



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

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MASS.GOV/MASSWILDLIFE

Request for Certificate of Inclusion for Piping Plover Habitat Conservation Plan

MESA Review Checklist & Application Cover Page

Project Location:

Address/Location	Nauset Beach, 239 Beach Road
City(ies)/Town(s)	Orleans MA

Applicant:

Individual	Kimberly Newman
Organization	Town of Orleans
Mailing address	19 School Street, Orleans MA 02653
Phone & Email	508-240-3700 x2415 kneuman@town.orleans.ma.us

Property Owner(s) Information (if different from Applicant): **Provide separate sheet if multiple landowners*

Individual(s)	
Organization(s)	
Mailing address	
Phone & Email	

Representative (if any):

Individual	Nathan Sears
Organization	Town of Orleans
Mailing address	40 Giddiah Hill Road, Orleans MA 02653
Phone & Email	508-240-3755 nsears@town.orleans.ma.us

Has this project previously been issued a NHESP Tracking Number (either by previous NOI Submittal or MESA Information Request Form)? **Yes** If yes, Tracking no. 16-35397

Is coverage for Least Terns also being requested? (Y/N)	Yes			
List additional MESA-listed species in project area (if known):	Diamondback Terrapins			

REQUESTED COVERED ACTIVITIES FOR PIPING PLOVER

Covered activity:	Use of roads and parking lots in the vicinity of unfledged chicks	Recreation and beach operations	Oversand vehicle use in vicinity of unfledged chicks	Total*
No. requested take exposures*			2	2
Max. % of total pairs at site to be exposed				
Acreage affected				1.44
Max. % of total nesting acreage affected for this species at site				.48%

* The Total No. requested take exposures should be a maximum number of exposures for all Covered Activities combined in a given year (i.e., a not-to-exceed value). As beach operators may not be able to predict which Covered Activities will be implemented in a given year, a range of values or maximum value may be presented for each individual activity. For instance, requested exposures under each of the three activities might be 2 while the Total might be less than 6.

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REQUESTED COVERED ACTIVITIES FOR LEAST TERN OR OTHER AVIAN SPECIES (identify species): _____

Covered activity:	Use of roads and parking lots in the vicinity of unfledged chicks	Recreation and beach operations	Oversand vehicle use in vicinity of unfledged chicks	Total*
<i>No. requested take exposures*</i>			20	20
<i>Max. % of total pairs at site to be exposed</i>				
<i>Acreage affected</i>				1.44
<i>Max. % of total nesting acreage affected for this species at site</i>				.48% ac, inclusive

* The Total *No. requested take exposures* should be a maximum number of exposures for all Covered Activities combined in a given year (i.e., a not-to-exceed value). As beach operators may not be able to predict which Covered Activities will be implemented in a given year, a range of values or maximum value may be presented for each individual activity. For instance, requested exposures under each of the three activities might be 2 while the Total might be less than 6.

REQUESTED SPECIFIC METHODS ASSOCIATED WITH IMPLEMENTING COVERED ACTIVITIES (check all that apply)

	Piping Plover	Least Tern	Other (identify):
<i>Reduced proactive symbolic fencing</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Reduced fencing around the nest</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Beach raking</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Physical deterrents (coverboards, flagging, etc.)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Chick herding</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Barriers</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Nest moving</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Other (briefly identify)</i> OSV Corridor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PROPOSED PIPING PLOVER MITIGATION (Mitigation for other species should be proposed in the IAMP; see below.)

Type	Y/N	Total amount	Pairs to benefit (credits)
<i>Pay fee for offsite mitigation*</i>	Yes	\$ 11,600	2
<i>Applicant-implemented activities (in lieu of fee):</i>			
· <i>Selective predator management</i>	No	Submit details in IAMP (see below)	MassWildlife will determine value (credits) for these activities
· <i>Increased education & outreach</i>	No		
· <i>Increased law enforcement</i>	No		
· <i>Habitat management</i>	No		
· <i>Other</i>	No		

* Mitigation ratios (mitigation credits:exposure) and fees (per pair, nest, brood, or territory) are: Use of Roads and Parking Lots (vehicular, 3:1 or \$6,150; non-vehicular, 2.5:1 or \$5,800); Recreation & Beach Operations, Oversand Vehicle Use (2.5:1 or \$5,800)

OTHER REQUIRED ELEMENTS OF REQUEST FOR COI

(Please attach. See additional guidance available to applicants; contact coastal.waterbirds@mass.gov.)

- ☒ Site map – showing parcel boundaries and provide proof of ownership
- ☐ Written assent of landowner(s) to request coverage, if applicant is not landowner
- ☒ Site-specific Impact Avoidance and Minimization Plan (IAMP) in format specified by MassWildlife in available guidance
- ☒ Mitigation plan, including budget
- ☒ MA Endangered Species Act filing fee
(\$300 payable to “Comm of MA – NHESP”; <https://www.mass.gov/how-to/how-to-file-for-a-mesa-project-review>)
- ☒ Conservation and Management Permit fee
(\$600 payable to “Comm of MA – NHESP”; <https://www.mass.gov/how-to/apply-for-a-conservation-management-permit>)
- ☒ Draft Escrow/Mitigation Fund Agreement, with applicant-specific edits in TrackChanges/redline (if mitigation fee will be paid)

Contact: Coastal.Waterbirds@mass.gov for template agreement.

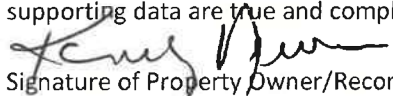
SUBMITTAL

- ☒ Mail a hard copy of entire application (including signed cover sheet) with checks, to:
Environmental Review-HCP, MassWildlife-NHESP, 1 Rabbit Hill Rd., Westborough, MA 01581.
- ☒ Also email entire application to: Coastal.Waterbirds@mass.gov.

REQUIRED SIGNATURES

Provide separate sheet if multiple landowners

I hereby certify under the penalties of perjury that the foregoing HCP/MESA filing and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.


Signature of Property Owner/Record Owner of Property

Date 3/3/25

Signature of Applicant (if different from Owner)

Date



Nauset Beach, Town of Orleans, MA.

Request for Certificate of Inclusion for the Statewide Habitat Conservation Plan 2025



Project Location:

Address: Nauset Beach, 239 Beach Road, Orleans, MA

Property Owner: Town of Orleans

Representative:

Individual: Nathan Sears, Natural Resources Manager

Organization: Town of Orleans

Mailing Address: Department of Natural Resources
40 Giddiah Hill Road, Orleans, MA. 02653

Phone & Email: 508-240-3755 / nsears@town.orleans.ma.us

NHESP Permit # 16-35397 / Conservation Permit No: 022-391.DFW

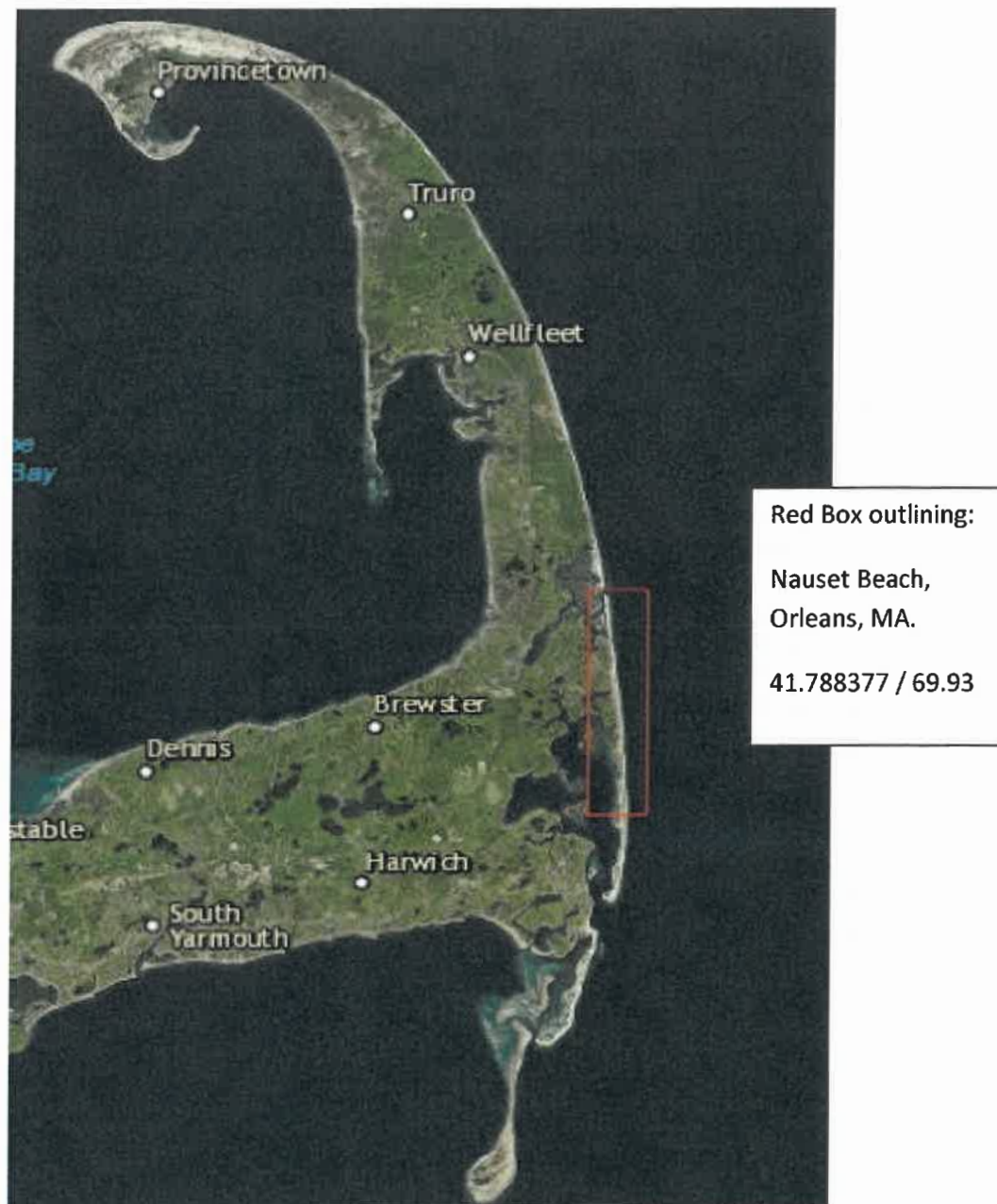
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Introduction

The Town of Orleans (the Town) is requesting a renewal of the Certificate of Inclusion (COI) for Nauset Beach as part of the Town's application to participate in the statewide Piping plover Habitat Conservation Plan (HCP). This document also serves as an application for a Conservation and Management Permit (CMP) pursuant to the Massachusetts Endangered Species Act (MESA; MGL c. 131A; 320 CMR 10.00). Therefore, the Town is requesting the opportunity to implement the following Covered Activities as described in the HCP that might expose Piping plovers to potential take. The covered activities requested include: (1) Over-Sand Vehicle Use in Vicinity of Unfledged Piping plover chicks (2) Over-Sand Vehicle Use in the Vicinity of Unfledged Least tern chicks.

To provide that there is a long-term 'Net Benefit' to the conservation and mitigated impacts to the State-listed species consistent with the COI, the Town employs associated impact minimization

measures to reduce risk when carrying out the covered activities. A maximum of 2 broods or nests of Piping plovers and up to 20 unfledged Least tern chicks can be exposed to Over-Sand Vehicle (OSV) use in the vicinity of unfledged chicks. Similarly, the State-listed Diamond-backed Terrapin adults and hatchlings are exposed to mortality risk when crossing the OSV Trail and minimization measures are required by way of this permit request.

The intent of the implementation of the HCP covered activities is to address repeated closures of OSV access to the majority of Nauset Beach South, as well as our priority to meet the performance standards described in our 2022 permit to provide a long-term 'Net Benefit' to the affected State-listed Species.

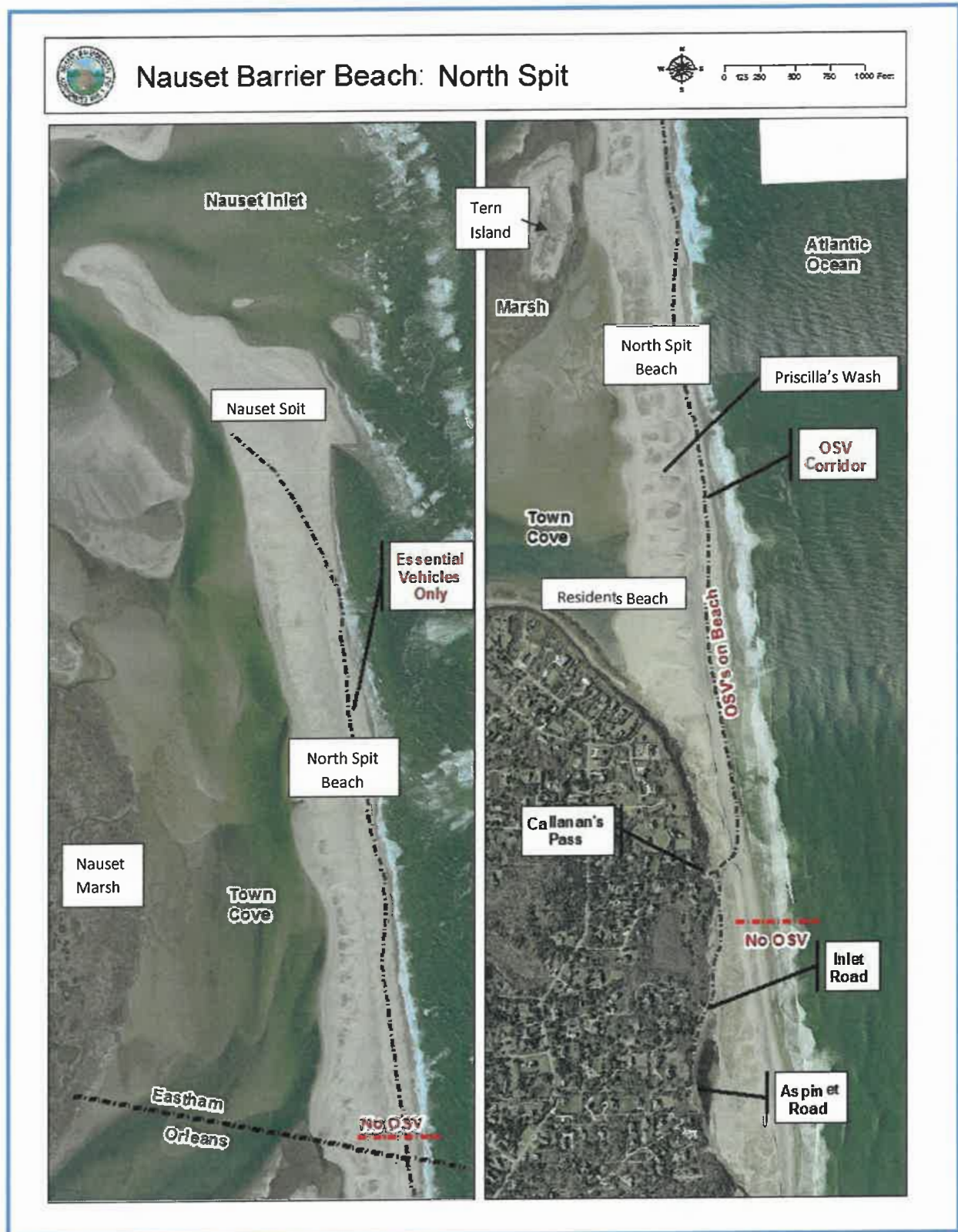
1.0 Site Description

The entire Plan Area covered under this application is the geographic area known as Nauset Beach (Orleans), which includes North Spit and Nauset Beach South as described within two separate Orleans Conservation Commission's Order of Conditions (OOC SE-54-723) and (OCC SE-54-2246). The Plan Area for this COI includes all vegetated communities, wetlands and water resources, wildlife and their habitats, threatened and endangered species and their habitats, land uses, and any other relevant natural resources or existing conditions as described in the OOC's.

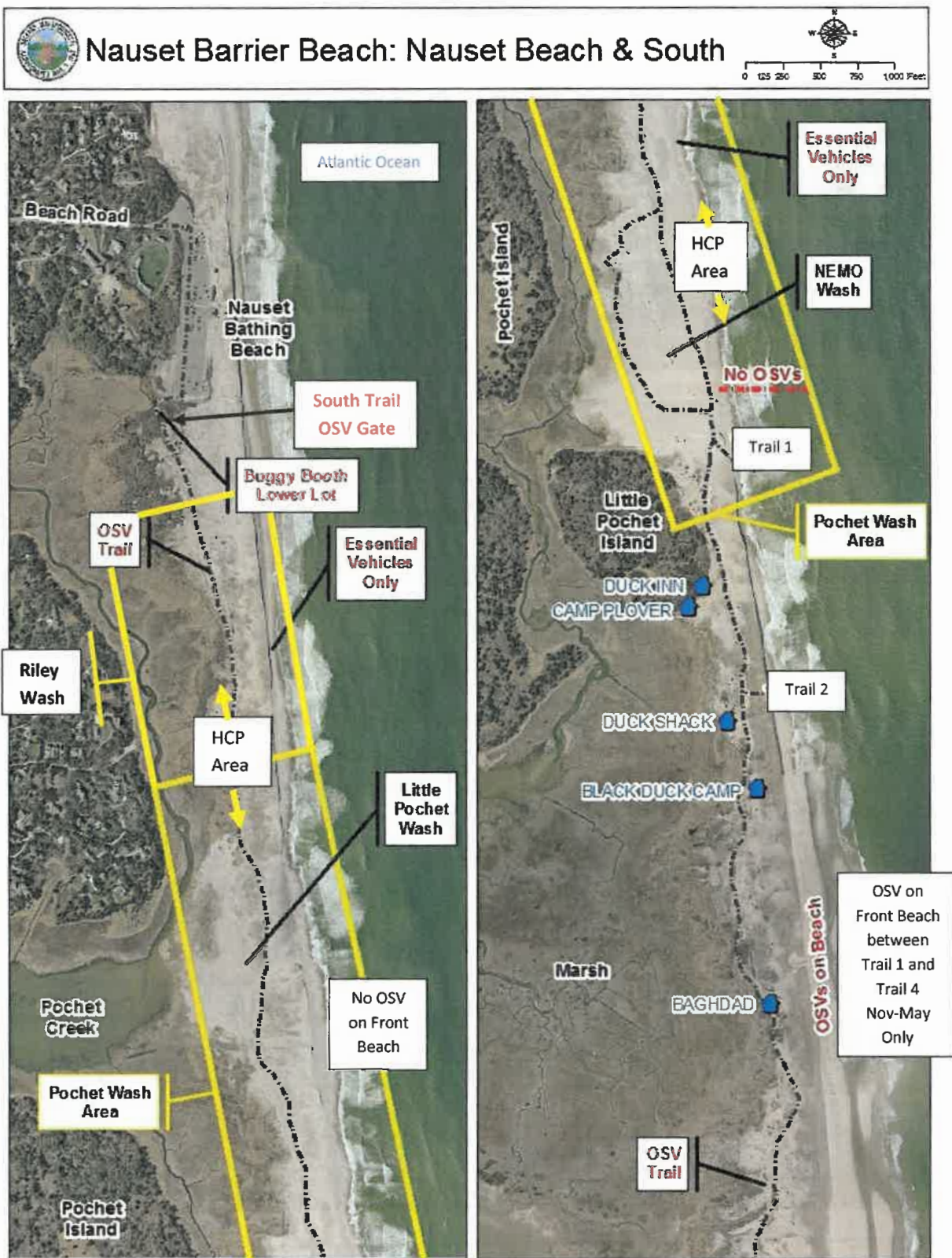
The portion of Nauset Beach that the Town of Orleans patrols and monitors is approximately 7.35 miles of ocean barrier beach shoreline along the Atlantic coast. It is located on the portion of the Cape Cod peninsula known as the Lower Cape, and the patrolling and monitoring of the Plan Area stretches from the northernmost sector of North Spit at Nauset Inlet in Eastham southward to the Orleans / Chatham town line.

The Town has a history of managing pedestrian and OSV use in the Plan Area, as well as specific conservation actions designed to ensure that a "net benefit" is provided to the Massachusetts population of Piping plovers (321 CMR 10.23) all the while maintaining and improving the public access and recreational opportunities associated with Nauset Beach. The covered activities permitted under this application include all suitable Piping plover habitat along and around the described length and width of the beach.

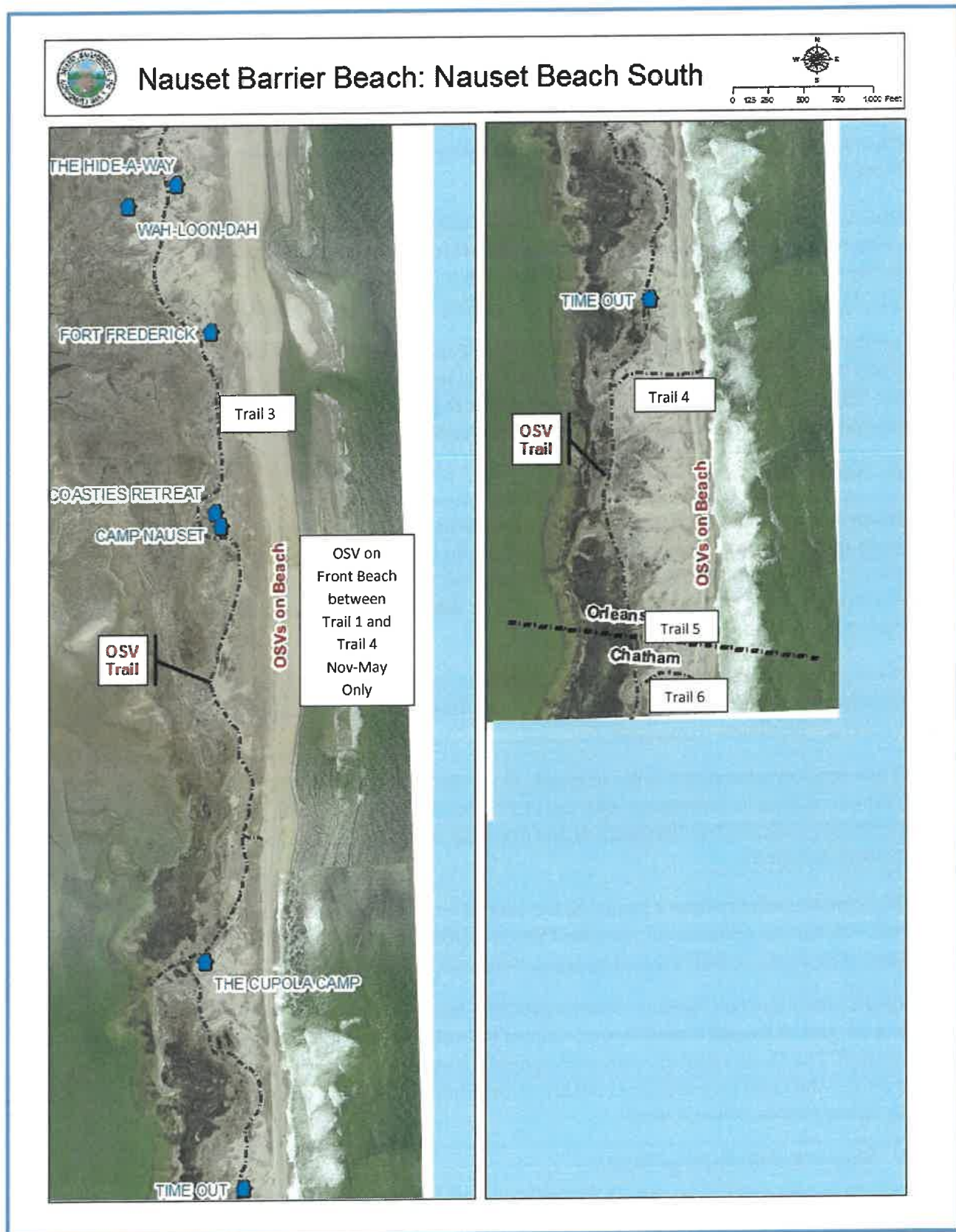
Property Map – North Spit



Property Map – Nauset Public Bathing Beach and Nauset Beach South



Property Map – Nauset Beach South



The dynamic setting of Nauset Beach results in complex and constantly changing management requirements. Due to the natural erosion and accretion of shoreline features, the exact total site acreage of Nauset Beach may vary from year to year.

1.1 Physical Description of Property and Piping Plover Habitat

Nauset Beach is a barrier beach system in Orleans and includes the North Spit, Nauset Public Bathing Beach, and Nauset Beach South. These areas are owned and operated by the Town of Orleans and managed by the Department of Natural Resources.

The area is classified as a Barrier Beach (310 CMR 10.29), a resource area which itself contains the following resource areas: (A) Land Subject to Coastal Storm Flowage (310 CMR 10.02 (1d)); (B) Land under the Ocean (310 CMR 10.25); (C) Coastal Beaches (310 CMR 10.27); Coastal Dunes (310 CMR 10.28); (D) Salt Marshes (310 CMR 10.32); and (E) Rare Species Habitat (310 CMR 10.37).

Nauset Beach is located within the Natural Heritage Endangered Species Program (NHESP) Estimated Habitat of Rare Wildlife and NHESP Priority Habitat of Rare Species. While the whole beach is potential habitat, historically, the majority of Piping plover nesting has been located towards the northern area of Nauset Spit and within the first mile of Nauset Beach South.

A. North Spit

The North Spit contains beach and shoreline with berms and scarps, as well as over-washes. Dunes and remnants of bluffs, create the upland. North Spit lies to the east and adjacent New Island (Cape Cod National Seashore) and Nauset Marsh Estuary, with marshes, harbor area, tidal flats, and Town Cove. It is at the border of the colder, arctic currents and the warmer Gulf Stream, and as such is in a unique environmental position.

Over time, tidal storm surge and damaging winds have breached the primary dune system on this barrier beach in numerous areas. Consequently, the development of expanding and flattening of over-wash area fans continues to increase.

North Spit is approximately 2.5 miles in length. One mile of the North Spit centers on the use of Over-Sand Vehicles (OSVs) in accordance with the DEP Order of Conditions (OOC) SE 54-723. The maximum number of OSV's allowed on the beach at any one time is 200, dependent upon general beach and nesting considerations.

The OOC contains key provisions requiring the protection of critical habitat on North Spit. A network of symbolic fencing and educational signs alert beach walkers and OSV's users that the natural habitat is managed in accordance with the performance standards set forth in the OCC.

Managed by the Cape Cod National Seashore (CCNS), New Island is in Orleans and located on North Spit in the south end of Nauset Marsh. It is monitored by both National Park Service staff and Town of Orleans staff. The Town conducts daily monitoring of New Island during shorebird monitoring season. If Piping plover and Least tern activity is observed, the Town works incorporation with CCNS to protect nesting Piping plovers or Least terns.

B. Nauset Public Bathing Beach

Nauset Public Bathing Beach is a 3/4-mile-long public bathing beach in front of the public parking lot. It is a Coastal Beach that faces east towards the Atlantic Ocean. The beach is staffed by 3 lifeguard towers and 8 lifeguard stands that provide safety coverage to roughly .25 miles where most of the pedestrian

and beach bathing activity is focused. The habitat in this area is predominantly coastal beach backed by a coastal dune system that is adjacent to a parking lot that hosts administration and bathhouse facilities. A food court area offers food trucks, picnic tables, dressing rooms, portable bathrooms, and outdoor shower areas.

