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From: Cyndy_Holda@nps.gov
Sent: Thursday, May 15, 2008 1:38 PM
To: undisclosed-recipients
Subject: Fw: FWS Announces Revised Critical Habitat Proposal for Wintering Piping Plover

----- Forwarded by Cyndy Holda/CAHA/NPS on 05/15/2008 03:36 PM -----

Mike Murray
 05/15/2008 01:41 PM EST
 Critical Habitat Proposal for Wintering Piping Plover

To: Cyndy Holda/CAHA/NPS@NPS
 cc:
 Subject: Fw: FWS Announces Revised Plover

Dear RegNeg Committee Participants,

Pete Benjamin asked that we forward the following information to negotiated rulemaking committee participants.

May 15, 2008
 856-4520, ext. 25
 679-7291

Contacts: Patty Matteson, (919)
 Tom MacKenzie (404)

FWS Announces Revised Critical Habitat Proposal for
 Wintering Piping Plover

The U.S. Fish and Wildlife Service today announced a revised proposal to add 216 acres of critical habitat to two of the four units previously proposed in a rule to designate critical habitat for the wintering population of the piping plover published on June 12, 2006.

With this inclusion, the Service proposes four revised critical habitat units for the species, encompassing a total of approximately 2,043 acres in coastal areas of Dare and Hyde counties in North Carolina.

The proposed critical habitat areas include intertidal beaches and flats and associated dune systems and flats above annual high tide. Intertidal areas offer foraging and roosting sites, while the areas above high tide offer protection from high winds and cold weather.

Previously, the Service had determined that the islands DR-005-05 and DR-005-06 (Dare County) and DR-009-03/04 (Dare and Hyde Counties), owned by the State of North Carolina, and about 137 acres of Pea Island National Wildlife Refuge (Dare County) did not meet the definition of critical habitat under the Endangered Species Act. However, the physical and biological features essential to piping plover conservation on these lands may require special management or protection. As a result, the Service is reconsidering its preliminary analysis and proposing these areas be included in its revised critical habitat designation.

The Service also announces the availability of the revised draft economic analysis and environmental assessment of the proposed designation of critical habitat under the Endangered Species Act.

This draft economic analysis identifies and analyzes the effect of potential management actions implemented by the National Park Service on off-road vehicle use and potential

administrative costs of Endangered Species Act consultations undertaken by the Park Service. It also evaluates the environmental consequences of designating critical habitat for the wintering population of the piping plover in North Carolina. The scope of the environmental assessment includes an evaluation of the direct, indirect, and cumulative effects of the designation of the four proposed critical habitat units, as well as the option to only designate some of the units or some portion of the units identified in the proposed rule.

The draft economic analysis of the proposed critical habitat designation forecasts the cumulative costs associated with conservation activities for the wintering population of the piping plover range from \$0 to \$23 million in lost consumer surplus, and \$0 to \$40 million in lost trip expenditures over the next 20 years, with an additional \$190,000 to \$476,000 in administrative costs.

The Service is reopening a public comment period for 30 days, until June 16, 2008, to allow all interested parties an opportunity to comment simultaneously on the revised proposed critical habitat designation and the associated draft economic analysis and environmental assessment. A description of the proposed critical habitat designation, draft economic analysis, and environmental assessment are available at <http://www.fws.gov/nc-es/piplch/piplch.html> or <http://www.fws.gov/policy/library/E8-10887.html>, or you may call (919) 856-4520 for a copy.

The Service will consider all comments related to our proposal to designate critical habitat and any new information regarding management within or factors affecting the biological and physical habitat features of the areas proposed for critical habitat including the consent decree, before we make a final decision on the designation of critical habitat. Submit written comments on the proposal and the economic analysis and environmental assessment to:

(1) Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

(2) U.S. mail or hand-delivery: Public Comments Processing, Attn: 1018-AU48; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

E-mail or faxes will not be accepted. All comments will be posted on <http://www.regulations.gov>.

Critical habitat is a tool within the Endangered Species Act which identifies areas with features that are essential for the conservation of the species and that may require special management considerations to ensure their contribution to the conservation of the species. Critical habitat does not set up a preserve or refuge, nor does it affect activities on private land unless federal funding or a federal permit is involved. The sole regulatory effect of the designation is that federal agencies must consult with the Service before undertaking actions, issuing permits, or providing funding for activities that might destroy or adversely modify critical habitat. Because piping plovers are federally protected, federal agencies are already required to consult with the Service on any of their actions that may affect the species and to ensure that their actions do not jeopardize the species' continued existence, regardless of whether critical habitat has been designated.

The piping plover is a small, pale-colored North American shorebird named for its melodic mating call. The species breeds in three discrete areas of North America - the Northern Great Plains, the Great Lakes, and the Atlantic Coast. Plovers from all three breeding populations winter in coastal areas of the United States from North Carolina to Texas, and along the coast of eastern Mexico and on some Caribbean islands. In 1986, the piping plover was listed as endangered in the Great Lakes watershed, and as threatened elsewhere within its range, including migratory routes outside of the Great Lakes watershed, and in the species' wintering grounds, including North Carolina). About 1,400 piping plover breeding pairs are found on the Atlantic Coast.

In a separate action, the Southern Environmental Law Center filed suit in October of 2007 on behalf of Defenders of Wildlife and the National Audubon Society, challenging the failure of the National Park Service to have an adequate off-road vehicle management plan

to protect the resources of the Cape Hatteras National Seashore. All of the parties in that action filed a proposed consent decree on April 16, 2008.

This consent decree, approved April 30 requires pre-nesting areas for piping plover as well as other shorebirds to be closed to vehicles and pedestrians at historic nesting areas at Bodie Island spit, Cape Point, Hatteras spit, and the north and south ends of Ocracoke Island. It also includes expanded buffers around breeding sites with nests and chicks that vary depending on the sensitivity or vulnerability of the particular species.

Although the locations of the beach closures under the consent decree and proposed critical habitat areas do overlap, the consent decree does not directly affect the actual areas delineated and proposed as critical habitat, nor does the proposed critical habitat designation have any effect on beach closures in the consent decree. Closures associated with implementation of the Interim Strategy, the consent decree, or other potential court actions, would occur regardless of the proposed critical habitat designation.

The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect and enhance fish, wildlife, plants and their habitats for the continuing benefit of the American people. We are both a leader and trusted partner in fish and wildlife conservation, known for our scientific excellence, stewardship of lands and natural resources, dedicated professionals and commitment to public service. For more information on our work and the people who make it happen, visit www.fws.gov.

-- FWS -- Tom R. MacKenzie

Chief, Media Relations

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