

Document title

# Migratory Birds

Document number

EVC-CPL-017

Keywords

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FRM-CPL-075	ACTIVE NEST RELOCATION REPORT
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1.0 APPLICABILITY

This document is intended to provide guidance for compliance with Environmental Regulations. This guideline does not supersede any NGG or site procedures that are in place to support nuclear commitments or site specific operations. However, all facilities must be in compliance with applicable environmental regulations. If a conflict between the corporate and NGG or site procedure is believed to exist, it should be brought to the attention of supervision for resolution. If appropriate, a Condition Report should be written by the Nuclear sites to document the conflict and to track its resolution.

Any work conducted by CP&L that may cause employees to destroy migratory birds and/or their nests is subject to federal regulations. Over 700 species of birds in the United States are protected by the Migratory Bird Treaty Act (MBTA). Essentially, the only birds not protected by these regulations are the English (or house) Sparrow, the Pigeon, and the Starling. The MBTA makes it unlawful to take, possess, buy, sell, trade, or barter any migratory bird including its nest, eggs, feathers, or any other parts or products made from these birds.

Because the MBTA protects migratory birds and their nests, both federal and state permits are required to **remove and relocate bird nests** from CP&L facilities. These permits do not allow CP&L employees or contractors to conduct any activity that affects the nest of a threatened or endangered bird (Appendix A) or a bird which is considered to be a species of management concern in Fish and Wildlife Services Region 4 (Appendix B—Page 2 of 3). The Bald Eagle (threatened) and the Red-cockaded Woodpecker (endangered) are the two federally-listed species you are likely to encounter in your work at CP&L. Among the species of management concern, the Red-headed Woodpecker and the Northern Flicker are species most likely to be encountered. The Osprey, a species of management concern in South Carolina (but not on the federal list), also may be encountered. These permits will be renewed each year by the Environmental Services Section (ESS) and distributed to CP&L transmission, distribution, and power plant personnel.

Some examples of work that may bring employees into contact with birds and their nests include but are not limited to:

- Replacement of transmission or distribution poles with nest cavities present.
- Any work around nests located on crossarms, braces, or other portions of wooden and steel lattice transmission and distribution line support structures.
- Maintenance activities conducted around power plants, substation facilities, transformers, or other equipment that involve removal of nests.
- Demolition of permanent or temporary buildings or structures that may contain nests.
- Installation of electrical service in a meter base which was left uncovered and has become occupied by a nesting bird. The Carolina Wren is the bird which is most commonly found nesting in uncovered meter bases.

2.0 RESPONSIBILITIES

It is the responsibility of each employee who conducts activities that affect migratory birds, their nests, or eggs to conduct these activities in accordance with the Migratory Bird General Rules, Nest Removal Procedure, and Permit Conditions included in Appendix C. Each employee should have the proper permits before the work begins. Each individual whose work may bring them into contact with birds or their nests must have in his/her possession:

- Federal permit (3 pages) for removal and relocation of active bird nests (Appendix B)
- North Carolina permit for relocation of active bird nests and removal of inactive bird nests (Appendix D)
- South Carolina permit for relocation of active bird nests and removal of inactive bird nests (Appendix E)

When possible, power lines and other Company facilities (such as small protected spaces in substations and other equipment) should be inspected from August through December to remove inactive nests. As long as Company personnel are certain a nest is inactive, it may be removed at any time. Beginning in 1999, reporting the removal of inactive nests is no longer required.

If a nest is active and the work can wait, it is best to leave the nest alone until the young birds leave. If the work cannot wait and the employee is **certain** the nest was not constructed by a bird which is endangered, threatened, or a species of management concern (including Osprey in South Carolina), it may be relocated. The relocation should be reported to ESS within 72 hours of the activity. ESS **must** report all nest relocations to the U. S. Fish & Wildlife Service monthly by the 15<sup>th</sup> day of the following month. The information may be reported to ESS verbally or via the **Active Nest Relocation Report (FRM-CPL-075)**.

It is the responsibility of each employee to ensure that the nests encountered are not those of a threatened or endangered species or a species of management concern (including Osprey in South Carolina). **If a threatened or endangered species or a species of management concern is suspected, under NO circumstances should the nest be disturbed whether active or inactive.**

Penalties under the Migratory Bird Treaty Act can include a five hundred dollar (\$500) fine and six months imprisonment for each violation. Additionally, penalties under the Endangered Species Act (ESA) may apply if a bird and its nest receive additional protection under the ESA. (See Endangered and Threatened Species section—EVC-CPL-011.)

