

APPENDIX C: EARLY COORDINATION



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue
Room N758-ES
Indianapolis, Indiana 46204

PHONE: (855) 463-6848
(855) INDOT4U

Eric J. Holcomb, Governor
Joe McGuinness, Commissioner

February 15, 2022

Email to Early Coordination Mailing List

Sample Early Coordination Letter

Re: Early Coordination Letter
Des. No. 1900142
Intersection Improvement
SR 37 at Cuba/Thimler Road and Notestine Road, 4.68 miles east of I-469
Allen County, Indiana

To Whom it May Concern:

The Indiana Department of Transportation, with federal funding, intends to proceed with a project involving the intersections at SR 37 and Notestine Road and at SR 37 and Cuba/Thimler Roads in Allen County. This letter is part of the early coordination phase of the environmental review process. We are requesting comments from you within your area of expertise regarding any possible environmental effects associated with this project. **Please use the above designation numbers and description in your reply.** We will incorporate your comments into a study of the project's environmental impacts.

This intersection improvement project is located on SR 37, from 4.69 miles to 5.00 miles east of I-469, in Allen County. This section of SR 37 is a two-lane Major Collector. The SR 37 and Cuba/Thimler Road intersection is a two-way stop with preferentiality given to SR 37. Cuba Road intersects on the west side of SR 37 and Thimler Road intersects from the east side of SR 37. **The SR 37 and Notestine Road intersection is also a two-way stop with preferentiality given to SR 37. The Notestine intersection has a significant skew causing sight distance issues. Both intersections have a higher than expected crash frequency based on crash volume and facility characteristics. The purpose of this project is to improve safety of these intersections and improve traffic flow on SR 37.**

The proposed improvements for the intersection of SR 37 at Cuba/Thimler Road would widen SR 37 to include the addition of left turn lanes onto Cuba Road and Thimler Road. **The intersection of SR 37 and Notestine Road would be re-aligned to the south, approximately 360 feet, to eliminate the skew of the intersection.**

The current INDOT right-of-way is 30 feet from the centerline of the roadway. Right-of-way acquisition depends on the selected alternative but is not anticipated to exceed 7.7 acres. Approximately 0.5 acre of tree clearing is anticipated as part of the proposed project.

The proposed method of traffic maintenance will be phased construction to allow SR 37 and Cuba/Thimler Road and Notestine Road traffic to be maintained within the project limits. The anticipated letting date for this project is July 10, 2024, with construction planned to begin in late summer or early fall of 2024.

Land use in the vicinity of the project is primarily residential with one church located in the west quadrant at the intersection of SR 37 and Cuba/Thimler Roads. At the intersection of SR 37 and Notestine Road, land use is primarily agricultural and includes two residential homes. One stream, Amstutz Ditch, crosses the project area between the intersections of SR 37 and Cuba/Thimler Roads and the intersection of SR 37 and Notestine Road.

HNTB staff will perform waters and wetlands determinations to identify water resources that may be present. The project is anticipated to qualify for the application of the United States Fish and Wildlife Service (USFWS) range-wide programmatic informal consultation for the Indiana bat and northern long-eared bat. The USFWS Information, Planning, and Consultation System (IPaC) will be utilized to determine the project's potential to affect the Indiana bat and northern

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long-eared bat. Coordination will occur with INDOT Cultural Resources Office (CRO) to evaluate the project area for archaeological and historic resource and for Section 106 compliance. The results of this investigation will be forwarded to the State Historic Preservation Officer (SHPO) for review and concurrence as appropriate.

You are asked to review this information and provide any comments you may have relative to the anticipated effects of the project on areas which you have jurisdiction or special expertise. Please send your comments to Landon Little, of HNTB Corporation, at ltlittle@hntb.com or 317-917-5328. Should we not receive your response within thirty (30) calendar days from the date of this letter, it will be assumed that your agency feels that there will be no adverse effects incurred as a result of the proposed project. However, should you find that an extension to the response time is necessary; a reasonable amount may be granted upon request. If you have any questions regarding this matter, please feel free to contact Landon Little, of HNTB Corporation, at ltlittle@hntb.com or 317-917-5328, or Kevin Shaw, INDOT Project Manager, at kshaw1@indot.in.gov or 260-969-8234. Thank you in advance for your input.

Sincerely,

HNTB CORPORATION

Landon Little
HNTB Corporation

Attachments: Project Location Map
Project Aerial Map
USGS 7.5 Minute Topographic Quad Map
Photo Location Map
Project Location Photographs

cc: Kevin Shaw, INDOT Project Manager
Jonathan Oakley, HNTB Project Manager

The attachments have been removed to avoid duplication. Graphics can be found in Appendix B.

Early Coordination Mailing List:

State

Indiana Geological and Water Survey, via webform
Indiana Department of Environmental Management, via webform
Arianna Papadakis, INDOT Fort Wayne District Environmental Manager
Sam Anderson, INDOT Utilities and Railroad
Hunter Petroviak, INDOT Public Relations
Ron Bales, INDOT Environmental Services Division
Christie Stanifer, Indiana Department of Natural Resources

Federal

John Allen, Natural Resources Conservation Service
Aaron Damrill, USACE Environmental Analysis Branch - Detroit District
Steven Minor, Fort Wayne District Federal Highway Administration
Elizabeth McCloskey, US Fish and Wildlife Service
National Park Service

Local

Dan Avery, Northeastern Indiana Regional Coordination Council
Greg Lake, Soil and Water Conservation District Director
Matt Jarrett, Allen County MS4 Coordinator
Jeff Sorg, Allen County Surveyor
Ben Roussel, Floodplain Administrator
David Gladieux, Allen County Sheriff
Bill Hartman, Allen County Highway Director
Robert Armstrong, Allen County Council
Marilyn Hissong, East Allen County School Corporation
Bernie Beier, Allen County Homeland Security, Emergency Management
Richard Beck, Allen County Board of Commissioners
Cuba Mennonite Church

State of Indiana
DEPARTMENT OF NATURAL RESOURCES
Division of Fish and Wildlife
Early Coordination/Environmental Assessment

DNR #: ER-24488

Request Received: February 15, 2022

Requestor: HNTB Corporation
Landon Little
111 Monument Circle, Suite 1200
Indianapolis, IN 46204-5178

Project: SR 37 intersection improvements at Cuba/Thimlar Road and at Notestine Road, about 4.68 miles east of I-469, Cuba; Des #1900142

County/Site info: Allen

The Indiana Department of Natural Resources has reviewed the above referenced project per your request. Our agency offers the following comments for your information and in accordance with the National Environmental Policy Act of 1969.

