

February 11, 2010

## **USFWS Clearance to Proceed with Department of Housing and Urban Development (HUD) Loan 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 (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.).

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, expansion of social welfare provisions, and increased infrastructure spending which includes the energy and transportation sector. Agencies such as the Department of Housing and Urban Development (HUD), Department of Energy (DOE), and Federal Highway Administration (FHA) 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 Endangered Species Act. Consequently, the South Florida Ecological Services Office has experienced a significant increase in the number of requests for review of these government loan projects.

To help us fulfill the Act'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 NEPA environmental impact review requirements, we provide the following guidance and clearance relative to the criteria stated below for HUD project requests in all cities and unincorporated areas throughout our 19-county geographic area, with the exception of Monroe County (available at <http://www.fws.gov/verobeach/index.cfm?method=aboutus.map>).

### **Description of Projects Covered**

- All HUD funded project requests for **existing** commercial, industrial, and residential structures, to include multi-family and single-family housing, and various utilities projects to include but not limited to, water and wastewater treatment facilities 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.
- All HUD loan transfers where the original lending or mortgage institutions for existing projects are no longer holding the loans and the properties are being transferred via HUD backed loans.

We believe these activities will have “no effect”, and in few cases would be “not likely to adversely affect” any federally-listed species protected under the Endangered Species Act, based on the criteria referenced above.

### **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 or alternate bald eagle’s (*Haliaeetus leucocephalus*) nest **during** the nesting season which occurs from October 1 through May 15; we recommend the applicant or their designated agent coordinate with Ulgonnda Kirkpatrick, Bald Eagle Management Plan Coordinator, Florida Fish and Wildlife Conservation Commission at 352-260-8699 or by e-mail at [ulgonda.kirkpatrick@MyFWC.com](mailto:ulgonda.kirkpatrick@MyFWC.com). 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.**

If modifications are made to the project that do not meet the criteria described above, if additional information involving potential effects to listed species becomes available, or if a new species is listed, reinitiation of consultation may be necessary.

If you have any questions, please contact us at 772-562-3909. Our agency appreciates your cooperation in the protection of federally-listed species in Florida.

Sincerely yours,

/s/

Paul Souza  
Field Supervisor  
South Florida Ecological Services Office