

**AMERICAN BIRD CONSERVANCY*DEFENDERS OF WILDLIFE*
NATIONAL AUDUBON SOCIETY*OREGON NATURAL RESOURCES
COUNCIL*PACIFIC SEABIRD GROUP*SEATTLE AUDUBON SOCIETY*
DR. DAVID AINLEY*BRIAN SHARP* DR. GARY SHUGART**

April 17, 2006

Mr. David Wesley
U.S. Fish and Wildlife Service
911 NE 11th Avenue
Portland, OR 97232

Dear Mr. Wesley

We write on behalf of Seattle Audubon Society, American Bird Conservancy, National Audubon Society, Defenders of Wildlife, Oregon Natural Resources Council, and Pacific Seabird Group to express our concerns over any plans to begin dispersal of any of the Caspian Tern colony breeding on East Sand Island in the Columbia River estuary. We are joined in these comments by Dr. David Ainley, Dr. Gary Shugart, and Brian Sharp.

The first four organizations are the plaintiffs in the case of National Audubon Society, et al. v. Col. Randall J. Butler, et al., W. Dist. of Washington No. C00-615R (2002) that led to the Caspian Tern final EIS. Oregon Natural Resources Council acts through advocacy and education to protect and restore Oregon's wildlands, wildlife and waters. PSG is a non-profit scientific organization dedicated to the study and conservation of seabirds and their marine environments. Dr. Ainley is a noted seabird biologist and Dr. Shugart is at the Slater Museum of Natural History and has expertise in waterbirds, including Caspian Terns, and predator-prey relationships. Brian Sharp is an ornithologist and retired U.S. FWS biologist (21 years) who has extensive experience in migratory birds and was the regional nongame program manager in the Portland office for Region One.

We all have concluded that the current management efforts to scarify at least 6 acres at East Sand should be continued without any diminishment in colony size until the substantial issues detailed below have been addressed.

1. ALTERNATIVE SUITABLE HABITAT HAS NOT BEEN ESTABLISHED.

No alternative habitat has been established for Caspian Terns that are to be displaced from the East Sand Island colony. Until suitable habitat is established and the displaced Terns successfully breed there, no Terns should be displaced. The Army COE in its 1999 EA on the planned re-location of Terns from Rice Island to East Sand Island, planned to find other alternate breeding sites such as at Willapa Bay and Gray's Harbor. But no new areas were established when locals objected. Seven years later and after the detailed and lengthy process of identifying and evaluating 77 alternate sites by the U.S. FWS in 2002, and the publication of selected sites in the final EIS, no alternate sites have been prepared.

Worse yet, on February 16, 2006, NMFS issued a Biological Opinion (BiOp) addressing the impacts on listed salmonids of relocating most of the East Sand Island Tern colony to other sites chosen under the Caspian Tern EIS. The U.S. FWS had identified 77 other sites, all but seven of which were eliminated before the selection of the sites identified in the EIS. Most sites eliminated were based on objections/concerns by state agencies concerned with salmonids or by local governments. These eliminated alternate sites included sites with “high management potential for development of tern nesting habitat.” See Appendix G-1 of the final EIS.

The NMFS BiOp goes further and eliminates all sites listed in the EIS except the two sites farthest away from East Sand Island, Don Edwards NWR (0.5 to 1.0 acres and ~3,000 Terns) and Hayward Regional Shoreline (0.5 acres and ~3,000 Terns), both in San Francisco Bay some 600+ miles away from the colony. If these sites are successful at attracting terns within three years, then a third site, Brooks Island in SF Bay would not need to be established.

The site at Dungeness National Wildlife Refuge chosen under the EIS was the closest site to East Sand and already has a small Caspian Tern colony. The U.S. FWS and Army COE eliminated this site after concerns by NMFS that re-located Terns would eat listed salmonid smolts there. Also eliminated under the NMFS BiOp were the only other sites proposed in the final EIS in Oregon and Washington states, including Crump Lake, Summer Lake, and Fern Ridge Lake.

