


MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

DATE: January 19, 2012

TO: Planning Commission

FROM: Dale Pernula, Director 
Community Development Department

FILE NO.: AME20120001

PROPOSAL: An Ordinance amending the Land Use Code Title 49 Relating to Development near Eagle Nests.

The City and Borough of Juneau Code states in CBJ §49.10.170(d) that the Commission shall make recommendations to the Assembly on all proposed amendments to this title, zonings and re-zonings, indicating compliance with the provisions of this title and the Comprehensive Plan.

ATTACHMENTS

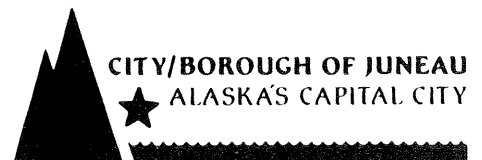
- A. Proposed Ordinance – Serial No. 2012-01.
- B. U.S. Fish & Wildlife Service Fact Sheet: *What You Should Know About A Federal Permit For Eagle Take Necessary To Protect An Interest In A Particular Locality*
- C. Bald Eagle Delisting
- D. Past CBJ Conditions of Variances from Eagle Tree Restrictions
- E. Federal Fish and Wildlife Permit (example)

BACKGROUND

The proposed ordinance would eliminate provisions of CBJ Code that restrict development within 330 feet of an eagle's nest. Since de-listing of eagles in 2007, and the subsequent development of federal regulations authorizing the take of bald eagles in certain situations, administration of current requirements has become difficult. The attached Federal Fish and Wildlife Permit (Attachment E) demonstrates that such a permit is subject to a large number of detailed conditions prepared by individuals with expertise in wildlife management. A major difficulty is coordinating our conditions, prepared without the assistance in wildlife management expertise, with the federal conditions that are crafted by experts in the field.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan discusses bald eagles and their nests specifically. The proposed ordinance would make part of that discussion inaccurate, and another section irrelevant. Relevant



parts of the Plan follow, with two portions that should be revised or eliminated underlined. Other provisions of the Plan would also be of questionable utility if the proposed ordinance is adopted.

Comprehensive Plan Contents (page 96-98).

Eagle Nesting Areas

Bald eagles are present in the CBJ area in large numbers. Alaskan bald eagles are not an endangered or threatened species, but they are subject to the Bald and Golden Eagle Protection Act of 1940 and the Migratory Bird Treaty Act of 1918. Shoreline areas and old growth forest habitat are prime nesting areas. The U.S. Fish and Wildlife Service (USFWS) recommends a non-buildable buffer zone of at least 330 feet around known eagle nests and retention of shoreline habitat in this vicinity to a depth of one-eighth mile, although certain development activities can occur within the 330-foot buffer zone without risk of violating either Federal Act, if care is taken in those activities.

Locally, adequate protection can be given to this species by protecting nesting areas from conflicting land uses and human activity. An ordinance protecting eagle nests has been codified in the Land Use Code and prohibits construction within 330 feet of an active nest on public land, or within 50 feet of an active nest on private land, provided that there is no construction within 330 feet of such nest between March 1st and August 31st if it contains actively nesting eagles.

There is a generally held perception that the local population of bald eagles is increasing which, if true, may be attributable to an increase in fish in the area and/or a higher-than-expected tolerance of these birds to human presence. In any case, the eagles are still subject to special protection by law and enjoy considerable local affection.

POLICY 7.14. IT IS THE POLICY OF THE CBJ TO PROTECT AREAS SURROUNDING IDENTIFIED EAGLE NESTS FROM CONFLICTING LAND USES.

Standard Operating Procedures

7.14.SOP1 Mature trees that, typically, are suitable for eagle nests should be retained within 1/8th of a mile of the coast.

7.14.SOP2 In situations where lands are proposed for private platting next to CBJ-owned lands, and if the private party is willing, the CBJ will consider exchanging land of equal value for those lands within 330 feet of the eagle nest tree and retain it as an eagle management area.

7.14.SOP3 Prohibit the cutting of trees near shoreline areas for the purpose of eradicating nesting eagles or of preventing eagles from nesting therein.

Development Guideline

7.14.DG1 Private land within the eagle management radius should be left undeveloped or subdivided into large lots, the largest of which should contain the nest tree. Roads should be located as far from the nest as possible, preferably landward from the nest tree. Low density residential or open space/natural areas uses should be located within the eagle management radius.

Implementing Actions

7.14.IA1 Amend the Land Use Code to include variance criteria that apply specifically to requests to allow development within the buffer area around a bald eagle nest. Developing these criteria is of crucial importance in order to allow responsible development within 330 feet of eagle nests, especially those nests that post-date adjacent development. It may be appropriate to adopt regulations for development near eagle nests based on the level of tolerance of the subject eagles to human activity.

7.14.IA2 Consider designating as Natural Areas or other low impact land use categories areas where eagles tend to nest in concentrations.

7.14.IA3 Request that the USFWS evaluate the Bald Eagle in the CBJ urban area in terms of population, behavior and tolerance of human presence and activity. Consider any new suggestions from the USFWS for enhancing the presence and health of eagles in the urban area.

7.14.IA4 Support the efforts of a local non-profit eagle rehabilitation facility to rescue, heal and return to the wild, injured or vulnerable eagles and to educate the public as to the health and well-being of the species.

RELEVANT PROVISIONS OF CBJ TITLE 49

49.05.200 - Comprehensive plan.

(c)

No rights created. The goals and policies set forth in the comprehensive plan are aspirational in nature, and are not intended to commit the City and Borough to a particular action, schedule, or methodology. Neither the comprehensive plan nor the technical appendix adopted under this section nor

the amendment of either creates any right in any person to a zone change nor to any permit or other authority to make a particular use of land; neither do they constitute a regulation of land nor a reservation or dedication of privately owned land for public purpose.

DISCUSSION

With adoption of the proposed ordinance, the first underlined provision in the Comprehensive Plan section above would not be accurate and the second provision would not be required because bald eagle nests would no longer be regulated. In addition, implementation of Policy 7.14 would be limited as would development guideline 7.14.DG1. With regard to implementing action 7.14.IA3, the US Fish and Wildlife Service no longer provides us assistance and recommendations regarding bald eagles.

