



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

October 6, 2023

Susan Minnick
USFWS Oklahoma Ecological Services Field Office
9014 East 21st Street
Tulsa, OK 74129
OKProjectReview@fws.gov
Susan_Minnick@fws.gov

Re: Docket No. FD 36500, Canadian Pacific Railway Limited, et al.—Control of—Kansas City Southern Railway, et al.; **USFWS Informal Section 7 Consultation** – Consultation Codes: 02EKOK00-2022-SLI-0486 (MP 247/Baron); 02EKOK00-2022-SLI-0487 (Cave Springs)

Dear Ms. Minnick:

The Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) is re-initiating consultation for the above referenced project to address the reclassification of the northern long-eared bat (*Myotis septentrionalis*) as endangered. On March 15, 2023, the Board authorized Canadian Pacific Railway Limited's acquisition of control of Kansas City Southern Railway, subject to conditions, resulting in the merged railroad Canadian Pacific Kansas City (CPKC). As explained during OEA's previous informal consultation with the Oklahoma Ecological Services Field Office in 2022, the Board's authorization of CPKC is projected to cause an increase in rail traffic along existing rail lines and result in planned capital improvements along sections of the existing rail lines, including in Oklahoma. This informal consultation concluded with a concurring letter from your office on August 1, 2022 (Attachment A). OEA subsequently followed up with your office after the proposed listing of the tricolored bat, which resulted in your office acknowledging OEA's determination and providing no additional comments (Attachment A).

Background

As a result of the acquisition, the average rail traffic is expected to increase on certain rail lines within the combined CPKC network because freight would be diverted from rail lines owned by other railroad companies and from truck transportation to rail transportation. To accommodate the projected increase in rail traffic, CPKC has begun to make certain capital improvements within the existing rail right-of-way (ROW).

In Oklahoma, the planned capital improvements include adding new passing sidings or extending existing sidings. Construction activities associated with those capital improvements

have the potential to affect federally listed threatened or endangered species, if any are present within the existing rail ROW. The planned capital improvements could also involve replacing or extending existing railroad bridges and culverts to accommodate the new or extended siding.

During OEA's informal consultation with the U.S. Fish and Wildlife Service (USFWS) in 2022, OEA explained that field work was conducted in January 2022 to characterize the existing habitat at each planned capital improvement location. Prior to conducting field work, OEA used the USFWS Information for Planning and Consultation (IPaC) tool and correspondence from the Oklahoma Natural Heritage Inventory to determine the species of concern for each planned capital improvement location. Based on habitat-level field work, OEA identified suitable roosting and foraging habitat within the existing ROW for the northern long-eared bat and Indiana bat (*Myotis sodalis*) at several planned capital improvements in Oklahoma. In its March 2023 decision, the Board imposed multiple mitigation measures recommended by OEA to protect the northern long-eared and Indiana bat during the construction of the planned capital improvements, as detailed in Attachment B to this letter. These measures include requirements to conduct tree clearing and work on structures that provide suitable roosting habitat outside of the active season (April 1 to October 31), as well as measures related to installing lighting. Based on the mitigation developed as part of the NEPA process, OEA had determined that the Proposed Acquisition **may affect, but is not likely to adversely affect** the northern long-eared bat and Indiana bat. As noted above, the Oklahoma Field Office concurred with OEA's determination on August 1, 2022.

MP 247 (Baron) and Cave Springs Capital Improvements

CPKC is planning to obtain Clean Water Act (CWA) Section 404 Nationwide Permits from the U.S. Army Corp of Engineers (USACE) to construct the proposed capital improvements at MP 247 (Baron) and Cave Springs in Adair County, Oklahoma. These capital improvements contain habitat for the northern long-eared bat. Per the USFWS final rule published on March 31, 2023, the northern long-eared bat has been reclassified as endangered under the Endangered Species Act. Therefore, OEA (as the lead Federal Agency for the Environmental Impact Statement) is re-submitting consultation with USFWS for all currently listed species in the project areas in anticipation of CPKC's application for a Section 404 permit. OEA generated new species lists in USFWS' IPaC website and confirmed the same species (including bat species) consulted on in the 2022 consultation are potentially present in the project areas (Attachment C). In addition, a new species was Proposed – alligator snapping turtle – since the last consultation and IPaC indicates it could occur or potentially occur at the MP 247 (Baron) and Cave Springs project locations. While this species can be found in a variety of habitats, it is generally found in deeper waters of large rivers and their major tributaries;¹ this habitat is not found in the two project locations. Therefore, OEA does not anticipate the two capital improvement projects would be likely to jeopardize the continued existence of the species and is not requesting a conference with USFWS.²

¹ 86 FR 62434

² Per ESA Section 7(a)(4), a conference is required only when the Federal agency's proposed action is likely to jeopardize the continued existence of a proposed species or destroy or adversely modify proposed critical habitat.

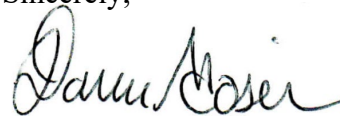
Table 1 summarizes the planned capital improvement locations in Oklahoma containing suitable habitats for the northern long-eared bat. The attached maps show suitable forested bat habitat and suitable bat roosting structures within the ROW of the two planned capital improvement locations (Attachment D). With implementation of the measures in Attachment B, OEA concludes that the capital improvement projects would still result in a **may affect, not likely to adversely affect** determination for the northern long-eared bat under the endangered status. OEA requests the USFWS' concurrence on this determination.

Table 1. Planned capital improvement locations in Oklahoma with suitable northern long-eared bat habitats.

Common and Scientific Name	Capital Improvement Location	Federal Status	Suitable Habitat	Effects Determination
Northern long-eared bat (<i>Myotis septentrionalis</i>)	MP 247 (Baron), Adair County, new siding Cave Springs, Adair County, siding extension	Endangered	<u>MP 247 (Baron)</u> : potentially suitable summer roosting habitat in forested areas in and adjacent to the railroad ROW. No suitable roosting structures/trees in the railroad ROW. <u>Cave Springs</u> : potentially suitable summer roosting habitat in forested areas in and adjacent to the railroad ROW. No suitable roosting structures/trees in the railroad ROW. <u>Habitat impacts</u> : MP 247 (Baron) (8.2 acres), Cave Springs (3.0 acre).	May affect, not likely to adversely affect

We appreciate your review and assistance in the consultation process and look forward to hearing from you. For further information or questions, please contact Elizabeth Webster at Elizabeth.Webster@stb.gov or 202-360-0742. For further information about the merger, you may also visit the Board-sponsored project website at www.CP-KCSMergerEIS.com.

Sincerely,



Danielle Gosselin
Director
Office of Environmental Analysis

ATTACHMENT A: 2022 CONSULTATION CORRESPONDENCE [Consultation Codes:
02EKOK00-2022-SLI-0486 (MP 247/Baron); 02EKOK00-2022-SLI-0487 (Cave Springs)]



United States Department of the Interior
FISH AND WILDLIFE SERVICE



Division of Ecological Services
9014 East 21st Street
Tulsa, Oklahoma 74129
918/581-7458 / (FAX) 918/581-7467

August 1, 2022

To:

Surface Transportation Board, Office of Environmental Analysis, Joshua
Wayland, 395 E Street SW, Washington, DC 20423, 202-245-0330,
Joshua.Wayland@stb.gov

Project Name:

Docket No. FD 36500, Canadian Pacific Railway Limited, et al.—Control of—
Kansas City Southern, et al.

Consultation Code:

MP 247/Baron: 02EKOK00-2022-SLI-0486
Cave Springs: 02EKOK00-2022-SLI-0487
Spiro: 02EKOK00-2022-SLI-0488
Heavener: 02EKOK00-2022-SLI-0489

Dear Applicant:

Thank you for using the U.S. Fish and Wildlife Service (Service) Oklahoma Ecological Services Field Office (ESFO) online project review process. By providing this letter in conjunction with your complete project review package, you are certifying that you have accurately completed the online project review process for the referenced project in accordance with all instructions provided, using the best available information to reach your conclusions. Concurrence with “not likely to adversely affect” determinations does not provide any exemption for violations of section 9 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended (ESA) or “take” of federally-listed species. The Federal action agency is ultimately responsible for ensuring compliance with the ESA and any take that occurs due to your proposed action would be considered a violation under section 9 of the ESA.

This letter and the enclosed project review package complete the review of your project in accordance with the ESA. This letter also provides information for your project review under the National Environmental Policy Act (National Environmental Policy Act of 1969 (P.L. 91-190, 42 U.S.C. 4321-4347, 83 Stat. 852), as amended.

