

**Volunteer Oil Spill Response  
Activities Under the National Oil  
and Hazardous Substances  
Pollution Contingency Plan (NCP)  
and the Endangered Species Act  
(ESA) of 1973**



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# Buffalo River

## Lawrence County, Tennessee

- At approximately 12:45 p.m. on March 13, 2006, a tanker truck carrying approximately 6,500 gallons of recycled oil overturned as it hit the concrete railing of a bridge along Highway 240 crossing the Buffalo River near Henryville, Tennessee.
- All 6,500 gallons of oil was released to the soil with approximately 1,000 gallons reaching the river.
- The Buffalo River is a high-use recreational river and serves as critical habitat to the federally threatened slackwater darter (*Etheostoma boschungii*).
- Two drinking water intakes are located downstream.

# Local, State, and Federal Agencies Involved with the Response

- Henryville Volunteer Fire Department
- Lawrence County Sheriff's Department
- Lawrence County EMA
- Tennessee Wildlife Resources Agency (TWRA)
- Tennessee Dept. of Environment and Conservation (TDEC)
- Tennessee Emergency Management Agency (TEMA)
- Tennessee Department of Transportation (TDOT)
- U.S. Fish and Wildlife Service (USFWS)/DOI
- US EPA

# Buffalo River

## Lawrence County, Tennessee



- Limited ingress and egress options
- Variable flow regimes and water temperature
- Heavy rainfall can cause 2-3 foot rises in water levels

# Over-Flight the Day after the Accident Buffalo River Bridge on Highway 240



# Oil Downstream of Bridge



**Access to the river was very limited  
because of the terrain.**



**Oil continued to seep into the river from the soil at the spill site. Booms prevented the oil from moving downstream.**



# View of workers using skimmer to remove oil from water beneath the bridge.



# Pure product in soil located beneath bridge.



**Small pocket of oil collected along the bank at one of many locations.**



**River had many splits and side channels.**



**First downstream oil collection area  
approximately 1 mile downstream.**



**Personnel using pump and fire hose to push oil toward skimmer.**



Two skimmers were used at downstream collection points.



