



LIFE13 BIO / UK / 000428

**Fannyside Muir Construction Method Statement:
Breeding Bird Protection Plan**

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1 Introduction

This method statement describes the approach to protecting breeding birds at Fannyside Muir during the proposed bog restoration.

Most species of bird found during surveys are likely to breed between March and August, depending on weather conditions (Norris *et al.* 2015).

The majority of restoration methods to be used at Fannyside Muir will be low impact, and are unlikely to result in any significant negative effects. However, cross-tracking could result in a high level of impact, albeit over a short-term. Ditch blocking using excavators to create peat dams also has the potential have negative effects. Therefore, these have been considered in greater detail.

Excavators will be used to create peat dams so as to block ditches. This will involve the machine tracking over the bog, and excavating peat from a borrow pit before using this to block ditches, with the aim of increasing the water table.

A method known as 'cross-tracking' or 'low intervention ground-smoothing' will be used to adjust the micro-topography of the bog to encourage the growth of sphagnum and other bog species (Scottish Power Renewables, no date). A ridge and furrow system is present within the area to be cross-tracked, which results in the ridges becoming dry and vulnerable to colonisation by heather and conifers. This topography is likely to be the result of previous commercial forestry at the north of the Project Area, and the peat milling process used to harvest this resource elsewhere, including the area to be cross-tracked. 'Cross-tracking' involves the use of a heavy, low ground pressure, tracked vehicle rolling over the ridges and furrows in one direction before tracking over again in the perpendicular. This levels the ground so that the water table is equally high, waterlogging the area.

Both ditch blocking and cross-tracking aim raise the water table. This waterlogging provides the anaerobic conditions which, when combined with low-nutrient levels and acidity, allow bog vegetation to thrive.

Despite the short-term negative impacts, the works will create a mosaic of vegetation structure, characteristic of natural bog vegetation, which will be of great benefit to breeding bird populations by increasing the area of optimal habitat available. Therefore it can be reported that the restoration works will ultimately have significant positive benefits for breeding birds present in the area in the medium and long-term.

This document provides the following information:

- Legal protection;
- General species protection protocol; and
- Procedure for injury or fatality of any bird.

In addition, the Ecological Clerk of Works (ECoW) will include breeding birds and their mitigation in Toolbox Talks for machine operators and staff onsite.

2 Legal Protection

All wild birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 as amended. It is an offence to intentionally or recklessly:

- Kill, injure or take any wild bird (excluding certain specified game and other licence controlled species);
- Take, damage, destroy, obstruct or otherwise interfere with the nest of any wild bird while it is in use or being built;
- Take or destroy the egg of any wild bird;
- Disturb any species listed under Schedule 1 of the act whilst at the nest site, or while building the nest; and
- Disturb the dependent young of any species listed under Schedule 1.

Anyone found guilty of an offence is liable to a fine of up to £5000 and/or six months imprisonment.

3 General Species Protection Protocol

This method statement provides recommendations regarding appropriate mitigation options for breeding birds when undertaking ditch blocking with excavators or cross-tracking. However, if alternative restoration methods involving machinery are to be used an additional detailed mitigation method statement must be prepared specifying the approach to those particular plans.

If breeding birds are found to be present in areas scheduled for ditch blocking using excavators or cross-tracking, or within appropriate buffer areas an additional detailed mitigation method statement must be prepared specifying the approach to the particular baseline conditions present.

3.1 Mitigation protocol

The general mitigation protocol is described in detail below, and must be completed and/or overseen by a suitably qualified and experienced ECoW.

- Wherever possible, devegetation, ditch blocking with excavators and cross-tracking activities are to be scheduled so as to avoid the bird breeding season (March to August inclusive);
- Where work is to be carried out during the breeding season the area must be checked for nesting birds by a suitably qualified ecologist ahead of works (this must be rechecked on a daily basis to identify new nesting attempts). Nesting bird checks must be carried out within 24 hours prior to works commencing;
- If nesting birds are found, the area around the nest should be protected from disturbance. Buffer distances should be determined with reference to available guidance or literature and expert judgement if no guidance is available for the species in question (e.g. Ruddock and Whitfield 2007; Whitfield *et al.* 2008; Forestry Commission Scotland 2006; Currie and Elliott 1997)¹. Work would be delayed within this area until the ECoW has determined that the young have fledged and that no other birds are nesting in the area. Depending on the species and specific situation of the nest site, works may be limited to particular activities or completely stopped until young have fledged. The exact restrictions must be decided in consultation with the ECoW and a specific detailed mitigation method statement must be produced. However, the default would be a complete stop to all works within the appropriate set-back buffer until young have fledged;
- The ECoW must be present for any works involving devegetation or groundbreaking, as well as tracking heavy machinery over the bog. Works must follow agreed detailed mitigation method statements; and
- A watching brief will be maintained throughout the site during construction. If a bird nest is found during works when the ECoW is not present onsite, works must stop as soon as it is safe to do so. Advice must then be sought from the ECoW and an approach agreed prior to works recommencing.

¹ NOTE: Guidance published by SNH supersedes Forestry Commission Scotland guidance where there is species overlap.

4 Procedures for Injury or Fatality of Any Bird

In the unlikely event of any bird being disturbed, injured or suffering fatality the ECoW will be contacted as soon as it is safe to do so, who will make the decision on how best to deal with the situation, taking into account the level of legislative protection afforded to the species concerned. The ECoW will attend the site and make a written and photographic record, which will record the time, location, personnel involved and details of the incident. This information will be supplied within 24 hours to SNH and to Buglife.

5 References

Currie, F. and Elliott, G. 1997. *Forests and Birds: A Guide to Managing Forests for Rare Birds*. Forest Authority, Cambridge and Royal Society for the Protection of Birds (RSPB), Sandy.

Forestry Commission Scotland (FCS). 2006. *FCS Guidance Note 32: Forest operations and birds in Scottish forests – the law and good practice*. FCS.

Norris, G., Cathrine, C., Gillen, G. and Johnston, S. 2015. *Buglife – The Invertebrate Conservation Trust: LIFE13 BIO / UK / 000428 Fannyside Muir: Baseline Ecology Report*. Caledonian Conservation Ltd, Bridge of Allan.

Ruddock, M. and Whitfield, D.P. 2007. *A review of disturbance distances in selected bird species. A report from Natural Research (Projects) Ltd to Scottish Natural Heritage (SNH)*. SNH, Inverness.

Scottish Power Renewables. No date. *Techniques for restoring blanket bog on previously afforested habitat*. Scottish Power Renewables.

Whitfield, D.P., Ruddock, M. and Bullman, R. 2008. Expert opinion as a tool for quantifying bird tolerance to human disturbance. *Biological Conservation* 141, 2708-2717.