

**SOUTHEAST REGION
BIOLOGICAL OPINION FORMAT
2007**

Formal Consultation outline and content summary
BOLD type signifies standard language and outline headings.
This outline includes tables to list the species and the project impacts. Otherwise, it is identical to the outline from the Handbook.

The biological opinion presents information on the federally listed species beginning with the status of the species throughout its range, then the status of the species within the action area, and finally, the impacts of the proposed action on the species within the action area. The discussion within the BO should flow in this format and lead the reader to the same conclusion that the Service reached. The information necessary to reach that conclusion must be identified in the BO and not assumed to be known by the reader.

Address:

Salutation:

Introductory Paragraph:

This document is the Fish and Wildlife Service's (Service) biological opinion based on our review of the proposed [name or designation for the action] located in (County, State, and Marine Area as appropriate), and its effects on (species) per section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). Your (date) request for formal consultation was received on (date).

This biological opinion is based on information provided in the (date) biological assessment (or other title), the (date) draft environmental assessment (or environmental impact statement), the (date) project proposal, telephone conversations of (dates) with (names), field investigations, and other sources of information. A complete administrative record of this consultation is on file at (identify office).

Consultation History

This section presents a complete discussion of the history of Service involvement in this action, in chronological order with dates identified. It includes any informal consultation, prior formal consultations on the action, documentation of the date consultation was initiated, requests for additional data, extensions, and other applicable past or current actions. Conclusions reached in earlier informal and formal consultations on the proposed action also may be relevant. If so,

such conclusions should be documented in the biological opinion.

INSERT THE FOLLOWING INFORMATION AFTER THE ABOVE SECTION:

Service Log No: *Application No:* (Action Agency)
Date Started:(Initiation of formal consultation) **Ecosystem:**(identify by abbreviations)
Applicant: *Action Agency:*
Project Title:
County: (If there is a large number of counties, list them in the project description section but do not list them in the above section.)

Table ##. Species and critical habitat evaluated for effects and those where the Service has concurred with a Anot likely to be adversely affected@ determination.

SPECIES or CRITICAL HABITAT	PRESENT IN ACTION AREA	PRESENT IN ACTION AREA BUT ANOT LIKELY TO BE ADVERSELY AFFECTED@

The above species and critical habitat not impacted by this action will not be discussed further in this biological opinion.

BIOLOGICAL OPINION

NOTE: *Use the AHeadings@ as they are in this outline. Additional levels may be added but the levels within this outline must be used before you add new levels.*

DESCRIPTION OF PROPOSED ACTION

This section includes a complete description of the proposed action and the action area (area including all direct, indirect, and/or interrelated/interdependent effects to the species) that is the subject of the consultation. This should also summarize enough information for the reader to understand and evaluate the action under consideration in the biological opinion. Additionally, since a change in any portion of the proposed action could result in a need for reinitiation, be sure to include everything related to the project description that could result in an impact to the species. This may be the project design, conservation proposed, planning, education, or others. Be sure to include figures of the general project location and the specific project area.

NOTE: *This is a very important section because a change in the project description could result in a reinitiation of consultation. Therefore, make sure you include all project action that may affect listed species. By including a complete*

description, a new biologist can easily determine when reinitiation is necessary for a modified project.

If the Service determines that the action area differs from that described by the agency or applicant, the Service should discuss their rationale for the change with the agency or applicant. If appropriate, including a transition sentence clarifies why the action area was described in a manner differing from that provided by the action agency:

The Service has described the action area to include.... for reasons that will be explained and discussed in the AFFECTS OF THE ACTION@ section of this consultation.

A map of the action area must be included in the opinion.

STATUS OF THE SPECIES/CRITICAL HABITAT

Within the sub-headings below, this section presents the biological or ecological information necessary to write the biological opinion. This analysis documents the effects of all past human and natural activities or events that have led to the status of the species. When the Service' review focuses on the effects of the action on a discrete recovery unit or designated critical habitat unit, this section of the biological opinion describes the status of that unit and its significance to the species as listed or to the designated critical habitat. The underlined headings are topics that should be discussed under each sub-heading above them. However, these may not always have enough data to warrant their own listing as a heading in the BO.

