

# Threatened and Endangered Species Review and Assessment Process

National Environmental Policy Act (NEPA)



# NEPA

NEPA requires, to the fullest extent possible that the policies, regulations, and laws of the Federal Government be interpreted and administered in accordance with its environmental protection goals. NEPA also requires Federal agencies to use an interdisciplinary approach in planning and decision making for any action that adversely impacts the environment.

*Environmental Review Toolkit, NEPA of 1969 – US DOT*

# History

2011 – MDNR announced that they no longer provide T&E species reviews

April 2012 – FHWA Letter to MDOT to establish a State Threatened and Endangered Species Consultation Process

Subcommittee formed in 2012

# T&E Subcommittee

- Brad Knight – Oakland County Road Commission
- Tom Hohm – Kalamazoo County Road Commission
- Craig Atwood – Allegan County Road Commission
- Karl Hanson – Wexford County Road Commission
- Mike O'Malley – Michigan DOT Environmental
- Dave Schuen – Michigan DOT Environmental
- Rudy Cadena – Michigan DOT LAP
- Mark Harrison – Michigan DOT LAP

# Legislation

- Endangered Species Act (Federal Threatened and Endangered Species)

The Endangered Species Act (ESA) directs all Federal agencies to work to conserve endangered and threatened species. Section 7 of the Act, called "Interagency Cooperation," is the mechanism by which Federal agencies ensure the actions they take, including those they fund or authorize, do not jeopardize the existence of any listed species.

- State Endangered Species Act

Part 365 of Public Act 451

# Program Application

## ENVIRONMENTAL EVALUATION:

MI. Dept of Natural Resources (MDNR) (<http://www.michigan.gov/dnr>)

Within Project Limits    If Within Project Limits

State and/ or Federal National Wild & Scenic River

No    Yes                      No Impact    Impact  
                             

**State and/ or Federal Endangered Species or Habitat, Michigan Natural  
Feature Inventory**

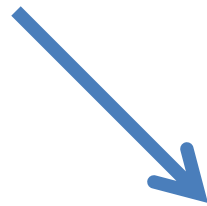
P.A. 116 Agricultural Land

Section 6(F) Properties

# NEPA Process

- Categorical Exclusion



Requires a Documented  
Environmental Review

- Environmental Assessment  FONSI

FONSI = Finding of No Significant Impact

- Environmental Impact Study

# Process

- Under the NEPA process agencies are required to review and document potential environmental impacts to the project site to avoid or mitigate impacts to Threatened or Endangered Species.



# T & E Species



# Environmental Review and Permitting



# Process

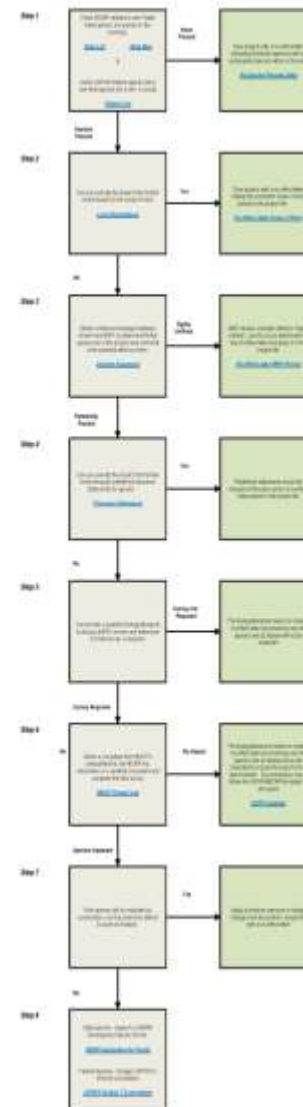
To simply explain the process a flow chart has been devised to provide the steps necessary.

The yellow cells are questions or considerations regarding your project.

The green cells represent the action required and provide required documentation.

The following slides are examples of projects, and samples of memos to file and coordination clauses for your bid documents.

