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Subject: Bird protection measures
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Importance: High

I've learned from several discussions with RegNeg stakeholders that there are concerns about some aspects of our Resources Protection Measures Table. I want to be sure we consider the feedback now, rather than wait until after the DEIS is out for public comment, in case we decide we need to make some tweaks in our proposed measures. The concerns include the delayed protection of observed breeding behavior by AMOY with unknown nesting history and concerns about the basis for the reduced "pass-through" buffers (which was discussed in another message before the last committee meeting).

1) AMOYs with unknown nesting history:

SM2: For observed breeding activity outside of pre-nesting closures by pairs of known nesting history, closures will be installed when one observation of scraping or territorial behavior have been documented or if a scrape is being maintained. For observed breeding activity outside of pre-nesting closures by pairs of **unknown nesting history, closures will be installed when three separate observations of scraping or territorial behavior have been documented or if a scrape is being maintained.**

My recollection of the intent of the former measure was to try to avoid the situation of establishing and maintaining numerous (3-5) closures for one pair of AMOY that has not settled down yet that occurred several locations under the consent decree. Since the concerns being expressed relate to the possibility of disturbing and losing an early nest attempt if we delay establishing buffers, I wonder if a different way to approach the issue would be to protect the site when breeding behavior is first observed (i.e., upon first observation), but allow closure(s) for AMOYs (with known or unknown history) to be removed earlier than the stated 2 week waiting period "if in the judgment of NPS resources management staff, the pair has clearly established a new territory and abandoned the previous site as demonstrated by ___ consecutive observations...." The net effect would be we might still temporarily have several simultaneous closures for one pair, but we could more quickly remove the closures that appear to have been abandoned. **Would something like that provide earlier protection, but minimize the chances we end up maintaining 3-5 two-week closures? Do you have any other idea(s) that would be responsive to the concern about not protecting the breeding site after the first observation and reduce an obstacle to stakeholder buy-in to our approach?**

2) Pass-through buffers:

SM2: (AMOY) Based on bird behavior and suitable habitat, a 150 meter pedestrian/ORV buffer or a 75 meter buffer ORV pass-through buffer will be

established around the bird activity. (CWB) For an ORV pass-through, buffer will be 50-75 meters for LETE and 75 meters if other CWB present.

My understanding of the intent of the pass-through buffer is to try to systematically use the science indicating that vehicle driving past an incubating nest are less disturbing than pedestrians walking past the nest. **Do you have any other ideas how to articulate a pass-through buffer, different than the above, that would still use the science that supports, but does not quantify, using a smaller buffer for vehicles driving by a nest and reduce an obstacle to stakeholder buy-in to our approach?**

Please think through the two measures above (delayed protection and pass-through buffer distance), consult any experts that you deem appropriate for feedback, decide what you think would be the best approach to these two issues, and be prepared to discuss, if asked, during the upcoming Natural Resources subcommittee meetings.

Thanks,

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