

**From:** [Doug McGee](#)  
**To:** [Thayer Broili](#)  
**Cc:** [Britta Muiznieks](#); [Mike Murray](#)  
**Subject:** Re: Consent Decree Modifications - Use of Decoys for CWBs at Cape Point  
**Date:** 10/09/2008 07:52 AM

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1. There was zero production in the last 3 years in the overwashed site where the birds chose to nest at Cape Point? Have they nested at Cape Point only in the overwashed site and the proposed decoy ('07 re-nest) site?

Yes, there was zero productivity from the original nesting attempts as all nests were washed out. Some birds re-nested to the west (resulting in PIPL nest abandonment in '07) but it was less than half of the original number.

2. Do we have any data for earlier years (before 2005) at the overwashed site?

I will go through the old data and see what's available.

3. Is it possible and if so how likely is it that CWB nesting in other areas of the seashore that are not being washed out will abandon those sites in favor of the decoyed site?

Not too likely, otherwise they all would be attempting to nest there every year. There are aspects of site fidelity involved here as well.

4. Is the slight success at the decoy site due anything other than predators? Is there something we can do to up the productivity from "slightly successful" at the decoy site? Will the predator mgmt plan be finished in time to remove predators from the decoy area for the next breeding season?

Predation remains our number one problem in all areas of the park and other than "luck" I can't point to any specific reason one nest or brood/chick survives.

5. If we're proposing this as adaptive management there needs to be a hypothesis and monitoring to provide the data to prove or disprove the hypothesis. How would you phrase the hypothesis for the decoy experiment and what's the monitoring plan to gather the data to prove/disprove the hypothesis? FWS in particular is keen on having adaptive mgmt done scientifically so usable research results are obtained. Would the park have a CWB research scientist work with the it (and plaintiffs and intervenors if they want) to design and perhaps carry out the study?

I am working on a PMIS project for the future, but the methodology involved in monitoring CWBs for productivity so as to obtain scientifically useful data, is labor intensive and nothing current staffing levels can address.

Sandy

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AM EDT

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SubjectConsent Decree Modifications - Use  
of Decoys for CWBs at Cape Point

Mike asked me to respond to your various points/questions on the issue of using decoys to try to stimulate CWB nesting away from the areas traditionally overwashed on the eastern beach of Cape Point.

**1. Sandy/Jason's comment on NPS Mgmt Policies 2006 and use of decoys -- I think we need to be clear which of the bullets under the "Management is necessary" requirement in Sec. 4.4.2 of the NPS Mgmt Policies we're thinking applies. If it's "to protect rare, threatened, or endangered species," then would we need data that indicates least tern nesting success will be greater in the proposed decoy site than in the sites the birds have been choosing? Do we have that? In the absence of data or at least literature showing that it will benefit the park's least tern population (and also those state listed species that nest with the terns, skimmers etc), then I share Jason Waanders' concerns. As I recall the scattered reading I've done, tern decoys were used for recolonizing areas where overabundance of predators had extirpated the terns or to colonize dredge islands. I don't recall anything on avoidance of overwash areas, but I haven't done a thorough search. Has the park?**

With respect to data, we can show that the colonies which have tried to set up at the Point have been washed out for three consecutive years. In 2005 it was a large mixed colony which was washed out early, but never attempted to re-nest. For the past two years it has been just LETEs with a few COTE pairs mixed in, which have been washed out. Although we can't "predict" the regularity of future overwash events, we do know late nor' easters inevitably overwash the Point. We are unaware of any management activities anywhere in which they have had colonies continually overwashed and took actions. That it hasn't been done before shouldn't preclude the Park from using social attraction to facilitate successful nesting away from an area which has been a population sink. If we can promote birds in an area that has been less selected initially in the past (but selected as a re-nest site after overwash) and at which we can provide a higher level of protection, then it would seem like a net positive action.

Policies Section 4.4.2 says the "Service may intervene to manage individuals or populations only when the intervention will not cause unacceptable impacts of the

species or to other components and processes of the ecosystems that support them". It goes on to say that at least one of the following conditions should exist and gives a list which includes:

- because a population occurs in an unnaturally high or low concentration as a result of human intervention and it is not possible to mitigate the effects of the human influences
- to protect rare, threatened, or endangered species.

Certainly banning any access to Cape Point would be the only *direct* way to mitigate for human intervention in this area; however it may still not promote CWB production if they keep nesting in an area subject to overwash. I would say that our proposal is an attempt to use a different, *indirect* approach to mitigate both the effects of human influence and the overwash which may be associated with longer term habitat modifications associated with the overwash situation that has occurred recently. It's not out of the realm of possibility that we could actually increase the CWB population in the area by doing this. If it doesn't work, we will know after a season or two. I question whether we need any more data than we currently have to make the case that this is a worthwhile endeavor. Given the overall management challenges, why shouldn't we just give it a try. If necessary, we could qualify the proposal by saying that if positive results cannot be demonstrated within two nesting seasons (or prior to the final ORV decision document) we'll reconsider/cancel the effort. Also, we look at this as a "research initiative" subject to demonstrating success between now and the end of the consent decree. Isn't that what adaptive management is all about? Also, if I correctly recall, both FWS and Audubon seemed to accept the approach.

**Sherri/Tim's questions - Intervention in CWB nest site selection by placing decoys on the beach raises the following questions:**

- (1) If we are to depart from the Management Policies directing "whenever possible, natural processes will be relied upon," what will this be based on?
- (2) What data can we point to that demonstrate CWB nest failure is high due to overwash events in this specific area?
- (3) How often have these overwash events occurred in the past? How predictable are they in the future?
- (4) What criteria would we use to determine where to place decoys to attract CWB? Are there data to support these criteria?
- (5) In what ways does the habitat differ between the overwash area and the proposed decoy area?
- (6) The last few questions all fit under the broader question, what gives us confidence that we can select more suitable habitat for CWB than the birds can select themselves?

1. See comment above related to 4.4.2

2. We have the data from the nesting attempts in this area.

3. The colonies which have tried to set up at the Point have been washed out for three consecutive years. In 2005 it was a large mixed colony which was washed out early, but never attempted to re-nest. For the past two years it has been just LETEs with a few COTE pairs mixed in, which have been washed out. We don't know how predictable future overwash events would be, but we do know late nor' easters inevitably overwash the Point. Also, we could use the "sea level rise" argument; however that would be a difficult one to prove.

4. The decoys will be placed in an area in which the LETEs have re-nested, at the end of

what's called Salt Pond Ramp, or the interdunal ramp between Ramp 44 and Ramp 45.

5. This area does not overwash from nor' easters and has been used as a re-nest site.

6. The LETEs have used this site to re-nest ('07) and were slightly successful (some mammalian predation, a problem which exists no matter where they nest).

Also, this does not preclude CWBs from also selecting the nesting site in the overwash area. As such, it is an "additional" area as opposed to a "substitute" area.

One other thing to remember when we're discussing this - if the plaintiffs don't buy this proposal, it won't be done. Again, no harm in at least proposing it unless it would seem to be blatantly in opposition to NPS management policy.

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