

March 23, 2015

VIA First Class Mail and E-Mail

Amy Salveter
Field Supervisor
U.S. Fish and Wildlife Service
Missouri Ecological Services Field Office
101 Park De Ville Drive, Suite A
Columbia, MO 65203

Amy_Salveter@fws.gov

Re: Consultation Code: 03E14000-2015-SLI-0366
Section 7 Endangered Species Act Consultation - STB Docket No. AB-1068 (Sub-No. 3X), Missouri Central Railroad Company – Abandonment Exemption – in Cass, Pettis, Benton, Morgan, Miller, Cole, Osage, Maries, Gasconade, and Franklin Counties, Missouri

Dear Ms. Salveter:

This letter documents Missouri Central Railroad Company's ("MCRR") consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service ("Service") for the above-captioned project.

As discussed below, MCRR believes that its project will have no effect on the natural resources listed in the species list provided through the Information, Planning, and Conservation ("IPaC") planning tool based on the proposed mitigation for the potential critical habitat for bats in the area. **See Attachment A** (Official Species List). Thus, MCRR requests that the Service confirm that consultation under Section 7 for this project is concluded.

MCRR filed for authorization from the Surface Transportation Board ("STB") in the above-captioned proceeding to abandon approximately 144 miles of rail line in central Missouri.¹ The project area is limited to the previously disturbed linear corridor of the railroad right-of-way ("ROW") that is approximately 100 feet wide, and it crosses through Cass, Pettis, Benton, Morgan, Miller, Cole, Osage, Maries, Gasconade, and Franklin Counties, Missouri. The rail line abandonment is in two segments: (1) between mileposts 263.5 and 262.906 (near Pleasant Hill) in Cass County, Missouri, and (2) between milepost 215.325 (near Windsor) in Pettis County, Missouri and milepost 71.6 (near Beaufort) in Franklin County, Missouri (the "Line"). **See Attachment B** (map).

¹ This abandonment has a linear connection to two prior abandonments in STB Docket Nos. AB-1068X and AB-1068 (Sub-No. 1X).

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In accordance with STB regulations, MCRR sent an initial consultation letter to the Service on October 2, 2014 and sent the Combined Environmental and Historic Report ("CEHR") to the Service on October 28, 2014. The STB served an Environmental Assessment ("EA") in the proceeding on December 12, 2014. No comment was received by MCRR or the STB from the Service on any of these documents. Nevertheless, the STB noted that the line travels through rural and undeveloped land with numerous streams and drainage features and, thus, the STB's environmental office was not certain whether the Line might contain species and/or habitats of concern. Therefore, the STB imposed as a condition that "MCRR shall contact [the Service] prior to beginning salvage activities to discuss potential impacts to any federally listed endangered or threatened species." MCRR is then to report the results of the consultation to the STB's environmental staff.

As explained below, MCRR's abandonment activities will be limited to salvage of certain rail assets. Salvage (removal) will:

- be limited to the previously disturbed ROW
- only remove the ties, track, and related steel components from the roadbed²
- not include removal of ballast or changing the contour of the existing roadbed
- not include dismantling bridges or any structures on the Line as those structures will be used for future trail purposes
- not include in-stream work, dredging, and/or use of fill materials
- require, however, clearing vegetation and removal of some trees that have grown in the railroad right-of-way

MCRR has reviewed the species list provided through the IPaC system and reviewed the Missouri Department of Conservation's information concerning Missouri Plants and Animals of Conservation Concern.³ Based upon review of these materials, the referenced project area, and

² After salvage is complete, the railroad right-of-way will be transferred to the Missouri Department of Natural Resources ("MDNR") which has plans to build a trail under the Rails-to-Trails Act. As you may be aware, trail construction will occur after the property has ceased to be an active rail line, and will be outside the environmental review of the abandonment process. The STB has stated that it "does not conduct an environmental review of a potential conversion to interim trail use/railbanking because it does not exercise sufficient federal control so as to qualify as a 'major federal action' under the National Environmental Policy Act (NEPA)." Environmental Assessment in Missouri Central Railroad Company – Abandonment and Discontinuance of Service Exemption – in Cass County, MO, STB Docket No. AB-1068X, slip op. at 6 (n. 8) (served Dec. 3, 2010).

³ Missouri has published two relevant booklets, the Missouri Plants of Conservation Concern found at http://mdc.mo.gov/sites/default/files/resources/2010/04/4069_1692.pdf and the Missouri

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anticipated activities, MCRR submits the following conclusions regarding the 15 threatened or endangered species on the list.