If our agency has regulatory jurisdiction over the project, the recommendations contained in this letter may become requirements of any permit issued. If we do not have permitting authority, all recommendations are voluntary.

Regulatory Assessment: Formal approval by the Department of Natural Resources under the regulatory programs administered by the Division of Water is not required for this project.

Natural Heritage Database: The Natural Heritage Program's data have been checked. To date, no plant or animal species listed as state or federally threatened, endangered, or rare have been reported to occur in the project vicinity.

Fish & Wildlife Comments: Avoid and minimize impacts to fish, wildlife, and botanical resources to the greatest extent possible, and compensate for impacts. The following are recommendations that address potential impacts identified in the proposed project area:

1) Stream Crossings:

It is unclear if the SR 37 stream crossing over Amstutz Ditch will be impacted as a result of this project. If the structure will be altered or replaced, then the following recommendations apply:

Maintaining or improving fish and wildlife passage at existing or proposed stream crossing locations is a priority for the Division of Fish & Wildlife (DFW) to reduce wildlife mortality along roadways. The DFW has outlined different requirements for different types of crossing structure impacts. For brand new crossings in areas that currently do not have a crossing, the new structure must accommodate white-tailed deer passage where appropriate. Minimum structure dimensions for white-tailed deer passage are 20 feet of width clearance (overall size of the structure span) and 8 feet of height clearance measured from the OHWM to the low chord elevation and where deer passage is provided. For crossing replacements, the new structure must include wildlife passage appropriate for the type of replacement structure being proposed. If the replacement structure is sized to accommodate white-tailed deer passage then it should be included in the design of the new structure. If white-tailed deer passage is not possible with the existing structure, deer passage still needs to be considered in the design and at minimum the bank lines must be restored within structures to allow for smaller wildlife passage above the ordinary high water mark. All wildlife passage designs must include a smooth level pathway a minimum of 1-2 feet in width composed of natural substrate (soil, sand, gravel, etc.) or compacted aggregate fill over riprap (#2, #53, #73, etc.) tied into existing elevations both upstream and downstream. The stream crossing repairs or modifications, and any bank stabilization under or around the structure, must not create

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conditions that are less favorable for wildlife passage when compared to existing conditions. Upgrading wildlife passage for rehabilitated/modified structures is encouraged whenever possible to improve wildlife/vehicle safety.

There are a number of techniques and materials for incorporating wildlife passage into the design of a crossing structure. The following links are good resources to consider in the design of stream crossing structures to maintain fish and wildlife passage:

<http://www.fs.fed.us/wildlifecrossings/library/>,
https://roadeology.ucdavis.edu/files/content/projects/DOT-FHWA_Wildlife_Crossing_Structures_Handbook.pdf, https://www.fs.fed.us/biology/nsaec/fishxing/aop_pdfs.html,
<https://www.fhwa.dot.gov/engineering/hydraulics/pubs/11008/hif11008.pdf>.

When designing a new or replacement structure, bridges are recommended over culverts, and three-sided culverts are recommended over box or pipe culverts. Multiple culverts or culverts with multiple openings are not recommended. These types of structures are often problematic for fish and wildlife passage as they tend to accumulate debris and become blocked. If box and pipe culverts must be used, the culvert bottoms should be sumped a minimum of 6" (or 20% of the culvert height or diameter, whichever is greater up to a maximum of 2') below the stream bed elevation. Sumping is not required for bridges or three-sided culverts. Crossings must span the entire channel width (a minimum of 1.2 times the ordinary high water mark width). Crossings must maintain the natural stream substrate within the structure (natural stream substrate must be replaced in sumped box and pipe culverts up to the existing flowline). Scour protection at the inlet and outlet must not extend above the existing flowline elevation to maintain aquatic organism passage. Stream depth, channel width and water velocities in the crossing structure during low-flow conditions must approximate those in the natural stream channel.

2) Bank Stabilization:

Establishing vegetation along any disturbed banks is critical for stabilization and erosion control. In addition to vegetation, some other form of bank stabilization may be needed. While hard armoring alone (e.g. riprap or glacial stone) may be needed in certain instances, soft armoring and bioengineering techniques should be considered first. In many instances, one or more methods are necessary to increase the likelihood of vegetation establishment. Combining vegetation with most bank stabilization methods can provide additional bank protection and help reduce impacts upon fish and wildlife. Information about bioengineering techniques can be found at <http://www.in.gov/legislative/iac/20120404-IR-312120154NRA.xml.pdf>. Also, the following is a USDA/NRCS document that outlines many different bioengineering techniques for streambank stabilization: <http://directives.sc.egov.usda.gov/17553.wba>.

Riprap must not be placed in the active thalweg channel or placed in the streambed in a manner that precludes fish or aquatic organism passage (riprap must not be placed above the existing streambed elevation). Riprap may be used only at the toe of the sideslopes up to the ordinary high water mark (OHWM). The banks above the OHWM must be restored, stabilized, and revegetated using geotextiles and a mixture of grasses, sedges, wildflowers, shrubs, and trees native to Northern Indiana and specifically for stream bank/floodway stabilization purposes as soon as possible upon completion.

3) Forest & Riparian Habitat:

We recommend a mitigation plan be developed for any unavoidable habitat impacts that will occur. The DNR's Habitat Mitigation Guidelines (and plant lists) can be found online at: <http://iac.iga.in.gov/iac/20200527-IR-312200284NRA.xml.pdf>.

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Impacts to non-wetland forest of one (1) acre or more should be mitigated at a minimum 2:1 ratio. If less than one acre of non-wetland forest is removed in a rural setting, replacement should be at a 1:1 ratio based on area. Impacts to non-wetland forest under one (1) acre in an urban setting should be mitigated by planting five trees, at least 2 inches in diameter-at-breast height (dbh), for each tree which is removed that is 10" dbh or greater (5:1 mitigation based on the number of large trees) or by using the 1:1 replacement ratio based on area depending on the type of habitat impacted (individual canopy tree removal in an urban streetscape or park-like environment versus removal of habitat supporting a tree canopy, woody understory, and herbaceous layer). Impacts under 0.10 acre in an urban area may still involve the replacement of large diameter trees but typically do not require any additional mitigation or additional plantings beyond seeding and stabilizing disturbed areas. There are exceptions for high quality habitat sites however.

