



United States Department of the Interior

FISH AND WILDLIFE SERVICE
North Dakota Ecological Services Field Office
3425 Miriam Avenue
Bismarck, North Dakota 58501



North Dakota Field Office Conservation and Consultation Guidance¹

The U.S. Fish and Wildlife Service (USFWS or the "Service"), North Dakota Field Office (NDFO) have developed general conservation recommendations to avoid impacts to species protected under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (ESA), as well as other trust wildlife resources. We encourage project proponents to contact us on specific project level effects as there is flexibility in how these measures may be applied. These general recommendations are not a substitute for consultation requirements under section 7 of the ESA. For more information, contact us at ndfieldoffice@fws.gov or (701) 250-4481.

Species/ Type	Recommended Avoidance Area	Conservation Recommendations	Period of Concern
Dakota Skipper	250m – 500m from suitable habitat	Field surveys are recommended to identify habitat if projects are in native grasslands	June 10 – July 25
Northern Long-Eared Bat		Most activities conducted during the inactive period and outside a ½ mile buffer around hibernacula during the inactive period are unlikely to directly impact bats	Apr. 15 – Oct. 31
Pallid Sturgeon		Avoid impacts during the migration and spawning period	Apr. 1 – July 31
Piping Plover	½ mile buffer around occupied habitat during the nesting season	Avoid impacts to suitable habitat during the nesting season	Apr. 15 – Aug. 15
Red Rufa Knot	½ mile no activity zone if present	Avoid similar habitats to those used by piping plover	May Sept. – Oct.
Western Prairie Fringed Orchid			June 1 – July 31
Whooping Crane	1.2-mile (2 km) no activity zone if present	See species specific section for project specific recommendations	Mar. 15 – May 15 Sept. 10 – Nov. 15
Bald Eagle	660 ft for most activities	Aerial survey recommended in the spring, before leaf-out	Feb. 1 – July 15
Golden Eagle	1 mile buffer	Aerial survey recommended in the spring, before leaf-out	Jan. 15 – Aug. 31
Migratory Birds		Avoid activities during the minimum migratory bird nesting season (May 1 – July 15) to reduce impacts	May 1 – July 15

¹ **Suggested Citation:** USFWS. 2026. USFWS NDFO Conservation Recommendations. U.S. Fish and Wildlife Service - North Dakota Ecological Services Field Office. Bismarck, ND. Version 06/2026. Accessible at: <https://www.fws.gov/office/north-dakota-ecological-services/library>

Information for Planning and Consultation (IPaC)

To streamline ESA compliance, please consider using the Information for Planning and Consultation (IPaC) tool (<http://ecos.fws.gov/ipac>). This tool provides guidance to determine:

- 1) If listed species or critical habitat may be present within an action area
- 2) If the project and associated actions are likely to affect listed species
- 3) Provide minimization measures to ensure the recovery of species affected.

To learn how to use IPaC, the Service has a beta version that is intended for new users to test out the tool, along with links to helpful video demonstrations

(<https://ipacb.ecosphere.fws.gov/>). Additionally, the NDFO website

(<https://www.fws.gov/office/north-dakota-ecological-services/library>) contains step-by-step guidance for navigating IPaC and determination keys for projects located within North Dakota.

Consultation Guidance

Under section 7(a)(2) of the ESA, if a Federal agency authorizes, funds, or carries out a proposed action, the responsible Federal agency, or its delegated agent, is required to evaluate whether the action "may affect" listed species or critical habitat. The following bullets lay out next steps for Federal action agencies based on their effect determinations made to listed species or critical habitat from proposed actions.

- If a "*no effect*" determination is made for listed species or critical habitat, the responsibility for the "no effect" determination remains with the Federal action agency and no further consultation with the Service is necessary. The Service recommends retaining documentation of the determination in the decisional records for the action.
- If a "*may affect, not likely to adversely affect*" determination is made for listed species or critical habitat the responsible Federal action agency should reach out to the NDFO for written concurrence. For projects using determination keys, see the guidance below.
- If a "*may affect, is likely to adversely affect*" determination is made for listed species or critical habitat, the responsible Federal action agency shall request formal section 7 consultation with the NDFO.

Determination Keys

Determination keys (Dkey) are logic-based questions to help provide consistent effects analyses for standard project reviews. They are intended to provide a streamlined consultation process.

When using Dkeys in IPaC, there may be several to complete during the screening process:

- **North Dakota Determination Key:** This Dkey covers all project types except wind energy development and purposeful take. Wind energy projects need to work directly with the field office. The Dkey covers all species in the state, except the northern long-eared bat (NLEB). Proponents with NLEB on their official species list would need to complete both the North Dakota Dkey and the NLEB specific Dkey to be in full compliance.
- **Northern Long-eared Bat and Tricolored Bat Range-wide Determination Key:** Specific to these two bat species, this range wide Dkey covers project types that may occur within the range of these species, but does not include transportation projects. If these species are present in the project area, this Dkey will need to be completed in addition to the North Dakota Dkey.