**3.0 PERMITS/CERTIFICATIONS**

**3.1 FEDERAL**

CP&L maintains a federal permit which allows employees and contractors under CP&L's direct control or authority to relocate active nests from CP&L facilities. This permit is issued annually by the U.S. Fish & Wildlife Service. The permit may be copied for distribution. This permit only allows employees to remove **and relocate** active nests, not to destroy them. This permit does **NOT** allow employees to conduct any activity which might affect the nest of a threatened or endangered species or a species of management concern, whether it is active or inactive.

**3.2 NORTH CAROLINA**

CP&L maintains a North Carolina permit which allows employees and contractors under CP&L's guidance to remove and relocate active nests of non-endangered, non-threatened migratory birds as authorized by the federal permit issued by the U. S. Fish & Wildlife Service.

**3.3 SOUTH CAROLINA**

CP&L maintains a South Carolina permit which allows employees and contractors under CP&L's direction to remove inactive nests and relocate active nests, excluding nests of threatened, endangered, and special concern species (including Osprey).

**4.0 CONTACTS**

Contact ESS if active nests must be relocated to perform necessary work. Any nests of threatened or endangered birds or birds which are listed as species of management concern must not be disturbed under any circumstances. Call ESS immediately if you suspect you may have a nest of a bird in one of these categories. The names and phone numbers of appropriate ESS personnel are listed in the following **Environmental Services Section Migratory Bird Contact List**.

Rick Yates*	772-3571 or (919) 362-3571 (work)	or (919) 848-0328 (home)
Robin Bryson	772-3552 or (919) 362-3552 (work)	or (919) 416-0256 (home)
John Crutchfield	772-3557 or (919) 362-3557 (work)	or (919) 362-5130 (home)
Robbie Blue	772-3404 or (919) 362-3404 (work)	or (919) 933-0184 (home)
Walt Pollard**	850-2262 or (910) 457-2262 (work)	or (910) 452-1049 (home)

\*Primary Contact

\*\*Brunswick Environment & Radiation Control

**5.0 TRAINING REQUIREMENTS**

**5.1 FEDERAL**

None required

**5.2 NORTH CAROLINA**

None required

**5.3 SOUTH CAROLINA**

None required

**5.4 CP&L**

None required—The **Environmental Training: Migratory Birds** module (EVC-CPL-069) is suggested for self study.

**6.0 RECORD KEEPING/REPORTING REQUIREMENTS**

**6.1 FEDERAL**

Records pertaining to the federal nest permit must be maintained for five years from the date of expiration of the permit (50 CFR 13.46).

A report must be provided to the U. S. Fish & Wildlife Service by the 15<sup>th</sup> day of each month of all nest relocations that occurred during the previous month. An annual report must be submitted by January 31 for all nest relocations performed during the previous year. ESS will prepare and submit these reports.

**6.2 NORTH CAROLINA**

An annual report of all active nests relocated and their locations must be submitted to the North Carolina Wildlife Resources Commission with 30 days of the expiration of the annual permit. ESS will prepare and submit this report. The observation of any bald eagle nest occurring on or near any electric power structure shall be reported to the NCWRC within twenty-four (24) hours. ESS should be notified immediately in order to make this report.

**6.3 SOUTH CAROLINA**

An annual report must be submitted to the South Carolina Department of Natural Resources with the results (i.e., the success or failure) of any relocated nests. ESS will prepare and submit this report.

**6.4 CP&L**

ESS will retain records concerning the migratory bird nest permit applications, the federal and state permits, the reports received from CP&L employees and contractors, and the reports provided to the federal and state agencies.

**7.0 DEFINITIONS**

**Active Nest -**

Any nest with eggs or young birds present.

**Inactive nest -**

A nest which does not contain eggs or young.

**Migratory bird -**

Any of over 700 native birds protected by the federal Migratory Bird Treaty Act. Examples of a few of the birds that are protected include Killdeer, Barn Swallow, Carolina Wren, Robin, Bluejay, Mockingbird, Cardinal, and all woodpeckers, sparrows, gulls, birds of prey, etc.

**Nesting period -**

In the CP&L service area, the primary nesting period is from March through July. The nesting period may begin earlier and end later than these months depending upon the species.

**Nonnative (not protected) birds -**

Three commonly encountered nonnative birds that are not protected under the Migratory Bird Treaty Act are the **Starling**, the **English (or House) Sparrow**, and the **Pigeon**.

