

Consultation and Habitat Conservation Planning

		2006 Actual	2007 CR	2008			Change From 2007 (+/-)
				Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
Consultation & Habitat Conservation Planning	\$(000) FTE	47,997 424	49,337 429	+1,741	+500 +4	51,578 433	+2,241 +4

Summary of 2008 Program Changes for Consultation and Habitat Conservation

Request Component	Amount	FTE
• Green River Basin Initiative	+500	+4
Total, Program Changes	+500	+4

Justification of 2008 Program Changes

The 2008 budget request for Consultation is \$51,578,000 and 433 FTE, a net program change of +\$500,000 and +4 FTE from the 2007 President’s Budget.

Green River Basin Initiative (+\$500,000/+4 FTE) – The requested funding would be used to expand Consultation activities in the Green River Basin of southwestern Wyoming where there is a critical need to coordinate energy development and species conservation across land ownerships. This is key component of the Secretary’s Healthy Lands Initiative. This landscape is home to both rapid large-scale development and to more than 800 species of which 279 are considered at-risk and 16 are federally listed under the Endangered Species Act (ESA). Conservation and reclamation efforts to date have been focused locally in developed areas and not coordinated or considered on the scale necessary to ensure an accurate representation of a viable landscape. Thus, a coordinated, long-term, landscape-scale conservation initiative is necessary to properly assess and ensure the long-term health of the Wyoming landscape and in doing so conserve the species that depend on the landscape so that the need to list them under ESA is minimized. The Green River Basin Initiative is a landscape-level collaborative effort between the Service, Bureau of Land Management, U.S. Geologic Service and Wyoming Game and Fish Department. This collaboration will facilitate consultations in the Green River Focus Area to facilitate energy and other projects in a manner that is compatible with threatened and endangered species conservation. As a result of this effort and due to the time required for planning and analysis, the Service anticipates improved timeliness in energy consultations in Wyoming in the future.

Program Performance Change¹

	2004 Actual	2005 Actual	2006 Actual	2007 CR ²	2008 Base Budget (2007 PB + Fixed Costs)	2008 Plan	Program Change Accruing in 2008 ¹	Program Change Accruing in Outyears
					A	B=A+C	C	D
19.1 Percent of formal and informal energy consultations addressed in a timely manner (18.10) (BUR)	n/a	n/a	85% (2,886/ 3,380)	79% (2,560/ 3,224)	76% (2,438/ 3,224)	76% (2,438/ 3,224)	-3% (-122/+0)	+2% (+86/0)
Total Actual/Projected Cost (\$000)	n/a	n/a	\$2,017	\$1,833	\$1,790	\$1,790	----	
Actual/Projected Cost Per Site (whole dollars)	n/a	n/a	\$699	\$716	\$734	\$734	----	

¹ The performance and cost data in the 2007 CR column is presented at the 2007 plan level, which is based upon a projection of 2007 likely enacted made during the first quarter of 2007. The 2008 plan builds on the 2007 plan. To the extent Congress enacts a 2007 appropriation that is different from the 2007 projection, the 2008 plan may require revision.

Note: Projected costs may not equal program change as these are full costs, which may include funds from other sources and (or) use averages.

Column A: The level of performance and costs expected in 2008 at the 2007 President's budget level plus funded fixed costs. Reflects the impact of prior year funding changes, management efficiencies, absorption of prior year fixed costs, and trend impacts, but does not reflect the proposed program change.

Column D: Outyear performance beyond 2008 addresses lagging performance — those changes occurring as a result of the program change (not total budget) requested in 2008. It does not include the impact of receiving the program change again in a subsequent outyear.

¹ The program is developing new long-term outcome and annual output performance measures as a result of a PART review conducted in 2005. The new measures may replace or revise the measure included in this table.

² Performance improvements will not take place in the first year of funding because funding will be dedicated to development of the Wyoming Landscape Conservation Initiative and other planning efforts, which will facilitate timely consultations in 2009 and later years for energy and other projects in a manner that is compatible with listed species conservation.

Program Overview

The Consultation program is the primary customer service component of the Endangered Species program and makes an important contribution to the Service's resource use and resource protection mission goals. The Consultation program includes two primary components, the Section 10 Habitat Conservation Planning program and the Section 7 Consultation program. The Service works with private landowners and local and state governments through the Habitat Conservation Planning program to develop Habitat Conservation Plans (HCPs) and their associated Incidental Take Permits. By working with non-federal entities to develop and implement HCPs, the Service identifies conservation measures to benefit species and habitats promoting the stabilization and improvement of endangered, threatened, and species at-risk. The Service works with federal agencies and project applicants through the Section 7 Consultation program to ensure the activities they carry out, fund, or authorize are compatible with the conservation needs of listed species. The Service's Consultation program embodies the "Four C's," conservation through cooperation, consultation, and communication. Service personnel actively work with State and local partners to achieve common conservation goals.

