

THREATENED & ENDANGERED SPECIES AND CULTURAL RESOURCES *THE AFTER THOUGHT*



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BRIEF OVERVIEW

T&E Species

- Section 7 Consultation
- MBTA 1918
- FESA 1973
- Listed Species
- Critical Habitat
- Surveys
- Scope of Work
- Potential Impacts
- Impact Statement
 - May affect
 - Not likely to affect

Cultural Resources

- Section 106 Consultation
- NHPA 1966
- SHPO & THPO
- Surveys
- Scope of Work
- Potential Impacts
- Historic Properties
- Tribal Properties
- Eligible vs Non Eligible



THREATENED VS ENDANGERED

- Threatened
 - “any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.”
- Endangered
 - “any species which is in danger of extinction throughout all or a significant proportion of its range.”



T&E SPECIES



Endangered



Threatened



Endangered



Endangered



Threatened



Threatened



EXPANSION AND NEW DEVELOPMENT SECTION 107 CONSULTATION

Formal vs. Informal

- Informal – Quickly evaluate potential effects on listed species and their habitats (~30 day review)
 - Triggered by a Federal action or state permit/license
 - T&E species survey can be conducted with wetland surveys
 - Submit consultation at same time as permit application to other agencies to expedite process
 - If the proposed action is not likely to affect any listed species and the Service concurs, consultation is complete and the project can move ahead.



SECTION 107 CONSULTATION

Formal vs. Informal

- Formal – A species/habitat is likely to be adversely impacted by project. Service must issue a Biological Opinion (~90 day review)
- Service will make site visit.
- Service will determine if action will result in jeopardy of particular species. Service will also look at alternatives and potential incidental take.



SECTION 107 CONSULTATION

- Engage the service early on in the process of your project
- Do your due diligence. Mistakes can be costly especially when “take” happens on a listed species



SECTION 106 CONSULTATION

- What is a cultural resource?
 - Historic or prehistoric
 - Building or structure
 - Bridges
 - Landscape
 - Roads



SECTION 106 CONSULTATION

- NHPA of 1966
 - Intended to protect cultural resources from effects of modern development but not to prevent modern development



SECTION 106 CONSULTATION

- Historic Property
 - “Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register of Historic Places.”
 - Not all “Sites” or structures will be considered historic properties or eligible for listing on the register.



SECTION 106 CONSULTATION

- State Historic Preservation Officer (SHPO)
 - Established by the NHPA and appointed by the governor.
 - Nominates properties to the NRHP.
 - Reviews and advises on Federal, State, and local undertakings that may affect historic properties.



WHEN WILL SHPO REVIEW A PROJECT?

- If the activity
 - Involves a federal or state action (permitting/license)
 - Undertaken or assisted by a state agency
 - Involves a designated historic highway
 - Involves state owned land



EXPEDITE THE PROCESS

- Permitting often involves:
 - Water Management districts
 - Corps of Engineers
 - Coastal Zone
 - Local review
- Send correspondence directly to SHPO at same time as permit application to agency
 - Could eliminate need for costly Phase I survey
 - Short review time
- Engage a cultural resources firm early on in the process
 - Known cultural resources can be avoided in the planning process
 - Do not ignore cultural resource requirements as fines can be costly



POTENTIAL ISSUES

- Desktop survey
- Reconnaissance survey
 - Used in planning stages of projects
 - Does not meet requirements for Section 106 compliance
- Phase I Survey – Cultural Resource Assessment
 - Recommendations made
- Phase II – Archeological site testing/intensive survey
 - Specific site
- Phase III – Mitigation of adverse effects
 - excavation



TAKE AWAY MESSAGE

- Do not overlook these agencies and requirements

CAN COST YOU TIME AND MONEY!