The failure to establish any alternate habitat, the elimination of most of the alternate sites in the EIS, and the choice of only two sites in San Francisco Bay comprising 1.0 acres to 1.5 acres of habitat is extremely problematic. The chosen Alternative under the Tern EIS would reduce Caspian Terns at East Sand to 2,500 to 3,125 nesting pairs by reducing habitat from 6 acres to 1.0 to 1.5 acres. This does not comply with the final EIS requirement for a 2:1 ratio for replacement habitat, even when measures against the 4.4 acres on average occupied by terns on East Sand. Six to seven acres of alternative habitat would have to be established and the BiOp allows for only 1.5 acres maximum. The underpinnings of the final EIS preferred alternative are collapsing as even under best case scenarios, the alternate habitat requirements are not being met.

Further, if the colony is at 8,822 pairs (2005 numbers), even under the best case assumption allowing for ~6,000 Terns to re-locate in San Francisco Bay (a highly unlikely scenario), this leaves nearly 5,400 Terns with no alternative nesting sites if the East Sand colony is reduced to the higher EIS level of 3,125 pairs. This is untenable and is not in compliance with the EIS preferred alternative as suitable alternate habitat has been eliminated for displaced Terns to accomplish the preferred level of displacement.

We also note that the NMFS February 2006 BiOp limits ESA-listed fish take by Terns at any alternate sites to 1,128 fish annually. Destroying habitat at East Sand Island may result in many more listed fish being consumed than the status quo, especially when the only alternate habitat planned is some 600+ miles away.

Over the past four years, we have followed with close detail the decisions and management actions related to Caspian Tern and other piscivorous bird management in the Columbia River system and the Pacific Northwest region in general. We are dedicated to working with interested parties to identify additional breeding sites for Caspian Terns, but are concerned over the failure of state agencies, state legislators, the National Marine Fisheries Service, and other interested parties' failure to support any such sites in Washington and Oregon.

2. CASPIAN TERN NUMBERS ARE STABLE OR DECLINING.

The EIS substantiates the need for the actions to disperse Terns based on the premise that without dispersal of most of the colony at East Sand, the colony will somehow grow to 18,500 pairs by 2009 and consume many more salmonids. But, the most recent data from researchers at Columbia Bird Research documents that the population in the Columbia estuary is stable over the last 8 years, not increasing as predicted. One of the EIS' underlying hypothesis has been proven incorrect.

The 2005 count of 8,822 pairs of Caspian Terns on East Sand is 7% below the 2004 numbers of 9,502 pairs and substantially below the 12,000 pairs predicted for 2005 in the EIS. Further, the stabilization of Tern breeding pairs in the Columbia estuary over the last eight years refutes the EIS projection of 18,500 pairs by 2009. In 2005, East Sand colony breeding success declined substantially to 0.37 chicks per nest, down from 0.92 in 2004. This was the lowest ever recorded at East Sand Island. The Pacific coast average is 1.1. This low success rate for fledging young Terns likely means a population decline, not an increase in the near future. The Tern population in the estuary is clearly not following the predictions of substantial growth as the 9,933 Tern pairs recorded in 2002 have declined by 11%. The highest number at Rice Island was 8,776 in 1998, very close to the 2005 numbers at East Sand.

This population stabilization is despite six full breeding seasons with the Terns concentrated at East Sand Island where higher breeding success had been noted than when the colony was concentrated on Rice Island. This trend was reversed in 2005 with the low 0.37 chicks per nest. The area of quality nesting habitat prepared for Caspian Terns on East Sand Island (6.5 acres) and the area of habitat used by nesting terns (4.7 acres) was very similar to the previous two years. The EIS projections of a rapidly increasing Tern breeding population is faulty and all data indicates that population levels may very well decline in the near future and that such populations have been stable over the last eight years.*

3. LISTED SALMONID PREDATION GOALS HAVE NEARLY BEEN MET.

In 2005, the diet of East Sand Island Terns had been reduced to 23% salmonids, down from 74% at Rice Island in 1998. Consumption of juvenile salmonids by the East Sand Island tern colony in 2005 was approximately 3.6 million smolts, about 9.0 million fewer smolts consumed compared to 1998, when all terns nested on Rice Island. This is a 71% reduction. Since Tern management actions began in 1999, there has been a reduction in consumption of more than 36 million salmon smolt. Caspian Terns nesting on East Sand

Island continued to rely primarily on marine forage fishes as a food supply, even in 2005 when availability of marine forage fishes declined due to poor ocean conditions. Because of this decline in marine forage fish, the Terns diet was up from 17% salmonids in 2004, a record low

The EIS is predicated on reducing Tern numbers at East Sand to no higher than 3,125 as at this level, a supposed ~1% increase in certain steelhead population growth rates would occur.

