

**I. Endangered Species Act Joint Coordination Procedures  
for the Georgia Offices of the U.S. Fish and Wildlife Service, Federal Highway  
Administration and the Georgia Department of Transportation**

The intent of this agreement is to clarify procedures for consultation that will satisfy the requirements of section 7 of the Endangered Species Act (ESA). Additionally, measures to streamline the process have been developed in an effort to ensure consistent quality and provide for improved efficiency of the project development process. This agreement will replace any local procedural agreement existing for consultation under the ESA. All consultation will be satisfactorily completed prior to approval of the National Environmental Policy Act (NEPA) document and before the project is circulated in a Preconstruction Notification (PCN).

**A. Early NEPA Coordination**

1. Early coordination is not required for certain types of projects that have categorically been determined to have no effect on federally threatened or endangered species (See Appendix A).
2. For other projects having involvement with the Fish and Wildlife Coordination Act, early coordination is required.
3. For projects with federally threatened and endangered species listed, proposed and candidate species, or habitat (nesting, foraging, plant populations, or otherwise) for those species present within the project's area of potential effect, early coordination is required. Additionally, early coordination is needed for any sites where proposed or designated critical habitat occurs.
4. Early coordination is required for all projects requiring Individual Permits under Section 404 of the Clean Water Act.

**B. Section 7 Consultation Procedures**

1. For all projects except those included in Appendix A, the Georgia Department of Transportation (GDOT) will review and utilize the most current County List of Threatened and Endangered Species provided by the USFWS. (Website: <http://athens.fws.gov> and click on endangered species). Additionally, the Georgia Department of Natural Resources Natural Heritage Program should be reviewed for additional information. (Website: <http://georgiawildlife.dnr.state.ga.us>)
2. For projects that have listed species in the County, but have no habitat for the listed species or species found in the project area, sufficient information must be provided to the Federal Highway Administration (FHWA) to make a determination of "no effect" on the listed species or habitat, informal consultation with the USFWS is optional but not required. Surveys must be performed in accordance with approved survey methodologies for the

- respective species. If no approved survey methodology exists, the survey results must provide the information listed in Appendix B.
- a. If early coordination has been initiated with the USFWS, the FHWA will notify the USFWS via E-Mail of its determination of “no effect” based on the results of the ecology report.
  - b. If early coordination is not required for a project, the GDOT will request FHWA’s determination of “no effect” prior to submittal of the PCN, and the USFWS will be notified of the FHWA’s determination of “no effect” in the PCN.
3. For projects that have listed species in the County, and habitat within the project action area, informal consultation with the USFWS is required. The GDOT will transmit the ecology report to the FHWA with a copy to the USFWS. If this project requires an Individual 404 permit, the ecology report will be transmitted prior to or concurrently with the Practical Alternatives Report (PAR) package (See 3.03 in the Local NEPA/404(b)(1) Coordination Procedures [LCP]). Surveys must be performed in accordance with approved survey methodologies for the respective species developed under Appendix B. If no approved survey methodology exists, the survey results must provide the information listed in Appendix B.
- a. If sufficient information is provided for the FHWA to determine that the project “may affect but is not likely to adversely affect” any listed species, the FHWA will transmit its determination to the USFWS for concurrence. This determination will be communicated to the USFWS within three weeks of receiving the ecology report.
  - b. Within 30 days of receiving the consultation package and formal determination, the USFWS will respond with concurrence of FHWA’s determination of effect or a request for additional information. If additional information is requested and provided, the USFWS will have an additional 30 days to respond with concurrence or comments on the FHWA’s determination of effect.
  - c. Any comments provided to the FHWA must be addressed in order to continue and complete section 7 consultation. A meeting or conference call to discuss the project is recommended within two weeks of receiving the USFWS comments. If, after further consultation and clarification the USFWS cannot concur with the FHWA’s determination, conflict resolution procedures may be appropriate (see Appendix C) or formal section 7 consultation should be initiated by FHWA.
4. For projects that have the potential to adversely affect federally listed species or critical habitat, a Biological Assessment is required.
- a. The GDOT will transmit the Biological Assessment to the FHWA with a copy to the USFWS. The FHWA and USFWS will then determine if the consultation process will proceed formally or informally.

