



Protecting Water, Forests and Wildlife

## Battle Creek Alliance Defiance Canyon Raptor Rescue

Rock Creek Rd.  
Manton, CA 96059  
(530) 474-5803

[www.thebattlecreekalliance.org](http://www.thebattlecreekalliance.org)



2/18/22

George Morris, Unit Chief  
Cal Fire Northern Region  
6105 Airport Rd.  
Redding, CA 96002

### **Formal Complaint regarding lack of eagle nest protection by Cal Fire and RPF #002754, Dawn Pedersen, TGU.**

Dear Mr. Morris,

I have been rescuing and rehabilitating raptors in Shasta, Tehama, Lassen, Trinity, Siskiyou, Modoc, and Plumas counties since 2013. I have many thousands hours of experience and training, and have State and Federal rehabilitation permits. I also have the only permit to rescue eagles in the area. I work closely with USFWS, CDFW, CHP, local police, and local community members.

There is a bald eagle nest next to Hwy 36 on the south side, approximately 1 mile east of Dales Station and the Manton Road (A6) turnoff.

Two local residents have been watching that nest since 2020, as well as a number of people from Chico.

A photographer from Red Bluff was going out every day in 2021, but had some health problems and was not there as often in May and June 2021. At the end of May, the photographer saw a notice there was going to be a control burn by the nest in a few days. She contacted a local eagle group, who called Cal Fire to tell them about the nest which was occupied by two young eaglets. The eagle group left a message for Dawn Pedersen, who left a message back saying their biologist said it was fine to be burning near the nest. The eagle group called back to get the biologist's name, but received no answer then or later.

The burn was done on June 1st. This nest is approximately 100 feet down a ravine from the highway. The eaglets were probably only 6-7 weeks old, 4 or 5 weeks from being able to fly.

The photographer was standing next to the nest during the burn and taking photographs. The Cal Fire people were to the east of the nest. The smoke and flames can be seen on the south side of the highway, the same side as the nest.



On May 31st through June 4th , the temperatures rose to the 105° range, about 2 weeks earlier than that has happened in the past.

The photographer went to check the nest on June 8th and saw one adult perched above the nest, but could see no eaglets.

On the morning of June 9th, the photographer took this photo which shows a dead eaglet hanging from the nest.



The photographer and the eagle group contacted me on June 9th. We went to search for the other eaglet at 7 p.m., in the hope it was still alive.

Both the adults were at the top of the tree, above the nest. I went down the ravine to the nest tree to walk around beneath it to search for the eaglet and the adults stayed in the tree top. I walked to the southeast side of the tree and looked up and saw the other eaglet hanging dead in the tree, below the nest about 10'.



I had occasion to contact Adam Deem in Cal Fire's Redding office about a Notice of Commencement issue on Feb. 14th, 2022. When he replied, he copied several other people, including Ms. Pedersen. I had just been informed that the Dales Station bald eagle nest was occupied, so mentioned it in the hope of preventing another burn next to the nest. Ms. Pedersen wrote dismissive, condescending remarks, clearly refusing to take steps to ensure any protections were implemented. (See attached document of emails.) Bald eagles are protected under the Migratory Bird Treaty Act of 1918:

[The Migratory Bird Treaty Act of 1918](#) (16 U.S.C. 703–712, MBTA) implements four international conservation treaties that the U.S. entered into with [Canada in 1916 \(446.6KB\)](#), [Mexico in 1936](#), [Japan in 1972](#), and [Russia in 1976](#). It is intended to ensure the sustainability of populations of all protected migratory bird species.