Section 10(a)(1)(B) - Habitat Conservation Planning

Section 10(a)(1)(B) of the Endangered Species Act (ESA) provides for the permitting of the incidental take of threatened and endangered species. The Service's incidental take permit program is a flexible process for addressing situations in which a property owner's otherwise lawful activities might result in incidental take of a listed species. Using the best scientific information available, non-federal entities develop HCPs as part of the application requirements for an incidental take permit. The HCP program encourages applicants to explore different methods to achieve compliance with the ESA and choose an approach that best suits their needs while addressing ESA compliance. The HCP program's major strength is that it encourages locally developed solutions to wildlife conservation while providing certainty to permit holders. Local entities and private landowners are given assurances they will not be required to make additional commitments of land, water, or money, or be subject to additional restrictions on the use of land, water, or other natural resources, for species adequately covered by a properly implemented HCP.

HCPs vary widely in complexity, size, and number of species addressed. While the program has existed since 1983, it has grown in recent years with nearly 49 million acres of land covered by HCPs at the end of fiscal year 2006, compared to about 6 million acres at the beginning of fiscal year 1999. Over 350 HCPs are currently under development or awaiting approval. HCP planning areas can be as small as a single, private residential property of less than an acre, or as large as entire counties or, in some cases, entire States. Integration of the HCP process with local land-use planning occurs more frequently. Many local governments recognize the advantages of integrating planning needs and have taken the planning approach beyond just endangered species issues to comprehensively address environmental issues.

To foster landscape- and ecosystem-level approaches to planning, the Service encourages applicants for Section 10 permits to address multiple species, including proposed and candidate species as well as listed species, in their HCPs. Including candidate and species at-risk in their HCPs gives landowners and local governments the opportunity to take a more holistic approach to conservation and to minimize future conflicts. This type of regional planning benefits numerous species within an ecosystem and streamlines ESA compliance for the small landowners within the planning area. In addition, by covering candidate and species at-risk in an HCP, landowners can avoid potential future disruptions in project planning and implementation, should one or more of these covered, unlisted species be listed.

Service involvement in the HCP process does not end once an HCP is approved. We often participate on HCP implementation steering committees, and provide additional technical support for managing and operating conservation programs. We also work with permittees to monitor compliance as well as process HCP amendments and renewal requests. In addition, we monitor HCPs to determine whether the mitigation strategies are effective and whether the anticipated effects are actually occurring, and assist permittees in implementing their adaptive management strategies. Results are periodically assessed, and, if shortcomings are evident, previously agreed-upon alternative strategies are implemented, thereby reducing conflict between the Service and permittees regarding ESA compliance.

Adaptive management is used by applicants and the Service to develop effective, flexible HCPs. Creating results-based HCPs rather than simply fulfilling a list of prescriptive actions not only increases flexibility for the permittees, but promotes the desired biological outcomes. In addition, a results-oriented program (based on an adaptive management strategy) actually provides certainty to the permittees by establishing the framework to modify the HCP when necessary.

Section 7 - Interagency Consultation

Section 7 of the ESA requires federal agencies to use their authorities to further the purposes of the ESA, including an obligation to ensure that activities they authorize, fund, or carry out do not jeopardize the continued existence of listed species or destroy or adversely modify their designated critical habitat. For example, U.S. Forest Service (USFS) or Bureau of Land Management (BLM) approval of livestock grazing on federal lands, or the U.S. Army Corps of Engineers approval of discharge of fill material into waters of the U.S., requires Section 7 consultation when these activities may affect listed species.

Non-federal applicants play a large role in the consultation process. Many of the federal actions subject to Section 7 consultation, such as grazing allotments or timber sales on federal lands and permits issued under the Clean Water Act, involve non-federal applicants. Section 7 of the ESA and its implementing regulations provide non-federal applicants a role in all phases of the interagency consultation process. A prospective applicant may request federal agencies conduct an early consultation to discover and attempt to resolve potential conflicts early in the planning stages of a project. The Service and the authorizing federal agencies rely on the participation of non-federal partners to develop methods for providing species protection consistent with their projects.

