

New Mexico Department of Transportation Environmental Section Biological Report and Format Standards

Revision Date: January 17, 2013

These biological report and format standards are intended to **streamline the biological survey reporting process and related environmental review/permitting actions**; to clarify and answer common reporting questions; to correct common issues the New Mexico Department of Transportation (NMDOT) Environmental Section has encountered concerning report substance and format; and to provide guidance on the information needed in the biological report for the NMDOT to determine project impacts and perform agency consultations.

This document combines the previous two reporting formats into one report format that will be used for the base report. The report can be expanded upon, as needed, based on the project complexity and impacts. The goals of the new format are to:

- Provide better guidance on biological survey reporting expectations.
- Reduce confusion over the appropriate level of reporting and detail required.
- Reduce redundancy, simplify formatting, and help quality control.
- Clarify the level of biological resources documentation needed for NMDOT projects.
- Improve the quality and reporting of field observations.
- Increase consistency and quality concerning listed species reporting and analyses.
- Provide guidance on federally listed species impact determinations and clarify when US Fish and Wildlife Service (USFWS) consultation is needed.
- Ensure that listed species that should be analyzed are included.
- Clarify that the most current federal and state species lists are to be used.
- Clarify that a 100% pedestrian survey is required of the entire biological survey area for the project.
- Incorporate new information to cover changes to regulatory requirements (e.g., Environmental Protection Agency [EPA] Construction General Permit issued in February 2012, etc.)
- Reduce re-work or rejection of biological reports that provide incorrect or missing components (e.g., survey information, species analyses) or incorrect formatting for NMDOT, Local Government, Utility, Engineering Firm, Contractor, and other project proponents or entities contracting the biological survey work.
- Streamline the cost and time associated with preparing and reviewing biological reports.
- Allow flexibility for consulting firms to “brand” their report product while still providing consistency in reporting needed by the NMDOT.

- Eliminate technical difficulties associated with using previous report guidance formats as Microsoft Word document templates due to the use of differing software versions. The report format outlined in this document is to be incorporated by each consulting firm directly into their documents and their chosen software.

This guidance **does not change the level of survey effort** for any NMDOT-internal, NMDOT-funded, or NMDOT-permitted projects.

This reporting format is intended to cover the majority of NMDOT-related projects within New Mexico. **Any exceptions to the format provided in this document, including those described below, require prior approval by the NMDOT Environmental Section.** Below is guidance on some exceptions that we expect to encounter:

- 1) **Projects on Navajo Nation lands:** The Navajo Nation Natural Heritage Program maintains guidelines for biological evaluations. These guidelines can be accessed through their website (nnhp.nndfw.org). For projects crossing Navajo Nation lands, the format and information requested in *Navajo Nation Biological Evaluation Guidelines* shall be followed. Use their outline, but incorporate all of the information required in this NMDOT Biological Evaluation into the appropriate sections and/or into appendices. Coordination between the project proponent and Navajo Nation is necessary prior to initiating the Biological Evaluation. For internal projects, NMDOT will perform this coordination unless the consultant is directed otherwise.
- 2) **Adverse impact to critical habitat or listed species:** For projects that are “*likely to adversely affect*” federally listed species and/or critical habitat, a Biological Assessment is required. The USFWS and 50 Code of Federal Regulations (CFR) 402.12 provides guidance for Biological Assessments. All information required by the USFWS for a Biological Assessment shall be either incorporated into this Biological Evaluation report or, alternatively, you may follow their outline, but incorporate all of the information required by the NMDOT Biological Evaluation into the appropriate sections and/or into appendices of the Biological Assessment. Coordination between the project proponent and USFWS shall occur prior to initiating the Biological Assessment. For internal projects, NMDOT will perform this coordination unless the consultant is directed otherwise.
- 3) **Different format required by Land-Managing Agency:** In rare cases, a federal land-managing agency (such as the National Park Service, US Forest Service [USFS], Bureau of Land Management [BLM], etc.) may require an alternate format or may only allow their agency staff to perform and provide the listed species analysis. To date, NMDOT has only encountered this situation for projects that require easement and/or right-of-way from the land-managing agency. NMDOT has Memorandums of Understanding (MOUs) with multiple federal agencies, and there

may be instances in which the land-managing agency will accept the NMDOT format or require only minor deviation. Where highway rights-of-way fall under the jurisdiction of other agencies or tribes, coordination with NMDOT and the land-managing agency is required prior to initiating the Biological Evaluation.

- 4) **Special conditions whereby the NMDOT Environmental Section approves a lesser level of reporting effort, such as urbanized environments.**

Document Submittal Instructions:

Electronic copies of final reports are required to be submitted to the NMDOT in both Microsoft Word (.doc) and Adobe (.pdf) formats. If paper copies are submitted, the NMDOT prefers double-sided printing to reduce paper.

This document has been formatted to print double-sided.

Note: Bold red text in this guidance document is meant to draw attention to key information.

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The cover page shall contain the information specified below. The consulting firm has flexibility in placement of this information on the cover page and may use firm-specific report covers. Any images, if used, are required to be pertinent to the project area.

Biological Evaluation

(Other title option as appropriate in regular [non-exception] circumstances: Biological Reevaluation)

Project Title

Road and Milepost (MP) project limits

County - New Mexico

NMDOT District #

Project Number and/or Control Number (if applicable)

(Map of New Mexico with symbol [arrow, box, etc.] indicating the project location. Show BOP and EOP as appropriate, such as long linear projects)

Project Location Map example:



**Prepared For: New Mexico Department of Transportation
Environmental Section
Environmental Analyst: Name**

(If project is federally funded include “**Federal Highway Administration**” and their logo. If this report was contracted by someone other than the NMDOT Environmental Section, include: “**On behalf of:**” and the Name of the Local Government, Utility Company, Engineering Firm, Contractor or other entity)

**Prepared By: Author(s) Name(s), Title(s)
Consulting Firm, Phone Number(s)**

Month Year

(the month and year of the final report submittal)

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List of Figures

Figure placement in the report is preferred within the section where the first mention of the figure occurs. Figures may be placed in an appendix at the discretion of the consulting firm.

List figures from the report in order of appearance. Sample figure caption:

Figure 1: Project Location Map..... 3

List of Tables

Table placement in the report is preferred within the section where the first mention of the table occurs. Tables may be placed in an appendix at the discretion of the consulting firm.

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List of Photographs

Photograph placement in the report is preferred within the section where the first mention of the photograph and/or photograph subject matter occurs. Photographs may be placed in an appendix at the discretion of the consulting firm.

