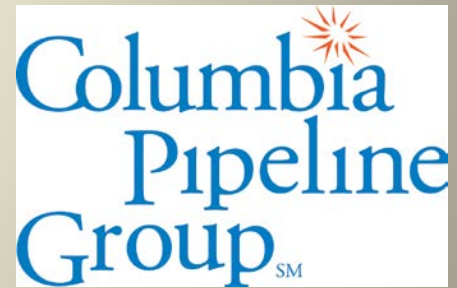


Consultation Implementation Guidance for the NiSource HCP

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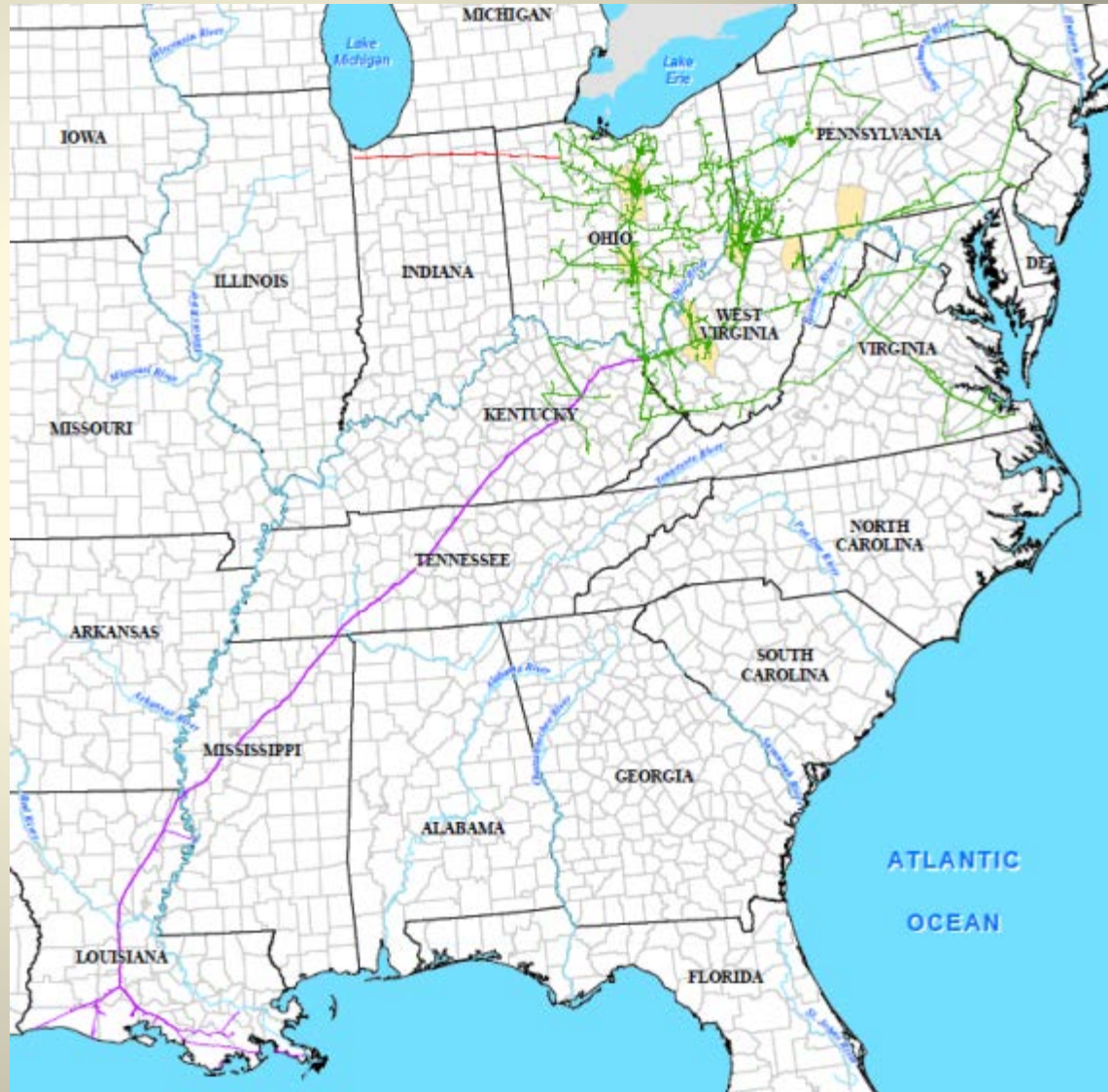


