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So that I wanna introduce Kimbra Davis, Director of Orphan Well Program Office, Department of the Interior.

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Thanks, and thanks so much for. Good. Webinar here in the group. I appreciate all of the states that are in attendance and appreciate both you and Lori for all of your coordination and collaboration efforts.

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Hi, 1st just wanna say that I appreciate very much. The work you all have already done. With our grants there's been over 7,700 wells plugged as of March 31st that's amazing amazing progress and we've awarded 11 of 21 phase one formula grants with Many more in the queue.

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Hopefully to be awarded very soon. So. Today we want to focus on the endangered species act and the National Historic Preservation Act.

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And over the last several months, our team has worked incredibly hard to. Put together. Wealth of information around these 2 topics.

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I'll say we've learned a lot along the way. Since we last presented the information in January on the terms and conditions of award.

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Texas has been. Part and parcel to our learning endeavors and very much appreciate. All of the states and why you all have shared in a number of meetings about.

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Your processes and expectations and your unique challenges with different types of endangered species in your states and also.

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Very unique challenges with their working and collaborating with your state historic preservation officers. We respect that everyone has different challenges potentially to bring to bear so as a conclusion of this webinar.

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Whatever questions may not have been addressed to your specific situations, we always welcome more conversations and feedback on our processes as well as giving us your feedback.

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Us the opportunity to improve but also to recognize. The difficulties that some of these requirements are. Are resulting in and will do everything humanly possible.

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To make the processes as streamlined as we can and to help you get to success. We all want to be successful in this program and and I appreciate the incredible attitudes that you all have shown.

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Forward with these new requirements. So thank you for that. So at this time, I'll just introduce.

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Maureen Gallagher. She's the acting division chief for our policy and compliance program.

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You'll be hearing a lot from her today. She has in depth experience. With the Fish and Wildlife Service and endangered species programs and then the other speaker will have today as Shauna and China.

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I apologize. I may butcher the pronunciation of your last name, but. Ertolacci and she's a management and program analyst with then the policy and compliance division.

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And also has deep knowledge of endangered species act and National Historic Preservation Act and those requirements.

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So we're working. Collaboratively with a lot of Folks throughout the department thinking through opportunities to improve our processes to streamline to simplify to the extent that we can.

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These endeavors but With that, this is a very process driven presentation. And so that I'll turn it over to Maureen to talk through some of the processes that have been developed.

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And we'd love to hear from you as we move forward. Thanks.

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Great. Thank you, Kimbra. I'm gonna start with one more reminder about the Q&A.

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Amy spoke about it a couple of times. Please feel free to write those questions in as we go along because we won't be stopping to take questions until the very end at which case we'll be turning off the recording and then we'll have an unrecorded QA session at the end.

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The other thing that we'll do with those questions is if we get repetitive questions, it also helps us in updating FAQs as we go along.

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So just like, Canberra, I wanna welcome everybody. It is, there is an impressive 119 people in attendance right now.

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So we really appreciate all of you giving us a couple hours of your time. And I want to reiterate that this is this is a singular training.

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It will be online. You can go back and refer to it at any time. But we are, we believe that we are in partnership with you all and it is our desire to provide you the best possible support that we can and so If we're not answering your questions.

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Let's have a conversation after the fact and at any time in our working relationship, please feel free to call and ask us questions and we will try to.

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Take care of those as soon as possible.

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So with all of that, just a little bit of more logistics. We're gonna have a couple of breaks because this is 2 h.

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We have 2 5 min breaks that are that are part of this presentation so that those of us presenting can get a little bit of a break but then also you can all stretch and make sure that we can keep everybody's attention for what is a very information packed presentation.

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And so with that, I'll move on to, I'll move on to the. To a discussion of the tools and resources tables.

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If you have not received this from us yet, please make sure that you put that information in the chat so that we and you know.

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An email address if you will and we will make sure that we get this out to you but we have put together a very on list of tools and resource tables that you can go to.

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Some of these are how to videos, others are useful for, that you might want to take a look at, etc.

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And so we really encourage you, hopefully you had a chance to look at this beforehand because you received an email from us saying hey look at

this beforehand but again if you didn't apologies for that and we will get those resources out to you in the next week.

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Next slide. And so that's just a quick introduction to the tools and then I wanna kick it over to Peter, who's gonna talk about the notice of award.

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Great, thank you Maureen. So the 1st section of this presentation is going to be talking about what happens when you receive a notice of award for phase one, formula grant from the department of the interior.

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And has been of you note date, 11 states have received that notice of award and many more will receive it in the coming weeks and months.

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So given some of the anticipated complexity surrounding the award terms, the focus of this webinar is really to clarify the role and responsibilities associated with award terms.

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25 and 26. So that's the endangered species act and the national historic preservation act.

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These award terms and conditions in the face of formal grants are different than the award terms. Conditions in the state initial grants that a number of states received in 2,022.

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So that's really the driving, pointed focus of today's presentation. So to ensure all recipients are put to meet these obligations, as Maureen mentioned, we've developed a list of FAQs and resources with detailed tables of information.

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PDF documents, summaries, YouTube videos dedicated to topic. So really again stress the importance and value of some of this resources.

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The OWPO has also onboarded subject matter experts to stand up our internal policy compliance branch as well as expanded our services with expertise via contract and partnership with the US Fish and Wildlife Service.

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And, if there's interest from states as we move forward, the Orthodox Birmingham office is also will consider standing up for current office hours to deliver many webinars and dive into some more technical topics depending on what is requested and what would be a value.

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2 states.

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And so as we take a deeper dive into a word term, 26 here in a little bit.

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If you haven't already done so, please do make yourself familiar. With the specific terms and conditions, for these 2 topics and bring any questions that you might have.

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To us in you know as quickly as possible so that we can help you address them. In terms of use of grant funds, in general, formula, rent funds, and, for that matter, may be used to pay for the activities conducted by states necessary to meet section 7 of the ESA in section 106 of the NHPA requirements that are included in the terms and conditions of And this was a point that was addressed in the

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most recent FAQ document that we released. However we do wanna stress that state should contact their respective IVC awarding officer and OWPO financial assistance officer representative for additional discussion and guidance on this topic because it very much will be.

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Back in case. Specific depending on, circumstances on the, whether this would fall into the administrative or program cost.

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Categories.

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So non federal representatives. Grant recipients must demonstrate compliance or assist OWPO with ESA section 7 and NASA section one of 6 compliance for this project for their products that they're funding with their bipartisan infrastructure So in order to help streamline this process, the department has delegated each state, which is the grant recipient as the non federal or agency representative for ESA and

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NHPA respectively. So what exactly does that mean? A delegated responsibilities to grant recipients include preparing compliance documentation and consultation materials.

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Maintaining and submitting documentation for the administrative record and initiating informal and assisting with formal consultation. And on the second half of this slide, you'll see that, there are tips for recommended qualifications to assist in this various work.

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And again, these are not our requirements, but they are strong recommendations. And the point here really is to help recognize.

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That there is a minimum of expertise generally necessary for performing professionally, credible work within these fields. And so for the Endangered Species Act.

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That's a degree in biology, natural resources or similar field, and for the NHPA that is a degree of history, archaeology and architecture.

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There's also the DOI secretary of professional qualification standards, which is specific to the National Historic Preservation Act.

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And the standards here are designed to be a tool to help recognize that there's a minimum expertise generally necessary for performing professionally credible historic preservation work.

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So there's a link to those that folks can check out if they book. I'm now gonna pass it off to Sean to Take the rest of the presentation.

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Thanks, Pierre. So to help illustrate a bit about the roles and responsibilities that Peter just discussed, you'll see in this image that there are both delegatory and non delegatory responsibilities.

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Largely orphaned wells will take lead on all those on delegatory responsibilities, which include formal consultation and emergency consultations.

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While in these instances the grant recipient will provide a assistance as you guys are the ones that know your projects.

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On the delegatory side of those responsibilities for the grant recipients. You guys will largely be leading those instances where informal consultation is required.

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So what Orphan Wells will be doing is we will be providing written notice of Grant Recipient designation to those various authorities.

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We will be providing guidance to the recipient on working through these processes. Reviewing documentation prepared with an initial and a technical review as well as issuing pass backs if additional clarification is needed and or clearances.

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So to highlight the grant recipients responsibilities after you guys received the award notification and accept the award.

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You all be, you all will be working on preparing that documentation and consultation materials. Maintaining and submitting those files for the administrative record.

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Initiating informal consultation and engagements and then submitting and or resubmitting those preliminary determinations.

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An important note here is to, pay attention to the retention requirements for records, which is 3 years.

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And that 3 year starts from the date of the submission of the final expenditure report of that specific forward.

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So with that.

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Shauna, Shauna, I apologize for interrupting. Would you turn on your camera, please?

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Great. Thank you.

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Oh, sure, no problem. If I have any, if I have any bandwidth issues, I'm gonna jump off, but just keep that in mind.

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Great. Thank you.

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Yes. And so with that, I will pass it to Lauren.

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Great. Thanks, Shauna. So I am going to spend a few minutes and a few slides here.

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Doing, sort of a 50,000 foot overview. And then we're gonna dive into the details and Shauna will be taking you into the into the details.

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So don't feel like you'd have to scramble to write notes and ask questions because we will be getting into a much more detailed discussion on terms 25 and 26 here in just a few minutes.

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So before, before we talk about 25 and 26, I just want to provide a reminder with respect to term 24 and that really addresses the fact that while we are not responsible for full NIPA.

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You are responsible for the documentation and maintaining the documentation for all of the environmental regulations that may apply to your projects in your states.

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Right, so all of the sort of NEPA like state requirements and other federal laws such as the Clean Water Act, the migratory bird Treaty Act.

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Well, we won't be asking you specifically for that information in order to get you, plugging.

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And remediating, we, you may need that information and it will be part of your records. And you are responsible.

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For ensuring that the documentation of the compliance, with all those applicable statutes and regulations are included in your pro in your project files.

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And so, you know, with that, I just wanna make sure that, you know, that.

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Just take a moment for everybody to think about that, that you do have to get all of that information together.

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And, I'm gonna go ahead and move on to the next slide. So. Okay, so we just talked about the fact that there is no NEPA requirement, right?

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And for those who might not understand NEPA or maybe have not had exposure to it. Statute that brings all of these other environmental laws into play.

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And make sure that there is an opportunity for scoping and meaning that individuals from the public are able to, you know, weigh in on what your projects are.

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We are not responsible for that. Under the BIO for orphan, orphaned wells plugging.

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But we are responsible for. Meeting all the statutes. And regulations within the National Historic Preservation Act and the Endangered Species Act.

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And so those are the 2 that are in the terms and conditions. Those are the 2 that we are going to.

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Focus on and those are the 2 that you are responsible for providing documentation, sufficient documentation to us to be able to occur with your effects analysis.

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Okay, so I want to just take a moment to talk about some common. And you know the 1st one being that we can just use a category, categorical exclusion to, eliminate the need for ESA and or NHPA, as, compliance as part of these projects.

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Because categorical exclusions and that term, right, categorical exclusion, because it is connected specifically to NEPA.

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And we are not doing NEPA. We really don't have an opportunity to use a categorical exclusion.

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In that way. And if we did, what it does is it It exempts us from formal preparation of an environmental assessment and or and or an environmental impact statement.

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And luckily we don't have to go down, go down that pass. That path, excuse me.

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The other the other one is is that award and terms and conditions 25 and 26 do not require.

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You as the grant recipient to prepare and submit documentation demonstrating. Compliance. And so I we just want to take a moment to make sure that everyone understands that it is.

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It is all of our responsibility working together as partners because we are here to help you do this. That we do need to get the documentation and demonstrate that environmental compliance.

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So, a 3rd one that we've heard, quite often is, that efforts are restorative in nature and should not be considered destructive nor as construction.

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And the fact of the matter is, is that when you're talking ESA and NHPA, it requires proactive consideration of those impacts.

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For all proposed federal actions and undertakings. And so you will as we go through ESA and NHPA discussion, you're gonna hear these terms actions and undertakings quite often because those are the specific words that are used in the statutes.

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So it's good to get familiar. With that verbiage. Now we're not we're not suggesting that what you're doing is destructive.

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But under the law. We have to say that it's not, right? We can't, we can't just,

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We have to prove that it's not we can't just say that it's not if that makes sense And then, a 4th one that we wanted to talk about is that the proposed action will take place in an area that is previously disturbed or near areas and high levels of human disturbance.

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And so therefore there won't be There won't be anything there that we could disturb, right?

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And disturbances frequently occurred prior to the passage of many environmental statutes, right? So these statutes go back.

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To like the seventies but a lot of what the orphaned wells that you will be working on predate that.

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And so those disturbances happened before the laws. Yes, it has been pre disturbed, but in other cases, you know, the habitat has grown back because there hasn't been disturbance for a while.

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And it could be that there are historic. Historic areas or artifacts, within that, Within that.

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Within the area than which you're working. That nobody knows about. And so, you know, part of what we'll be talking about in the details too is if you find something, you need to tell somebody that you found something as well.

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Okay, just an overview of award term, 25. And this is the one. That, covers the Endangered Species Act.

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And, you know, we sort of tried to highlight, here on the screen. I, I won't read for you, but we tried to highlight here on the screen, you know, a really important aspect of this and that's that it is the Department of Interiors is required to ensure that the activities that they fund, are not likely to jeopardize species that are listed.

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And that includes wildlife. Plants. And not only those species that are under the jurisdiction of the Fish and Wildlife Service, but also those offshore that are under the jurisdiction of NOAA and the National Marine Fisheries Service.

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So when you when you start working on projects, if you are doing offshore projects, you're going to be working with the National Marine Fishery Service as well as potentially the fish and wildlife service because there are there are times where they have joint jurisdiction.

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In fact, we're working on an emergency project. That fits that category right now.

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Okay, a word term, 26. That's the National Historic Preservation Act and it requires federal agencies to take into account the effects of their undertakings.

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So undertakings is the key word for, an HPA. And it's undertakings on historic properties and tribe one native nations who may it may attribute religious or cultural significance to a property.

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A federal undertaking is a project activity or program funding funded. In whole or in part under the director indirect jurisdiction of a federal agency.

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Including those carried out by or on behalf of a federal agency. So as non federal representatives, as Peter spoke about earlier, you are take you are taking this on on behalf of federal agency.

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The 1 0 6 process. Needs to be completed prior to approval of the. Of. Of your starting your work, right?

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So there's sort of a two-pronged process. There's the ESA piece and then there's the NHPA piece.

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You have to have a clearance from us for on both of those before you can move forward. And I wanna make an important note that when it comes to NHPA, Native American ancestral interests may, come, come into play here.

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And this is with respect to federally recognized tribes as well as those recognized by the state. Government to government consultations are required when requested.

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By federally recognized tribes. So you will be as the grant recipient will work, will communicate with the tribes up and to the point where they request a government to government consultation or relationship.

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Once they do that, that gets to that side of Shauna's flowchart from earlier where those are the non delegated authorities.

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That's where and but we will work with you every step of the way. There are several of us here on staff that have considerable amount of experience working with tribal nations.

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And we will be we will be helping you with communicating and trying to coordinate needs with needs that the tribes may have.

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So I'm gonna transition sort of out of the. Out of the terms and conditions overview and talk about you know this idea of the streamlined process.

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There is no doubt that when it comes to environmental compliance, you know, we are carrying a heavy weight.

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And there's a there is a lot to be done. And if you haven't been, if you haven't done it before, it can it can be.

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Overwhelming. We're not gonna we're not gonna pass past that truth, but again, we are here to help you right now, Shauna and I have been we've been a team of 2 within a month.

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We expect to triple or or even quadruple our our the size of our team here so that we can meet your needs in a timely manner and help each, each of you get down this environmental compliance path.

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And I just really want to do a shout out. To Texas and Michigan who have already gotten started.

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They have their awards. They've already started with their environmental compliance and are doing a great job getting that information in.

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And then we also have other states that are that that are ready to go, right? They've reached out to us, they've started asking questions.

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And so I just wanted, I just, yeah, I really want to thank you all. For. Your collegiality as we work through all of this together.

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So, you know, and with that, whenever possible, we encourage coordinating. We, encourage you when you.

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Think about your ship or excuse me your NHPA information and your ESA information that you try to coordinate that and send it in together.

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It makes it it makes our processing go faster. And when it comes to ESA and Shauna's gonna get into much more detail about this when it comes to ESA.

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In our office, we have what we call the 10 day clock. You send us a package. We have 10 days to review it and either tell you it's insufficient and ask for more information.

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Or we, the clock can expire with, no, no confirmation. And you can move forward.

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But what we have been doing in practice is trying to beat that 10 day clock as much as possible and get you note notification that you are cleared.

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As quickly as we possibly can because we know you all have very tight timelines. And you know, the window that window that some of you have, especially in the northern tier of the country, that that window is gonna close because of weather, you know, in just a couple of months.

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And so, Well, we have the 10 day clock and yes, it can just expire on its own.

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With an affirmative. We are trying to let you know sooner rather than later that either you are cleared or we need more information.

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So that we can we can move things along expeditiously.

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And again, Shauna is gonna get into into more information about this. I just want to highlight.

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That in order for us to make sure that we don't miss anything because you know we have many states that are going to be sending us information.

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We really urge you to use the environmental compliance orphaned wells, email address that you see in this slide and we'll have that information for you at the end of this presentation as well.

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And when all else fails and always, you know, not only when it, when, when you're not sure what to do, always reach out to your ESP.

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Eps, excuse me, your environmental protection specialist. And make sure that they are copied so even if you send something to this email box i think it's a good practice to go ahead and copy that individual to make sure that that we're getting back to you in a timely manner.

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So sort of how do you how do you send these submittals into us and and sort of what should they What should be in them, right?

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So. With respect to processing, we have a 10 day clock. For ESA, the 10 day clock does not apply to NHPA.

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So I'm gonna focus on ESA 1st and this 10 day clock. And you can you can kind of look at the details here with respect to when our day ends and when it doesn't end.

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I'll give you a very recent example of managing the, how we count the 10 days. And you know it's 2 h work days so for example we We have a an internal calendar and we identify when the 10 day deadline is for any one of these projects and I got an email this morning saying, oops, we we have an extra day because we forgot to include the fact that next Wednesday the 19th Juneteenth is

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a federal holiday right so that will that will push those deadlines one more day so you know sort of think about you can sort of think about that and but what I will say is when you send these in I mean if there is if there's something going on right like hey we already you know, hired the contractor, we're gonna lose them if we don't have them starting on Monday.

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Reach out to us and ask. We're gonna do what we can to try to accommodate everyone.

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But you know, that said, we are also trying to, we've set some prioritization parameters for ourselves in managing the workload.

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And one of the, our top priority is making sure that every state that has been awarded a grant can get started.

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So if we have a new state that comes online. And they send in a package that's gonna be a top priority.

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If you send everything in together so that it's in a nice neat easy package for us to follow.

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That's going to be our next priority. Those where we have to follow up. Are gonna go to sort of the bottom of the priority list.

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Because we have to keep moving this 10 day clock. And, and if we don't have.

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If we don't have the NHPA piece. That we can't and in order because we also have to approve that and we do have to send you an affirmative confirmation that you can that you can start plugging.

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Based on your any on your ESA and NHPA and so if we don't have both pieces then we we cannot get you moving forward.

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Next slide please.

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Okay. I just wanna talk, I'm gonna go really, I'm conscious of the time, so I wanna go pretty quickly about.

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ESA and streamlining. And so if we have. If we have an ESA, no effect, right?

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If we can get to a no effect, then we can move things through very, very quickly. And it is our job to make sure that we have sufficient documentation.

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In order to. Get that determination and if it's a may effect, then we're going to start working with the Fish and Wildlife Service right away.

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They are sitting ready in the wings to help us when the time comes and to help you when the time comes.

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So if you can get us. All of the documentation that is necessary and again, Shauna will go through those details.

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You can get all of that upfront, then we can move through very quickly. We, and, hopefully beat that 10 day clock.

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When it comes to NHPA, again, the 10 day clock does not apply. But NHPA parties.

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So that would be like your ship O. If you need to reach out to a Tippo, if tribes have already expressed in the work that you're doing, they might be considered consulting parties.

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Those consulting parties have up to 30 days to review and respond. After all that happens, that comes back to us.

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And then we do our review to see if we concur with the determination and then let you know, when you can move forward.



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Next slide, please.

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And with that, I am going to. Send it over to Shauna and she's

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No worries.

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Sorry, that's my bad. I'm supposed to be doing that. Am I supposed to be doing the slide shot?

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Okay, there you go.

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Okay, it's fine. I can take it. So just to recap a little bit about Maureen's been talking about this is this is the big 3 right when we're doing our coordinated submittals and largely we're looking for that project scope and .

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Documentation and the NHPA section 1 0 6 documentation importantly, and Maureen has already discussed this that project implementation really cannot be initiated by the grant recipient until Orphan Wells notifies your organization that the process is outlined in a war terms, 25 and 26 are complete.

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And then, you know, recipients must submit. We have to have all that documentation and correspondence associated with those.

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And then that's when we'll give, give the clearance. And now I know that's been a lot of information.

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But I'm gonna kick it to Peter.

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Yeah.

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Alright, and I'm gonna kick it to a 5 min break. I give everybody a chance to stretch, get some water, turn off the cameras, come back around 1246 Eastern time so 5 min from now we will reconvene for kind of the second section of this presentation.

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So see that and I'll just remind everyone, please enter your questions into the QA function. There are no dumb or bad questions throw in there if you have it, so that we can have a, you know, growing list of what you all are curious about, where outstanding issues might remain.

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So we can work to address them towards the end of this presentation or, following this webinar.

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Alright, see you back here in 5 min.

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Alrighty and we are back. So the next section will be about getting started in developing your work plan.

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We will focus on getting started with ESA and HPA responsibilities with particular focus, looking at the DSA requirements.

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Thank you, Peter. So as we're getting started, it's really important to 1st strategize how your work plan is going to be developed.

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Work plans were really flexible. They can be developed, with, with an expansive scope. County or even statewide regionally, etc, or they can be site specific.

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So Orphan Walls strongly encourages the work plan development and prioritization and that is largely to ensure that there is.

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Sufficient time allotted to account for some of the timelines associated with ESA and NHPA.

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And Justin in way of example, we have a little table here on this slide. That that shows you know 1st off you know efforts where activities use existing infrastructure to access project areas where no ground disturbance is really anticipated.

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Those are really going to go pretty quick. Second efforts where existing infrastructure is removed or temporary infrastructure is constructed to access those project areas.

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Minor ground disturbances anticipated. That's going to be another a quicker activity to be able to get through the process.

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So 3, rd efforts where existing infrastructure is removed or expanded, temporary and permanent infrastructure is constructed to access these project areas.

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And major ground disturbances anticipated that and then the 4th effort where full site remediation is anticipated are really gonna take the longest, to get through ESA and NHPA processes.

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It is also really important to note that just, just going in and inserting a well plug to existing infrastructure is very unlikely.

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To be characterized as new construction, but everything is taken care of by case but we just wanted to put that note out there for everyone to keep in mind.

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So once you've strategized and prioritized your work plans, the second step is going to be to start compiling all of that relevant.

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EID or environmental information documentation, into a submittal package for our review. So Orphan Wells has developed a new tool for grant recipients in the form of an optional checklist.

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To assist in compiling all this information. And there's 3 primary categories, which is that general requirement per award term, 24 to forward the project scope and description.

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The second is the primary elements to document compliance with award term, 25 and then the last award in terms 26.

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In the next few slides, we'll take a closer look at each one of these sections.

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So the first, as you know, wherever possible, you know, again, we encourage the use of the project files that have already been created.

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For a word term, 24. And again, this, award term does, you know, ensure that the recipient, has that documentation on hand.

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And that upon request, you guys produce those that documentation for us. And we are requesting that upfront just to ensure that we are getting, you know, underway with ESA and NHPA.

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Those project descriptions really need to outline the basic scope and parameters of the proposed action. And it really starts to answer the who, what, where, when, why, and how.

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And so the optional checklist neatly outlines the project scope and description, including the project intent.

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Which includes the background goals and objectives, existing conditions, which includes those the oil and gas infrastructure that we're working on, the biological and cultural landscapes, any guiding documents that you guys have related to this.

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We don't need those documents, but if you refer to those, that's helpful. And then reality permissions, for any access granted.

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That's followed by project area mapping, which is that implementation area, that footprint, the maximum extent and any deconstruction limits.

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This includes things like the transportation and access routes, materials and equipment, staging locations. Equipment, travel corridors.

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And then of course there's the project components, which is that proposed action. When it's going to occur, those implementation dates, where that equipment and staging area, where those are going to be, how big they're going to be operational steps that you'll be carrying out.

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Vegetation and then any vegetation or ground disturbance to include any re vegetation efforts.

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And then we have a tip here. And really to better understand your potential impact to the natural and cultural resources, we strongly encourage early coordination.

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With your sister agencies and state resources. This includes your state historic preservation office, state wildlife agencies, even your local fish and wildlife.

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Ecological services office. Other helpful contacts, that, have a lot of times very robust programs.

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Our state programs that utilize federal funds frequently and One of the most common is the States Department of Transportation.

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So we really encourage you working with your sister agencies to get a handle on a lot of this stuff if you're not already familiar.

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So moving on to the next section of the checklist. We're going to be taking a deeper look at those, Endangered Species Act requirements, list noted in award term 25.

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So here again is that blow up of the optional checklist for use. The primary elements for award term, 25 consist of submitting a point of contact for the great recipients, ESA work.

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The action area mapping the identification methods used or the methodology used to identify species in critical habitats which will largely come.

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From fish and wildlife and or national ring fisheries databases. And effects determination table and any engagement and consultation that you might have with either of these agencies.

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Again, big tip here is to engage your state wildlife agency or Fish and Wildlife or NOAA to better understand the range of the species that you might be.

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As well as any of their critical habitats.

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So the discussion in the upcoming slides will focus on adequately documenting no effect determinations. But before we move on to that, I wanted to quickly touch on instances where additional effort might be required from the grant recipient.

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And that's in these may affect determinations. So should a may affect determination persist after conservation measures have been applied and we still can't reach a no effect.

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That's when consultation with Fish and Wildlife for National Ring Fisheries is gonna occur.

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If it is a likely to adversely affect, that additional responsibilities are might include preparing contact drafting consultation correspondence.

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Tracking correspondence, preparing mailings, conducting biological surveys, preparing a biological assessment. And then engaging in consultation meetings.

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And through both preparation of presentations and attendance. So And let me let me make let me make sure that was clear there.

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So it may affect not likely to adversely affect that is when there's informal consultation that the grant recipient will take the lead on and in those instances where there is a likely to add or adversely modify or destroy critical habitat, that is when orphaned wells will reengage as the lead agency for formal consultation.

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And we'll talk more about this in a minute.

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So this slide shows a high level overview diagram of developing a preliminary effects determination for the endangered Species Act.

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Effects determinations are used to identify the level of consultation required with these jurisdiction authorities. The 1st step, describe the proposed action is the same as developing the project scope and description.

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That we previously discussed with the general requirement requested by the orphan wells program office as per award term 24.

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So using that project description, you'll then define the action. Area, identify listed species in critical habitats.

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Describe species and habitat status as well as provide that biological baseline of the action area. Outline potential effects, develop conservation measures, and that will result in your preliminary effects determination.

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So what exactly is the difference between a project area and an action area? The action area is defined by regulation.

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As all areas to be affected directly or indirectly by the federal action. And not merely just the immediate area involved in the physical action.

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The analysis of the action area is not limited to the footprint, nor is it limited to the federal action agency's authority.

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Rather it is a biological determination of the reach of the proposed action on those listed species. So subsequent analyses of the environmental baseline, effects of the action and levels of incidental take are all based on the action area.

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So a lot of times this well not a lot of times all the time the documentation used to initiate consultation should contain a description of the action area as defined by the regulations and as in the endangered species consultation handbook.

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If we go into consultations with, fish and wildlife or nationalery fishery service and They believe that the action area has been defined incorrectly, that, you know, there'll be a larger discussion about, about their rationale and then reaching an agreement on that description is desirable.

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But ultimately they cannot. Consult on an action. Where, the action areas is not defined properly under those regulations.

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So once we have that project description, and we're working from, and now we're working from a common understanding of how the action area is defined.

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The next step is to delineate that action area. 2 examples here. On the slide of what an action area looks like.

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One onshore, one offshore, and note that the action area is larger than the project footprint.

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And that project footprint includes those, those access areas, the temporary workspaces, as well as all the direct and indirect effects.

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So the direct effects, those include things such as habitat fragmentation, hydrological effects, erosion releasing contaminants, new human access and disturbance, visual effects, and even noise.

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So when you're developing your action area, it is important to focus your discussions. On the features and the potential for occurrence of species and critical habitats that are contained within that action area.

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There is there is a tendency at times to discuss biological features external to the action area, which can at times provide helpful context but on its own, it does not provide.

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Sufficient detail to substantiate those preliminary determinations. We really want your discussions to focus on what is occurring within that action area.

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So after delineating the action area, the next step is to identify those species. Ipad or the information for planning and consultation is a fish and wildlife tool used to produce this list of species in critical habitats with potential to occur.

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National and fishery services does have a similar tool for identifying largely offshore. Species and habitats and that can be located on your ESA tools and resources table.

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So these lists should be used to prepare a preliminary. Effects determination for submittal.

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And it should be here's an example here of a section of what the list looked like.

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And, really. Prior to submitting, it's it's really important to ensure that these lists are less than 90 days old.

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From the date that the list was originally pulled and that's just because these databases are constantly updated.

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So if in the event your list is greater than 90 days old, it's real simple to go back and pull an updated list to submit with your package and just take a quick look to cross-reference to ensure there aren't any changes.

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If there are changes, just update your submittal with any of the changes observed.

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So it's also, it's also encouraged that, your fax determination table mirrors the actual listing that comes out on the list and that's just to help streamline reviews so we're not picking through and trying to match up a different species and determinations.

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And so when consultation is required, Ipac also provides a really nice platform to prepare consultation packages and receive fish and wildlife opinions and concurrences related to that specific project.

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And fish, National Fisheries has their own tools to do very similar things.

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So this slide, the example template depicted, if this is another optional tool, that Orphan Wells has pulled together and it provides an outline to



complete the remaining steps necessary to develop a preliminary effects determination.

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This table formats the space for each species and critical habitat on the iPad list and largely that's specifically to be able to describe the species, their life stages.

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The potential for occurrence within the action area and what are they doing? Are they foraging? Are they finding shelter?

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Are they just migrating? Are they mating? And really being able to talk about the habitat quality that's with that's in your action area.

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It also provides space to identify those potential effects alongside appropriate conservation measures. To come up with that effects determination.

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And you'll see here on the on the far right side there's 3 little buckets for the effects determination.

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And so along with this, it, it's important to to delineate any overlap with critical habitat for the species within the action area.

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It's also really helpful if you categorize your rationale and you'll see there's there's a key here.

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This will be available for everyone's use. But as an example, if, if there is no habitat for this species, it's really nice to have that coated alongside your inf.

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So it's it's an easy check. It's also important to identify again those effects determinations for each listed species and critical habitat.

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So 4 species, it's a no effect may affect likely. Or not likely to adversely affect in addition to the potential to jeopardize.

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And then there's that separate habitat determination when it's present. You'll just, you'll say either it will or will not destroy, any critical habitat.

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So another tip here. Is when threatened or endangered species have the potential to occur within your action area, one very simple conservation measure and there are many out there.

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But one simple one used to reach a no effects determination is to implement your project outside of the sensitive timeframe for the specified species.

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An example of this would be avoiding project implementation during months when breeding is occurring.

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Shauna, I would like to add a couple of things really quick before we move on to the next slide.

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Sure. Sure.

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Because this is such an important component of the work that you will do for ESA. Shauna showed you before that we have this optional checklist, right?

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This, this tool, it provides you drop-down menus, right? So what you're seeing in the bottom, the key, those are the parts of the drop-down menus to make it easy to, for us to see the information that you have.

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But in order to get to the right option for the dropdown menu, you will have had to have done the the research and created the documentation.

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So this is this is another way to make sure that you're really well organized to get to get us down the ESA, concurrence path really quickly.

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Okay.

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So we really encourage you to use this tool if at all possible. And then the last thing I'll say about this tool is as Shannon also talked about the work plan, right, and figuring out sort of where's that low hanging fruit, what gets you to a no effect determination versus where might you be jeopardizing a species?

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If you're going through this process and answering these questions that can also help you with your work plan.

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Thanks, Sean.

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Thank you, Maureen. Good points.

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So this slide, this diagram. It depicts a very, very general overview or flow chart of the Fish and Wildlife ESA consultation process.

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No, the endangered species, consultation handbook that you'll see on the right hand side of your screen.

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There are very detailed flow charts outlining consultation steps. As per the identified effects determination, there are nuances to different effects determinations, but you can also find a link to this handbook in your, in the ESA tools and resources table.

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So you'll see the same themes repeated here. You know, 1st we're going to define that action area.

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We're going to use iPad to get the list. Then need to answer could the action area affect any listed species or critical habitat that are on that list.

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If no consultation is not required, we have a no effect. If there is potential to impact them, we need to determine whether or not it's adverse.

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If it's not adverse, we're in that informal consultation. And that's when the grant recipients will, will lead that and then if there is adverse effects, that's when.

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Orphan Wells will step back in to lead the formal consultation.

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So this diagram. It depicts a more detailed but still very simplified workflow integrating orphaned wells and the grant recipients roles and responsibilities for the endangered species act.

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Starting at the top left of the screen, you'll see the grant recipients awarded. There is the definition of action area, the use of iPad to obtain the list.

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The grant recipient conducting all that research to prepare that preliminary effects to determination. If they're all no effect and orphan

wells accepts all the information that's substantiated well and it's clear or term 25 is met.

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If we need more clarity, we'll do, we will pass back for the recipient to refine until Orphan Wells can accept the substantiated information and then award term as met.

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When there is a may affect again there's those 2 likely Not likely or likely to adversely affect or jeopardize.

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So in the event, it is not likely or will not modify or destroy. That's again that informal consultation period.

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So the recipient will notify orphan wells. And initiate that informal consultation process when fish and wildlife for National Marine Fisheries Service concurs, the recipient will notify orphan wells and award term 25 would be met.

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If there is non concurrence or there is a likely to adversely affect or jeopardize. Or the action will modify or destroy critical habitat.

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Again, that is when orphan well steps back in to lead formal consultation. Working with the recipient to refine the proposed action until there is concurrence from the jurisdiction authorities and award term 25 as met.

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So now we're going to move on to award term, 26. Historic properties or the National Historic Preservation Act.

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So going back to that optional checklist, you'll see the primary elements for award term 26 consists of again of having the grant recipients national store preservation act point of contact an area of potential effect the mapping identification of historic properties, the assessment of effects, and then any documentation for engagement and consultation.

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With the consulting parties.

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So again, a tip here is to, get started with all of this. If we really like to point people to their to their shipboards, their state ship offices, they have tons of guidance on their sites on how to prepare these packages as well as tons of other resources.

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So please go visit that site. And of course we're gonna be, we're gonna be reaching out to them too, so everyone knows that this program is, in operation and that we will have designated authorities.

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Sorry. Let me back up designated representatives. Working with us. So the discussion and the upcoming slides will focus.

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On adequate and adequately documenting a no adverse effect on those determinations. And again, I wanted to step through instances where additional effort may be required by the grant recipients.

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And that is when we find that there is an adverse effect and even after stipulations, conditions, mitigations, treatment measures, and we still can't get to a no adverse effect.

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That's when orphan Wells will reengage as the lead agency for formal consultation with Shippos, Tippos, so that's state history for formal consultation with Shippos, Tippos, so that's state historic preservation officers and all other consultations offices, tippos.

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So that's state and store preservation offices, officers, tribal historic preservation officers and all other consult so similarly should a travel nation identify ancestral interests within the area of potential effect or APE.

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Orphan Wells remains responsible for those government to government relationships with tribes unless the affected tribes agree in advance for the grant recipient to conduct consultation.

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So if there is an adverse effect or the Tribal Nation request consultation. Additional grant recipient responsibilities may include, preparing contact list, consultation correspondence.

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Again, prepping and mailing hard copies of correspondence, tracking those that correspondence. Preparing National Register of Historic Places, determinations of elevation or nominations.

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There could be cultural surveys or condition assessments needed and if again, if there is an adverse effect, we'll be moving into memorandums of agreement or programmatic agreements.

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And there'll be preparation of consultation presentations and then attendance at those meetings. And again, we'll talk about that.

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Again in just a few.

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So this slide shows a high level overview of developing a preliminary assessment of effects determination for the National Stork Preservation Act.

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And again, this is used to identify the level of consultation with those consulting parties. The 1st step, describe the proposed action exactly the same as we've discussed before.

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It's pulling together that project scope and description that we've previously requested coming out of that general requirement, award term, 24.

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So once you have that description, you'll define your area of potential effect, identify the listed eligible and historic properties.

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Describe the property status, provide a cultural baseline and historic use of the APE. Outline potential effects and develop preservation measures where required and that will result in your preliminary NHPA assessment of effects.

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Determination.

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So to be sure that we are all working from some of the same definitions, these terms have been highlighted for review.

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Again, that area of potential effect is really important. It is the geographic area or areas within which an undertaking made directly or indirectly cause alterations in the character of historic properties.

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Should any of them exist? And so the APE is influenced by the scale and nature of the undertaking and regularly varies depending on what what the proposed action is.

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A historic property is defined as any prehistoric or historic district site building structure or object including included in or eligible for and that's really important.

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That's why it's highlighted for inclusion in the National Register of Historic Places.

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This term includes artifacts, records, remains that are related to or located within such properties.

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The term, the term also includes. Properties of traditional religious and cultural importance to a Indian tribe or Native Hawaiian organization, and that meet the criteria in the national register.

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So, and finally, an effect is an alteration of the characteristic of historic property qualifying for inclusion or an eligibility on the national register.

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So again, once we have that project description, we're working from the same common understanding of what an area of potential effect is.

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The next step is to delineate that. That APE. And so again, this is this is the geographic limits of federal agency responsibility for the purposes of section 106 review.

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And identification efforts are to be carried out within these boundaries. So it's also important to determine and document the APE in order to define where where we're looking and we can communicate that to other folks.

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So in many cases, areas can be considered to have a certain probability. Of containing historic properties based on the current knowledge.

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Again, your Shippos and your Tippos. And all the other consulting parties are very knowledgeable of this.

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And generally very, very accustomed to sharing this. So this or similar characterizations can be used to justify.

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Where within the APE we're going to wanna, we're gonna wanna focus our efforts or target our identification efforts.

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So you'll see 2 examples of an APE shown here. Note again similar to an action area the APE is larger than the project footprint, the larger than the project footprint.

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It includes, again, it includes the access and the temporary workspaces. I'm within that project footprint as well as those direct and indirect

effects to historic properties, both known and unknown, physical, visual, and noise.

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So when you're developing your action area, it is very important to focus your discussion again on those features contained within the APE, but it is equally important to be prepared.

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To identify and document and protect. Any properties that might be discovered during project implementation.

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So after we've delineated the APE, the next step is to review existing information on the listed and eligible historic properties within the APE.

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And this is so the agency will have current data on what can be expected or may be encountered during project implementation.

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As depicted on the slide there's a variety of resources that are available. To locate known historic properties.

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But also to seek out information from various organizations and the public who may have additional knowledge on historic properties or even treaty rights that overlap with the APE.

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Some of the organizations include the National Park Service, National Register of Historic Places, the advisory council on historic preservation, state and tribal historic preservation officers, the Bureau of Indian Affairs, National Archives and Tribal Treaty databases.

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The, in the bottom corner, the bottom right corner, you'll see the tribal directory.

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Assessment tool. This is a very useful tool. Yeah, to identify ancestral interests, native and tribal organizations who have interests in historic properties of religious and cultural significance to them within the APE.

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It's largely done. You can pull a bunch of different resources by state and by county to get a feel for what what nations might be interested in your project area.

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So the ACHP or the advisory council has outlined the primary aspects of. Meeting the reasonable and good faith effort.



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These identification standards for the section to carry out the section 106 process to highlight a few items It is noted that the action agency should take into account past planning, research studies, the magnitude and nature of the undertaking and the degree of federal involvement.

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It has a the nature and extent of potential effects on historic properties is also important and the nature and location of those properties within the APE.

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The regulations note that a reasonable and good faith effort may consist of or include background research, which we've already talked about, consultation.

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Oral history reviews, sample field investigations and field surveys. So not every, not all of these are required.

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These are just tools to use as your, as you're working through these and when you find a store properties, we might need additional information.

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The regulations also contain a post review discovery provision and this and this is sense a reasonable and good faith effort to identify properties.

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May not be exhaustive when when the background research or the lit research. Is being conducted and so therefore some properties again as we've noted, might be identified during project implementation.

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If you're interested in looking at, there's a link there, but again, it's also available on the resource tables that we have provided for you.

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And there's an image of it. So just to talk a little bit more about tribal engagement and consultation under the National Sort Preservation Act.

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All the tools that I'm about to talk about, we mentioned a few of them in that last slide on where to get information.

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All these links are also provided on the NHPA tools and resources table. An example methodology to pull together contacts and begin this engagement starts.

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With the grant recipient compiling contacts. And so this is, this can consist of obtaining a tribal list from TED, which is that database that I highlighted earlier that you can pull data from by state or by county.

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And so this will be for your project area and based on your, on your strategized work plan.

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And then you'll obtain a tribal list from your state historic preservation office or your Tipso if it's available.

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You can also reach out to them to try to understand any known ancestral interests already. They may or may not have a feel for it.

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It just depends. You'll then cross reference that with BIA Tribal Leaders Directory, the BIA Indian Lands Database for any intersection with your APE and cross reference any tribal treaty archives.

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For intersection with your AP again. The grant recipient could then draft initial tribal engagement materials which would consist of a letter.

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To understand their interest in the project request and request any, and basically asking if they are interested in any government to government consultations.

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And then prepping a tracking spreadsheet to make sure that we're tracking all of this stuff as we're moving through all this correspondence and engagement.

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And then, and then once we're at that point, it's a really good time to get in touch with the Orphan Wells program office to make initial kind to ensure we're making initial contacts with the tribes in an appropriate manner.

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Every, tribes a little bit different. And another a few other really, really important points is that there is, there is no timeline associated with, tribal response.

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So. 30 days, a 30 day review for, providing them with information and allowing them 30 days for review and comment is customary.

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But again, there is no timeline. They can come with interest at any time throughout the process. And so in tribes who attribute religious and cultural significance to a property often requests additional time.

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Their resources are just as limited, if not more limited than hours. So we try wherever we can to accommodate their requests.

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And I think the big point here is that, you know, Orphan Wells will authorize the start.

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Of activities within a reasonable timeframe given what we know and the correspondence that we receive. We're very interested in getting you guys working as fast as possible.

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Okay. 9 ago, too deep into this one, this is the advisory council section 106 review process.

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This is available and can be searched online. It's very useful. But the primary steps here are initiating the process, you know, again, determining that undertaking, identifying those tribes.

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Identifying those historic properties making that reasonable and good faith effort determining if there is any eligibility for listing on the National Register, assessing those effects.

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If there are adverse effects, that's when orphan well steps back in to resolve those effects before project implementation proceeds.

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So this again is a more detailed but still simplified workflow integrating orphan wells and grant recipient roles and responsibilities.

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Starting again at the top left you'll see the grant recipients awarded they define the action area sorry backup area of potential for National Sword Preservation Office.

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Conduct the research to identify those properties, engage consulting parties to identify those properties, and then prepare that preliminary assessment of effect.

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There might be there might not be any properties. And so there also might be actions where there is no potential to cause effect.

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So that's when you would notify Orphan Wells, we would accept it in award term.

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26 is met. If we need clarification, we again pass that back for. Refinement and clarification.

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Then we'd accept an award turn 25 with Met. Would be met for no historic properties and no adverse effect the recipient notifies orphan wells and consultation is initiated.

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So you'll notice that little star there. And this is just the highlight that again we will be reaching out to to Shippo offices to communicate the representative designation of grant recipients and then also to highlight that Orphan Wells is responsible for communicating when requested.

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That government to government consultation in less prior agreement from the tribes. So when there is concurrence with the, with the assessment of effect with the consulting parties, they're sitting will notify or from wells of any communications will accept an award.

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Term 26 will be met in the event there is a dispute this is similar to an adverse effect where the recipient will notify orphan wells of that.

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Yeah. And then Orphan Wells will begin to lead that formal consultation. We will continue to work with the recipient to refine the project until that can be resolved.

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In some instances, an agreement may need to be prepared. Upon signature, that is when award term 26 would be met.

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And Once both award term 25 and 26 are met that is when you will obtain clearance to proceed.

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So, oh, let me back up. So Peter, I know that was a lot of information. Yeah.

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I think it's time for 5 min break. Right. So I guess we'll come back at 1 31 Eastern for kind of the last couple of slides we had before jumping into QA.

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During 5 min and again and see a few questions in the Q&A section down there, please continue to add them.

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And as a reminder, this is being recorded and the slides will be made available after the webinar.

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Okay, and we are back. This final section of the webinar is gonna recap the some tips discussed.

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Before we transition to the QA portion for the last remaining bit so I'm gonna hand it over to Maureen if she's ready to go.

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Right. Thank you all. I want to get us a little bit back on track here. I know we started a minute or 2 late, so we want to be make sure that we have time for Q&A.

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But I do want to just talk about, you know, some, take aways kind of do an overview of what we just hopefully learned and discussed the most important takeaway is is This is not a 1 and done opportunity for all of you to interact with us, to learn how to do this.

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It It is a complicated process. And if you don't have people who are familiar with it, working on your teams, it can be a little bit daunting, but please be rest assured.

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We are here to help you. And the most important thing you can do is to reach out early and reach out often.

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So if you have questions, Don't at all hesitate to contact us. And as always, if you're sending something an email, make sure that you, you copy and or reach out through your environmental section specialist.

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So we can keep everybody in the loop. We urge you to try to schedule a sort of a ESA NHPA kickoff meeting with us.

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That's an opportunity particularly after this one for us to really answer your very specific questions. And.

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And address any issues or concerns that you have and really start to build that working relationship. We've created all these tools.

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We hope that you will put them to good use. Keep in mind that we are, we are evolving.

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So as we continue. As we continue to work with you through various grant cycles, we are doing everything that we can to simplify and speed up the process, to get all this done because we really, we really want you out.

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There, plugging and doing your remediation efforts as as quickly as possible. And so Some of the process may change.

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We will definitely give you plenty of warning if it does and just know that when it does change is because we are trying to simplify things.

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We're also having conversations with the Fish and Wildlife Service and others in order to see if there are ways that we can get some resolution for at least part of your projects if not all of your projects.

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To be streamlined. So, the language you reuse or programmatic and it allows us to batch particular types of projects in particular geographies together and say, okay, we've already taken a look at this.

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We don't need to go through all of this process piece by piece. So in addition to. All of the all of the items that you see listed here.

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I want to I wanna highlight number 12. The use of on site monitors. And I think that this is an opportunity that you may want to look into.

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We realize that you know, the more that you have to put into environmental compliance is potentially the less you can do with.

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Respect to to plugging but but know that you know these expenses can be covered and if you have monitors that are qualified on site when this is happening.

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A lot of the a lot of the The preparatory documentation efforts and everything doesn't necessarily need to happen.

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And so we really encourage you to think about the possibility of on-site monitors and if you would like to talk more about that or get some advice from our team we'd be happy to do that with you.

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Offline at a kickoff meeting, etc. So please keep that in mind as a final note.

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And then with respect to historic properties. He really think about the fact that the well itself. Might be a historic property.

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Right, anything older than 50 years old? It can be considered a historic property. And so if you've got a cultural monitor, you know, that.

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Gives you an opportunity to document and preserve the history of the American oil and gas exploration, which is a really important history, right?

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Not, not every nation can claim that they have the kind of history with oil and gas that we have.

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And your hard work and the use. Of the biological and cultural expertise. That helps transform the legacy of environmental, pollution into a legacy of environmental stewardship.

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And I think that's a lot of what we're all really excited about. And we just can't wait to help you get going.

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Thank you. All very much.