Sample Photograph caption:

Photograph 1: Project Area Habitat Looking South from MP X..... 13

Please note the following general guidance:

- The “Acronym Table” is no longer required. Ensure all acronyms in the report are used consistently and avoid overuse of acronyms. When used, place the acronym after the first time the full term is used, for example “*New Mexico Department of Game and Fish (NMDGF)*.”
- The “Summary” section is no longer required to reduce redundancy between the Summary and Conclusion sections of the report. A Summary section may be included for larger documents such as a Biological Assessment.
- **This Biological Evaluation format specifies required sections and sub-sections. These required sections and sub-sections may not be removed from the report even if they do not pertain to the specific project. Rather, a statement of inapplicability will be provided in those particular sections or sub-sections (e.g., Project History).**
- Where formal sub-sections are not specified, paragraphs on sub-topics are acceptable, as are the use of bolded, underlined, or italicized sub-headers. Additional formal sub-sections (e.g., 1.1; 2.1) may be added at the discretion of the consultant in place of sub-headers; however ensure that they correlate with the Table of Contents and throughout the body of the report. Numbering beyond primary and secondary sub-sections (e.g., 1.1.2; 1.1.2.3) adds complexity to report formatting and should not be used.
- Be consistent with the formatting approach used throughout the entire Biological Evaluation report.
- Avoid using the term Area of Potential Effect (APE) in the Biological Evaluation. APE is used for determining potential effects to cultural resources as defined in 36 CFR Part 800.
- Use both English and metric units of measure in conjunction, such as 6.2 feet (2 meters) or 2 meters (6.2 feet), exceptions can apply for in-depth scientific descriptions.
- Use the common name and the scientific name at the first occurrence, e.g., Giant reed (*Arundo donax*). Then use the common name after the first occurrence. Italicize scientific names.
- Be consistent with measurement units and species names throughout the document.

1.0 Introduction

This section shall explain the purpose of the report and the contracted scope of work between project proponent and/or entity who contracted the biological survey (e.g., NMDOT, Engineering Firm, Local Government, Utility Company, Contractor) and the consulting firm writing the Biological Evaluation.

Example language for purpose of the report:

“The purpose of this Biological Evaluation is to document the findings of a biological survey of the project area. The report takes into consideration the Action Area; describes natural resources and species observed in the project area; provides analyses of impacts resulting from the proposed project; and recommends measures to avoid, minimize, and/or mitigate impacts to natural resources and species consistent with federal, state, tribal, and local laws.”

This section shall include a description of the proposed project, which will include the following as applicable. Note: This information can be organized under sub-headers/sub-sections, such as “Project Proponent and Funding Source”, “Project Description and Location”, “Project Purpose and Need”, “Design Measures to Minimize Impacts and Project Alternatives Considered”, etc.

1. Project proponent.
2. Project funding (e.g., state, federal, private).
3. Where the project is located, including as applicable:
 - a. County
 - b. Road name(s), number(s), and side of roadway surveyed (if only one side required a survey)
 - c. Beginning and ending mile posts (Note: Mile posts shall match the State Transportation Improvement Plan [STIP], if project is in STIP)
 - d. US Geological Survey (USGS) Quadrangle map name
 - e. Township, Range, Section (if located on a Land Grant or other non-defined area, provide the Land Grant or other applicable name and include the projected Township, Range, and Section)
 - f. Latitude/Longitude and UTM coordinates (North American Datum [NAD] of 1983) of the Beginning of Project (BOP) and End of Project (EOP)

Header and Footer information shall include project name and page number. Consultant may format the header and footer to fit consultant document standards. Header and Footer may include other information such as consultant logo and address

4. Verbal description of the project footprint (include borrow, disposal, staging, access, detours, and other components as needed). Discuss the length, width, and depth of any ground disturbance. Check with the project proponent to ensure the full project footprint is being evaluated. Please note: Construction contractor borrow pit locations, staging areas, etc. not included in the project footprint during the biological survey must be cleared separately through the Contractor Located Activities process at the NMDOT.
5. Land status through which the project passes (e.g., State Trust, USFS, BLM).
6. Purpose and Need of the project.
7. When the project is expected to take place (timeframes can be described as *Season of Year X to Season of Year Y; or construction is expected to begin in Month of Year X and end in Month of Year Y*).
8. Project construction details, such as:
 - a. construction equipment and methods, e.g., bulldozer, pile driver, drilled shafts, chain saw, hand crews or heavy machinery.
 - b. Stormwater Pollution Prevention Plan (SWPPP) measures included in engineering plans or project development process. In some instances, specific SWPPP measures may not be known at the time of the biological survey.
 - c. temporary detours, diversions and other structures
 - d. permanent structures
9. Measures taken during design to minimize impacts, if relevant. Note: This will not be a “cut and paste” from your National Environmental Policy Act (NEPA) document and is not required to contain the same level of detail as your NEPA analysis. Contact NMDOT or project proponent for this information.
10. If project alternatives are being considered, provide a brief description of each project alternatives under consideration. Note: This will not be a “cut and paste” from your NEPA document and should not contain the same level of detail as that provided in the NEPA document.

Header and Footer information shall include project name and page number. Consultant may format the header and footer to fit consultant document standards. Header and Footer may include other information such as consultant logo and address

Required figures:

1. **Project Location Map** showing project area in relation to the state of New Mexico
2. **USGS Topographic Map (1:24,000) with Project Area Footprint and Land Status**
3. **Aerial Image with Project Area Footprint**
4. Additional figures as needed

A statement of required figures is included in each section. To reduce redundancy, figures may be combined to display related project information and survey results.

2.0 Project History

This section conveys changes to the project over time, and is intended for projects with a long history or for larger corridor-scale projects. Not all projects will have a history. Obtain this history from the project proponent either directly or through the entity that contracted the biological survey. Include as applicable:

1. A description of the context of this project within the larger corridor.
2. A reference to any known previous biological surveys of the project area or corridor and a description of the pertinent findings. NMDOT will furnish copies of older reports, if available and relevant to the project.
3. A description of the project history including any applicable agency consultations or coordination that have occurred with USFWS, US Army Corps of Engineers (USACE), New Mexico Environment Department (NMED), NMDGF, Pueblo, etc.
4. Any changes to project and/or control numbers.
5. A description of the STIP project phasing, if applicable.
6. Any additional information as needed.

3.0 Action Area

The purpose of this section and later discussions within the report are to facilitate compliance with new requirements in the EPA Construction General Permit that took effect in February 2012 (<http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>). In essence, the Action Area is a buffer zone around the project area. Analysis of the Action Area is primarily aimed at evaluating potential impacts to USFWS threatened and endangered species and critical habitat as it relates to the effects of stormwater discharges during construction. The Action Area also takes into account other related listed species information such as known nesting locations, or non-listed species issues such as known elk migration corridors.