- **FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting IBAT, NLEB, or TCB:** Similar to the range wide NLEB Dkey, this Dkey covers all transportation related projects analyzed within the programmatic consultation for projects authorized by the Federal Highway Administration, Federal Railroad Administration, and Federal Transit Administration. If the NLEB is present within a project area and meets this project type, this Dkey will need to be completed in addition to the North Dakota Dkey.

After completing a Dkey, the resulting letter may be labeled as either a 1) Concurrence, 2) "May Affect" or MA Consistency, or 3) Consistency/Technical Assistance.

- 1) When a project using an IPaC Dkey generates a **Concurrence letter**, this indicates your project activities were consistent with the analysis and no additional consultation for that project is needed unless one or more of the following occurs:
 - a) The scope, timing, duration, or location of the proposed project changes.
 - b) New information reveals the action may affect listed species or critical habitat.
 - c) A new species is listed or critical habitat designated
- 2) When a project receives a "**May Affect**" or **MA Consistency letter** that does not further distinguish to "is likely to adversely affect" (LAA) or "not likely to adversely affect" (NLAA), this indicates the project includes additional complexities that are not covered by the analysis and additional consultation is needed. To complete consultation, contact the NDFO at ndfieldoffice@fws.gov and include with your email the IPaC Project number, a shapefile of the Action Area, the generated "May Affect" letter, and we can assist with processing the consultation request.
- 3) When a project receives a **Consistency/Technical Assistance² letter** it could indicate:
 - a) All effect determinations made for indicated project activities were "no effect"
 - i) This letter is only being produced for federal action agency record keeping purposes. The responsibility for the "no effect" determination(s) remains with the Federal action agency and no further consultation with the Service is necessary.
 - b) The user has indicated they are not the federal action agency nor are they a designated non-federal representative for the lead federal action agency on the project.
 - i) Consultation with the Service is not complete. The federal action agency or its designated non-federal representative will need to log into IPaC using their agency email account and *Search by record locator* – the produced Consistency/Technical Assistance letter will have the record locator number to search for the specific project. Once the federal action agency or its designated non-federal representative certify the letter, it will produce a Concurrence letter (so long as the project activities meet the scope of the determination key analysis), meeting the ESA consultation requirement for the project.

² The title of this letter varies between determination keys. Some producing this letter type refer to it as a consistency letter, while other determination keys may refer to it as a technical assistance letter.

Dakota Skipper (Threatened)

The Dakota skipper (*Hesperia dacotae*) butterfly occupies remnant native prairie throughout North Dakota and can be identified when adults are in flight from approximately June 10 – July 25. A range-wide survey protocol was developed in 2024 to define suitable habitat and protocols for conducting surveys ([USFWS 2024](#)). A model has also been developed by the USFWS Habitat and Population Evaluation Team (HAPET) that helps project proponents identify, at the desktop scale, if suitable habitat may be present in a particular area ([Barnes et al. 2023](#)).

Conservation Recommendations

- If suitable habitat, defined generally as intact native grassland identified during a field evaluation, is present within a particular project area, our general recommendation for reducing effects would be to maintain a 250-meter buffer between a project and suitable Dakota skipper habitat and a 500-meter buffer from occupied suitable habitat and/or designated critical habitat. A more detailed definition of suitable habitat is present in the 2024 survey protocol ([USFWS 2024](#)).

Additional Information

- USFWS. 2025. Dakota Skipper. Accessible at: <https://www.fws.gov/species/dakota-skipper-hesperia-dacotae>.
 - The official page for this species, this website provides species information, interactive range maps, and other resources to aid in consultations.
- USFWS. 2024. 2024 Dakota Skipper (*Hesperia dacotae*) Survey Protocol, Midwest and Mountain Prairie Regions. Accessible at: <https://www.fws.gov/sites/default/files/documents/2024-05/2024-usfws-dakota-skipper-survey-protocol.pdf>.
 - This survey protocol can be used to guide mapping suitable habitat, conducting occupancy surveys, and determining when a site may be absent.
- Barnes et al. 2023. Dakota Skipper Habitat Suitability Model. HAPET. Bismarck, ND. Accessible at: <https://iris.fws.gov/APPS/ServCat/Reference/Profile/159874>
 - Used in concert with the official species range present in IPAC, this tool can be used to help refine where probability of suitable habitat may be present on the landscape.