A copy of this letter and the project review package must be emailed to **okprojectreview@fws.gov** for this certification to be valid. This letter and the project review package will be maintained in Service records. **Please allow the Oklahoma ESFO 45 days to review your information. If the Oklahoma ESFO determines that the package is not complete, or that additional coordination is necessary, we will contact your office. If, after 45 days from the date of your email submittal of your project review package, the Oklahoma ESFO has not contacted your office, consider your section 7 consultation complete.**

The proposed action consists of:

Canadian Pacific (CP) et al. and Kansas City Southern (KCS) et al. have filed an application with the Surface Transportation Board (Board) under 49 U.S.C. §§ 11323-25 seeking the Board's approval of the acquisition of control of KCS by CP (Proposed Acquisition). If the Board authorizes the Proposed Acquisition, CP and KCS (collectively, the Applicants) would combine to form an integrated system to be known as Canadian Pacific Kansas City (CPKC). The Proposed Acquisition would cause average rail traffic to increase on certain rail lines within the combined CPKC network because freight would be diverted from rail lines owned by other railroad companies and from truck transportation to rail transportation. To accommodate the projected increase in rail traffic, the Applicants plan to make certain capital improvements within the existing rail right-of-way (ROW) if the Board authorizes the Proposed Acquisition. In Oklahoma, those planned capital improvements would include adding two new passing sidings and extending two existing sidings. Additional information and details can be found in the letter and maps attached. To be conservative, OEA assumed that each planned capital improvement could affect the entire area extending from the existing tracks to the edge of the rail ROW (study area), but the actual affected area would likely be smaller. The potential area of disturbance would likely be much smaller than the area of the ROW because the new sidings and siding extensions would be immediately adjacent to the mainline.

Project start and completion dates:

The Applicants would only add the capital improvements as needed to support increased rail traffic. Therefore, the Applicants have not provided a detailed schedule.

Federal agency or federal program providing a permit, grant, authorization, loan, etc. associated with the proposed project and how that agency is associated with your project:

The Surface Transportation Board is responsible for the approval of the merger. The Applicants (CP and KCS) would be responsible for permitting and funding the planned capital improvements if the merger is approved.

Federal Agency/Program Point of Contact (name, phone, and email address):

Joshua Wayland, 395 E Street SW, Washington, DC 20423,
202-245-0330, Joshua.Wayland@stb.gov

The species conclusions table in the enclosed project review package summarizes your ESA conclusions. These conclusions resulted in "not likely to adversely affect/modify" determinations for listed species and critical habitat in relation to potential effects of your proposed project. We certify that the use of the online project review process in strict accordance with the instructions provided as documented in the enclosed project review package results in reaching the appropriate determinations. Therefore, we concur with determinations of "not likely to adversely affect" for listed species and critical habitat reached by proper use of this process. For projects where this particular determination is reached, additional coordination with this office is not needed.

Candidate species are not legally protected pursuant to the ESA. However, the Service encourages efforts to avoid or minimize adverse impacts to them from project effects. Some federal agencies have standing policies that grant limited protections to candidate species. Conservation of candidate species now may

preclude future needs to federally list them as endangered or threatened, at which point their legal protection would become required. Please contact this office for additional coordination if your project action area contains candidate species.

Should project plans change or if additional information on the distribution of listed species or critical habitat becomes available, this determination may be reconsidered. You should re-visit the Service's Information, Planning, and Conservation (IPaC) website at <http://ecos/fws.gov/ipac/> within 90 days of project initiation to ensure species information is correct. If new species or critical habitat is identified, this letter is no longer valid and a new project package should be submitted to the Oklahoma ESFO.

Information about the online project review process including instructions and use, species information, and other information regarding project reviews within Oklahoma is available at our website: <http://www.fws.gov/southwest/es/oklahoma/> >. If you have any questions, please call 918-581-7458 or send an email message to OKProjectReview@fws.gov.

Sincerely,
/s/ Ken Collins
Field Supervisor
Oklahoma Ecological Services Field Office

Enclosures:

1) ENTIRE PROJECT REVIEW PACKAGE:

- ☒ Species Conclusion Table
- ☒ IPaC Species List and Action Area map
- ☒ This letter (Online Concurrence Letter)
- ☒ (Optional) Additional maps

2) Other relevant project data/documents

Surface Transportation Board Docket No. FD 36500, Canadian Pacific Railway Limited, et al.—Control of—Kansas City Southern Railway, et al.; USFWS Informal Section 7 Consultation Letter

From: Fullerton, Matthew R <matthew_fullerton@fws.gov>

Sent: Wednesday, December 7, 2022 4:41 PM

To: Wayland, Joshua <Joshua.Wayland@stb.gov>

Subject: Re: [EXTERNAL] Docket No. FD 36500 CP/KCS Merger Informal Section 7 Consultation

Hi Josh,

Thank you for re-submitting the updated project documents for review with the addition of the federally-proposed tricolored bat. I concur with your determination for the species and have no further comments.

Please let me know if you need further input or have questions,

Matt Fullerton

Fish and Wildlife Biologist,
Threatened and Endangered Species

U.S. Fish and Wildlife Service
Oklahoma Ecological Services Field Office
9014 East 21st Street
Tulsa, Oklahoma 74129
Email: matthew_fullerton@fws.gov
Cell: (405) 434-2780
Office: (918) 382-4518

ATTACHMENT B: NORTHERN LONG-EARED BAT AND INDIANA BAT MITIGATION MEASURES IMPOSED BY THE BOARD

The Board's decision on March 15, 2023, required CPKC to adhere to environmental conditions, including the following measures:

- The Applicants will not conduct construction-related tree removal for the Capital Improvement Projects during the active season for the Indiana bat and the northern long-eared bat (April 1 to October 31).
- During the construction of the Capital Improvement Projects, the Applicants will take steps to reduce the unnecessary removal of bat habitat outside of active bat season by limiting tree removal to only the areas necessary to safely construct and operate the new siding or second track, marking the limits of tree clearing through the use of flagging or fencing, and ensuring that construction contractors understand clearing limits and how they are marked in the field.
- Where practicable, the Applicants will conduct any culvert or bridge removal as part of the Capital Improvement Projects outside of the roosting period of bat species, specific to each planned capital improvement location. Where practicable, if bridge or culvert removal is required during the bat roosting period where the individual planned capital improvement is located, the Applicants will consult with OEA and the local office of the U.S. Fish and Wildlife Service (USFWS) on appropriate methods to determine if bats are using the bridge or culvert as a roost.
- If construction of the Capital Improvement Projects would require removal or alteration of bridges, culverts, or other structures that provide suitable habitat for the northern long-eared bat or the Indiana bat during the active season for those species (April 1 to October 31), the Applicants will first conduct an inspection for the presence of or evidence of use by bats. The inspection will be completed by a qualified biologist. If the inspection finds bats or evidence of bats, then the Applicants will not commence work on the structure until coordinating with OEA and USFWS to determine appropriate follow-up or mitigative actions. The inspection must be completed during the same year that the work takes place.
- During construction of the Capital Improvement Projects, the Applicants will direct any temporary lighting away from suitable habitat for the northern long-eared bat or the Indiana bat during the active season for those species (April 1 to October 31). The Applicants will use downward-facing, full cut-off lens lights for any temporary lighting used during the construction of the planned capital improvements.
- If the Capital Improvement Projects would involve installing any new, or replacing any existing, permanent lights, the Applicants will use downward-facing, full cut-off lens lights (with the same intensity or less for replacement lighting).

ATTACHMENT C: 2023 USFWS SPECIES LISTS FOR MP 247 (Baron) and Cave Springs



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Oklahoma Ecological Services Field Office
9014 East 21st Street
Tulsa, OK 74129-1428
Phone: (918) 581-7458 Fax: (918) 581-7467



In Reply Refer To:

September 12, 2023

Project Code: 2023-0127834

Project Name: Canadian Pacific Acquisition of Kansas City Southern

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

To Whom It May Concern:

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

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

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

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

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

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

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

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

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

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

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

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- 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:

Oklahoma Ecological Services Field Office

9014 East 21st Street

Tulsa, OK 74129-1428

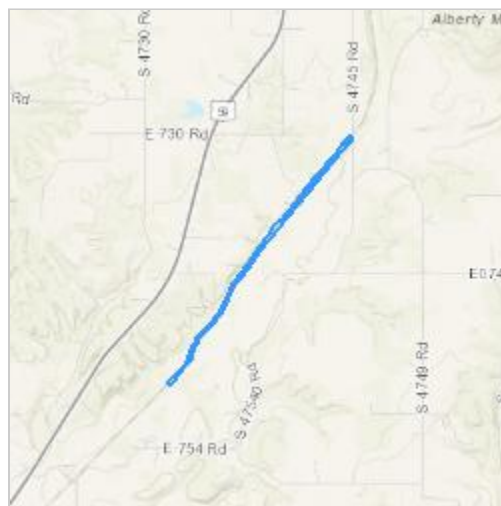
(918) 581-7458

PROJECT SUMMARY

Project Code: 2023-0127834
Project Name: Canadian Pacific Acquisition of Kansas City Southern
Project Type: Railroad - New Construction
Project Description: Canadian Pacific Railway Limited, et al. (CP) and Kansas City Southern et al. (KCS) (collectively Applicants) applied for authority from the Surface Transportation Board (STB) for CP to acquire KCS. To support the expected increase in rail traffic on the existing rail line due to the acquisition, the Applicants plan to make capital improvements within the existing rail right-of-way, which would include adding/constructing new passing sidings, extending existing sidings, adding a section of double track, and adding facility working track at certain locations along the existing rail line. One of these capital improvements occurs in Adair County, Oklahoma. The work includes ground clearing activities and tree clearing. The STB's Office of Environmental Analysis (OEA) prepared a Final Environmental Impact Statement that analyzed the environmental impacts of the proposed acquisition and the STB authorized the acquisition on March 15, 2023. OEA previously consulted with the Oklahoma USFWS Field Office as part of the NEPA process and completed the ESA Section 7 process in 2022. OEA is requesting a new species list due to the status change of the northern long-eared bat and may need to re-open consultation for the species.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.945789399999995,-94.58761912017744,14z>



Counties: Adair County, Oklahoma

ENDANGERED SPECIES ACT SPECIES

There is a total of 11 threatened, endangered, or candidate species on this species list.

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

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

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

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

MAMMALS

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location 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
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7245	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
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

REPTILES

NAME	STATUS
Alligator Snapping Turtle <i>Macrochelys temminckii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4658	Proposed Threatened

CLAMS

NAME	STATUS
Neosho Mucket <i>Lampsilis rafinesqueana</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/3788	Endangered
Rabbitsfoot <i>Quadrula cylindrica cylindrica</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/5165	Threatened

INSECTS

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

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.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

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 habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

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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)

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern \(BCC\)](#) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

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
Chimney Swift <i>Chaetura pelagica</i>	Breeds Mar 15 to Aug 25
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	

NAME	BREEDING SEASON
Field Sparrow <i>Spizella pusilla</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds Mar 1 to Aug 15
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Sep 10
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	Breeds elsewhere

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

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (I)

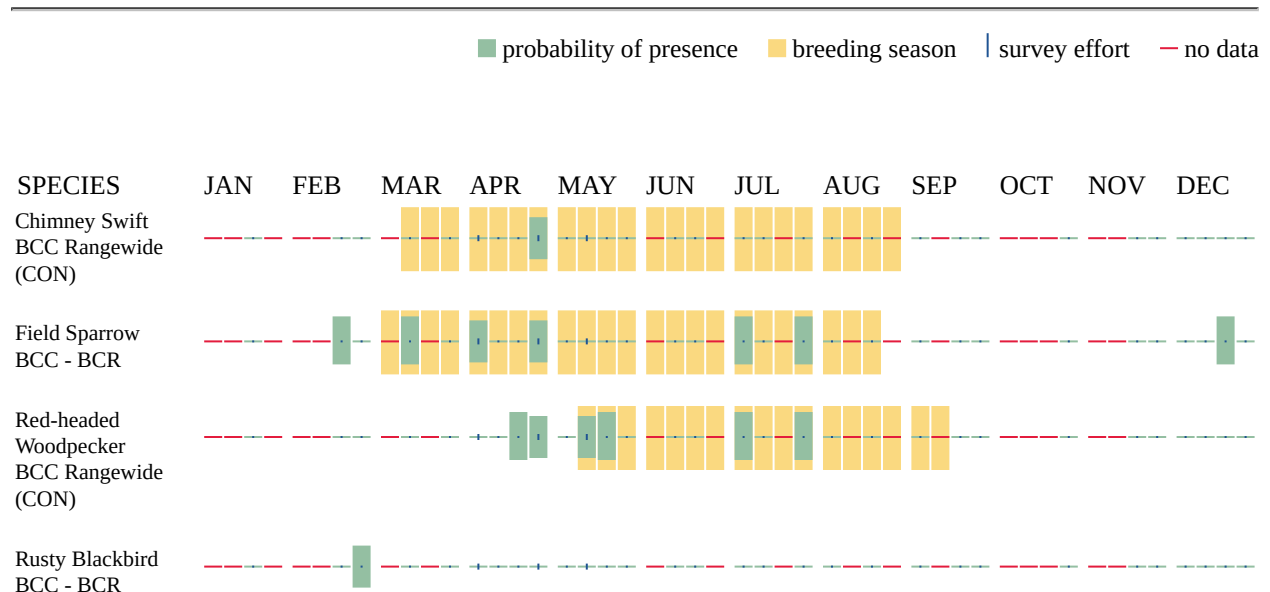
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

No Data (—)

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

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



Additional information can be found using the following links:

- Birds of Conservation Concern <https://www.fws.gov/program/migratory-birds/species>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
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MIGRATORY BIRDS FAQ

Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may query your location using the [RAIL Tool](#) and look at the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of

certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

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.

WETLAND INFORMATION WAS NOT AVAILABLE WHEN THIS SPECIES LIST WAS GENERATED. PLEASE VISIT [HTTPS://WWW.FWS.GOV/WETLANDS/DATA/MAPPER.HTML](https://www.fws.gov/wetlands/data/mapper.html) OR CONTACT THE FIELD OFFICE FOR FURTHER INFORMATION.

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: David Johnson
Address: 1001 G Street NW
Address Line 2: Suite 1125
City: Washington
State: DC
Zip: 20001
Email: dcjohnson@vhb.com
Phone: 2023600742

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Surface Transportation Board
Name: Elizabeth Webster
Email: Elizabeth.Webster@stb.gov



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Oklahoma Ecological Services Field Office
9014 East 21st Street
Tulsa, OK 74129-1428
Phone: (918) 581-7458 Fax: (918) 581-7467



In Reply Refer To:

September 12, 2023

Project Code: 2023-0127850

Project Name: Canadian Pacific Acquisition of Kansas City Southern

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

To Whom It May Concern:

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

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

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

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

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

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

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

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

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

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

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

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- 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:

Oklahoma Ecological Services Field Office

9014 East 21st Street

Tulsa, OK 74129-1428

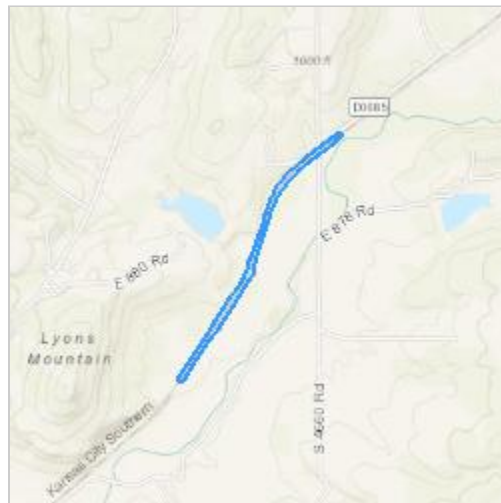
(918) 581-7458

PROJECT SUMMARY

Project Code: 2023-0127850
Project Name: Canadian Pacific Acquisition of Kansas City Southern
Project Type: Railroad - New Construction
Project Description: Canadian Pacific Railway Limited, et al. (CP) and Kansas City Southern et al. (KCS) (collectively Applicants) applied for authority from the Surface Transportation Board (STB) for CP to acquire KCS. To support the expected increase in rail traffic on the existing rail line due to the acquisition, the Applicants plan to make capital improvements within the existing rail right-of-way, which would include adding/constructing new passing sidings, extending existing sidings, adding a section of double track, and adding facility working track at certain locations along the existing rail line. One of these capital improvements occurs in Adair County, Oklahoma. The work includes ground clearing activities and tree clearing. The STB's Office of Environmental Analysis (OEA) prepared a Final Environmental Impact Statement that analyzed the environmental impacts of the proposed acquisition and the STB authorized the acquisition on March 15, 2023. OEA previously consulted with the Oklahoma USFWS Field Office as part of the NEPA process and completed the ESA Section 7 process in 2022. OEA is requesting a new species list due to the status change of the northern long-eared bat and may need to re-open consultation for the species.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.7403981,-94.72321886696415,14z>



Counties: Adair County, Oklahoma

ENDANGERED SPECIES ACT SPECIES

There is a total of 10 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.

