

Lauren Hoerr

From: Anderson, Christopher D (DFW) <Christopher.Anderson@dfw.wa.gov>
Sent: Tuesday, April 24, 2018 12:48 PM
To: Steve Crane
Cc: Lauren Hoerr
Subject: RE: 4611 NE 178th St Lake Forest Park
Attachments: 2018 CRANE NEST REMOVAL PERMIT_4611 NE 178th St LF Park.pdf;
Bird_Nest_Removal&Mgmt-SOP.PDF

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Crane,

Please see attached WDFW state nest destruction permit. In this case the permit provides for RCW 77.15.130; Protected fish or wildlife – Unauthorized taking.

I've made three visits to the site or in the vicinity to monitor wildlife use of the area, subject 42" DBH Douglas-fir, and stand of trees associated with subject tree authorized for removal by city of Lake Forest Park. Efforts have been in morning, afternoon and evenings to confirm similar use or shifts in use given time of day. I also canvassed the neighborhood and area to discuss any observations by locals.

The nest itself has no observed use as of last Friday evening, 4.20.18. It appears unmaintained currently. The nest cannot be specifically confirmed to species by WDFW but in my opinion it is very atypical of Osprey – both in substrate size/type/nest placement but also in tree structure, location within tree, type of stand and ingress/egress options that species specifically prefers. I feel, in the absence of actual observed active nest use by a given species – that it is more likely an old American Crow nest or Cooper's Hawk – both seen in the area. Multiple crow were observed in and out of the tree (but not nest) and in and out of the greater stand of trees – more indicative of territorial use of the area by nesting crows. Further – no raptor displayed territorial use of the subject tree or greater stand of trees. Osprey are in the greater area utilizing cell towers for nesting. It is plausible those known birds fly-over in feeding bout efforts to the lake and back to nest and may explain reported anecdotal observations of Osprey in the greater area. There is no prey refuse or white-wash (defecation matter) in or below the tree which would be more typical of recent large raptor use. Bald Eagle were the most present raptor in the area.

It is plausible there is an undocumented eagle nest in the greater area – but not on site at this time nor in subject tree based on above mentioned observation efforts. WDFW no longer actively monitors or engages in management of Bald Eagles; per our website below. WDFW defaults to the federal US Fish and Wildlife Service in Bald Eagle Management. WDFW recommends that any real Bald Eagle nesting activity or occupancy that is documented be reported and followed-up appropriately with USFWS; per our website. WDFW recommends any bald eagle nests be reported to iNaturalist.

https://wdfw.wa.gov/conservation/bald_eagle/

<https://www.inaturalist.org/>

It must be noted that the scenario for any of the above protected species would be handled the same as outlined above for nest destruction requests involving municipal approved tree removal and reasonable use of the site as outlined to WDFW. Again, American Crow were most often noted in the stand and tree and displayed territorial behavior. One Cooper's Hawk was observed ringing (in high circular flight) quite to the north. Both of the aforementioned species

typically do not reuse a nest but are more likely to renest in the vicinity of any given annual nest built. A pair of Bald Eagles were observed most often toward the lake or farther upslope. Eagles were observed in paired ringing and association; thus likely a local territorial pair (but again not on site). I do not believe they are very close as with crows and one Red-tailed Hawk soaring over the immediate site in general wandering flight for foraging (not showing territorial use of the immediate tree or stand) – neither eagle escorted these birds which would be typical if within the core of any eagle territory (defined area per USFWS – see their website for “defined territory” as it that is federal management). The same would be for Osprey – they would be quite boisterous and be escorting any raptor or be alert to crows that were regularly present from their core territory (a nest).

- As the permit outlines, if the subject nest or any other obvious nesting/denning wildlife is observed in the subject tree by a contracted tree service/arborist in actual tree removal efforts; work must halt.
- Examination for such use must be done prior to alteration or removal of the tree. Contact WDFW for direction if use is observed. WDFW cannot predict future potential use by a given species given current knowledge and recent observations. Therefore, we require the aforementioned due diligence.

