

## **SECTION 7 CONSULTATION AND BIOLOGICAL ASSESSMENTS**

Federal agencies must assure that actions they fund, authorize, or carry out will not jeopardize the survival and recovery of listed species. If listed species or their habitat are in the area of the action, the Federal agency must determine what the likely effect of the action will be. Possible determinations and the consultation obligations associated with them are as follows.

- 1) If you determine that a project will have no effect on listed species or critical habitat, there is no requirement to consult; you should document this in your project files; you may ask for Service concurrence.
- 2) If the project is not a major construction activity and you determine that it may affect, but is not likely to adversely affect or is likely to beneficially affect a listed species or critical habitat you should consult informally and seek concurrence from the Service; preparation of a Biological Assessment is optional.
- 3) If the project is a major construction activity and you determine that it may affect, but is not likely to adversely affect or is likely to beneficially affect a listed species or critical habitat, you must prepare a Biological Assessment, and provide it to the Service with a request for concurrence.
- 4) If you determine that the proposed action may affect, and is likely to adversely affect listed species or critical habitat, you must initiate formal consultation with the Service; the initiation package may include a Biological Assessment.
- 5) If you determine that the proposed action is likely to jeopardize a proposed species, or is likely to adversely modify proposed critical habitat, conference is required and may include preparation of a Biological Assessment.

### **RECOMMENDED CONTENTS OF BIOLOGICAL ASSESSMENTS FOR SUBMISSION TO THE SERVICE**

1. **Project Description.** Describe the type and scope of action proposed and provide a chronology of when activities will occur. Provide detailed information about project components specifically pertinent to the species. Cite any past consultations with the Service. If the project is presently being evaluated under the National Environmental Policy Act (NEPA) and there is no preferred alternative for the project, you must make a determination of effect for each alternative. Provide a full description of mitigation measures which are part of the project and have relevance for the species. This section should include a description of any proposed monitoring of the species, its habitat, and mitigation effectiveness.

2. **List of Species.** Cite the Service species list or other source of information. Refer to the 1-4-\_\_-SP-\_\_ number (called a species list number) and the date of the most recent list. If the date of your species list is more than six months prior to preparing the BA you should request a new species list.
3. **Description of project area.** Provide a legal description (latitude/longitude or township/range/section) and a map of the project area. Describe the environmental baseline, which is the current (pre-project) condition of the habitat and project area. The description of the baseline should include information about all pertinent habitat parameters for the species. You should include information about past and present activities in the analysis area that relate to the species or its habitat, and/or the proposed action.
4. **Description of the species and habitat.** Describe the species and its habitat requirements in general, and relate that to the local population(s). Describe habitat in the project area and how local populations use it. This section often includes a brief compilation of relevant scientific literature on the species. It may also be appropriate to discuss the local status of the species, as well.
5. **Inventories and surveys.** The BA should be based on current site-specific information about the species. Describe efforts to determine the status of the species in the project area, including information on timing and methods of the surveys.
6. **Analysis of effects.**
  - A. **Project Effects** Provide a thorough analysis of potential direct, indirect, interrelated, and interdependent effects of the action on the species and its habitat. Your evaluation of indirect effects should include consideration of immediate and future and off-site effects that may result from the project.
  - B. **Cumulative effects** As defined by Section 7 of the Act, your consideration of cumulative effects should include all future non-Federal actions that are reasonably certain to occur in the project area.
7. **Conclusion.** The BA must contain a distinct statement of the effect of the project on the species. The determination should be one of the following:

**No Effect** - the appropriate conclusion when it is determined that the proposed action will not affect listed species or critical habitat.

## May Affect

Is Not Likely To Adversely Affect - the appropriate conclusion when the effects on the species or critical habitat are expected to be beneficial, discountable, or insignificant. Beneficial effects have contemporaneous positive effects without any adverse effects to the species or habitat. Insignificant effects relate to the size of the impact (and should never reach the scale where take occurs). Discountable effects are those extremely unlikely to occur. Based on best judgement, a person would: (1) be unable to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect any effects that do occur to be discountable.

Is Likely To Adversely Affect - the appropriate conclusion if any adverse effect to listed species or critical habitat may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions. In the event the overall effect of the proposed action is beneficial to the listed species or critical habitat, but is also likely to cause some adverse effects, then the proposed action “is likely to adversely affect” the listed species or critical habitat. An “is likely to adversely affect” determination requires formal section 7 consultation.

Is Likely to Jeopardize Proposed Species or Adversely Modify Critical Habitat  
The appropriate conclusion when the action agency or the Service identifies situations in which the proposed action is likely to jeopardize the proposed species or adversely modify the proposed critical habitat. If this conclusion is reached, conference is required.

Include a summary of rationales used to make the determination.

8. **References.** Refer to all appropriate project documents, particularly if the assessment depends on information located elsewhere (e.g., in an Environmental Impact Statement). You should consider providing the Service with copies of pertinent documents along with the BA. Provide citations for other information referred to in the BA, such as monitoring reports, current scientific literature, and personal contacts used in the making the assessment (include name, affiliation, and date).