

APPENDIX A
USFWS Intra-Service Section 7 Biological Evaluation Form

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Region 3

Originating Person: David De Vault Date Submitted: 11/14/2007

Telephone Number: 612-713-5340

I. Service Program and Geographic Area or Station Name:

U.S. Fish and Wildlife Service, Reynoldsburg, OH Field Office
NRDA: Ashtabula River and Harbor Environmental Assessment and Restoration Plan

II. Flexible Funding Program (e.g. Joint Venture, etc) if applicable:

Restoration based settlement for NRDA claims for injuries to natural resources at the Ashtabula River and Harbor site.

III. Species/Critical Habitat:

Indiana bat (*Myotis sodalis*) E
Clubshell mussel (*Pleurobema clava*) E
Piping plover (*Charadrius melodus*) E
Eastern massasauga (*Sistrurus catenatus catenatus*) C

Bald eagle (*Haliaeetus leucocephalus*) (protected under Bald and Golden Eagle Protection Act and Migratory Bird Treaty Act)

IV. Location: Location of the project including County, State and TSR (township, section & range):
Ashtabula River, Ashtabula County, OH.

V. Project Description: Describe proposed project or action or, if referencing other documents (e.g. the Grant Proposal), prepare an executive summary (attach additional pages as needed):

This is a settlement of claims brought by U.S. FWS and Ohio EPA for injuries to natural resources in and around the Ashtabula River and Harbor resulting from unpermitted releases of hazardous substances. The project will consist of acquisition, restoration, and protection of riparian and wetland habitat in the Ashtabula River watershed. Properties will be acquired from willing sellers and transferred to local public entities. Restoration will include controlling exotic species, planting native species and, possibly, restoring hydraulic connections of historically connected wetlands with the Ashtabula River. All acquired properties will be protected by Environmental Covenants. Specific project plans are not available at this time.

VI. Determination of Effects:

(A) Description of Effects: Describe the effects of the action(s) on the species and critical habitats listed in item III. For each section 7 determination made below, attach an explanation of such determination for all applicable species or critical habitat. Documentation should justify your determination.

A number of federally listed threatened or endangered and candidate species would receive further protection if the proposed action is implemented. Wetland, associated upland and aquatic habitat preservation would most likely benefit the bald eagle, Indiana bat, piping plover, and eastern massasauga. The clubshell mussel does not occur within this watershed, therefore this project will have no effect on this species.

Projects implemented through the Restoration Plan and Environmental Assessment are not likely to adversely affect federally listed species and critical habitat and are not likely to jeopardize candidate species because: 1) there will be coordination with the U.S. Fish and Wildlife Service prior to implementing any on-the-ground work; 2) avoidance measures (below) will be implemented to eliminate any potential adverse effects; and 3) if the restoration plan is changed or avoidance measures cannot be adhered to for a particular project, the U.S. Fish and Wildlife Service will be coordinated with prior to conducting further work.

Avoidance of Adverse Effects to Listed Species

To assure that listed species will not be adversely affected, or proposed species are not jeopardized, the Trustees will require the following guidelines to be observed as restoration projects are implemented.

Indiana bat- Indiana bat habitat generally includes:

- (1) dead or live trees and snags with peeling or exfoliating bark, split tree trunk and/or branches, or cavities, which may be used as maternity roost areas;
- (2) live trees (such as shagbark hickory and oaks) which have exfoliating bark;
- (3) stream corridors, riparian areas, and upland woodlots which provide forage sites.

Substantial tree cutting and impacts to suitable habitat will be avoided and minimized. If suitable habitat, as described above, is proposed to be cleared, coordination with the U.S. Fish and Wildlife Service will be implemented. The Trustees will consider restoration activities subject to U.S. Fish and Wildlife Service guidelines and further Section 7 consultation, including formal consultation on occupied sites.

Piping plover- Plover habitat includes sand or pebble beaches with sparse vegetation along the shore of Lake Erie. Restoration projects on sites occupied, or that contain suitable habitat for this species will be coordinated with the U.S. Fish and Wildlife Service and will include provisions not to degrade essential habitat. The Trustees will consider restoration activities subject to U.S. Fish and Wildlife Service guidelines and further Section 7 consultation, including formal consultation on occupied sites.

