[Rural Electric System] Avian Protection and Management Policy

Avian interaction with power lines may cause bird injuries and mortalities, which, in turn, may result in outages, violations of bird protection laws, grass and forest fires, or raise concerns by employees, resource agencies and the public. [Rural Electric System] ([RES]) is committed to minimizing its impact on migratory birds and to complying with bird protection regulations within its goal of providing reliable, cost-effective electrical service. To do this, [RES] will comply with all necessary permits, monitor and report avian mortality incidents and make reasonable efforts to construct and modify infrastructure to minimize the incidence of avian mortality. Risk assessment tools, including avian risk assessment maps provided by the U.S. Fish and Wildlife Service (USFWS) and the Nebraska Game and Parks Commission (Commission) along with [RES]’s existing system data will be used to determine proactive measures that may be taken to avoid and minimize avian interactions with electric system infrastructure owned by [RES]

This policy is intended to ensure compliance with legal requirements, while improving distribution system reliability. [RES] management and employees are responsible for managing bird interactions with power lines and are committed to reducing the detrimental effects of these interactions.

To fulfill this commitment, [RES] will:

* Implement and comply with its comprehensive Avian Protection Plan (APP).
* Ensure its actions comply with applicable laws, regulations, and permits.
* Conduct a comprehensive risk assessment of the distribution system.
* Document avian mortalities through the USFWS Avian Mortality reporting program when provided authorization by USFWS to do so.
* Modify electric infrastructure at sites where avian mortalities occur when practical. Modifications will be in accordance with the APP and will follow the Avian Power Line Interaction Committee’s (APLIC) Suggested Practices for Avian Protection on Power lines the State of the Art in 2006 and *Reducing Avian Collisions with Power Lines: State of the Art in 2012* whenever possible.
* Identify problem poles and lines, and problem nests in consultation with USFWS and the Commission as necessary and work to minimize avian interactions at problem sites.
* Provide information, resources, and training to improve employee knowledge and awareness of the APP and all of its provisions.
* Construct all new or rebuilt facilities in rural areas (outside city limits or beyond residential/commercial developments) in areas of high avian use, where appropriate, to [RES]’s avian-safe standards that meet or exceed the APLIC guidelines.

[RES] customer service and regulatory compliance will be improved and risk to avian species will be reduced through the proactive and innovative resolutions of bird power line interactions guided by this policy.

[RES] Management endorses and will support this policy and ensure that all supervisors and employees will be provided guidance and resources to meet the expectations of the policy.

Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Board President

Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

General Manager

Legal Protection of Birds

Laws currently protecting birds in the United States and Nebraska. These are:

* Migratory Bird Treaty Act
* Bald and Golden Eagle Protection Act
* Endangered Species Act
* Nebraska Nongame Endangered Species Conservation Act

***Migratory Bird Treaty Act***—The Migratory Bird Treaty Act (MBTA) protects the vast majority of birds with the exception of House Sparrows, European Starling and the Rock Pigeon and non-migratory game birds such as Ring-necked Pheasant, Gray Partridge and Sage Grouse. The purpose of the MBTA is to afford protection to migratory birds, their parts, nests, and eggs. The complete listing of federally protected species is contained in 50 CFR 10.13.

The MBTA prohibits the taking, killing, possession, and transportation, (among other actions) of migratory birds, their eggs, parts, and nests, except when specifically permitted by regulations. While the MBTA has no provision for allowing unauthorized takings, the USFWS realizes that some birds may be killed by the activities associated with utility projects and maintenance activities in Nebraska, even if all known reasonable and effective measures to protect birds are used. The USFWS Office of Law Enforcement carries out its mission to protect migratory birds through investigations and enforcement, as well as by fostering relationships with individuals, companies, and industries that have taken effective steps to avoid the taking of migratory birds and by encouraging others to implement measures to avoid takings of migratory birds. It is not possible to absolve individuals, companies, or agencies from liability even if they implement bird mortality avoidance or other similar protective measures. However, the Office of Law Enforcement focuses its resources on investigating and prosecuting individuals and companies that take migratory birds without identifying and implementing all reasonable, prudent and effective measures to avoid that taking. Companies are encouraged to work closely with USFWS biologists to identify available protective measures when developing project plans and/or avian protection plans, and to implement those measures prior to/during construction or similar activities. Preferably

