



Best Management Practices in Assisting Solar Facilities during Construction and Operations to Manage Wildlife

BACKGROUND

Best Management Practices (BMPs) are practices or a combination of practices that are effective, practicable means of preventing or reducing harm while helping to meet necessary legislation, regulations, and policies. BMPs can be represented in a variety of different proposed practices completely dependent on the wildlife present or potentially present at the solar facility. Each solar facility will have to consider Federal, State, and County laws and regulations regarding the species they will deal with. BMPs can be different depending on the stage of construction and operation of each facility when it comes to managing the local wildlife.

PROJECT CONSIDERATIONS

- Assess potential adverse effects to habitat and animal species of concern.
- Avoid/minimize impacts.
- Reduce habitat loss and fragmentation to the maximum extent practicable.

CONSTRUCTION STUDY PROTOCOLS AND MONITORING

Migratory Bird Treaty Act (MBTA)

The statute’s language is clear that actions resulting in a “taking” or possession (permanent or temporary) of a species protected by the MBTA, in the absence of a U.S. Fish and Wildlife Service (USFWS) permit or regulatory authorization, is a violation. The MBTA states, “Unless and except as permitted by regulations...it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill...possess, offer for sale, sell...purchase...ship, export, import...transport or cause to be transported...any migratory bird, any part, nest, or eggs of any such bird” (16 United States Code 703). The word “take” is defined by this regulation as “to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect” (50 Code of Federal Regulations 10.12). Destruction or alteration of bird habitat that does not result in the direct taking of birds, nests, or eggs is not prohibited by the MBTA.

- Schedule vegetation clearing to occur outside of the nesting season as a BMP.
- Have environmental staff conduct nest surveys within 7 days of vegetation-clearing activities if clearing must occur during the nesting season (nesting season varies regionally).
- Have staff remove inactive nests and flag active nests at a predetermined distance buffer. Have staff check for activity until the nest has fledged or failed.

Bald and Golden Eagle Protection Act (BGEPA)

BGEPA provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part (including feathers), nest, or egg thereof." (16 United States Code 668-668d).

- Conduct surveys for bald and golden eagle nests within a project area and within 660 feet of the project area boundary as allowed by landowner access, for projects within the breeding ranges of these species. If access is unavailable, scan for nests outside of the project area from the project area boundaries.
- If a bald eagle nest is found, a buffer of 330 or 660 feet from the nest is required (USFWS 2007).

U.S. Endangered Species Act (ESA) of 1973, as amended

The ESA provides for the protection of threatened and endangered species. Know the species for your region.

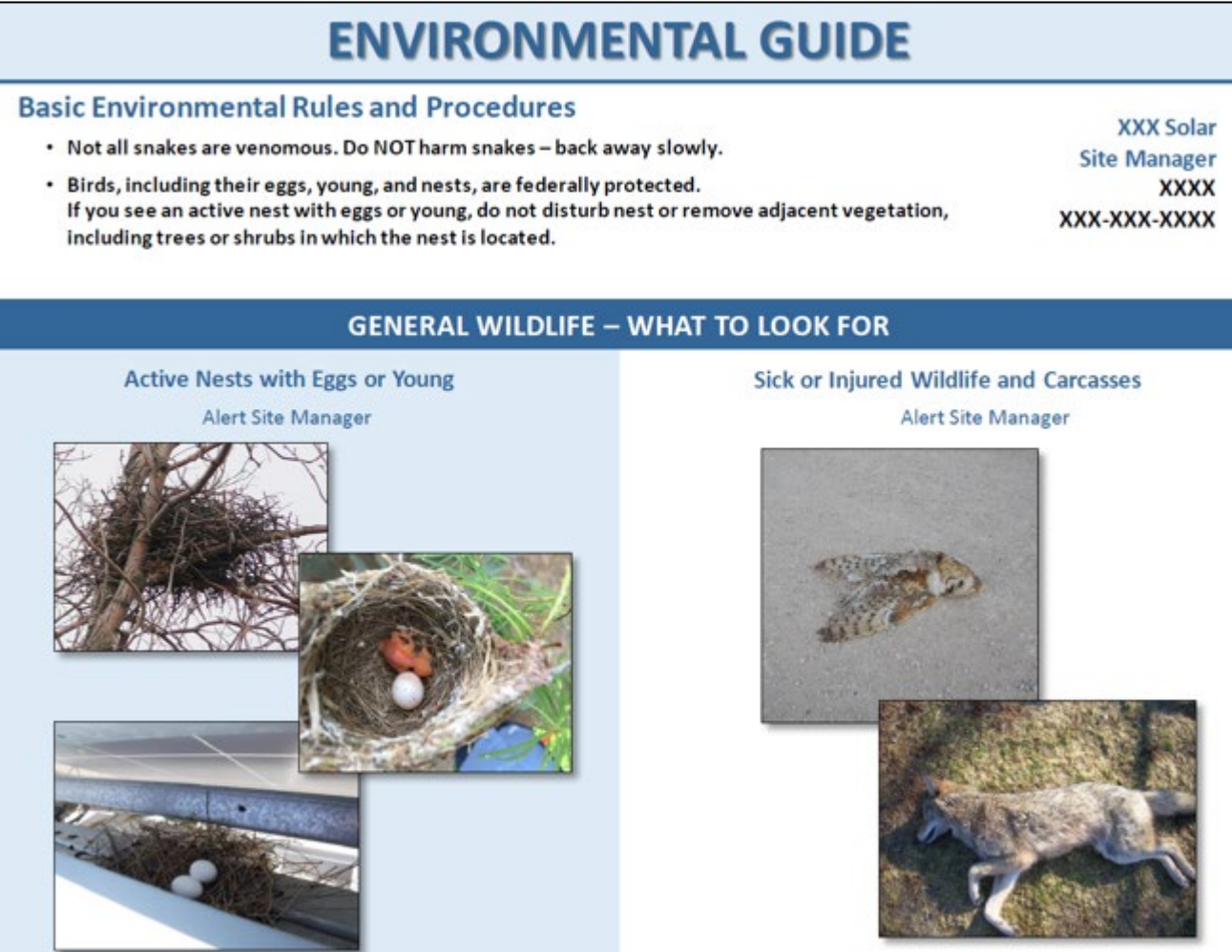
Examples:

1. For listed and/or proposed bat species, options include habitat assessments, passive acoustic monitoring, and/or mist netting surveys.
2. For listed mammals (excluding bats), birds, reptiles, amphibians, and invertebrates, options include habitat assessments and presence/absence surveying (small mammal trapping, game cameras, spot lighting surveys, acoustic monitoring, etc.).

OPERATIONS

WEAP Educational Video and/or placard (see example at right) to be available for site personnel.

- A WEAP is a Worker’s Environmental Awareness Program.
- This can be in the form of a wildlife training video or handout to address possible encounters with wildlife, such as:
 1. What do I do if I find an active bird nest?
 2. What do I do if I encounter a protected or listed species?
 3. What do I do if I encounter an injured animal?
- Prepare the WEAP with assistance from an environmental consulting firm, as needed.
- Establish a relationship with an environmental firm to provide on-call services as needed during operations.



REFERENCES

U.S. Fish and Wildlife Service (USFWS). 2007. National Bald Eagle Management Guidelines. Available at: https://www.fws.gov/sites/default/files/documents/national-bald-eagle-management-guidelines_0.pdf. Accessed February 2024.

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