THREATENED AND ENDANGERED SPECIES REVIEW AND ASSESSMENT PROCESS



# Documented Process

- Review of Scope of Work
- Study of Potential Impacts
- Contact to respective agency if necessary
- Field Inspection review if necessary
- Documentation of process and finding (clearance)

# Critical Habitat

Michigan  
Natural  
Features  
Inventory



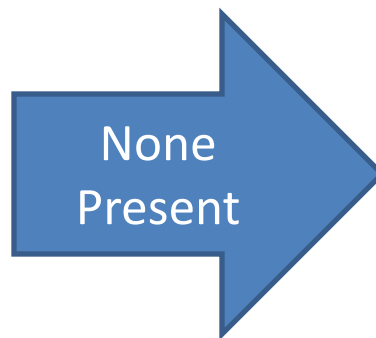
# Step 1

Check MDNR website to see if state listed species are present in the Township

[State List](#)   [State Map](#)

Check USFWS federal species list to see what is listed in the county

[Federal List](#)



Clear project with a no effect letter indicating that both agencies cite no endangered or threatened species within the area.

[No species Present Letter](#)

If present move down.

# Step 1

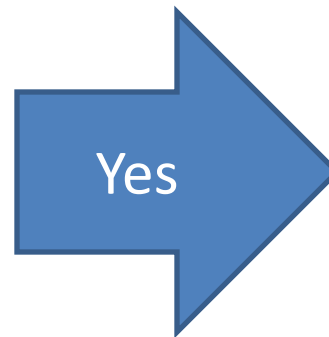
## MDNR and USFWS Websites

- <http://www.mcgi.state.mi.us/esa/>
- <http://www.fws.gov/midwest/endangered/section7/sppranges/michigan-cty.html>

# Step 2

Can you exempt the project from further review based upon the scope of work?

[Check Exempt Scoping List](#)



Clear project with a no-effect letter stating the exempted scope of work.  
Place letter in the project file.

[No-effect Letter Scope of Work](#)





## Exempt Project – based upon work type

- Resurfacing, milling and profiling, with minor curb and gutter work – all work within the existing roadway pavement.
- Crush, shape and resurface within the existing pavement.
- Signing pavement parking and traffic signals
- Preventive maintenance including pavement joint repair crack seal, and chip seal.
- Repair and Replacement of guardrail in kind.
- Railroad crossing replacements
- Bridge deck overlay or replacement (manage hydrodemolition)
- Bridge painting

# Step 2

Note: The vast majority of Local Agency Projects may be submitted at this step.

- Minimal Time investment
- Minimal Cost
- No impact to project schedule
  
- ❖ Sample Letter – [Hyperlink](#)

# Step 3

Obtain a Natural Heritage Database review from MNFI to determine if/what species are in the project area and potential of effect on them.

Scoping Document



MNFI review indicates potential to effect is “highly unlikely,” then place the statement and letter in the project file.

No- effect letter  
MNFI Review



# Step 3

- See Scoping Document
- Cover Letter to MNFI

[www.msue.anr.msu.edu/programs/michigan\\_natural\\_features\\_inventory/](http://www.msue.anr.msu.edu/programs/michigan_natural_features_inventory/)

# MNFI PROJECT SCOPING INFORMATION

## THREATENED AND ENDANGERED SPECIES

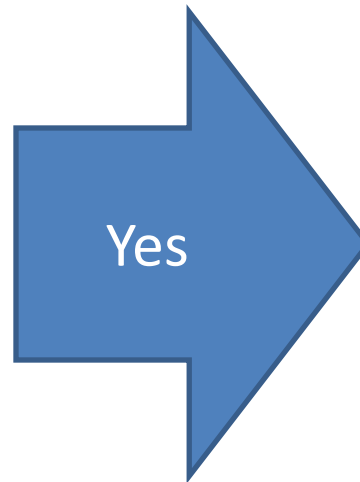
- 1) Project information:
  - a) Name of Project:
  - b) Location:
  - c) Contact Person:
- 2) Description of width and length of proposed ground disturbing activity:
  - 1) (*Width*)
  - 2) (*Length*)
- 3) Will any ground disturbing activity occur outside the existing shoulders or curbs? YES \_\_\_ NO \_\_\_
- 4) Will all ground disturbing activities stay within the existing road footprint (from centerline of ditch to centerline of ditch)? YES \_\_\_ NO \_\_\_
- 5) Will any ground disturbing activity occur outside of the existing Right-of-Way (ROW)?  
YES \_\_\_ NO \_\_\_ (if yes, describe)
  - a) (*Description*)
- 6) Describe the limits of the defined area of disturbance:
- 7) Will the project require any temporary or permanent easements? YES \_\_\_ NO \_\_\_
- 8) Will this project require any tree removal or involve any vegetation clearing? YES \_\_\_ NO \_\_\_
- 9) Will this project require a NPDES permit? YES \_\_\_ NO \_\_\_

