

**From:** [Perez, Chris](#)  
**To:** [Gardiner, Dawn](#); [Orms, Mary](#)  
**Cc:** [DeLaGarza, Imer](#); [Bilodeau, Stephanie A](#); [Stone, Kelli L](#)  
**Subject:** Fw: [EXTERNAL] Boca Chica nest fates  
**Date:** Monday, June 10, 2024 8:46:57 AM  
**Attachments:** [CBBEP Boca Chica shorebird nests losses - June 6 2024.pdf](#)  
[EO 13186 Federal agency responsibility to protect Migratory Birds.pdf](#)

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Good morning Dawn and Mary:

Please see the attached EO 13186, Section 3 in particular. Do we have any MOUs with FAA in compliance with this EO for the Starship Super Heavy Program? What do you recommend as next steps to address this issue, as per CBBEP's report?

Let me know, thanks!

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**From:** David Newstead <dnewstead@cbbep.org>  
**Sent:** Monday, June 10, 2024 7:54 AM  
**To:** Perez, Chris <chris\_perez@fws.gov>; Reagan Faught <Reagan.Faught@tpwd.texas.gov>; Kristen Eggers <Kristen.Eggers@tpwd.texas.gov>; Bilodeau, Stephanie A <stephanie\_bilodeau@fws.gov>; Gardiner, Dawn <dawn\_gardiner@fws.gov>; Orms, Mary <mary\_orms@fws.gov>; Ardizzzone, Chuck CA <chuck\_ardizzzone@fws.gov>; Stone, Kelli L <kelli\_stone@fws.gov>  
**Cc:** Justin Leclaire <JLeclaire@cbbep.org>; Kiersten Stanzel <kstanzel@cbbep.org>  
**Subject:** [EXTERNAL] Boca Chica nest fates

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Hello,

As you know, we have been continuing to monitor nesting shorebirds at Boca Chica. Attached is a report based on before/after monitoring of last week's rocket launch. All nests were either partially or completely destroyed. We have not cleaned off the faces of the game cameras, if there is any interest in analyzing/testing that. Please pass along to any others as you see fit. Let me know if you have any questions.

Thanks

David

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# Shorebird nest fates at Boca Chica after rocket test launch

Prepared by Justin LeClaire, David Newstead  
Coastal Bend Bays & Estuaries Program  
June 6, 2024



## Background

Coastal Bend Bays & Estuaries Program (CBBEP) staff perform weekly nesting shorebird surveys across different subsites at Boca Chica during the shorebird breeding season, approximately March through August. Focal nesting species for these surveys include Snowy Plover (*Anarhynchus.nivosus*; SNPL), Wilson's Plover (*Anarhynchus.wilsonia*; WIPL), and Least Tern (*Sternula.antillarum*; LETE).

Potential nesting habitat in the Boca Chica area is quite extensive so our monitoring efforts focus on several "subsites" within the area. The South Launch subsite is located entirely within Boca Chica State Park (Fig. 1). Nesting activity at this subsite has been monitored since the 2021 nesting season. Monitoring of the 2024 nesting season began on February

23. The site is a large open sandflat directly south of a rocket launchpad. Sediments in the area consist almost entirely of fine silt, clay and sand particles, with scattered biogenic (molluscan shell) fragments but no native component of lithic materials. Previous rocket test activity has spread debris (gravel, concrete, metal, plastic, rubber, and others) of varying sizes across a large swath of habitat in surrounding conservation lands, including a test in 2023 which disintegrated the launchpad spreading concrete debris across the area. While large pieces of concrete debris have since been removed, smaller rubble remains widespread.

Ongoing and annual monitoring of the Boca Chica area has documented shifts, and overall reductions, in shorebird nesting activity in recent years since rocket testing and launch activity began.

To document the immediate impact of an individual launch attempt, we conducted monitoring as close as possible prior to, and following, a launch event. This report summarizes findings of one such launch event at the South Launch subsite.

## **Methods**

During regular monitoring, when new nests of SNPL and WIPL are encountered, eggs are carefully “floated” in a small container of water to observe orientation and buoyancy of each egg, allowing for accurate estimation of the age of each egg and therefore an expected hatch date. WIPL and SNPL nests are typically monitored until hatching or failure. Upon failure, the nest is approached and the area searched to determine cause of failure.

