

MIGRATORY BIRD PERMIT OFFICE
Post Office Box 779
Hadley, Massachusetts 01035-0779

In Reply Refer To:
FWS/Region 5/MBSP-MB

Ms. Noreen McKenna
927 Fifth Avenue Corporation
927 Fifth Avenue
New York, New York 10021

APR 30 2004

Dear Ms. McKenna:

This is in reply to your December 11, 2003, application for a Depredation Permit requesting permission to remove an **inactive Red-tailed hawk's nest** and to inform you that your application is denied for the reason discussed below.

We **do not** issue permits for the take of **inactive** nests (see attached memorandum). An inactive nest is a nest without birds or eggs.

As provided in 50 CFR 13.29 (enclosed), you may request reconsideration of your application. Such request must be submitted in writing to this office within 45 calendar days of the date of this letter and state the reason(s) for the reconsideration, including presentation of any new information pertinent to the issues raised in this letter. Your request for reconsideration must also contain certification in substantially the same form as provided by 50 CFR 13.12(a)(5).

If you have any further questions, please call me at 413-253-8641 or Nadine Fleming at 413-253-8698.

Sincerely,

/S/ SIGNED DAVID DOBIAS

D.A.Dobias
Chief, Permits Branch

Enclosures

Department of the Interior
U.S. Fish and Wildlife Service

Expires (2/28/01)
OMB No. 1018-0022



FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION FORM

RECEIVED

RETURN TO:
U.S. Fish and Wildlife Service
Migratory Bird and Eagle Permit Office
P.O. Box 779
Hadley, MA 01035-0779
Telephone: (413) 253-8643 Fax: (413) 253-8424

Type of Activity:
Depredation

ENTERED

08/10/90

04-6/7a

DEC 11 2003

PERMITS

R5

A. COMPLETE IF APPLYING AS AN INDIVIDUAL

1. Name:

2. Street address:

3. County:

4. City, State, Zip Code:

5. Date of Birth:

6. Social Security no.:

7. Occupation:

8. List any business, agency, organizational, or institutional affiliation associated with the wildlife to be covered by this license or permit:

9. Home telephone number:

10. Work telephone number:

11. Fax Number:

12. E-mail address:

B. COMPLETE IF APPLYING AS A BUSINESS, CORPORATION, PUBLIC AGENCY OR INSTITUTION

1. Name of business, agency or institution:
927 FIFTH AVENUE CORPORATION

2. Tax identification no.:
13-1674132

3. Street address:
927 FIFTH AVENUE

4. County:
MANHATTAN

5. City, State, Zip Code:
NEW YORK, NY 10021

6. Describe the type of business, agency, or institution:
RESIDENTIAL

7. Name and title of person responsible for permit (president, principal officer, director, etc.):
NOREEN MC KENNA, ASSISTANT SECRETARY

8. Home telephone number:

9. Work telephone number:
212-508-7297

10. Fax number:
212-508-7623

11. E-mail address:
nmckenna@bhsusa.com

C. ALL APPLICANTS COMPLETE

1. Do you currently have or have you had any Federal Fish and Wildlife License Permit? Yes No

If yes, list license or permit numbers:

2. Have you obtained any required state or foreign government approval to conduct the activity you propose? Yes No Not required

If yes, provide a copy of the license or permit.

3. Enclose check or money order payable to the U.S. FISH AND WILDLIFE SERVICE in the amount of \$25
Institutions which qualify under 50 CFR 13.11(d)(3) may be exempt from fees.

4. ATTACHMENTS: Complete the additional pages of this application. Application will not be considered complete without these pages.
Incomplete applications may be returned.

5. CERTIFICATION: I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a license or permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001.

6. Signature (in ink) of applicant or person responsible for permit in Block A or B
Noreen P. McKenna

7. Date:
12/9/03

INFORMATION RESPONSE SHEET FOR REQUEST FOR DEPREDATION PERMIT

1. Briefly describe the activity for which requested permit is needed.

We are requesting a permit to remove an inactive red tailed hawk's nest, which is located on the cornice of an apartment building in Manhattan. (Please see attached photographs).

2. List the species of migratory birds involved. Indicate the estimated number involved for each species.

The nest has been used by red-tailed hawks. To the best of my knowledge, that is the only species involved.

3. Describe the specific damage being caused and how long has the problem occurred. Explain any health hazards that are involved, and provide a copy of a letter from your local or state Health Department substantiating the health hazards.

The nest has caused deterioration of the building's canopy from bird droppings. In addition, the hawks bring live prey to the nest, where it is killed and torn for feeding. This happens above the widow to an apartment, so there is danger of contamination to the residents of the apartment from various diseases spread by birds and rodents, e.g. Lyme disease, West Nile Virus. The other serious hazard is the danger that the nest may fall from its location 13 stories above a busy pedestrian path. Enclosed is a report from an engineer citing the danger to those below. Attached also is the New York City Local Law 10/11 requiring that any material posing a danger to pedestrians must be removed or secured. As there is no practical way to secure the nest, we are requesting approval to remove it.