Although elimination of provisions of CBJ Title 49 restricting development near eagle nests would be contrary to some of the provisions of the Comprehensive Plan cited above, there are compelling reasons for supporting adoption of the proposed ordinance as follows:

1. Bald eagles were de-listed from the Federal List of Endangered and Threatened Wildlife and Plants effective August 8, 2007 (they were not on the list in Alaska prior to the de-listing);
2. Bald eagles are still subject to the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act;
3. There is a lack of local expertise regarding bald eagle management, and the U.S. Fish and Wildlife Service is reluctant to provide such expertise that is necessary for the City and Borough of Juneau to administer the program. Without the ability to issue variances to provide relief (because we cannot get input from experts as we did in the past) the current code provision not allowing development near eagle nests is too restrictive; and,
4. The U.S. Fish and Wildlife Service has developed provisions authorizing a permit for eagle take necessary to protect an interest in a particular locality, where the take cannot practically be avoided. An example of a permit and detailed conditions is provided in Appendix E.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward the proposed Ordinance to the Assembly with a recommendation for adoption and amend the Comprehensive Plan at its next update.

Presented by: The Manager
Introduced:
Drafted by: J.W. Hartle

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2012-01

**An Ordinance Amending the Land Use Code Relating to
Development Near Eagle Nests.**

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature
and shall become a part of the City and Borough Code.

Section 2. Amendment of Section. CBJ 49.15.320 - Allowable use permit, is
amended at subsection (f) to read:

49.15.320 - Allowable use permit.

...

(f) Conditions on approval; allowable uses. The commission may condition an
allowable use permit upon one or more of the following:

...

(9) Habitat. Development in the following areas may be required to minimize
environmental impact:

(A) ~~Developments within 330 feet of an eagle nest located on private land; and~~
Reserved.

(B) Developments in wetlands and intertidal areas, including freshwater
marshes, saltwater marshes and intertidal flats.

...

1 **Section 3. Amendment of Section.** CBJ 49.15.330 - Conditional use permit, is
2 amended at subsection (g) to read:

3
4 **49.15.330 - Conditional use permit.**

5 ...

6 (g) Specific conditions. The commission may alter the director's proposed permit
7 conditions, impose its own, or both. Conditions may include one or more of the
8 following:

9 ...

10 (10) Habitat. Development in the following areas may be required to minimize
11 environmental impact:

12 (A) ~~Developments within 330 feet of an eagle's nest located on private land;~~
13 and *Reserved*.

14 (B) Developments in wetlands and intertidal areas.

15 ...

16
17 **Section 4. Amendment of Section.** CBJ 49.60.200 - Sensitive areas, is amended
18 to read:

19
20 **49.60.200 - Sensitive areas.**

21 A development in ~~eagle nesting areas~~, stream corridors and lake shores, wetlands and
22 intertidal areas or any combination thereof, as shown on the sensitive areas map, may
23 be awarded:

24 (1) Bonus points for interests in land which protect additional land within or
25 adjacent to such sensitive areas beyond that which is required in chapter
26 49.70;

- 1 (2) Bonus points for an interest other than a deed providing for public access
2 through sensitive area lands, either required or voluntarily reserved; and
3 (3) Bonus points for a deed to the City and Borough of required or reserved
4 sensitive area lands.

5

6 **Section 5. Amendment of Section.** CBJ 49.70.310 - Habitat, is amended at
7 subsection (a), to read:

8

9 **49.70.310 - Habitat.**

- 10 (a) Development in the following areas is prohibited:
- 11 (1) On Benjamin Island within the stellar sea lion habitat;
- 12 (2) ~~Within 330 feet of an eagle nest on public land~~ *Reserved.*
- 13 (3) ~~Within 50 feet of an eagle nest on private land, provided that there shall be no~~
14 ~~construction within 330 feet of such nest between March 1 and August 31 if it~~
15 ~~contains actively nesting eagles;~~ *Reserved.*
- 16 (4) Within 50 feet of the banks of streams designated in Appendix B of the
17 comprehensive plan of the City and Borough of Juneau, 2008 Update; and
- 18 (5) Within 50 feet of lakeshores designated in Appendix B of the comprehensive
19 plan of the City and Borough of Juneau, 2008 Update.

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Section 6. Amendment of Section. CBJ 49.70.905 - Coastal development, is amended at subsection (14) (B), to read:

49.70.905 - Coastal development.

The following policies apply to coastal development throughout the coastal zone:

...

(B) Floathomes shall not be located in the "prohibited area" shown on Juneau Coastal Management Plan Map 2, or areas with concentrations of shellfish, waterfowl, shorebirds, marine mammals, extensive tide-flats, salt marshes and kelp or eelgrass beds; ~~sites within 330 feet of eagle nest trees;~~ developed recreation sites; heavily used recreation sites; or known historic and archeological sites. Floathomes may be allowed on privately owned tidelands within the prohibition area provided other provisions of this section are met;

...

Section 7. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this day of 2012.

Bruce Botelho, Mayor

Attest:

Laurie J. Sica, Clerk



WHAT YOU SHOULD KNOW ABOUT A FEDERAL PERMIT FOR EAGLE TAKE NECESSARY TO PROTECT AN INTEREST IN A PARTICULAR LOCALITY

A Federal permit for non-purposeful take of eagles authorizes disturbance or other take of eagles where the take is not the purpose of the activity and is necessary to protect an interest in a particular locality. You should review Title 50 Parts 10, 13, and 22.26 of the Code of Federal Regulations (CFR). **You are responsible for reviewing and understanding these regulations before you request and accept a permit.** These regulations can be found on our website at <http://www.fws.gov/permits/ltr/ltr.html>. Below are questions and answers regarding some of the fundamentals of an eagle non-purposeful take permit.

1. What is meant by “take” of eagles?

Under the Bald and Golden Eagle Protection Act, “take” is defined as “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest or disturb.” Most take authorized under this permit will be in the form of disturbance. “Disturb” is defined in regulations 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.”

2. Can this permit be used for intentional take of eagles for any purposes?

No. This permit authorizes take only where the take cannot practicably be avoided in the course of an otherwise lawful activity.

3. What species of eagles can be disturbed or otherwise taken under this permit?

This permit may authorize take of either species of eagles protected by the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d): the bald eagle (*Haliaeetus leucocephalus*) and the golden eagle (*Aquila chrysaetos*).

4. Under what circumstances can eagles be taken under this type of permit?

The Eagle Act authorizes the Secretary to permit take of eagles “necessary for the protection of... other interests in any particular locality.” This statutory language accommodates a broad spectrum of public and private interests (such as utility infrastructure development and maintenance, road construction, operation of airports, commercial or residential construction, resource recovery, recreational use, etc.) that might “take” eagles as defined under the Eagle Act. However, in all cases, the take must be *necessary* to protect the interest, meaning that the interest cannot be protected without taking eagles despite implementation of all practicable measures to avoid and minimize the impact to eagles.

5. Is a person who follows the National Bald Eagle Management Guidelines exempt from the requirement to obtain this permit?