The rocket operator announced a test launch planned for the morning of June 6, 2024. On June 5, CBBEP staff conducted a monitoring visit to the South Launch subsite and recorded GPS locations and nest status of a total of five Snowy Plover nests, one Wilson’s Plover nest, and a dispersed colony of 11 Least Tern nests within the South Launch subsite (Figure 1). Monitored nests ranged from approximately 250 meters up to 430 meters away (~0.16 – 0.26 miles) from the most proximate edge of the launchpad. Total numbers of Least Tern adults, nests, and chicks are recorded during surveys but individual locations are not. Observations of these intact nests last occurred on June 5<sup>th</sup> between 3:00 and 4:00 p.m. local time (Central Daylight Time; all subsequent times are reported in CDT).

Following the launch, the six plover nests and three randomly selected LETS nests approached to determine nest status. We recorded the number of eggs in each of the nine monitored nests, and examined them for damage.

Additionally, two Bushnell E3 game cameras were set up near two nests at 4pm on June 5<sup>th</sup> to document any disturbance during the rocket launch attempt planned for the next day, June 6<sup>th</sup>. One camera was set ~1 m behind a Snowy Plover nest (SNPL 2) facing north and the other was set ~1 m feet behind a Wilson’s Plover nest (WIPL 1) facing north. Cameras were set to a high-sensor “motion trigger” mode, with 3 images per sensor trigger.





Figure 1. Map of the South Launch subsite at Boca Chica showing the locations of active plover nests and a dispersed Least Tern colony on June 5, 2024 in relation to the rocket launchpad.

## Results

The rocket launch occurred on June 6, 2024 at approximately 7:50 a.m. and access was subsequently reopened to the public at approximately 8:35 a.m. CBBEP staff were on-site by 9:50 a.m. and began general reconnaissance noting some minor metal sheet and insulation debris on the intertidal flat along the north side of Highway 4 - most within 100 meters of the road. There was evidence of water deluge spilling/projecting out onto the sand flat within the rocket operator's property south of the launchpad, but it was unclear if the deluge directly washed over onto the adjacent Boca Chica State Park land. The soil in much of the South Launch sandflat appeared a darker color than the day before and also appeared slightly bumpy and crunchy, indicating that water, vapor and/or sand and mud may have been projected out over the landscape and begun to dry already in the hot sun. Burned remnants of a small wildfire about 400 sq. ft. in size was observed in the grass southwest of the rocket launchpad within Boca Chica State Park, but no affected wildlife was observed.

Nest checks in the South Launch subsite began at approximately 12:15pm on June 6.

All 9 shorebird nests monitored following the rocket launch on June 6 were either missing eggs, had damaged eggs, or both (Table 1; see photograph log at end of report). Following the plover nest checks, three additional still-active LETE nests in this area were checked and also found to each have at least 1 damaged egg within them. Out of 22 eggs within the 9 nests that were checked (assuming the LETE nests were at full clutch/2 eggs on June 5), only 5 total eggs within 4 individual nests were found intact and still viable following the launch – all other eggs were missing or were deemed too damaged to be viable.

Cracks/holes in eggs ranged from relatively small cracks/notches up to fully penetrated pea-sized holes. Bloody egg contents were found on several egg exteriors near holes within them.

Table 1. Nest statuses observed by CBBEP staff the day before the rocket test launch (June 5) and within hours after the launch (June 6). Note that three random LETE nests that were observed being incubated on June 6 after the launch were also checked for egg damage after CBBEP staff noted damage/missing eggs for all plover nests in the South Launch subsite.

Nest ID	# eggs on June 5	Est. hatch date	# eggs on June 6	Status of remaining eggs on June 6
SNPL1	3	June 16, 2024	0	no eggs present
SNPL2	3	June 17, 2024	1	1 egg w/ hole/crack
SNPL3	3	June 26, 2024	2	2 eggs apparently intact
SNPL4	3	June 25, 2024	0	no eggs present, dried egg contents in nest cup and drip line away from nest
SNPL5	1	June 30, 2024	1	1 egg w/ hole/crack
WIPL1	3	June 16, 2024	1	1 egg apparently intact
LETE1	unknown	unknown	2	2 eggs w/ hole/crack
LETE2	unknown	unknown	2	1 egg intact, 1 w/ hole/crack
LETE3	unknown	unknown	2	1 egg intact but scratched, 1 w/ hole/crack

In the post-launch monitoring, both CBBEP game cameras that were placed near nests were found to be heavily coated in clumped sand/mud on their launchpad-facing sides (the camera face). Additionally, the lens on the camera set up at WIPL 1 had been shattered by a pea-sized piece of concrete debris that was found wedged between the game camera and its protective metal housing. Game camera photographs explained below.