4) Wetland Habitat:

Due to the presence or potential presence of wetland habitat on site, we recommend contacting and coordinating with the Indiana Department of Environmental Management (IDEM) 401 program and also the US Army Corps of Engineers (USACE) 404 program. Impacts to wetland habitat should be mitigated at the appropriate ratio according to the 1991 INDOT/IDNR/USFWS Memorandum of Understanding.

The additional measures listed below should be implemented to avoid, minimize, or compensate for impacts to fish, wildlife, and botanical resources:

1. Revegetate all bare and disturbed areas within the project area using a mixture of grasses (excluding all varieties of tall fescue), sedges, wildflowers, shrubs, and trees native to Northern Indiana and specifically for stream bank/floodway stabilization purposes as soon as possible upon completion.
2. Minimize and contain within the project limits inchannel disturbance and the clearing of trees and brush.
3. Do not work in the waterway from April 1 through June 30 without the prior written approval of the Division of Fish and Wildlife.
4. Do not cut any trees suitable for Indiana bat or Northern Long-eared bat roosting (greater than 5 inches dbh, living or dead, with loose hanging bark, or with cracks, crevices, or cavities) from April 1 through September 30.
5. Do not excavate in the low flow area except for the placement of piers, foundations, and riprap, or removal of the old structure.
6. Do not construct any temporary runarounds, access bridges, causeways, cofferdams, diversions, or pumparounds.
7. Use minimum average 6 inch graded riprap stone extended below the normal water level to provide habitat for aquatic organisms in the voids.
8. Do not use broken concrete as riprap.
9. Underlay the riprap with a bedding layer of well graded aggregate or a geotextile to prevent piping of soil underneath the riprap.
10. Minimize the movement of resuspended bottom sediment from the immediate project area.
11. Do not deposit or allow demolition/construction materials or debris to fall or otherwise enter the waterway.
12. Appropriately designed measures for controlling erosion and sediment must be implemented to prevent sediment from entering the stream or leaving the construction site; maintain these measures until construction is complete and all disturbed areas are stabilized.
13. Seed and protect all disturbed streambanks and slopes not protected by other methods that are 3:1 or steeper with erosion control blankets that are heavy-duty, biodegradable, and net free or that use loose-woven / Leno-woven netting to minimize the entrapment and snaring of small-bodied wildlife such as snakes and turtles (follow manufacturer's recommendations for selection and installation); seed and apply mulch

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on all other disturbed areas.

14. Do not excavate or place fill in any riparian wetland.

Contact Staff:

Christie L. Stanifer, Environ. Coordinator, Fish & Wildlife
Our agency appreciates this opportunity to be of service. Please contact the above staff member at (317) 232-4080 if we can be of further assistance.

Christie L. Stanifer

Date: March 15, 2022

Christie L. Stanifer
Environ. Coordinator
Division of Fish and Wildlife

Landon Little

From: McCloskey, Elizabeth <elizabeth_mccloskey@fws.gov>
Sent: Wednesday, February 16, 2022 9:34 AM
To: Landon Little
Subject: Re: [EXTERNAL] Early Coordination Letter - Des. 2000024

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning, because the proposed project will have minor impacts on natural resources, and no Federally endangered species are known to be present, the U.S. Fish and Wildlife Service will not be providing a comment letter.

Elizabeth McCloskey
U.S. Fish and Wildlife Service
Northern Indiana Suboffice
Ecological Services
Chesterton, Indiana

From: Landon Little <ltlittle@HNTB.com>
Sent: Tuesday, February 15, 2022 2:01 PM
Subject: [EXTERNAL] Early Coordination Letter - Des. 2000024

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

The Indiana Department of Transportation (INDOT) and Federal Highway Administration (FHWA) intend to proceed with a project involving the intersections of SR 37 and Notestine as well as SR 37 and Cuba/Thimler Roads in Allen county, Indiana. This letter is part of the early coordination phase of the environmental review process. We request comments from you within your area of expertise regarding any potential environmental or community effects associated with this proposed project. Please use the above designation number and description in your reply. We will incorporate your comments into a study of the project's environmental effects.

This study will be conducted in accordance with the National Environmental Policy Act (NEPA). INDOT and FWWA have not yet determined the NEPA class of action for the project (i.e., Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement). This determination will be made once more details about the proposed action are defined.

Thank you,

Landon Little
Environmental Planner II
Environmental Planning
Tel (317)917-5328 Email ltlittle@hntb.com

Landon Little

From: Papadakis, Arianna <APapadakis@indot.IN.gov>
Sent: Friday, February 18, 2022 3:40 PM
To: Landon Little
Cc: Poiry, Jessica
Subject: RE: Early Coordination Letter - Des. 2000024

Good afternoon,

I have reviewed the enclosed early coordination packet and I do not have any environmental concerns regarding the project (Des. No. 2000024, Intersection Project) at this time. Therefore, I will not be providing a comment letter.

Thank you,

Arianna Papadakis

Sr Environmental Mngr Supervisor

Fort Wayne District

5333 Hatfield Road

Fort Wayne, IN 46808

Phone: (260) 969-8262

Email: APapadakis@indot.in.gov



From: Landon Little <llittle@HNTB.com>
Sent: Tuesday, February 15, 2022 3:02 PM
Subject: Early Coordination Letter - Des. 2000024

****** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ******

The Indiana Department of Transportation (INDOT) and Federal Highway Administration (FHWA) intend to proceed with a project involving the intersections of SR 37 and Notestine as well as SR 37 and Cuba/Thimler Roads in Allen county, Indiana. This letter is part of the early coordination phase of the environmental review process. We request comments from you within your area of expertise regarding any potential environmental or community effects associated with this proposed project. Please use the above designation number and description in your reply. We will incorporate your comments into a study of the project's environmental effects.

This study will be conducted in accordance with the National Environmental Policy Act (NEPA). INDOT and FWWA have not yet determined the NEPA class of action for the project (i.e., Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement). This determination will be made once more details about the proposed action are defined.

Thank you,

Landon Little

Landon Little

From: David Myers <dmyers@eacs.k12.in.us>
Sent: Thursday, February 17, 2022 8:25 AM
To: Landon Little
Cc: Pat McCann
Subject: RE: Early Coordination Letter - Des. 2000024

This will be a great help for safety of our student as State Road 37 is very dangerous for us at both of those intersections. We will have issues with routing but we can make the appropriate adjustments to accommodate. This improvement will go a long way to help with the safety of our routes.

We look forward to these changes for the sake of safety and thank you for communicating to our District!

