



State of Washington  
**DEPARTMENT OF FISH AND WILDLIFE**

North 8702 Division St. Spokane, WA 99218-1106 Tel. (509) 456-4082

August 19, 1994

TO: David Mudd

FROM: John Andrews *JA*

**SUBJECT: PGT - PG&E PIPELINE EXPANSION PROJECT**

Attached are copies of the two mitigation agreements signed with PGT and PG&E in 1992. You can see one agreement is for ferruginous hawk and Swainson hawk nests and the other for non-special status raptor species nests.

Locally, this is called the Bechtel agreement because Bechtel was doing the construction, and we dealt primarily with them.

These agreements were rapidly negotiated over a weekend as the construction crews did not realize they could not work within 0.5 mile of the nests until they were practically on them. There were about 300 people working on this project and to stop work would have been very expensive to Bechtel.

The hand written notations on the agreement are part of the final and was done over Fax machines.

The nest structures were all installed last fall by Gary Clowers of Raven Research who did a superb job. PGT also transferred the \$8,000 monitoring money to WDFW. Nest monitoring this spring had one ferruginous nest and several other raptor nests. All involved expect the platforms to be more successful the second and following years.

JA:img

Attachment

**SITE-SPECIFIC MITIGATION PLAN**  
for  
**Impacts to non-Special Status Raptor Species**  
**Mileposts 183 through 255 (State of Washington)**  
**PGT-PG&E Pipeline Expansion Project**

**Introduction**

During March, 1992, and during resurvey operations in the latter part of April, preconstruction survey crews for the PGT-PG&E Pipeline Expansion Project located nine active raptor nests within 0.5 miles of the project right-of-way (ROW) in Washington. Dates of discovery and milepost locations are provided on the attached summary sheets; full maps with nest sites (orthophotos and field sketch maps) are on file with the project construction contractor and their consulting biologists (BioSystems Analysis, Inc.).

Project mitigation requirements from the Final Environmental Impact Statement (FEIS) originally stipulated that no construction concur within 0.5 miles of an active raptor nest. The project owners request relief from the mitigation requirements for those nests occupied by species not federally listed as threatened or endangered, or possessing any special status designation within the states the ROW traverses. Seven of the nine nests surveyed in Washington meet this criterion.

A proposed new mitigation plan, based on an alternative mitigation, was developed which would allow construction in the vicinity of such nests. It was accepted in principle by the Federal Energy Regulatory Commission (FERC), overseer agency for the project, subject to site-specific approval in detail by the appropriate state agencies. The purpose of this document is to provide such detail.

**Biological Rationale**

The new mitigation plan substitutes long-term habitat enhancement of target sensitive species for lost nesting opportunities of non-Special Status species, through the provision of artificial nest structures or the purchase of conservation easements to augment or retain suitable habitat.

**Plan Specifics - Implementation**

The seven non-Special Status species nests located in preconstruction surveys may be grouped as follows:

- Red-tailed hawk (4)
- Great horned owl (2)
- Long-eared owl (1)

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Non-Special Status Raptor Species  
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BioSystem's review of nest site locations concluded that, although some nests are a considerable distance from the ROW, the general scarcity of suitable habitat for tree-nesting raptors throughout the Palouse region requires a judgement that all of the above nests will be affected by construction activity.

The scarcity of nesting substrate also suggests that Strategy #1 from the Mitigation Plan should be the basis for site-specific implementation. We would consider ferruginous hawks and Swainson hawks (*Buteo regalis* and *Buteo swainsoni*) as the target sensitive species: the former is state-listed as Threatened, the latter is a Washington state candidate species. These species are likely to respond most effectively to an improved supply of nesting habitat. This strategy would replace the seven nests according to a 4:1 ratio, i.e. lost raptor productivity in the seven nests would be offset by the construction of 28 pole-and-platform structures. Final design and actual placement of the structures will be coordinated with the Washington Department of Wildlife, but a possible design is that described by Schmutz et al. (1984), and placement will be near the ROW between Mileposts 183 and 255.

