

Relaxed protection for plovers sought

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ORLEANS - Local parks officials are considering an unprecedented solution to their piping plover predicament: Get federal and state regulators to ease rules protecting the threatened species.



In June, pairs of the shorebirds nested on Nauset Beach's off-road-vehicle corridor, choking off access to thousands of drivers for nearly a month. The town's tourism-driven businesses lamented the economic losses.

Now, the town appears poised to take its fowl problem to a higher level.

Parks and beaches superintendent Paul Fulcher told the Times this week that he can't think of any other way for greater management flexibility than applying for a federal Section 10 permit.

Such a permit, if granted, would allow local officials to come up with alternative plover management strategies that would avoid blocking ORV drivers from the beach. Limited "incidental takes," such as the killing or harassment of a certain number of birds, could be allowed. That's if local officials can convince federal authorities that plovers would still thrive.

"We would basically be giving a license to kill, so the Fish and Wildlife Service needs to make sure that the permit we issue doesn't irreparably harm the species," said Susi von Oettingen of the U.S. Fish and Wildlife Service.

The town would also need a state permit under conservation laws. Scott Melvin of the state Division of Fisheries and Wildlife said local officials likely would have to prove a "net benefit" to the species to receive a state permit.

Although town officials have not decided to apply for the permits, they are aggressively researching the Section 10 option.

"Our ability to be creative (under current law) is very much restricted," said David Dunford, chairman of the town parks commission, which manages Nauset Beach with Chatham. "There is little way around this unless we possibly pursue the Section 10 option."

One possible way to offset the loss of a chick or two would be to craft a plan to kill predators such as skunks, foxes and coyotes known to destroy nests and eggs, Melvin said. "The beauty of these permits is that various parties have flexibility in terms of putting options on the table and being creative," he said.

Melvin said he knows of only one instance in which a Section 10 permit was granted in Massachusetts, but said it's worth a try. "I'm fairly optimistic that this could be accomplished, but I can't crystal-ball it," he said.

Dunford said there are many unknowns in the permit application process and more discussion and public comment is needed about the costs associated with securing a Section 10 permit, including legal fees.

"There would be a lot of eyes looking at you in a very intense way," Dunford said of the added risk of being a trailblazer in piping plover management.

Speaking hypothetically, von Oettingen said one way to have "a small impact" on the species would be to reduce the frequency of vehicle trips.

Despite the costs associated with securing the federal and state permits, the town could lose more money if there is a repeat of last summer's ORV closure.

Scott Morris, Nauset Beach's representative to the Massachusetts Beach Buggy Association, said the continuous shutting out of ORV drivers for a key summer month could lead to fewer tourists and fewer tourist dollars far into the future.

"It's not as bad as it sounds," Morris said of incidental takes, which could be limited to harassment of plovers or disturbances to the birds' habitat.

The buggy association, which recently hired an environmental law firm for legal counsel, is convinced man and plover can coexist without killing birds, by using more creative management techniques.

"We all need to work as a team - Orleans, Chatham, businesses, fishermen - the whole nine yards," Morris said. "If we do that, then it's impossible to go backwards."

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