Beach parking lot stickers can be purchased at the Nauset Beach Administration Building beginning Memorial Day weekend. Daily sales begin in mid-June. No OSVs are allowed on this area of Nauset Beach from the public bathing beach north to the entrance to North Spit at Callanan's Pass, and south (1 miles) from the public bathing beach to Trail 1.

C. Nauset Beach South

Nauset Beach South extends south from the Public Bathing Beach area and continues approximately 5 miles in a southerly direction to the Orleans/Chatham town line. It contains 700+ acres of Coastal Beaches, Coastal Dunes, Coastal Banks, tidal creeks, tidal flats and salt marsh. The beach and dunes run parallel to the coastline and are separated from the mainland by Pleasant Bay and the Pleasant Bay marsh system.

Nauset Beach South is accessible via OSVs and managed in accordance with an Order of Conditions (OCC) that governs the use of the OSVs on the beach. Nauset Beach South, like North Spit, has many areas of storm over-washes. Two significant areas of over-wash are located within the first 1 mile on Nauset Beach South between the OSV entrance and Trail 1 and include Riley Wash, from an over-wash created by the Nor'easter storm named Riley in 2018, and Nemo Wash (named for the Nor'easter Nemo in 2012). Together, these areas are generally referred to as the Pochet Wash area.

The remaining 4 miles of coastal beach south of Trail 1 to Trail 6 consists of large coastal dunes. There are 5 historical crossover trails known as trails, exits or cuts, numbering from 1 through Trail 6, located on Nauset Beach in Orleans. They provide access to the beachfront from the back trail that runs the length of the barrier beach on the west side (landward) of the primary coastal dune.

There are also twelve private camps along the back trail. The historic camps date back to the early 1900s. They are privately owned, and all have executed leases with the Town of Orleans for occupation.

1.2 Piping Plover Nesting

Since 2016, after the Town received the first MA Endangered Species Act Conservation and Management Permit incorporating the Massachusetts Statewide COI, HCP, and IAMP into the Town's beach management plan, overall Piping plover productivity has ranged from .73 to 2.68, depicted in the table below.

Over the last 27-year period (1998-2024) the productivity for Piping plovers on Nauset Beach Orleans has averaged 1.38 fledges per pair.

1998-2021 Piping Plover Abundance and Productivity

	North Spit	North	South Beach	South	Total	Total	Productivity
Year	Pairs	Fledges	Pairs	Fledges	Pairs	Fledges	Net Benefit
1998	20	7	8	9	28	16	0.57
1999	15	27	7	10	22	37	1.68
2000	13	7	7	3	20	10	0.50
2001	14	23	6	9	20	32	1.60
2002	13	9	4	3	17	12	0.71
2003	11	9	4	15	15	24	1.60
2004	12	16	5	2	17	18	1.06
2005	15	27	2	0	17	27	1.59
2006	16	17	2	5	18	22	1.22
2007	23	20	5	6	28	26	0.93
2008	22	40	5	10	27	50	1.85
2009	22	21	7	11	29	32	1.10
2010	21	23	11	12	32	35	1.09
2011	24	2	8	6	32	8	0.25
2012	11	4	10	15	21	19	0.90
2013	16	14	16	12	32	26	0.81
2014	9	12	15	18	24	30	1.25
2015	5	7	14	35	19	42	2.21
2016	9	12	10	28	19	40	2.11
2017	10	20	9	27	19	47	2.47
2018	15	42	13	33	28	75	2.68
2019	23	56	18	52	41	108	2.63
2020	27	46	15	35	42	81	1.98
2021	21	29	22	30	43	59	1.37
2022	20	25	22	26	42	51	1.21
2023	22	24	22	26	45	50	1.11
2024	26	19	11	8	37	27	.73

A. Piping plover Egg Loss

The primary cause of egg loss on Nauset Beach is storm over-wash, nest abandonment, unhatched eggs and predation. Major predators on the site are Eastern Coyote, American Crow and Red Fox.

The Town uses Standard type "A" predator control exclosures wherever possible to protect active Piping plover nests. The installation of predator control exclosures is carried out in accordance with the USFWS guidelines by the NRO and at least two staff.

1.3 Other State-Listed Species

In addition to nesting Piping Plovers, state listed Least Terns also nest on Nauset Beach and are listed as a species of special concern. Diamondback Terrapins, state listed as threatened, nest on Nauset Beach as well. During the spring and fall migration, federally listed Red Knots can be observed in flocks of several hundred with several banded observations being reported to reportaband.gov. In late summer, when terns start to stage on the barrier beach, federally listed Roseate Terns are also observed in huge staging flocks with Common Terns, another state listed species of special concern that utilizes the

barrier beach.

A. Least terns

Least terns are present in fair numbers on the North Spit and on Nauset Beach South. The North Spit colony has ranged from 20 to 135 pairs from 2017-2024. Nauset Beach South has pair numbers ranging from 20 to 80 pairs between 2017-2024. Productivity is typically poor to fair primarily due to Eastern Coyotes and other suspected predators.

2017-2024 Summary or Least Tern Abundance and Productivity

	Location	Pre-A Count	A Count	B Count	Productivity
2017					
	North Spit		62		Fair
	Little Pochet South		17		Fair
2018					
	North Spit		70	21	Poor
	Pochet Wash South		63	11	Poor
	Trail 5.5 South			12	Unknown
2019					
	The Spit - North		83		Poor
	Priscilla Wash - North			25	Poor
	Riley Wash - South			12	Fair
	Pochet Wash South		50		Fair
2020					
	The Spit - North		20	30	Fair
	Priscilla Wash - North		25	20	Fair
	Riley Wash - South		20	13	Fair
	Pochet Wash South			22	Fair
2021					
	The Spit - North	57	135	25	Poor
	Priscilla Wash - North	102	148	45	Poor
	Riley Wash - South	20	10	15	Poor
	Pochet Wash South	20	80	15	Poor
2022					
	The Spit - North	70	88	16	Fair
	Priscilla Wash - North	17	17	29	Poor
	Riley Wash - South	14	17	48	Fair
	Pochet Wash South	13	21	48	Fair
2023					
	The Spit - North		42	16	Poor
	Priscilla Wash - North		18	35	Poor
	Riley Wash - South		16	25	Poor
	Pochet Wash South				
2024					

	The Spit - North		55	21	Poor
	Priscilla Wash - North		46	12	Poor
	Riley Wash - South		26	8	None
	Pochet Wash South				

B. Roseate and Common Terns

Neither Roseate nor Common Terns nest on Nauset Beach but both species start 'staging' in mixed tern flocks on the barrier beach starting in the late summer and extending into the fall. They are typically observed on the North Spit or on the Nauset marsh sandbars and numbers have exceeded flocks of five-six thousand. In the past three years, the Natural Resources officer and monitors have spent many observation hours counting and resighting plastic field readable (PFR) bands on both ROST and COTE. Working with retired USFWS Biologist Jeff Spendelow, staff have provided Jeff with hundreds of terns PFR readings as well as flock count intel to assist with resighting bands.

C. Diamond-backed Terrapins

Diamondback Terrapins (DBT) nest within the dunes and over-washes on Nauset Beach South, particularly in the vicinity of where the Pochet Wash connects with Pleasant Bay. The primary nesting area for DBT extends from the OSV south gate to trail one, also known as Riley Wash through the Pochet Wash.

2017-2024 Diamond-backed Terrapin Total Nests and Hatchlings

	Location	Total Nests	Protected Nests	Released Hatchlings
2017				
	Pochet Wash South	3	3	37
2018				
	Pochet Wash South	1	1	11
2019				
	Pochet Wash South	4	4	53
2020				
	Pochet Wash South	4	4	60
	Wild - Riley - South	2	0	29
2021				
	Pochet Wash South	6	6	87
	Wild - Riley - South	3	0	21
2022				
	Pochet Wash South	10	5	91
2023				
	Pochet Wash South	10	4	96
2024				
	Pochet Wash South	7	5	80

Beginning the last week of May and continuing through mid-August, the Orleans NRO is assigned the lead role of monitoring Diamond-backed terrapin crawls for the Town of Orleans during daily OSV Trail and shorebird monitoring patrols.

Experienced Wellfleet Bay Wildlife Sanctuary (WBWS) terrapin monitoring staff and volunteers assist with daily monitoring starting in mid-August. This group patrols each morning, looking for tracks and checking the “Turtle Garden” exclosures for hatchlings. Each afternoon, it is the responsibility of the NRO to survey for tracks and check the DBT exclosures as well.

DBT Training is provided by WBWS in early August and includes the biological behavior of terrapins, including nesting behavior, identifying and locating nests and tracks of adult females and hatchlings. A backpack kit is left for the season in the buggy booth for daily monitoring patrols. The kit is comprised of nest data sheets, water spritzer, paper towels, and DBT carrier.

When a DBT nest is located within the vicinity of the Nauset Beach South OSV Trail, the Town contacts Mass Audubon WBWS to relocate the nest to the turtle garden on the west side of Nauset Beach South OSV Trail. This is performed by WBWS staff with assistance from the Town. The nest is moved so that when the DBT eggs hatch and the hatchlings instinctively move west towards the marsh and Pleasant Bay Estuary, they will not be in immediate danger of OSV traffic.

Mass Audubon staff compiles and submits the nesting DBT data to NHESP on behalf of the Town of Orleans.

2.0 Responsible Staff

Natural Resources Manager, Nathan Sears

Nate is the Town of Orleans Natural Resources Manager. He has a BS in Natural Resources and Wildlife Conservation, University of Massachusetts at Amherst, 1998. Mr. Sears has worked for the Town of Orleans for 15 Years and reports to the Town Administrator and the Board of Park Commissioners. Mr. Sears is also responsible for reporting to the Orleans Conservation Commission as it relates to beach operations under Order SE 54-723 or Order SE 54-2246. He oversees all beach operations including the Over-Sand Vehicle program, the Shorebird program, and the Habitat Conservation Plan for the Town of Orleans.

Natural Resources Officer / Endangered Species Specialist, Keegan Burke

Keegan assists in overseeing the Town’s natural resource activities and programs related to beach management. He supports overall beach OSV operations, monitoring traffic and maintaining security in accordance with applicable Town regulations. He is also responsible for managing the Nauset OSV program consistent with the local Orders of Conditions.

Keegan advises the Beach Director and Natural Resource Manager as to daily beach conditions and numbers of vehicles present. He is responsible for protecting all listed species consistent with State and Federal guidelines. Furthermore, he is responsible for implementing and managing the Habitat Conservation Plan at Nauset Beach.

Natural Resources Officer / Beach Director, David Bailey

Dave is the Town’s full-time Natural Resources Beach Director. Dave is responsible for the daily operations of the Public Bathing Beach at Nauset Beach, as well as Skaket Beach. He oversees seasonal

employees, comprised of lifeguards, EMTs, Beach Rangers, sticker booth staffing, parking attendants, and the maintenance of facilities at the Nauset Beach Administration Building. Dave reports directly to the Natural Resources Manager.

Assistant Endangered Species Monitor / Lead Shorebird Monitor (AES)

This seasonal position runs from April – August and assists in the management of the Endangered Species Program and the implementing of the Habitat Conservation Plan, focusing on Piping plovers, Least terns and Diamondback Terrapin monitoring. The AES reports directly to and works alongside the Natural Resources Officer.

Beach Rangers

A Seasonal position from May – October: A core of veteran Beach Rangers is primarily responsible for enforcement of all the required Special Conditions in the Orders of Conditions as well as all the Nauset Beach Rules and Regulations for OSVs. They report to the Natural Resources Manager, NRO and Beach Director. They assist the NRO and the HCP Shorebird Monitors when enforcement of any violations concerning any threatened species.

HCP Endangered Species Monitors

The Town employs 10-12 seasonal shorebird monitors whose primary task is to assist with the HCP. The endangered species monitors start July 1 and typically end in late August. The first couple weeks of work comprises of shorebird training, including PowerPoint presentations and a detailed background on shorebird ecology. Over the next couple of weeks, staff become familiar with field protocols and nest and brood monitoring. They also assist with all symbolic fencing or beach signage and help prepare for an HCP.

If an HCP is implemented, a full shorebird staff is crucial in running a smooth and efficient program. Staff assist with brood monitoring, the self-escorting zone and running the OSV gate, which includes checking OSV permits, signed HCP packets, answering questions and informing the public of beach conditions.

3.0 Beach Management Plan

Both the Nauset Spit and Nauset Beach South are managed by the Board of Selectmen who serve as Orleans Park Commissioners. Nauset Spit operates under an Order of Conditions SE 54-723 issued in 1991. Nauset Beach South operates under an Order of Conditions SE 54-2246 issued in 2015. Each Order contains a comprehensive Off Road Vehicle (ORV) and Beach Management Plan that includes adherence to the Massachusetts Division of Fisheries & Wildlife, Natural Heritage and Endangered Species Program, *Guidelines for Managing Recreational Use of Beaches to Protect Piping plovers and Terns and Their Habitat* (1993) ; U.S. Fish Wildlife Service (1994) and compliance with Coastal Resource area performance standards defined in the Massachusetts Wetland Protection Act, M.G.L. c 131 § 40 and 310 CMR 10.00 including 310 CMR 10.37 Protection of Rare and Endangered Species Habitat.

On the Nauset Beach South, an HCP is in effect and authorizes an incidental take of up to 2 broods (8) Piping plover chicks in the Pochet Wash area. The Town of Orleans and the Town of Chatham have entered into an Agreement to manage Nauset Beach South jointly.

3.1 Beach Operations

The public beaches are open to the public year-round from 6am-11pm. Beach operations are managed daily beginning from April through the Columbus Day Weekend. 65+ seasonal employees are hired

annually working under the daily supervision and direction of the Natural Resources Manager, the NRO, the Beach Director and the Assistant Beach Director. Seasonal employees, comprised of lifeguards, EMTs, Beach Rangers, parking attendants, and shorebird monitors, operate out of the Nauset Beach Administration Building. All staff are equipped with radio communications. The Nauset Spit OSV program and the Nauset South OSV program incorporate detailed traffic management protocols in order to alleviate OSV congestion. Beach Rangers are responsible for patrolling the entire Nauset Beach and ensuring compliance with the Nauset Beach Rules and Regulations for ORVs. Although there is no official beach grooming or wrack management on the public beaches, rangers and natural resources staff are responsible for removing any dangerous or hazardous debris that washes up onto the beach. Nauset Beach Rangers are staffed from 7a.m. to 12 midnight, daily from mid-May through September each season.

A. Recreational Activities

The Nauset Barrier Beach hosts many recreational opportunities. Activities such as the OSV program, surfing, bathing, hiking, bird watching, fishing, hunting, metal detecting, photography and more.

Beach Walking

There are four boardwalks heading to the Nauset Public Bathing Beach from the parking lot that offer safe and easy path to the beach. Three of the four boardwalks have Mobi-mats, a non-slip semi-rigid ground protecting mat that provides ideal beach access over the dunes that slope and incline between the parking lot and the beach front. Railings are constructed for additional safety, wide enough apart to give wheelchair and stroller access.

Beach wheelchairs are also available at the Administration Building or First Aide shed to make travelling across sand possible. They have large ball-shaped balloon tires that spread the weight over a large area which stops the wheelchair from getting bogged down.

Symbolic fencing and signage remain up year-round in areas with high pedestrian walking to ensure beach walkers stay off dunes and beach grass. From April 1 – October 15, much of the 8 miles of front beach is designated nesting habitat and is patrolled and monitored daily. Crossover pathways are fenced off and designated with white signs to a pathway from the east side beach to the west side beach.

Swimming

Three lifeguard towers and eight lifeguard stands line the shoreline at the protected public swimming beach at Nauset Beach. Numerous Great White Shark sighting temporarily close the swimming in the protected water at Nauset Beach. If a shark is observed or a sighting reported, the lifeguards close the beach for at least an hour. Sightings are reported by Nauset Beach staff to the Atlantic White Shark Conservancy to be posted on their Sharktivity app.

Lifeguards are on duty the third weekend in June through Labor Day. Nauset Beach Safety Officers are on duty Labor Day – Columbus Day weekend.

Fishing

Fish gear must be always kept at the water's edge while in the act of fishing. There shall be no more than five (5) fishing rods per person or more than twelve (12) fishing rods per vehicle to be in use at any one time.

Bicycles

No motorized bicycles are allowed on Nauset Beach. Fat-tired bicycles are prohibited on the beach from

Memorial Day through Labor Day.

Kites and Drones

Kites and Drones are prohibited April 1 through Labor Day.

Kiteboarding

Kiteboarding, also known as kite surfing, is prohibited April 1 through Labor Day on all open waters on ocean and marsh side at Nauset Beach.

B. Parking & Roads

The Nauset Public Beach parking lot is the primary parking lot for all beach activities and is accessible from Beach Road in Orleans. The main parking lot accommodates 450 vehicles per day.

Parking fees begin Memorial Day weekend and are collected only on weekends (Saturday/Sunday) through the third weekend in June. Starting the third weekend in June parking fees are collected through Labor Day.

Parking fees are collected 7:30 AM – 4:30 PM

Parking fees are \$30 per vehicle per day. Weekly fees are \$125 per vehicle per week. \$300 per season.

C. Beach Cleaning and Refuse Management

Leave no trace. Each visitor shall remove all property and trash from the beach. There are several dumpsters provided at the beach and access areas for beachgoers. They are emptied when full and maintained yearly. Visitors are also encouraged through signage and literature to take all trash off the beach.

Emptying of holding tanks and disposal of human waste on Nauset Beach and its adjoining waters is prohibited. All pet owners are responsible for removing their animal's waste. Mutt mitt dispensers are located at all beach access points and maintained year-round by the non-profit organization, Orleans Pond Coalition.

D. Rules and Regulations

The general rules and regulations for Nauset Public Beach, as well as all public beaches in Orleans, are provided in the Nauset Beach Rules and Regulations for OSVs, a seven-page document/handout.

The OSV programs on both North Spit and Nauset Beach South are subject to detailed Rules and Regulations for ORVs. They are updated annually by the Natural Resources Manager in consultation with the Board of Park Commissioners and the Conservation Commission.

E. Law Enforcement

The Town of Orleans employs 6 full time seasonal Beach Rangers. They patrol day and evening shifts and are trained each season on any new regulations or policies which have been adopted by the Park Commissioners. Several of the Beach Rangers are former retired police officers, who have lived and worked in Orleans for decades. They are provided with all necessary equipment, communication radios, and enforce all the rules and regulations. In addition, the Town has a working relationship with the Massachusetts Environmental Police who are occasionally called in for assistance in more serious violations. The Orleans Police Department also works in close concert with the Beach Rangers.

Patrols are conducted on the North Spit and Nauset Beach South throughout the entire day during May to September. Patrols are conducted from 9:00 a.m. to 4:00 p.m. and from 4:00 p.m. to 1:00 a.m. The beach is cleared north and south by midnight and the patrol ends at 1:00 a.m. In the off season, a Natural Resource Officer patrols on days and weekends. All Beach Rangers follow the written protocols established by the Natural Resources Manager and Beach Director.

F. Fireworks

Fireworks are strictly prohibited on Nauset Beach. Should an occasional report of fireworks be reported to the police department, officers are dispatched and work cooperatively with Natural Resources Officers and Beach Rangers to stop the lighting of fireworks.

G. Dogs

No dogs are allowed on Nauset Public Bathing Beach and North Spit from April 1 through Labor Day. After April 1 signs are posted prohibiting dogs anywhere on the beach as well as prohibiting kite flying.

From Trail 1 north to Nauset Spit on North Spit Beach, dogs are prohibited from April 1 through Labor Day. From Trail 1 south to the Chatham Inlet, all dogs must always be on a leash no longer than 30 feet from April 1 through Labor Day. Dogs must be transported by OSV to areas open to dogs south of Trail 1 from April 1 through Labor Day. Dogs are always prohibited in closed areas. (This is a zero-tolerance policy in accordance with Appendix 5, Section 11)). Owners are responsible for all cleaning up after their dogs. (See Appendix 5 *Nauset Beach Rules and Regulations for OVS, Section 11*). Between Labor Day and April 1, dogs are allowed on all Town of Orleans beaches.

4.0 Shorebird Monitoring and Impact Minimization Measures

The NRO begins patrolling and installing symbolic fencing in mid-late March. Installing symbolic fencing during the month of March affords the NRO the opportunity to walk the entire length of the barrier beach and closely assess suitable habitat and beach conditions. Suitable nesting habitat is identified and delineated with symbolic fencing by April 1 in accordance with the guidelines.

The Assistant Endangered Species Specialist (AESS) starts full time during the first week of April. Together, the NRO and the AESS monitor Nauset Spit and Nauset Beach South on daily patrols for returning Piping Plovers who show territorial behavior. Daily logs are mapped, and all activity is recorded including identifying possible breeding pairs, territorial behavior and predator activity.

The NRO and AESS are equipped with smart phones containing GPS programs as well as field notebooks to record daily monitoring observations and provide data for the Annual NHESP Census. NRO, AESS and HCP Monitors are provided with work trucks and utility vehicles.

4.1 Symbolic Fencing & Signage

Each year the Natural Resources Manager, Conservation Agent and Shorebird Specialist meet to review the symbolic fencing installed prior to April 1 and identify additional potential areas of plover and tern habitat. Fencing locations are examined and adjusted based on input from all parties. As indicated in the Beach Management Plans, Orleans has been following the criteria from the *Massachusetts Barrier Beach Guidelines* and the *State and Federal Guidelines for Managing Recreational Activities in Piping plover and Least tern Habitat*. Fencing is adjusted periodically to increase buffer zones to nesting plovers and terns.

By April 1, symbolic fencing is installed around the perimeter of all areas of suitable habitat for Piping

plover and Tern colonies. This includes both sides (east and west) of the barrier beach on the north side of Nauset Beach from the public beach north to the Nauset Spit for a total of 5 miles of symbolic fencing. On Nauset Beach South, there is symbolic fencing from the public beach south to the Chatham town line where suitable along the ocean side. The OSV corridor has symbolic fencing year-round from entrance to the Trail 1 Rotary for a total of 6 miles. Symbolical fencing continues south along the dune toe on the beach from Trail 1 rotary to Trail 6, a total of 4 miles.

Durable, bright yellow signs indicating nesting habitat as a "Restricted Area" are placed at frequent intervals along the symbolic fencing. The yellow "Area Closed: Threatened Birds Nesting" signs are attached to symbolic fencing by April 1 and removed at the conclusion of the shorebird season. "No dogs, No kites" signs are posted from April 1st through Labor Day.

Large educational posters, detailing nesting and breeding behaviors are secured year-round at the Nauset Beach South Trail OSV entrance and at the administration building for viewing. This outreach program educates user groups and beachgoers in the identification and protection of shorebirds. The signs contain images of the shorebirds and penalties for entering the restricted nesting habitat.

Fencing and signs are maintained by the NRO and Beach Rangers year-round and replaced following weather events where necessary.

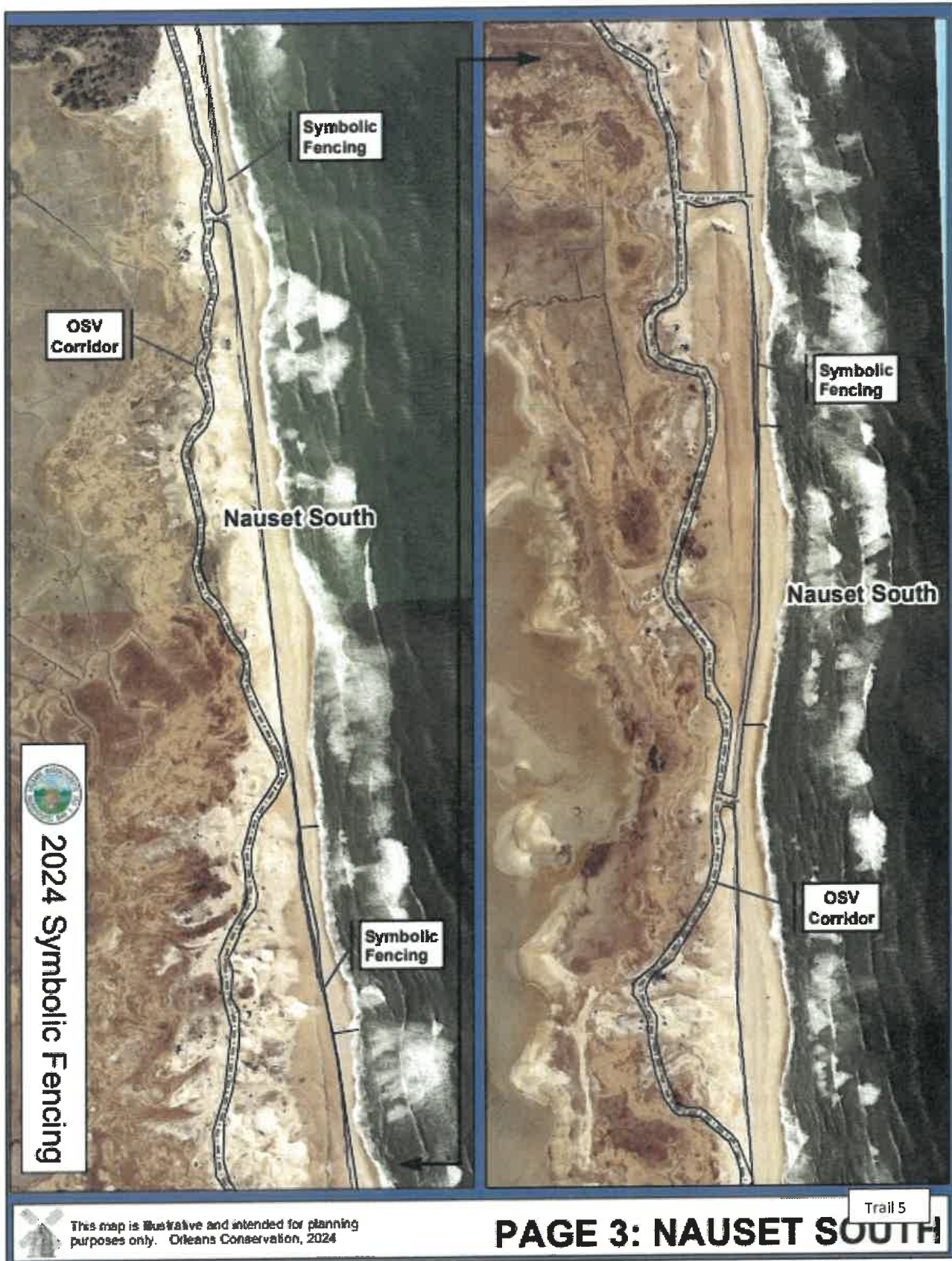
Perimeter Areas Symbolically Fenced on North Spit



Perimeter Areas Symbolically Fenced on Public Beach and Nauset Beach South



Perimeter Areas Symbolically Fenced on Nauset Beach South



4.2 Predator Controls and Exclosures

To better manage avian and mammal threats to Piping plovers the use of predator control exclosures are installed around active Piping plover nests to reduce impacts of predation and other factors limiting Piping plover productivity. The Towns predator control program is subject to a permit issued annually by MassWildlife.