**Installing boom approximately 3.2 miles downstream of the spill site.**



**Installing boom at bridge 6 miles downstream. No sheen ever seen.**



**Track-hoe used to remove oil impacted soil and rock (2,400 tons) to be taken to a local landfill.**



**Area beneath bridge at the spill site 10 days after the accident.**



**Rip-rap rock dam constructed on upstream side of the bridge to protect bridge pylons in the case of a rain event.**



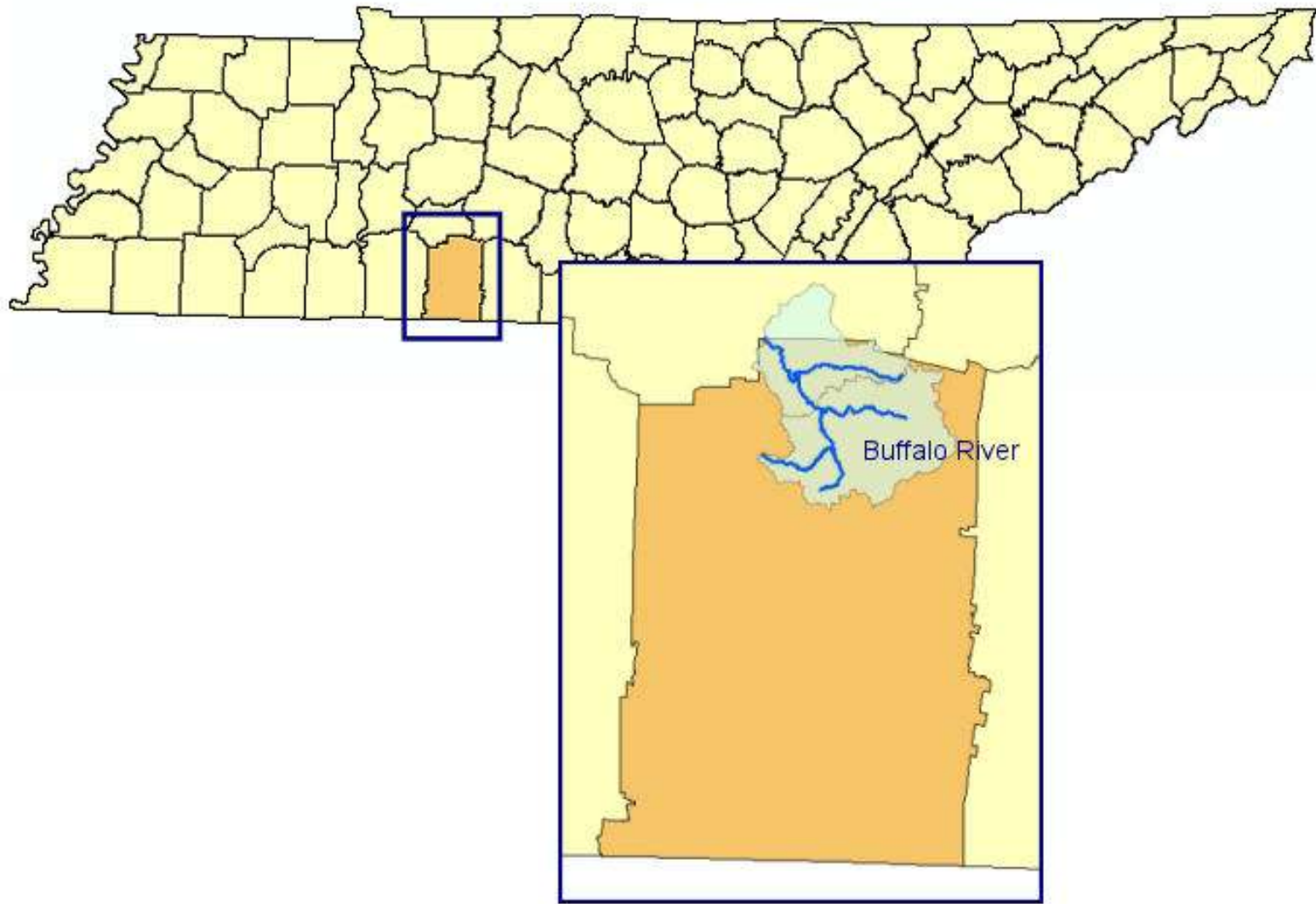


# March 2006 Spill



- At the request of the Department of Interior, Office of Environmental Policy and Compliance, and the FOSC, Fish and Wildlife Service (FWS) personnel mobilized to the site on March 14, 2006

# Critical Habitat in the Buffalo River Watershed



# ESA

## Overview and Purpose



- Enacted in 1973
- Purposes (Section 2)
  - Conserve ecosystems that threatened and endangered species depend on
  - Develop a program for conservation of listed species
  - Support existing treaties and conventions

# July 2001 NCP/ESA Memorandum of Agreement (MOA)

- Is intended to be used at the Area Committee Level
- Incorporates plans and procedures to be used to protect listed species and critical habitat
- Coordinates ESA consultation requirements (50 CFR 402) with pollution response responsibilities of the NCP (40 CFR 300)

# ESA

## Why is it significant?

- Recognizes the value of all species, beyond utilitarian purposes
- Recognizes the importance of habitat
- Conservation of endangered and threatened species given precedence over other considerations
- Has strong provisions to prevent extinctions
- In principle, ignores the costs or impacts of endangered species conservation

# Section 4 of the ESA: Listing and Candidate Assessment

- Listing Criteria
- Determination of Candidate Species
- Conservation Agreements
- Rulemaking Process
- Critical Habitat Designation



# Critical Habitat Designation

*Specific geographic area(s) that is essential for the conservation of a threatened or endangered species and that may require special management and protection*

- Consists of “primary constituent elements”
- Must include economic analysis
- Highly controversial and largely misunderstood

Critical habitat is defined in the Endangered Species Act as (i) the specific areas within the geographic area occupied by species on which are found those physical and biological features that are (I) essential to the conservation of the species and (II) may require special management consideration or protection; or (ii) specific areas outside the geographic area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

# Critical Habitat in the Buffalo River Watershed



J.R. Shute - CFI

- Slackwater darter (*Etheostoma boschungii*).
- Critical habitat areas include the mainstem Buffalo River and all tributaries in Lawrence County.

# Spotfin chub

(*Cyprinella* (= *Hybopsis*) *monacha*)



- Rare
- Threatened by loss of available habitat and degraded water quality
- Formerly known as Turquoise shiner

# FWS Considers NCP Response Actions Under MOA as Emergency Section 7 Consultation



- Expedited Process (50 CFR 402.05)
- Formal or informal consultation initiated after emergency is over

# Volunteer Oil Spill Response Activities Covered Under Informal Section 7 Consultation Procedures

- Emergency consultation procedures continued until removal operations were completed.
- Due to continuous communication and interaction between FOSC and FWS, initiation of formal consultation procedures, including the preparation of a biological assessment, was not required

# NCP/ESA MOA Expectations

- Early consultation
- Frequent Communication
- Formal correspondence(s) documenting consultation status

# Questions and Comments

## Contact Information

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