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Date: Thu, Feb 17, 2005 2:50 PM
Subject: Brunswick Site Audit Follow-Up Item #16

With regard to the Brunswick Environmental Report Site Audit Follow-Up List, response to Item # 16 is as follows:

16. Update Migratory Bird guidance document to reflect our actions with regard to bird collisions and provide updated document to NRC. [provide to Amanda Stegen/Mike Sackschewsky] [Responsible individual: Robin Bryson]

Progress Energy's Migratory Bird guidance document, EVC-SUBS-00017, has been revised to note that employees are encouraged to report problems associated with bird collisions. (see Page 5 of the attached Revision 2 to this guidance document.)

<<evcsubs00017.pdf>>

If you have further questions or need additional information, please let us know.

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TABLE OF CONTENTS	
1.0 BACKGROUND	4
2.0 PROGRAM REQUIREMENTS	5
2.1 COMPANY	5
2.2 FEDERAL	5
A. GENERAL RULES	5
B. PERMIT CONDITIONS	7
C. NEST REMOVAL FLOWCHART	8
2.3 FLORIDA	9
2.4 GEORGIA	9
2.5 NORTH CAROLINA.....	9
2.6 SOUTH CAROLINA.....	9
3.0 PERMITS & CERTIFICATIONS	9
3.1 COMPANY	9
3.2 FEDERAL	9
3.3 FLORIDA	10
3.4 GEORGIA	10
3.5 NORTH CAROLINA.....	10
3.6 SOUTH CAROLINA.....	11

4.0 TRAINING REQUIREMENTS	11
4.1 COMPANY	11
4.2 FEDERAL	11
4.3 FLORIDA	11
4.4 GEORGIA	11
4.5 NORTH CAROLINA.....	11
4.6 SOUTH CAROLINA.....	11
5.0 RECORD KEEPING REQUIREMENTS	12
5.1 COMPANY	12
5.2 FEDERAL	12
5.3 FLORIDA	12
5.4 GEORGIA	12
5.5 NORTH CAROLINA.....	12
5.6 SOUTH CAROLINA.....	12
6.0 SELF-ASSESSMENTS	13
7.0 REFERENCES	13
7.1 COMPANY	13
7.2 FEDERAL	13
7.3 FLORIDA	13
7.4 GEORGIA	13
7.5 NORTH CAROLINA.....	13
7.6 SOUTH CAROLINA.....	13

GLOSSARY

FORMS

FRM-SUBS-00075	Active Nest Relocation Report Form
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1.0 BACKGROUND

- Any work conducted 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). 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.
- Essentially, the only birds not protected by these regulations are:
 - ✓ The English (or house) sparrow,
 - ✓ Pigeon,
 - ✓ Starling, and
 - ✓ Other nonnative birds such as the monk (or Quaker) parrot.
- Because the MBTA protects birds and their nests, permits are required to **remove and relocate active bird nests** from company facilities. These permits do not allow employees or contractors to conduct any activity that affects the nest of a Federally-listed threatened or endangered bird.
- 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; and
 - ✓ Installation of electrical service in a meter base which was left uncovered and has become occupied by a nesting bird.

2.0 PROGRAM REQUIREMENTS

2.1 COMPANY

N/A

2.2 FEDERAL

- 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,

- ✓ Permit Conditions, and

- ✓ Nest Removal Flowchart.

