

## CALIFORNIA COASTAL COMMISSION

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VOICE AND TDD (415) 904-5200  
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# F 3a

**August 21, 2008**

**To:** Coastal Commissioners and Interested Persons

**From:** Mark Delaplaine, Manager, Energy, Ocean Resources and Federal Consistency Division  
Larry Simon, Federal Consistency Coordinator

**Subject:** Federal Consistency Report: Update and Public Hearing on Bureau of Land Management's Humboldt Bay South Spit Cooperative Management Area (the subject of BLM's previous consistency determination CD-052-02)

The purposes of this public hearing item are to provide the Commission with an update on the Humboldt Bay South Spit Cooperative Management Area, explain why an expected second consistency determination for this area has not been submitted, and provide the public an opportunity to address the Commission on management concerns.

**I. Conditional Concurrence.** On December 11, 2002, the Commission conditionally concurred with the BLM's consistency determination CD-052-02 (See **Exhibit 1** for *Executive Summary*) for implementation of the South Spit Interim Management Plan (IMP). The IMP was developed to provide visitor services, allow for recreational and some commercial activities, monitor and protect natural resources, restore wildlife and plant habitat, and provide for traditional Wiyot Tribe activities during a three-year time period allocated by the BLM to develop a long-term management plan for the South Spit.

The IMP included one element that the Commission determined was inconsistent with the environmentally sensitive habitat policy of the California Coastal Management Program (Coastal Act Section 30240). The IMP allowed off highway vehicle (OHV) access to the Pacific Ocean waveslope on the South Spit for recreation uses and commercial fishing via designated vehicle access corridors from South Jetty Road to the shoreline. The IMP prohibited OHV use in the 3,000-foot-long waveslope fronting the designated snowy plover protection area, and within the 20-acre protection area itself, during the March 1 – September 15 nesting season.

However, the Commission found this level of snowy plover protection inadequate. The February 5, 2003, Adopted Findings for CD-052-02 state in part that:

*. . . the Commission finds that continued use of OHVs on the waveslope during the snowy plover nesting season will lead to adverse effects on environmentally sensitive habitat that could be used for nesting and foraging by the snowy plover. The Commission therefore concludes that because OHV use during the nesting season is incompatible with plover habitat restoration plans and plover management actions contained in the IMP, the project as submitted is inconsistent with Section 30240 of the Coastal Act. Furthermore, in order for the Commission to find the IMP consistent with Section 30240 of the Coastal Act, the Commission is conditioning its concurrence as follows:*

*During the western snowy plover reproductive season, from march 1 through September 15, BLM will prohibit access of recreational vehicles to the waveslope. During this period vehicle use will be limited to commercial fishermen, tribal members, and mobility-impaired persons through a permit system.*

The Commission's Executive Director sent a letter to the BLM on December 12, 2002, explaining that under Section 930.4(b)<sup>1</sup> of the federal Coastal Zone Management Act (CZMA) federal consistency regulations, should the BLM not accept the aforementioned condition the Commission's conditional concurrence is treated as an objection. As required by Section 930.43(d) and (e) of the CZMA regulations<sup>2</sup>, the BLM responded in a letter dated April 25, 2003 (**Exhibit 2**), and stated, in part, that:

*However, BLM continues to find that the SSIMP [South Spit Interim Management Plan], without the Commission's condition, is fully consistent with the enforceable policies of the CCMP and the policies and implementing ordinances of the Coastal Act . . .*

*Therefore, BLM is informing the Commission of its decision to initiate the necessary administrative steps to expedite implementation of the SSIMP without the Commission's condition, but with the measures and safeguards described above.*

Subsequent to receiving this letter, the Commission took no further action on CD-052-02 and the IMP was implemented by the BLM.

**II. Interim and Long-Term Management Plans.** The Adopted Findings for CD-052-02 discuss both the IMP and a long-term management plan that would be developed by the BLM

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<sup>1</sup> Section 930.4(b): "If the requirements of paragraphs (a)(1) through (3) of this section are not met, then all parties shall treat the State agency's conditional concurrence as an objection pursuant to the applicable Subpart."

<sup>2</sup> Section 930.43(d) in part: ". . . Federal agency shall not proceed with the activity over a State agency's objection unless: . . . (2) the Federal agency has concluded that its proposed action is fully consistent with the enforceable policies of the management program, though the State agency objects." Section 930.43(e) in part: "If a Federal agency decides to proceed with a Federal agency activity that is objected to by a State agency . . . the federal agency shall notify the State agency of its decision to proceed before the project commences."

during the three-year life of the IMP. Upon completion of the long-term plan, BLM would then submit another consistency determination to the Commission for that plan. The findings include references to the long-term plan and second consistency determination:

*The Commission also notes that the proposed IMP is for a period of three years during which BLM will develop a permanent management plan for the South Spit, which the Commission will review in a subsequent consistency determination. (Page 17, Section A, Environmentally Sensitive Habitat)*

*The Commission notes that the subject consistency determination is an interim management plan for a three-year period of time. A second consistency determination will be submitted at a later date for the final management plan. (Page 27, Section B, Public Access and Recreation)*

In December 2005, the BLM provided notice that it intended to prepare a Resource Management Plan Amendment for the South Spit and stated in the December 7, 2005, Federal Register that this process would serve to develop the long-term management plan referenced in the 2003 IMP. The Commission staff responded to this notice in a December 20, 2005, letter to the BLM and stated that a consistency determination must be prepared and submitted to the Commission for the Resource Management Plan Amendment. On April 11, 2006, the BLM and California Department of Fish and Game (the managing agencies of the South Spit) issued a letter stating that they were proposing to carry the IMP forward, with minor modifications, as the long-term management plan. The letter requested public input by May 19, 2006, on the existing management goals and actions and stated that a preliminary management plan and environmental assessment/mitigated negative declaration would be available for public comment later in 2006.

However, on October 12, 2006, the BLM and DFG announced that:

*Based upon comments received during the issue scoping process, and the continued achievement of public use and resource protection goals under the existing plan, we have concluded that development of a new plan is not needed now. Therefore, the BLM will discontinue the plan revision process initiated earlier this year, and will use the existing plan to provide management direction for the South Spit until further notice . . .*

*The BLM and DFG have determined that no new issues have arisen that would require updating the management direction in the existing plan, or further environmental analysis. The existing plan includes provisions for monitoring and adaptive management to respond to changing conditions. Also, if significant new issues arise, the plan will be updated or amended to address them.*

The BLM subsequently informed the Commission staff that the BLM, given its decision to use the IMP as the long-term management plan for the South Spit, did not see a need for and would therefore not prepare and submit a second consistency determination for the South Spit. The Commission staff has discussed on numerous occasions this decision with the BLM staff and has

consistently communicated the position that the BLM has a responsibility, given the commitment it made in CD-052-02, to provide the Commission with an update on the status of the IMP and to prepare and submit a consistency determination for the long-term management plan, notwithstanding that the long-term plan is equivalent to the IMP. However, it remains the BLM's position that a second consistency determination is not required at this point in time.

**III. Federal Consistency Reopener Provisions.** Under the federal consistency regulations, a state has the opportunity to monitor federal agency activities to assure they are continuing to be carried out in a manner consistent with the CCMP. The Coastal Zone Management Act (15 CFR part 930) regulations provide:

***§ 930.45 Availability of mediation for previously reviewed activities.***

*(a) Federal and State agencies shall cooperate in their efforts to monitor federally approved activities in order to make certain that such activities continue to be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the management program.*

*(b) The State agency may request that the Federal agency take appropriate remedial action following a serious disagreement resulting from a Federal agency activity, including those activities where the State agency's concurrence was presumed, which was:*

*(1) Previously determined to be consistent to the maximum extent practicable with the management program, but which the State agency later maintains is being conducted or is having an effect on any coastal use or resource substantially different than originally described and, as a result, is no longer consistent to the maximum extent practicable with the enforceable policies of the management program; ...*

*(c) If, after a reasonable time following a request for remedial action, the State agency still maintains that a serious disagreement exists, either party may request the Secretarial mediation or OCRM mediation services provided for in subpart G of this part.*

**IV. Additional Attachments.**

**Exhibit 3** is a copy of the BLM's *South Spit Cooperative Management Area Management Chronology, 1997-2008*, which serves as the BLM's update on management, natural resource protection and restoration, and public access and recreation activities on the South Spit.

**Exhibit 4** is a copy of the package submitted by the Redwood Region Audubon Society and the Redwood Chapter Sierra Club, outlining those organizations' concerns over BLM's decision not to proceed with a formal development of a long-term management plan for the South Spit, OHV activities on the waveslope and within the dune area of the South Spit, snowy plover populations and habitat protection, and the inadequacy of law enforcement presence on the South Spit.

## CALIFORNIA COASTAL COMMISSION

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## PROPOSED FINDINGS

### ON CONSISTENCY DETERMINATION

Consistency Determination No. CD-052-02  
Staff: LJS-SF  
File Date: 7/12/02  
60<sup>th</sup> Day: 9/10/02  
75<sup>th</sup> Day: extended through 12/13/02  
Commission Vote: 12/11/02  
Hearing on Findings 2/5/03

**FEDERAL AGENCY:**      **Bureau of Land Management**

**PROJECT LOCATION:**      Humboldt Bay South Spit, Humboldt County (Exhibits 1-2).

**PROJECT DESCRIPTION:**      Implementation of the South Spit Interim Management Plan, a three-year plan to provide a baseline level of visitor services, public uses, resource protection, monitoring, and habitat restoration until the long-term management plan for the South Spit is developed.

**PREVAILING COMMISSIONERS:**      Commissioners Desser, Dettloff, Hart, Kruer, McClain-Hill, Nava, Peters, Susskind, Wan, Woolley, and Chairman Reilly.

### **SUBSTANTIVE FILE DOCUMENTS:**

1. South Spit Interim Management Plan, July 10, 2002 (BLM).
2. Environmental Assessment for the South Spit Interim Management Plan, July 2002 (BLM).

EXHIBIT NO. 1

APPLICATION NO.

3. Biological Assessment for Arcata Field Office, Bureau of Land Management, Interim Management Plan for Lands on the South Spit of Humboldt Bay, Managed under Conservation Easement by the Bureau of Land Management, July 2002 (BLM).
4. Formal Consultation on the Interim Management Plan for Lands Managed by the Bureau of Land Management on the South Spit of Humboldt Bay, California, September 11, 2002 (U.S. Fish and Wildlife Service).
5. South Spit Access Improvements (State Coastal Conservancy), August 8, 2002.
6. Adopted Findings for Humboldt County LCP Amendment No. 1-93 (Beach and Dunes Management Plan), December 13, 1993.
7. Consistency Determination CD-011-00 (Redwood National Park Management Plan, including limitations on beach OHV use).
8. Consistency Determination CD-27-82 (Bureau of Land Management; creation of Samoa Dunes OHV Recreation Area, Humboldt County).
9. Negative Determination ND-113-94 (Bureau of Land Management; nighttime closure of Samoa Dunes OHV Recreation Area and closure of Manila Dunes site to all vehicular access, Humboldt County).
10. Consistency Determination CD-144-97 (Bureau of Land Management; prohibit OHV use at Black Sands Beach in the Kings Range National Conservation Area, Humboldt County).
11. CDP 1-98-067 (City of Eureka and BLM), authorization of OHV use on Samoa Peninsula, Humboldt County.
12. CDP 1-00-047 (City of Eureka and BLM), reauthorization of OHV use on Samoa Peninsula, Humboldt County.
13. CDP 4-82-300-A5 (California Department of Parks and Recreation), institute interim vehicle use limits and establish interagency Technical Review Team at Oceano Dunes State Vehicular Recreation Area, San Luis Obispo County (revised findings adopted April 18, 2001).

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### EXECUTIVE SUMMARY

The Bureau of Land Management (BLM) has submitted a consistency determination for the Humboldt Bay South Spit Interim Management Plan (IMP). The IMP would provide visitor services, allow for recreational and some commercial activities, monitor and protect natural resources, restore wildlife and plant habitat, and provide for traditional Wiyot Tribe activities during a three-year time period allocated to develop a long-term management plan for the South Spit. The 800-acre South Spit extends 4.5 miles from the Humboldt Bay entrance channel south

EX-1, P. 2 of 4

to Table Bluff, is currently open to the public on a limited basis, and is comprised of several landowners, primarily the State of California and the U.S. Fish and Wildlife Service. Through a Deed of Conservation Easement, the State of California conveyed to the BLM an "interest" in and the "right" to manage the South Spit in all aspects of its use in perpetuity. The IMP includes numerous management actions and developments organized under recreation activities, facilities development, cultural resources, vegetation, and wildlife. The BLM states that implementation of the proposed management actions, except for the South Jetty Road rock revetment (which is not a part of this consistency determination) and the snowy plover habitat creation project, will be funded using approximately \$500,000 in State Coastal Conservancy grant funds. Funding for the revetment and habitat creation projects has yet to be obtained.

The IMP holds the potential to begin restoring the degraded state of snowy plover habitat on the South Spit. If the plan is implemented and restrictions on visitor activities are monitored and enforced, environmentally sensitive dune and beach habitat critical to recovery of the snowy plover will be protected and restored. The IMP includes the establishment of a 20-acre snowy plover protection area along a 3,000-foot-long reach of shoreline. This proposed area includes the waveslope and upland dune habitat, where all OHV use will be prohibited during the March 1-September 15 snowy plover nesting season. If the IMP fails to achieve its plover habitat goals, more severe restrictions on existing recreational activities on the South Spit may be necessary under terms of the U.S. Fish and Wildlife Service's Biological Opinion and/or the BLM's long-term management plan, including prohibition of all OHV use on the South Spit.

