

Hingtgen, Robert J

To: Bennett, Jim
Subject: RE: comments on satrap sand mine in El Monte Valley

From: Robin Pawl [<mailto:robinpawl@nethere.com>]

Sent: Monday, September 14, 2015 2:23 PM

To: Robin Pawl

Cc: Bennett, Jim; Jacob, Dianne; Cox, Greg; Roberts, Dave; Roberts, Ron; Horn, Bill; Fitzpatrick, Lisa

Subject: comments on satrap sand mine in El Monte Valley

https://en.wikipedia.org/wiki/Migratory_Bird_Treaty_Act_of_1918

The Migratory Bird Treaty Act of 1918 Protects birds and "Some of these conventions stipulate protections not only for the birds themselves, but also for habitats and environs necessary for the birds' survival.

Constitutionally this law is of interest as it is a use of the federal treaty-making power to override the provisions of state law. The principle that the federal government may do this was upheld in the case *Missouri v. Holland*."

"**Migratory birds** may seek respite within trees or on buildings considered **private property**.

The **Migratory Bird Treaty Act of 1918** prohibits the removal of all listed species or their parts (feathers, eggs, nests, etc.) from such property. However, in extreme circumstances, a federal permit might be obtained for the relocation of listed species (in some states a state permit is required *in addition* to a federal permit). Pursuant to the spirit of the treaty, it is not trivial to obtain a permit; the applicant must meet a certain criteria as outlined in Title 50, **Code of Federal Regulations**, 21.27, Special Purpose Permits.^[9]

The permit applicant is generally a contractor who specializes in wildlife relocation. When hiring a contractor to trap and relocate any animal from one's property, the private property owner is well advised to attain proof of such permits before any trapping activity begins, as trapping without the necessary paperwork is common in the United States.

Most wildlife management professionals consider relocation actions undue harm to the birds, particularly since relocated birds (being migratory) often return to the same property the next year. In the case of trapping and relocation, *harm* is brought on by or can result in:

- *Breaking*, a term describing increased susceptibility to disease brought on by the stress of capture and relocation
- Difficulty in establishing territory at the new location
- Separation of family members and the stunting of juveniles' natural progression into adulthood"

The following link provides a list of the birds protected by the Migratory Bird Treaty Act of 1918:

<http://www.fws.gov/migratorybirds/regulationspolicies/mbta/MBTANDX.HTML>

Many of these birds live in El Monte Valley. I have seen them myself.

How can the strip mine operate without damaging the environs and habitats of the birds on this list that live in El Monte Valley?

I oppose the strip sand mining project proposed for El Monte Valley.

Robin Pawl
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