No. The Guidelines are basic recommendations the Service has provided to help minimize the potential for disturbing bald eagles. However, those recommendations are fairly generalized and do not address every type of activity. Furthermore, variable on-site conditions, the temperament of individual eagles, and other factors, make it impossible to predict outcomes with certainty. Each situation is different. An activity that is generally assessed as likely to disturb eagles will not always disturb them, and the presence of a number of variables may affect the likelihood that take will occur. Because the Eagle Act requires a that permit be issued in order for any Bald Eagle take to be authorized, the Service cannot “exempt” any

activity that meets the definition of a “take.” In addition, because the Management Guidelines were developed primarily to reduce disturbance, they contain few measures for avoiding or reducing injury or mortality.

6. Are post-activity monitoring and reporting required?

Depending on the magnitude of the anticipated disturbance, permittees may be required to provide basic post-activity monitoring by determining whether the nest site, communal roost, or important foraging area continues to be used by eagles for up to 3 years following completion of the activity for which the permit was issued. Unless the activity is covered by a management plan that contains separate, adequate monitoring protocols, permittees must submit an annual report containing all the information required by Service Form 3-202-15.

7. What will the Service do with information gathered from the permittee monitoring?

The Service can use the information to help assess whether future activities may result in loss of one or more eagles, a decrease in productivity of bald or golden eagles, and/or the permanent abandonment or loss of a nest site, communal roost site, or important foraging area. This information will allow the Service to refine recommendations in future versions of eagle management guidelines regarding buffer distances, timing of activities, and other practices that minimize take of eagles. The data also may enable the Service to adjust the number of annual permits available in a Service region.

8. What is a programmatic permit and when is it required?

Programmatic take is generally defined as take that is recurring and not in a specific, identifiable time frame and/or location. The specific regulatory definition is “take that (1) is recurring, but not caused solely by indirect effects, and (2) occurs over the long-term and/or in a location or locations that cannot be specifically identified.”

Programmatic take permits may be issued to entities, such as electric utilities or transportation providers, that may currently take eagles in the course of otherwise lawful activities but who can work with the Service to develop and implement additional, exceptionally comprehensive measures (“advanced conservation practices” or “ACPs”) to reduce take to the level where any remaining take is essentially unavoidable. A programmatic take permit may also be issued to State and Federal agencies that take eagles in the course of their routine operations if they adopt such advanced conservation measures. There is no requirement that a permit be programmatic; it is an option that is available in some circumstances. A programmatic permit can, and often will, cover other take in addition to programmatic take.

9. Will mitigation measures be required?

All permittees will be required to avoid and minimize the potential for take to the degree practicable, and for programmatic permits, to the point where take is unavoidable. Additional compensatory mitigation may be required for: (a) programmatic take and other multiple take authorizations; (b) disturbance associated with the permanent loss of a breeding territory or important traditional communal roost site; or (c) as necessary to off-set impacts to the local area population.

10. Does this permit authorize possession of eagles for any purpose?

No. This permit does not authorize collection of live or dead eagles. You must promptly notify the Service of any eagle(s) found injured or dead at the activity site, regardless of whether the injury or death resulted from your activity. The Service will determine the disposition of such eagles.

11. Do I need additional authorization to take eagles from my State or tribal government?

State, tribal and local governments may have their own regulations protecting eagles. Your federal permit is not valid unless you obtain and comply with all permits, licenses, or other authorizations required by these jurisdictions that apply to your activity with respect to eagles.

12. How long does it take to get a permit for non-purposeful take of eagles?

The time needed by the Service to process a permit application depends on the complexity and scope of the activity and associated take, whether tribal consultation is warranted, what other environmental analyses may be required and other factors. In general, applicants may expect the following approximate permit processing times from the time we receive a complete application:

| | |
|---|-----------------|
| Standard permit | 90 days |
| Standard or programmatic permit requiring an environmental assessment | 4 to 6 months |
| Standard or programmatic permit with EIS | 18 to 24 months |

13. How do I renew my permit?

Except for programmatic permits, this type of permit should not typically be subject to renewal considerations, because, in general, standard permits issued under these regulations authorize a limited amount of take, resulting from a specific activity that occurs in an identifiable time-frame. However, a renewal letter or form and annual report form will be sent to you at least 60 days prior to the expiration of your permit (partially as a reminder that your permit is due to expire). If you wish to renew your permit, you must return the completed renewal to your Regional Migratory Bird Permit Office at least 30 days prior to the expiration of your permit and include copies of any other permits required by your State, tribe, or other jurisdiction. If we receive your renewal request at least 30 days prior to the expiration of your permit, your permit will remain valid beyond the expiration date for the activity authorized on your permit until a decision on your renewal is made. If we receive your renewal request fewer than 30 days prior to expiration of your permit and we are unable to process your request before the expiration date, your permit will expire and you will no longer be covered for your activity. If you allow your permit to expire before requesting renewal, you may be required to submit a new application. (See 50 CFR 13.22 and 13.11(c)).



Department of the Interior
U.S. Fish and Wildlife Service
Federal Fish and Wildlife Permit Application Form

OMB Control No. 1018 - 0022
Expires 02/28/2014

Click here for addresses.

Return to: U.S. Fish and Wildlife Service (USFWS)

Type of Activity: Eagle Take to Protect an Interest in a Particular Locality

_____ New Application

_____ Requesting Renewal or Amendment of Permit # _____

Complete Sections A or B, and C, D, and E of this application. U.S. address may be required in Section C, see instructions for details.
See attached instruction pages for information on how to make your application complete and help avoid unnecessary delays.

| A. Complete if applying as an individual | | | | |
|---|---------------------------------|-----------------|--|-------------|
| 1.a. Last name | | 1.b. First name | 1.c. Middle name or initial | 1.d. Suffix |
| 2. Date of birth (mm/dd/yyyy) | 3. Social Security No. | 4. Occupation | 5. Affiliation/ Doing business as (see instructions) | |
| 6.a. Telephone number | 6.b. Alternate telephone number | 6.c. Fax number | 6.d. E-mail address | |

| B. Complete if applying on behalf of a business, corporation, public agency, tribe, or institution | | | |
|---|-----------------------------------|--|------------------------------|
| 1.a. Name of business, agency, tribe, or institution | | 1.b. Doing business as (dba) | |
| 2. Tax identification no. | | 3. Description of business, agency, or institution | |
| 4.a. Principal officer Last name | 4.b. Principal officer First name | 4.c. Principal officer Middle name/ initial | 4.d. Suffix |
| 5. Principal officer title | | 6. Primary contact | |
| 7.a. Business telephone number | 7.b. Alternate telephone number | 7.c. Business fax number | 7.d. Business e-mail address |

