



## Section 7 Consultation

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# Overview

- Requirements under the Endangered Species Act (ESA)
- Consultation process
- IPaC and IPaC BETA
  - Determination Keys
- Submitting a project for review



# Why do you need to coordinate?

Under Section 7(a)(2) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), a Federal agency must ensure that any action (i.e., project) it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any federally listed species or result in the destruction or adverse modification of designated critical habitat(DCH).



# Why do you need to coordinate?

Under Section 7(a)(3) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), a Federal agency shall consult with the Secretary on any prospective agency action at the request of , and in cooperation with , the prospective permit or license applicant if the applicant has reason to believe that an endangered species or threatened species may be present in the area of his project and that implementation of such action will likely affect such a species.



# Consultation Process

- Project Review Guidance on KFO website.
- <https://www.fws.gov/office/kentucky-ecological-services/kentucky-field-office-project-review-guidance>
- Provides step-by-step instructions on how to consult with the KFO for projects requiring Section 7 consultation.
- Guidance on website contains all consultation information and should be reviewed before beginning consultation.
- This presentation provides specific information relevant to Broadband projects.



# Step 1: Define the Action Area

- Create Action Area in IPaC (<https://ipac.ecosphere.fws.gov>).
- Action Area = all areas to be affected by a proposed project
- Includes areas that are directly impacted by project activities such as ingress/egress, staging, clearing, ground disturbance, construction, erosion and sediment controls, etc. (i.e., project footprint, disturbance limits).
- Also includes areas outside the directly impacted areas where indirect impacts could occur, such as runoff, noise, vibrations, etc. (i.e., project site, project area, parcel).





# Step 1: Define the Action Area



# Step 2: Generate an Official Species List

- Official species list includes all federally endangered, threatened, proposed, and candidate species and critical habitat that may occur within the action area.
- Includes species that may be directly and indirectly affected.
- The list of resources that is generated after defining your action area is not the same as an official species list. Need to click “Start Review”, then “Continue” to request an official species list.
- Official species list generates the IPaC project code used to track the project.





# Step 2: Generate an Official Species List

MAMMALS	
NAME	STATUS
<p>Gray Bat <i>Myotis grisescens</i></p> <p>No critical habitat has been designated for this species. This species only needs to be considered under the following conditions:</p> <ul style="list-style-type: none"> <li>The project area includes potential gray bat habitat.</li> </ul> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/6329">https://ecos.fws.gov/ecp/species/6329</a> General project design guidelines: <a href="https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/6422.pdf">https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/6422.pdf</a></p>	Endangered
<p>Indiana Bat <i>Myotis sodalis</i></p> <p>There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat. This species only needs to be considered under the following conditions:</p> <ul style="list-style-type: none"> <li>The project area includes known 'swarming 2' habitat.</li> <li>The project area includes known 'summer 1 (outer-tier)' habitat.</li> </ul> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/5949">https://ecos.fws.gov/ecp/species/5949</a> General project design guidelines: <a href="https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/6422.pdf">https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/6422.pdf</a></p>	Endangered
<p>Northern Long-eared Bat <i>Myotis septentrionalis</i></p> <p>No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a> General project design guidelines: <a href="https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/6422.pdf">https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/6422.pdf</a></p>	Endangered
5 of 9	
Project code: 2024-0001304 02/27/2024	
BIRDS	
NAME	STATUS
<p>Whooping Crane <i>Grus americana</i></p> <p>Population: U.S.A. (AL, AR, CO, FL, GA, IL, IN, IA, KY, LA, MI, MN, MS, MO, NC, NM, OH, SC, TN, UT, VA, WI, WV, western half of WY) No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/758">https://ecos.fws.gov/ecp/species/758</a></p>	Experimental Population, Non-Essential