- b. Where appropriate, the USFWS, FHWA, and GDOT will jointly develop Programmatic Biological Opinions. Once a Programmatic Biological Opinion is developed for a species and a project potentially will adversely affect that species or critical habitat, the provisions in the Opinion will be included in the Biological Assessment to streamline the consultation process. In the event that any provision in a Programmatic Biological Opinion cannot be met as discussed in the Biological Assessment for a proposed project, the FHWA will re-initiate section 7 consultation with the USFWS to reach agreement, either formally or informally.
- c. For projects that have the potential to adversely affect listed species or critical habitat for which a Programmatic Biological Opinion has not been developed, a Biological Assessment will be prepared and the FHWA will initiate section 7 consultation with the USFWS.

## **II. Fish and Wildlife Coordination Act Joint Coordination Procedures for the Georgia Offices of the U.S. Fish and Wildlife Service, Federal Highway Administration and the Georgia Department of Transportation**

The U.S. Fish and Wildlife Service (USFWS), Georgia Field Office, the Federal Highway Administration (FHWA), and the Georgia Department of Transportation (GDOT) concur that the following types of GDOT project impacts would require no coordination under the Fish and Wildlife Coordination Act. This agreement does not include coordination that may be required through the Clean Water Act Section 404 Corps of Engineers process.

1. The extension of existing culverts or pipes in intermittent streams less than 100 feet where no listed species occur
2. Longitudinal encroachment on a former stream that has been previously channelized and is now considered a roadside ditch, or a roadside ditch that has been created by roadway construction
3. Rechannalization of an impacted stream (urbanized, no aquatic life, or otherwise polluted) where no loss of stream channel would occur

For projects requiring an Individual Permit under Section 404 of the Clean Water Act (Individual 404 Permit), the FHWA shall inform the USFWS early in the project development process (Section 3.03 in the Local NEPA/404(b)(1) Coordination Procedures) that a channel change, longitudinal encroachment, or loss of stream length is proposed. This encroachment should be clearly identified. For projects not requiring an Individual 404 Permit, coordination with the USFWS must begin as soon as it is discovered that channel loss due to stream rechannalization would occur.

If preliminary design indicates that a stream rechannalization/channel change will be required to complete the proposed project, the following information must be submitted to the USFWS:

1. Project plans, when available
2. Description of proposed project and impact to stream
3. Discussion of avoidance of stream rechannalization and efforts to minimize impacts to the stream
4. Stream dimensions
5. Results of stream surveys
6. Photographs of the project area
7. Description of the habitat(s) adjacent to the roadway
8. Proposed mitigation plan

If sufficient information is provided for the FHWA to concur with the planning, design, and mitigation efforts that have been incorporated to minimize stream impacts, the FHWA will request coordination with the USFWS within three weeks of receiving the request for stream rechannalization.

Within 30 days of receiving the coordination package and FHWA's request for coordination, the USFWS will respond to FHWA's correspondence or request additional

information. If additional information is requested and provided, the USFWS will have an additional 30 days to respond with concurrence or comments on the proposed project requirements.

If comments are provided to the FHWA, they must be addressed in order to continue and complete requirements under the Fish and Wildlife Coordination Act. A meeting or conference call to discuss the project is recommended within two weeks of receiving the USFWS comments. If, after further coordination and clarification the USFWS cannot concur with the proposed project actions, conflict resolution procedures may be appropriate. See Appendix C.

## Appendix A

### Programmatic Project Exclusions

The Federal Highway Administration (FHWA), and the Georgia Department of Transportation (GDOT) have determined that the following types of transportation projects would generally have no effect on federally listed species or critical habitat and require no further consultation under the Endangered Species Act. Although listed species may exist within the same county as these types of projects, it is highly unlikely that sustainable habitat and/or species are present within the project's area of potential effect. As long as waters of the U.S. are not impacted, these types of minor projects are concluded to have no effect on any listed species or their habitat occurring throughout the State:

1. In urbanized areas, the construction of bicycle and pedestrian lanes and paths.
2. In urbanized areas, the construction of intersection improvements, i.e. turn lanes, except where streams or rivers may be impacted.
3. Modernization of a highway by resurfacing and/or adding median openings.
4. Construction of highway safety or traffic operations improvement projects such as installation of ramp metering control devices or signage.
5. Alterations to existing facilities in order to make them accessible for elderly and handicapped persons.
6. Rehabilitation of grade separated railroad crossings.

To document the Programmatic Agreement, all applicable GDOT environmental documents will contain the following statement:

“Per the \_\_\_\_\_, 2003 Endangered Species Act and Fish and Wildlife Coordination Act Joint Coordination Procedures (JCP), the proposed project is of the type listed in Appendix A of the JCP and, therefore, will have no effect on federally listed species or habitat. However, obligations under section 7 of the Endangered Species Act must be reconsidered if: (1) new information reveals impacts of this identified action that may affect listed species or habitat in a manner not previously considered; (2) a new species is listed or habitat is determined that may be affected by the identified action; or, (3) the project is modified in a manner not previously considered.”