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

MAMMALS

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location 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
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7245	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
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

REPTILES

NAME	STATUS
Alligator Snapping Turtle <i>Macrochelys temminckii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4658	Proposed Threatened

INSECTS

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

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

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 habitats 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)

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern \(BCC\)](#) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

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.	Breeds Sep 1 to Jul 31
Chimney Swift <i>Chaetura pelagica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Mar 15 to Aug 25
Field Sparrow <i>Spizella pusilla</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds Mar 1 to Aug 15

NAME	BREEDING SEASON
Prothonotary Warbler <i>Protonotaria citrea</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Apr 1 to Jul 31
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Sep 10
Wood Thrush <i>Hylocichla mustelina</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	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 and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

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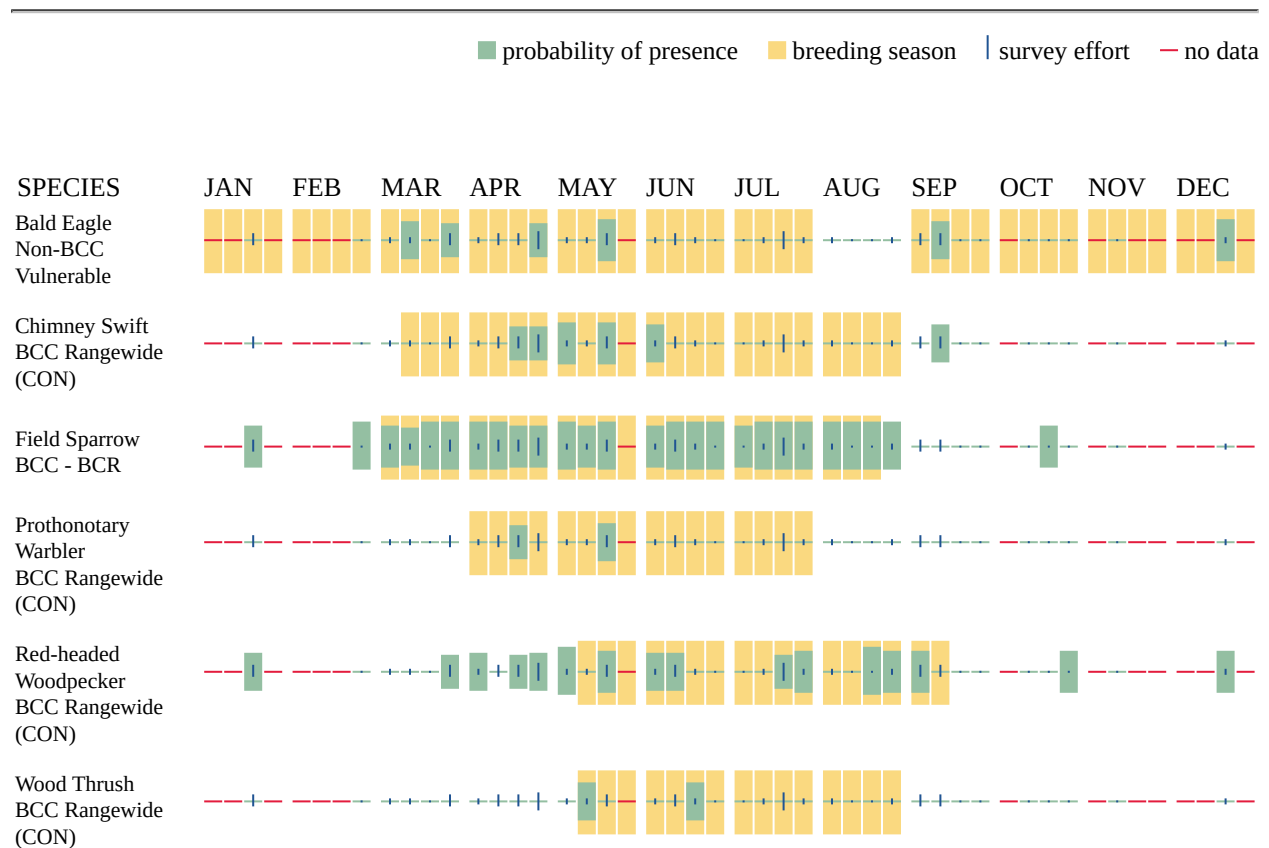
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1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be

aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

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

- [R5UBF](#)

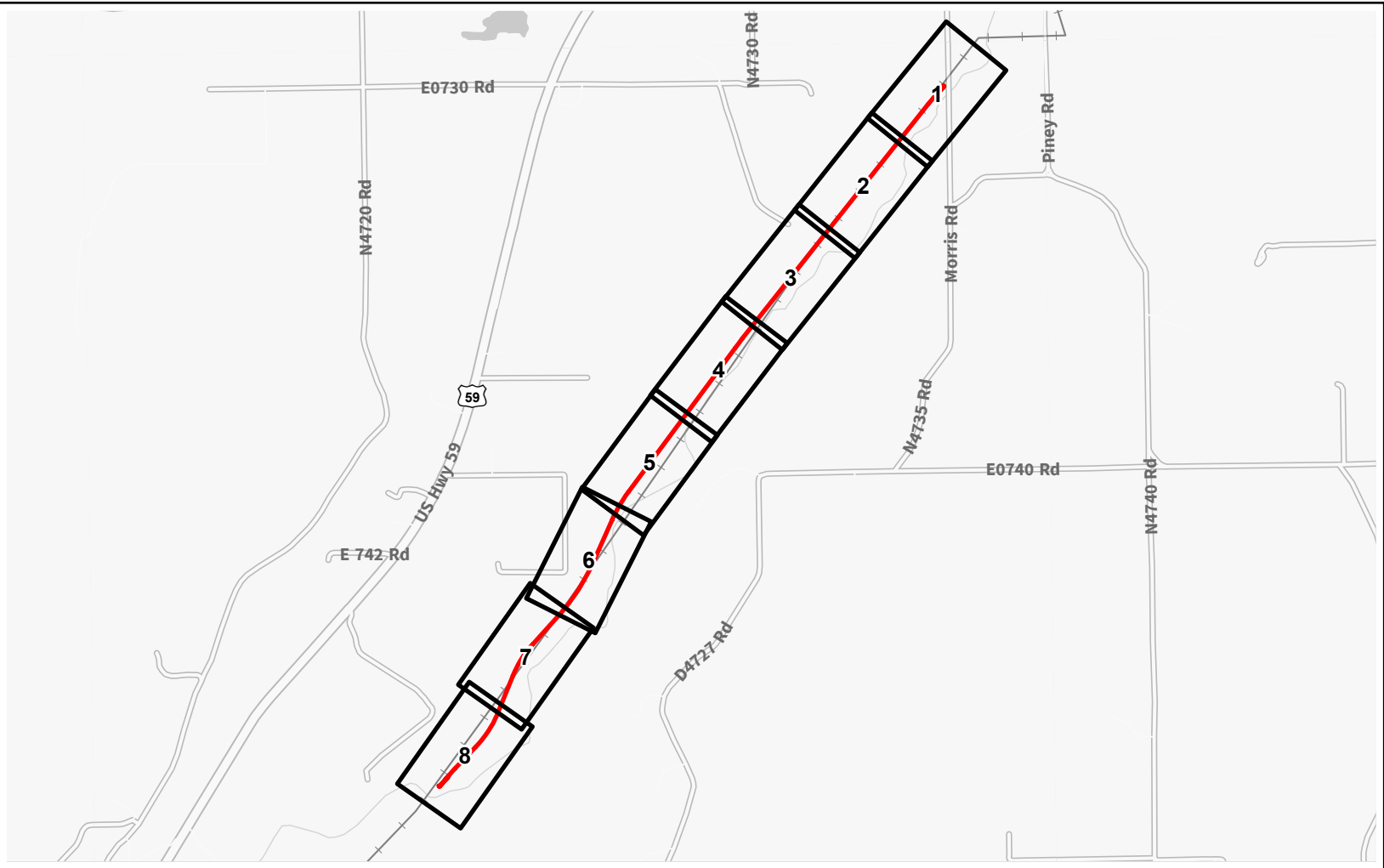
IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: David Johnson
Address: 1001 G Street NW
Address Line 2: Suite 1125
City: Washington
State: DC
Zip: 20001
Email: dcjohnson@vhb.com
Phone: 2023600742

LEAD AGENCY CONTACT INFORMATION

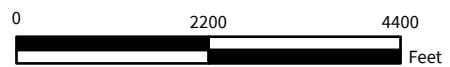
Lead Agency: Surface Transportation Board
Name: Elizabeth Webster
Email: Elizabeth.Webster@stb.gov

ATTACHMENT D: MAPS FOR MP 247 (Baron) and Cave Springs



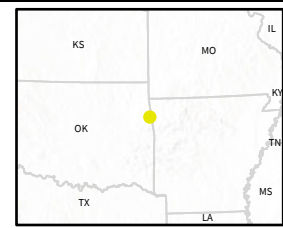
Capital Improvement Location

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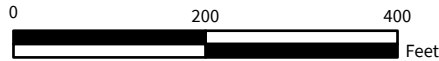
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-  Study Area
-  Suitable Forested Bat Habitat
-  Capital Improvement Location
-  Existing Right-of-Way