David Myers
Director of Transportation
260-446-0159

From: David Myers <dmyers@eacs.k12.in.us>
Sent: Wednesday, February 16, 2022 8:09 AM
To: Pat McCann <pmccann@eacs.k12.in.us>
Subject: RE: Early Coordination Letter - Des. 2000024

David Myers
Director of Transportation
260-446-0159

From: Pat McCann <pmccann@eacs.k12.in.us>
Sent: Tuesday, February 15, 2022 3:27 PM
To: David Myers <dmyers@eacs.k12.in.us>
Subject: FW: Early Coordination Letter - Des. 2000024

Dave,

We request comments from you within your area of expertise regarding any potential environmental or community effects associated with this proposed project.

How will this effect existing routes?

Pat

From: Marilyn Hissong <mhissong@eacs.k12.in.us>
Sent: Tuesday, February 15, 2022 3:05 PM

Organization and Project Information

Project ID:
Des. ID: Des. 1900142
Project Title: SR 37 at Cuba/Thimler Road and Notestine Road
Name of Organization: HNTB Corporation
Requested by: Landon Little

Environmental Assessment Report

1. Geological Hazards:
 - High liquefaction potential
2. Mineral Resources:
 - Bedrock Resource: High Potential
 - Sand and Gravel Resource: Low Potential
3. Active or abandoned mineral resources extraction sites:
 - None documented in the area

*All map layers from Indiana Map (maps.indiana.edu)

DISCLAIMER:

This document was compiled by Indiana University, Indiana Geological Survey, using data believed to be accurate; however, a degree of error is inherent in all data. This product is distributed "AS-IS" without warranties of any kind, either expressed or implied, including but not limited to warranties of suitability to a particular purpose or use. No attempt has been made in either the design or production of these data and document to define the limits or jurisdiction of any federal, state, or local government. The data used to assemble this document are intended for use only at the published scale of the source data or smaller (see the metadata links below) and are for reference purposes only. They are not to be construed as a legal document or survey instrument. A detailed on-the-ground survey and historical analysis of a single site may differ from these data and this document.

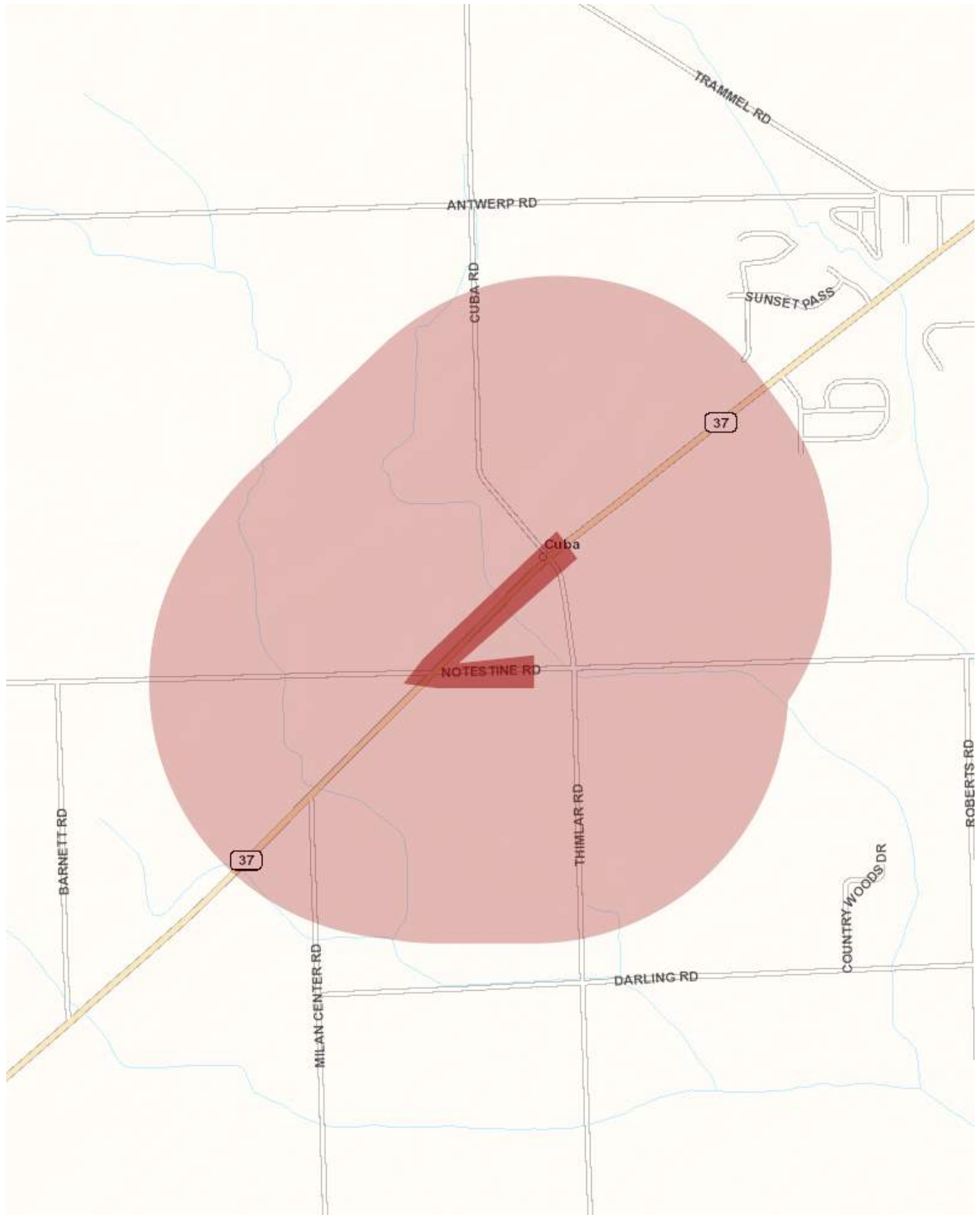
This information was furnished by Indiana Geological Survey

Address: 1001 E. 10th St., Bloomington, IN 47405

Email: IGSEnvir@indiana.edu

Phone: 812 855-7428

Date: February 14, 2022





Farm
Production
and
Conservation

Natural
Resources
Conservation
Service

Indiana State Office
6013 Lakeside Boulevard
Indianapolis, Indiana 46278
317-295-5800

February 15, 2022

Landon Little
HNTB Corporation
111 Monument Circle, Suite 1200
Indianapolis, Indiana 46204
ltlittle@hntb.com

Dear Mr. Little:

The proposed project to make intersection improvements at State Road 37 and Notestine and State Road 37 and Cuba/Thimler Roads in Allen County, Indiana (Des. No. 1900142), as referred to in your letter received February 15, 2022, will cause a conversion of prime farmland.