However, the Commission is concerned that continued use of OHVs on the waveslope during the snowy plover nesting season will lead to adverse effects on environmentally sensitive habitat that could be used for nesting and foraging by the snowy plover. Therefore, because OHV use during the nesting season would be incompatible with plover habitat restoration plans and plover management actions contained in the IMP, the project as submitted is inconsistent with Section 30240 of the Coastal Act. To bring the project into consistency with Section 30240, the Commission conditioned its concurrence to state that the IMP is consistent with the California Coastal Management Program (CCMP) if:

*During the western snowy plover reproductive season, from March 1 through September 30, BLM will prohibit access of recreational vehicles to the waveslope. During this period vehicle use will be limited to commercial fishermen, tribal members, and mobility-impaired persons through a permit system.*

If properly implemented and enforced, and if modified in accordance with the Commission's conditional concurrence to restrict OHV use on the South Spit during the snowy plover nesting season, the IMP will protect environmentally sensitive habitat on the South Spit, will not lead to further adverse effects on currently degraded snowy plover habitat on the South Spit, will restrict recreational activities and other uses not dependent on existing and potential plover habitat, and is consistent with the environmentally sensitive habitat policy (Section 30240) of the Coastal Act.

The IMP includes provisions for maintaining and improving opportunities for public access to and recreational use of the South Spit. Proposed interpretive, picnicking, and parking improvements adjacent to or near South Jetty Road will be sited and designed to protect views to and along the shoreline, and thus, the quality of the recreational experience. Proposed restrictions and controls on public access and recreation during the three-year life of the IMP, including restricting OHV use to only the waveslope, are reasonable in nature given the presence of endangered species and environmentally sensitive habitats in the dunes and along the bayshore. A multi-agency law enforcement and monitoring program on the South Spit will ensure compliance with land use regulations, and the BLM will make a formal report to the Commission on the effectiveness of the enforcement and monitoring program after the first year of the IMP. The access and recreation provisions of the IMP will be evaluated for their effectiveness in protecting recreational opportunities and natural resources, and should modifications or additional restrictions be necessary, such measures can be implemented by the BLM during the three-year interim management period and/or incorporated into the final management plan to be developed by the BLM. This final plan will be reviewed by the Commission in a subsequent consistency determination for long-term management of the South Spit. The project is consistent with the public access and recreation policies (Sections 30210-14 and 30220-23) of the Coastal Act.

The IMP includes a proposed road revetment necessary to protect a segment of South Jetty Road from erosion, undermining, and eventual washout. However, this consistency determination does not include a request for Commission concurrence at this time with the revetment or an associated project to mitigate the adverse effects of the revetment on intertidal mudflats. The subject consistency determination does include a commitment by BLM to submit a second consistency determination at a later date for the specific road protection and mitigation project outlined in the IMP.

The IMP includes provisions for a pre-construction archaeological survey of the South Spit, the presence of qualified archaeologists during all ground disturbing activities that may occur during the three-year interim management plan period, the coordination with and participation by Wiyot Tribe representatives in surveys, monitoring, and excavations, and the incorporation of the archaeological survey into the development of the long-term management plan for the South Spit. The IMP will not adversely affect cultural resources on the South Spit and is consistent with the archaeological and paleontological resource policies (Section 30244) of the Coastal Act.





United States Department of the Interior  
BUREAU OF LAND MANAGEMENT

California State Office  
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Sacramento, California 95825  
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In Reply Refer To:  
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(CA330)

April 25, 2003

RECEIVED  
APR 28 2003  
CALIFORNIA  
COASTAL COMMISSION

Peter Douglas, Executive Director  
California Coastal Commission  
45 Fremont Street  
San Francisco, CA 94105-2219

**RE: South Spit, Humboldt Bay**

Dear Mr. Douglas:

This letter responds to the California Coastal Commission's recent federal consistency determination regarding implementation of the *South Spit Interim Management Plan*, CD-052-02, by the Bureau of Land Management (BLM) in cooperation with the California Department of Fish and Game (DFG).

On December 11, 2002 in San Francisco, BLM submitted the *South Spit Interim Management Plan (SSIMP)* and additional commitments to the Commission for a consistency determination. As you are aware, the Commission conditioned its concurrence with the SSIMP to state that the SSIMP is consistent with the California Coastal Management Program (CCMP) if:

During the western snowy plover reproductive season, from March 1, through September 30, BLM will prohibit access of recreational vehicles to the waveslope. During this period vehicle use will be limited to commercial fishermen, tribal members, and mobility-impaired persons through a permit system.

However, BLM continues to find that the SSIMP, without the Commission's condition, is fully consistent with the enforceable policies of the CCMP and the policies and implementing ordinances of the Coastal Act and the Humboldt County Local Coastal Program, and Beach and Dunes Management Plan of 1995. BLM also consulted with the Fish and Wildlife Service (FWS) in accordance with the Endangered Species Act, and received a Biological Opinion with specific terms directed towards recovery of the snowy plover. The Biological Opinion concluded that the SSIMP is not likely to result in jeopardy to the western snowy plover or destruction or adverse modification of critical habitat, and is therefore fully consistent with Section 30240 of the CCMP.

EXHIBIT NO. 2
APPLICATION NO.

The SSIMP culminates years of extensive public hearings regarding deteriorating conditions on the South Spit and the need for public action to resolve resource management and public use conflicts. BLM has determined that the SSIMP adequately protects the snowy plover and that the Commission's condition is not necessary. However, in order to provide safeguards towards the BLM and Commission's shared goals of protecting this species, BLM and DFG, in consultation with our many project partners, have committed to the following measures as part of implementation of the SSIMP:

- Implementation of a Law Enforcement Memorandum of Agreement that provides a coordinated approach and active enforcement presence on the South Spit at a minimum of six days per week.
- Western snowy plover surveys and monitoring conducted at least two days per week during the nesting season (3/1 to 9/15), and management of active nests at least three times per week, including placement of predator exclosures.
- Establishment of a plover protection/restoration area near the north end of the Spit. This 20-acre area would be fenced to provide an area free of disturbance to encourage plover nesting. In addition, the one-half mile of waveslope in front of the habitat protection area would be closed to vehicles during the nesting season annually.
- The terms and conditions of the Biological Opinion would be adhered to as follows:
  - Within the period March 1 to September 15, monitor violations to minimize recreation-related impacts to plovers, their nests, and broods. If 25 violations have been documented, BLM, DFG, and FWS will meet to evaluate and apply additional measures that might be required to protect plovers, including but not limited to closure of the waveslope to vehicles and further restrictions on dog or equestrian use.
  - BLM will schedule and hold a meeting with DFG and FWS in the fall each year the interim management plan is carried out. Primary objectives of the meeting would be to review the conservation measures implemented for plovers on the South Spit, review the status of plovers and to adjust threshold levels for violations of measures designed to protect plovers.
  - On the west side of South Jetty road, the BLM will require that dogs be leashed at all times during the period March 1 to September 15.

While BLM and its state and local partners have decided to proceed without the Commission's condition, let us assure you that BLM's decision was not hastily reached. In fact, BLM shares [many of] the same goals expressed by the Commission at the December 2002 meeting. However, BLM has determined that the SSIMP will achieve the urgent goal of protecting coastal resources while providing safe and appropriate public recreational opportunities on the South Spit of Humboldt Bay, and that the project has built-in safeguards that enable BLM to close the waveslope to recreational vehicles if violations and enforcement needs warrant it.

As stated in BLM's November 19<sup>th</sup>, 2002 letter to Commission staff, "...adaptive management will be incorporated where appropriate and necessary to achieve the highest levels of resource protection and public service." In addition, BLM will honor its commitment to provide the Commission with monitoring reports regarding visitor use activities and law enforcement documentation.

The key to successful adaptive management will be the agencies ability to integrate new information in response to changing conditions and to make appropriate adjustments. Both BLM and DFG share this commitment with our many project partners throughout the community. The attached list of supporters is an indication of this collaborative commitment from our federal, state, local and tribal partners.

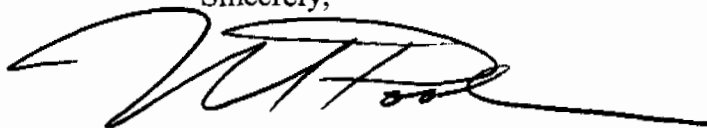
Again, this determination is based on the following urgent needs on the South Spit:

- to protect sensitive coastal dune and wetland habitat;
- to provide coastal access and recreational opportunities currently unavailable to the public;
- to protect the western snowy plover and its critical habitat;
- to protect cultural resources;
- to provide adequate public safety with coordinated law enforcement;
- to provide a law enforcement presence and an active management presence as soon as possible; and
- to develop appropriate recreational improvements with state funding specifically authorized by the California Legislature for plan implementation, but are due to expire by June 30, 2003.

Therefore, BLM is informing the Commission of its decision to initiate the necessary administrative steps to expedite implementation of the SSIMP without the Commission's condition, but with the measures and safeguards described above.

Please do not hesitate to contact me (916) 978-4600 or Lynda Roush, Arcata Field Manager at (707) 825-2309 with any questions or concerns regarding our position on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Pool", with a long horizontal flourish extending to the right.

Mike Pool  
State Director

We, the undersigned parties, support the implementation of the *South Spit Interim Management Plan* and Decision Record as proposed by BLM and DFG.



Mike Thompson  
U.S. Congressman, District 1

2-20-03

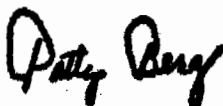
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Westley Chesbro  
State Senator, District 2

3-10-03

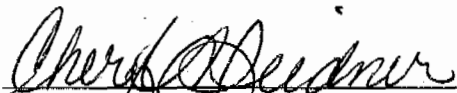
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Patty Berg  
State Assemblywomen, District 1

3-4-03

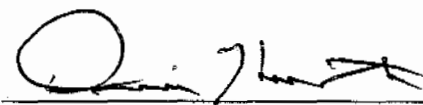
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Cheryl A. Seidner, Tribal Chairwoman  
Table Bluff Reservation, Wiyot Tribe

February 24, 2003

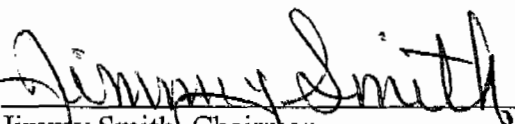
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Dennis Hunter, President  
Humboldt Bay Harbor, Recreation and  
Conservation District

2-25-03

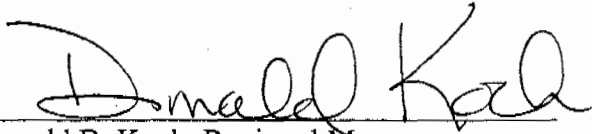
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Jimmy Smith, Chairman  
Humboldt County Board of Supervisors

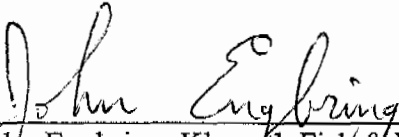
3/4/03

Date



Donald B. Koch, Regional Manager  
Northern California-North Coast Region  
California Department of Fish & Game

March 7, 2003  
Date



John Engbring, Klamath Fish & Wildlife  
Offices Supervisor  
U.S. Fish and Wildlife Service

March 4, 2003  
Date



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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1695 Heindon Road  
Arcata, CA 95521  
[www.ca.blm.gov/arcata](http://www.ca.blm.gov/arcata)



August 19, 2008

*In Reply Refer To:*  
8000 (CA-330)P

Mr. Peter Douglas  
Executive Director  
California Coastal Commission  
C/O Mr. Larry Simone  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

Dear Mr. Douglas:

As we discussed, the BLM has enclosed materials regarding ongoing management efforts at the South Spit Cooperative Management Area. If you have any questions, please feel free to contact me at (707) 825-2309.

Sincerely,

for Lynda Roush  
Arcata Field Manager

Enclosures (2)

EXHIBIT NO. 3

APPLICATION NO.