Species/critical habitat description

Current range

Listing history/Legal status

Critical habitat/Primary constituent elements

Activities that impact the primary constituent elements

This section should briefly describe the species and/or critical habitat, discussing the current legal status of the species, including listing history and current known range of the listed species found in the action area. For critical habitat, the discussion should include the extent of designated critical habitat, the primary constituent elements identified in the final rule, and any activities, which have been identified as having the potential for altering the primary constituent elements.

Life history

Longevity

Demographics

Reproductive strategy

RecruitmentSeasonal distribution patternsBiogeographyFood habitsLife cyclePredators/competitors/disease factors

This section includes the life history variables that are relevant to jeopardy analyses. These variables help determine a species' population size, age distribution, sensitivity to a proposed action's effects, ability to recover from adverse effects, and ability to recolonize areas from which it has been extirpated. Relevant life history variables include, but are not limited to: longevity; age distribution; age to maturity; reproductive strategy (for example, the number of times mature individuals reproduce in a lifetime, or whether mature individuals reproduce sexually or asexually); recruitment; seasonal distribution patterns; biogeography; food habits; niche; life cycle; hosts and symbionts; predators and competitors; and disease factors.

Population dynamicsPopulation sizePopulation variabilityPopulation stability

This section discusses the most recent species information relating to population size, population variability, and stability. The level of discussion in this section will depend upon the detail and quality of the information available.

Status and distributionReason for listingRange-wide trendsThreatsRecovery criteria

This section discusses the reasons for listing, range-wide trends, and new threats to establish the environmental basis for the consultation.

Need to include the RECOVERY CRITERIA for each species here in the BO. If there is no recovery plan, indicate the recovery strategy for the species.

Include a list of previous biological opinions completed on these species. Use the table format below to identify all the opinions that have been completed on the species in this BO. This will take some time for the first opinions but for the species such as the manatee, scrub jay, and RCW we can add a few more opinions with each new BO. Only include opinions that identify incidental take.

Table (#). Biological Opinions within (identify the geographic area no smaller than the Field Office boundaries) **that have been issued for adverse impact to the** (species).

OPINIONS ¹ (yr/number)	SPECIES	NUMBERS ²	HABITAT ³	
			Critical Habitat	Habitat
TOTAL				

- 1 Year/Number of Opinions.
- 2 Identify the number of individuals of the species that will be lost.
- 3 Indicate acres, miles of stream or shoreline, etc., of critical habitat and non-critical habitat that would be lost or modified.

Analysis of the species/critical habitat likely to be affected

This section summarizes the previous discussion in “Status of the species/ critical habitat” and identifies those species or designated critical habitat likely to be adversely affected by the proposed action, which will be considered further in the remaining sections of the biological opinion. Other listed species/designated critical habitat present in the project area are also listed here along with the reasons they are not likely to be adversely affected. Since the Service concurs with the action agency's determination of "is not likely to adversely affect," a statement that those species will not be considered further in the consultation should be included.

NOTE: *The discussion of species that are **A**not likely to be adversely affected@ (as described in the previous two sentences) can be avoided at the discretion of the preparer, if the table was included under **A**Consultation History.@ If more discussion as to why the Service is concurring with a **N**LTA A determination, it would be discussed here.*

ENVIRONMENTAL BASELINE

The sub-headings within this section are an analysis of the effects of past and ongoing human and natural factors leading to the status of the species, its habitat (including designated

critical habitat), and ecosystem, within the action area. The environmental baseline is a "snapshot" of a species' health at a specified point in time. It does not include the effects of the action under review in the consultation.

