

Project Recommendations for Migratory Bird Conservation
U.S. Fish and Wildlife Service, Utah Field Office (May 2020)

The Migratory Bird Treaty Act (MBTA) is the cornerstone of migratory bird conservation and protection in the United States. The MBTA implements four treaties that provide for international protection of migratory birds. The USFWS maintains a list of all species protected by the MBTA at 50 C.F.R. § 10.13. This list includes over one thousand species of migratory birds, including eagles and other raptors, waterfowl, shorebirds, seabirds, wading birds, and songbirds. The MBTA does not protect introduced species such as the house (English) sparrow, European starling, rock dove (pigeon), Eurasian collared-dove, and non-migratory upland game birds.

The U.S. Fish and Wildlife Service (USFWS) recommends that the following migratory bird conservation measures be implemented as you complete your project:

- a. Wherever possible we recommend that projects be completed outside the migratory bird nesting season to avoid and minimize impacts to migratory birds.
- b. If the project includes the loss or degradation of migratory bird habitat then complete all portions of the project that could impact migratory birds outside the maximum migratory bird nesting season. This includes ground-disturbing activities, habitat removal, clearing or cutting of vegetation, grubbing, burning, etc. If that is not feasible, we recommend that you complete the project outside the minimum migratory bird nesting season.

The time period associated with the maximum migratory bird nesting season is approximately December to August. The time period associated with the minimum migratory bird nesting season is April 1 to July 15 (time-frame when the majority of annual bird nesting occurs).

- c. If the project needs to occur during the migratory bird nesting season, impacts to birds can be avoided or minimized by completing vegetation treatments and vegetation clearing and removal actions during the fall and winter (outside the migratory bird nesting season per above) prior to the nesting season when the project will begin.
- d. If a project may impact migratory birds and/or cause the loss or degradation of migratory bird habitat, and such work cannot occur outside the migratory bird nesting season, we recommend surveying impacted portions of the project area to determine if migratory birds are present and nesting. Surveys should emphasize detecting presence of USFWS Birds of Conservation Concern, take place during the nesting season the year before the nesting season in which project is scheduled to occur, and should document presence of migratory birds at least throughout the entire minimum migratory bird nesting season (April 1 to July 15). Nest surveys should be conducted by qualified biologists using accepted survey protocols.
- e. If your project must occur during the maximum migratory bird nesting season, implement measures to prevent migratory birds from establishing nests in the potential impact

area. These steps could include covering equipment and structures and hazing birds away from the project footprint. Migratory birds can be hazed to prevent them from nesting until egg(s) are present in the nest. However, we acknowledge that hazing migratory birds away from a project site is likely only practical for projects with a relatively small footprint (i.e. projects about 5 to 10 acres in size or smaller). Do not haze or exclude access to nests for bald or golden eagles or any migratory bird species federally listed under the Endangered Species Act (ESA), as these actions are prohibited without a permit for these species.

- f. If your project must be scheduled during the maximum migratory bird nest season, and vegetation clearing and removal work cannot be completed prior to the nesting season, then we recommend performing a site-specific survey for nesting birds no more than 7 days prior to all ground-disturbing activities or vegetation treatments.

If you document active migratory bird nests during project nest surveys, we recommend that a spatial buffer be applied to these nests for the remainder of the nesting season. Vegetation treatments or ground-disturbing activities within the buffer areas should be postponed until after the birds have fledged from the nest. A qualified biologist should confirm that all young have fledged.

We recommend the use of the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* (Romin and Muck 2002) to provide consistent application of raptor conservation measures to your project or action in Utah. We provide recommendations for raptor surveys and conservation measures in the Guidelines to ensure that proposed projects will avoid adverse impacts to raptors. Locations of existing raptor nests should be identified prior to the initiation of project activities. We recommend that appropriate spatial buffers and timing limits be applied to your project for raptors during crucial breeding and nesting periods relative to raptor nest sites or territories per our Guidelines. Raptors may initiate nesting as early as December for certain species. Nesting and fledging can continue through August and for some species the young may not fledge from nests until September.