| C. All applicants complete address information | | | | |
|---|------------|----------------------------|----------------------|--------------|
| 1.a. Physical address (Street address; Apartment #, Suite #, or Room #; no P.O. Boxes) | | | | |
| 1.b. City | 1.c. State | 1.d. Zip code/Postal code: | 1.e. County/Province | 1.f. Country |
| 2.a. Mailing Address (include if different than physical address; include name of contact person if applicable) | | | | |
| 2.b. City | 2.c. State | 2.d. Zip code/Postal code: | 2.e. County/Province | 2.f. Country |

| D. All applicants MUST complete | |
|--|--|
| 1. | Attach check or money order payable to the U.S. FISH AND WILDLIFE SERVICE in the amount \$500.00 (standard) or \$1,000 (programmatic) if you are applying for a new permit or \$150.00 (standard) or \$500 (programmatic) if you are requesting a substantive amendment of your existing valid permit. Federal, tribal, State, and local government agencies, and those acting on behalf of such agencies, are exempt from the processing fee – attach documentation of fee exempt status as outlined in instructions. (50 CFR 13.11(d)) |
| 2. | Do you currently have or have you ever had any Federal Fish and Wildlife permits? Yes <input type="checkbox"/> If yes, list the number of the most current permit you have held or that you are applying to renew/re-issue: _____ No <input type="checkbox"/> |
| 3. | Certification: I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13 of the Code of Federal Regulations and the other applicable parts in subchapter B of Chapter I of Title 50 , and I certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001. |
| Signature (in blue ink) of applicant/person responsible for permit (No photocopied or stamped signatures) _____ Date of signature (mm/dd/yyyy) _____ | |

Please continue to next page

E. Eagle Take to Protect an Interest in a Particular Locality (Eagle Non-Purposeful Take)
(Bald and Golden Eagle Protection Act, 50 CFR 22.26)

Note: A Federal eagle non-purposeful take permit authorizes the disturbance or other take of eagles where the take results from but is not the purpose of an otherwise lawful activity. Permits are available to individuals, agencies, businesses, and other organizations. This permit does not authorize possession of any eagle, eagle parts, or eagle nests. Please read “What You Should Know About A Federal Permit for Non-Purposeful Eagle Take” and the pertinent regulations at 50 CFR 22.26 before you sign and submit your application.

Please provide the following information numbered accordingly to the questions below on a separate sheet of paper. You should be as specific as possible in your responses. Please do not send pages that are over 8.5” x 11”, videotapes, or DVDs. Although you may send supplemental documents that contain some of this information, you must respond to all the specific application requirements in a single attachment that includes all and only the information required in this application form. We strongly recommend that you submit your application at least 60 days prior to the date you need your permit, as required by 50 CFR 13.11(c).

1. A description of your proposed activity that will likely disturb or otherwise take eagles, including:
 - (a) A detailed description of the activity that will likely cause the disturbance or other take of eagles;
 - (b) The species and number of eagles that are likely to be taken and the likely form of that take (e.g., disturbance, other take);
 - (c) Maps, digital photographs, county/city information and latitude/longitude geographic coordinates including any nest tree site(s) that depict the locations of the proposed activity, including the area where eagles are likely to be taken;
 - (d) For activities that are likely to disturb eagles (versus other non-purposeful take):
 - (1) Maps and digital photographs of the eagle nests, foraging areas, and concentration sites where eagles are likely to be disturbed by the proposed activity (including the latitude/longitude geographic coordinates of the activity area and important eagle-use area(s) and the distance(s) between those areas);
 - (2) Whether or not the eagle use area is visible from the activity area, or if screening vegetation or topography blocks the view;
 - (3) The nature and extent of existing activities in the vicinity similar in nature, size and use to that being proposed, and the distance between those activities and the important eagle use area(s);
 - (e) The dates the activity will start and is projected to end;
 - (f) An explanation of what interests(s) in a particular locality will be protected by the take, including any anticipated benefits to the applicant or to the public;
 - (g) An explanation of why avoiding the take is not practicable, or for programmatic take, why it is unavoidable; including a detailed description of the avoidance and minimization measures you have incorporated.
 - (h) A description of measures including avoidance, minimization, and compensatory mitigation you will implement to offset the detrimental impact of the proposed activity on the regional eagle population.
2. You must retain records relating to the activities conducted under your permit for at least 5 years from the date of expiration of the permit. Please provide the address where these records will be kept.
3. Any permit issued as a result of this application is not valid unless you also have any required State or tribal permits associated with the activity. Have you obtained all required State or tribal permits or approvals to conduct this activity?

____ Yes If “yes”, attach a copy of the approval(s). ____ Have applied (**Send copy when issued**) ____ None required

PERMIT APPLICATION FORM INSTRUCTIONS

The following instructions pertain to an application for a U.S. Fish and Wildlife Service or CITES permit. The General Permit Procedures in 50 CFR 13 address the permitting process. For simplicity, all licenses, permits, registrations, and certificates are referred to as a permit.

GENERAL INSTRUCTIONS:

- Complete all blocks/lines/questions in Sections A or B, and C, D, and E.
- **An incomplete application may cause delays in processing or may be returned to the applicant. Be sure you are filling in the appropriate application form for the proposed activity.**
- Print clearly or type in the information. Illegible applications may cause delays.
- Sign the application in blue ink. Faxes or copies of the original signature will not be accepted.
- Mail the original application to the address at the top of page one of the application or if applicable on the attached address list.
- **Keep a copy of your completed application.**
- **Please plan ahead. Allow at least 60 days for your application to be processed. Some applications may take longer than 90 days to process. (50 CFR 13.11)**
- Applications are processed in the order they are received.
- Additional forms and instructions are available from <http://permits.fws.gov/>.

COMPLETE EITHER SECTION A OR SECTION B:

Section A. Complete if applying as an individual:

- Enter the complete name of the responsible individual who will be the permittee if a permit is issued. Enter personal information that identifies the applicant. ***Fax and e-mail are not required if not available.***
- If you are applying on behalf of a client, the personal information must pertain to the client, and a document evidencing power of attorney must be included with the application.
- **Affiliation/ Doing business as (dba):** business, agency, organizational, or institutional affiliation *directly* related to the activity requested in the application (e.g., a taxidermist is an individual whose business can *directly* relate to the requested activity). The Division of Management Authority (DMA) will **not** accept *doing business as* affiliations for individuals.

Section B. Complete if applying as a business, corporation, public agency, tribe, or institution:

- Enter the complete name of the business, agency, tribe, or institution that will be the permittee if a permit is issued. Give a brief description of the type of business the applicant is engaged in. Provide contact phone number(s) of the business.
- **Principal Officer** is the person in charge of the listed business, corporation, public agency, tribe, or institution. The principal officer is the person responsible for the application and any permitted activities. Often the principal officer is a Director or President. **Primary Contact** is the person at the business, corporation, public agency, tribe, or institution who will be available to answer questions about the application or permitted activities. Often this is the preparer of the application.