<https://www.fws.gov/birds/policies-and-regulations/laws-legislations/migratory-bird-treaty-act.php>

Federal law supersedes state law, which means eagle protection is more important than Cal Fire's roadside burning:

The [Supremacy Clause](#) is a clause within [Article VI](#) of the U.S. Constitution which dictates that federal law is the "supreme law of the land." This means that judges in every state must follow the Constitution, laws, and treaties of the federal government in matters which are directly or indirectly within the government's control. Under the doctrine of [preemption](#), which is based on the Supremacy Clause, federal law preempts state law, even when the laws conflict. Thus, a federal court may require a state to stop certain behavior it believes

interferes with, or is in conflict with, federal law. <https://www.findlaw.com/litigation/legal-system/the-supremacy-clause-and-the-doctrine-of-preemption.html>

California state law includes wildlife protections which are not being upheld in Cal Fire's current practice of burning close to an occupied nest:

### **Title 14, Chapter 1, Section 251.1. Harassment of Animals**

Except as otherwise authorized in these regulations or in the Fish and Game Code, no person shall harass, herd or drive any game or nongame bird or mammal or furbearing mammal. For the purposes of this section, harass is defined as an intentional act which disrupts an animal's normal behavior patterns, which includes, but is not limited to, breeding, feeding or sheltering.

Ms. Pedersen's, and by extension Cal Fire's, failure to act to protect the bald eagle's nest is illegal.

I contacted Krysta Rogers, CDFW Senior Wildlife Biologist at the Wildlife Health Lab for information regarding smoke effects on birds. She wrote:

**"A bird's respiratory system is more sensitive to toxins, including smoke, than a mammal's respiratory system. This is because birds have a higher oxygen demand than mammals and a bird's lungs are 10 times more efficient at capturing oxygen. The rapid efficiency of gas exchange in bird lungs makes them more susceptible to inhaled toxic agents, including smoke. Inhaled toxins, such as smoke, can cause irritation and damage the respiratory system. It also can compromise the immune system, making the bird more susceptible to infections. This is especially true in young birds in the nest that are unable to escape the smoke. Smoke inhalation toxicity in birds is caused by irritant gases (aldehydes, hydrogen chloride, and sulfur dioxide), particulate matter, and nonirritant gases (carbon monoxide, carbon dioxide, and hydrogen cyanide) released by combustion."**

There was a burn done next to the Dales Station nest in 2020 also. I was called upon to rescue an eaglet who got out of the nest before he could fly that year. It was several days before the burn was done, so he was away from the nest when the burn occurred. His sister was still in the nest during the burn. I received a call from Dales Station on Aug.7th, 2020 about an eaglet who had been on the ground for 3 days, standing next to a shallow pool of Paynes Creek. My determination was that it was the female from the nest. She was open-mouthed breathing with a raspy noise. She died a few hours after she was caught and transported. The Wildlife Lab report said: "This was a juvenile female in poor nutritional condition with no fat reserves and minimal pectoral muscle development. Internally, there was evidence of an extensive infection. The visible infection resembled avian tuberculosis which is caused by the bacterium *Mycobacterium avium*. It's widespread in the environment in soil and dust and is usually an opportunistic infection. Depending on where the lesions are in the bird, gives an idea of how it entered the body. The lesions in this bird were primarily in the air sacs suggesting it was inhaled."

The male who had been in care was released in 2020. A first year eagle was seen back at the nest in 2021. Judging by his and the adults' behavior, it was the male who was in care away from the nest during the burn in 2020.

## **Conclusion**

Cal Fire and its employees are public servants. It is their job to uphold state and federal laws, which includes protection of wildlife.

Ms. Pedersen ignored concerns for the eagles last year by casually dismissing the concerns and not providing the biologist's name or contact information. In the emails from the past few days, Ms. Pedersen lied about talking to the eagle group person last year, lied about the burn being by the nest, lied about the smoke, and has evaded committing to protect the nest. This is a pattern of slipshod and unethical behavior.

Dawn Pedersen, and by extension Cal Fire, have refused to take any action to protect the bald eagles nesting at Dales Station. It is illegal and demonstrates gross negligence and incompetence. Her failure to perform in a prudent, professional manner to address our concerns or even to simply return calls and provide requested information is inexcusable. She clearly does not know or understand the laws regarding wildlife, yet is in a position where she is responsible for enforcing protections. This complaint is being sent to USFWS, CDFW, and the Registered Professional Foresters licensing board.

Cal Fire must take substantive action to protect this, or any, nest from harm.

We request a response that details what steps will be taken to accomplish that.

A handwritten signature in black ink that reads "Marilyn Woodhouse". The signature is written in a cursive style with a horizontal line underneath it.

Marilyn Woodhouse, Director