4. Give an estimate of the economic cost suffered as a result of the migratory bird depredation.

The nest has not caused any economic loss thus far aside from the additional labor costs to clean droppings and debris, but the potential for both property and personal damage is great, given the precarious location of the nest, and its great height above the sidewalk.

5. Outline the non-lethal control techniques or actions that have been utilized to control or eliminate the problem. How long and how often have you used these particular methods?

To date, no control methods have been attempted.

6. Supply the names of all parties that would be actively involved in this depredation control activity. Include any commercial companies you may have contacted if they will be conducting the actual depredation control activities. Include information on the type registration

number and brief description of any aircraft used for depredation activities, if applicable.

As it is not our intention to disturb any live birds, our plan was to have the company who will be performing exterior repairs on a scaffold to remove the nest. The company name: Riconda Maintenance Corp.
federal tax identification number is 11-3367365
Business address is: 14-03 B 30th Avenue, Astoria, NY 11102

7. List the exact location where the depredation control activity will be conducted.

Please see the attached picture of the building on which the nest is located. The nest has been built between the roof cornice of the façade of the building at the 12th floor and the window of the apartment directly below the cornice. It is from there that we propose to remove the nest.

8. Identify the location where records will be kept.

Original records will be kept at the building, 927 Fifth Avenue, New York, New York. Copies will be kept at the office of the managing agent, Brown Harris Stevens, LLC 770 Lexington Avenue New York, New York 10021.

9. Indicate if you have contacted the Wildlife Services office within the Department of Agriculture. Give the date contacted, name and title of person and their recommended action.

I spoke with Mr. Dave De Bios of the Federal Fish and Wildlife Service on February 2, 2003 to learn if it was possible to remove the nest in question under federal law. He explained to me that if the nest was inactive (which it is) it was legal to remove it if we obtained the proper permit to remove a raptor nest.

10. Supply a copy of your state license.

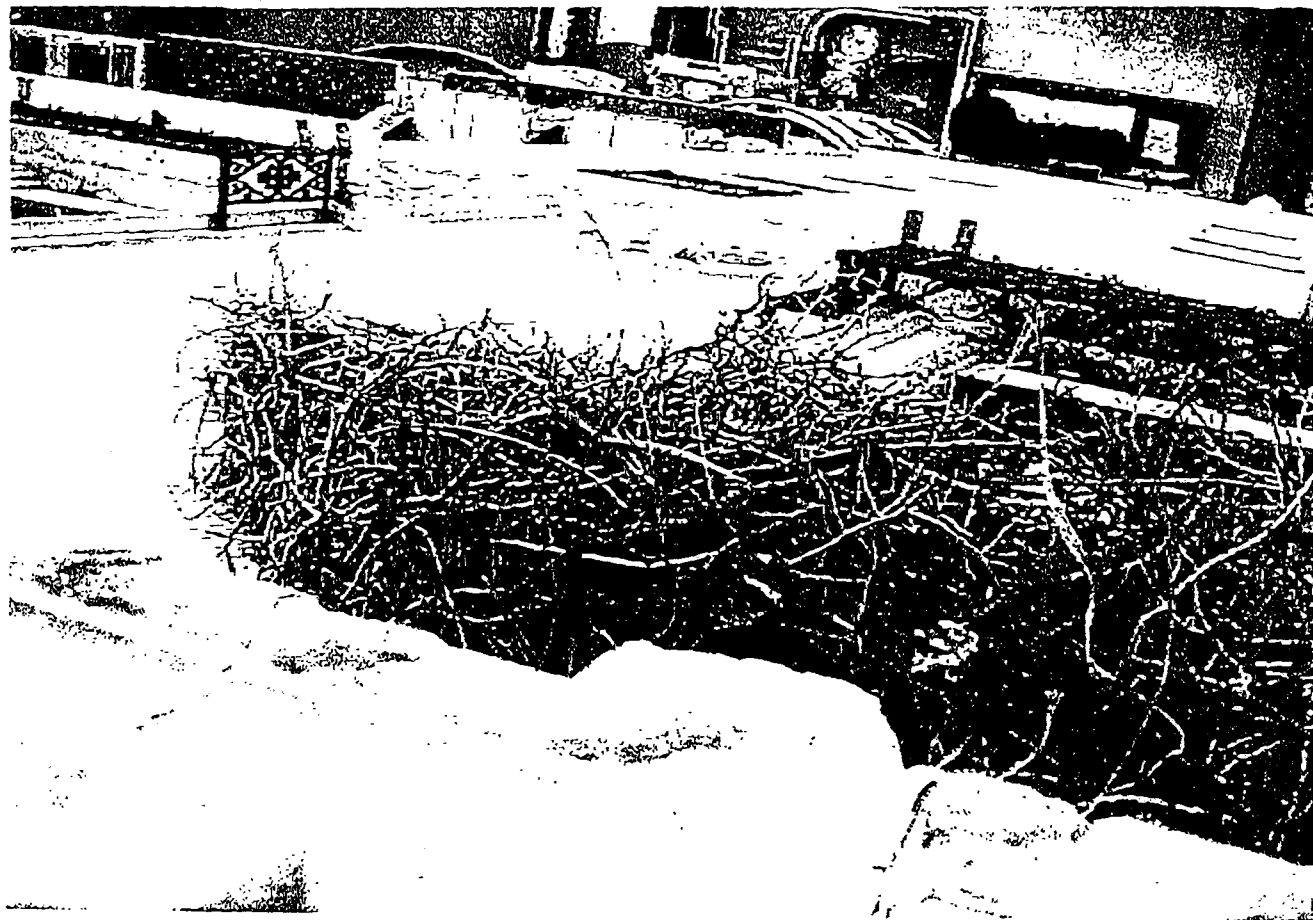
Not applicable.