***Bald and Golden Eagle Protection Act***—Bald and Golden Eagles and their eggs and nests are protected under both the MBTA and Bald and Golden Eagle Protection Act (B&GEPA). The law states that no person shall take, possess, sell, purchase, barter, offer for sale, transport, or import any Bald or Golden Eagle, alive or dead or any part, nests or eggs, thereof without a valid permit to do so.

***Endangered Species Act***—Additional protection is afforded to threatened and endangered bird species under the federal Endangered Species Act (ESA). The ESA affords protection to fish, wildlife, and plants listed as endangered or threatened. The ESA makes it unlawful to import, export, take, transport, sell purchase, or receive in interstate or foreign commerce any species listed as threatened or endangered. The ESA extends protection to habitat and prohibits the harm or harassment of threatened or endangered birds. The complete listing of threatened and endangered species is contained in 50 CFR. 17.11 and 17. 12.

***Nongame and Endangered Species Conservation Act***—Additional protection is afforded to state-listed threatened and endangered bird species under Nebraska’s Nongame and Endangered Species Conservation Act (NESCA) (Neb. Rev. Stat. §37-801 to 811)). Similar to how ESA protects federally listed species, NESCA affords legal protection to state-listed endangered or threatened species. All federally listed species are state-listed, but there are state-listed species which are not federally listed.

Definitions

1. **Raptors**—birds of prey with hooked beaks and talons for grasping and killing prey. Raptors include members of the order Falconiformes and Strigiformes which include eagles, hawks, falcons, osprey, vultures and owls.
2. **Problem nest**—a nest that may cause electrocution and death of birds, electrical outage, property damage, or otherwise interfere with electric distribution operations.
3. **Occupied/Active nest**—A nest with an adult and eggs, or young present. For raptors nests may be occupied/active during a large part of the year depending on the species of raptor. Most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. However some migratory birds are known to nest outside of the aforementioned primary nesting period. Raptors may be expected to nest between February 1 and July 15.
4. **Threatened and Endangered species**—Species of animals or plants that are threatened with extinction and are protected by federal law (ESA) (NESCA). A list of federal endangered species can be found at 50 CFR17.11 and 17.12. A list of state endangered and threatened species can be found in Nebraska Title 163, Chapter 4, Section 4.
5. **Take—**Broad definition to pursue, hunt, shoot, wound, kill, trap, capture, harass, molest, disturb or harm or attempt to do any of these things.
6. **Migratory Bird—**any bird that belongs to a species listed in 50 CFR 10.13 Includes most species of birds in North America including waterfowl, songbirds, shorebirds, eagles and other raptors. Does not include House Sparrows, Rock Pigeon, European Starlings and non-migratory upland game birds.
7. **Build out—**minor line extensions (new construction) of existing lines to meet customer demand.
8. **Upgrade—**reconstruction or modification of existing lines and equipment to increase the service capacity or bring older infrastructure up to new construction standards.
9. **RUS Construction Standards—**the electrical standards and specifications and materials allowed for electric infrastructure construction and maintenance by organizations receiving financial assistance from the Rural Utility Service (federal agency).

Acronyms

APLIC – Avian Power Line Interaction Committee

APP – Avian Protection Plan

B&GEPA – Bald and Golden Eagle Protection Act

[RES] – [Rural Electric System]

Commission – Nebraska Game and Parks Commission

ESA – Endangered Species Conservation Act

MBTA – Migratory Bird Treaty Act

NESCA – Nongame and Endangered Species Conservation Act

NREA – Nebraska Rural Electric Association

RRN – Raptor Recovery Nebraska

RUS – Rural Utilities Service

USFWS – U.S. Fish and Wildlife Service

Resources

Avian Power Line Interaction Committee (APLIC) ***Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006****.* Edison Electric Institute, APLIC, and the California Energy Commission. Washington D.C. and Sacramento, CA. Referred to as “APLIC Guidelines” Throughout this document. Available on the NREA website <http://www.nrea.org/reports/media/AvianProtectionPlanGuidelines.pdf>