Using their best professional judgment, the consultant shall define the Action Area boundaries based on the location of the project, the findings of the biological survey, and the type of project impacts (direct and indirect) as they relate to (1) species (listed or non-listed as appropriate); (2) critical habitat; and (3) stormwater runoff from the project. **For project areas that are far from drainages, known listed species, critical habitat, or known migratory corridors, the Action Area will be smaller. For project areas that are close to drainages, close to critical habitat, close to known migratory corridors, or where known listed species occur, the Action Area will be larger. Consultants are not required to survey the entire Action Area.**

This section of the report is not intended to provide detailed analyses, but rather a brief description of the Action Area boundaries. Use the “Methods” section to explain how you defined the Action Area, and use the analyses sections later in the biological report to describe the reasoning for your delineation of the Action Area boundaries and the anticipated impacts resulting from the project.

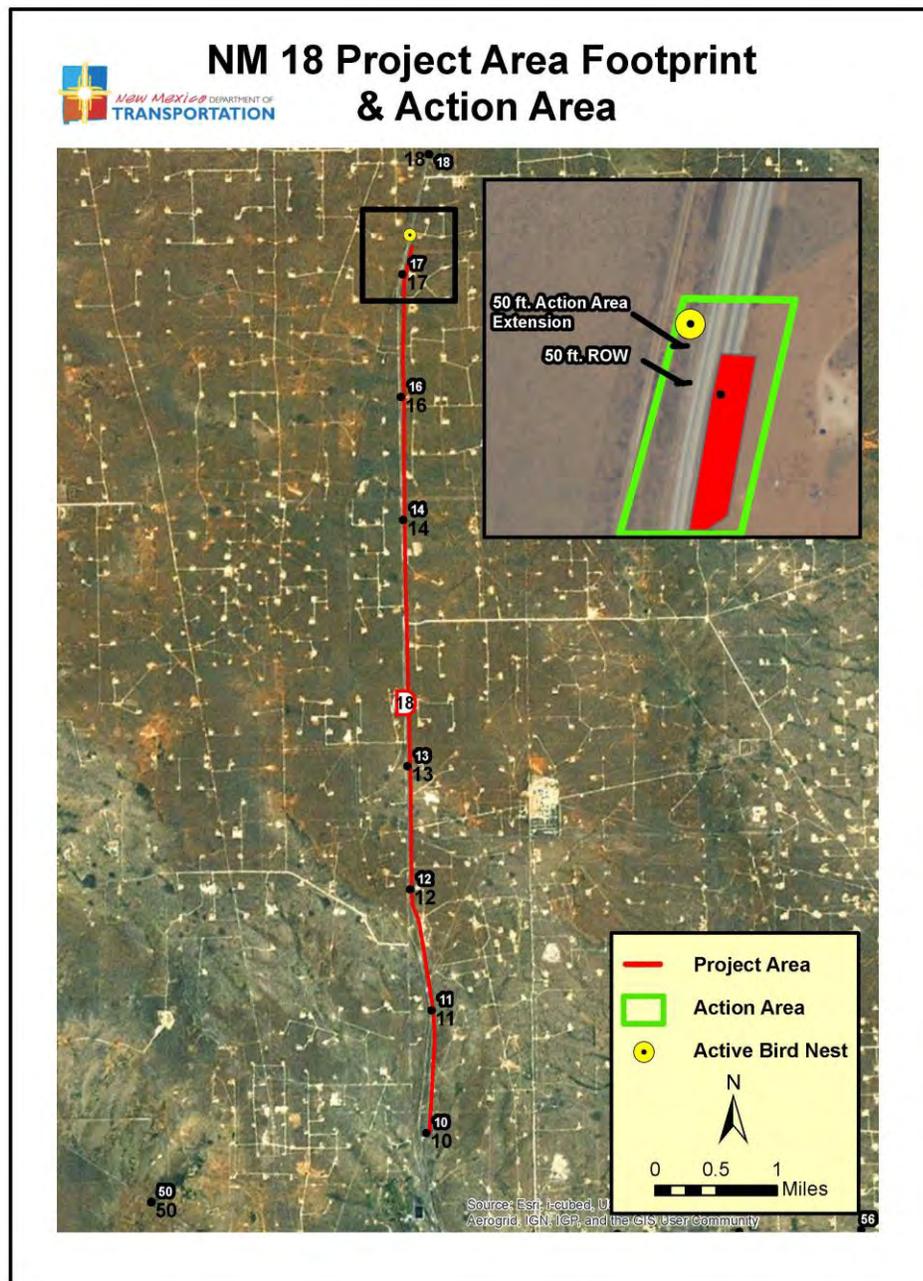
The Action Area may include, for example, the location of a listed species and/or critical habitat that may be indirectly affected by the project (e.g., peregrine falcon nest within X miles of the project area that may be impacted by project area noise or X acres of listed fish species critical habitat located downstream of the project that may be impacted by sediment-laden stormwater runoff from the project area). The Action Area can be separated into terrestrial and aquatic Action Areas at the consulting firm’s discretion.

Header and Footer information shall include project name and page number. Consultant may format the header and footer to fit consultant document standards. Header and Footer may include other information such as consultant logo and address

A general internet search for “Action Area examples” can provide additional clarity on defining the Action Area. Please contact the Environmental Section if you have questions concerning the Action Area.

Required Figure:

1. **Action Area** (Use aerial image. Show project footprint polygon within the Action Area polygon. Show other appropriate features such as critical habitat, known nesting location, land status, wildlife corridors, etc.)



*Header and Footer information shall include project name and page number.
Consultant may format the header and footer to fit consultant document standards. Header
and Footer may include other information such as consultant logo and address*

4.0 Methods

The Methods section provides information on what studies were conducted, who conducted them and why, how, and when they were conducted.

A 100% pedestrian survey of the entire biological survey area (including applicable buffers) is required.

Describe the biological survey area boundaries. These typically include a buffer beyond the project footprint, but confined to the existing right-of-way. In rare cases of survey areas extending outside of the right-of-way, permission from the appropriate land owner would be necessary prior to the survey. Buffers are defined by the project proponent (e.g., NMDOT, Engineering Firm, Local Government, Utility Company) to meet their needs. Clearly state if the biological survey area is exactly the same as the project area or if it includes a buffer.