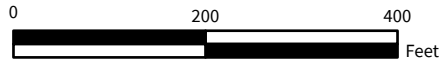
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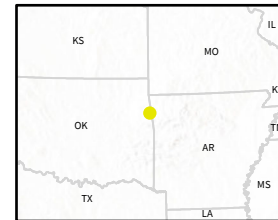


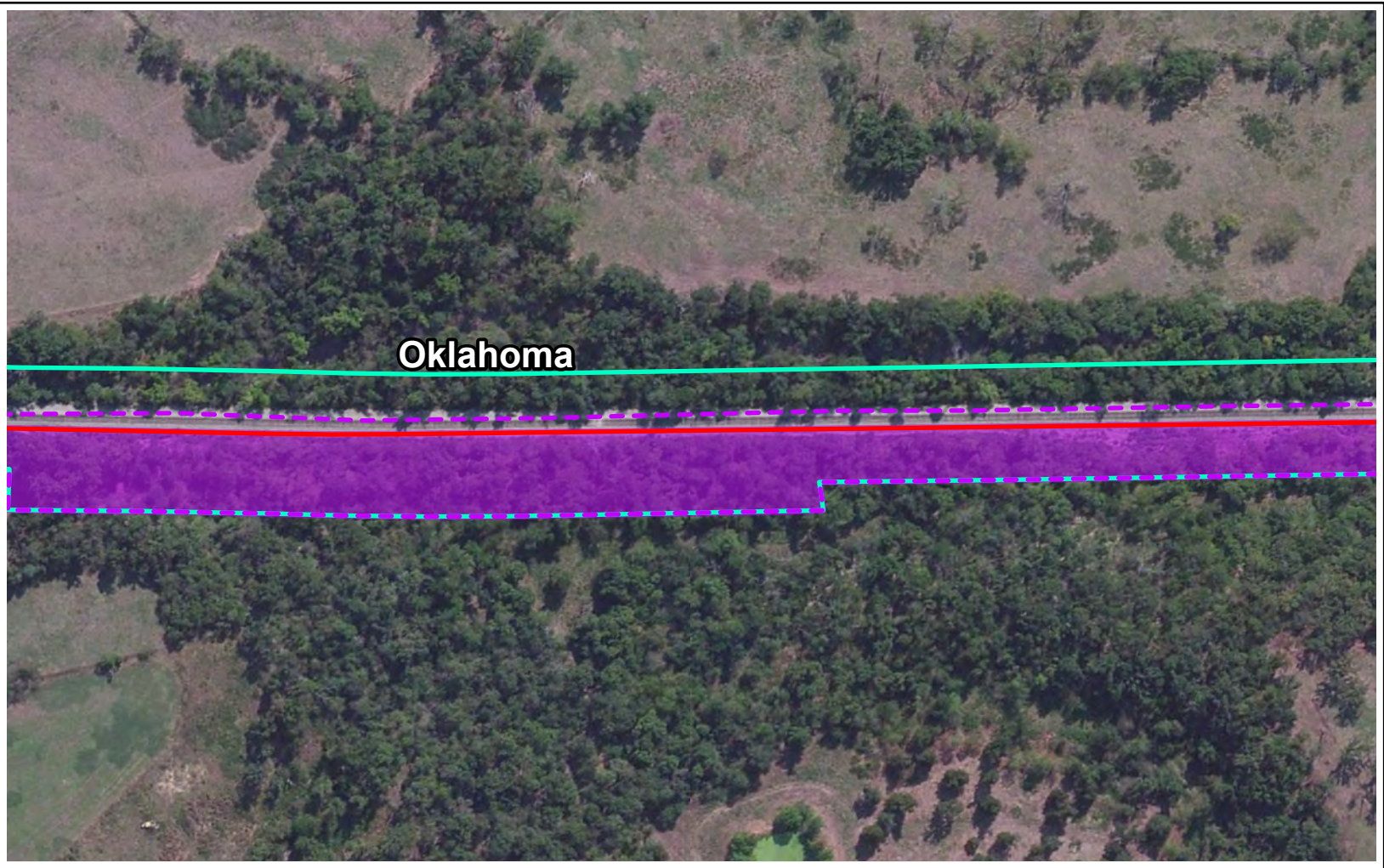
-  Study Area
-  Suitable Forested Bat Habitat
-  Capital Improvement Location
-  Existing Right-of-Way



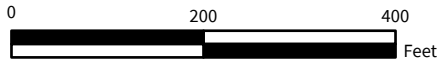
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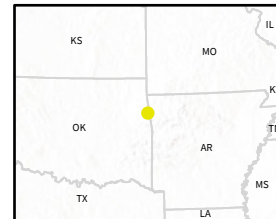


-  Study Area
-  Capital Improvement Location
-  Existing Right-of-Way
-  Suitable Forested Bat Habitat



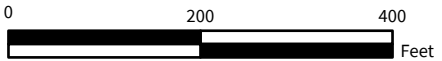
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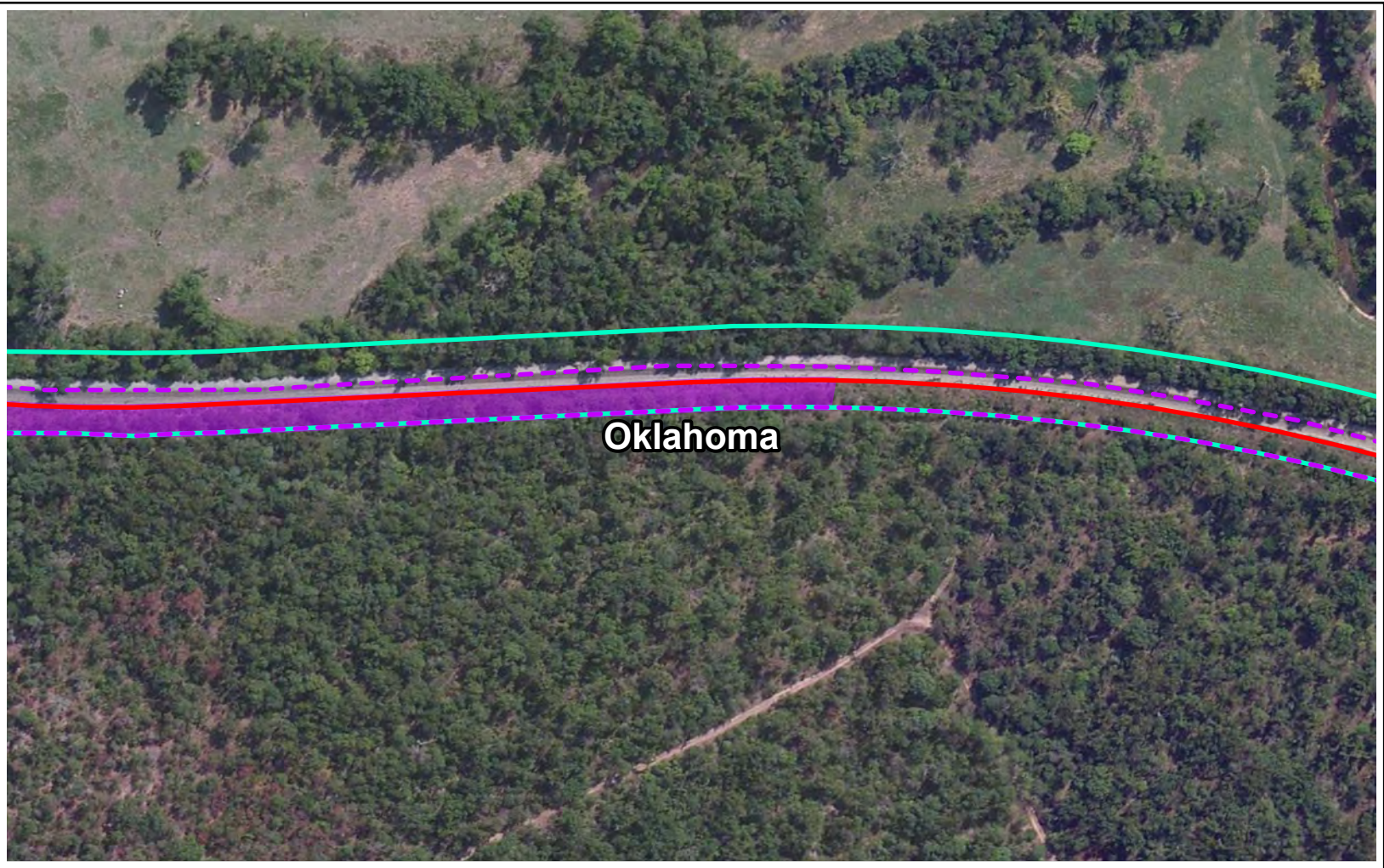
-  Study Area
-  Suitable Forested Bat Habitat
-  Capital Improvement Location
-  Existing Right-of-Way