**Raptor -**

Raptors are also known as birds of prey. This group includes hawks, eagles, owls, and Osprey.

**Species of management concern -**

These birds are not formally classified as threatened or endangered species; however, in North Carolina and South Carolina they are considered to be declining and in danger of becoming threatened or endangered. These birds are listed for the U. S. Fish & Wildlife Services Region 4 in the Migratory Bird Depredation Permit - Active Nest, in Appendix B. Additionally, the Osprey is listed in the South Carolina permit (Appendix E).

**Take -**

Take is broadly defined to include capture, trap, collect, pursue, shoot, wound, or kill, or attempt any of these activities.

**8.0 REFERENCES**

**8.1 FEDERAL**

Migratory Bird Treaty Act of 1918 (16 USC 703-712)  
50 CFR 13, 21 (21.41-Depredation Permits)

**8.2 NORTH CAROLINA**

None

**8.3 SOUTH CAROLINA**

None

**8.4 CP&L**

None

**APPENDIX A: Federally-Listed Endangered and Threatened Birds in North Carolina and South Carolina**

**APPENDIX B: Federal Nest Permit**

**APPENDIX C: Federal Migratory Bird General Rules, Nest Removal Procedure, and Permit Condition**

**APPENDIX D: North Carolina Bird Permit**

**APPENDIX E: South Carolina Bird Permit**

APPENDIX A  
 FEDERALLY-LISTED ENDANGERED AND THREATENED BIRDS  
 IN NORTH CAROLINA AND SOUTH CAROLINA

Name	Status
Ivory-billed Woodpecker	Endangered (believed to be extinct in United States)
Piping Plover	Threatened
Kirtland's Warbler	Endangered
Peregrine Falcon	Endangered
Bald Eagle	Threatened
Wood Stork	Endangered
Red-cockaded Woodpecker	Endangered
Bachman's Warbler	Endangered
Roseate Tern	Threatened

APPENDIX B  
FEDERAL NEST PERMIT (Page 1 of 3)



DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE PERMIT

AUTHORITY: 50 CFR 15 USC 703-712

1 PERMITTEE

CAROLINA POWER & LIGHT COMPANY  
P.O. BOX 327  
NEW HILL, NC 27562

REGULATIONS (Advanced)  
50 CFR Part 15  
50 CFR 21.41

2 NUMBER MB789112-0  
3 RENEWABLE YES  NO   
4 MAY COPY YES  NO   
5 EFFECTIVE DATE 01/01/2000  
6 EXPIRES 12/31/2000

7 TYPE OF THREAT  
DEPREDAATION

8 NAME AND TITLE OF PRINCIPAL OFFICER (If not a biologist)  
BENJAMIN C. WHITE  
MGR/ENVIRON SERV

9 LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED  
NORTH CAROLINA AND SOUTH CAROLINA

10 CONDITIONS AND AUTHORIZATIONS

- A. GENERAL CONDITIONS SET FORTH IN SUBPART D OF 50 CFR 15 AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORDANCE WITH THE PERMITTER'S OBLIGATIONS IN THE APPLICATION SUBMITTED, CONSULTED VALIDITY OR RENEWAL OF THIS PERMIT IS SUBJECT TO COMPLY WITH ALL APPLICABLE CONDITIONS FOLLOWING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.
- B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FEDERAL AND STATE, LOCAL OR OTHER FEDERAL LAWS.
- C. VALID FOR USE BY PERMITTEE NAMED ABOVE.
- D. Authorized to save (relocate) the following migratory birds, excluding birds listed on page 2 (species of management concern), for depredation control purposes: Active nests of non-endangered/threatened migratory birds. Also, Permittee must notify the issuing office on the 15th day of each month of any relocations that occurred the previous month.
- E. Permittee must also comply with Depredation - Active Nest Standard Conditions. (copy attached)
- F. Authorized sub-permittee: Persons under direct control of the permittee.

ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12 REPORTING REQUIREMENTS  
ANNUAL REPORT DUE: 01/31

ISSUED BY

*Carmen P. Swartz*

TITLE  
FOR: ARD REFUGEES & WILDLIFE

DATE  
03/06/2000

APPENDIX B (continued)  
FEDERAL NEST PERMIT (Page 2 of 3)

Species of Management Concern--1995 (USFWS Region 4)	
Species	Species
COMMON LOON Black-capped Petrel Brown Pelican AMERICAN BITTERN LEAST BITTERN	Black-throated Blue Warbler Prairie Warbler CERULEAN WARBLER Worm-eating Warbler Swainson's Warbler Louisiana Waterthrush
REDDISH EGRET American Swallow-tailed Kite NORTHERN HARRIER	Painted Bunting Dickcissel BACHMAN'S SPARROW Field Sparrow Lark Sparrow
Northern Goshawk Short-tailed Hawk Yellow Rail BLACK RAIL	Grasshopper Sparrow HENSLOW'S SPARROW SEASIDE SPARROW
Limpkin SNOWY PLOVER Wilson's Plover Upland Sandpiper Long-billed Curlew	Bobolink Eastern Meadowlark
Least Tern White-crowned Pigeon Common Ground-Dove	
Yellow-billed Cuckoo BARN OWL Burrowing Owl	
Red-headed Woodpecker Northern Flicker	
OLIVE-SIDED FLYCATCHER Bewick's Wren Sedge Wren	
Veery Wood Thrush LOGGERHEAD SHRIKE	
BELL'S VIREO Black-whiskered Vireo Blue-winged Warbler GOLDEN-WINGED WARBLER	

(Puerto Rico/U.S. Virgin Islands)

Species
West Indian Whistling-Duck White-cheeked Pintail Masked Duck
Caribbean Coot SNOWY PLOVER
White-crowned Pigeon
Bridled Quail-Dove Puerto Rican Screech-Owl Short-eared Owl
Black-whiskered Vireo GOLDEN-WINGED WARBLER
Chestnut-sided Warbler Black-throated Blue Warbler Prairie Warbler Elfin Woods Warbler Worm-eating Warbler Louisiana Waterthrush

Species printed in CAPITAL LETTERS were on the previous (1987) list of Species of Management Concern

APPENDIX B (continued)  
FEDERAL NEST PERMIT (Page 3 of 3)



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE  
1875 Century Boulevard  
Atlanta, Georgia 30345

Standard Conditions

Depredation - Active nest  
50 CFR 21.41

1. Permittee and subpermittees shall carry and display, upon request, a copy of this permit whenever exercising its authority.
2. Failure to comply with ANY of these conditions listed may result in the immediate suspension of this permit.
3. Authorization granted herein shall not be exercised contrary to the laws of the appropriate State, County, Municipal, Tribal or Foreign government, or other applicable laws
4. Permittee shall maintain records as required in 50 CFR 13.46
5. All required records relating to permitted activities shall be kept at the location as indicated in writing by permittee to the issuing office
6. No bird, nest, or egg of any species may be taken which is on the United States List of Threatened and Endangered Species
7. Nests which are collected or must be completely destroyed or donated to a public educational or scientific institution as defined in 50 CFR 10.12.
8. Acceptance of this permit authorizes inspection in accordance with 50 CFR 13.47.