**US Army Corps
of Engineers®**



Background

NiSource developed MSHCP to address impacts of most gas pipeline construction and O&M activities on 42 species (MSHCP species) in their pipeline network in 14 states



Background

- HCP includes measures to avoid and minimize impacts to species, and mitigation where impacts cannot be avoided
- The Service issued an ITP for the HCP to allow take of 10 MSHCP species for 50 years (2064)
- Section 7 consultation for MSHCP included all federal actions from FERC, Corps, NPS, USFS, & USFWS
- S7 for all 89 listed species near the covered lands, including 47 additional species not addressed in the MSHCP (defined as non-MSHCP species)

Summary of Section 7 to Date

Implementation of the MSHCP:

1. NE 23 MSHCP species and 4 non-MSHCP species
2. NLAA 9 MSHCP species and 33 non-MSHCP species
3. LAA 10 MSHCP species and 10 non-MSHCP species



Summary of Section 7 to Date

Consultation document:

- provides one-time concurrence with all NLAA species based on AMMs and BMPs
- provides one-time consultation for LAA MSHCP species with AMMs and ITS with species-specific RPMs
- provides programmatic two-level consultation for all LAA non-MSHCP species



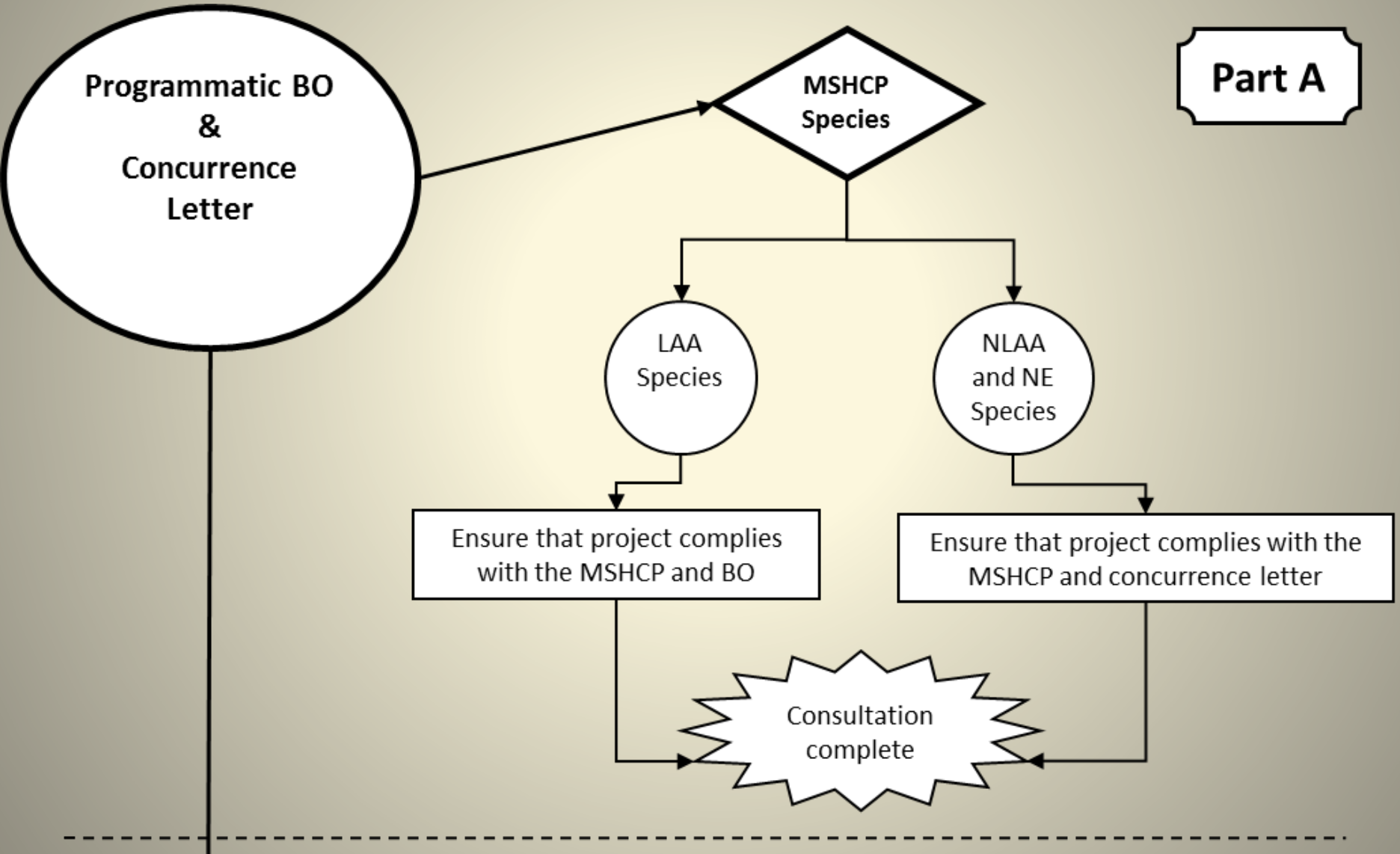
Programmatic Consultation

- Addresses multiple actions when there is not enough specific information about effects or take anticipated
- Level 1 = Evaluation of the MSHCP. BO includes BMPs for future projects; ITS estimates incidental take but does not exempt; RPMs are included
- Level 2 = Future site-specific evaluations. If federal action may affect any LAA non-MSHCP species, it is subject to additional project-specific consultation and conditions
 - If activity = NLAA, Service issues concurrence letter
 - If activity = LAA, Service issues Level 2 BO/ITS