**Reducing Avian Collisions with Power Lines: State of the Art in 2012** - See more at: <http://www.eei.org/products/Pages/ReducingAvianCollisions.aspx#sthash.UuwShAkd.dpuf>  
<http://www.eei.org/products/Pages/ReducingAvianCollisions.aspx>

**Rural Utilities Service (RUS) Construction Standards** 7 CFR 1728. Referred to as RUS Construction Standards throughout this document. <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr;sid=b895752c16da8b01975fefc818e95a6e;tpl=/ecfrbrowse/Title07/7cfr1728_main_02.tpl>

§ 1724.52 Permitted deviations from RUS construction standards. Memorandum <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr;sid=10c63cbdfb1ab8926fc2236a4be66ae0;rgn=div8;view=text;node=7%3A11.1.2.1.10.5.2.3;idno=7;cc=ecfr>

**USFWS Nest Destruction Memorandum** <http://www.fws.gov/policy/m0208.pdf>

**Nebraska Avian Risk Assessment Maps**—a comprehensive resource created by the Commission. Available on the “Members Only” section of the NREA website. Attachment A.

**Nebraska On-site Risk Assessment Check List—**a resource created in collaboration with USFWS and the Commission. Available on the “Members Only” section of the NREA website. Attachment B.  
  
**Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-711); Ch. 128; 40 Stat. 755) as amended**  
<http://www.fws.gov/laws/lawsdigest/MIGTREA.HTML>

[**Endangered Species Act of 1973**](http://epw.senate.gov/esa73.pdf)**(**[**16 U.S.C. 1531-1544**](http://www.access.gpo.gov/uscode/title16/chapter35_.html)**, 87 Stat. 884), as amended**<http://www.fws.gov/laws/lawsdigest/esact.html>

**Bald and Golden Eagle Protection Act of 1940 (**[**16 U.S.C. 668-668d, 54 Stat. 250**](http://law2.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t13t16+6002+0++()%20AND%20((16)%20ADJ%20USC)%3ACITE%20AND%20(USC%20w/10%20(668))%3ACITE&linkname=U.S.%20House%20of%20Representatives)**) as amended**

<http://www.fws.gov/laws/lawsdigest/baldegl.html>

Contacts

**Robert R. Harms**  
Fish and Wildlife Biologist  
U.S. Fish and Wildlife Service  
203 West Second Street  
Grand Island, Nebraska 68801  
Phone: 308-382-6468, Extension 17  
[robert\_harms@fws.gov](mailto:robert_harms@fws.gov)

**Lourdes Mena**  
Fish and Wildlife Biologist  
US Fish and Wildlife Service  
203 West Second Street  
Grand Island, NE 68801

Office: 308-382-6468, Extension 23

lourdes\_mena@fws.gov

**Special Agent TBD**

U.S. Fish and Wildlife Service  
Office of Law Enforcement  
 **Joel Jorgensen**

Nongame Bird Program Manager

Nebraska Game and Parks Commission

Office: 402-471-5440

NGPC Main Desk: 402-471-0641

[joel.jorgensen@nebraska.gov](mailto:joel.jorgensen@nebraska.gov)

**Fontenelle Forest’s Raptor Recovery**

Eastern Nebraska/Headquarters

Betsy Finch

402-994-2009

Central/Western Nebraska

Vicki Orr—308-750-3816

Blake Hatfield—308-383-1875

Martha Tacha—308-379-6107

[http://www.raptorrecoverynebr.org](http://www.raptorrecoverynebr.org/)

**Nebraska Wildlife Rehab, Inc.**

PO Box 24122

Omaha, NE 68124-0122

402-234-2473

[Info@nebraskawildiferehab.org](mailto:Info@nebraskawildiferehab.org)

