



United States Department of the Interior

FISH AND WILDLIFE SERVICE
1875 Century Boulevard
Atlanta, Georgia 30345



April 26, 2021

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

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 (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.).

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 or their designees to comply with Section 7 of the ESA. As a result, there has been 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;
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.

In order to fulfill the ESA'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 within the jurisdiction of participating Service field offices. Participating field offices are included in Attachment A and may include additional requirements or exclusions.

INTERIOR REGION 2 SOUTH ATLANTIC-GULF

ALABAMA, FLORIDA, GEORGIA, NORTH CAROLINA,
PUERTO RICO, SOUTH CAROLINA, TENNESSEE,
US VIRGIN ISLANDS

INTERIOR REGION 4 MISSISSIPPI BASIN

ARKANSAS, IOWA, MISSOURI,
MISSISSIPPI, LOUISIANA

Species Lists:

To acquire a species list for the area where the project is proposed, please 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).
 - e. Specific Service field office requirements and exclusions are met for the state within which the project is located (Attachment A).
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.
3. Any federally-insured loan or grant for the purchase of new equipment or vehicles.

Clearance to Proceed – The Service believes these types of activities will generally have no effect on species protected under the ESA, 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 Eagles: 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 agency responsible for managing wildlife

in their state. For additional information, please visit the Service's regional web page:
<https://www.fws.gov/service/3-200-71-eagle-take-associated-not-purpose-activity-incident-take>.

Migratory Birds: If any native birds are using the structures for nesting, actions should be taken to avoid disturbing 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 Service's Field Office and visit the Service's Migratory Bird Program website at <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds> for recommendations on how impacts can be avoided and minimized.

For projects that do not meet the criteria specified above, and/or meet any of the following conditions, please contact the appropriate Service office for additional assistance:

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.

Reinitiation of consultation may be necessary if: (1) the project is modified in a manner not considered by this assessment; (2) a new species is listed or critical habitat is determined that may be affected by the project; or (3) new information indicates that the project may affect listed species or critical habitat in a manner not previously considered.

If you have any questions or require further information, please contact one of our staff at 706-613-9493.

Sincerely,

**CATHERINE
PHILLIPS** Digitally signed by
CATHERINE PHILLIPS
Date: 2021.04.26
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Catherine T. Phillips, Ph.D.
Assistant Regional Director, Ecological Services
South-Atlantic Gulf and Mississippi Basin Interior
Regions

ATTACHMENT A

Participating Service Field Offices

This clearance letter applies to the following field offices, with additional applicable exclusions or restrictions as noted.

Alabama Ecological Services Field Office

This clearance letter is applicable for all projects within the jurisdiction of this field office that meet the criteria as described above. There are no additional applicable exclusions or restrictions.

A handwritten signature in black ink, appearing to read "William J. Pearson". The signature is written in a cursive style with a large initial "W".

William J. Pearson
Field Supervisor

Georgia Ecological Services Field Office

This clearance letter is applicable for all projects within the jurisdiction of this field office that meet the criteria as described above, with the exception of the following exclusions and/or restrictions:

- If the project is located within 5 miles of a documented observation of eastern indigo snake (*Drymarchon couperi*) or is located within highly suitable habitat, the project may proceed with the following conditions:
 - The proposed action 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
 - Best Management Practices (BMPs) are included as part of the action. A list of specific BMPs and associated outreach signage may be found on the field office's website at <https://www.fws.gov/story/eastern-indigo-snake-conservation>, which primarily includes posting informational material about this species and checking for presence during construction.

A handwritten signature in blue ink that reads "Donald W. Imm" followed by a stylized circular flourish.

Donald W. Imm, Ph.D.
Field Supervisor

Kentucky Ecological Services Field Office

This clearance letter is applicable for all projects within the jurisdiction of this field office that meet the criteria as described above, with the exception of the following exclusions and/or restrictions:

- Some federally listed plants are regularly found within or near rights-of-way and the consequences of a proposed action may be negative or positive depending on how the species responds to disturbance, if at all. Therefore, if the species list for your project contains any of the following plants, further coordination with the Service is necessary:
 - Short's goldenrod (*Solidago shortii*)
 - Price's potato-bean (*Apios priceana*)
 - Kentucky glade cress (*Leavenworthia exigua* var. *laciniata*)

VIRGIL ANDREWS Digitally signed by VIRGIL
ANDREWS
Date: 2022.08.03 09:46:28 -0400

Virgil Lee Andrews, Jr.
Field Supervisor

Mississippi Ecological Services Field Office

This clearance letter is applicable for all projects within the jurisdiction of this field office that meet the criteria as described above. There are no additional applicable exclusions or restrictions.

