



September 10, 2007

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Via email to robin.boughton@myfwc.com, cc: bill.pranty@myfwc.com

RE: Comments on the Draft Bald Eagle Species Management Plan

Dear Robin:

Thank you for the opportunity to comment on the species management plan FWC is developing in anticipation of the state delisting of the Bald Eagle. Thank you for addressing some of our concerns from previous versions. Our additional comments on this version include:

Landowner Notification of Intent to Follow Habitat Guidelines

The plan creates a very accommodating option for homeowners, wherein no permit is necessary if the landowner abides by the FWC Habitat Guidelines. We believe this flexibility is an important provision for landowners and is warranted with the current population status of the Bald Eagle in Florida. However, the plan does not require landowners to notify FWC that they are opting to follow the Habitat Guidelines. This simple notification, which could be logged through a web form – in order to minimize the burden on agency staff - would ensure FWC has knowledge of the work and would remind landowners that the potential exists for spot checks of the landowner's compliance with the guidelines. With a complicated process like this, there will be too much leeway for a landowner to plead confusion after a violation has occurred if they are not required to at least register their intent to comply with the Habitat Guidelines in advance of beginning work. We think the simple requirement of notification of intent would provide greater security for landowners as well as for FWC's law enforcement should legal action become necessary.

Similar Size and Scope

We challenge the underlying assumption in the given definition of "similar size and scope" and the way it is employed in the habitat guidelines, that four single-family houses at a distance of 200' from an eagle nest have no greater effect on that nest than a single pre-existing house at that same distance. The way the guidelines employ this concept denies the potentially additive nature of these successive structures without citing research demonstrating this to be true. If successive structures of similar size and scope will not be required to follow the same setback guidelines as new structures near previously un-impacted nests, then this assumption should be included in the research needs at the end of the management plan.

Mitigation-free Removal of Eagle Nests from Artificial Structures

Eagles in Florida are increasingly using artificial structures as nesting substrates. While this could be a result of the large population of eagles, it could also be a symptom of declining availability of suitable territories with preferred native nesting substrate available. In our opinion, the no mitigation or payment requirement for removal of nests from artificial structures outside of the nesting season is inappropriate. Just because an eagle nest is on an artificial structure doesn't mean its removal should not warrant mitigation. The removal of these nests could potentially result in a loss to the eagle population in the same way the removal of a nest in a tree would. Moreover, without a mitigation or

permit fee, there is no disincentive to removal for structure owners who have cosmetic or non-safety related concerns about the nest. We propose that if land conservation mitigation will not be required for the removal of these nests, at the very least a payment should be required to the Bald Eagle fund.

Amount of Mitigation Payment and Unfunded Management Plans

The USFWS has not yet set its mitigation fee for incidental take permits under BGEPA, so attributing the \$35,000 amount to their process is inaccurate. Similarly, it is not a number derived without input from FWC; in fact, it is based on a number originally established by Steve Nesbitt of the FWC. We question whether it is sufficient to counterbalance the ecological loss of the permitted take. The plan does not clearly establish to what purposes the mitigation fees will be applied. In literal terms, the destruction of a nest should be used to acquire or protect a nest elsewhere. It is unlikely that a mitigation payment of \$35,000 would be sufficient to do this: if the protection of a nest with a 300-foot buffer requires the acquisition of a circle with area of 7.8 acres, this \$35,000 mitigation payment would only allow the purchase of these near-waterfront upland sites at \$4,487/acre. Moreover, we have grave concerns about this plan's lack of funding. For all of the agency and stakeholder's work invested in developing this plan, without funding, eagles would be left largely without protection. Mitigation payments should ensure the implementation of this plan's mandates.

Habitat and Easement Condition Monitoring

It is essential that FWC monitors habitat changes, including habitat condition and extent. This should be added to the list of priority ongoing research needs to ensure it isn't overlooked. Additionally, the research needs and the plan in general do not address one of the most significant questions regarding the eagle's future in Florida: will small circular easements around eagle nests provide lasting, undisturbed habitat of the quality necessary for eagles to persist in Florida? This plan paints a picture of eagles (in Central Florida in particular) where urban/suburban landforms are punctuated by 7.8-acre isolated easement circles, at the center of which lie an eagle's nest. It is a glaring omission that this plan provides no treatment of how these easements will be (1) catalogued, (2) monitored over time for compliance with the easements' terms, (3) posted and protected from disturbance, and (4) managed for the health of not only the existing nest tree but the next generation of nest trees that will hopefully replace it when the original nest tree dies.

Relying on these habitat islands to support a stable population of eagles without monitoring and management is tenuous. Without this crucial component, the plan could create a future land-use pattern that will be hard to reverse if we find in fifty years that we have not adequately provided for eagles' needs.

Our more than 32,000 Audubon members in Florida, and in particular, our dedicated EagleWatch volunteers, are very concerned with the de-listed future of Bald Eagles in Florida. The FWC has a very significant constituency increasingly concerned about this State's ability to afford our national symbol the protection it requires to continue to thrive in Florida. We feel very strongly that the buffers, habitat guidelines and mitigation required by this plan are an essential part of accomplishing this goal. Any weakening of these provisions would be short-sighted and could result in the undesirable re-listing of eagles in the future.

Thank you for your consideration. We look forward to continuing to work with you, the Commissioners and other stakeholders on the development of this plan.

Sincerely,



David Anderson
Executive Director
Audubon of Florida