Coordination between the Service, other federal agencies, and their applicants during consultation is critical to ensure that the design of projects does not jeopardize listed species or destroy or adversely modify designated critical habitat. For example, the Service works with the USFS, BLM, and a variety of local governments to implement hazardous fuels reduction projects to reduce the risk of catastrophic wildfires while ensuring these projects do not jeopardize endangered and threatened species. In some instances, these fuels reduction projects can have an overall benefit to listed species that are themselves vulnerable to catastrophic wildfire; the consultation process helps ensure these benefits are achieved while minimizing the possible immediate adverse impacts of the projects on listed species.

Formal consultation is required when an action, as proposed, cannot be implemented without adversely affecting a listed species or its designated critical habitat. During formal consultation, the Service, the action agency, and the applicant work closely to identify and minimize the effects of the project to listed species and their habitats. The Service then develops a biological opinion that:

- States whether the proposed action is likely to jeopardize any listed species or destroy or adversely modify any designated critical habitat;
- Describes any reasonable and prudent alternatives to the project that avoid jeopardizing a species or adversely modifying critical habitat, if a jeopardy or adverse modification finding is made; and,
- Describes and authorizes any incidental take anticipated from the proposed action.

The Service's section 7 workload (requests for consultation) has increased in recent years. The consultation workload has grown from 40,000 requests in 1999 to 67,000 requests for technical assistance or consultations for Section 7 compliance in FY 2006. This increase in demand makes it essential to identify techniques for streamlining section 7 review for individual projects. Programmatic consultations are another method for managing the increasing consultation workload. Effective and adaptive consultation practices and the availability of well-trained staff have been, and will continue to be, the primary factors in maintaining a remarkable rate of success.

Endangered Species – Use of Cost and Performance Information

- The Service prioritized some of its FY 2006 consultation funds to support energy development activities by other Federal agencies. Additional funding was provided to the Regions based on the anticipated energy-related consultation workload associated with petroleum development, coal mining, and hydropower. Information about the likely energy-related workload was derived from the Department of Energy. By taking this approach, instead of allocating the consultation increase by the existing formula, the Service is able to anticipate and better meet this energy-related consultation workload and further contribute to the Department's resource use goal of fostering energy development in an environmentally sound manner.
- Wildfires, especially in parts of the American West where fires near communities have been suppressed for decades, pose a significant threat to life and property. Fires can affect listed species, and at times fire management and prevention activities can also affect listed species. When carried out by federal agencies, actions to reduce hazardous fuel loads may require section 7 consultation. To ensure Service staff is available to conduct these consultations promptly, the Service, in FY 2001 entered into cooperative agreements with the USFS and the BLM, which agreed to reimburse Service consultation costs for fire activities, as authorized by Congress. In FY 2006, the Service again entered into cooperative agreements with BLM and the USFS, but at a greatly reduced level from previous years due section 7 counterpart regulations that allow certain action agencies to make "not likely to adversely affect" determinations for fuels management projects. The Service anticipates that the BLM and the USFS are phasing out funding through FY 2007.
- In FY 2006, the Service launched a new national Tracking and Integrated Logging System (TAILS) for Federal Activities, Environmental Contaminants and Section 7 Interagency Consultations. This system replaces local, individualized workload tracking systems to allow more consistency and better accountability in reporting accomplishments at the regional and national level for GPRA and other purposes.

2008 Program Performance

The Service anticipates the following accomplishments and activities.

- Provide technical assistance to customers that will result in the approval of HCPs. In FY 2008, more than 50,210,000 acres will be covered by HCPs, benefiting more than 600 listed and non-listed species.
- Establish processes, through the Green River Basin Initiative, to facilitate the timeliness of consultations which would result in an additional 86 consultations in FY 2009 compared to FY 2008. In FY 2007, the Service estimates providing 2,560 timely formal and informal energy consultations based on regional workload estimates. For FY 2008, the Service anticipates completing the same number of consultations; however, due to the backlog of requests already pending, fewer requests will be completed in a timely manner.
- Continue to work with all our federal customers to design projects that will not have adverse impacts on listed species, especially consultations associated with energy projects. In FY 2006, the Service received requests for approximately 67,000 consultations, including an estimated 1,800 formal consultations.
- Continue to seek ways to work with other Federal agencies on programmatic consultations and training opportunities to streamline the consultation process. For example, in FY 2007 the Service projects assisting EPA's Office of Pesticide Programs in evaluating the effects of approximately five pesticide products on listed species and critical habitat and, as part of a multi-year effort, completing consultations with EPA on approximately 3 aquatic life criteria used by states and tribes to establish water quality standards.