United States Department of the Interior

FISH AND WILDLIFE SERVICE
Alabama Ecological Services Field Office
1208-B Main Street
Daphne, Alabama 36526
Phone: (251) 441-5181

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U.S. Fish and Wildlife Service Standing Analysis on Communication Tower Projects in Alabama

This analysis letter (Key) revises and replaces all prior versions of communication tower analysis letters within the State of Alabama. This Key is only for use within the State of Alabama.

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 (Act) (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*.).

Section 7 of the Act requires that each federal agency, in consultation with the Service, ensure their actions are not likely to jeopardize the existence of any species federally listed as threatened or endangered or result in the adverse modification of critical habitat designated for these species. The Key was developed for consultation with the Federal Communications Commission (FCC) or other federal agencies for new telecommunication tower construction, co-location of antennas on existing communication towers or other structures, and the repair, maintenance or relicensing of existing structures. When proposed projects have the potential to affect bald and golden eagles, or other migratory birds, additional consultation with the Migratory Bird office may be necessary, please visit: https://www.fws.gov/birds/management/managed-species/bald-and-golden-eagle-information.php and https://www.fws.gov/birds/index.php.

Pursuant to section 7 of the Act, the lead action agency must review the best available data and exercise their responsibility to support determinations with clear and substantial information. The questions in the determination Key are intended to assist the lead action agency in evaluating whether the proposed action will result in adverse effects to a species protected under the Act. The responses to each of the questions in the determination Key should be considered within the context of the proposed action and site-specific information. If the lead action agency is aware of a nuance in a project that makes it different from the Key, then the lead action agency always has the option not to use the Key and to make a determination based on their best professional judgement. In all cases, the lead action agency should document the reasoning behind their determination. Please request technical assistance from the Service for the proposed action if you would like additional guidance in evaluating whether the species is likely to be present and how the proposed action is likely to affect the species.

The purpose of this Key is to assist the FCC, the non-federal designee of the FCC, or other Federal agencies in making appropriate effects determinations for communication tower projects under section 7 of the Act within the State of Alabama. The Key is intended to streamline consultation with the Service when the proposed action can be evaluated with the Key. It also provides initial technical assistance on BMP's and survey requirements for select species throughout the state. For towers where the Service believes that further evaluation of the proposed tower is necessary, the Key recommends contacting the local field office and requesting consultation. We highly recommend continuing to check this site for improvements and additional streamlining opportunities for similar actions.

Rationale for determinations

The following provides supporting rationale for determinations.

In order to avoid adverse effects to listed avian species from lighting on proposed communication towers and support a no effect determination for any tower in this Key, the applicant must implement the most current Federal Aviation Administration's obstruction marking and lighting circular (https://www.fws.gov/sites/default/files/documents/usfws-communication-tower-guidance.pdf). The link to this guidance as well as additional information and guidance from the Service and FCC on how to minimize and avoid impact to birds are posted on our national web site: https://www.fws.gov/birds/management/project-assessment-tools-and-guidance/guidance-documents/communication-towers.php

The Key screens proposed tower projects that are new or co-located, with a sensitive features layer to ensure the proposed action would be consistent with a no effect determination. This layer excludes from consideration towers proposed within 1 mile (1.6 kilometers) of the coastal shoreline (for piping plovers [*Charadrius melodus*] and red knots [*Calidris canutus rufa*]), within 200 feet (61 meters) of known locations for watercress darter (*Etheostoma nuchale*), rush darter (*Etheostoma phytophillum*), and vermilion darter (*Etheostoma chermocki*), or within designated critical habitat. Proposed projects that fall outside these areas are considered further for potential affects to listed species.

Proposed projects that are co-located on an existing communication tower and do not include any ground disturbance, are considered to be consistent with the current structure and negative effects are not expected with the addition of the new feature. Proposed projects that consist of building a new tower that are located on sites which are currently entirely developed would be consistent with a no effect determination.

The next screen that is applied assesses whether the proposed action would occur within the ranges of certain terrestrial species that require site specific data to assess potential presence or absence.

If the proposed project occurs within the range of gopher tortoise (*Gopherus polyphemus)* distinct population segment, the key asks if evidence of gopher tortoise is present at the project site and if habitat for the tortoise is present at the site. A prompt to load photographs and a written description of habitat at the proposed site is given. If sufficient information that supports

a lack of habitat is provided into IPaC, the project is considered consistent with a no effect determination. If gopher tortoise burrows were located, the project is consistent with a may affect determination and the proponent is directed to coordinate further with the Alabama Field Office (ALFO). If no burrows are observed but habitat is present and best management practices (BMPs) that are provided in the Key to further ensure conservation of the species are adhered to, the project is considered consistent with a may affect, not likely to adversely affect determination.

