



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Twin Cities Field Office  
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Bloomington, Minnesota 55425-1665

Colonel Richard A. Weaver  
Post Commander  
Minnesota Army National Guard  
15000 Highway 115, Camp Ripley  
Little Falls, Minnesota 56345-4173  
Attn: Jay Brezinka

AUG - 7 2007

Re: Biological Opinion Regarding the Effects of Design and Construction of a New Urban Assault Course at Camp Ripley in Little Falls, Minnesota on the Threatened Bald Eagle (*Haliaeetus leucocephalus*)

Dear Colonel Weaver:

The enclosed document transmits the Fish and Wildlife Service's biological opinion based on our review of the proposed construction of a new urban assault course at Camp Ripley in Little Falls, Minnesota and its effects on the bald eagle (*Haliaeetus leucocephalus*) in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). This letter provides only a summary of the findings included in the Biological Opinion. A complete discussion of the effects analysis is provided in the Biological Opinion.

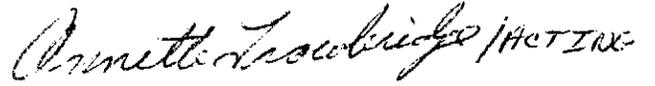
This Biological Opinion is based on information provided in the Biological Assessment for the proposed project (Biological Assessment of an Eagle Nest on the Camp Ripley Military Training Site). In addition, other sources of information were also used in formulating this Biological Opinion, including site visits and communication between Camp Ripley Environmental Office staff and Twin Cities Ecological Services Field Office staff. The complete administrative record for this consultation is on file at the Twin Cities Ecological Services Field Office.

After reviewing all the available information on the location, timing of construction, and facility operation, along with the anticipated effects of the proposed action and the best available information on the status, distribution, and life history of the bald eagle, it is the Service's biological opinion that the action, as proposed, is not likely to jeopardize the continued existence of the species.

This Biological Opinion includes reasonable and prudent measures along with terms and conditions that the Service believes will minimize the impacts of incidental take of bald eagles resulting from the proposed project. In order to be exempt from the prohibitions of section 9 of the ESA, the Minnesota Army National Guard must comply with the terms and conditions, which implement the reasonable and prudent measures.

If you have any questions concerning this biological opinion, please contact me at (612) 725-3548 x201, or Fish and Wildlife Biologist Nick Rowse at (612) 725-3548 x210.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Sullins".

Tony Sullins  
Field Supervisor

Enclosure

**BIOLOGICAL OPINION**  
on the Effects of Design and Construction of a New Urban Assault Course at Camp  
Ripley in Little Falls, Minnesota, on the Threatened Bald Eagle (*Haliaeetus*  
*leucocephalus*)

**DESCRIPTION OF PROPOSED ACTION**

The Minnesota Army National Guard (MNARNG) is in the final planning phase for design and construction of a new Urban Assault Course (UAC) range. The UAC range is to be located between three existing live fire ranges: North Range and two Known Distance 25 Meter Ranges (B1-B2). New construction of the UAC is planned for FY2007. The primary purpose of the proposed UAC is to provide squad and platoon-size units with a facility to train and evaluate urban operation tasks. Enclosure #3 shows the locations of the existing ranges and proposed range. With the exception of Station 3-Grenadier Gunnery—the UAC is not intended for live fire training. Site conditions make this the most appropriate area for the UAC. They are as follows.

- the site covers approximately 50 acres of generally flat grassland and gently sloping mixed hardwoods,
- the topography of the chosen site is very well suited for the UAC,
- the site has an existing road network and the main access road is an improved all access road suitable for two-way, low speed traffic,
- the site is adjacent to the North Range which contains support buildings such as a classroom and latrine facility,
- the site is adjacent to two existing ranges; any live fire will be directed towards a third range (Hendrickson Range/impact area),
- no wetlands occur within the footprint of the site, and
- no cultural aspects are associated with the site

**STATUS OF THE SPECIES**

The bald eagle will become delisted from the federal list of threatened and endangered species on August 8, 2007 <http://www.fws.gov/migratorybirds/baldeagle.htm>, when it will still be protected under the Bald and Golden Eagle Protection Act of 1940, as amended and the Migratory Bird Treaty Act.

Though once endangered, the bald eagle population in the lower 48 States has increased considerably in recent years. Regional bald eagle populations in the Pacific Northwest, Great Lakes, Chesapeake Bay, and Florida have increased five-fold in the past 20 years. Bald eagles are now repopulating areas throughout much of the species' historic range that were unoccupied only a few years ago. As of 2000, there were approximately 6471 pairs of bald eagles in the lower 48 states. In Minnesota, bald eagle populations have grown from 115 active nests in 1973 to an estimated 1312 in 2006 (Baker & Monstad 2006). Nesting bald eagles are now present throughout most of the state.

