

THE PROTECTION OF EAGLES AND THE BALD AND GOLDEN EAGLE PROTECTION ACT

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ABSTRACT.—The Bald Eagle Protection Act of 1940 (16 USC 668–668d) was passed to curb the wanton destruction of Bald Eagles (*Haliaeetus leucocephalus*). In 1962, prohibitions against enumerated acts were extended to the Golden Eagle (*Aquila chrysaetos*). The Golden Eagle continues to be impacted by poisonings from predator control, urban sprawl, and increased recreational use of remote areas. With the proposed removal of the Bald Eagle from the protection of the Endangered Species Act, the Bald and Golden Eagle Protection Act will be subject to increased scrutiny. The Fish and Wildlife Service is examining the use of Bald Eagle management guidelines to avoid take under the Eagle Act. Similar guidelines along with a broad outreach program would be appropriate for the Golden Eagle to avoid take at nest sites.

KEY WORDS: *Bald Eagle; Golden Eagle; Haliaeetus leucocephalus; Aquila chrysaetos; Bald Eagle Protection Act; Bald and Golden Eagle Protection Act; conservation.*

La Ley de Protección de las Aguilas Real y de Cabeza Blanca

RESÚMEN.—La Ley de Protección del Aguila de Cabeza Blanca de 1940 (16 USC 668–668d) fue aprobada para detener la destrucción desenfrenada del símbolo nacional de los EE.UU. En 1962, la protección de esta ley fue extendida al águila real. El águila sigue siendo impactado por tales cosas como venenos antidepredadores, la extensión urbana, y el aumento del uso recreacional de áreas remotas. La Ley de Protección de las Aguilas Reales y de Cabeza Blanca estará sujeta a un escrutinio creciente debido a la propuesta exclusión del águila de cabeza blanca de La Ley de Especies en Peligro. El Servicio Norteamericano de “Fish and Wildlife” propondrá guías de cuidado del águila de cabeza blanca para evitar su molestia o muerte bajo la ley. Guías similares junto con un programa de educación pública serían apropiados para evitar la molestia del águila real.

[Traducción del autor]

Protection of nesting Golden Eagles (*Aquila chrysaetos*) and Bald Eagles (*Haliaeetus leucocephalus*) is crucial to their survival. Due to their low fecundity, loss of individuals can have significant impacts on the stability of populations (Grier 1980). In the U.S., the need for legal protection of raptors has been recognized since the turn of the century.

Eagles have inhabited this planet for centuries. Golden Eagle remains have been dated to a half million years ago and Bald Eagle remains have been found dating back 10 000–12 000 years and it likely existed much earlier (Emslie 1998). For as long as humans have had contact with eagles, they have revered them. Many Native American cultures still hold eagles in spiritual regard. This is true for both northern and southern cultures. Today, the Golden Eagle is the national symbol of Mexico just as the Bald Eagle is the national symbol of the U.S.

Eagles have also been widely persecuted. Shooting was a common problem at the turn of the 20th century. In 1888, B. Evermann from Illinois was quoted as saying, “Scarcely does an eagle come into our state now and get away alive, if he tarry more than a day or two” (Mattsson 1988). Alaska initiated a bounty on Bald Eagles in the first half of the century resulting in the reported deaths of 128 000 Bald Eagles. From 1950 to the mid-1960s, Texas ranchers shot eagles from airplanes killing an estimated 20 000 eagles (Gerrard and Bortolotti 1988). Poison-baiting for predator control has been a significant source of mortality for eagles and continues to be a problem today. Electrocution is another source of mortality which has decreased due to better wiring practices, but it remains a problem in many areas.