Additionally:

1. A 500' buffer area around each artificial nest will be protected from agricultural activity or development, for a minimal period of five years. This will be assured through conservation easements or holding the land in fee, if the land is in private ownership.
2. A structures will be in place by April 1, 1993.
3. Artificial nests covered by this site-specific plan are in addition to, and not in lieu of, any structures developed to mitigate for the effects to the ferruginous hawk nests at M.P. 241.9 and 244.2.
4. Nest structures will be ~~to also~~ spaced no closer than one-quarter mile.

Literature Cited

Schmutz, J. K., Moore, D. A., and A. R. Smith. 1984. Artificial Nests for ferruginous and Swainson's hawks. *J. Wildl. Manage.* 48(3): 1984.

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Non-Special Status Raptor Species  
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Proposal accepted on MAY 6, 1992, by the following parties:

John Andrews

Washington Department of Wildlife

John Tjassan 5/6/92  
Bechtel, Inc.

**MITIGATION AGREEMENT**  
for  
**Ferruginous Hawk (*Buteo regalis*) Nests**  
Mileposts 241.9 and 244.2, PGT-PG&E Pipeline Expansion Project  
**Swainson's Hawk (*Buteo swainsonii*) Nest**  
Milepost 246.1

**Introduction**

On 21 March, 1992, preconstruction survey crews for the PGT-PG&E Pipeline Expansion Project located two ferruginous hawk nests, one at Milepost (M.P.) 241.9, 450' east of the right-of-way (ROW) and the second at M.P. 244.2, 600' east of the ROW. Distances were rough estimates only, as crews avoided approaching the nest trees. Since the ferruginous hawk is a threatened species in Washington, and a federal category 2 candidate species, the discovery was reported immediately to Fred Dobler of the Washington Department of Wildlife and, via regular reports, to the Federal Energy Regulatory Commission, the permitting agency for the Pipeline Project. A subsequent survey (on 30 April) revealed that the nest at M.P. 241.9 had been abandoned; Swainson's hawks (*Buteo swainsonii*) exhibited courtship in the vicinity of the abandoned nest. Surveyors noted prey delivery to the nest at M.P. 244.2, indicating presence of young. *The Swainson's have established an active nest at M.P. 246.1*

Project mitigation requirements stipulate that no construction occur within 0.5 miles of an active raptor nest. As construction activities in this area are time-critical, the project owners request relief from the mitigation steps which will allow construction to proceed before the biological end of the nesting period, without any long-term or irreversible effects to the viability of the species.

**Biological Rationale**

Several authors, among them White and Thurow (1985) have noted that ferruginous hawks are more susceptible to disturbance near the nest than most congenics. While predicting the effects of disturbance is notoriously difficult, both BioSystems Analysis, Inc. (Consulting Biologists for Bechtel, Inc.) and the Washington Department of Wildlife concur that nest success will be reduced, even if the remaining nest is not immediately abandoned. Although nestling rescue is proposed (see below), mitigation for effects to a listed species should allow for generating more productivity than necessary to simply replace immediate losses. Animals with reduced populations need protection from a variety of stochastic events such as weather, disease, and habitat fragmentation occurring in other areas. The loss of a reproducing pair may have a much greater effect for a species in this situation than it would for a more common species. Therefore, as an alternative to nest site avoidance, it is advisable to secure additional breeding habitat for a biologically meaningful period.

### Alternative Mitigation

BioSystems and the Washington Department of Wildlife present the following alternative to the mitigation described in the project Environmental Impact Statement.

1. Monitor existing <sup>Ferruginous and Swainson's</sup> nest during construction. If abandonment occurs, remove the eggs or nestlings and use <sup>rehabilitation experts for hatching eggs and</sup> other successful ferruginous hawk pairs to foster the young. If a suitable ferruginous hawk nest is not available, use a viable red-tailed hawk (*Buteo jamaicensis*) nest. All necessary permits will be acquired and any transfer of young will be done only in cooperation with the appropriate resource agency personnel. BioSystems has two rehabilitation experts as sources of additional advice and information:  
  
