



## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Arkansas Ecological Services Field Office  
110 South Amity Suite 300  
Conway, AR 72032-8975  
Phone: (501) 513-4470 Fax: (501) 513-4480  
<http://www.fws.gov/arkansas-es>

In Reply Refer To:

July 27, 2021

Consultation Code: 04ER1000-2021-SLI-1368

Event Code: 04ER1000-2021-E-03991

Project Name: [REDACTED] House Construction Proposal

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

**If you determine that this project will have no effect on listed species and their habitat in any way, then you have completed Section 7 consultation with the Service and may use this letter in your project file or application.**

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

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

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

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

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

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

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

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

completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

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

Attachment(s):

- Official Species List

# **Official Species List**

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

This species list is provided by:

**Arkansas Ecological Services Field Office**

110 South Amity Suite 300

Conway, AR 72032-8975

(501) 513-4470

## Project Summary

Consultation Code: 04ER1000-2021-SLI-1368

Event Code: 04ER1000-2021-E-03991

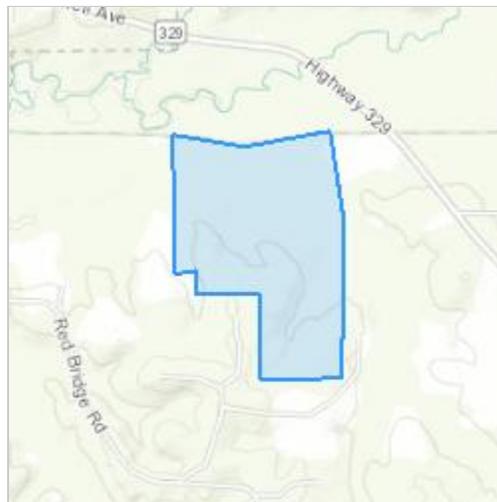
Project Name: [REDACTED] House Construction Proposal

Project Type: AGRICULTURE

Project Description: Proposal would involve the construction of (6) 43' x 500' broiler houses in Sevier County, southeast of De Queen (34.021044,-94.309018). Based on the plans that have been submitted, proposal would disturb 11.2 acres of land that is currently established in grasslands and used to graze beef cattle. The proposed site was established in mixed timber, then cleared after 2001. Tree removal would be minimal. No ground disturbing activities would take place in or a near a stream. If approved, proposal would begin in the Fall months of 2021.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@34.02569935,-94.31254992238433,14z>



Counties: Sevier County, Arkansas

## Endangered Species Act Species

There is a total of 6 threatened, endangered, or candidate species on this species list.

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

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

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

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

### Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened

### Birds

NAME	STATUS
Eastern Black Rail <i>Laterallus jamaicensis ssp. jamaicensis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/10477">https://ecos.fws.gov/ecp/species/10477</a>	Threatened
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/6039">https://ecos.fws.gov/ecp/species/6039</a>	Threatened
Red Knot <i>Calidris canutus rufa</i> There is <b>proposed</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a>	Threatened

## Clams

NAME	STATUS
<i>Winged Mapleleaf <i>Quadrula fragosa</i></i> Population: Wherever found, except where listed as an experimental population No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/4127">https://ecos.fws.gov/ecp/species/4127</a>	Endangered

## Insects

NAME	STATUS
<i>American Burying Beetle <i>Nicrophorus americanus</i></i> Population: Wherever found, except where listed as an experimental population No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/66">https://ecos.fws.gov/ecp/species/66</a>	Threatened

## Critical habitats

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



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In Reply Refer To:

July 27, 2021

Consultation code: 04ER1000-2021-TA-1368

Event Code: 04ER1000-2021-E-03992

Project Name: [REDACTED] House Construction Proposal

Subject: Verification letter for [REDACTED] House Construction Proposal' 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 Adam Kaufman:

The U.S. Fish and Wildlife Service (Service) received on **July 27, 2021** your effect determination(s) for the [REDACTED] House Construction Proposal' (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.