Identify personnel involved in the survey and their roles. If resource specific surveys are performed that require special certifications, permits, or licenses (e.g., USFWS species-specific protocol surveys, formal wetland delineations) include the personnel's certification, permit and/or license information. **Reminder: If on Navajo Nation lands, survey personnel must be permitted by the Navajo Nation to perform biological surveys on their lands and shall contact the Navajo Natural Heritage Program to request data for the occurrence/potential occurrence of species of concern. The Navajo Nation also has their own Endangered Species Act and process for reviewing and approving Biological Evaluations. Discuss the report format with NMDOT.**

Discuss field survey dates, start and end times, duration, weather conditions, etc.

Provide a description of the methods used to conduct surveys and/or reference appropriate guidelines – protocols, agency-specific guidelines, etc. If transects are walked, the distance between transects shall be appropriate to detect rare plants, and shall be appropriate for the terrain and habitat density. For long corridor projects employing more than one survey method, provide a brief description of each method.

Describe tools used and literature reviewed. At minimum, consultants are expected to reference the most current USFWS listed and sensitive species list and critical habitat, Biota Information System of New Mexico (BISON-M) for state listed species, New Mexico Rare Plant species list, and New Mexico Department of Agriculture noxious weed list.

Header and Footer information shall include project name and page number. Consultant may format the header and footer to fit consultant document standards. Header and Footer may include other information such as consultant logo and address

Describe methods used to define the Action Area.

If the survey includes a determination of the Ordinary High Water Mark (OHWM), state the methods used to define it. State whether wetlands have been subject to a formal determination or delineation.

Discuss agency contacts, if applicable (e.g., NMDGF, BLM Field Office, USFS Ranger District).

Required Figure:

1. **Biological Survey Area** (Show project footprint polygon within the biological survey polygon. Include the Section lines. Show other features if appropriate such as Action Area, critical habitat, land status, wildlife corridors, etc.)
2. Additional figures as needed

Reminder: Paragraphs on sub-topics are acceptable. Formal sub-headers (e.g., 2.1, 2.2) may be used at the discretion of the consultant.

5.0 Regulatory Context

Provide a bulleted list of applicable regulatory laws to the project and Action Area. Example:

Regulatory laws applicable to the project and Action Area include, but are not limited to:

- *Endangered Species Act*
- *Migratory Bird Treaty Act*
- *Bald and Golden Eagle Protection Act*
- *Clean Water Act Section 401*
- *Clean Water Act Section 404*
- *Clean Water Act Section 402 (add for projects with greater than 1 acre of disturbance)*
- *Executive Order 11990 (Protection of Wetlands)*
- *Noxious Weed Management Act*
- *Executive Order 11988 (Floodplain Management)*
- *Navajo Nation Environmental Protection Act.*
- *Insert additional laws as needed*

Header and Footer information shall include project name and page number. Consultant may format the header and footer to fit consultant document standards. Header and Footer may include other information such as consultant logo and address

A summary of each law can be added at the discretion of the consultant. Keep the summaries brief if added. Include relevant reference citations.

6.0 General Environmental Setting

Concise description of the region in which the project and Action Area occur, including as applicable: elevation(s), climate (temperatures, precipitation – rain and snow), topography, ecoregion, geology, soils, vegetation, drainages, 100-year flood plain, land use, level of human or natural disturbance, etc.

Literature and web-obtained information shall be included in this section, not survey results. Please include appropriate reference citations.

Examples of optional sub-headers or sub-sections, as relevant to the project:

Elevation and Climate

Topography and Geology

Ecoregion and Vegetation Communities

Mapped Soils Types (e.g., USDA Natural Resources Conservation Service [NRCS] soil survey)

Waters and Floodplains (e.g., presence of springs, seeps, fens, drainages or pertinent tributaries, playas, closed basins, 100-year flood plain; depth to groundwater)

Land Use (e.g., urban, rural, agricultural, industrial, park; NMDGF Wildlife Management Area, BLM Recreation Area; National Park; National Wildlife Refuge). **Note: The NMDOT typically owns the right-of-way where NMDOT facilities cross private lands. Where NMDOT facilities cross public or tribal lands, the NMDOT typically does not own the right-of-way and, instead, maintains a right-of-way easement.**

Human or Natural Disturbance (Describe any researched information related to recent human or natural disturbances such as a grazed allotment, relevant fires, relevant floods, superfund sites, etc.)

This will complete the documentation of literature review and the report format will now move onto discussions of survey observations.

7.0 Survey Results

This section documents observations from the biological survey for the project area only, including buffer areas if applicable. **A field survey of the entire Action Area is not required for the Biological Evaluation.**

7.1 Fauna Observed

This section will document all fauna observations. To reduce redundancy, migratory birds and bats are no longer broken out in separate report sections.

The Fauna table can be placed in the body of the report, or in the appendix at the discretion of the consultant.

The Fauna Type column contains fixed row categories (“Invertebrates, Fish, Amphibians, Reptiles, Birds, Mammals”) that cannot be removed. The column categories also cannot be deleted. If a certain fauna type is not present, state that none were observed. For example, if the project area does not contain a perennial waterbody, text in the Fish section could be stated as “*not applicable due to the lack of a perennial water source.*” If the species observed is federal or state listed, insert the status in **red** below the scientific name.

Table 1: Fauna Observed within the Biological Survey Area

Fauna Type	Common Name (Scientific Name)	Indicator	Abundance
Invertebrates Observed <i>All species categories shall be included. If none from a category are observed, state this. Do not remove the category</i>	Species X (Scientific Name) <i>Federal Threatened State Endangered Forest Service Sensitive Etc.</i>	<i>e.g., live animal, tracks, scat, nest, carcass, guano, burrow, etc.</i>	<i>e.g., “common”, “few”, etc. Quantify terms; avoid using the term “rare” and use the term “few” instead.</i>
Fish Observed			

Header and Footer information shall include project name and page number.
 Consultant may format the header and footer to fit consultant document standards. Header
 and Footer may include other information such as consultant logo and address

Amphibians Observed			
Reptiles Observed			
Birds Observed			
Mammals Observed			

The following sub-headers are required for the discussion portion of this section.

- Invertebrates Observed**
- Fish Observed**
- Amphibians Observed**
- Reptiles Observed**
- Birds Observed**
- Mammals Observed**

Describe all fauna species identified during field survey within the project area, including domesticated species (e.g., cow, dog). Provide pertinent photos of fauna or signs observed (e.g., active and inactive bird nests; prairie dog burrows; burrowing owl burrows; guano under bridge; fish in river) if applicable. All drainage structures (including culverts) in the project area shall be investigated for signs of bird, bat, and other animal use.

If a river flows through the project area, document any fish and aquatic invertebrates observed. Identify them to the best of the field biologist's ability. If unable to identify to the species level, note this in the report and identify to level possible.