- WIPL 1 camera: camera images clearly show all 3 eggs as well as one or both WIPLs incubating the nest through the rest of June 5 and the proceeding night. Flames are seen from under the rocket at 7:50am on June 6 and at that point the adults are no

longer in sight but 3 eggs clearly remain. Subsequent images show the thick cloud of dust and small debris approach the camera at a very high rate of speed (estimated minimum 100 ft/sec based on location of leading edge of cloud between photos less than 1 second apart). Within 18 seconds of the engines firing the dust began to clear and all subsequent images appear in a pinkish hue, possibly due to wet sand/mud coating the camera and sensors. It also became apparent that the concrete pebble had broken camera lens and lodged in front of the lens, blocking any view of the nest towards the bottom of the images. The next images taken were 2.5 hours after launch, at which point the WIPLs can be seen switching places incubating the nest, though the nest contents still cannot be seen in the photos. The nest was found at 12:42pm by CBBEP staff with only one egg remaining in it and no signs of predators or egg pieces around.

- SNPL 2 camera: camera angle did not allow for clear viewing of nest contents, but the SNPL pair did return to incubate the 3-egg nest after camera installation for a few photos. No other photographs were taken until 7:50am on June 6, just after the rocket launch when the dust cloud and debris can again be seen rapidly moving towards the camera. Nest contents are not perfectly clear in the images but the edge of at least two eggs appear to be visible in the nest cup. The images turn a yellowish hue after the dust settles and no more photographs were taken until CBBEP staff checked the nest at 12:28pm. The nest was then observed with just a single egg in it that was cracked and no longer viable, though the attending SNPLs were still incubating the nest.

## Discussion

Out of the 9 nests directly observed by CBBEP staff after the rocket launch, 5 nests were found with damaged eggs consistent with being hit with small objects such as the pea-sized concrete/rock debris associated with this launch. This damage is not consistent with any predator interactions in our experience. Additionally, the strong speed/force of projected debris and wet sand/mud was apparent both in the game camera photographs as well as on the face of the camera bodies themselves – one of which had its lens shattered by a concrete pebble. Additionally, 5 of the 9 nests were observed with missing eggs. Shorebirds, along with most other birds, are known to instinctively remove damaged/non-viable eggs from their nests when found by the attending adults to reduce the chance of attracting predators. All of the plover nests in the South Launch subsite were at least 10 days away from their estimated hatch date as determined by egg floating within the prior week, so none of the egg losses could be attributed to chicks hatching out.

Though shorebird nests are often predated by mammals due to their simple ground nest structure, in our experience it is quite rare for partial nest predation to occur (i.e. that a predator does not consume all eggs in a nest). Additionally, a predator that finds a colony of nests near each other is extremely unlikely to randomly predate only 1 or 2 eggs out of each nest rather than consuming all 3 eggs of all nests present. Game cameras did not detect any predators and though the lens or sensors of both cameras were either damaged

or obscured from the test launch, both were still functional and photographed CBBEP staff when we returned to check the nests on June 6. CBBEP staff did not directly observe any predators or fresh predator tracks in the South Launch subsite on June 6.

The combination of fast flying debris associated with the launch, lack of any predator signs in-person or on-camera, and presence of cracked and/or missing eggs in every nest checked within 5 hours of the rocket test launch indicates that most, and likely all, of the 9 nests were likely damaged directly by debris that had been projected outwards during the test launch. Though only 5 nests had eggs that were obviously damaged, the remaining 4 nests were all missing 1-3 eggs, consistent with the hypothesis that adults found damaged eggs in their nests and instinctively removed them to prevent predators from coming into the area.



## Photograph Log



Figure 2. SNPL 1 nest intact and with 3 eggs on June 5, the day before the rocket test launch.





Figure 3. SNPL 1 nest with 0 eggs and no signs of predator tracks despite moist ground that would be highly impressionable by any predators on June 6, 2024.





Figure 4. SNPL 2 nest with only one egg remaining and the rocket launchpad in the background on June 6, 2024.





Figure 5. SNPL 2 close up photograph with arrows showing damage on single egg on June 6, 2024.





Figure 6. WIPL 1 with only a single intact egg remaining on June 6, 2024.





Figure 7. SNPL 3 with only a single egg remaining on June 6, 2024.





Figure 8. Lone egg from SNPL 3 with large cracks in it on June 6, 2024.



Figure 9. LETE 1 showing both eggs with large holes/cracks and dried egg contents emerging on June 6, 2024.





Figure 9. SNPL 4 with dried egg contents spilled in the nest cup and droplets moving away from it in a straight line on June 6, 2024.





Figure 10. Lone egg from SNPL 5 with a small but significant depressed crack on June 6, 2024.



Figure 11. Small but noticeable crack on egg from LETE 2 on June 6, 2024.





