric ton of carbon dioxide or $51/metric ton.

Future Conditions with No Action

The amount of CO2 equivalent that would be emitted for the No Action alternative is currently being calculated. The SC-GHG produced by the No Action alternative would be included in this EA before final FONSI signature is received.

Future Conditions with the Proposed Action

The amount of CO2 equivalent that would be emitted via construction equipment is currently being calculated. The SC-GHG produced by the proposed actions would be included in this EA before final signature is received.

4.9 Hazardous, Toxic, and Radioactive Waste

USACE is obligated under Engineer Regulation 1165-2-132 to assume responsibility for the reasonable identification and evaluation of all Hazardous, Toxic, and Radioactive Waste (HTRW) contamination within the vicinity of the proposed action. ER 1165-2132 identifies our HTRW policy to avoid the use of project funds for HTRW removal and remediation activities.

A query using the EPA's EnviroMapper online query system of listed facilities for Superfund Sites (National Priorities List sites), Resource Conservation and Recovery Act sites (RCRA), Toxic Release Inventory (TRI) sites, Brownfield properties and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) sites has been performed. The results of the record search indicate that there is no reason to believe HTRW concerns would be encountered during this project. If any hazardous waste/substance is encountered during construction activities, the proper handling and disposal of these materials would be coordinated with the appropriate state agencies.

4.10 Section 404(b)(1) Considerations

This project was reviewed for Section 404 evaluation and a determination of Section 10 Rivers and Harbors Act of 1899 and/or Section 404(b)(1) requirements per the Clean Water Act. The construction activities comply with the conditions of a Nationwide Permit 27, Aquatic Habitat Restoration, Establishment, and Enhancement Activities. This permit is currently being reviewed by MVK Regulatory. If the project scope changes, further NEPA coordination would be necessary.

4.11 Cumulative Impacts

The CEQ's regulations (40 CFR 1500-1508) implementing the procedural provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 et seq.) define cumulative effects as "the impact on the environment which results from the incremental impact of the action when added to other past, present, or reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions (40 CFR 1508.7)." Cumulative Effects can result from individually minor but collectively significant actions taking place over a period of time.

Beneficially, implementation of the proposed project would prevent future head cutting in the area, increase the amount of oxygen in the water, lower the average temperature in the river, and smaller fish and invertebrate species shelter in the rocks. Stabilizing the bank will also reduce the loss of forest habitat caused by erosion.

Any negative effects associated with implementation of the proposed project would relate to the cumulative contribution of the proposed action to the effects of other projects, past and present. The construction-related increases in truck traffic, noise and vibration, and vehicle and equipment emissions would be temporally and locally unique and unlikely, combined with other similar disturbances, to significantly affect the citizens or natural environment in the project area.

There would be only minor and temporary impacts to fish and wildlife resources and no impacts to cultural resources and environmental justice. Therefore, the cumulative impacts are considered minimal and temporary.

5 COORDINATION

Preparation of this EA and associated FONSI have been coordinated with appropriate Congressional, Federal, Tribal, state, and local interests, as well as environmental groups and other interested parties. The following agencies, as well as other interested parties, are receiving copies of this EA and FONSI:

USFWS
EPA
Advisory Council on Historic Preservation
Arkansas Game and Fish Commission
Arkansas Department of Environmental Quality

6 COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS

Environmental compliance for the proposed action would be achieved based upon coordination of this EA and FONSI with all appropriate agencies, organizations, and individuals for their review and comments.

7 PREPARED BY

EA #114 and the associated FONSI were prepared by Taylor Piefke, Biologist, with relevant sections prepared by: John Underwood - Cultural Resources; and Ryan Horton – HTRW. The address of the preparers is:

U.S. Army Engineer District, Vicksburg
Regional Planning and Environment Division South
ATTN: CEMVN-PDN-UDP
4155 Clay Street
Vicksburg, Mississippi 39183-3435

8 ATTACHMENTS

1. USFWS Species List
2. EJ Screen Community Report
3. Concurrence Letter NLEB
4. USFWS Species Concurrence Letter

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: 04/30/2024 20:35:56 UTC
Project Code: 2024-0084074
Project Name: Highway 82 Weir Construction Project

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

To Whom It May Concern:

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

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

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

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

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

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

https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf

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

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

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

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

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

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

This species list is provided by:

Arkansas Ecological Services Field Office
110 South Amity Suite 300
Conway, AR 72032-8975
(501) 513-4470

PROJECT SUMMARY

Project Code: 2024-0084074

Project Name: Highway 82 Weir Construction Project

Project Type: Stream/Waterbody - Channel/Diversion Structures

Project Description: This project proposes to construct a weir on the Boeuf River just south of where the river crosses US Highway 82. The purpose of this project is to replace a weir that has broken apart and washed away. The previous weir was built in the 1950s to prevent headcutting and erosion in the area and was located right next to the Hwy 82 bridge. A new weir is required to continue to prevent erosion in the area. To avoid conflicts with the DOT and to avoid cultural mitigation it was determined that the new weir should be constructed slightly south of the previous weir's location.