The attached packet of information is for your use completing Parts VI and VII of the AD-1006. After completion, the federal funding agency needs to forward one copy to NRCS for our records.

If you need additional information, please contact John Allen at 317-295-5859 or john.allen@usda.gov

Sincerely,

JOHN ALLEN Digitally signed by JOHN ALLEN
Date: 2022.03.15 07:23:02 -04'00'

JOHN ALLEN
Acting State Soil Scientist

Enclosures

FARMLAND CONVERSION IMPACT RATING

PART I (To be completed by Federal Agency)		Date Of Land Evaluation Request				
Name of Project DES1900142 SR37 at Cuba Thimler P+		Federal Agency Involved				
Proposed Land Use		County and State Allen County, Indiana				
PART II (To be completed by NRCS)		Date Request Received By NRCS 2/15/22		Person Completing Form: JRA		
Does the site contain Prime, Unique, Statewide or Local Important Farmland? <i>(If no, the FPPA does not apply - do not complete additional parts of this form)</i>		YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	Acres Irrigated	Average Farm Size 182 ac	
Major Crop(s) Corn	Farmable Land In Govt. Jurisdiction Acres: 411230 % 97	Amount of Farmland As Defined in FPPA Acres: 394025% 93				
Name of Land Evaluation System Used LESA	Name of State or Local Site Assessment System	Date Land Evaluation Returned by NRCS 3/15/22				
PART III (To be completed by Federal Agency)		Alternative Site Rating				
A. Total Acres To Be Converted Directly		Site A 3.62	Site B	Site C	Site D	
B. Total Acres To Be Converted Indirectly		0.59				
C. Total Acres In Site		4.21				
PART IV (To be completed by NRCS) Land Evaluation Information						
A. Total Acres Prime And Unique Farmland		5.68				
B. Total Acres Statewide Important or Local Important Farmland		0.00				
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted		0.001				
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value		36				
PART V (To be completed by NRCS) Land Evaluation Criterion Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points)		85				
PART VI (To be completed by Federal Agency) Site Assessment Criteria <i>(Criteria are explained in 7 CFR 658.5 b. For Corridor project use form NRCS-CPA-106)</i>		Maximum Points	Site A	Site B	Site C	Site D
1. Area In Non-urban Use		(15)	14			
2. Perimeter In Non-urban Use		(10)	7			
3. Percent Of Site Being Farmed		(20)	20			
4. Protection Provided By State and Local Government		(20)	0			
5. Distance From Urban Built-up Area		(15)	0			
6. Distance To Urban Support Services		(15)	0			
7. Size Of Present Farm Unit Compared To Average		(10)	10			
8. Creation Of Non-farmable Farmland		(10)	9			
9. Availability Of Farm Support Services		(5)	5			
10. On-Farm Investments		(20)	0			
11. Effects Of Conversion On Farm Support Services		(10)	0			
12. Compatibility With Existing Agricultural Use		(10)	0			
TOTAL SITE ASSESSMENT POINTS		160	65	0	0	0
PART VII (To be completed by Federal Agency)						
Relative Value Of Farmland (From Part V)		100	85	0	0	0
Total Site Assessment (From Part VI above or local site assessment)		160	65	0	0	0
TOTAL POINTS (Total of above 2 lines)		260	150	0	0	0
Site Selected: Preferred Alternative +		Date Of Selection 2/21/2022		Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
Reason For Selection: The intersection of SR 37 and Notestine Rd will be realigned to the south to eliminate the skew, in which will improve sight distances and alleviate challenges for yielding vehicles.						
Name of Federal agency representative completing this form: Landon Little				Date: 4/7/2022		

(See Instructions on reverse side)



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Indiana Ecological Services Field Office
620 South Walker Street
Bloomington, IN 47403-2121
Phone: (812) 334-4261 Fax: (812) 334-4273

In Reply Refer To:

March 21, 2023

Project code: 2023-0032409

Project Name: SR 37 at Cuba/Thimler Road and Notestine Road, Intersection Improvement (Des. 1900142)

Subject: Concurrence verification letter for the 'SR 37 at Cuba/Thimler Road and Notestine Road, Intersection Improvement (Des. 1900142)' project under the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated March 21, 2023 to verify that the **SR 37 at Cuba/Thimler Road and Notestine Road, Intersection Improvement (Des. 1900142)** (Proposed Action) may rely on the concurrence provided in the February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action is within the scope and adheres to the criteria of the PBO, including the adoption of applicable avoidance and minimization measures, and may affect, but is not likely to adversely affect (NLAA) the endangered Indiana bat (*Myotis sodalis*) and/or the threatened Northern long-eared bat (*Myotis septentrionalis*). Consultation with the Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) is required.

The Service has 14 calendar days to notify the lead Federal action agency or designated non-federal representative if we determine that the Proposed Action does not meet the criteria for a NLAA determination under the PBO. If we do not notify the lead Federal action agency or designated non-federal representative within that timeframe, you may proceed with the Proposed Action under the terms of the NLAA concurrence provided in the PBO. This verification period allows Service Field Offices to apply local knowledge to implementation of the PBO, as we may identify a small subset of actions having impacts that were unanticipated. In such instances,

Service Field Offices may request additional information that is necessary to verify inclusion of the proposed action under the PBO.

NOTE: The Service reclassified the NLEB as an endangered species on November 30, 2022. This ruling becomes effective on January 30, 2023. This NLAA determination does not require reinitiation. For projects requiring consultation after the effective date of January 30, 2023, please use the 2022 FHWA, FRA, FTA PBO.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities: If your initial bridge/culvert or structure assessment documented signs of bat use or occupancy, or an assessment failed to detect Indiana bats and/or NLEBs, yet are later detected prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of any potential take. In these instances, potential incidental take of Indiana bats and/or NLEBs is covered under the Incidental Take Statement in the 2018 FHWA, FRA, FTA PBO (provided that the take is reported to the Service).

If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or Northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required. If the Proposed Action may affect any other federally-listed or proposed species, and/or any designated critical habitat, additional consultation between the lead Federal action agency and this Service Office is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please contact this Service Office.

