

August Meeting
August 25, 2014
Hyannis, Massachusetts
Draft Meeting Summary

The Massachusetts Division of Fisheries and Wildlife convened the third meeting of a Working Group of municipalities, land managers, and affected stakeholder groups to initiate a process for creating a statewide Habitat Conservation Plan for Piping Plover management. A list of attendees is attached.

Update on the Grant

Jon Regosin, DFG let the group know that they still had not heard whether they will be awarded the state grant for federal funding to develop the Massachusetts Piping Plover HCP. However, if the grant does not come through, MassWildlife is committed to completing the HCP. The role that ICF International will play in the HCP process will be determined by the amount of funding that is generated to develop the state-wide HCP. If the state is awarded the federal grant, David Zippen's group (ICF) will be contracted to write the HCP and required NEPA documents, and if the grant does not come through, ICF will be used for technical assistance and advice only.

Comments on the Revised Purpose and Needs document, Eligibility Requirements, and Allocation

The group discussed the revised "purpose, needs, goals, and objectives" document. A question was raised as to why a measure of productivity wasn't included in the "viable and robust" definition. DFG noted and FWS confirmed that is because of the tight relationship between breeding productivity and the population size. Therefore, productivity is being incorporated indirectly by using the population number. There was agreement that the purpose and need statement should be changed to a "vision statement" and within the statement "that is compatible with" should be changed to "while". It was noted that HCP Process Goals (in handout) creates the framework for the HCP and is more broad than the more specific Biological goals and objectives. Within the HCP process goals there was interest in clearly incorporating the potential management of tradeoffs between plover conservation and beach access.

The notes for the eligibility requirements were briefly reviewed. The review committee for this document reported that more description is necessary to fill out the document. For example, what is meant by an applicant's "track record of managing sites" and "demonstrated compliance"? The full list of comments and concerns on the document were distributed to all in attendance at the meeting.

There was also a committee who reviewed the allocation document and a full write up of their comments and concerns were briefly reviewed and distributed to all in attendance. Some key points were that the 15% threshold on the take on broods present would not allow for any take on sites with \leq

7 breeding pairs. However, DFW noted, the proposed approach is to grant an exception to this rule at such sites, and a single take permit could potentially be obtained on any site with breeding plovers.

It was later discussed that site boundaries are not always clear-cut, and DFW has the discretion to define site boundaries to potentially combine multiple proximate sites into a single “site”. There was also a discussion around regional take limits (e.g., Boston Harbor, North Shore), but this may be unnecessary due to the 15% rule and generally low number of take permits allowed. Another important point that was highlighted was that due to the eligibility requirements, it is unlikely, at least initially, that there would be more applicants than take permits allowed for the state.

Covered Activities

A draft list of covered activities was provided (drive ORVs past broods, moving nests, keeping parking lots with nearby nests/broods open, reducing symbolic fencing, beach raking). Activities like dune building/bank stabilization, kite boarding, and beach bikes may or may not be included as covered activities in the initial HCP. Including these activities would bring added complexity to the plan, and the concern is that this would slow down the process for getting a final HCP approved. The group discussed that for a covered activity to be included in the HCP, we would need to clearly demonstrate adverse affects of the covered activity. The HCP was not intended to be a document covering all actions around recovery of the Plover (the guidelines already in place cover much of that) but rather the activities that might be desired that have the potential for adverse impact and take. It was suggested that the best approach to many less well known or studied activities is to leave them out of the initial HCP and then add them in an amendment if necessary. If no additions to statewide take levels are requested, including a new particular activity should not be difficult. If additional take is requested and that includes adding new covered activities, then most likely a new NEPA document would need to be completed.

Statewide Take Limits

DFW noted that there were some modifications to this table since it was last viewed by the group (table provided as a handout). A row was added to allow for 80-90% recovery goal category, which allows for minimum take for emergency action at this population level. The number of breeding pairs is derived from a rolling three-year average rather than the previous year’s average only, which will allow for more certainty in the population and the number of take permits available. The group noted that this rolling average approach cuts both ways. It still allows some more take when in one previous year, the population dropped. But it doesn’t allow much more take in a proceeding year if the numbers jumped up. However, all noted that this degree of certainty provided by a “smoothing” rolling average would assist in planning for allocating take permits in the coming years.