Figure 12. Small but noticeable depressed crack on egg from LETE 3 on June 6, 2024.





Figure 13. WIPL 1 as referenced by red arrow with game camera installed nearby facing north pre-launch on June 5, 2024.





Figure 14. Game camera from WIPL 1 showing the launchpad-facing side covered in mud as well as a concrete pebble sitting in front of the camera lens post-launch on June 6, 2024.





Figure 15. Game camera from WIPL 1 showing completely cracked camera lens after pebble was removed post-launch on June 6, 2024.





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Figure 16. WIPL 1 game camera showing adult female WIPL incubating nest at 6:59am on June 6, 2024, 50 minutes before rocket launch.

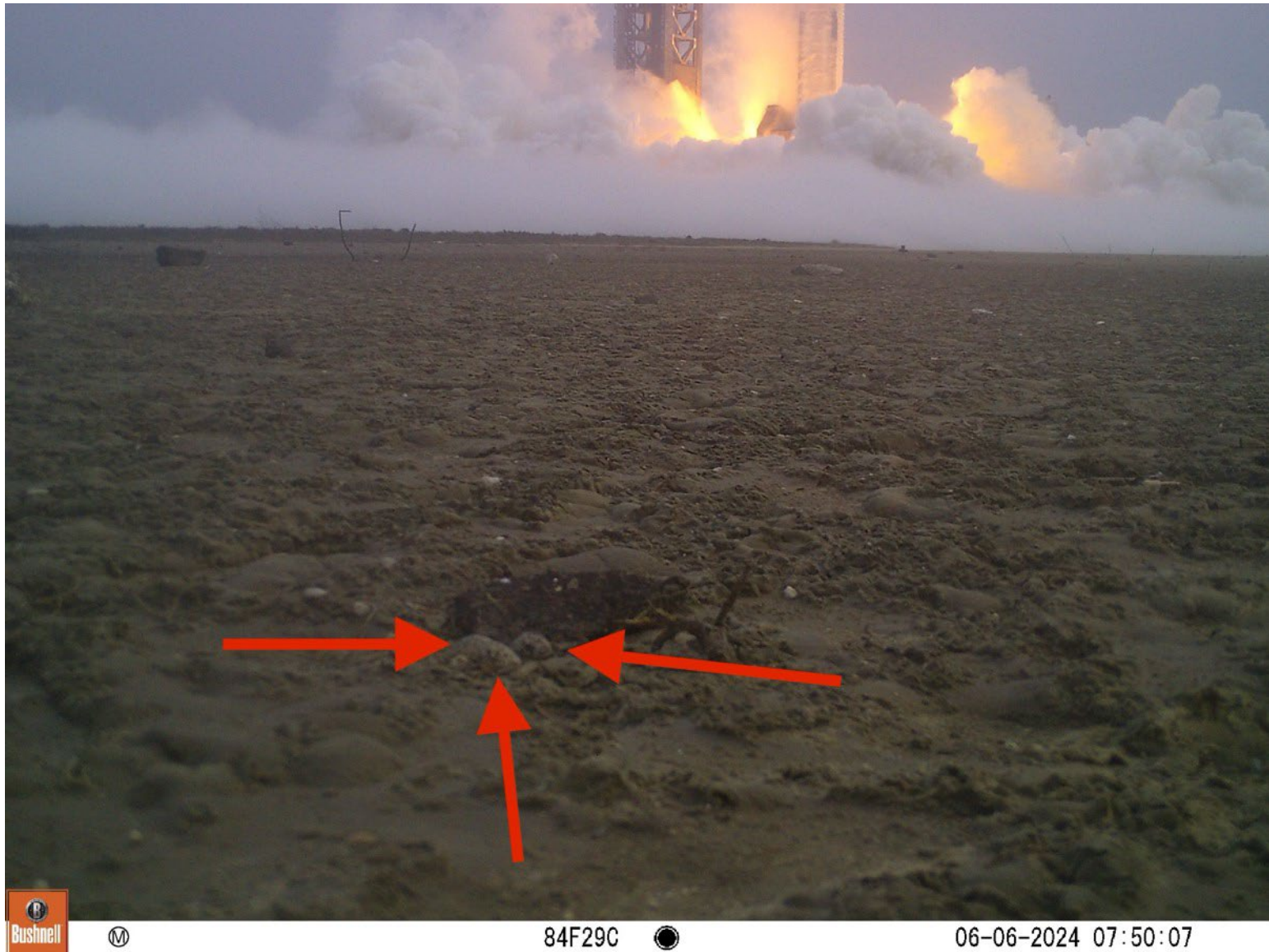


Figure 17. WIPL 1 game camera showing 3 eggs in nest cup with rocket engines firing in the background on June 6, 2024.