NOTE: *Discussion within this section **MUST BE LIMITED TO** the biology and impacts that occur within the **Action area** that was identified at the end of the **DESCRIPTION OF PROPOSED ACTION** section.*

Status of the species within the action area

*Unless the species' range is wholly contained within the action area, this analysis is a subset of the preceding range-wide status discussion. **The purpose of this section is to provide a description of species condition or status within the defined action area.***

Factors affecting species environment within the action area

*This section includes an analysis describing factors affecting the environment of the species or critical habitat within the defined action area only. The environmental baseline includes State, tribal, local, and private actions already affecting the species or that will occur contemporaneously with the consultation in progress. **It also includes Federal activities that would occur at the same time within the action area and were previously reviewed under section 7.***

EFFECTS OF THE ACTION

The sub-headings within this section provide an analysis of the direct, indirect, and/or interrelated and interdependent effects of the proposed action, within the defined action area only, on the species and/or critical habitat.

The underlined headings are topics that should be discussed under each sub-heading above them. However, these may not always have enough data to warrant their own listing as a heading in the BO.

Factors to be considered

Proximity of the action

Distribution and timing of the action

Nature and duration of the effect

Disturbance frequency

Disturbance intensity

Disturbance severity

This section discusses proximity of the action; distribution and timing of the action; nature and duration of the effect; and the disturbance frequency, intensity, and severity. It does not include the effects of the action under review in the consultation.

Analyses for effects of the action

Beneficial effects

Direct effects

Indirect effects

Interrelated effects

Interdependent effects

This section discusses the beneficial effects, direct and indirect effects, and interrelated and interdependent effects of the proposed project on the species. Sufficient description of the proposed action should be included so that the subsequent analysis of effects and the scope of the opinion are clear.

Species' response to a proposed action

Numbers of individuals in action area

Species' sensitivity to change

Species' resilience

Species' recovery rate

This section includes a discussion of the numbers of individuals/populations in the action area, the species= sensitivity to change, resilience of the species, and the species= recovery rate.

CUMULATIVE EFFECTS

The standardized paragraph to introduce the cumulative effects section is:

Cumulative effects include the effects of future State, tribal, local or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation under section 7 of the Act.

The concept of cumulative effects is frequently misunderstood as it relates to determining likely jeopardy or adverse modification. Cumulative effects include effects of future State, tribal, local, and private actions, not involving a Federal action, that are reasonably certain to occur within the action area under consideration. Future Federal actions requiring separate consultation (unrelated to the proposed action) are not considered in the cumulative effects section. The cumulative effects analysis is the last step or factor considered in formulating the biological opinion. Sometimes, cumulative effects can be the deciding factor in determining the likelihood of jeopardy or adverse modification.

CONCLUSION

The conclusion section presents the Service' opinion regarding whether the aggregate effects of the proposed action are likely to jeopardize the continued existence of the species or result in

destruction or adverse modification of critical habitat. The standardized statement for introducing the conclusion section is as follows:

After reviewing the current status of (species), the environmental baseline for the action area [use if different from the range of the species], the effects of the proposed (action) and the cumulative effects, it is the Service's biological opinion that the (action), as proposed, (is/is not) likely to jeopardize the continued existence of the (species), and (is/is not) likely to destroy or adversely modify designated critical habitat. [If no critical habitat has been designated for the species or the action will not affect designated critical habitat, use one of the following statements.] No critical habitat has been designated for this species, therefore, none will be affected. -OR- Critical habitat for this species has been designated at (location), however, this action does not affect that area and no destruction or adverse modification of that critical habitat is expected.

The Conclusion section should summarize in a clear, concise manner the reasons for the finding(s) in terms of effects for each listed species or designated critical habitat. This section addresses only two issues: whether the proposed action is likely to (1) jeopardize the continued existence of a listed species or (2) result in the destruction or adverse modification of critical habitat.

REASONABLE AND PRUDENT ALTERNATIVES

[NOTE: Included only if there is a jeopardy determination. If the determination is non-jeopardy, see the Reasonable and Measure section below.]