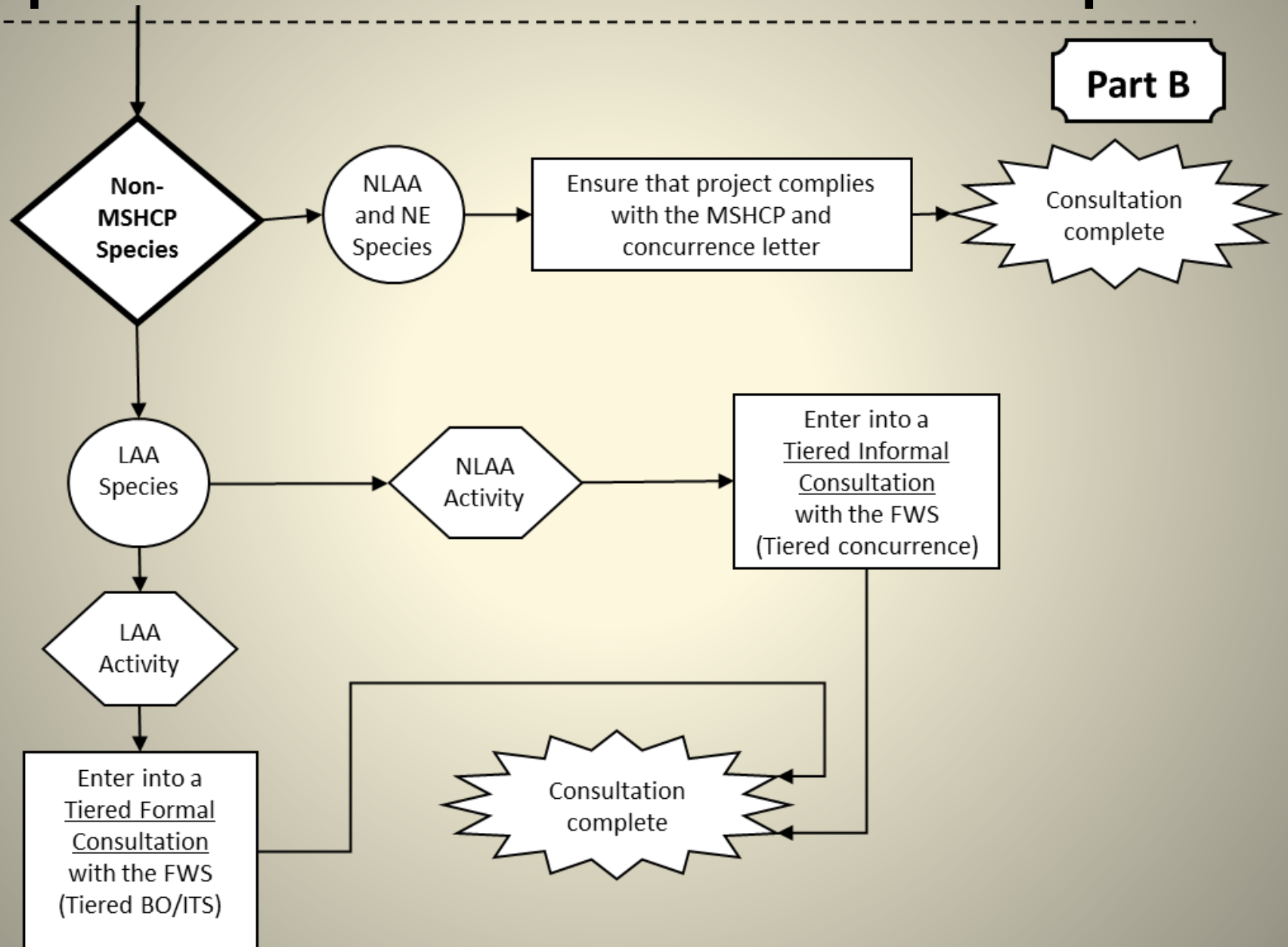
So, What Now?

- Federal agencies must review all NiSource/Columbia projects they permit or authorize are consistent with the MSHCP
- Additional consultation is required if activity:
 - is not covered by the MSHCP
 - deviates from the MSHCP in scope, location, etc.
 - may affect a LAA non-MSHCP listed species or designated critical habitat (Level 2 consultation)

Stepwise Process: MSHCP Species



Stepwise Process: non-MSHCP Species



How Does it Work?

Columbia provides following info for all project applications:

- General location of the project and document whether or not it occurs within covered lands
- Description of activities including if/how it follows MSHCP
- Identify species that may be affected and how
- Document that all mandatory AMMs are included
- If non-mandatory AMMs are not included, document reasoning
- Submit signed blank copy of the “Columbia Project ESA Consultation Checklist”
- Determination of whether or not further consultation with FWS is required

ESA Consultation Checklist

- Federal agency is responsible for verifying info that Columbia submits and ensuring compliance with MSHCP and Consultation Document
- We developed a checklist that can be used to document ESA compliance for federal actions under MSHCP
 - Signed by Columbia and Federal agency
 - filed for official documentation that the agency's S7 responsibilities have been met if no additional consultation is required

Columbia Project ESA Consultation Checklist

I. Does the activity occur entirely within the covered lands?

_____ Yes. Go to #2.

_____ No. Additional consultation is required because the activity is not consistent with the MSHCP, BO, and/or concurrence letters. If the project may affect listed species, contact your local FWS Field Office.