**Kristen Gottschalk**

Government Relations Director

Nebraska Rural Electric Association

1244 K Street

Lincoln, NE 68508

Office: 402-475-4988

Cell: 402.540.5700

[kgottschalk@nrea.org](mailto:kgottschalk@nrea.org)

**Justin King** *(NPPD Wholesale Customers)*

Environmental Specialist

Nebraska Public Power District

P.O.B. 499

Columbus, NE 68602-0499

402-563-5088

[jwking@nppd.com](mailto:jwking@nppd.com)

**Rocky Plettner** *(NPPD Wholesale Customers)*

Environmental Specialist

Nebraska Public Power District

P.O.B. 499

Columbus, NE 68602-0499

402-563-5493

[rgplett@nppd.com](mailto:rgplett@nppd.com)

**Jim Jenniges** *(NPPD Wholesale Customers)*

Environmental Specialist

Nebraska Public Power District

Office: 308-236-2293

Cell: 308-627-6732

[jjjenni@nppd.com](mailto:jjjenni@nppd.com)

**Karl W. Myers** *(Tri-State Wholesale Customers)*

Transmission Environmental Manager

Tri-State Generation & Transmission Assoc., Inc.

303.254.3448

[kmyers@tristategt.org](mailto:kmyers@tristategt.org)

**Larkin Powell**

UNL- IANR

Conservation Biologist/Animal Ecologist

419 Hardin Hall

3310 Holdrege Street

Lincoln NE, 68583-0974

402-472-6825

[Rural Electric System]’s Overview

[Rural Electric System]’s [RES] service territory is home to many resident raptors, including Bald Eagles which occasionally overwinter and nest here, as well as migratory waterfowl, shorebirds and water birds. Golden Eagles are Western Nebraska breeders, but generally are not common during the winter in our service territory. All of the birds encountered in Nebraska and in our service territory are protected by the Migratory Bird Treaty Act except the English Sparrow, European Starling and Rock Pigeon as well as non-migratory games birds such as pheasants, Wild Turkey and grouse.

Since the original build out of [RES]’s electrical system the design standards have been routinely upgraded to improve reliability. [RES] currently follows the Rural Utility Service design standards for distribution system construction and further applies APLIC guidelines to construction in areas of highest risk for avian power line interaction. Improvements to system design and construction have both intentionally and unintentionally reduced bird mortalities.

[RES] has made design changes with avian protection as a goal. Training has been initiated to equip our employees with the ability to anticipate and avoid problem configurations, remediate proven problem spots and properly handle report and remediate when raptor mortalities occur or protected nests need to be moved.

[RES] works cooperatively with other utilities, the Nebraska Rural Electric Association, the Nebraska Game and Parks Commission and the U.S. Fish and Wildlife Service to identify, understand, and resolve problem interactions between protected birds, their nests, and electric utility infrastructure.

An internal evaluation/risk assessment of the distribution and sub-transmission system will be completed on a case by case basis using the Avian Risk Assessment Map, On-site Risk Assessment Checklist and personal knowledge of the area to determine areas of priority within our service territory. Areas designated as “high avian use” and high risk of mortality will be given priority in planning and proactive remediation efforts. A map of priority areas will be updated as assessments occur and will be included with this plan (Attachment B).

Special consideration will be given to areas within [RES] service territory that are designated as state Wildlife Management Areas or areas that have been federally designated as a wildlife preserve. [RES] will evaluate our distribution infrastructure on an ongoing basis for areas of high avian use.

Risk Assessment

[Rural Electric System] will use an ongoing process to conduct thorough evaluation of the distribution system that is in place as well as any upgrades or planned build out of the system in the future to prioritize our avian protection needs.

