

The birds and the trees

Merlin Schlumberger

ARBORISTS THAT CLIMB spend a lot of time in trees. Exposure to wildlife, such as birds, is inevitable during their work. Many of us, though, are unaware that pruning during certain seasons can actually be against the law and result in substantial fines if the activity disturbs protected nesting birds.

The Migratory Bird Treaty Act of 1918, one of the oldest environmental laws, was created to protect native and migratory bird species. This law states that it is *“illegal for anyone to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such a bird except under the terms of a valid permit issued pursuant to Federal regulations.”* Arborists are most likely to unintentionally violate this law by agitating, disturbing, harassing, or frightening away birds in their nests while doing tree work, or removing a tree or branch with an active nest.

Figure 1. Nesting birds can be well camouflaged and difficult to see.



Editor's note: California law states that *“Except as otherwise authorized in these regulations or in the Fish and Game Code, no person shall harass, herd or drive any game or non-game bird or mammal or fur-bearing mammal. For the purposes of this section, harass is defined as an intentional act that disrupts an animal's normal behavior patterns, which includes but is not limited to, breeding, feeding or sheltering. This section does not apply to a landowner or tenant who drives or herds birds or mammals for the purpose of preventing damage to private or public property, including aquaculture and agriculture crops.”*

Wildlife is most active from early spring to late summer. Many birds are nesting during this period and are

- **Look for signs.** Raptors leave obvious signs around their roosting and breeding sites such as large amounts of 'white wash' (bird poop).
- **Look for pellets** — dry cylindrical wads consisting of fur and bones from the prey of owls/raptors on the ground surrounding the tree.
- **Listen for vocalization.** Ask tree owners and neighbors if they have heard loud hooting, whistling, hissing, or screeching in the neighborhood. Hawks often call loudly in spring. Owls have various vocalizations such as hooting and screeching at night.
- **Ask homeowners** if they have noticed bird activity in their trees

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vulnerable to disturbances resulting from tree climbers while pruning or doing other tree work, including pesticide spraying. It is best to prune in the late fall and refrain from pruning in the spring, but this is not always practical. If you are unable to postpone the tree work, perform a wildlife survey before completing the job. Unfortunately, many small nesting birds will be camouflaged and hard to find (Fig. 1). Take the time to quietly observe trees and take note of bird species present. Nesting birds may not fly out of their nests. The Hungry Owl Project, a non-profit dedicated to educating the public about owl and wildlife conservation, recommends the following tips for assessing if there are nesting birds in a tree:

prior to any tree work.

It is also important to educate yourself regarding the birds that frequent your work area. Learn about when and where they nest and what their nests look like. Some song birds, small owls, and kestrels nest in cavities with openings that are three inches wide or smaller, while barn owls prefer larger hollows. Other song birds, hawks, ravens, and great horned owls create 'stick' nests in the canopy of trees. Palm trees often contain nests of numerous bird species within their dead fronds. While nesting season is especially critical, birds can be found nesting in trees year-round. Some birds, such as woodpeckers or owls remain in cavities year-round. Mammals such



Figure 1. (Left) Birds can be placed in a wicker basket as a substitute nest.

Figure 3. (Right) Red shouldered hawk adapting to new nesting basket.

as opossums, raccoons, and squirrels can also be found dwelling in trees. Consulting a professional in your area to do a pre-work survey is advisable in order to confirm that it is possible for the work to be done without disturbing nests.

If you come upon a fallen nestling (young bird) or nest with nestlings, contact your local wildlife rescue/rehabilitation center or animal rescue (Humane Society). Provide these organizations with as much information as possible about the location of the found nestlings, including landmarks. Ideally, birds can be placed back in their original nest with their parents or other nestlings. If the nest is damaged or has become dislodged, either naturally or inadvertently during pruning or tree removal, we will use a wicker basket as a substitute nest and place it nearby (Figs. 2-3). In order to reunite the babies with their parents, the new nest must be placed as close as possible to the original location and as quickly as possible. If a fallen bird is not replaced it will undoubtedly die, and if there are no other siblings, the parents will eventually leave the area. These organizations will need the address and homeowner contact information for the release. Removing a nestling from its nest is an absolute last resort and should only be done if the bird is in grave danger. Nestlings can be found on the ground during the fledging period but are still being

cared for by their parents. If you feel the nestling is in danger from ground predators or clearly injured, you can place a cardboard box over the bird until professional help arrives. Wild animals require *specialized* care and diets that can only be provided by licensed wildlife rehabilitation facilities. **It is a violation of federal law to keep wildlife - however well intentioned.**

Organizations such as The Hungry Owl Project or the Sonoma County Bird Rescue Center (Fig. 4) will help you determine the best options by providing critical information about

Figure 4. Red-tailed hawk at Bird Rescue Center.



the bird, including breeding habits, determining what stage the breeding period is in, and probable fledging time (when the young birds might be independent enough to leave the nest). They can assess if it is appropriate to erect nest boxes or use substitute nest baskets to replace natural nests that have been destroyed naturally or by the inadvertent actions of a climber.

As arborists, it is helpful to learn about the organizations in your area that deal with birds and wildlife. I volunteer as a climber for the Sonoma County Bird Rescue Center and The Hungry Owl Project. I have been trained to handle injured or fallen raptors and I place them back in their nests when they are healthy. This is an amazing and empowering opportunity that I would recommend to arborists.

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