If the project occurs within the range of the eastern indigo snake [*Drymarchon corais couperi]* or the black pine snake [*Pituophis melanoleucus lodingi*], the project proponent will receive technical assistance with specific BMPs for the individual species. The key asks if habitat for the eastern indigo snake and/or the black pine snake is present at the site. If the proposed site does not contain suitable habitat for the eastern indigo snake and/or the black pine snake, the project is considered consistent with a no effect determination. However, if the proposed site does contain suitable habitat for either snake species and the BMPs are adhered to, then the project is considered consistent with a may affect, not likely to adversely affect determination. If suitable habitat is present on site and the BMPs are not adhered to, the project is considered consistent with a may affect determination and the proponent is directed to coordinate further with the ALFO.

If the project occurs within the range of Price's potato-bean (*Apios priceana)*, Alabama leather flower (*Clematis socialis)*, whorled sunflower (*Helianthus verticillatus)*, Mohr's Barbara's buttons (*Marshallia mohrii)*, fleshy-fruit gladecress (*Leavenworthia crassa)*, lyrate bladderpod (*Lesquerella lyrata)*, leafy prairie-clover (*Dalea foliosa)*, Morefield's leather flower (*Clematis morefieldii)*, relict trillium (*Trillium reliquum*) Louisiana quillwort (*Isoetes louisianensis*), Alabama canebrake pitcher-plant (*Sarracenia rubra ssp. alabamensis*), fringed campion (*Silene polypetala*), green pitcher plant (*Sarracenia oreophila*), Harperella (*Ptilimnium nodosum*), Kral's water-plantain (*Sagittaria secundifolia*), pondberry (*Lindera melissifolia*), Tennessee yellow-eyed grass (*Xyris tennesseensis*), white fringeless orchid (*Platanthera integrilabia*), but outside of specific buffers developed for each species, the project proponent will be asked whether habitat for these listed plants is present. A prompt to load photographs and a written description of habitat at the proposed site is given. If sufficient information that supports a lack of habitat is provided into IPaC, the project is considered consistent with a no effect determination. If habitat is present, the project proponent is asked whether a survey for the plant species of concern was conducted during a time when the plant species can be correctly identified. If not, the project is considered consistent with a may affect determination and proponent is directed to coordinate further with the ALFO. If surveys were performed when the plant species can be correctly identified and no individuals were observed and BMPs that are provided in the Key to further ensure conservation of the species are adhered to, the project is considered consistent with a may affect, not likely to adversely affect determination. If the project falls within a species buffer the project is considered consistent with a may affect determination and proponent is directed to coordinate further with the ALFO.

The next screen assesses the effects of the proposed project on two species of plants that occur within natural longleaf pine savanna ecosystems (gentian pink-root [*Spigelia gentianoides*] and American chaffseed [*Schwalbea americana*]). If the project is within the range of these two

species and occurs within a longleaf pine-wiregrass ecosystem with open understory, the project is considered consistent with a may affect determination and proponent is directed to coordinate further with the ALFO. If the proposed project is not within a longleaf pine-wiregrass ecosystem with open understory, then the project is considered to be consistent with a no effect determination. However, a prompt to load photographs and a written description of the habitat into IPaC is given.

A number of threatened and endangered species (little amphiathus (*Amphianthus pusillus*), American Hart's tongue fern (*Asplenium scolopendrium var. americanum*), Alabama streak-sorus fern (*Thelypteris pilosa var. alabamensis*), Georgia rockcress (*Arabis georgiana*), gentian pinkroot (*Spigelia gentianoides*), and gray bat (*Myotis grisescens*)) are associated with exposed and distinct geological features such as karst features (caves, sinkholes, disappearing streams, springs, etc.) or other prominent, distinct, or obvious rock formations that may include exposed bedrock of limestone, dolomite, granite, or features such as bluffs, rock outcrops, cavemouths, sinkholes, ledges, rockhouses, or overhangs. This determination key assesses whether the proposed project occurs within the range of species that are found in association with these distinct geological features and prompts the project proponent to state whether such features are present. If these geological features are absent, a conclusion of no effect for the proposed project is supportable. However, a prompt to load photographs and a written description of the habitat into IPaC is given.

The key continues by assessing potential effects to aquatic species or species associated with wet habitats that can be described as a stream, lake, pond, wet weather conveyance, spring, beaver pond, wetland, bog, fen, seep, or wet meadow. If the project is 200 feet away from these habitats, then a suite of BMPs to minimize and prevent negative affects to aquatic habitats is provided. If all BMPs are adhered to, then a conclusion of no effect for the proposed project is supportable. However, if all BMPs are not implemented and adhered to, the project is considered consistent with a may affect, not likely to adversely affect determination. If the project is within 200 feet from aquatic habitats, the project proponent is asked whether the proposed project will have instream or riparian impacts. If so, the project is considered consistent with a may affect determination and the proponent is directed to coordinate further with the ALFO. If no instream or riparian impacts are expected, and all BMPs are adhered to, the project is considered consistent with a may affect, not likely to adversely affect determination. If all BMPs are not implemented and adhered to, the project is considered consistent with a may affect determination and the proponent is directed to coordinate further with the ALFO. Some listed fish species (rush darter, vermilion darter, watercress darter) live in highly urbanized areas. Any project that occurs within 200 feet of known locations for these species should be submitted to ALFO for further review of potential effects to them.

