



Ernie Fletcher
Governor

TRANSPORTATION CABINET

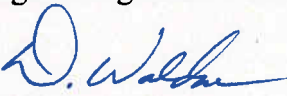
Frankfort, Kentucky 40622
www.kentucky.gov

Bill Nighbert
Secretary

Marc Williams
Commissioner of Highways

MEMORANDUM

TO: DEA Staff, Environmental Coordinators,
Division Directors, Transportation Engineering Branch Managers

FROM: David M. Waldner, P.E., Director 
Division of Environmental Analysis

DATE: January 23, 2006

RE: Endangered Species Section 7 Consultation Guidance
Revised USFWS Consultation Methods and
No Effect Agreement

Over the course of the past several months, KYTC-DEA and FHWA have worked diligently with the US Fish and Wildlife Service to examine and analyze the way that Section 7 consultation is conducted on highway projects. As a result, several means of streamlining the consultation process have been identified, some of which have already been implemented. The purpose of this guidance is to explain the changes in procedures that have or are to occur and the methods by which consultation is to be undertaken for developing projects. A general flowchart for the consultation process is provided as Exhibit 1: Section 7 Consultation for Federal-Aid Projects.

Endangered Species Identification

At the request of KYTC and FHWA, the USFWS has provided a county listing of endangered species. The list is considered to be all inclusive and to identify any federally-listed endangered species known to have occurred or potentially present within each county (see example in Attachment 1.) Whether the species is known to be present or is considered to potentially be present within the county is indicated on the county listing. The list also identifies critical habitat that may be designated within the county. As project development occurs, reference to this list shall be considered the equivalent of the current process of requesting a species list from the USFWS. USFWS will update the list periodically to incorporate new data. Newly listed species within each county will be identified as will any change of status (potential to known, Candidate to Threatened, etc.) It is anticipated that updates will occur twice annually.

Though the USFWS list is considered to be all inclusive, endangered species databases are dynamic and change as new data is gathered. Section 7 consultation requires that the federal agency "shall use the best scientific and commercial data available" when considering impacts to endangered species. In addition to the USFWS county list, KYTC/FHWA must also consider similar data available from the Kentucky State Nature Preserves Commission (KSNPC) and Kentucky Department of Fish & Wildlife Resources (KDFWR).

For federal-aid projects, addressed environmentally with either an EA/FONSI or CE, county-listed species identified as "known" by the USFWS will be considered when conducting the appropriate biological investigations. FHWA does not require that surveys or habitat assessments be conducted for "potential" species. By letter dated January 19, 2006, FHWA has formally determined that projects will have No Effect on these potentially occurring species (see Attachment 2.)

Internet web sites for KSNPC and KDFWR must also be consulted to identify any other known federally-protected species not included in the USFWS county list. This combined species list must be fully considered when assessing project impacts to endangered species. Potential impacts to additional species, including state-listed species and species listed as "Potential" on the USFWS species list may also be considered at the discretion of the Project Team and in consultation with the Director of the Division of Environmental Analysis (DEA). Where projects will be located on federal lands, such as the US Forest Service, the requirements of that federal agency may dictate the assessment of additional species. For these projects, approval by the DEA Director to address these additional species is considered given.

For projects to be assessed with an EIS, the list of species to be considered must be determined in consultation between KYTC and FHWA. It may be desirable to fully address candidate species depending upon the schedule of the project and timing of the candidate's listing (i.e. may be moving from the Candidate list to Endangered list in foreseeable future). It may also be prudent to conduct field investigations for state-listed species, depending upon the sensitivity of the area to be influenced by the project. It is not required that field investigations be conducted to determine the presence or absence of all state listed or state protected species. The degree to which such investigations are conducted should be dictated by factors including species records, extent of range, sensitivity of habitat, anticipated project impact, etc.

If there are known federally-protected species identified as existing in the project area (county) by either the KSNPC or KDFWR, these must be fully considered, regardless of whether they are identified in the USFWS county list. Though these agencies may track their occurrences to a greater level of detail than by county (quadrangle for example), a known occurrence is to be considered as affecting the entire county. The No Effect determination for "potential" species issued by FHWA does not apply when there is disagreement between the USFWS list and that of either the KSNPC or the KDFWR. In such instances, these species must be specifically addressed with either a Habitat Assessment or survey, as may be appropriate.

Memorandum of Agreement for No Effect Determinations

Section 7 requires the lead federal agency to make a determination of the project's effect on endangered species, in consultation with the USFWS. The agency may make a determination that the project will have No Effect on listed species. The manner by which this is to be accomplished for PCE, CE Level 1 and CE Level 2 projects has been documented in the Memorandum of Understanding between the Federal Highway Administration and the Kentucky Transportation Cabinet, Determinations of No Effect Pursuant to Section 7 of the Endangered Species Act (See Attachment 3.) Projects assessed with CE Level 3 analysis or greater require consultation with the USFWS on No Effect Findings.

The Agreement identifies 15 project types or categories that are typically considered to have No Effect on listed species or critical habitat. Many, but not all of these project types can be processed as a PCE under the KYTC/FHWA Categorical Exclusion Agreement. The District Environmental Coordinator (DEC) is to ALWAYS refer to the Agreement and the CE Manual to determine whether a No Effect Finding is categorically appropriate. The DEC must be familiar with the details of the each project, even those listed in the Agreement, to assure that it does not have the potential to alter, remove or otherwise effect habitat desirable for "known" species listed for the project area. Copies of the USFWS, KSNPC, & KDFWR lists that were considered are to be attached to the project documentation.

The Agreement establishes that the presence or absence of habitat is to be determined by either the DEC or a DEA Subject Matter Expert (SME), in this case a trained biologist. Habitat absence or presence dictates whether it is appropriate for the DEC or SME to make the determination of No Effect. All determinations of No Effect must be signed by the KYTC representative who made the determination (DEC or Biologist SME) and must be endorsed by the FHWA to conclude Section 7 consultation.

The determination of a project's impact on a species can be prepared in the form of a Habitat Assessment, Biological Assessment, or Biological Opinion (formal consultation). Section II of the Agreement, outlines procedures for making an effect determination. It primarily focuses upon the conducting of a Habitat Assessment and the No Effect documentation that may result.

The DEC is responsible for initially evaluating the project's potential to affect endangered species. This evaluation must consider the scope of the project, location, etc. and its potential to impact the surrounding environment. The known species listed for the area, as identified by the USFWS, KDFWR and KSNPC, are to be considered, as are the various habitats that these species may occupy. The KYTC Habitat Assessment Manual (HAM) and the USFWS internet web site shall, at a minimum, be used in determining habitat that may be of concern in the project area.