Discuss observed birds and nests (densities, composition and whether or not nests were occupied or active). Include observations of suitable habitat for nesting, perching, roosting within the project vicinity. Discuss nesting bird habitat present in the project area, even if birds are not observed during the survey.

Provide locations (using photos, GPS, and map) of observed nests within or adjacent to the project area. Adjacent nests could include, for example, a raven stick nest located in a tree 100 feet from the project area or a willow patch within 500 feet of

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the project area that is southwestern willow flycatcher habitat or USFS-documented goshawk nest within two miles of the project area.

If burrows are present, provide information on whether the burrows are active or inactive, identify the fauna that either are, or could be, using the burrows, and quantify the burrow size and extent of the burrow colony, if applicable.

Include observations indicating the presence of wildlife crossings or connectivity corridors within the project area (e.g., large number of deer tracks or trails along the right-of-way; carcasses; evidence of wildlife using drainage structures such as snakes, turtles, badgers, bobcats). If no wildlife corridor is present or apparent, state this with any pertinent reasoning. (e.g., Project is located in an urban area in downtown City X; Species X crosses to wintering grounds Y miles north of the project area). **Note: It is recommended to contact adjacent land-management agencies, for example the local BLM field office, as they may be able to provide information about wildlife corridors in close proximity to a project area.**

Required figures required if the following are observed (use points, lines, or polygons as appropriate):

1. **Locations of prairie dog burrows** (specify active or inactive, occupied or unoccupied)
2. **Locations of bird nests** (If location information must be kept confidential to protect certain species [e.g., golden eagle, southwestern willow flycatcher], include a statement on the map such as “*Not for public display.*”)
3. **Listed species habitat observed, as appropriate** (e.g., if a willow patch is large enough to be considered southwestern willow flycatcher nesting or migratory habitat, and is within or adjacent to the project [for the southwestern willow flycatcher, the distance is 500 feet], show this on the map.)
4. **Locations of observed wildlife crossings or corridors (live animals, tracks or other signs)**
5. **Locations of bat roosts/signs**
6. Additional figures as needed

Header and Footer information shall include project name and page number.
 Consultant may format the header and footer to fit consultant document standards. Header and Footer may include other information such as consultant logo and address

7.2 Flora Observed

Describe all plant species identified during field survey, including noxious weeds and wetlands.

The Flora table can be placed in the body of the report or in the appendix at the discretion of the consultant. If the species observed is federal or state listed, place the status in **red** below the scientific name. The guidance stated above in the “Fauna Observed” Section also applies to this table.

Table 2: Flora Observed within the Biological Survey Area

Common Name (Scientific Name)	Abundance	New Mexico Noxious Weed Class and its Location
<i>Species (Scientific Name)</i> Federal Threatened State Endangered Forest Service Sensitive NM Rare Plant Etc.	<i>e.g., “common”, “few”, etc. Quantify terms; avoid using the term “rare” and use the term “few” instead.</i>	<i>e.g., Class A, located in a 20 foot diameter area 100 feet north of MP X on the west side of Roadway Y</i>

Examples of optional sub-headers or sub-sections:

Noxious Weeds Observed

Rare Plants Observed

Include status of noxious weeds (i.e., Class A, B, or C), and distribution within the project limits (e.g., milepost locations, length and width of population, UTM coordinates, left or right side of the road). Use GPS in the field to document coordinates of Class A and B noxious weed locations. GPS location data is not required for Class C. For moderate to small infestations of Class C weeds include a concise description of the distribution in the report (e.g., 10 Russian olive trees near MP X or approximate 0.25 acre stand of tamarix within the drainage at the EOP). Mapping Class C noxious weed locations on project figures is at the discretion of the consulting firm.

Header and Footer information shall include project name and page number. Consultant may format the header and footer to fit consultant document standards. Header and Footer may include other information such as consultant logo and address

Include representative photographs of general project area flora and relevant flora photos (e.g., noxious weeds, rare plants).

Example of photograph caption:

Photograph 1: Project Area Habitat Looking South from MP X

Required figures, if observed:

1. **Observed rare plant locations** (If location information must be kept confidential to protect certain species, include a statement on the map such as “*Not for public display.*”)
2. **Observed noxious weed locations** (points, lines, or polygons as appropriate)
3. Additional figures as needed

7.3 Observed Waterways and Soils

Discuss soils and erosion observed in the project area. Include salt crusts, wind-blown sand drifts, soil type, etc.

Discuss 100-year flood plain observations, if relevant to the proposed project.

Discuss waterways observed in the project area and their classifications, e.g., ephemeral, intermittent, and perennial; potentially jurisdictional or potentially non-jurisdictional; closed basin; playas; springs; seeps. Provide representative photographs upstream and downstream of each drainage. If the project area contains multiple drainages, it is recommended that these photographs be included in the appendix.

If a project will involve discharges of fill into a waterway or work within the channel, then provide the following additional information. Mark the OHWM on the photographs for each channel being affected by project activities. Provide the name, latitude/longitude, and UTM coordinates (NAD 83) of each affected drainage. This information can be presented in a table at the discretion of the consulting firm.

If a formal wetland delineation was conducted, include a brief summary of the results and refer the reader to the wetland delineation report. If no formal delineation was performed, treat these features as a potential wetlands and discuss the estimated

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sizes (square feet and/or acres). Include location information of wetlands. Discuss wetlands in terms of potentially jurisdictional or non-jurisdictional.

Note: In the report, discuss drainages and wetlands only in terms of their potential or likeliness to be jurisdictional or non-jurisdictional. The US Army Corps of Engineers (USACE) is the only agency with the authority to make the official determination on jurisdiction of wetlands and waterways. A formal jurisdictional determination is not necessary for 404 permitting. For internal projects, NMDOT will consult with USACE unless the consultant is directed otherwise.

Required figures, if drainages or wetlands are present:

1. **Map showing locations of drainages**
2. **Map showing OHWM** (OHWM will be GPS'ed in the field and the shape file imported into this map)
3. **Observed wetland locations and acreages**
4. Additional figures as needed

7.4 Observed Surrounding Landscape and Land Use

Based on your informal observations, state the surrounding landscape and land use(s) in the vicinity of the project, for example, mountains, valley, mesa top, grassland, fallow fields, farmed fields, urban setting, ski area, shooting range, rangeland, wildlife refuge, public parks, etc.

Include representative photograph(s) as needed.

7.5 Observed Human or Natural Disturbance

Document any observed human-caused or natural disturbances, such as evidence of cattle grazing, recently mowed right-of-way, recent fire, construction activities, housing developments, etc.

Include representative photograph(s) as needed.

Additional report sections may be added to document relevant observations that are not covered by the current sections. This will complete the documentation of observations and the report format will now move onto analyses. No new observations will be added in the analysis section.