# South Spit

## Cooperative Management Management



Briefing to the California Coastal Commission

## 1970s-1997 Homeless Encampment

- Humboldt County declares area a health emergency in 1997 based on unsanitary conditions and presence of communicable disease
- \$170,000 grant from CA Waste Management Board to assist with relocation of 200-300 homeless residents and cleanup
- The county removed over 400 cubic yards of trash, more than 100 abandoned vehicles, 40 appliances, and five cubic yards of household hazardous waste





# Significant Resource Values and Management

## Opportunities

- Two federally listed and numerous BLM sensitive plant species
- Habitat for two federally listed wildlife species
- Significant weed infestations and habitat restoration needs
- Chance to provide mix of compatible recreation opportunities in close proximity to Humboldt Bay population
- Strong community support for managing public use and partnership development

Brown Pelican



Western Snowy Plover



Beach Layia



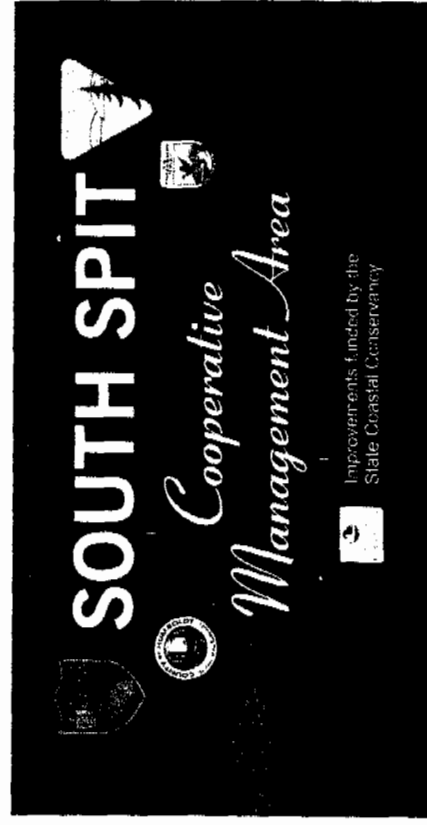
Humboldt Bay Owl's Clover

# 2002—Forging a Conservation Management Partnership

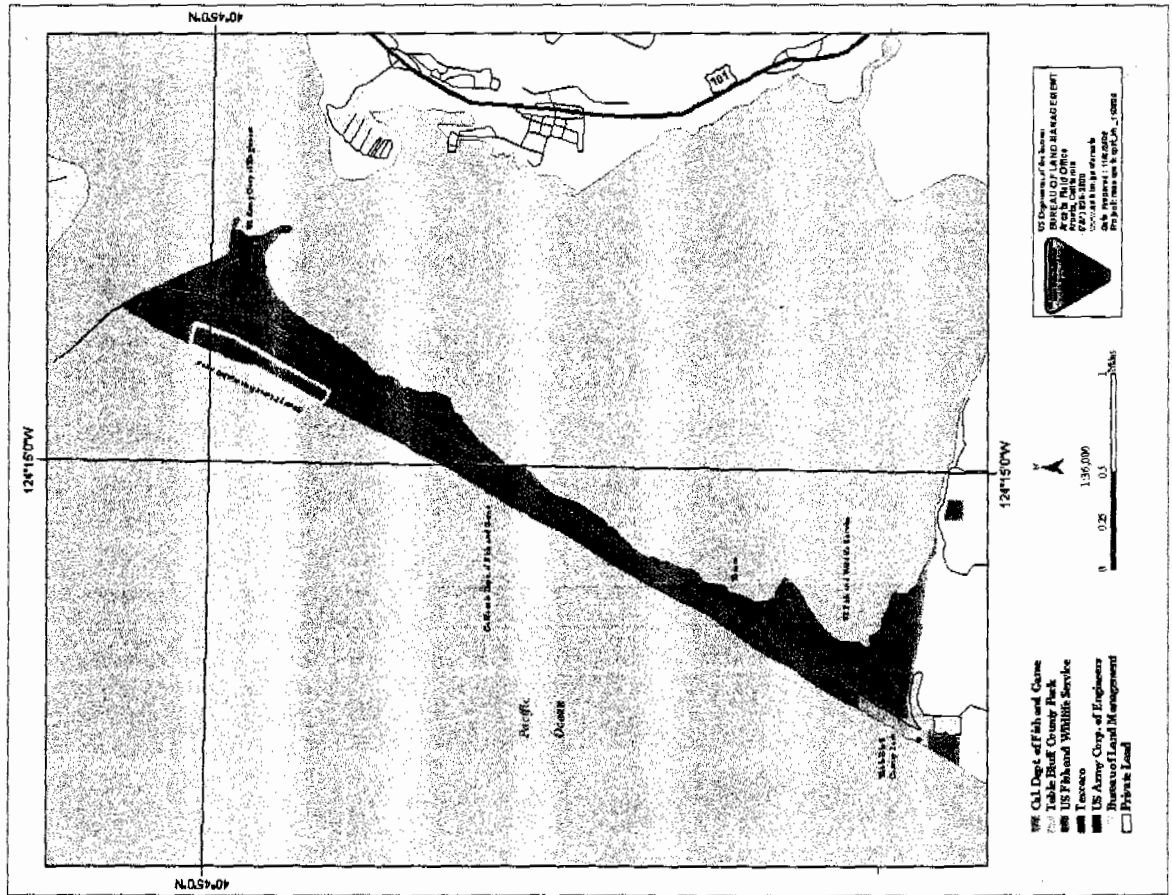
- Pacific Lumber Company gifts 600 acres South Spit to the State of California, Department of Fish and Game (DFG)
- State grants a Deed of Conservation Easement to federal government to allow for BLM management of the area in cooperation with DFG
- \$500,000 Coastal Conservancy Grant for facility development
- Memorandum of Understanding between the BLM and DFG outlining cooperative management goals



- Agreement between BLM & Table Bluff Reservation - Wiyot Tribe for cultural resource protection and to allow for traditional use
- Law Enforcement Agreement (BLM, DFG, Fish and Wildlife Service, Humboldt County Sheriff's Office)



# New 2002 Land Ownership



## ACRES

DFG with	
BLM conservation easement	600
Table Bluff County Park	17
Fish & Wildlife Service	160
Army Corps of Engineers	10
Texaco Corp.	9
Bureau of Land Management	<u>7</u>

**TOTAL 813**

# Initial Management Planning (2002)

Interim Management Plan developed to provide for visitor services & facilities, public uses, resource protection, and habitat restoration. Also to establish baseline for long-term management.



## Key Management Plan Components

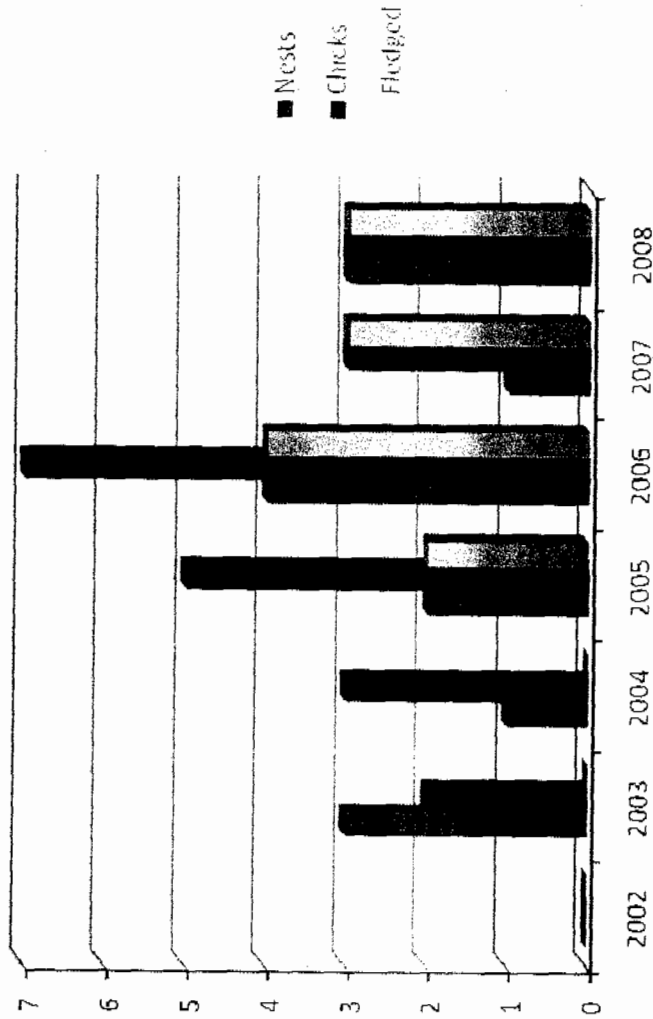
- Intensive law enforcement (BLM, DFG, HCSO, FWS)
- Habitat protection & restoration
- Snowy plover protection areas (Restrictions on Visitor Uses)
- Resource and visitor use monitoring
- Education & interpretation (signing and on-the-ground visitor contact)
- Provide for a variety of environmentally responsible recreation uses

# Implementation --Foredune plant community restoration

- Long-term cooperative partnership between BLM and the California Conservation Corps (CCC)
- Non-native plants, primarily European beach grass are hand pulled
- Approximately 30 acres treated to date (including several retreatment's of sprouts)
- Native dune mat has returned to treated areas (photo on right)



# Implementation -- Western snowy plover restoration



Hatched plover chick



Symbolic fencing

- Plovers returned to South Spit in 2002 after being absent for many years
- Chicks successfully fledged each of the past four years
- Symbolic fencing is installed 1,200 feet along waveslope and 200 feet inland from all plover nests
- BLM and contract biologists regularly monitor plovers, signing and symbolic fencing

# Implementation -- Habitat Restoration Area

Twenty-seven acre area closed to public use during nesting season including 3,000 feet of waveslope

Variety of restoration techniques applied including leveling dunes with dozers, prescribed burning, and hand pulling to restore conditions that occurred prior to European beach grass invasion (*Ammophila arenaria*)



# Implementation -- Cultural / Historic Resource Management

The South Spit is part of the ancestral homeland of the Wiyot Tribe. The area contained seasonal villages and camp sites. Hunting, fishing, clamming, firewood collecting, and vegetation gathering took place.

- Both historic & prehistoric resources exist
- All cultural resources are protected
- Memorandum of Understanding provides for cooperation between the BLM and Tribe to protect important spiritual and cultural sites, and to provide for tribal use of the area for subsistence gathering and traditional practices
- The tribe held a flower ceremony on South Spit in 2006 for the first time in 150 years



Humboldt Bay Wallflower

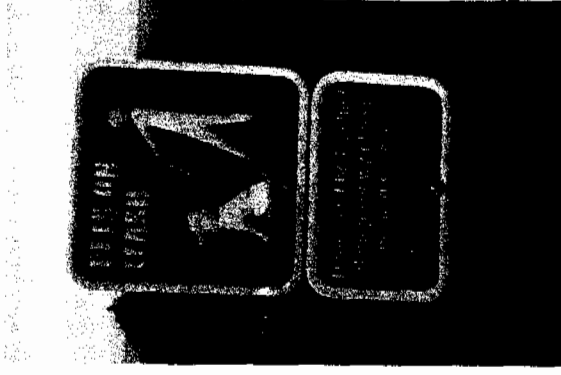


Wiyot shell midden  
on South Spit



# Implementation -- Visitor Use Requirements

- Day Use Only (no overnight camping)
- Dogs must be leashed (west side only) from March 1 to September 15
- Horseback riding allowed on west side only
- Firearms allowed only for hunting waterfowl
- No target shooting
- Fireworks not allowed
- Off-highway vehicle use on waveslope only (15 miles per hour)
- Firewood cutting allowed by permit September 16 to March 1
- Habitat Restoration Area waveslope closed to vehicle and pedestrian use March 1 to September 15



## Hunter Access Corridor

Access limited to loading and unloading supplies. Please park on the road.

# Implementation -- Recreation Facility Development

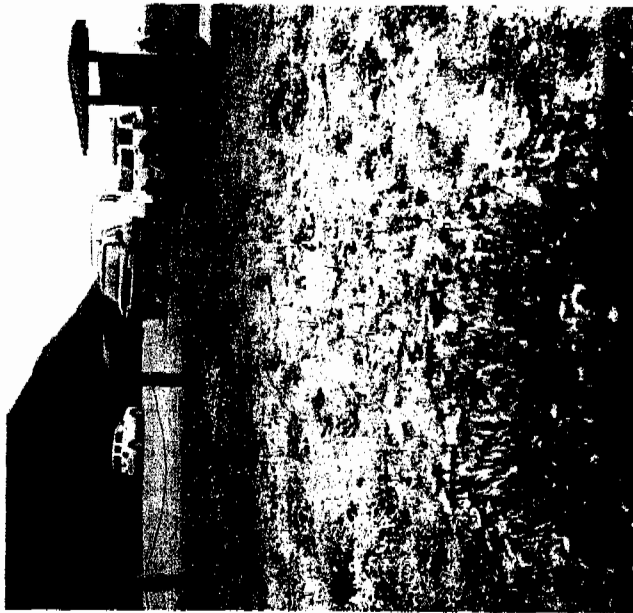
- 3 Picnic Areas
- 8 Parking Areas
- 11 Existing Turnouts
- 4 Vehicle Corridors
- Vehicle Barriers
- Caretaker Site
- Hunter Access Corridors



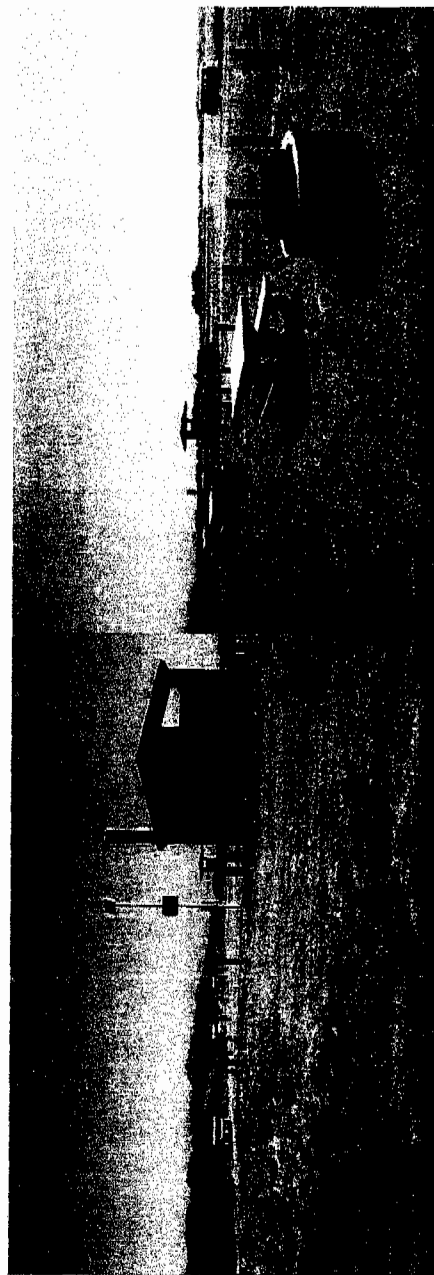
Vehicle Access Corridor



Caretaker Site,  
Lighthouse Ranch



South Parking & Picnic Area



North Parking & Picnic Area

# Implementation -- Law Enforcement

- The South Spit law enforcement group is the only functioning law enforcement effort in a western snowy plover recovery unit
- Multi-agency group meets regularly to reaffirm its commitment to law enforcement presence at the South Spit and to review conservation measures implemented for plovers
- **Memorandum of Understanding** calls for a minimum\* of semi-annual meetings (i.e., group meets quarterly)

## Patrol Minimums:

BLM	2 per week (1 weekend day)
CDFG	2 per week (1 weekend day)
HCSO	1 per week
FWS	1 per week during waterfowl season and call-out