NOTE: *The **AREASONABLE AND PRUDENT ALTERNATIVES;** @ **AREASONABLE AND PRUDENT MEASURES;** @ and **ATERMS AND CONDITIONS**@ must be coordinated with the action agency/applicant prior to the draft being sent to the Regional Office. A draft opinion must be provided to the Regional Office before its is provided to the action agency/applicant.*

This section lays out reasonable and prudent alternative actions, if any, that the Service believes the agency or the applicant may take to avoid the likelihood of jeopardy to the species or destruction or adverse modification of designated critical habitat. The action agency and the applicant (if any) must be given every opportunity to assist in developing the reasonable and prudent alternatives. The following standardized paragraphs are used in the Reasonable and Prudent Alternatives section:

Introductory paragraph:

Regulations (50 CFR ' 402.02) implementing section 7 of the Act define reasonable and prudent alternatives as alternative actions, identified during formal consultation, that:

- (1) can be implemented in a manner consistent with the intended purpose of the action;
- (2) can be implemented consistent with the scope of the action agency's legal authority and jurisdiction;
- (3) are economically and technologically feasible; and
- (4) would, the Service believes, avoid the likelihood of jeopardizing the continued existence of listed species or resulting in the destruction or adverse modification of critical habitat.

Closing paragraph:

Because this biological opinion has found (*jeopardy/destruction or adverse modification of critical habitat*), the (agency) is required to notify the Service of its final decision on the implementation of the reasonable and prudent alternatives.

INCIDENTAL TAKE STATEMENT

Incidental take statements exempt action agencies and their permittees from the Act's section 9 prohibitions if they comply with the reasonable and prudent measures and the implementing terms and conditions of incidental take statements. These terms and conditions implement reasonable and prudent measures designed to minimize the impact of incidental take on the species as described in the incidental take statement and are binding on the action agency.

In preparing an incidental take statement, the Service is responsible for documenting the amount or extent of take anticipated;

- (1) ***providing an estimate of incidental take in a format that is measurable (can be monitored);***
- (2) *writing reasonable and prudent measures with implementing terms and conditions that are clear, precise, and enforceable; and*
- (3) *including reporting requirements that assure timely compliance with the terms and conditions described.*

The following standardized statements are provided for each section of the incidental take statement.

NOTE: ***This section should be included in every opinion. If incidental take is identified or not prohibited, as for plants, then indicate that following the introductory paragraph.***

Introductory paragraph:

Section 9 of the Act and Federal regulation under section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill,

trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

The measures described below are non-discretionary, and must be undertaken by the (agency) so that they become binding conditions of any grant or permit issued to the (applicant), as appropriate, for the exemption in section 7(o)(2) to apply. The (agency) has a continuing duty to regulate the activity covered by this incidental take statement. If the (agency) (1) fails to assume and implement the terms and conditions or (2) fails to require the (applicant) to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the (agency or applicant) must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement. [50 CFR ' 402.14(I)(3)]

When the biological opinion finds jeopardy or adverse modification without a reasonable and prudent alternative, the introductory statement is as follows:

This biological opinion finds the proposed action will result in [likely jeopardy to the species/destruction or adverse modification of critical habitat], and no reasonable and prudent alternative can be identified. Any incidental taking is prohibited by section 9 of the Act.

If listed plant species are present in the action area, the following special provisions apply:

Sections 7(b)(4) and 7(o)(2) of the Act generally do not apply to listed plant species. However, limited protection of listed plants from take is provided to the extent that the Act prohibits the removal and reduction to possession of Federally listed endangered plants or the malicious damage of such plants on areas under Federal jurisdiction, or the destruction of endangered plants on non-Federal areas in violation of State law or regulation or in the course of any violation of a State criminal trespass law. [Include citations to any applicable State laws.]

AMOUNT OR EXTENT OF TAKE ANTICIPATED

This section outlines the amount of take anticipated from the action. Generally, incidental take is expressed as the number of individuals reasonably likely to be taken or the extent of habitat likely to be destroyed or disturbed. Guidance from the Regional Solicitor has indicated that direct take must identify a specific number of individuals anticipated to be taken. Indirect take may indicate the take of other than specific individuals but the opinion must lay the ground work that fully supports the loss of individuals as a result of the identified destruction.

NOTE: *When the direct loss of individuals cannot be measured (or monitored), an index of incidental take may be substituted. This index must be directly related to the incidental take of the species and explained within the biological opinion. This index of incidental take must be able to be measured and monitored.*

Standardized statements:

Incidental take statement when no take is anticipated (jeopardy or non-jeopardy opinion):

The Service does not expect the proposed action will incidentally take any (species).

