United States Department of the Interior

FISH AND WILDLIFE SERVICE
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U.S. Fish and Wildlife Service Clearance to Proceed with Communication Tower Projects

The U.S. Fish and Wildlife Service (Service) is one of two Federal Agencies responsible for the protection and conservation of Federal Trust Resources, such as threatened and endangered species and migratory birds, in accordance with the following Acts:

- Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (ESA):
- Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d) (Eagle Act); and
- Migratory Bird Treaty Act (16 U.S.C. 701 *et seq.*) (MBTA).

Included in this mandate is the review of communication tower projects. The Federal Communications Commission (FCC) authorizes these projects as part of its authorization and obligations under the ESA and National Environmental Policy Act (NEPA) requires a environmental impact review. These projects primarily involve new tower construction, co-location of antennas on existing communication towers or other structures, and the repair, maintenance, or relicensing of existing structures.

With the recent and continuing advances in cellular communication technology, and resulting widespread consumer demand for this service, the South Carolina Ecological Services Field Office has experienced a significant increase in the number of requests for review of these projects. To fulfill our statutory obligations under the ESA in a timely, consistent manner, and to assist communication companies in addressing FCC and NEPA environmental impact review requirements, we provide the following guidance and clearance. The guidance is the agency's "Interim Guidelines for Recommendations on Communication Tower Siting, Construction, Operation, and Decommissioning." This document may be found at http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html.

Federally Listed Species Assessment

For new tower construction and related activities, applicants are responsible for conducting an initial assessment and site survey to determine if any federally listed species occur within, or in proximity to, the project footprint. Our Web site, http://www.fws.gov/charleston, contains information on species such as the Wood Stork (*Mycteria americana*), the Carolina Heelsplitter (*Lasmigona decorata*), and federally protected plants in South Carolina. For projects located in suitable nesting or foraging habitat for the Red-cockaded Woodpecker (*Picoides borealis*) that are on public lands, contact the landowner/manager for location information. On private lands, please go to http://www.fws.gov/rcwrecovery/recovery_plan.html to find the survey protocol. In addition, we recommend that you consult the Service's migratory bird Web site (http://www.fws.gov/migratorybirds/), which provides useful migratory bird information. If the site assessment and/or survey reveal listed species within the project footprint, the applicant must submit the project to our office for further evaluation and possible consultation.

The Service delisted the Bald Eagle from the protections of the ESA in August 2007; however, a final Rule published in the *Federal Register* on September 11, 2009, implemented a permit program designed to protect Bald and Golden Eagle populations in the future. These final regulations authorize the limited take of Bald and Golden Eagles through the issuance of permits under the Eagle Act where the take to be authorized is associated with otherwise lawful activities. These regulations also establish permit provisions for intentional take of Eagle nests where necessary to ensure public health and safety, and in other limited circumstances. Please refer to the following Web site for more information and application procedures: http://www.fws.gov/migratorybirds/baldeagle.htm. For any questions regarding this rule or Bald Eagle protection issues, please contact the Migratory Birds Division at (352) 406-6780. Please note that ospreys (*Pandion haliaetus*) frequently nest on communication towers, and the nesting in South Carolina may extend throughout all months of the year. Confirmed nests that are inactive (no eggs or young in nest) have no special protections under the MBTA, and although nest removal is allowed, we recommend nest removal only be undertaken if there are no alternatives to the required work. Where the proposed work is associated with an existing tower supporting an active osprey nest, refer to our National Migratory Bird Web site, and/or contact our Southeastern Regional Division of Migratory Birds in Atlanta, GA at (404) 679-7049 for further guidance prior to any work.

Project Design and Maintenance

For new construction projects, if an assessment or survey does not detect federally listed species within the project footprint and the projects meet the criteria listed below, *no further coordination with the Service is necessary*. This guidance is a general clearance for all future projects meeting these criteria. You might also visit http://www.fws.gov/habitatconservation/communicationtowers.html.

1. The construction of lattice or monopole design communication towers less than 200 feet in total height that do not contain guy wires. The tower must be in previously disturbed, urbanized, or developed areas or areas that do not represent potential habitat for federally listed species. In addition, the tower must be at least 2,500 feet from any active Wood Stork or other wading bird nesting colony.

2. The construction of guyed communication towers between 200 and 400 feet tall as outlined above, and provided the guy wires are equipped with bird diverter devices and the tower is lighted with a white or red strobe light operating at the minimum allowable intensity. This type of lighting is far less attractive to migratory birds than continuous or pulsating, incandescent red or white lights, regardless of their intensity or frequency or duration of pulsation. The same provisions outlined above regarding Bald Eagle nests and Wood Stork and other wading bird breeding colonies apply.

3. The co-location of a new antenna on an existing communication tower (e.g., light pole, billboard, water tower, building) must not increase the tower height above 400 feet, require the construction of a new access road, nor result in additional disturbance of the site; and

4. The repair, maintenance, or replacement of an existing communication tower, if the activity does not increase the height of the tower above 400 feet or increase its footprint into natural vegetative communities, and occurs outside of the October 15 – May 1 nesting season of any Bald Eagle nesting on the structure.

For existing towers that do *not* include any modification, footprint expansion or construction, *no* further coordination with the Service is necessary. This includes those projects for relicensing of existing towers. Therefore, this guidance is a general clearance for all existing projects meeting these criteria as outlined in the Project Design and Maintenance Section.

For those projects that do not meet the above criteria, we recommend modifications to the project to:

1. Reduce the height of the tower; and/or

2. Install a white or red strobe light operating at the minimum allowable intensity.

3. Consider co-location onto an existing communications tower.

4. Confine construction to previously disturbed areas.

If the applicant cannot modify or design the project to negate impacts to federally listed species, the applicant must submit the project plans to our office for further evaluation and consultation.

The Service appreciates your cooperation in the protection of federally listed species and migratory birds in South Carolina.

Sincerely,

Jay B. Herrington
Field Supervisor