Northern Long-Eared Bat (Endangered)

Northern long-eared bats (*Myotis septentrionalis*; NLEB) spend winters in hibernation and spring, summer, and fall in forested areas. During winter hibernation, NLEB use caves, mines, karst, and steep stream banks (e.g. Missouri River riparian corridor), called hibernacula, that can vary in size, but need a maintained constant temperature, high humidity, and no air currents throughout the winter months. Currently, there are no known northern long-eared bat hibernacula in North Dakota, but suitable hibernacula habitat does exist throughout the state, especially along the Missouri River corridor and in western North Dakota badlands. However, most have not been surveyed to determine presence or absence.

During the summer and portions of the fall and spring, NLEBs may be found roosting singly or in colonies underneath bark, in cavities or in crevices of both live trees or dead trees/snags. Recently, a maternity colony of NLEBs was detected in northwestern North Dakota when females were captured during the 2024 summer field season. Trees >3-inch diameter at breast height (DBH) are considered potential summer habitat for this species.

Conservation Recommendations

- Most activities conducted during the inactive period and outside a ½ mile buffer around hibernacula during the inactive period are unlikely to directly impact the NLEB.
- If project activities are located within an area where NLEBs may be present (i.e., "Species List Area", defined in the Additional Information section below), we recommend conducting a voluntary presence/probable absence survey following the Service's *Survey Guidelines* (USFWS 2026), or assume presence and coordinate with the NDFO.
- When bridge/culvert repair, retrofit, and rehabilitation work is anticipated to occur during the NLEB active season (April 15 – October 31) where NLEB have the potential to occur (i.e. "Species List Area"), we recommend conducting bat use surveys to determine bat use following the Service's standard protocols (USFWS 2026). If the project structure has evidence of use, notify the NDFO of findings and we will assist with coordinating next steps.
- Review the [Northern Long-eared Bat and Tricolored Bat Voluntary Environmental Review Process for Development Projects](#) (USFWS 2024) that provides a step-by-step approach to streamline compliance with the ESA and associated implementing regulations for most project types. The document prescribes minimum conservation measures expected for projects that are likely to adversely affect NLEB. Our intent is to provide these measures up front for regulatory predictability and consistency.

Active Season [April 15 – October 31] is an overall term that is used to encompass the *Spring Staging*, *Pup Season*, and *Fall Swarming* time periods.

Spring Staging [April 15 – May 14] is the timeframe when most bats are emerging from hibernation, roosting in trees near hibernacula, and preparing/migrating to summer home ranges.

Pup Season [June 1 – August 15] is a timeframe that includes late pregnancy, when most young are born, and up until those young are able to fly and forage independently. This is an especially venerable timeframe as escape from hazards, such as tree removal, is made harder due to the non-flying pups' reliance on the mother to move the individual.

Fall Swarming [August 16 – October 31] is the timeframe when most bats are migrating back to hibernacula and a period of increased activity (e.g., foraging and mating) prior to entering hibernation.

Inactive Season [November 1 – April 14] is a time frame when most bats are hibernating.

Additional Information

- USFWS. 2025. Northern Long-eared Bat. Accessible at:
<https://www.fws.gov/species/northern-long-eared-bat-myotis-septentrionalis>.
 - The Service released final tools and guidance to replace the species specific 4 (d) rule regulations on October 23, 2024, found at the above link. These resources are updated as new information becomes available. Please check this link periodically to ensure the most recent guidance is used.
 - "Species List Area" is defined as the known NLEB occurrences and modeled likelihood of occurrence where the species may be present. This is the range used in IPaC when generating Official Species List. The "Species List Area" (also sometimes referred to as "AOI", "Current Range", "Consultation Range", or "Legal Range") can be found at the link above.
- USFWS. 2026. Range-wide Indiana Bat and Northern Long-eared Bat Survey Guidelines. U.S. Fish and Wildlife Service, Region 3, Bloomington, MN. 95 pp. Accessible at:
<https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>.
 - The *Survey Guidelines* are annually reviewed and updated by the Service in March; ensure you are using the most up to date version when planning voluntary presence/probable absence surveys.
- USFWS. 2025. Land-based Wind Energy Voluntary Avoidance Guidance for the Northern Long-eared Bat. Accessible at: <https://www.fws.gov/library/collections/land-based-wind-energy-voluntary-avoidance-guidance-northern-long-eared-bat>.
 - The NLEB Range for wind energy projects is different from the *Species List Area*.
- USFWS. 2024. Northern Long-eared Bat and Tricolored Bat Voluntary Environmental Review Process for Development Projects. Accessible at:
<https://www.fws.gov/media/consultation-technical-assistance-development-projects>
- If you have evaluated your project through the *Northern Long-eared Bat and Tricolored Bat Range-wide Determination Key* (NLEB/TCB) using IPaC and received a "May Affect" determination letter, this indicates your project includes some additional complexities that the NLEB/TCB determination key does not cover and additional consultation is needed. To complete the consultation process, please contact the NDFO at ndfieldoffice@fws.gov and include with your email the IPaC Project number, a shapefile of the Action Area, the generated "May Affect" letter, and any other pertinent information that will assist the consultation.
 - See the IPaC section for more information regarding the use of IPaC and determination keys.