Source: FRA, CP, ArcGIS Online

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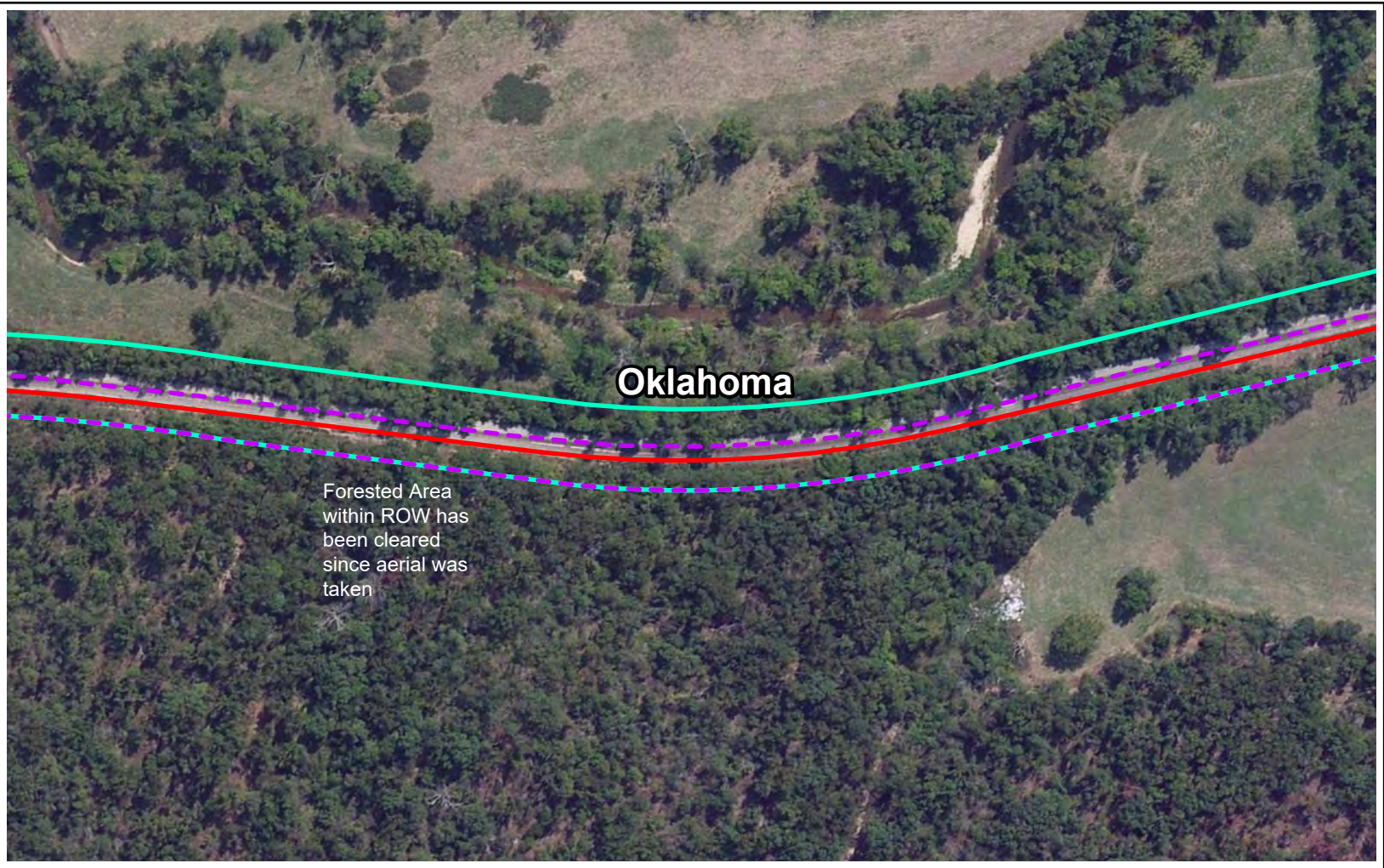
-  Study Area
-  Suitable Forested Bat Habitat
-  Capital Improvement Location
-  Existing Right-of-Way



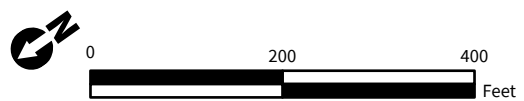
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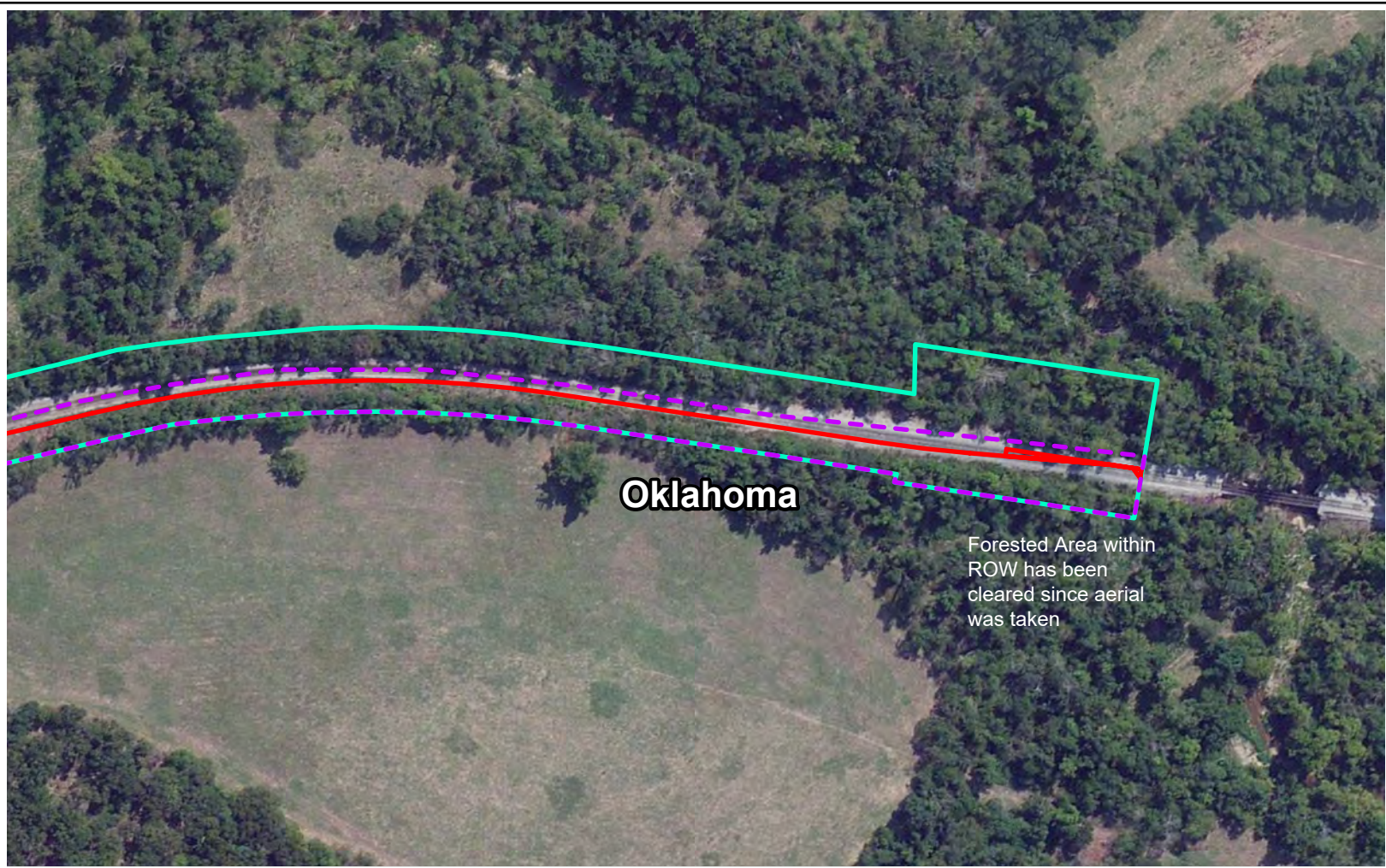
-  Study Area
-  Capital Improvement Location
-  Existing Right-of-Way