The Standard type “A” exclosure is installed in accordance with the USFWS guidelines. Once a nest has been identified and the clutch reaches 3-4 eggs the NRO and AESS consult on whether the nest should or should not be exclosed before the fourth egg is laid.

The criteria for exclosing are based on accepted practices and experience with exclosures and are listed below:

- Tolerance to human activity
- Relationship of location to ongoing OSV corridors
- Consistent shared incubation
- Location of nest, i.e. on a dune slope or in the dune grass
- Is the exclosure creating risk of abandonment
- Historic or active predator activity
- Proximity to other ongoing recreational activities

Each circular exclosure is constructed of galvanized 2 inch by 4-inch wire mesh and installed 10 feet in diameter, with the nest located in the middle of the exclosure, and 48 inches tall.

Three to four shorebird monitors install the exclosure. Exclosure fencing is placed upright in a 6 to 12-inch-deep trench, dug around the 10-foot exclosure perimeter, and 7 five-foot tall wooden stakes are spaced equally around the perimeter to support the exclosure and the stakes are pounded into the sand. Sand is smoothed around the outside of the exclosure by hand to provide easy access for Piping plovers and to reduce accretion of windblown sand. The top of the stakes is pounded into the sand to the top of the wire mesh fencing to discourage perching by avian predators. Piping plovers are therefore able to walk through the mesh, but mammalian predators cannot enter. Bird control netting is placed atop the exclosure fencing to keep crows and other avians out of the exclosure.

The Town of Orleans will continue the non-lethal predator control program that was initiated in March 2015. A series of baited decoy electrified predator exclosures will continue to be deployed on the beach with the purpose of modifying the behavior of targeted smart predators. These decoy predator control exclosures are deployed in March. The decoy electrified exclosures are regularly baited with fish racks and monitored through August. The locations of the decoy electrified exclosures are changed periodically and predator behavior is tracked and recorded.

4.3 Seasonal OSV Use Closures

The Town of Orleans complies with the MA Wetlands Protection Act, MESA, and IAMP/COI, and the Town’s Conservation Orders of Conditions. During the breeding season, if there are more than eight unfledged Piping plover chicks (or two broods) remaining in a territory within the vicinity of the OSV Trail, the town restricts OSV use.

Consecutively since 2006, the Nauset South Trail has closed due to unfledged Piping Plover chicks in the vicinity of the oversand corridor. On average, Nauset Beach South closes for OSV use at the end of May or early June and typically the first three weeks in July.

2007 -2024 Nauset Spit OSV Closure

Year	Date of Closure	Date Re-Opened	Number of days closed
2007	June 6	August 11	66
2008	May 31	August 15	77
2009	May 30	August 16	77
2010	June 6	August 18	83
2011	May 31	August 15	77
2012	July 2	August 14	43
2013	May 26	August 15	91
2014	No Closure	-	0
2015	No Closure	-	0
2016	No Closure	-	0
2017	No Closure	-	0
2018	No Closure	-	0
2019	No Closure	-	0
2020	No Closure	-	0
2021	No Closure	-	0
2022	Sept 23 rd due to erosion	closed due to erosion	
2023	Closed due to erosion	June 15th	
2024	No Closure	-	0

2006 -2024 South Trail OSV Closure

Year	Date of Closure	Date Re-Opened	Number of days closed
2006	June 22	July 25	33
2007	June 22	August 1	40
2008	June 16	July 24	38
2009	May 30	August 4	66
2010	May 27	August 9	74
2011	June 3	August 5	69
2012	June 6	August 14	69
2013	June 3	August 23	81
2014	June 11	August 15	65
2015	June 4	July 26	53
2016	June 10	July 14	34
2017	June 6	July 15	39
2018	June 1	July 19	48
2019	May 31	July 23	54
2020	June 8	July 18	40
2021	June 3	July 30	57
2022	June 14	July 27	43
2023	May 31	July 24	55
2024	May 31	July 22	53

4.4 Monitoring and Data Collection

All monitoring associated with the shorebird monitoring program, the endangered species program, and the HCP Covered activity, including the daily shorebird monitoring log and data collection, is the responsibility of the NRO and the AESS, and reported weekly to the Natural Resources Manager.

Beginning mid-March, the first Piping plovers arrive to Nauset Beach. Data is imputed, on a hand-held unit in the field, into the ERSI Arc Collector. This technology of logging shorebird activity contains a narrative of observed Piping plover and Least tern activity, including movement, behavior, and trends. This information also contains specific dates on breeding pairs, egg counts, predator activity, and exclosure installation and removal dates.

Monitoring the population of Piping plovers and Least terns on Nauset Beach is the primary goal of the Shorebird Monitoring Program. Since 1998, shorebird monitoring on Nauset Beach has provided data to help manage and map the distribution of Piping plovers and Least tern. Based upon intensive monitoring of breeding pairs, the Town has been able to maintain a sustainable and successful reproductive rate for Piping plovers on Nauset Spit and Nauset Beach South.

In early June (usually June 1-June 9) the Town participates in the Massachusetts annual census period that estimates the Piping plover population on Nauset Beach. This provides the Town with a solid number for Nauset Spit and Nauset Beach South based on observed territoriality, pair longevity at a certain location, pair courtship habits, and nests counts. It also provides MassWildlife with a number to estimate statewide populations of Piping plovers.

The Least tern survey extends to mid-June (usually June 20) at which time the number of adults within or flying near the immediate vicinity of a colony is counted by the NRO and AESS. The NRO and AESS typically use the method of incubating adults for the census.

4.5 Compliance Monitoring and Frequency of Monitoring

In 2017, the Town of Orleans committed to hire a full-time Natural Resources Officer (NRO) to enforce beach rules and regulations year-round, the endangered species program, and the HCP.

Compliance monitoring is shouldered by the NRO and documented in the daily log. Nesting Piping plovers are identified and monitored throughout the nesting season by the NRO and AESS beginning the first week of April. All Piping plovers observed during the Annual Index Count (June 1-9) are submitted to MassWildlife on the Massachusetts Piping plover Census Form via internet and assists in documenting trends in abundance and distribution.

Predator management is also conducted by the NRO and AESS working in unison, to minimize impacts to Piping plovers. All temporary predator exclosures on Piping plover nests are installed by the NRO and AESS, and a third trained staff monitor. Exclosures are generally installed within eight minutes. Generally, the nesting Piping plover is disturbed less than 10 minutes before returning to incubate the eggs. Exclosures are not installed during inclement weather. Prior to installation, the NRO or AESS confirm that the nest is active and being incubated. After the exclosure is installed, staff remain on scene at a distance >150 ft. to confirm the pair resumes incubation immediately after being installed.

The Piping plover data collected throughout the shorebird monitoring season is submitted to MassWildlife in the Annual Statewide PIPL Census through the web-based portal "PIPLODES". The HCP Annual Report is to be sent to MassWildlife by October 15. During the HCP implementation, a weekly activity report is submitted to MassWildlife via online email and included in the HCP Annual Report.

Public outreach is conducted through a multi-media campaign, which includes regularly published articles in the local newspapers, and an active social media presence on Facebook and Instagram through the Natural Resources Department. OSV users receive an HCP user guide and are required to watch an instructional video on nesting and breeding habits of Piping plovers and Least terns as well as complete and sign the informative HCP packets, as well as answer a short quiz about the HCP (see **Appendix 6**).

Monitoring of Piping plovers and Least terns not associated with the covered activities begins when shorebirds start to arrive towards the end of March and wrap up the end of September. Monitoring patrols occur daily from dawn to dusk, seven days per week, by the NRO and AESS on Nauset Spit and Nauset Beach South, logging, mapping and collecting GPS coordinates of Piping plover and Least tern activity.

During the HCP, HCP Staff Monitoring occurs daily during the HCP implementation 7 days per week from 6:30 a.m. to 6:30 p.m. Monitors meet at the end and beginning of their shifts to discuss the daily observations and to share the most recent observations and activity. Daily observations are relayed to the NRO for data compiling.

HCP traffic monitors are assigned to track daily vehicles passing through the Self-Escort Zone from 8:00 a.m. to 6:00 p.m. during the three access / egress windows.

Example: HCP Schedule from 2024

		Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
		7/22	7/23	7/24	7/25	7/26	7/27	7/28
6:30-1:00	Escort Start	Emma	Phebe	Teo	Olivia	Emma	Tess S	Phebe
	Escort End	Tess S	Jessie	Emma	Tess T	Olivia	Phebe	
	Brood Monitor	Jessie	Emma	Sage	Tess S	Tess T	Sage	Tess S
	Buggy Booth	Zoe	Zoe	Tess T	Emma	Teo	Keegan	Sage
		Phebe	Tess S	Olivia	Sage	Zoe		
12:00-6:30	Escort Start	Teo	Tess T	Tess S	Sage	Teo	Sage	Tess S
	Escort End	Jessie	Sage	Jessie	Zoe	Tess T		
	Brood Monitor	Emma	Jessie	Zoe	Tess S	Jessie	Tess S	Sage
	Buggy Booth	Olivia	Teo	Sage	Phebe	Phebe	Keegan	Phebe
		Sage	Phebe	Olivia	Jessie	Keegan		

4.6 Data Reporting

The HCP Annual Report is submitted to MassWildlife by October 15 of each year.

Prior to the Annual Report, the Index Count is recorded June 1 – June 9 annually for Piping plovers and the Index Count for Least terns is recorded June 6 – June 20 annually. The Town submits the Index Count through an online census form in a timely manner.

Logs are maintained to document timing and frequency of activities such as installation of symbolic fencing, monitoring of plover activity, beach patrols, and enforcement of regulations. A nest data map is posted which shows all relevant dates including dates eggs appear, predation issues, nest failure, predicted hatch dates, and chick fledging rates. All PIPODES and TERNODES data is submitted on line by September 30th, as required.

Compliance Monitoring and Reporting Requirements

Annual Limit on Statewide Take exposure <i>The Town has requested two takes each year based upon broods in the vicinity of OSV use.</i>	Provide Piping plover census data including index and total counts in proper formats with maps <i>Each year, the Town submits index and total count to the Statewide data collection through the short forms on PIPODES and TERNODES for Piping plover and Least terns.</i> <i>The Diamondback terrapin finalized count, with google maps attached, is submitted to HERITAGE HUB / Statewide Habitat Conservation Plan Annual Report.</i>	Reporting to MassWildlife by Town of Orleans <i>June 1-June 9 survey Nauset Beach as part of the Annual STATE CENSUS for Piping plovers, Least terns, and Oystercatchers. Submitted Census Short Form by late-July to MassWildlife</i> <i>PIPODES and TERNODES submitted by September 30</i> <i>Reported Diamond-backed terrapin observations through HERITAGE HUB by October 15</i> <i>HCP ANNUAL REPORT is provided to MassWildlife by October 15</i> <i>REQUEST FOR CERTIFICATE OF INCLUSION TO THE PIPING PLOVER HABITAT CONSERVATION PLAN</i>
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<p><u>Element Tracked:</u> Compliance with the Guidelines</p> <p><u>Monitoring Objective:</u> Avoid and minimize impacts/take associated with the implementation of routine recreational beach uses and operations</p>	<p><i>The Town of Orleans maintains logs to document timing and frequency of activities such as installation of symbolic fencing (Installed by April 1), monitoring of plover activity (March 1-Oct 15), beach patrols (May 20-Oct 15), enforcement of ordinances such as leash rules (April 1-Labor Day), timely total beach closures due to OSV use in the Vicinity of Unfledged chicks (Nauset Beach South Closures begin end of May and open early August. North Spit limits OSV use).</i></p> <p><i>Shorebird Monitors / Endangered Species Monitors arrive for intensive training July 1.</i></p>	<p><i>Beach Rangers patrol and enforce the Nauset Beach Rules and Regulations in conjunction with applicable Federal and State laws and regulations, town by-laws, town rules and regulations and fire regulations. (Appendices 5)</i></p> <p><i>The Town of Orleans Shorebird Monitoring Season starts mid-February and continues to October 15. All management activities are logged in the log sheet (Appendix 4) or in ERSI Arc Collector (Appendix 3)</i></p>
<p>Compliance with impact minimization protocols</p> <p>Avoid and minimize impacts/take associated with implementation of covered activities</p>	<p><i>During HCP Implementation, staff monitors maintain customized, daily, site-specific implementation logs as described in the site-specific IAMP (e.g., to document staffing, frequency of brood monitoring, compliance with OSV escorting procedures).</i></p> <p><i>The Natural Resources Manager notifies MassWildlife at least 24 hours in advance of initiation of any covered activity and self-escort windows.</i></p> <p><i>Notify MassWildlife 24 prior to initiating covered activity and open self-escort zone windows of access.</i></p>	<p><i>During HCP Implementation, the self-escort zone is staffed each day, 6:30am-6.30pm</i></p> <p><i>HCP Brood Monitoring: 6:30am-6:30pm, two bird monitors</i></p> <p><i>Traffic Monitoring: 7:00am – 6:30pm, one traffic monitor staffs the Buggy Booth to log OSV activity on and off. Two traffic monitors staff the Self-Escort Zone and Corridor, one at the start, the other at the end, and log OSV passing through the Self-Escort Zone.</i></p>

Compliance with mitigation requirements	<i>Off-site mitigation funds are deposited into escrow account prior to February 15 annually.</i>	<i>Breeding pairs within site distribution are monitored and recorded in the ERSI Arc Collector, as well as paper datasheets. (Appendix 4)</i>
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5.0 Covered Activities

Monitoring Piping plovers, Least terns, Diamondback terrapins, and other State-listed species of special concern on Nauset Beach is a multifaceted stewardship effort that includes providing a balanced management strategy with a wide variety of recreational opportunities to the public, ensuring endangered species protection, and providing public outreach and environmental conservation education.

Minimization measures start before OSV users even get on the OSV Trail. Applicants for an OSV permit follow steps one (1) through ten (10) to be eligible for an OSV sticker. Once you have read, printed, signed and watched the required documents/videos, you may apply for a sticker. Applications are only required to be filled out for applicants who mail-in their sticker. Applicants who come in-person, or need to be inspected prior, may fill out an application at the sticker office.

1. **OSV Mail-In Program Requirements** (*you must read this entire document before continuing*)
2. **Sticker Eligibility Requirements** (*for residents/Orleans tenants only*)
3. **Habitat Conservation Plan OSV User Guide** (print, read, sign and keep in vehicle) (**Appendix 6**)
4. **OSV Rules & Regulations** (print, read and keep in vehicle) (**Appendix 5**)
5. **Watch the OSV Movie** (you are required to watch before registering vehicle)
6. **Watch the HCP Movie** (you are required to watch before registering vehicle)
7. **Complete and pass the HCP quiz** (last page of the HCP packet) (**Appendix 6**)
8. **Over Sand Sticker Fees and Information** (review document to verify cost, requirements, etc)
9. **Required Tire Sizes** (verify your vehicle meets tire size requirements)
10. **Over Sand Mail-In Application Form** (mail-in only, in person- fill out at the sticker office)
11. **Sign Up for E-Alerts!** (Sign up for OSV Updates regarding closures, capacity, etc)

The mandatory video on the HCP protocols is also documented, known as the HCP packet. The packet is required to be signed and kept in the OSV vehicle. The only difference between the video and the packet is that the HCP packets contain a short quiz at the end of the document. The questions are all answered in the video as well (**Appendix 6**).

5.1 HCP Covered Activities

The Town of Orleans is requesting a renewal of the 2022 Certificate of Inclusion for Nauset Beach as part of the Town's application to participate in the Statewide Piping plover Habitat Conservation Plan. These covered activities are applied to Piping plovers as well as Least terns.

1. OSV Use in the Vicinity of Unfledged Piping Plover Chicks
2. OSV Use in the Vicinity of Least Terns

Should the take exposure rise above the 15% maximum ratio (nests to HCP broods) prescribed in the HCP, or should the population decline to <14 pairs, the Town is aware that MassWildlife may require the number of take exposures in the subsequent beach season to be reduced to one, during the three-year COI term, as set forth in the HCP. All other management will be implemented in accordance with state and federal guidelines.

Additionally, The Town of Orleans is requesting a three-year COI for the ability to escort vehicles in the vicinity of Least tern chicks and nesting Diamondback Terrapins. Least terns are listed as a species of Special Concern in Massachusetts.

Female Diamondback Terrapins are present during their nesting season in June and early July during. Unlike most turtles, terrapins nest during the day and night. Because small numbers of Diamondback Terrapins cross the OSV corridor to nest, there is some risk of adult and hatchling mortality as individual turtles cross the OSV corridor. Therefore, the Town's program of daily terrapin monitoring during nesting season, protects crossing adults and protects and relocates nests from OSV and predators.

5.2 Impact Avoidance and Minimization Plan

The HCP Monitoring Protocols as described in this document will be utilized to cover the use of OSVs in the presence of unfledged chicks for one or two of the authorized incidentals take exposures.

Impact minimization measures will limit the number of takes by reducing exposure of adults and chicks to vehicles traveling on Nauset Spit or Nauset Beach South.

A. OSV Use in the Vicinity of Unfledged Piping plover Chicks.

The Orleans IAMP covers the following elements, as described in the statewide HCP:

1. Beginning July 1, annually, shorebird staff start their training for shorebird monitoring and the self-escorting program.
2. Delineate and symbolically fence 15-foot-wide self-escort travel corridor.
3. Travel restrictions were posted for access/egress. The access windows are as follows:
8am-10am / 12pm-2pm / 4pm-6pm.
4. The maximum number of OSV passes in the vicinity of the two broods of Piping Plover chicks is 360 passes per day during the HCP.
5. Traffic monitors were positioned at both the start and end points of the self-escort zones, and these points were clearly delineated by signage.
6. Intensive brood monitoring of the HCP PIPL chicks was performed during vehicle passage.
7. Mandatory OSV operator education at OSV sticker purchase and at the OSV corridor gate.
8. OSV ruts smoothed in escort zones at the end of day.

The number of vehicles allowed to pass Piping plover chicks is no more than 180 per day to reduce the likelihood of a take by ensuring a manageable number of vehicles that may be self-escorted during the time allotted for beach access. To further reduce the likelihood of a take through harm, harassment or mortality of recently hatched chicks, escorting will be initiated past a brood no sooner than 24 hours after all chicks have hatched.

B. HCP Monitors

The Town of Orleans employs up to 12 HCP Seasonal Shorebird Monitors that are responsible for the same tasks of an Endangered Species Shorebird Specialist. The NRO is responsible for training the HCP shorebird monitors in locating the Piping plovers and identifying their nests and brood locations.

12 HCP monitors are hired and trained beginning on July 1st. Training occurs for a period of approximately 2 weeks and focuses on procedures to protect Piping plover, least tern, and Diamondback terrapins. Multiple impact avoidance and minimization measures including but not limited to enhanced monitoring broods and unfledged chicks during the HCP implementation, especially during limited OSV travel windows, monitoring OSV traffic passes during the self-escort windows, speed limits and public outreach education. Monitors demonstrate that they can locate chicks, assess age, and track the brood's movement, from a distance, without interfering with the chick's natural behavior. Monitors are also trained in the HCP Procedures and Conditions enabling them to effectively provide outreach education to beachgoers, be aware of beach violations and conscious of OSV permit holders. HCP monitors report to the NRO and AESS.

Monitors are equipped with hand-held radios for communications with the NRO. Orleans provides all necessary equipment including binoculars, daily traffic and monitoring log sheets, rain gear, and transportation. If it is decided that an incidental take will be applied to one or more broods, then HCP staff will begin HCP self-escort monitoring 24 hours after the last egg has hatched from the specified brood.

HCP monitors are assigned schedules and the daily HCP monitoring shifts are divided into a morning shift from 6:30 a.m. – 1:00 p.m. and an afternoon shift from 12:30 p.m. – 6:30 p.m. A minimum of four HCP monitors are staffed for each shift depending on the number of broods involved. (1) One monitor is responsible for keeping visual contact with each brood; (2) one or two monitors is responsible for logging OSV use within the self-escort corridor during HCP implementation and is positioned at one end of the self-escort zone; and (3) one monitor is staffed at the other end of the self-escort zone. The remaining HCP monitor, as well as the NRO and AESS are positioned where necessary. All monitors will be responsible for assisting in locating the chicks prior to opening the Self-Escort Corridor during the specified access and egress windows.

Nauset Beach Rangers will be on duty from 7:30 a.m. – 11:00 p.m. daily during the HCP self-escort program. The gate attendant staffed in the Buggy Booth at the entrance gate is responsible for ensuring that all OSVs participating in the HCP are in possession of a signed copy (by the operator) of the HCP Procedures and Conditions and that they are fully aware of the protocols. To ensure accuracy, the gate attendant is also responsible for recording the OSV activity (# of passes) in the Buggy Booth daily log.

Signage reiterating the HCP Procedures and Conditions are displayed at the gate. Once the brood monitor has confirmed the corridor is clear prior to the scheduled self-escort windows, the NRO is also responsible for recording the OSV activity (# of passes) in the Buggy Booth daily log.

The Nauset Beach Ranger is responsible for clearing the beach of vehicles by 6:00 p.m. and raking the

ruts with a beach drag at the end of the afternoon egress window. Unfledged chicks are located and monitored during rut smoothing.

C. Vehicle Self-Escort Program

The Town of Orleans vehicle escort protocol is administered by the Orleans Natural Resources Manager and the NRO. The protocol is as follows:

Start date: No Specific Start Date annually; Natural Resources Manager notifies MassWildlife at least 24 hours in advance of initiating the program.

Frequency: Three times daily (times may be flexible within one hour based on weather and chick locations)

Morning Session: 08:00 – 10:00

Mid-Day Session: 12:00 noon - 2:00 p.m.

Afternoon Session: 16:00 – 18:00

Upon written notice to MassWildlife, the Town may change the designated travel times if they total no more than six hours in up to three travel windows during daylight hours.

Number of vehicles: 180 self-escorted vehicles for a maximum of 360 vehicles passes per day.

2017-2024 Vehicle Passes through the HCP Self-Escort Zone

Year	Dates of HCP Self-Escort	Total Days	Total Passes
2016	July 14 – August 2, 2016	20 Days	1,911
2017	July 15 – August 1, 2017	18 Days	1,360
2018	July 19 – August 4, 2018	17 Days	1,864
2019	July 24 – August 8, 2019	16 Days	2,362
2020	July 18 – July 26, 2020	9 Days	1,775
2021	No HCP Implementation	0 Days	0
2022	July 27-August 11, 2022	16 days	3,740
2023	No HCP Implementation	0 days	0
2024	Jul 22 nd – July 31st, 2024	10 days	1,476

D. Self-Escort OSV Corridor Dimensions and Locations

The specific location of the Self-Escort OSV Corridor is intended to be adaptive and variable to reflect the location of the brood(s). The Self-Escort OSV Corridor may shift north or south along the identified route depending on Piping plover locations and/or movements. The Self-Escort OSV Corridor(s) will not exceed 4,000 feet in length and 15 feet in width (for vehicle traffic), with occasional turnouts for two-way traffic for a total impact area of approximately 60,000 square feet or 1.38 acres. Additionally, 200 feet laterally on either side of the OSV sand trail will be included in the corridor as the escort zone for Piping plover chicks. If plover chicks are within this 200-foot of the OSV trail, self-escorting will be implemented.

The Self-Escort Corridor will not be moved laterally and is clearly marked at the beginning and termination points and has a 15-foot travel width delineated with wooden stakes. Updated corridor boundaries shall be reported daily to the Natural Resources Manager by the NRO, and that information is passed along to the Beach staff prior to commencement of vehicle access.

5.3 Self-Escorting Procedures

A. *Procedures for Self-Escorting*

1. A pre-determined area of the Nauset Public Beach parking lot, or other area free of protected species, will be identified for staging of OSVs.
2. At least 1 hour prior to commencement of vehicle escorts, the shorebird monitors will proceed along the designated vehicle route and surrounding area to determine locations of the exposed Piping plover chicks. A shorebird monitor will be responsible for monitoring the location of one brood. Once the shorebird monitor has established the locations of chicks, they will notify the NRO of the brood location. At this time, personnel at the entrance booth, as well as the traffic monitor will be notified that the Self-Escort Zone is open for travel. If all chicks are not located, opening the OSV trail will be delayed until such time that all chicks are accounted for, or it has been determined by the shorebird monitors that there are no chicks in the OSV trail. The shorebird monitors will communicate their determination to the NRO for confirmation to open the trail. The self-escort duration of two hours will be implemented per the HCP protocols.
3. Prior to opening the OSV trail, the vehicle monitor will contact the shorebird monitor(s) to confirm that the locations of all chicks are still being monitored, that all chicks are accounted for, and/or it is safe for the trail to open. During the two-hour self-escort period, monitor(s) shall maintain constant visual on any plover chicks using binoculars from a safe distance. Disturbance, if any, of the chicks shall be minimized. Once vehicles have passed through the Self-Escort Zone, OSVs may proceed to use the sections of beach previously determined to be free of unfledged shorebirds, in accordance with state and federal guidelines.
4. Each vehicle must have at least one passenger 16 years of age or older to walk approximately 10 feet in front of the vehicle in the self-escort corridor. The escort will look for chicks in the road and stop the vehicle if either a chick is observed or one of the monitors (shorebird or vehicle monitor) requires the vehicle to stop. All self- escorted vehicles must maintain a safe distance of at least 15 feet from the vehicle in front.
5. If the exposed HCP plover chicks are accounted for and actively being monitored by shorebird monitors more than 200 feet laterally from the OSV corridor, then self-escorting will not be required. Instead, a 5mph slow zone will be strictly enforced through the designated escort area by HCP staff, known as the 'compliance monitors.' The compliance monitors will be in radio communication with staff monitoring the HCP chicks. If the staff monitoring the HCP chicks observes one or more chicks enter within 200 feet of the OSV corridor, they will immediately radio the compliance monitors stationed at the corridor. The compliance monitor's responsibility will be to halt traffic and commence self-escorting immediately and remain at the start and stop of the established self-escort zone.
6. In order to avoid adverse effects to the habitat and allow unimpeded chick passage across the OSV corridor when vehicles are not present, the vehicle "ruts" will be raked at the end of the afternoon self-escort period. Mechanized raking will be utilized only with a trained observer walking in front of the vehicle to search for chicks.
7. If at any time during the escorting process, the shorebird monitor loses visual contact with one or more chicks, the vehicles will be allowed to continue their way and the period between the self-escort time frame (or after the afternoon session) will be used to determine the

presence of the chick(s) in the area or absence of chicks in the corridor. Shorebird monitors will document in the daily report the approximate time that visual contact with the chick(s) was lost, and efforts made to relocate it.

8. The Natural Resources Manager, NRO, AESS, and each shorebird monitor will have the independent authority to temporarily close the trail at any time for any reason.

B. Procedures for Escorting Past Two Broods

The following procedures are in addition to applicable actions outlined under Basic Procedures for Escorting Past One Brood (see above):

1. Two broods in proximity (<1,200 feet apart): Only one segment of the OSV trail will require self-escorting due to the proximity of the two broods and a single vehicle monitor will ensure compliance. Two shorebird monitors will be deployed to monitor the chicks: one for each brood. The corridor in front of the broods will have beginning and end points clearly marked for self-escorting and the monitors will follow each brood. The shorebird monitors and vehicle monitor will be in close communication to ensure that chicks are not moving towards the OSV trail.