Please follow the stipulations of the attached permit in tree removal efforts and thus destruction of the subject nest reported. Please post the permit on site during felling of tree and destruction of nest.

If there are clarification needs or actual use of the tree by nesting or denning wildlife are noted prior to removal; please contact me to examine any needs or assistance.

Thank-you for patience in issuance as it is the thick of field season along with other regular duties and associated needs. Requests are processed at a slower rate during this time of year due to this.

Thanks,

Chris Anderson
District Wildlife Biologist
District 12, King County
WA Dept. of Fish and Wildlife - Region 4
16018 Mill Creek Blvd.
Mill Creek, WA 98012
425.775.1311, ext 111
Christopher.Anderson@dfw.wa.gov
<http://wdfw.wa.gov>

Want to attract more wildlife to your property?
Check out the WDFW Backyard Wildlife Sanctuary Program:
<http://wdfw.wa.gov/living/backyard/>

Bats are dying due to an epidemic disease now found in WA.
Find out more and how you can help here:
<http://wdfw.wa.gov/conservation/health/wns/>

From: Anderson, Christopher D (DFW)
Sent: Tuesday, April 10, 2018 11:13 AM

To: 'Steve Crane' <cranesteve@hotmail.com>
Subject: RE: 4611 NE 178th St Lake Forest Park

Thanks Mr. Crane,

I believe this provides me with all the information I need currently.

I plan to try and get out to the site to examine the tree this week. WDFW will examine your request for nest destruction once we have field determination.

Regards,
Chris

Chris Anderson
District Wildlife Biologist
District 12, King County
WA Dept. of Fish and Wildlife - Region 4
16018 Mill Creek Blvd.
Mill Creek, WA 98012
425.775.1311, ext 111
Christopher.Anderson@dfw.wa.gov
<http://wdfw.wa.gov>

Want to attract more wildlife to your property?
Check out the WDFW Backyard Wildlife Sanctuary Program:
<http://wdfw.wa.gov/living/backyard/>

Bats are dying due to an epidemic disease now found in WA.
Find out more and how you can help here:
<http://wdfw.wa.gov/conservation/health/wns/>

From: Steve Crane <cranesteve@hotmail.com>
Sent: Monday, April 9, 2018 3:04 PM
To: Anderson, Christopher D (DFW) <Christopher.Anderson@dfw.wa.gov>
Subject: 4611 NE 178th St Lake Forest Park

hello, Chris

I decided to send documents to you early before I encounter problems later with a hard drive that is beginning to show signs of failure.

When I get your email with further questions or applications I can easily answer them on any computer.

Thank you for the call and information by phone this morning!

Kind regards

Steve Crane
425-770-5998



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

16018 Mill Creek Boulevard, Mill Creek, Washington, 98012 * (425) 775-1311 * Fax (425) 338-1066

April 23, 2018

To whom it may concern,

This letter serves as the permit to allow removal of a reported nest pursuant to RCWs 77.15.130 and WAC 220-440-040. This permit allows the removal of the subject inactive nest; provided no bird or eggs are present in the subject nest. This permit does not provide for any additional federal or local municipal permit or consultation needs.

The following conditions apply to the nest removal:

1. No birds or eggs may be injured, destroyed or killed.
2. Subject nest shall be removed when inactive, per outlined in permit below via site-specific consultation with WDFW.

If you have any questions regarding the conditions of this permit, please contact King County Area Wildlife Biologist Chris Anderson by telephone at (425) 775-1311, ext. 111 or by e-mail at Christopher.Anderson@dfw.wa.gov.