CLAMS	
NAME	STATUS
<p>Clubshell <i>Pleurobema clava</i></p> <p>Population: Wherever found; Except where listed as Experimental Populations No critical habitat has been designated for this species. This species only needs to be considered under the following conditions:</p> <ul style="list-style-type: none"> <li>The species may potentially occur in suitable habitat within the following rivers: Little, Pond, Rough, and Tradewater; and their larger tributaries.</li> </ul> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/3789">https://ecos.fws.gov/ecp/species/3789</a> General project design guidelines: <a href="https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf">https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf</a></p>	Endangered
<p>Fanshell <i>Cyprogenia stegaria</i></p> <p>No critical habitat has been designated for this species. This species only needs to be considered under the following conditions:</p> <ul style="list-style-type: none"> <li>The species may potentially occur in suitable habitat within the following rivers: Little, Pond, Rough, and Tradewater; and their larger tributaries.</li> </ul> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/4822">https://ecos.fws.gov/ecp/species/4822</a> General project design guidelines: <a href="https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf">https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf</a></p>	Endangered
<p>Northern Riffleshell <i>Epioblasma rangiana</i></p> <p>No critical habitat has been designated for this species. This species only needs to be considered under the following conditions:</p> <ul style="list-style-type: none"> <li>The species may potentially occur in suitable habitat within the following rivers: Little, Pond, Rough, and Tradewater; and their larger tributaries.</li> </ul> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/527">https://ecos.fws.gov/ecp/species/527</a> General project design guidelines: <a href="https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf">https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf</a></p>	Endangered
<p>Pink Mucket (pearlymussel) <i>Lampsilis abrupta</i></p> <p>No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7829">https://ecos.fws.gov/ecp/species/7829</a> General project design guidelines: <a href="https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf">https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf</a></p>	Endangered
<p>Rabbitsfoot <i>Quadrula cylindrica cylindrica</i></p> <p>There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat. This species only needs to be considered under the following conditions:</p> <ul style="list-style-type: none"> <li>The species may potentially occur in suitable habitat within the following rivers: Little, Pond, Rough, and Tradewater; and their larger tributaries.</li> </ul> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/5165">https://ecos.fws.gov/ecp/species/5165</a> General project design guidelines: <a href="https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf">https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf</a></p>	Threatened
<p>Ring Pink (mussel) <i>Obovaria retusa</i></p> <p>No critical habitat has been designated for this species.</p>	Endangered

NAME	STATUS
<p>This species only needs to be considered under the following conditions:</p> <ul style="list-style-type: none"> <li>The species may potentially occur in suitable habitat within the following rivers: Little, Pond, Rough, and Tradewater; and their larger tributaries.</li> </ul> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/4128">https://ecos.fws.gov/ecp/species/4128</a> General project design guidelines: <a href="https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf">https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf</a></p>	
<p>Rough Pigtoe <i>Pleurobema plenum</i></p> <p>No critical habitat has been designated for this species. This species only needs to be considered under the following conditions:</p> <ul style="list-style-type: none"> <li>The species may potentially occur in suitable habitat within the following rivers: Little, Pond, Rough, and Tradewater; and their larger tributaries.</li> </ul> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/6894">https://ecos.fws.gov/ecp/species/6894</a> General project design guidelines: <a href="https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf">https://ipach.ecosphere.fws.gov/project/PUYOZSXOXBBSEF7J7KL5SE3E14/documents/generated/5639.pdf</a></p>	Endangered
INSECTS	
NAME	STATUS
<p>Monarch Butterfly <i>Danaus plexippus</i></p> <p>No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a></p>	Candidate
FLOWERING PLANTS	
NAME	STATUS
<p>Price's Potato-bean <i>Apios priceana</i></p> <p>Population: No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7422">https://ecos.fws.gov/ecp/species/7422</a></p>	Threatened
CRITICAL HABITATS	
THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.	
YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.	



# Step 2: Generate an Official Species List

- Endangered/Threatened Species and Designated Critical Habitat – potential effects must be evaluated for all Broadband projects.
- Proposed Species/Critical Habitat – not required to evaluate potential effects unless project will jeopardize the continued existence of the species or destroy/modify critical habitat. Can choose to evaluate potential effects to these species/critical habitat.
- Candidate Species – not required to evaluate potential effects but can choose to.
- Experimental Population (Whooping Crane) – not required to evaluate potential effects for Broadband projects.



# Step 3: Presence of Listed Species/Suitable Habitat

- Determine if species and/or suitable habitat are present in the action area for each species on the official species list.
- Species Habitat Information:
  - IPaC Official Species List – links to ECOS (species status assessments, recovery plans, etc.)

**Indiana Bat *Myotis sodalis*** **Endangered**

There is **final** critical habitat for this species. Your location does not overlap the critical habitat.

