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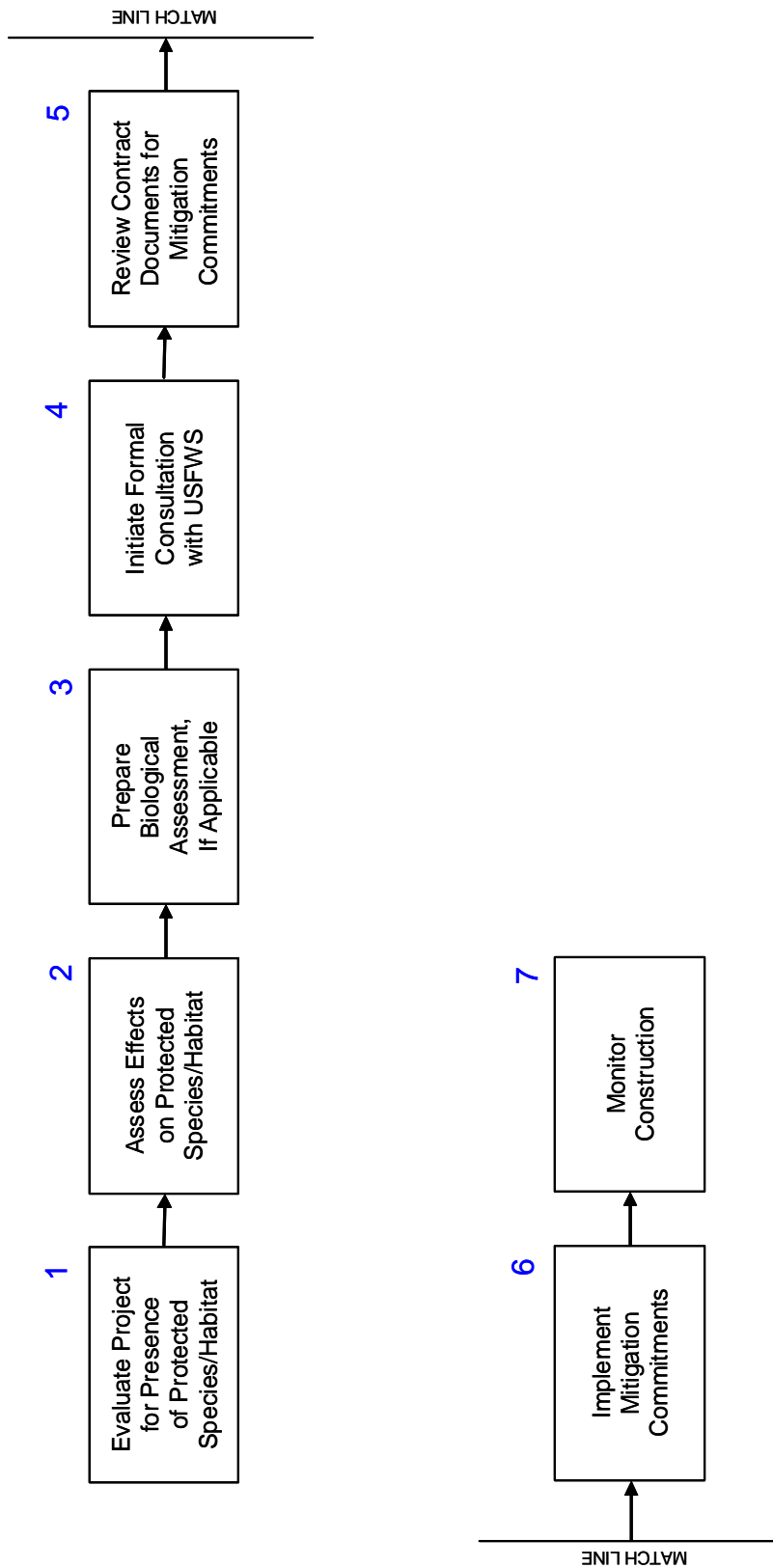
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Chapter 16

THREATENED AND ENDANGERED SPECIES

16.1 EVALUATION AND CONSULTATION PROCEDURES



16.1-A — THREATENED AND ENDANGERED SPECIES EVALUATION

PROJECT ACTIVITY

Activity Title: Evaluate Project for Presence of Protected Species/Habitat

Activity No.: 1

Activity Description:

The Environmental Services Division will conduct an evaluation of the project area to determine whether listed or proposed species or designated or proposed critical habitat is present. The level of evaluation will be appropriate to the scope of the project and will include requesting from the US Fish and Wildlife Service (USFWS) information regarding listed or proposed species and designated or proposed critical habitat in the project area, conducting field surveys, review of published geographical lists of such species or critical habitat, and review of substantiated information from other credible sources. Other sources of information may include:

- US Forest Service,
- National Park Service,
- Bureau of Land Management, and
- Nevada Department of Wildlife.

If there are no protected species or habitat in the project area and the USFWS concurs in that finding, the requirements of Section 7 of the *Endangered Species Act* are satisfied. The results of this coordination will be included in the environmental documentation for the project.

