

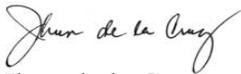


FEMA

W-12020

March 13, 2012

MEMORANDUM FOR: Write Your Own (WYO) Principal Coordinators and the National Flood Insurance Program (NFIP) Servicing Agent

FROM:   
Jhun de la Cruz  
Chief, Underwriting Branch  
Risk Insurance Division

SUBJECT: Guidance on the Availability of Flood Insurance in Monroe County, FL

The Federal Emergency Management Agency (FEMA) has provided guidance in four previous WYO Company Bulletins (see attachments) on the availability of flood insurance in Monroe County, FL. This guidance has detailed how the WYO Companies and the NFIP Direct Servicing Agent must comply with the court order that prohibits the issuance of flood insurance policies for new development on or after September 12, 2005, in areas that contain suitable habitat for endangered species.

Areas of suitable habitat were determined by the United States Fish and Wildlife Service and are identified on a list of Real Estate Numbers it provided for posting on the Monroe County website. This bulletin provides updated instructions for accessing this information on the website to determine whether a property address contains suitable habitat.

The process for determining whether flood insurance is available for a specific address begins on the official Monroe County, FL, website at <http://www.monroecounty-fl.gov/>. Follow the steps below:

1. Once on the Monroe County home page, select the heading for "Residents." On the Links for Residents page, under the Family & Property heading, select the link for "Property Appraiser Record Search."
2. Under the heading Search the Monroe County Property Database, select the link for "Real Property Search."
3. Enter the Owner Name and/or the Physical Location Address. Then click Search, and read the disclaimer page that will appear.
4. Click Continue to bring up a Property Record View for the owner name/address that will show the Parcel ID, which corresponds to the Real Estate Number. (If more than one item appears, select the correct entry.) The Parcel ID will display near the top of the page; record

this number for later use. This page also shows the date of construction and modifications to the property, important information in determining applicability of the injunction.

5. To access the list of Real Estate Numbers affected by the injunction, click the link for the FEMA Flood Insurance page on the right side of the Property Record View page.
6. On the FEMA Flood Insurance page, select the link titled "List of Real Estate ID Numbers for parcels covered by injunction."
7. Compare the Parcel ID Number for the property address to the numbers provided on the list.

If the Parcel ID from the appraiser's website just obtained (in step 4 above) is found on this list, then the property contains habitat suitable for endangered species and the injunction applies.

However, there are exceptions to the injunction that do allow the purchase of flood insurance for certain properties. One exception is when new development was started before September 12, 2005. See the attached bulletin W-06013, dated March 3, 2006, to see how the Court clarified its definition of new development. Another exception is the Court's removal of properties from the injunction list. The list of properties removed from the suitable habitat list by court orders is found on the previously accessed FEMA Flood Insurance page (see step 7 above). Even though the property may be listed on this page as being removed, the homeowner should also provide the insurer with a copy of the removal document when applying for insurance.

The Court's injunction continues to remain in force, and the WYO Companies and the NFIP Direct Servicing Agent must continue to follow the directions as prescribed to adhere to the law.

If you have any questions, please contact Steve Van Dyke at [steven.vandyke@dhs.gov](mailto:steven.vandyke@dhs.gov).

Attachments

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Required Routing: All Departments



**FEMA**

W-05063

October 5, 2005

MEMORANDUM FOR: Write Your Own (WYO) Principal Coordinators and  
the NFIP Servicing Agent

FROM: WYO Clearinghouse

SUBJECT: Policy Issuance 2-2005  
U.S. District Court Order Regarding the Sale of  
National Flood Insurance Program (NFIP) Insurance in  
Monroe County, Florida

Attached is a policy issuance from FEMA that provides details of a recent court order concerning the sale of NFIP insurance in Monroe County, Florida.

If you have any questions, please contact your Program Coordinator.

Attachment

cc: Vendors, IBHS, FIPNC, WYO Marketing Committee, Government Technical Representative

Suggested Routing: Claims, Data Processing, Marketing, Underwriting



FEMA

## National Flood Insurance Program

### Policy Issuance 2-2005

**SUBJECT:** U.S. District Court Order Regarding the Sale of National Flood Insurance Program (NFIP) Insurance in Monroe County, Florida

**Background:** On September 12, 2005, as part of ongoing litigation in Monroe County involving the application of the Endangered Species Act to the NFIP, the U.S. District Court for the Southern District of Florida issued a court order affecting the sale of NFIP insurance. This order directed the U.S. Fish and Wildlife Service to provide a list of suitable habitat for endangered species in Monroe County. It directed FEMA to not issue flood insurance for new construction in that suitable habitat. This list of locations by real estate parcel number was provided to the Court and FEMA on October 3, 2005, and can be found at the following website: [www.fws.gov/filedownloads/ftp\\_verobeach/MONROE-PARCELS](http://www.fws.gov/filedownloads/ftp_verobeach/MONROE-PARCELS).

