



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Office of Law Enforcement
3833 S Development Ave, #102
Boise, Idaho 83705



June 7, 2024

To whom it may concern,

It has come to our attention that the City of Tumwater, without permit, intends to knowingly violate federal wildlife law by the removal of a tree, known as the Davis-Meeker Garry Oak, that will destroy an active American kestrel (*Falco sparverius*) nest that has unfledged young or eggs within it, without first having obtained a permit authorized by the U.S. Fish and Wildlife Service (FWS) to do so.

On June 5, 2024, a professional FWS wildlife biologist, with a background in raptor biology, physically observed, documented and confirmed that it is highly likely that a pair of American kestrels are currently either incubating or brooding young within a cavity of the Davis-Meeker Garry Oak.

The American kestrel is listed under [50 CFR § 10.13](#) and is federally protected under [16 USC § 703](#) of the Migratory Bird Treaty Act (MBTA). Unless and except as permitted by regulations, it is unlawful at any time, by any means or in any manner, to take any migratory bird, active nest, or egg of any such bird.

Activities, such as removal of the tree, that result in the take of an American kestrel or the destruction of its active nest, unfledged young, or egg(s), would be a violation of the MBTA and is subject to federal criminal prosecution.

A permit issued by the FWS under the MBTA could allow you to legally go forward with the Davis-Meeker Garry Oak removal project. Please contact the FWS Migratory Bird Office (permitsr1mb@fws.gov) to begin the process before work is performed.

After the nest is determined, by a qualified person, to no longer be active or the young birds have fledged, the nest will no longer be protected under the MBTA and may be removed without permit.

Sincerely,

Richard Bare

Richard Bare
Resident Agent in Charge
Idaho-Oregon-Washington
U.S. Fish & Wildlife Service
Office of Law Enforcement