Managing Rare or Emergency Events

The group discussed how potentially to handle the overall take numbers in the case of unexpected or emergency needs that arise outside of the yearly or multi-year permit process. These unexpected events might include activities like plovers crossing busy roads and nesting in parking lots. Options for

dealing with these include setting aside a certain number of take permits for this or simply to assume that not all take allotted will be used and to draw from this “excess” pool. The baseline for allocations will be set using the best information available (available data, professional judgment). For example, authorization for 3 low probability take exposures may be provided under a single take allocation, assuming that even on average, occurs only once every three years (e.g. a busy road where past data indicates birds only cross once every 3-5 years). If the emergency take permits end up exceeding the total number allocated to the state in a year, options may be to cut the number of allocations the following year or increase the amount of mitigation effort being conducted in the current year.

A question was raised whether there would be any carry-over of permits if they were not used in a given year. It was noted that you probably couldn’t “carry” your take over a year like “carry over vacation” because it might cause too much take in future years. It was noted that the details are yet to be worked out, but the plan is to issue subpermits on a 3-5 year basis. It isn’t really possible to go out farther than that because of potential changes in the plover population, which could affect the number of permits allocated.

There was a question about what happens to take allocations if a storm comes through and wipes out numerous broods. If the take allocation was already used it cannot be used again in that year (even on the same pair), but if had not already been used it would remain available. For instance, if you had used a take allocation to escort drivers past a brood and a June storm wiped out that brood, you could not use that take allocation to drive past another brood resulting from renesting. FWS noted that it is important to remember that if the frequency of large storms increases (as is predicted), the plover population could be greatly affected by these events.

Mitigation

The group then discussed mitigation, noting again that mitigation means conservation actions to benefit plovers that are above and beyond what is already required in the beach management Guidelines. DFW noted several points.

- There could be regional mitigation requirements. For example, if >3% of a region’s (e.g., South Shore, Buzzards Bay, Cape Cod, Boston Harbor/North Shore, Nantucket and Vineyard) nests/broods are exposed to take, then $\geq 50\%$ of required mitigation must be in that region.
- Mitigation is defined slightly differently for the ESA (USFWS) and MESA (MADFW). The ESA calls for mitigation at the maximum extent practicable to offset take, and MESA calls for mitigation resulting in a net benefit (2:1 for MESA-threatened species). The plan for mitigation is to have multiple options for beach managers that are at a reasonable cost, while providing a clear conservation benefit for Piping Plovers.
- One of the biggest threats to plovers is the increasing numbers of predators found on beaches, and the best way to mitigate that threat is to offset take through selective predator management. Other mitigation can be used to meet the “net benefit” criteria and may include enhanced monitoring & enforcement, vegetation management, outreach and education.

The group discussed predator management in more detail. Although predator management is thought to be critical for plover conservation, it is often a controversial activity. To provide details on what predator management actually entails and address any concerns, a future meeting might be devoted to this topic. This meeting will include information on what has been tried in the past and any successes or failures from these activities.

A slide providing details on how mitigation values may be determined (“mitigation math”) was presented. There was some discussion about the cost of mitigation, and the actual cost will be variable and largely depend on site-specific attributes (e.g., types of predators, site conditions, plover density). For example, the range for the cost of selective predator management is thought to range from \$500-\$2000/breeding pair. However, information is still being gathered on the cost of predator management. For off-site mitigation, it is estimated that ~\$5,500 for each brood/nest *might* be enough to offset the take and carry out net benefit mitigation activities. Under one scenario, all mitigation money could go into a Plover Conservation Fund. Thus far, the HCP meetings have focused on the biological aspect of take allocations, but information is now starting to be gathered on what level of take is wanted by the potential subpermittees (i.e. beach operators). This information is being collected from all of the participants in the HCP but also from those who have not been directly involved in the HCP process.

Next Steps

The facilitator reviewed next steps.

- DFW and the consulting teams agreed to revise the Goals and Objectives
- DFW and FWS will consider how best to take up various mitigation activities discussion in a future meeting
- DFW will consider how to begin to write up these details so as to begin to spell out in detail what the HCP will include, including sharing a more detailed HCP outline
- The next meeting will be scheduled for late September or early October by CBI for 3 hours in the afternoon.