11. Telephone number:

212 508 7297

12. Depredation management plans at airports:

Not applicable.



PHOTOGRAPH OF NEST
TAKEN FROM BUILDING ROOF

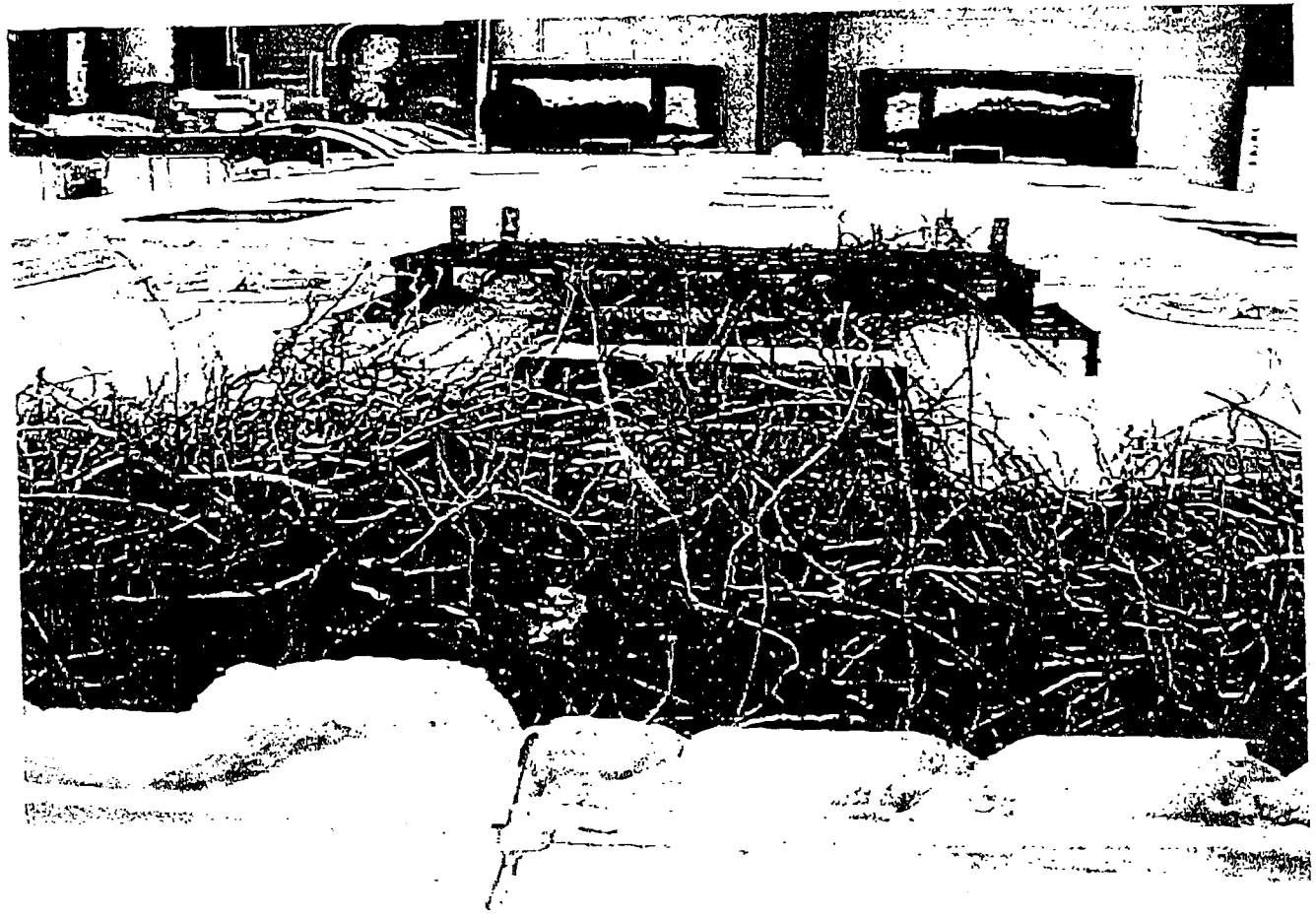


PHOTO OF NEST TAKEN FROM ROOF



Close-up OF NEST SHOWING SIZE OF
NESTING MATERIALS

JAMES E. McCOSKER & ASSOCIATES

TECHNICAL EVALUATION SERVICES

1170 BROADWAY SUITE 1115

NEW YORK, NEW YORK 10001

TEL: 212-683-9404 FAX: 212-683-9580

JAMES E. McCOSKER, PRES.
BSOE MSCE PE

March 3, 2003

Brown, Harris, Stevens, LLC
770 Lexington Avenue
New York, N.Y. 10021

Re: 927 5th Avenue
Facade Requirements

Attn: Ms. Noreen McKenna,
Account Executive

Dear Ms. McKenna:

There is a large nest, which is located on top of the stone arch, which is above the top story window. This window is located on the 5th Avenue side of the building, directly above the entry. It is a massive nest approximately 6 to 8 feet wide. It is made up of large pieces of loose laid branches with some that are entwined into each other. These branches are as big as two to three feet long and about 1/2" thick. This nest, precariously, is resting on top of the stone surface with some pieces wedged into the stone sections directly above. We were advised that during the "thaw" after the recent snow storm, several large sections of snow fell with pieces of these branches. This condition, directly above the entry, creates a definite potential for serious consequences to the pedestrian traffic elbow. In order to comply with the provisions of the New York Building Code, specifically Local Law 10/80 and Local Law 11/98, the nest must be removed. These sections of Code are now enforced by the City at each five (5) year cycle. The inspectors will issue a Violation "for Failure to Maintain a Safe Building." With the next New York City Filing of the Facade Law Report, it will be necessary to indicate that there is a

