

**Interagency Cooperation/Consultation**  
**Renewable Energy Projects and**  
**Transmission Lines**  
*U.S. Fish and Wildlife Service*



**Bill Werner**  
*Renewable Energy Coordinator*  
Arizona Ecological Services Office  
February 21, 2013

## Section 7 Consultation – ESA 7(a)(2)

**“Each Federal agency shall, in **consultation with and with the assistance of the Secretary**, insure that **any action authorized, funded, or carried out by such agency** (hereinafter in this section referred to as an “agency action”) **is not likely to jeopardize the continued existence of any endangered species or threatened species** or result in the **destruction or adverse modification** of habitat ... determined to be **critical....”****

## Section 7 Players

- Federal agency authorizing, funding, or carrying out an action.
- Agency providing consultation and assistance
  - Delegated to **Fish and Wildlife Service** in DOI (for non-marine species)
  - Delegated to **National Marine Fisheries Service** in DOC (for marine species)

## Basic Section 7 Process

- Action agency makes a determination if the action “may affect” a listed or proposed species
  - If yes, prepare a biological assessment and either determine
    - “**may affect, not likely to adversely affect**” and seek concurrence of Service, or
    - “**may affect, likely to adversely affect**” and seek consultation with Service
- Service prepares a biological opinion

# Basic Elements of a Biological Opinion

- **DESCRIPTION OF THE PROPOSED ACTION**
- **STATUS OF THE SPECIES AND CRITICAL HABITAT**
- **ENVIRONMENTAL BASELINE**
  - **Description of the Action Area**
  - **Status of the species and critical habitat within the action area and factors affecting species environment and critical habitat within the action area**
- **EFFECTS OF THE ACTION**
- **CUMULATIVE EFFECTS**
- **CONCLUSION (Likely or Not Likely to Jeopardize the Continued Existence of Species)**
- **REASONABLE AND PRUDENT ALTERNATIVES**
- **INCIDENTAL TAKE STATEMENT**
  - Amount and extent of take
  - Effect of the take
  - Reasonable and prudent measures and terms and conditions (To be exempt from Sec. 9)
- **CONSERVATION RECOMMENDATIONS**
- **REINITIATION NOTICE**

# Key Elements

- **Description of the Proposed Action**
  - Be concise
  - Consider discretion of action agency
- **Description of the Action Area**
- **Status of the species and critical habitat within the action area and factors affecting species environment and critical habitat within the action area**

# *Where to Start - Recommendations*

## Key Points for Action Agency/Applicant

- Early coordination
- Identification of potential issues
- Sources of information
- Survey requirements

**Let's Be Smart from the Start**

**(Do it right the first time)**

# Early Coordination

- We encourage early coordination by agencies/applicants
  - Some kinds of sites more problematic than others
  - Discuss avoidance and minimization
  - Allows time for surveys and data gathering
- Coordinate when a draft study plan is developed
- Coordinate periodically with results

# Identification of potential issues

## What

- Threatened and Endangered species (for Section 7)
- Migratory Birds
  - (not in Section 7 process but take prohibited)
- Bald and Golden eagles
  - (not in Section 7 process but take prohibited)
- Miscellaneous

## Where

- Project footprint (think about all project elements)
- Radius of affect

# Identification of potential issues

## When

- Construction period
- Operation (examples)
  - Bird strikes
  - Concerns regarding power tower effects
  - Evaporation ponds
- Maintenance
  - E.g. Vegetation maintenance for transmission lines

# Sources of Information

- Natural Heritage Program Databases
  - Compilation of field notes and surveys

**Note: Absence of evidence is not evidence of absence**

- Mapping tools
  - E.g. Habimap in Arizona
  - FWS critical habitat mapper
- *Federal Register* notices for T&E species
- Recovery plans
- Existing biological opinions

# Survey Requirements

- Survey requirements by species
  - Protocols
    - Seasons
    - Level of effort
  - Qualifications of surveyors
  - Permit requirements

**Note: Don't miss the survey window**

## Other Points

- Build wildlife work into the Gantt chart (timeline)
  - Some guidance available from FWS on timelines
- Ultimately the agency must comply with the statutes and regulations
- Reiterate – **Don't miss the survey window**