1. Assessments will be conducted by the Operations and Engineer Personnel of [RES]. [RES] staff has detailed knowledge of the areas affected and will work in consultation with USFWS and Commission staff as appropriate. The initial assessment process was initiated by [Name of individual, what their position is and who they work for.]
2. [RES] staff will use personal knowledge of the landscape, the Nebraska Avian Risk Assessment Maps and the On-Site Risk Assessment Check List to conduct an ongoing risk assessment of the [RES] distribution System.
3. Factors considered in the risk assessment process are as follows.
   1. Existing bird populations
   2. Species conservation status
   3. Mortality history/past mortality reports
   4. Avian related outages
   5. Nest locations, both active and inactive
   6. Habitat
   7. Prey populations
   8. Infrastructure design and age
   9. Historic and planned future use of land
4. [RES] system classifications for Avian Protection
   1. Immediate—parts of the system with avian fatality or injury
   2. Ongoing—parts of the system that are part of a planned upgrade or maintenance will be evaluated according to the [RES] 5-year System Improvement Plan.
   3. New Construction or Reconstruction will be evaluated as planned and [RES] will be proactive using the results of the Avian Risk Assessment Maps and On-site Risk Assessment Checklist and will follow APLIC construction standards as appropriate.

Action Plan

**Mortality Reduction Measures**

Using the information provided by the Risk Assessment, [RES] will apply APLIC standards as appropriate on all maintenance, upgrade and new construction reconstruction activities.

Using the risk assessment guidelines, [RES] will evaluate each line segment of the [RES] distribution system through our regular maintenance and upgrade process and for all new construction projects. [RES] will use the Risk Assessment tools provided by USFWS and the Commission and [RES] will prioritize work based on the high avian risk mortality areas identified in the Risk Assessment.

**Avian Enhancement Options**

If an Avian electrocution or collision pattern is believed to exist [RES] will consult with USFWS and the Commission as to any additional measures that may provide habitat enhancement such as nesting platforms and nesting boxes to discourage the use of power poles.

**Public Awareness/Education**

[RES] will use our monthly newsletter to educate our consumers as to the actions that [RES] takes to enhance avian populations and to reduce and prevent avian mortalities on our distribution system.

Training

[Rural Electric System] line workers and management are trained on the facets of our Avian Protection Power Line Program and are provided refresher training as significant program changes are made. These facets include:

* Regulatory Background and Protected Bird Species—employees are given information on the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act and a discussion of those birds which they are likely to encounter which are afforded protection under those acts.
* Bird Biology and Behavior—employees are informed of bird biology and behavior as it may cause interactions with power structures. This includes bird size, perching, nesting, hunting and feeding habits, as well as habitat preferences and flight path tendencies. These all may affect the chances for collision or electrocution.
* Avian Mortality Reporting Procedures—employees are required to report any protected birds found dead in or around our facilities. They are instructed to follow the procedural outline that was developed with support and approval from USFWS Nebraska Field Office personnel. They are instructed on what information to collect and provide for inclusion on the Raptor Mortality Reporting Form provided by the Nebraska Rural Electric Association. As soon as [RES] is authorized to us the USFWS online Avian Reporting System employees will be trained in its use. Special attention is given to raptors to ensure the collection of raptors, in particular eagles, for shipment to the repository in Denver for the distribution to Native Americans.
* Distribution Line Construction Standards—workers are given an overview of the RUS Construction Standards and the APLIC Suggested Practices for Avian Protection on Power Lines. Construction standards, separation and insulation concepts and specific applications are viewed and discussed. Separation standards for differing sizes of raptors and other birds are reviewed and hardware to mark and insulate lines and equipment is demonstrated. Expectations for corrective actions on lines and equipment where mortalities have occurred are discussed. Specific examples and corrective actions are reviewed, as well as circumstances where, due to weather, unavoidable biological interactions, or very rare contributory factors, no meaningful remedial steps can be reasonably taken. Bird behavior management through items such as perch preventers and substitute perches and nest platforms is also discussed.
* Evaluation of High Use Areas—areas of high year-round and seasonal bird concentrations are discussed. Generally, these may include wetlands for waterfowl and waders such as cranes, areas of flowing water (rivers or dam tailwaters) for overwintering Bald Eagles, or concentrations of carrion for Turkey Vultures or eagles. Additionally, Golden Eagles and many other raptors hunt near or over wide-open native grasslands especially near high prey abundance like prairie dog towns. Location-specific solutions such as substitute perches, marking static wires to improve visibility, or perch preventers to direct birds away from conductors are reviewed. [RES] will continue to seek to identify sites of potential interaction between high bird concentrations and power structures in an effort to minimize bird impacts.