First, since MCRR activities will not include in-stream work or dredge and/or use of fill materials, there will be *no effect* ("NE") on either the five listed species of clams or the three listed species of fish.

Second, for the flowering plants listed, MCRR submits that there will be no effect on these species for the following reasons based upon information in the Missouri Plants of Conservation Concern. The Decurrent False Aster does not occur in any of the 10 counties for the project area. In addition, the habitat for the Decurrent False Aster is low areas subject to flooding by the Mississippi River and the project area is not in close proximity to the Mississippi River. The Mead's Milkweed has had limited sightings in only three counties of the 10 project area counties. Furthermore, the Mead's Milkweed habitat usually occurs on pristine prairies and glades, but the project area encompasses previously disturbed railroad right-of-way so it is unlikely that Mead's Milkweed occurs in the ROW. Finally, the Running Buffalo Clover has had only three sighted occurrences in Missouri and none of the occurrences are considered secure. The habitat is moist, partially shaded woodlands, sometimes along stream or river terraces. One reported site was discovered in 1998 in Maries County but the ROW only crosses a small portion on the northern part of Maries County near Belle, Missouri. In addition, the raised rail bed and ballast are unlikely to support germination of the Running Buffalo Clover.

The one insect species listed is the Hine's Emerald Dragonfly. According to the Missouri Animals of Conservation Concern, the Hine's Emerald Dragonfly has only been spotted in one location on land owned by a private conservation group in a county outside of the project area in south eastern Missouri.

Finally, the species list includes three bat species: the Gray Bat, the Indiana Bat, and Northern Long-Eared Bat. The Gray bat and the Indiana bat are endangered species while the Northern Long-Eared Bat is a proposed endangered species. The Gray Bat habitat is limited to caves and the project will have no effect on caves. The Indiana Bat and the Northern Long-Eared Bat both migrate during summer months to roost in wooded areas under loose tree bark on dead or dying trees (known as snag trees). According to the Indiana Bat summer survey guidelines, the summer period that bats may be present is from May 15 to August 15.⁴ MCRR will need to clear some trees from the right-of-way but this clearing will be limited to trees within the linear corridor and only those that are needed to be cleared to remove track materials. Based on the

Animals of Conservation Concern found at

http://mdc.mo.gov/sites/default/files/resources/2010/04/4068_1693.pdf.

⁴ See

<http://www.fws.gov/Midwest/Endangered/mammals/inba/surveys/pdf/2014IBatSummerSurveyGuidelines13Jan2014.pdf>.

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limited clearing of trees, the project is *not likely to adversely affect* ("NLTA") either the Indiana Bat or the Northern Long-Eared Bat. MCRR recognizes that the STB, after consultation with the Service, customarily imposes mitigation prohibiting clearing of trees during the summer roosting season to protect snag tree habitat of the Indiana Bat and/or Northern Long-Eared Bat when such bat habitat may be impacted. To ensure no effect on these two species, MCRR proposes similar mitigation consisting of a window from May 1 to August 30 during which trees will not be cut, thereby protecting any potential habitat in which bats of these two species may roost during the summer months. This window will provide a reasonable two-week cushion on both ends of the summer survey guideline period. With this proposed mitigation, the project will have no effect on the listed bat species.

A summary chart of the listed species, status, effect, and reasoning for the determining is as follows:

Clams	Status	Effect	Reason
Pink Mucket	Endangered	NE	No in-stream or river work
Scaleshell Mussel	Endangered	NE	No in-stream or river work
Sheepnose Mussel	Endangered	NE	No in-stream or river work
Spectaclecase (mussel)	Endangered	NE	No in-stream or river work
Winged Mapleleaf	Endangered	NE	No in-stream or river work
Fishes			
Niangua Darter	Threatened	NE	No in-stream or river work
Pallid Sturgeon	Endangered	NE	No in-stream or river work
Topeka Shiner	Endangered	NE	No in-stream or river work
Flowering Plants			
Decurrent False Aster	Threatened	NE	No occurrences in project area
Mead's Milkweed	Threatened	NE	Habitat not in project area
Running Buffalo Clover	Endangered	NE	Unlikely to occur in project area
Insects			
Hine's Emerald Dragonfly	Endangered	NE	No occurrences in project area
Mammals			
Gray Bat	Endangered	NE	No caves will be impacted
Indiana Bat	Endangered	NLTAA	NE with proposed mitigation
Northern Long-Eared Bat	Proposed	NLTAA	NE with proposed mitigation

In conclusion, MCRR submits that it should be able to report to the STB's environmental staff that consultation with the Service has occurred and that the abandonment project will have no effect on federally listed endangered or threatened species. MCRR intends to ask the STB to close the Section 7 consultation for this project. MCRR will implement the proposed mitigation by not cutting trees during the window between May 1 to August 30 to protect any potential



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habitat in which bats may roost during the summer months. We respectfully request the Service to confirm that this correspondence concludes the consultation under Section 7 for this project.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sandra Brown".

