# United States Department of the Interior

FISH AND WILDLIFE SERVICE

New England Field Office
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May 11, 2022

Everose Schlüter
Massachusetts Division of Fisheries and Wildlife
1 Rabbit Hill Road
Westborough, MA 01581

Re: Request for Administrative Amendment to the Massachusetts Piping Plover Habitat Conservation Plan
Permit Number: TE01281C-0 (2016), TE01281C-1 (2019 amended HCP)

Dear Everose Schlüter:

This letter acknowledges the U.S. Fish and Wildlife Service's (Service) April 25, 2022, receipt of your letter, dated April 25, 2022, requesting the Service accept an administrative clarification to the Massachusetts Piping Plover Habitat Conservation Plan (HCP) for the covered activities *Use of Roads and Parking Lots in the Vicinity of Unfledged Chicks* and *Oversand Vehicle Use in the Vicinity of Unfledged Chicks*. We reviewed the HCP, Chapter 17 of the Habitat Conservation Planning Handbook, and the section 10(a)(1)(B) incidental take permit TE01281C-0 (ITP) issued to the Massachusetts Division of Fisheries and Wildlife (MassWildlife) in determining whether the proposed change meets the standard of an administrative clarification.

MassWildlife proposes to provide Certificate of Inclusion (COI)-holders the option to conduct "enhanced intensive monitoring" that exceeds the monitoring requirements described in the HCP to demonstrate the lack of exposure to Take for the covered activities *Use of Roads and Parking Lots in the Vicinity of Unfledged Chicks* and *Oversand Vehicle Use in the Vicinity of Unfledged Chicks*. The administrative clarification specifies the monitoring requirements that must be implemented to document the lack of Take exposure.

The HCP will continue to automatically accrue Take exposures if a travel corridor bisects a brood's range (for instance, if a corridor is located seaward of a dune that forms the landward edge of a brood's range), chicks' entry into travel corridors or parking lots can be inferred, or Take occurs. No other changes to the mitigation requirements are proposed.

The following changes (language in italics) to the HCP will be made to incorporate the administrative clarification of when Take exposures are not anticipated to occur and mitigation is not required for the two covered activities, *Use of Roads and Parking Lots in the Vicinity of Unfledged Chicks* and *Oversand Vehicle Use in the Vicinity of Unfledged Chicks*.

Sec. 3.2.1. Use of Roads and Parking Lots in the Vicinity of Unfledged Piping Plover Chicks (p. 3-6)

Add bullet 6.

"*6. Participants may elect to conduct enhanced intensive monitoring, documentation, and reporting for specific broods. Take exposures will not accrue to the participant if such monitoring demonstrates no chick use of roads or parking lots either directly observed or inferred and no injury, mortality, or negative effects from disturbance are detected, provided that sufficient documentation and reporting are submitted to MassWildlife. MassWildlife must approve monitoring, documentation, and reporting necessary to qualify for enhanced intensive monitoring. At minimum: (1) twice-daily monitoring and documentation will be required starting on the day of hatch and must continue throughout the duration of covered activity implementation regardless of the distance of the affected brood from the travel corridor or parking lot; and (2) raw data and maps showing all location data points for broods must be provided to MassWildlife. Take exposures will automatically accrue for broods subjected to herding or barriers. Enhanced intensive monitoring should not take the place of barriers."*

Sec. 3.2.3. Oversand Vehicle (OSV) Use in Vicinity of Unfledged Chicks (p. 3-14)

"**Monitoring**: The IAMP must describe the monitoring plan associated with this covered activity…Qualified monitors charged with monitoring broods associated with OSV use must be pre-approved in writing by DFW, have undergone training, and had prior work experience carrying out beach related shorebird monitoring.

*Participants may elect to conduct enhanced intensive monitoring, documentation, and reporting for specific broods. Take exposures will not accrue to the participant if such monitoring demonstrates no chick use of OSV corridors either directly observed or inferred and no injury, mortality, or negative effects from disturbance are detected, provided that sufficient documentation and reporting are submitted to MassWildlife. MassWildlife must approve monitoring, documentation, and reporting necessary to qualify for enhanced intensive monitoring. At minimum: (1) twice-daily monitoring and documentation will be required starting on the day of hatch and must continue throughout the duration of covered activity implementation regardless of the distance of the affected brood from the travel corridor; and (2) raw data and maps showing all location data points for broods must be provided to MassWildlife. Take exposures will automatically accrue for broods subjected to herding or barriers. Enhanced intensive monitoring should not take the place of barriers."*

The proposed administrative clarification does not change the level of incidental take authorized under the ITP, nor does it change the impacts to piping plovers or their habitat analyzed during our National Environmental Policy Act review of the HCP and the amended HCP. Therefore, we agree that the proposed change to the monitoring requirement for the covered activities *Use of Roads and Parking Lots in the Vicinity of Unfledged Chicks* and *Oversand Vehicle Use in the Vicinity of Unfledged Chicks* is an administrative clarification and the revised language should be incorporated into the amended HCP. Please include the documentation proposing the change, the rationale for the clarification, the language to be inserted and/or changed in the HCP, and our correspondence as an appendix in the 2022 annual report.

Thank you for your cooperation. If you have any questions or concerns regarding this letter, please contact Susi von Oettingen of this office at susi_vonoettingen@fws.gov.

Sincerely yours,

AUDREY MAYER

Digitally signed by AUDREY MAYER
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Audrey Mayer
Field Supervisor
New England Field Office

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