Sincerely,

Fenner Yarborough
Region 4 Wildlife Program Manager

STATE OF WASHINGTON DEPARTMENT OF FISH AND WILDLIFE



INACTIVE NEST REMOVAL PERMIT


LOCATION #: PARCEL 4019301515	PERMIT #: 2018 CRANE_4611 NE 178 TH ST LF PARK	
ADDRESS: 4611 NE 178 TH ST	SPECIES: INACTIVE DOES NOT APPEAR OSPREY OR EAGLE GIVEN MULTIPLE FIELD OBSERVATIONS, NEST TYPE, TREE STRUCTURE, WILDLIFE BEHAVIOR IN AREA.	YEAR: 2018
CITY: LAKE FOREST PARK	PERMITEE: STEVE CRANE AND ANY TREE REMOVAL/ARBORIST CONTRACTOR	
NATURE OF REQUEST: City of Lake Forest Park has granted removal of tree that subject nest is in. Owner has requested nest take.	ADDRESS: N/A	
MITIGATION AGREEMENT: SEE ABOVE CONDITIONS OUTLINED IN LETTER. FURTHER, WHEN TREE IS REMOVED SUBJECT NEST MUST BE EXAMINED FOR PRESENCE OF EGGS OR YOUNG BIRDS PRIOR TO ANY TREE CUTTING OR NEST REMOVAL. IF EGGS OR YOUNG PRESENT WORK MUST HALT. CONTACT WDFW FOR DIRECTION.	CITY: ----	ZIP: ----
	STATE: -----	
	VALID DATES: <u>NO BEGINNING/END DATE; provided no bird or eggs occupy subject nest AND no new occupied nests are noted.</u>	

THIS PERMIT AND THE ENCLOSED LETTER MUST BE ON THE SITE WHILE THE NEST IS BEING REMOVED

June 18, 2013

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE
Wildlife Program

*Bird Nest Removal and Management in Washington— Standard Operating
Procedure*

Approved By: 

I. PURPOSE

Washington has rather sweeping protections for bird nests and their contents under several statutory provisions. It is common for people to encounter active and recently used bird nests in a variety of settings. Sometimes those situations merely present questions of curiosity, but other situations present conflicts with sites that are part of commercial, agricultural, communication, or other business uses or may be seen as a health or safety concern. Nonetheless, protections accorded to bird nests in Washington are important to address in statutorily- and conservation-positive ways while effectively meeting human interests. It is especially important for the Washington Department of Fish and Wildlife (WDFW) to distribute consistent information about how to manage such situations among diverse settings across the state in 6 administrative regions. This document is intended to provide guidance for all anticipated circumstances where the public contacts WDFW with requests for assistance involving management of bird nests. There is no expectation that this S.O.P will cause WDFW staff to stimulate more regulatory actions or develop more complicated procedures.

Generally, removal or disruption of nests during active nesting (attentive adults, eggs, young in nest) is strongly discouraged. However this S.O.P. recognizes that there can be situations where disrupting active nests is considered necessary and allowable. As such, this S.O.P. describes guidance and consistency within which regional judgments and discretion are expected regarding local cultures, landscapes, and species.

This S.O.P. relates to direct, purposeful disturbance or taking of nests or contents (e.g., eggs, young). **This S.O.P. is not, in any way, intended to affect or apply to nests that may be disturbed unknowingly by otherwise lawful actions (e.g., timber harvest during approved forest practices, agricultural operations).**

June 18, 2013

This SOP is consistent with the following Statutory/Regulatory context:

State:

With few exceptions, nests of birds are protected from removal or disturbance in Washington by statute (RCW 77.15.130) that states *(1) A person is guilty of unlawful taking of protected fish or wildlife if: (a) The person ... possesses or maliciously destroys the eggs or nests of protected fish or wildlife, and the taking has not been authorized by rule of the commission;*"

The description of protected birds (under RCW 77.12.020) is all wild birds not classified as game birds or predatory birds. Lists of species in various protective designations are included in WAC 232-12-004 (game birds and predatory birds), WAC 232-12-011 (threatened and sensitive), and WAC 232-12-014 (endangered). These species, including their nests, eggs, and young are additionally protected under these respective rules and associated statutes.

