



Bird Protection Guidelines

Appendix 5 of the Bechtel Communications Construction Environmental Control Plan (CECP) includes a detailed discussion of requirements associated with work in the vicinity of migratory birds and/or bird nests. These guidelines are intended not only to reduce the risk of breaking the law by disturbing protected birds, but also to protect workers from potential attack by a bird protecting its nest and/or offspring. The BCI CECP can be accessed at <http://www.bechtel.com/communications/CECP.html>.

No climbing is allowed when an “active” nest is present.

When a nest is being used by adult birds, contains eggs, or has flightless chicks/young birds present, it is considered “active.” To protect workers from potential attack by a bird defending its territory, and to avoid penalties associated with the “take” of a bird, climbing is prohibited when the nest is active.

What is a “take” of a bird and the associated penalties?

A “take” of a migratory bird is any act that results in harassment, injury, or confinement of a migratory bird. A “take” also includes the transport of any migratory bird or possession of any parts of the bird (e.g., feathers), eggs, or any component of the nest itself. The penalties associated with a “take” include up to 6 months in jail and a fine of up to \$15,000.

What about ground level work at a site with an active nest?

The U.S. Fish and Wildlife Service has stated that even work at ground level can result in a “take” if the work is particularly noisy or otherwise disruptive. As a result, the market manager must provide written authorization for work to proceed whenever ground level work is planned for a site with an active nest. The ES&H staff is available to provide technical assistance to the market manager as needed when a decision regarding ground level work at an active nest site is being considered (see procedure 4(b) within Appendix 5 of the CECP for additional information).

Which bird species are covered by the migratory bird regulations?

There are many different species of birds that are covered by the Migratory Bird Treaty Act (MBTA). Hawks, ospreys, and eagles often come to mind when considering the types of birds protected by the MBTA. However, many commonly found birds such as certain types of crows, sparrows, and robins are also among the protected species. A complete list of the birds covered by the MBTA can be found at:

<http://www.fws.gov/migratorybirds/intrnltr/mbta/mbtandx.html#v>.

There is a bird nest in the way of the work I need to complete. Can I (re)move it?

It is possible, but only after receiving approval from the Project Environmental Lead or his/her designee. The status of the nest (active or inactive), tower owner consultation, and regulations in the state where the nest disturbance is planned must be determined. Whenever authorization is provided for a nest to be removed, detailed instructions will be provided by the ES&H staff.