The DEC shall conduct a site visit to determine whether habitat for listed species exists within the project impact area (Habitat Assessment). When none is present, the DEC shall prepare a No Effect Finding to document the conditions that exist and basis for the conclusion. The content of this document is outlined in Appendix A of the Agreement. A copy of the form to be used is included as Attachment 4. A Microsoft Word file for this form is available on the DEA web site under the Forms link in the CE References. The form is to be completed electronically, printed and to be signed by the DEC. When completing CE Level 1 projects, a hard copy is to be transmitted to FHWA, along with all required attachments including maps, photographs, species lists, etc. for their concurrence with the determination. Copy of this is also to be sent to the DEA. FHWA, upon concurring with the finding will sign in the appropriate location and return a copy to both the DEC and DEA.

For CE Level 1 & Level 2 projects, the DEC should complete their assessment as early in the project development process as possible. Where project location relative to potential habitat is not obvious until alternatives are well defined, submittal of the No Effect Finding may not be possible until later in the project development. For CE Level 2 projects, the completed form is to be sent by the DEC to the Environmental Project Manager (EPM) in DEA. The EPM, as part of their

responsibility for preparing the CE Level 2, will coordinate the findings with FHWA. When possible, the No Effect Finding should be coordinated with FHWA in advance of the CE submittal. These analyses are always to occur prior to issuance of the CE.

If the DEC can not determine with certainty that habitat is not present, or should habitat be determined present, the DEA SME (biologist) assigned for the district shall be consulted. This request by the DEC is to be made by the submittal of a CE Assistance Request Form. Response from the SME shall be in accordance with the CE Manual procedures. The request is to be accompanied with sufficient information for the SME to conduct an informed and meaningful review of the project. The request shall include, at a minimum:

- A. Location map, plan sheets, ROW plans or other available information that will fully describe the project limits, or corridor, that will require assessment by the SME including easements, crossings, detours, etc.;
- B. Identification of the listed species for which habitat may/does exist;
- C. Additional or other supporting information that may assist the SME in their understanding of the project and preparation for habitat assessment, including photographs of the project area and any other required species specific information identified in the HAM for the species in question.

If the SME can make a determination that no habitat exists based upon the information provided, the DEC shall be so informed by the SME in writing. The DEC may then prepare the No Effect Finding, which should include a copy of the SME's determination. If the SME determines that potential habitat may exist within the area to be impacted by the project, a site visit by the SME may be necessary to complete the Habitat Assessment. The SME shall evaluate the habitat present within the project corridor and make a determination as to whether the project, and its related loss of potential habitat, may affect the species. Such determination shall consider the specific characteristics of the habitat present, availability of additional habitat in the surrounding area, distance to confirmed species locations, etc. Based upon the information collected, the SME shall determine whether a species survey is warranted.

If no species survey is necessary in order to confidently determine No Effect, the SME shall prepare the No Effect Finding and submit it to the DEC or EPM, as appropriate for the CE Level. When transmitted by the DEC or EPM to FHWA, the DEC or EPM shall copy DEA or the District, respectively. FHWA concurrence shall be returned to the originator and copied to either the District or DEA, as appropriate.

Should habitat presence dictate that a species survey (Biological Assessment; BA) is necessary, the SME shall advise the DEC in writing of the need to conduct the survey. The DEC and SME, based upon the project schedule, shall coordinate the scheduling of the BA. BAs have historically been prepared by DEA staff or by consultant through a DEA statewide contract. The SME shall typically be responsible for the scheduling and contracting necessary to complete the BA.

BA's that conclude No Effect shall be transmitted by the DEA to FHWA for written concurrence. BA's that conclude Not Likely to Adversely Effect shall be sent by the DEA to USFWS for review, with copy sent to FHWA and copy of the letter sent to the DEC. The letter of transmittal should identify the species addressed, effect findings, and any mitigative measures that are proposed. In accordance with Guidance and Accountability Form (GAF) procedures, these documents shall not be transmitted before district review and acceptance of the document and proposed mitigation. USFWS response shall be provided to the DEC or EPM for inclusion in the CE. BA's that conclude May Effect-Likely to Adversely Effect must be sent to FHWA to transmit to USFWS requesting formal consultation. Unless USFWS determines that the project is Not Likely to Adversely Effect the species, a Biological Opinion (BO) will be required. All coordination related to BO's must be done through or with the direct approval of the FHWA.

Validity Periods and Reevaluations

No Effect determinations and BA's are considered valid for five years. For BA's this is considered to be five years from the date of the field survey, not the approval or concurrence with the document. This validity period is subject to there being no change that would warrant a reassessment of the project impacts. There are three basic types of change that may occur and would require a reassessment of the project: change in the project; change in the listed species; or change in setting.

As a project develops the design and scope may change. This could include changes in alignment that potentially impact habitat not previously assessed. Changes in design such as widening a typical section or adding bridge piers in a stream can also impact additional habitat. As the project develops, details related to cross roads, ditch slopes, etc. are refined and may impact areas not previously assessed. The DEC and/or EPM need to be aware as these changes occur and to initiate reassessment of No Effect Findings, when appropriate. This may occur in conjunction with a project reevaluation but should not be postponed just to have the two actions coincide.

During reevaluation the "known" species for the project counties are always to be re-checked. If a "known" species has been added to the county listing a No Effect Finding or BA is required. The person conducting the reevaluation should also be aware of any conditions in the project area that may have changed since conducting the initial assessment. Habitat may have been removed by development that has occurred in the area or, conversely, habitat may have been created. Habitat creation may occur as a result of natural events such as a heavy storm damaging trees and creating bat roosting habitat, or as a result of area development where stream restoration, wetland creation or other activities may alter the landscape. The DEC needs to be keenly aware of any such changes that may have occurred and address them in their reevaluation or include them in their request for DEA to initiate a reevaluation.

Applicability of FHWA No Effect Finding to other Federal Agencies

A No Effect Finding by KYTC and FHWA may not be viewed as sufficient by other federal resource agencies such as the Army Corps of Engineers (ACE), Tennessee Valley Authority (TVA), Forest Service, etc. When working on projects that will involve one or more of these other federal agencies, these agencies will also be required to make a Section 7 determination of effect, unless

they are formally involved as a cooperating agency. These agencies prepare their own environmental documents for their actions and may require concurrence from USFWS for satisfaction of their own documentation needs. Since ACE involvement in KYTC projects is so frequent, discussions are scheduled with them to clarify the agency's needs in this regard. Further clarification on this matter will be forthcoming. As for the other agencies, the DEC and SME, if requested, should consult with the agency on a case-by-case basis to assure that actions taken by the KYTC/FHWA are compatible with meeting their requirements or to determine what additional measures are necessary in order to secure agency approval.

Action Tracking

The tracking of project progress is imperative. As with most project tracking for the Department, this is to be done in the Oracle Six Year Plan database. Tracking is to occur in the project environmental Milestones area. Various project statuses are available from a drop down menu on the screen (see Attachment 5.) These should be sufficient to address almost any major action taken. The date of the action is to be entered. The screen default is the current date, however, this should be changed to the date of the action, date of the letter, etc., as appropriate. Typically only one entry is necessary for a change in status. One example where this is not the case is at the conclusion of the consultation process. When the entry is made to indicate that a BA or Habitat Assessment has been approved by the USFWS or FHWA, the SME or DEC, as appropriate, is also to enter an Expiration status. For these entries, the expiration date (five years from the date of field survey) is to be entered as the status date. This will be important when identifying ecology needs for projects in the future.