Construction of the weir would involve placing a sheet pile and 6,900 tons (4,600 CY) of rock in and along the river edge. Trees would only be cleared along the edge of the river where the stone would be placed.

Project Location:

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@33.3059705,-91.36406482984897,14z

Counties: Chicot County, Arkansas

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. Note that 1 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries[1], as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

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

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

MAMMALS

NAME	STATUS
Northern Long-eared Bat *Myotis septentrionalis* No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ This species only needs to be considered if the project includes wind turbine operations. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered
Tricolored Bat *Perimyotis subflavus* 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 *Laterallus jamaicensis ssp. jamaicensis* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10477	Threatened
Piping Plover *Charadrius melodus* 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 *Calidris canutus rufa* There is **proposed** critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

REPTILES

NAME	STATUS
Alligator Snapping Turtle *Macrochelys temminckii* 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 *Danaus plexippus* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

FLOWERING PLANTS

NAME	STATUS
Pondberry *Lindera melissifolia* No critical habitat has been designated for this species.	Endangered

NAME STATUS

Species profile: https://ecos.fws.gov/ecp/species/1279

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

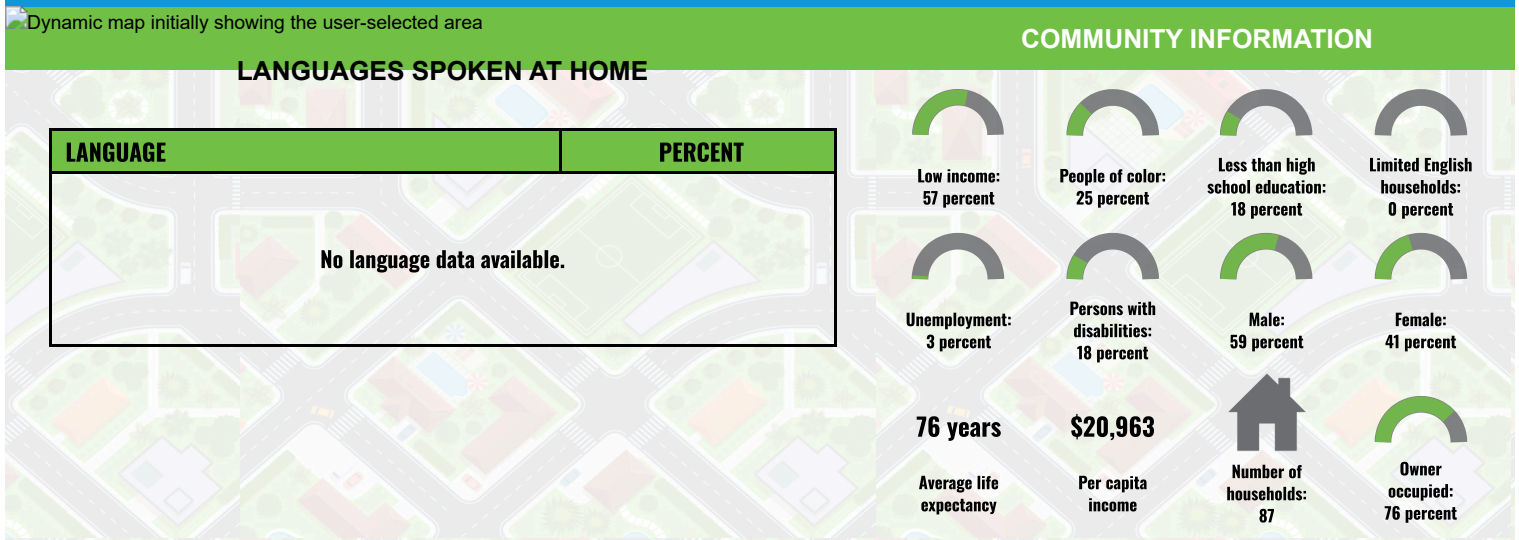
Agency:	Army Corps of Engineers
Name:	Taylor Piefke
Address:	4155 Clay St
Address Line 2:	Rm 250
City:	Vicksburg
State:	MS
Zip:	39183
Email	taylor.piefke@usace.army.mil
Phone:	6016315087

EJScreen Community Report

This report provides environmental and socioeconomic information for user-defined areas, and combines that data into environmental justice and supplemental indexes.

Chicot County, AR

3 miles Ring around the Area
Population: 185
Area in square miles: 30.66



LANGUAGES SPOKEN AT HOME

LANGUAGE	PERCENT
No language data available.	