Figure 18. WIPL 1 game camera showing dust/smoke and small pale-colored debris moving toward the nest and camera at a high rate of speed during the rocket test flight launch on June 6, 2024.

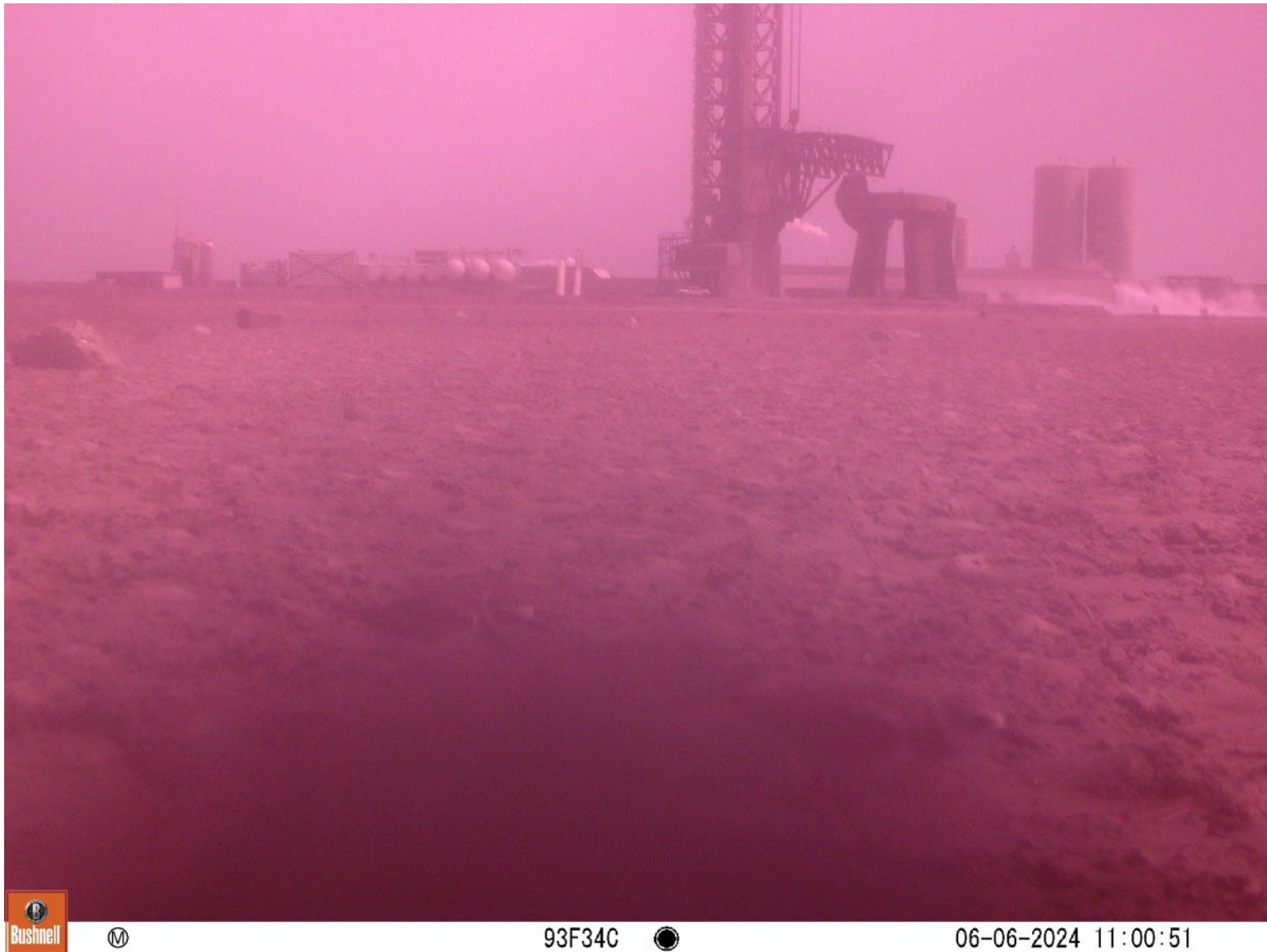


Figure 19. WIPL 1 game camera showing both WIPL adults in attendance but nest cup not quite visible due to pebble lodged in camera lens and overall pinkish hue post-launch on June 6, 2024.





Figure 20. Game camera from SNPL 2 showing the launchpad-facing side completely covered in mud as compared to a clean side post-launch on June 6, 2024.