Species	Listing Status	Determination
American Burying Beetle ( <i>Nicrophorus americanus</i> )	Threatened	No effect
Eastern Black Rail ( <i>Laterallus jamaicensis ssp. jamaicensis</i> )	Threatened	No effect
Northern Long-eared Bat ( <i>Myotis septentrionalis</i> )	Threatened	May affect
Piping Plover ( <i>Charadrius melodus</i> )	Threatened	No effect
Red Knot ( <i>Calidris canutus rufa</i> )	Threatened	No effect
Winged Mapleleaf ( <i>Quadrula fragosa</i> )	Endangered	NLAA

### Status

The Service concurs with the NLAA determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of the "No Effect" determinations.

No further consultation for this project is required for these species. This letter confirms you may rely on effect determinations provided in the Arkansas Determination Key for project review and guidance for federally listed species to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA).

The proposed project may affect the Northern Long-eared Bat. However, this project complies with the final 4(d) rule with incidental take covered by the U.S. Fish and Wildlife Service's January 5, 2016, Intra-Service Programmatic Biological Opinion on the final 4(d) rule for the NLEB addressing "Activities Excepted from Take Prohibitions. No further consultation is required for the proposed project for this species.

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; 4) 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.

**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 BGEPA may apply to their activities. The guidelines should be consulted prior to conducting new or intermittent activity near an eagle nest. This document may be downloaded from the following site: <https://www.fws.gov/southeast/our-services/permits/eagles/>

To determine if your proposed activity is likely to take or disturb Bald Eagles, complete our step-by-step online self-certification process, which is located at <https://www.fws.gov/southeast/our-services/eagle-technical-assistance/>.

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. The application form is located at <http://www.fws.gov/forms/3-200-72.pdf>.

## Action Description

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

### 1. Name

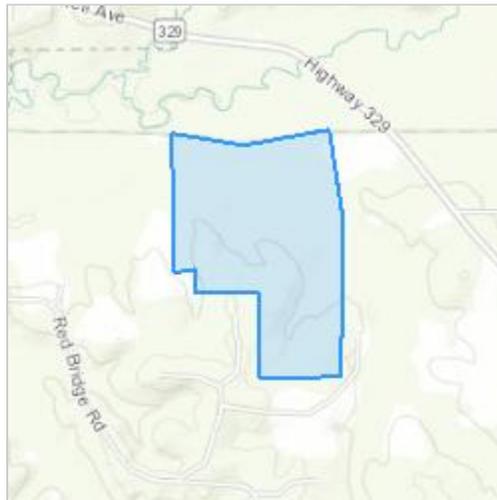
██████████ House Construction Proposal

### 2. Description

The following description was provided for the project ██████████ House Construction Proposal':

Proposal would involve the construction of (6) 43' x 500' broiler houses in Sevier County, southeast of De Queen (34.021044,-94.309018). Based on the plans that have been submitted, proposal would disturb 11.2 acres of land that is currently established in grasslands and used to graze beef cattle. The proposed site was established in mixed timber, then cleared after 2001. Tree removal would be minimal. No ground disturbing activities would take place in or a near a stream. If approved, proposal would begin in the Fall months of 2021.

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@34.02569935,-94.31254992238433,14z>



**Species Protection Measures**

Development

<https://www.fws.gov/southeast/pdf/species-protective-measures/development-projects.pdf>

## 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:  
*f. All other federal agencies or agency designees*
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 the American burying beetle consultation area?  
**Automatically answered**  
*Yes*
10. Have you determined that the proposed action will have “no effect” on the American burying beetle? (If you are unsure select "No")  
*No*
11. Will your activity **purposefully take** American burying beetles?  
*No*

12. [Semantic] Is your project wholly inside the 4d rule Analysis Area? For areas of your project occurring inside the Analysis Area (New England, Northern Plains, Southern Plains), your project may qualify for exemptions. For areas of your project occurring outside the Analysis Area, all incidental take is exempted according to the ABB 4d Rule.
- Automatically answered**  
*Yes*
13. Is American burying beetle [suitable habitat](#) present within the action area?
- No*
14. [Semantic] Does the project intersect the red-cockaded woodpecker AOI?
- Automatically answered**  
*No*
15. [Semantic] Does the project intersect the Eastern black rail AOI?
- Automatically answered**  
*Yes*
16. Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
- No*
17. Does the project take place in marshy or flooded open field habitat?
- No*
18. [Semantic] Does the project intersect the red knot AOI?
- Automatically answered**  
*Yes*
19. [Semantic (same answer as "8.1.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
- Automatically answered**  
*No*
20. [Semantic (same answer as "8.2")] Does the project take place in marshy or flooded open field habitat?
- Automatically answered**  
*No*
21. [Semantic] Does the project intersect the Piping Plover AOI?
- Automatically answered**  
*Yes*
22. [Semantic (same answer as "8.1.3 or 9.3")] Will the project affect sand and gravel areas or shorelines along rivers, lakes, or reservoirs?
- Automatically answered**  
*No*
23. [Semantic] Does the project intersect the Whooping Crane AOI?
- Automatically answered**  
*No*

