

TABLE OF CONTENTS

CHAPTER 7

7.0 CONSULTATION AND COORDINATION..... 1

7.1 INITIAL SCOPING..... 1

7.2 PUBLIC INVOLVEMENT..... 1

7.3 INTERAGENCY COORDINATION..... 2

7.0 CONSULTATION AND COORDINATION

An issue is a particular concern regarding the environmental effects of a proposed project. The regulations governing EISs require that lead agencies determine “the significant issues to be analyzed in depth in the environmental impact statement” and to “identify and eliminate from detailed study the issues that are not significant” (40 CFR 1501.7). This process of identifying significant issues is called *scoping*. The overall purpose of scoping is to focus the environmental review on those issues that are relevant to the proposal and decision to be made.

7.1 INITIAL SCOPING

Chapter 2 discusses how issues were used to develop alternatives. FHWA convened the SEE team (FHWA, IPNF, ITD, and ESHD) during the initial project-scoping phase to identify and assess the environmental affects of the proposal and recommend alternatives for evaluation. FHWA held public meetings in May and September 2000 to learn more about issues and concerns regarding the project. More information on these events can be found in the early project newsletters (Appendix C). Public feedback was considered in FHWA’s decision to prepare an EIS instead of a NEPA Environmental Assessment.

A Notice of Intent to prepare an EIS was published in the Federal Register on October 3, 2000. Letters were sent to interested agencies and individuals in May 2001. A public scoping meeting was held on June 20, 2001. The first project update distributed in September 2001 summarized the scoping process and studies being conducted.

7.2 PUBLIC INVOLVEMENT

The second project update was issued in June 2003, as technical studies were being revised to include additional alternative preliminary designs. Since then project newsletters or updates have been distributed every two or three months to keep the public informed on the project schedule, preliminary findings, and coordination with other studies. The project mailing list totals almost 500 individuals, agencies, organizations and corporations. Appendix C contains all project newsletters and updates.

Development of the Fernan Lake Watershed Management Plan in 2003 provided an opportunity to exchange information between the concurrent studies. For example, the road project provided detailed wetland results for the watershed plan. The watershed study provided results of 2003 water quality sampling to the road project. The draft watershed management plan issued in November 2003 was considered in preparing this EIS.

The March 2004 project update encouraged the public to visit FHWA’s project website for Fernan Lake Road on the Internet (www.wfl.fhwa.dot.gov/projects/fernana). Project information available on the website includes purpose and need, preliminary alternatives, Project Checklist (May 2000), aerial photos, newsletters and project updates. Links are provided to related websites on boating, fishing, birding, and IPNF recreation. Some of these sites have reciprocated by providing links to FHWA’s Fernan Lake Road website. FHWA’s site also includes a quicknote contact form that can be used to provide

comments on the project electronically. This Draft EIS can be viewed on and downloaded from the project website.

7.3 INTERAGENCY COORDINATION

In addition to periodic meetings of the SEE team agencies, the Fernan project team has coordinated with regulatory and resource agencies. Many meetings were held with individual agencies. Multi-agency project meetings were held on several occasions. Frequently contacted agencies include:

Federal Agencies

- Army Corps of Engineers
- Environmental Protection Agency
- Fish and Wildlife Service
- Forest Service

Idaho State Agencies

- Department of Environmental Quality
- Department of Fish and Game
- Department of Lands, Division of Navigable Waters
- Department Parks and Recreation
- Department of Water Resources
- State Historic Preservation Office
- Transportation Department

Local Agencies

- City of Coeur d'Alene
- City of Fernan Lake Village
- East Side Highway District
- Kootenai County Parks, Recreation, and Waterways Department
- Kootenai County Planning Department

Section 7 of the Endangered Species Act (ESA) requires that FHWA, as lead federal agency, consult with the U.S. Fish and Wildlife Service (FWS). As part of this consultation, FHWA is preparing a Biological Assessment (BA) that describes ESA protected species in the area, effects of the Fernan Lake Road project, and conservation and mitigation measures that will be implemented. ESA consultation must be completed before the ROD is signed. The most recent communication from FWS follows.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
UPPER COLUMBIA FISH AND WILDLIFE OFFICE
11103 EAST MONTGOMERY DRIVE
SPOKANE, WASHINGTON 99206

July 31, 2003

Cindy Callahan, Senior Biologist
David Evans and Associates, Inc.
415 - 118th Avenue Southeast
Bellevue, Washington 98005

Subject: Species List for the Proposed Fernan Lake Road Safety Improvement Project
(File # 1102.0200)

Reference Number: 1-9-03-SP-0433

Dear Ms. Callahan:

This responds to your June 23, 2003, request for a list of threatened and endangered species that may occur in the vicinity of the proposed Fernan Lake Road Safety Improvement project in Kootenai County, Idaho. We understand that the project involves widening and realigning portions of Fernan Lake Road east of Coeur d'Alene, Idaho. Please use the above reference number for all future correspondence regarding this project.