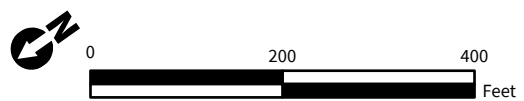
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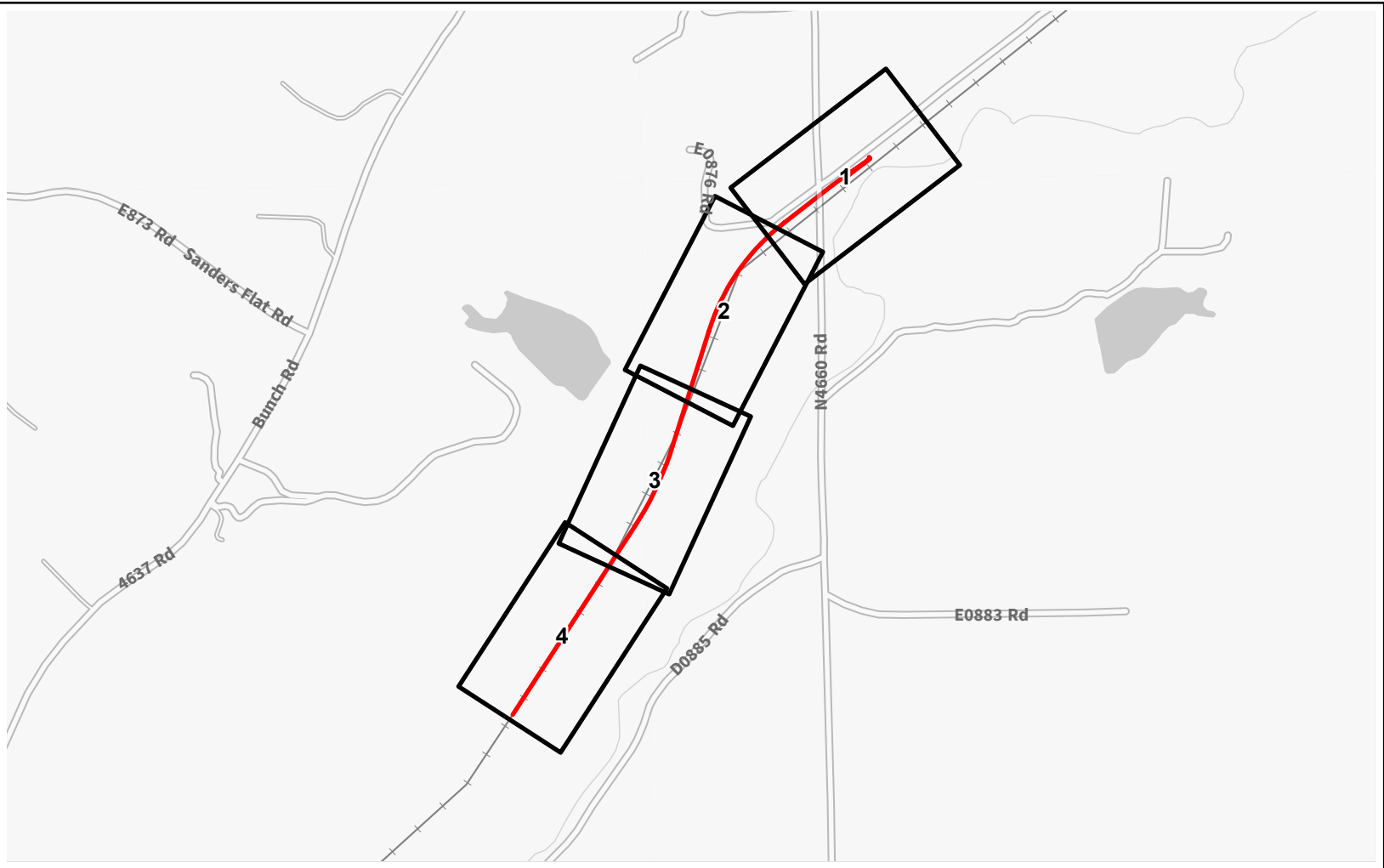
-  Study Area
-  Capital Improvement Location
-  Existing Right-of-Way



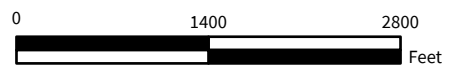
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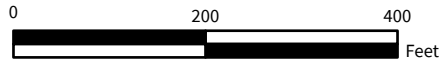
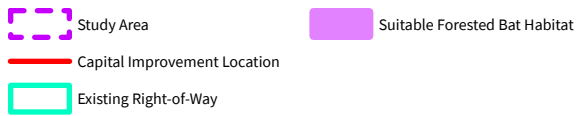
 Capital Improvement Location
 Page Index



Source: FRA, CP, ArcGIS Online

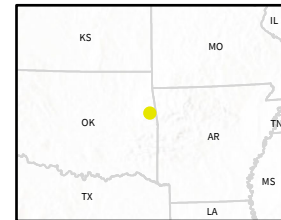
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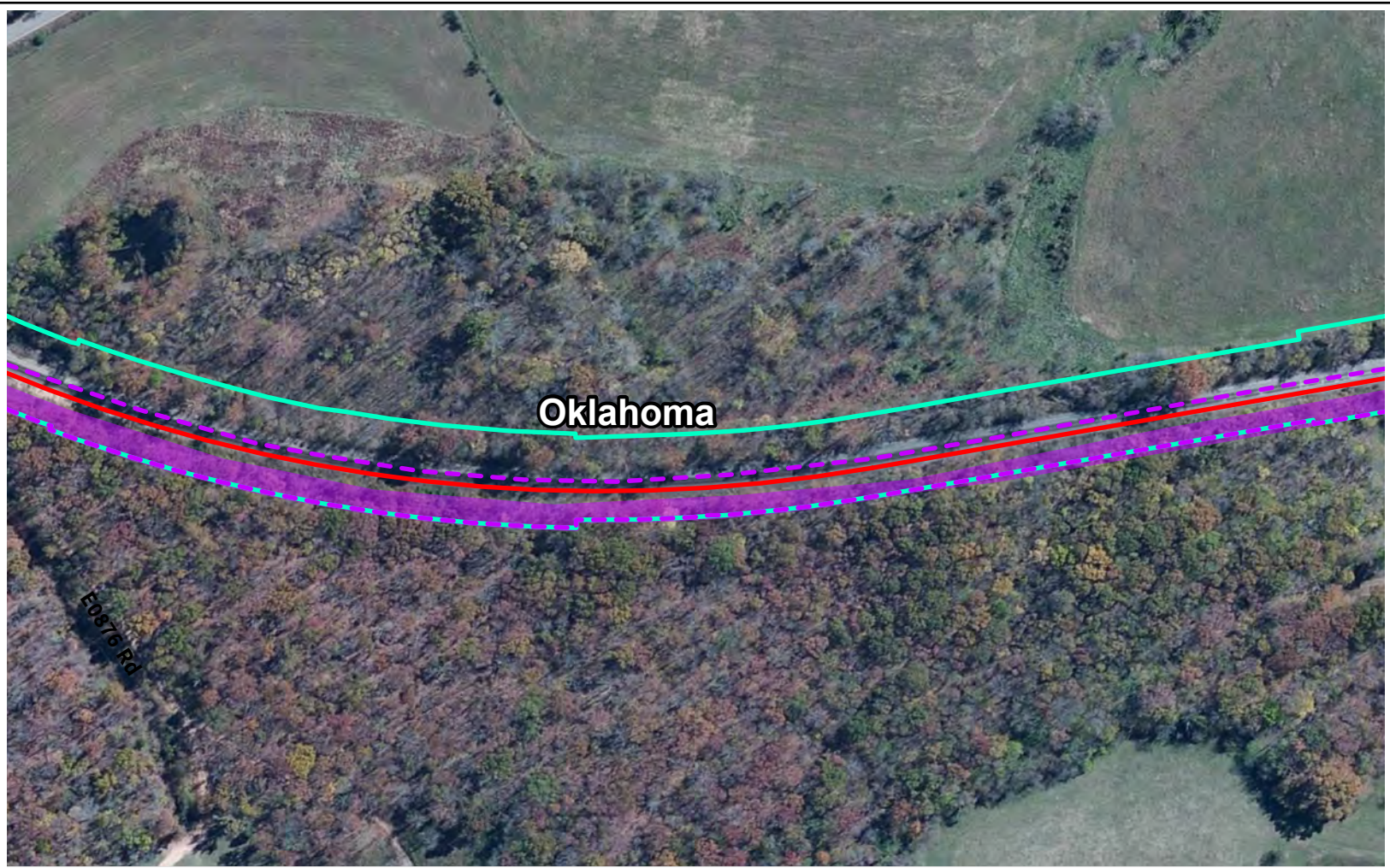




Source: FRA, CP, ArcGIS Online

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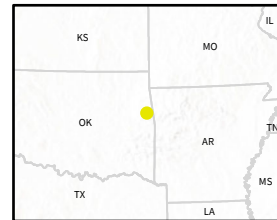