ALL APPLICANTS COMPLETE SECTION C:

- For all applications submitted to the Division of Management Authority (DMA) a physical U.S. address is **required**. Province and Country blocks are provided for those USFWS programs which use foreign addresses and are not required by DMA.
- **Mailing address** is address where communications from USFWS should be mailed if different than applicant's physical address.

ALL APPLICANTS COMPLETE SECTION D:

Section D.1 Application processing fee:

- An application processing fee is required at the time of application; unless exempted under 50 CFR 13.11(d)(3). The application processing fee is assessed to partially cover the cost of processing a request. **The fee does not guarantee the issuance of a permit. Fees will not be refunded for applications that are approved, abandoned, or denied.** We may return fees for withdrawn applications prior to any significant processing occurring.
- **Documentation of fee exempt status is not required for Federal, tribal, State, or local government agencies; but must be supplied by those applicants acting on behalf of such agencies.** Those applicants acting on behalf of such agencies must submit a letter on agency letterhead and signed by the head of the unit of government for which the applicant is acting on behalf, confirming that the applicant will be carrying out the permitted activity for the agency.

Section D.2 Federal Fish and Wildlife permits:

- List the number(s) of your most current FWS or CITES permit or the number of the most recent permit if none are currently valid. If applying for re-issuance of a CITES permit, the original permit must be returned with this application.

Section D.3 CERTIFICATION:

- **The individual identified in Section A, the principal officer named in Section B, or person with a valid power of attorney (documentation must be included in the application) must sign and date the application in blue ink.** This signature binds the applicant to the statement of certification. This means that you certify that you have read and understand the regulations that apply to the permit. You also certify that everything included in the application is true to the best of your knowledge. Be sure to read the statement and re-read the application and your answers before signing.

ALL APPLICANTS COMPLETE SECTION E.

Please continue to next page

APPLICATION FOR A FEDERAL FISH AND WILDLIFE PERMIT
Paperwork Reduction Act, Privacy Act, and Freedom of Information Act – Notices

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and the Privacy Act of 1974 (5 U.S.C. 552a), please be advised:

1. The gathering of information on fish and wildlife is authorized by:
(Authorizing statutes can be found at: <http://www.gpoaccess.gov/cfr/index.html> and <http://www.fws.gov/permits/ltr/ltr.html>.)
 - a. Bald and Golden Eagle Protection Act (16 U.S.C. 668), 50 CFR 22;
 - b. Endangered Species Act of 1973 (16 U.S.C. 1531-1544), 50CFR 17;
 - c. Migratory Bird Treaty Act (16 U.S.C. 703-712), 50 CFR 21;
 - d. Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, *et. seq.*), 50 CFR 18;
 - e. Wild Bird Conservation Act (16 U.S.C. 4901-4916), 50 CFR 15;
 - f. Lacey Act: Injurious Wildlife (18 U.S.C. 42), 50 CFR 16;
 - g. Convention on International Trade in Endangered Species of Wild Fauna and Flora (TIAS 8249), <http://www.cites.org/>, 50 CFR 23;
 - h. General Provisions, 50 CFR 10;
 - i. General Permit Procedures, 50 CFR 13; and
 - j. Wildlife Provisions (Import/export/transport), 50 CFR 14.
2. Information requested in this form is purely voluntary. However, submission of requested information is required in order to process applications for permits authorized under the above laws. Failure to provide all requested information may be sufficient cause for the U.S. Fish and Wildlife Service to deny the request. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.
3. Certain applications for permits authorized under the Endangered Species Act of 1973 (16 U.S.C. 1539) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374) will be published in the **Federal Register** as required by the two laws.
4. Disclosures outside the Department of the Interior may be made without the consent of an individual under the routine uses listed below, if the disclosure is compatible with the purposes for which the record was collected. (Ref. 68 FR 52611, September 4, 2003)
 - a. Routine disclosure to subject matter experts, and Federal, tribal, State, local, and foreign agencies, for the purpose of obtaining advice relevant to making a decision on an application for a permit or when necessary to accomplish a FWS function related to this system of records.
 - b. Routine disclosure to the public as a result of publishing **Federal Register** notices announcing the receipt of permit applications for public comment or notice of the decision on a permit application.
 - c. Routine disclosure to Federal, tribal, State, local, or foreign wildlife and plant agencies for the exchange of information on permits granted or denied to assure compliance with all applicable permitting requirements.
 - d. Routine disclosure to Captive-bred Wildlife registrants under the Endangered Species Act for the exchange of authorized species, and to share information on the captive breeding of these species.
 - e. Routine disclosure to Federal, tribal, State, and local authorities who need to know who is permitted to receive and rehabilitate sick, orphaned, and injured birds under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act; federally permitted rehabilitators; individuals seeking a permitted rehabilitator with whom to place a bird in need of care; and licensed veterinarians who receive, treat, or diagnose sick, orphaned, and injured birds.
 - f. Routine disclosure to the Department of Justice, or a court, adjudicative, or other administrative body or to a party in litigation before a court or adjudicative or administrative body, under certain circumstances.
 - g. Routine disclosure to the appropriate Federal, tribal, State, local, or foreign governmental agency responsible for investigating, prosecuting, enforcing, or implementing statutes, rules, or licenses, when we become aware of a violation or potential violation of such statutes, rules, or licenses, or when we need to monitor activities associated with a permit or regulated use.
 - h. Routine disclosure to a congressional office in response to an inquiry to the office by the individual to whom the record pertains.
 - i. Routine disclosure to the General Accounting Office or Congress when the information is required for the evaluation of the permit programs.
 - j. Routine disclosure to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor or to consumer reporting agencies to prepare a commercial credit report for use by the FWS.
5. For individuals, personal information such as home address and telephone number, financial data, and personal identifiers (social security number, birth date, etc.) will be removed prior to any release of the application.
6. The public reporting burden on the applicant for information collection varies depending on the activity for which a permit is requested. The relevant burden for an Eagle Take to Protect an Interest in a Particular Locality permit application is 16 hours, 40 hours for a programmatic permit application, 6 hours for a permit amendment, and 20 hours for a programmatic permit amendment. This burden estimate includes time for reviewing instructions, gathering and maintaining data and completing and reviewing the form. You may direct comments regarding the burden estimate or any other aspect of the form to the Service Information Clearance Officer, U.S. Fish and Wildlife Service, Mail Stop 222, Arlington Square, U.S. Department of the Interior, 1849 C Street, NW, Washington D.C. 20240.

