



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

Raleigh Field Office  
Post Office Box 33726  
Raleigh, North Carolina 27636-3726

November 8, 2006

Ms. Lauren H. James

City Planner, Boiling Spring Lakes  
9 East Boiling Spring Road  
Boiling Spring Lakes, NC 28461

Dear Ms. James:

Thank you for your October 23, 2006 letter that followed up our October 2, 2006 conference call regarding conservation of the federally listed, endangered red-cockaded woodpecker and ongoing residential development in the City of Boiling Spring Lakes. Your letter contained a list of questions that are often asked by city residents that pertain to site preparation, home building and structural modification activities relative to avoiding conflicts with the City's construction permitting and responsibilities for protecting federally protected species. This letter provides the U.S. Fish and Wildlife Service's (Service) response to your October 23, 2006 letter including our view of the responses you provide to the list of questions.

"1. Need clarification of "Lavender" area of map:

a. If cleared already, can lot be built upon?" BSL's answer: **"Yes"**

Service's response: *We concur*

"b. If not cleared, is a letter needed? Why, it's not in cluster?" BSL's answer: **"Must call for review"**

Service's response: *We agree- if the tax ID number for the lot is on the list provided in our September 1, 2006 letter, the land owner should contact our agency, even if no part of the lot is contained within a cluster. Tree removal from partitions that are running low on the acreage of foraging habitat available could cause the abandonment of a territory and its associated cluster, resulting in unauthorized "take." For lots that were cleared prior to acquisition of the city permit, the land owner must present documentation that demonstrates tree removal took place before September 7, 2006.*

"2. Can we issue permits for projects not requiring any tree removal, i.e. fence, storage, etc.?" BSL's answer: **"Yes"**

Service's response: *We concur*

"3. What if parcel numbers are on list but lot is clearly *not* in purple area, or map showing parcel in cluster area but number is not on list?" BSL's answer: **"Use parcel list and call if it looks wrong"**

Service's response: *We concur*

"4. Can dead trees or trees infested with bugs be taken down with no problems?" BSL's answer: **"OK, Inspector to do "visual" to confirm"**

Service's response: *We concur*

"5. The city has issued a clearing permit with information from the 1st map and owners have not cleared property to date. Property has now been declared a cluster area on the new map. Do we honor the original permit issued?" BSL's answer: **"City must honor permit paid for"**

Service's response: *We agree. The City has been providing us with the lists of parcel IDs for lots that have received permits. Our estimates of available acreages of foraging habitat take this into account.*

*We still strongly recommend conservation of pine trees on involved lots and believe adherence to the City's tree conservation ordinance will help minimize impacts to the woodpecker's habitat.*

"6. What if trees are located in City Right of Way or interfering with utilities?" BSL's answer: **"OK, can be taken down"**

Service's response: *Generally we agree. Ideally, whoever is making the decision as to whether or not to cut down mature pine trees (trees that are over 60 years old) in rights-of-way should be able to recognize red-cockaded woodpecker sign (e.g. be able to differentiate between a pileated woodpecker foraging excavation and a red-cockaded woodpecker cavity start). Refer to the September 2006 (or later) reference map. If the area to be cut contains pine trees greater than or equal to 10 inches diameter at breast height, the removal of that timber should be considered as a possible reduction in foraging habitat, if it is in a foraging partition. The City should contact this office if the maintenance is to be conducted within a cluster.*

"7. If a property owner submits to you data needed for permission to build, do you still need to visit the property, or can you issue a letter by the information submitted?: BSL's answer: **"Usually can be done over phone with proper information (package to be sent to us)"**

Service's response: *We are sending out five basic letters to individuals requesting information regarding their lots in relation to woodpecker territories (represented by the foraging partitions), clusters and in some cases discrete cavity tree locations. Individuals dealing with lots that are in a foraging partition containing more than 90 acres of pine-forested habitat and are outside of the associated cluster can request a letter from the Service confirming this is the case, although their lot IDs should not be on the latest list and they should not need verification. This can be done with a "desktop" review. For more involved lots (e.g., lots within clusters and lots within woodpecker foraging partitions containing less than 90 acres of potentially suitable habitat), we've been providing requestors with a data sheet (please see the enclosures) to fill out that helps them document the amount of habitat occurring on the affected lot. This information assists us in determining whether or not suitable habitat is present and whether site preparation and construction would cause "take" of red-cockaded woodpeckers. Although some of these can be concluded with a desktop review of the information they provide, the majority will require a more detailed assessment and most likely need to be covered by an incidental take permit.*

"8. If you need to visit the property, can you give an estimate of time before you can get here?" BSL's answer: **"No answer-need to hire a consultant for faster response"**