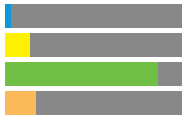
COMMUNITY INFORMATION

- Low income: 57 percent
- People of color: 25 percent
- Less than high school education: 18 percent
- Limited English households: 0 percent
- Unemployment: 3 percent
- Persons with disabilities: 18 percent
- Male: 59 percent
- Female: 41 percent
- 76 years — Average life expectancy
- $20,963 — Per capita income
- Number of households: 87
- Owner occupied: 76 percent

BREAKDOWN BY RACE

- White: 75%
- Black: 17%
- American Indian: 0%
- Asian: 0%
- Hawaiian/Pacific Islander: 0%
- Other race: 0%
- Two or more races: 2%
- Hispanic: 6%

BREAKDOWN BY AGE



From Ages 1 to 4	3%
From Ages 1 to 18	14%
From Ages 18 and up	86%
From Ages 65 and up	17%

LIMITED ENGLISH SPEAKING BREAKDOWN

Speak Spanish	0%
Speak Other Indo-European Languages	100%
Speak Asian-Pacific Island Languages	0%
Speak Other Languages	0%

Notes: Numbers may not sum to totals due to rounding. Hispanic population can be of any race.
Source: U.S. Census Bureau, American Community Survey (ACS) 2017 -2021. Life expectancy data comes from the Centers for Disease Control.

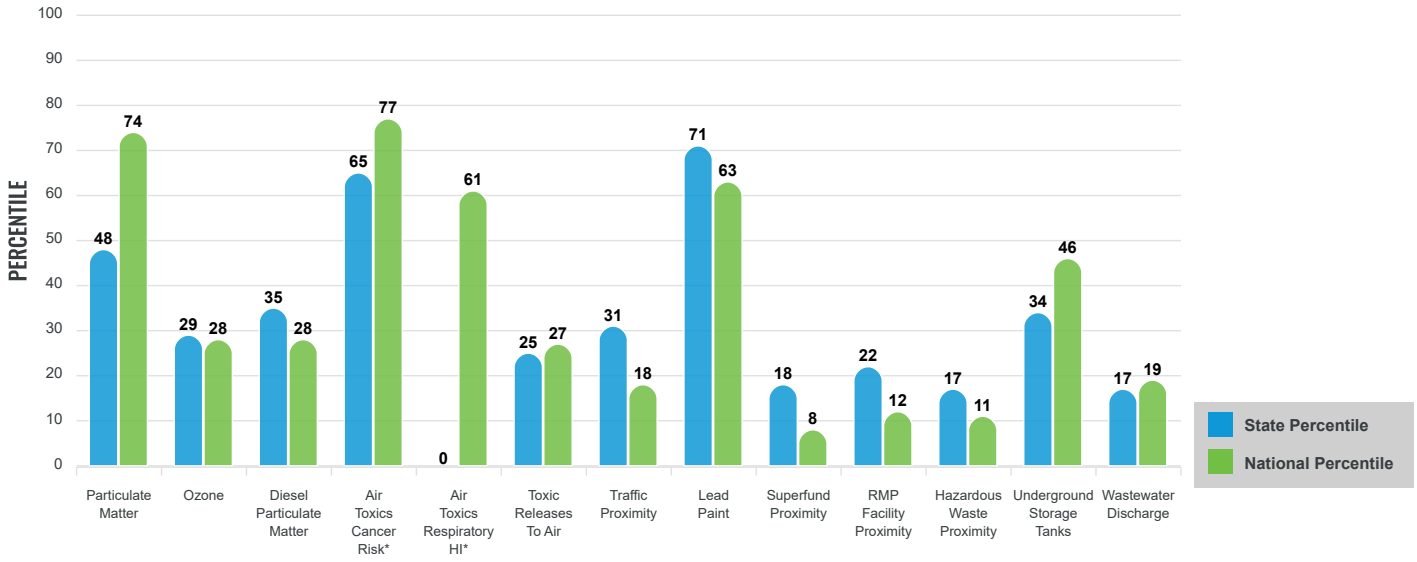
Environmental Justice & Supplemental Indexes

The environmental justice and supplemental indexes are a combination of environmental and socioeconomic information. There are thirteen EJ indexes and supplemental indexes in EJScreen reflecting the 13 environmental indicators. The indexes for a selected area are compared to those for all other locations in the state or nation. For more information and calculation details on the EJ and supplemental indexes, please visit the EJScreen website.

EJ INDEXES

The EJ indexes help users screen for potential EJ concerns. To do this, the EJ index combines data on low income and people of color populations with a single environmental indicator.