8.0 Listed Species and Critical Habitat Analysis

Provide a general statement about the intent of this section. Note: The following analysis sections of critical habitat and listed species impacts will take into account both the project area and Action Area.

Prior to delving into the analysis, please note the following guidance:

The species and critical habitat lists referenced are required to be the most current, up-to-date lists.

Reminder: If the project passes through another agency's land jurisdiction, contact that agency (e.g., BLM, USFS) to discuss their special status species prior to performing the biological survey. For internal projects, NMDOT will perform this coordination unless the consultant is directed otherwise.

Address (1) federally listed species protected under the Endangered Species Act (ESA) (i.e., threatened, endangered, proposed); (2) federal candidate and species of concern, which although not receiving protection under ESA are likely to become listed as a result of the USFWS settlement agreement with WildEarth Guardians dated September 9, 2011; (3) state listed species protected under the New Mexico Wildlife Conservation Act (i.e., threatened and endangered); and (4) New Mexico rare plants. Analysis of state sensitive species is no longer required unless a specific species is observed within the project area during the survey (e.g., mountain plover). Lists required for reference in all reports include the USFWS Listed and Sensitive Species for the County, BISON-M (including the state sensitive species), New Mexico Rare Plants List, and relevant agency-specific lists if the project crosses through non-private lands such as USFS or BLM.

If the project "may affect" a federally threatened, endangered, proposed threatened, or proposed endangered species, or negatively affect critical habitat, then contact NMDOT immediately to discuss. (If NMDOT is not the project proponent, then immediately contact the entity that contracted the Biological Evaluation). This will give notice to include time in the project development process for consultation with USFWS and development of measures to minimize impacts in order to avoid an adverse effect if possible.

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Reminder: “May affect, likely to adversely affect” determinations for listed species or critical habitat requires formal consultation with USFWS under Section 7, and preparation of a Biological Assessment is required. If an action is “likely to jeopardize the continued existence” of a proposed species or result in the “destruction or adverse modification” of proposed critical habitat, formal consultation with the USFWS and preparation of a Biological Assessment is required. Coordination between the project proponent and USFWS is necessary prior to initiating the Biological Assessment.

“May affect, not likely to adversely affect” OR “Wholly beneficial” determinations for listed species or critical habitat can be addressed under Section 7 through informal consultation with USFWS and preparation of the Biological Evaluation is sufficient. **Consulting firms may only perform consultations with USFWS if the lead agency grants permission for the firm to act as a representative on their behalf.**

While candidate species are not afforded legal protection under ESA, USFWS can recommend ways to reduce adverse effects. Candidate species may later be proposed for listing or become listed prior to project implementation, making consultation necessary in the future if proposed actions are likely to jeopardize the continued existence of such species.

8.1 Critical Habitat Analysis

Describe how the project would modify or impact critical habitat located within the project area and Action Area. Discuss direct and indirect impacts and cumulative effects. If no critical habitat is present within the project area or Action Area, discuss distances to closest critical habitat outside of the project area and Action Area.

Required Figure:

- 1. Critical Habitat(s) with respect to Project Area and Action Area**
2. Other figures as needed

8.2 Listed Species Eliminated from Further Consideration

This section shall include a table or detailed narrative summarizing the federal and state listed species that have been removed from further evaluation because **suitable habitat is not present within the project area and Action Area** as

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identified through review of USFWS, NMDGF, other applicable land managing agencies, and New Mexico Rare Plants Council literature. (If correspondence was received with species lists, document the correspondence as a reference.)

Table 3: Listed Species with No Potential Habitat in the Project Area and/or Action Area and Eliminated From Further Consideration

Species Category	Species	Status	Habitat Associations	Rationale for Elimination from Further Consideration
Listed Plants Eliminated From Further Consideration	Common Name (Scientific Name)	<i>e.g., Federal Endangered; State Threatened; Forest Service Sensitive</i>	<i>Pull from BISON or other literature. e.g., Range is 5,000 to 7,000 feet. Species occurs in association with alkaline springs.</i>	<i>Provide Rationale for project area and Action Area. e.g., Project area occurs at 8,500 feet. Action Area range is 7,900 to 8,900 feet. Both are outside of species range. Project area contains no alkaline springs. No known alkaline springs were identified for the Action Area.</i>
Listed Invertebrates Eliminated From Further Consideration				
Listed Fish Eliminated From Further Consideration				
Listed Amphibians Eliminated From Further Consideration				

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Listed Reptiles Eliminated From Further Consideration				
Listed Birds Eliminated From Further Consideration				
Listed Mammals Eliminated From Further Consideration				

The species can be discussed either in table format or in short paragraph format at the discretion of the consultant. If using a table, follow the format above and do not remove any column or row headers. If organizing this section in paragraphs, follow the taxonomic order shown above, and follow the example below.

Invertebrates Eliminated From Further Consideration

Common Name (Scientific Name) – [e.g., *Federal Endangered; State Threatened; Forest Service Sensitive*]. *The species range is 5,000 to 7,000 feet; and occurs in association with alkaline springs. Project area and Action Area occurs at 8,500 feet, outside of species range. Project area and Action Area contain no alkaline springs.*

Fish Eliminated From Further Consideration

There are no federal or state listed fish species for X County.

8.3 Listed Species Evaluated Further

This section will include a discussion explaining the species that could occur in the project area or Action Area. Potential impacts/effects to the listed species shall be thoroughly evaluated in this section.

This section will also discuss those species that may have suitable habitat within the project area or Action Area, but will not be impacted by the project.

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Table 4: Listed Species with the Potential to Occur In the Project Area and/or Action Area

Species Category	Species	Status	Location of Habitat	Species Present or Absent at Time of Survey within the Survey Area
Listed Plants	Common Name (Scientific Name)	<i>e.g., Federal Endangered; State Threatened; Forest Service Sensitive</i>	<i>Specify with respect to the project area and the Action Area. e.g., Within project area; adjacent to project area; within Action Area, but not in project area. Within project and Action Area.</i>	<i>Specify: Present or Absent</i>
Listed Invertebrates				
Listed Fish				
Listed Amphibians				
Listed Reptiles				
Listed Birds				
Listed Mammals				

The species table in this section **is required**. Do not remove any column or row headers. Following the table, a written paragraph shall be prepared on each species (within its respective taxonomic order). The paragraph for each species shall provide a detailed discussion of habitat associations (pull from BISON or other appropriate sources), habitat locations, species presence/absence, and rationale for whether or not the project will affect or impact the species. Avoid details that are not germane to the determination of project impacts such as physiology of the species (e.g., plumage color, length of hind foot).