Brown, Harris, Stevens, LLC

-2-

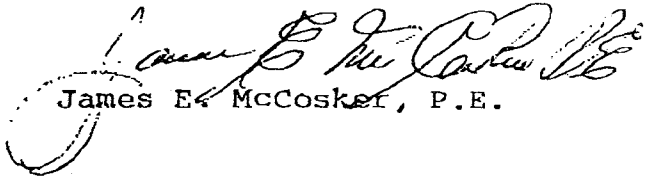
March 3, 2003

"problem" on the building facade. We recommend that you contact the necessary officials to seek permission to remove this nest.

If there are any questions, please do not hesitate to call.

Very truly yours,

James E. McCosker & Associates



James E. McCosker, P.E.

cc: Mr. Les Mance
Mr. Hugo Navarette

JEMC:mp

JAMES E. McCOSKER & ASSOCIATES

TECHNICAL EVALUATION SERVICES

1170 BROADWAY SUITE 1115

NEW YORK, NEW YORK 10001

TEL: 212-683-9404 FAX: 212-683-9580

JAMES E. McCOSKER, PRES.
ESCE MSCE PE

March 27, 2003

Brown, Harris, Stevens, LLC
770 Lexington Avenue
New York, N.Y. 10021

Re: 927 5th Avenue
Building Facade
Local Law 10/80
Bird's Nest

Attn: Ms. Noreen McKenna,
Account Executive

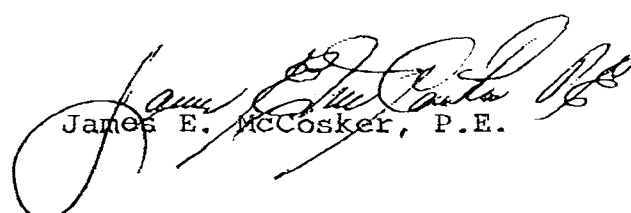
Dear Ms. McKenna:

As a follow-up to our report of March 3, we have requested our Bulding Department/Code Enforcement Consultant to ascertain the "Safety" Requirements of the Nest Problem relative to Local Law 10/80. We provided him with a copy of the photo in order to establish the magnitude of the nest in question.

We were advised that the extent of this accumulated twigs, pieces of branches and other loose nest material as well as the fact that there is no positive connection and no secure anchor, presents a definite potential for a hazardous condition. This should be removed. It is, therefore, recommended that the necessary Ornithology Organization be contacted to ascertain if their permission is needed to remove. They should also be advised that a section of the nest fell during the recent snowstorm.

Very truly yours,

James E. McCosker & Associates



James E. McCosker, P.E.

cc: Mr. Les Mance
Mr. Hugo Navarette

JEMC:mp