Freedom of Information Act – Notice

For organizations, businesses, or individuals operating as a business (i.e., permittees not covered by the Privacy Act), we request that you identify any information that should be considered privileged and confidential business information to allow the Service to meet its responsibilities under FOIA. Confidential business information must be clearly marked "Business Confidential" at the top of the letter or page and each succeeding page and must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary and remaining documents may be made available to the public under FOIA [43 CFR 2.13(c)(4), 43 CFR 2.15(d)(1)(i)].



U.S. Fish & Wildlife Service

Migratory Bird Regional Permit Offices

| FWS REGION | AREA OF RESPONSIBILITY | MAILING ADDRESS | CONTACT INFORMATION |
|------------|--|---|---|
| Region 1 | Hawaii, Idaho, Oregon, Washington | 911 N.E. 11th Avenue Portland, OR 97232-4181 | Tel. (503) 872-2715 Fax (503) 231-2019 Email permitsR1MB@fws.gov |
| Region 2 | Arizona, New Mexico, Oklahoma, Texas | P.O. Box 709 Albuquerque, NM 87103 | Tel. (505) 248-7882 Fax (505) 248-7885 Email permitsR2MB@fws.gov |
| Region 3 | Iowa, Illinois, Indiana, Minnesota, Missouri, Michigan, Ohio, Wisconsin | 5600 America Blvd. West Suite 990 Bloomington, MN 55437-1458 (Effective 5/31/2011) | Tel. (612) 713-5436 Fax (612) 713-5393 Email permitsR3MB@fws.gov |
| Region 4 | Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virgin Islands, Puerto Rico | P.O. Box 49208 Atlanta, GA 30359 | Tel. (404) 679-7070 Fax (404) 679-4180 Email permitsR4MB@fws.gov |
| Region 5 | Connecticut, District of Columbia, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia | P.O. Box 779 Hadley, MA 01035-0779 | Tel. (413) 253-8643 Fax (413) 253-8424 Email permitsR5MB@fws.gov |
| Region 6 | Colorado, Kansas, Montana, North Dakota, Nebraska, South Dakota, Utah, Wyoming | P.O. Box 25486 DFC(60154) Denver, CO 80225-0486 | Tel. (303) 236-8171 Fax (303) 236-8017 Email permitsR6MB@fws.gov |
| Region 7 | Alaska | 1011 E. Tudor Road (MS-201) Anchorage, AK 99503 | Tel. (907) 786-3693 Fax (907) 786-3641 Email permitsR7MB@fws.gov |
| Region 8 | California, Nevada | 2800 Cottage Way Sacramento, CA 95825 | Tel. (916) 978-6183 Fax (916) 414-6486 Email permitsR8MB@fws.gov |



Bald Eagle Delisting

Pacific Region Endangered Species Recovery

[Conservation Planning](#)[About Us](#)[Contact Us](#)[Consultation](#)

Bald Eagle Removed from Endangered Species List

[Classification](#)[Recovery](#)

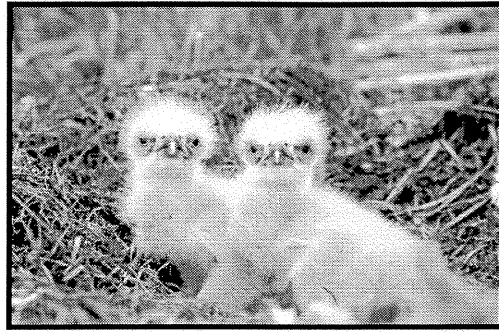
The bald eagle, one of the first species to receive protections under the precursor to the Endangered Species Act in 1967, has been removed from the Federal List of Endangered and Threatened Wildlife and Plants. Secretary of the Interior Dirk Kempthorne announced the delisting of the bald eagle at a ceremony on Thursday, June 28, 2007, on the steps of the Jefferson Memorial in Washington, D.C. After decades of conservation efforts, the bald eagle has exhibited a dramatic recovery, from a low of barely 400 nesting pairs in the lower 48 states in 1963, to nearly 10,000 nesting pairs today. The recovery and delisting of the nation's symbol marks a major achievement in conservation.



The [final delisting rule](#) published in the Federal Register on July 9, 2007, and becomes effective 30 days later, on August 8, 2007. Upon delisting, the Service will continue to work with State wildlife agencies to monitor eagles for at least 5 years, as required by the Endangered Species Act. If at any time it appears that the bald eagle again needs the Act's protection, the Service can propose to relist the species. The Service has developed a [draft monitoring plan](#) that is currently available for public review and comment. The [notice of availability of the draft post-delisting monitoring plan](#) for the bald eagle also published in the Federal Register on July 9, 2007; comments must be received on or before October 9, 2007.

The bald eagle first gained federal protection in 1940, under what later became the Bald and Golden Eagle Protection Act. The eagle was later given additional protection under the Migratory Bird Treaty Act. Soon after passage of the Eagle Act, populations stabilized or increased in most areas of the country. However, the eagle population fell into steep decline in later decades, due primarily to widespread use of the pesticide DDT after World War II. DDT accumulated in eagles and caused them to lay eggs with weakened shells, decimating the eagle population across the nation. Concerns about the bald eagle resulted in its protection in 1967 under the predecessor to the current Endangered Species Act. The eagle was one of the original species protected by the ESA when it was enacted in 1973.

ATTACHMENT C



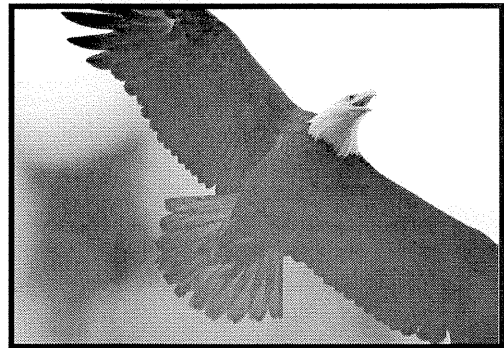
The legal protections given the species by these statutes, along with a crucial decision by the Environmental Protection Agency to ban the general use of DDT in 1972, provided the springboard for the Service and its partners to accelerate recovery through captive breeding programs, reintroductions, law enforcement efforts, protection of habitat around nest sites and land purchase and preservation activities. The eagle

responded dramatically to these actions. From an all-time low of 417 breeding pairs in 1963, the population in the lower 48 states has grown to a high of 9,789 pairs today. Fortunately, the bald eagle has never needed the protection of the ESA in Alaska, where the population is estimated at between 50,000 and 70,000 birds.

Bald eagles will continue to be protected by the Bald and Eagle Protection Act and the Migratory Bird Treaty Act. Both Federal laws prohibit the "taking" of eagles -- defined as killing, selling, or otherwise harming eagles, their nests, or eggs. The Service is currently accepting public comments on a [proposed rule for managed take under the Bald and Golden Eagle Protection Act](#) that would establish a permit program to allow a limited take of bald and gold eagles. Any take authorized would be consistent with the purpose and goal of the Bald and Golden Eagle Protection Act, ensuring eagle populations remain healthy and sustainable.