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Determine if the species is *truly* going to be impacted by the project. For example, listed species that are residing, nesting, have dens, year-round maternal colonies, *known* migratory flight paths, etc. within the project area are ones we expect to be potentially impacted. Keep the analysis relevant to the proposed project and construction details. For each species, discuss direct project impacts, indirect project impacts, and cumulative project impacts.

The sub-headers below are required for the discussion portion of this section. They can be turned into formal, numbered sub-sections at the discretion of the consulting firm.

- Listed Plants**
- Listed Invertebrates**
- Listed Fish**
- Listed Amphibians**
- Listed Reptiles**
- Listed Birds**
- Listed Mammals**

For species listed under the Endangered Species Act as federally threatened, endangered, proposed endangered, or proposed threatened, formal USFWS effect determinations are required and the following topics shall be completed as part of the discussion for each species. Use of these sub-headings will help streamline consultations with USFWS.

- Species Ecology/Threats**
- Habitat Use and Condition**
- Habitat Remaining in Project Area or Action Area**
- Data Sources (including surveys conducted)**
- Direct, Indirect, Interrelated, and Interdependent Effects to Species**
(Refer to the USFWS Endangered Species Consultation Handbook if you are unfamiliar with these terms)
- Cumulative Effects to Species**
- Recommended Mitigation**

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Finding (mark the appropriate effect determination)

No Effect

May affect, but is not likely to adversely affect (Can only be used if all of the reasonably expected effects of a proposed action will be beneficial, insignificant, or discountable.)

May affect, and is likely to adversely affect

Likely to benefit

May jeopardize the continued existence of a species

May adversely modify critical habitat

Note: Do not use these effect determinations for any species other than federal threatened, endangered, or proposed, which are protected under the Endangered Species Act.

For other listed species (e.g., candidate, species of concern), there are no formal agency impact determinations aside from the Forest Service, as described below. Consulting firms will not create and apply their own across-the-board impact determination statements, as these are not standard and create confusion for reviewing agencies and the public. Other listed species will be concisely discussed in terms of impacts or potential impacts. For example, *“Marginal habitat is present for species X within the project area. Species X has been documented by the NMDGF X miles north of the project location during migration (reference citation). No tracks or habitation by species X were observed during the biological survey. If species X migrates through the project area, individuals are expected to avoid the project area during project construction activities. Direct impacts to species X would consist of project area avoidance and would be temporary and minor. No indirect impacts are expected from the project since the structure exists currently and the replacement structure will continue to allow species X to pass through the area.”*

If the project involves USFS land, use the impact language specified by the Forest Service Ranger District for Forest Service Sensitive species. Each Regional Forest and individual Ranger Districts can have different language requirements regarding species impacts.

Some BLM offices do not allow anyone other than their BLM biologists to perform listed species analyses and make effect determinations for BLM lands.

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Check with the appropriate field office to determine whether the BLM biologist will provide this.

This will complete the listed species evaluations and the report will now move into impact analysis for non-listed species and other natural resources.

9.0 Project Area Direct Effects Analysis

Include the Council on Environmental Quality (CEQ) definition of direct effects: “caused by the action and occur at the same time and place”.

This section will discuss direct effects/impacts (permanent and temporary) of the proposed project to non-listed species, if observed or relevant, that are residing, nesting, have dens, year-round maternal colonies, etc. within or adjacent to the project area. Removal of marginal foraging habitat for non-listed species and non-listed species avoidance of the project area during construction are considered negligible impacts.

Discuss project impacts to wetlands in terms of acres and/or square feet (e.g., the new bridge pier will remove 0.08 acres of wetland A located on the east side of river X).

Temporary and permanent impacts will be dependent on the project design, which may not be finalized at the time of the biological survey. However, project impacts to species and other natural resources must be identified for NMDOT-funded (e.g., Local Government) and NMDOT-permitted projects (e.g., Utility, Contractor Located Activities). Coordinate with the project proponent to determine impacts.

If the project will result in direct effects to listed species or critical habitat, make this general statement and then refer the reader to the “Listed Species Analysis” section of the report.

Examples of direct effects on species or other natural resources include:

- *The proposed project would permanently remove # acres of roadside vegetation with the shoulder addition.*
- *The project area would temporarily impact # square feet of willow riparian area to access the culvert.*

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- *The proposed project would permanently fill # square feet within the OHWM in ephemeral drainage X through the addition of a riprap pad at the culvert outlet.*
- *The proposed project would remove # mature cottonwood trees along the east side of road X between mile post Y and Z.*
- *The bridge rehabilitation would temporarily prevent swallows from nesting on the structure from March through June.*
- *The proposed project would generate a temporary noise increase during construction.*
- *The proposed roadway widening project would permanently increase the existing noise levels in the area, as demonstrated by the noise assessment (cite author).*
- *The proposed project would facilitate elk crossing. The proposed project would create a barrier to elk crossing.*
- *The proposed project would create bat roosting habitat through installation of a bat box under the new bridge.*
- *The project would reconnect fish populations upstream and downstream of river X once the culvert is replaced.*

10.0 Project Area Indirect Effects Analysis

This section will describe indirect effects to non-listed species, if observed or relevant. Include the CEQ definition of indirect effects: “are caused by the action and are later in time and farther removed in distance, but are still reasonably foreseeable”.

If the project will result in indirect effects to listed species or critical habitat, make this general statement and then refer the reader to the “Listed Species Analysis” section of the report.

Examples of indirect effects on species or other natural resources include:

- *Growth-inducing effects from a new interstate access could reduce habitat for species X.*
- *Changes in the pattern of land use, population density, or growth rate will result in negative effects on air quality.*

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- *Project is expected to reduce wildlife-vehicle collisions following installation of the game fence and removal of trees within the right-of-way.*

11.0 Action Area Direct and Indirect Effects Analysis

Discuss direct and indirect effects of the project on species and other natural resources within the Action Area. Examples include:

- *Removal of the bridge piers in perennial stream X would temporarily cause an increase in turbidity in the aquatic Action Area. These effects are temporary and would not impact listed species.*
- *Critical habitat and a known nesting pair of listed bird species X are located within the Action Area, X miles west of the project area. Noise associated with construction activities could indirectly affect nesting behavior or success.*
- *An elk migration corridor in the Action Area, located X miles north of the project area, could be affected by the new road alignment and fence installation.*

If the project will affect a listed species or critical habitat in the Action Area, provide a brief statement similar to the example described above and then refer to the “Listed Species and Critical Habitat Analysis” section of the report.

12.0 Recommendations for Avoidance, Minimization, and Mitigation

This section shall discuss avoidance, minimization, and mitigation measures.

