



Public Information

County of Ventura • Resource Management Agency • Planning Division
800 South Victoria Avenue, Ventura, CA 93009 • 805 654-2488 • <http://www.ventura.org/rma/planning>

Protection of Nesting Birds During Project Construction



To harm or kill a native bird is a violation of federal and state law.

FEDERAL & STATE LAW PROTECTS ALL NATIVE BIRDS:

The Migratory Bird Treaty Act (MBTA) is one of the nation's oldest environmental laws passed in 1918. Under the provisions of the MBTA, it is unlawful "by any means or manner to pursue, hunt, take, capture (or) kill" any migratory birds except as permitted by regulations issued by the U.S. Fish and Wildlife Service (FWS). The term "take" is defined by FWS regulation to mean to "pursue, hunt, shoot, wound, kill, trap, capture or collect" any migratory bird or any part, nest or egg of any migratory bird covered by the conventions, or to attempt those activities.

Migratory birds include all native birds in the United States, except those non-migratory species such as quail and turkey that are managed by individual states.



Anna's Hummingbird

CALIFORNIA STATE LAW PROTECTS NATIVE BIRDS TOO:

California Department of Fish and Game Code 3513 provides protection to the birds listed under the MBTA, essentially all native birds. Other Fish and Game Codes provide further protection to certain types of birds, such as raptors.



Birds can usually escape harm during construction activities by flying away, but during the nesting season, eggs and chicks are in danger when construction activity begins.

Brush removal, tree trimming, building demolition, and grading during nesting season can harm or kill protected birds, resulting in a violation of federal and state law.

How Can You Avoid Nesting Birds During Construction?

Conduct brush removal, tree trimming, building demolition, or grading activities outside of the nesting season. **California Department of Fish and Wildlife biologists have defined the nesting season as January 1st through September 15th.**

If other timing restrictions make it impossible to avoid the nesting season, the construction areas should be surveyed for nesting birds and active nests should be avoided. If adult birds are observed flying to and from a nest, or sitting on a nest, it can be assumed that the nest is active. Details on nest avoidance are described below.

To plan for potential conflicts between construction and nesting birds, the site and adjacent areas outside the construction site (500 feet for raptors/nesting colonies, 300 feet for all other birds) should be surveyed by a biologist at least 30 days prior to site disturbance and approximately every 10 days after with the last survey completed no more than 3 days prior to construction. Construction activity within 300 feet of an active nest or 500 feet of an active hawk or breeding colony should be delayed until the nests are no longer active. Keep watch on all active nests, and when the chicks have left the nest and activity is no longer observed around the nest, it is safe to continue construction activity in the nest setback area.

Hire a biologist to assist with the survey for nesting birds and to determine when it is safe to commence construction activities. Depending on the size of the construction area, a professional survey may only take an hour or two. If an active nest is found, one or two short follow-up surveys would be needed to check on the nest and determine when the nest is no longer active. The Ventura County Planning Division maintains a list of approved biologists on our website at www.ventura.org/rma/planning that may be able to assist with the bird nest surveys.

Which Birds Are Protected?

All native birds are protected.

Since only a few birds encountered in Ventura County are not protected (e.g. European starlings and house sparrows), it is safe to assume that any nest you encounter should be avoided.

For More Information

For more information on the Migratory Bird Treaty Act, see <http://www.fws.gov/pacific/migratorybirds/mbta.htm>. For questions, contact your local US Fish and Wildlife or California Department of Fish and Game office.

To report bird harassment, killing and/or destruction of bird nests call the California Department of Fish and Wildlife at 888-334-2258 (CalTIP number)