For Habitat Assessments or BA transmittals, the species covered under the transmittal are to be identified in the Remarks section of the line. Standard abbreviations for listed species should always be used (see Attachment 6.) The species number, in parentheses, should always be the first entry in the remark. The person who entered the information should also always place their initials in parentheses at the end of the entry so that if there are any questions, all will know who to contact.

Data entry is a shared responsibility. All actions initiated by the DEC should be entered by the DEC. Similarly, action initiated by the EPM or the SME should be entered in the database by the respective parties. If an occurrence (response from USFWS, FHWA, etc.) is the result of a DEC action, the DEC is responsible for entry of the data. This also applies similarly to the EPM and SME. Examples of data entry with responsible parties identified are included as Attachment 7.

Habitat Assessment Manual Development

Third Rock Consultants, Inc. (TRC) has been selected to write the HAM. It is anticipated that the manual will be completed by the summer of 2006. TRC will be provided a species list prioritized in the order that development is to occur. As species assessment methods are addressed by the consultant and accepted by the Department and FHWA, they will be released to the DEC's for use. The DEC may not independently evaluate habitat for any species for which the HAM has not yet been developed as a reference and training conducted. The means for assessing Indiana bat habitat has been prepared and is available for use by the DEC in evaluating project impacts and is attached. It is recommended that the DEC place all HAM related materials within a three ring binder as work products are released. Upon completion of the HAM, the consultant will provide

copies of the entire document for Department use. Availability of the HAM on the DEA web page will also be developed.

The FHWA has agreed that No Effect Findings may be prepared for their review and concurrence for any species. If the species habitat assessment methods have not yet been released for use by the DEC, the findings must be signed by a DEA SME (biologist). The DEC should coordinate their efforts with the biologist to determine what portions of the No Effect Finding will be prepared by which party. Ultimately, this is entirely at the discretion of the biologist.

Content of a No Effect Finding

The content of a No Effect Finding is outlined in detail in Appendix A of the Agreement. Care should be taken by the DEC and SME when preparing these determinations to ensure that all required sections of the document have been thoroughly and appropriately addressed. A copy of the form to be used for No Effect Findings is included as Attachment 4.

Biological Assessment Timing

Assessment of biological impacts should occur as early as possible, without being premature. The project should be sufficiently developed in scope so that affects can be accurately assessed. When potential habitat will be impacted by a project and species survey is required, this should preferably be completed during the assessment of all other project impacts, as the environmental document is developed.

For PCE, CE Level 1 and CE Level 2 projects, when schedule permits, completion of required surveys and their coordination with the agencies should pre-date the PURCHASE of right of way. It is required that this work (BAs and coordination with USFWS) be completed prior to KYTC request for Construction authorization. When it is not possible for the survey to be completed prior to preparation of the document, it should thoroughly address the species under consideration, any work completed to date such as habitat assessment, and any findings that have been made. The plan and schedule for completion of any required surveys and bringing Section 7 consultation to a conclusion is also to be documented.

For projects being evaluated under an EA/FONSI, species surveys of the preferred alignment are to pre-date KYTC's ROW authorization request. When such studies have not been completed at the time of document approval, it should thoroughly document the species under consideration, any work completed to date such as habitat assessment, and any findings that have been made. The plan and schedule for completion of any required surveys and bringing Section 7 consultation to a conclusion is also to be documented. This schedule should indicate completion of consultation prior to the projected ROW authorization request date.

For projects proposed for evaluation at CE Level 3, meeting all criteria established in the CE Agreement between KYTC and FHWA, protocols as previously explained for CE documents shall apply. If the proposed project exceeds one mile in length for new alignment or two miles in length for realignment/reconstruction, FHWA approval must be given for processing as a CE Level 3 (see CE Agreement.) When soliciting the approval of FHWA for this action, KYTC must specifically address the species that may be potentially impacted by the project, the likelihood of the project

impacting this species or its known habitat and the proposed timing for Section 7 consultation resolution. This information shall be considered by FHWA when making a determination of CE Level 3 applicability for the project. When responding to the request for processing the project as a CE Level 3, FHWA shall also advise of the required timing of species surveys.

For major projects, evaluated with an Environmental Impact Statement (EIS), Section 7 consultation shall preferably be completed prior to the issuance of the Final EIS but must precede the issuance of a Record of Decision (ROD).

State-Funded Projects

The process previously outlined focused on federal-aid projects, but should be followed, to the extent possible, for state-funded projects as well. State-funded projects often have federal involvement in the form of permits (Army Corps, TVA, etc.) or, less frequently, land transfers from federal agencies. For these projects, the previously outlined procedures should be followed with the exception that FHWA will not be the agency signing the No Effect Finding. These should be sent to the USFWS using the Kentucky Transportation Cabinet No Effect Finding form included as Attachment 8. BAs will be handled similarly to that previously described. The results for all BAs, including No Effect BAs, will be sent to USFWS for concurrence. The content of the No Effect Finding should be identical to that described in Appendix A of the No Effect Agreement. The form used for the information has been altered to remove the FHWA signature. The KYTC personnel responsible for securing permits or otherwise serving as the point of contact with the federal agency is responsible for providing the consultation documentation to the agency.

The FHWA has made the determination that their projects will have No Effect on species that have been identified as potentially occurring in an area. Other federal agencies have not as yet provided KYTC with a similar finding. In light of this fact, a non-concurrence letter from the USFWS, suggesting inadequate Section 7 consultation for "potential" species may be viewed by these federal agencies as insufficient for their federal action. As a result, unless or until similar No Effect findings can be secured from other federal agencies, both "known" and "potential" species shall also be addressed for state-funded projects with federal agency involvement. This distinction makes it critical that permitting needs be accurately assessed as early in the project development process as possible. Where uncertainties exist regarding project impacts to waters of the U.S, federal lands or other factors that may dictate federal agency involvement, caution should be exercised when deciding whether to address "potential" species. It shall ultimately be the decision of the Project Team as to whether to address "potential" species. It is recommended that this be done in consultation between the DEA SMEs, DEC's and the Project Manager.

For projects that do not have ANY federal involvement, the Project Team should consider the potential for the project to affect endangered species and their habitat. This consideration is to be documented either in the form of a memo to the project file or, at a minimum, in meeting minutes. The decision regarding the degree of protection or mitigation to be incorporated in the project should be one that is informed and educated. The facts upon which these decisions are made are to be documented in the project record. This documentation may be prepared by either the DEC or, if requested, by the SME. Like with a No Effect Finding, DEC's may only prepare such documents for species that are fully documented within the HAM. Though not a requirement, completion of the KYTC No Effect Finding form is suggested for satisfaction of this requirement.