**\*minimums are often exceeded**



# Assessing Visitor Use and Enjoyment

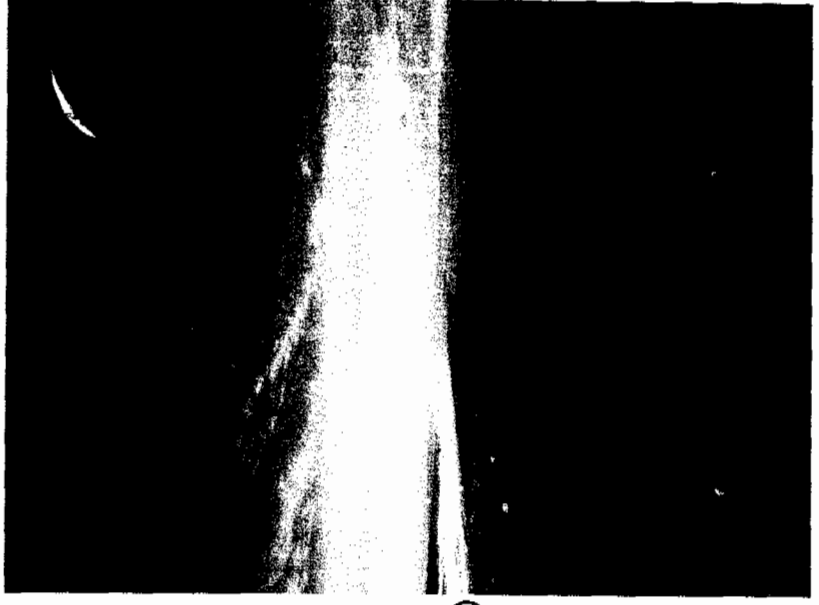
## Annual Visitor Use

Traffic counter data shows annual recreation use of approximately 50,000 visitors per year

## 2004 Visitor Survey Results

Part of national BLM visitor survey conducted by University of Idaho

- Most common activities include -- Fishing (42%), sightseeing (38%), and wildlife viewing (23%)
- Majority of South Spit users (76% ) are repeat visitors
- Visitors were very satisfied with the area's management. Percent that gave "good" or "very good" ratings for:
  - Visitor management (noise, law enforcement, vehicle use) (85%)
  - Condition of developed facilities (80%)
  - Protection of natural and cultural resources (88%)
  - Overall staff performance and service (97%)



# Ocean Day

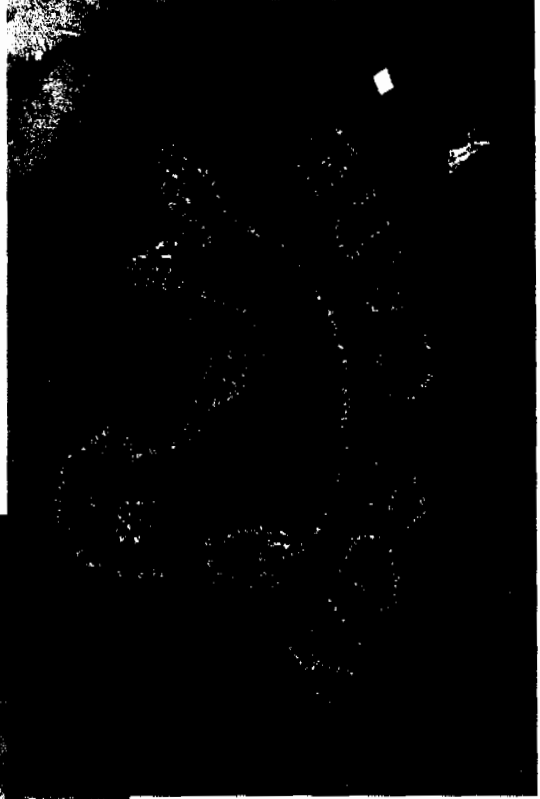
BLM-Friends of the Dunes-Coastal Commission Partnership



2005



2006



2008

2007

Up to 800 school children from throughout Humboldt County participate each year. Activities include dune ecology education, dune restoration project, and aerial art participation



EX-3, P-16 of 19

# Adopting Long-Term Management Plan -- 2006

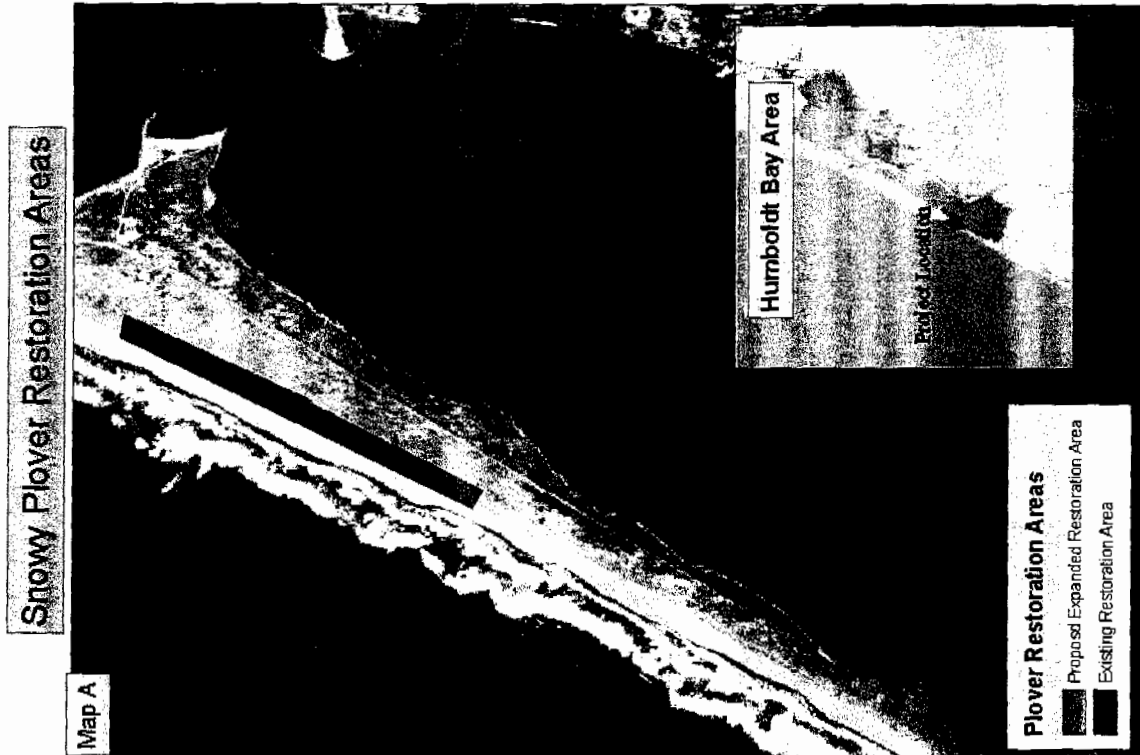
- 2002 Interim Plan developed for three year implementation period
- BLM issued notice to prepare new plan and asked public for input regarding management issues and concerns
- 11 comments received and no significant or new issues were identified
  - One-half of the commentors concerned with continued hang gliding from Table Bluff County Park.  
*Response: Outside scope of this planning effort. However, county has stated that it does not plan to change access at Table Bluff.*
  - Equal number comments for and against continued OHV waveslope access.  
*Response: Vehicle access is managed in manner consistent with Humboldt County Beach and Dunes Plan. Visitor satisfaction survey and resource trends do not indicate need to pursue change in vehicle use requirements at this time.*
  - Request for additional hunter access corridors.  
*Response: The existing nine access corridors provide historic levels of access while protecting resources, therefore, no change is warranted.*

# Adopting Long-Term Management Plan cont'd.

- Based on success of Interim Plan in meeting resource restoration and public use needs, and lack of significant new issues, BLM and DFG agreed to continue managing the area under the existing plan
- BLM notified public involved in scoping that existing plan will be used and no update is needed at this time
- Endangered Species Act consultation completed with FWS regarding continuing management under the existing plan
- Plan includes adaptive management component to allow for tailoring future implementation actions to respond to management and restoration issues while meeting objectives in existing plan



# 2008 ➔ Upcoming Projects



## Western Snowy Plover Habitat Restoration

- 24 acres south of existing Habitat Restoration Area (HRA) will be burned/dozed in Sept 2008
- The existing 27 acre HRA will also be retreated using dozers

## Native Dune Vegetation Restoration

- CCC crews will continue to remove invasive plants by hand pulling

Note: The dozer work is optimal for restoring plover habitat by leveling dunes that were artificially accreted from invasive beach grass; hand pulling is optimal for restoring dune mat vegetation as the native seed bank is not disturbed

## Recreation Management

- Follow-up Visitor Survey is being considered for 2009 to assess on-going visitor satisfaction levels



***Cover Letter for Packet to California Coastal Commission  
(CCC): Background on South Spit Management Plan  
for September 2008 Meeting in Eureka, CA  
Prepared by Sue Leskiw, Redwood Region Audubon Society  
and Diane Beck, Redwood Chapter, Sierra Club  
August 15, 2008***

It has been 6 years since the Arcata office of the U.S. Bureau of Land Management brought an Interim Management Plan (IMP) before the CCC for consideration. We have crafted a timeline [Exhibit A] and packet of supporting information [Exhibits B through L] to familiarize you with the situation.

That draft plan was supposed to provide "a baseline level of visitor services, public uses, resource protection, and habitat restoration until the long-term (20 year) management plan (LMP) for the South Spit is developed." After 3 years passed, BLM began the procedure for developing a LMP. However, the agency abruptly cancelled its outlined timeline -- which offered opportunities for public input -- and declared that the IMP was now the LMP.

Since then, BLM has not made any presentation to the Commission explaining why it cut short the LMP process, and in fact, cancelled such an update (and field trip to the South Spit) scheduled for the 2006 meeting in Eureka.

In 2002, the CCC issued a conditional Consistency Determination for the South Spit IMP. The condition called for BLM to prohibit access of recreational vehicles to the waveslope during the plover reproductive season, except for permits issued to commercial fishermen, tribal members, and mobility-impaired persons. BLM maintained that the IMP adequately protected the plover and ignored the condition.

However, the number of breeding adult Western Snowy Plovers on the South Spit has remained static at four (2004-07), when the management goal for Recovery Unit 2 calls for 30. This is despite BLM's creating a habitat restoration area by removing non-native beach grass, seasonally fencing near nests, posting the adjoining waveslope as closed to motor vehicles during breeding season, and funding plover monitors. Exhibit L (Law Enforcement Summary) documents that the number of violations by vehicles and unleashed dogs has increased since 2004, whereas the number of hours spent patrolling appears to have decreased.

The Commissioners and concerned public deserve an explanation from BLM as to what adaptive management actions it has taken to protect plovers on South Spit and why the "no beach driving" condition requested by the Commission in 2002 should not be implemented.

EXHIBIT NO. 4
APPLICATION NO.

## **List of Exhibits for South Spit, Humboldt Bay**

- A Annotated timeline of events (2002-08)
- B 8/15/08 Letter from Redwood Chapter Sierra Club (RCSC) and Northcoast Environmental Center (NEC)
- C 8/14/08 Letter from California Native Plant Society
- D 9/8/02 Comments from RCSC on Interim Management Plan (IMP) & Environmental Assessment
- E 10/9/02 Testimony from Redwood Region Audubon Society (RRAS) on IMP
- F 10/9/02 Testimony from Environmental Protection Information Center on IMP
- G 12/5/02 Statement from RRAS in favor of Consistency Determination
- H 5/19/06 Scoping Comments for Long-term Management Plan (LMP) from RRAS
- I 5/19/06 Scoping Comments for LMP from RCSC and NEC
- J 9/5/07 Testimony from RCSC
- K 9/19/07 Letter to State Lands Commission from RCSC
- L 2004-07 Law Enforcement Report from BLM

## South Spit Management Plan Timeline

### ***July 2002***

BLM issues South Spit Interim Management Plan (IMP) and associated Environmental and Biological Assessments. The IMP is "a 3-year plan to provide a baseline level of visitor services, public uses, resource protection, and habitat restoration until the long-term management plan for the South Spit is developed [emphasis added]."

### ***October 9, 2002***

Sue Leskiw (Redwood Region Audubon Society, RRAS), Diane Beck (North Group Sierra Club, NGSC), and Christine Ambrose (Environmental Protection Information Center, EPIC) testify at Eureka CCC meeting against the IMP because it would allow vehicles on the beach, negatively impacting the threatened Western Snowy Plover. Majority of Commissioners speak in favor of vehicle ban. ***[Exhibits D-F]***

### ***October-November 2002***

BLM and DFG invite Sue, Diane, and Christine to meet and discuss their objections. Agencies promise to increase patrol hours, provide law enforcement summaries, close 3000 feet of waveslope in front of plover protection/restoration area during nesting season, and employ adaptive management during 3 years of IMP. BLM notes that \$500,000 in Coastal Conservancy grants to install visitor facilities, fences, signs, etc on South Spit are in jeopardy of expiring if IMP is not adopted. Agency fears delaying lawsuit from access groups such as Blue Ribbon Coalition if vehicles are excluded from beach in IMP.

### ***December 11, 2002***

Sue (RRAS) and Diane (NGSC) submit written testimony for agenda item on South Spit IMP favoring Consistency Determination. They note that BLM has made significant improvements to the July draft IMP, other than eliminating OHV use. RRAS and NGSC are willing to wait 3 years until the long-term (20-year) management plan is being crafted to continue advocating for an OHV ban. Commissioners conditionally concur with Consistency Determination. The condition directs BLM to prohibit access of recreational vehicles to the waveslope during the plover reproductive season (March 1-September 30), except for permits issued to commercial fishermen, tribal members, and mobility-impaired persons. ***[Exhibit G]***

### ***December 12, 2002***

CCC sends BLM letter explaining condition on Consistency Determination concurrence.

