

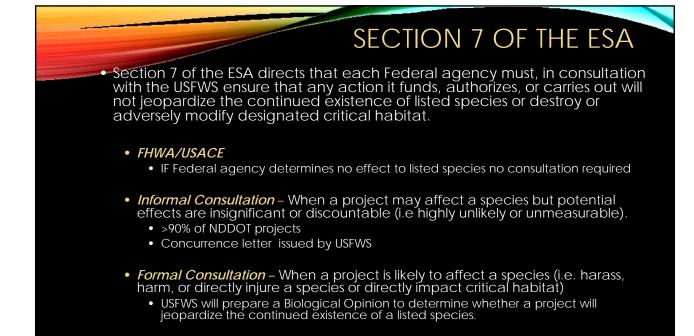


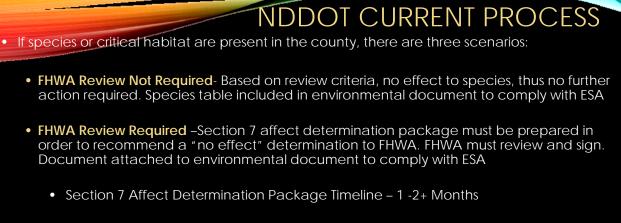
1





- 1972 President Nixon declared that conservation efforts towards preventing extinction of species were inadequate
- Congress responded with the Endangered Species Act
 - Signed into law in 1973
 - Under the ESA, a species may be listed as threatened or endangered.
 - <u>Endangered-</u> Species is threat of extinction throughout all or a significant portion of its range
 - <u>Threatened-</u> Species likely to become endangered within the foreseeable future
 - <u>Candidate Any species that are undergoing a USFWS status review</u>
 - Proposed Species that are found to warrant listing as either threatened or endangered





- Biological Assessment Required "No Effect" determination cannot be reached
 - Typical timeline for Biological Assessments: 2 6+ months
 - Formal consultations take longer Very few projects
- Current process intended to be temporary until a programmatic agreement was put into place

PROGRAMMATIC BIOLOGICAL ASSESSMENT - WHAT IS IT?

- Comprehensive document that analyzes the effects of the NDDOT transportation program on T&E species within North Dakota.
- Describes the implementation process for use of the document to fulfill Section 7 ESA requirements
- Describes NDDOT project types in detail
 Including new road construction and all types of roadway improvement projects
- Describes life history of all currently listed species (habitat, breeding, threats, current status)
- · Identifies stressors and response for each species / critical habitat as a result of roadway projects • I.E. Noise, visual, water quality impacts, habitat alteration, lighting, etc and how species respond to those effects
- Provides conservation measures to be implemented to reduce potential effects • I.E. Species surveys, avoidance/timing restrictions, general BMP's. etc.
- · Provides effect determination for each species and critical habitat.

PROGRAMMATIC BIOLOGICAL ASSESSMENT – HOW?
 Worked with many NDDOT staff as well as FHWA and USFWS to develop a Deconstruction Matrix Excel table for each species that compiles list of all major phases and sub-phases Project Development (surveys, data gathering, bidding, project prep) Utility Relocations New Road Construction or Reconstruction Site Prep Earthwork/Grading Installation of Drainage Features Roadway Surfacing and Finishing Guardrail Workzone Traffic Control New Bridge Construction / Bridge Demolition Road/ROW Maintenance Slide Abatement/Bank Stabilization/Flood-Scour-Sinkhole Repair/Landslide Correction Bridge Painting/Preservation/Rehab Drainage Improvement
 Breaks phases and sub-phases into activities and sub activities
Matrix also describes stressor and response for species and conservation measures
Used the matrix as a reference to help build the PBA

PROGRAMMATIC BIOLOGICAL ASSESSMENT – HOW?

- Created a Memorandum of Understanding between FHWA and NDDOT
- FHWA and NDDOT Responsibilities
- NDDOT Tasks and Products
 - Preparation of programmatic biological assessment
- FHWA and NDDOT Agreements
 - FHWA delegates informal section 7 consultation responsibilities to the NDDOT. Informal consultations conducted either through PBA or project specific BA
 - Ability of NDDOT to make No Effect determinations on FHWAs behalf
 - Approve projects under the programmatic biological assessment on FHWAs behalf
 - Consult directly with USFWS for informal consultations
- Mutual Agreements
- Term, Renewal, and Termination Clause

PROGRAMMATIC BIOLOGICAL ASSESSMENT – WHAT DOES IT DO?