Steelheads present the maximum benefit from reduction of Tern predation, so benefits to other salmonids would be insignificant. And, the ~1% increase is predicated on the extremely faulty assumption that all predation on the listed salmonids was additive, not compensatory. The U.S. FWS has stated that "It is likely that seabird predation is 'compensatory', that is, those smolts that were consumed by birds would have died of natural causes if they were not eaten first. The increased susceptibility to hatchery-reared fish supports this premise." See Seabird Predation on Juvenile Salmonids in the Columbia River Estuary, a publication of the U.S. FWS (December 1999).

The NMFS February 2006 BiOp notes that the goal of substantially reducing the East Sand Island Tern colony is to reduce the current annual average of 5.9 million ESA-listed salmonids eaten by Terns in the estuary to 1.63 to 2.03 million. Terns in the estuary consumed 3.6 million salmonid smolt in 2005, 3.5 million in 2004, and these were not all listed species. In reality, NMFS is nearly at its goal now. This reduced level of listed salmonid predation coupled with a declining or stabilized Tern population should end efforts to substantially reduce the East Sand Island Tern colony, especially with the failure to establish suitable alternate Tern nesting habitat.*

4. OWNERSHIP OF EAST SAND ISLAND STILL NOT RESOLVED.

The settlement agreement in the case of National Audubon Society, et al. v. Col. Randall J. Butler, et al., W. Dist. of Washington No. C00-615R (2002) stipulated that the FWS and Corps were to issue a joint recommendation on future ownership of East Sand Island by March 1, 2003 and also make recommendations for funding of management on the island. On February 28, 2003, the Corps/FWS issued their Joint Statement on the Ownership of East Sand Island.

The Corps planned to excess the island (dispose of it) and stated that transfer to FWS is "the best end result to manage the significant wildlife resources present on East Sand Island." The FWS position was that such a transfer decision is premature and that the FWS needs to look at the information to be gathered in the EIS before such a decision on ownership is made. We have advocated that the FWS take ownership from the Corps and add it to the National Wildlife Refuge System to protect it as an important waterbird breeding site. Three years have passed since the Joint statement was issued, more than one year has passed since a final EIS was published, and ownership still has not been resolved. We believe this violates our settlement agreement for a resolution of this issue and the FWS still has not made a decision on ownership.

We urge the FWS to add East Sand Island as part of the Oregon Islands NWR. East Sand Island is a designated Globally Important Bird Area and, as the EIS notes, has the largest Caspian Tern colony in the world, the largest colony of Double-crested Cormorants in North America, over 6,700 roosting endangered California Brown Pelicans, and a large mixed gull colony.

5. EIS IS REQUIRED BEFORE ANY CORMORANT MANAGEMENT ACTIONS.

The 2005 Report from Columbia Bird Research notes that the Double-crested Cormorant colony on East Sand Island is growing and reached 12,500 birds in 2005. The researchers advise that NEPA compliance should ensue to determine any DCCO management.

If any management action against Double-crested Cormorants is contemplated, we urge the completion of a NEPA EIS, just as the Federal court required in National Audubon Society, et al. v. Col. Randall J. Butler, et al., W. Dist. of Washington No. C00-615R (2002).

In conclusion, the U.S. FWS and Army COE should abandon any plans to reduce habitat at East Sand Island and should continue to scarify at least 6 acres on East Sand until the issues raised above are satisfactorily resolved.

Respectfully,

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*Sources for the data cited above are: Columbia Bird Research's 2005 Report at:
<http://www.columbiabirdresearch.org/> and the Caspian Tern Final EIS (January 2005).