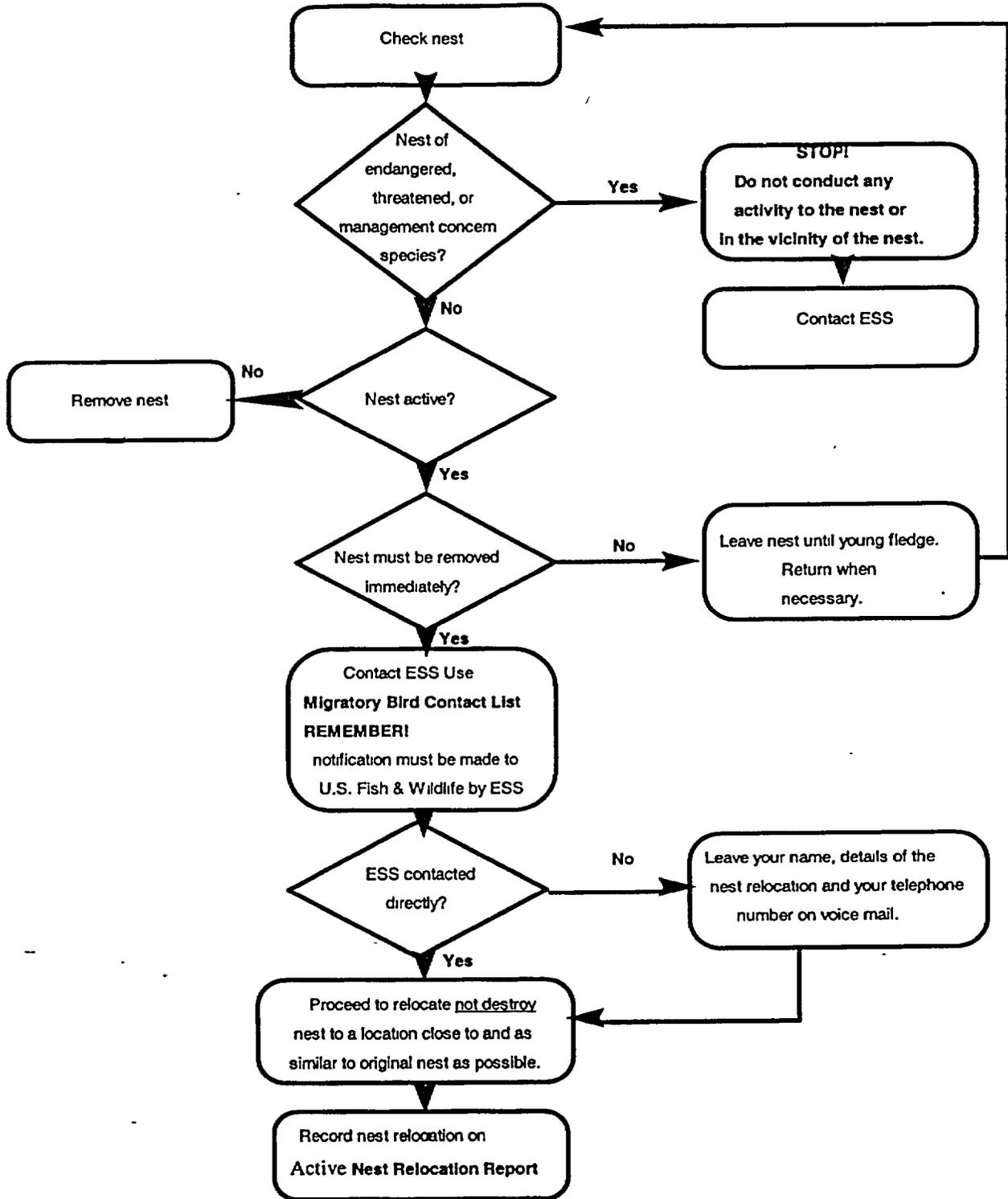
APPENDIX C  
 FEDERAL MIGRATORY BIRD GENERAL RULES

The federal Migratory Bird Treaty Act (MBTA) must be considered during any work conducted in the field that causes personnel to interact with birds, their nests, or their eggs. Employees should develop their own procedure to check nests in the field to determine whether they are active or inactive. In each case, the employee must consider the following:

- If the nest was constructed by a bird which is listed as an **endangered or threatened species or a species of management concern (including osprey in South Carolina)**, take no action. These nests must not be disturbed whether they are active or inactive. Contact ESS immediately.
- If the nest is (1) inactive and (2) was not constructed by an endangered or threatened species or a species of management concern (including osprey in South Carolina), it can be removed under the authority of CP&L's North Carolina and South Carolina permits. No federal permit is required.
- If the nest is (1) active and (2) was not constructed by an endangered or threatened species; or a species of management concern (including osprey in South Carolina), the employee must decide whether the work has to proceed immediately or whether it can wait a period of several days or weeks until the young birds leave the nest (time depends on the type of bird and how far the bird is into the nesting cycle when found). Waiting is the better alternative. However, if the work must proceed immediately the nest can be **relocated** under CP&L's federal Migratory Bird Depredation Permit - Active Nest (Permit No. MB789112-2) and the respective state permits. Call ESS to notify them that the nest is being relocated. If ESS cannot be reached, the situation is an emergency requiring immediate action, and the employee is certain that the nest was not constructed by a bird which is endangered, threatened, or of special management concern (including osprey in South Carolina), the nest may be relocated to an area as near and as similar to the original nest site as possible. ESS must be notified as soon as possible, preferably within a 72-hour period, after the relocation.
- The federal Active Nest permit does not allow CP&L employees and contractors to destroy the nest. The nest **must be relocated** to an area as similar and as close to the original nest site as possible.
- The **USF&WS must be notified of the nest relocation by ESS**; therefore, CP&L employees and contractors, where possible, should notify ESS of a nest relocation directly or by voice mail before moving the nest. If prior notification is not possible, employees must notify ESS as soon as possible, preferably within a 72-hour period, after moving the nest.
- If the bird is not protected under the MBTA, the nest may be removed whether it is active or inactive. No notification is required when these nests are removed. This only applies to three species of birds—the pigeon, the starling, and the **English (or house) sparrow**. Be sure you have positively identified the bird before proceeding with the removal of an active nest. Assume all other birds are protected by the MBTA.