The following species may occur in your project area and **are not** covered by this determination:

- Monarch Butterfly *Danaus plexippus* Candidate

PROJECT DESCRIPTION

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

NAME

SR 37 at Cuba/Thimler Road and Notestine Road, Intersection Improvement (Des. 1900142)

DESCRIPTION

The Indiana Department of Transportation (INDOT) and the Federal Highway Administration (FHWA) intend to proceed with a project involving the intersections at SR 37 and Notestine Road and at SR 37 and Cuba/Thimler Roads in Allen County.

The proposed improvements for the intersection of SR 37 at Cuba/Thimler Road would widen SR 37 to include the addition of left turn lanes into Cuba Road and Thimler Road. The intersection of SR 37 and Notestine Road would be re-aligned to the south, approximately 360 feet, to eliminate the skew of the intersection.

There is suitable summer habitat within the project area. Approximately 0.5 acre of tree clearing is currently anticipated for this project. The dominant tree species in the area include: red maple (*Acer rubrum*), honey locust (*Gleditsia triacanthos*), black locust (*Robinia pseudoacacia*), and white pine (*Pinus strobus*). Tree clearing will occur at the SR 37 and Cuba Rd./Thimler Rd. and along SR 37 southwest of the SR 37 and Cuba Rd./Thimler Rd. Tree clearing activities will take place during the inactive bat season. No permanent lighting is required for this project, though temporary lighting may be necessary. Construction activities not associated with tree clearing and roadway work will not increase noise levels beyond what is typical for this location.

A query of the USFWS Bat Database by INDOT Fort Wayne District staff conducted on November 10, 2021 did not identify any documented sites within 0.5 mile of the project area. Construction is anticipated to take place from approximately October 2024 through June 2025.

DETERMINATION KEY RESULT

Based on your answers provided, this project(s) may affect, but is not likely to adversely affect the endangered Indiana bat and/or the threatened Northern long-eared bat, therefore, consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required. However, also based on your answers provided, this project may rely on the concurrence provided in the 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.

QUALIFICATION INTERVIEW

1. Is the project within the range of the Indiana bat^[1]?

[1] See [Indiana bat species profile](#)

Automatically answered

Yes

2. Is the project within the range of the Northern long-eared bat^[1]?

[1] See [Northern long-eared bat species profile](#)

Automatically answered

Yes

3. Which Federal Agency is the lead for the action?

A) *Federal Highway Administration (FHWA)*

4. Are *all* project activities limited to non-construction^[1] activities only? (examples of non-construction activities include: bridge/abandoned structure assessments, surveys, planning and technical studies, property inspections, and property sales)

[1] Construction refers to activities involving ground disturbance, percussive noise, and/or lighting.

No

5. Does the project include *any* activities that are **greater than** 300 feet from existing road/rail surfaces^[1]?

[1] Road surface is defined as the actively used [e.g. motorized vehicles] driving surface and shoulders [may be pavement, gravel, etc.] and rail surface is defined as the edge of the actively used rail ballast.

Yes

6. Are *all* project activities **greater than** 300 feet from existing road/rail surfaces^[1]?

[1] Road surface is defined as the actively used [e.g. motorized vehicles] driving surface and shoulders [may be pavement, gravel, etc.] and rail surface is defined as the edge of the actively used rail ballast.

No

7. Does the project include *any* activities **within** 0.5 miles of a known Indiana bat and/or NLEB hibernaculum^[1]?

[1] For the purpose of this consultation, a hibernaculum is a site, most often a cave or mine, where bats hibernate during the winter (see suitable habitat), but could also include bridges and structures if bats are found to be hibernating there during the winter.

No

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

No

9. Is there *any* suitable^[1] summer habitat for Indiana Bat or NLEB **within** the project action area^[2]? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

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

[2] The action area is defined as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR Section 402.02). Further clarification is provided by the [User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat](#).

Yes

10. Will the project remove *any* suitable summer habitat^[1] and/or remove/trim any existing trees **within** suitable summer habitat?

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

Yes

11. Will the project clear more than 20 acres of suitable habitat per 5-mile section of road/rail?

No

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

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

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

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

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

No

13. Does the project include activities **within documented Indiana bat habitat**^{[1][2]}?

[1] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry triangulation/triangulation to estimate foraging areas; or (3) foraging areas with repeated use documented using acoustics. Documented roosting habitat is also considered as suitable summer habitat within 0.25 miles of documented roosts.)

[2] For the purposes of this key, we are considering documented corridors as that where Indiana bats and/or NLEB have actually been captured and tracked to using (1) radio telemetry; or (2) treed corridors located directly between documented roosting and foraging habitat.

No

14. Will the removal or trimming of habitat or trees occur **within** suitable but **undocumented Indiana bat** roosting/foraging habitat or travel corridors?

Yes

15. What time of year will the removal or trimming of habitat or trees **within** suitable but **undocumented Indiana bat** roosting/foraging habitat or travel corridors occur^[1]?

[1] Coordinate with the local Service Field Office for appropriate dates.

B) During the inactive season

16. Does the project include activities **within documented NLEB habitat**^{[1][2]}?

[1] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry triangulation/triangulation to estimate foraging areas; or (3) foraging areas with repeated use documented using acoustics. Documented roosting habitat is also considered as suitable summer habitat within 0.25 miles of documented roosts.)

[2] For the purposes of this key, we are considering documented corridors as that where Indiana bats and/or NLEB have actually been captured and tracked to using (1) radio telemetry; or (2) treed corridors located directly between documented roosting and foraging habitat.

No

17. Will the removal or trimming of habitat or trees occur **within** suitable but **undocumented NLEB** roosting/foraging habitat or travel corridors?

Yes

18. What time of year will the removal or trimming of habitat or trees **within** suitable but **undocumented NLEB** roosting/foraging habitat or travel corridors occur?

B) During the inactive season

19. Will *any* tree trimming or removal occur **within** 100 feet of existing road/rail surfaces?

Yes

20. Will *any* tree trimming or removal occur **between** 100-300 feet of existing road/rail surfaces?

No

21. Will *any* tree trimming or removal occur **greater than** 300 feet from existing road/rail surfaces?
No
22. Are *all* trees that are being removed clearly demarcated?
Yes
23. Will the removal of habitat or the removal/trimming of trees include installing new or replacing existing **permanent** lighting?
No
24. Does the project include maintenance of the surrounding landscape at existing facilities (e.g., rest areas, stormwater detention basins)?
No
25. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?
No
26. Does the project include slash pile burning?
No
27. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?
No
28. Does the project include the removal, replacement, and/or maintenance of *any* structure other than a bridge? (e.g., rest areas, offices, sheds, outbuildings, barns, parking garages, etc.)
No
29. Will the project involve the use of **temporary** lighting *during* the active season?
Yes
30. Is there *any* suitable habitat **within** 1,000 feet of the location(s) where **temporary** lighting will be used?
Yes
31. Will the project install new or replace existing **permanent** lighting?
No
32. Does the project include percussives or other activities (**not including tree removal/trimming or bridge/structure work**) that will increase noise levels above existing traffic/background levels?
No

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

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

[1] For the purpose of this consultation, a hibernaculum is a site, most often a cave or mine, where bats hibernate during the winter (see suitable habitat), but could also include bridges and structures if bats are found to be hibernating there during the winter.