Pallid Sturgeon (Endangered)

In North Dakota, the pallid sturgeon (*Scaphirhynchus albus*) is known to use the Yellowstone River, Missouri River, and Lake Sakakawea, specifically upstream of the Garrison Diversion. Projects that directly affect named water resources may result in effects to this species.

Conservation Recommendations

- To the extent practicable, avoid in-stream work in the Yellowstone River, Missouri River, and Lake Sakakawea from **April 1-July 31** during the migration and spawning season. If in-stream work is needed during these times, please coordinate with the NDFO to reduce effects to the species.
 - Spawning dates vary from year to year and state to state depending on water temperatures, dam releases, and other environmental and climatic influences; dates recommended for North Dakota may differ from adjacent states.
- For cooling water intakes, we recommend following the Environmental Protection Agency Best Technology Available (BTA) Standards for impingement mortality, explained in detail in 40 CFR 125.94(c) and summarized below:
 - Use closed-cycle recirculating systems and conduct daily monitoring of actual intake flows; or
 - Demonstrate ≤ 0.5 ft/sec through-screen design velocity; or
 - Demonstrate ≤ 0.5 ft/sec through-screen actual velocity and daily monitoring of velocity; or
 - Use existing offshore velocity cap and daily monitoring of intake flow; or
 - Use modified traveling screens, optimized to minimize impingement mortality; or
 - Install BTA systems of technology, management practices, and operational measures; or
 - Conduct 12-month impingement mortality performance standard and monthly monitoring, which should include the number of fish killed or number of fish impinged lower than 24 percent
- For general water intakes, we recommend:
 - Designing facilities to have intake velocities less than 0.5 feet per second (fps)
 - Using intake screens sized to have a maximum mesh opening of $\frac{1}{4}$ inch
 - Using a Johnson (or Johnson Type) screen/intake if feasible.
- For intakes proposed in potential reproduction areas, specifically in the Yellowstone River or in the Missouri River below river mile 1519 (approximately 3 miles south of Lewis and Clark State Park), we recommend:
 - Using floating intakes with navigation hazard warning lights
 - Locate floating intakes over water with a minimum depth of 20 feet or over the deepest water available. If water depth falls below 6 feet, we recommend moving the intake to deeper water or limit the maximum intake velocity to $\frac{1}{4}$ foot per second over the maximum practicable attainable depth.

Additional Information

- USFWS. Pallid Sturgeon. Accessible at: <https://www.fws.gov/species/pallid-sturgeon-scaphirhynchus-albus>. Provides species information, interactive range maps, and other resources to aid in consultations.

Piping Plover (Threatened)

The piping plover (*Charadrius melodus*) is a small shorebird that uses gravelly and sandy beaches along the Missouri River/Lake Sakakawea and alkali wetlands in the prairie pothole region of North Dakota. The Northern Great Plains population segment of this species typically breeds in the Great Plains, including North Dakota, during the summer months and migrates south to the Gulf Coast to overwinter.

Conservation Recommendations

- During the piping plover nesting season from **April 15-August 15**, avoid direct effects to nesting habitat, which includes sand and gravel beaches, alkali flats, gravel shorelines, and river sandbars.
- If effects to suitable piping plover habitat are proposed during the nesting season, surveys are recommended to determine species presence. We recommend the following when conducting surveys:
 - If suitable habitat is present, conduct presence surveys for piping plovers within a ½ mile radius of the proposed project in suitable habitat.
 - Surveys should be conducted by a qualified biologist daily, starting seven (7) days prior to construction activities.
 - Conduct surveys primarily in the morning when there is adequate light to detect and identify birds. From a good vantage point, survey areas using a binoculars or spotting scope for a minimum of 20 minutes in each ½ mile direction. Monitoring from several different viewing areas may need to occur, moving areas until the entire ½ mile radius is surveyed. Focus specifically for bird movements along sandbars in the middle of the channel, along the shoreline, and on recently formed floodplain sand deposits.
 - If no birds are observed, project activities can commence with no additional surveys.
 - If birds are present foraging or nesting, contact NDFO for recommendations to avoid effects to the species.
- If at any time, an active nest, chick or adult bird is observed within ½ mile of the project:
 - Do not attempt to disturb or remove the birds or nests.
 - Do not start or continue construction activity within ½ mile of the adult, chick, or nest until piping plovers or their nests are no longer present within ½ mile of the project, or it is determined by the USFWS that there is no risk for disturbance.

Additional Information

- USFWS. Piping Plover. Accessible at: <https://www.fws.gov/species/piping-plover-charadrius-melodus>. Provides species information, interactive range maps, and other resources to aid in consultations.