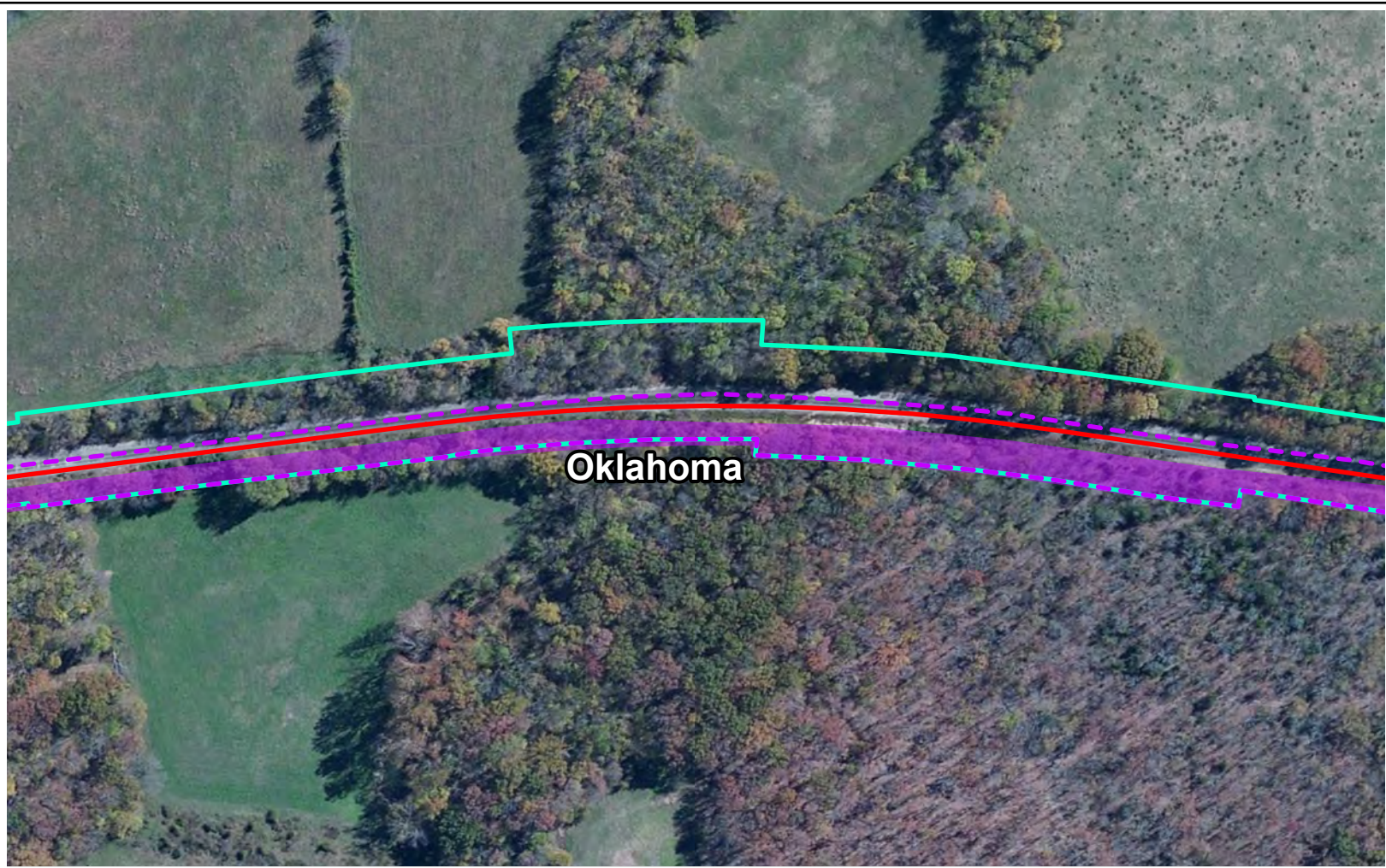
-  Study Area
-  Capital Improvement Location
-  Existing Right-of-Way
-  Suitable Forested Bat Habitat



Source: FRA, CP, ArcGIS Online

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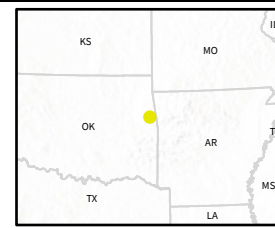


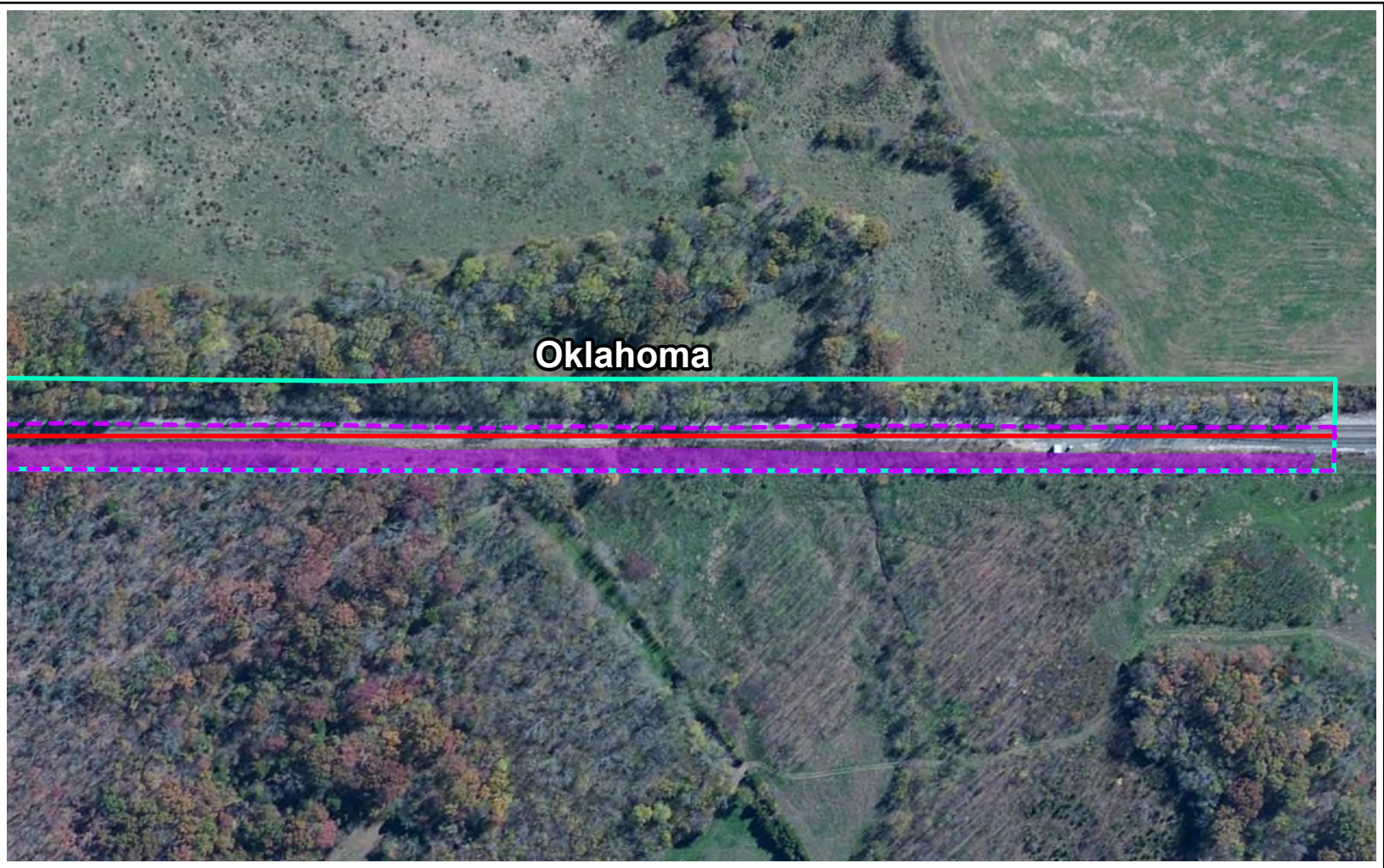
-  Study Area
-  Capital Improvement Location
-  Existing Right-of-Way
-  Suitable Forested Bat Habitat



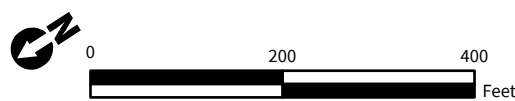
Source: FRA, CP, ArcGIS Online

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-  Study Area
-  Suitable Forested Bat Habitat
-  Capital Improvement Location
-  Existing Right-of-Way



Source: FRA, CP, ArcGIS Online

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