[2] Road surface is defined as the actively used [e.g. motorized vehicles] driving surface and shoulders [may be pavement, gravel, etc.] and rail surface is defined as the edge of the actively used rail ballast. (example activities include road line painting)

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

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

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

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

Yes

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

No

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

Automatically answered

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

37. Is the habitat removal portion of this project consistent with a Not Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because the tree removal/trimming that occurs outside of the Indiana bat's active season occurs greater than 0.5 miles from the nearest hibernaculum, is less than 100 feet from the existing road/rail surface, includes clear demarcation of the trees that are to be removed, and does not alter documented roosts and/or surrounding summer habitat within 0.25 miles of a documented roost.

38. Is the habitat removal portion of this project consistent with a Not Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because the tree removal/trimming that occurs outside of the NLEB's active season occurs greater than 0.5 miles from the nearest hibernaculum, is less than 100 feet from the existing road/rail surface, includes clear demarcation of the trees that are to be removed, and does not alter documented roosts and/or surrounding summer habitat within 0.25 miles of a documented roost.

39. **General AMM 1**

Will the project ensure *all* operators, employees, and contractors working in areas of known or presumed bat habitat are aware of *all* FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable Avoidance and Minimization Measures?

Yes

40. **Tree Removal AMM 1**

Can *all* phases/aspects of the project (e.g., temporary work areas, alignments) be modified, to the extent practicable, to avoid tree removal^[1] in excess of what is required to implement the project safely?

Note: Tree Removal AMM 1 is a minimization measure, the full implementation of which may not always be practicable. Projects may still be NLAA as long as Tree Removal AMMs 2, 3, and 4 are implemented and LAA as long as Tree Removal AMMs 3, 5, 6, and 7 are implemented.

[1] The word “trees” as used in the AMMs refers to trees that are suitable habitat for each species within their range. See the USFWS’ current summer survey guidance for our latest definitions of suitable habitat.

Yes

41. **Tree Removal AMM 3**

Can tree removal be limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits)?

Yes

42. Tree Removal AMM 4

Can the project avoid cutting down/removal of *all* (1) **documented**^[1] Indiana bat or NLEB roosts^[2] (that are still suitable for roosting), (2) trees **within** 0.25 miles of roosts, and (3) documented foraging habitat any time of year?

[1] The word documented means habitat where bats have actually been captured and/or tracked.

[2] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry biangulation/triangulation to estimate foraging areas; or (3) foraging areas with repeated use documented using acoustics. Documented roosting habitat is also considered as suitable summer habitat within 0.25 miles of documented roosts.)

Yes

43. Lighting AMM 1

Will *all* **temporary** lighting be directed away from suitable habitat during the active season?

Yes

PROJECT QUESTIONNAIRE

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

N/A

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

N/A

3. How many acres^[1] of trees are proposed for removal between 0-100 feet of the existing road/rail surface?

[1] If described as number of trees, multiply by 0.09 to convert to acreage and enter that number.

0.5

AVOIDANCE AND MINIMIZATION MEASURES (AMMS)

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

TREE REMOVAL AMM 4

Do not remove **documented** Indiana bat or NLEB roosts that are still suitable for roosting, or trees within 0.25 miles of roosts, or **documented** foraging habitat any time of year.

GENERAL AMM 1

Ensure all operators, employees, and contractors working in areas of known or presumed bat habitat are aware of all FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable AMMs.

TREE REMOVAL AMM 1

Modify all phases/aspects of the project (e.g., temporary work areas, alignments) to avoid tree removal.

LIGHTING AMM 1

Direct temporary lighting away from suitable habitat during the active season.

TREE REMOVAL AMM 2

Apply time of year restrictions for tree removal when bats are not likely to be present, or limit tree removal to 10 or fewer trees per project at any time of year within 100 feet of existing road/rail surface and **outside of documented** roosting/foraging habitat or travel corridors; visual emergence survey must be conducted with no bats observed.

TREE REMOVAL AMM 3

Ensure tree removal is limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits).

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

This key was last updated in IPaC on December 01, 2022. Keys are subject to periodic revision.

This decision key is intended for projects/activities funded or authorized by the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and/or Federal Transit Administration (FTA), which may require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act (ESA) for the endangered **Indiana bat** (*Myotis sodalis*) and the threatened **Northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects](#). The programmatic biological opinion covers limited transportation activities that may affect either bat species, and addresses situations that are both likely and not likely to adversely affect either bat species. This decision key will assist in identifying the effect of a specific project/activity and applicability of the programmatic consultation. The programmatic biological opinion is not intended to cover all types of transportation actions. Activities outside the scope of the programmatic biological opinion, or that may affect ESA-listed species other than the Indiana bat or NLEB, or any designated critical habitat, may require additional ESA Section 7 consultation.

IPAC USER CONTACT INFORMATION

Agency: Indiana Department of Transportation

Name: Arianna Gill

Address: 5333 Hattfield Road

City: Fort Wayne

State: IN

Zip: 46804

Email: agill@indot.in.gov

Phone: 2609698262



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Indiana Ecological Services Field Office
620 South Walker Street
Bloomington, IN 47403-2121
Phone: (812) 334-4261 Fax: (812) 334-4273

In Reply Refer To:

December 06, 2023

Project Code: 2023-0032409

Project Name: SR 37 at Cuba/Thimler Road and Notestine Road, Intersection Improvement
(Des. 1900142)

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.

Please use the species list provided and visit the U.S. Fish and Wildlife Service's Region 3 Section 7 Technical Assistance website at - <http://www.fws.gov/midwest/endangered/section7/>

<s7process/index.html>. This website contains step-by-step instructions which will help you determine if your project will have an adverse effect on listed species and will help lead you through the Section 7 process. For all **wind energy projects** and **projects that include installing towers that use guy wires or are over 200 feet in height**, please contact this field office directly for assistance, even if no federally listed plants, animals or critical habitat are present within your proposed project or may be affected by your proposed project.