Biological issues on state-funded projects should also be addressed as early in the project development as possible. When prepared by the DEC, and no habitat exists, No Effect Findings may be submitted directly to the USFWS. Copy to DEA of the document should always be provided as should a copy of the USFWS response. DEA will, upon receipt of a CE Request for Assistance, complete or arrange for the completion of any BAs that may be necessary for projects. Like with federal-aid projects, it is preferred that BAs be completed prior to right of way acquisition, when possible. If not completed prior to ROW authorization, the BAs must be completed prior to construction.

Communication

Throughout this guidance, the distribution of documentation, including No Effect Findings, BAs, FHWA and USFWS correspondence, etc. has been discussed. It is important throughout this process, no matter the level of documentation required for completion of Section 7 consultation, that the DEC, DEA (EPM and SME) and FHWA be aware of identified needs and project progress. If not specifically mentioned at any point of the process described in this guidance, it should be understood that communication between the DEC and the SME should always be copied to the EPM. Similarly, communication between the EPM and SME should always be copied to the DEC. Correspondence prepared by the DEC is to always be copied to the DEA while correspondence prepared by the EPM or SME is to always be copied to the DEC. When responses are received by the DEC from USFWS or the FHWA, these are to be copied to the DEA. If the DEA is shown as copied on the correspondence, an additional copy should not be necessary. Similarly, if DEA receives correspondence from the FHWA or USFWS, copies are to be provided to the DEC by the SME, if the district was not specifically identified as copied on the correspondence.

District assignments exist for EPMs, Biologists, DEC's and FHWA Area Engineers. Maintaining a strong communication triangle between the DEC's, EPMs and SMEs, is critical to the development of a predictable and efficient program, not only for Section 7 consultation but for all areas of environmental review. Involving the FHWA Area Engineer at decision points is a further key to success. When in doubt, always copy the other two or three persons that may have an interest in the project being discussed or analyzed.

Effective Date

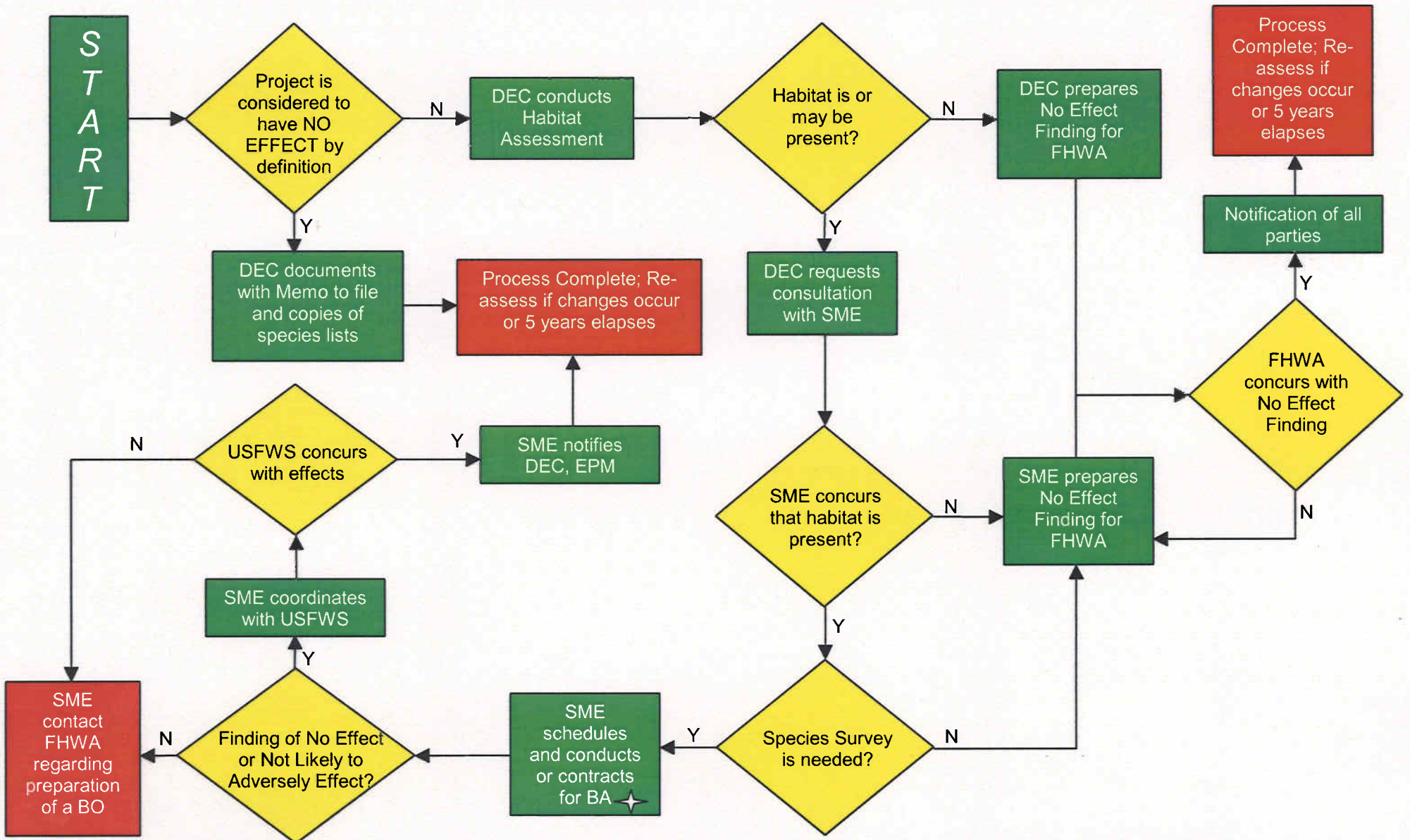
Information provided in this guidance is considered to be effective immediately.

pc: Jose Sepulveda and Anthony Goodman, FHWA
Ray Polly, ASHE (acting)
Marc Williams, Commissioner

Table 1
Timing of Section 7 Milestones

Environmental Doc. Type	Habitat Assessment	Biological Assessment
PCE, CE Level 1- 2	Complete as early in development as possible after project details are sufficiently defined to adequately evaluate project impacts to species for selected alternative.	Preferably complete prior to environmental document approval, ROW authorization and ROW purchase. MUST be completed prior to request for construction authorization.
CE Level 3	Complete as early in development as possible after project details are sufficiently defined to adequately evaluate project impacts to species for selected alternative.	<p>For projects meeting defined CE Level 3 criteria (no exceptions), preferably complete prior to environmental document approval, ROW authorization and ROW purchase. MUST be completed prior to construction authorization request.</p> <p>For projects requiring FHWA consultation to determine if a project will be processed as a CE Level 3, KYTC must document potential for project to impact species being considered for area and recommend appropriate schedule for addressing all Section 7 consultation requirements. Completion schedule (prior to ROW authorization or Construction authorization) shall be at the discretion of FHWA.</p>
EA/FONSI	Complete as early in development as possible after project details are sufficiently defined to adequately evaluate project impacts to species for selected alternative	Consultation must be completed prior to request for ROW authorization.
DEIS/FEIS/ROD	Complete as early in development as possible after project details are sufficiently defined to adequately evaluate project impacts to species for selected alternative.	Consultation must be completed prior to issuance of the ROD

EXHIBIT 1: KYTC Section 7 Consultation for Federal-Aid Projects



PCE, CE Level 1, CE Level 2: Complete consultation prior to ROW authorization or purchase, if possible. Must be completed prior to Construction authorization.
 CE Level 3: If project meets length criteria for CE Level 3, BA timing is as described above for other CEs. If FHWA consultation required to downgrade environmental category, KYTC shall propose a schedule for survey in the request to FHWA for approval to process the project as a CE Level 3. Schedule to be at FHWA discretion.
 EA/FONSI: Survey and consultation must be completed prior to requesting ROW authorization.
 EIS/DEIS/ROD: Survey and Consultation must be completed prior to ROD.



