

From Carla Boucher, Attorney

United Four Wheel Drive Associations

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Hi. I've been preparing for our Natural Resources subcommittee in-person meeting scheduled for Aug. 5th.

My understanding after our teleconference was that we had yet to tackle agenda item (3) from the call. This agenda item was: (3) Exploring views on management measures in the consent decree and interim species management plan. It is my understanding that our mission on Aug. 5th was to tackle this item, at least. In order to be prepared to meaningfully participate I needed to have a short-hand "chart" to remind me what the measures in the consent decree and the interim plan actually are. What appears below is my attempt thus far in completing such a "chart". I've put "chart" in quotations because it doesn't resemble a chart at all yet, it's merely notes of details from each document.

I've tried to make this an accurate representation of the details from each document. I did not intend this to be a persuasive document. So if any of the details are inaccurate it stems from a lack of understanding, not a conscious attempt to eliminate details, give half-truths, lies by omission, etc. I really hope that all of you can take this in the gesture it was intended – something merely to help us talk about a subject I find technically difficult.

I still have a lot of work to do. All I've gotten done in 4 hours are the Plovers and AmOY's on two issues – pre-nesting and nesting. As you can see, I hope to complete the details for every species indicated and for every life stage necessary. I'd also like to broaden the chart with other scientific considerations beyond just what the consent decree and interim plan have, for example I'll be adding three sections for each species at each life stage to represent the three approaches from the USGS Protocols. I'm also hoping to add a section for each from the FWS recreation management document and one from the migratory bird treaty act (if applicable), etc. I would love some help completing this. J I know that the outline for the chart is not as good as I'd like because it goes from numbers, to letters, to letters. But correcting the formatting takes more patience than I possess.

Today I 'm hoping to start our Aug. 5th dialogue.

Could we possibly talk about Plover and AmOy management for pre-nesting, nesting, or unfledged chicks at Bodie Island to start with? I picked these species only because I have that information completed and I picked Bodie Island at random.

To help me understand spatially what I'm doing I prepared a crude map of Bodie Island and then marked hatched chick enclosure stuff on a map. In an ideal world maybe I should have done a crude map of pre-nesting or nesting? At any rate, by now you will realize that cartography is not my vocation, but I think it gets us started on something to talk about even if that something is to fire me as the volunteer map drawer. J

A note about the chart – I've used the life stages as outlined in Pat Field's (or maybe it was Robert's) agenda from the teleconference. So you'll see pre-nesting, buffers, enforcement tool expansions, etc. I added nesting as a life stage on my own initiative. Please take a few minutes to at least grasp the magnitude of how much work we have to cover. One day won't be enough and I don't even think we can get every species at every life stage for the whole NPS unit done between now and 2009 but we can hope for the best.

3) Exploring views on management measures in the consent decree and interim species management plan:

- Pre-nesting designated areas  
BPJ – best professional judgment

#### 1. PLOVER

- a. Interim Species Management Plan: -
  - a. February or March, NPS conducts annual assessment to plan pre-nesting closures in RECENT breeding areas
  - b. Closure ACTIVATED for RECENT breeding areas by April 1.
  - c. Closures REMOVED if no bird activity is seen by April 15 or if area abandoned for 2 weeks period (whichever is later)
  - d. Designate 100 foot wide ORV and Ped corridor.
  - e. Where ORV/Ped corridor is narrower than 100 feet reduce speed to 10mph.
- b. Consent Decree – pre-nesting closure in effect on March 15 (for spits and points)
  - a. No ORV corridor if doing so reduces protection enclosure.
  - b. Closures REMOVED July 15 or 2 weeks after last chick has fledged, whichever is later.
  - c. 2009 pre-nesting closures consistent with 2008 breeding season prenesting areas AND include intertidal zone, areas of moist soil habitat, ocean backshore, dunes, dry sand flats, overwashes, and blowouts.

#### 2. SEA TURTLES

#### 3. SEABEACH AMARANTH

#### 4. COLONIAL WATERBIRDS

- a. Interim Species Management Plan – begin monitoring on May 1
  - a. Closures ACTIVATED if a territory is established or a nest located.
  - b. Closures REMOVED when areas have been abandoned for a 2 week period.