For more information about the bald eagle and the Service's delisting guidelines:

- [Bald Eagle Fact Sheet](#)
- [Bald Eagle Delisting -- Questions and Answers](#)
- [Timeline -- The Bald Eagle's Road to Recovery](#)
- [Map of Breeding Pairs of Bald Eagles in the Lower 48 States](#)
- [National Bald Eagle Management Guidelines](#)
- [How the Bald and Golden Eagle Protection Act, Migratory Bird Treaty Act, and Lacey Act will govern bald eagle conservation activities](#)
- [Final definition of "disturb" under the Bald and Golden Eagle Protection Act](#)
- [U.S. Fish and Wildlife Service Bald Eagle Website](#)
- [Delisting under the Endangered Species Act](#)



USFWS photos, top to bottom: Mike Lockart; Dave Menke; Steve Hillebrand

Last updated: March 18, 2011



Past Conditions of Variances from Eagle Tree Restrictions

1. If the subject nest has been selected by June 1, no heavy equipment operations shall occur within 330' of the nest without an approved eagle monitor on-site until after August 31. If the eagle monitor observes disturbance to the eagles, all heavy construction operations shall cease or be modified, as specified by the monitor, to prevent recurrence.
2. Blasting operations are prohibited between March 1 and May 31.
3. Eagle nest monitors are required on and between March 1 and May 31 regardless of whether the subject nest has been selected or not. If the subject nest has been selected by June 1, an eagle nest monitor is required on and until August 31.
4. During March, April, and May, no heavy equipment may be operated within 330' of the subject nest unless an eagle nest monitor is present.
5. During June, July, and August, no blasting operations are allowed within 330' of the subject nest.
6. Tree clearing within 330' of an active nest shall not be conducted without an eagle monitor. If the monitor determines that the eagles have been/are being disturbed, construction activities shall cease, or be modified as specified by the monitor to prevent recurrence.

Where used in conditions [1-6], the following words shall have the following meanings:

Eagle Nest Monitor(monitor) shall be an independent consultant whose qualifications have been reviewed and approved by the USFWS. Monitors shall notify USFWS when they will be monitoring the site. Subject nests shall be monitored visually with notes in a bound notebook that shall be made available to agency (CBJ or USFWS) personnel upon request. During blasts, active nests shall also be recorded using one or more video cameras.

Heavy Equipment Operations shall include any working of heavy equipment, including loading and placement of materials. Moving heavy equipment through a restricted area will not be considered heavy equipment operations.



DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE PERMIT

I. PERMITTEE

ALASKA DEPT. OF TRANSPORTATION
PO BOX 112506
ATTN: JANE GENDRON
JUNEAU, AK 99811-2506
U.S.A.

2. AUTHORITY-STATUTES
16 USC 668a

REGULATIONS
50 CFR 13
50 CFR 22.26
50 CFR 22.27

3. NUMBER
MB53155A-0

4. RENEWABLE
☐ YES
☐ NO

5. MAY COPY
☐ YES
☐ NO

6. EFFECTIVE
10/21/2011

7. EXPIRES
09/15/2013

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business)

GARY L DAVIS
REGIONAL DIRECTOR

9. TYPE OF PERMIT

EAGLE TAKE ASSOCIATED WITH BUT NOT THE PURPOSE OF AN
ACTIVITY / NEST TAKE

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

Milepost 29.5 - 33.6 of Glacier Highway, Juneau, AK

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL, TRIBAL, OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

D. This permit is only valid with authorization from Alaska Department of Fish and Game. Contact:

Alaska Department of Fish and Game
Division of Wildlife Conservation
PO Box 115526
Juneau, AK 99811-5526
(907) 465-4148
Dfg.dwc.permits@alaska.gov

E. (50 CFR 22.26) - You are authorized to disturb bald eagles nesting among eleven nests (coordinates provided below) for purpose of rehabilitating the Glacier Highway between mileposts 29.5 and 33.6 in Juneau, Alaska from October 21, 2011 - September 15, 2013. Potential impacts to bald eagles include loss of two year's productivity for up to eleven breeding pairs. Authorized construction activities include:

i. Clearing and grubbing

vi. Haul and placing fill

☐ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS

See conditions G and H

ISSUED BY

TITLE

DATE

Lincoln M. Oster

Chief, Division of Migratory Bird Management

10/21/2011

ATTACHMENT E

- | | |
|-------------------------------------|--------------------------------|
| ii. Drilling for blasting | vii. Ditch reconditioning |
| iii. Blasting | viii. Grind and milling |
| iv. Excavating and loading material | ix. Place and grade of surface |
| v. Replacing culverts | x. Pave and compacting surface |

E. (50 CFR 22.27) - Incidental take of seven inactive bald eagle nests (see coordinates below) is also authorized for the purpose of rehabilitating milepost 29.5 - 33.6 of the Glacier Highway in Juneau, Alaska from October 21, 2011 - September 15, 2013. This permit does NOT authorize take of active nests. A nest is determined to be inactive by the continuing absence of any adult, egg, or dependent young at the nest for at least 10 consecutive days immediately prior to, and including, at present.

F. You must comply with the following avoidance, minimization, or other mitigation measures:

- i. ADOT shall minimize the footprint of the proposed improvements to the minimum necessary to bring the highway to current safety standards.
- ii. ADOT shall make the minimum shifts necessary to realign curvature of the road to meet current safety standards.
- iii. The Contractor shall work with the Project Engineer to limit time necessary within the 330' primary zone of nests only to that required for completion of the project.
- iv. Guardrails shall be installed outside the bald eagle breeding season (March 1 - August 31).
- v. To avoid unauthorized take, blasting within 330 feet of any eagle nesting tree must be conducted using an ADOT employee to monitor:
 - a. for eagles in danger of flying debris. This employee will shut down blasting activity if any adult eagles are in the area and could be injured by flying debris;
 - b. for chicks prematurely fledging from active eagle nests within 330 feet of blasting activities. This employee will immediately deliver said chicks to the Juneau Raptor Center; and
 - c. for damage, or other take, of eagle nests resulting from flyrock or other blasting activities.
- vi. The Alaska Department of Transportation shall donate \$15,000 to The Conservation Fund for the incidental take of (including damage to) each high quality inactive bald eagle nest (nests # 14, 103, 15, and 57) identified for take under this permit. Funds shall be donated by December 31, of the year in which the take occurred.
- vii. The Alaska Department of Transportation shall donate \$5,000 to The Conservation Fund for the incidental take of (including damage to) each medium quality inactive bald eagle nest (nests # 79, 14A, and 77) identified for take under this permit. Funds shall be donated by December 31, of the year in which the take occurred. Contact:

