



United States Department of the Interior

FISH AND WILDLIFE SERVICE
7915 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7517

IN REPLY REFER TO:
FWS/R4/ES-JAFL

October 27, 2010

USFWS Clearance to Proceed with Economic Development Administration (EDA) Funded Project Requests

Background

The U.S. Fish and Wildlife Service is the lead Federal agency charged with the protection and conservation of Federal Trust Resources, such as threatened and endangered species and migratory birds, in accordance with section 7 of the [Endangered Species Act of 1973](#), as amended (ESA) (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.).

The passage of the American Recovery and Reinvestment Act of February 2009 (ARRA) by Congress created an economic stimulus package which provided federal tax cuts and funds to many federal agencies for education, health care, housing, expansion of social welfare provisions, and increased infrastructure spending passed on to States and local communities. Agencies such as the [Economic Development Administration](#) (EDA) (www.eda.gov) under the Department of Commerce, the Department of Housing and Urban Development (HUD), Department of Energy (DOE), Federal Highway Administration (FHA), and other agencies have quickly activated projects that have resulted in an increased consumer demand to initiate projects through Federally backed loans and grants, all of which require those federal agencies to comply with Section 7 of the ESA. Consequently, the Jacksonville Ecological Services Field Office has experienced a significant increase in the number of requests for review of these government loan projects.

EDA's mission is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. In implementing this mission, EDA advances economic growth by assisting communities and regions experiencing chronic high unemployment and low per capita income to create an environment that fosters innovation, promotes entrepreneurship, and attracts increased private capital investment. EDA also administers the Trade Adjustment Assistance for Firms Program (TAAF Program) under the Trade Act of 1974, as amended (19 U.S.C. § 2341 *et seq.*) (Trade Act). Under the TAAF Program, EDA funds a national network of eleven non-profit organizations known as Trade Adjustment Assistance Centers, with each being assigned a different geographic service region, which in turn provide technical assistance to firms that have been adversely affected by increased import competition.

EDA currently solicits applications for the following programs under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. § 3121 *et seq.*): (i) Public Works and Economic Development Facilities Program; (ii) Planning Program; (iii) Local Technical Assistance Program; and (iv) Economic Adjustment Assistance Program.

To fulfill our ESA 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 EDA project requests in all cities and counties throughout our 32-county geographic area (list available at <http://www.fws.gov/northflorida/Area1.htm>).

Criteria for EDA Funded Projects

EDA projects meeting the following criteria are covered by this letter:

1. All EDA funded projects that involve **existing** commercial, industrial, and residential developments and associated structures, and public works infrastructure development activities undergoing demolition, rehabilitation, renovations, and/or rebuilding that may be completed **without** requiring additional clearing of **undisturbed** habitat beyond the original footprint of the existing project in order to complete the action request.
2. All EDA funded projects for **new** commercial, industrial, and residential development with associated structures, and public works infrastructure development activities where the footprint of the project falls within a lot, parcel, or linear area which is void of any vegetation other than grass or other low growing herbaceous ground cover.

We believe that these activities will have "no effect", and in few cases would "not likely to adversely affect" any Federally-listed species protected under Section 7 of the ESA, based on the criteria referenced above. This conclusion is explicitly based on the existence of structures and activities already established in a location where previous regulatory reviews determined that either "no effects" were anticipated, or where impacts of any significance to Federally-listed species resulted in consultation where minimization measures and conditions have already been fulfilled.

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 bald eagle's nest **during** the nesting season which occurs from October 1 through May 15; we recommend the applicant or their designated sub-contractor coordinate with Ulgonda Kirkpatrick, Bald Eagle Biologist, Division of Migratory Birds, FWS at 352.406.6780 or by e-mail at Ulgonda_Kirkpatrick@fws.gov. Guidance will be provided 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.

Clearance to Proceed

For ALL projects that meet the criteria described above, **NO** further coordination with the Service is necessary.

Additional Information

If you have any questions, please contact Candace Martino of my staff at 904.731.3142 or by email at Candace.Martino@fws.gov. Our agency appreciates your cooperation in the protection of Federally-listed species in Florida.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Hankla". The signature is written in a cursive style with a large initial "D".

David L. Hankla
Field Supervisor