A. GENERAL RULES

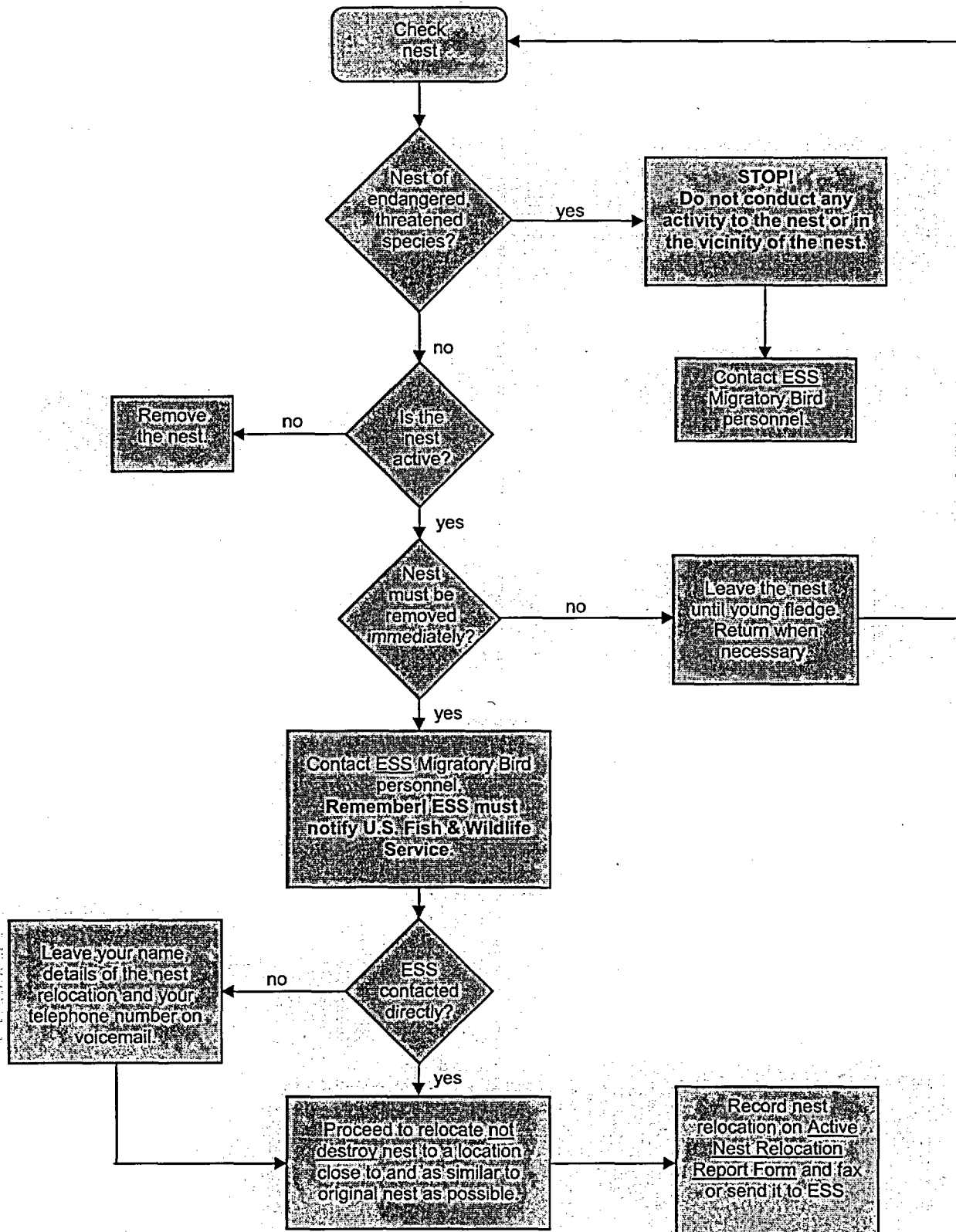
- Employees are encouraged to report problems associated with collisions of migratory birds with buildings, structures and lines. These problems should be reported to your appropriate company environmental personnel who can evaluate them further.
- The federal MBTA must be considered during any work 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.
- If the nest was constructed by a bird which is listed as an endangered or threatened species (Federal), take no action.
 - ✓ These nests must not be disturbed whether they are active or inactive unless authorized by permit.
 - ✓ Contact ESS Migratory Bird personnel immediately.
- If the nest is inactive and was not constructed by an endangered or threatened species (Federal), it can be removed under the authority of North Carolina, South Carolina, and Florida permits.

- If the nest is active and was not constructed by endangered or threatened species (Federal), 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.
 - ✓ If the work must proceed immediately the nest can be **relocated**.
 - ✎ Call ESS Migratory Bird personnel 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 restricted bird, 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 Progress Energy Federal Fish & Wildlife Depredation Permit (EVC-PGNC-00101) in North Carolina and South Carolina does not allow 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.
- If the bird is a nonnative and thus 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.
 - ✓ The most common non-protected species of birds are pigeon, starling, English (or house) sparrow, and monk (Quaker) parrot.
 - ✓ 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.