Incidental take statement for a biological opinion of likely jeopardy when incidental take is anticipated:

For opinions with only one reasonable and prudent alternative:

The Service has developed the following incidental take statement based on the premise that the reasonable and prudent alternative will be carried out.

For opinions with more than one reasonable and prudent alternative, provide separate estimates of anticipated take for each reasonable and prudent alternative, as appropriate:

The Service has developed the following incidental take statement based on the premise that reasonable and prudent alternative number XX will be carried out.

Introductory statement for amount and extent of take (jeopardy or non-jeopardy opinion):

The Service expects [number of individuals or extent of habitat resulting from take of (species)] could be taken as a result of this proposed action. The incidental take is expected to be in the form of (harm, harass, kill, etc.). [Separately specify each type of take anticipated.]

[Provide a concise summary of the analysis leading to this determination.]

OR

The Service expects incidental take of (species) will be difficult to detect for the following reason(s): *[Incidental take of actual species numbers may be difficult to detect when the species*

- (1) *is wide-ranging;*
- (2) *has small body size;*
- (3) *finding a dead or impaired specimen is unlikely;*
- (4) *losses may be masked by seasonal fluctuations in numbers or other causes (e.g., oxygen depletions for aquatic species); or*
- (5) *the species occurs in habitat (e.g., caves) that makes detection difficult].*

However, the following level of take of this species can be expected by loss of *[quantify amount of substitute species, food, cover, other essential habitat element such as water quantity or quality, or closely associated species]* **because:** *[provide an explanation]. Make sure it is understood how take will be monitored, if the number of individuals is not how take is measured.*

Separately identify each type of incidental take anticipated.

Harm: *significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering.*

" 'Harm' in the definition of 'take' in the Act means an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering."

Harass: *actions, other than habitat modifications, that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering.*

ATake@ also has other actions identified: pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in such conduct. However, most of these are not likely to result in Aincidental@ take. If you have a project that would result in take by one of these actions, identify it here in the BO.

INSERT A TABLE HERE TO IDENTIFY THE NUMBER OF INDIVIDUALS FOR EACH SPECIES.

[Use the following table for number of individuals. Make sure it is understood that the number of individuals identified is not how the BO will be monitored.

TABLE ##. The estimated number of individuals and amount of critical habitat affected for the proposed project, based on the best available commercial and scientific

information.

SPECIES	INDIVIDUALS*	TAKE TYPE	CH DESTROYED

* *If the actual number of individuals cannot be determined, indicate an approximate number based on best science and indicate in the following table what will indicate an exceeding of the level of take.*

TABLE ##. How the incidental take will be monitored if the specific number of individuals cannot be determined. This will be based on the best available commercial and scientific information.

SPECIES	CRITICAL HABITAT	HABITAT	OTHER

If you do not have CH or one of the other columns used, you may delete that column and expand the others for more room to identify take.

EFFECT OF THE TAKE

The following statement should be made when the biological opinion finds likely jeopardy/adverse modification, and no reasonable and prudent alternative is available.

Because the proposed action is (1) likely to jeopardize the continued existence of (species) or result in the destruction or adverse modification of critical habitat, and (2) no reasonable and prudent alternatives have been identified, any incidental take resulting from the proposed action would be prohibited.

The proposed action is not likely to result in jeopardy/adverse modification:

In the accompanying biological opinion, the Service determined that this level of expected take is not likely to result in jeopardy to the species or destruction or adverse modification of critical habitat.

The opinion contains reasonable and prudent alternatives:

In the accompanying biological opinion, the Service determined that this level of expected take is not likely to result in jeopardy to the species or destruction or adverse modification of critical habitat when [one of] the reasonable and prudent alternative[s] is carried out.

REASONABLE AND PRUDENT MEASURES

[Included in all opinions: opinions without incidental take would include a statement that no incidental take will occur as a result of the proposed action; or for incidental take, the opinion will include the RPMs and Terms and Conditions to identify what must be done and the amount of incidental take that will occur.]