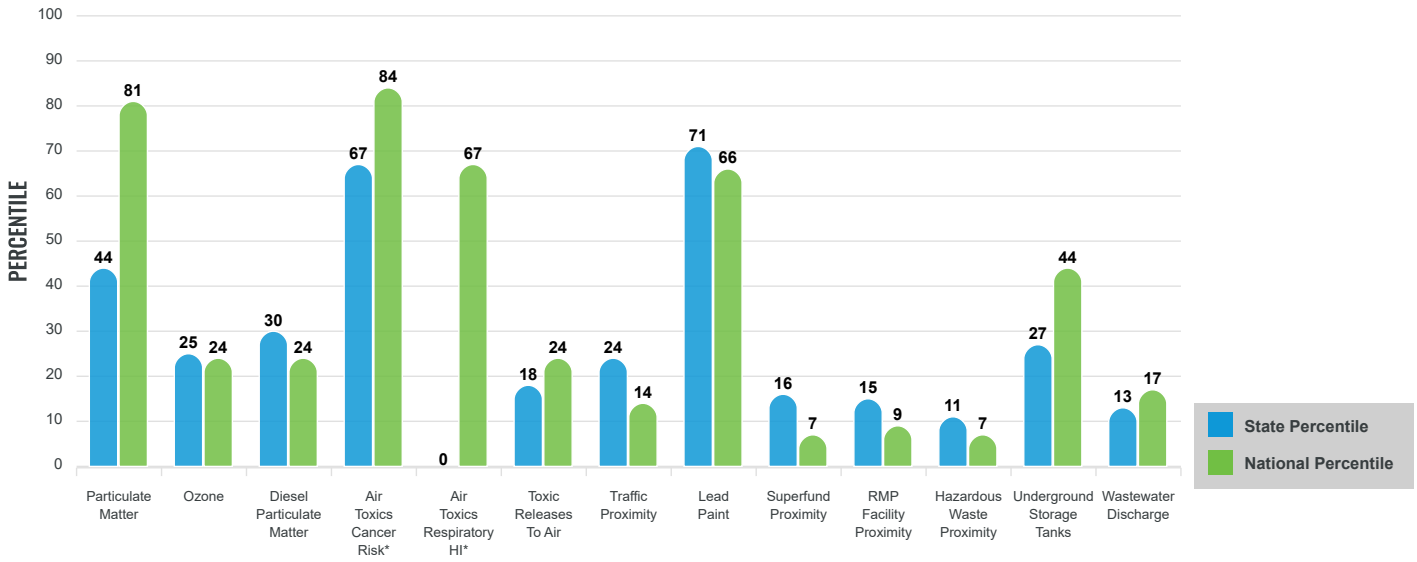
EJ INDEXES FOR THE SELECTED LOCATION



SUPPLEMENTAL INDEXES

The supplemental indexes offer a different perspective on community-level vulnerability. They combine data on percent low-income, percent linguistically isolated, percent less than high school education, percent unemployed, and low life expectancy with a single environmental indicator.

SUPPLEMENTAL INDEXES FOR THE SELECTED LOCATION



These percentiles provide perspective on how the selected block group or buffer area compares to the entire state or nation.

Report for 3 miles Ring around the Area

EJScreen Environmental and Socioeconomic Indicators Data

SELECTED VARIABLES	VALUE	STATE AVERAGE	PERCENTILE IN STATE	USA AVERAGE	PERCENTILE IN USA
POLLUTION AND SOURCES					
Particulate Matter ($\mu g/m^3$)	8.62	8.97	31	8.08	62
Ozone (ppb)	56.1	57.3	17	61.6	13
Diesel Particulate Matter ($\mu g/m^3$)	0.0885	0.169	20	0.261	12
Air Toxics Cancer Risk* (lifetime risk per million)	30	30	14	25	52
Air Toxics Respiratory HI*	0.3	0.37	0	0.31	31
Toxic Releases to Air	25	9,400	13	4,600	13
Traffic Proximity (daily traffic count/distance to road)	2.3	59	18	210	7
Lead Paint (% Pre-1960 Housing)	0.17	0.17	64	0.3	45
Superfund Proximity (site count/km distance)	0.011	0.039	12	0.13	4
RMP Facility Proximity (facility count/km distance)	0.031	0.42	10	0.43	4
Hazardous Waste Proximity (facility count/km distance)	0.029	0.54	9	1.9	4
Underground Storage Tanks (count/km^2)	0.025	1.1	21	3.9	23
Wastewater Discharge (toxicity-weighted concentration/m distance)	1.2E-06	66	9	22	9
SOCIOECONOMIC INDICATORS					
Demographic Index	41%	36%	66	35%	66
Supplemental Demographic Index	20%	17%	70	14%	78
People of Color	25%	31%	53	39%	43
Low Income	57%	41%	77	31%	86
Unemployment Rate	3%	6%	41	6%	39
Limited English Speaking Households	0%	1%	0	5%	0
Less Than High School Education	18%	13%	75	12%	78
Under Age 5	3%	6%	26	6%	27
Over Age 64	17%	18%	52	17%	58
Low Life Expectancy	20%	22%	24	20%	58

*Diesel particulate matter, air toxics cancer risk, and air toxics respiratory hazard index are from the EPA's Air Toxics Data Update, which is the Agency's ongoing, comprehensive evaluation of air toxics in the United States. This effort aims to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that the air toxics data presented here provide broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. Cancer risks and hazard indices from the Air Toxics Data Update are reported to one significant figure and any additional significant figures here are due to rounding. More information on the Air Toxics Data Update can be found at: https://www.epa.gov/haps/air-toxics-data-update.