Note: The intent of the Biological Evaluation is not to make a determination as to whether the project will violate a law, but rather for the consulting firm to provide guidance on how to implement the project in a manner that maintains compliance with current laws.

Provide recommendations (e.g., preconstruction bird survey; removal/control of Class A and B noxious weeds; revegetation of disturbed areas with native weed-free plant seed; wetland mitigation; project timing during low flow conditions; project timing outside of flycatcher season; removal of unoccupied swallow nests outside of the migratory bird season). **The recommendations must be feasible. Discuss in**

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terms of the consulting firm's recommendations and not as the project proponent's required commitments.

NMDOT expects that the usage and details of certain recommendations will continue to evolve over time, and it is not necessary to use the precise wording provided below.

Examples with guidance:

- *Commencing activities outside of the migratory bird nesting season if feasible. (If making this recommendation, check with the NMDOT [or the project proponent entity that contracted this Biological Evaluation] to ensure it is feasible to construct outside of the migratory bird season.) Do not make this recommendation if that would not allow for proper completion of the project (e.g., concrete curing times, asphalt temperature requirements). State the migratory bird season dates specific to the project area location based on elevation and climate. The migratory bird season is not fixed. At lower elevations in the southern part of the state nesting can occur year-round, whereas the nesting season will be shorter for projects located in higher elevations. **It is important to be conservative in setting the date range concerning nesting and migratory birds.***
- *If construction activities must commence during the migratory bird nesting season, recommend appropriate exclusionary measures such as removing unoccupied swallow nests outside of the migratory bird nesting season or installing exclusionary netting underneath bridges outside of the migratory bird season. Exclusionary netting will not be recommended for railroad bridges. For exclusionary measures, recommend appropriate netting: entire underside of bridges, abutment to abutment, railing to railing, net mesh opening no greater than ¼ inch to preclude birds from establishing nests, etc. Also recommend a preconstruction nesting bird survey if appropriate. **Note: If unoccupied bird nests are not removed prior to nesting season or exclusionary netting is not placed in time and birds begin nesting, this can result in great expenses to the project proponent in time delays and contractor claims. USFWS may choose not to issue a relocation permit for failure to preclude nesting birds.***

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- *Depending on the project location and applicability, include separate recommendations for raptors (e.g., owls, eagles, falcons, hawks) to avoid commencing construction during their breeding season. Identify the timeframe for the particular raptor's breeding season based on the project location, elevation, and climate. Also recommend a preconstruction survey for raptors if appropriate.*
- *For projects involving bridges or culverts where there is potential for bat roosts or bats and/or their sign have been observed, include the same exclusionary netting as listed above for the birds, if warranted. This commitment is not appropriate for bridges with maternal bat colonies or for bridges over railroad tracks. Recommend a preconstruction bat survey if needed. Not all bat species migrate and some are winter residents in the southern portion of the state.*
- *Recommend the installation of bat boxes if appropriate. The NMDGF should be consulted on the type and placement of bat boxes. Generally, boxes would be placed on the south side or west side of the bridge/culvert to be warmed by the afternoon light. Bat boxes cannot be placed in direct sunlight.*
- *Include recommendations to treat and/or remove Class A and B noxious weed species. Recommended removal of small infestations of Class C or include a statement that these can be removed at the discretion of the project proponent. Recommend contractors implement BMPs to reduce the spread of noxious weeds such as washing all equipment prior to bringing equipment on-site at commencement of construction and then washing equipment at completion of construction prior to leaving the site.*
- *Include recommendations for obtaining permits as appropriate (e.g., 404, 401, 402). If permits have already been received, state this and explain which impacts/effects these permits will minimize or mitigate.*
- *For utility and other trenching projects, recommend following the NMDGF current trenching guidelines.*
- *For power pole installations or relocations, recommend the addition of raptor nesting platforms if appropriate.*
- *Make other recommendations as appropriate to the project scope and potential impacts.*

13.0 Conclusion

Summarize key report findings. Recommendations will not be repeated. For recommendations, refer the reader to the prior section. This section shall include:

- All listed species and critical habitat that could occur within the project area and/or Action Area along with findings of impacts to those species from the project. Specifically state the effect determinations for USFWS threatened, endangered and proposed species.
- Distance to nearest critical habitat(s) and whether the project will impact that critical habitat directly or indirectly.
- Whether or not USFWS consultation (formal or informal) is necessary.
- Project impacts and applicable permitting to mitigate or minimize those impacts (e.g., Section 404, 401, 402).
- Include a brief summary of survey observations such as: bird nests, bat roosts, noxious weeds and Class, waterways, etc.

14.0 Report Preparers and Certification

Signature of preparer and, if applicable, other agency reviewers (e.g., Forest Service). Include an appropriate certification statement, for example:

“It is believed by (consulting firm name) that the proposed action would not violate any of the provisions of the Endangered Species Act of 1973, as amended. Results and conclusions contained in this report are based on actual field examination and represent my (our) best professional judgment, based on information provided by the project proponent, applicable agencies, and other sources.”

Report Author: _____

Author(s) Name, Title (Individuals responsible for the content of the report. If multiple, have all authors sign the report.)

Office Name

Phone Number

Report QA/QC: _____

Name, Title

Office Name

Phone Number

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If applicable also include:

Accepted by: _____ (Consulting firm can, in
coordination with the agency, turn this into a statement such as: “I have reviewed this
Biological Evaluation and concur with the findings”).
(Other Agencies such as USFS) Name, Title
Office Name
Phone Number

REMINDER

**Any exceptions to the reporting format provided in the current NMDOT
Biological Reporting and Format Standards document require prior approval
by the NMDOT Environmental Section.**

**Report sections cannot be removed. If the section does not pertain, add a
statement to this effect under that section header.**

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16.0 References

Books, Journal Articles, Reports: [Author(s). Year. Title. Publisher/Source. Volume: Page begin-Page end].

Correspondence: [Author(s). Date. Subject. Agency/Company. Pp. (pages)].

Phone: [Contact Name. Date. Subject. Agency/Company. Phone Number. Result/Action].

E-mail: [Contact Name. Date. Subject. Agency/Company. E-mail address. Result/Action].

Websites: [Subject. Web address. Access Date.]

Appendix A

(Add Appendix Title)

Appendices are to be in order of the first occurrence in the text.

- Include the most current public domain information from the USFWS, NMDGF (Listed and Sensitive Species List for County), New Mexico Rare Plant Technical Council, and other lists of potential species in the project area, references, photos, etc., as needed.
- Include agency letters and correspondence if appropriate.
- Include NRCS Soil Survey Maps if appropriate.
- Include other appendices as applicable.