APPENDIX C (continued)  
NEST REMOVAL AND RELOCATION PROCEDURE

Follow this procedure when migratory bird nests are encountered.



**APPENDIX C (continued)  
PERMIT CONDITIONS**

1. **Permittee shall carry a copy of the permit whenever exercising its authority.** This means that all field personnel that could be removing and relocating an active nest must have this permit in their possession while doing the work. Having the permit filed away in the office is not adequate. Put permit in a plastic cover and keep it with you.
  
2. **No nest or egg of a species which is on the United States List of Threatened and Endangered Species may be taken.** This means that if the bird is listed as an endangered or threatened species, **under no circumstances** may you do anything to the nest. This applies whether the nest is active or inactive.
  
3. **Nests or eggs which are collected must be completely destroyed or donated to a public educational or scientific institution as defined in 50 CFR 10.12.** This statement describes what you must do for inactive nests or spoiled eggs which were legally removed under the conditions of the permit. You cannot have inactive nests or spoiled eggs in your possession.
  
4. **Permittee shall maintain records as required in 50 CFR 13.46.** Each person in the field is responsible for reporting this information so that all nests which are removed and relocated are properly recorded and reported. See form FRM-CPL-075.
  
5. **Authority granted by the federal permit shall not be exercised contrary to the laws of the appropriate state agency.**

APPENDIX D  
NORTH CAROLINA NEST PERMIT



 North Carolina Wildlife Resources Commission 

512 N. Salisbury Street, Raleigh, North Carolina 27604-1188, 919-733-3391  
Charles R. Fullwood, Executive Director

SPECIAL MIGRATORY BIRD PERMIT

Carolina Power and Light Company  
ATTN: Richard Yates  
Shearon Harris Energy & Environmental Center  
P. O. Box 327  
New Hill, NC 27562-0327

TELE: (919) 362-3571

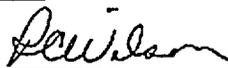
Mr. Benjamin C. White and individuals working under his guidance are authorized to remove the nests of migratory birds from electric power facilities. Removal of hazardous bird nests is authorized during periodic maintenance and also during structural replacements, except for the following conditions:

CONDITIONS:

1. Removal of active nests of non-endangered, non-threatened migratory birds is permitted as authorized under similar permit issued by the U.S. Fish and Wildlife Service.
2. The observation of any bald eagle nest occurring on or near any electric power structure shall be reported to the Commission within twenty-four (24) hours at the number listed below.
3. An annual report of all active nests removed and their locations shall be submitted to the Commission within 30 days of the expiration of this permit.

ISSUE DATE: January 24, 2000

EXPIRATION DATE: December 31, 2000

AUTHORIZED BY:   
Randall C. Wilson, Section Manager  
Division of Wildlife Management  
P. O. Box 29613  
Raleigh, NC 27626-0613  
(919) 661-4872

cc: Division of Wildlife Enforcement  
U. S. Fish and Wildlife Service, Permits Office, Atlanta, GA

Mr. Benjamin C. White, Mgr., Environmental Svcs., Shearon Harris Energy & Environmental Center, P. O. Box 327, New Hill, NC 27562-0327

APPENDIX E  
SOUTH CAROLINA NEST PERMIT

South Carolina Department of  
**Natural Resources**



Paul A. Sandifer, Ph.D.  
Director

William S. McTeer  
Deputy Director for  
Wildlife and  
Freshwater Fisheries

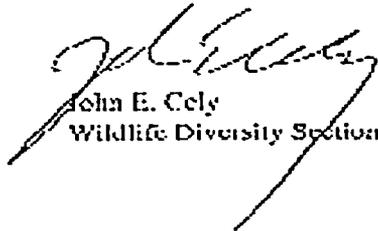
18 January 2000

LETTER OF AUTHORIZATION - DEPREDATION

Benjamin C. White, Manager, Environmental Services, Carolina Power and Light Company, Harris Energy and Environmental Center, 3932 New Hill-Holleman Road, PO Box 327, New Hill, North Carolina 27562, and anyone under his direction, is authorized to remove inactive bird nests and relocate active nests, excluding threatened, endangered, and special concern species (including Osprey) at Carolina Power and Light facilities in South Carolina. Any relocated nests to be monitored to determine outcome, with results included in annual report.

Not valid without federal permit

Expiration: 31 December 2000

  
John E. Cely  
Wildlife Diversity Section