2. Two broods are more than 1,200 feet apart: Two segments of the OSV trail will require self-escorting. In this case, a second vehicle monitor will be assigned to monitor escorting compliance. Both sections will have beginning and end points clearly marked to delineate the separate self-escort corridors. Beginning and end points of the self-escort corridor may be moved in response to linear chick movements (information provided by the shorebird monitors). Two shorebird monitors are deployed to monitor the broods: one monitor per brood.

If a contingency plan is necessary, two shorebird monitors (i.e., one monitor per brood) will locate and observe chicks prior to and during the self-escort periods. A minimum of one vehicle monitor will oversee the self-escort corridor to ensure compliance by the self-escorted vehicles. Should two self-escort corridors be required (see above) then a second vehicle monitor will be required.

C. Caravans

The Town reserves the right to substitute escorted caravans for self-escorting as described in the HCP. Under this scenario, groups of up to 50 OSVs would stage in the parking lot or other areas free of unfledged chicks and protected species. Once the caravan reaches the area where unfledged chicks are present and escorting is required, a trained and qualified shorebird monitor would lead the caravan through the escort area either on foot or in an open top OSV. All other requirements including but not limited to brood monitors, compliance monitors, and speed limits would remain in place as described in the self-escorting protocols.

D. Inclement weather

The Natural Resources Manager and NRO will monitor weather forecasts daily. If a storm warning is predicted by the National Weather Service, or any other weather warning that could jeopardize public safety within a 24-hour period, the OSV trail shall be closed for the duration of the hazard, or the start time may be moved one hour later or earlier. The OSV trail may not reopen until the NRO has given it all clear. It shall be presented in writing prior to purchasing an OSV sticker that all users shall use the beach at their own risk. Exiting escorts will not take place due to unpredicted weather. OSV sticker holders shall be informed in writing that a "shelter in place" policy will go into effect until the inclement weather has passed, or scheduled exiting escorts have begun.

E. Medical or family emergencies

OSV sticker holders shall be advised verbally and in writing at the time of OSV sticker application, via affidavit, that egress from the beach outside of the self-escort windows shall be strictly prohibited (see permit Rules and Regulations for information to report an emergency). In the event of a life-threatening medical emergency, the staff of the Nauset Beach Administration Building and/or emergency responders should be notified. The NRO, AESS or Beach Patrol will assist in escorting the vehicle off the beach.

Any violations of the protocol will not be tolerated. A zero-based tolerance policy will be fully enforced. Monitors and Beach Rangers will be in constant contact to ensure enforcement. Beach Rangers will be authorized to revoke OSV stickers and eject the violators from the beach immediately. Violators of the escort protocols shall be subject to OSV sticker revocation and shall have their rights to operate an OSV on Nauset Beach suspended immediately for a period of one year from the date of the violation.

F. Escorting Program Reporting

Chick numbers, chick locations, and travel corridor locations/dimensions shall be provided to the Natural Resources Manager by the NRO daily, prior to commencing OSV escorts. As required by the HCP, a daily implementation log will be kept to document staffing, frequency of brood monitoring, and compliance with OSV escorting procedures, and will be made available to MassWildlife upon request. Any violations, incidents or accidents associated with the vehicle escort program, including take of a chick(s) shall be immediately reported to MassWildlife and USFWS staff. In the event of an alleged incident related to the escort program, the Natural Resources Manager, NRO or AESS, in coordination with a shorebird monitor shall cooperate with and assist Town, State and Federal officials with the investigation of the incident. Depending on the nature of the incident, the Town of Orleans, MassWildlife and USFWS reserve the right to suspend all vehicle escorts for such time as they deem appropriate.

Every week, a summary report will be submitted to MassWildlife. The report will include; (1) daily vehicle trip count (distinguishing counts for self-escorts versus caravans); (2) for each affected brood, daily observations of chick numbers and behavior including a daily sketch map of the observed range of the brood on the beach; (3) weekly tally and description of any rules violations and enforcement actions taken; (4) weekly tally and description of all observations of broods crossing or approaching <100 feet from the vehicle corridor; both during the OSV travel windows and any other such observations during routine monitoring; (5) any other notes, observations, or recommendations relevant to operating the escorting program.

By October 15th of each calendar year, the Town of Orleans will submit an escort monitoring report to MassWildlife describing at minimum, estimated age of chicks in each brood when self-escorting was initiated. Fledging success, escorting dates, number of broods, number of chicks present during self-escorting on each date, estimated daily chick survival based on daily brood counts, number of vehicle passages, and any documented "take" of chicks resulting from the vehicle escorting program shall be included in this report. The report will also contain recommendations for improving the efficiency and or effectiveness of the escorting program in the future.

5.4 OSV Use in the Vicinity of Least Tern Chicks

The Town of Orleans will include the same protective elements for Least tern chicks as it does for Piping plovers. Based on past years' shorebird monitoring it is anticipated that OSV use in the vicinity of unfledged Least tern chicks will be limited to a subsection of the Pochet Overwash, the same section of

beach where escorting past unfledged Piping plover chicks is likely to occur. Because Pochet Overwash is very wide and the bulk of the Least tern nesting activity is located along the east (seaward) section of the overwash, it may be possible to reroute the OSV corridor to the west, subject to MassWildlife and Conservation Commission approval, thereby minimizing risk to Least tern chicks. Historically, least tern colonies are separated from the OSV corridor by an expansive dune system, and will not be exposed to potential take, as per the State Guidelines. Regardless of location, in no event will >20 unfledged Least tern Chicks be exposed to OSV traffic. Again, based on past Least tern nest locations and nesting phenology, the actual number of tern chicks to be exposed is likely to be considerably <20.

A. *Impact Avoidance and Minimization Measures for Least terns*

1. Monitoring of colony sizes and chick exposure – Because Least tern chicks spend much time hiding in vegetation or other cover, and are fed by parents, they are much more difficult to count than Piping plover chicks. In order to estimate the number of chicks exposed to OSVs, the following procedures will be followed. In addition to obtaining an estimate, the amount of mitigation to be provided will be sufficient to mitigate the exposure of 20 unfledged Least tern chicks, a conservative assumption to address potential undercounting (see mitigation section, below). First, shorebird monitors will obtain at least two independent nest/chick counts by HCP monitors in the five days prior to the anticipated start of the escorting program including one count with 24 hours of the start date. Estimates of number of active nests and chicks will be obtained for all sections of beach located within 200 feet of the anticipated escorted OSV corridor. The bulk of the counting and sketch mapping of nest and chick locations will be conducted from a distance with binoculars to minimize disturbance, using standard procedures to observe incubation, eggs, chicks, and (inferred) chick provisioning. In some cases, it may be necessary to enter the colony to confirm the presence of nests. Sketch maps will include key landmarks (i.e. fence post numbers or distinctive beach debris) to aid in recounting. Detailed notes will be kept on all counts including, date, time begun, time ended, personnel, whether each nest/chick was confirmed or inferred to be present and the basis of the inference. The maximum 15-foot-wide travel corridor will be delineated with fencing and “no parking” areas will be delineated on the beachfront to prohibit parking within 200 feet of unfledged chicks.
2. Travel restricted to 6 hours/day; at preset times of day; daylight hours.
3. Monitoring of chicks during vehicle passage – One hour prior to the start of each daily OSV travel window, HCP Shorebird Monitors will locate unfledged Least tern chicks. The search will be monitored by the NRO, or if carried out by the AESS, information about chick locations will be conveyed to the NRO prior to the start of the escorting period.
4. Staff training, enforcement, and communication protocols as described above.
5. Mandatory OSV operator education as described above.
6. Vehicle ruts will be smoothed out at least once/day when young chicks (estimated <10 days old) are present as described above.

The Town of Orleans will notify Masswildlife at least 24 hours prior to carrying out the covered activity affecting Least terns and will include a map and estimate of the length of the escort travel corridor as it affects unfledged Least terns. Should the distribution of Least tern chicks lead to changes in corridor length and location, MassWildlife will be provided with updated maps and length calculations as quickly as possible, and no more than 24 hours after adjustments are made. In no event shall more than 20 unfledged chicks be exposed to escorted OSVs, cumulatively across the site.

Detailed reporting on the Least tern escorting program, and distribution, exposure, and impacts to unfledged Least tern chicks will be included in the annual report to be provided to MassWildlife by October 15.

5.5 OSV Use in the Vicinity of Nesting Diamondback Terrapins

Diamondback Terrapins nest within the dunes of Nauset Beach, particularly in a section known as Riley Wash. As described above Terrapin's nest predominantly in June and July. Nesting females may face some exposure to OSV traffic on the OSV corridor, but the corridor is likely to remain closed for a significant portion of the turtle nesting season for the foreseeable future due to restrictions to protect unfledged Piping plover and Least tern chicks in Pochet Over-wash. However, the corridor may still be used by essential vehicles when closed to recreational OSVs. To the extent that the corridor is open early or late in the Terrapin nesting season prior to Piping plover and Least tern nest hatching or after most Piping plover and Least tern breeding is completed there is some risk to nesting Terrapins. In addition, without protective measures there is some risk of hatchling mortality in the late summer and early fall as hatchlings emerge from nests and head to Pleasant Bay.

The Town of Orleans will include the following protective elements for nesting Diamondback Terrapins. Beginning the last week of May through July, the area immediately adjacent to the OSV corridor will be checked on foot at least once daily by trained personnel to check for turtle tracks. During periods of peak nesting activity as determined by onsite track activity and consultation with experts at Mass Audubon, every effort will be made to increase searches to twice daily. The timing and frequency of the track and nest surveys will be adjusted on an annual basis. Tracks will be used by qualified personnel approved in writing in advance by MassWildlife to locate and protect nests from predators (part of the net benefit mitigation strategy). At times when the corridor is open to OSV traffic (including essential vehicles), standard tracking techniques will be used to determine if one or more females are located near (and east of) the travel corridor.

To the extent that adult turtles are present, temporary turtle crossing signs will be placed on appropriate sections of the OSV corridor and vehicle operators will be advised of the situation at the gatehouse. Vehicle operators will also be requested to immediately report any turtle observations to the beach staff. Based on ongoing consultation with MassWildlife, Mass Audubon, nests will either be caged on-site or moved and protected elsewhere. Hatchlings will be collected from caged nests following standard protocols to ensure their safety and released into Pleasant Bay. Detailed information about the Terrapin Protection program will be provided in the October 15 annual report.

6.0 Effectiveness Monitoring

In the chain of command, the Natural Resources Manager oversees HCP Implementation and is assisted by the NRO, combining both to be responsible for adequate monitoring coverage, submits State census forms, collects, compiles, and verifies the data and provides technical assistance.

The cumulative efforts of all involved in the development of the HCP program has helped the Town of Orleans manage a shorebird monitoring program based upon Federal and Statewide recovery goals for Piping plovers. The Town participates in the recovery of the Piping plover population by gathering quantitative census data and implementing a variety of protection measures that fosters an increase in yearly reproduction trends.

Effectiveness Monitoring and Reporting Requirements

Ensure that mitigation measures are effective and consistent with achieving biological objective	<i>Off-site mitigation funds are deposited into escrow account prior to February 15 annually.</i>	<i>Breeding pairs within site distribution are monitored and recorded in the ERSI Arc Collector, as well as paper datasheets.</i>
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7.0 Mitigation

Each February the Town provides \$11,600.00 for funding for off-site educational outreach, increased law enforcement and selective predator management to be administered by MASSWILDLIFE. As specified in the HCP, the Town provided \$5,800 per year for each Piping plover brood, nest or territory exposed to covered activities. A maximum of two exposures are permitted per year. Because the funds will be used by MassWildlife to benefit both Piping plovers and Least terns at sites where the two species coexist, no additional payments will be necessary for Least tern mitigation. In the unlikely event that only Least terns and no Piping plovers are exposed to covered activities, the Town will still provide \$5,800 to mitigate impacts to Least tern. These funds will be sufficient to achieve the 2.5:1 mitigation ratio for both Piping plovers and Least terns as described in the HCP. Prior to carrying out covered activities during a given beach season; during the three-year COI term, the Town will deposit mitigation funds into an escrow account of off-site management to benefit the Piping plover recovery at off-site locations. As the Town has done for the last two years, the \$11,600.00 off-site mitigation funds are placed in an escrow account and MassWildlife NHESP determine how the funds will be applied (based upon MassWildlife criteria) at other beaches in Massachusetts, thus benefiting the statewide population of Piping plovers and contributes to increasing productivity at one or more Piping plover breeding sites in Massachusetts, through funding of off-site mitigation conservation measures. This conservation fund is managed by the Massachusetts Division of Fisheries and Wildlife (MassWildlife) to increase productivity on State beaches through selective predator management.

The Town of Orleans is proposing to provide funding for two “takes” to NHESP to implement predator management, educational outreach and increased law enforcement off site, as described in the HCP. To fund the mitigation, in advance of carrying out covered activities, the Town will establish an escrow agreement. Prior to the implementation of covered activities in any given year, the Town will deposit \$11,600 into said escrow account in accordance with the schedule set forth in the Escrow agreement.

8.0 Budget

The HCP program is self-funded by a surcharge from the sale of OSV stickers. The approved annual budget covering all management and staff associated with implementation of the IAMP is detailed below.

Funding sufficient to execute the remainder of the HCP program through each season is approved at the Annual Town Meeting held in the Spring annually, for the purpose of the funding the implementation costs including all expenses incidental and related to the HCP.

In the Appendix is a certified copy of the most recent Town Meeting Warrant and a breakdown of the

Beaches operating budget.

Estimated Costs for Implementing HCP

Estimated Costs for Implementing HCP	
ITEM	COST
Vehicle Monitors	\$12,096
HCP Monitors	\$15,552
Public Education Program	\$1,000
Uniforms	\$975
Off-site Mitigation (2 takes)	\$11,600
MESA & Conservation Mgmt Plan Fee (1 time fee)	\$900
TOTAL	\$43,023

Appendices

- Appendix 1 Town of Orleans, Certificate of Inclusion, February 2022**
- Appendix 2 MESA Conservation and Management Permit, February 2022**
- Appendix 3 ERSI ARC GEODATABASE COLLECTOR**
- Appendix 4 Datasheets to Document Events**
- Appendix 5 Nauset Beach Rules and Regulations for OSV**
- Appendix 6 Town of Orleans OSV HCP User Guide and Procedures**
- Appendix 7 Town of Orleans and Chatham Beach Agreement**
- Appendix 8 Mitigation Escrow Agreement Orleans**
- Appendix 9 Proof of Ownership: Assessor's Map of Nauset Beach Parcels**
- Appendix 10 Budget Assistance Documentation**

Appendix 1 Nauset Beach, Town of Orleans, Certificate of Inclusion 2022



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6300 | f: (508) 389-7890
[MASS.GOV/MASSWILDLIFE](https://www.mass.gov/masswildlife)

1 MA ENDANGERED SPECIES ACT (G.L. c.131A) CONSERVATION AND MANAGEMENT PERMIT

DATE	February 24, 2022
CONSERVATION PERMIT No.:	022-391.DFW
NHESP FILE NO.	16-35397
PERMIT HOLDER	Town of Orleans 19 School Road Orleans MA 02653
PROJECT	Inclusion in the Massachusetts Habitat Conservation Plan for Piping Plover on Nauset Beach, Orleans

1.1 A. Permit Authority

Pursuant to the authority granted in the Massachusetts Endangered Species Act ("MESA") (G.L. c. 131A) and its implementing regulations (321 CMR 10.23), the Director of the Massachusetts Division of Fisheries & Wildlife (the "Division") hereby issues a Conservation and Management Permit (the "Permit") to the Town of Orleans (the "Permit Holder"). This Permit and the associated Town of Orleans Certificate of Inclusion (the "COI") in the Final Massachusetts Division of Fisheries & Wildlife Habitat Conservation Plan (HCP) for Piping Plover, dated February 24, 2022, issued in accordance with the Incidental Take Permit (ITP) No. TE01281C-0 for Piping Plover,

dated July 8, 2016, authorize the Take of the Piping Plover (*Charadrius melodus*), which is State-listed as “Threatened” pursuant to the MESA and federally listed as “Threatened” pursuant to the U.S. Endangered Species Act (ESA), Least Tern (*Sternula antillarum*), which is State-listed as “Special Concern” pursuant to the MESA, and Diamond-backed Terrapin (*Malaclemys terrapin*), which is State-listed as “Threatened” pursuant to the MESA, arising out of the

Covered Activity(ies) (“Activities”) detailed below and more particularly described in the documents referenced herein at Nauset Beach, Orleans, Massachusetts (the “Property”).

1.2 B. Description of Take

The HCP and ITP authorize specific Covered Activities, which are actions that have the potential to result in Take of Piping Plovers and state-listed species of terns as well as their habitats. The Activities may reduce availability of or access to nesting, foraging, loafing and refuge habitats and expose Plovers and Terns to increased disturbance and mortality risk (collectively, Take exposures). In this case, the Activities will result in up to 2 Take exposures for Piping Plover, 20 Take exposures for Least Tern, and a heightened risk of mortality for Diamond-backed Terrapin from oversand vehicle use.

1.2.1

PERMITTED ACTIVITIES FOR PIPING PLOVER

	Covered Activity			
	<i>Use of roads and parking lots in the vicinity of unfledged chicks</i>	<i>Recreation and beach operations</i>	<i>Oversand vehicle use in vicinity of unfledged chicks</i>	<i>Total*</i>
<i>Max. no. permitted take exposures*</i>			2 broods	2 broods
<u><i>Specific activities permitted: (marked with "X")</i></u>				

· Reduced proactive symbolic fencing				
· Reduced fencing around the nest				
· Beach raking				
· Chick herding				
· Nest moving				
· Other				
Max. permitted acreage to be affected				1.44 ac, inclusive of Least Tern, Diamond-backed Terrapin

* As beach operators may not be able to predict precisely which combination of Covered Activities may be carried out in a given year, a range of values for *No. requested take exposures* may be stated for individual Covered Activities; however, the *Total* is a not-to-exceed value.

1.2.2

PERMITTED ACTIVITIES FOR LEAST TERN

	Covered Activity			
	<i>Use of roads and parking lots in the vicinity of unfledged chicks</i>	<i>Recreation and beach operations</i>	<i>Oversand vehicle use in vicinity of unfledged chicks</i>	<i>Total*</i>
<i>Max. no. permitted take exposures*</i>			20 chicks	20 chicks
<u><i>Specific activities permitted: (marked with "X")</i></u>				
· Reduced proactive symbolic fencing				
· Reduced fencing around the nest				
· Beach raking				
· Chick herding				
· Nest moving				

· Other				
Max. permitted acreage to be affected				1.44 ac, inclusive of Piping Plover, Diamond-backed Terrapin

* As beach operators may not be able to predict precisely which combination of Covered Activities may be carried out in a given year, a range of values for *No. requested take exposures* may be stated for individual Covered Activities; however, the *Total* is a not-to-exceed value.

1.3 C. Permit Performance Standards

Under the authority granted by and in accordance with MGL c131A§3 and 321 CMR 10.23, the Director may permit the Take of a State-listed species for conservation and management purposes provided that there is a long-term Net Benefit to the conservation of the impacted species. If the Director determines that the applicant for a permit has avoided, minimized and mitigated impacts to the State-listed Species consistent with the following performance standards, then the Director may issue a conservation and management permit, provided:

- (a) the applicant has adequately assessed alternatives to both temporary and permanent impacts to Statelisted Species;
- (b) an insignificant portion of the local population would be impacted by the Project or Activity, and;
- (c) the applicant agrees to carry out a conservation and management plan that provides a long-term Net Benefit to the conservation of the State-listed Species that has been approved by the Director, as provided in 321 CMR 10.23(5), and shall be carried out by the applicant.

The Director has determined that the applicant for this Permit has met the above noted performance standards and that the conservation and management plan described herein provides a long-term Net Benefit to the conservation of the Piping Plover, Least Tern, and Diamond-backed Terrapin.

1.4 D. Conservation and Management Plan

The Permit Holder has proposed, by way of the Permit Application, multiple measures to avoid and minimize the number of Take exposures associated with the Activities. The Permit Holder has proposed, by way of the Permit Application, the following measures to provide a long-term Net Benefit to the conservation of Piping Plover and Least Tern

for Take exposures that cannot be avoided:

1.4.1 REQUIRED MITIGATION

Type	Y/N	Total amount	Pairs to benefit/Credits
<i>Pay fee for offsite mitigation (\$5800 - \$6150 per take exposure; see above)</i>	Y	\$11,600	5 Piping Plover, 35 Least Tern
<i>Applicant-implemented activities:</i>			
· <i>Predator control</i>		As detailed in IAMP submitted with application	
· <i>Increased education & outreach</i>			
· <i>Increased law enforcement</i>			
· <i>Habitat management</i>			
· <i>Other</i>			

Additionally, Permit Holder will install signage, monitor the OSV corridor for Diamond-backed Terrapin nests and relocate and protect such nests and any hatchlings away from the corridor to enhance hatching success and hatchling survival.

Therefore, the Activities can be permitted pursuant to the MESA. This Permit is issued to condition the Project and to provide a long-term Net Benefit to the Piping Plover, Least Tern, and Diamond-backed Terrapin.

1.5 E. Documents and Plans of Records

In accordance with the documents and plans of record submitted to the Division entitled:

Town of Orleans Request for Certificate of Inclusion (COI) on Nauset Beach, dated January 2022

and any other plans and documents referenced herein (collectively, the "Plans of

Record” or “Plan”), this Permit is issued with the following General and Special Conditions:

1.6 F. General Conditions

GC 1.	The Permit Holder shall comply with all General and Special Conditions of this Permit and carry out the Activities consistent with all Division-approved plans and supporting documents referenced herein, except as otherwise approved by the Division in writing.
GC 2.	A violation of any General or Special Condition of this Permit, COI, HCP, or the ITP will result in an unauthorized Take pursuant to M.G.L. c. 131A or under the HCP or ITP and may be subject to civil and or criminal penalties pursuant to M.G.L. c. 131A. Should the Permit Holder violate any General or Special Condition of this Permit, the Division reserves the right to require an immediate cessation of Activities (as defined in Special Condition #1), in whole or in part and at its sole discretion, and may suspend or revoke this Permit and the COI.
GC 3.	The Permit Holder shall submit in writing any documents, plans, reports, or other items required for submission in accordance with this Permit, for review and written approval by the Division, except as otherwise approved by the Division in writing. Unless otherwise required herein, any submission or notification to the Division in accordance with the terms and conditions of this Permit shall be via email at Coastal.Waterbirds@mass.gov.
GC 4.	Division representatives shall have the right to enter and inspect the Property subject to this Permit at reasonable hours to evaluate Permit compliance and require the submittal of additional, reasonable information not otherwise required by this Permit but deemed necessary by the Division to complete its evaluation.
GC 5.	Any land protected to achieve a long-term Net Benefit associated with this Permit shall remain undeveloped and protected as habitat for State-listed Species in perpetuity.
GC 6.	This Permit shall not preclude the review of future projects on the Property that are subject to the Wetlands Protection Act Regulations (310 CMR 10.37, 10.58(4)(b), 10.59), as applicable, by the Division.
GC 7.	This Permit does not relieve the Permit Holder of the necessity of complying with all applicable federal, state or local statutes, ordinances, bylaws or regulations, including but not limited to those administered by the Town of Orleans Conservation Commission and the Massachusetts Department of Environmental Protection.

GC 8.	<p>All Activities shall be in conformance with the Plans of Record. Any changes, updates, or revisions to the Project, or any additional work beyond that shown on the Plans of Record, shall require additional review and approval by the Division prior to implementation, pursuant to General Condition #9. This Permit prohibits any work not specifically authorized by this Permit, unless otherwise approved by the Division in writing prior to performing the additional work.</p>
GC 9.	<p>Any proposed change to any plan identified in this Permit, or to the State-listed species conservation and management plan required by way of this Permit, shall require the Permit Holder to inquire of the Division, in writing, whether the change is significant enough to require the filing of a new Conservation and Management Permit Application, and or require additional long-term Net Benefit for affected Statelisted Species. The Division retains the right to require the submittal of additional, reasonable information to evaluate the proposed plan change.</p>
GC 10.	<p>In the event the subject property is sold or leased, the new owner or lessee shall not automatically be covered under this Permit. The Permit Holder must inform the buyer or lessee of this Permit in writing with a copy to the Division prior to the transfer, sale, or leasing.</p> <p>If the new owner or lessee desires to continue performing the Activities, it must submit to the Division a written request for coverage under the ESA and MESA for the Take of Piping Plover, Least Tern, and Diamond-backed Terrapin. The written request shall include the following:</p> <ul style="list-style-type: none"> • Confirmation that they understand and assent to the terms of the HCP, this Permit, and the Division's ITP (collectively, the "Authorizations"); • Demonstrate its financial ability to ensure compliance with the Plan and all conditions required by way of the Authorizations, including mitigation plan requirements; and • Demonstrate its eligibility (including appropriate qualifications and experience) under the provisions of the HCP. <p>The Division will review the information submitted and determine, in writing, whether the Permit can be transferred to the new owner or lessee. The Division retains the right to require the submittal of additional, reasonable information to evaluate the request. If necessary to ensure adherence to the terms and conditions of the Authorizations, the Division may impose additional conditions on the new owner or lessee as part of its approval. The Division, at its sole discretion, reserves the right to terminate the COI and require that the new owner or lessee reapply for new Permit.</p>

GC 11.	As set forth in the COI, all activities authorized by this Permit must be carried out in accordance with the HCP and ITP. The COI, HCP and ITP are incorporated by reference into this Permit. By acceptance of this Permit, the Permit Holder acknowledges that it has received copies of and will ensure compliance with the terms and conditions of the COI, HCP and ITP, official copies of which are located at the Division's field headquarters, 1 Rabbit Hill Rd., Westborough, MA.
GC 12.	Other than as expressly authorized by this Permit, the Permit Holder shall carry out beach use and management in compliance with the relevant State (<i>Guidelines for Managing Recreational Use of Beaches to Protect Piping Plovers, Terns and Their Habitats in Massachusetts</i>) and Federal (<i>Guidelines for Managing Recreational Activities in Piping Plover Breeding Habitat on the U.S. Atlantic Coast to Avoid Take Under Section 9 of the Endangered Species Act</i>) guidelines effective during the term of the Permit.

G. Special Conditions:

SC 1.	<u>Activities Authorized by the Permit:</u> This Permit and the associated COI in the Final Massachusetts Division of Fisheries & Wildlife HCP for Piping Plover authorize the exposure of up to 2 Piping Plover broods, 20 Least Tern chicks, and Diamond-backed Terrapins arising out of the Activities described under Section B of this Permit and in the Plan, subject to limitations described in the Plan, and set forth in this Permit and the COI. The Activities also include any other activity required by the Division as a condition of this Permit.
SC 2.	<u>Permit Duration:</u> This Permit is valid in 2022, 2023, and 2024, provided that all conditions and reauthorizations are met.
SC 3.	<u>Permit Site:</u> All Activities must be confined to the property(ies) shown in the Plan, provided that the Permit Holder has provided in advance to the Division written permission from each property owner for the Permit Holder to use the property for the Activities described in and authorized by this Permit.
SC 4.	<u>Avoidance and Minimization Procedures:</u> Procedures to protect Piping Plovers, Least Terns, and Diamond-backed Terrapins shall be carried out in 2022, 2023, and 2024 and implemented in accordance with the Plan, unless otherwise approved in writing by the Division.

