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March 9, 2013

Mr. Daniel M. Ashe, Director  
U.S. Fish and Wildlife Service  
1849 C Street, NW  
Washington, DC 20240

**Subject: Raptor Electrocutions**

Dear Director Ashe:

The American Falconry Conservancy (AFC) was organized in 2002 for the purpose of protecting and preserving falconry in the U.S. for future generations and to protect falconers' rights as legitimate sportsmen. We are a non-profit organization dedicated to the art of hunting with trained raptors and it is our intention to pursue the broadest liberties possible, not in conflict with legitimate science and conservation efforts.

It is the intent of the American Falconry Conservancy to bring to the attention of the Director serious situations which have resulted and will further result in the unnecessary and illegal deaths of countless raptors every year, and to seek U. S. Fish and Wildlife Services (FWS) assistance in remedying such situations. We also wish to point out wide disparities in FWS's enforcement of the law.

Firstly, we ask for your assistance in resolving the issue of the ongoing electrocution of thousands of raptors on electric power companies' transmission equipment. It is our understanding that the FWS regions are not uniformly enforcing the Migratory Bird Treaty Act (MBTA) or the Bald and Golden Eagle Protection Act (Eagle Act) as it relates to electrocutions of raptors, partially because there is no nationwide policy to hold power companies liable for their apparent disregard of the law, let alone their failure to follow the guidelines in the Avian Protection Plan (APP) ([http://www.aplic.org/uploads/files/2634/APPguidelines\\_final-draft\\_April2005.pdf](http://www.aplic.org/uploads/files/2634/APPguidelines_final-draft_April2005.pdf)) authored by FWS and the Avian Power Line Interaction Committee. We note that presently many power company co-ops claim they are not even aware of the APP. In many cases, FWS law enforcement officers simply warn utility companies about violations. In contrast, we also note that FWS often cites individuals, such as falconers, for the tiniest of infractions.

The power companies are aware of the problem of raptor electrocutions on their electrical transmission equipment. They are also aware that the technology to inexpensively remedy the problem is available as a proven management practice. Given that the power companies are both aware of this problem and in possession of effective remedies, this situation can no longer be merely dismissed as an act of negligence. Rather, it constitutes willful acts by the power companies, committed with full knowledge of their violations. Power companies have consistently ignored their responsibility to society to outfit their transmission equipment so it will be safe for raptors. Certain falconers have worked with their States to enforce MBTA and Eagle Act compliance with advantageous results. These actions demonstrate the ability of the several states to effectively manage their raptor resources and take the necessary regulatory and enforcement actions necessary to protect their resources from unnecessary destruction. There is an urgent need at this time for FWS to join in the effort to protect raptors from unnecessary and careless electrocutions through appropriate enforcement of the MBTA and the Eagle Act.

We ask that FWS implement a new regulatory policy that would require power companies at a minimum to comply with APP Guidelines. We suggest a one-year grace period to allow the power companies to retrofit equipment, which would be a reasonable prelude to active enforcement of the applicable regulations. Any electrical transmission equipment found thereafter to not be retrofitted should be regarded as non-compliant and subject to enforcement action.

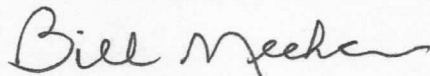
The MBTA is a strict liability statute and as such, entities, such as power companies, are liable for migratory bird fatalities regardless of knowledge or intent of wrongdoing. The forgoing is well established in law and regulatory practice. Therefore, it is likely under any reasonable interpretation of the intent of the MBTA, that after the expiration of the one-year grace period, any instances of raptor electrocution would constitute a clear violation of the MBTA requiring appropriate enforcement action.

Secondly, in regards to an issue closely related to raptor electrocutions, AFC would like to express the concerns of American falconers over FWS's reported intent on instituting a management plan which would allow wind turbines operated by power companies to annually destroy thousands more raptors, in particular eagles. The AFC and falconers nationwide find it particularly disturbing that FWS is seriously considering defining the destruction of individuals of all raptor species as legal and permitted take under the MBTA and Eagle Act, and charging the generation companies a harvest fee for each eagle so killed.

The forgoing raises the question: If FWS considers the deaths of so many raptors inconsequential to the health of wild populations, why does it manage falconry, an activity in which raptors are taken, maintained and often released alive, with such draconian regulations? Falconers have, almost singlehandedly, contributed more than any other group to the understanding and protection of wild raptors. Given the unwavering support by falconers for the protection of all native raptors, we find it particularly difficult to accept the Service's historical disregard of the raptor electrocution problem, and the proposed decision to permit, by imposition of a "harvest fee", the slaughter of large numbers of eagles and other raptors by the wind turbine industry.

In summary, we ask that FWS enforce the MBTA equally amongst all citizens and institutions. The elimination of the raptor electrocution problem is a goal which can be easily achieved by FWS. FWS is already in possession of the authority and the mandate to protect raptors from electrocution, and we ask the Director to provide vigorous and immediate support to enforce the relevant provisions of the MBTA and Eagle Act. If thousands of annual electrocutions can be tolerated when the means to prevent them are readily available, managing a mere 4,000 falconers at the federal level is an unnecessary administrative burden for FWS and should be left entirely up to the individual states. It is arbitrary to ignore blatant violations that are at the heart of the intent of the MBTA for one group (a group that destroys raptors), yet severely enforce regulations on the periphery of MBTA intent for another group (falconers, the very first group who lobbied for the protection of raptors, and who maintain raptors alive).

We respectfully request your written response on these matters by June 15, 2013.



Bill Meeker  
President, American Falconry Conservancy