## Species Description

The bald eagle is well known as our Nation's symbol. Its large and powerful appearance is distinguished by its white head and tail contrasting against its dark brown body. The fledgling bald eagle is generally dark brown except the underwing linings which are primarily white. Between fledging and adulthood, the bald eagle's appearance changes with feather replacement each summer. The bald eagle's distinctive white head and tail are not apparent until the bird fully matures, at 4 to 5 years of age. The female bald eagle usually weighs 10 to 14 pounds in the northern sections of the continent and is larger than the male, which weighs 8 to 10 pounds. The wings span 6 to 7 feet. The northern birds are larger and heavier than southern birds, with the largest birds in Alaska and Canada, and the smallest in Arizona and Florida.

## Life History

The bald eagle is a bird of aquatic ecosystems, frequenting large lakes, rivers, estuaries, reservoirs and some coastal habitats. It feeds primarily on fish, but waterfowl, gulls, cormorants, and a variety of carrion may also be consumed. Adults use the same breeding territory, and often the same nest, year after year. They may also use one or more alternate nests within their breeding territory. The nesting season is approximately six months. Eggs are incubated for approximately 35 days and fledging takes place at 11 to 12 weeks old. Parental care may extend 4 to 11 weeks after fledging (Wood et al. 1998). - Young eagles may wander randomly for years before returning to nest in their natal areas.

Bald eagles select trees that are large in both diameter and height for nesting. In Minnesota, bald eagles use at least eleven species of trees for nesting (Grier and Guinn 2003). In northern Minnesota, white pines (*Pinus strobus*), red pines (*P. resinosa*), and quaking aspen (*Populus tremuloides*) are especially important (Mathisen 1983). Height and projection above the tree canopy has long been recognized as an important feature of bald eagle nest trees. In a recent study, however, Grier and Guinn (2003) found that tree diameter was more important than height in Minnesota. The 119 nest trees they measured were typically larger in diameter than other trees in the stands, but frequently not the tallest – mean diameters at breast height (DBH) were 46 centimeters (cm) and 44 cm for white pines (n = 35) and red pines (n = 10), respectively. This was smaller than the mean diameter of 77 cm reported by Mathisen (1983) based on measurements of 262 bald eagle nest trees on the Chippewa National Forest. The differences in mean diameter of nest trees between the two studies may suggest that eagles are nesting in smaller trees as nesting density increases. Eagles seek wintering (non-nesting) areas offering an abundant and readily available food supply with suitable night roosts. Night roosts typically offer isolation and thermal protection from winds.

## Population Dynamics

Bald eagles are long-lived and populations are more sensitive to changes in survival than to changes in reproduction (Grier 1980). The longest living bald eagle known in the wild was reported near Haines, Alaska as 28 years old (Schempf 1997). Bald eagles from

Arizona are known to have exceeded 12 years of age (Hunt et al. 1992). Therefore, mature bald eagles that forego reproduction may reproduce in future years if they survive. Nevertheless, extreme declines in reproduction may still lead to population declines, but the rate of such declines may be highly influenced by survival rates (Grier 1980).

## ENVIRONMENTAL BASELINE

### Status of the Species within the Action Area

Since 1991, according to observation made by staff of the Camp Ripley Environmental Office, there have been between two and five active nests within Camp Ripley, and the number of bald eagles fledged has varied from one to eight. The bald eagle nesting season started out strong in 2006, with a pair of eagles on each of five nests throughout Camp Ripley. The five nests on Camp produced only one fledgling. Three eagle nests within one mile of the Camp Ripley boundary are also monitored. Two of the three were occupied in 2006; but only one was successful, fledging one young.

A sixth bald eagle nest (Enclosure 1.) was discovered near the North Range complex during a helicopter flight for prescribed burns during April of 2006. Two adult eagles occupied the nest through mid-April. An adult bald eagle was found dead under a power line in the vicinity of the nest on April 22nd, reported to the USFWS and sent to the Eagle Repository in Colorado. This nest was abandoned soon after, and no chicks were fledged. During the spring and summer of 2007, bald eagles nested at the North Range complex nest, producing two fledgling birds.

## EFFECTS OF THE ACTION

Three gunnery ranges near the proposed construction site are currently used by both military and civilian customers for live fire training. The construction and use of the UAC and the use of the three nearby ranges will increase the amount of human and vehicle activity near the nest. This increased activity may create additional noise and dust. Weapons will be fired on all four ranges, which will create additional noise. However, bald eagles constructed this nest at a time when the ranges were being utilized for civilian and military training, so they may have a higher tolerance for human activity.

Construction is proposed to begin in the fall of 2007 and could extend into the next breeding season. The nest will be monitored throughout the fall of 2007 and spring of 2008 to determine if it is being actively utilized by bald eagles. Efforts will be made to follow the National Bald Eagle Management Guidelines (May 2007) as set forth by the USFWS. The guidelines state that blasting and other activities that produce extremely loud noises should be avoided within  $\frac{1}{2}$  mile of active nests, unless greater tolerance to the activity (or similar activity) has been demonstrated by the eagles in the nesting area. This nesting pair has been found to be very tolerant of loud noises as shown by successful nesting within  $\frac{1}{2}$  mile of active gunnery ranges.