Sites reporting to EPA within defined area:

Superfund 0
Hazardous Waste, Treatment, Storage, and Disposal Facilities 0

Other community features within defined area:

Schools 0
Hospitals 0

Water Dischargers	0
Air Pollution	0
Brownfields	0
Toxic Release Inventory	0

Places of Worship	4

Other environmental data:

Air Non-attainment	No
Impaired Waters	Yes

Selected location contains American Indian Reservation Lands*	No
Selected location contains a "Justice40 (CEJST)" disadvantaged community	Yes
Selected location contains an EPA IRA disadvantaged community	Yes

Report for 3 miles Ring around the Area

EJScreen Environmental and Socioeconomic Indicators Data

HEALTH INDICATORS

INDICATOR	VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Low Life Expectancy	20%	22%	24	20%	58
Heart Disease	8.8	7.7	70	6.1	91
Asthma	9.9	10.4	30	10	49
Cancer	6.9	6.6	57	6.1	67
Persons with Disabilities	21%	18.7%	62	13.4%	88

CLIMATE INDICATORS

INDICATOR	VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Flood Risk	17%	10%	86	12%	82
Wildfire Risk	0%	8%	0	14%	0

CRITICAL SERVICE GAPS

INDICATOR	VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Broadband Internet	17%	22%	40	14%	66
Lack of Health Insurance	10%	9%	65	9%	66
Housing Burden	No	N/A	N/A	N/A	N/A
Transportation Access	Yes	N/A	N/A	N/A	N/A
Food Desert	Yes	N/A	N/A	N/A	N/A

Report for 3 miles Ring around the Area

www.epa.gov/ejscreen

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: 05/28/2024 14:17:07 UTC
Project code: 2024-0084074
Project Name: Highway 82 Weir Construction Project

Federal Nexus: yes
Federal Action Agency (if applicable): Army Corps of Engineers

Subject: Federal agency coordination under the Endangered Species Act, Section 7 for 'Highway 82 Weir Construction Project'

Dear Taylor Piefke:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on May 28, 2024, for 'Highway 82 Weir Construction Project' (here forward, Project). This project has been assigned Project Code 2024-0084074 and all future correspondence should clearly reference this number. **Please carefully review this letter. Your Endangered Species Act (Act) requirements may not be complete.**

Ensuring Accurate Determinations When Using IPaC

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

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

Determination for the Northern Long-Eared Bat

Based upon your IPaC submission and a standing analysis completed by the Service, your project has reached the determination of "May Affect, Not Likely to Adversely Affect" the northern long-eared bat. Unless the Service advises you within 15 days of the date of this letter that your

IPaC-assisted determination was incorrect, this letter verifies that consultation on the Action is complete and no further action is necessary unless either of the following occurs:

- new information reveals effects of the action that may affect the northern long-eared bat in a manner or to an extent not previously considered; or,
- the identified action is subsequently modified in a manner that causes an effect to the northern long-eared bat that was not considered when completing the determination key.

15-Day Review Period

As indicated above, the Service will notify you within 15 calendar days if we determine that this proposed Action does not meet the criteria for a "may affect, not likely to adversely affect" (NLAA) determination for the northern long-eared bat. If we do not notify you within that timeframe, you may proceed with the Action under the terms of the NLAA concurrence provided here. This verification period allows the identified Ecological Services Field Office to apply local knowledge to evaluation of the Action, as we may identify a small subset of actions having impacts that we did not anticipate when developing the key. In such cases, the identified Ecological Services Field Office may request additional information to verify the effects determination reached through the Northern Long-eared Bat DKey.

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

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

- Alligator Snapping Turtle *Macrochelys temminckii* Proposed Threatened
- Eastern Black Rail *Laterallus jamaicensis ssp. jamaicensis* Threatened
- Monarch Butterfly *Danaus plexippus* Candidate
- Piping Plover *Charadrius melodus* Threatened
- Pondberry *Lindera melissifolia* Endangered
- Rufa Red Knot *Calidris canutus rufa* Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

You may coordinate with our Office to determine whether the Action may affect the species and/or critical habitat listed above. Note that reinitiation of consultation would be necessary if a new species is listed or critical habitat designated that may be affected by the identified action before it is complete.

If you have any questions regarding this letter or need further assistance, please contact the Arkansas Ecological Services Field Office and reference Project Code 2024-0084074 associated with this Project.

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

1. Name

Highway 82 Weir Construction Project

2. Description

The following description was provided for the project 'Highway 82 Weir Construction Project':

> This project proposes to construct a weir on the Boeuf River just south of where the river crosses US Highway 82. The purpose of this project is to replace a weir that has broken apart and washed away. The previous weir was built in the 1950s to prevent headcutting and erosion in the area and was located right next to the Hwy 82 bridge. A new weir is required to continue to prevent erosion in the area. To avoid conflicts with the DOT and to avoid cultural mitigation it was determined that the new weir should be constructed slightly south of the previous weir's location.
>
> Construction of the weir would involve placing a sheet pile and 6,900 tons (4,600 CY) of rock in and along the river edge. Trees would only be cleared along the edge of the river where the stone would be placed.

