



LAHONTAN AUDUBON SOCIETY

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Hollow Mine Claim Markers Threaten Nevada Wildlife

Background / Basis for Concern

There has been long standing concern over the potential threat to birds and other wildlife posed by hollow mine claim markers. Since 1986, data have been collected to assess this threat. Over the past twenty years the magnitude of this issue has become increasingly clear as more bird and wildlife mortalities are documented. For example, in a recent post removal project on abandoned mine claims in October 2007 on BLM-administered land, 189 dead birds were discovered. Thirty two percent (n=62) of the identifiable dead birds were **Mountain Bluebirds, our state bird**, and almost eight percent (n=15) were American Kestrels, the smallest American falcon species. One marker alone contained at least 12 bird mortalities.

Of 43 species mortalities identified in mine claim marker removal projects, 15 are identified in the *Nevada Wildlife Action Plan* as requiring conservation attention, including four **Species of Conservation Priority** and eleven **Stewardship Species**. Three of these species are further classified under NAC 503.050 as **State Sensitive** and all but one species are protected under provisions of the **International Migratory Bird Treaty Act**. (Table 1.). Clearly, by not addressing this threat, we are negligent in our efforts to protect species the State and Federal Government have defined as being of management priority. Killing these birds also represents **violation of state and federal law** (i.e. NAC 503.050 and S 703, SubChapter II, Chapter 7, Title 16 of the International Migratory Bird Treaty Act).

Birds are not the only animals that fall victim to the trap of hollow mine claim markers; projects have also discovered a high mortality of reptiles, small mammals, and pollinating insects; mainly native bees.

Previous Legislative Effort

In 1993 Lahontan Audubon Society (LAS) and the Sierra Club, in conjunction with the Nevada Mining Association (NMA), was instrumental in the passing of legislation (**NRS 517.030**), which required the capping of hollow mine claim markers. While many claimants responded to the change required in the NRS, those caps began to dry up, crack and pop off. (Figure 1.). In addition to an undetermined amount of noncompliance, a large number of abandoned claim markers add to the problem. The number of illegal hollow claim markers on the Nevada landscape is uncertain, but conservative estimates begin in the hundreds of thousands.

EXHIBIT J - LANDS
Document consists of 5 pages.
Entire Exhibit Provided
Meeting Date: 06-06-08

Solutions Sought

In November 2007, Lahontan Audubon Society (LAS), based in northern Nevada, and Red Rock Audubon Society (RRAS), based in southern Nevada, sought the assistance of the Nevada Mining Association (NMA) in finding an effective solution to this wildlife mortality. The NMA has been extremely supportive, and we are grateful for their involvement. The NMA has reached out to state agencies such as the Division of Minerals and the Department of Wildlife as well as organizations such as the Nevada Landmen's Association to secure buy-in on resolving this problem. The result is the proposed revision of certain language in **NRS 517.030 Monumenting of Claim**. We collectively support this change and request that this Committee use its Bill Draft Request capabilities to help eliminate this threat to Nevada's avian and other wildlife.

Respectfully submitted,

Board of Trustees, Lahontan Audubon Society
Board of Trustees, Red Rock Audubon Society

6 June 2008

American Kestrel	<i>Falco sparverius</i>	
Western Screech-Owl	<i>Otus kennicottii</i>	
Burrowing Owl	<i>Athene cunicularia</i>	Conservation Priority
Northern Saw-whet Owl	<i>Aegolius acadicus</i>	
Owl (Unidentified Species)	<i>Otus sp</i> (perhaps <i>flammeolus</i>)	
Common Nighthawk	<i>Chordeiles minor</i>	
Common Poorwill	<i>Phalaenoptilus nuttallii</i>	
Ladder-backed Woodpecker	<i>Picoides scalaris</i>	
Northern Flicker	<i>Colaptes auratus</i>	
Woodpecker (Unidentified)	<i>Picidae Family</i>	
Western Wood-Pewee	<i>Contopus sordidulus</i>	
Say's Phoebe	<i>Sayornis saya</i>	
Ash-throated Flycatcher	<i>Myiarchus cinerascens</i>	Stewardship Species
Loggerhead Shrike	<i>Lanius ludovicianus</i>	Conservation Priority – State Sensitive
Northern Shrike	<i>Lanius excubitor</i>	
Horned Lark	<i>Eremophila alpestris</i>	
Western Scrub-Jay	<i>Aphelocoma californica</i>	Stewardship Species
Pinyon Jay	<i>Gymnorhinus cyanocephalus</i>	Conservation Priority
Clark's Nutcracker	<i>Nucifraga columbiana</i>	Stewardship Species
Violet-green Swallow	<i>Tachycineta cyaneoviridis</i>	
Tree Swallow	<i>Tachycineta bicolor</i>	
Mountain Chickadee	<i>Poecile gambeli</i>	
Juniper Titmouse	<i>Baeolophus griseus</i>	Stewardship Species
Bushtit	<i>Psaltirparus minimus</i>	
Red-breasted Nuthatch	<i>Sitta canadensis</i>	
Pygmy Nuthatch	<i>Sitta pygmaea</i>	
Rock Wren	<i>Salpinctes obsoletus</i>	
Canyon Wren	<i>Catherpes mexicanus</i>	
House Wren	<i>Troglodytes aedon</i>	
Cactus Wren	<i>Campylorhynchus brunneicapillus</i>	Stewardship Species
Wren (Unidentified Species)	<i>Troglodytidae Family</i>	
Ruby-crowned Kinglet	<i>Redulus calendula</i>	
Blue-gray Gnatcatcher	<i>Poliophtila caerulea</i>	
Western Bluebird	<i>Sialia mexicana</i>	Stewardship Species
Mountain Bluebird	<i>Sialia currucoides</i>	Stewardship Species
Townsend's Solitaire	<i>Myadestes townsendi</i>	
Northern Mockingbird	<i>Mimus polyglottos</i>	
Sage Thrasher	<i>Oreoscoptes montanus</i>	Stewardship Species – State Sensitive
European Starling	<i>Sturnus vulgaris</i>	Unprotected
Black-throated Gray Warbler	<i>Dendroica nigrescens</i>	Stewardship Species
Green-tailed Towhee	<i>Pipilo chlorurus</i>	Stewardship Species
Brewer's Sparrow	<i>Spizella breweri</i>	Conservation Priority – State Sensitive
Black-throated Sparrow	<i>Amphispiza bilineata</i>	Stewardship Species
Sparrow (Unidentified Sp)	<i>Emberizidae Family</i>	
Brown-headed Cowbird	<i>Molothrus ater</i>	
Pine Siskin	<i>Carduelis pinus</i>	
House Finch	<i>Carpodacus mexicanus</i>	
Finch (Unidentified Species)	<i>Fringillidae Family</i>	

