

June Meeting
June 30, 2014
Hyannis, Massachusetts
Draft Meeting Summary

The Massachusetts Division of Fisheries and Wildlife convened the second 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.

Preparing HCPs

David Zippin, with ICF, a consulting firm that has done numerous HCPs across the U.S. provided a presentation on preparing Habitat Conservation Plans (HCPs). The PowerPoint slides can be found at: <http://www.cbuiding.org/project/massachusetts-piping-plover-habitat-conservation-plan>. David noted the following points.

The goal of this HCP is to achieve long-term viability of the Piping Plover population in Massachusetts, while at the same time maintaining or improving public access, recreational opportunities, and economic opportunities on beaches within the state. This goal includes maintaining a secure and robust population of Piping Plovers, maintaining community support for plover conservation and the barrier beach ecosystem, demonstrating the effectiveness of the HCP process, and complying with state and federal Endangered Species Act regulations. HCPs are part of the process of achieving population viability for a federally listed species, while allowing for incidental take of that species, through Section 10 of the Endangered Species Act. The applicant must address how any take would be minimized (e.g., beach escorts), and mitigation would be applied for the described take. Take would be limited to nests and chicks (no take on adults) and must not decrease the likelihood of survival of the population. All forms of “take” are a violation of the Endangered Species Act, but the impact of the take will be different, and that affects the required mitigation measures. The purpose of mitigation is to offset the impact of the take on the population. Mitigation would not necessarily need to be onsite, as offsite mitigation measures may be more important in ensuring a secure and robust population of Piping Plovers in Massachusetts. For instance, there could be a net benefit if mitigation from a low productivity site is used to conserve populations on a higher quality site. There is the potential of using mitigation activities on federal lands (~150 pairs of plovers on federal land).

The majority of HCPs are written for a specific site, but, as is the case here, they can also be at a state or regional scale. Often there is a focal species that the HCP focuses on (e.g., Piping Plover in our case), but other species may be included in the plan. Any species that may be affected by the plan and are currently listed (e.g., Roseate Tern) or proposed to be listed (e.g., Red Knot) might need to be included. State-listed species (e.g., Least Tern) may also be included in the HCP. As part of the HCP there is an adaptive management and monitoring section.

To facilitate the document moving along smoothly through the USFWS, it should be very specific concerning measures addressing the objectives of the plan. The conservation measures will focus on 3 objectives for Piping Plovers in Massachusetts including (1) maintaining breeding productivity at levels necessary to maintain a stable or growing population, (2) maintaining high quality habitat to support a stable or growing population, (3) and maintaining a broad geographic distribution consistent with the current distribution of Piping Plovers. Another goal of the HCP is to maintain viable populations of other covered species in Massachusetts (e.g., Least Tern). Due to similar breeding requirements, the conservation measures that will be implemented for Piping Plovers will also benefit species like the Least Tern.

Within the HCP it is helpful to include conservation actions that are measurable, results oriented, and time bound. Conservation actions may include monitoring with an adaptive management framework, outreach, predator exclosures, and predator management. It is also important to work with beach managers to ensure compliance with existing expectations within the current protocols and current activities such as leash rules for pets and other activities (e.g., kite boarding, organized beach races), promote management of important habitat features (e.g., wrack lines, overwashes), and address beach erosion (e.g., beach nourishment). Although there may be some impetus for keeping conservation measures somewhat broad to allow for adaptive management, staying away from using a lot of vague verbs (e.g., consider) will aid approval. Any activities carried out through the HCP need to comply with both the United States and Massachusetts Endangered Species Acts.

The level of take at the state level will be based on the Massachusetts breeding population in the previous year or some kind of average of previous years. Take permits may be granted for activities such as moving nests out of parking lots, driving past active nests, and reducing the amount of symbolic fencing.

The permit duration is not yet decided, but HCPs generally operate from anywhere from 1-30 years. The permit duration will depend on factors such as the duration of the proposed activities, time needed by the applicant to procure funding, the avian response time to the mitigation measures, and the level of uncertainty of the effects of the mitigation actions.

The time required to produce and get approval for an HCP is considerable. First, the HCP is prepared and a draft is submitted to the USFWS. A 3-6 month period is needed for the USFWS to put the document out for public comment and to conduct their own biological opinion and Environmental Assessment (EA) when reviewing the final HCP. Our goal is to have the HCP ready for implementation by spring 2016. This is a fairly aggressive time frame. Having technical assistance to prepare the necessary HCP and NEPA documents is quite helpful. Keys to completing the HCP by 2016 are to initiate the NEPA process early and to keep the HCP as simple as possible. Clarity is especially important because this is a public document. If we do not move forward on the state-wide permit, individual towns would be responsible for writing their own HCPs, which is currently being done in Orleans, but is quite onerous if done town by town.