Sandra L. Brown

Counsel for Missouri Central Railroad Company

cc: Diana Wood, Surface Transportation Board
Glennon Hof, MCRR/Ameren

#E1-20957



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Columbia Ecological Services Field Office
101 PARK DEVILLE DRIVE, SUITE A
COLUMBIA, MO 65203
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Consultation Code: 03E14000-2015-SLI-0366

March 03, 2015

Event Code: 03E14000-2015-E-00194

Project Name: MO Central RR Abandonment AB 1068 (Sub-No. 3X)

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

To Whom It May Concern:

This response has been generated by the Information, Planning, and Conservation (IPaC) system in order to provide information on natural resources that could be affected by your project. The response is provided by the U.S. Fish and Wildlife Service (Service) under the authority of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d), the Migratory Bird Treaty Act (16 U.S.C. 703-712), and the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*).

Threatened and Endangered Species

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 our office 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.

For assistance in determining if suitable habitat for listed, candidate, or proposed species occurs within your project area or if species may be affected by project activities, please visit species profiles at <http://www.fws.gov/midwest/endangered/section7/s7process/lifehistory.html>. Indiana bats, gray bats, and northern long-eared bats occur throughout Missouri and the information below may help in determining if your project may affect these species.

Gray bats - Gray bats roost in caves or mines year-round and use forest riparian areas for foraging. If your project will impact caves or mines or will involve tree removal around these areas (particularly within stream corridors, riparian areas, or associated upland woodlots), gray bats could be affected.

Indiana and northern long-eared bats - These species hibernate in caves or mines only during the winter. The rest of the year they roost under loose tree bark in tree crevices or cavities during the day and forage around tree canopies of floodplain, riparian, and upland forests at night. Trees which should be considered potential roosting habitat include those exhibiting loose or shaggy bark, crevices, or hollows. Tree species often include, but are not limited to: shellbark or shagbark hickory, white oak, cottonwood, and maple. If your project will impact caves or mines or will involve clearing forested habitat containing suitable roosting habitat, Indiana bats or northern long-eared bats could be affected. If your project will involve removal of over 5 acres of forested habitat, you may wish to complete a Summer Habitat Assessment prior to contacting our office in order to expedite the consultation process. The Summer Habitat Assessment Form is available in Appendix A of the most recent version of the Range-wide Indiana Bat Summer Survey Guidelines, located at www.fws.gov/midwest/Endangered/mammals/inba/ under the heading Summer Survey Guidance.

If no suitable habitat for any federally-listed, candidate, or proposed species is present, and no species or their critical habitat will be affected, then no further consultation or coordination is required. However, if any of the following apply, please contact our office for further consultation:

1. Designated critical habitat is present within the project area,
2. Suitable habitat for listed, candidate, or proposed species is present within the project area (see above for habitat descriptions for bat species), or
3. You determine that project activities may affect these species or their critical habitat (e.g., project occurs upstream or within a distance such that the species or habitat could be affected).

The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. For additional conservation measures that may benefit species identified in the enclosed list, please contact our office.

Other Considerations

Bald and Golden Eagles - Although the bald eagle has recently been removed from the endangered species list, this species and the golden eagle are protected by the Bald and Golden

Eagle Act and the Migratory Bird Treaty Act. Should bald or golden eagles occur within or near the project area please contact our office for further coordination. For communication and wind energy projects, please refer to additional guidelines below.

Migratory Birds - The Migratory Bird Treaty Act (MBTA) prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Service. The Service has the responsibility under the MBTA to proactively prevent the mortality of migratory birds whenever possible and we encourage implementation of recommendations that minimize potential impacts to migratory birds. Such measures include clearing forested habitat outside of the nesting season (generally March 1 to August 31) or conducting nest surveys prior to clearing to avoid injury to eggs or nestlings.

Communication Towers - Construction of new communications towers (including radio, television, cellular, and microwave) creates a potentially significant impact on migratory birds, especially some 350 species of night-migrating birds. However, the Service has developed voluntary guidelines for minimizing impacts and these can be found at <http://www.fws.gov/habitatconservation/communicationtowers.html>.