Thus, there are relatively few bird species in Washington for which the nests and eggs aren't protected under RCW 77.15.130, at least in some stage of use. The WDFW Director has ability to issue authorizations or permits for what might otherwise be unlawful acts (RCW 77.12.240). The Director has delegated approval of nest removal to Regional Wildlife Program Managers through Policy 1004

Federal:

Many bird species occurring in Washington are accorded federal protection under the multinational Migratory Bird Treaty Act. While that treaty does not include identical provisions regarding bird nests year-round as do Washington statutes, it does protect active nests, eggs, and young as well as any adult birds tending such nests. Other federal protections exist for individual species (e.g., Bald and Golden Eagle Protection Act). Any consideration of actions regarding bird species protected under these federal statutes and treaties needs to involve possible permit requirements through the U.S. Fish and Wildlife Service. For more information, refer members of the public to the USFWS Regional Office in Portland, OR (503-872-2715, pacific_birds@fws.gov, <http://www.fws.gov/pacific/migratorybirds/mbpermits.html> or <http://www.fws.gov/pacific/migratorybirds/contact.html#staff> .

Local:

Nests, eggs, and young of species included in the WDFW Priority Habitat and Species program are afforded protection under many local government critical area ordinances and other similar regulations. Typically, state and/or federal authorization meets the requirements of local jurisdictions. Persons contacting WDFW also should be directed to county or municipal offices for clarity.

June 18, 2013

Categorization of Birds and Nests

For purposes of this S.O.P., bird nests are placed in 5 categories:

Category 1 - nests of species for which specific regulations beyond the Migratory Bird Treaty Act specifically address protection of habitat, including nests (e.g., forest practices rules);

Category 2 - **durable nests** in natural settings for species not subject to other special protections;

Category 3 - **ephemeral nests** in natural settings for species not subject to other special protections;

Category 4 - all nests on human-made structures; and

Category 5 - nests of species for which protections are not provided under state or federal laws (house sparrows, European starlings, rock pigeons [rock doves], Eurasian collared dove, mute swan)

Human-made structures are defined as any fixed or movable structure built by humans-including houses, buildings, bridges, utility and communication towers, construction equipment, channel/navigation markers, pilings, etc. – that provide a substrate within which, or on which, a bird nest may be situated. **Durable nests** are substantial in their construction or composition and through regular maintenance by the birds may last and be used for many years (e.g., stick nests, cavity nests). Durable nests generally include large stick nests and nests placed in large-diameter snags or defective trees. **Ephemeral nests** are those not expected to persist or be used from year to year or which are less persistent than durable nests.

II. SUMMARY OF BIRD NEST PROTECTION STRATEGIES AND APPROACHES

1. *Category 1. Nests of special-status species protected by regulation:*

- a. All nest protection should defer to extant regulations.
- b. Examples of extant regulations include management of spotted owl and marbled murrelet habitat governed by forest practices rules and protections of bald eagle and golden eagle nests authorized under the Bald and Golden Eagle Protection Act.

2. *Category 2. Durable nests in natural settings:*

- a. These nests should be protected whenever possible.
- b. Such nests are often situated in large trees or snags that may be rare or uncommon on the landscape and the bird species involved tend to be long-lived, use large territories, and nests represent enduring aspects of the species biology.
- c. Examples of species that build or use such nests include large raptors (e.g., osprey, some owls) and large woodpeckers (e.g., pileated woodpecker).

June 18, 2013

- d. Such nests or nest trees may be removed when they pose a safety hazard under normal situations at the site.
- e. To the extent practicable, removal of such nests or nest trees should be conducted prior to the nesting season (e.g. prior to when eggs are laid) or after young have fledged.

3. *Category 3. Ephemeral nests in natural settings:*

- a. The vast majority of ephemeral nests are difficult to locate in most settings without specific training or experience.
- b. Examples of species that build ephemeral nests include songbirds (passerines) and other small species that nest in trees, shrubs, and on the ground.
- c. These nests typically do not endure long in nature and are not reused.
- d. With the exception of possible unforeseen circumstances, such removal of nests should be considered generally acceptable outside the nesting season and can be covered by a general authorization statement.