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@33.3059705,-91.36406482984897,14z

DETERMINATION KEY RESULT

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

QUALIFICATION INTERVIEW

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

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

   No

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

   Do you want to make a no effect determination?

   No

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

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

   No

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

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

   No

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

   Yes

6. Is the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), or Federal Transit Administration (FTA) funding or authorizing the proposed action, in whole or in part?

   No

7. Are you an employee of the federal action agency or have you been officially designated in writing by the agency as its designated non-federal representative for the purposes of Endangered Species Act Section 7 informal consultation per 50 CFR § 402.08?

   Note: This key may be used for federal actions and for non-federal actions to facilitate section 7 consultation and to help determine whether an incidental take permit may be needed, respectively. This question is for information purposes only.

   Yes

8. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)? Is the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC) funding or authorizing the proposed action, in whole or in part?

   No

9. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

   No

10. Have you determined that your proposed action will have no effect on the northern long-eared bat? Remember to consider the effects of any activities that would not occur but for the proposed action.

    If you think that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, answer “No” below and continue through the key. If you have determined that the northern long-eared bat does not occur in your project’s action area and/or that your project will have no effects whatsoever on the species despite the potential for it to occur in the action area, you may make a “no effect” determination for the northern long-eared bat.

    Note: Federal agencies (or their designated non-federal representatives) must consult with USFWS on federal agency actions that may affect listed species [50 CFR 402.14(a)]. Consultation is not required for actions that will not affect listed species or critical habitat. Therefore, this determination key will not provide a consistency or verification letter for actions that will not affect listed species. If you believe that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, please answer “No” and continue through the key. Remember that this key addresses only effects to the northern long-eared bat. Consultation with USFWS would be required if your action may affect another listed species or critical habitat. The definition of Effects of the Action can be found here: https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions

    No

11. [Semantic] Is the action area located within 0.5 miles of a known northern long-eared bat hibernaculum?

    Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency.

    Automatically answered
    No

12. Does the action area contain any caves (or associated sinkholes, fissures, or other karst features), mines, rocky outcroppings, or tunnels that could provide habitat for hibernating northern long-eared bats?

    No

13. Does the action area contain or occur within 0.5 miles of (1) talus or (2) anthropogenic or naturally formed rock crevices in rocky outcrops, rock faces or cliffs?

    No

14. Is suitable summer habitat for the northern long-eared bat present within 1000 feet of project activities?
(If unsure, answer "Yes.")

    Note: If there are trees within the action area that are of a sufficient size to be potential roosts for bats (i.e., live trees and/or snags ≥3 inches (12.7 centimeter) dbh), answer "Yes". If unsure, additional information defining suitable summer habitat for the northern long-eared bat can be found at: https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions

    Yes

15. Will the action cause effects to a bridge?

    No

16. Will the action result in effects to a culvert or tunnel?

    No

17. Does the action include the intentional exclusion of northern long-eared bats from a building or structure?

    Note: Exclusion is conducted to deny bats' entry or reentry into a building. To be effective and to avoid harming bats, it should be done according to established standards. If your action includes bat exclusion and you are unsure whether northern long-eared bats are present, answer "Yes." Answer "No" if there are no signs of bat use in the building/structure. If unsure, contact your local U.S. Fish and Wildlife Services Ecological Services Field Office to help assess whether northern long-eared bats may be present. Contact a Nuisance Wildlife Control Operator (NWCO) for help in how to exclude bats from a structure safely without causing harm to the bats (to find a NWCO certified in bat standards, search the Internet using the search term "National Wildlife Control Operators Association bats"). Also see the White-Nose Syndrome Response Team's guide for bat control in structures

    No

18. Does the action involve removal, modification, or maintenance of a human-made structure (barn, house, or other building) **known or suspected to contain roosting bats?**

    No

19. Will the action directly or indirectly cause construction of one or more new roads that are open to the public?

    Note: The answer may be yes when a publicly accessible road either (1) is constructed as part of the proposed action or (2) would not occur but for the proposed action (i.e., the road construction is facilitated by the proposed action but is not an explicit component of the project).

    No

20. Will the action include or cause any construction or other activity that is reasonably certain to increase average daily traffic on one or more existing roads?

    Note: For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.). .

    No

21. Will the action include or cause any construction or other activity that is reasonably certain to increase the number of travel lanes on an existing thoroughfare?

    For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.).

    No

22. Will the proposed action involve the creation of a new water-borne contaminant source (e.g., leachate pond pits containing chemicals that are not NSF/ANSI 60 compliant)?

    No

23. Will the proposed action involve the creation of a new point source discharge from a facility other than a water treatment plant or storm water system?

    No

24. Will the proposed action involve blasting?

    No

25. Will the action involve military training (e.g., smoke operations, obscurant operations, exploding munitions, artillery fire, range use, helicopter or fixed wing aircraft use)?

    No

26. Will the proposed action involve the use of herbicide or other pesticides (e.g., fungicides, insecticides, or rodenticides)?

