

## Statement from Environment and Climate Change Canada received by the Community Nest Finding Network

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Environment and Climate Change Canada (ECCC) enforcement officers are responsible for the enforcement of several pieces of wildlife conservation legislation including the *Migratory Birds Convention Act, 1994*. The purpose of that Act is to protect individual migratory birds, their nests and migratory bird populations and this purpose is achieved by regulating potentially harmful human activities that may impact them.

ECCC can confirm that in response to public concern and complaints, an ECCC enforcement officer has visited a Trans Mountain Pipeline site in Burnaby, British Columbia to gather information about the construction activities there and to verify the reported presence of nests of the species Anna's hummingbird.

Anna's hummingbirds (family Trochilidae) are migratory birds which are afforded the protections under the *Migratory Birds Convention Act, 1994* and its regulations. At the Trans Mountain Pipeline site the enforcement officer identified nests of Anna's hummingbirds and sighted other migratory bird species in the area including Song Sparrows, Pine Siskins, American Robins and Black-capped Chickadees.

Given that it is nesting season, migratory birds are particularly vulnerable at this time. Cutting vegetation and trees or carrying out other disruptive activities such as bulldozing or using chainsaws and heavy machinery in the vicinity of active nests will likely result in disturbance or destruction of those nests. The disturbance or destruction of a nest of a migratory bird is a contravention of the Migratory Birds Regulations.

Under the *Migratory Birds Convention Act, 1994*, enforcement officers have authority to issue a compliance order to stop or prevent any activity that will contravene the Act or its regulations.

Therefore, based on the information gathered through two onsite inspections, on April 12, 2021 ECCC issued a verbal compliance order to Trans Mountain Pipeline ULC.

On April 16 ECCC issued a written compliance order to Trans Mountain Pipeline ULC.

The written order describes the measures to be taken as:

1. As of April 12, 2021, immediately refrain from disturbing, destroying or taking a nest or an egg of a migratory bird in contravention of paragraph 6(a) of the Migratory Birds Regulations at the Trans Mountain Pipeline ULC's site known as Construction Work Package 98 or CWP-98 which stretches 1,000 meters within the area bounded by the Highway 1 overpass on the west, Highway 1 on the north, the

North Road overpass on the east, and the CN rail line on the south (approximate GPS Coordinate 49.244471, -122.900165) in the city of Burnaby, British Columbia.

2. As of April 12, 2021, immediately stop or shut down any activity, including tree trimming and tree felling that may require the use of heavy machinery, bulldozers, chainsaws, machetes, etc that are likely to result in nest disturbance and destruction of a Migratory Bird during nesting window described by the Canadian Wildlife Service Biologist as Mid March to Mid August.

3. As of April 23, 2021, erect and maintain clearly visible signage demonstrating to the public, employees or contractors accessing the Construction Work Package 98 or CWP-98 site that there is no activity permitted on this site during the nesting window that would disturb or destroy a nest of a Migratory Bird.

Duration of Order: This order is in full force and effect until August 20, 2021.

For more information on penalties related to Migratory Birds Convention Act, 1994 visit the website: <https://laws-lois.justice.gc.ca/eng/acts/m-7.01/FullText.html>.

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