SC 5.	<p><u>Offsite Mitigation for State- and Federally listed Species – Annual Funding:</u> In order to provide a Net Benefit to the conservation of the State-listed species impacted by this Project, the Permit Holder has proposed to provide, annually, restricted funding in the amount of \$5,800 per Take exposure (total, \$11,600) (the “Funds”) for activities (including but not limited to: selective predator management; education, outreach, and increased law enforcement; and nesting habitat improvement) to benefit the Piping Plovers, Least Terns, and Diamond-backed Terrapins in Massachusetts. The Permit Holder has chosen to fulfill this obligation by providing restricted funding to an escrow account, subject to an agreement that has been approved by the Division. Any changes to said agreement, other than typographical or grammatical changes, must be approved in writing by the Division before the account is established. Therefore, prior to the initiation of Activities and prior to April 1, 2022, the Permit Holder shall send written confirmation to the Division of depositing \$11,600 into the account subject to the agreement, including written confirmation of deposit receipt and an electronic copy of the executed agreement, unless a sufficient unexpired balance remains from a previous permit term. Prior to conducting Activities in 2023 and 2024, and by February 15 of each year, the Permit Holder shall provide additional funding to achieve the aforementioned required balance sufficient to offset the maximum number of take exposures. The Division, and not the Permit Holder, shall have sole responsibility for ensuring that said funds are used for activities to benefit the State-listed species impacted by this Project.</p>
SC 6.	<p><u>Annual Notification of Permit Compliance Manager:</u> Prior to the initiation of Activities in 2022, and by March 15 in 2023 and 2024, the Permit Holder shall notify the Division in writing of the name, address, email, and telephone numbers of the manager responsible for compliance with this Permit. The Permit Holder shall provide updated information in writing to the Division should a new or additional manager be designated after the Activities have commenced.</p>
SC 7.	<p><u>Annual Proof of Funding:</u> Prior to the implementation of the Plan or any Activities in a given year, the Permit Holder shall provide the Division, by March 15, with written proof that it has secured adequate funding to implement the annual requirements of the Plan consistent with the budget provided in the</p>
	<p>Plan. The responsible fiscal officer of the Permit Holder’s organization shall confirm that adequate funding is available and provide supporting documentation of funds set aside for all aspects of Plan implementation.</p>
SC 8.	<p><u>Annual Notification of Implementation:</u> The Permit Holder shall notify the Division at least 24 hours prior to initiating any Activities affecting a new territory, pair, nest, or brood of Piping Plover or Least Tern colony not previously exposed. The Permit Holder must notify the Division again when Activities conclude.</p>

SC 9.		Reporting Requirements: Interim and annual reporting to the Division shall be conducted in accordance with the Plan, including weekly updates during implementation of the Activities and submittal of an annual report by October 15 of each year. Additional guidance on reporting is available from the Division.
SC 10.		Annual Request for Reauthorization: In accordance with the HCP, and by March 15 each year, the Permit Holder must request written reauthorization from the Division to carry out Activities prior to the 2023 and 2024 beach seasons. In order to reauthorize, the Division must receive confirmation of adequate funding, scopes of work for mitigation activities and/or proof of escrow/mitigation fund deposits, and contact information for manager(s) responsible for compliance with this Permit. Submit to Coastal.Waterbirds@mass.gov . No Activities may be carried out in 2023 or 2024 prior to receipt of written reauthorization from the Division. As set forth in the HCP, the Division may, in its sole discretion, reduce the allowable Take exposure for those years or decline to reauthorize any Take exposure.
SC 11.		Observations of State-listed Species: The Division shall be notified, in the form of an NHESP Rare Animal or Plant Observation Form, by October 15 of any State-listed species observed on the Property. Preferred notification is through the Division's Heritage Hub. (https://www.mass.gov/infodetails/overview-of-the-heritage-hub)

H. Notice of Appeal of Rights:

This Permit is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.23. Any person aggrieved by this decision shall have the right to an adjudicatory hearing at the Division pursuant to M.G.L. c. 30A, s.11 in accordance with the procedures for informal hearings set forth in 801 CMR 1.02 and 1.03.

Any notice of claim for an adjudicatory hearing shall be made in writing and be accompanied by a filing fee in the amount of \$500.00. The notice of claim shall be sent to the Division by certified mail, hand delivered or postmarked within twenty-one (21) days of the date of issuance of this Permit to:

Mark S. Tisa, Director

Massachusetts Division of
Fisheries and Wildlife Field
Headquarters

One Rabbit Hill Road

Westborough, MA 01581

Any notice of claim for an adjudicatory hearing shall include the following information:

1. The file number for the project;
2. The complete name, address and telephone number of the person filing the request, and the name, address and telephone number of any authorized representative;

3. The specific facts that demonstrate that a party filing a notice of claim satisfies the requirements of an "aggrieved person," including but not limited to (a) how they have a definite interest in the matters in contention within the scope of interests or area of concern of M.G.L. c. 131A or the regulations at 321 CMR 10.00 and (b) have suffered an actual injury which is special and different from that of the public and which has resulted from violation of a duty owed to them by the Division;
4. A clear statement that an adjudicatory hearing is being requested;
5. A clear and concise statement of facts which are grounds for the proceeding, the specific objections to the actions of the Division and the basis for those objections; and the relief sought through the adjudicatory hearing; and a statement that a copy of the request has been sent by certified mail or hand delivered to the applicant and the record owner, if different from the applicant.


Everose Schlüter, Assistant Director
Massachusetts Division of Fisheries & Wildlife

On this 24th day of February, 2022, before me, the undersigned notary public, personally appeared Everose Schlüter, Assistant Director, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.

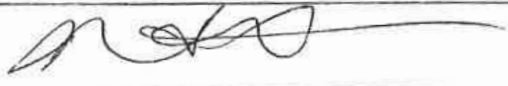

Emily Melissa Holt, Notary Public
My Commission Expires: July 12, 2024

Conservation and Management Permit 022-391.DFW
Issued: February 24, 2022
Expires: December 31, 2024

MASSWILDLIFE

Acknowledgement and Acceptance of all Terms of this Permit

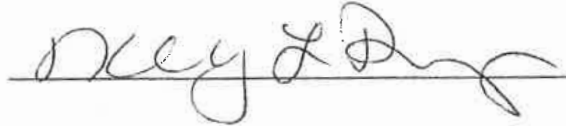
The undersigned below agrees that commencement of any work authorized by and described in this Permit constitutes acknowledgement and acceptance of all terms of this Permit.

	
Signatory 1 Organization	Town of Orleans

COMMONWEALTH OF MASSACHUSETTS

On this 25th day of Feb, 2022, before me, the undersigned notary public, personally appeared Nate Sears, proved to me through satisfactory evidence of identification which was personally known to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.

Notary Public:



SEAL

My Commission Expires: Feb 5, 2027



Kelly L. Darling
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Commission Expires
2/5/2027

MASSWILDLIFE

Appendix 2 MESA Conservation and Management Permit



DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6300 | f: (508) 389-7890
MASS.GOV/MASSWILDLIFE

2 MA ENDANGERED SPECIES ACT (G.L. c.131A) CONSERVATION AND MANAGEMENT PERMIT

DATE	February 24, 2022
CONSERVATION PERMIT No.:	022-391.DFW
NHESP FILE No.	16-35397
PERMIT HOLDER	Town of Orleans 19 School Road Orleans MA 02653
PROJECT	Inclusion in the Massachusetts Habitat Conservation Plan for Piping Plover on Nauset Beach, Orleans

2.1 A. Permit Authority

Pursuant to the authority granted in the Massachusetts Endangered Species Act ("MESA") (G.L. c. 131A) and its implementing regulations (321 CMR 10.23), the Director of the Massachusetts Division of Fisheries & Wildlife (the "Division") hereby issues a Conservation and Management Permit (the "Permit") to the Town of Orleans (the "Permit Holder"). This Permit and the associated Town of Orleans Certificate of Inclusion (the "COI") in the Final Massachusetts Division of Fisheries & Wildlife Habitat

Conservation Plan (HCP) for Piping Plover, dated February 24, 2022, issued in accordance with the Incidental Take Permit (ITP) No. TE01281C-0 for Piping Plover, dated July 8, 2016, authorize the Take of the Piping Plover (*Charadrius melodus*), which is State-listed as “Threatened” pursuant to the MESA and federally listed as “Threatened” pursuant to the U.S. Endangered Species Act (ESA), Least Tern (*Sternula antillarum*), which is State-listed as “Special Concern” pursuant to the MESA, and Diamond-backed Terrapin (*Malaclemys terrapin*), which is State-listed as “Threatened” pursuant to the MESA, arising out of the

Covered Activity(ies) (“Activities”) detailed below and more particularly described in the documents referenced herein at Nauset Beach, Orleans, Massachusetts (the “Property”).

2.2 B. Description of Take

The HCP and ITP authorize specific Covered Activities, which are actions that have the potential to result in Take of Piping Plovers and state-listed species of terns as well as their habitats. The Activities may reduce availability of or access to nesting, foraging, loafing and refuge habitats and expose Plovers and Terns to increased disturbance and mortality risk (collectively, Take exposures). In this case, the Activities will result in up to 2 Take exposures for Piping Plover, 20 Take exposures for Least Tern, and a heightened risk of mortality for Diamond-backed Terrapin from oversand vehicle use.

2.2.1

PERMITTED ACTIVITIES FOR PIPING PLOVER

	Covered Activity			
	<i>Use of roads and parking lots in the vicinity of unfledged chicks</i>	<i>Recreation and beach operations</i>	<i>Oversand vehicle use in vicinity of unfledged chicks</i>	<i>Total*</i>
<i>Max. no. permitted take exposures*</i>			2 broods	2 broods
<i><u>Specific activities permitted: (marked with</u></i>				

"X")				
· <i>Reduced proactive symbolic fencing</i>				
· <i>Reduced fencing around the nest</i>				
· <i>Beach raking</i>				
· <i>Chick herding</i>				
· <i>Nest moving</i>				
· <i>Other</i>				
Max. permitted acreage to be affected				1.44 ac, inclusive of Least Tern, Diamond- backed Terrapin

* As beach operators may not be able to predict precisely which combination of Covered Activities may be carried out in a given year, a range of values for *No. requested take exposures* may be stated for individual Covered Activities; however, the *Total* is a not-to-exceed value.

2.2.2

PERMITTED ACTIVITIES FOR LEAST TERN

	Covered Activity			
	<i>Use of roads and parking lots in the vicinity of unfledged chicks</i>	<i>Recreation and beach operations</i>	<i>Oversand vehicle use in vicinity of unfledged chicks</i>	<i>Total*</i>
Max. no. permitted take exposures*			20 chicks	20 chicks
<u>Specific activities permitted: (marked with "X")</u>				
· <i>Reduced proactive symbolic fencing</i>				
· <i>Reduced fencing around the nest</i>				
· <i>Beach raking</i>				

· Chick herding				
· Nest moving				
· Other				
<i>Max. permitted acreage to be affected</i>				1.44 ac, inclusive of Piping Plover, Diamond- backed Terrapin

* As beach operators may not be able to predict precisely which combination of Covered Activities may be carried out in a given year, a range of values for *No. requested take exposures* may be stated for individual Covered Activities; however, the *Total* is a not-to-exceed value.

2.3 C. Permit Performance Standards

Under the authority granted by and in accordance with MGL c131A§3 and 321 CMR 10.23, the Director may permit the Take of a State-listed species for conservation and management purposes provided that there is a long-term Net Benefit to the conservation of the impacted species. If the Director determines that the applicant for a permit has avoided, minimized and mitigated impacts to the State-listed Species consistent with the following performance standards, then the Director may issue a conservation and management permit, provided:

- (a) the applicant has adequately assessed alternatives to both temporary and permanent impacts to Statelisted Species;
- (b) an insignificant portion of the local population would be impacted by the Project or Activity, and;
- (c) the applicant agrees to carry out a conservation and management plan that provides a long-term Net Benefit to the conservation of the State-listed Species that has been approved by the Director, as provided in 321 CMR 10.23(5), and shall be carried out by the applicant.

The Director has determined that the applicant for this Permit has met the above noted performance standards and that the conservation and management plan described herein provides a long-term Net Benefit to the conservation of the Piping Plover, Least Tern, and Diamond-backed Terrapin.

2.4 D. Conservation and Management Plan

The Permit Holder has proposed, by way of the Permit Application, multiple measures

to avoid and minimize the number of Take exposures associated with the Activities. The Permit Holder has proposed, by way of the Permit Application, the following measures to provide a long-term Net Benefit to the conservation of Piping Plover and Least Tern for Take exposures that cannot be avoided:

2.4.1 REQUIRED MITIGATION

Type	Y/N	Total amount	Pairs to benefit/Credits
<i>Pay fee for offsite mitigation (\$5800 - \$6150 per take exposure; see above)</i>	Y	\$11,600	5 Piping Plover, 35 Least Tern
<i>Applicant-implemented activities:</i>			
· <i>Predator control</i>		As detailed in IAMP submitted with application	
· <i>Increased education & outreach</i>			
· <i>Increased law enforcement</i>			
· <i>Habitat management</i>			
· <i>Other</i>			

Additionally, Permit Holder will install signage, monitor the OSV corridor for Diamond-backed Terrapin nests and relocate and protect such nests and any hatchlings away from the corridor to enhance hatching success and hatchling survival.

Therefore, the Activities can be permitted pursuant to the MESA. This Permit is issued to condition the Project and to provide a long-term Net Benefit to the Piping Plover, Least Tern, and Diamond-backed Terrapin.

2.5 E. Documents and Plans of Records

In accordance with the documents and plans of record submitted to the Division entitled:

Town of Orleans Request for Certificate of Inclusion (COI) on Nauset Beach,

dated January 2022

and any other plans and documents referenced herein (collectively, the “Plans of Record” or “Plan”), this Permit is issued with the following General and Special Conditions:

2.6 F. General Conditions

GC 1.	The Permit Holder shall comply with all General and Special Conditions of this Permit and carry out the Activities consistent with all Division-approved plans and supporting documents referenced herein, except as otherwise approved by the Division in writing.
GC 2.	A violation of any General or Special Condition of this Permit, COI, HCP, or the ITP v result in an unauthorized Take pursuant to M.G.L. c. 131A or under the HCP or ITP and may be subject to civil and or criminal penalties pursuant to M.G.L. c. 131A. Should the Permit Holder violate any General or Special Condition of this Permit, the Division reserves the right to require an immediate cessation of Activities (as defined in Special Condition #1), in whole or in part and at its sole discretion, and may suspend or revoke this Permit and the COI.
GC 3.	The Permit Holder shall submit in writing any documents, plans, reports, or other items required for submission in accordance with this Permit, for review and written approval by the Division, except as otherwise approved by the Division in writing. Unless otherwise required herein, any submission or notification to the Division in accordance with the terms and conditions of this Permit shall be via email at Coastal.Waterbirds@mass.gov.
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GC 8.	<p>All Activities shall be in conformance with the Plans of Record. Any changes, updates, or revisions to the Project, or any additional work beyond that shown on the Plans of Record, shall require additional review and approval by the Division prior to implementation, pursuant to General Condition #9. This Permit prohibits any work not specifically authorized by this Permit, unless otherwise approved by the Division in writing prior to performing the additional work.</p>
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GC 10.	<p>In the event the subject property is sold or leased, the new owner or lessee shall not automatically be covered under this Permit. The Permit Holder must inform the buyer or lessee of this Permit in writing with a copy to the Division prior to the transfer, sale, or leasing.</p> <p>If the new owner or lessee desires to continue performing the Activities, it must submit to the Division a written request for coverage under the ESA and MESA for the Take of Piping Plover, Least Tern, and Diamond-backed Terrapin. The written request shall include the following:</p> <ul style="list-style-type: none"> • Confirmation that they understand and assent to the terms of the HCP, this Permit, and the Division's ITP (collectively, the "Authorizations"); • Demonstrate its financial ability to ensure compliance with the Plan and all conditions required by way of the Authorizations, including mitigation plan requirements; and • Demonstrate its eligibility (including appropriate qualifications and experience) under the provisions of the HCP. <p>The Division will review the information submitted and determine, in writing, whether the Permit can be transferred to the new owner or lessee. The Division retains the right to require the submittal of additional, reasonable information to evaluate the request. If necessary to ensure adherence to the terms and conditions of the Authorizations, the Division may impose additional conditions on the new owner or lessee as part of its approval. The Division, at its sole discretion, reserves the right to terminate the COI and require that the new owner or lessee reapply for new Permit.</p>

GC 11.	As set forth in the COI, all activities authorized by this Permit must be carried out in accordance with the HCP and ITP. The COI, HCP and ITP are incorporated by reference into this Permit. By acceptance of this Permit, the Permit Holder acknowledges that it has received copies of and will ensure compliance with the terms and conditions of the COI, HCP and ITP, official copies of which are located at the Division's field headquarters, 1 Rabbit Hill Rd., Westborough, MA.
GC 12.	Other than as expressly authorized by this Permit, the Permit Holder shall carry out beach use and management in compliance with the relevant State (<i>Guidelines for Managing Recreational Use of Beaches to Protect Piping Plovers, Terns and Their Habitats in Massachusetts</i>) and Federal (<i>Guidelines for Managing Recreational Activities in Piping Plover Breeding Habitat on the U.S. Atlantic Coast to Avoid Take Under Section 9 of the Endangered Species Act</i>) guidelines effective during the term of the Permit.

G. Special Conditions:

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SC 2.	<u>Permit Duration:</u> This Permit is valid in 2022, 2023, and 2024, provided that all conditions and reauthorizations are met.
SC 3.	<u>Permit Site:</u> All Activities must be confined to the property(ies) shown in the Plan, provided that the Permit Holder has provided in advance to the Division written permission from each property owner for the Permit Holder to use the property for the Activities described in and authorized by this Permit.
SC 4.	<u>Avoidance and Minimization Procedures:</u> Procedures to protect Piping Plovers, Least Terns, and Diamond-backed Terrapins shall be carried out in 2022, 2023, and 2024 and implemented in accordance with the Plan, unless otherwise approved in writing by the Division.

SC 5.	<p><u>Offsite Mitigation for State- and Federally listed Species – Annual Funding</u>: In order to provide a Net Benefit to the conservation of the State-listed species impacted by this Project, the Permit Holder has proposed to provide, annually, restricted funding in the amount of \$5,800 per Take exposure (total, \$11,600) (the “Funds”) for activities (including but not limited to: selective predator management; education, outreach, and increased law enforcement; and nesting habitat improvement) to benefit the Piping Plovers, Least Terns, and Diamond-backed Terrapins in Massachusetts. The Permit Holder has chosen to fulfill this obligation by providing restricted funding to an escrow account, subject to an agreement that has been approved by the Division. Any changes to said agreement, other than typographical or grammatical changes, must be approved in writing by the Division before the account is established. Therefore, prior to the initiation of Activities and prior to April 1, 2022, the Permit Holder shall send written confirmation to the Division of depositing \$11,600 into the account subject to the agreement, including written confirmation of deposit receipt and an electronic copy of the executed agreement, unless a sufficient unexpired balance remains from a previous permit term. Prior to conducting Activities in 2023 and 2024, and by February 15 of each year, the Permit Holder shall provide additional funding to achieve the aforementioned required balance sufficient to offset the maximum number of take exposures. The Division, and not the Permit Holder, shall have sole responsibility for ensuring that said funds are used for activities to benefit the State-listed species impacted by this Project.</p>
SC 6.	<p><u>Annual Notification of Permit Compliance Manager</u>: Prior to the initiation of Activities in 2022, and by March 15 in 2023 and 2024, the Permit Holder shall notify the Division in writing of the name, address, email, and telephone numbers of the manager responsible for compliance with this Permit. The Permit Holder shall provide updated information in writing to the Division should a new or additional manager be designated after the Activities have commenced.</p>
SC 7.	<p><u>Annual Proof of Funding</u>: Prior to the implementation of the Plan or any Activities in a given year, the Permit Holder shall provide the Division, by March 15, with written proof that it has secured adequate funding to implement the annual requirements of the Plan consistent with the budget provided in the</p>
	<p>Plan. The responsible fiscal officer of the Permit Holder’s organization shall confirm that adequate funding is available and provide supporting documentation of funds set aside for all aspects of Plan implementation.</p>
SC 8.	<p><u>Annual Notification of Implementation</u>: The Permit Holder shall notify the Division at least 24 hours prior to initiating any Activities affecting a new territory, pair, nest, or brood of Piping Plover or Least Tern colony not previously exposed. The Permit Holder must notify the Division again when Activities conclude.</p>

SC 9.	<u>Reporting Requirements:</u> Interim and annual reporting to the Division shall be conducted in accordance with the Plan, including weekly updates during implementation of the Activities and submittal of an annual report by October 15 of each year. Additional guidance on reporting is available from the Division.
SC 10.	<u>Annual Request for Reauthorization:</u> In accordance with the HCP, and by March 15 each year, the Permit Holder must request written reauthorization from the Division to carry out Activities prior to the 2023 and 2024 beach seasons. In order to reauthorize, the Division must receive confirmation of adequate funding, scopes of work for mitigation activities and/or proof of escrow/mitigation fund deposits, and contact information for manager(s) responsible for compliance with this Permit. Submit to Coastal.Waterbirds@mass.gov . No Activities may be carried out in 2023 or 2024 prior to receipt of written reauthorization from the Division. As set forth in the HCP, the Division may, in its sole discretion, reduce the allowable Take exposure for those years or decline to reauthorize any Take exposure.
SC 11.	<u>Observations of State-listed Species:</u> The Division shall be notified, in the form of an NHESP Rare Animal or Plant Observation Form, by October 15 of any State-listed species observed on the Property. Preferred notification is through the Division's Heritage Hub. (https://www.mass.gov/infodetails/overview-of-the-heritage-hub)

H. Notice of Appeal of Rights:

This Permit is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.23. Any person aggrieved by this decision shall have the right to an adjudicatory hearing at the Division pursuant to M.G.L. c. 30A, s.11 in accordance with the procedures for informal hearings set forth in 801 CMR 1.02 and 1.03.

Any notice of claim for an adjudicatory hearing shall be made in writing and be accompanied by a filing fee in the amount of \$500.00. The notice of claim shall be sent to the Division by certified mail, hand delivered or postmarked within twenty-one (21) days of the date of issuance of this Permit to:

Mark S. Tisa, Director


Massachusetts Division of
Fisheries and Wildlife Field
Headquarters

One Rabbit Hill Road

Westborough, MA 01581

Acknowledgement and Acceptance of all Terms of this Permit

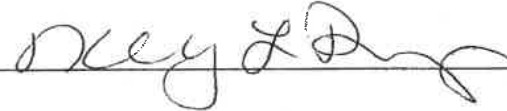
The undersigned below agrees that commencement of any work authorized by and described in this Permit constitutes acknowledgement and acceptance of all terms of this Permit.


Signatory 1
Organization Town of Orleans

COMMONWEALTH OF MASSACHUSETTS

On this 25th day of Feb, 2022, before me, the undersigned notary public, personally appeared Nate Sears, proved to me through satisfactory evidence of identification which was personally known to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.

Notary Public:



My Commission Expires: Feb 5, 2027

SEAL



Kelly L. Darling
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Commission Expires
2/5/2027

MASSWILDLIFE

Appendix 3 : ERSI Arc Geodatabase Collector



ESRI: Arc Collector

Shorebirds Geodatabase established for each year. User records plover locations with collector and populates data fields.

Feature class stored live on ESRI cloud space. Live locations and data can be shared and edited by multiple staff with permissions only



Contents Preview Description

Name: PLOVER
Type: File Geodatabase Feature Class



PLOVER

Feature Class Properties

General Editor Tracking XY Coordinate System Domain, Resolution and Tolerance
Fields Indexes Subtypes Feature Extent Relationships Representations

Field Name	Data Type
OBJECTID	Object ID
SHAPE	Geometry
NEST_ID	Text
OBSERVER	Text
DATE_NEST_FOUND	Date
EGGS_WHEN_FOUND	Text
ATTEMPT	Text
DATE_CLUTCH_COMPLETE	Date
NUMBER_EGGS_LAID	Text
EXCLOSURE_INSTALLED	Date
NEST_FATE	Text
DATE_NEST_FAILED	Date
REASON_FAILED	Text

Click any field to see its properties.

Field Properties

Alias OBJECTID

Import...

To add a new field, type the name into an empty row in the Field Name column, click in the Data Type column to choose the data type, then edit the Field Properties.

OK

Cancel

Apply

Year-end mapping displays all data.

Data stored on Town server at end of year

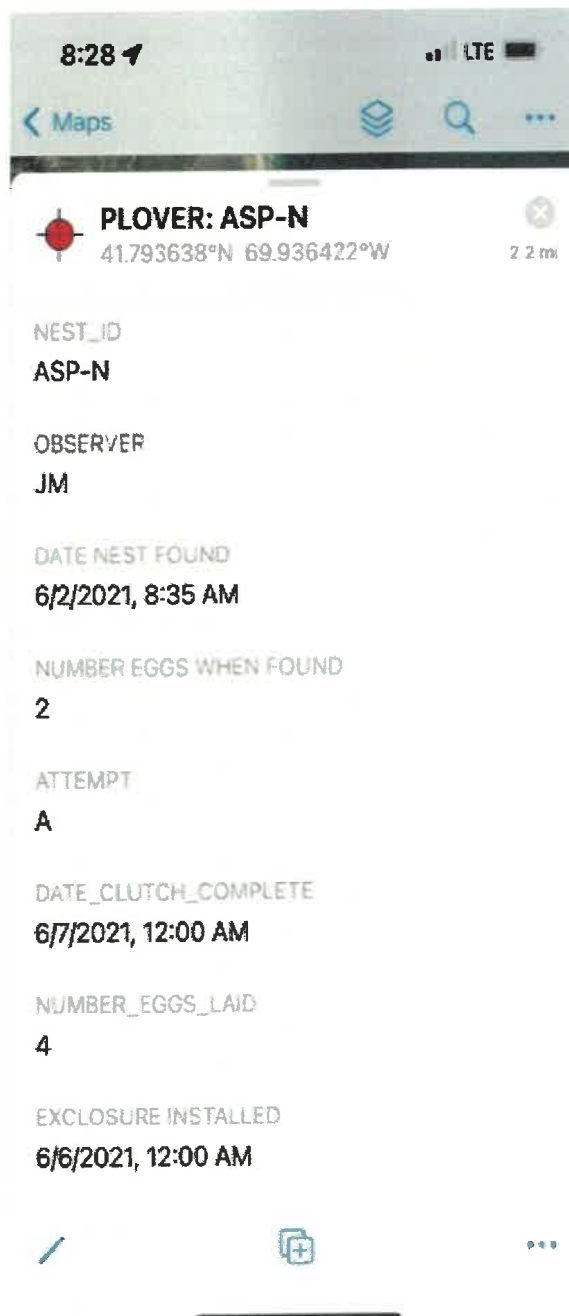
ESRI: Arc Collector

Shorebirds Geodatabase is displayed live over base map.