    No

27. Will the action include or cause activities that are reasonably certain to cause chronic nighttime noise in suitable summer habitat for the northern long-eared bat? Chronic noise is noise that is continuous or occurs repeatedly again and again for a long time.

    Note: Additional information defining suitable summer habitat for the northern long-eared bat can be found at: https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions

    No

28. Does the action include, or is it reasonably certain to cause, the use of artificial lighting within 1000 feet of suitable northern long-eared bat roosting habitat?

    Note: Additional information defining suitable roosting habitat for the northern long-eared bat can be found at: https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions

    No

29. Will the action include tree cutting or other means of knocking down or bringing down trees, tree topping, or tree trimming?

    Yes

30. Has a presence/probable absence summer bat survey targeting the northern long-eared bat following the Service's Range-wide Indiana Bat and Northern Long-Eared Bat Survey Guidelines been conducted within the project area? If unsure, answer "No."

    No

31. Does the action include emergency cutting or trimming of hazard trees in order to remove an imminent threat to human safety or property? See hazard tree note at the bottom of the key for text that will be added to response letters

    Note: A "hazard tree" is a tree that is an immediate threat to lives, public health and safety, or improved property and has a diameter breast height of six inches or greater.

    No

32. Are any of the trees proposed for cutting or other means of knocking down, bringing down, topping, or trimming suitable for northern long-eared bat roosting (i.e., live trees and/or snags ≥3 inches dbh that have exfoliating bark, cracks, crevices, and/or cavities)?

    Yes

33. [Semantic] Does your project intersect a known sensitive area for the northern long-eared bat?

    Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your state agency or USFWS field office

    Automatically answered
    No

34. Will all tree cutting/trimming or other knocking or bringing down of trees be restricted to the inactive season for the northern long-eared bat?

    Note: Inactive Season dates for summer habitat outside of staging and swarming areas can be found here: https://www.fws.gov/media/inactive-season-dates-swarming-and-staging-areas.

    Yes

35. Will the action cause trees to be cut, knocked down, or otherwise brought down across an area greater than 10 acres?

    No

36. Will the action cause trees to be cut, knocked down, or otherwise brought down in a way that would fragment a forested connection (e.g., tree line) between two or more forest patches of at least 5 acres?

    The forest patches may consist of entirely contiguous forest or multiple forested areas that are separated by less than 1000’ of non-forested area. A project will fragment a forested connection if it creates an unforested gap of greater than 1000’.

    No

37. Will the action result in the use of prescribed fire?

    No

38. Will the action cause noises that are louder than ambient baseline noises within the action area?

    No

PROJECT QUESTIONNAIRE

Enter the extent of the action area (in acres) from which trees will be removed - round up to the nearest tenth of an acre. For this question, include the entire area where tree removal will take place, even if some live or dead trees will be left standing.

3.8

In what extent of the area (in acres) will trees be cut, knocked down, or trimmed during the inactive (hibernation) season for northern long-eared bat? **Note:** Inactive Season dates for spring staging/fall swarming areas can be found here: https://www.fws.gov/media/inactive-season-dates-swarming-and-staging-areas

3.8

In what extent of the area (in acres) will trees be cut, knocked down, or trimmed during the active (non-hibernation) season for northern long-eared bat? **Note:** Inactive Season dates for spring staging/fall swarming areas can be found here: https://www.fws.gov/media/inactive-season-dates-swarming-and-staging-areas

0

Will all potential northern long-eared bat (NLEB) roost trees (trees ≥3 inches diameter at breast height, dbh) be cut, knocked, or brought down from any portion of the action area greater than or equal to 0.1 acre? If all NLEB roost trees will be removed from multiple areas, select 'Yes' if the cumulative extent of those areas meets or exceeds 0.1 acre.

Yes

Enter the extent of the action area (in acres) from which all potential NLEB roost trees will be removed. If all NLEB roost trees will be removed from multiple areas, entire the total extent of those areas. Round up to the nearest tenth of an acre.

3.8

For the area from which all potential northern long-eared bat (NLEB) roost trees will be removed, on how many acres (round to the nearest tenth of an acre) will trees be allowed to regrow? Enter '0' if the entire area from which all potential NLEB roost trees are removed will be developed or otherwise converted to non-forest for the foreseeable future.

0

Will any snags (standing dead trees) ≥3 inches dbh be left standing in the area(s) in which all northern long-eared bat roost trees will be cut, knocked down, or otherwise brought down?

No

Will all project activities by completed by November 30, 2024?

No

IPAC USER CONTACT INFORMATION

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United States Department of the Interior

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In Reply Refer To: 05/22/2024 14:37:08 UTC
Project code: 2024-0084074
Project Name: Highway 82 Weir Construction Project

Subject: Concurrence verification letter for 'Highway 82 Weir Construction Project' for specified federally threatened and endangered species and designated critical habitat that may occur in your proposed project area consistent with the Arkansas Determination Key for project review and guidance for federally listed species (Arkansas Dkey).