This section includes those nondiscretionary measures that are necessary and appropriate to minimize the impact of the identified incidental take. Under reasonable and prudent measures, the general action required to minimize the impact of the incidental take is outlined.

NOTE: *The **AREASONABLE AND PRUDENT MEASURES@** and **ATERMS AND CONDITIONS@** must be coordinated with the action agency/applicant prior to providing them a draft to review.*

Standardized introductory paragraph for reasonable and prudent measures for species other than marine mammals and migratory birds:

The Service believes the following reasonable and prudent measure(s) are necessary and minimize impacts of incidental take of (species): *[Go on to list these measures and provide a brief discussion documenting the Service's analysis of the biological need for, and reasonableness of, these measures.]*

NOTE: *The **AREASONABLE AND PRUDENT MEASURES@** must be brief and include a few sentences to discuss the biological need for and reasonableness of each measure. This justification may have been discussed earlier in the opinion and that discussion may be referenced here.*

TERMS AND CONDITIONS

This section identifies the specific methods by which the reasonable and prudent measures are to

be accomplished. Under terms and conditions the details of the management, research, land acquisition, etc. are identified and they must include reporting and monitoring requirements that assure adequate action agency oversight of any incidental take. The monitoring must be sufficient to determine if the amount or extent of take is approached or exceeded, and the reporting must assure that the Service will know when that happens.

NOTE: *The **ATERMS AND CONDITIONS@** must follow the same order as the **AREASONABLE AND PRUDENT MEASURES@** and be in the same order. This section must not include any action that does not directly relate to a **AREASONABLE AND PRUDENT MEASURE.@***

Standardized introductory paragraph for terms and conditions:

In order to be exempt from the prohibitions of section 9 of the Act, the (agency) must comply with the following terms and conditions, which carry out the reasonable and prudent measures described above and outline required reporting/monitoring requirements. These terms and conditions are non-discretionary.

[Go on to list these terms and conditions, including the requirements for monitoring, reporting, review, [see 50 CFR 402.14(I)(v)(3)]].

Upon locating a dead, injured, or sick individual of an endangered or threatened species, initial notification must be made to the Fish and Wildlife Service Law Enforcement Office at (identify the nearest office). Additional notification must be made to the Fish and Wildlife Service Ecological Services Field Office at (identify responsible office). Care should be taken in handling sick or injured individuals and in the preservation of specimens in the best possible state for later analysis of cause of death or injury.

Closing Paragraph:

The reasonable and prudent measures, with their implementing terms and conditions, are designed to minimize the impact of incidental take that might otherwise result from the proposed action. The Service believes that no more than (number or extent) of (species) will be incidentally taken. If, during the course of the action, this level of incidental take is exceeded, such incidental take represents new information requiring reinitiation of consultation and review of the reasonable and prudent measures provided. The Federal agency must immediately provide an explanation of the causes of the taking and review with the Service the need for possible modification of the reasonable and prudent measures.

INSERT A TABLE HERE TO IDENTIFY THE RPM INCIDENTAL TAKE FOR EACH

SPECIES. (We are not required to do this in a BO at this time. However, if we do not provide this number, we will not know what we have actually exempted. Additionally, since we cannot always determine a number of species that may be taken we have to identify some index that is required for their existence and we can identify the amount of that which may be impacted. This is the how we would monitor incidental take and know when we need to reinitiate consultation.)

TABLE ##. Summary of anticipated incidental take and estimated take following the implementation of the RPMs.

<i>SPECIES</i>	<i>INDIVIDUALS</i>	
	<i>Project Take Level</i>	<i>RPM Take Level**</i>

****** *The take level with implementation of the RPMs.*

TABLE ##. The amount of adversely affected critical habitat and critical habitat impact because of the implementation of the RPMs.

<i>SPECIES</i>	<i>CRITICAL HABITAT</i>		
	<i>On Project Site</i>	<i>Amount Adversely Affected by Project</i>	<i>Amount Impacted with RPM Implementation**</i>

****** *This will allow easy identification of the reduction of project take because of implementation of the RPMs.*

TABLE ##. The index to monitor the level of incidental take exempted and how much the RPMs reduced that level of take.