Because listed turtle species (Alabama red-bellied turtle [*Psuedemys alabamensis*] and flattened musk turtle [*Sternotherus depressus*]) utilize terrestrial and aquatic habitats, additional information is needed to justify determinations. Therefore, the key asks whether the work for the project will be undertaken during the nesting period for either species. If not, the project is considered consistent with a may affect, not likely to adversely affect determination. Additionally, if the proposed project occurs within the range of the flattened musk turtle and during a time period when the species has reduced activity (November 1-March 31), the project

is considered consistent with a may affect, not likely to adversely affect determination. If the project occurs within the nesting period for either species, the key asks whether surveys for the species were conducted by qualified biologists. If no individuals, nests, or quality habitat were observed, then the project is considered consistent with a may affect, not likely to adversely affect determination. However, if individuals of the listed turtle species, nests, or quality habitat were observed, then the project is considered consistent with a may affect determination and the proponent is directed to coordinate further with the ALFO.

The key then assesses potential affects to the red-cockaded woodpeckers (RCWs) by screening if and how the project affects foraging and nesting habitat for the species. If the project does not occur within foraging habitat, only consists of maintenance, repair, or replacement activities within an already existing structure, or affects foraging habitat that is away from nesting habitat by a distance of 0.5 miles (0.8 kilometers), the project is considered consistent with a no effect determination. If the project is within nesting habitat and is likely to damage nesting trees (directly or via root or soil compaction), involve disturbance (heavy equipment use, seismic activity, or forest management) within 200 feet of a known RCW tree, or eliminate large amounts of foraging habitat, the project is considered consistent with a may affect determination and the proponent is directed to coordinate further with the ALFO. If the proposed project will remove foraging habitat but adequate amounts of foraging habitat will remain after completion of the project based on a foraging habitat analysis, the project is considered consistent with a may affect, not likely to adversely affect determination.

Finally, the key screens whether the proposed project will affect black rail habitat described as marsh habitat (wetland dominated by herbaceous plants such as grasses, rushes, or sedges). If so, the project is consistent with a may affect determination for the black rail and the project proponent is directed to coordinate further with the ALFO.

This key does not evaluate projects that are proposed to occur within one mile of the coast. Therefore, species that are only expected to occur in this area such as: the Alabama beach mouse (*Peromyscus polionotus ammobates*), Perdido key beach mouse (*Peromyscus polionotus trissyllepsis*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), and sea turtle species are not included in this key. Any project that is proposed to occur within this area should be submitted to ALFO for further review of potential effects to these species and any other species that may also occur within this area.

Similarly, this key does not assess projects that are proposed to occur within designated critical habitat. Any project that is proposed to occur within designated critical habitat should be submitted to ALFO for further review of potential effects to critical habitat and the species for which it was designated.

Separate determination keys exist for the Indiana bat (*Myotis sodalis*) and the northern long-eared bat (*Myotis septentrionalis*). Therefore, this key does not evaluate a proposed project's potential effects to these species. Rather, project proponents should assess their project with the Indiana Bat Determination Key and the Northern Long-eared Bat Range-wide Determination Key as appropriate.

Three remaining species are not assessed with this key due to their narrow range. These species are the gopher frog (*Lithobates capito*), Red Hills salamander (*Phaeognathus hubrichti*), and Mitchell's satyr butterfly (*Neonympha mitchellii mitchellii*). Any project that is within the range of any of these species should be submitted to ALFO for further review.

Conclusion

For any species analysis that is consistent with no effect determination or may affect, but not likely to adversely affect, use of the Key will provide documentation that the proposed project does not warrant additional consultation under the Act. If any species analysis is found to be consistent with a may affect, likely to adversely affect determination, further evaluation with the Field Office is warranted. For all proposed telecommunication projects, the Service strongly encourages applicants to implement *Recommended Best Practices for Communication Tower Design, Siting, Construction, Operation, Maintenance, and Decommission, dated March 2021* (https://www.fws.gov/sites/default/files/documents/usfws-communication-tower-guidance.pdf), guidance letter from the Division of Migratory Bird Management, to avoid and minimize potential adverse effects to migratory birds and birds protected under the Act and the Migratory Bird Treaty Act.

If later modifications are made to the project, if additional information involving potential effects to listed species becomes available, if a listed species is found to be present at the site, or if a new species is listed that may be present at the site, additional technical assistance and reevaluations of coordination or consultation may be necessary. If the project is not initiated within one year of completing a review using the Key, we recommend reevaluating the project.

If you have any questions, please contact the Alabama Field Office at 251-441-5181 or alabama@fws.gov. Thank you for your effort and cooperation in protecting federally threated and endangered species and other wildlife resources in Alabama.

Sincerely yours,

WILLIAM PEARSON
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William J. Pearson
Field Supervisor
Alabama Ecological Services