24. [Semantic] Does the project intersect the interior least tern AOI?  
**Automatically answered**  
*No*
25. [Semantic] Does the project intersect the Gray Bat AOI?  
**Automatically answered**  
*No*
26. [Semantic] Does the project intersect the Ozark Big-eared Bat AOI?  
**Automatically answered**  
*No*
27. [Semantic] Does the project intersect the Indiana bat AOI?  
**Automatically answered**  
*No*
28. [Semantic] Does the project intersect the Northern Long-eared bat AOI?  
**Automatically answered**  
*Yes*
29. Have you determined that the proposed action will have “no effect” on the northern long-eared bat? (If you are unsure select "No")  
*No*
30. Will your activity purposefully Take northern long-eared bats?  
*No*
31. Is the project action area located within 0.25 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 (Semantic: Edge In Answer Path)  
**Automatically answered**  
*No*
32. Is the project action area located within 150 feet of a known occupied northern long-eared bat maternity roost tree?  
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 (Semantic: Edge In Answer Path)  
**Automatically answered**  
*No*
33. [Semantic] Does the project intersect the Benton County Cave Crayfish AOI?  
**Automatically answered**  
*No*
34. [Semantic] Does the project intersect the Hell Creek Cave Crayfish AOI?  
**Automatically answered**  
*No*

35. [Semantic] Does the project intersect the Ozark cavefish AOI?  
**Automatically answered**  
*No*
36. [Semantic] Does the project intersect the Missouri bladderpod AOI?  
**Automatically answered**  
*No*
37. [Semantic] Does the project intersect the Geocarpon AOI?  
**Automatically answered**  
*No*
38. [Semantic] Does the project intersect the running buffalo clover AOI?  
**Automatically answered**  
*No*
39. [Semantic] Does the project intersect the Pondberry AOI?  
**Automatically answered**  
*No*
40. [Semantic] Does the project occur within the survey coordination area?  
**Automatically answered**  
*No*
41. Does the project contain any of the following activity types:  
Boat Ramps,  
Bridges,  
Culverts,  
Development,  
Dams or Impoundments (including berms and levees),  
Streambank Stabilization (or other streambank work),  
Pipeline and linear projects,  
Water intakes/withdrawals, or  
Stream or ditch relocation?  
*Yes*
42. Does the project include Streambank Stabilization (or other streambank work)?  
*No*
43. Does the project include Boat Ramps?  
*No*
44. Does the project include Bridges and Culverts?  
*No*
45. Does the project include Dams and Impoundments (including berms or levees)?  
*No*
46. Does the project include Development?  
*Yes*

47. Does the project include the Development species [protective measures](#), as applicable to the project and site characteristics?  
*Yes*
48. Is the project a Pipeline or Linear Project?  
*No*
49. Does the project include Water Intakes/Withdrawals?  
*No*
50. Does the project include Stream or Ditch Relocation?  
*No*
51. [Semantic] Does the project intersect the rabbitsfoot AOI?  
**Automatically answered**  
*No*
52. [Semantic] Does the project intersect the neosho mucket AOI?  
**Automatically answered**  
*No*
53. [Semantic] Does the project intersect the Spectaclecase AOI?  
**Automatically answered**  
*No*
54. [Semantic] Does the project intersect the snuffbox AOI?  
**Automatically answered**  
*No*
55. [Semantic] Does the project intersect the speckled pocketbook AOI?  
**Automatically answered**  
*No*
56. [Semantic] Does the project intersect the ouachita rock pocketbook AOI?  
**Automatically answered**  
*No*
57. [Semantic] Does the project intersect the fat pocketbook AOI?  
**Automatically answered**  
*No*
58. [Semantic] Does the project intersect the Curtis pearlymussel AOI?  
**Automatically answered**  
*No*
59. [Semantic] Does the project intersect the scaleshell AOI?  
**Automatically answered**  
*No*
60. [Semantic] Does the project intersect the pink mucket AOI?  
**Automatically answered**  
*No*