Bald eagle- Any project within Kingsville or Rock Creek Townships will be coordinated with the U.S. Fish and Wildlife Service to ensure that no disturbance will take place during critical periods a half mile from any known nesting sites. The Trustees will consider restoration activities subject to U.S. Fish and Wildlife Service guidelines and further Section 7 consultation, including formal consultation on occupied sites.

Eastern massasauga- The massasauga is often found in or near wet areas, including wetlands, wet prairie, or nearby woodland or shrub edge habitat. This often includes dry goldenrod meadows with a mosaic of early successional woody species such as dogwood or multiflora rose. Wet habitat and nearby dry edges are utilized by the snakes, especially during the spring and fall. Dry upland areas up to 1.5 miles away are utilized during the summer, if available. In occupied sites, restoration projects must avoid actions that favor vegetation succession from open to closed canopy, modify or destroy any upland or wetland connections between wetlands, or drain, flood or otherwise modify hydrology permanently or seasonally.

The above discussion of avoiding adverse effects applies to restoration project sites where listed, proposed, or candidate species are known to occur, or where it is necessary to assume they are present. On these sites actions that adhere to the above restrictions should not adversely affect listed species. To comply with Endangered Species Act section 7(a) and to determine whether listed and proposed species may be affected, project specific review must occur. On sites where surveys or other current information provides certainty that federally listed species are not present, actions that are determined to have no effect on listed species may proceed without additional section 7 contact with appropriate U.S. Fish and Wildlife Service Ecological Services Field Offices. Projects on occupied sites that are determined to benefit listed species, that is, not likely to adversely affect species, need field office concurrence. Early coordination with the Reynoldsburg, OH Field Office

is advisable where any uncertainty exists.

(B) Determination: Determine the anticipated effects of the proposed project on species and critical habitats listed in item III. Check all applicable boxes and list the species associated with each determination.

Response requested

"No Effect" This determination is appropriate when the proposed project will not directly or indirectly affect (neither negatively nor beneficially) individuals of listed/proposed/candidate species or designated/proposed critical habitat of such species. List species applicable to this determination (or attach a list): Clubshell mussel

Concurrence
(optional)

"May Affect but Not Likely to Adversely Affect species/critical habitat" This determination is appropriate when the proposed project is not likely to adversely impact individuals of listed species or designated critical habitat of such species. List species applicable to this determination (or attach a list): Indiana bat, piping plover, eastern massasauga, bald eagle

Concurrence

"May Affect and Likely to Adversely Affect species/critical habitat" This determination is appropriate when the proposed project is likely to adversely impact individuals of listed species or designated critical habitat of such species. List species applicable to this determination (or attach a list):

Formal
Consultation

"Not Likely to Jeopardize candidate or proposed species/critical habitat" This determination is appropriate when the proposed project is not expected to jeopardize the continued existence of a species proposed for listing or a candidate species, or adversely modify an area proposed for designation as critical habitat. List species applicable to this determination (or attach a list):

Concurrence
Informal Conference
optional

"Likely to Jeopardize candidate or proposed species/critical habitat" This determination is appropriate when the proposed project is reasonably expected to jeopardize the continued existence of a species proposed for listing or a candidate species, or adversely modify an area proposed for designation as critical habitat. List species applicable to this determination (or attach a list):

Formal Conference

Signature Date 11/26/07
[Supervisor at originating station]

Reviewing Ecological Services Office Evaluation (check all that apply):

A. **Concurrence** **Nonconcurrence** _____
Explanation for nonconcurrence:

B. **Formal consultation required** _____
List species or critical habitat unit

C. **Conference required** _____
List species or critical habitat unit

Signature () [Reviewing ES Office Supervisor]

Date 11/26/2007

Name of Reviewing ES Office

Reynoldsburg, OH

APPENDIX B

AERIAL PHOTOS OF ASHTABULA 1938 AND 1994

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AERIAL PHOTOS OF ASHTABULA 1938 AND 1994

**Aerial Photo North East Ashtabula County -
Fields Brook/Ashtabula River 1938
(Woodward-Clyde Consultants)**



**Aerial Photo North East Ashtabula County – Fields Brook/Ashtabula River -1994
(www.Terraserver.com)**



**APPENDIX C1 and C2
PUBLIC COMMENTS ON THE INITIAL
NATURAL RESOURCE RESTORATION PLAN & ENVIRONMENTAL ASSESSMENT
FOR THE ASHTABULA RIVER AND HARBOR SITE AND TRANSCRIPT OF PUBLIC
MEETING**