B. PERMIT CONDITIONS

- Permittee shall carry a hard copy of both federal and state permits whenever exercising his or her authority.
 - ✓ This means that all field personnel that could be removing and relocating an active nest must have these permits in their possession while doing the work.
 - ✓ Having these permits filed away in the office or on the computer is not adequate.
 - ✓ Put permits in a plastic cover and keep it with you.
- No nest or egg of a species which is on the federal 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.
- 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.
- 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 the Active Nest Relocation Form (FRM-SUBS-00075).
- Authority granted by the federal permit shall not be exercised contrary to the laws of the appropriate state agency.

C. NEST REMOVAL FLOWCHART



2.3 FLORIDA

In addition to the federal requirements, each individual must have in his/her possession a copy of the Progress Energy Florida, Inc. - Migratory Bird Nest Permit (EVC-PGNF-00104) before the removal and relocation of inactive bird nests work begins.

2.4 GEORGIA

In addition to the federal requirements, permits for removal or relocation of nests Georgia must be obtained before the work begins.

2.5 NORTH CAROLINA

■ In addition to the federal requirements, each individual must have in his/her possession a hard copy of the Progress Energy Federal Fish & Wildlife Depredation Permit (EVC-PGNC-00101) and North Carolina Wildlife Resources Commission Special Migratory Bird Permit (EVC-PGNC-00102) before the removal and relocation of active bird nests work begins.

■ The observation of any bald eagle nest occurring on or near any electric power structure shall be reported to the NCWRC within 24 hours.

✓ ESS should be notified immediately in order to make this report.

2.6 SOUTH CAROLINA

In addition to the federal requirements, each individual must have in his/her possession hard copies of the Progress Energy Federal Fish & Wildlife Depredation Permit (EVC-PGNC-00101) and the South Carolina Department of Natural Resources Special Migratory Bird Permit (EVC-PGNC-00103) before the removal and relocation of active bird nests work begins.

3.0 PERMITS & CERTIFICATIONS

3.1 COMPANY

N/A

3.2 FEDERAL

■ Progress Energy maintains a Progress Energy Federal Fish & Wildlife Depredation Permit (EVC-PGNC-00101) which allows employees and contractors under Progress Energy's direct control or authority to relocate active nests, excluding restricted species, from facilities in North Carolina and South Carolina.

■ This permit, issued annually by the U.S. Fish & Wildlife Service to ESS, is distributed to Environmental Coordinators (it is also available by clicking on the link above), and may be copied for distribution. The individual must have a hard copy of this permit in his or her possession when nest relocation occurs.

- 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, whether it is active or inactive.

3.3 FLORIDA

- Permits to allow relocation of active bird nests (excluding nests of restricted species) from facilities in Florida are obtained by ESS on a case-by-case basis.
- A blanket permit, Progress Energy Florida, Inc. - Migratory Bird Nest Permit (EVC-PGNF-00104), is obtained biennially allowing for the removal of inactive nests (excluding osprey) and the relocation of inactive osprey nests.

3.4 GEORGIA

Permits to allow relocation of active bird nests from facilities in Georgia are obtained by ESS on a case-by-case basis.

3.5 NORTH CAROLINA

- The North Carolina Wildlife Resources Commission Special Migratory Bird Permit (EVC-PGNC-00102) allows employees and contractors under Progress Energy Carolinas' direct control or authority to relocate active nests, excluding nests of restricted species, from electric power facilities in North Carolina.
 - ✓ Removal of hazardous bird nests is authorized during periodic maintenance and during structural replacements.
- This permit, issued annually by the North Carolina Wildlife Resources Commission (NCWRC) to ESS, is distributed to Environmental Coordinators (it is also available by clicking on the link above) and may be copied for distribution.
 - ✓ The individual must have a hard copy of this permit in his or her possession when nest relocation occurs. This permit only allows employees to remove and relocate active nests, not to destroy them.
- No permit is required for the removal of inactive nests.
- This permit does **NOT** allow employees to conduct any activity which might affect the nest of a threatened or endangered species, whether it is active or inactive.

