United States Department of the Interior

FISH AND WILDLIFE SERVICE
3817 Luker Road
Cortland, NY 13045

November 23, 2007

Ms. Therese Fretwell
Field Environmental Officer
HUD-CPD
New York Field Office
26 Federal Plaza, Suite 3541
New York, NY 10278-0068

Dear Ms. Fretwell:

This letter is in regards to residential housing unit rehabilitation projects which receive funding from the Department of Housing and Urban Development (HUD) and serves as an update to our June 8, 2006, letter to you. As a Federal agency, HUD has responsibilities under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) to consult with the U.S. Fish and Wildlife Service (Service) regarding projects that may affect Federally-listed species or "critical habitat", and confer with the Service regarding projects that may affect Federally-proposed species or proposed "critical habitat."

We understand that HUD provides funding to multiple organizations for residential housing rehabilitation projects; the Service receives requests for information on the potential presence of (and potential for impacts to) Federally-listed or proposed species or currently designated or proposed "critical habitat" for many of these projects each month. We understand that many of these projects involve no site disturbance or increases in building footprints. The purpose of this letter is to streamline the consultation process for projects meeting that description.

Currently, we are only aware of one Federally-listed species with the potential to occur within existing residential housing units. The Indiana bat (*Myotis sodalis*), a Federally- and State-listed endangered species, has been observed using structures (*e.g.*, the attic of a church and cedar siding of a home) for roosting and maternity colony sites on an infrequent basis. However, we currently find the likelihood of adverse effects on Indiana bats due to housing rehabilitation projects to be extremely unlikely to occur, and thus, discountable.

The Service also anticipates no impacts to any other Federally-listed or proposed species. In addition, the only currently designated "critical habitat" in accordance with provisions of the ESA within New York occurs along a 17-mile reach along the Lake Ontario shoreline. However, existing structures within the critical habitat area do not meet the definition of critical habitat, thus the designation has no impact on residential housing rehabilitation projects. For additional information on piping plover critical habitat, please visit http://www.fws.gov/midwest/endangered/pipingplover/.

In conclusion, no further ESA coordination or consultation with the Service is required for projects that result in no site disturbance or increase in building footprint. If additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered. The most recent compilation of Federally-listed and proposed endangered and threatened species in New York is available for your information.* We recommend that you check our website every 90 days to ensure that this listed species presence/absence information, as it might impact HUD's housing rehabilitation funding program, is current. In addition, we recommend that you coordinate with us directly on an annual basis to discuss HUD projects and their potential to impact listed species on a programmatic level.

The above comments pertaining to endangered species under our jurisdiction are provided as technical assistance pursuant to the ESA. This response does not preclude additional Service comments under other legislation.

As a reminder, all Federally-listed species are also listed by the State of New York. Any proposed projects with the potential to impact listed species should be coordinated with both this office and with the New York State Department of Environmental Conservation (NYSDEC). The NYSDEC contact for the Endangered Species Program is Mr. Peter Nye, Endangered Species Unit, 625 Broadway, Albany, NY 12233 (telephone: [518] 402-8859).

For additional information on fish and wildlife resources or State-listed species, we suggest you contact the appropriate NYSDEC regional office(s) and the New York Natural Heritage Program Information Services.*

Thank you for your time. If you require additional information please contact Robyn Niver at 607-753-9334.

Sincerely,

David A. Stilwell
Field Supervisor

*Additional information referred to above may be found on our website at:
http://www.fws.gov/northeast/nyfo/es/section7.htm

cc: NYS Housing Trust Fund Corporation, Albany, NY (Attn: S. Tomasik)
NYSDEC, Albany, NY (Endangered Species, Attn: P. Nye)
NYSDEC, Allegany, Avon, Cortland, Long Island City, New Paltz, Ray Brook, Schenectady, Stamford, Stony Brook, Syracuse, Watertown, NY (Environmental Permits)
COE, Buffalo and New York, NY