

# Rocky Flats Environmental Technology Site

## 1-G98-EPR-END.04

### VERSION 1

## MIGRATORY BIRD EVALUATION AND PROTECTION

Responsible Organization: K-H ESS

Effective Date: February 1, 2004

APPROVED BY: \_\_\_\_\_ Andrew Rosenman \_\_\_\_\_ 1/27/04  
Manager Print Name Date  
K-H Environmental Systems and Stewardship (ESS)

The Responsible Manager has determined the following organizations' review is required. Review documentation is contained in the Document History File:

Project Environmental Mangers

### IMPORTANT NOTES

**This document supersedes and cancels the *Migratory Bird Evaluation and Protection, 1-G98-EPR-END.04, Version 0, dated April 19, 1994.***

**Periodic review frequency: 3 years from the effective date.**

### **Version Change Summary**

Affected Pages

1-9

Changes

Most changes were made to the “responsibilities” and “instructions” sections. Other sections had minor changes.

Total Pages: 9

The following DCFs are effective in this document:

None; this is a complete revision.

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## **1 PURPOSE**

This procedure provides instructions for evaluating the potential for Rocky Flats Environmental Technology Site (Site, RFETS) project activities to adversely impact migratory birds, their nests, and young, and for ensuring their protection when encountered during these activities in accordance with the following:

- Migratory Bird Treaty Act (MBTA) 16 U.S.C. 703-711
- 50 Code of Federal Regulations (CFR) Parts 10, 13, 14, 20, 21
- Title 33, Colorado Revised Statutes (C.R.S.), Article II, Nongame and Endangered Species Conservation

## **2 SCOPE**

This procedure applies to all Site employees, contractors, and subcontractors. Personnel involved in any type of field or construction activities are particularly affected by this procedure.

This procedure addresses the following activities:

- The mechanism to determine if such activities will degrade the quality of a migratory bird habitat,
- Development of Site or activity specific protection plans for proposed activities that may impact migratory birds,
- The evaluation of proposed project activities for the potential to harm migratory birds, their nests, eggs, and nestlings. Project activities may include, but are not limited to, the following:
  - Remediation
  - Demolition
  - Investigation
  - Construction
  - Maintenance
  - Restoration

## **3 OVERVIEW**

Baseline data collected over the past decade at the Site are used to evaluate migratory bird issues for projects at the Site. Bird surveys have documented species that are typically found in each of the dominant habitat types found at the Site. Project plans and program plans are expected to allow time for Site

personnel or Site ecologists to perform work site evaluations in advance of the planned work.

#### 4 DEFINITIONS

**Project Activities-** any outdoor activities at the Site that may cause disturbance or alteration to the environment. Such activities include, but are not limited to construction, remediation, and maintenance.

**Migratory Birds-** for the purpose of this procedure, all species of wild birds protected under the Migratory Bird Treaty Act (MBTA) are classified as migratory birds. Most wild birds found at the Site are considered to be migratory birds including, but not limited to, waterfowl, shore birds, wading birds, birds-of-prey, song birds, and such year-round residents as black-billed magpies, crows, and ravens. Bird species excluded from consideration under the MBTA are the house sparrow, European starling, and the rock dove.

**Project Manager-** the manager responsible for the project activity.

#### 5 RESPONSIBILITIES

##### 5.1 Ecology Manager

Ensures Site compliance with MBTA requirements.

Ensures that adequate ecological resources are available to implement the requirements of this procedure.

##### 5.2 Ecology Personnel

Evaluate proposed project plans for potential impact to migratory birds.

Support project during activity evaluations and implementation of this procedure.

Conduct field surveys (or their designees), and report the survey findings.

##### 5.3 Project Activity Personnel

Comply with this procedure and other related requirements that are specified by ecology personnel to allow the evaluation of the status of migratory birds at the Site, or to protect migratory birds, their nests, and young from harm.

##### 5.4 Project Manager

Evaluates proposed project to determine if project activities may effect birds, bird nests, or bird habitat.

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**NOTE: Evaluation of a project before startup is essential to allow for the avoidance of harm to migratory birds. The presence of active bird nests (depending on species) in the work area may delay project schedule. Active bird nests may not be removed without proper approval from the U.S. Fish and Wildlife Service (USFWS). Contact ecology personnel to get proper approvals.**

Ensures adequate resources are available within a project or activity to implement the requirements of this procedure.

Ensures that appropriate project personnel are aware of the requirements of this procedure.

Ensures the implementation of the requirements of this procedure during project activities.

Ensures compliance with requirements or restrictions on the activity area or schedule as prescribed by ecology personnel after evaluation of the activity or plan.

## 6 INSTRUCTIONS

### 6.1 Responsible Manager, Project Manager or Work Activity Supervisor

[1] Evaluate proposed project to determine if activities may have direct or indirect effects on birds, bird nests, or bird habitat. If the answer to either of the following question is yes, then a bird nest survey is necessary:

- Does the project involve any removal or demo of a structure or a building (potential for nesting spots)?
- Are trees, shrubs or grassy areas located in or in the vicinity of the project area (potential for ground or tree-nesting birds)?

