



U.S. Fish & Wildlife Service

Formal Section 7 Consultation

Mary Mittiga
U.S. Fish and Wildlife Service
Panama City Field Office
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Endangered Species Act

- **Sec. 4** requires listing if possible extinction, requires recovery planning
- **Sec. 7** requires Federal agency consultation
- **Sec. 9** prohibits take of a species
- **Sec. 10** allows take with appropriate permits



Endangered Species Act

Listing a species is a 911 call !

The ESA is really about:

- Protecting ecosystems
- Active conservation partnerships
- Balancing species' needs with people's needs
- Early planning and coordination



Section 7 Consultation

- **Section 7(a)(1) – affirmative conservation mandate**
- **Section 7(a)(2) – prohibition on jeopardy**



41 Species Protected by ESA in NW FL



- Endangered – 28 species
- Threatened – 13 species
- Critical habitat for 14 species
- Candidate species – 8 species

Definitions

- Endangered

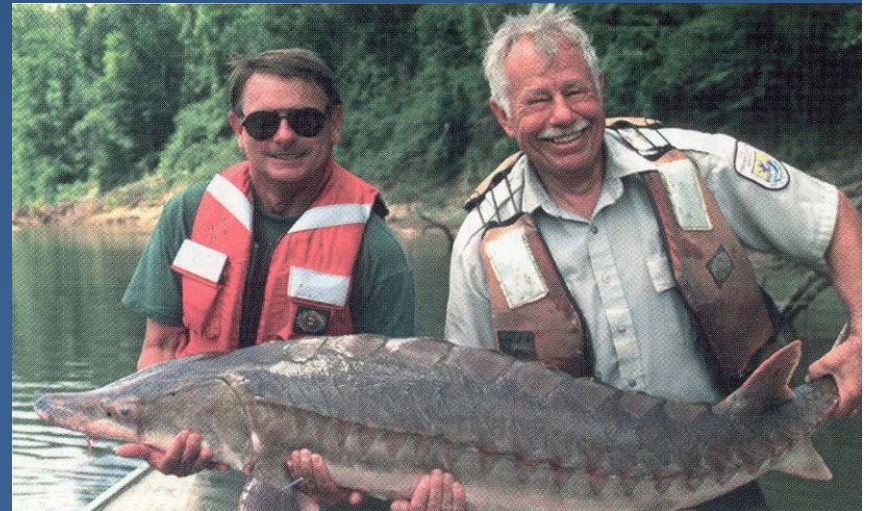
Any species in danger of extinction throughout all or a significant portion of its range