U.S. Fish & Wildlife Service
Kentucky Ecological Services Field Office

U.S. Fish & Wildlife Service
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Endangered, Threatened, & Candidate
Species in BARREN County, KY

Group	Species	Common name	Legal* Status	Known** Potential	Special Comments
Mammals	<i>Myotis grisescens</i>	gray bat	E	K	
	<i>Myotis sodalis</i>	Indiana bat	E	K	
Mussels	<i>Cyprogenia stegaria</i>	fanshell	E	K	
	<i>Plethobasus cyphus</i>	sheepnose	C	P	
Plants	<i>Helianthus eggertii</i>	Eggert's sunflower	T	K	
Crustaceans	<i>Palaemonias ganteri</i>	Kentucky cave shrimp	E, CH	K	Critical Habitat designation: Roaring River Passage of Mammoth Cave, Mammoth Cave National Park (48 Federal Register 46337-46342, Oct. 1983)

NOTES:

* Key to notations: E = Endangered, T = Threatened, C = Candidate, CH = Critical Habitat

**Key to notations: K = Known occurrence record within the county, P = Potential for the species to occur within the county based upon historic range, proximity to known occurrence records, biological, and physiographic characteristics.



U.S. Department
of Transportation
**Federal Highway
Administration**

Kentucky Division Office
Jose Sepulveda, Division Administrator

Attachment 2

330 West Broadway
Frankfort, KY 40601
PH. (502) 223-6720
FAX (502) 223-6735

January 19, 2006

Mr. William Nighbert, Acting Secretary
Kentucky Transportation Cabinet
200 Mero Street, Room 613
Frankfort, Kentucky 40622

Attn: David Waldner

Dear Mr. Nighbert:

Subject: Threatened and Endangered Species List

Recently the U.S. Fish and Wildlife Service (USFWS) have provided the Kentucky Transportation Cabinet (KYTC) with an endangered species list by county. As project development occurs, reference to this list shall be considered the equivalent of the current process of requesting a species list from the USFWS. Internet web sites for Kentucky State Nature Preserves Commission (KSNPC) and Kentucky Division of Fish and Wildlife Resources (KDFWR) must also be consulted to identify any other known federally protected species not included in the USFWS county list. This combined species list must be fully considered when assessing project impacts to endangered species.

The USFWS list is considered to be all-inclusive and identifies any federally listed endangered species known to have occurred or having the potential to be present within each county. Whether the species is known to be present or is considered to potentially be present within the county is indicated on the county listing. A species identified as being known in a particular county means that at one time the species has been captured or identified as occurring within that particular county. It is the position of the Kentucky Division Office (FHWA) that if there are known federally protected species identified as existing in the project area (county) by the USFWS, KSNPC or KDFWR, these must be fully considered equally regardless of which list the species has been identified.

The actual presence of a species listed as having the potential to occur in a county may not be supported by scientific data. Section 7 (a), paragraph 2-3, requires that the federal action agency "shall use the best scientific and commercial data available" when considering impacts to endangered species.

When data does not indicate the confirmed presence of threatened or endangered species within a county, it is FHWA's interpretation of that data that further investigation of that species is not warranted. Potential impacts to additional species, including state-listed species and species listed as "Potential" on the USFWS species list, may also be considered at the discretion of the Project Team and in consultation with the Director of the Division of Environmental Analysis.

If you have any questions, please feel free to me at (502) 223-6742.

Sincerely yours,



Anthony Goodman
Environmental Program Manager

cc: Lee Andrews (USFWS)
Phil Degarmo (USFWS)



**MEMORANDUM OF UNDERSTANDING
Between the
Federal Highway Administration and the
Kentucky Transportation Cabinet
Determinations of No Effect Pursuant to Section 7
Of the Endangered Species Act**

WHEREAS, the Kentucky Transportation Cabinet (KYTC) and the Federal Highway Administration (FHWA) participate in numerous projects that are not defined as "major construction activities"; and

WHEREAS, many of these projects lie within the range of federally listed (listed) endangered or threatened species, or species proposed for such listing; and

WHEREAS, in accordance with Section 7(a)(2) of the Endangered Species Act, consultation with the U.S. Fish and Wildlife Service (USFWS) is not required for these projects, provided that the federal action agency (FHWA) determines that the action will have no effect on listed species or their critical habitat; and

WHEREAS, by definition, projects evaluated under a Categorical Exclusion (CE)(23 CFR 771.117), developed in accordance with the National Environmental Policy Act (NEPA), are considered to have only minimal impacts and are not considered to be a major construction activity.

NOW, THEREFORE, the FHWA and KYTC agree to the following protocol for determinations of "No Effect" to listed species and/or their critical habitat as a result of highway projects meeting 23 CFR 771.117.

PROTOCOL

Section I. NO EFFECT PROJECTS BY DEFINITION

The following categories of projects are considered to have No Effect to listed species. Although listed species may exist within the vicinity of these types of projects, it is highly unlikely that the species, critical habitat or habitat as defined in the KYTC Habitat Assessment Manual (HAM) would be affected by the nature of the undertaking. Should a project in the list involve the removal of habitat as defined in the HAM, the project shall be evaluated in accordance with Section II of this Agreement.

1. General highway maintenance, including filling potholes, crack sealing, mill and resurfacing, joint grinding/milling, etc.
2. Guardrail replacement where no new bank stabilization is required.
3. The replacement of traffic signals within existing ROW.
4. The installation or maintenance of signs or pavement markings within the existing ROW.
5. General pavement marking or "line painting" projects.
6. The installation of raised pavement markers.

