

# TECHNICAL NOTE

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USDA      NATURAL RESOURCES CONSERVATION SERVICE      PACIFIC ISLANDS AREA

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## Biology Technical Note – No. 18 Attachment A – Compliance Documentation

Client:

Application/Contract #:

### Preparation

1. Has a Threatened, Endangered and Candidate species map been created (at a 1:24,000 resolution and following the guidelines in Biology Technical Note 13) that shows all records of historical and current data for T, E, or C species and any proposed or designated critical habitat?

No: **Create map and/or data table.**

Yes: Proceed.

2. Has an on-site inventory been completed that documents presence or absence of T, E, or C species including information from the client, the planner, neighbors and/or local experts?

No: **Conduct on-site inventory and document results.**

Yes: Reference below where the inventory is documented and proceed.

Where is the information available?

3. Has an on-site inventory of vegetation and other features that may be habitat for T, E, or C species been completed and documented? (This may include wetlands, open water, foraging habitat, host plants for insects, suitable trees or shrubs or other vegetation for nesting, etc.)

No: **Complete the inventory and document the results.**

Yes: Reference below where the inventory is documented and Proceed.

Where is the information available?

4. If any of the above was done by a non-NRCS employee (i.e. TSP, district planner, etc.) has a NRCS employee confirmed the information and concurs on the accuracy?

No: **STOP. An NRCS employee must concur to proceed.**

Yes: Proceed.

5. Is the conservation plan for a Farm Bill program (financial assistance) or does NRCS have control over the action (e.g. compatible use authorization)?

No: Use the CPA-52 Endangered and Threatened Species Guide Sheet (“E and T Species” tab) and complete the CPA-52 as directed. **STOP**

Yes: Enter the application or contract number above and proceed.

6. Has a release form been signed by the client allowing NRCS to share information with other agencies for purposes of ESA consultation?

No: **STOP. We cannot proceed with any possible consultation without this document in our records.**

Yes: Proceed.

7. Are the proposed actions adequately described as to what will happen, where it will happen, when it will happen and how it will happen?

No: **Complete the appropriate paperwork to determine the proposed actions.**

Yes: Reference where that information is available below (e.g. jobsheets, CPA-52 alternative description, plan maps, CUA, etc.) and proceed.

Where is information available?

## Screening Questions

1. Is there any designated or proposed Critical Habitat in the project area or will the project affect any designated or proposed Critical Habitat near the project area (indirect effects)?

No: Proceed.

Yes: Complete **Critical Habitat** Section.

2. Is there any suitable habitat in the project area for T, E, or C species known currently or historically from the area? (This may include but is not limited to wetlands, open water, foraging habitat, host plants for insects, suitable trees or shrubs or other vegetation for nesting, natural areas, etc. depending on the species.)

No: Proceed.

Yes: Complete appropriate species section in the **Determination Documentation** section below.

3. Are there any Candidate species on the map/data table or documented in the on-site inventory? (Animals are considered “present” if they are on the map and plants are considered present if they are in the 1/3 mile buffer on the map.)

No: Proceed.

Yes: Complete **Candidate Species** Section.

4. Are there any listed Threatened or Endangered species on the map/data table or documented in the on-site inventory? (Animals are considered “present” if they are on the map and plants are considered present if they are in the 1/3 mile buffer on the map.)

No: Proceed.

Yes: Complete **Federally Listed Species** Section.

5. Are there any Threatened or Endangered species proposed for listing on the map/data table or documented in the on-site inventory? (Animals are considered “present” if they are on the map and plants are considered present if they are in the 1/3 mile buffer on the map.)

No: Proceed.

Yes: Complete **Proposed for Listing** Section.

If “No” was answered for Screening Questions 1,2,3,4, **and** 5 then document “Not applicable” on the CPA-52 and proceed with planning. **STOP**

If “Yes” was answered for Screening Questions 1,2,3,4, **or** 5 then complete the appropriate sections below (for each “Yes” answer).

## Determination Documentation

### Critical Habitat (“Yes” answer for screening question 1 above):

Will any of the proposed actions affect anything listed as a primary constituent element of the critical habitat(s)?

No: Describe reason why there is no effect on the critical habitat and document “No Effect” on the CPA-52 and reference this document.

Reasoning:

Yes: Proceed.

Can those effects be minimized to the point of not adversely modifying the critical habitat?

No: Have the Responsible Federal Official (usually the District Conservationist) contact the State Biologist to instigate a formal consultation with the appropriate agency. Advise the client that a formal consultation is being instigated and no actions can proceed until a response is received from the consulting agency. Mark “May Affect” on the CPA-52, check the box “√ if needs further action” and reference this document.

Yes: Prepare a draft NLAA letter for review first by the RFO and then the State Biologist for submission to the appropriate agency for concurrence. Advise the client that consultation is required with another agency. Include in the draft letter what actions may be affecting the critical habitat and its primary constituent elements, how those effects are being minimized or avoided and make sure that the associated job sheets or project description are updated to include any avoidance measures. Mark “May Affect” on the CPA-52, check the box “√ if needs further action” and reference this document.

**Candidate Species (“Yes” answer for screening question 2 and/or 3 above):**

Will any of the proposed actions affect candidate species or their habitat?

