

pearly mussel, small-whelled pogonia, and Virginia spiraea exists in the project corridors; however, none of these species were identified during field surveys. Habitat also exists in the project corridors for the red wolf and eastern cougar. A reintroduction of red wolves into GSMNP was unsuccessful and the population was removed. Records of eastern cougar are over 20 years old and this native cat is believed to be extirpated from the project study area. Based on information collected to date, the proposed project would have no effect on these species. Refer to Appendix N for additional information on protected species.

Informal consultation with the USFWS is ongoing and formal consultation would be initiated with the USFWS, if required (see Section 4.4.10.1.3). Future coordination and consultation, including a biological assessment (if required), with the USFWS would depend on the alternative ultimately selected. A biological assessment would be completed if a partial-build or build alternative is selected. It may become necessary to conduct additional surveys for federally protected species dependent upon updated information about species requirements or as more refined project designs are developed.

5.10 Consultation Regarding the Clean Air Act

In accordance with air-quality conformity regulations, coordination among the FHWA-EFLHD, NCDOT, and NCDAQ is in progress to review the status of GSMNP and associated conformity requirements that could apply to the North Shore Road Project. All required coordination would be completed prior to completion of the Final EIS. Please refer to Section 3.3.4 for information about air-quality regulations.

5.11 Coordination between the Signatories of the 1943 Agreement

Signatories of the 1943 Agreement include Swain County, TVA, the DOI, and the state of North Carolina. Implementation of a full-build alternative, such as the Northern Shore Corridor, would require no modification to the 1943 Agreement and could be undertaken without approval of all the signatories of the 1943 Agreement. However, the 1943 Agreement has the potential to be settled with other alternatives, contingent on the consent of all signatories.

The NPS and FHWA are required by existing procedures, implementing regulations, and legal precedents to follow a prescribed process to make an informed and documented decision. In order for the DOI to meet its requirements under NEPA, it must have completed a NEPA planning and impact evaluation process (i.e., an EIS) before any alternative that could have a significant impact on the environment can be considered.

Neither FHWA nor GSMNP has been delegated the authority from the DOI to meet with the signatories in an effort to resolve the 1943 Agreement. Discussions that have taken place with TVA or the state of North Carolina have been in regards to their respective federal and state permitting and regulatory oversight responsibilities for the project. Representatives from FHWA and GSMNP have not met with anyone from TVA or the state of North Carolina who has signatory authority regarding the 1943 Agreement. GSMNP has encouraged all interested parties to review project update materials, provide comments, request meetings, and discuss the project.

Appendix D includes the February 11, 2003, resolution by the Swain County Board of Commissioners (passed on a 4 to 1 vote) requesting a monetary settlement to resolve the 1943 Agreement. Appendix D includes additional correspondence from the Swain County Board of Commissioners commenting on the project. TVA has participated in the interagency meetings (described in previous sections of this chapter)