Dr. Ronald Tokar, Walla Walla (509) 529-3160  
Dr. Eric Stauber, Pullman (509) 525-0711
2. Provide additional habitat for rapid replacement of lost productivity, and offset the greater risk when impacting a threatened population, through the construction of twenty ~~to twenty-four~~ (20) ~~(20)~~ artificial nest structures, <sup>for Ferruginous hawks and seven (7) for the Swainson</sup> as described by Schmutz et al. (1984) in the area between the 1992 nests at M.P. 241.9 and M.P. 244.2. If the existing nests <sup>or</sup> is successful, construct ~~the~~ <sup>fresh</sup> (15) artificial nests <sup>for the Ferruginous and 4 for the Swainsons.</sup> Sufficient protection, such as conservation easements will be acquired from landowners to protect from agricultural activity or development, for a period of five (5) years, a 500' buffer area around each artificial nest. The same protection will be accorded the trees containing the existing nests.
3. If landowner acceptance of the structure and easements is not forthcoming, an equivalent number of nest sites (12 or 20) <sup>Ferruginous and 4 or 7 for Swainson's</sup> may be provided in another area mutually agreeable to the Washington Department of Wildlife and the project proponent. In this case, the conservation easement shall be ten (10) years.
4. Monitor all artificial and natural nests during the 1993 breeding season in the area between M.P. 241.9 and 244.2. If natural nests are not successful, institute a cross-fostering program to replace lost natural nest productivity within two to three years.
5. Nest structures will be spaced no closer than one-quarter mile.

### Literature Cited

Schmutz, J. K., Moore, D. A., and A. R. Smith. 1984. Artificial Nests for ferruginous and Swainson's hawks. J. Wildl. Manage. 48(3): 1984.

Mitigation Agreement for Ferruginous Hawk Nests  
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White, C. M. and T. L. Thurow. Reproduction of ferruginous hawks exposed to controlled disturbance. Condor 87: 14-22.

Proposal accepted on May 6, 1992, by the following parties:

John Andrews  
Washington Department of Wildlife

John Fossen 5/6/92  
Bechtel, Inc.

CURT SMITCH  
Director



STATE OF WASHINGTON

DEPARTMENT OF WILDLIFE

North 8702 Division St. Spokane, Wa 99218-1199 Tel. (509) 456-4082

November 5, 1993

Low Pamplin, Deputy Environmental  
Compliance Manager  
Bechtel  
P.O. Box 5606  
Bend, OR 97708

Dear Mr. Pamplin:

I met with Gary Larson and Gary Clowers on November 3, 1993, for a site visit of the 42 raptor nest platform (RNP) constructed under the two Raptor Mitigation Agreements signed between the Washington Department of Wildlife (WDW) and Bechtel.

I compliment Bechtel on the quality of the final product. WDW was sensitive to potential concerns as Bechtel contacted landowners and signed agreements, but this obviously went very well. The specific site locations, RNP design, and installation were superb reflecting the consummate professionalism of both Gary Larson and Gary Clowers (Raven Research). I couldn't be more pleased with the outcome of this project. I'm quite optimistic about the positive impact this will have on Washington's populations of the state threatened ferruginous hawk.

This was a rather unorthodox agreement as I stepped completely out of normal WDW protocol in the hasty or urgent negotiation of this agreement. After the conceptual agreement was signed, there were considerable logistical or specific items that needed to be worked out. Your staff were among the best I've worked with on a project of this nature.

The RNP report was of high quality and a nice touch. It helped me demonstrate to other WDW personnel the benefits of this agreement.

I still believe the original FERC constraints were appropriate. This is an example, however, where the FERC permit can work through flexibility. The mitigation agreement definitely benefitted wildlife and also allowed Bechtel to maintain a construction schedule.

Lew Pamplin  
November 5, 1993  
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In accordance with the agreements, WDW will provide occupancy and productivity monitoring in 1994. A second cycle of monitoring will follow in either 1995 or 1996 depending on an analysis of the 1994 survey.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Andrews".

John Andrews  
Regional Habitat Resource Program Manager

JA:img

cc: Chris Drivdahl  
Bruce Smith  
Gary Clowers  
Gary Larson  
Mark Grandstaff