



Migratory Bird Convention Act Operational Considerations – Standard Operating Procedure

Introduction:

This document has been prepared to provide ‘general’ direction related to the Migratory Bird Convention Act hereto referred to as ‘the Act’, and specifically, is focused on providing soft direction to Signing and Sealing Foresters undertaking works for BCTS Chinook and addresses basic field engineering requirements.

The Act has been in effect since the early 1900’s but has seen resurgence over the past several years in terms of public profile. The Act can be found via the following link: <http://laws-lois.justice.gc.ca/eng/acts/m-7.01/>

In summary it is illegal to:

- kill, capture, injure, take or disturb migratory birds , or
- damage, destroy, remove or disturb a nest or its egg(s)

There are other birds not covered by the Act but are covered via the Wildlife Act; e.g., hawks, owls, etc. **Please note there is no distinction between an occupied nest and an unoccupied nest.**

Guidance to Signing and Sealing Forester

Due Diligence

Given the difference in a nest that will see ongoing usage vs nests that will not be re-occupied, and, the unique role of BC Timber Sales as a Licensor, the Signing and Sealing (S&S) Forester is only responsible for ensuring that their ‘plan’ reflects the best information available at the time that field engineering has occurred and is consistent to the extent practicable with overarching legislation. Once a TSL has been awarded the S&S Forester has no professional exposure or obligation to ensure that the TSL Holder is ensuring their operations as consistent with all applicable legislation. The S&S Forester’s obligation involves ensuring that pertinent information is transferred to the TSL Holder. Information transfer will be done via the Site Plan and Harvest Plan documents and maps; for the S&S Forester, and, via the TSL Highlights and pre-work conducted by BCTS Chinook staff.

To facilitate communication it is recommended that the S&S Forester, within the Wildlife Section of the Supporting document, have text that resembles the following: *In relation to the Migratory Bird Convention Act (MBCA), during the course of normal forest duties the area was visually inspected for nests during layout in the month of “X” which may have influenced the probability of encountering any values as cited in the legislation. Nest trees were flagged and painted with 3 orange dots. It is the obligation of the TSL Holder to ensure that operations are consistent all pertinent legislation. In relation to Block XXX and/or Road Number XXX and station number YYY a “type of nest inserted” was encountered.*



Note: If more than one nest or type of nest is encountered it is acceptable to insert a table instead; e.g.

Block/Road	Station (if applicable)	Type of Nest (stick/cavity/songbird/ground)	Coordinates

For Silvicultural Practices and Road Engineering Works

The MBCA applies to your activities as well. This is especially important where we have contactors doing works for us. Any prescription developed must also provide for:

- an indication of when the site was inspected related to the MBCA
- the location of any nests; GPS point data
- a relevant buffer size, if one is required
- where 'blasting' may occur, the need for timing windows, if deemed necessary by a qualified professional

What happens if a nest is encountered?

Operationally there will be a distinction between large stick nests and cavity nests, and, song/small bird nests and ground nests.

General Direction

- Environment and Climate Change Canada has the following buffer size recommendations:
 - 10 - 50 meters or more for songbirds and other small bird nests,
 - 50 meters or more for swallow colonies
 - 100 to 200 meters for a pileated woodpecker, or
 - 500 meters or more for a Northern Goshawk.
 - It should be noted however, that there are various factors that could be considered when determining an appropriate buffer size.
 - One that can be considered is the guidance found in the 'Guidelines for Raptor Conservation' (2013):
http://www.env.gov.bc.ca/wld/documents/bmp/raptor_conservation_guidelines_2013.pdf
 - In this guidance the size of buffer is a function of the type of bird and its habituation to human activity; see tables 3 and table 6.
 - Habituation will also be a strong consideration for other stick and cavity nest buffer sizes



- The type of activity; low impact; e.g., walking into an area vs. significant activities like falling, yarding, etc.
 - Example. You would need a larger buffer when falling is to occur vs. undertaking silviculture surveys where buffers could be much small or even non-existent.
- That when establishing a buffer around tree with a stick nest or cavity nest ensure that safety has also been considered; i.e., Wildlife Danger trees require a buffer that is 1 ½ times the tree height
- **NOTE:** Work can commence/continue outside of these buffer zones unless it is an activity like blasting which may require the imposition of a timing window restriction

Recording/Marking Nest Location

- For all nests provide a GPS coordinate; point data.
- Mark trees with a stick nets or cavity nest with 3 orange dots consistent with the 'retention tree' marking standard

Buffer Sizes

Large Stick Nests and Cavity Nests

- Consider ECCC's recommended buffer sizes
- Consider 'Guidelines for Raptor Conservation' (2013) and/or as legislated, or, as recommended by a qualified professional; an RPF can be deemed a qualified professional.
- Consider 'habituation'.
- Indicate the location of the nest on the Site Plan/Harvest Plan map(s) and
- capture a GPS location

Songbird nests/Ground nests

- No hard buffers are to be marked in the field unless the nest is occupied and harvesting/road construction has a **high** probability of occurring within 30 days of the encounter
- Capture GPS location
- Indicate location on Site Plan/Harvest Plan map(s)



Map Symbolology

- Point data of nest location(s) is to be shown on the Site Plan/Harvest Plan map(s) and referenced in TSL highlights.

The specifications:

- Color: Raw Umber
- Size: 11 pt
- Halo: White 1.25

