

September 25, 2002

Pete and Pam Wright  
P.O. Box 1008  
Deltaville, Virginia 23043

Re: Bald Eagle Nest VAMI-0101, #2634,  
Middlesex County, Virginia

Dear Mr. and Mrs. Wright:

We met on site on September 10, 2002 to discuss bald eagle (*Haliaeetus leucocephalus*) nest VAMI-0101 located in Middlesex County, Virginia. You propose to purchase land and construct three houses near the active eagle nest. The U.S. Fish and Wildlife Service (Service) submits the following comments in accordance with provisions of the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), the Bald and Golden Eagle Protection Act (BGEPA) of 1940 (54 Stat. 250, as amended; 16 U.S.C. 668-668d), and the Migratory Bird Treaty Act of 1918 (40 Stat. 755; 16 U.S.C. 703-712).

Eagle nest VAMI-0101 produced two young in 2001 and 2002. The nest is currently active. The nest is in small pine tree in an area that was recently thinned. The area is largely open with scattered trees. You propose to construct three houses within 300 feet from the nest. One of the houses is proposed at a distance of 150 feet from the nest, and the other two are proposed at 300 feet. Proposed house locations are restricted by geography (marshes and the Chesapeake Bay) as well as property boundaries. The eagles would have a clear line of sight to each house. No other structures are located within 400 feet of the nest. One existing house is located approximately 400 feet from the nest, and a row of existing houses along the Bay begins at 400 feet from the nest in another direction.

After discussing the situation with Mr. Jeff Cooper of the Virginia Department of Game and Inland Fisheries (VDGIF), both the Service and VDGIF agree that the construction of any of the three proposed houses would be likely to adversely affect the bald eagle, probably causing nest abandonment. To preclude a potential violation of section 9 of the ESA, we recommend that you apply for a section 10(a)(1)(B) permit from the Service. This letter provides you the forms and guidance for the permit application. The components of a section 10 (a)(1)(B) incidental take permit application include the following:

1. Habitat Conservation Plan (HCP)
2. Standard Permit Application Form 3-200 (Federal Fish and Wildlife License / Permit Application Form) and \$25 fee.

The issuance of a section 10 permit under the ESA is a Federal action and as such much be done in compliance with other Federal laws and regulations. The Service will conduct a formal consultation

under section 7 of the ESA to address the adverse effects to the bald eagle. That formal consultation will be handled by Mr. Eric Davis of this office. The proposed issuance of the permit will trigger the National Environmental Policy Act of 1969 (NEPA). Mr. Eric Davis will also handle NEPA compliance. The proposed issuance of the permit must also be in compliance with the National Historic Preservation Act of 1966. You will need to obtain a written determination of the effect of the construction of the three houses will have on any historic resources and include that determination with your application. Your point of contact is as follows:

Ms. Ethel Eaton  
Virginia Department of Historic Resources  
2801 Kensington Avenue  
Richmond, Virginia 23221  
(804) 367-2323, extension 112

While the contents of the permit application are yours to decide, we are happy to provide you a template to assist in your development of your HCP. This template is provided in the enclosure in paper and electronic forms. We will be happy to work with you as you develop your permit application, and we strongly recommend continued close coordination with our office.

If you have any questions or need further assistance, please contact Mr. Eric Davis at (804) 693-6694, extension 104.

Sincerely,

Karen L. Mayne  
Supervisor  
Virginia Field Office

Enclosure

cc: FWS, R5, ES, Hadley, MA (Glenn Smith)  
VDGIF, Richmond, VA (Tom Wilcox)  
VDGIF, Fredericksburg, VA (Jeff Cooper)

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