**NOTE: For all projects taking place in the BZ, contact ecology personnel for further evaluation. For questions, or if having difficulty with project evaluations, contact ecology personnel.**

[2] If project manager determines migratory bird impacts are an issue for the project; then a bird nest survey (as specified in Section 6.2 below) of the project area and structures needs to be conducted. This survey may be conducted either by project personnel, or by ecology personnel if requested.

### 6.2 Personnel Conducting a Bird Nest Survey

Perform a bird nest survey in accordance with the following criteria:

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- [1] Building and/or Structural Surveys
- [a] Gather appropriate survey equipment (i.e. binoculars, poles with mirrors, etc) to perform a walkdown of the project area.
- [b] Walk around the project area inspecting buildings, structures, and any trees or shrubs near the structures or in the area that will be disturbed by project activities.
- NOTE: Nests can be composed of vegetation, trash, mud, or other materials.**
- [c] Survey the exterior of the structure, overhangs, porches, lights, electrical boxes and conduits, doors, plumbing pipes, heating ventilation and air conditioning units, gutters, staircases, outside walls, ledges, etc.
- NOTE: Nests are often hidden with only a small portion of the nest visible. Evidence of the presence of a nest is often indicated by the presence of vegetative material or trash sticking out from behind something. A large amount of bird droppings in one spot may indicate bird nesting activities above the spot.**
- [d] If a nest is found, determine if it is active (has young birds or eggs inside). Most bird nests will not be active in the winter (Nov. – March).
- [i] If the nest is inactive, remove the nest from the structure, and immediately either destroy the nest or dispose in the trash.
- [ii] If the bird nest is **active**, contact ecology personnel.
- [e] If bird nests are not present, or are inactive, coordinate with project management to document the negative results of the survey. Documentation may be in the form of a letter, note to project file, memorandum, electronic mail to ecology, etc.
- [f] Bird nest surveys are valid for two weeks after survey date. **But , if an active nest becomes established during the two week window, USFWS approval is required to remove the nest.** This process could delay or impact project schedules. If project activity is not initiated during the two weeks, the bird nest survey needs to be repeated. Once a nest survey is accomplished, proactive measures

need to be taken by project personnel to deter or discourage future nesting. Contact ecology personnel for specifics.

- [2] Natural Area (i.e. grasslands, shrublands, exterior open spaces)  
Bird Nest Surveys
- [a] Gather appropriate survey equipment (i.e. binoculars) to perform a walk-down of the project area.
- If possible, it is best to have two people conducting the survey; however one person can perform the survey.
- [b] If one person conducts the survey, the area to be surveyed should be traversed in a criss-cross pattern, back and forth, every five to ten meters, depending upon the density of the vegetation. If two people conduct the surveys, the individuals should walk abreast at a distance of five to ten meters apart, depending on the density of the vegetation. In dense vegetation, the distance between survey routes should be reduced.
- [c] Take special notice of any birds that are flushed as the survey area is walked down.
- [d] Inspect the location where the bird was flushed for nests.
- [e] If a nest is found, determine if it is active (has young birds or eggs inside). Most bird nests will not be active in the winter (Nov. – March).
- [i] If the nest is inactive, remove the nest from the area, and immediately either destroy the nest or dispose in the trash.
- [ii] If the bird nest is active, mark the location of the active bird nest (place marking flag near, but not right next to the nest), and contact ecology personnel.
- [f] If bird nests are not present, or are inactive, coordinate with project management to document the negative results of the survey. Documentation may be in the form of a letter, note to project file, memorandum, electronic mail to ecology, etc.
- [g] Bird nest surveys are valid for two weeks after survey date. **But , if an active nest becomes established during the two week window, USFWS approval is required to remove the nest.** This process could delay or impact project schedules. If project activity is not initiated during the two weeks, the bird nest survey needs to be repeated.

Once a nest survey is accomplished, proactive measures need to be taken by project personnel to deter or discourage future nesting. Contact ecology personnel for specifics.

### **6.3 Ecology Personnel – Active Nest Response**

- [1] If active bird nests are found during the surveys, ecology personnel will work with the project personnel to avoid and/or minimize impacts to the nests.
- [2] Ecology personnel may remove the nest if the nest removal is allowable under the MBTA.
- [3] If necessary, Ecology personnel may obtain an active nest removal permit from the USFWS to remove an active nest.
- [4] Ecology personnel will document all actions taken, and will provide project management with the proper documentation. Documentation may be in the form of a letter, note to project file, memorandum, electronic mail, etc.

## **7 RECORDS**

Project personnel are responsible for maintaining records specified in Section 6.2 and any records provided by ecology personnel.

## **8 REFERENCES**

Migratory Bird Treaty Act, 16 U.S.C 703-711

Title 33, Colorado Revised Statutes, Article II, Nongame and Endangered Species Conservation

1-DO6-EPR-END.03, Identification and Protection of Threatened, Endangered and Special-concern Species

50 CFR Parts 10, 13, 14, 20,21, and 402