4. *Category 4. Nests placed on human-made structures:*

- a. A few species (e.g., ospreys, peregrine falcons, herons, cormorants, swifts) may build or situate their nests on human-built structures.
- b. Owners or managers of human-built structures should not be obligated to maintain or protect nest structures or install barriers to prevent nesting, but opportunities for voluntary protection or other measures may be investigated.
- c. To the extent practicable, removal of durable or ephemeral nests or placement of barriers to prevent nesting on human-made structures should be conducted prior to the nesting season (e.g., prior to when eggs are laid) or after young have fledged. These activities can be conducted without WDFW staff involvement.
- d. Removal of nests during the nesting season (e.g., for human health or safety reasons) should not be prevented by WDFW, should involve interaction with WDFW District Biologists, and should clearly demonstrate immediacy of need for human health or safety reasons. Removal of such nests must be specifically authorized/permitted by WDFW.
- e. WDFW District Biologists may request voluntary installation of barriers to nesting (e.g., nest exclusion devices) on human-made structures with repeated use by nesting birds. Removal of such nests outside of the nesting period can be authorized by a simple written or verbal statement from Regional Wildlife Program Managers.

June 18, 2013

5. *Category 5. Nests that are not protected:*

- a. Nest site protection is not afforded to a small number of bird species in Washington.
- b. There are no limitations or constraints regarding removal of nests of these species, and no authorization is needed to do so.
- c. Designated game birds and predatory birds are in this category with respect to WDFW procedures, but recognize that many of those species (e.g., waterfowl, band-tailed pigeon and mourning dove, magpie, crow) are subject to federal protections.

III. PROCEDURE – WDFW ACTIONS:

In general, any actions regarding nest removal and management as provided for in this S.O.P. are to be authorized/permitted in writing and signed by the respective WDFW Regional Wildlife Program Manager (per Policy 1004). The nature and form of the authorization/permit is as follows:

1. *Category 1. Nests of special-status species protected by regulation:*

- a. Any action allowed must be provided for in explicit written documentation, prepared by the applicable responsible agency that complies with the guiding statute, rule, or other protective document (e.g., an approved forest practices application, a permit to take under the Bald and Golden Eagle Protection Act).
- b. Refrain from allowing nest/contents removal and disturbance at any time and definitely during nesting season. If some nest disturbance is considered necessary, work with responsible agency to establish written provisions that diminish deleterious effects to the extent possible over multiple years.

2. *Category 2. Durable nests in natural settings:*

- a. Minimize allowing nest/contents disturbance or removal at any time.
- b. If nest disturbance is considered necessary, any action allowed must be in explicit written authorization/permit that diminishes deleterious effects over multiple years.

June 18, 2013

3. *Category 3. Ephemeral nests in natural settings:*
 - a. Minimize allowing nest/contents disturbance or removal during active use period.
 - b. Any action allowed during active use period should be provided for in explicit written authorization/permit to diminish effects that year.
 - c. Outside of active use period, use simple authorization statement format (Option 1 or 2).

4. *Category 4. Nests placed on human-made structures:*
 - a. Nest disturbance, re-positioning, or removal is allowed as judged necessary by structure owner or manager; structure owner is not required to subsidize or provide alternative nest site but may do so voluntarily.
 - b. Allowed actions must be provided for in explicit written authorization/permit; include description of applicable voluntary actions.

5. *Category 5. Nests that are not protected:*
 - a. No documentation needed; nests may be removed anytime.

IV. ACTION DECISION MATRIX

Category	Action Based on Nest Contents and/or Adult Behavior			
	Attending Adult(s)	Fresh Nest Material	Eggs or Young	Nest Empty & Unattended
1	Action A	Action A	Action A	Action A
2	Action B	Action B	Action B	Action B
3	Action C	Action C	Action C	Action D
4	Action E	Action E	Action E	Action D
5	Action F	Action F	Action F	Action F

1. *Action A.*
 - a. Discourage any action.
 - b. If action is judged necessary at any time of year, defer to documentation by agency responsible for special protection regulations and encourage proper nest handling.
 - c. Preparing a written WDFW authorization or permit consistent with distinct protections is acceptable but not required.

2. *Action B.*
 - a. Discourage any action.
 - b. If any action is judged necessary any time of year, prepare written authorization/permit consistent with sound professional judgment.

June 18, 2013

3. *Action C.*
 - a. Discourage any action during breeding season.
 - b. If action is judged necessary during active period, prepare written authorization/permit consistent with sound professional judgment.