### ***April 25, 2003***

BLM replies to CCC that agency has determined the IMP adequately protects the plover and the condition is not necessary.

***April 11, 2006***

BLM/DFG initiate development of a long-term management plan (LMP) by requesting scoping comments (due May 19). Letter states "The public will have several opportunities to provide input in the planning process... Public input from scoping comments will be incorporated into a preliminary management plan and environmental assessment/mitigated negative declaration which will also be available for public comment later this year (probably late summer or fall). Necessary changes will then be made prior to adoption of a long-term final plan (near the end of the calendar year) [emphasis added]."

***May 2006***

Sue (RRAS) and Diane (NGSC/Northcoast Environmental Center) provide scoping comments. [Both submitted extensive questions that were never responded to by BLM.] *[Exhibits H & I]*

***September 2006***

BLM cancels South Spit stop on Commissioner bus tour and presentation on LMP at Eureka meeting.

***October 12, 2006***

BLM/DFG discontinue their outlined procedure for developing a final management plan. Letter of explanation states that because "no new issues were raised during the scoping period, we have concluded that development of a new plan is not needed now, and will use the existing plan to provide management direction for the South Spit until further notice."

***September 5, 2007***

Diane (NGSC) testifies at Eureka meeting, showing Commissioners photos of illegal beach driving on South Spit and noting that BLM never presented its LMP to the CCC. She requests that the CCC "take a fresh look at the Consistency Determination for the BLM's IMP of 2003." *[Exhibit J]*

***September 19, 2007***

Diane (NGSC) writes to State Lands Commission about Deed of Conservation Easement to BLM and DFG. [No response received.] *[Exhibit K]*

***August 2008***

CCC asks BLM to make a presentation on the South Spit Management Plan at September Eureka meeting.



SIERRA  
CLUB

FOUNDED 1892

B

REDWOOD CHAPTER

P.O. Box 466, Santa Rosa CA 95402-0466  
(707) 544-7651 Fax: (707) 544-9861

August 15, 2008

To: California Coastal Commission

Re: Consistency Determination for BLM's South Spit Management Plan

The following comments are on behalf of the Redwood Chapter Sierra Club, with more than 11,000 members on the North Coast, and the Northcoast Environmental Center.

The Bureau of Land Management was scheduled, for a short time, to present the Coastal Commission with its 20-year Final South Spit Management Plan in September 2006. In fact the BLM has never presented a final management plan to the Commission and instead sent out a letter in October 2006 saying that "no new issues have arisen that would require updating the management direction in the existing plan" (the South Spit Interim Management Plan).

To our understanding, however, there is a significant unresolved issue from the 2003 Interim Management Plan: off-highway-vehicle riding on the beach. As will be seen in photographs to be provided, OHVs drive illegally—that is, off the waveslope—and use the beach for vehicle play. They drive on the beach above the waveslope, through the dunes, across vegetation, directly past signs that say "No Vehicles," and across the 3,000-foot snowy-plover "closed area."

Considering the Interim Management Plan in 2003, the Coastal Commission concurred with the Consistency Determination *conditionally*: "During the western snowy plover reproductive reproductive season, from March 1 through September 30, BLM will prohibit access of recreational vehicles to the waveslope. . . ." Furthermore, a federal activity that is not fully consistent with the CCMP may go ahead "if compliance with the CCMP is *'prohibited [by] existing Federal law applicable to the Federal agency's operations.'*" But "BLM did not provide any documentation to support a maximum extent practicable argument in its consistency determination. . . . Therefore, there is no basis to conclude that existing law applicable to the Federal agency prohibits full consistency."

BLM's replied to Peter Douglas on April 25, 2003: "BLM has determined that the SSIMP adequately protects the snowy plover and that the Commission's condition is not necessary." While we salute the additional safeguards announced by BLM in this letter, we did not then nor do we now think that its reply was or is sufficient to protect the snowy plover and coastal resources.

At the time we were not overly concerned with BLM's position, because we reasoned that the issue would come up again in three years, when the Final Management Plan would come before the commission. Of real consideration, we were told that significant grant funding for improvements, amenities, and restoration for the South Spit was due to expire in three to four months and could well

*To explore, enjoy and protect the earth.*

be lost entirely if the Interim Management Plan was stalled.

BLM also managed to finesse the biological opinion. The original USFWS BiOp in 2002 reflected substantially similar limitations on OHV driving as those indicated by the CCC's condition. On August 28, 2002 the FWS Arcata Office BiOp stated that "BLM shall prohibit access of recreational vehicles to the beach. . . . Vehicle use of commercial fishermen, tribal members, and mobility impaired persons may be accommodated through a permit system." Elevated to a "regional team," this restriction in the BiOp was dropped **overnight**, literally. The Level 4 team's efforts could have had little to do with science.

BLM's yearly summaries of vehicle violations are misleading at best—that is, they are not at all an accurate reflection of what is taking place on the ground, as the photographs to be provided will demonstrate. (For instance, within two hours on April 30, 2006, I watched a truck drive through the 3,000-foot plover "closed" area and saw another truck parked illegally on the bay side of the spit. I also noted fresh dirt bike tracks meandering through the dunes and fresh ATV tracks next to the dune vegetation and "donuts" in the sand. BLM's "Law Enforcement Violation Summary 2006" lists a total of **six** Vehicle/ATV violations—six for March 1-September 30, 2006.)

Management of the South Spit was given to BLM by the State of California by way of a Deed of Conservation Easement. This document states, "It is the purpose of this easement to preserve, protect, enhance, and restore the conservation values of the Property; to provide dispersed recreation for the general public; and to prevent any use of the Property that will significantly impair or interfere with such conservation values." The Conservation Easement states that recreational uses must be "consistent with preservation of the conservation values of the Property" and includes a mandate "To prevent any activity on or use of the Property that is inconsistent with the purpose of this easement."

Allowing motor vehicle riding on the South Spit, and even though BLM specifies "waveslope only," is incompatible with the conservation values of this Deed, especially when one is concerned to manage for the federally listed western snowy plover.

Yours sincerely,



Diane Fairchild Beck  
Conservation Chair  
Redwood Chapter Sierra Club



Greg King  
Executive Director  
Northcoast Environmental Center

# California Native Plant Society

North Coast Chapter  
P.O. Box 1067  
Arcata, CA 95518  
August 14, 2008

California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94150

RE: Bureau of Land Management's Management of the South Spit of Humboldt Bay

Dear California Coastal Commission Chair, Commissioners, and Staff Members,

I am writing this letter on behalf of the North Coast Chapter of the California Native Plant Society (CNPS). CNPS is a nonprofit organization of over 10,000 amateurs and professionals dedicated to the preservation of California's diverse flora. CNPS conducts a variety of educational programs and conservation efforts focused on long-term protection and preservation of native flora in its natural habitat. The North Coast Chapter represents over 250 members in Del Norte, Humboldt, Trinity and western Siskiyou Counties.

We are concerned with continued off-highway vehicle use on the upper beach, accessed through corridors through the dunes. The South Spit, although highly degraded by exotic vegetation, represents a unique and unusual opportunity to restore a large, intact, dune system in its entirety. Managing for these aspects of an endangered ecosystem is inconsistent with destructive uses like off-highway vehicles, which are in definite conflict with the natural resources of the site.

Please take this unparalleled opportunity to devote a remote, relatively unvisited dune system to restoration and recovery of a beleaguered ecosystem to allow for recovery of endangered plants as well as the threatened snowy plover, with compatible human use.

On behalf of the North Coast CNPS,

*Jennifer Kalt*

Jennifer Kalt, Conservation Chair



*Dedicated to the preservation of California native Flora*



**Sierra Club**  
**North Group, Redwood Chapter**

P.O. Box 238  
Arcata, CA 95518

8 September 2002

Lynda Roush, Arcata Field Office Manager  
Bureau of Land Management  
1695 Heindon Road  
Arcata, CA 95521

Re: The South Spit Interim Management Plan and EA

Dear Ms. Roush,

The comments here are on behalf of the North Group, Redwood Chapter, Sierra Club, with over 1,300 members in northwestern California.

With one not insignificant exception, the Interim Management Plan looks fine to us. And we are pleased that BLM will be the management agency, since BLM in northwestern California has proved itself to be especially capable. No manager can satisfy every wish, but we are satisfied that you have done a good job within the parameters of your mandate to "preserve, protect, enhance, and restore the conservation values of the Property"--with one exception, that of allowing motor vehicles on the waveslope.

Motor vehicle riding on the waveslope has been "allowed" because no one took responsibility for managing the South Spit. Virtually nothing was disallowed. BLM seems satisfied to rest its case for managing for waveslope vehicle riding on Humboldt County's Beach and Dune Management Plan--which was produced in 1995, when no one in the county wished to deal with the existing problems--and on the California Coastal Conservancy's South Spit Management Plan plan (1997). During the scoping for the latter, waveslope riding was a given and never brought into the discussion. The scoping meetings took place in Loleta and were not well attended by anyone but locals, who were primarily concerned with issues pertaining to the homeless and Native American sites.

Thus, BLM intends to allow waveslope riding on the basis <sup>4</sup>two very weak legs, two plans in which waveslope riding on the South Spit was inadequately considered in the face of other salient issues or not questioned at all.

The Deed of Conservation Easement given by the state of California to the BLM states that "It is the purpose of this Easement to preserve, protect, enhance, and restore the conservation values of the Property; to provide dispersed recreation for the general public; and to prevent any use of the Property that will significantly impair or interfere with such conservation values." The supremacy of conservation values in the



deed is made utterly clear in the five provisions laid out on pp. 1-2 of the EA. The recreational uses referred to in these provisions would seem clearly to preclude vehicle riding on the beach and dunes, including the waveslope: "Recreational purposes of the general public" are "subject to such use being consistent with preservation of the conservation values of the Property." And included is a mandate "To prevent any activity on or use of the Property that is inconsistent with the purpose of this easement."

The South Spit will be designated a "State of California Wildlife Management Area," a designation "used for management purposes to protect and enhance habitat for wildlife species, and to provide the public with wildlife-related and other recreation."

Vehicle riding on beaches is incompatible with conservation values, particularly when one is concerned to manage for the federally listed western snowy plover (as indicated on pp. 20f of the EA).

Under the conditions existing before the removal of junk and the homeless, the federally listed western snowy plover did not stand a chance, with off-road-vehicles riding all over the dunes and the beach, feral cats looking for a meal, and food refuse attracting predators. The plover does have a chance now, with BLM's admirable plans for habitat restoration. But how much chance does it have with "waveslope" only riding? Very little, if Oceano Dunes--where but 2 out of 68 plover chicks fledged in 2001--is any indication or if Clam Beach this year is lighting the way.

Even if vehicles remain on the wet part of the waveslope, snowy plovers (adults and chicks) feed on the organisms under and around the organic debris left on the beach with the tide. In addition, that you can keep OHV riders on the waveslope with but four hours of patrolling a week demonstrates an extreme form of wishful thinking, regardless of educational efforts.

Vehicle riding on beaches also detracts from the recreational experience of most other beach users, whether walkers, picnickers, bird watchers, or equestrians. The large majority of beach users do not want to see vehicles on beaches.

Many more people will come to enjoy the semi-wilderness experience of the South Spit once they realize it is open and beautiful and being managed. We urge BLM to get it right from the beginning--to bite the bullet and close the beach to all vehicles (except for emergency vehicles and permitted fishermen). We realize that it will be a battle, but you will have many friends. And it is the right thing to do.

Yours sincerely,

Diane Fairchild Beck, Conservation Co-Chair  
3200 Greenwood Heights Drive  
Kneeland, CA 95549

E

*Testimony before California Coastal Commission  
October 9, 2002, Eureka, CA  
on behalf of Redwood Region Audubon Society*

My name is Sue Leskiw. I am a board member of Redwood Region Audubon Society, the local chapter of National Audubon, with nearly 600 members.

While we recognize that the South Spit is in dire need of resource management, we can not endorse BLM's proposed alternative because it allows off-road vehicles. We concur with the recommendation of Colwell et al that "management plans for the South Spit should prohibit waveslope driving owing to the negative relationship between human activity and reproductive success at Clam Beach and throughout the plover's range."

The Fish & Wildlife Service has identified the South Spit as a breeding and wintering area important for recovery of the plover. The target for recovery is 30 breeding adults on the South Spit. No nesting has been documented there since 1999.

Plovers face threats from predators, unleashed dogs, campfires, driftwood removal, equestrian traffic, pedestrians, and beach grass encroachment. Why further decrease the likelihood of recovery by allowing OHV use? The final rule designating plover critical habitat acknowledges that OHVs are a key factor in the ongoing decline in plover coastal breeding sites.

OHV use is of particular concern along narrow beaches, such as the South Spit, where recreational activities and nesting may be concentrated in the same locations. Activities are likely to be within the 60-foot reaction area of plovers. According to the Biological Opinion, most of the plovers that use South Spit will be harassed in some way by humans.

We are skeptical of BLM's contention that "adverse impacts can be lessened by law enforcement and interpretive/maintenance personnel." Sporadic patrols two days a week and sign posting have no hope of controlling illegal OHV use, as can be seen by similar enforcement efforts at Clam Beach by the county sheriff. The Biological Opinion notes that all three current nesting areas in Humboldt County are open to OHV use. Although the southern portion of Clam Beach/Little River Beach is closed to recreational vehicles during the nesting season, this closure is frequently violated.

The South Spit is the only recently used local nesting site that will be managed by a Federal agency. Quoting FWS: Federal agencies are required to actively promote the conservation of listed species... and serve as examples to non-Federal landowners. BLM should strive for greater protection and enforcement than the thinly stretched effort by Humboldt County.

The Biological Opinion concludes that "even with complete compliance with the proposed measures, adverse impacts to wintering and breeding plovers due to harassment are likely to occur."