SPECIES	HABITAT			OTHER	
	Amount Present on Project Site	Amount Project Destroyed or Impacted	Amount that RPM=s Lowered the Level of Impact**	Amount Project Impacted	RPM Lowered**

** *The amount of habitat or other measurement reduced because of implementation of the RPMs.*

COORDINATION OF INCIDENTAL TAKE STATEMENTS WITH OTHER LAWS, REGULATIONS, AND POLICIES

The incidental take statement for any section 10(a)(1)(B) permit application includes the following standardized language which would replace the second paragraph in the standardized introductory paragraph language. Appropriate changes may be made in the wording of the following paragraphs when consulting on any subsequent amendments to the permit.

The proposed [name] HCP and its associated documents clearly identify expected impacts to affected species likely to result from the proposed taking and the measures that are necessary and proper to minimize those impacts. All conservation measures described in the proposed HCP, together with the terms and conditions described in any associated Implementing Agreement and any section 10(a)(1)(B) permit or permits issued with respect to the proposed HCP, are hereby incorporated by reference as reasonable and prudent measures and terms and conditions within this Incidental Take Statement under 50 CFR ' 402.14(I). Such terms and conditions are non-discretionary and must be undertaken for the exemptions under section 10(a)(1)(B) and section 7(o)(2) of the Act to apply. If the permittee fails to adhere to these terms and conditions, the protective coverage of the section 10(a)(1)(B) permit and section 7(o)(2) may lapse. The amount or extent of incidental take expected under the proposed [name] HCP, associated reporting requirements, and provisions for disposition of dead or injured animals are as described in the HCP and its accompanying section 10(a)(1)(B) permit[s].

Migratory birds including bald eagles

Include, when appropriate, the following language into any section 7 incidental take statement

concluding that take of listed migratory birds (including the bald eagle) will result from the actions under consultation:

The Fish and Wildlife Service will not refer the incidental take of any migratory bird or bald eagle for prosecution under the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. ' ' 703-712), or the Bald and Golden Eagle Protection Act of 1940, as amended (16 U.S.C. ' ' 668-668d), if such take is in compliance with the terms and conditions (including amount and/or number) specified here.

Marine mammals

Consistent with the Act and regulations at 50 CFR ' 402.14(i), incidental take statements for marine mammals are not included in formal consultations until regulations, authorizations, or permits under MMPA 101(a)(5) are in effect.

Standard paragraph for incidental take of marine mammals: [If the incidental take is not authorized under MMPA 101(a)(5):]

The Service is not including an incidental take authorization for marine mammals at this time because the incidental take of marine mammals has not been authorized under section 101(a)(5) of the Marine Mammal Protection Act and/or its 1994 Amendments. Following issuance of such regulations or authorizations, the Service may amend this biological opinion to include an incidental take statement for marine mammals.

After area-specific or activity-specific regulations have taken effect:

Under to section 101(a)(5) of the Marine Mammal Protection Act, as amended in 1994, and carrying out regulations at 50 CFR ' 18.27, and 50 CFR ' 216 and ' 229, the following measures are required to be consistent with the total taking allowable under the MMPA authorization and to effect the least practical adverse impact on the species and its habitat and on the availability of the species for subsistence uses: [Cite measures identified in specific regulations and/or letters of authorization or permits for commercial fishing]. Under section 7(b)(4) of the Endangered Species Act, the following reasonable and prudent measures are necessary and proper to minimize take: [Go on to list the measures, followed by the standard paragraph for terms and conditions.]

CONSERVATION RECOMMENDATIONS

This section identifies the discretionary actions the action agency can implement, relevant to the proposed action and consistent with their section 7(a)(1) authority, voluntary conservation

recommendations may be included as a separate item in the consultation package. Wherever possible, these actions should be tied to tasks identified in recovery plans. Conservation recommendations may be provided separately or at the end of the consultation package, but they are not incorporated anywhere in the biological opinion or incidental take statement where they may be confused with the opinion or statement itself.