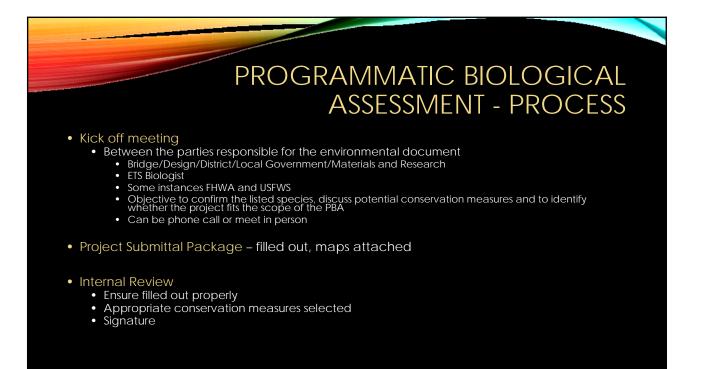
- Streamlines the Section 7 ESA process.
 - Preparation of individual biological assessments involve repetitive analysis and consultation
 procedures on routine projects with predictable impacts
- PBA facilitates a standardized approach to making effect determinations for all Federally involved transportation projects in North Dakota.
- Predictable patterns and timeframes for ESA compliance work
 - Speed up project delivery
 - Reduce individual project review time
 - Eliminate individual project review from FHWA/USFWS
- Allows staff to focus efforts on more complex projects with greater concerns for T&E species

PROGRAMMATIC BIOLOGICAL ASSESSMENT – HOW DOES IT WORK?

- Determine project type and all work activities
 - A revised T&E table will be used to screen projects that may need a biological assessment
 - Projects where adverse effects are anticipated, separate biological assessment will be prepared (i.e. new bridge construction within Missouri River).

• If one or more species require review

- A no effect determination package will be needed or -
- A biological assessment will be necessary
 - If scope of work activities fit within the scope of the programmatic biological assessment:
 - Project submittal form will be used



PROGRAMMATIC BIOLOGICAL ASSESSMENT – PROJECT SUBMITTAL FORM

- Fillable PDF Form used to document project and comply with ESA under the PBA
 - Project Number / PCN
 - Roadway / Project Limits Legal Description

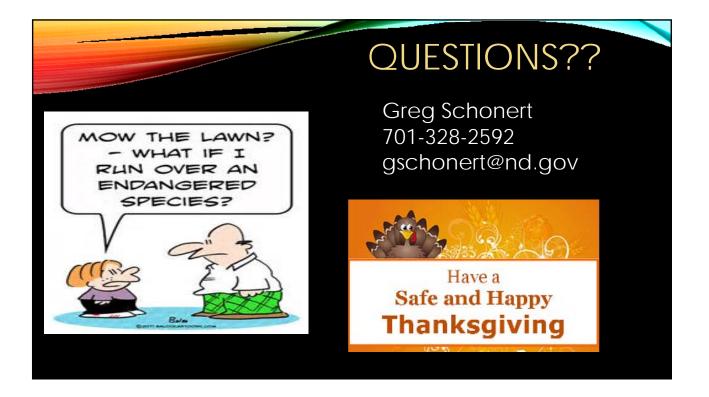
 - Year of construction / Approximate Duration
 - County or Counties
 - Species / Critical Habitat that may be present
 - ROW information (inside existing ROW / additional ROW required
 - Wetland Mitigation Required •
 - Temporary Bypass Required
 - Amount of Ground Disturbance
 - Description of Project
 - Applicable Conservation Measures
 - Affect Determination for Species / Critical Habitat
 - Project Approval Form
 - Form to be included in environmental document
 - Summarizes species and effect determinations as well as conservation measures
 - ETS Signature



- Conservation measures recommended, but not required
- May not last, USFWS currently being sued over the rule
- Takes 30 days

Programmatic Biological Assessment near completion Programmatic Biological Assessment near completion USFWS final review has just finished and some minor comments will be addressed Programmatic concurrence from USFWS is forthcoming Anticipate to have concurrence and signatures near the 1st of the year Current projects that occur before the PBA is implemented will follow. Updated Section 7 guidance will be released at the same time Reminder- Always check the references and forms page for most current versions of documents

Thanksgiving Trivia



NEW LUNCH AND LEARN WEBSITE
visit: www.dot.nd.gov/LunchAndLearn.htr
NDDOT Lunch and Learn Program
The North Dakota Department of Transportation (NDDOT) offers a Lunch and Learn Program which focuses on project development across the state. Participants are invited to attend these informational meetings on a variety of topics including Right of Way, Environmental Services, Cultural Resources, Technical Services, Consultant Agreement Services and other related fields. The NDDOT will offer these presentations at no cost to interested personnel.
Who Should Attend?
Anyone who is involved with project development in North Dakota is welcome to attend. (Employees of the NDDOT, Consultants, Resource Agencies, Cities, Counties and FHWA)
Where:
In Bismarck at Central Office and video conferencing is available at each NDDOT District Office. Conference call-in is also available.
Registration:
Register for the upcoming Lunch and Learn events
Questions or Comments
Contact Event Administrator
Related Links
Event Schedule Porte Instructions to join meeting via conference call Porte
Past Events
Environmental Topic: Threatened and Endangered Species & Programmatic Agreement - 11/23/2016 PDF Environmental Topic: NEPA & Programmatic Agreement - 9/21/2016 PDF
ROW: Negotiation Strategies - 7/20/2016 Port
ROW: Condemnations - 5/18/2016 PDF