

# Pacific Seabird Group



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DEDICATED TO THE STUDY AND CONSERVATION OF PACIFIC SEABIRDS AND THEIR ENVIRONMENT

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Chief Engineer  
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## **Re: Comments on Draft Environmental Assessment: Caspian Tern Relocation**

Dear Sir:

These are the Pacific Seabird Group's (PSG) comments on the U.S. Army Corps of Engineers (Corps) Environmental Assessment: Caspian Tern Relocation FY 2001-02 ("EA"). PSG is an international organization that was founded in 1972 to promote knowledge, study and conservation of Pacific seabirds. PSG draws its members from the rim of the entire Pacific Basin, including the United States, Canada, Mexico, Japan, China, Australia, New Zealand, and Russia. Among PSG's members are biologists who have research interests in Pacific seabirds, state and federal officials who manage seabird populations and refuges, and individuals with interests in marine conservation. Over the years we have advised and worked cooperatively with government agencies to further these interests. PSG is especially active with regard to seabird-fishery conflicts and oil spill restoration.

PSG has numerous procedural and substantive disagreements with the approach by the Corps. For the most part we will not reiterate our objections in years past concerning the Corps' approach to managing Caspian terns, but instead incorporate by reference our comments dated July 20, 1998, November 30, 1998, April 7, 1999, October 28, 1999 and February 16, 2000.

We begin with stating that PSG supports the creation of alternative nesting habitat for Caspian terns. As we requested of FWS in April 1999, we also support the immediate creation and implementation of a regional plan that would guide the restoration efforts for Caspian terns in Washington, Oregon and California. Restoring former colonies or establishing new colonies

would mitigate for the ongoing destruction of the colony at Rice Island, and the apparent failure of the Corps and NMFS to provide sufficient suitable alternative habitat.

The following are our objections.

1. We object to using this EA as a vehicle to make decision about the terns for both 2001 and 2002 rather than a single year. A multi-year plan would be appropriate with an environmental impact statement based upon sound biological grounds, but the EA is not such a document.
2. We object to the Corps issuing a final rather than draft EA at this stage. Evidently the Corps has made a final decision before taking public comment, violating the National Environmental Policy Act (NEPA) and the Administrative Procedures Act.
3. We are disappointed that the Corps has apparently learned nothing from its legal defeats in the U.S. District Court and 9th Circuit Court of Appeals in *National Audubon Society v. Butler* during the past 12 months, and still refuses to begin the preparation of an environmental impact statement as required by the National Environmental Policy Act. Last fall the Caspian Tern Working Group, an inter-agency group of scientists working on this issue, urged the Corps to prepared an environmental impact statement. The U.S. Fish & Wildlife Service has twice urged the Corps to prepare an environmental impact statement. Instead the Corps once again refuses to do so, and fails to evaluate, as required by law, all of the reasonable and feasible alternatives to the proposed action. We understand that the Corps believes that preparing an environmental impact statement is time-consuming. Had the Corp prepared an environmental impact statement in 1998 as we then suggested, PSG would not raise this issue again almost three years later. PSG supports the preparation of a complete environmental impact statement to fully analyze all reasonable options, and cannot understand why the Corps refuses at least to **begin** the environmental impact statement process such as by beginning the scoping process.
4. We object to activities that interfere with Caspian terns nesting at Rice Island until the federal agencies have created sufficient suitable habitat elsewhere. This year the Caspian terns will lose their nesting habitat at the ASARCo site in the southern Puget Sound, so that another 1,500 to 2,000 terns will be seeking additional nesting habitat near the Columbia River estuary.
5. We object to preparing only 4 acres for nesting on East Sand Island. In earlier years the inter-agency group of scientists proposed creating 8-16 acres of habitat. Even the Corps' own EA in 1999 proposed creating 16 acres, although ultimately only 8 were prepared that year. Given losses of nesting habitat at the ASARCo site and the proposed action at Rice Island, the terns need more nesting habitat. PSG scientists such as Dr. David Ainley and Dr. Julia Parrish believe that the Corps should prepare 8 acres of suitable habitat at East Sand Island.
6. Under 40 C.F.R., Part 1502, an EA must provide a full and fair discussion of environmental impacts, discuss direct and indirect effects, and provide means to mitigate adverse environmental impacts. The Draft EA cannot possibly be considered a "full and fair discussion" because the entire premise the Caspian terns affect the return of adult salmon is unscientific and discredited. For several years PSG has objected to the Corps' use of a 1967 paper by Junge that has never been published in a peer-reviewed scientific journal as the basis for its assumption that there is a

simple, positive relationship between the number of smolt and adult salmonids. The Corps assumes that a reduction in tern predation will consequently result in an increase in returning adults.

We have obtained a copy of a paper by the Oregon scientist Range Bayer, which has been sent to the Corps in response to this EA. We agree with Mr. Bayer's analysis and conclusion that the Corps has not prepared an objective evaluation based on all of the available science, and that there is no simple, positive relationship between smolt and adult numbers. Indeed, Mr. Bayer shows that the Corps has misquoted and misrepresented some of the literature that it cites in support of its proposed actions. The Corps has elected instead to take a position and to defend it without responding to all of the scientific evidence that indicate that there is no a simple, positive relationship. In particular, the salmon runs in 2000 were the best in about 40 years, belying the assumption that Caspian terns are harming salmon runs in the Columbia River. This indicates that a potential 1999 "regime shift" in the Pacific Ocean may be much more important to salmon returns than Caspian tern predation.

The Corps also ignores similar comments made by Dr. Cynthia Tynan of NMFS' Northwest Fisheries Science Center made on the Caspian Tern 2000 Management Plan. Dr. Tynan stated that "The management plan needs to substantiate the scientific justification for relocating nesting terns in the Columbia River. At present, there is no scientific evidence to support the statement that piscivorous birds 'may be one of the factors that currently limit salmonid stock recovery.' "

7. Finally, we are disappointed that the U.S. Fish & Wildlife Service (FWS) has failed to take more of a leadership role on this issue. To date FWS has to date failed to meet its commitment to PSG in November 2000 to evaluate East Sand Island as a national wildlife refuge. In addition, we are extremely disappointed that FWS has failed to even draft, let alone implement, a regional management plan for the Caspian tern that we requested two years ago.

We hope that the Corps will rethink its positions on these issues, and become a responsible agency in the management of Caspian terns in the Columbia River watershed. PSG will continue to object to the Corps' irresponsible activities until our scientific recommendations have been implemented.

Sincerely,

Craig S. Harrison  
Vice Chair for Conservation