Once a HCP with take permits are in place changes can be made through an amendment to the permit (e.g., adding species, areas, changing take). Annual reports would be due to the USFWS and MassWildlife would be the entity in charge of writing and submitting these but likely with assistance from any town or entity with a subpermit.

Purpose and Need Statement

Jon Regosin, MA DFW, reviewed a first draft purpose and need statement that would be part of the HCP. The group generally agreed with the intent to maintain or improve the viable population while providing for access and certain activities. However, the group asked that DFW better define: 1) “robust” and “viable”; and, 2) be specific about the Massachusetts population. The specific goals and conservation measures were also discussed and issues raised included: 1) is the goal just population numbers or productivity too; 2) emphasize the “research-based” adaptive management approach; 3) what about other species and how they will be handled as Zippin noted in his presentation. DFW will revise this draft and share it again with the group at the next meeting.

Take Level Considerations

Jon Regosin, MA DFW then presented a chart with possible take level considerations. Jon noted that the state-wide amount of allowable take would be based on a percentage of the total population, including those on federal lands. The total number would be based on breeding pairs and the maximum allowable take when those numbers are at or above 105% of the recovery plan would be a suggested 7%. If the overall population fell below that 105% then the take percentage would drop accordingly, first to 6%, then 5% and no more than 3% if the population is at 90% of the recovery unit goal. This ensures that if the population experiences a disruption for any reason, there are built in checks or “slow downs” to allowed take in the HCP

itself. This approach probably also allows us to avoid productivity as a metric, which can be complicated. At the end of the day, FWS cares most about ensuring population numbers that meet or exceed the recovery goals.

Eligibility Requirements

Jon Regosin, MA DFW then presented potential eligibility requirements for towns or organizations to apply. Some of the eligibility requirements suggested and comments (in *italics*) from the group are included below.

- Track record of managing site in accordance with state and federal guidelines
- DFW-approved site-specific management plan in accordance with guidelines. *The group noted that there is no current standard template for such plans. Some exist in Orders of Conditions, some in more detailed Town documents. So, DFW needs to be clear about what would be expected here in terms of documentation and new paperwork.*
- Commitment to install predator exclosures if requested by DFW. *Some participants expressed concern about these, if they are effective, if the harm the birds, and if this is better as a subpermit condition, not an eligibility requirement.*
- Demonstrated compliance with applicable state and federal laws
- Must participate in statewide HCP implementation committee. *The group discussed this and wanted to know more what this would entail.*
- Must apply for and obtain MESA “letter” CMP
- Must implement impact minimization procedures associated with type of take proposed (see below; e.g. caravan escort plan)
- Must implement “net-benefit” mitigation commensurate with level of take
- DFW will implement procedures to ensure equitable distribution of available take across sites/managers if requested take for a given year exceeds allowable take

Next Steps

The facilitator reviewed next steps.

- Some participants volunteered to participate in two phone calls, one on eligibility requirements and one on allocation issues in general.
- DFW will revise the goals and objectives and consider changes to the draft take numbers.
- The next meeting will be scheduled for August per CBI.

ATTENDEES

Name	Title	Affiliation
Kerin McCall	Environmental Technician	Plymouth
Sean Summers	Selectman	Chatham
Robert Duncanson	Director of Health & Environment	Chatham
Mark Galkowski	Director, Dep. Of Natural Resources	Sandwich
David DeConto	Asst. Dir.	Sandwich
Nina Coleman	Sandy Neck Park Manager	Barnstable
Russell Hopping	Ecology Program Director	TTOR
Kathy Parsons	Director, Coastal Waterbird Program	MassAudubon
Karen C. Beattie	Science and Stewardship Manager	Nantucket Conservation Foundation
Luanne Johnson	Director	Biodiversity Works
Jon Regosin	Chief of Conservation Science	MassWildlife
Carolyn Mostello	Coastal Waterbird Biologist	MassWildlife
Susi vonOettingen	Endangered Species Biologist	USFWS
Phil Wallace	Councilor	Barnstable
Daniel Gilmore	Biologist	DEP
Ellen Jedrey		MassAudubon
Jack Buckley		MassWildlife
Kerry Muldoon	Conservation Administrator	Yarmouth
Andrew Vitz	Ornithologist	MassWildlife
Scott Morris		MBBA/Nauset Beach
Jorge J. Ayub		MA DCR
Nathan Sears	Natural Resource Manager	Orleans
Anne Hecht	Endangered Species Biologist	USFWS
David Zippin		ICF
Liz Sullivan	Town Manager's Office	Plymouth