



# Protection of Nesting Birds During Construction & Tree Trimming

*Did you know?*

**TO HARM OR KILL A NATIVE BIRD IS A VIOLATION OF FEDERAL AND STATE LAW**



## State & Federal Laws Protect 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, that are managed by individual states.

California Fish and Game Code Section 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.

## How Can You Avoid Nesting Birds During Construction & Tree Trimming?

- ⇒ 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 **February 1st through August 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 as described below:
  - ◆ Inspect the construction areas for active nests. 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. Construction activity within 300 feet of an active nest should be delayed until the nest is no longer active. Keep watch on the active nest, 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 area, including removal of the nest.
  - ◆ Consider hiring 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.

## ALL Native Birds are Protected

Since only a few birds encountered in the City of Newport Beach 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 the US Fish and Wildlife (916-414-6464) or California Department of Fish and Wildlife office (909-484-0459).



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**Municipal Operations Tree Division (Parkway Trees): 949-644-3055  
Code Enforcement: 949-644-3215  
Permit Information: 949-718-1888**