Rufa Red Knot (Threatened)

The rufa red knot (*Calidris canutus rufa*) is a rare migrant that occasionally uses stopover habitat in North Dakota during its long-distance migration. This species has been documented in various aquatic habitats in North Dakota, from the Missouri River to prairie pothole wetlands.

Conservation Recommendations

- If a rufa red knot is sighted within ½ mile of project activities, the USFWS should be contacted at 701-250-4481 or ndfieldoffice@fws.gov. In coordination with the USFWS, work may resume after the bird(s) leave the area.

Additional Information

- USFWS. Rufa Red Knot. Accessible at: <https://www.fws.gov/species/rufa-red-knot-calidris-canutus-rufa>. Provides species information, interactive range maps, and other resources to aid in consultations.

Western Prairie Fringed Orchid (Threatened)

The western prairie fringed orchid (*Platanthera praeclara*; WPFO) is known to occur in southeast North Dakota in Ransom and Richland counties or near the Sheyenne National Grasslands in North Dakota. Activities involving herbicide application, water drainage, water/wetland alteration, breaking native prairie, or burning, may have adverse effects to this species.

Conservation Recommendations

- Noxious weeds at WPFO sites should be controlled, but herbicide use at WPFO sites should be limited to spot spraying, especially during summer. Avoid insecticide use that could harm pollinators of the orchid.
- Mowing, haying, brush cutting, etc. should be avoided to the extent possible if it overlaps with the orchid's growing season (late spring through the end of July) and in the spring it should not be cut too close to the ground.
- Fire and grazing with goats and sheep should also be avoided to the extent possible if it overlaps with the growing season, although fire may be more restrictive. Studies by the Minnesota Department of Natural Resources indicate fire can damage the plant as soon as it emerges and is more than a few inches tall (as early as April), but damage is less in the fall (mid-September or after) since the chances of damaging seed capsules that have not properly dispersed is low.
- Maintain grassland habitats to promote recovery of this species.

Additional Information

- USFWS. Western Prairie Fringed Orchid. Accessible at: <https://www.fws.gov/species/western-prairie-fringed-orchid-platanthera-praeclara>. Provides species information, interactive range maps, and other resources to aid in consultations.

Whooping Crane (Endangered)

The whooping crane (*Grus americana*) migrates through North Dakota during the **spring (March 15-May 15) and fall (September 10-November 15)**. If project activities occur when whooping cranes are within 1.2 miles (2 km), these birds may be disturbed and vacate the area. Such displacement is most likely to take place in the early morning, as whooping cranes typically stay overnight at a single location before resuming their movements at dawn. Disturbances that result in premature flushing can induce stress, cause energetic losses, and increase chances of collision with objects. Whooping cranes are also susceptible to collisions with electrical utility lines. Collisions with powerlines are known to be responsible for the death of individual cranes. Wind infrastructure is believed to pose a potential risk of collision, though no whooping crane collisions with wind turbines have been documented. For these reasons, we recommend project proponents consider implementing specific conservation measures to avoid impacts to this species.

Conservation Recommendations

- If a whooping crane is sighted within 1.2 miles (2 km) of project activities, the USFWS should be contacted at 701-250-4481 or ndfieldoffice@fws.gov. In coordination with the USFWS, work may resume after the bird(s) leave the area.
- Within a 1.2-mile (2 km) buffer from proposed new construction of overhead utility lines and a 3.1-mile (5 km) buffer from a wind turbine center point, quantify potential impacts to habitat using the whooping crane habitat suitability model developed by Niemuth et al. 2018 (See Additional Resources for geospatial dataset link).
- For all new, replaced, or upgraded utility lines within 1.2 miles (2 km) of potentially suitable habitat, we recommend marking the lines and maintaining markers for the life of the project to ensure effectiveness to reduce the potential for strikes and mortality.

Additional Information

- Ellis et al. 2022. Balancing future renewable energy infrastructure siting and associated habitat loss for migrating whooping cranes. *Front. Ecol. Evol.* 10:931260. doi: 10.3389/fevo.2022.931260. Accessible at: <https://www.frontiersin.org/journals/ecology-and-evolution/articles/10.3389/fevo.2022.931260/full>.
- Niemuth et al. 2018. Opportunistically collected data reveal habitat selection by migrating Whooping Cranes in the U.S. Northern Plains, *The Condor*, 120(2), 343–356. Accessible at: <https://doi.org/10.1650/CONDOR-17-80.1>.
 - *Data Download:* Neimuth et al. 2018. Whooping Crane Migration through North Dakota and South Dakota. Geospatial Dataset. North Dakota, South Dakota. Accessible at: <https://ecos.fws.gov/ServCat/Reference/Profile/148840>.
- *Data Download:* Pearse et al. 2020. Location data for whooping cranes of the Aransas-Wood Buffalo Population, 2009-2018: U.S. Geological Survey data release. Accessible at: <https://doi.org/10.5066/P9Y8KZJ9>.
- *Data Request:* Contact the NDFO at ndfieldoffice@fws.gov to request the USFWS Whooping Crane Incidental Sightings Database information.