## Appendix B

### Survey Methodologies

The USFWS, GDOT and FHWA will work to develop approved survey methodologies that can be implemented each time a survey for listed species is required. These efforts will ensure consistency in the procedures and will assure the USFWS and the FHWA that an adequate assessment has been made of the project's area of potential effect. Until these methodologies have been jointly approved by USFWS, GDOT and FHWA for the listed species being surveyed, the following information will be provided in the ecological assessment:

1. For which species was a survey conducted?
2. Is there an approved survey methodology or draft methodology for this work?
3. How was the survey performed?
4. When were the surveys performed (Month, dates, year)? Is this consistent with the time of year this plant or animal might best be observed (i.e., plants fruiting or flowering, etc.)?
5. What amount of time was spent "on the ground" or "in the stream" surveying?
6. What area was surveyed (within proposed construction limits, within the ROW, how many feet beyond the ROW, how many feet up and downstream of a proposed project impacting a stream or river, etc.)? For aquatic species, the area of potential effects goes beyond the project limits to include agreed-upon project influence areas, which are included in the survey methodologies (e.g., surveys for mussels in wadeable streams might require including an area approximately 450 feet upstream and 1,000 feet downstream of the proposed project).
7. Provide a detailed description of the affected areas that include native vegetation; include type and age of trees, signs of animals, notable herbaceous species and shrubs. Discuss any potential for species habitat.
8. Nearest known occurrence for the listed species. This information can be found on the Georgia Department of Natural Resources website at <http://georgiawildlife.dnr.state.ga.us/content/displaycontent.asp?txtDocument=89>. For wood stork and bald eagle, provide the distance to the nearest known rookery and nest.

If the survey requires the surveyor to handle federally threatened or endangered species, the surveyor must obtain a section 10(a)(1)(A) recovery permit from the USFWS Regional Office in Atlanta. This allows the permittee to handle the species for scientific purposes. The necessary State scientific collection permits should also be obtained before surveying.

## APPENDIX C

### Conflict Resolution Procedures

These procedures are not legally binding, but provide a scenario for issue resolution in a timely fashion. Each agency will designate agency representatives who are authorized to provide official comments at each level as described below. All official comments will be signed by either the designated representative or an individual acting for the designated representative. Only comments signed by designated representatives will be considered official comments in accordance with these procedures. It should be noted that pursuing conflict resolution procedures may delay completion of section 7 consultation.

Level 1: If any of the agencies considers that the nature of an action or series of actions raises issues regarding the application of the JCP, the FHWA Environmental Coordinator, the GDOT Ecologist, or the USFWS Biologist may request a meeting to discuss the issues. A meeting will be held between the Level 1 representatives within 30 days of receipt of the official request. If the issues are not resolved within 30 days of the meeting, the issues can be elevated to Level 2 by any of the three agencies.

Level 2: If the issues cannot be resolved at Level 1, the FHWA Project Development Manager, the GDOT Ecology Supervisor, or the USFWS Sub-Office Supervisor may request a meeting to discuss the issues through written notification. The notification will describe the issue in sufficient detail and provide recommendations for resolving the issue. A meeting will be held between the Level 2 representatives within 30 days of receipt of the written notification. If the issues are not resolved within 30 days of the meeting, the issues can be elevated to Level 3 by any of the three agencies.

Level 3: If the issues cannot be resolved at Level 2, the FHWA Assistant Division Administrator, the GDOT State Environment/Location Engineer or the USFWS Field Supervisor may request a meeting to discuss the issues through written notification. The notification will describe the issue in sufficient detail and provide recommendations for resolving the issue. Once Level 3 review is initiated, the representatives shall confer within 30 calendar days. Within 60 calendar days of these discussions, a determination of the status of consultation will be made. A project cannot proceed with Federal funding until section 7 consultations are completed.

**Approval of the Joint Coordination Procedures in Georgia for the  
Endangered Species Act and the  
Fish and Wildlife Coordination Act**

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Sandra S. Tucker, Field Supervisor  
U.S. Fish and Wildlife Service

Date

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J. Tom Coleman, Jr., Commissioner  
Georgia Department of Transportation

Date

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Robert M. Callan, P.E., Division Administrator  
Federal Highway Administration

Date