Avian Mortality Reporting Program

Although [Rural Electric System] is not required to report avian mortalities as a condition of federal or state permits, we choose to voluntarily report as part of an informal agreement with USFWS to work towards the reduction of avian mortalities especially raptors. This agreement goes back to 1988 and has been mutually modified from time to time. The original agreement was to report raptor mortalities and has been expanded by [RES] to include all protected avian species as appropriate. A mortality reporting procedure list (Attachment C) is located in all [RES] service vehicles along with numbered mortality tags (Attachment D) for marking carcasses as necessary. The Form, (Attachment E) is used by system employees to document the mortality and to assist in identifying remediation options. This form is provided to the USFWS either digitally via the internet or mailed in accordance with the agreed procedures. Following approval of this Avian Protection Plan [RES] will begin to report using the USFWS Self Reporting Program. All materials (including photographs) will be submitted digitally when possible. Forms and procedure lists in vehicles will be modified to reflect the online reporting process as necessary.

All reported avian mortalities require an assessment of on-site factors which may have contributed to the mortality. Mitigating measures and/or protective devices to prevent reoccurrence as appropriate will be applied at the site of mortality. Raptor Protection Devices that may be employed include, but are not limited to:

* Elevated bird perches
* Perch prevention devices
* Insulated electrical jumper cables
* Transformer bushing covers
* Electrical cable shields

# Injured Raptors

Injured birds should be reported in the same manner as dead birds, including contacting USFWS and/or Commission, filing a report and making modifications as necessary. Personnel discovering any injured raptor within or adjacent to the systems infrastructure will contact [RES] headquarters to notify Fontenelle Forest’s Raptor Recovery and the Commission. No attempt shall be made to capture or restrain the injured raptor by non-trained personnel without guidance from a Raptor Recovery staff member or biologist.

# Dead Raptors

Personnel discovering dead birds located within or adjacent to the system’s infrastructure are required to follow the avian reporting procedures. Personnel should take note of any existing bands or other identification and should attach a yellow numbered mortality tag (Attachment D). The number on the tag should be recorded when using the online reporting program.

Personnel will follow the instructions from the USFWS or the Commission for handling and final disposition of the dead bird. [RES] will bury the dead bird on a case by case basis after consultation and approval from USFWS and after photos have been taken. All birds must be identified with a yellow, numbered mortality tag. It is a violation to take (kill, transport, sell, or possess), regardless of intent without proper permits or direct authorization. System personnel should not transport an unmarked carcass.

*[Alternate language—should your system chose not to transport dead birds]*

Personnel discovering dead birds located within or adjacent to the system’s infrastructure are required to follow the avian reporting procedures. Personnel should take note of any existing bands or other identification and should attach a yellow numbered mortality tag (Attachment D). The number on the tag should be recorded when using the online reporting program.

The final disposition of the bird will be the responsibility of the appropriate state or federal authorities. It is a violation of the Migratory Bird Treaty Act to take (kill, transport, sell or possess) a protected species, regardless of intent.

# Marked or Banded Raptors

Dead raptors found by [Rural Electric System] personnel should be inspected for the presence of any leg bands, markers, or neck collars. Marked raptors should be tagged with the yellow numbered mortality tag and personnel should be sure that the existing band or tagging information is provided to the [Rural Electric System] office for inclusion on the report form. Disposition of the bird should be at the advice of U.S. Fish and Wildlife Service. [*You may want to mirror the alternative language above if it is your system’s policy to not transport birds under any circumstance]*

# Endangered/Threatened Species Reporting

[RES] will additionally report any mortality to Endangered/Threatened avian species that are not raptors found adjacent to electric utility infrastructure. The same procedures for reporting raptor mortalities will apply to Endangered/Threatened species. A listing of Nebraska endangered/threatened species is below.