Memorandum of Understanding
 No Effect Determinations
 Page 2

7. Mowing or brush removal/trimming projects within existing ROW.
8. Improvements to existing KYTC/County maintenance facilities.
9. Study-type projects (i.e. feasibility studies, etc.).
10. Installation of new fencing, signs, small passenger shelters, traffic signals and railroad warning devices where no habitat, as defined in the HAM, occurs.
11. Acquisition of scenic easements.
12. Transfer of federal lands pursuant to USC 317 when the subsequent action is not an FHWA action.
13. Track and rail-bed improvements, maintenance activities or acquisition.
14. Bridge deck overlays, bridge deck replacements and other maintenance activities, including bridge painting projects provided the project doesn't involve any work within or involve impacts to streams, rivers, scenic river corridors or other habitat as defined in the HAM.
15. Disposal of excess ROW parcels wholly contained in recent Major Project Acquisitions.

Section II. PROCEDURES FOR DETERMINATION OF EFFECT

For CE project types not determined by their nature to have No Effect, the KYTC/FHWA shall evaluate the potential for the project to impact listed species. This will be accomplished through adherence to the protocol established herein. Projects requiring CE Level 3 evaluation, prepared in accordance with the KYTC CE Manual, shall require consultation with USFWS.

1. Following authorization of Design funds for the project, the District Environmental Coordinator (DEC) shall review the project scope, location, type of action, schedule, etc. and its potential for ground disturbing activities.
2. The DEC shall gather listed species data using the USFWS county listing and information available and maintained on web sites by Kentucky State Nature Preserves Commission (KSNPC) and Kentucky Department of Fish and Wildlife Resources (KDFWR). USFWS web data shall be reviewed to identify the habitat(s) that may be used by the species identified.
3. The DEC shall conduct an on-site visit for the purpose of identifying whether habitat exists within the project corridor for species identified in previous steps. The assessment shall consider the characteristics of species' habitat as outlined in the HAM.
4. When no habitat is found to be present, the DEC shall prepare a No Effect Finding, in accordance with Appendix A, to document the basis for the conclusions.
5. Should habitat be found to be present within the project corridor, the DEC shall coordinate its findings with DEA and request evaluation of the project by an appropriate Subject

Matter Expert (SME) in the KYTC Division of Environmental Analysis, by submittal of the CE Assistance Request Form. The information provided shall include, at a minimum:

- A. Location map, plan sheets, ROW plans or other available information that will fully describe the project limits, or corridor, that will require assessment by the SME including easements, crossings, detours, etc.;
 - B. Identification of the listed species for which habitat may/does exist;
 - C. Additional or other supporting information that may assist the SME in their understanding of the project and preparation for habitat assessment, including photographs of the project area and any other required species specific information identified in the HAM for the species in question.
6. If the SME reviews the information provided and can conclude that no habitat exists, the SME shall notify the DEC, in writing, of the finding. The DEC shall then prepare the No Effect Finding.
 7. If it is determined that potential habitat for a "known" listed species is present, the SME shall determine the necessity for an on-site visit and, when appropriate, shall conduct the habitat assessment. The SME shall evaluate the habitat present within the project corridor and make a determination as to whether the project, and its related loss of potential habitat, may affect the species. Such determination shall consider the specific characteristics of the habitat present, availability of additional habitat in the surrounding area, distance to confirmed species locations, etc. Based upon the information collected, the SME shall determine whether a species survey is warranted. If no species survey is necessary in order to confidently determine No Effect, the SME shall prepare the No Effect Finding and submit it to the DEC for inclusion in the CE.
 8. If the SME determines that a species survey is needed, the DEA SME shall conduct, or have conducted, any required species surveys. All such surveys shall be designed to meet appropriate protocols in effect at the time of sampling. The results of the survey shall be assimilated in a Biological Assessment (BA).
 9. Should disagreement arise between the DEC and the SME regarding the applicability of a No Effect finding, the KYTC Director of Division of Environmental Analysis shall be notified. The Director shall attempt to resolve the dispute, with FHWA's assistance as necessary. If the dispute can not be resolved, FHWA shall determine the required course of action.
 10. BAs concluding No Effect shall be transmitted to the FHWA for concurrence. The FHWA shall provide written concurrence with the BA, to KYTC, for inclusion in the CE. If concurrence can not be given, FHWA shall notify the KYTC Director of Division of Environmental Analysis and request consultation with the Project Team to further discuss the issue. FHWA shall determine what additional information is required in order to issue concurrence and a plan/schedule for preparation of the additional data shall be developed and implemented.
 11. BAs concluding Not Likely to Adversely Affect shall be directly coordinated with the USFWS with a copy to FHWA. BAs concluding May Affect shall be forwarded to FHWA

for consultation with USFWS. The transmittal letter for all BAs shall identify any specific avoidance, minimization, and/or mitigation measures that shall be employed to minimize the potential for the project to take a listed species.

12. KYTC shall submit a list annually to USFWS and FHWA, identifying projects that have been determined to have No Effect. Information provided shall include KYTC Item Number, County(ies), Project Type, Route Number, Species considered and whether Sampling was conducted to make final determinations.
13. No Effect determinations and Biological Assessments completed pursuant to this agreement will be considered valid for a period of five (5) years. The period of validity shall be subject to the project scope remaining constant, the species list for the area remaining constant and there being no change to the project environment that may have potentially created new habitat.
14. When KYTC/FHWA projects are reevaluated prior to major federal project actions (authorization of right of way, utility or construction funds), KYTC shall consult with the USFWS species list to ensure that no new species have been listed in the project area and that the species status ("known"/"potential") has not changed. If a new species has been listed, reassessment of the area will be undertaken to first determine whether habitat exists for the newly listed species and, secondly, to determine whether a BA is required pursuant to the provisions of steps 3-11 above. If a species status has changed from "potential" to "known" since the previous evaluation of the project, the DEC shall assess the potential of the project to affect the species in accordance with Section II of this agreement.

Section III: DISAGREEMENT RESOLUTION

It is the intent of this Agreement that all disputes and issues be solved at the lowest grade level of the respective agencies. For resolution of disputes, the KYTC Chief Environmental Program Administrator (CEPA) and the FHWA Environmental Program Manager shall attempt to resolve all disputes that may arise. A collaborative decision will be made within 14 working days of conflict identification. Elevation to higher levels for dispute resolution shall only be a last resort.


Section IV: EVALUATION

Full compliance with this Agreement will be determined through a process review to be jointly conducted by FHWA and KYTC DEA staff. The results of such reviews will be used to determine what Agreement modifications, if any, may be appropriate. The first review shall occur within the first six months of full implementation of this Agreement. A second process review will occur one year after the initial review. Subsequent reviews will be scheduled, as needed.

Section V: REVISION AND TERMINATION

This Agreement and its appendices may be revised by mutual consent of both parties or terminated by either party within 30 days of written notification. If any part of this Agreement is determined to be in conflict with existing state or federal laws or regulations, it does not invalidate the remainder of the Agreement.