Bald and Golden Eagle Protection Act (BGEPA)

The [Bald and Golden Eagle Protection Act](#) (BGEPA) protects bald or golden eagles, including their parts, nests, or eggs, from "take" unless a permit is obtained from the Service. If a bald or golden eagle is present near a proposed project, the 2024 eagle permit revisions (89 FR 9920; Feb. 12, 2024), as allowed under BGEPA, are intended to increase the efficiency and effectiveness of permitting, facilitate and improve compliance, and increase the conservation benefit for eagles for activities that are otherwise lawful. They include a new system of general permits in addition to specific permits the Service has authorized in the past.

BGEPA defines "**take**" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or *disturb*."

"**Disturb**" is defined as "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior. "

General permits are an alternative approach that streamline bald eagle disturbance authorization for nine activity types (see table below). Appropriate disturbance distance may be adjusted based on landscape feature buffers, activity timing, and/or historical tolerance of the nest site and the degree to which similar activities are already occurring in proximity to the nest site. General permits are not available for golden eagles.

General Permit Activity Type	Distance from a Bald Eagle Nest Requiring a Permit
Building construction and maintenance	Within 660 feet
Linear infrastructure construction and maintenance (e.g., roads, rail, trails, power lines, and other utilities)	Within 660 feet
Alteration of shorelines and water bodies (e.g., shorelines, wetlands, docks, moorings, marinas, and water impoundment)	Within 660 feet
Alteration of vegetation (e.g., mowing, timber operations, and forestry practices)	Within 660 feet
Motorized recreation (e.g., snowmobiles, motorized watercraft, etc.)	Within 330 feet of an in-use nest
Nonmotorized recreation (e.g., hiking, camping, fishing, hunting, canoeing, etc.)	Within 330 feet of an in-use nest
Aircraft operation (e.g., helicopters and fixed-wing aircraft)	Within 1,000 feet of an in-use nest
Prescribed burn operations	Within 660 feet
Loud, intermittent noises (e.g., blasting)	Within ½ mile of an in-use nest

Specific permits are available for situations with high or uncertain risks to eagles that are ineligible for general permits or if an applicant is unable or unwilling to adhere to the terms and conditions of a general permit. Specific permits authorizing incidental eagle disturbance take are the only option for, but not limited to, the following, 1) golden eagle disturbance, 2) Bald eagle disturbance from activities other than the nine activity types indicated for general permit eligibility, 3) bald eagles nesting in Indian Country (as defined in 18 U.S.C. § 1151), 4) activities that may result in permanent loss of an eagle territory, and 5) reoccurring long-term disturbance.

Unlike bald eagles, whose numbers have increased in recent years, golden eagle populations appear to be slightly decreasing. These declines may be due to several factors, including their greater sensitivity to human disturbances. We recommend that your analysis consider possible effects to golden eagles if there is a nest within 1-mile of your project.

Conservation Recommendations

- For **bald eagles**, reduce disturbance by maintaining the appropriate recommended buffer distance between the activity and any active nest.
 - Landscape features, activity timing, and/or historical tolerance of the nest site to human disturbance can change the appropriate disturbance buffer distance. For assistance in determining the appropriate size and configuration of buffers or the timing of activities in the vicinity of a bald eagle nest, we encourage you to review the *National Bald Eagle Management Guidelines* (USFWS 2007) and contact us at 701-250-4481 or ndfieldoffice@fws.gov.
- For **golden eagles**, maintain a 1-mile buffer between the activity and any active nest. If activities fall within 1-mile of an active nest, we encourage you to contact us at 701-250-4481 or ndfieldoffice@fws.gov to determine if a specific permit is needed.
- Removal or destruction of any occupied or unoccupied nest requires a permit.

Eagle Disturbance Permit

If proposed activities cannot adhere to the above disturbance buffer from either an in-use ("active") or inactive eagle nest. Please visit <https://www.fws.gov/story/do-i-need-eagle-take-permit> to help determine if proposed activities will require a disturbance permit.

Eagle Nest Take Permit

A [Nest Take Permit](#) is **always** required for any activity that removes, relocates, destroys, or obstructs an eagle nest, even if the nest is inactive.

Additional Information

- 16 U.S.C. 668-668d. Bald and Golden Eagle Protection Act of 1940. Accessible at <https://www.fws.gov/law/bald-and-golden-eagle-protection-act>.
- U.S. Fish and Wildlife Service ePermits. Accessible at: <https://fwsepermits.servicenowservices.com/fws>.
- Eagle Management. Accessible at: <https://www.fws.gov/program/eagle-management>.