Service's response: *To those individuals with more directly involved lots, we have been providing a list of consultants that hold or have held permits for performing red-cockaded woodpecker monitoring. There are other consultants with the technical capabilities to gather required information and develop appropriate conservation measures and habitat management plans. The list is not intended as a recommendation or endorsement of any of these parties. We offer as an alternative that some of our staff could go to the site and collect the necessary data (no charge) but point out that we have a very limited number of personnel and would not be able to estimate how long it could take to complete the review, which may cause delays in home site development.*

"9. Are you sending letters to property owners? If so, when?" BSL's answer: **"Yes, within the week"**

Service's response: *Yes*

"10. We have been informed of information from your office by citizens and/or newspaper releases. We would appreciate being informed before the general public in order to field the questions they may have." BSL's answer: **"We will be the first to know"**

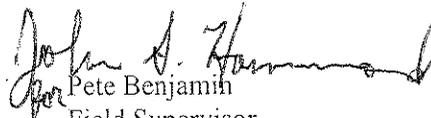
Service's response: *We are committed to working with the City to achieve our mutual objectives in the interest of the community's citizens. The City will be notified in every case before any new information we obtain is released to the media.*

"11. Several parcel numbers are submitted; one parcel is not on list, but the one right beside it is on the list....does not show on map as a cluster." BSL's answer: **"Call for verification"**

**Service's response:** *Please contact us whenever it is not clear whether or not pine tree removal would affect the red-cockaded woodpecker.*

Also as requested, we have attached enclosures we have been providing to lot owners with properties inside clusters and foraging partitions containing less than 90 acres of potentially suitable red-cockaded woodpecker habitat. If you have any questions regarding this matter, please contact me at 919-856-4520 (extension 11) or Mr. John Hammond of my staff extension 28. Thank you for your continued cooperation with our agency.

Sincerely,

  
Pete Benjamin  
Field Supervisor

Enclosures

cc: Ralph Costa, USFWS  
Mary Ellen Simmons, Congressman McIntyre  
Dave Allen, NCWRC  
Jenna Begier, NCWRC  
City Commissioners

### RCW Habitat Summary Information

Prior to clearing any suitable and potentially suitable foraging habitat from each lot, a table showing the number of pine trees greater than or equal to four inches diameter-at-breast-height (DBH; 4 1/2 feet above ground level) recorded in two-inch diameter classes should be provided to this office, as well as a site map showing the distribution of pine trees greater than or equal to 10 inches DBH on the property.

Tax ID #:

Date:

Street Address:

Observer:

Pine DBH Classes

Diameter (inches)

	4.0"	6.0"	8.0"	10.0"	12.0"		
<4.0"	4.0"-5.9"	6.0"-7.9"	8.0"-9.9"	10.0"-11.9"	12.0"-13.9"	14.0"+	TOTAL

Stem Tally								

*Please use the space below to provide a map of the lot showing distribution and diameter of pines  $\geq 10$  inches DBH.*