KYTC Approval:



Bill Nighbert, Secretary

09/23/05
Date

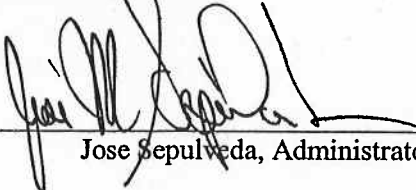
Approved as to Form and Legality:



Office of Legal Services

8/31/05
Date

FHWA Approval:



Jose Sepulveda, Administrator

9/27/05
Date

**Appendix A
Content of a No Effect Finding**

Project Description: The type of project being developed should be fully described. This includes identification of the project type as defined in the Six Year Plan, the quadrangle maps for the area to be affected, as well as any additional description needed to accurately document the work to be conducted and areas to be impacted. The description must include the location and extent of the improvement, as well as any areas that can reasonably be expected to be impacted by the activity. This should also include descriptions of cross road improvements, required easements and any other areas that were considered in the evaluation.

Listed Species: The sources used and the listed species identified must be documented. Species should list both scientific and common names and listed status (rare, threatened, endangered, proposed or candidate).

Site Description: The area(s) that will be impacted by the project is to be investigated and all available habitats identified and described. Man-built intrusions within the area should also be described. Description should include land forms, waterways, vegetation (trees, shrubs and grasses), wetlands, land uses, etc. These should be done in conformance with guidance in the Habitat Assessment Manual.

Methodologies: The methods for assessing the habitat are to be documented. The person(s) who investigated the area, time spent on the survey including office research, and the dates upon which the field survey was conducted must be noted as well as the resources used (web sites, topographic maps, geologic maps, area photos, soil maps, Habitat Assessment Manual).

Results: Available habitat in the area shall be compared with those habitats commonly used by the listed species, as identified in the Habitat Assessment Manual. If habitat for any listed species is found to be present within the project area, the No Effect Finding is not applicable and consultation with the DEA SME must be initiated.

Recommendations: If habitat for the identified listed species is not present, the DEC shall complete the memo with a finding of No Effect based upon lack of habitat. The recommendation must include the following language:

The project has been assessed in accordance with the provisions of Section 7 of the Endangered Species Act, and KYTC recommends a finding that the project will have No Effect on any listed species or their critical habitat.



KYTC Signature

Date

In accordance with the provisions of Section 7 of the Endangered Species Act, FHWA has determined that the project will have No Effect on any listed species or their critical habitat and Section 7(a)(2) consultation with the Service is not required.

FHWA Signature

Date

	Kentucky Transportation Cabinet Federal Highway Administration NO EFFECT FINDING		
KYTC Item No:	-	Route:	
Quadrangle(s):		County(ies):	
Project Description: (Type of improvement, areas to be impacted, crossroad improvements, easements, etc.)			
Listed Species: (Attach copy of USFWS county list, KSNPC web site and KDFWR web site)			
Site Description: (Habitats present, existing intrusions, landforms, waterways, vegetation, wetlands, land use, etc.)			
Methodologies: (Methods of assessment, who, what, when, resources, etc.)			
Results: (Compare habitat used by listed species with available habitat)			
Recommendations:			
The project has been assessed in accordance with the provisions of Section 7 of the Endangered Species Act, and KYTC recommends a finding that the project will have No Effect on any listed species or their critical habitat.			
_____ KYTC Signature		_____ Date	
In accordance with the provisions of Section 7 of the Endangered Species Act, FHWA has determined that the project will have No Effect on any listed species or their critical habitat and Section 7(a)(2) consultation with the Service is not required.			
_____ FHWA Signature		_____ Date	

MILESTONE UPDATES

DAVIDWALDNER
SYP0031

KY Transportation Cabinet
ENVIRONMENTAL ANALYSIS MILESTONES

12-DEC-2005
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Project No. 1 - 2.00

	Date	Status	Edit	Remarks
Aquatic Ecosystems	12-DEC-2005	LOV		
Threatened & Endangered	18-APR-2005	LOV		HABITAT ASSESSMENT CONCURRENCE
				Not likely to adversely affect (903-l

Find %

- Svp Dom Value
- BA ASSIGNED
- BA EXPIRES
- BA FHWA APPROVED
- BA FHWA APPROVED W/CONDITIONS
- BA FIELD WORK COMPLETE
- BA NOT REQD
- BA RECEIVED
- BA REQD
- BA SUBMITTED TO FHWA
- BA SUBMITTED TO USFWS
- BA SURVEY SEASONAL RESTRICTIONS
- BA TO FED AGENCY (MAY EFFECT)
- BA USFWS APPROVED
- BA USFWS APPROVED W/CONDITIONS
- BO CONSULTATION REQUESTED BY FED A
- BO REQUIRED
- BO WRITTEN BY USFWS
- DEA BIOLOGY REQUESTED TO CONSULT
- HABITAT ASSESSMENT CONCURRENCE
- HABITAT ASSESSMENT EXPIRES
- HABITAT ASSESSMENT REQUIRED
- HABITAT ASSESSMENT SUBMITTED
- USFWS COORDINATION (DEA)
- USFWS COORDINATION (DEC)
- USFWS RESPONSE; LISTED SPECIES
- USFWS RESPONSE; NO SPECIES

Find OK Cancel

Exit

Record: 1/1

KY Federally Listed Species (Endangered, Threatened, & Candidate)