- USFWS. 2007. National Bald Eagle Management Guidelines. Accessible at: https://www.fws.gov/sites/default/files/documents/national-bald-eagle-management-guidelines_0.pdf.
- Hansen et al. 2017. Human Disturbance of Breeding Golden Eagles. Accessible at: <https://iris.fws.gov/APPS/ServCat/Reference/Profile/112570>
- Migratory Bird Program Eagle Depredation Permit for Hazing Activities Memo. Accessible at: <https://www.fws.gov/media/migratory-bird-program-eagle-hazar-and-harass-letter>
- *Data Download:* North Dakota Golden Eagle Nesting Habitat. Accessible at: <https://gishubdata-ndgov.hub.arcgis.com/datasets/ndgishub-golden-eagle-nesting-habitat-1/explore?location=47.187273%2C-103.235679%2C10>
- *Data Request:* Contact the North Dakota Game and Fish Department's [Conservation Division](#) to request a query of known eagle nests within a project area.

Migratory Bird Treaty Act (MBTA)

The [Migratory Bird Treaty Act](#) (MBTA) protects migratory birds from killing, capturing, selling, trading, and transport without prior authorization. In North Dakota, migratory birds are typically most vulnerable to development activities during the nesting season. The time period associated with the maximum migratory bird nesting season in North Dakota is approximately December to August. The time period associated with the minimum migratory bird nesting season in North Dakota is May 1 – July 15 (time-frame when the majority of annual bird nesting occurs). For projects that may impact migratory birds or if further information is needed, please contact our office for further guidance.

When Do I Need a Federal Permit?³

A federal permit, or other MBTA authorization, is **not needed to destroy an inactive nest**, provided the nest is fully destroyed and no parts of the nest or its contents, including, non-viable eggs or deceased birds or chicks are kept. For record keeping purposes, please document 1) photo of nest immediately prior to destruction, 2) date of nest destruction, 3) who destroyed it, and 4) statement verify the nest was completely disposed of, and no parts remain in your possession. This

Inactive Nest

- Nests that do not contain viable eggs or nestlings.
- Nests that are being built or tended by adult birds and contain no eggs or nestlings.
- Nests in which nestlings have fledged and are no longer dependent on the nest.
- Nests that contain non-viable eggs or nestling remains and are not being tended to by an adult bird.

In-Use Nest (i.e., Active Nest):

- Nests containing viable eggs or nestlings.
- A nest becomes in-use when the first egg is laid and remains in-use until nestlings fledge and are no longer dependent on the nest.

³ Only applies to non-eagle nests. It is the responsibility of the individual conducting activities to determine whether there are additional protection and restrictions (e.g., ESA, state regulations) prior to destroying or relocating any migratory bird nests.

documentation can be retained for record keeping purposes and does not need to be submitted to the NDFO.

While the destruction of the inactive nest is not prohibited by MBTA, any unpermitted take of migratory birds, nestlings, or eggs is prohibited. As such it is the responsibility of the individual conducting activities to ensure the nest is inactive. We recommend conducting nest destructions outside of the nesting season to reduce the risk of take.

Relocation of an inactive nest requires MBTA authorization as the relocation process requires a person to collect and be in possession of the nest. For inactive nest relocations, please reach out to NDFO for more guidance.

Destruction or relocation of an in-use nest requires MBTA authorization. For in-use nest destruction or relocation, please reach out to NDFO for more guidance.

Additional Information

- 16 U.S.C. 703-712. Migratory Bird Treaty Act of 1918. Accessible at: <https://www.fws.gov/law/migratory-bird-treaty-act-1918>
 - Includes a complete list of covered species and not covered species under MBTA.
- U.S. Fish and Wildlife Service ePermits. Accessible at: <https://fwsepermits.servicenowservices.com/fws>.
- USFWS. 2025. Migratory Bird Permit Memorandum. Accessible at: <https://www.fws.gov/sites/default/files/documents/2025-01/mbpm-2-nest-memorandum-2025.pdf>
- USFWS 2018. Region 6 Nest Destruction Memo: <https://www.fws.gov/media/usfws-region-6-nest-destruction-memo-dated-june-2018>
- Avoiding and Minimizing Impacts to Migratory Birds, Best Practices by Industry: <https://www.fws.gov/node/5233941>

US Fish and Wildlife Service Easement Interests

The Service may hold wetland or grassland easements within project areas that overlap within defined acquisition areas for each wetland management district; in North Dakota, these areas are concentrated in the prairie pothole region through the central portion of North Dakota. If there are specific questions related to management or easement terms, please contact the local Wetland Management Districts (WMDs) that administers the easement, with general numbers provided in the map below. If you are unsure of the local contact, please contact us and we can direct you to the responsible individual.