- 10) Will there be any drainage work associated with this project? YES NO (if yes, describe)  
a) *(Type of drainage work – culvert extensions, ditching, curb and gutter replacement, etc.)*
- 11) Does this project involve any bridge work? YES \_\_\_ NO \_\_\_ (if no, proceed to question 15)
- 12) Is the bridge over water? YES \_\_\_ NO \_\_\_
- 13) Will there be any work completed in the water? YES \_\_\_ NO \_\_\_ (if yes, describe)  
a) *(Description)*
- 14) Will there be any excavation below the bridge or the bridge structure? YES \_\_\_ NO \_\_\_
- 15) What is the **current** land use and conditions surrounding the project area?  
a) *(Current land use and conditions)*
- 16) What is the **proposed** land use and conditions after the project is completed?  
a) *(Future land use and conditions)*
- 17) What are the **current** maintenance practices within the existing ROW of the proposed project?  
a) *(Mowing, spraying, clearing, etc.)*
- 18) Will the proposed project change the current maintenance practices after the project is completed? YES \_\_\_ NO \_\_\_ (if yes, describe)  
a) *(Description)*

# Step 4

Can you exempt the project from further review through predefined clearance statements?

[Clearance Statements](#)



Predefined statements should be included in the plans and place the statement and a no-effect letter in the project file.

[No-effect letter](#)



# Work Restriction Example

- Include Notice To Bidders in Proposal if one of the Following migratory (or mobile) species is shown to be present.
- Indiana Bat – If it is determined that the impacted trees are not the only suitable habitat then they may be removed during the non- restricted time period.



# Step 5

Consult with a qualified biologist/botanist to discuss MNFI review and determine if a field survey is required.

See qualified list below.



The biologist needs to create a no-effect letter documenting why the species and its habitat will not be impacted.

Place in file



# Qualified Consultants

- MDOT List is available on the MDOT website.
- Note: Engineer may check universities, or other public agencies as other biologist may be available. Qualifications must be documented.

# Step 6

Select a consultant biologist/botanist from MDOT's prequalified list, the MDNR list, or a qualified consultant and complete the field survey.

[MDOT Prequal list](#)



The biologist needs to prepare a report / no-effect letter documenting why the species and its habitat will not be impacted.

Place in file.



# Step 6

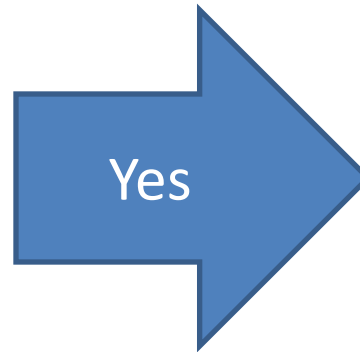
See United States Fish and Wildlife Service website for more information.

<http://www.fws.gov/midwest/endangered/section7/s7process/step1.html>

**Note:** For Bridge projects allow two year lead time to allow for field review according to field review protocol. Your biologist must obtain the USFWS or DNR protocol.

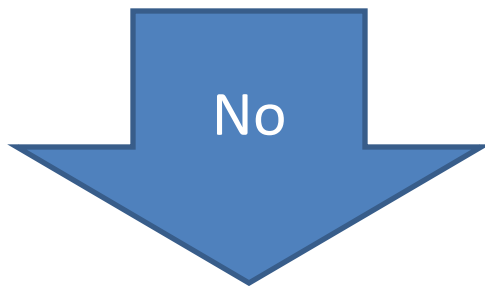
# Step 7

If the field survey indicates that the species will be impacted by construction, then can the project be altered to avoid impacts?



Apply avoidance measures or design changes and document the changes with a no-effect letter.

[Place in file](#)



# Step 8

State species- apply for a MDNR  
Endangered Species Permit

[MDNR Application for Permit](#)

Federal Species – engage USFWS  
in consultation.

[USFWS Section 7 Consultation](#)

- This process may involve species relocations or mitigation. Agencies indicate that this may not typically be approved, and may possibly cause the project to be delayed or to not proceed.

# Other Concurrent Steps

- Obtain MDEQ Joint Permit – wetland or structure (Part 404 check)
- Submit Notice of Coverage (SESC)



# Sample Projects: Craig Atwood and Karl Hanson





**Thank You!!!!**

Questions?