Visible with app on a mobile device or a desktop with web map



Shorebirds Geodatabase data entry involves selecting from pre-defined fields and drop downs using domains in feature class.



Appendix 4 – Datasheets to Document

PIPL Nest Card example from 2024

NEST ID: RW 2A LOCATION: RW Post 22 End of high dune - closer to road
 Date Found: 4/28 # Eggs Found: 1 Date Complete: 5/5 # Eggs Complete: 4
 Date Excused: 5/4 # Eggs Excused: 4 Date Exclosure Removed: 6/7 ✓
 HATCH WINDOW: 5/24 - 6/2 Date Hatched: 6/1 # Eggs Hatched: 4
 25-day FLEDGE DATE: _____ Actual Fledge Date: _____ # Fledged: 0
 Date Failed: _____ # Eggs Failed: _____ Failure Type: _____ Date Last Observed Active: _____
 Chick Loss(es) (if date): _____

Date	Observer	# Eggs	# Chicks	Status/Age	Comments/Chick Location
4/28	AMD	1			Pair close to nest / stayed in wash - foraging
4/30	KB	2			
5/1	KB	2			PIA
5/3	AMD	3			
5/4	KB	3			Excused
5/5	AMD	4			egg count - complete
5/7	KB			BON	
5/8	KB			BON	
5/9	KB			BON	
5/10	AMD			BON	
5/11	KB			BON	
5/12	KB			BON	
5/14	KB			BON	
5/15	KB			BON	

Example of the OSV gate house vehicle log sheet

Date: 7/30 Weather: SUNNY Staff: Zoe & Tico

State	Registration	Permit #	ORL	CHAT	MOO-BES	SC	ORL SC	CHAT SC	Notes
MA	577GLC	0725			✓				
MA	34HK48	0723			✓				
MA	M13367	0609			✓				
MA	89TA57	014			✓			✓	
MA	2WLA63	0111			✓				
MA	94RL00	1476			✓				
CT	AU94779	1374			✓				
NJ	R22PKN	1372			✓				
MA	4XWJN81	282	✓						
MA	31JL24	0199	✓						
MA	W93756	0035			✓				
MA	1N1M49	0088			✓				
MA	5F2445	1521	✓		✓				
NH	3486789	0927			✓				
MA	5AP631	1654			✓				
MA	H36286	0357	✓		✓				
MA	2795XN	1987							
MA	57E98	0030							
MA	2FS186	0879							
MA	27KX37	1503							
MA	337563	1561							
MA	TEMF36	1650							
MA	R35326	0115							
MA	2W3D47	1499							
MA	693T58	0123							
NJ	V728SHJ	517		✓					
NY	62J9383	1334							
NY	JPU3141	0647							
CT	AED2100	1535							
CT	AA23766	1584			✓				
CT	AW5227	1597			✓				
NH	AR46721	1363			✓				

7/30
 TOTAL
 #63

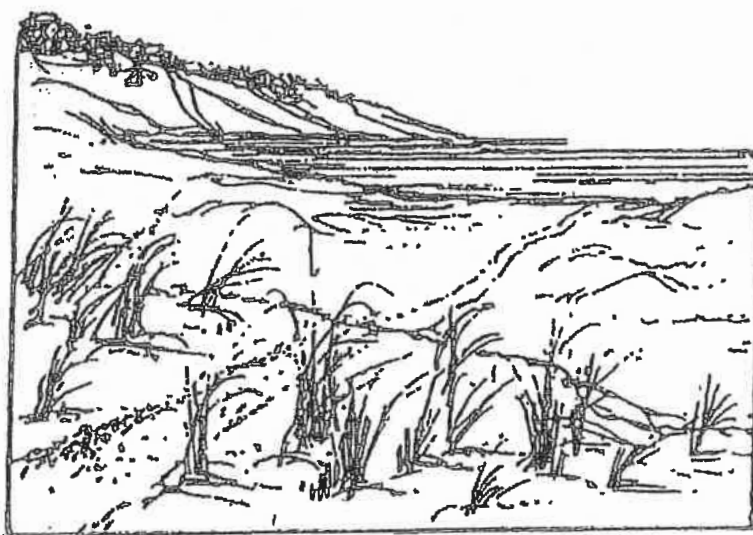
Daily electronic logs during HCP implementation

Brood ID	#chick	Location	Date	Age	#Vehicle	Movement
RW1b	2	Riley Wash	22-Jul	20	66	No trail crossings
RW1b	2	Riley Wash	23-Jul	21	7	No trail crossings
RW1b	2	Riley Wash	24-Jul	22	7	Both chicks crossed west of OSV trail at 7:49am. Crossed back east to front beach at 9:40am
RW1b	2	Riley Wash	25-Jul	23	34	Both chicks crossed west OSV trail at 9:52am and stayed west of trail remainder of day
RW1b	2	Riley Wash	26-Jul	24	139	Both chicks crossed west OSV trail at 8:10am stopping traffic. Crossed back to front beach 832am
RW1b	2	Riley Wash	27-Jul	25	180	No trail crossings
RW1b	2	Riley Wash	28-Jul	26	180	No trail crossings
RW1b	1	Riley Wash	29-Jul	27	30	No trail crossings. 1 chick observed predated by LAGU
RW1b	1	Riley Wash	30-Jul	28	63	No trail crossings
RW1b	1	Riley Wash	31-Jul	29	32	No trail crossings. Chick observed fledged at the end of the day. OSV trail to fully open.

Date	Vehicle zone ID (if more than one)	No. vehicle trips	Species affected (e.g., PIPL, LETE)
22-Jul	Riley Wash	132	PIPL
23-Jul	Riley Wash	14	PIPL
24-Jul	Riley Wash	14	PIPL
25-Jul	Riley Wash	68	PIPL
26-Jul	Riley Wash	278	PIPL
27-Jul	Riley Wash	360	PIPL
28-Jul	Riley Wash	360	PIPL
29-Jul	Riley Wash	60	PIPL
30-Jul	Riley Wash	126	PIPL
31-Jul	Riley Wash	64	PIPL

Nauset Beach

Rules & Regulations for Over Sand Vehicles (OSV)



This unique conservation and recreation area is under joint supervision by the Town of Orleans and the Town of Chatham. We hope that you will enjoy the natural and recreational values of Nauset Beach, as well as observe and obey the rules that have been adopted for its protection.



All applicable Federal and State laws and regulations, town by-laws, town rules and regulations and all fire regulations shall apply and are enforceable.

3 ----- GENERAL RULES & REGULATIONS -----

VEHICLE REGISTRATION (STICKERS): Effective July 1 through June 30th (of the following year). Registration shall be obtained from the Orleans Sticker Office and the Chatham Sticker Office. Applicants of Nauset Beach will be issued stickers that must be affixed to a stationary window on the driver's side of the vehicle. No vehicle shall operate on the beach without a valid registration sticker. We will not be requiring OSV inspections for your newly acquired vehicle or but will be for first time self-contained. All registration stickers are non-transferable and non-refundable and expire June 30th of the following year. All previous years' stickers must be removed. Over-sand vehicle permits are not valid for parking in the Nauset or Skaket Beach parking lots.

1.) REQUIRED EQUIPMENT: All vehicles must carry the following at all times:

- a. REGULATIONS – a current copy of these rules & regulations (issued at the time of registration)
- b. SHOVEL
- c. TOW ROPE – chain, cable or other towing device that is not less than 14 feet in length with a minimum load strength of 1400 lbs. (chain size 5/16", cable 1/4", nylon 3/4", polypropylene 3/4", hemp 1"). The towing device will be equipped with grab hooks or other suitable attaching device on both ends.
- d. JACK SUPPORT – board or similar, to have a surface of not less than 144 square inches nor be more than 18" in length. Thickness to be not less than 1-½" of solid wood. Other materials must equal strength and durability of the standard wood supports.
- e. JACK – standard size and type which comes stock with the vehicle
- f. TIRE GAUGE – low pressure, able to register a minimum of 10 psi.
- g. TIRE SIZE – Minimum size tires for 13" is 185, 14" – 16" is 215. Note: No snow tires will be allowed on the beach except from November 1 through April 13.
- h. SPARE TIRE – meeting same standard as other tires required for type of vehicle in which it is carried.

Self-Contained Vehicles must be additionally equipped with (not required for OSV):

- i. ROD and REEL – for each occupant over 12 years of age
- j. PERMANANTLY MOUNTED BEDS
- k. PERMANANTLY MOUNTED SELF-CONTAINED WATER OR CHEMICAL TOILET

- 2.) HOURS - Permitted non self-contained OSV are allowed on the open areas only between the hours of 6:00 AM and 11:00 PM, unless "actively fishing". To be considered "actively fishing," a person must be taking all reasonable and necessary actions to maximize the probability of hooking and landing fish by rod using a baited rig or artificial lure. Fishing equipment must be kept at the water's edge and regularly tended and casted. For self-contained vehicle hours, see "self-contained vehicles." Please note that hours can be dependent on closures, restrictions, etc. See the Town of Orleans HCP User Guide for more information regarding hours.
- 3.) SPEED LIMIT - The speed limit of motor vehicles will not exceed 15 mph. The speed limit in the vicinity of shorebird nests will not exceed 5 mph. Reasonable speed limits will be enforced for low beach driving.
- 4.) ALCOHOL: Open containers of alcoholic beverages are prohibited on Nauset Beach.
- 5.) MOTOR VEHICLE OPERATION: The provisions of Chapter 90, Mass General laws shall apply to the operation of all motor vehicles on the beach. (This simply means that if it is required on the road, it is required on the beach.)
- 6.) TIRE PRESSURE: Tire pressure shall not exceed 15 psi - no exceptions. You are required to decrease your tire pressure before entering the over-sand trails. Courtesy air stations may be available seasonally at the lower entrance lot of Nauset Beach South.
- 7.) RIGHT OF WAY: Vehicles driving off the beach shall have the right of way. Use the pull-off sections of the trail to clear the way for vehicles traveling off of the beach.
- 8.) LEAVE NO TRACE: Each visitor shall remove all property and trash from the beach. Dumpsters are provided at the beach parking lot. Emptying of holding tanks and disposal of human waste or Nauset Beach and its adjoining waters is prohibited. All pet owners are responsible for removing their animals waste. Always douse hot coals from contained cooking fires and extinguish ashes. In the event of an OSV requiring excavation to improve traction, holes are required to be filled.
- 9.) SELF-CONTAINED VEHICLES: Self-contained vehicles will be allowed to stay on Nauset Beach South for a maximum of ninety-six (96) consecutive hours and a seventy-two (72) hour period must elapse before they may return to the beach. Self-contained vehicles are prohibited on the Nauset Spit. The Natural Resources Manager may reduce the maximum stay for self-contained vehicles at any time. All self-contained vehicles remaining overnight shall have permanently mounted self-contained water or chemical toilets and permanently mounted sleeping accommodations sufficient for all persons in the vehicle. All self-contained vehicles will be required to check on and off when the booth is staffed.
- 10.) DOGS: No dogs are allowed on the Nauset Spit from April 1 through Labor Day. From Trail #1 north to the Nauset Spit, dogs are prohibited from April 1 through Labor Day. From Trail #1 south to the Chatham inlet, all dogs must be on a leash no longer than 30 feet at all times from April 1 through Labor Day. Dogs must be transported by OSV to areas open to dogs south of Trail

1from April 1through Labor Day. Dogs are prohibited in closed areas at all times. (This is a zero tolerance policy). Owners are responsible for cleaning up after their animals.

- 11.) CLOSED AREAS: Vehicles and pedestrians are prohibited in symbolically fenced and signed areas. No vehicles may park within the OSV corridor. From Callanan's Pass south to Trail 1 is closed to OSV traffic. The Town of Eastham is closed to OSV traffic.
- 12.) LOW BEACH DRIVING: Seaward of the mean high tide line is closed to OSV traffic on Nauset Spit Seaward of the mean high tide line is closed to OSV traffic on Nauset Beach South from the Friday of Memorial Day weekend until the first Friday of November, unless otherwise directed. While low beach driving is open, driving above the high tide water mark in a closed area is prohibited.
Reasonable speed limits will be enforced for low beach driving.
- 13.) LIMITS: The number and types of vehicles allowed on the beach at one time shall be set each year and may be changed depending on prevailing conditions and the amount of usable beach.
- 14.) CAMP OWNERS: Beach camps are private property. Motorized equipment or machines taken on the beach for camp maintenance must secure permission from the Orleans Natural Resources Manager. Beach camp lessees retain traditional lease rights for their leased property.
- 15.) SLEEPING: Sleeping in the open and the use of camping tents between 8:00 pm - 8:00 am on all beach areas is prohibited.
- 16.) FIRES: NO OPEN FIRES ON ANY BEACH AREAS. Contained cooking fires in grills are permitted. Douse coals and extinguish ashes before leaving and leave absolutely no trace.
- 17.) EVENTS: Groups of more than twenty (20) persons shall be required to carry a special permit (no additional fee) and shall name, in applying for such a permit, one individual in the group who shall agree to assume responsibility for the activities of all members of the group while on the beach. Such a permit shall be applied for forty-eight (48) hours in advance of its proposed use. The permit for the Orleans portion of Nauset Beach shall be issued by only the Orleans Natural Resources Manager, who shall designate the beach area on which such a party may be held.
- 18.) RAFTS: The use of rafts, tubes, inflatables and other similar types of swimming or bathing devices are prohibited on all of Nauset Beach.
- 19.) FISHING: Fishing gear must be kept at water's edge at all times while in the act of fishing. There shall be no more than five (5) fishing rods per person or more than twelve (12) fishing rods per vehicle to be in use at any one time.

- 20.) SHELLFISH: The Town of Orleans and the Town of Chatham shellfish regulations pertain to their respective portions of Nauset Beach.
- 21.) PRIVATE PROPERTY: Persons who visit the beach by boat, motor vehicle or on foot are required to respect private property and to conform to all regulations listed herein.
- 22.) PROHIBITED VEHICLES: Two-wheeled vehicles, motorcycles, minibikes, mopeds, snowmobile ATV's and trailers are prohibited. No towing of paragliders permitted. Airplanes or helicopters are prohibited, except in emergencies.
- 23.) KITES /DRONES: Kites and drones are prohibited April 1 through Labor Day. Dates subject to change.

The Order of Conditions issued to the Orleans Park Commission, dated 06/24/14 and 2/13/91 are hereby incorporated herein and made a part of these rules and regulations.

4. ----- VIOLATIONS -----

Penalties for infractions of any of the rules & regulations shall result in revocation of registration sticker, dismissal from the beach and/ or a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) for each offense.

Fines listed below may be imposed for violations of the Orleans DPW & Natural Resources Rules and Regulations and the Nauset Beach Rules and Regulations for OSV:

- Operation of a motor vehicle on Nauset Beach in closed areas and off marked trails.
- Emptying of holding tanks and disposal of human waste.
- Violation of Habitat Conservation Plan (HCP)
- Flying Kites and/or Drones at all from April 1 – Labor Day o Fine for above offenses: \$200.00 and revocation of OSV Permit.

Unless otherwise specifically provided herein, any person who violates any of the Orleans DPW & Natural Resources Rules and regulations or the Nauset Beach Rules and Regulations for OSV shall be subject to the following penalties:

First Offense: Written warning

Second Offense: \$50.00

Third and Subsequent Offense: \$100.00

- Operation of a motor vehicle on Nauset Beach without a valid OSV Permit. ☐ Operation of a motor vehicle on low beach when prohibited ☐ Failure to air down tires to proper psi.
- Violation to rules and regulations related to dogs. In addition to any other penalties set forth in these regulations, any violation of the dog regulations in closed areas due to shorebirds will result

in no less than automatic revocation of the offender's beach permit rights from the date of violation until May 1st of the following year. Subsequent violations will result in the offender's Beach Permit rights being revoked for a period of three (3) full years from the date of the violation.

- Operation of a motor vehicle and not having passengers properly seated within the confines of the vehicle.
- Speeding
- Littering
- Open container(s) of alcohol
- Open fire without a permit

An OSV Permit Holder who receives three of any violation of the Rules and Regulations in an: one season (other than operation of a motor vehicle on Nauset Beach in closed areas and off marked trails, the emptying of holding tanks and disposal of human waste and violations of Habitat Conservation Plan rules, which are subject to immediate revocation of the OSV permit shall have his or her OSV permit revoked and shall not be permitted on the beach for ONE YEAR from the date of revocation of the OSV Permit.

Persons whose permits have been suspended or revoked have within seven (7) days a right to appeal to the enforcing authority, who upon receipt of written request shall arrange a hearing on the appeal to the appropriate authority. Authority for the enforcement of the Orleans DPW & Natural Resources Rules and Regulations and the Nauset Beach Rules and Regulations or OSV's shall rest with the Orleans Natural Resources Director, his or her designees, including the Beach Ranger and any Orleans Police Officer.

These Rules & Regulations were adopted at a public hearing of the Orleans Park Commission dated 01/14/15. Copies of changes to be posted in Orleans Town Clerk's Office.

It is the responsibility of the OSV registrant to read and understand the Nauset Beach Rules & Regulations for OSV. The registrant is responsible for the behavior of the passengers and drivers in their vehicle.

Always remember

You are required to decrease the tire pressure before entering the beach OSV corridor.

Low tire pressure is critical for successful over-sand driving. Friction may cause pressure to increase while you drive, making it necessary to stop and reduce pressure again. Failure to air down to 15 psi leads to degradation of the OSV trails.

Always check tides before entering the OSV trails. Portions of the beach may be impassable at high tides.

If you feel you are in danger of getting stuck, check your tire pressure and let more air out if necessary. Also try backing up in your tracks before moving ahead. Do not spin your tires – this will only cause the vehicle to dig in.

Always fill in holes made in the sand by beach-goers or stuck vehicles. This will increase safety for all.

Do not speed – experienced beach drivers know that a slow, steady speed and correct tire pressure are more effective than faster speeds.

Always be alert for wildlife when driving on the beach – tern and plover chicks may attempt to hide in vehicle tracks when frightened.

4.1 ----- COMMUNICATIONS -----

ALWAYS DIAL 911 FOR EMERGENCIES

Nauset Beach is managed under joint supervision between the Town of Orleans and the Town of Chatham. It is important to direct non-emergency calls to the town in which you are located while on the beach. Use the reference maps (page 8) to clarify your location on the over-sand trails.

When reporting a violation, the following information is needed for enforcement:

- 1.) Date & Time
- 2.) Location/landmark/trail
- 3.) Vehicle description (license plate, vehicle make/color)
- 4.) Operator/occupant description
- 5.) Violation/incident description

4.2 Important Contact Numbers

Non-emergencies only. All emergencies, dial 911.

Orleans Police Department (Year-round, 24 hours/day) – (508) 255-0117

Chatham Police Department (Year-round, 24 hours/day) – (508) 945-1213

Nauset Beach Administration (Seasonal, Memorial Day to Labor Day, 9-5pm) – (508) 240-3780

Nauset Beach Tollbooth (Seasonal, Memorial Day to Labor Day, 24 hours/day) – (508) 240-3705

Orleans Sticker Office (Seasonal, Early May – Labor Day, 9-1pm) – (508) 240-3790 x3150

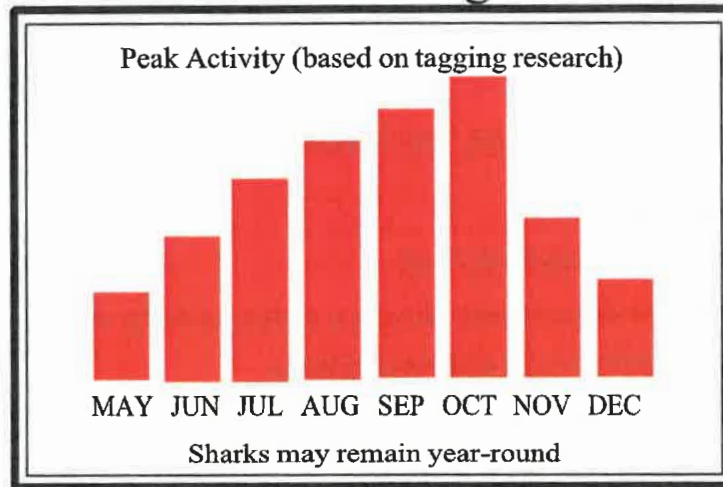
Orleans DPW & Natural Resources (Year-round, 8-4:30pm) – (508) 240-3755

----- WARNING -----

White Sharks hunt seals in shallow water at Nauset Beach. People have been seriously injured and killed by white sharks along this coastline.

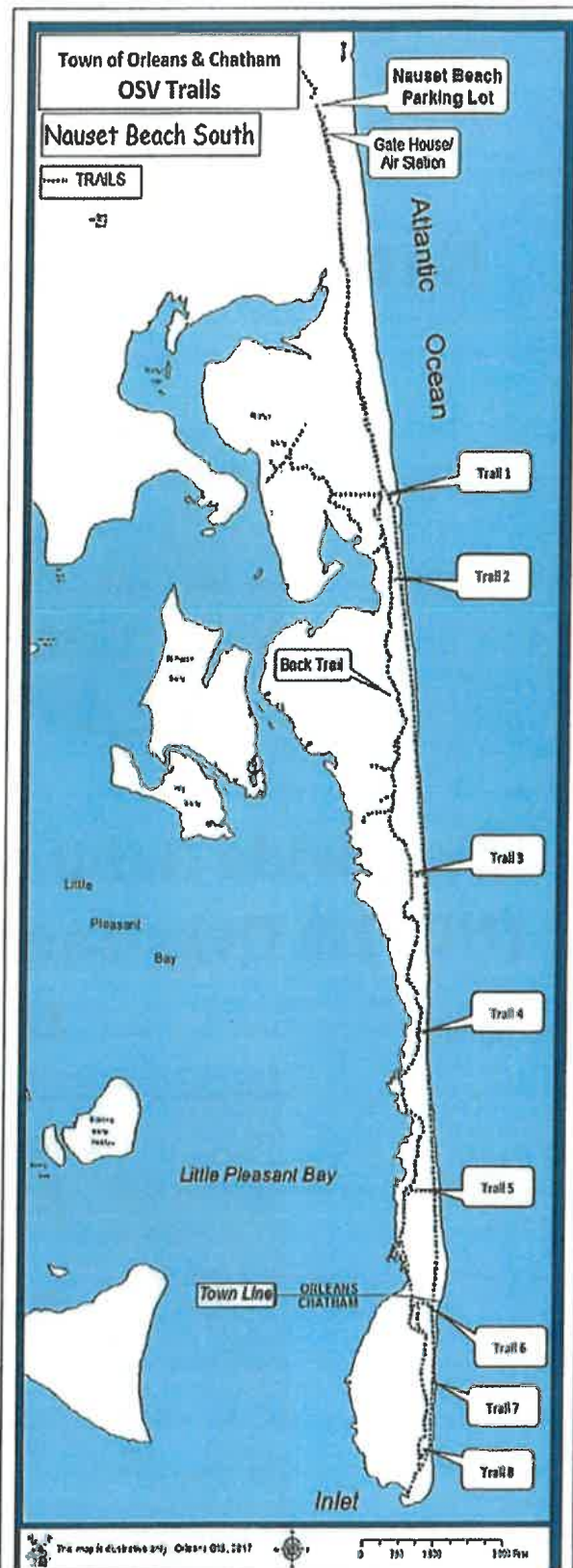
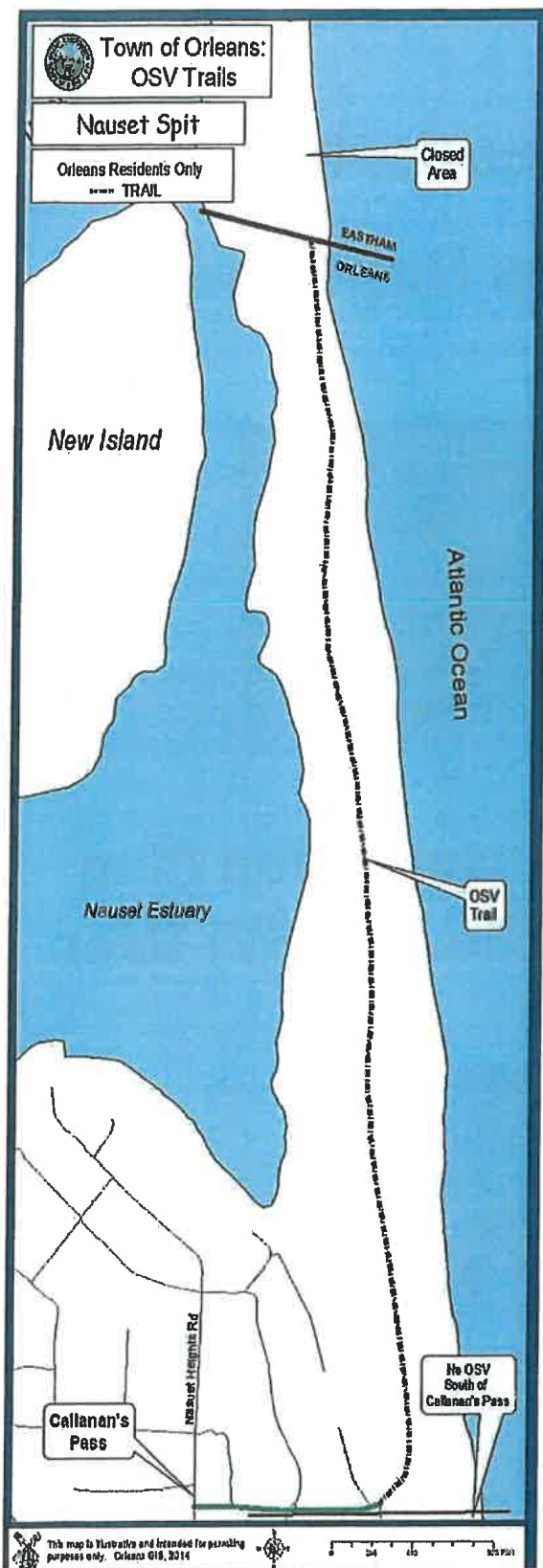
Call 911 for emergencies.

Know your risk when entering the water.



Download the Sharktivity App on your smartphone to receive alerts and report sightings.

For more info, and to view the latest research, visit www.atlanticwhiteshark.org



Town of Orleans, MA

Natural Resources Department



Statewide Habitat Conservation Plan (HCP) & Over-Sand Vehicle (OSV) User Guide



Procedures & Conditions

Habitat Conservation Plan (H.C.P.)

5 An introduction

Over the past decade, over-sand vehicle (OSV) access has been precluded to Nauset Beach South due to unfledged piping plover chicks located in an area north of Trail 1 known as the “Pochet Wash”. Piping plovers are listed as threatened species under both the U.S. Endangered Species Act and the Massachusetts Endangered Species Act.

To regain access to the area, the Town of Orleans developed a Habitat Conservation Plan (HCP). The HCP allows up to 180 OSV per day to pass through the Pochet Wash where up to eight (8) unfledged piping plover chicks and four (4) adult parents are living.

Piping plover chicks leave the nest about two hours after hatching and are able to feed themselves within a few hours of being out of the nest. Piping plovers eat a variety of aquatic and terrestrial invertebrates such as worms and amphipods. They move from one tidal area to another, multiple times per day, crossing the OSV corridor to feed on the east and west sides of the trail. Chicks blend into their surroundings very effectively because of their camouflaged plumage. They are highly mobile, very fast, and can be observed feeding over large areas of the habitat. When disturbed they may run in spurts, stop, and hide in dune grass or a small depression in the sand.

