

ACTIONS TO PREVENT THE DESTRUCTION OF AN ACTIVE NEST

(Suggestions apply primarily to California. Laws may vary in other states. For questions, contact your state Department of Fish and Wildlife)

Know the Facts:

- In California, bird protection regulations do not prohibit tree care or tree removal during the nesting season. It is not a crime to trim or remove trees during that period.
- The Federal Migratory Bird Treaty Act (MBTA) and CA state law state that destroying or harming a nest with eggs or chicks, or taking possession of either, is prohibited by law. This includes accidental harm. It could be argued that exposing a nest to the elements (by removal of protective foliage immediately around the nest), and also working in a tree with an active nest for a protracted period in which a parent is prevented access to the nest to feed or otherwise care for the chicks, could constitute harm to nesting birds should the eggs or chicks die or the nest be destroyed.
- What constitutes harm can be a matter of interpretation, and interpretations can vary among those that enforce these regulations.
- Fines appear to be issue only in the most egregious circumstances, and when willful intent to do harm is evident.

Be Prepared:

- Keep this website readily accessible to share with tree care companies: **TreeCareForBirds.com**
- Open this link to learn what to do **[if you find a baby bird.](#)**
- Retain the following information for reporting willful destruction of nests or related concerns:

If the action occurred in California, contact **[CALTIP](#)**: 1 (888) 334 2258) 24 hours a day, 7 days a week. Be prepared to give the fullest possible account of the incident including company name, foreman's name, vehicle license number, type of violation and when and where it occurred. You may make reports, however it is highly beneficial to investigators that you provide your name as it may be necessary to seek further clarification or evidence from you.

If the action occurred in another state you may submit a report on line via **<https://www.fws.gov/wildlife-crime-tips>** or call the FWS TIPS line at 1-844-FWS-TIPS (**[1-844-397-8477](tel:1-844-397-8477)**)

Be proactive:

If you know that your city, property manager or Home Owner Association's tree care contractor is scheduled to work in a tree in which there is an active nest, contact the appropriate person/s ahead of time. You can offer to identify the tree by tying colored tape/ribbon around the trunk. **[Staples and nails are harmful to trees because the](#)**

holes they leave allow pests and disease to enter the tree. Using them to affix messages to a living tree is not recommended.

Avoid these actions:

- Initially approaching a crew with hostility and threats.
- Exaggerating facts, making statements about which you are uncertain or cannot confirm, or making threats that carry no weight and will not be enforced.

***Spanish to English translations of basic questions and statements can be found at the end of this document.**

If there is an active nest in a tree about to be pruned:

- Note the name of the tree care company.
- Approach calmly and respectfully, and request that work in the tree stop while you talk with them.
- Request to speak with the foreman on the site. Get their name.
- Point to the nest location and ask if they are aware that bird regulations prohibit disturbance or harm to an active nest. Request that the work be postponed until the birds have left the nest or no longer need the nest tree (possibly in 2-3 weeks). If possible, offer to contact them/the company when the birds have left.
- If you are concerned that work in trees immediately adjacent to the nest tree may impact the nest, tell them so, and recommend that a wildlife biologist be consulted. (The TreeCareForbirds.com website has a **list of consulting biologists**)
- Understand that the foreman will likely have to consult their supervisor or client before making a decision.
- If the company is cooperative/helpful, thank them. Get the foreman's contact information before they leave.
- Consider telling the foreman that you will contact their company to express appreciation of their cooperation. Make the promise only if you intend to follow through.

Spanish to English translations which may be helpful:

Please check this tree carefully for bird nests before you start working in it.

Translation: Antes de comenzar a trabajar en él árbol, por favor reviselo cuidadosamente para ver si hay nidos de pájaros

I think there are birds nesting in this tree.

Translation: Creo que hay pájaros anidando en este árbol.

It is against the law to harm an active bird nest.

Translation: Es contra la ley dañar un nido activo de ave.

Please stop working in this tree until I can speak with your office or supervisor.

Translation: Por favor deje de trabajar en este árbol hasta que pueda hablar con su oficina o supervisor.

If the company proceeds to knowingly destroy an active nest:

- Take photos that provide evidence.
- If nestlings are still alive, do a google search for 'nearest wildlife rehabilitation center' to ask for guidance. Do not take the birds home to care for them.
- Keep children and pets away from the nest.
- Record the reactions of the foreman or crew as accurately as you can. Adhere to facts and observations, avoiding needless subjectivity and speculation.
- Acquire names of witnesses if you can.
- Report to the proper wildlife protection agency
- Subsequently describe situation to TreeCareforBirds via:
Gillian.Martin@CavityConservation.com

An attempt may be made to inform the company of this incident with the hope of offering educational training and reducing the risk of such actions in the future.