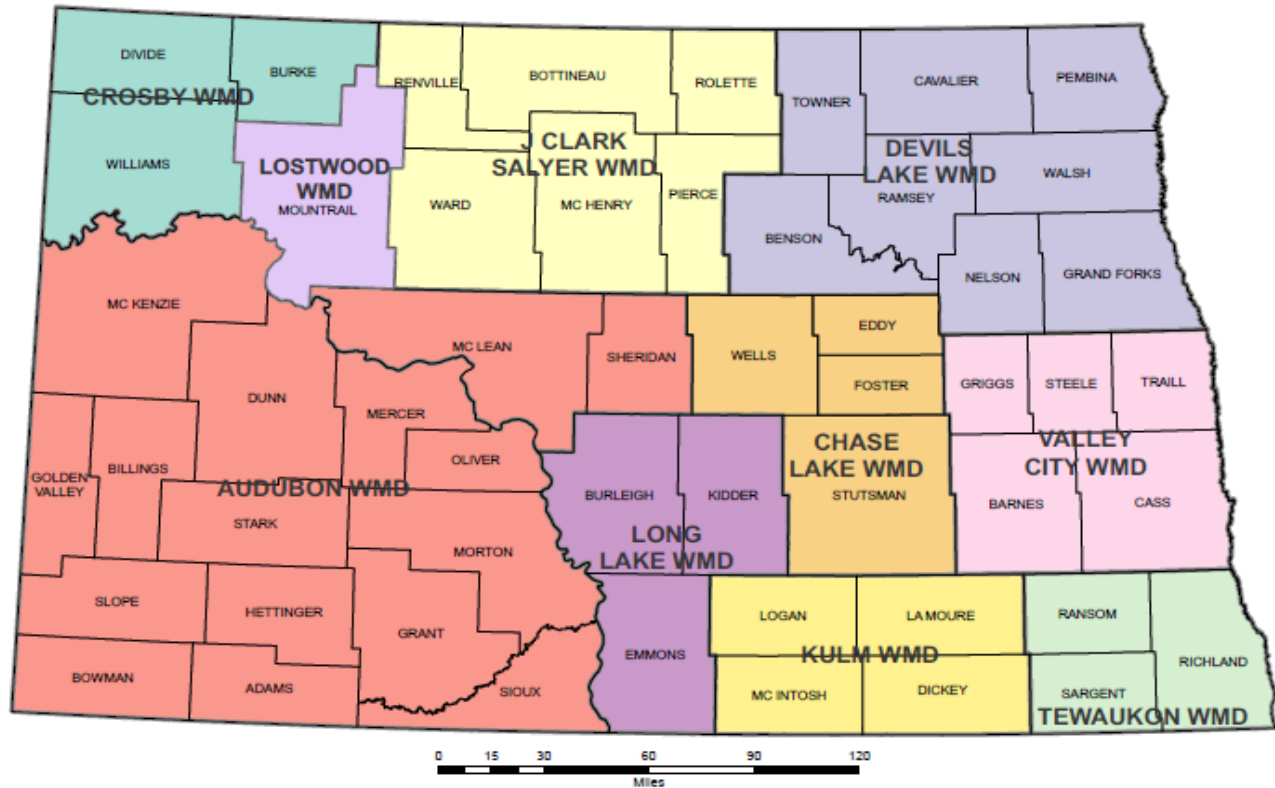
Additional Information

- USFWS. 2025. National Wildlife Refuge System and Fish Hatcheries, FWS National Realty Tracts and Acquisition Boundaries. Accessible at: <https://experience.arcgis.com/experience/17640b43745d4b44b53fc8f57dc28ed7?org=fws>



U.S. Fish & Wildlife Service

USFWS North Dakota Wetland Management Districts



Crosby WMD
10100 Hwy 42 NW
Crosby, ND 58730
701-965-6488

Lostwood WMD
8315 Highway 8
Kenmare, ND 58746
701-385-4046

J Clark Salyer WMD
681 Salyer Road
Upham, ND 58789
701-768-2548

Devils Lake WMD
221 2nd St. NW, Suite 2
Devils Lake, ND 58301
701-662-8611

Audubon WMD
3275 11th Street NW
Coleharbor, ND 58531
701-442-5474

Long Lake WMD
12000 353rd St SE
Moffit, ND 58560
701-387-4397

Chase Lake WMD
5924 19th St SE
Woodworth, ND 58496
701-752-4218

Valley City WMD
11515 River Rd
Valley City, ND 58072
701-845-3466

Kulm WMD
1st St. SW
P.O. Box E
Kulm, ND 58456
701-647-2866

Tewauckon WMD
9754 143 1/2 Ave. SE
Cayuga, ND 58013
701-724-3598