**IMPLEMENTATION OF THE PROTECTION OF MIGRATORY BIRD SPECIFICATIONS**

This construction bulletin implements requirements of the Migratory Bird Treaty Act specifications and provides guidance on applying them during construction. There are three project special provisions that may appear in the Contract to implement MBTA requirements:

1. One for use on projects where the work consists only of structure work.
2. One for use on projects where the work includes soil and vegetation disturbance and bird surveys have been done by CDOT environmental personnel.
3. One for use on projects where the work includes soil and vegetation disturbance and bird surveys will be done by the Contractor's wildlife biologist.

The appropriate one of these special provisions will be included in the Contract for each project.

The protection of migratory birds is required when a transportation construction project may affect them. This includes construction activities such as, but not limited to:

* Earthwork
* Bridge demolition or construction
* New lighting
* New signing
* New guardrail posts
* Erosion control
* Drainage work

The RPEM and the Staff Biologist are responsible for working with engineers to prevent potential problems and for collaborating on avoidance and mitigation measures.

CDOT staff involved in construction will act to ensure that appropriate and reasonable measures are taken to prevent the taking of migratory birds. In Colorado, the Common Pigeon, Starling, state listed game birds and English (house) Sparrow are not protected under the MBTA. CDOT will involve appropriate federal and state agencies regarding migratory bird issues as necessary when project conditions merit potential guideline changes to ensure that the MBTA guidelines and strategies are current and inclusive. CDOT will limit construction activities during nesting seasons when possible to prevent taking migratory birds

**MBTA Requirements During Construction:**

Migratory bird conservation principles included in the specifications. This includes but is not limited to:

* SURVEY: Survey areas and vegetation scheduled for clearing and grubbing activities within project limits and within 50 feet of project construction limits for active nests. The survey will be done by either a CDOT biologist or a Contractor biologist.
* REVISED PERMISIION TO ENTER PROPERTY: When the property owner changes, the Engineer shall request Region Right of Way to obtain a new signed Form 730.
* CLEARING AND GRUBBING: Do not clear live or dead vegetation containing active nests of migratory birds.
* STRUCTURE DEMOLITION OR REPAIR: Do not destroy active nests or injure birds protected by the MBTA during bridge or culvert demolition or repair.
* BUFFER: Establish appropriately sized buffers around active nests. Do not pursue construction within the buffers until the nests are no longer active.
* PRESERVATION OF VEGETATION: Within the work limits avoid disturbing vegetation designated to remain following project completion. Preservation of this vegetation includes keeping equipment and materials off the critical root zone.
* ADDITIONAL ACTIVITIES: Possible additional activities to incorporate into Construction to meet these requirements are:

 ◊ Prevent migratory birds from nesting on structures that will be repaired or demolished prior to when young birds will fledge.

 ◊ Clear trees without active nests within limits of disturbance prior to start of nesting season. Only trees within the limits of disturbance may be removed. Do not fell trees containing active nests of migratory birds.

**Taking of Eggs or Birds**

The new specifications require the Contractor to notify the Engineer when eggs or birds are taken. If eggs or birds are taken, contact the RPEM for advice on how to proceed.