Dear Taylor Piefke:

The U.S. Fish and Wildlife Service (Service) received on **May 22, 2024** your effect determination(s) for the 'Highway 82 Weir Construction Project' (the Action) using the Arkansas DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers, and the assistance in the Service's Arkansas DKey, you made the following effect determination(s) for the proposed Action, including species protective measures that you confirmed will be implemented.

Species	Listing Status	Determination
Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*)	Threatened	No effect
Piping Plover (*Charadrius melodus*)	Threatened	NLAA
Pondberry (*Lindera melissifolia*)	Endangered	No effect
Rufa Red Knot (*Calidris canutus rufa*)	Threatened	NLAA

Status

The Service concurs with the NLAA determination(s) for the species listed above. No further consultation for this project is required for these species.Your agency has met consultation requirements by informing the Service of your "No Effect" determinations. No consultation for this project is required for species that you determined will not be affected by this action.

This concurrence verification letter confirms you may rely on effect determinations you reached by considering the Arkansas DKey to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA). No further consultation for this project is required for species that you determined will not be affected by this action.

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

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

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

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

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

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

If the recommendations detailed in the National Bald Eagle Management Guidelines cannot be followed, you may apply for a permit to authorize removal or relocation of an eagle nest in certain instances. To obtain an application form or contact information for Regional Migratory Bird Permit Offices please visit the Service's Bald and Golden Eagle Management webpage and

scroll down to the Permits section: https://www.fws.gov/library/collections/bald-and-golden-eagle-management

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

1. Name

Highway 82 Weir Construction Project

2. Description

The following description was provided for the project 'Highway 82 Weir Construction Project':

> This project proposes to construct a weir on the Boeuf River just south of where the river crosses US Highway 82. The purpose of this project is to replace a weir that has broken apart and washed away. The previous weir was built in the 1950s to prevent headcutting and erosion in the area and was located right next to the Hwy 82 bridge. A new weir is required to continue to prevent erosion in the area. To avoid conflicts with the DOT and to avoid cultural mitigation it was determined that the new weir should be constructed slightly south of the previous weir's location.
>
> Construction of the weir would involve placing a sheet pile and 6,900 tons (4,600 CY) of rock in and along the river edge. Trees would only be cleared along the edge of the river where the stone would be placed.

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@33.3059705,-91.36406482984897,14z

Species Protection Measures

QUALIFICATION INTERVIEW

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

   No

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

   Yes

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

   Yes

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

   b. U.S. Army Corps of Engineers

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

   Automatically answered
   No

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

   Automatically answered
   No

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

   Automatically answered
   No

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

   Automatically answered
   No

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

   Automatically answered
   No

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

    Automatically answered
    No

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

    Automatically answered
    No

12. [Semantic] Does the project intersect the Eastern black rail AOI?

    Automatically answered
    Yes

13. Have you made a "no effect" determination for Eastern Black Rail? Eastern Black Rails are small, secretive marsh birds that may occur in freshwater wetlands in Arkansas.

    No

14. Will the project take place in freshwater herbaceous wetlands and/or wet prairies?

    No

15. [Semantic] Does the project intersect the red knot AOI?

    Automatically answered
    Yes

16. Have you made a "no effect" determination for Red Knot? Red knots may be transiently found feeding along shorelines, marshes, or flooded fields in Arkansas during migration periods.

    No

17. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?

    Yes

18. Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?

    Yes

19. [Semantic] Does the project intersect the Piping Plover AOI?

    Automatically answered
    Yes

20. Have you made a "no effect" determination for Piping Plover? Piping Plovers may be transiently found feeding along shorelines, marshes, or flooded fields in Arkansas during migration periods.

    No

21. [Semantic (same answer as "8.3" or "9.9")] Will any part of the project take place between March 15 and May 15 OR between July 15 and October 1?

    Automatically answered
    Yes

22. [Semantic] Does the project intersect the Whooping Crane AOI?

    Automatically answered
    No

23. [Semantic] Does the project intersect the interior least tern AOI?

    Automatically answered
    No

24. [Semantic] Does the project intersect the Gray Bat AOI?

    Automatically answered
    No

25. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?

    Automatically answered
    No

26. [Semantic] Does the project intersect the Indiana bat AOI?

    Automatically answered
    No

27. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?

    Automatically answered
    No

28. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?

    Automatically answered
    No

29. [Semantic] Does the project intersect the Ozark cavefish AOI?

    Automatically answered
    No

30. [Semantic] Does the project intersect the Missouri bladderpod AOI?

    Automatically answered
    No

31. [Semantic] Does the project intersect the Geocarpon AOI?

    Automatically answered
    No

32. [Semantic] Does the project intersect the Pondberry AOI?

    Automatically answered
    Yes

33. Have you made a "no effect" determination for Pondberry?

    No

34. Does the proposed project clear suitable habitat for Pondberry or alter the hydrology of bottomland hardwood or sand ponds?

    No

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

    Automatically answered
    No

IPAC USER CONTACT INFORMATION

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