Figure 21. SNPL pair incubating SNPL 2 shortly after the game camera was set up pre-launch on June 5, 2024.





Figure 22. SNPL 2 game camera showing dust cloud and small pale-colored debris moving toward nest and game camera at a high rate of speed, with nest cup and at least two eggs possibly visible as referenced by red arrows on June 6, 2024.

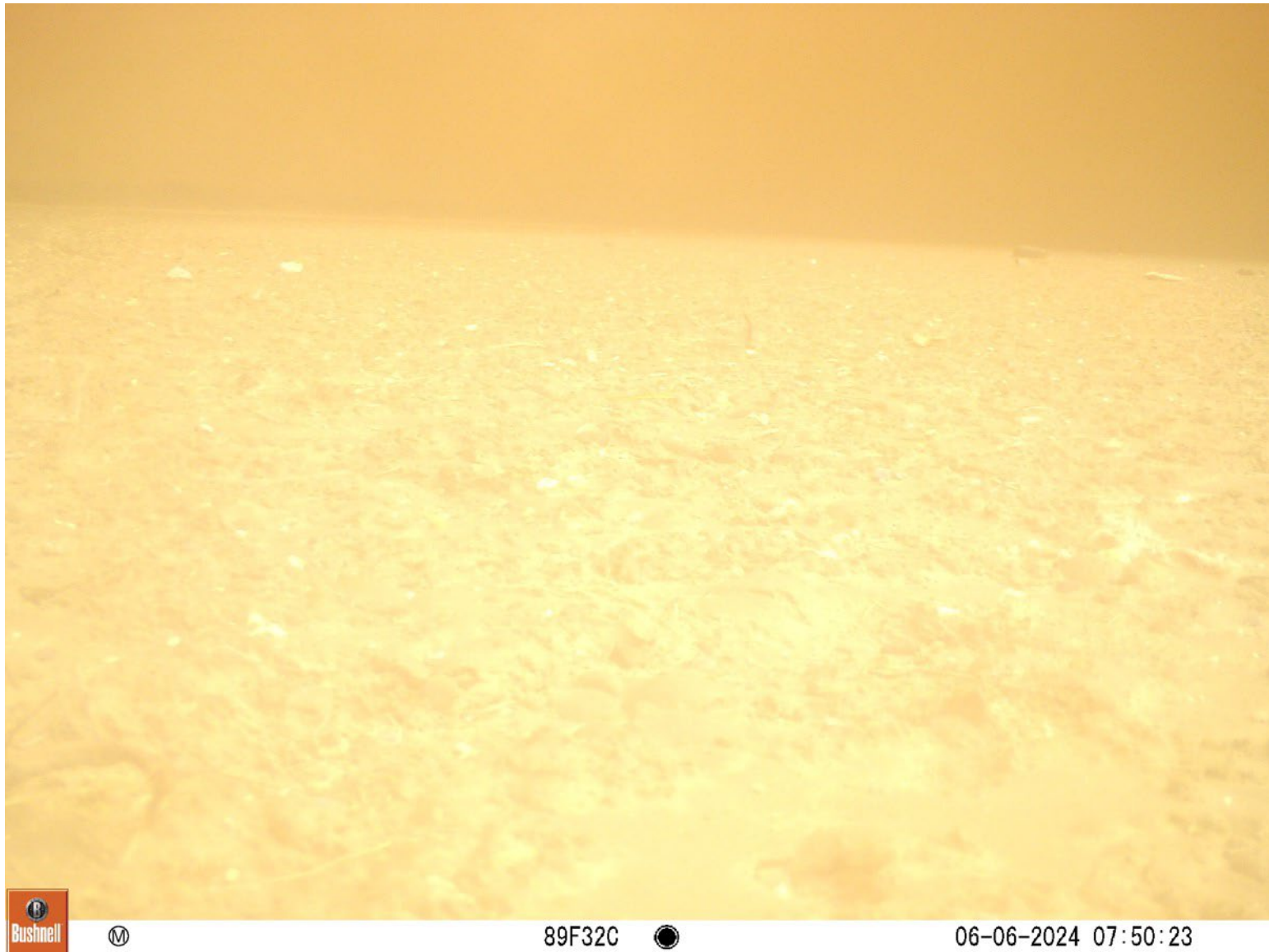


Figure 23. The last SNPL 2 game camera photograph taken post-launch until CBBEP staff checked the nest 4.5 hours later on June 6, 2024.





Figure 24. SNPL 2 game camera with CBBEP staff checking SNPL 2 nest post-launch on June 6, 2024, proving camera is still operational despite limited clarity.