The Conservation Fund
Brad A. Meiklejohn
Alaska Representative
2727 Hiland Road
Eagle River, AK 99577
(907) 694-9060

G. You are required to conduct annual monitoring of nests identified in Condition D until September 15, 2014. Monitoring must consist of:

- i) April 15 - May 1, 2012 and 2013, conduct nest surveys to determine status (active vs. inactive) and occupancy (presence or absence of eggs and chicks) of each nest. To avoid disturbing eagles during the clutch initiation period, this survey may be conducted by boat and occupancy determined by adult behavior (e.g., incubating posture, food delivery, etc).
- ii) July 15 - July 31, 2012 and 2013, conduct nest surveys to determine status (active or inactive), and occupancy

(presence or absence of eggs and chicks) of each nest identified as active in part i above.

iii) July 2014, conduct nest surveys to determine status (active vs. inactive) and occupancy (presence or absence of eggs or chicks) of each nest.

You must submit an annual report summarizing the information you obtained through monitoring to the Migratory Bird Permit Office by December 31, 2011-2014. Reports shall be submitted to:

**U.S. Fish and Wildlife Service
Migratory Bird Management
ATTN: Jordan Muir
1011 E Tudor Road MS-201
Anchorage, AK 99503, 907-786-3503**

H. You must submit a nest take report to the Migratory Bird Permit Office within 10 days following the take of any eagle nest or of the expiration of this permit whichever occurs first. Form 3-202-16 (Eagle Nest Take Report) can be found online at www.fws.gov/forms/3-202-16.pdf

I. This permit does not authorize intentional lethal take or injury of eagles or eggs, nor does it authorize take of the nest in the event an eagle occupies the nest prior to nest destruction.

J. You must contact the Migratory Bird Permit Office (907-786-3503 or 907-786-3693) immediately upon discovery of unanticipated take.

K. You must immediately notify the Migratory Bird Permit Office (907-786-3503 or 907-786-3693) regarding any apparent injury or death occurring to any eagle, including viable eggs, during project activities. You must immediately transport any injured eagle to the **Juneau Raptor Center** (907-790-5424 or 907-586-8393 or by emergency pager at 907-790-5424).

L. If a nest is destroyed you are authorized to salvage any eagle carcasses, feathers and parts including nonviable eggs found in or around the nest. All eagle carcasses must be immediately frozen and shipped along with molted feathers and parts within 10 days of salvage to the National Eagle Repository. All eagle carcasses, molted feathers and parts should be shipped overnight shipping and shipped only on Monday - Wednesday. Contact: **U.S. Fish and Wildlife Service National Eagle and Wildlife Repository, 5650 Havana St., Building 128, RMA, Commerce City, Colorado, 80022, (303) 287-2110.**

Nonviable eagle eggs must be delivered to the Migratory Bird Management Office of the U.S. Fish and Wildlife Service. Contact: **Stephen B. Lewis, Migratory Bird Management, U.S. Fish and Wildlife Service, 3000 Vintage Boulevard, Suite 201, Juneau, Alaska 99801, (907) 780-1163.**

M. You may delegate the authority granted in this permit to the following subpermittee(s): any other person who is (1) employed by or under contract to you for the activities specified in this permit, or (2) otherwise designated a subpermittee by you in writing. Any subpermittee who has been delegated this authority may not-re-delegate to another individual/business.

N. Subpermittees must be at least 18 years of age. You are responsible for ensuring that your subpermittees are qualified to perform the work and adhere to the terms of your permit. You are also responsible for maintaining current records of designated subpermittees. As the permittee, you are ultimately legally responsible for compliance with the terms and conditions of this permit and that responsibility may not be delegated.

O. You and any subpermittees must carry a legible copy of this permit and display it upon request whenever exercising its authority.

P. All of the provisions and conditions of the governing regulations at 50 CFR part 13, 50 CFR 22.26 and 50 CFR 22.27 are conditions of your permit. Failure to comply with the conditions of your permit could be cause for suspension of the permit and/or citation. For copies of the regulations, visit: www.fws.gov/permits/mbpermits/birdbasics.html.

Q. This permit does not authorize you to conduct activities on Federal, State, or other public or private property without additional prior written permits or permission from the agency/landowner.

R. Permittees and subpermittees operating under this permit may not take or disturb eagles contrary to the laws or regulations of any State, Tribal, or Municipal government, and none of the privileges of this authorization are valid unless the

permittee possesses the appropriate State permits, or other authorizations, if required.

S. You must maintain records as required in 50 CFR 13.46. All records relating to the permitted activities must be kept at the location indicated in writing by you to the migratory bird permit issuing office.

T. Acceptance of this permit authorizes the U.S. Fish and Wildlife Service to inspect any wildlife held, and to audit or copy any permits, books or records required to be kept by the permit and governing regulations (50 CFR 13.46, 50 CFR 22.26, and 50 CFR 22.27).

U. You may not conduct the activities authorized by this permit if doing so would violate the laws of the applicable State, county, municipal or tribal government or any other applicable law.

V. The U.S. Fish and Wildlife Service is not liable for any damage or injury to any person, wildlife, or property that occurs as the result of carrying out the activities associated with this permit.

W. The authorizations granted by permits issued under this section apply only to take that results from activities conducted in accordance with the description contained in the permit application and the terms of the permit. If the permitted activity changes, you must immediately contact the Service to determine whether a permit amendment is required in order to retain take authorization.

X. The terms and conditions of this permit that are not specifically prescribed by regulations at 50 CFR parts 10, 13, and 22 should not be construed as precedent and are subject to revision for purposes of any future permit issued under this section.

Y. You remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to cancellation, expiration, suspension, or revocation of the permit.

Nest site coordinates for 11 bald eagle nests authorized for disturbance and/or incidental take by this permit:

| <u>Nest #</u> | <u>Coordinates (NAD83)</u> |
|---------------|----------------------------|
| 79* | N 58.54361 W 134.85682 |
| 104 | N 58.54964 W 134.85794 |
| 14A* | N 58.55618 W 134.87063 |
| 14* | N 58.5583 W 134.86732 |
| 91 | N 58.56129 W 134.87191 |
| 103* | N 58.56733 W 134.88116 |
| 77A | N 58.57376 W 134.88565 |
| 77* | N 58.5764 W 134.89258 |
| 15* | N 58.58264 W 134.89504 |
| 57* | N 58.58435 W 134.89875 |
| 73 | N 58.5911 W 134.90413 |

* denotes the nest is also authorized for incidental take per Condition E (22.27).