If the interim plan is approved, RRAS asks that BLM provide us with a copy of its monthly update to FWS on the number and type of incidents and documented violations of plover protection measures, including hours by date spent in the field monitoring compliance.

We agree with the FWS conclusion that while BLM's Interim Plan includes constructing temporary plover protection area and nest exclosures, none of the measures protect adults and broods down to the waterline. Foraging plovers will be vulnerable to vehicles.

RRAS supports BLM's proposal to survey weekly during the nesting season and monthly during the winter and to remove nonnative vegetation from a habitat protection area. Through habitat restoration, strict enforcement, and exclusion of OHVs, we look forward to plovers successfully breeding on the South Spit again.

Thank you for the opportunity to comment. We hope you will seriously consider the issues RRAS has raised, in light of the potential impacts to conservation values on the South Spit.

#### **References**

Bureau of Land Management. July 2002. Environmental Assessment for the South Spit Interim Management Plan.

Colwell, MA, RR LeValley, AN Transou, SE McAllister, J Hall, CB Millett, JJ Meyer, D LeValley. 2002. Final Report: 2002 Snowy Plover Breeding in Northern California, with Emphasis on Humboldt County.

US Fish & Wildlife Service. 2001. Western Snowy Plover Pacific Coast Population Draft Recovery Plan.

US Fish and Wildlife Service, California/Nevada Operations Office. September 11, 2002. Formal Consultation on the Interim Management Plan for Lands Managed By the Bureau of Land Management on the South Spit of Humboldt Bay, California (Document 1-14-2002-1196) [herein referred to as "Biological Opinion"]

F

October 9, 2002

Peter Douglas, Executive Director  
California Coastal Commission  
45 Fremont. St. Suite 2000  
San Francisco, CA 94105



**Re: The South Spit Interim Management Plan**

Dear Chairman of the Board and Commissioners,

We have previously submitted comments to you on South Spit Interim Management Plan, dated September 16, 2002, that present many of our issues and concerns. We offer the following additional comments for your consideration.

We have been disappointed in the amount of political pressure that both the California Department of Fish and Game (CDFG) and Humboldt County have allegedly brought upon the Bureau of Land Management (BLM) to accommodate Off-Highway Vehicles (OHV) use on the South Spit. We are appalled that the CDFG is acting like an advocate for OHV use rather than an agency charged with the responsibility of ensuring our Public Trust resources are protected. The Eel River Wildlife Area managed by CDFG is already open to OHVs; we do not see the justification for accommodating additional OHV use on the South Spit when adequate OHV access already exists in an adjacent area. We are also disappointed in what can best be called political maneuvering by the United States Fish and Wildlife Service (USFWS) to override their own biologist's concerns at the USFWS office in Arcata by having the Biological Opinion transferred to the Sacramento Office in order to obtain a biological opinion for the western snowy plover that finds OHV uses consistent with BLM's interim management plan for the South Spit.

With this in mind, we hope you will reconsider whether the Biological Opinion in favor of OHV use on the South Spit is in fact in the best interest of the conservation values and the survival of the plover. The plover is an important public trust resource that has been seriously declining throughout Humboldt County and its range from unmanaged beach use and a lack of suitable habitat. In fact, the adverse cumulative effects on the plover have been so great that the South Spit represents a disproportionately important area for the survival of the plover, particularly if a catastrophic event ever occurs. The South Spit is the only recently used nest site in recovery unit 2 that will be managed by a federal agency that can also provide suitable breeding, nesting, and rearing habitat. The South Spit is the only place potentially capable of providing a source population of plovers for the rest of the County, given Humboldt County's widely acknowledged poor record of beach management and plover protection. We do not believe that the South Spit Interim Management Plan will provide adequate protection for the snowy plover and other conservation values for the following reasons:

**1. The entire waveslope is open to OHV use, including the waveslope adjacent to the plover restoration area.**

Plovers forage on invertebrates in the wet sand within the intertidal zone (USFWS 2001). By leaving the entire waveslope open to vehicle use, foraging habitat is impacted. OHVs will harass and potentially kill plovers

attempting to feed through both day and nighttime vehicle use on the waveslope. By not providing waveslope area off limits to OHVs, plovers will be harassed and their required habitat needs will not be protected.

***Recommendation: Close the waveslope adjacent to the plover restoration area so that plovers have one area where they can feed in the intertidal zone without the threat of harassment or direct mortality.***

**2. The BLM proposes to have a law enforcement officer present on the South Spit only two days a week, with one day on the weekend.**

The BLM already has law enforcement out on the South Spit one day a week, and that level of enforcement is clearly not sufficient to ensure the protection of conservation values on the South Spit. As stated on page 14 of the staff report, "it is clear that OHV uses on the South Spit are not complying with existing regulations", yet the BLM proposes to increase the amount of enforcement by only one day a week. This is not a viable enforcement program. In addition, law enforcement officers from either BLM, the Service, the CDFG, or Humboldt County are the only entities that can document a violation (page 24 of staff report). Therefore, OHV use can take place without a law enforcement officer present 5 days out of the week, with no one there to document a violation if it occurs.

***Recommendation: Require additional law enforcement to ensure the protection of conservation values and the snowy plover, and to ensure that violations are documented.***

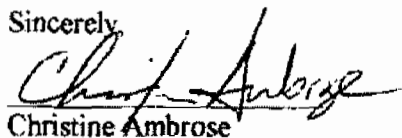
**3. BLM only proposes to monitor plovers once a week during the nesting season. It is not clear how adults will be monitored as compared to chicks, and how protection areas will be responsive to plover needs.**

According to Colwell et al. (2002) most plover chicks perished when they were less than 10 day old. If BLM personnel only conduct plover searches once per a week, eggs may have hatched and the vulnerable chicks may have moved out of a plover protection area into an area open to OHVs and been lost before monitoring would have determined a need to modify the protected area. As a result, plover protection areas may exclude people from areas that do not even provide protection for plovers. Colwell (2002) recommended the following: "For beach sites, we propose to monitor more closely the relationships between plover breeding success, human impacts, and predation risk."

***Recommendation: Require daily monitoring of plovers in areas that are open OHV use, and more detailed and explicit monitoring requirements so that the goals of the interim management plan can be met.***

Thank you for the opportunity to comment. We hope you will seriously consider the issues we have raised regarding the protection of conservation values on the South Spit.

Sincerely,

  
Christine Ambrose

#### **References**

USFWS, 2001. Western Snowy Plover Draft Recovery Plan, Portland Oregon.

Colwell, M.A., et al. 2002. Final report: 2002 snowy plover breeding in northern CA, with emphasis on Humboldt County. Submitted to MRB Research, Inc.

G

December 5, 2002

Agenda Item: Wednesday #12A  
Redwood Region Audubon Society  
In Favor of Consistency Determination

This statement is submitted by Sue Leskiw, secretary, on behalf of Redwood Region Audubon Society (RRAS), a National Audubon chapter with nearly 600 members in Humboldt and Del Norte counties.

At the Coastal Commission meeting held October 9 in Eureka, RRAS spoke against adoption of the South Spit Interim Management Plan.

Since that meeting, the Bureau of Land Management (BLM) has made significant improvements to the July 2002 Plan that have responded to some of our concerns. Notably:

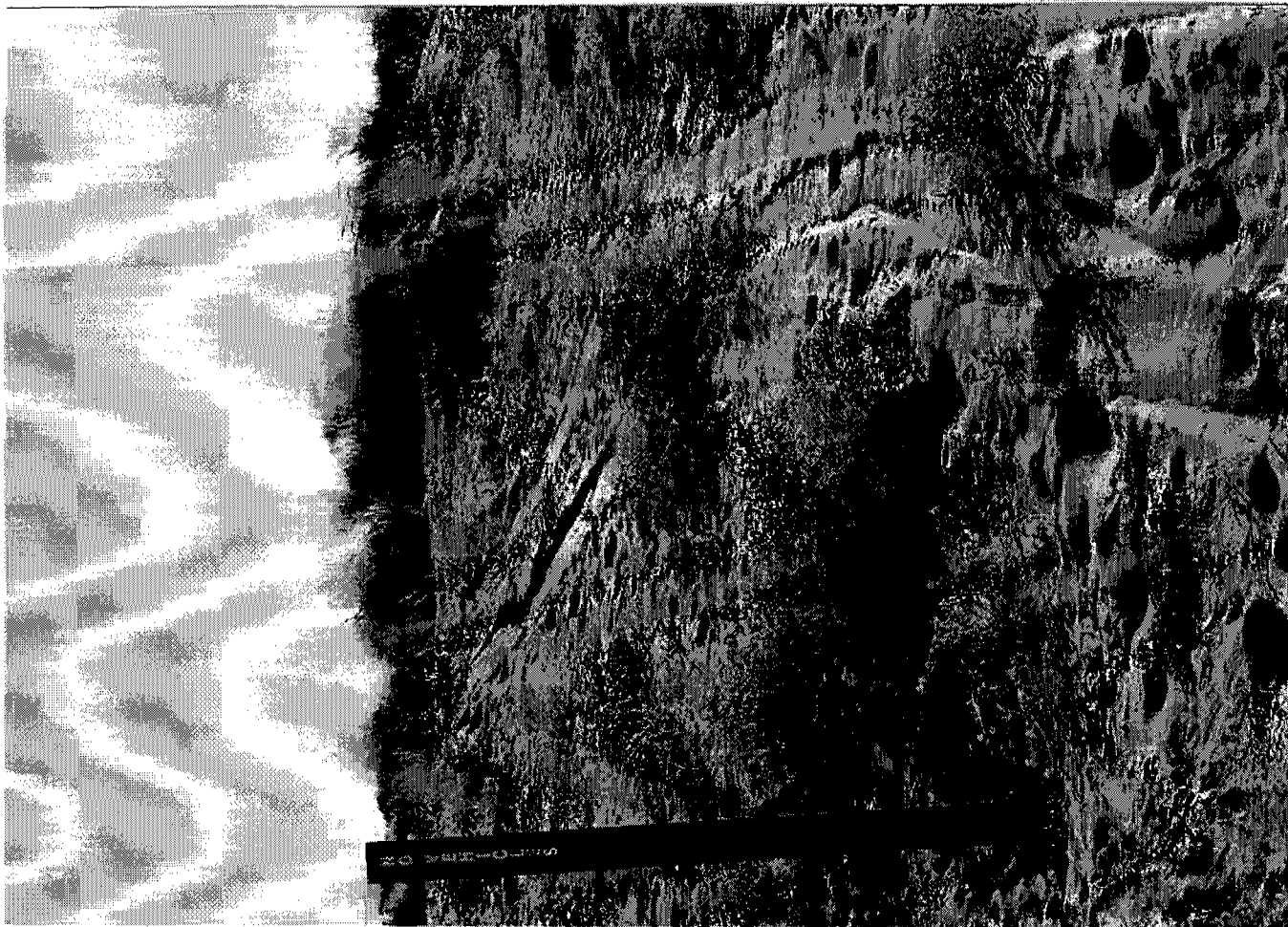
- Law enforcement patrols will be increased from a minimum of 2 days per week to at least 5 days per week under a Memorandum of Understanding between BLM, the Humboldt County Sheriff's Office, the California Department of Fish & Game, and the US Fish & Wildlife Service.
- One-half mile of waveslope in front of the 20-acre plover protection/restoration area will be closed during the nesting season (March 15-September 15).
- Law enforcement summary reports on violations will be provided to the public twice a year (although RRAS would prefer at least quarterly).

The main concern that was not answered was our call to eliminate off-road vehicle use on the South Spit as incompatible with recovery of the threatened Snowy Plover. However, RRAS generally supports the revised Interim Plan as an improvement upon the existing situation.

During this 3-year Interim Plan, RRAS calls on BLM and the other law enforcement agencies to track and tally ALL violations of vehicle use and plover protection measures and to use this information to adapt management of the area. Additional measures that might be required to protect plovers include closing the entire South Spit waveslope to vehicles or further restricting dog or equestrian use. We trust that law enforcement personnel will promptly respond to and document violations reported by visitors as well as other federal and state agency personnel.

RRAS asks that the Coastal Commission require BLM's Arcata Office to submit an annual report and to present an in-person update at its October meeting in Eureka during the life of the Interim Plan. Be assured that RRAS will be keeping a close watch on the situation on the South Spit.









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***Scoping Comments for South Spit Management Plan  
from Redwood Region Audubon Society (RRAS)  
Submitted May 19, 2006***

***[Updated information appears as bold italics within square brackets]***

RRAS appreciates having the opportunity to convey its areas of concern prior to the drafting of a Final Management Plan for the South Spit.

Area of Concern 1: **Commitment to Law Enforcement** (both in regard to hours spent in patrol and how decisions are made to issue verbal warnings rather than citations to violators)

**PATROL HOURS**

The Decision Record dated 2/18/2003 refers to a Law Enforcement Memorandum of Understanding (MOU) signed in November 2002 by the Bureau of Land Management (BLM), Humboldt County Sheriff's Office (Sheriff), California Department of Fish and Game (DFG), and the US Fish & Wildlife Service (FWS). It calls for an "active law enforcement presence on the South Spit a minimum of six days per week" (emphasis added).

Annual Reports provided to RRAS by BLM give total hours of patrol, but do not break them down to demonstrate that coverage is occurring at least six days per week.

- BLM patrols have decreased from 30 hours/week in 2003 to 23 hours/week in 2004 to 16 hours/week in 2005. ***[In 2006 and 2007, BLM spent less than 10 and less than 6 hours/week patrolling, respectively.]***
- DFG reported 44 total hours of patrol in 2003, 16 hours in 2004, and 64 in 2005. ***[Total hours in 2006 = 162; in 2007 = 147.]***
- Sheriff failed to report patrol hours in 2003, averaged 3 hours/week in 2004, and less than 2 hours/week in 2005. ***[Hours/week in 2006 and 2007: 6.5 and less than 3, respectively.]***
- FWS reported NO law enforcement presence in any of the three years. ***[Ditto for 2006 and 2007.]***

**WARNINGS VS. CITATIONS:** What is considered a "violation"?

The Decision Record noted that if 25 violations have been documented within the March 1-September 15 plover nesting period, additional measures including closure of the waveslope to vehicles and further restrictions on dog or equestrian use (emphasis added) may be applied.