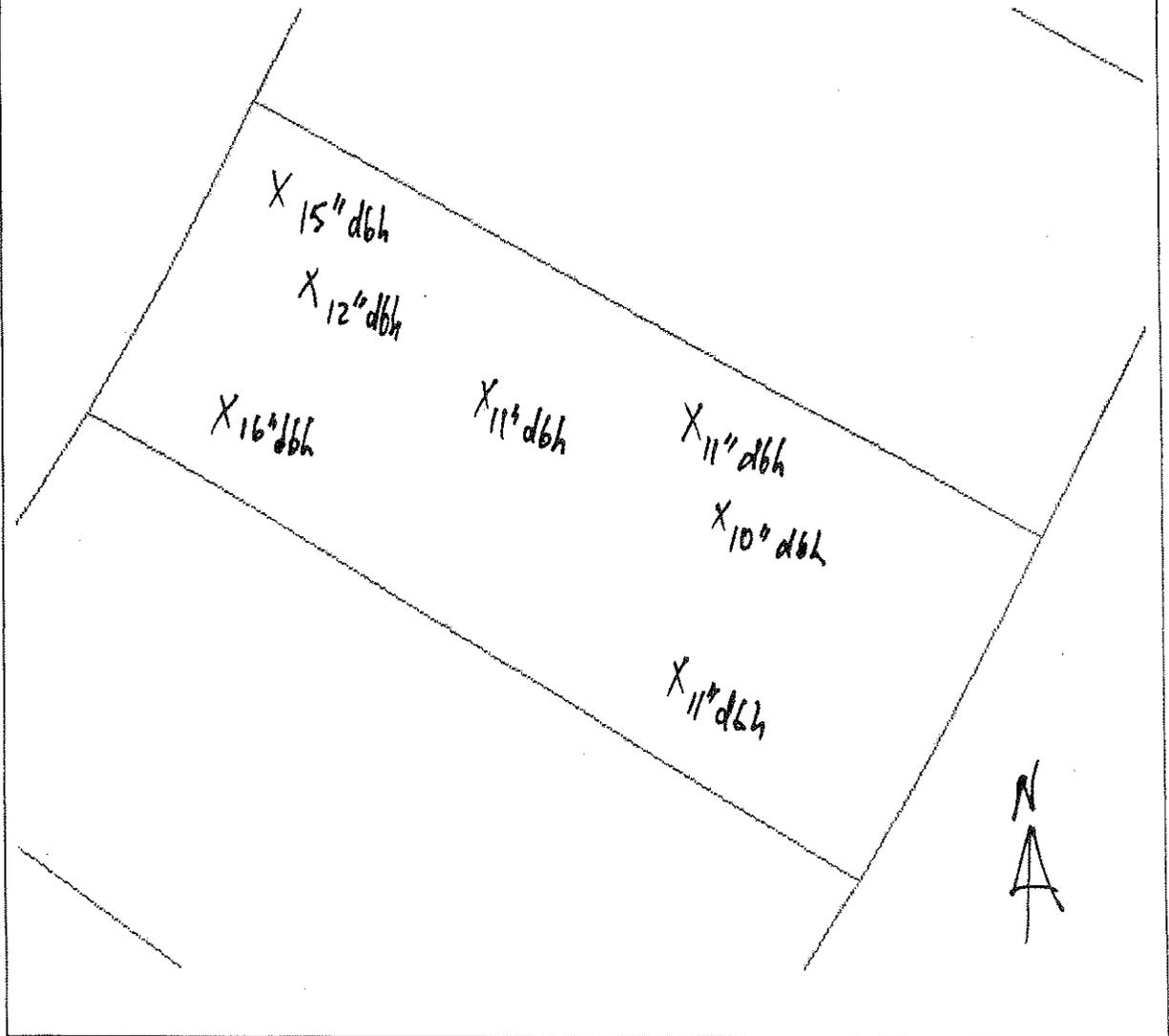
# Example data sheet

Prior to clearing any suitable and potentially suitable foraging habitat from each lot, a table showing the number of pine trees greater than or equal to four inches diameter at breast height (DBH 4 1/2 feet above ground level) recorded in two-inch diameter classes should be provided to this office, as well as a site map showing the distribution of pine trees greater than or equal to 10 inches DBH on the property.

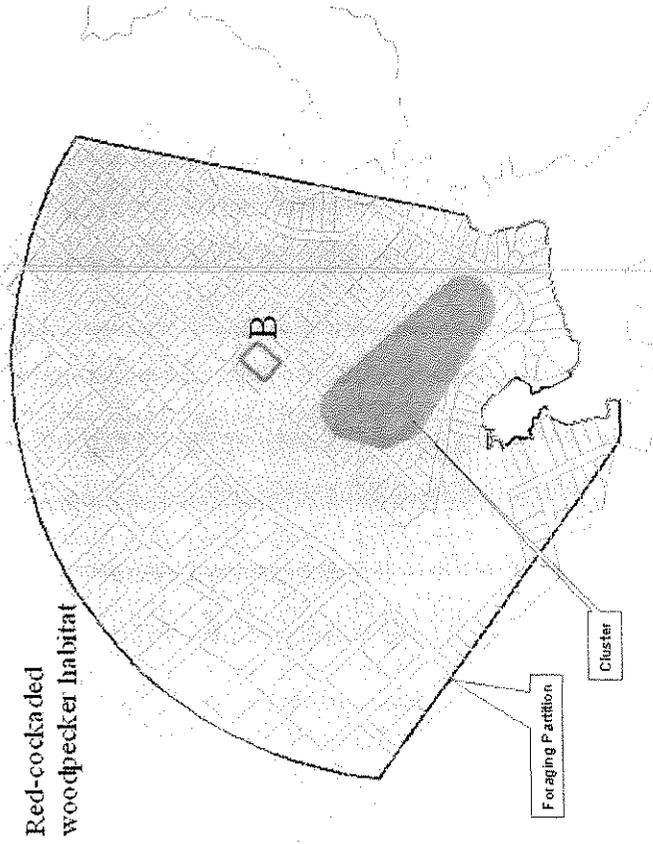
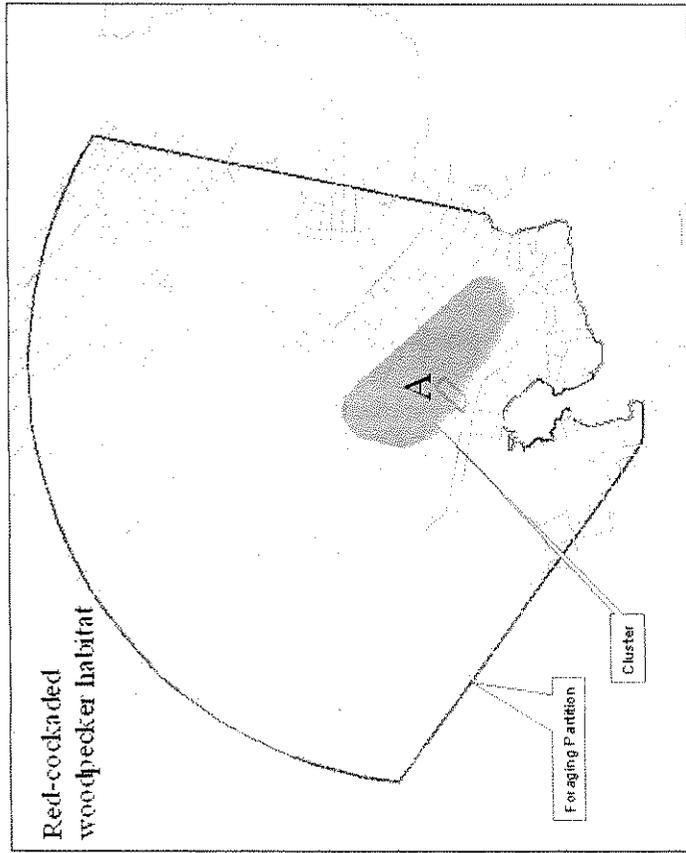
## Pine DBH Classes