**Policy Decision:** Flood insurance cannot be written on a building with an actual start of construction date on or after September 12, 2005, in Monroe County if the property is found in the list of parcels located on the above website. The Direct Servicing Agent and the WYO Companies will be responsible for verifying that buildings insured in Monroe County, including both the unincorporated area of the county and the incorporated cities within the county, are eligible for insurance. This will necessitate obtaining the real estate parcel numbers of the properties from the applicant and documentation from the community that the actual start of construction was in fact before September 12, 2005. This requirement applies to all new business with building permit or construction dates on or after March 16, 2005. It is estimated that only about 250 new buildings are constructed each year in Monroe County. This Policy Issuance will remain in force until further notice.

Any policy issued in violation of this Policy Issuance shall be void *ab initio*.

Questions regarding this Policy Issuance should be directed to Donald Beaton, Chief Underwriter, Federal Emergency Management Agency, at (202) 646-3442, or (email) [donald.beaton@dhs.gov](mailto:donald.beaton@dhs.gov).

October 4, 2005

Date

A handwritten signature in black ink that reads "David I. Maurstad".

David I. Maurstad  
Acting Director  
Mitigation Division  
Emergency Preparedness  
and Response Directorate



**FEMA**

W-06013

March 3, 2006

MEMORANDUM FOR: Write Your Own Principal Coordinators and the NFIP Servicing Agent

FROM: Donald R. Beaton, Jr.   
Chief Underwriter  
Mitigation Division

SUBJECT: Guidance on Policy Issuance 2-2005 Regarding Availability of  
Flood Insurance in Monroe County, FL

The Federal Emergency Management Agency (FEMA) promulgated Policy Issuance 2-2005 to comply with the September 12, 2005, Court Order issued in *Florida Key Deer v. FEMA*, 90-10037-CIV-Moore (S.D.Fl.). The Court Order enjoins “FEMA from issuing flood insurance for new developments in suitable habitat” as identified by the United States Fish and Wildlife Service (FWS) in Monroe County, Florida. See [www.fws.gov/filedownloads/ftp\\_verobeach/MONROE-PARCELS](http://www.fws.gov/filedownloads/ftp_verobeach/MONROE-PARCELS) for the official list of affected locations by real estate parcel number. The Court defined “new development” as “any residential or commercial development where construction of the structure has not yet begun as of the entry of this Order.”

On December 16, 2005, the Court modified the injunction regarding the sale of flood insurance by clarifying its definition of “new development.” The Court stated that “Reconstruction, redevelopment, renovation, replacement or expansion of a structure that existed on the site prior to September 12, 2005 (‘the action’) shall not be considered ‘new development,’ if:

“(1) the action results in the same use or a less intensive use (e.g., single family home for single family home, duplex for duplex, multifamily for multifamily with the same or fewer number of units, commercial for commercial, duplex to single family home, or similar net reduction in the number of dwelling or commercial units); and

“(2) the action no more than doubles the footprint or square footage of the original structure, or totals no more than 1500 square feet, whichever is larger; and

“(3) the action does not entail clearing or using any areas on the site outside of areas that were cleared, paved, or within the footprint of the pre-existing structure on September 12, 2005.

“In order for a property owner to qualify for flood insurance under the National Flood Insurance Program (‘NFIP’) in conjunction with any reconstruction, redevelopment, renovation, replacement or expansion of a structure on property included in the list of Monroe County Real Estate Numbers in Suitable Habitat 9/05 (DE#238), the owner shall obtain from the local government having jurisdiction to issue a building permit

for that property a certification to FEMA and FWS that, at the time the permit is issued, the proposed project complies with the parameters set forth in paragraphs (1), (2), and (3) above; and a second certification to FEMA and FWS after passing final inspection that the property, as built, complies with the parameters set forth in paragraphs (1), (2), and (3) above.

“A mobile home replaced with a modular home, or replaced by a home built by traditional methods, shall be considered the ‘same use’ for purposes of this Order.”

The communities participating in the NFIP that are affected by this Order are: Unincorporated Monroe County #125129, Islamorada #120424, Marathon #120681, Key West #120168, Layton #120169, and Key Colony Beach #125121.

The “actual start of construction” is the date of either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. WYO companies and the NFIP Servicing Agent are required to obtain documentation showing that the “actual start of construction” occurred prior to September 12, 2005, when the building is located on a real estate parcel identified as “suitable habitat” by the FWS. This requirement to obtain documentation applies to all buildings that have a building permit date, or date of “actual start of construction,” on or after March 16, 2005. March 16, 2005, was selected because the NFIP regulations allow an applicant to list the permit date in the “date of construction” block of the Flood Insurance Application when the “actual start of construction” occurs within 180 days from receiving a building permit.

Examples of acceptable documentation to be retained in the underwriting file include a copy of an inspection form from the permit office showing the date of completion of an early aspect of the construction process, such as the pouring of the foundation or documentation from the builder describing the first placement of permanent construction and the date of the placement.

In addition to providing documentation substantiating the “actual start of construction,” the WYO companies and the NFIP Servicing Agent must also have in their file the real estate parcel number if it is determined that the building is considered “new development.” Acceptable documentation includes copies of the plat plan, the elevation certificate, the tax assessment form, the deed, or any other legal document showing the real estate parcel number. If the building is not considered new development because it complies with the new parameters set forth above, then a copy of the certifications from the community stating compliance with the Court Order must be obtained for the file. Insurers should be aware that, in cases of substantial improvement or substantial damage to buildings located in suitable habitat, certifications from the community must also be obtained.

Questions regarding this guidance should be directed to Donald Beaton, Chief Underwriter, Federal Emergency Management Agency at (202) 646-34442, or (e-mail) [donald.beaton@dhs.gov](mailto:donald.beaton@dhs.gov).

cc: Vendors, IBHS, FIPNC, WYO Marketing Committee, Government Technical Representative

Suggested Routing: Claims, Data Processing, Marketing, Underwriting

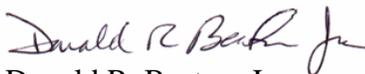


FEMA

W-06071

September 22, 2006

MEMORANDUM TO: Write Your Own (WYO) Principal Coordinators  
National Flood Insurance Program Servicing Agent

FROM:   
Donald R. Beaton, Jr.  
Chief Underwriter  
Risk Insurance Branch

SUBJECT: List of Properties Removed from Injunction List in  
Monroe County, FL

The U.S. District Court for the Southern District of Florida has ordered additional modifications to the injunction in Monroe County that prohibits the issuance of flood insurance on new developments in suitable habitat (reference WYO Company Bulletin W-06013, March 3, 2006). These orders have deleted locations from the list of "Monroe County Real Estate Numbers in Suitable Habitat 9/05" (DE#238). The list of properties that have been removed can be found at:

[http://www.monroecounty-fl.gov/Pages/MonroeCoFL\\_WebDocs/insurance/offthelist806.pdf](http://www.monroecounty-fl.gov/Pages/MonroeCoFL_WebDocs/insurance/offthelist806.pdf)

The removed properties, identified by real estate parcel number, are organized by the date of various court orders that effected their removal from the injunction list. The date of the corresponding court order is the effective date that these properties are eligible for flood insurance issued through the National Flood Insurance Program.

Questions regarding this information should be directed to Donald Beaton, Chief Underwriter, Federal Emergency Management Agency at (202) 646-3442 or (e-mail) [donald.beaton@dhs.gov](mailto:donald.beaton@dhs.gov).

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Suggested Routing: Claims, Data Processing, Marketing, Training, Underwriting



**FEMA**

W-07018

March 12, 2007

MEMORANDUM FOR: Write Your Own (WYO) Principal Coordinators  
and the NFIP Servicing Agent

FROM: WYO Clearinghouse

SUBJECT: Flood Insurance in Monroe County, Florida

In accordance with Policy Issuance 2-2005 (<http://www.fema.gov/business/nfip/pi.shtm>), flood insurance is prohibited on buildings for which the actual date of construction is on or after September 12, 2005, on parcels identified as suitable habitat for endangered species in Monroe County, Florida. Clearinghouse Bulletin W-06013, dated March 3, 2006, (<http://bsa.nfipstat.com/wyobull/w-06013.pdf>) provides additional guidance on Policy Issuance 2-2005, including the documentation to be retained in the underwriting file and the Court's modification to the injunction on the sale of flood insurance.

The NFIP Bureau and Statistical Agent has developed a one-time report to help each WYO Company and the NFIP Servicing Agent identify its active policies that have a permit date or construction date impacted by the Court Order. These identified policies may or may not be on parcels identified as suitable habitat for endangered species. Individual reports will be forwarded electronically today to the WYO Principal Coordinator for each respective WYO Company and the NFIP Servicing Agent. Each report will contain only the respective company's information.

Buildings with an actual start of construction before September 12, 2005, do not fall within the Court Order, are not prohibited from having flood insurance, and will not be included in the report.

Monroe County, Florida's web page found at [http://monroecofl.virtualltownhall.net/Pages/MonroeCoFL\\_HotTopics/00830630-000F8513](http://monroecofl.virtualltownhall.net/Pages/MonroeCoFL_HotTopics/00830630-000F8513) is another tool that can be used to verify eligibility. It provides a link to the list of real estate parcel numbers containing suitable habitat covered by the injunction; a link to the County Property Appraiser's site, which has an online data center records search that can search by physical location, owner's name, condominium name or subdivision name to obtain the real estate parcel number; and links to Court Orders listing property locations that have been removed from the injunction.

Please distribute this information within your organization as appropriate. If you have any questions, please contact your WYO Business Analyst.

cc: Vendors, IBHS, WYO Standards, Government Technical Representative

Suggested Routing: Data Processing, Marketing, Underwriting