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
- Bald & Golden Eagles
- Migratory Birds
- Wetlands

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:

Indiana Ecological Services Field Office

620 South Walker Street
Bloomington, IN 47403-2121
(812) 334-4261

PROJECT SUMMARY

Project Code: 2023-0032409
Project Name: SR 37 at Cuba/Thimlmer Road and Notestine Road, Intersection Improvement (Des. 1900142)
Project Type: Road/Hwy - Maintenance/Modification
Project Description: The Indiana Department of Transportation (INDOT) and the Federal Highway Administration (FHWA) intend to proceed with a project involving the intersections at SR 37 and Notestine Road and at SR 37 and Cuba/Thimlmer Roads in Allen County.

The proposed improvements for the intersection of SR 37 at Cuba/Thimlmer Road would widen SR 37 to include the addition of left turn lanes into Cuba Road and Thimlmer Road. The intersection of SR 37 and Notestine Road would be re-aligned to the south, approximately 360 feet, to eliminate the skew of the intersection.

There is suitable summer habitat within the project area. Approximately 0.5 acre of tree clearing is currently anticipated for this project. The dominant tree species in the area include: red maple (*Acer rubrum*), honey locust (*Gleditsia triacanthos*), black locust (*Robinia pseudoacacia*), and white pine (*Pinus strobus*). Tree clearing will occur at the SR 37 and Cuba Rd./Thimlmer Rd. and along SR 37 southwest of the SR 37 and Cuba Rd./Thimlmer Rd. Tree clearing activities will take place during the inactive bat season. No permanent lighting is required for this project, though temporary lighting may be necessary. Construction activities not associated with tree clearing and roadway work will not increase noise levels beyond what is typical for this location.

A query of the USFWS Bat Database by INDOT Fort Wayne District staff conducted on November 10, 2021 did not identify any documented sites within 0.5 mile of the project area. Construction is anticipated to take place from approximately October 2024 through June 2025.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@41.18308605,-84.94165641491622,14z>



Counties: Allen County, Indiana

ENDANGERED SPECIES ACT SPECIES

There is a total of 5 threatened, endangered, or candidate species on this species list.

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

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

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

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

MAMMALS

NAME	STATUS
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

BIRDS

NAME	STATUS
Whooping Crane <i>Grus americana</i> Population: U.S.A. (AL, AR, CO, FL, GA, ID, IL, IN, IA, KY, LA, MI, MN, MS, MO, NC, NM, OH, SC, TN, UT, VA, WI, WV, western half of WY) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/758	Experimental Population, Non- Essential

INSECTS

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

CRITICAL HABITATS

THERE 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.

BALD & GOLDEN EAGLES

Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act¹ and the Migratory Bird Treaty Act².

Any person or organization who plans or conducts activities that may result in impacts to bald or golden eagles, or their habitats³, should follow appropriate regulations and consider implementing appropriate conservation measures, as described below.

-
1. The [Bald and Golden Eagle Protection Act](#) of 1940.
 2. The [Migratory Birds Treaty Act](#) of 1918.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

There are bald and/or golden eagles in your project area.

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Oct 15 to Aug 31

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read the supplemental

information and specifically the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)

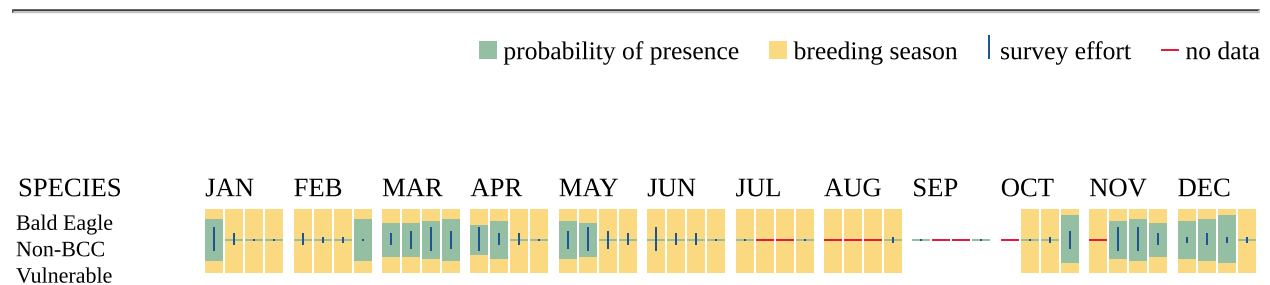
Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

Survey Effort (|)

Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (—)

A week is marked as having no data if there were no survey events for that week.



Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

MIGRATORY BIRDS

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats³ should follow appropriate regulations and consider implementing appropriate conservation measures, as described below.

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.
3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Oct 15 to Aug 31
Black Tern <i>Chlidonias niger</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/3093	Breeds May 15 to Aug 20
Black-billed Cuckoo <i>Coccyzus erythrophthalmus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9399	Breeds May 15 to Oct 10
Bobolink <i>Dolichonyx oryzivorus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9454	Breeds May 20 to Jul 31
Canada Warbler <i>Cardellina canadensis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9643	Breeds May 20 to Aug 10
Cerulean Warbler <i>Dendroica cerulea</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/2974	Breeds Apr 21 to Jul 20
Chimney Swift <i>Chaetura pelagica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9406	Breeds Mar 15 to Aug 25

NAME	BREEDING SEASON
<p>Eastern Whip-poor-will <i>Antrastomus vociferus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/10678</p>	Breeds May 1 to Aug 20
<p>Golden-winged Warbler <i>Vermivora chrysoptera</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/8745</p>	Breeds May 1 to Jul 20
<p>Lesser Yellowlegs <i>Tringa flavipes</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9679</p>	Breeds elsewhere
<p>Pectoral Sandpiper <i>Calidris melanotos</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9561</p>	Breeds elsewhere
<p>Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9398</p>	Breeds May 10 to Sep 10
<p>Rusty Blackbird <i>Euphagus carolinus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/9478</p>	Breeds elsewhere
<p>Short-billed Dowitcher <i>Limnodromus griseus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9480</p>	Breeds elsewhere
<p>Western Grebe <i>aechmophorus occidentalis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/6743</p>	Breeds Jun 1 to Aug 31
<p>Wood Thrush <i>Hylocichla mustelina</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9431</p>	Breeds May 10 to Aug 31

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read the supplemental

information and specifically the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)

Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

Survey Effort (|)

Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (-)

A week is marked as having no data if there were no survey events for that week.





Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

WETLANDS

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

RIVERINE

- R4SBC

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