3.6 SOUTH CAROLINA

- The South Carolina Department of Natural Resources Special Migratory Bird Permit (EVC-PGNC-00103) allows for the removal of inactive nests and the relocation of active nests, excluding restricted species, from electric power facilities in South Carolina.
- This permit, issued annually by the South Carolina Department of Natural Resources to ESS, is distributed to Environmental Coordinators (it is also available by clicking on the link above) and may be copied for distribution.
- ✓ The individual must have a hard copy of this permit in his or her possession when nest relocation occurs.
- This permit only allows employees to remove and relocate active nests, not to destroy them.
- The permit further requires monitoring of the relocated nest to determine the outcome. A report for any relocated nest is required.
- This permit does **NOT** allow employees to conduct any activity which might affect the nest of a threatened or endangered species, whether it is active or inactive.

4.0 TRAINING REQUIREMENTS

4.1 COMPANY

N/A

4.2 FEDERAL

N/A

4.3 FLORIDA

N/A

4.4 GEORGIA

N/A

4.5 NORTH CAROLINA

N/A

4.6 SOUTH CAROLINA

N/A

5.0 RECORD KEEPING REQUIREMENTS

5.1 COMPANY

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

5.2 FEDERAL

- Records pertaining to the Progress Energy Federal Fish & Wildlife Depredation Permit (EVC-PGNC-00101) must be maintained for five years from the date of expiration of the permit.
- ESS will prepare and submit a report to the U. S. Fish & Wildlife Service by the 15th day of each month of all nest relocations that occurred during the previous month.
- ESS will prepare and submit an annual report by January 31 for all nest relocations performed during the previous year.

5.3 FLORIDA

- An annual report of all inactive nests removals or relocations must be submitted to the Florida Fish and Wildlife Conservation commission by June 30.
- ✓ These records will be maintained by ESS for five years.

5.4 GEORGIA

Any records generated to support permits obtained in Georgia will be maintained for five years by ESS.

5.5 NORTH CAROLINA

- ESS will prepare and submit an annual report of all active nests relocated and their locations to the NCWRC with 30 days of the expiration of the annual permit.
- Records of bald eagle nesting on or near any electric power structure shall be maintained for five years.

5.6 SOUTH CAROLINA

- ESS will prepare and submit an annual report to the South Carolina Department of Natural Resources with the results (i.e., the success or failure) of any relocated nests.
- ✓ ESS will maintain records for five years.

6.0 SELF-ASSESSMENTS

N/A

7.0 REFERENCES**7.1 COMPANY**Agency LinksESS Contact ListEVC-PGNC-00101 Progress Energy Federal Fish & Wildlife Depredation PermitEVC-PGNC-00102 North Carolina Wildlife Resources Commission Special Migratory Bird PermitEVC-PGNC-00103 South Carolina Department of Natural Resources Special Migratory Bird PermitEVC-PGNF-00104 Progress Energy Florida, Inc. - Migratory Bird Nest PermitFRM-SUBS-00075 Active Nest Relocation Report Form**7.2 FEDERAL**Legislation: U.S. Code Title 16, Chapter 7, Subchapter II: Migratory Bird TreatyRegulation: Code of Federal Regulations Title 50 Part 10: General Provisions
Code of Federal Regulations Title 50, Part 13: General Permit Procedures
Code of Federal Regulations Title 50, Part 21: Migratory Bird Permits**7.3 FLORIDA**Legislation: Florida Statute Title XXVIII, Chapter 372: WildlifeRegulation: Florida Administrative Code Rule Chapter 68A: Freshwater Fish and Wildlife**7.4 GEORGIA**Legislation: Official Code of Georgia 27-2-1: Game and Fish Code

Regulation: N/A

7.5 NORTH CAROLINALegislation: North Carolina General Statute Chapter 113, Article 22: Regulation of Wildlife

Regulation: N/A

7.6 SOUTH CAROLINALegislation: South Carolina Code of Laws Title 50, Chapter 1: Protection of GameRegulation: South Carolina Code of Regulations Chapter 123: Department of Natural Resources