



## DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers  
441 G Street N.W.  
WASHINGTON, D.C. 20314-1000

CECW-CO

JUN 21 2005

### MEMORANDUM FOR MAJOR SUBORDINATE COMMAND AND DISTRICT COMMANDERS, CHIEFS, OPERATIONS AND PLANNING DIVISIONS

**SUBJECT:** Interim Guidance for Endangered Species Act Compliance at U.S. Army Corps of Engineers Operations and Maintenance Projects

1. Over the past several years, an increased difficulty in meeting our Endangered Species Act (ESA) compliance obligations while accomplishing our operations and maintenance (O&M) mission has been recognized. In response, the enclosed interim guidance has been developed, which provides a procedural template to follow when threatened or endangered species and/or designated critical habitat is identified in project areas where we are undertaking O&M activities. The guidance, under development for nearly 18 months, was sent out for field review on two separate occasions. The Director of Civil Works and the Assistant Secretary of the Army (Civil Works) staff have been briefed on the guidance.
2. The guidance provides clarified procedures to insure more effective and efficient compliance with the ESA. This guidance is not new; rather, it is excerpted from existing legislation, regulations, and guidance used by the U.S. Fish and Wildlife Service and NOAA Fisheries (the Services). The guidance is currently under headquarters-level review and will remain in an 'interim' status until that review and discussions with the Services are complete. At that time, the guidance will be re-issued under the signature of the Director of Civil Works. We are providing this guidance to you at this stage because we believe the Corps must make a concerted effort to be more consistent in how we comply with the ESA.
3. This interim guidance applies to all Corps Divisions and Districts that have O&M responsibilities. It does not apply to the planning or construction of new civil works projects, or to regulatory program activities. Each Operations and Planning Chief must make certain that the appropriate staff is familiar with this procedural guidance when undertaking ESA compliance actions such that the Corps may simultaneously and proactively fulfill its mission requirements and environmental stewardship duties.
4. In the informal and formal ESA conference and consultation processes, it is important that all Corps participants be thoroughly knowledgeable of all relevant statutory and regulatory procedures for each stage of the process. The web link for the ESA statute is <http://endangered.fws.gov/esaall.pdf>. The regulations implementing the ESA are available at web link [http://www.access.gpo.gov/nara/cfr/waisidx\\_03/50cfr402\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/50cfr402_03.html). The U.S. Fish and Wildlife Service's Mitigation Handbook is available at web link <http://endangered.fws.gov/consultations/s7hndbk/s7hndbk.htm>. Each District is advised to make copies for District/Division staff and to ensure that the appropriate personnel are familiar with

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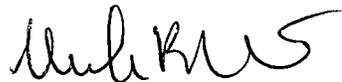
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the procedural requirements for undertaking ESA compliance actions. An Internet website has been established, <http://el.erdc.usace.army.mil/tessp/index.cfm>, to serve as a repository for endangered species information. Documenting and recording all project-specific and/or regional coordination and consultation efforts is also an important accountability measure that the Districts must ensure. For questions regarding this guidance, please contact Mr. Joe Wilson either electronically at [joseph.r.wilson@usace.army.mil](mailto:joseph.r.wilson@usace.army.mil) or by telephone at (202) 761-7697.

FOR THE COMMANDER:



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