#### 5. AMERICAN OYSTERCATCHERS

- a. Interim Species Management Plan – begin monitoring on March 15
  - a. Closures ACTIVATED if a territory is established or a nest located.
    1. Closure SIZE dependant upon BPJ
    2. Designate 100 foot wide ORV and Ped corridor.
    3. Where ORV/Ped corridor is narrower than 100 feet reduce speed to 10mph.
  - b. Closures REMOVED when areas have been abandoned for a 2 week period.
- b. Consent Decree – pre-nesting closure in effect on March 15 (for spits and points)
  - a. No ORV corridor if doing so reduces protection enclosure.
  - b. Closures REMOVED July 15 or 2 weeks after last chick has fledged, whichever is later.
  - c. 2009 pre-nesting closures consistent with 2008 breeding season prenesting areas AND include intertidal zone, areas of moist soil habitat, ocean backshore, dunes, dry sand flats, overwashes, and blowouts.

Nesting –

#### 6. PLOVER

- a. Interim Species Management Plan: -
  - a. Establish 150 foot buffer/closure = 45.72M around nests that occur outside existing pre-nesting closures
  - b. If closures created around nests adjust ORV corridor to allow vehicle passage, when possible.
  - c. Create short-term by-pass around nests if ORV corridor is closed completely

- b. Consent Decree – pre-nesting closure in effect on March 15 (for spits and points)
  - a. No ORV corridor if doing so reduces protection enclosure
  - b. Establish 164.04 foot buffer/closure = 50M around nests
  - c. Increase buffer/closure in 164.04 foot/50M increments until no ORV/Ped disturbance is observed.
- 7. SEA TURTLES
- 8. SEABEACH AMARANTH
- 9. COLONIAL WATERBIRDS
- 10. AMERICAN OYSTERCATCHERS
  - a. Interim Species Management Plan – begin monitoring on March 15
    - a. Closures ACTIVATED if a territory is established or a nest located.
      - 1. Closure SIZE dependant upon BPJ
      - 2. Designate 100 foot wide ORV and Ped corridor.
      - 3. Where ORV/Ped corridor is narrower than 100 feet reduce speed to 10mph.
    - b. Closures REMOVED when areas have been abandoned for a 2 week period.
  - b. Consent Decree – pre-nesting closure in effect on March 15 (for spits and points)
    - a. No ORV corridor if doing so reduces protection enclosure.
    - b. Closures REMOVED July 15 or 2 weeks after last chick has fledged, whichever is later.
    - c. 2009 pre-nesting closures consistent with 2008 breeding season prenesting areas AND include intertidal zone, areas of moist soil habitat, ocean backshore, dunes, dry sand flats, overwashes, and blowouts.

Unfledged chick

- 11. PLOVER
  - a. Interim Species Management Plan: -
    - a. Max closure – 914.4M
    - b. Min. closure – 182.88M
  - b. Consent Decree –
    - a. Closure 1000M
- 12. SEA TURTLES
- 13. SEABEACH AMARANTH
- 14. COLONIAL WATERBIRDS
- 15. AMERICAN OYSTERCATCHERS
  - a. Interim Species Management Plan
    - a. Max.closure – 91.44M
    - b. Min. closure – 45.72M
  - b. Consent Decree
    - a. 200M

- Buffers (breeding behavior/nesting and unfledged chick buffers)
  - Expansion of buffers as an enforcement tool
  - Buffer exclusions/exceptions
  - Time to establish buffers
  - Ocean backshore closures
  - Reporting
  - Night driving
  - Education
  - Discretion of the NPS
  - Other?

So I'll start by asking if there is some way that we could manage Bodie Island in a way that gives a wide bearth to nesting birds or unfledged chicks without blocking all water front access

to ORV/Ped use. I realize at the outset that I've asked this question with a lot of complications – for example a solution to resource management for nesting might be drastically different than for unfledged chicks and that ORV management could be a completely different solution than Pedestrian management. What problems might be encountered for NPS if the closure area retained an ORV corridor where there are unfledged chicks unless in their professional judgment the chick's mortality is compromised? Is mortality the right question or is it happiness, weight gain??? Are distances the best way to think about protection or are there other "measures" or other "triggers" we could focus on that would better manage resources and ORV/Ped use?

My solution for nesting would be to reduce the speed limit to minimize the number of times the bird leaves the nest because I read that at least for AmOys nests incubated at least 85-90% of the time do better than nests left more often, mark the nest with symbolic fencing, and hope for the best and let nature take it's course after that whether nature is humans, egg eaters, or weather. I'd also propose an activist program that holds interesting co-hosted on-site seminars 6 weekends during the summer, at the Bodie Island location where ORV/PED/SPECIES groups work together to put on a great interactive thingy about birds, user ethics, fishing, stuff like that. I'll admit that my version of species management is pretty sophomoric and not particularly sensitive, but perhaps that will encourage all of you to chime in, ha, ha.

Thanks in advance for your kindness and gentleness in helping me deal with such a complex subject.

Respectfully yours,

Carla