



United States Department of the Interior

FISH AND WILDLIFE SERVICE
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 March 13, 2009

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Michael B. Murray
 Superintendent
 Cape Hatteras National Seashore
 National Park Service
 1401 National Park Drive
 Manteo, North Carolina 27954

Subject: Biological Opinion for Cape Hatteras National Seashore's Interim Protected Species Management Strategy

Dear Superintendent Murray:

This letter acknowledges the U.S. Fish and Wildlife Service's (USFWS) January 30, 2009 receipt of Cape Hatteras National Seashore's (Seashore) 2008 Annual Reports and your December 2, 2008 letter requesting reinitiation of formal section 7 consultation in accordance with the Endangered Species Act of 1973 (Act), as amended (16 United States Code [U.S.C.] 1531 *et seq.*). The reports describe activities implemented in conjunction with the Seashore's Interim Protected Species Management Strategy (Strategy), and were provided in accordance with our amended Biological Opinion (dated August 14, 2006, April 24, 2007, and March 28, 2008). Our opinion assessed the effects of implementation of the Seashore's Strategy on the piping plover (*Charadrius melodus*) of the Atlantic Coast, Great Lakes and Great Plains populations; seabeach amaranth (*Amaranthus pumilus*); and loggerhead (*Caretta caretta*), green (*Chelonia mydas*), and leatherback (*Dermochelys coriacea*) sea turtles.

On December 4, 2008, we received your request for reinitiation of section 7 consultation based on the Seashore's inability to meet performance measures implemented in conjunction with your Interim Protected Species Management Strategy, and as identified in our amended Biological Opinion. Specifically, the Seashore reported eleven (11) breeding pair of piping plover and thirteen (13) nests resulting in seven (7) chicks fledged. This level of productivity (i.e., 0.64 fledged chicks per breeding pair) is below the target level of producing an average of one (1) fledged chick per breeding pair, per year.


We have previously acknowledged that the Seashore's performance target, and subsequently our level of incidental take, is below the minimum productivity level required to maintain a stable population (i.e., 1.24 fledged chicks per breeding pair) or to achieve recovery of the Atlantic Coast population (i.e., 1.5 fledged chicks per breeding pair), based on our current knowledge of piping plover population biology as identified in the revised recovery plan for the species (1996). Furthermore, we have noted that productivity rates needed to contribute to recovery of the piping

plover at the Seashore (and the rest of North Carolina) may be different from the rates identified in our recovery plan. At this time, we do not have any new evidence to alter the productivity-based performance measure, nor can we offer additional management strategies beyond those already provided to improve productivity. We are encouraged, however, that current management practices appear to be contributing to an increase in the number of breeding pairs at the Seashore. At this time, we see no need for you to alter management practices. We remain convinced that adaptive management offers the best opportunity to explore the long-term productivity objective at the Seashore with explicit and testable assumptions. As such, we have previously recommended that the Seashore, using adaptive management, evaluate the stated performance target of one (1) fledged chick per breeding pair, as well as the productivity rates identified in the recovery plan, to determine if these rates provide for a growing population or are attainable at the Seashore over the long term. For the purposes of this reinitiation and this consultation, though, we are not changing the current performance measure for productivity.

The USFWS also has reviewed Superintendent's Order #18 on Trapping Mammalian Predators of Protected Species. We have no substantive comments other than we believe that this effort will assist you in working toward your productivity-based performance target (mentioned above), as well as other performance targets associated with piping plover and sea turtle nesting at the Seashore. Furthermore, in situations in which non-target species (e.g., river otter) are likely to be trapped, I would encourage you to use non-lethal traps to the extent practicable. Reducing the effects associated with protected species management on non-target species will be beneficial to the public's understanding and support of those efforts.

Lastly, we have reviewed your 2009 pre-nesting closure recommendations and maps. The recommended closures appear to capture important nesting, foraging and roosting habitats that are necessary for the birds to establish nests. As previously stated, we believe providing sufficiently undisturbed areas for birds to establish nests improve their chances for nesting and rearing young. We have no additional comments on the pre-nesting closures.

If you have any questions, please contact me at (919) 856-4520 extension 11, or via email at Pete_Benjamin@fws.gov.

Sincerely,

Pete Benjamin
Field Supervisor