Columbia Project ESA Consultation Checklist

2. Is the activity described as proposed in the MSHCP, programmatic BO, and/or concurrence letter?

 Yes. Go to #3.

 No. Additional consultation is required because the activity is not consistent with the MSHCP, BO, and/or concurrence letters. If the project may affect listed species, contact your local FWS Field Office.

Columbia Project ESA Consultation Checklist

3. Does the activity include MSHCP species only?

_____ Yes. Go to #5.

_____ No. Go to #4.

4. Does the activity include any LAA non-MSHCP species as addressed in the BO?

_____ Yes. Additional consultation is required. Enter into tiered consultation with your local FWS office for any LAA non-MSHCP species.

_____ No. Go to #5.

Columbia Project ESA Consultation Checklist

5. Are all mandatory AMMs and/or BMPs for each species included in the project?

_____ Yes. Go to #6.

_____ No. Additional consultation is required because the activity is not consistent with the MSHCP, BO, and/or concurrence letter. Request additional information from Columbia about AMMs.

Columbia Project ESA Consultation Checklist

6. Are all non-mandatory AMMs and/or BMPs for each species included in the project?
- _____ Yes. Consultation is complete because the activity is consistent with the MSHCP, BO, and/or concurrence letter.
- _____ No. Go to #7.
7. Are reasons provided for not including non-mandatory AMMs for each species?
- _____ Yes. Consultation is complete.
- _____ No. Request justification from Columbia, and attach documentation here. Once justification is provided, consultation is complete.

What if Additional Consultation is Necessary?

- Columbia, FWS, and action agency will use as much information from the MSHCP and programmatic consultation as is relevant
- For projects that may affect a LAA non-MSHCP species, submit tiered BA following established procedures
- For projects not consistent with MSHCP scope or location, use your standard S7 consultation procedures with the local FWS Field Office

Scenario I

- Columbia is replacing pipeline in Roane County, WV
- No FERC action required because activity falls under blanket concurrence
- They apply for a NWP from the Corps because wetland impacts are anticipated
- Columbia submits required documentation to Corps:
 - Location: Project is near Amme in Roane County, WV within the Covered Lands of the MSHCP

Scenario I, cont.

Columbia documentation to Corps, cont.:

– Description of activities:

- Replacing 160 ft of 12inch pipeline. Access via public roads and ROW.
- Activity is consistent with section 2.4.2.1 (Pipeline Construction) of the MSHCP.
- Earth disturbance is 250 ft long by 50 ft wide on ROW (0.3 acres), including 0.05 acre of wetland.
- New line segment will be tested with air – no hydrostatic discharges.
- Construction will occur between 2/1/14 and 3/1/14, and no clearing will occur after 4/1.

Scenario I, cont.

Columbia documentation to Corps, cont.:

- Species: Project occurs within suitable Indiana bat summer habitat but no suitable winter habitat. LAA-Indiana bats (MSHCP species) due to tree clearing. No other species present.
- AMMs: Provides list of all required AMMs for I bats in summer habitat, and documents which AMMs will be implemented during this project.
- Columbia Determination: Project is in compliance with MSHCP/BO and no further consultation is necessary

Scenario I, cont.

Corps verifies that Columbia documentation is correct:

- Checks for Columbia signature on ESA checklist to ensure that project does occur within Covered Lands
- Refers to MSHCP and Consultation Document to make sure activity is included and conducted as described
- Check species list to ensure that the project does not include any LAA non-MSHCP species
- Refer to MSHCP/Consultation Document or Columbia's BMP guidebook to ensure all appropriate AMMs are included and also any requirements of the ITS, if appropriate
- Fill out ESA Consultation Checklist

Scenario I, cont.