# Presidential Documents

Title 3—

Executive Order 13186 of January 10, 2001

The President

## Responsibilities of Federal Agencies To Protect Migratory Birds

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of the purposes of the migratory bird conventions, the Migratory Bird Treaty Act (16 U.S.C. 703–711), the Bald and Golden Eagle Protection Acts (16 U.S.C. 668–668d), the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and other pertinent statutes, it is hereby ordered as follows:

**Section 1. Policy.** Migratory birds are of great ecological and economic value to this country and to other countries. They contribute to biological diversity and bring tremendous enjoyment to millions of Americans who study, watch, feed, or hunt these birds throughout the United States and other countries. The United States has recognized the critical importance of this shared resource by ratifying international, bilateral conventions for the conservation of migratory birds. Such conventions include the Convention for the Protection of Migratory Birds with Great Britain on behalf of Canada 1916, the Convention for the Protection of Migratory Birds and Game Mammals-Mexico 1936, the Convention for the Protection of Birds and Their Environment-Japan 1972, and the Convention for the Conservation of Migratory Birds and Their Environment-Union of Soviet Socialist Republics 1978.

These migratory bird conventions impose substantive obligations on the United States for the conservation of migratory birds and their habitats, and through the Migratory Bird Treaty Act (Act), the United States has implemented these migratory bird conventions with respect to the United States. This Executive Order directs executive departments and agencies to take certain actions to further implement the Act.

**Sec. 2. Definitions.** For purposes of this order:

(a) “Take” means take as defined in 50 C.F.R. 10.12, and includes both “intentional” and “unintentional” take.

(b) “Intentional take” means take that is the purpose of the activity in question.

(c) “Unintentional take” means take that results from, but is not the purpose of, the activity in question.

(d) “Migratory bird” means any bird listed in 50 C.F.R. 10.13.

(e) “Migratory bird resources” means migratory birds and the habitats upon which they depend.

(f) “Migratory bird convention” means, collectively, the bilateral conventions (with Great Britain/Canada, Mexico, Japan, and Russia) for the conservation of migratory bird resources.

(g) “Federal agency” means an executive department or agency, but does not include independent establishments as defined by 5 U.S.C. 104.

(h) “Action” means a program, activity, project, official policy (such as a rule or regulation), or formal plan directly carried out by a Federal agency. Each Federal agency will further define what the term “action” means with respect to its own authorities and what programs should be included

in the agency-specific Memoranda of Understanding required by this order. Actions delegated to or assumed by nonfederal entities, or carried out by nonfederal entities with Federal assistance, are not subject to this order. Such actions, however, continue to be subject to the Migratory Bird Treaty Act.

(i) "Species of concern" refers to those species listed in the periodic report "Migratory Nongame Birds of Management Concern in the United States," priority migratory bird species as documented by established plans (such as Bird Conservation Regions in the North American Bird Conservation Initiative or Partners in Flight physiographic areas), and those species listed in 50 C.F.R. 17.11.

**Sec. 3. Federal Agency Responsibilities.** (a) Each Federal agency taking actions that have, or are likely to have, a measurable negative effect on migratory bird populations is directed to develop and implement, within 2 years, a Memorandum of Understanding (MOU) with the Fish and Wildlife Service (Service) that shall promote the conservation of migratory bird populations.

(b) In coordination with affected Federal agencies, the Service shall develop a schedule for completion of the MOUs within 180 days of the date of this order. The schedule shall give priority to completing the MOUs with agencies having the most substantive impacts on migratory birds.

(c) Each MOU shall establish protocols for implementation of the MOU and for reporting accomplishments. These protocols may be incorporated into existing actions; however, the MOU shall recognize that the agency may not be able to implement some elements of the MOU until such time as the agency has successfully included them in each agency's formal planning processes (such as revision of agency land management plans, land use compatibility guidelines, integrated resource management plans, and fishery management plans), including public participation and NEPA analysis, as appropriate. This order and the MOUs to be developed by the agencies are intended to be implemented when new actions or renewal of contracts, permits, delegations, or other third party agreements are initiated as well as during the initiation of new, or revisions to, land management plans.

(d) Each MOU shall include an elevation process to resolve any dispute between the signatory agencies regarding a particular practice or activity.