We have reviewed the information you provided. Our records indicate that the following listed species may occur in the vicinity of the project and could potentially be affected by it:

Listed Species

Threatened

Gray wolf (*Canis lupus*)
Bald eagle (*Haliaeetus leucocephalus*)
Ute ladies'-tresses (*Spiranthes diluvialis*)

Federal agencies must meet their responsibilities under section 7 of the Endangered Species Act of 1973, as amended (Act), as outlined in Enclosure A. Enclosure A includes a discussion of the contents of a Biological Assessment (BA), which provides an analysis of the impacts of the project on listed and proposed species, and designated and proposed critical habitat. Preparation of a BA is required for all major construction projects. Even if a BA is not prepared, potential project effects on listed and proposed species should be addressed in the environmental review for this project. Federal agencies may designate, in writing, a non-federal representative to prepare a BA. However, the involved federal agency retains responsibility for the BA, its

adequacy, and ultimate compliance with section 7 of the Act.

Preparation of a BA would be prudent when listed or proposed species, or designated or proposed critical habitat, occur within the project area. Should the BA determine that a listed species is likely to be affected by the project, the involved federal agency should request section 7 consultation with the U.S. Fish and Wildlife Service (Service). If a proposed species is likely to be jeopardized or if proposed critical habitat is likely to be adversely modified by the project, regulations require conferencing between the involved federal agency and the Service. If the BA concludes that the project will have no effect on any listed or proposed species, we would appreciate receiving a copy for our information.

If you would like information concerning state listed species or species of concern, you may contact the Idaho Department of Fish and Game, at (208) 334-3402.

This letter fulfills the requirements of the Service under section 7 of the Act. Should the project plans change significantly, or if the project is delayed more than 90 days, you should request an update to this response.

Thank you for your efforts to protect our nation's species and their habitats. If you have any questions concerning the above information, please contact Carrie Cordova at (509) 893-8022.

Sincerely,



for Supervisor

Enclosure

cc: IDFG, Coeur d'Alene

Enclosure A

Responsibility of Federal Agencies under Section 7 of the Endangered Species Act

Section 7(a) - Consultation/Conferencing

- Requires: 1) Federal agencies to utilize their authorities to carry out programs to conserve endangered and threatened species;
- 2) Consultation with the U.S. Fish and Wildlife Service (Service) when a federal action may affect a listed species to ensure that any action authorized, funded, or carried out by a federal agency will not jeopardize the continued existence of listed species, or result in destruction or adverse modification of critical habitat. The process is initiated by the federal agency after determining that the action may affect a listed species; and
- 3) Conferencing with the Service when a federal action may jeopardize the continued existence of a proposed species, or result in destruction or adverse modification of proposed critical habitat.

Section 7(c) - Biological Assessment for Major Construction Activities

Requires federal agencies or their designees to prepare a Biological Assessment (BA) for major construction activities¹. The BA analyzes the effects of the action, including indirect effects and effects of interrelated or interdependent activities, on listed and proposed species, and designated and proposed critical habitat. The process begins with a request to the Service for a species list. If the BA is not initiated within 90 days of receipt of the species list, the accuracy of the list should be verified with the Service. The BA should be completed within 180 days after its initiation (or within such a time period as is mutually agreeable between the Service and the involved federal agency). No irreversible commitment of resources is to be made during the BA process that forecloses reasonable and prudent alternatives for the project that could protect listed and proposed species. Project planning, design, and administrative actions may proceed, however, no construction may begin.

We recommend the following for inclusion in a BA: an onsite inspection of the area to be affected by the proposal, which may include a detailed survey of the area to determine if listed or proposed species are present; a review of pertinent literature and scientific data to determine the species' distribution, habitat needs, and other biological requirements; interviews with experts, including those within the Service, state conservation departments, universities, and others who may have data not yet published in scientific literature; an analysis of the effects of the proposal on the species in terms of individuals and populations, including consideration of cumulative effects of the proposal on the species and its habitat; and an analysis of alternative actions considered. The BA should document the results of the impacts analysis, including a discussion

of study methods used, any problems encountered, and other relevant information. The BA should conclude whether or not any listed species may be affected, proposed species may be jeopardized, or critical habitat may be adversely modified by the project. Upon completion, the BA should be forwarded to the Service.

Major concerns that should be addressed in a BA for listed and proposed animal species include:

1. Level of use of the project area by the species, and amount or location of critical habitat;
2. Effect(s) of the project on the species' primary feeding, breeding, and sheltering areas;
3. Impacts from project construction and implementation (*e.g.*, increased noise levels, increased human activity and/or access, loss or degradation of habitat) that may result in disturbance to the species and/or their avoidance of the project area or critical habitat.

Major concerns that should be addressed in a BA for listed or proposed plant species include:

1. Distribution of the taxon in the project area;
2. Disturbance (*e.g.*, trampling, collecting) of individual plants or loss of habitat; and
3. Changes in hydrology where the taxon is found.

Section 7(d) - Irreversible or Irretrievable Commitment of Resources

Requires that, after initiation or reinitiation of consultation required under section 7(a)(2), the Federal agency and any applicant shall make no irreversible or irretrievable commitment of resources with respect to the action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives which would avoid violating section 7(a)(2). This prohibition is in force during the consultation process and continues until the requirements of section 7(a)(2) are satisfied.

¹ A major construction activity is a construction project, or other undertaking having similar physical impacts, which is a major action significantly affecting the quality of the human environment as referred to in the National Environmental Policy Act [42 U.S.C. 4332 (2)(c)].