Transmission Lines - Migratory birds, especially large species with long wingspans, heavy bodies, and poor maneuverability can also collide with power lines. In addition, mortality can occur when birds, particularly hawks, eagles, kites, falcons, and owls, attempt to perch on uninsulated or unguarded power poles. In order to minimize these risks, please refer to guidelines developed by the Avian Power Line Interaction Committee's and the Service at http://www.aplic.org/uploads/files/2634/APPguidelines_final-draft_Aprl2005.pdf. Implementation of these measures is especially important along sections of lines adjacent to wetlands or other areas known to support large numbers of raptors and migratory birds.

Wind Energy - To minimize impacts to migratory birds and bats, wind energy projects should follow guidelines located at <http://www.fws.gov/windenergy>. In addition, please refer to the Service's Eagle Conservation Plan Guidance, located at http://www.fws.gov/windenergy/eagle_guidance.html, which provides guidance for conserving bald and golden eagles in the course of siting, constructing, and operating wind energy facilities.

Next Steps

Should you determine that project activities may impact any of the natural resources described herein, please contact our office for further coordination. Letters with requests for consultation or correspondence about your project should include the Consultation Tracking Number in the header.

If you have not already done so, please contact the Missouri Department of Conservation (Policy Coordination, P. O. Box 180, Jefferson City, MO 65102) for information concerning Missouri Natural Communities and Species of Conservation Concern.

We appreciate your concern for threatened and endangered species and please feel free to contact our office with questions or for additional information.

Amy Salveter

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: MO Central RR Abandonment AB 1068 (Sub-No. 3X)

Official Species List

Provided by:

Columbia Ecological Services Field Office
101 PARK DEVILLE DRIVE
SUITE A
COLUMBIA, MO 65203
(573) 234-2132

Consultation Code: 03E14000-2015-SLI-0366

Event Code: 03E14000-2015-E-00194

Project Type: Transportation

Project Name: MO Central RR Abandonment AB 1068 (Sub-No. 3X)

Project Description: Missouri Central RR ("MCRR") has sought authorization from the STB to abandon approx. 144 miles. MCRR's abandonment actions will include salvage (removal) of the ties, track and related components. MCRR will not be removing ballast or disturbing land but will be clearing vegetation and trees required for salvage activities, that are on the existing RR embankment. No work will be done streams or rivers & all work will be limited to previously disturbed RR ROW.

Please Note: The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.



United States Department of Interior
Fish and Wildlife Service

Project name: MO Central RR Abandonment AB 1068 (Sub-No. 3X)

Project Counties: Benton, MO | Cass, MO | Cole, MO | Franklin, MO | Gasconade, MO | Maries, MO | Miller, MO | Morgan, MO | Osage, MO | Pettis, MO



United States Department of Interior
Fish and Wildlife Service

Project name: MO Central RR Abandonment AB 1068 (Sub-No. 3X)

Endangered Species Act Species List

There are a total of 15 threatened or endangered species on your 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. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Clams	Status	Has Critical Habitat	Condition(s)
Pink mucket (<i>Lampsilis abrupta</i>) Population: Entire	Endangered		
Scaleshell mussel (<i>Leptodea leptodon</i>)	Endangered		
Sheepnose Mussel (<i>Plethobasus cyphus</i>)	Endangered		
Spectaclecase (mussel) (<i>Cumberlandia monodonta</i>)	Endangered		
Winged Mapleleaf (<i>Quadrula fragosa</i>) Population: Entire, except where listed as experimental populations	Endangered		
Fishes			
Niangua darter (<i>Etheostoma nianguae</i>) Population: Entire	Threatened	Final designated	
Pallid sturgeon (<i>Scaphirhynchus albus</i>) Population: Entire	Endangered		
Topeka shiner (<i>Notropis topeka</i> (= <i>tristis</i>))	Endangered	Final designated	



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Population: Entire			
Flowering Plants			
Decurrent False aster (<i>Boltonia decurrens</i>)	Threatened		
Mead's milkweed (<i>Asclepias meadii</i>)	Threatened		
Running Buffalo clover (<i>Trifolium stoloniferum</i>)	Endangered		
Insects			
Hine's Emerald dragonfly (<i>Somatochlora hineana</i>)	Endangered	Final designated	
Mammals			
Gray bat (<i>Myotis grisescens</i>) Population Entire	Endangered		
Indiana bat (<i>Myotis sodalis</i>) Population Entire	Endangered		
northern long-eared Bat (<i>Myotis septentrionalis</i>)	Proposed Endangered		



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Critical habitats that lie within your project area

The following critical habitats lie fully or partially within your project area.