- No additional consultation required in this scenario because project only includes MSHCP species and is conducted in compliance with MSHCP
- Corps uses ESA Consultation Checklist as S7 documentation for file
- Columbia constructs, monitors, and reports to Service consistent with the MSHCP

Scenario 2

Assume the same project as Scenario #1 were to be proposed in Clark County, OH. Columbia submits same documentation with these differences:

- Location: Project is within the Covered Lands of the MSHCP
- Species: Project occurs within suitable habitat for the Indiana bat (MSHCP species), Eastern prairie fringed orchid (NLAA non-MSHCP species), and Eastern massasauga rattlesnake habitat (LAA non-MSHCP species). May affect all three species due to tree clearing and/or earth disturbance

Scenario 2, cont.

Columbia documentation to Corps, cont.:

- AMMs: Provides list of all required AMMs for all three species, and documents which AMMs will be implemented during this project.
- Columbia Determination: Project is in compliance with MSHCP/BO. No further consultation is necessary for Indiana bats and Eastern prairie fringed orchid; however, Level 2 consultation is required for Eastern massasauga rattlesnake.

Scenario 2, cont.

- Corps verifies that Columbia documentation is correct in the same way as Scenario 1 (for Ibat and EPFO)
- Corps fills out ESA Consultation Checklist
- Corps (and Columbia if the Corps desires) complete and submit the Tiered BA using as much information from the MSHCP and programmatic consultation as is relevant (for EMR)
- Either the concurrence letter or Level 2 BO/ITS will be appended to the Consultation Document

Consultation Tracking and Monitoring

- Columbia is required to complete their actions in compliance with the MSHCP and consultation document
- FWS is the lead for monitoring the consultation
 - evaluates the information, analyses, and determinations in the BO, no effect determination, and concurrence letter to ensure that they are accurate and based on current information
 - Tracks take annually and estimates for upcoming year to ensure take is not exceeded
 - Completes monitoring annually, concurrent with MSHCP monitoring reporting/meeting

Summary

- NiSource will provide agencies everything needed to determine if the project adheres to MSHCP
- Federal agencies are responsible for confirming and documenting
- No additional consultation is required for 79 species: 42 MSHCP, 33 NLAA non-MSHCP, 4 NE non-MSHCP
- Additional consultation is only needed if the project does not follow MSHCP scope and location or if the activity may effect any of the 10 LAA non-MSHCP species



Questions?

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MSHCP Species

MSHCP Species (LAA)	MSHCP Species (NLAA)
Madison cave isopod	Cheat Mountain salamander
Nashville crayfish	Interior least tern
American burying beetle	Gray bat
Indiana bat	Louisiana black bear
Clubshell mussel	Virginia big-eared bat
Fanshell mussel	Birdwing pearlymussel
James spinymussel	Cracking pearlymussel
Northern riffleshell	Cumberland monkeyface pearlymussel
Sheepnose	Oyster mussel
Bog turtle	

Non-MSHCP Species

Non-MSHCP Species (LAA)	Non-MSHCP Species (NLAA)	Non-MSHCP Species (NLAA)
Eastern massasauga rattlesnake	West Virginia northern flying squirrel	Globe (Short's) bladderpod
Diamond darter	Piping plover	Harperella
Roanoke logperch	Red-cockaded woodpecker	Leafy-prairie clover
Dwarf wedgemussel	Kirtland's warbler	Leedy's roseroot
Pink mucket pearlymussel	Kentucky arrow darter	Michaux's sumac
Rabbitsfoot	Pallid sturgeon	Northern monkshood
Rayed bean	Pygmy madtom	Pondberry
Snuffbox	Spotfin chub	Running buffalo clover
Spectaclecase	Fat pocketbook	Sensitive joint-vetch
Northeastern bulrush	Fluted Kidney shell pearlymussel	Shale barren rockcress
	Orangefoot pimpleback pearlymussel	Short's goldenrod
	Ring pink mussel	Small-whorled pogonia
	Rough pigtoe	Smooth coneflower
	Slabside pearlymussel	Spring creek bladderpod
	American chaffseed	Swamp pink
	Eastern prairie fringed orchid	Virginia sneezeweed
		Virginia spirea