|  |  |  |
| --- | --- | --- |
| Eskimo Curlew | *Numenius borealis* | Endangered |
| Whooping Crane | *Grus americana* | Endangered |
| Interior Least Tern | *Sternula antillarum athalassos* | Endangered |
| Piping Plover | *Charadrius melodus* | Threatened |
| Mountain Plover | *Charadrius montanus* | Threatened |
| Rufa Red Knot | *Calidris canutus rufa* | Threatened |

Avian Nest Issues

**Unoccupied/Inactive Problem Nest**

An unoccupied/inactive problem nest may be removed or manipulated outside of the nesting season as permitted by law, as long as possession of the nest does not occur. Reoccupation and rebuilding of nests during subsequent breeding seasons is common and removing an unoccupied nest may not be a long-term solution. [RES] will coordinate an appropriate solution with the USFWS. This may include such actions as installing alternative nest sites or platforms and will be evaluated on a case by case basis done in consultation with the Commission and the USFWS as appropriate to identify the best alternative.

**Occupied/Active Problem Nest**

The Migratory Bird Treaty Act protects all occupied/active nests that contain an incubating adult and eggs, or young, with exceptions for English Sparrows, European Starlings, and Rock Pigeons. Coordination with the USFWS is required even if the nest creates a hazard to the birds or the operation of the distribution system, or an emergency exists.

**Eagle or Endangered/Threatened Species Nest**

All nests of eagles or endangered/threatened species are protected by federal laws regardless of whether the nest is unoccupied/inactive or occupied/active. If a problem nest is suspected to be that of an eagle or endangered/threatened species, [RES] will coordinate action with USFWS and the Commission.

**Tree Trimming/Line Maintenance/Construction Activities**

Before work is done, a general survey of the immediate work area must be completed for each day workers are active to assess any nest issues that must be addressed. Special attention will be given during the primary nesting season (April 1-July 15) to ensure that any occupied/active nests will be identified and avoided.

**Modification of Existing Facilities**

Modification of existing facilities will be done when dead and/or injured birds are found, high risk areas are identified or legal compliance is an issue. Priority areas for immediate modifications are identified in the Risk Assessment and are marked accordingly (Attachment F). Immediate modifications will continue to be made as necessary and practicable as mortalities occur within the distribution system.

**Construction Activities**

Avian interactions are considered in the design and installation of new structures as well as in the continuing operation and maintenance of existing facilities. [RES] follows RUS Construction Standards and will ensure that any new construction or rebuild will meet or exceed APLIC guidelines as necessary and whenever possible.

Re-Build and New Power Line Construction

As appropriate, avian-safe designs will be incorporated into new distribution facilities. [RES] will use RUS Construction Standards and the APLIC Guidelines in designing new distribution facilities and retrofitting existing infrastructure.

Some of the avian-safe design methods typically include:

* Increasing the phase-to-phase distance between electrified lines to 60 inches
* Placing braces above bottom buck-arms to act as perching diverter
* Installation of ten-foot arms if lines occur near or in Bald or Golden Eagle nesting habitat or if lines bisect or are near open areas of native vegetation which provides prey species for wintering Golden Eagles.
* Locating jumper cables under arms on three-phase construction if possible
* Insulated jumper cables
* Installing cover-up on high-voltage apparatus bushings

Permits

At this time [RES] does not hold permits to allow for the collection, possession, transportation, protection, and storage of dead or injured birds. It is the understanding of [RES] that as part of the Avian Mortality Reporting program we are authorized on a case by case to handle birds at the direction of U. S. Fish and Wildlife Service personnel without concern for prosecution under the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act.

Annual Review

The APP will be reviewed and updated as necessary, but at least on an annual basis.

The review may include an analysis of the effectiveness of actions taken, if possible, to determine the impact on avian mortalities and avian related outages. The review will assist in modifying the APP as necessary.

A summary of activities will be filed at the [RES] office and is available upon request to the USFWS and Commission.