To lessen the impact from OSV running over chicks and help us implement a successful program, the town adopted a “self-escorting” procedure. It is critical that you adhere to the self-escorting procedure to insure that the HCP is successful. This means that you *must* have a person with you at least 16 years of age or older that can walk 15 feet in soft sand in front of the OSV looking for chicks and/or adults in the OSV corridor. OSV that are unable to provide a competent self-escorter over the age of 16 will be denied access. The areas where you will be self-escorting are called “self-escort zones”. The self-escort zones will be clearly marked with signs giving you notice when to begin and end the self-escorting.

It will be a requirement for all OSV to contain a copy of the Nauset Beach OSV Rules & Regulations, as well as a signed copy of this HCP Procedures & Conditions signed by anybody who will be driving the vehicle. Both copies of regulations will be required to be produced by the OSV operator at the time of check in. In the event that the OSV operator cannot produce both regulations, then he/she shall be provided with a copy at the entrance toll booth. After reading both sets of regulations, the OSV operator will sign the copy of the HCP Procedures and Conditions (this packet), and the operator acknowledges that he/she has read and understands the HCP requirements.

Important Information Regarding Medical or Family Emergencies

When the permit is in effect, access to and from Nauset Beach South outside of the self-escort access windows shall be *strictly prohibited*. In the event of a life-threatening medical emergency, the staff of the Nauset Beach Administration Building and emergency responders should be notified. Contact telephone numbers are provided in the Nauset Beach OSV Rules and Regulations. Essential vehicles will assist in escorting the vehicle off of the beach. Your stay on the beach could be as long as ten (10) hours with a minimum required stay of two (2) hours. Please plan for less than ideal conditions such as flying insects, bad weather, etc.

Self-Contained Vehicles – All self-contained vehicles will be required to commit to and reserve their day of departure when they check in. All other self-contained check in procedures and maximum stay restrictions remain unchanged while the permits are in effect. See the Nauset Beach OSV Rules & Regulations for more information regarding self-contained vehicles.

OSV Access Start Date & Access Windows

The HCP start date can change annually and is dependent on the number of un-fledged chicks present. The Natural Resources Officer/Shorebird Specialist will post when the program will start annually.

Important

The times listed below are the times that OSV can travel through the self-escort zone. You must leave yourself enough time to make it on/off the beach, and through the self-escort zones within the time frame.

Example 1: If you are accessing the beach during the 12PM – 2PM window, you must be at the self-escort zone no later than 1:30 PM.

Example 2: If you are exiting the beach during the 4PM – 6PM window, you must be at the self-escort zone no later than 5:30 PM.

Morning Session - 8:00 AM – 10:00 AM*

Mid-Day Session – 12:00 PM – 2:00 PM*

Afternoon Session – 4:00 PM – 6:00 PM*

**Times may be flexible within one (1) hour of each side of the access windows due to inclement weather or chick location.*

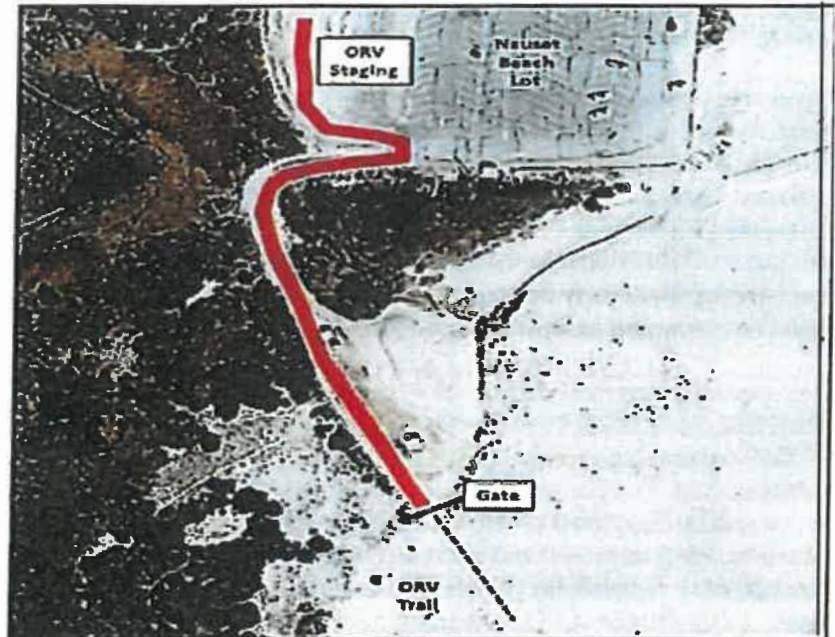
The Natural Resources Manager / Beach Director will have the independent authority to close the trail at any time for any reason.

The HCP OSV Protocols

Step 1: Accessing Nauset Beach South & Staging:

All OSV must stage in the pre-determined area of the Nauset Beach parking lot shown in (Figure 1). Line up in a single row, air down and check all your gear, safety equipment and supplies. Access will be granted on a first come, first served basis.

Figure 1:
Entrance to HCP
Staging area and
south entrance
gate.



Step 2: From Nauset Beach South Gate (lower lot) to the self-escort zones:

When shorebird monitors have established the locations of the chicks, they will notify staff stationed at the entrance gate and the gate will be opened. The OSV will then proceed through the entrance gate at ***no more than 10 MPH until they arrive at the self-escort zone***. Each self-escort zone will be marked with signs as shown below indicating where the self-escort zone begins and ends. Be on the lookout at all times for these signs. Remember the locations of the signs may change daily due to the chick's locations. When you arrive at a self-escort zone, stop your OSV, have your escorter exit the OSV and walk fifteen (15) feet in front of the OSV. The OSV will follow behind the escorter at walking speed. *It is your responsibility to identify the self-escort begin and end signs.*

The escort signs you will encounter are shown below.

****REMEMBER* that the location of these signs can change daily and it is your responsibility to identify the locations daily.***



Figure 2: Example showing two (2) separate self-escort zones. While you proceed through the selfescort zone, be aware that piping plovers are very territorial. Consequently, the broods may be separated, so each escort zone may contain one (1) brood with up to four (4) chicks and two (2) adult plovers. If they are close together there will only be one (1) self-escort zone. ***Plovers may be moving throughout the habitat area as you are walking and driving through the self-escort zones. They can appear at ANY TIME and ANYWHERE.***

Step 3: Moving through the Self-Escort Zones:

While walking and driving through the self-escort zones you should be focused on looking for chicks and/or adults in the OSV corridor. Walk slowly; keep your attention and eyes on the OSV corridor in front of you. Also use your peripheral vision to look for chicks near the edge of the corridor that may dart out. Chicks may also hide in small depressions in the sand including the tire ruts or in dune grass. They rely on blending in with their surrounding habitat. When unfledged chicks are close, the adult parent plover will often get excited and move directly into your path. They may also pretend their wing is broken and cannot fly; they may flap their wing on the ground while moving away from you. This biological defense behavior is commonly referred to as the "broken wing display." If you see this, the adults are attempting to draw attention to themselves and away from the chicks. You may hear the parent adult sounding an alarm call before you see the chicks. The call sounds like "peep-peep" repeated rapidly.

If the escort person or OSV driver sees a chick and/or adult in the OSV corridor or within 100 feet of the self-escort zone, they **MUST** signal the vehicle behind them to **IMMEDIATELY STOP**. The signal for this is: the self-escort designee raises his/her right arm and then shouts "STOP." The OSV operator must safely stop the vehicle. The driver will then honk his horn in three (3) short bursts. Monitors will make their way to you. No herding of chicks or adults will be permitted. The Monitor will sweep the area and then determine when the corridor is clear to travel. They will speak through a megaphone, "IT IS

SAFE TO PROCEED." OSV may then proceed. You should proceed with the understanding that chicks may reappear, at any time in the corridor. Chicks tend to travel close together, especially in the first 10 days after they hatch.

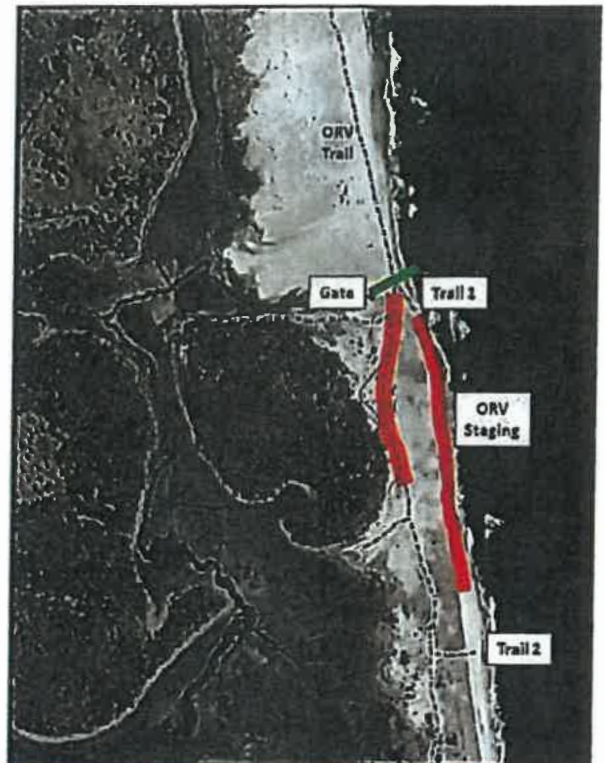
Below are photos of chicks and adult plovers acting out the feigned or broken wing display.



Step 4: Nauset Beach South Exiting Protocols:



Figure 3: Self-escort zones and exiting gate staging area near Trail 1



OSV will be expected to begin preparing at least one (1) hour before planning to exit the beach during the 4:00 p.m. to 6:00 p.m. access window. All OSV are to be clear of the self-escort zones by 6:00

p.m. In order to alleviate traffic congestion, management recommends that OSV begin preparation at 3:00

p.m. for their 4:00 p.m. departure. OSV are required to be at the Trail 1 gate by no later than 5:30

6 p.m. At approximately 1.5 hours before the 6:00 p.m. closure, Beach Ranger staff will sweep the

beach in a patrol vehicle with flashing strobe lights on. Starting in the south and working north, this final drive-through is a directive for all non-self-contained OSV to begin preparations to be at the Trail 1 gate by 5:30 p.m. and ***clear of the self-escorting corridor and the beach by 6:00 p.m.***

Due to varying high tides, changing beach conditions and additional plover related closures outside of the self-escorting zones, portions of Nauset Beach South may be closed to OSV traffic. Therefore, OSV traffic

should anticipate having to use a combination of frontal beach and back trails (as we have in the past) to exit the beach. As mentioned, there will be a gate located near Trail 1 staffed with an attendant. All OSV exiting the beach shall line up in a row when approaching the gate. No OSV or their self-escort designee

are to pass by the gate prior to 4:00 p.m. At 4:00 p.m., the gate attendant will open it once the shorebird

monitors have determined that the corridor is open and it is safe to proceed. The 4:00 p.m. opening may

be delayed up to 1 hour due to location of the chicks in the self-escort zone. OSV will proceed at no more than 10 mph driving speed until they reach the boundary of the self-escort zones. Here, you will be

required to repeat the same procedure from when you accessed the beach. Once again, all self-escorting protocols discussed earlier will remain in-effect during the exiting window.

Your cooperation with the required protocols will help to promote an enjoyable experience for you and your fellow permit holders.

Use good judgment in planning your day, especially if it is one in which there are many vehicles remaining on beach between 4 and 5 p.m. A congested OSV corridor when leaving will not contribute to an enjoyable experience.

On occasion there could be as many as 180 vehicles attempting to exit during the 4:00 p.m. to 6:00 p.m.

window. If everyone waits until the last minute to leave, the Town of Orleans will be unable to meet their legal requirements and conditions of the Permits. Plan your stay accordingly and enjoy.

Airing Stations: As always there may be a line waiting to use the two air supply lines at the Nauset

Beach South air station. If you choose to wait and use the air station, be patient. During times of intense traffic congestion, management may close down the air station in order to move along traffic and keep the corridor open. Please have a backup plan for airing up.

VIOLATIONS: Any violations of the aforementioned protocol **will not be tolerated**. Violators of the HCP

Procedures and Conditions shall be subject to OSV sticker revocation, and shall have their rights to operate an OSV on Nauset Beach suspended immediately for a period of one (1) year from the date of the violation.

A zero tolerance policy will be in effect at all times on all rules regarding the HCP.

The cooperation of the general public in complying with the conditions and regulatory requirements of the permits will be critical in determining the success of the HCP program. You should all consider yourselves as active stakeholders in the entire HCP process and its successful implementation.

Enjoy your day at Nauset Beach.

IMPORTANT:

The following page (Step 5) requires anybody operating the OSV to sign and date that they have read and acknowledge all of the conditions of the HCP. Please make sure you have read and understand the entire conditions and procedures before signing your name. Remember, the town has adopted a zero tolerance policy for violations and any violations will result in immediate sticker revocation and a \$200.00 fine.

Remember, staff are here to help you. They are also responsible for making sure the OSV permit conditions are met.

HCP USER GUIDE QUIZ

Question: Will the HCP be in effect this year and for how long?

Answer: The HCP will be implemented when there are no more than 2 broods and 8 unfledged chicks remaining in the Pochet Wash area. There is NO GUARANTEE or definitive start and end date for when this scenario will occur.

Question: What if there is dangerous weather during the HCP?

Answer: The Natural Resource Manager will monitor weather forecasts daily. In the event that a storm warning is predicted by the National Weather Service, or any other weather warning that could jeopardize public safety within a 24-hour period, the OSV trail shall be closed for the duration of the hazard or the start time may be moved one hour later or earlier.

Question: When a Habitat Conservation Plan (HCP) is implemented, what are the three access/egress windows for the oversand trail?

Answer: 8am-10am / 12pm-2pm / 4pm-6pm

Question: What is the minimum number of vehicle passengers required to access the oversand trail if there is an HCP?

Answer: TWO! Every OSV must have at least two people if self-escorting is necessary.

Each person operating the OSV must read the HCP Procedures & Conditions and sign this acknowledgment before access to Nauset Beach South will be allowed when the HCP is in effect regardless of whose name the OSV Permit is in.

Step 5: Acknowledgment of HCP Procedures and Conditions:

I, *(Print Name & OSV Permit # below)*, have read the HCP Procedures and Conditions contained herein. By signing this HCP Acknowledgment, I acknowledge that I understand and agree to fully comply with the HCP Procedures & Conditions. I understand that if I or any of my occupants fail to comply with or violate any of the HCP Procedures & Conditions, it shall result in a \$200.00 fine and immediate revocation of the OSV Permit. I also understand that the Town has adopted a **ZERO TOLERANCE POLICY** for violations of the HCP Procedures and Conditions. I further agree that when requested to do so by Town of Orleans staff, I will produce this signed copy.

Please keep a copy of the HCP Conditions and Procedures in the OSV at all times.

Print Name & Permit #

Sign & Date:

Print Name & Permit #

Sign & Date:

Print Name & Permit #

Sign & Date:

Print Name & Permit #

Sign & Date:

Appendix 7 Town of Orleans and Chatham Beach Agreement

NAUSET BEACH AGREEMENT

This agreement made this 27th day of April, 2022 by and between the Town of Orleans ("Orleans") and the Town of Chatham ("Chatham") pursuant to the provisions of M.G.L. c. 40 554 and 4A, and every other power which they may have, acting by their respective Select Boards.

WHEREAS, Nauset Beach is a unique conservation and recreation area located in the Town of Orleans and the Town of Chatham;

WHEREAS, the parties desire to provide for the joint patrol and management of Nauset Beach, including, but not limited to, beach patrol, fire protection, rescue services, and endangered shore bird monitoring, within the Town of Orleans and the Town of Chatham from a point south of the Nauset Beach Parking lot to the Chatham Inlet;

WHEREAS, the parties desire to assess the costs of running these programs on Nauset Beach, the parties commit to collecting and sharing the data necessary to achieve this goal;

NOW THEREFORE, in consideration of the foregoing and the mutual promises and agreements contained herein, the parties agree as follows:

I. Responsibilities.

Chatham agrees to:

1. Supply qualified personnel to adequately patrol the Chatham portion of Nauset Beach, considering varying seasonal demands and any reasonable contingency which may arise.

2. Enforce the Rules and Regulations of Nauset Beach in the Chatham portion of Nauset Beach.

Orleans agrees to:

1. Supply and maintain a vehicle(s) and qualified personnel to adequately patrol the Orleans portion of Nauset Beach, considering varying seasonal demands and any reasonably contingency which may arise.

2. Enforce the Rules and Regulations of Nauset Beach in the Orleans portion of Nauset Beach.

<p>3. Registration-related procedures:</p> <p>a. Inspect all registered Chatham residents' Off Road Vehicles ("O.R.V.") for compliance with the most recently adopted Nauset Beach Rules and Regulations for O.R. Vs;</p> <p>b. Collect registration fees and account for such fees collected;</p> <p>c. Maintain accurate records of vehicles registered in Chatham, including the names of respective owners and provide information to other town within 24 hours of permit issuance;</p>	<p>3. Registration related procedures:</p> <p>a. Inspect all registered O.R.V.s, except those as registered in Chatham, for compliance with the most recently adopted Nauset Beach Rules and Regulations for QR. V.s;</p> <p>b. Collect registration fees, except for those vehicles registered in Chatham, and account for such fees collected;</p> <p>c. Maintain accurate records of vehicles registered in Orleans and to non-residents, including the names of respective owners and</p>
<p>d. Provide an educational movie on the use and management of Nauset Beach for showing to all O.R.V.s registered to Chatham residents.</p>	<p>provide information to other town within 24 hours of permit issuance;</p> <p>d. Provide an educational movie on the use and management of Nauset Beach for showing to all O.R.V. operators and Orleans Camp Licensees.</p>
<p>4. Supply and install signs, string, posts, wire fencing, and other necessary equipment, materials, and personnel to mark trails, delineate O.R.V. corridors, protect vegetation, and protect shorebird species that are listed as Threatened, Endangered, or of Special Concern in the Chatham portion of Nauset Beach.</p>	<p>4. Supply and install signs, string, posts, wire fencing, and other necessary equipment, materials, and personnel to mark trails, delineate O.R.V. corridors, protect vegetation, and protect shorebird species that are listed as Threatened, Endangered, or of Special Concern in the Orleans portion of Nauset Beach.</p>

<p>5. Provide protection for shorebird species that are listed as Threatened, Endangered, or of Special Concern in the Chatham portion of Nauset Beach, and monitor the protection measures implemented, including, but not limited to, the following:</p> <p>a. Cause a qualified person(s) to monitor the Chatham section of Nauset Beach if shorebird species listed as Threatened, Endangered, or of Special Concern are present, as well as provide protective measures for the birds and information to the Town of Chatham in case vehicle closures are needed;</p> <p>b. Supply the Massachusetts Division of Fisheries and Wildlife with data and year-end reports on shorebird protection on the Chatham portion of Nauset Beach;</p> <p>c. Supply and maintain All-Terrain Vehicle(s) ("ATV.") and/or O.R.V.(s) for the monitoring of shorebirds in the Chatham portion of Nauset Beach as needed.</p>	<p>5. Provide protection for shorebirds species that are listed as Threatened, Endangered or of Special Concern in the Orleans portion of Nauset Beach, and monitor the protection measures implemented, including, but not limited to, the following:</p> <p>a. Cause a qualified person(s) to monitor the Orleans section of Nauset Beach if shorebird species listed as Threatened, Endangered, or of Special Concern are present, as well as provide protective measures for the birds and information to the Town of Orleans in case vehicle closures are needed;</p> <p>b. Supply the Massachusetts Division of Fisheries and Wildlife with data and year-end reports on shorebird protection in the Orleans portion of Nauset Beach.</p>
	<p>6. Provide, maintain, operate, and staff a check booth in the Orleans portion of Nauset Beach, as needed.</p>
	<p>7. Provide printed regulations, applications, permits, stickers, and educational material for both Towns to issue, on a uniform basis, to their residents and other users of the beach.</p>

	8. Provide a trash dumpster(s) at the gate of Nauset Beach in Orleans for the use of all O.R.V. operators, except for use by Orleans Camp Licensees, and provide for disposal of the trash collected. Without limiting the generality of the foregoing sentence, Camp Licensees are expressly prohibited from using the dumpster(s) to dispose of any bulky waste, including but not limited to, household trash, propane tanks, building debris, furniture, or the like.
	9. Maintain informational signs at the parking lot of Nauset Beach in Orleans regarding the appropriate use of Nauset Beach south of the parking lot.

General

1. All O.R.V.s, including those of Orleans Camp Licensees, must check "on" or "off" upon entering or leaving Nauset Beach at the check booth provided for in section 1.6. above during the season when the check booth is open South of the Nauset Beach parking lot.
2. All persons, including residents, non-residents, and Orleans Camp Licensees, who seek to register vehicles to use Nauset Beach shall yearly submit complete registration forms and all applicable registration fees, as well as view the educational movie, referred to herein on the use and management of Nauset Beach.
3. In the event that Nauset Beach is full, visitors to camps may only access the beach provided the Orleans Camp Licensees has delivered a "visitor pass" form, signed by the Orleans Camp Licensees (on a form approved by the Orleans Park Department), to the Orleans gate at least 8 hours in advance. A camp visitor pass will allow vehicle access to the specific camp only. Vehicle access to other areas of the beach is not permitted.

II. Cross Jurisdiction Patrols. It is agreed that each Town shall be responsible for patrols on their own portion of Nauset Beach.

III. Annual Review. The Orleans and Chatham Select Boards shall meet on or before October 30th each year to review this Agreement, related fees, financial arrangement, and rules and regulations governing Nauset Beach. They may, if deemed appropriate, modify the financial arrangement, adopt new fees and/or rules and regulations, revise the provisions contained herein concerning the Responsibilities of each Town (Section I) and Beach Management (Section VIII), and take any other action consistent with this Agreement. Any amendments to this agreement must be expressed in writing and executed by the Select Boards from both towns.

IV. Termination. Notwithstanding anything contained herein to the contrary, each Town shall have the right to terminate this Agreement by thirty (30) days prior written notice, at any time during

the period from November 1 to February 1 of any year the Agreement is in effect, for any of the following:

1. Material breach by the other Town of any of the provisions contained in this Agreement.
2. Lack of appropriation of funds necessary to fulfill the Town's responsibilities set forth in this Agreement.
3. Physical changes in Nauset Beach resulting in the Town being unable to fulfill its responsibilities set forth in this Agreement.
4. The issuance of a Decision, Order, or Directive from a governmental agency of competent jurisdiction, the effect of which is to prevent the Town from carrying out its responsibilities under this Agreement..

V. Employee Status. Employees of the Town of Orleans and employees of the Town of Chatham shall, while acting pursuant to the provisions of this Agreement, be deemed to be employees of their respective Towns even though they may be working, under the terms of this Agreement, on a portion of Nauset Beach owned by the other Town.

VI. Term/Duration of Agreement. Unless otherwise terminated under the provisions of Section IV of this Agreement, above, the Agreement shall run for a period of three (3) years from May 1, 2022, to April 30, 2025.

VII. Revenue Distribution Revenue will be allocated as follows:

1. Chatham keeps all fees charged to Chatham residents and property owners, excluding the Orleans HCP surcharge collected from Chatham residents which shall be paid to Orleans by October 30th each year.
2. Orleans keeps all fees charged to Orleans residents and Camp Licensees.
3. All non-resident sticker fees charged by Orleans, excluding the Orleans HCP surcharge, shall be allocated 75% to Orleans and 25% to Chatham. Orleans shall pay Chatham its allocated amount by October 30th each year and shall pay Chatham its allocated amount of nonresident sticker fees collected after October 30th by February 28th each year.
4. Orleans shall be under no obligation to provide special escort services for Chatham property owners.

VIII. Beach Management.

1. Management of that portion of Nauset Beach located in Chatham shall be as set out in Order of Conditions, DEP SE10-3127, issued April 13, 2016, The provisions of the Chatham Order of Conditions are incorporated fully herein by reference.
2. Management of that portion of Nauset Beach located in Orleans shall be as set out in Order of Conditions, DEP SE 54-2246, issued June 25, 2014, recorded in the Barnstable

Registry of Deeds in Book 28280 Page 185 ("Orleans Order of Conditions"). The provisions of the Orleans Order of Conditions are incorporated fully herein by reference.

3. To the extent that the Chatham Order of Conditions is inconsistent with this Agreement, the provisions of the Chatham Order of Conditions shall control, except that Orleans shall not be required to manage and enforce the Special Conditions contained in Sections F and
4. To the extent that the Orleans Order of Conditions is inconsistent with this Agreement, the provisions of the Order of Conditions shall control.
5. To the extent permitted by "Guidelines For Managing Recreational Use Of Beaches To Protect Piping Plovers, Terns, And Their Habitats In Massachusetts," (1993) issued by the Massachusetts Division of Fisheries and Wildlife, the entirety of Nauset Beach will be managed to remain open to all O.R.V. traffic, taking into consideration tide and erosion.
6. Recreational and General Vehicular Access.
 - a. Recreational and general public access of vehicles shall be permitted only in authorized areas and trails of the beach as posted.

When a Piping Plover or Least Tern nesting habitat is located and identified, it should be clearly marked with symbolic fencing and warning signs. Plover or tern nests that are located and identified shall be mapped by monitors, and the information shall be shared between the Towns as soon as possible.

When vehicular access infringes upon the nesting habitat, vehicle traffic and parking shall be rerouted, or altered, around the outside edge of the nesting habitat for as long as the nesting habitat is active, to ensure the safety of the plovers or terns. Marking and posting of the habitat shall be performed in accordance with the guidelines set forth in the Management Plan.

As long as adequate provisions have been made to alter the traffic pattern around the habitat area, vehicular access may be continued. However, if no viable rerouting of traffic is possible due to the location of the nesting habitat, vehicles shall be prohibited through, or into the delineated nesting habitat area. Vehicular access shall be prohibited for as long as necessary to ensure the proper fledging of the plovers and terns as set forth in this beach management plan.

Only essential vehicles, described below, shall be permitted to have access into or through the nesting habitat area, and only under the conditions described below.

All vehicular access restrictions, and conditions of access, will be consistent with the Massachusetts Division of Fisheries and Wildlife document, known as, "Guidelines For Managing Recreational Use Of Beaches To Protect Piping Plovers, Terns, And Their

Habitats In Massachusetts" (1993), utilizing signage, symbolic fencing, use of

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monitors, and methods that are designed to protect the plover and tern nesting habitat,

b. Definitions of Essential Vehicles.

Essential Vehicles (Category 1): Public Safety Vehicles used for emergency service purposes belonging to a municipality, county, state, or federal entity for a police agency, fire service or rescue service; vehicles belonging to Natural Resources, and Public Works of the Towns of Orleans or Chatham providing necessary services or maintenance, and vehicles operated for species monitoring and management,

Essential Vehicles (Category 2): Vehicles bearing an Orleans Camp Licensees sticker and belonging to Licensees of "camps" (structural dwellings), their immediate family members and contractors providing emergency repair.

c. Access of Essential Vehicles.