Fishes	Critical Habitat Type
Niangua darter (<i>F. theostoma nianguae</i>) Population: Entire	Final designated



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Appendix A: FWS Migratory Birds

The protection of birds is regulated by the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA). 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)). The MBTA has no otherwise lawful activities. For more information regarding these Acts see: <http://www.fws.gov/migratorybirds/RegulationsandPolicies.html>.

All project proponents are responsible for complying with the appropriate regulations protecting birds when planning and developing a project. To meet these conservation obligations, proponents should identify potential or existing project-related impacts to migratory birds and their habitat and develop and implement conservation measures that avoid, minimize, or compensate for these impacts. The Service's Birds of Conservation Concern (2008) report identifies species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become listed under the Endangered Species Act as amended (16 U.S.C 1531 et seq.).

For information about Birds of Conservation Concern, go to:

<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Management/BCC.html>.

To search and view summaries of year-round bird occurrence data within your project area, go to the Avian Knowledge Network Histogram Tool links in the Bird Conservation Tools section at:

<http://www.fws.gov/migratorybirds/CCMB2.htm>.

For information about conservation measures that help avoid or minimize impacts to birds, please visit:

<http://www.fws.gov/migratorybirds/CCMB2.htm>.

Migratory birds of concern that may be affected by your project:

There are 33 birds on your Migratory birds of concern list.

Species Name	Bird of Conservation Concern (BCC)	Seasonal Occurrence in Project Area
Blue-winged Warbler (<i>Vermivora pinus</i>)	Yes	Breeding
Bewick's Wren (<i>Thryomanes</i>)	Yes	Year-round



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<i>bewickii ssp. bewickii</i>		
Painted Bunting (<i>Passerina ciris</i>)	Yes	Breeding
cerulean warbler (<i>Dendroica cerulea</i>)	Yes	Breeding
Black-billed Cuckoo (<i>Coccyzus erythrophthalmus</i>)	Yes	Breeding
Swainson's hawk (<i>Buteo swainsoni</i>)	Yes	Breeding
Prairie Warbler (<i>Dendroica discolor</i>)	Yes	Breeding
Bald eagle (<i>Haliaeetus leucocephalus</i>)	Yes	Year-round
Dickcissel (<i>Spiza americana</i>)	Yes	Breeding
Golden eagle (<i>Aquila chrysaetos</i>)	Yes	Wintering
Fox Sparrow (<i>Passerella iliaca</i>)	Yes	Wintering
Field Sparrow (<i>Spizella pusilla</i>)	Yes	Breeding, Year-round
Kentucky Warbler (<i>Oporornis formosus</i>)	Yes	Breeding
Loggerhead Shrike (<i>Lanius ludovicianus</i>)	Yes	Year-round
Bell's Vireo (<i>Vireo bellii</i>)	Yes	Breeding
Grasshopper Sparrow (<i>Ammodramus savannarum</i>)	Yes	Breeding



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Worm eating Warbler (<i>Helminthos vermivorum</i>)	Yes	Breeding
Upland Sandpiper (<i>Bartramia longicauda</i>)	Yes	Breeding
Prothonotary Warbler (<i>Protonotaria citrea</i>)	Yes	Breeding
Least Bittern (<i>Ixobrychus exilis</i>)	Yes	Breeding
Short-eared Owl (<i>Asio flammeus</i>)	Yes	Wintering
Sedge Wren (<i>Cistothorus platensis</i>)	Yes	Breeding, Migrating
Black-crowned Night-Heron (<i>Nycticorax nycticorax</i>)	Yes	Breeding
Wood Thrush (<i>Hylocichla mustelina</i>)	Yes	Breeding
Northern Flicker (<i>Colaptes auratus</i>)	Yes	Year-round
Harris's Sparrow (<i>Zonotrichia querula</i>)	Yes	Wintering
Pied-billed Grebe (<i>Podilymbus podiceps</i>)	Yes	Year-round, Breeding
Red-headed Woodpecker (<i>Melanerpes erythrocephalus</i>)	Yes	Year-round
Henslow's sparrow (<i>Ammodramus henslowii</i>)	Yes	Breeding
Hudsonian Godwit (<i>Limosa</i>	Yes	Migrating



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<i>haemastica</i>		
Mississippi Kite (<i>Ictinia mississippiensis</i>)	Yes	Breeding
Acadian Flycatcher (<i>Empidonax virescens</i>)	Yes	Breeding
Rusty Blackbird (<i>Euphagus carolinus</i>)	Yes	Wintering

Missouri Central Railroad Company

STB Docket No. AB-1068 (Sub-No. 3X)