61. [Semantic] Does the project intersect the Arkansas fatmucket AOI?  
**Automatically answered**  
*No*
62. [Semantic] Does the project intersect the winged mapleleaf AOI?  
**Automatically answered**  
*Yes*
63. [Semantic] Does the project intersect the leopard darter AOI?  
**Automatically answered**  
*No*
64. [Semantic] Does the project intersect the Yellowcheek darter AOI?  
**Automatically answered**  
*No*
65. [Semantic] Does the project intersect the Ozark hellbender AOI?  
**Automatically answered**  
*No*
66. [Semantic] Does the project intersect the harperella AOI?  
**Automatically answered**  
*No*
67. [Semantic] Does the project intersect the pallid sturgeon AOI?  
**Automatically answered**  
*No*

## Project Questionnaire

1. Please select the activity that best matches your proposed action.

*13. Other activities with soil disturbance - briefly describe below*

2. If you choose 13 above, please describe below. If you did not choose 13 above, please type "0".

*Proposed establishment of a (6) house broiler operation that would disturb 11.2 acres of pastureland*

3. Estimate the total acres of suitable American burying beetle habitat that may be affected.

0

4. **If the project includes forest conversion, report the appropriate acreages below. Otherwise, type '0' in questions 1-3.**

1. Estimated total acres of forest conversion:

0

2. If known, estimated acres of forest conversion from April 1 to October 31

0

3. If known, estimated acres of forest conversion from June 1 to July 31

0

7. **If the project includes timber harvest, report the appropriate acreages below. Otherwise, type '0' in questions 4-6.**

4. Estimated total acres of timber harvest

0

5. If known, estimated acres of timber harvest from April 1 to October 31

0

6. If known, estimated acres of timber harvest from June 1 to July 31

0

10. **If the project includes prescribed fire, report the appropriate acreages below. Otherwise, type '0' in questions 7-9.**

7. Estimated total acres of prescribed fire

0

8. If known, estimated acres of prescribed fire from April 1 to October 31

0

9. If known, estimated acres of prescribed fire from June 1 to July 31

0

13. **If the project includes new wind turbines, report the megawatts of wind capacity below. Otherwise, type '0' in question 10.**

10. What is the estimated wind capacity (in megawatts) of the new turbine(s)?

0

**“Take”** is defined by the ESA as ‘to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect’ any endangered species. Purposeful take is when the reason for the activity or action is to conduct some form of take. For instance, conducting a research project that includes collecting and handling ABBs is a form of purposeful take. Intentionally killing or harming ABBs is also purposeful take and is prohibited.

**“Incidental take”** is defined by the Endangered Species Act as take that is "incidental to, and not the purpose of, the carrying out of an otherwise lawful activity." For example, bulldozing land for road construction may kill ABBs in the soil, but the purpose of the activity is not to kill ABBs.

**“Purposeful take”** is when the reason for the activity or action is to conduct some form of take. For instance, conducting a research project that includes collecting and handling ABBs is a form of purposeful take. Intentionally killing or harming ABBs is also purposeful take and is prohibited.

**"Federal nexus"** phrase used to indicate an activity’s connection to a federal agency as a result of that agency authorizing, funding, or carrying out the activity.

**"Soil disturbance"** Soil disturbance means movement or alteration of soil associated with modifying the existing land use. Soil disturbance includes actions such as grading, filling, soil excavating or topsoil stripping. Soil disturbance also includes non-physical alterations such as chemical treatment, including ground or soil sterilizers, and pesticides that would make the habitat unsuitable. However, typical agricultural levels of applications like liming or fertilizer should not affect American burying beetles, and we do not intend to regulate such practices.