Table 1. List of bird species identified as suffering mortality from hollow mine claim markers (1986-present). A total of 43 species, 15 of which are identified in the Nevada Wildlife Action Plan as requiring conservation action; 4 of the 15 indicated as Nevada Species of Conservation Priority, 11 referred to as Nevada Stewardship Species, 3 of these being further classified as State Sensitive (NRS 503.050). Mortality bird list obtained from Department of Wildlife – 2 June 2008. For definitions of Priority and Stewardship species, please see Nevada Wildlife Action Plan, Department of Wildlife.



Figure 1. Abandoned, hollow, plastic mine claim marker in northern Nevada. Note the plastic cap on the ground. Originally intended to eliminate the bird mortality hazard, capping has proven to be an ineffective long-term solution. *Photo – Pete Bradley*

Proposed changes to NRS

NRS 517.030 Monumenting of claim; replacement of plastic monuments.

1. Within 60 days after posting the notice of location, the locator of a lode mining claim shall distinctly define the boundaries of the claim by placing a valid legal monument at each corner of the claim. A valid legal monument may be created by:

(a) Removing the top of a tree, which has a diameter of not less than 4 inches, not less than 3 feet above the ground, and blazing and marking it;

(b) Capping a rock in place with smaller stones so that the rock and stones have a height of not less than 3 feet; or

(c) Setting a wooden or metal post or a stone.

2. If a wooden post is used, the dimensions of the post must be at least 1 1/2 inches by 1 1/2 inches by 4 feet, and the post must be set 1 foot in the ground.

3. If a metal post is used, the post must be **solid**, at least 2 inches in diameter by 4 feet in length, and it must be set 1 foot in the ground. ~~If the metal post is hollow, it must be securely capped.~~

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4. If it is practically impossible, because of bedrock or precipitous ground, to sink a post, it may be placed in a mound of earth or stones. If the proper placing of a monument is impracticable or dangerous to life or limb, the monument may be placed at the nearest point properly marked to designate its right place.

5. If a stone is used which is not a rock in place, the stone must be not less than 6 inches in diameter and 18 inches in length, and it must be set with two-thirds of its length in the top of a mound of earth or stone 3 feet in diameter and 2 1/2 feet in height.

6. ~~Durable plastic~~ All pipe that was set before March 16, 1993, for the purpose of defining the boundaries of a lode mining claim shall be deemed to constitute a valid legal monument if:

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(a) The pipe is **solid**, at least 3 inches in diameter by 4 feet in length, and the pipe is set 1 foot in the ground; and

~~(b) The pipe is securely capped with no open perforations. **solid**.~~

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7. The locator of a lode mining claim ~~located before March 16, 1993,~~ or his successor in interest, may remove ~~the durable plastic~~ any pipe ~~not meeting the requirements~~ described in subsection 6 and replace the monument of location and the corner monuments with valid legal monuments in the manner prescribed pursuant to subsection 1. ~~The locator or his successor in interest is not required to replace a monument located at the center of a side line.~~ Within 60 days after the replacement, the locator of the lode mining claim, or his successor in interest, shall record a notice of re-monumentation with the county recorder of the county in which the claim is located and pay the fee required by [NRS 247.305](#). The notice must contain:

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(a) The name of the claim;

(b) The book and page number or the document number of the certificate of location or the most recent amendment to the certificate of location;

(c) The book and page number or the document number of the map filed pursuant to [NRS 517.040](#); and

(d) A description of the monument used to replace each monument that is removed.

↪ The notice may include more than one claim.

One year after the adoption of these changes, any hollow pipe regardless of its composition used to mark the boundaries of a claim will not be considered a valid claim monument and may be knocked down or removed from said claim.

8. The replacement of ~~durable plastic~~any hollow pipe or the recording of a notice pursuant to subsection 7 does not:

(a) Amend or otherwise affect the legal validity of the claim for which the monuments were created;

(b) Modify the date of location of the claim; or

(c) Require the filing of an additional or amended map pursuant to [NRS 517.040](#).

[Part 2:89:1897; A 1899, 93; 1901, 97; 1907, 418; RL § 2423; NCL § 4121]—(NRS A 1971, 2197; 1985, 1495; 1993, 24, 25; 1995, 119, 121)