Stephen Ricks
Stephen Ricks
Field Supervisor

Raleigh Ecological Services Field Office (North Carolina)

This clearance letter is applicable for all projects within the jurisdiction of this field office that meet the criteria as described above. There are no additional applicable exclusions or restrictions.



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PETER BENJAMIN
Date: 2021.06.29
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Pete Benjamin
Field Supervisor

South Carolina Ecological Services Field Office

This clearance letter is applicable for all projects within the jurisdiction of this field office that meet the criteria as described above, with the exception of the following consideration for northern long-eared bat (*Myotis septentrionalis*):

The Service issued a nationwide programmatic biological opinion (PBO) for the northern long-eared bat (*Myotis septentrionalis*, NLEB) on January 5, 2016. The PBO was issued pursuant to section 7(a)(2) of the ESA to address impacts that Federal actions may have on this species. In addition, the Service published a final 4(d) rule on January 14, 2016, which details special consultation provisions for Federal actions that may affect the NLEB. Briefly, the PBO and the 4(d) rule allow for "incidental" take of the NLEB throughout its range under certain conditions. Take is defined in section 3 of the ESA as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Further, incidental take is defined as take that results from, but is not the purpose of, carrying out an otherwise lawful activity. Under the PBO and 4(d) rule, all incidental take of the NLEB is exempted from the ESA's take prohibitions under certain conditions. However, incidental take is prohibited within one quarter mile from known hibernacula and winter roost, or within 150 feet from a known maternity roost tree during the months of June and July.

In consideration of known hibernacula, winter roosts, and maternity roost tree locations in South Carolina, this letter hereby offers blanket concurrence for a may affect, but is not likely to adversely affect determination for the NLEB if the proposed work occurs more than one quarter mile from known hibernacula, winter roosts, or is further than 150 feet from a known maternity roost trees. If an activity falls within one-quarter mile of hibernacula or winter roost or within 150 feet of a maternity roost tree additional consultation with the Service will be required. As a conservation measure for all projects it is recommended that all tree clearing activities be conducted during the NLEB inactive season of November 15th to March 31st of any given year.



Tom McCoy
Field Supervisor

Tennessee Ecological Services Field Office

This clearance letter is applicable for all projects within the jurisdiction of this field office that meet the criteria as described above, with the exception of the following exclusions and/or restrictions:

Some federally listed plants are regularly found within or near rights-of-way and the consequences of a proposed action may be negative or positive depending on how the species responds to disturbance, if at all. Therefore, if the species list for your project contains any of the following plants, and your project would disturb undeveloped areas (e.g., native habitat, agricultural areas, pasture, etc.) within rights-of-way, further coordination with the Service is necessary:

- Large-flowered skullcap (*Scutellaria montana*)
- Leafy prairie-clover (*Dalea foliosa*)
- Morefield's leather flower (*Clematis morefieldii*)
- Price's potato-bean (*Apios priceana*)
- Pyne's ground-plum (*Astragalus bibullatus*)
- Short's bladderpod (*Physaria globosa*)
- Spring Creek bladderpod (*Lesquerella perforata*)
- Tennessee yellow-eyed grass (*Xyris tennesseensis*)
- White fringeless orchid (*Platanthera integrilabia*)
- Whorled sunflower (*Helianthus annuus*)

**DANIEL
ELBERT** Digitally signed by
DANIEL ELBERT
Date: 2021.04.30
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Daniel Elbert
Field Supervisor

Asheville Ecological Services Field Office

This clearance letter is applicable for all projects within the jurisdiction of this field office that meet the criteria as described above, with the exception of the following exclusions and/ or restrictions:

- Some federally listed plants are regularly found within or near rights-of-way and the consequences of a proposed action may be negative or positive depending on how the species responds to disturbance, if at all. Therefore, if the species list for your project contains any of the following plants, further coordination with the U.S. Fish and Wildlife Service (Service) is necessary:
 - Michaux's sumac (*Rhus michauxii*)
 - Schweinitz's sunflower (*Helianthus schweinitzii*)
 - Smooth coneflower (*Echinacea laevigata*)
- If your project includes work in wetlands, further coordination with the Service is necessary
- Please notify the Service and the North Carolina Wildlife Resources Commission if bats are discovered during work on buildings.

JANET
MIZZI

Janet Mizzi
Field Supervisor

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JANET MIZZI
Date: 2023.02.24
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