DFG and Sheriff have never issued a citation during the 3-year interim plan. ***[In 2007, DFG and Sheriff issued 1 citation each.]***

In 2003, BLM issued 16 citations, 4 written warnings, and 17 verbal warnings, while DFG issued 5 verbal warnings.

QUESTIONS:

- Weren't the cumulative infractions enough to trigger further restrictions on use?
- Did BLM, DFG, and FWS meet to "evaluate and apply additional measurements that might be required to protect plovers," as promised in the Decision Record?

In 2004, BLM issued only 2 citations and 5 verbal warnings. *[Nine violations were recorded, 3 for vehicles (2 within Seasonal Protection Areas or Habitat Restoration Area) and 6 for unleashed dogs.]*

In 2005, BLM issued 6 citations. The nature and location of the infractions are not described in the Annual Report. The number of verbal warnings was not included in the Annual Report. *[Twenty-eight violations were recorded, 8 for vehicles (3 within SPAs or HRA) and 20 for unleashed dogs (1 within SPAs or HRA).]*

*[In 2006, BLM issued 9 citations and the Sheriff issued 1. The nature and location of the infractions are not described in the Annual Report. The number of verbal warnings was not included in the Annual Report.] [Thirty-six violations were recorded, 6 for vehicles and 30 for unleashed dogs, none within SPAs or HRC.]*

*[In 2007, BLM issued 19 citations, 16 of them for dogs and 3 for vehicles; location of infractions not noted. Number of verbal warnings not included.] [Forty-three violations were recorded, 9 for vehicles (7 of them within SPAs or HRA), and 34 for unleashed dogs.]*

QUESTIONS:

- In 2003, BLM issued 17 verbal warnings for dogs off leash in plover protection areas or on the adjacent waveslope. Dogs can have a major negative impact on plovers. Why were NONE of these lawbreaking dog owners given citations?
- Do law enforcement personnel keep track of people who have been given verbal warnings, so future violations by the same individuals are upgraded to written form?
- Are instances of infractions where the perpetrator cannot be apprehended by a law enforcement officer recorded and tallied?
- Are observations of infractions by other BLM staff, plover monitors, contractors, and visitors recorded and tallied?
- Is there a phone number posted for visitors to report infractions?
- Are patrols concentrated on weekends, when more visitors are likely?
- How much time is spent driving the beach, as opposed to patrolling the road and parking areas?
- Did the decrease in active law enforcement presence translate to fewer citations being issued and reduced compliance with regulations (i.e., chance of being caught is low)?

## Area of Concern 2: Lack of Reproductive Success by Western Snowy Plovers.

The South Spit is the only federally administered land in Recovery Unit 2 that has documented recent plover nesting attempts. The management goal for Recovery Unit 2 calls for 30 breeding adults on the South Spit.

In 2004, Colwell et al found 4 breeding adults at South Spit/Eel River Wildlife Area, which resulted in 2 nests, 3 chicks hatched, 0 chicks fledged. In 2005, South Spit/ERWA had 4 breeding adults, 2 nests, 5 chicks hatched, 2 chicks fledged. [In 2006, South Spit/ERWA had 4 breeding adults, 4 nests, 7 chicks hatched, 4 chicks fledged. In 2007, South Spit/ERWA had 4 breeding adults, 3 nests, 8 chicks hatched, 3 chicks fledged.]

This reproductive success is below that required to recover populations. "Poor reproductive success [of beach-nesting plovers] suggests that current management practices should be altered to improve fledgling success" (Colwell et al, 2005, J Field Ornithol 76(4)373-382).

Vehicle access to plover habitats is detrimental to nesting success. In the 2004 Final Report on Snowy Plover Breeding in Northern California, Colwell et al advocated for vehicle closure on South Spit during the plover breeding season. *[The 2007 Final Report continued to recommend "limited vehicle access to habitats where plovers breed from March 1 to September 30" and "increased enforcement of illegal vehicle use at all beaches."]*

When BLM submitted the South Spit Interim Management Plan to the California Coastal Commission in 2002, the Commission conditioned its concurrence on BLM "prohibiting access of recreational vehicles to the waveslope...limiting vehicle use to commercial fishermen, tribal members, and mobility-impaired persons through a permit system." However, BLM determined that the Interim Plan would adequately protect the plover and that the Commission's condition was not necessary.

### QUESTIONS:

- Does BLM believe that habitat improvements (e.g., beach recontouring, removal of non-native beach grass – for which RRAS commends the agency) are sufficient management actions to increase plover nesting success?
- Humboldt County is in the process of adopting a Management Plan for Clam Beach County Park that includes a seasonal restriction on beach driving, with exceptions for fishermen and other permitted uses. This management strategy will be very like the initial recommendation from the Coastal Commission for South Spit. Why shouldn't the BLM adopt this resource protection measure?
- Which of the following plover protection actions outlined in the Interim Plan have been implemented: temporary nest protection area, temporary brood protection area, seasonal habitat protection area, temporary wintering protection area?
- Has a study been done re: whether predator control measures – which have been successful at other locations – would be useful at the South Spit?

### Area of Concern 3: State and Federal Listed Species (Endangered/Threatened/Of Special Concern/Of Management Concern)

- A Burrowing Owl was sighted on the South Spit for a period of time during early 2006 and in December 2005. How will BLM protect this species of state concern on its wintering habitat? *[Burrowing Owls continue to be sighted there during 2007.]*
- How does BLM protect federally endangered and state special status plants on the South Spit (e.g., Humboldt Bay wallflower, beach layia, pink sand verbena, dark-eyed gilia, Humboldt Bay owl's-clover, Point Reyes bird's-beak, western sand spurrey)? What are the results of mapping and monitoring activities?
- Have any other species of concern been detected on the South Spit and if so, how will it/they be managed by BLM?

### Area of Concern 4: Adaptive Management for Resource Protection

According to the Interim Plan, "the key to adaptive management is the willingness of management to let new information drive adaptation to changing conditions and information... Implementation will be followed by monitoring and evaluation of activities, their outcomes, and use levels."

*[Colwell's 2007 Final Report noted a sharp reduction in numbers of wintering adult plovers coincident with a January 2007 cold nap. "The weather-related mortality emphasizes the continued need for active management to bolster the population via increased productivity." Did BLM make any changes to protect remaining plovers in response to the unusual weather?]*

#### QUESTIONS:

- Have BLM, DFG, and FWS met each fall to review the status of plovers? Have any adjustments been made to threshold levels for violations?
- What new information has been collected about biological resources? How has BLM practiced adaptive management for wildlife, plant, and recreation resources? How will what has been learned during the Interim Plan be incorporated into a Final Plan that is better than the Interim Plan?

The Deed of Conservation Easement that conveyed management authority from DFG to BLM had among its purposes "...to prevent any use of the Property that will significantly impair or interfere with conservation values" (emphasis added).

- Does BLM believe that designation of the South Spit as a State Wildlife Management Area makes protection and habitat enhancement for wildlife species the highest and best use of the area?

#### **Miscellaneous Questions about Elements of Interim Management Plan**

- Has a visitor survey been conducted? If so, what were the results?
- Has a traffic counter been installed at the entrance gate? If so, what were the results?
- What is the status of the volunteer resident caretaker?
- Is current signage sufficient and effective? In the 2003 and 2004 Annual Reports, BLM law enforcement recommended that additional signs be posted, including a large "Closed Area" sign at the borders of the HRA and dog leash signs at all footpaths and turnouts. The 2005 Annual Report noted that the dog leash signs had been posted (no mention of the closed area sign), but enigmatically stated that "leash restrictions remain a complicated issue."

Submitted by Sue Leskiw  
On behalf of Redwood Region Audubon Society  
May 19, 2006

19 May 2006

I

Bob Wick  
Bureau of Land Management  
1695 Heindon Road  
Arcata, CA 95521

Re: South Spit Management Plan scoping comments

Dear Mr. Wick:

The following comments are on behalf of the Redwood Chapter Sierra Club, with over 11,000 members in northwestern California. The Northcoast Environmental Center is also signing onto these comments. Our members are deeply concerned with the management of public lands on the north coast.

BLM is owed our deep gratitude for its management under the three-year Interim MP. The minimal-but-sufficient amenities suit this long, wild, sandy peninsula. Your use of visitor guides seems to have worked very well. Your decision to close the gate at night is surely the right one.

The one management issue on which we find ourselves in sharp disagreement is the proposed continuation of allowing motor-vehicle driving on the waveslope during this 20-year Management Plan. It is a platitude to say that some off-road-vehicle riders -- those on ATVs and dirt bikes in particular -- will ride anywhere they can and wish when no one is looking. And it is virtually impossible to believe they are not doing so on the beach, out of sight of the county road.

### **Motor vehicles**

Most people do not go to the beach to drive on it. Most do not wish to, nor do they have the capability. Generally, people go to the beach to enjoy the natural amenities of surf and sand and to picnic, walk a dog, ride a horse, or saunter along the waves lope. The experience of most is negatively impacted by motor vehicles driving by.

Most visitors park near the jetty. From there they go off to fish, surf, stretch out on the beach, and walk. The broad beach near the jetty is also used for vehicle play. The south parking area, below Table Bluff, is a popular area, where people come and go more frequently but also picnic and fool around on the beach, as well as access the waves lope by vehicle.

A great many visitors use the small parking areas along the county road and walk the short distance to the beach. They obviously prefer the quieter, less frequented parts of the South Spit -- places where there are few motor vehicles.

The 2005 Annual Report on Western Snowy Plovers at the South Spit indicates that there were but six law enforcement "citations" during the nesting season. Law enforcement personnel are unlikely to note lesser "violations," nor should they use their scarce resources with minor transgressions. But it is those "minor transgressions" that can severely impact natural resources, especially the plover, and the enjoyment of non motorized beach visitors. (Within two hours on April 30, 2006, I watched a truck drive in front of the 3000-foot plover habitat area and saw another truck parked illegally on the bay side of the spit. I also noted fresh dirt bike tracks meandering through the dunes and fresh A

TV tracks above the tide line next to the grass, as well as "donuts" in the sand.)

The California Department of Fish and Game allows waveslope motor vehicle use on its 4+-mile beach adjacent to the South Spit, from Table Bluff to the mouth of the Eel River. Thus, for about 9 miles, there is no beach whatsoever available to the majority of beach visitors who may not wish to share their beach experience with motor vehicles (whether or not they are obeying the 15 MPH waveslope-only rules).

### **Deed of Conservation Easement**

This deed given by the State of California to the BLM states, "It is the purpose of this Easement to preserve, protect, enhance, and restore the conservation values of the Property; to provide dispersed recreation for the general public; and to prevent any use of the Property that will significantly impair or interfere with such conservation values." And included is a mandate "To prevent any activity on or use of the Property that is inconsistent with the purpose of this easement."

Motor vehicle riding is incompatible with conservation values particularly when one is concerned to manage for the federally listed western snowy plover. Vehicles also disturb other shore birds, including the endangered brown pelican. Federal agencies have a higher duty under the Endangered Species Act.

### **Western Snowy Plover**

Even if vehicles actually remain on the wet part of the waveslope and don't drive through the 3000-foot restricted area, snowy plovers (both adults and chicks) feed on the organisms under and around the organic debris at the wrack line, and they travel up and down the beach on the waveslope for a mile or two. In addition, that anyone expects OHVs to keep to the waveslope and the speed limit demonstrates an extreme form of wishful thinking, regardless of educational efforts.

On August 28, 2002 the FWS Arcata Office Biological Opinion stated that "BLM shall prohibit access of recreational vehicles to the beach. . . . Vehicle use of commercial fishermen, tribal members, and mobility impaired persons may be accommodated through a permit system." (Also dogs on leashes "at all times" and equestrians on wet sand only during plover nesting season.) Elevated to a regional team, this restriction (along with others) was erased OVERNIGHT. The Level 4 team's decision could have had little to do with science.

The new section 4(d) "special rule" of the ESA: "Implementation of this proposed rule would provide an incentive to habitat managers to participate in the recovery strategy outlined in the Draft Recovery Plan." The third recovery criterion: "Develop and implement mechanisms to assure long-term protection and management of breeding, wintering, and migration areas in order to maintain the subpopulation sizes and average productivity specified above."

### **The Consistency Determination on the SSIMP**

The California Coastal Commission concurred with the consistency determination *conditionally*: "During the western snowy plover reproductive season, from March 1 through September 30, BLM will prohibit access of recreational vehicles to the waveslope. During this period, vehicle use will be limited to commercial fishermen, tribal members, and mobility-impaired persons through a permit system." (The condition was necessary in order to bring the IMP into conformity with Section 30240

of the Coastal Act, an enforceable policy of the CCMP.)

A federal activity that is not fully consistent with the CCMP may go ahead "if compliance with the CCMP is *'prohibited [by] existing Federal law applicable to the Federal agency's operations.'*" But "BLM did not provide any documentation to support a maximum extent practicable argument in its consistency determination. . . . Therefore, there is no basis to conclude that existing law applicable to the Federal agency prohibits full consistency."