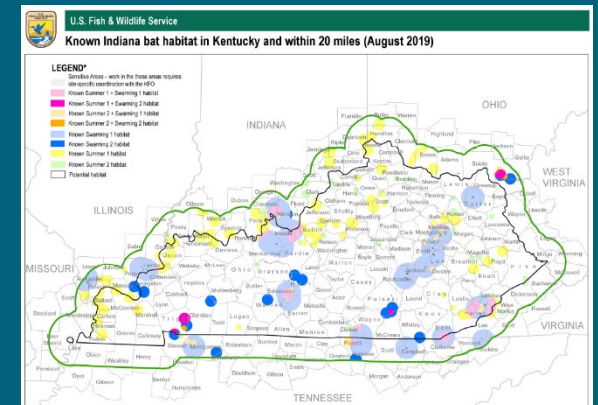
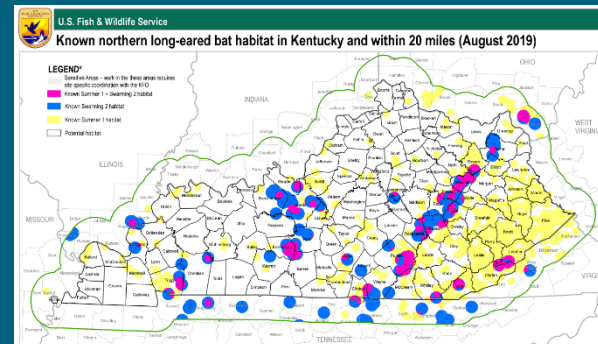
This species only needs to be considered under the following conditions:

- The project area includes known 'swarming 2' habitat.
- The project area includes known 'summer 1 (outer-tier)' habitat.

Species profile: <https://ecos.fws.gov/ecp/species/5949>

General project design guidelines:  
<https://ipac.ecosphere.fws.gov/project/PUYOZSXOXBBSFG7J7KL5SE3E14/documents/generated/6422.pdf>

Known Indiana and northern long-eared bat habitat maps  
(<https://www.fws.gov/office/kentucky-ecological-services/protected-bats-Kentucky>)



# Step 3: Presence of Listed Species/Suitable Habitat

- Species Habitat Information (continued):
  - Websites: NatureServe, Office of KY Nature Preserves, KY Dept of Fish and Wildlife Resources, agencies in other states, universities
  - Indiana and northern long-eared bat habitat – Revised Conservation Strategy for Forest-Dwelling Bats in the Commonwealth of Kentucky (<https://www.fws.gov/media/revised-conservation-strategy-forest-dwelling-bats-Kentucky>)



# Step 3: Presence of Listed Species/Suitable Habitat

## Habitat Types to Evaluate and Document as Species Habitat

Species	Habitat	Documentation
All Bats	Caves, sinkholes, abandoned mines, quarries, rockshelters, cliff lines; Houses, barns, bridges/culverts, other man-made structures	Photos, location, bat presence
Indiana Bat, Northern Long-eared Bat, VA Big-eared Bat	Trees/forested habitat	Photos, live/dead, diameter-at-breast height, Indiana bat primary maternity roost trees*
Gray Bat	Rivers, streams, lakes	Photos, stream width/depth, habitat along stream (forested or non-forested)
Mussels, Fish, Aquatic Invertebrates	Rivers, streams, sinkholes	Photos, stream width/depth, bottom material, sinkhole locations/description
Plants	Look at each species' habitat information	Photos, habitat requirements present or absent

\*Indiana bat primary maternity roost tree – dead tree or snag that is nine inches or greater in diameter at breast height and has loose or exfoliating bark, cracks, crevices, and/or hollows. A live tree may also qualify if it contains hollows or dead portions with loose or exfoliating bark, cracks, and/or crevices.





