



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
South Florida Ecological Services Office  
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Vero Beach, Florida 32960



### **U.S. Fish and Wildlife Service Clearance to Proceed with Federally-Insured Loan and Grant Project Requests**

**October 25, 2016**

#### **Background**

The U.S. Fish and Wildlife Service (Service) is the lead Federal agency charged with the protection and conservation of Federal Trust Resources, including threatened and endangered species and migratory birds, in accordance with section 7 of the Endangered Species Act of 1973, as amended (Act) (87 Stat. 884; 16 U.S.C. 1531 et seq.), the Bald and Golden Eagle Protection Act, (16 U.S.C. 668-668d) (Eagle Act), and the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 701 et seq.).

Recently, many Federal agencies have activated programs that have resulted in an increased consumer demand to initiate projects through federally-backed loans and grants, all of which require those same Federal agencies to comply with Section 7 of the Act. Consequently, we have experienced an increase in the number of requests for review of these government-backed loan and grant projects. These include, but are not limited to:

1. U.S. Department of Housing and Urban Development's (HUD) Neighborhood Stabilization and Community Development Block Grant programs, which may be managed by Florida's Department of Economic Opportunity;
2. U.S. Department of Energy's (DOE) Energy Efficiency and Renewable Energy program;
3. U.S. Department of Agriculture's (USDA) Housing Assistance and Rural Development Loan and Grant Assistance programs;
4. U.S. Federal Aviation Administration (FAA) regulatory airport and runway modifications;
5. U.S. Federal Emergency Management Agency's (FEMA) Hazard Mitigation Assistance program; and
6. U.S. Environmental Protection Agency's (EPA) Clean Water State Revolving Fund, managed by Florida Department of Environmental Protection.

In order to fulfill the Act's statutory obligations in a timely and consistent manner, and to assist Federal agencies, State and local governments, and consultants in addressing Section 7 and National Environmental Policy Act (NEPA) environmental impact review requirements, we provide the following guidance and clearance relative to the criteria stated below for federally-insured loan and grant project requests in all cities and unincorporated areas throughout Florida, with the exception of Monroe County.

**Species Lists:**

To acquire a species list for the area where the project is proposed, access the Information for Planning and Conservation (IPaC) website (<https://ecos.fws.gov/ipac/>). The “Review Species and Resources” report contains a list of federally listed threatened and endangered species, critical habitats, migratory birds, wildlife refuges, fish hatcheries, and/or wetlands located in the project footprint, and can help identify trust resources in the general area of the subject property.

**Description of Projects Covered:**

1. Any federally-insured loan or grant request for **existing** commercial, industrial, and residential structures (including multi-family and single-family housing), and various utilities projects (including, but not limited to, demolition, rehabilitation, renovations, and/or rebuilding of water and wastewater treatment facilities, water lines, sewer lines), provided:
  - a. The proposed project can be completed **without** requiring additional clearing of **undeveloped areas** (e.g., native habitat, agricultural areas, pasture, etc.) beyond the original footprint of the existing project in order to complete the action request;
  - b. The proposed project will not significantly alter the present capacity of an existing structure;
  - c. There are no federally endangered or threatened species using the existing structures or within the project area; and
  - d. The project is not within designated critical habitat for any federally listed species (by rule, designated critical habitat does not include already developed parcels).
2. Any Federal loan transfer where the original lending or mortgage institutions for existing projects are no longer holding the loans and the properties are being transferred via federally-backed loans.

**Clearance to Proceed** - We believe these sorts of activities will generally not affect species protected under the Act, based on the criteria referenced above. Therefore, for ALL projects that meet the criteria described above, NO further coordination with the Service is necessary. Use this letter to document your consideration of endangered species and bald eagles.

**Additional Considerations for non-federally listed species:**

- **Bald Eagle Nest Issues.** If any of the above-referenced activities (rehabilitation, demolition, or rebuilding) are proposed to occur **within 660 feet** of an active or alternate bald eagle (*Haliaeetus leucocephalus*) nest **during** the nesting season (October 1 through May 15), we recommend the applicant or their designated agent coordinate with **the** Florida Fish and Wildlife Conservation Commission (FWC) at <http://myfwc.com/license/wildlife/protected-wildlife/eagle-permits/>. Guidance will be provided by the FWC regarding monitoring options or other suggestions regarding construction timing relative to the distance the project is located to the bald eagle's nest and

according to any vegetative buffers that may be present between the nest and the construction activities.

- **Migratory Bird Issues.** If any native birds are using the structures for nesting then actions should be taken so as not to disturb the adults, nests, eggs, or chicks as this could lead to a potential violation of the Migratory Bird Treaty Act. If nests are present or any birds are using the structures regularly for roosting purposes, we recommend the applicant or their designated agent coordinate with the appropriate Service office and FWC (<http://myfwc.com/license/wildlife/protected-wildlife/contacts/>) so that impacts can be avoided and minimized.

**For projects that do not meet the criteria specified above, and/or meet any of the following:**

1. The project occurs within designated critical habitat;
2. The project involves new construction;
3. The project requires disturbance of undeveloped areas; and
4. The project is in close proximity to federally listed species, bald eagle nests, and/or migratory bird roosts,

please contact the appropriate Service office for additional assistance (see Service Area map at: <http://www.fws.gov/verobeach/AboutUs.html>).

If later modifications are made to the project that do not meet the criteria described above, if additional information involving potential effects to listed species becomes available, or if a new species is listed, reinitiation of consultation may be necessary.

If you have any questions, please contact us at 772-562-3909. Our agency appreciates your cooperation in the protection of federally-listed species in Florida.

Sincerely yours,



Larry Williams  
State Supervisor for Ecological Services