



January 28, 2018

*Submitted via [www.regulations.gov](http://www.regulations.gov)*

Public Comments Processing  
Attn: FWS–HQ–MB–2018–0048  
U.S. Fish and Wildlife Service  
MS: BPHC  
5275 Leesburg Pike  
Falls Church, VA 22041–3803

**Re: Draft List of Bird Species to Which the Migratory Bird Treaty Act Does Not Apply**

Dear Sir/Madam:

Western Energy Alliance appreciates the opportunity to submit comments on the Fish and Wildlife Service’s (FWS) draft list of the nonnative bird species that have been introduced by humans into the United States and to which the Migratory Bird Treaty Act (MBTA) does not apply.

Western Energy Alliance represents over 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas across the West. The Alliance represents independents, the majority of which are small businesses with an average of fifteen employees.

It appears that only one of the three arguably most widespread and common non-native/non-MBTA-protected bird species are included on the list. The Rock Pigeon (*Columbia livia*) is included, but the European Starling<sup>1</sup> (*Sturnus vulgaris*) and House Sparrow<sup>2</sup> (*Passer domesticus*) are not, despite the fact that they are nonnative. We suggest FWS add the latter two to the list before finalizing it.

The protections afforded species under the MBTA often affect resource development. Although a recent Solicitor’s Opinion<sup>3</sup> clarified that incidental take of the species protected by the Act is not a crime, federal agencies such as the Bureau of Land Management still incorporate stipulations such as timing restrictions around migratory birds and their nests.

As a result, it is critical that the list be as accurate as possible so those agencies that rely on it in crafting management plans and issuing permits do not place overly burdensome restrictions for the protection of species that should not be on the MBTA-protected list.

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<sup>1</sup> [https://www.allaboutbirds.org/guide/European\\_Starling/overview](https://www.allaboutbirds.org/guide/European_Starling/overview)

<sup>2</sup> [https://www.allaboutbirds.org/guide/House\\_Sparrow/overview](https://www.allaboutbirds.org/guide/House_Sparrow/overview)

<sup>3</sup> <https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf>

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Furthermore, because the European Starling and House Sparrow are so widespread across the country, it is especially important that they be included on the list of species to which the MBTA does not apply. We urge FWS to do so.

Thank you for the opportunity to submit these comments. Please do not hesitate to contact me with any questions.

Sincerely,



Tripp Parks  
Manager of Government Affairs