No: Describe reason why there is no effect on the species or their habitat, document “No Effect” on the CPA-52, and reference this document.

Reasoning:

Yes: Proceed.

Are the effects of the proposed actions wholly beneficial in both the short and long-term?

No: Proceed.

Yes: Describe reason why the effects are wholly beneficial on the species and document “May Effect” on the CPA-52 and reference this document. No further action needed.

Reasoning:

Will any of the proposed actions negatively affect candidate species or their habitat?

No: Describe reason why there is no effect on the species or habitat and document “No Effect” on the CPA-52 and reference this document.

Reasoning:

Yes: Recommend alternative treatments that avoid or minimize the adverse effects and, to the extent practicable, provide long-term benefit to the species. Describe the avoidance measure below or explain what the unavoidable harmful effects will be and choose “May affect” on the CPA-52 and reference this document. No further action is needed.

Reasoning:

**Listed Threatened or Endangered Species (“Yes” answer for screening question 2 and/or 4 above):**

Are any of the proposed actions covered under the USFWS Programmatic Informal Consultation (PIC)? Listed species in the PIC include the following: Hawaiian hoary bat (*Lasiurus cinereus semotus*), Hawaiian goose (*Branta sandvicensis*; nene), Hawaiian Hawk (*Buteo solitarius*), Hawaiian waterbirds (Hawaiian coot (*Fulicia alai*), Hawaiian stilt (*Himantopus mexicanus knudseni*), Hawaiian moorhen (*Gallinula chloropus sandvicensis*), and Hawaiian duck (*Anas wyvilliana*)), Blackburn’s sphinx moth (*Manduca blackburni*), nightingale reed-warbler (*Acrocephalus luscinus*), and the Mariana common moorhen (*Gallinula chloropus guami*).

Yes: Include the type of “Disturbance Category”, list of “actions”, and species that are covered under the current PIC. If species was observed onsite during a field visit, include species name both scientific and common name, date of the observation, number of species observed, observers present, GPS data, accuracy of sighting as per Biology Technical Note 13 (P, SC, S, M, G, U, N). This information will be documented by the RFO in the designated share-point site tracking worksheet under PIA sharepoint/shared documents/300\_LTP\_Land\_Treatment\_Programs/FY-2015 USFWS Programmatic Informal Consultation folder. Document in the CPA-52 that “actions” are covered under the USFWS PIC and reference this document.

Reasoning:

No: Proceed to answer the following question

Will any of the proposed actions affect listed threatened or endangered species or their habitat?

No: Describe reason why there is no effect on the species or their habitat, document "No Effect" on the CPA-52, and reference this document.

Reasoning:

Yes: Proceed.

Are the effects wholly beneficial or minimized to the point of being or insignificant or discountable?

No: Have the Responsible Federal Official (usually the District Conservationist) contact the State Biologist to instigate a formal consultation with the appropriate agency. Advise the client that a formal consultation is being instigated and no actions can proceed until a response is received from the consulting agency. Mark "May Affect" on the CPA-52, check the box "✓ if needs further action" and reference this document.

Date formal consultation initiated:

Date formal consultation finalized:

Summary of parameters of formal consultation:

Yes: Prepare a draft NLAA letter for review by the RFO and the State Biologist for submission to the appropriate agency for concurrence. Advise the client that consultation is required with another agency. Include in the draft letter what actions may be affecting the species and or their habitat, how those effects are being minimized or avoided and make sure that the associated job sheets or project description are updated to include any avoidance measures. Mark "May Affect" on the CPA-52, check the box "✓ if needs further action" and reference this document.

Date informal consultation initiated:

Date informal consultation finalized:

Summary or parameters of informal consultation:

**Proposed Threatened or Endangered Species (“Yes” answer for screening question 2 and/or 5 above):**

Will any of the proposed actions affect proposed threatened or endangered species or their habitat?

No: Describe reason why there is no effect on the species or their habitat, document “No Effect” on the CPA-52, and reference this document.

Reasoning:

Yes: Proceed.

Are the effects wholly beneficial or minimized to the point of being or insignificant or discountable?

No: Have the Responsible Federal Official (usually the District Conservationist) contact the State Biologist to instigate a formal conference with the appropriate agency. Advise the client that a formal conference is being instigated and no actions can proceed until a response is received from the consulting agency. Mark “May Affect” on the CPA-52, check the box “√ if needs further action” and reference this document.

Date conference is initiated:

Date conference finalized:

Summary of parameters of conference:

Yes: Prepare a draft NLAA letter for review by the RFO and the State Biologist for submission to the appropriate agency for concurrence. Advise the client that conference is required with another agency. Include in the draft letter what actions may be affecting the species and or their habitat, how those effects are being minimized or avoided and make sure that the associated job sheets or project description are updated to include any avoidance measures. Mark “May Affect” on the CPA-52, check the box “√ if needs further action” and reference this document.

Date informal conference initiated:

Date informal conference finalized:

Summary of parameters of informal conference:

The planner must sign this document and forward it to the RFO for approval. This must be signed by a NRCS employee.

Planner Signature:

The RFO must review this document and sign it as complete and accurate. A RFO signature confirms that this documentation is accurate and complete and is in compliance with NRCS policy and Endangered Species Act, section 7 requirements.

RFO Signature: