

# Compensatory Mitigation and the Eagle Act

## Regulatory Landscape in September 2023

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Migratory Birds Program



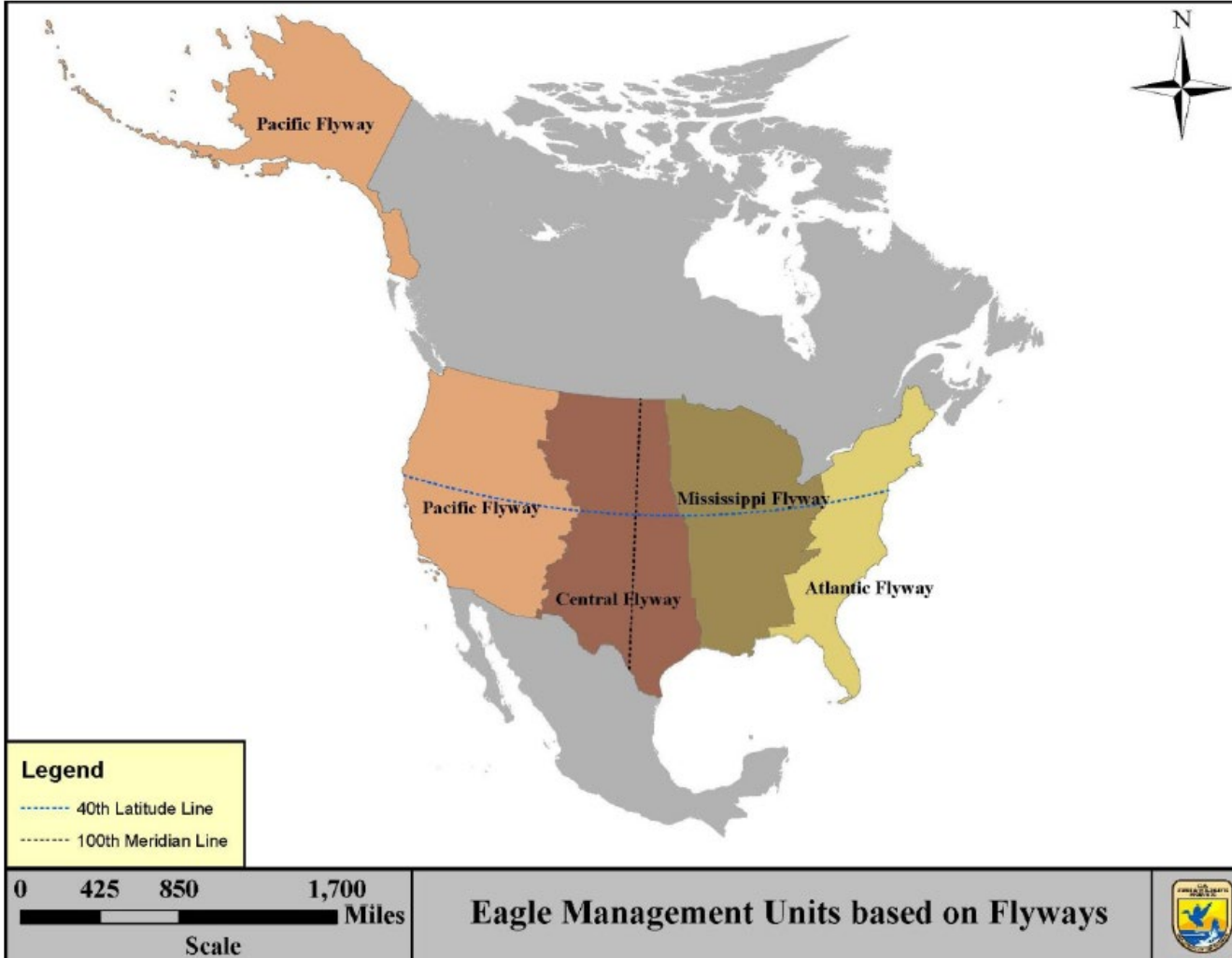
Photo Credit: Allen Smith



MIGRATORY  
**BIRDS**

*Conserving America's Birds*

# Eagle Management Units (EMUs)



Regional in nature; based on Flyways

## Bald Eagle EMUs:

Pacific Flyway divided into 3

6 total EMUs

## Golden Eagle EMUs:

Mississippi and Atlantic Flyway combined

3 total EMUs



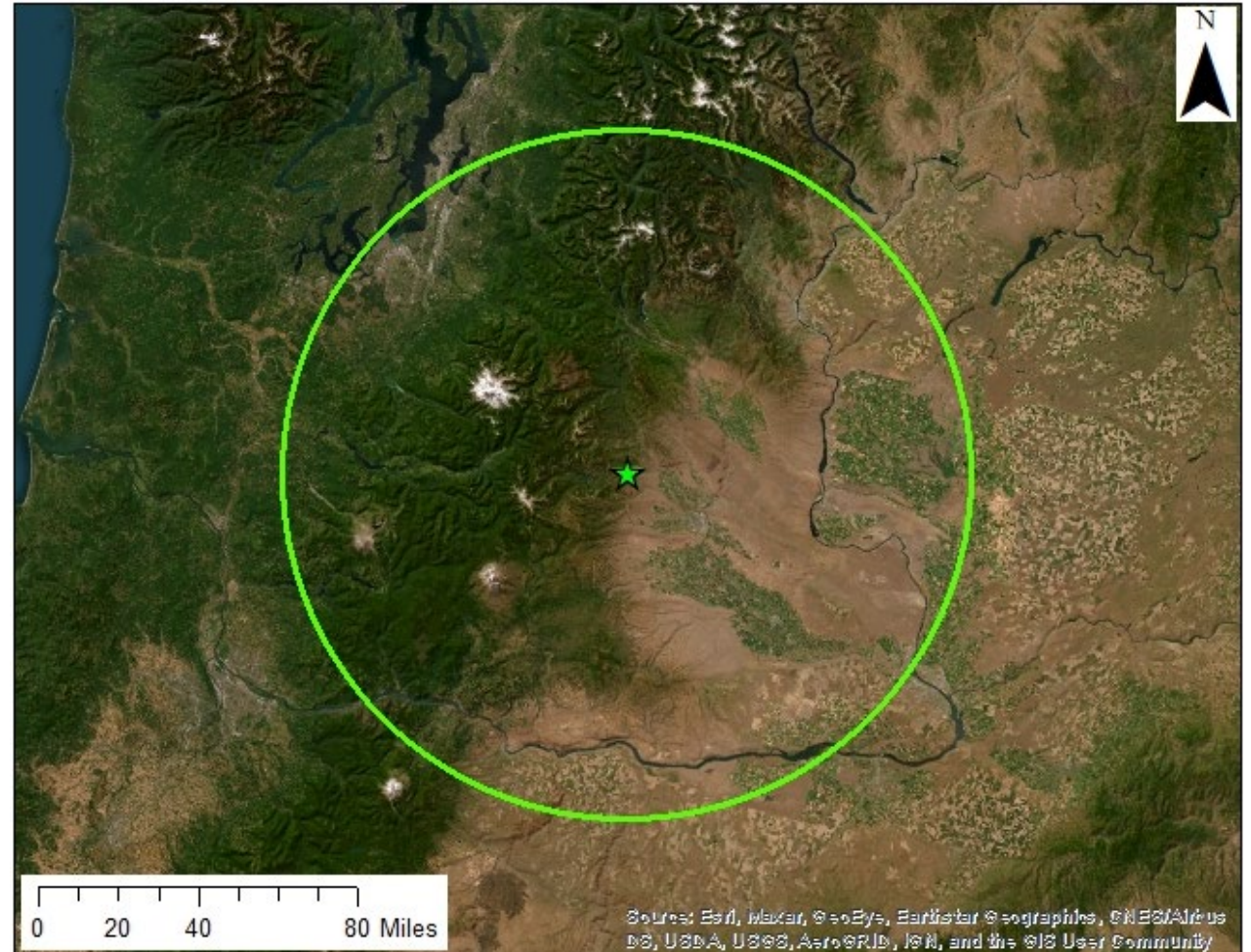
# Local Area Population (LAP)

## Different than EMUs:

- Smaller scale
- LAPs are not fixed, vary by:
  - Location in question
  - species

## LAPs are based on:

- Project location
- Natal dispersal distance
  - 86mi for bald eagles
  - 109 mi for golden eagles
- Estimated eagle densities





# Eagle Preservation Standard



## Statute: Bald and Golden Eagle Protection Act

“compatible with the preservation of the bald eagle or the golden eagle”

## Regulation: 50 CFR 22.6

“consistent with the goals of maintaining stable or increasing breeding populations in all eagle management units (EMUs) and the persistence of local populations throughout the geographic range of each species”



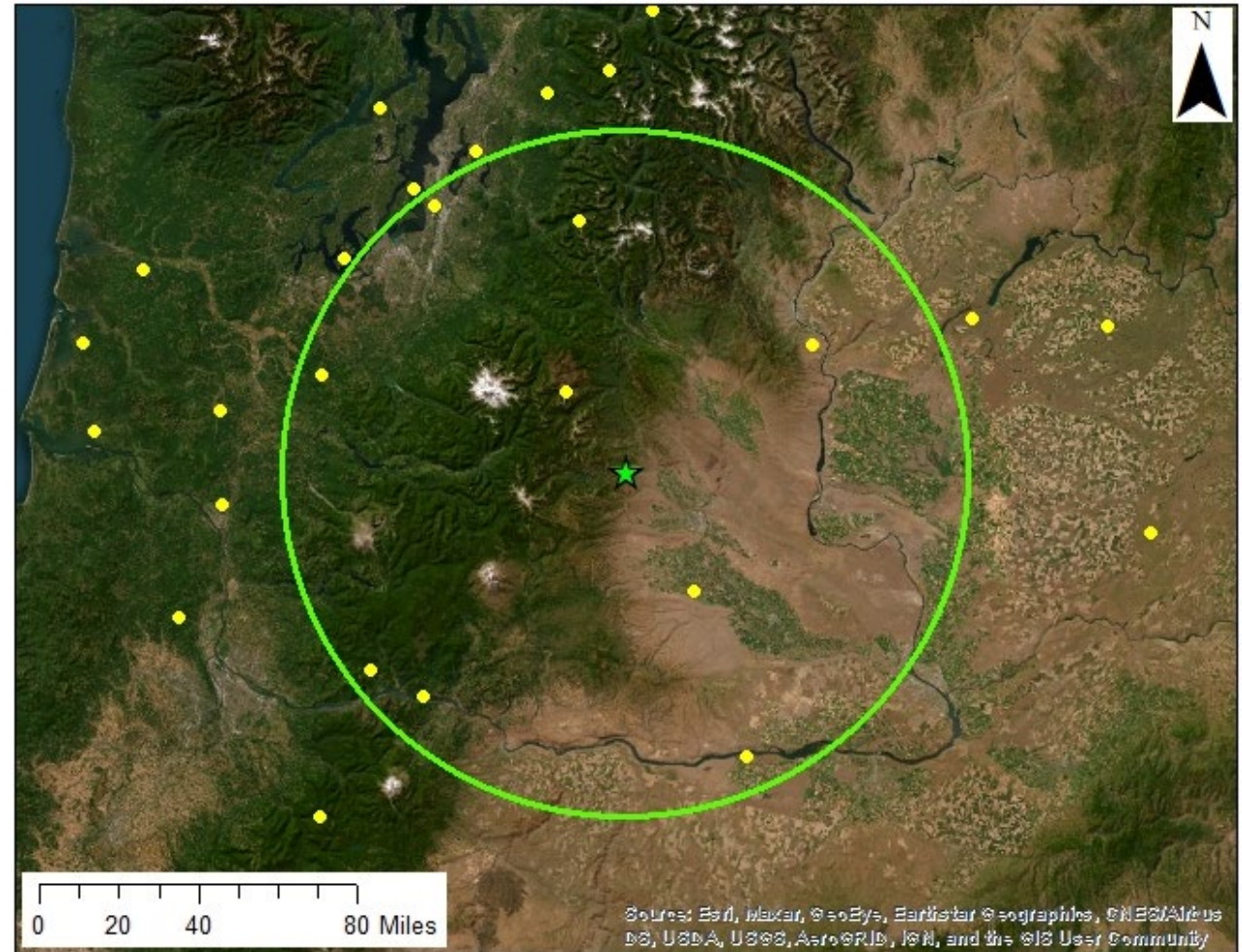
# Meeting Our Preservation Standard

## EMU Scale

- Authorized take must be < EMU take limits
- Unless comp. mitigation provided
  - Bald Eagle: 1 : 1 ratio
  - Golden Eagle: 1.2 : 1 ratio

## LAP Scale

- Cumulative authorized take should be < 5% LAP
- Cumulative unpermitted take should be < 10% of LAP



50 CFR 22.80 (c)(1)(i and ii)





# Compensatory Mitigation MUST

- Be determined after avoidance and minimization
- Be sited within the same EMU
- Have been derived (and effectiveness determined) using the best available science
- Be additional and improve upon the baseline conditions of the affected species
- Be durable and maintain intended purpose for as long as impacts of the authorized take persist
- Include mechanisms to account for and address uncertainty and risk of failure.

50 CFR 22.80 (c)(1)(iii)



# How to Compensate for Eagle Take



Permittee-responsible

In-lieu fee program

Conservation bank (none yet est.)

Other third-party projects or  
arrangements





# Methods for Compensating for Eagle Take

## Quantifiable methods:

- Utility pole retrofits
- Lead abatement\*
- Roadside carcass removal\*

## Others

- Rodenticide alternative?
- Mexican chicken bug control?
- Curtail illegal shooting?
- Others?



\*models published and proposals in review by the Service