4. *Action D.*
 - a. Use simple removal authorization during inactive period.

5. *Action E.*
 - a. Seek to resolve as early as possible; if action will be taken, prepare a written authorization/permit consistent with sound professional judgment and alternatives likeliest to diminish or eliminate prospect for similar situation in subsequent years (e.g., alternate nest site, nest exclusion devices).

6. *Action F.*
 - a. Nest may be removed regardless; no authorization needed any time of year.

NOTE1: Anyone seeking to disturb or remove nest(s) on a broad-scale, repetitive, or specialized site basis may be better served to obtain a more inclusive authorization/permit from the Director. In those instances, refer such individuals to the Director's office or Wildlife Diversity Division Manager.

NOTE2: Any provisions for removal of eggs or young during the nesting period should be accompanied by reasonable requirements for transfer to a qualified wildlife rehabilitation facility or permitted rehabilitator.

June 18, 2013

**V. EXAMPLE REGIONAL LETTER AUTHORIZING/PERMITTING NEST
DISRUPTION/REMOVAL**

(NOTE: This format exemplifies an explicit written authorization that generally documents expectations developed under Actions A, B, C, or E. Regional Wildlife Program Manager may include attachments [e.g., special osprey nest removal permit])

Date

Dear:

This letter and enclosures or attachments (if any) authorize and permit [person name(s)] to [briefly describe allowed bird nest disruption action(s)] pursuant to RCW 77.15.130 and WAC 232-36-040. This authorization/permit allows nest disruption or removal during or outside [specify either or both] of the nesting season [indicate time frame based on local information or reference to PHS website]. Additional permits may be required from the US Fish and Wildlife Service for removal of the nest during the nesting season.

The following conditions apply to disruption or removal of a nest or its contents:

1. No birds or eggs may be injured, destroyed or killed.
2. Nests on human-made structures are discouraged; you are authorized to take the following actions [specify during or outside] the breeding season
3. Nest and bird excluders are encouraged on human-made structures; you may voluntarily do so at your expense but you are not required to do so.
4. Alternate nest sites are not required, but may be provided on a voluntary basis at private expense if local circumstances indicate such a desire. Any such action should be planned so as to diminish likelihood that a nest will need to be removed in subsequent years. Nest and bird excluders for raptors have higher success when combined with strategic placement of alternate nest sites nearby.
5. [insert other conditions as professional judgment indicates are needed]

If you have any questions regarding the conditions of this authorization/permit, please contact [WDFW staff person name] by telephone at [phone number] or by e-mail at [e-mail address].

Sincerely,

B.A. Wildlifer
Regional Wildlife Program Manager

Enclosures

cc:

June 18, 2013

VI. SIMPLE AUTHORIZATION/PERMIT FORMAT FOR NEST REMOVAL

(NOTE: These formats exemplify a brief approach to quickly and effectively document nest removal authorization that involves species or nest situations for which there is no concern about disruption of inactive nests.)

OPTION 1 (applies when there has been a contact with WDFW that invokes a need for a written statement):

Date

The bird nest(s) of <indicate species> you have inquired about via:

Telephone call on <date>

Letter dated <date>

e-mail dated <date>

are judged to be short-duration nests outside of the breeding season for species whose nest(s) do not require further protection beyond preliminary contact with a WDFW office or are unprotected species. You are categorically allowed to disturb or remove such nest(s) without further action from WDFW.

_____ (signed)
Region <#> Wildlife Program Manager

OPTION 2 (provides a "blanket" authorization for simple situations that can be addressed verbally after public contact with WDFW):

Notify the person contacting WDFW that the nest they are inquiring about is in a category under standard operating procedures that does not require any further protection outside the nesting season time frame that applies when the contact is made. The Regional Program Manager's signature below on this WDFW S.O.P. authorizes removal or disruption of that nest without further action by the person inquiring. Nothing needs to be sent to anyone unless Regional Wildlife Program Manager wishes to send a statement for documentation.

_____ (signed)
Region <#> Wildlife Program Manager

_____ (Date)

June 18, 2013