NOTE: *This section should be included in every opinion. If no conservation recommendations are identified, indicate that below the introductory paragraph.*

Standardized paragraphs for conservation recommendations:

Introductory paragraph:

Section 7(a)(1) of the Act directs Federal agencies to use their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help carry out recovery plans, or to develop information.

Closing paragraph:

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, the Service requests notification of the conservation recommendations carried out.

REINITIATION NOTICE

The standard closing statement of the formal consultation package is as follows:

This concludes formal consultation on the action(s) outlined in the (request/reinitiation request). As written in 50 CFR '402.16, reinitiation of formal consultation is required where discretionary (indicate agency) involvement or control over the action has been retained (or is authorized by law) and if:

- (1) the amount or extent of incidental take is exceeded; [NOTE: Insert the amount of take/index that is to be monitored.]**
- (2) new information reveals effects of the (indicate agency) action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion;**
- (3) the (indicate agency) action is later modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or**

- (4) a new species is listed or critical habitat designated that may be affected by the action.

In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease until reinitiation.

LAST PARAGRAPH OF BO

For this biological opinion the incidental take would be exceeded when the take exceeds (identify the number of individuals or habitat for each species) which is what has been exempted from the prohibitions of section 9 by this opinion. The Service appreciates the cooperation of the (INSERT AGENCY) during this consultation. We would like to continue working with you and your staff regarding this project (IDENTIFY THE PROJECT NAME). For further coordination please contact (IDENTIFY CONTACT AND CONTACT TELEPHONE NUMBER) of this office.

Signature Block

LITERATURE CITED

Citations included in text should comply with the CBE Style Manual. Bibliographic references should use the following formats:

Single author: book.

Tobin, R. 1990. The expendable future: U.S. politics and the protection of biological diversity. Duke University Press; Durham, North Carolina.

Multiple author: book.

Pickett, S.T.A. and P.S. White. 1985. The ecology of natural disturbance and patch dynamics. Academic Press, Inc.; New York, New York.

Scientific papers (spell out the entire name of the journal).

Ahlgren, I.F. and C.E. Ahlgren. 1960. Ecological effects of forest fires. Botanical Review 46:304-310.

Unpublished reports (biological assessments, status surveys, section 6 reports, etc.). Cite the document as unpublished. Also include the author's name and the group it was prepared for, as well as their location.

Helms and Associates. 1992. Results of a diving mussel survey conducted at the Pattison Brothers, Inc. and Ag Products Co. facilities near Clayton, Iowa. Unpublished report prepared for Pattison Brothers, Inc.; Clayton, Iowa.

Personal communication. Include title, company, office, city and state.

Campbell, T. 1992. Personal communication. Biologist. Environmental Project Office, Naval Air Weapons Station. China Lake, California.

Review a Citation in each BO: If the citation is more than 3-years old check for accuracy. If you are not the party receiving the communication, check for accuracy. If the communicator cannot be located to confirm the accuracy, delete the citation. Replace with a reference from a scientific journal as soon as it becomes available.

Personal observation. Include title, company, office, city and state.

Bransfield, R. 1987. Personal observation. Fish and Wildlife Biologist. Ecological

Services Ventura Field Office, U.S. Fish and Wildlife Service, Ventura, California.

Unpublished Data:

Jones, J. [*date data gathered*]. Unpublished Data. [*data location*]. [*organization with data*]. City, State.

Review a Citation in each BO: Review with each BO to make sure the data has not been published or that any published data has not put the data in dispute.

In Literature:

Jones, J. [*date or letter or e-mail*]. In Literature. [*party communicated with*]. [*subject matter*]. [*Johnston's position*], [*employer*], City, State

Review a Citation in each BO: Review with each BO to make sure the data is still correct and the documents are in the file. If a scientific journal reference becomes available, replace this citation.

In Press:

Jones, J. [*date document accepted for publication*] In Press. [*article title*]. [*publication*].

Review a Citation in each BO: Review status at each BO until the article has been published.

In Review:

Jones, J. [*date document accepted for review*] In Review. [*article title*]. [*publication*].

Review a Citation in each BO: Review status at each BO until the article is cited as "In Press" or has been published.