

0026146

From: [Thayer Broili](#)
To: [Mike Murray](#); [Darrell Echols](#)
Subject: Fw: Amended BO for CAHA Interim ORV strategy
Date: 05/06/2010 10:27 AM

fyi

Thayer Broili
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----- Forwarded by Thayer Broili/CAHA/NPS on 05/06/2010 10:23 AM -----

Howard_Hall@fws.gov

05/06/2010 09:48 AM

To: Britta_Muiznieks@nps.gov
cc: Thayer_Broili@nps.gov
Subject: Amended BO for CAHA Interim ORV strategy

Britta,

This is a follow up to our telephone conversation this morning. You raised some good questions about the April 19, 2010, amendment to the FWS biological opinion (BO) of August 2006. Actually, our April 19 letter is not clear on some points and this e-mail will address these issues. I apologize for not responding sooner, but I needed to discuss these issues with Pete Benjamin who is more familiar with this consultation.

First, the August 2006 BO will remain in effect until the long-term Off-Road Vehicle (ORV) Management Plan, currently under review, becomes effective. The amended BO for 2010 was only necessary to address one aspect of the incidental take of piping plovers. All other aspects of the incidental take statement (i.e., for sea turtles) remain in effect. The amendment this year intended to indicate that failure to meet one performance measure during 2009 (fledge rate per breeding pair of piping plovers) did not necessitate new consultation on the terms and conditions/reasonable and prudent measures on the original opinion. Therefore, the entire August 2006 BO, as amended, remains in effect. I hope this clarifies our April 19 letter.

Second, as noted in the August 2006 BO (p. 79), the incidental take statement required by the Endangered Species Act (ESA) does not apply to listed plants. So, seabeach amaranth was not considered in the amended BO this year. However, note that the ESA does prohibit the removal, reduction to possession, and malicious damage of federally listed plants on areas under federal jurisdiction.

Lastly, the BO that should be sent out before the July 4th weekend is the BO for the plan selected (Alternative F) for the long-term ORV Management Plan.

0026147

Best regards,

Howard

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Britta_Muiznieks@nps.gov

04/29/2010 01:07 PM

To Howard_Hall@fws.gov

CC Thayer_Broili@nps.gov

Subject Re: FWS position on CHNS ORV policy

Howard-
Looks like I've been left out of the loop for some of the conversations regarding the BO(s). I just received a copy of the Amended Biological Opinion dated April 19th (attached).

(See attached file: FWS Amended BO.Apr2010.pdf)

In the amendment it states that "the incidental take of piping plovers is extended until December 31, 2010, or the implementation of the ORV plan, whichever comes first". I would think that the extension should have been applied to sea turtles as well as to piping plovers. Did sea turtles get left out by accident? No incidental take was issued for seabeach amaranth. Do they need to be covered in any way in an extension as well? To me it seems like the BO should have been extended and not just the incidental take for plovers.

In your email below you refer to a biological opinion that will be sent out the week before the July 4th weekend. Are you referring to the BO on the DEIS?

Britta Muiznieks
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04/28/2010 08:22
AM

britta_muiznieks@nps.gov

To

cc

Subject
FWS position on CHNS ORV policy

Britta,

Glad we had a chance to talk yesterday. I will be handling the FWS comments on the EIS and section 7 for the Seashore's ORV policy. We plan two submissions to you in the coming months. First, will be general comments on the plan presented in the EIS. As I mentioned, these comments will be based on a position paper drafted by Pete Benjamin last Feb., and updated on March 27, 2009. There is probably a copy in your office, but you should have a copy and I have attached a copy below. Our EIS comments will address the extent to which your goals, objectives, and management plans are in line with Pete's ideas. I think a lot of Pete's ideas are in the EIS, but it is a slow process reviewing the massive EIS.

The second response will be the biological opinion. Based on our standard schedule, the BO should be sent out the week before the July 4th holiday weekend. I hope we can meet your comments deadlines. If there are problems, we will coordinate with you.

If you have any questions on our coordination on the ORV policy, contact me.

Best regards,

Howard

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e-mail: howard_hall@fws.gov[attachment

"20090327_CAHA_RegNeg_FWSSummary.pdf" deleted by Britta

Muiznieks/CAHA/NPS] [attachment "FWS Amended BO.Apr2010.pdf" deleted by Thayer

Broili/CAHA/NPS]