Under restricted conditions, as outlined below, essential vehicles may be permitted to have access into and through a nesting habitat area containing unfledged chicks. Access will take place only during daylight hours, with the exception of emergency situations involving imminent threat to public health and/or safety. Open, 3 or 4wheel all-terrain vehicles (ATVs) shall be used whenever possible for monitoring and law enforcement because of the improved visibility afforded the operator.

The access of essential vehicles (Category 1) shall be limited by utilizing monitor(s), who, after determining the location of unfledged chicks, shall accompany and walk in front of the vehicle operating at a speed of five (5) miles per hour proceeding through plover or tern nesting habitat. These essential vehicles (Category 1) will be restricted to operate in this manner, through a plover or tern nesting habitat, on a public safety, need-only basis, and will limit the number of trips through the identified area to only the minimum necessary to accomplish the necessary objective.

Town of Chatham public safety essential vehicles operating through the Orleans portion of Nauset Beach will operate in the above described manner, and additionally, shall be required to notify the Town of Orleans Natural Resources Department, in advance, to make arrangements for access through the Orleans section of Nauset Beach. Emergency situations may require provisional arrangements, but will be conducted as closely in this manner as possible.

Vehicular access for essential vehicles (Category 2) shall be required to make arrangements, notifying Orleans in advance, utilizing the above described method. In addition, essential

vehicles (Category 2) shall be required to have the Orleans Natural Resources personnel on scene to supervise the method of vehicular access. It is anticipated that such vehicular access will be limited to 1-2 times per day, and limited to one camp owner pass per day, subject to the availability of personnel. It is further anticipated that any escort service will require the hiring of additional personnel. An

of 7

operator of an essential vehicle (Category 2) shall be responsible for all incremental escort costs, and shall reimburse Orleans as applicable.

Any decision as to providing vehicular access for essential vehicles (Category 2) to restricted areas of the Beach shall be discussed, reviewed, and approved by the Orleans Natural Resource Manager prior to access being granted, subject to the availability of personnel.

There shall be no vehicular access other than the methods described above, and shall be consistent with the document, "Guidelines For Managing Recreational Use Of Beaches To Protect Piping Plovers, Terns, And Their Habitats In Massachusetts," (1993) issued by the Massachusetts Division of Fisheries and Wildlife.

5. Hold Harmless. Each Town agrees to hold harmless and, to the extent permitted by law, to indemnify the other Town and its representatives, employees and agents, from and against any and all liability, suits, claims, losses, injuries or expenses (including reasonable attorneys' fees) brought by a third party, arising from or with respect to any acts or omissions of the representatives, employees and agents of the indemnitor Town as referenced in, related to and/or arising out of this Agreement.
6. Representations. Each Town warrants and represents that its Select Board is duly authorized to enter into this Agreement.

This agreement is binding upon on the respective towns as well as their various boards, commission, departments and officers.

Executed as of the day and the year first above written.

TOWN OF CHATHAM

TOWN OF ORLEANS

Select Board

Select Board

Pat & Linda
Sharon Davis
Linda Miller
Dean P. Nicastro
Jeffrey S. Dyson

Wm. H. Barger
M. J. P. O.
Andrew P. Oer
Michael A. Herman
Mark W. Herman

ESCROW AGREEMENT
[ORGANIZATION] CONSERVATION & MANAGEMENT PERMIT

This ESCROW AGREEMENT (this "Agreement") is entered into as of this ____ day of _____, _____ by and between the Massachusetts Division of Fisheries and Wildlife, by and through the Natural Heritage and Endangered Species Program, having a principal place of business at 1 Rabbit Hill Road, Westborough, MA, 01581 ("NHESP"); the Town of Orleans, MA ("Town") (proponent) having a principal place of business at 19 School Road, Orleans, MA 02653; and Michael D. Ford, having a principal place of business at 72 Main Street (Route 28), West Harwich, MA 02671 ("Escrow Agent"). NHESP, Town of Orleans, and Escrow Agent are referred to herein collectively as the "Parties".

1. Recitals

a. The Conservation and Management Permit No. 019-335.DFW ("Permit") issued by NHESP to the Town contains financial assurance provisions in the Special Conditions section requiring that the Town ensure that funds are available in the sum of up to three annual payments of \$11,600.00, the final amount of funding to be determined as set forth in the Permit (the "Funds"), to carry out educational outreach, increased law enforcement, and selective predator management activities, for the benefit of Piping Plover [and other species, if applicable] populations in Massachusetts. These payments will also satisfy a requirement of Certificate of Inclusion No. 18-37711, issued by the Division to the Town pursuant to United States Fish and Wildlife Service Incidental Take Permit No. TE01281C-0. During [Year 1], the Permit requires the Town to deposit \$11,600.00 into an escrow account prior to carrying out the covered activity authorized by the permit. By February 15 in Years 2 and 3 of the Permit, prior to carrying out the covered activity authorized by the permit, the Town shall make additional deposits to ensure that the required annual mitigation amount of \$11,600.00 (minus credit due to lack of full implementation in the previous year) is deposited into the escrow account. Therefore, as set forth in the Permit, the Town shall deposit a minimum of \$11,600.00 and up to \$34,800.00 into the escrow account over the course of the three-year Permit Term. Funds deposited during the three-year Permit term may roll into the first year of a subsequent, consecutive permit term, after which time they are forfeited if unused; that is, they must remain available for the Division to use for mitigation regardless of implementation by the [City or Town], consistent with procedures for Incidental Take Permit No. TE01281C-0.

b. The Parties agree the Funds shall be paid by the [Organization] to the Escrow Agent and held in an interest-bearing escrow account ("Escrow Account") (further defined in 2 below) and expended pursuant to the terms and conditions described below to mitigate for impacts associated with the covered activity (the "Project"), located in [Municipality], Massachusetts.

The Parties enter into this Agreement for the purpose of defining the terms and conditions under which the Funds shall be held and disbursed.

NOW THEREFORE, after consideration of the above recitals, the Town, NHESP and the Escrow Agent hereby covenant and agree as follows:

2. Escrow Account

a. The Town of Orleans shall deliver the Funds to the Escrow Agent in the amounts, schedule and manner set forth in paragraphs 14 of the Permit and as summarized in Paragraph 1.a. of this agreement.

b. All funds delivered by the Town to the Escrow Agent shall be deposited by the Escrow Agent in an interest-bearing account or held in obligations by the US Government at one or more banks ("Depository Bank"), said accounts to be at all times insured by the Federal Deposit Insurance Corporation and which shall pay interest on the Funds at a reasonable rate. The Depository Bank shall be entitled to charge the [Organization] directly for services related to maintenance of the Escrow Account at a rate not exceeding the Bank's standard charges to other customers for similar services. Alternatively, the Town may supplement the Funds identified in paragraphs 1 and 2 with a contribution of an additional amount sufficient to cover anticipated fees.

c. The Escrow Account shall be opened by the Escrow Agent and funds may be withdrawn only by the Escrow Agent and no other person. Disbursements shall be made from the Escrow Account only in accordance with the terms of this Agreement.

d. The Escrow Agent shall maintain a record of all deposits, income, disbursements, and other transactions of the Escrow Account. Upon request, the Escrow Agent shall provide to any of the Parties a written accounting of all transactions. The Parties shall have the right to inspect all books and records of the Escrow Agent relating to the Escrow Account at reasonable times upon request. Escrow Agent's computation of the Funds shall be deemed to be correct in the absence of manifest error.

e. The Escrow Agent shall keep possession of the book(s) and bank statements of the Escrow Account until such time as it is terminated in accordance with the terms of this Agreement, or until a successor Escrow Agent is appointed as provided herein.

3. Disbursements

From time to time, NHESP may, on or before the date which is five (5) years from the date of this Agreement, request in writing the Escrow Agent to deliver all or portions of the Funds, plus any interest thereon, for educational outreach, increased law enforcement and or selective predator management, to provide a net-benefit to the Piping Plover in Massachusetts. Upon receipt of such written request, the Escrow Agent shall deliver the requested portion of the Funds to NHESP or any party designated in writing by NHESP. Delivery of the Funds in accordance with the terms of this Agreement shall be made by cashier's check, or by federal funds wire transfer, at the option of the payee.

a. The Escrow Agent may make disbursements to the Depository Bank for services rendered in maintaining said account, consistent with paragraph 2b.

b. If, at the end of five (5) years from the date of this Agreement, any portion of the Funds is still held in escrow under this Agreement, then NHESP shall, within six (6) months after such five (5) year date, develop a plan for the use of any remaining Funds by NHESP or any party designated in writing by NHESP for further management for the benefit of the Piping Plover in Massachusetts.

c. The Escrow Agent shall release any remaining Funds to NHESP or any party designated in writing by NHESP in accordance with such plan.

4. Termination of Agreement

This Escrow Agreement shall terminate, and the Escrow Agent shall be relieved of all liability, after all funds in the Escrow Account have been properly disbursed in accordance with the terms and conditions of this Agreement. When the Escrow Account is terminated, the Escrow Agent shall provide a final accounting of all transactions hereunder to the Parties.

5. Duties and Liabilities of Escrow Agent

a. The sole duty of the Escrow Agent under this Agreement is to receive funds from the Town and to hold the funds for disbursement according to Section 3 above. The Escrow Agent shall be under no duty to pass upon the adequacy of any documents, to determine whether any of the Parties are complying with the terms and provisions of this Escrow Agreement, or to determine the identity or authority of any person purporting to be a signatory authorized by the Town or NHESP.

b. The Escrow Agent may conclusively rely upon, and shall be protected in acting on, a statement, certificate, notice, requisition, order, approval, or other document believed by the Escrow Agent to be genuine and to have been given, signed and presented by a duly authorized agent of the [Organization] or NHESP. The Escrow Agent shall have no duty or liability to verify any statement, certificate, notice, request, requisition, consent, order, approval or other document, and its sole responsibility shall be to act only as expressly set forth in this Agreement. The Escrow Agent shall not incur liability for following the instructions contemplated by this Agreement or expressly provided for in this Agreement or other written instructions given to the Escrow Agent by the Parties. The Escrow Agent shall be under no obligation to institute or defend any action, suit or proceeding in connection with this Escrow Agreement, unless first indemnified to its satisfaction. The Escrow Agent may consult with counsel of its choice including shareholders, directors, and employees of the Escrow Agent, with respect to any question arising under or in connection with this Agreement, and shall not be liable for any action taken, suffered or omitted in good faith. The Escrow Agent shall be liable solely for its own willful misconduct.

c. The Escrow Agent may refrain from taking any action, other than keeping all property held by it in escrow if the Escrow Agent: (i) is uncertain about its duties or rights under this Escrow Agreement; (ii) receives instructions that, in its opinion, are in conflict with any of the terms and provisions of this Agreement, until it has resolved the conflict to its satisfaction, received a final judgment by a court of competent jurisdiction (if it deems such action necessary or advisable), or it has received instructions executed by both the [Organization] and NHESP.

d. Escrow Agent is acting, and may continue to act, as counsel to the [Organization] in connection with the subject transaction, whether or not the Funds are being held by Escrow Agent or have been delivered to a substitute impartial party or a court of competent jurisdiction.

e. Each of the Parties admits, acknowledges and represents to each of the other

Parties that it has had the opportunity to consult with and be represented by independent counsel of such party's choice in connection with the negotiation and execution of this Agreement. Each of the Parties further admits, acknowledges and represents to the other Parties that it has not relied on any representation or statement made by the other Parties or by any of their attorneys or representatives with regard to the subject matter, basis or effect of this Agreement.

6. Escrow Agent's Fee

- a. The Escrow Agent shall be entitled to compensation from the [Organization] for its basic services under this Escrow Agreement. The Escrow Agent may bill the [Organization] directly for such services in accordance with the fee schedule attached to this Escrow Agreement as Exhibit B. Payments for services provided by Escrow Agent shall not be made from Escrow Funds.

7. Investment Risk

- a. In no event shall the Escrow Agent have any liability as a result of any loss occasioned by the financial difficulty or failure of any institution, including Depository Bank, or which holds United States Treasury Bills, or other securities, or for failure of any banking institution, including Depository Bank, to follow the instructions of the Escrow Agent. Without limiting the generality of the foregoing, in no event shall the Escrow Agent incur any liability as the result of any claim or allegation that the Escrow Agent should have invested the escrow funds in United States Treasury Bills rather than hold same on deposit at the Depository Bank, or vice versa.

8. Notices

- a. All notices permitted or required by this Agreement shall be in writing and shall be deemed duly provided when deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested, to the other Parties at the addresses set forth in the first paragraph of this Agreement. The Party providing notice may choose alternate methods, including hand delivery, Federal Express, or other recognized overnight courier. Notices provided by hand delivery; Federal Express or other recognized overnight courier shall be deemed duly provided when received at the addresses set forth in the first paragraph of this Agreement.

- b. All notices, certification, authorizations, requests or other communications required, or permitted to be made under this Escrow Agreement shall be delivered as follows:

To the NHESP:

Assistant Director
Natural Heritage and Endangered Species Program
ATTN: Regulatory Review, CMP No. [XX-XXXXX].DFW
Division of Fisheries and Wildlife
1 Rabbit Hill Road, North Drive
Westborough, MA 01581

To the Town of Orleans:

Town Manager
Town Hall
19 School Road
Orleans, MA 02653

To the Escrow Agent:

Attorney Michael D. Ford
72 Main Street (Route 28)
West Harwich, MA 02671

or to such other place or to the attention of such other individual as a Party from time to time may designate by written notice to all other Parties.

9. Resignation, Removal, or Successor Escrow Agent

a. If, for any reason, the Escrow Agent is unable or unwilling to continue to act as Escrow Agent, he/she shall give written notice to the other Parties of his/her inability or unwillingness to continue as Escrow Agent. The parties shall agree upon a successor agent, formally appoint the successor agent, and provide written notification to the Escrow Agent of the subsequent appointment within ten (10) business days. The Escrow Agent shall then, within three (3) business days after receiving notice of subsequent appointment, deliver to the successor escrow agent all cash and other property held by the Escrow Agent under this Escrow Agreement. Upon such delivery, all obligations of the Escrow Agent under this Escrow Agreement shall automatically cease and terminate. If no successor escrow agent is designated within the prescribed ten (10) day period, or if notice of subsequent appointment is not received within such period, then the Escrow Agent may, at its option at any time thereafter, deposit the funds and any documents then being held by it in escrow into any court having appropriate jurisdiction, and upon making such deposit, shall thereupon be relieved of and discharged and released from any and all liability hereunder, including without limitation any liability arising from the Funds, or any portion thereof so deposited.

b. The Escrow Agent may be removed at any time by a written instrument or concurrent instruments signed by the NHESP and the [Organization] and delivered to the Escrow Agent.

c. If at any time hereafter, the Escrow Agent shall resign, be removed, be dissolved, or otherwise become incapable of acting, or the position of the Escrow Agent shall become vacant for any of the foregoing reasons or for any other reason, the Parties hereto shall promptly appoint a successor Escrow Agent. Upon appointment, such successor Escrow Agent shall execute and deliver to his/her predecessor and to the Parties hereto an

instrument in writing accepting such appointment hereunder. Thereupon, without further act, such successor Escrow Agent shall be fully vested with all the rights, immunities, and powers, and shall be subject to all the duties and obligations of his/her predecessor, and the predecessor Escrow Agent shall promptly deliver all books, records, and, other property and monies held by him/her hereunder to such successor Escrow Agent.

10. Interest

a. All interest income accrued on funds in the Escrow Account shall become part of the Escrow Account and shall remain in the Escrow Account. The Escrow Agent may disburse funds to the [Organization] to pay federal and state taxes on accrued interest. Said disbursement may be made by the Escrow Agent only after receiving a written confirmation from the [Organization], with a copy sent to the NHESP, of all itemized federal and state tax liabilities incurred by interest accrued on the Escrow Account.

11. Miscellaneous

a. This Escrow Agreement shall be binding upon, and shall inure to the benefit of, the respective Parties hereto and their successors and assigns.

b. This Agreement shall be governed by and be construed in accordance with the laws of the Commonwealth of Massachusetts.

c. This Agreement shall be interpreted as an instrument under seal.

d. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and all counterparts shall constitute one Agreement.

e. This Escrow Agreement may not be amended, altered, or modified except by written instrument duly executed by all of the Parties hereto.

f. If the term, condition or provision of this Agreement, or the application thereof to any circumstances or party hereto, ever shall be held to be invalid or unenforceable, then in each such event the remainder of this Agreement or the application of such term, condition, or provision to any other circumstance or party hereto (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each term, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

g. Each individual and entity executing this Agreement hereby represents and warrants that he, she or it has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement to the terms hereof.

12. Effective Date

a. This Agreement shall take effect on the latest date of execution by the NHESP, the Town, or Escrow Agent.

IN WITNESS WHEREOF, the parties have caused this Escrow Agreement to be duly executed as of the day and year first written above.

FOR THE MASSACHUSETTS DIVISION
OF FISHERIES AND WILDLIFE:

Name:

Title:

COMMONWEALTH OF MASSACHUSETTS

_____, ss

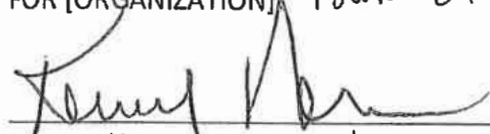
_____, 2024

On this ___ day of ___, 2024, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public

My commission expires:

FOR [ORGANIZATION]: TOWN OF ORLEANS



Name: KIMBERLY NEWMAN

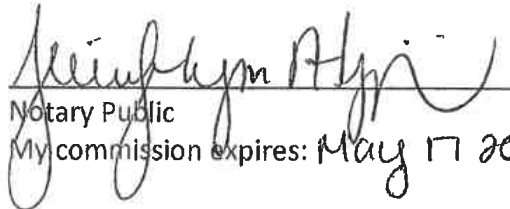
Title: TOWN MANAGER

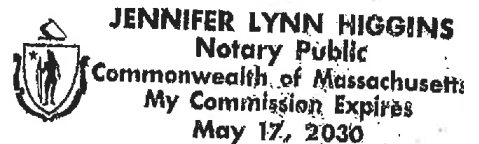
STATE OF Massachusetts

Barnstable, ss

March 5, 2025


On this 5 day of March, 2025, before me, the undersigned notary public, personally appeared Kimberly Neuman, and proved to me through satisfactory evidence of identification, which were Drivers License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.


Notary Public
My commission expires: May 17 2030



FOR THE ESCROW AGENT:

Company Name Office of Attorney Michael W. Ford

By: 
Name: Michael W. Ford
Title: Attorney

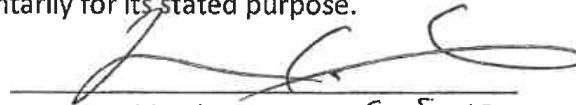
COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE ss.

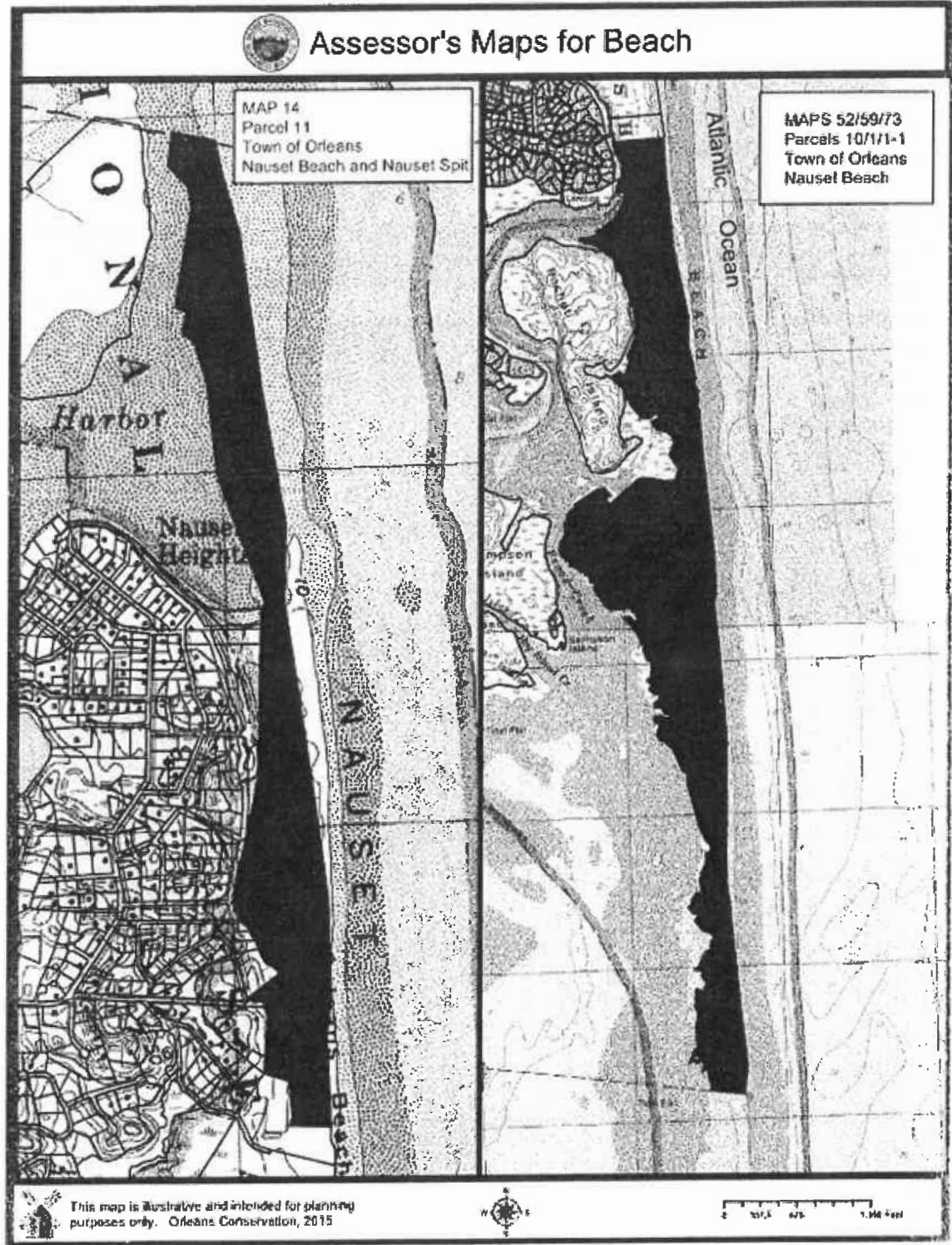
FEBRUARY 25 2025

On this 25th day of FEBRUARY, 2025, before me, the undersigned notary public, personally appeared Michael D. Ford, and proved to me through satisfactory evidence of identification, which were known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.




Notary Public MICHAEL C. SOLITTO
My commission expires: APRIL 1, 2027

Appendix 9 Proof of Ownership: Assessor's Map of Nauset Beach Parcels



Appendix 10 Budget Assistance Documentation



Nathan Sears

😊 Reply Reply all Forward 📎 ...

To: Vitz, Andrew (FWE) <andrew.vitz@mass.gov>

Mon 3/18/2024 3:57 PM

Cc: Mostello, Carolyn (FWE) <carolyn.mostello@mass.gov>; +2 others

Dear MassWildlife,

As the Town of Orleans enters into the 3rd year of its 3-year COI, I ensure that the "Town" has the funding, staffing, and work plans in place to successfully implement the 2024 HCP. Proof of sufficient funding through 6/30/24 was provided last May and is on file. The Town of Orleans will provide a second budget assurance for FY25 as soon as the budget has been approved at spring town meeting scheduled for 5/13/24.

Therefore, the Town of Orleans is asking MassWildlife for re-authorization to implement the Town of Orleans HCP during the 2024 nesting season.

Respectfully,
Nate Sears, Natural Resources Manager
Town of Orleans
Orleans, MA 02653

...

Reply Reply all Forward



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

p: (508) 389-6300 | f: (508) 389-7890

[MASS.GOV/MASSWILDLIFE](https://www.mass.gov/masswildlife)

April 23, 2024

Nate Sears, Natural Resources Manager
Town of Orleans
Orleans, MA 02653

RE: MA Endangered Species Act (G.L. c. 131A) Conservation and Management Permit No: 022-391.DFW
and associated Certificate of Inclusion in the Massachusetts Habitat Conservation Plan Reauthorization

Dear Nate Sears:

I am writing to confirm that the Massachusetts Division of Fisheries and Wildlife (the "Division") has reauthorized the MA Endangered Species Act (G.L. c. 131A) Conservation and Management Permit No: 022-391.DFW and associated Certificate of Inclusion in the Massachusetts Habitat Conservation Plan (HCP) to the Town of Orleans (the "Permit Holder") for year 2024.

Note that to continue with covered activities after June 30, 2024, the Town must submit a second financial assurance immediately after the FY25 budget is resolved.

Sincerely,

A handwritten signature in black ink, appearing to read "Jesse Leddick".

Jesse Leddick
Assistant Director
Natural Heritage & Endangered Species Program
Massachusetts Division of Fisheries & Wildlife
1 Rabbit Hill Road, Westborough, MA 01581

have access to the State Retiree Benefits Trust Fund, for the purpose of investing OPEB funds. Adoption of the trust was recommended by the Governmental Accounting Standard Board, the Massachusetts Department of Revenue, our independent auditors and municipal bond rating agencies. Funding for this article is an annual appropriation from the General Tax Override voted on May 15, 2018, in accordance with Massachusetts General Laws, Chapter 59, Section 21c (g).

(Simple Majority Vote)

SB: 5 – YES 0 – NO 0 – ABSTAIN

FC: 9 – YES 0 – NO 0 – ABSTAIN

ARTICLE 26

Fund Affordable Housing Trust Fund

To see if the Town will vote to raise and appropriate the sum of \$512,500, or any other sum, to be deposited in the Affordable Housing Trust Fund, or to take any other action relative thereto. (Select Board)

Suggested Motion: I move that this article be accepted and adopted as printed in the warrant and that the sum of \$512,500 be raised and appropriated for this purpose.

Explanation: This article proposes to fund the Affordable Housing Trust Fund. Funding for this article is an annual appropriation from the General Tax Override voted on 2018 and an additional vote in 2023 to increase the amount in accordance with Massachusetts General Laws, Chapter 59, Section 21c (g).

(Simple Majority Vote)

SB: 5 – YES 0 – NO 0 – ABSTAIN

FC: 7 – YES 2 – NO 0 – ABSTAIN

ARTICLE 27

Authorize and Fund Habitat Conservation Plan Permits

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$43,023, or any other sum, for the purpose of funding the implementation costs, including all expenses incidental and related thereto, of the Habitat Conservation Plan (HCP) approved by the Federal and State Fish and Wildlife Services, or to take any other action relative thereto. (Select Board)

Suggested Motion: I move that this article be accepted and adopted as printed in the warrant and that the sum of \$43,023 be raised and appropriated for this purpose.

Explanation: This article will fund the annual cost of implementing the statewide HCP permits. The permits are issued for three years, and the implementation costs include seasonal staff, equipment, and predator mitigation funds as conditions of the permits. The HCP provides for limited over sand vehicle use of Nauset Beach south of the bathing beach parking lot during the summer migratory bird nesting season.

(Simple Majority Vote)

SB: 5 – YES 0 – NO 0 – ABSTAIN

FC: 9 – YES 0 – NO 0 – ABSTAIN