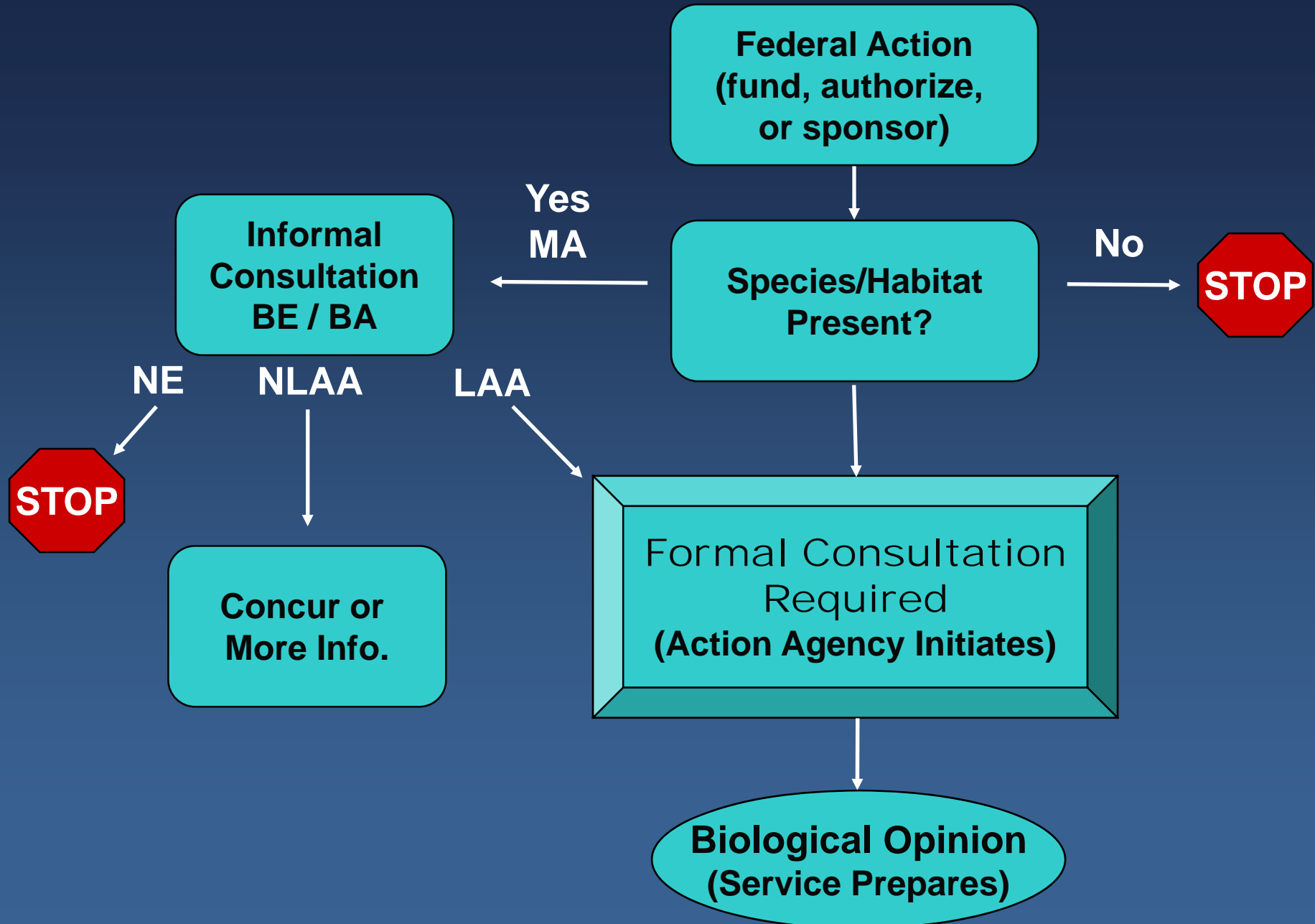
Definitions

- Threatened

Any species likely to become endangered in the foreseeable future in all or a significant portion of its range



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Formal Consultation

REQUIRED for any action that:

is likely to adversely affect a listed species or critical habitat



Should you fear formal consultation??

We're going
formal !!



- Goal – reduce impacts to 0 or until insignificant and discountable.
- Sometimes all impacts can't be avoided.
- Be realistic!

Formal Consultation Information Needs and Initiation



- ESA requires the action agency to provide the best scientific and commercial data available.
- Within 30 days, the Service provides written acknowledgment of consultation request and advises of any data deficiencies.

Formal Consultation – Time Requirements

- **Clock starts when adequate information is provided (i.e. BA, BE, etc.)**
- **Consultation - 90 days**
- **Biological Opinion - 45 days**



Information submitted by federal agency

- 1. Description of the action.**
- 2. Description of the specific area affected by the action.**
- 3. Description of the listed species/critical habitat that may be affected.**
- 4. Description of the manner in which they may be affected.**
- 5. Relevant reports prepared on the proposal.**
- 6. Other relevant studies or available information.**

Typical Biological Opinion

- **Describes the proposed action.**
- **Summarizes the status of the species and critical habitat.**
- **Describes the baseline.**
- **Determines effects of action including cumulative.**
- **Conclusion – jeopardy or adverse modification?**
- **Incidental take statement (with RPMs and T/Cs).**
- **Conservation recommendations.**

Jeopardy

“To engage in an action that would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.”

Destroy or adversely modify critical habitat

A direct or indirect alteration of physical or biological features (by a Federal action) that appreciably diminishes the value of critical habitat for the conservation of a listed species

(per 5th Circuit Court ruling,
revised rule being considered)



Moccasin Creek

Reasonable and Prudent Alternative

- A recommended alternative to avoid jeopardy of a listed species, or adverse modification of critical habitat.
- Must be consistent with the purpose of the project.
- RPA has Incidental Take Statement.
- Agency must inform Service of their next step.

Incidental Take Statement

- **Definition** – take that results from an otherwise lawful activity
- **Need** – to articulate the amount of take expected from the proposed action
- **Purpose of ITS** – minimize the effects of the action and provide action agency exemption



Reasonable and Prudent Measures

- All reasonable measures to avoid and minimize extent of take
- Mandatory
- Includes monitoring and reporting
- Must be consistent with basic design, location, scope, duration, or timing of action.

Terms and Conditions

Specific methods to accomplish each RPM

- Should be clear and precise
- These are mandatory and enforceable
- Specify salvage and disposition of species

U.S. Fish & Wildlife Service



Exclude access



Covered trash



Restricted parking



Pre-determined staging areas

RPAs versus RPMs

Reasonable and Prudent Alternatives are used only:

- **in jeopardy biological opinions**
- **in biological opinions that find adverse modification of critical habitat**

Biological Opinion

- **Draft BO is submitted to action agency for review**
- **Federal agency comments, completes consultation on reasonable and prudent measures**
- **Service entitled to a minimum of 10 days to final BO after receiving agency comments.**
- **Can be modified for minor project changes.**

Any questions?