Diameter (inches)	< 4.0	4.0 - 5.9	6.0 - 7.9	8.0 - 9.9	10.0 - 11.9	12.0 - 13.9	14.0 - 15.9	16.0 - 17.9
Stem tally	 	 						

Please use the space below to provide a map of the lot showing distribution and diameter of pines  $\geq 10$  inches DBH.



## Basic Information needed for lots falling within purple areas



A. The parcel falls within a cluster, therefore tree clearing and construction could have considerable negative impacts to the most sensitive part of the woodpecker family's territory- roosting and nesting habitat and the closest foraging substrate immediately available to the group. In addition to the pine tree information requested in B below, the distribution of pine trees that could be used to provision artificial cavities may be needed too. It is likely that more detailed information about the group (e.g. the habits of the woodpecker family occupying the territory) and its foraging patterns will need to be collected to ensure that lot development doesn't result in "unauthorized "take."

B. The parcel falls outside of any red-cockaded woodpecker clusters (cavity tree aggregation) but within a woodpecker foraging partition (habitat used by the family group to find their groceries) that is perilously low in pine forest acreage. Information about the pine forest contained within the involved parcel needs to be collected and assessed. Specifically, the number of pine trees greater than or equal to 10 inches diameter at breast height (DBH; 4 ½ feet above ground level) within the affected foraging partition needs to be determined. Prior to clearing any suitable and potentially suitable foraging habitat from the lots, a table showing the number of pine trees greater than or equal to four inches diameter-at-breast-height (DBH; 4 ½ feet above ground level) recorded in two-inch diameter classes should be provided to this office, as well as a site map showing the distribution of pine trees greater than or equal to 10 inches DBH on the property.

Typically we'll be sending correspondence out for these requests with text similar to the following:

"To facilitate your plans to develop the property, we have enclosed a list of consultants who specialize in developing sufficient conservation measures and habitat management plans that can meet and exceed landowner's responsibilities to avoid unauthorized take of federally listed species. Please note that this list is not exhaustive and there are others who can provide such services. Also note that this list is not intended as a recommendation or endorsement of any of these parties.

We are interested in working with landowners to conserve as many pine trees as possible to minimize impacts to woodpecker habitat and reduce the community's requirement to offset the loss of woodpecker groups within the affected recovery unit. In the event that the Service authorizes lot clearing and construction, care should be exercised to abate fragmentation of the red-cockaded woodpecker's habitat. To maintain suitability of the remaining habitat, we also suggest the use of native shrub species for landscaping. Shrubs or ornamental plants selected for use on the lot should be varieties that do not usually exceed seven feet in height. Removal of hardwoods and pine stems less than four inches DBH may occur on these lots without further consultation with this office."