# Step 3: Presence of Listed Species/Suitable Habitat



## Potential Habitat in Action Area

- Bats
  - Tree trimming/removal along ROW
  - No caves, sinkholes, etc.
  - No man-made structures
- Mussels – Streams
- Price's Potato-bean – edges of wooded fencerow





# Step 4: Evaluate Effects

- Evaluate potential effects from the project to each listed species and critical habitat on the IPaC official species list
- Recommend using Determination Keys (Dkeys) in IPaC
  - Clearance to Proceed with Federally-Insured Loan and Grant Project Requests
  - Other Dkeys
    - Indiana Bat Statewide
    - Kentucky Statewide
    - Northern Long-eared Bat Rangewide



# Step 4: Evaluate Effects

- “No effect (NE)” – project will not affect species/critical habitat (e.g., species not present, no suitable habitat, or no effects to suitable habitat).
- “Not likely to adversely affect (NLTAA)” – effects to species/critical habitat are unlikely to occur (discountable) or cannot be meaningfully measured, detected, or evaluated (insignificant); completely beneficial.
- NE and/or NLTAA determinations for all species through Dkeys, then no need to consult further or submit project to our office.
- Use Dkey consistency letter(s) as documentation of Section 7 consultation.
- Only need to submit a project for review if Dkey results in “May Affect” determination for a species/critical habitat.



# Step 4: Evaluate Effects

- “May affect (MA)” – project may result in effects to listed species/critical habitat that are not discountable, insignificant, or completely beneficial.
- MA determination from Dkey does not necessarily mean the project will adversely affect the species.
- Will make one of these effects determinations:
  - “May affect, not likely to adversely affect”
  - “May affect, likely to adversely affect”
- KFO cannot make effects determinations, only concur or not concur.
- Always make an effects determination for every species/critical habitat. Determination can be changed during KFO review if necessary.



# Step 4: Evaluate Effects

## “May Affect” Determination Examples

Species	Effects Analysis	MA Determination
Gray bat Virginia big-eared bat	No caves, sinkholes, mines, man-made structures, etc. and minimal impacts to streams and forested habitat	NLTAA
Indiana bat Northern long-eared bat	No winter habitat, clearing suitable trees during unoccupied period, and no Indiana bat primary maternity roost trees (PMRTs)	NLTAA
Indiana bat Northern long-eared bat	Winter habitat impacts; clearing suitable trees during occupied period; clearing suitable trees any time in known Summer or Swarming habitat; clearing Indiana bat PMRTs	LTAA
Mussels, fish, aquatic invertebrates	No direct stream/sinkhole impacts and minimizing indirect impacts using BMPs, erosion and sediment controls, etc.	NLTAA
Plants	Suitable habitat present	Contact KFO



# Step 4: Evaluate Effects

- LTAA determination for Indiana bat and/or northern long-eared bat:
  - Conduct summer presence/absence survey from May 15 to Aug 15.
  - Perform roost tree emergence count from April 1 to Oct 15.
  - Formal consultation – 135-day timeframe
  - Mitigation through Imperiled Bat Conservation Fund (IBCF)
    - Amount = acreage x price/acre x mitigation multiplier (based on habitat type and clearing timeframe)
    - See Conservation Strategy for more information on using the IBCF.  
(<https://www.fws.gov/media/revised-conservation-strategy-forest-dwelling-bats-Kentucky>)



# Step 5: Submit Project Review Package

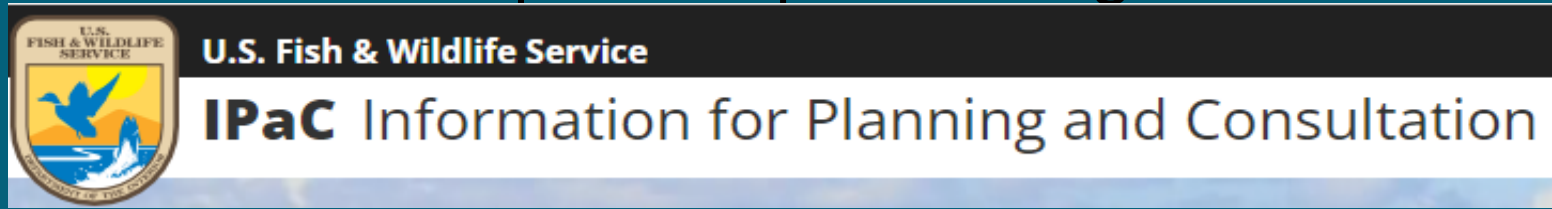
- Submit project review package via email to [KentuckyES@fws.gov](mailto:KentuckyES@fws.gov)
  - Including but not limited to:
    - Project location and description
    - Maps of project location, action area, plans, and impacts
    - Description of habitat in the action area
    - Effects analysis and determination for each species/critical habitat with “may affect” determination
- If no IPaC project code in email subject line, we will not begin review of the project. Will receive email asking you to resubmit with project code.
- Service has 60 days from submittal date to complete consultation.