The U.S. began to legally address the loss of migratory birds in 1918 with the passage of the Mi-

gratory Bird Treaty Act. One focus was the protection of birds from the feather trade for hats. This act was amended in 1936 to implement the Migratory Bird and Game Mammal Treaty with Mexico (50 Stat. 1311; TS 912). The treaty adopted a system for the protection of certain migratory birds in the U.S. and Mexico. It allows, under regulation, the rational use of certain migratory birds; provides for enactment of laws and regulations to protect birds by establishment of closed seasons and refuge zones; prohibits the killing of insectivorous birds, except under permit when harmful to agriculture; and provides for enactment of regulations on transportation of game mammals across the U.S.-Mexican border. Signed in Mexico City on 7 February 1936, this treaty was ratified by the president of the U.S. on 8 October 1936 and documents of ratification were exchanged on 15 March 1937 in Washington, D.C. Implementation of the treaty was accomplished by amending the Migratory Bird Treaty Act of 1918 (USC 703–711; 40 Stat. 755) on 20 June 1936 (49 Stat. 1556). The treaty was amended 10 March 1972 (23 U.S.T. 260; T.I.A.S. 7302) to add 32 additional types of birds including eagles, hawks, owls, and corvids. Similar treaties were signed with Canada (1916), Japan (1974), and Russia (1978). With the passage of the Migratory Bird Treaty Act, the widespread destruction of birds for commercial purposes eased, but the persecution of eagles continued in many areas.

On 8 June 1940, the U.S. Congress passed the Bald Eagle Protection Act (16USC 668a–668c; 50 CFR 22) with the specific purpose of protecting the national symbol. The enacting clause of this act provided:

“Whereas the Continental Congress in 1782 adopted the Bald Eagle as the national symbol; and

“Whereas the Bald Eagle thus became the symbolic representation of a new nation under a new government in a new world; and

“Whereas by that act of Congress and by tradition and custom during the life of this Nation, the Bald Eagle is no longer a mere bird of biological interest but a symbol of the American ideals of freedom; and

“Whereas the Bald Eagle is now threatened with extinction:

Therefore

“Be it enacted . . . ,” etc.

Since its passage, the Bald Eagle Protection Act

has been strengthened and, in 1962, it was amended to include Golden Eagles. There are several articles of this act which give it broader authorities than the Migratory Bird Treaty Act. The Eagle Act defines “take” more broadly than that of the Migratory Bird Treaty Act and includes pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest, or disturb. The U.S. Fish and Wildlife Service is currently exploring the use of management guidelines as technical assistance to avoid take as defined under the Eagle Act.

The Eagle Act does not require an action to be done “knowingly” but may be enforced for actions taken “with wanton disregard for the consequences of his act.” Therefore, carelessness is not an adequate defense against taking of eagles. Another provision of the act is that it allows for rewards to the person who provides information that leads to a conviction under the act. The reward is up to one half the fine, not to exceed \$2500. This can be a powerful tool if knowledge of the reward can get out to the public to use it. The Eagle Act also has a provision for cancellation of grazing rights on federal lands for violators of the act. Maximum fines are similar to those under the Migratory Bird Treaty Act with a \$250 000 fine per individual and a \$500 000 fine per organization and/or two years imprisonment.

The protection of eagles requires some knowledge of what needs protection. Nesting management guidelines for eagles are now quite well-known. For bald eagles, protective zones are described as a minimum of about 100 m for the primary protective zone and about 200 m for the secondary zone (U.S. Fish and Wildlife Service 1983). Guidelines for Golden Eagles are not as well-defined as for Bald Eagles. Typically Golden Eagles occur in open country and require a minimum of 300 m around their nests for a protective zone (Suter and Jones 1981). Many sets of guidelines have been developed and vary regionally with some describing tertiary zones for management.

While it is certainly true that the guidelines need to be adequately protective and that circumstances vary in which more or less buffer may be needed; however, they may be useless if people do not comply. Public outreach is a crucial aspect of eagle management and protection that cannot be ignored. Good laws and sound management plans lose their effectiveness if no one knows about them.

Fortunately, communication is easier today than

ever before, but still remains a sizeable task. This responsibility must be shared with the general public. Livestock farmers need to be given information to help them employ clean practices to minimize conflicts with eagles on their lands. Developers need guidelines to minimize impacts and to be able to promote the conservation of eagles as value added to their properties. Conservation groups should be tapped to help disseminate information on eagle management. People need to be aware of eagles and develop a protective attitude toward them in order for an eagle protection to be a success.

In summary, I recommend the reporting of legal violations related to eagles, that we exercise extensive outreach to educate landowners and land managers about eagles and their needs, and finally that we take these efforts to all levels of govern-

ment and land ownership including the most local levels.

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