With the construction of the UAC, human activity near this nest site will increase. Modifications to the land such as visual screening closest to the eagles nest could reduce adverse effects on the bald eagles nesting success. Large trees and native grasses will be planted adjacent to the UAC to create a visual buffer between the nest and human activity. Guidelines followed during construction will be determined by the activity or inactivity at the bald eagle nest. This nest will continue to be monitored throughout the summer of 2007 and thereafter to assess bald eagle activity at the nest. The North Range and the two known distance ranges are burned annually to reduce fire hazards, but not directly adjacent to the nest tree (>100 feet). In the past, the woodland where the bald eagle's nest is located was also burned. With the construction of the UAC, a firebreak road will be installed around that woodland and the new UAC. This will protect not only the nest and tree, but also the flammable structures in the new UAC.

Despite the recent nest success of the affected eagle pair in the vicinity of loud noises and human activity, the additional noise and activity could cause the eagle pair to abandon the nest. This would result in the abandonment and loss of one to two eggs or eaglets during the 2008 season. During future nesting seasons the eagle pair could also abandon future nesting attempts, resulting in the loss of one to two eggs or eaglets. In addition, a fire caused by the proposed action could kill or damage the nest tree or disturb the adult eagles. Therefore, we anticipate the loss of up to two eggs or eaglets during the operation of the UAC as a result of nest abandonment over the next five years.

#### Effects of Interrelated or Interdependent Actions

Interrelated actions are those that are a part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration. All potential effects of the proposed action on bald eagles are considered in earlier sections.

#### Cumulative Effects

Cumulative effects include the effects of future State, tribal, local or private actions that are reasonably certain to occur in the action area considered in this Opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act. We are aware of no actions that are reasonably certain to occur in the action area that are substantially different from current activities. No cumulative effects are expected due to the short time frame to construct the UAC.

#### CONCLUSION

After reviewing the current status of bald eagles, the environmental baseline for the action area, the construction of the UAC and its subsequent usage as a training site, it is the Service's Opinion that the action, as proposed, is not likely to jeopardize the continued existence of the bald eagle. The proposed action would affect one of

approximately 1312 bald eagle nests in Minnesota. No critical habitat has been designated for this species; therefore, none will be affected.

## INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement. We anticipate that the measures proposed to avoid or minimize any adverse effects during construction of the UAC will prevent any incidental take.

## AMOUNT OR EXTENT OF TAKE

The Service anticipates that up to two eggs or eaglets will be taken during the construction and operation of the UAC during each of the five nesting seasons from 2008 through 2012.

## REASONABLE AND PRUDENT MEASURES

The measures described below are non-discretionary, and must be implemented by the agency in order for the exemption in Section 7(o)(2) to apply. The Minnesota Army National Guard has a continuing duty to implement the activity covered by this incidental take statement. If the Minnesota Army National Guard fails to adhere to the terms and conditions of the incidental take statement, the protective coverage of Section 7(o)(2) may lapse.

The Service believes the following reasonable and prudent measures are necessary and appropriate to minimize take of bald eagles:

1. Maximize the effectiveness of visual screens near the nest to reduce impacts to nesting bald eagles.
2. Reduce the potential effects of pedestrians on the nesting pair.
3. Reduce the potential hazard from fire to the nest tree.

## TERMS AND CONDITIONS

In order to be exempt from the prohibitions of Section 9 of the Act, the Minnesota Army National Guard must comply with the following terms and conditions which implement the reasonable and prudent measures described above. These terms and conditions are non-discretionary.

RPM 1 - Maximize the effectiveness of visual screens near the nest to reduce impacts to nesting bald eagles.

Term and Condition: Large trees and native grasses will be planted adjacent to the UAC to create a visual buffer between the nest and human activity. Complete plantings before the 2008 nesting season.

RPM 2 - Reduce the potential effects of pedestrians on the nesting pair.

Term and Condition: Place orange flagging between the UAC and the nest tree with signage to keep human disturbance to the nesting eagles at a minimum during the nesting season.

RPM 3 - Reduce the potential hazard from fire to the nest tree.

Term and Condition: The North Range and the two known distance ranges are burned annually to reduce fire hazards, but not directly adjacent to the nest tree (>100 feet). Clear dead woody vegetation from within 100 feet of the base of the nest tree during the non-nesting season to reduce fire hazard to the nest tree.

The reasonable and prudent measures, with their implementing terms and conditions, are designed to minimize the impact of incidental take that might otherwise result from the proposed action. If, during the course of the action, this level of incidental take is exceeded, such incidental take represents new information requiring reinitiation of consultation and review of the reasonable and prudent measures provided. The Minnesota Army National Guard must immediately provide an explanation of the causes of the taking and review with the Service the need for possible modification of the reasonable and prudent measures.

## REINITIATION NOTICE

This concludes formal consultation on the proposed action. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the action that may affect listed species or critical habitat in a matter or to an extent not considered in this biological opinion; (3) the agency action is

subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this biological opinion; or (4) a new species not covered by this opinion is listed or critical habitat designated that may be affected by this action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take should cease pending reinitiation.

#### LITERATURE CITED

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# Enclosure #1 Camp Ripley Bald Eagles Nest Locations

