

## Erin Nelson

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**From:** Ed Dobson <edpzbluff@gmail.com>  
**Sent:** Sunday, May 28, 2023 1:45 PM  
**To:** Erin Nelson  
**Subject:** Fwd: Comments of Brian Brown

----- Forwarded message -----

**From:** Edward M Dobson <[edobson@iglide.net](mailto:edobson@iglide.net)>  
**Date:** Sun, May 28, 2023 at 1:41 PM  
**Subject:** Comments of Brian Brown  
**To:** [edpzbluff@gmail.com](mailto:edpzbluff@gmail.com) <[edpzbluff@gmail.com](mailto:edpzbluff@gmail.com)>

**From:** Bryan Brown <[btbrown57@gmail.com](mailto:btbrown57@gmail.com)>  
**Sent:** Saturday, May 27, 2023 8:48 PM  
**To:** <[edpzbluff@gmail.com](mailto:edpzbluff@gmail.com)>  
**Subject:** helicopter tours in the San Juan corridor

All wild birds native to the U.S. are protected by the Migratory Bird Treaty Act of 1918 and Amendments (MBTA) which stipulate that "harm, harassment, and disturbance" to them are prohibited. "Harm, harassment, and disturbance" are terms that must be situationally defined by the U.S. Fish and Wildlife Service (USFWS), and they are very conservative in applying those terms to a potential activity on federal lands or for development projects with a federal nexus.

"Harm, harassment, and disturbance" have been well-defined for nesting raptors. First of all because raptors are protected by the MBTA and secondly because the USFWS and the BLM have identified most raptors as Species of Special Concern (SOSC). Active nests in spring and summer of most SOSC raptors are protected by no-entry/no-disturbance buffer zones (0.25 to 1.0 mile in diameter) that have been administratively established by those agencies. In addition, Golden Eagles are shielded by the Bald and Golden Eagle Protection Act of 1940 and Amendments, which gives them an even greater conservation status. Peregrine Falcons were formerly protected by the Endangered Species Act of 1973, but have since recovered and been taken off the endangered list -- however they remain a SOSC. Utah State wildlife law largely mirrors federal law on these broader issues.

Some raptor species -- Red-tailed Hawk and Great Horned Owl come to mind -- may habituate to constant, repetitive disturbances and become very tolerant of same. Others, especially Golden Eagles, Peregrine Falcons, and Ferruginous Hawks, are very sensitive to disturbance during the nesting season, and tours have the potential to cause harm **at that time**. Any disturbance event sufficient to cause the adult raptor to leave their nest containing either eggs or young has the potential to cause egg or nestling mortality, especially at times of bad weather when young are unable to fully thermoregulate. Helicopter tours are permitted in Grand Canyon National Park, for example, but the tours are required to fly well above the rims and are restricted to established corridors designed to minimize disturbance.

There is at least one active Golden Eagle nesting territory in the Upper San Juan Canyon; there are numerous Peregrine Falcon nesting territories between Bluff and Clay Hills (along the river and at the rims); and an unknown number of Ferruginous Hawk nesting territories are present (probably along the rims and not down in the canyons).

Potential helicopter tours operating (1) adjacent to SOSC raptor nesting areas and (2) above federal lands within a National Monument would almost certainly draw close scrutiny from the USFWS for a host of reasons. In addition, it is likely that the Wildlife Department of The Navajo Nation would have something to say if the tours were even briefly over tribal lands immediately south of the river (they have their own reasons, in addition to those reasons already mentioned).

Sincerely,

Bryan Brown

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**Ed Dobson**

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