

continued existence of a listed species or adversely modify its critical habitat that the species needs to recover. Since Twin Pines is seeking a permit under section 404 of the Clean Water Act, the USACE will need to determine potential effects to any listed species and then will work with the Service through the consultation process to avoid or minimize impacts to listed species and critical habitat by developing appropriate conservation measures that can be incorporated into the project or, if needed, a biological opinion.

In addition to the ESA, the Service may review, comment, and coordinate on projects under the National Environmental Policy Act and the Fish and Wildlife Coordination Act (FWCA). Under the FWCA, the Service is responsible for requesting, summarizing, and submitting comments from state and other federal agencies describing potential project level impacts by the proposed activities. These comments are not restricted to ESA concerns and generally focused on potential impacts to habitats and ecosystem processes.