#### Questions

- Do vehicles respect the 3000-foot waveslope closure now? (The plover habitat area is not well signed, nor is the beach area next to the jetty on the bay.)
- 20 acres of plover habitat were cleared in three years. The MP aims for 40 more acres in 20 years. Shouldn't BLM aim for more?
- What do you anticipate will be the effect of the April 21, 2006 section 4(d) Special Rule of the ESA on the SSMP?
- The 2005 Annual Report on Western Snowy Plovers at the South Spit indicates that there were but six law enforcement citations during the nesting season. Were other "violations" ever noted?
- Do the plover monitors note violations? If not, why not?
- Do the visitor guides note violations? If not, why not?
- Do the monitors and guides keep track of such things as fresh tracks where they ought not to be?

We are very pleased indeed that Lighthouse Ranch has come to the public and that BLM is managing the property. It will do an excellent job. Though we are unhappy about allowing motor vehicles on the waveslope, BLM-Arcata does an outstanding job generally speaking and we do wish to thank you.

Yours sincerely,

Diane Fairchild Beck, Conservation Chair  
Sierra Club, Redwood Chapter  
3200 Greenwood Heights Drive  
Kneeland, CA 95549

Tim McKay, Executive Director

Northcoast Environmental Center  
575 H Street  
Arcata, CA 95521



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September 5, 2007

To: California Coastal Commission

Re: BLM and DGF's South Spit Management Plan (Humboldt County)

The following comments are on behalf of the Redwood Chapter Sierra Club, with over 11,000 members on the north coast.

The South Spit is a narrow, four-and-a-half-mile long, wild, sandy peninsula which runs from the South Jetty of Humboldt Bay to Table Bluff, at the southernmost extent of the bay. The Bureau of Land Management was briefly scheduled to present the Coastal Commission with its 20-year South Spit Final Management Plan a year ago this month. BLM has in fact never presented its Final MP to the Commission and sent out a letter in October 2006 saying that nothing had changed since issuing its three-year Interim Management Plan in 2003 and "Therefore, the BLM will discontinue the plan revision process initiated earlier this year."

To our understanding, however, there is a significant unresolved issue from 2003, that of motor vehicle riding on the waveslope.

You can get an idea from the photographs being passed around how the South Spit is being used by motor vehicles at present. The rock wall in the first one is the jetty. Legal access to the waveslope follows the jetty. Fishermen and surfers park along side the wall. All of the vehicle tracks in the photos indicate illegal driving and/or vehicle play--on the beach above the waveslope, through the dunes, across dune vegetation, by signs that say "no vehicles," and through the 3,000-foot snowy plover "closed area."

Even if vehicles were to actually remain on the wet part of the waveslope and not drive through the 3,000-foot restricted area, snowy plovers (both adults and chicks) feed on the organisms under and around the organic debris at the wrack line, and they travel up and down the the beach for a mile or two. In addition, that anyone expects OHV riders to

keep to the waveslope and the speed limit demonstrates an extreme form of wishful thinking.

In 2003 the Coastal Commission concurred with the Consistency Determination *conditionally*: "During the western snowy plover reproductive season, from March 1 through September 30, BLM will prohibit access of recreational vehicles to the waveslope. During this period, vehicle use will be limited to commercial fishermen, tribal members, and mobility-impaired persons through a permit system." (The condition was necessary in order to bring the Interim Management Plan into conformity with Section 30240 of the Coastal Act, an enforceable policy of the CCMP.)

A federal activity that is not fully consistent with the CCMP may go ahead "if compliance with the CCMP is *'prohibited [by] existing Federal law applicable to the Federal agency's operations.'*" But "BLM did not provide any documentation to support a maximum extent practicable argument in its consistency determination. . . . Therefore, there is no basis to conclude that existing law applicable to the Federal agency prohibits full consistency."

BLM did reply to the Commission staff report. It did not seem sufficient, not to us at least. But we were not overly concerned at the time, because we reasoned that the issue would come up again in three years time when the Final Management Plan would be before the Commission. Also, and of real consideration, we were told that significant grant funding for improvements, amenities, and restoration was due to expire in three or four months.

With these words today, we are requesting that the Commission take a fresh look at the Consistency Determination for BLM's Interim Management Plan of 2003, which seems to have become its Final MP of 2006.

Thank you for this opportunity to speak.

Diane Fairchild Beck

Conservation Chair

3657 Greenwood Heights Drive

Kneeland, CA 95549

dfbeck@northcoast.com

707/445-2690

[Redwood CHAP. SIERRA CLUB LETTERHEAD]

K

19 September 2007

Paul Thayer

California State Lands Commission, Executive Officer

100 Howe Avenue, Suite 100 South

Sacramento, CA 95825-8202

Re: Management of the South Spit, Humboldt Bay (Humboldt County)

Dear Mr. Thayer:

The Redwood Chapter Sierra Club is concerned with the manner in which off-highway vehicles (OHVs) are managed by the Bureau of Land Management (BLM) on the South Spit of Humboldt Bay. While we strongly support the BLM/Arcata Field Office in most things and think it does outstanding work, we have serious reservations in the case of motor vehicle riding on the South Spit.

We are writing to the State Lands Commission because management of the South Spit was given by you for the State of California to BLM and the California Department of Fish and Game in 2002 (or 2001?) under a Deed of Conservation Easement. The deed states, "It is the purpose of this Easement to preserve, protect, enhance, and restore the conservation values of the Property; to provide dispersed recreation for the general public; and to prevent any use of the Property that will significantly impair or interfere with such conservation values." And included is a mandate "To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement." The Redwood Chapter is questioning here whether the purpose of the Easement is being met. We question whether motor vehicle riding should be allowed at all.

Under BLM's 2003 South Spit Interim Management Plan, motor vehicles are allowed on the waveslope and have access at four points along the county road that runs the length of the spit. The 14 photographs included herewith, taken earlier this month, indicate the manner in which the South Spit is now being used by motor vehicles. The rock wall in the top photograph is the South Jetty. Legal access to the waveslope follows the jetty. Fishermen and surfers park along side the wall. All of the vehicle tracks in the photographs indicate illegal driving and/or vehicle play--on the beach above the waveslope, through the dunes, across dune vegetation, by signs that say "No Vehicles," and through the 3,000-foot western

snowy plover "Closed Area."

Even if vehicles were to actually remain on the wet part of the waveslope and not drive through the 3,000-foot restricted area, snowy plovers (both adults and chicks) feed on the organisms under and around the organic debris at the wrack line, and they travel along the beach for a mile or two.

Waveslope riding also negatively impacts hundreds of birds on the waveslope (including the threatened brown pelican) and those feeding in the organic debris at the wrack line.

Included herein also are comments made to the California Coastal Commission on September 5, 2007 in Eureka. BLM was supposed to appear before the Commission with its Final Management Plan one year ago, with an update of its three-year Interim MP of 2003, for there was an outstanding issue concerning motor vehicles. Executive Director Peter Douglas indicated he would look into our concerns.

BLM manages from the South Jetty to Table Bluff, and CA Fish and Game from Table Bluff to the mouth of the Eel River. OHVs are allowed across the entire extent of this ca. nine-mile beach. We do not see any good reason at all for allowing motor vehicles on the four-and-a-half-mile South Spit.

Yours sincerely,

**Diane Fairchild Beck, Conservation Chair**

**3657 Greenwood Heights Drive**

Kneeland, CA 95549

707/445-2690

[illegible]

**South Spit  
Law Enforcement Violation Summary 2004**

Month	Patrols (hrs per month)	Plover Guides (hrs per month)	Number of Violations	Number of Violations within HRA or Seasonal Protection Areas	Number of Vehicle/ATV Violations	Dog off Leash Violations
<b>2004</b>						
March	144 Hours	None	0	0	0	0
April	154	None	2	1-vehicle	1	1
May	194	54	0	0	0	0
June	132	54	5	1-vehicle	1	4
July	104	54	1	0	0	1
August	60	140	1	0	1	0
September	60	140	0	0	0	0
<b>Totals</b>	<b>848 hrs</b>	<b>442 hrs</b>	<b>9</b>	<b>2</b>	<b>3</b>	<b>6</b>

**Recommended Improvements for Compliance Issues:**

**2004**

1. Increase signing, install larger signs for areas "closed to vehicles" on the beach side of restoration area and install additional dog on leash signs.
2. Re-routing the vehicle access corridors to the north and south of the restoration areas-eliminating the vehicle u-turn at the restoration boundary. Two recommendations in 2004.
3. Continue Plover Guide program.
4. Encourage better cooperation from CDFG regarding weekly patrols and timely reporting.
5. Encourage USFWS to have patrol presence once a week for a few hours.
6. Allow dogs off leash on waveslope. Difficult to enforce leash law on the waveslope. Visitors bring their dogs for recreation in the ocean.
7. Install a large "Closed Area" sign in the sand on the borders of the Habitat Restoration Area.
8. Place dog on leash signs at footpaths and turnouts.

Outcome: None documented

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**South Spit  
Law Enforcement Violation Summary 2005**

<b>Month</b>	<b>Patrols (patrols per week)</b>	<b>Plover Guides</b>	<b>Number of Violations</b>	<b>Number of Violations within HRA or Seasonal Protection Areas</b>	<b>Number of Vehicle/ATV Violations</b>	<b>Dog off Leash Violations</b>
<b>2005</b>						
March	6.5 patrols plus 2.5 hrs	None	3	2-vehicles	2	1
April	6.5 patrols plus 2 hrs	None	4	1-vehicles	1	3
May	6 patrols plus 3 hrs	Present	4	0	2	2
June	6 patrols plus 3 hrs	Present	6	0	0	6
July	6 patrols plus 3 hrs	Present	8	1-dog	3	5
August	4 patrols plus 2 hrs	Present	3	0	0	3
September	4 patrols plus 2 hrs	Until the 15 <sup>th</sup>	0	0	0	0
<b>Totals</b>	<b>39 Patrols + 22 hrs</b>		<b>28</b>	<b>4</b>	<b>8</b>	<b>20</b>

**Recommended Improvements for Compliance Issues:**

**2005**

1. Post more dog-on leash signs at the pedestrian access points and parking areas along the Jetty Road and increase size and visibility of the signs. Additional coverage from temporary employees will start in May.
2. Schedule weekly guided walks and post hours on kiosks.

**Outcome:** Additional signs were installed in June of 2005 and temporary employees began making contact with visitors and distributing leashes.

**South Spit  
Law Enforcement Violation Summary 2006**

Month	Patrols (units per week)	Plover Guides	Number of Violations	Number of Violations within HRA or Seasonal Protection Areas	Number of Vehicle/ATV Violations	Dog off Leash Violations
2006						
March	10	None	8	0	2	6
April	8	None	4	0	0	4
May	8	End of month only	9	0	0	9
June	8.5	Present	4	0	1	3
July	7	Present	7	0	2	5
August	10	Present	1	0		1
September	11	Until the 15 <sup>th</sup>	3	0	1	2
<b>Totals</b>	<b>62.5 Patrols</b>		<b>36</b>	<b>0</b>	<b>6</b>	<b>30</b>

**Recommended Improvements for Compliance Issues: None**

**2006**

Dog leash violations are increasing. Signs stating the leash policy for dogs have been posted at the north and south parking areas and along the Jetty Rd at beach access parking areas since summer of 2005. Plover guides have been present for 2 years and make every effort to contact visitors off all kinds and pay particular attention to visitors with dogs. Leashes are distributed but very few. Upon contact, visitors with dogs off leash are regularly producing their own, indicating they are aware of the regulations and choose to ignore them.

**South Spit  
Law Enforcement Violation Summary 2007**

Month	Patrols (patrols per week)	Plover Guides	Number of Violations	Violations within HRA or Seasonal Protection Areas	Vehicle/ATV Violations	Dog off Leash Violations
2007						
March	4.5 patrols per week	none	9	1-vehicle	3	6
April	4.5	none	9	1-vehicle	1	8
May	4	Present?	17	4-vehicle	4	13
June						
July	4	Present	8	1-vehicle	1	7
August	3	Present	0			
September	3	Until the 15 <sup>th</sup>	0			
<b>Totals</b>	<b>23 Patrols</b>		<b>43</b>	<b>7</b>	<b>9</b>	<b>34</b>

**Recommended Improvements for Compliance Issues:**

**2007**

1. A recommendation was made in 2004 to eliminate the U-turn near the HRA boundary-this should be implemented.
2. A recommendation was made in 2005 to schedule weekly guided walks and post hours on kiosks-was this ever accomplished?
3. Coordinate with law enforcement and guides so that the area is covered more thoroughly and consistently.
  - a. Create a Schedule-sign up type sheet, this would eliminate days w/o patrols and show clearly where the voids exists and possibly volunteers from the office only during nesting season.
  - b. Report hours worked consistently-number of hours vs number of patrols.
  - c. Increase guides, volunteers, and Law Enforcement.
4. Signage and markers could be altered to be clearer. Add 2 additional signs on the north and south boundaries of the HRA. Relocate additional drift wood to South Jetty beach access area?
5. Extend the HRA south. If this occurred, markers would be installed clearly guiding vehicles and dog owners to exit the beach or turn back around during the plover season. Possible if funding comes through.
6. Dogs
  - a. Prohibit during the plover season throughout the entire area or allow in parking areas and 50 feet from the paved road and on the Jetty (National parks type restrictions) or allow only south of the HRA after nesting pairs have been established?



- b. Incorporate this user group into HSU Interpretive Study?

**Outcome:**

1. Two large signs will be installed in 2008 on the north and south end of the HRA which state "Waveslope Closed To All Vehicles Beyond This Point, During the Plover Nesting Season (March 1 - September 15)". These signs will be installed seasonally.
2. The blue "wordy" signs attached to the symbolic fencing will also be replaced and the color changed from blue/white to red/white.
3. Docents will continue to focus their efforts on visitors with dogs and hand out leash's. They will also focus their efforts in areas with the highest occurrence of violations in previous years.
4. Increased communication and coordination between the BLM and all law enforcement agency's will be a priority.
5. BLM employees will volunteers to patrol the S. Spit when law enforcement is not available?
6. GPS locations or better descriptions of actual violation locations will be required.