

US EPA ARCHIVE DOCUMENT

## Summary of the Final Determination of Critical Habitat for the Great Lakes Breeding Population of the Piping Plover

Under the terms of a court order, the U.S. Fish and Wildlife Service (Service) is designating critical habitat for the Great Lakes breeding population of the piping plover (*Charadrius melodus*), in certain areas along the Great Lakes shorelines of Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio, Pennsylvania, and New York. This population of the piping plover is listed as endangered under the Endangered Species Act of 1973, as amended (Act).

### Background

The piping plover is a small, stocky, sand-colored shorebird. The adult has yellow-orange legs, a black band across the forehead from eye to eye, and a black ring around the base of the neck. They breed on the shoreline and islands of the Great Lakes in north-central United States and south-central Canada and migrate to their wintering grounds on the Atlantic and Gulf Coasts from southern North Carolina to Mexico and into the West Indies and Bahamas.

Historically, the Great Lakes population of the piping plover nested on beaches in Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York and Wisconsin and in Ontario, Canada. Although piping plovers were never abundant, pre-settlement populations in the Great Lakes are estimated at 492-682 breeding pairs. Piping plover populations have declined drastically, especially in the Great Lakes. As shoreline development expanded, the plovers lost their breeding habitat. By the time the species was listed under the Endangered Species Act in 1985, the Great Lakes population numbered only 17 breeding pairs and the breeding areas had been reduced from sites in eight states to only northern Michigan.

In recent years, the Great Lakes population has gradually increased and expanded to the south and west. In 2000, 30 pairs of piping plovers nested on United States Great Lakes shores, but all of these pairs were in northern Michigan. This population increase is the result of State, Tribal, Federal, and private conservation actions directed at the protection of the piping plover. Activities such as habitat surveys, beach restoration, public education, habitat protection and enhancement, and protecting nests from predators and disturbance through the use of predator exclosure fencing have all contributed to the improving status of the Great Lakes piping plover.

Critical habitat is a tool within the Act that identifies areas that are important to the conservation and recovery of a listed species. Within areas that are designated as critical habitat, Federal agencies are required to do a special review of activities that they intend to carry out, fund, or permit. Their activities cannot destroy or adversely modify the important components of critical habitat. However, a critical habitat designation does not affect actions that do not involve a Federal agency. For example, the designation of critical habitat does not affect a landowner undertaking a project on private land that does not involve Federal funding or require a Federal permit or authorization.

Designation of critical habitat can help focus conservation activities for a listed species by

identifying areas that contain the physical and biological features that are essential for the conservation of that species. Also, designation of critical habitat alerts the public as well as land-managing agencies to the importance of these areas, but the Endangered Species Act only imposes additional restrictions on the actions of Federal agencies.

When deciding what areas to designate as critical habitat, the Service looks at the physical and biological features that are necessary for the species to survive. These required features are called “primary constituent elements.” Primary constituent elements include: 1) space for individual and population growth, and for normal behavior; 2) space for food, water, air, light, minerals, or other nutritional or physiological requirements; 3) cover or shelter; 4) sites for breeding, reproduction, or rearing of offspring; and; 5) habitat that is protected from disturbance or is representative of the historic geographical and ecological distributions of a species.

### **The Critical Habitat Designation**

The primary constituent elements required to sustain the Great Lakes population of the piping plover are found on Great Lakes islands and mainland shorelines that support, or have the potential to support, open, sparsely vegetated sandy habitats, such as sand spits or sand beaches, that are associated with wide, unforested systems of dunes and inter-dune wetlands. Areas that may revert to these types of habitats or that can be restored to meet the needs of the piping plover may also be included, but it is only the areas with the primary constituent elements that are critical habitat, not all areas within the mapped boundaries. Urban areas, paved areas, buildings, marinas, boat ramps, and natural areas that do not contain the primary constituent elements, as outlined in the final determination, are not critical habitat even if they are within the mapped areas.

The Service is designating 35 critical habitat units for the Great Lakes population of the piping plover. These units occur in:

- St. Louis County, Minnesota
- Douglas, Ashland, Marinette, and Manitowoc Counties, Wisconsin
- Lake County, Illinois
- Porter County, Indiana
- Erie and Lake Counties, Ohio
- Erie County, Pennsylvania
- Oswego and Jefferson Counties, New York
- Alger, Schoolcraft, Luce, Mackinac, Chippewa, Iosco, Presque Isle, Cheboygan, Emmet, Charlevoix, Leelanau, Benzie, Mason and Muskegon Counties, Michigan.

The Service is designating critical habitat within approximately 201 miles (325 km) of mainland and island shoreline for the piping plover in these 26 counties. Within the 35 critical habitat units, only the areas that contain the primary constituent elements of piping plover habitat, as described above, are designated as critical habitat.

### **Changes from Proposal**

The Service proposed critical habitat for the Great Lakes breeding population of the piping plover on July 6, 2000. A 137-day public comment period followed. Based on a review of public

comments received on the proposal, we re-evaluated our proposed designation of critical habitat for the piping plover. As a result, we made three significant changes in the final determination.

(1) We removed three sites – Pensaukee Harbor and Peshtigo Point in Wisconsin, and Erie Pier/Harding Island (retaining Interstate Island) in Minnesota -- from the final critical habitat designation. We determined that these sites do not have, and are unlikely to develop, the features and habitat characteristics that are necessary to sustain the species and thus are no longer considered essential for the conservation of the species.

(2) The inland boundary for all critical habitat units was changed from the proposed 1 km to 500 meters (1,640 feet) inland from normal high water line. The proposed 1 km (0.6 mi.) inland boundary was intended to incorporate blow-out areas and extensive dune-wetland systems. These inland areas provide important foraging habitat as well as cobble pans between the dunes where plovers occasionally nest. Information received during the comment period indicates that the majority of the dune systems within designated critical habitat do not extend further than 500 meters (1,640 feet) inland from the normal high water line.

(3) We excluded lands covered by an approved Habitat Conservation Plan (HCP) from the final determination of critical habitat for the Great Lakes breeding population of the piping plover. In our proposed determination of critical habitat for the Great Lakes population of the piping plover, we asked for public comment on the appropriate relationship between approved HCPs and designated critical habitat. After considering the comments we received, we have chosen to evaluate areas covered by an approved HCP for the piping plover for exclusion under the benefits-balancing test found in section 4(b)(2) of the Act. This section allows us to exclude areas upon determination that the benefits of excluding the area outweigh the benefits of including the area in the critical habitat designation, provided the exclusion would not result in the extinction of the species.

Presently, one approved HCP (The Magic Carpet Woods Association HCP) exists for the piping plover in the Great Lakes region. This HCP covers approximately 2,600 feet (792 meters) of shoreline along Cathead Bay in Leelanau County, Michigan. This plan addresses the piping plover as a covered species and provides conservation management and protection for the species. We evaluated this plan and determined that the conservation management measures and protection afforded the piping plover are sufficient to assure its conservation on the involved lands.

### **The Economic Analysis**

The Service conducted an analysis of the economic and other relevant impacts that may result from this designation of critical habitat. A draft of this economic analysis was made available for public review and comment. The final addendum to the economic analysis on the designation is available on our website or by contacting us at the phone number or address below.

### **Contacts**

For more information or to request a copy of the final critical habitat determination for the

Great Lakes breeding population of piping plovers or the economic analysis write to the U.S. Fish and Wildlife Service, 1 Federal Drive, Fort Snelling, Minnesota 55111 or call 612-713-5350. Additional information and the complete documents are also available on our World Wide Web site at <http://midwest.fws.gov/endangered/pipingplover>