Regulations and Guidance:

50 CFR 402 "Interagency cooperation" - *Endangered Species Act of 1973, as amended*
50 CFR 424 "Listing endangered and threatened species and designating critical habitat"
FHWA Environmental Guidebook
[FHWA Technical Advisory T6640.8A](#)

PROJECT ACTIVITY

Activity Title: Assess Effects on Protected Species/Habitat

Activity No.: 2

Activity Description:

If listed or proposed species or designated or proposed critical habitat occur in the project area, the Environmental Services Division will conduct an evaluation of the potential impacts to determine whether any protected species or critical habitat are likely to be adversely affected by the project. Informal consultation with the USFWS, in cooperation with the FHWA, will be undertaken as a part of the evaluation to:

- clarify whether and, if so, what listed or proposed species or designated or proposed critical habitats are in the project area;
- determine what effect the action will have on these species or critical habitats;
- explore ways to modify the project to reduce or remove adverse effects on the species or critical habitats; and
- determine the need to enter into formal consultation for listed species or designated critical habitats.

If the project evaluation results in a determination that the proposed project will not affect listed or proposed species or designated or proposed critical habitat, and the USFWS provides written concurrence in the finding, the Section 7 requirements are satisfied and further consultation is not required.

If the project evaluation results in a determination that the project will affect protected species or critical habitat, further consultation with the USFWS will be necessary and the Environmental Services Division will prepare a biological assessment.

Regulations and Guidance:

50 CFR 402.13 "Informal Consultation"

PROJECT ACTIVITY

Activity Title: Prepare Biological Assessment, If Applicable

Activity No.: 3

Activity Description:

The purpose of the biological assessment is to evaluate the potential effects of the project on listed (and proposed) species and designated (and proposed) critical habitat and determine whether formal consultation is necessary. The biological assessment will include the following:

- results of an on-site inspection and data-gathering to determine if listed or proposed species or designated or proposed habitat are present;
- review of the literature;
- analysis of the effects of the action on the species and habitat, including consideration of cumulative effects and the results of any related studies; and
- analysis of alternative actions considered for the proposed action.

The biological assessment will be submitted to the USFWS within 180 days of receipt of a species list from the USFWS or USFWS concurrence in a species list submitted by the Environmental Services Division unless a different period of time is agreed to by the USFWS and the FHWA. The Environmental Services Division will submit the completed biological assessment to the FHWA for forwarding to the USFWS. The USFWS will respond in writing within 30 days as to whether or not it concurs with the findings of the biological assessment.

If preparation of a biological assessment results in a determination that the proposed action will have no effect or is not likely to adversely affect any listed or proposed species or designated or proposed critical habitat, and if the USFWS concurs with the determination, formal consultation is not required and the Section 7 requirements are satisfied and no further consultation is required.

If preparation of a biological assessment results in a determination that the proposed action is likely to adversely affect listed or proposed species or designated or proposed critical habitat, formal consultation (for listed species or designated critical habitat) will be required.

Regulations and Guidance:

50 CFR Part 402.12 "Biological Assessment"
FHWA Environmental Guidebook
[FHWA Technical Advisory T 6640.8A](#)

PROJECT ACTIVITY

Activity Title: Initiate Formal Consultation with the USFWS

Activity No.: 4

Activity Description:

If it is determined that the project is likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of any designated critical habitat, the Environmental Services Division, in cooperation with the FHWA, will initiate formal consultation with the USFWS. Formal consultation will result in issuance of a biological opinion and, as applicable, an incidental take statement by the USFWS.

See [Section 2.3 "Preparing An Administrative Record."](#)

Regulations and Guidance:

50 CFR 402.14 "Formal Consultation"
FHWA Environmental Guidebook
[FHWA Technical Advisory T 6640.8A](#)

PROJECT ACTIVITY

Activity Title: Review Contract Documents for Mitigation Commitments

Activity No.: 5

Activity Description:

The Environmental Services Division will coordinate with the Project Management Team to ensure that avoidance, minimization and mitigation measures for addressing the project's impacts on protected species and habitat are reflected in the Construction Contract Documents.

PROJECT ACTIVITY

Activity Title: Implement Mitigation Commitments

Activity No.: 6

Activity Description:

During and after the project's construction, the Environmental Services Division will monitor the project area to ensure fulfillment of avoidance, minimization and mitigation commitments.

See [Section 2.4](#) for an Environmental Commitment Checklist.

PROJECT ACTIVITY

Activity Title: Monitor Construction

Activity No.: 7

Activity Description:

For projects involving formal consultation, the NDOT must report on the progress of the project and its impact on the species and critical habitat. The information will be used to amend, as appropriate, the biological opinion, reasonable and prudent alternatives (RPAs), reasonable and prudent measures (RPMs), terms and conditions, and to make necessary adjustments to the baseline. Project monitoring is designed to do the following:

- detect adverse effects resulting from the proposed action,
- detect when the level of anticipated incidental take is approached,
- raise a red flag if the level of anticipated incidental take is exceeded, and
- determine the effectiveness of RPMs.

The NDOT will submit the monitoring report every six (6) months to the USFWS (through the FHWA).

Regulations and Guidance:

50 CFR Section 402.14(i)(3)) (Monitoring incidental take impacts)