**“Suitable Habitat”** While the ABB uses a wide variety of habitats, the Service currently believes that areas exhibiting the following characteristics will not be of conservation value to ABBs and will not be credited as mitigation, except as possible buffer credits described below under the Crediting Method section. Areas exhibiting these characteristics should be excluded from mitigation lands because they are considered unfavorable for use by ABBs based on disturbance regime, vegetation structure, unsuitable soil conditions, and carrion availability:

1. Land that is tilled on a regular basis, planted in monoculture, and does not contain native vegetation.
2. Pasture or grassland that has been maintained through frequent mowing, grazing, or herbicide application at a height of 20 cm (8 inches) or less.
3. Land that has already been developed and no longer exhibits topsoil, leaf litter, or vegetation.
4. Urban areas with maintained lawns, paved surfaces, or roadways.
5. Stockpiled soil without vegetation.
6. Wetlands or permanent waterbodies with standing water or saturated soils. Areas adjacent to wetlands and/or riparian areas are not considered unfavorable for the ABB, as they may be important for ABBs seeking moist soils during dry conditions.

**“Ranching and grazing”** means activities involved in grazing livestock (e.g., cattle, bison, horse, sheep, goats, or other grazing animals) such as: gathering of livestock; construction and maintenance of fences associated with livestock grazing; installation and maintenance of corrals, loading chutes, and other livestock working facilities; development and maintenance of livestock watering facilities; placement of supplements such as salt blocks for grazing livestock; and, when associated with livestock grazing, the control of noxious weeds, haying, mowing, and prescribed burning. Ranching and grazing does not include any form of farming, conversion of grassland to cropland, or management of cropland.

**“Conservation Lands”** We define “conservation lands” in the Southern Plains analysis areas as lands included within the existing boundaries of Fort Chaffee in Arkansas (approximately 64,000 acres), and McAlester Army Ammunition Plant (approximately 45,000 acres), and Camp Gruber/Cherokee Wildlife Management Area (approximately 64,000 acres). These areas have defined boundaries and management that is compatible with recovery for the American burying beetle.

American Burying beetle habitat impact types:

**Temporary impacts** are those that impact ABB habitat for 5 years or less (areas impacted by the project are restored to a condition suitable for ABB use within 5 years of the original impact).

**Permanent cover change** impacts are defined as impacts that change the successional stage of an area to a different stage (e.g., forest or shrubland to grassland; grassland to forest), resulting in habitat that is possibly less preferable for ABB use. Similar to temporary impacts, these areas will be restored to a condition suitable for ABB use within 5 years. However, if these areas will be permanently maintained at a different successional stage (through vegetation control, tree planting, or suppression of natural vegetation), the Service considers the vegetation cover of the area to have been permanently changed.

**Permanent impacts** are those that eliminate ABB habitat (e.g., buildings, roads, quarries, strip mines), as well as any impact to habitat that takes more than 5 years to re-establish as suitable for ABB use.

## **Species Protective Measures for Development Projects**

1. Incorporate properly installed and maintained erosion and sediment best management practices until all exposed soils are permanently stabilized.
  - a. Ensure proper use, installation, and maintenance of energy dissipaters (e.g., hay bales, etc.) and silt fence. Silt fence should be installed around the project area perimeter. Install as specified by manufacturer. Maximum length of slope draining to any point along the silt fence should not exceed 100 feet. Do not place silt fence in areas with concentrated flow. A 15 foot gap in the silt fence to accommodate traffic is permissible. Silt fence should be inspected and repaired if necessary following 0.5 inch rainfall/48 hour period or 0.25 inch rainfall/one hour. Remove sediment when buildup against silt fence is at or near 40 percent capacity.
  - b. Sediment traps should be constructed with adequate capacity for storm events and accumulated sediment, with 75 percent removal efficiency. Traps should have both inflow and outflow.
  - c. For commercial construction, install detention basin(s) sized to capture first one inch of a rainfall event. Constructing detention basins in a stream is not permissible. Line bottom of detention basin with a textile or bentonite type material to capture rain and not allow infiltration. This material should be covered by one to two feet of gravel. At least once every 5 years, the basin should be drained and if necessary dredged to its original depth. After capture of first 1 inch of rainfall, flow should be directed to 50 – 100 foot bioretention treatment area consisting of a vegetated strip, sand bed, organic or mulch layer, planting soil, or hydrophilic plants.
  - d. Within 24 hours following precipitation events at project site, all erosion and sediment control measures must be maintained and either repaired or replaced.
  - e. Revegetate site within 30 days following construction completion.