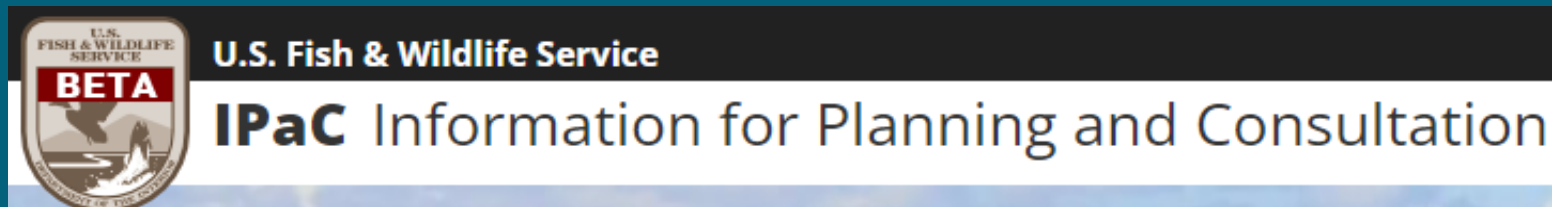


# Information for Consultation & Planning (IPaC)

- IPaC – is a project planning tool that helps streamline the process of Section 7 consultations.
  - IPaC Website - [ipac.ecosphere.fws.gov](http://ipac.ecosphere.fws.gov)



- IPaC BETA – training and testing purposes
  - BETA Website - [ipacb.ecosphere.fws.gov](http://ipacb.ecosphere.fws.gov)



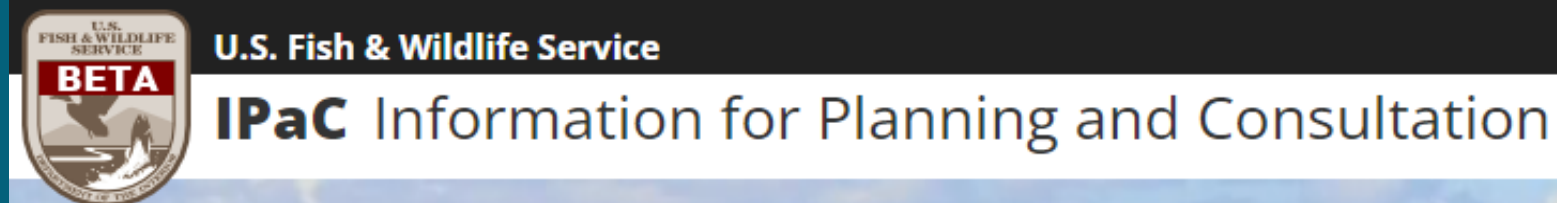
# IPaC's Purpose

- An attempt to make process easier
- Increase efficiency, consistency, and transparency
- Improve consultation experience for the public, Fed and State agencies
- Minimizes/streamlines low-benefit/low-risk workload
- Improve conservation through convenience
- Improve accountability and credibility
- Reduce the request for info
- Gain time for biologists to focus on conservation outcomes
- Facilitates data integration



# IPaC BETA Purpose

- Same as IPaC
  - Testing and training purposes
  - Does not write records or generate correspondence to field offices



# IPaC (BETA) Determination Key Walkthrough

- Clearance to Proceed with Federally-Insured Loan and Grant Project Requests Dkey
  - [ipacb.ecosphere.fws.gov](http://ipacb.ecosphere.fws.gov)



# Key Points

- \* Obtain an official species list from IPaC to begin Section 7 consultation.
- \* Include the IPaC project code in any correspondence with the KFO.
- \* Document all habitats on the project site that may be suitable for listed species – lots of photos!
- \* Make an effects determination for every species/critical habitat on the official species list.
- \* Retain information for NE determinations in your records and obtain concurrence/consistency letters when using Dkeys.
- \* Refer to the project review guidance on our website for step-by-step instructions on the consultation process.



Questions?