Group	Species (common name)	Oracle	ACRONYM	SEASON
Plants	<i>Apios priceana</i> (Price's potato-bean)	(101)	PPB	July 15 - Aug 31
Plants	<i>Arabis perstellata</i> (Braun's rock cress)	(102)	BRC	May
Plants	<i>Arenaria cumberlandensis</i> (Cumberland sandwort)	(103)	CS	Jun 15 - July 15
Plants	<i>Conradina verticillata</i> (Cumberland rosemary)	(104)	CR	May
Plants	<i>Helianthus eggertii</i> (Eggert's sunflower)	(105)	ES	Aug - Sep
Plants	<i>Lesquerella globosa</i> (Short's bladderpod)	(106)	SBP	Apr - early June
Plants	<i>Platanthera integrilabia</i> (white fringed orchid)	(107)	WFO	late July - early Sept
Plants	<i>Schwalbea americana</i> (American chaffseed)	(108)	AC	May - mid-July
Plants	<i>Solidago albopilosa</i> (white-haired goldenrod)	(109)	WHG	Sept - Oct
Plants	<i>Solidago shortii</i> (Short's goldenrod)	(110)	SG	Aug - Oct
Plants	<i>Spiraea virginiana</i> (Virginia spiraea)	(111)	VS	July
Plants	<i>Trifolium stoloniferum</i> (running buffalo clover)	(112)	RBC	May
Crustaceans	<i>Palaemonias ganteri</i> (Kentucky cave shrimp) (formerly MCS)	(201)	KCS	Year round
Insects	<i>Nicrophorus americanus</i> (American burying beetle)	(301)	ABB	Spring - Summer
Insects	<i>Pseudanopthalmus caecus</i> (Clifton cave beetle)	(302)	CCB	Year round
Insects	<i>Pseudanopthalmus cataryctos</i> (lesser Adams cave beetle)	(303)	LACB	Year round
Insects	<i>Pseudanopthalmus frigidus</i> (icebox cave beetle)	(304)	ICB	Year round
Insects	<i>Pseudanopthalmus inexpectatus</i> (surprising cave beetle)	(305)	SCB	Year round
Insects	<i>Pseudanopthalmus major</i> (beaver cave beetle)	(306)	BCB	Year round
Insects	<i>Pseudanopthalmus parvus</i> (Tatum cave beetle)	(307)	TCB	Year round
Insects	<i>Pseudanopthalmus pholeter</i> (greater Adams cave beetle)	(308)	GACB	Year round
Insects	<i>Pseudanopthalmus troglodytes</i> (Louisville cave beetle)	(309)	LCB	Year round
Mussels	<i>Alasmidonta atropurpurea</i> (Cumberland elktoe)	(401)	CEM	Spring - Oct
Mussels	<i>Cumberlandia monodonta</i> (spectaclecase)	(402)	SCM	Spring - Oct
Mussels	<i>Cyrogenia stegaria</i> (fanshell)	(403)	FSM	Spring - Oct
Mussels	<i>Epioblasma brevidens</i> (cumberlandian combshell)	(404)	CCM	Spring - Oct
Mussels	<i>Epioblasma capsaeiformis</i> (oyster mussel)	(405)	OM	Spring - Oct
Mussels	<i>Epioblasma florentina walkeri</i> (tan riffleshell)	(406)	TRM	Spring - Oct
Mussels	<i>Epioblasma o. obliquata</i> (purple catspaw pearl mussel)	(407)	CPM	Spring - Oct
Mussels	<i>Epioblasma torulosa rangiana</i> (northern riffleshell)	(408)	NRM	Spring - Oct
Mussels	<i>Lampsilis abrupta</i> (pink mucket)	(409)	PMM	Spring - Oct
Mussels	<i>Leptodea leptodon</i> (scaleshell)	(410)	SSM	Spring - Oct
Mussels	<i>Lexingtonia dolabelloides</i> (slabside pearl mussel)	(411)	SPM	Spring - Oct
Mussels	<i>Obovaria retusa</i> (ring pink)	(412)	RPM	Spring - Oct
Mussels	<i>Pegias fabula</i> (littlewing pearl mussel)	(413)	LWPM	Spring - Oct
Mussels	<i>Plethobasus cooperianus</i> (orangefoot pimpleback)	(414)	OFPM	Spring - Oct
Mussels	<i>Plethobasus cyphus</i> (sheepnose)	(415)	SNM	Spring - Oct
Mussels	<i>Pleurobema clava</i> (clubshell)	(416)	CM	Spring - Oct
Mussels	<i>Pleurobema plenum</i> (rough pigtoe)	(417)	RPTM	Spring - Oct
Mussels	<i>Potamilus capax</i> (fat pocketbook)	(418)	FPBM	Spring - Oct
Mussels	<i>Ptychobranhus subtentum</i> (fluted kidneyshell)	(419)	FKM	Spring - Oct
Mussels	<i>Villosa fabalis</i> (rayed bean)	(420)	RBM	Spring - Oct
Mussels	<i>Villosa trabilis</i> (Cumberland bean pearl mussel)	(421)	CBPM	Spring - Oct
Fishes	<i>Etheostoma chienense</i> (relict darter)	(501)	RD	Spring - Summer
Fishes	<i>Etheostoma nigrum susanae</i> (Cumberland johnny darter)	(502)	CJD	Spring - Summer
Fishes	<i>Etheostoma percnum</i> (duskytail darter)	(503)	DD	Spring - Summer
Fishes	<i>Notropis albizonatus</i> (palezone shiner)	(504)	PS	Spring - Summer
Fishes	<i>Phoxinus cumberlandensis</i> (blackside dace)	(505)	BSD	Spring - Summer
Fishes	<i>Scaphirhynchus albus</i> (pallid sturgeon)	(506)	PS	Spring - Summer
Reptiles	<i>Nerodia erythrogaster neglecta</i> (copperbelly water snake)	(701)	CWS	April - October
Birds	<i>Haliaeetus leucocephalus</i> (bald eagle)	(801)	BE	all year - JAN best
Birds	<i>Sterna antillarum</i> (interior least tern)	(802)	ILT	Year round
Mammals	<i>Corynorhinus townsendii virginianus</i> (Virginia big-eared bat)	(901)	VBB	May 15 - Aug 15
Mammals	<i>Myotis grisescens</i> (gray bat)	(902)	GB	May 15 - Aug 16
Mammals	<i>Myotis sodalis</i> (Indiana bat)	(903)	IB	May 15 - Aug 17


Examples of Data Entry Responsibilities

Example #1:

Date	Status	Remarks	Entry Responsibility
1/20/2004	Habitat Assessment Required	(903)(902), IB, GB (dmw)	DEC
2/12/2004	Habitat Assessment Submittal	(903)(902), IB, GB to FHWA (dmw)	DEC
3/10/2004	Habitat Assessment Concurrence	(903)(902), IB, GB FHWA concurs with No Effect (dmw)	DEC

Example #2:

Date	Status	Remarks	Entry Responsibility
1/20/2004	Habitat Assessment Required	(903)(902)(405), IB, GB, OM (dmw)	DEC
1/20/2004	DEA Biology Requested to Consult	(903)(902), IB, GB (dmw)	DEC
1/26/2004	BA Req'd	(903)(902), IB, GB (dn)	SME
2/3/2004	Habitat Assessment Submittal	(405) OM; No Effect to FHWA (dmw)	DEC
2/10/2004	Habitat Assessment Concurrence	(405) OM; from FHWA No Effect (dmw)	DEC
5/27/2004	BA Field Work Complete	(903)(902), IB, GB (dn)	SME
6/18/2004	BA Received	(903)(902), IB, GB (dn)	SME
6/28/2004	BA Submitted to USFWS	(903)(902), IB, GB; Not Likely to Adversely Effect with tree cutting restrictions 10/15-3/31 (dn)	SME
7/24/2004	BA USFWS Approved w/Conditions	(903)(902), IB, GB; Not Likely to Adversely Effect with tree cutting restrictions 10/15-3/31 (dn)	SME

	Kentucky Transportation Cabinet NO EFFECT FINDING		
KYTC Item No:	-	Route:	
Quadrangle(s):		County(ies):	
Project Description: (Type of improvement, areas to be impacted, crossroad improvements, easements, etc.)			
Listed Species: (Attach copy of USFWS county list, KSNPC web site and KDFWR web site)			
Site Description: (Habitats present, existing intrusions, landforms, waterways, vegetation, wetlands, land use, etc.)			
Methodologies: (Methods of assessment, who, what, when, resources, etc.)			
Results: (Compare habitat used by listed species with available habitat)			
Recommendations:			
<p>The project has been assessed in accordance with the provisions of Section 7 of the Endangered Species Act, and KYTC recommends a finding that the project will have No Effect on any listed species or their critical habitat.</p>			
<hr/> KYTC Signature		<hr/> Date	