(e) Pursuant to its MOU, each agency shall, to the extent permitted by law and subject to the availability of appropriations and within Administration budgetary limits, and in harmony with agency missions:

(1) support the conservation intent of the migratory bird conventions by integrating bird conservation principles, measures, and practices into agency activities and by avoiding or minimizing, to the extent practicable, adverse impacts on migratory bird resources when conducting agency actions;

(2) restore and enhance the habitat of migratory birds, as practicable;

(3) prevent or abate the pollution or detrimental alteration of the environment for the benefit of migratory birds, as practicable;

(4) design migratory bird habitat and population conservation principles, measures, and practices, into agency plans and planning processes (natural resource, land management, and environmental quality planning, including, but not limited to, forest and rangeland planning, coastal management planning, watershed planning, etc.) as practicable, and coordinate with other agencies and nonfederal partners in planning efforts;

(5) within established authorities and in conjunction with the adoption, amendment, or revision of agency management plans and guidance, ensure that agency plans and actions promote programs and recommendations of comprehensive migratory bird planning efforts such as Partners-in-Flight, U.S. National Shorebird Plan, North American Waterfowl Management Plan, North American Colonial Waterbird Plan, and other planning efforts, as well as guidance from other sources, including the Food and Agricultural

Organization's International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries;

(6) ensure that environmental analyses of Federal actions required by the NEPA or other established environmental review processes evaluate the effects of actions and agency plans on migratory birds, with emphasis on species of concern;

(7) provide notice to the Service in advance of conducting an action that is intended to take migratory birds, or annually report to the Service on the number of individuals of each species of migratory birds intentionally taken during the conduct of any agency action, including but not limited to banding or marking, scientific collecting, taxidermy, and depredation control;

(8) minimize the intentional take of species of concern by: (i) delineating standards and procedures for such take; and (ii) developing procedures for the review and evaluation of take actions. With respect to intentional take, the MOU shall be consistent with the appropriate sections of 50 C.F.R. parts 10, 21, and 22;

(9) identify where unintentional take reasonably attributable to agency actions is having, or is likely to have, a measurable negative effect on migratory bird populations, focusing first on species of concern, priority habitats, and key risk factors. With respect to those actions so identified, the agency shall develop and use principles, standards, and practices that will lessen the amount of unintentional take, developing any such conservation efforts in cooperation with the Service. These principles, standards, and practices shall be regularly evaluated and revised to ensure that they are effective in lessening the detrimental effect of agency actions on migratory bird populations. The agency also shall inventory and monitor bird habitat and populations within the agency's capabilities and authorities to the extent feasible to facilitate decisions about the need for, and effectiveness of, conservation efforts;

(10) within the scope of its statutorily-designated authorities, control the import, export, and establishment in the wild of live exotic animals and plants that may be harmful to migratory bird resources;

(11) promote research and information exchange related to the conservation of migratory bird resources, including coordinated inventorying and monitoring and the collection and assessment of information on environmental contaminants and other physical or biological stressors having potential relevance to migratory bird conservation. Where such information is collected in the course of agency actions or supported through Federal financial assistance, reasonable efforts shall be made to share such information with the Service, the Biological Resources Division of the U.S. Geological Survey, and other appropriate repositories of such data (e.g., the Cornell Laboratory of Ornithology);

(12) provide training and information to appropriate employees on methods and means of avoiding or minimizing the take of migratory birds and conserving and restoring migratory bird habitat;

(13) promote migratory bird conservation in international activities and with other countries and international partners, in consultation with the Department of State, as appropriate or relevant to the agency's authorities;

(14) recognize and promote economic and recreational values of birds, as appropriate; and

(15) develop partnerships with non-Federal entities to further bird conservation.

(f) Notwithstanding the requirement to finalize an MOU within 2 years, each agency is encouraged to immediately begin implementing the conservation measures set forth above in subparagraphs (1) through (15) of this section, as appropriate and practicable.

(g) Each agency shall advise the public of the availability of its MOU through a notice published in the **Federal Register**.

**Sec. 4. Council for the Conservation of Migratory Birds.** (a) The Secretary of Interior shall establish an interagency Council for the Conservation of Migratory Birds (Council) to oversee the implementation of this order. The Council's duties shall include the following: (1) sharing the latest resource information to assist in the conservation and management of migratory birds; (2) developing an annual report of accomplishments and recommendations related to this order; (3) fostering partnerships to further the goals of this order; and (4) selecting an annual recipient of a Presidential Migratory Bird Federal Stewardship Award for contributions to the protection of migratory birds.

(b) The Council shall include representation, at the bureau director/administrator level, from the Departments of the Interior, State, Commerce, Agriculture, Transportation, Energy, Defense, and the Environmental Protection Agency and from such other agencies as appropriate.

**Sec. 5. Application and Judicial Review.** (a) This order and the MOU to be developed by the agencies do not require changes to current contracts, permits, or other third party agreements.

(b) This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, separately enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,  
January 10, 2001.