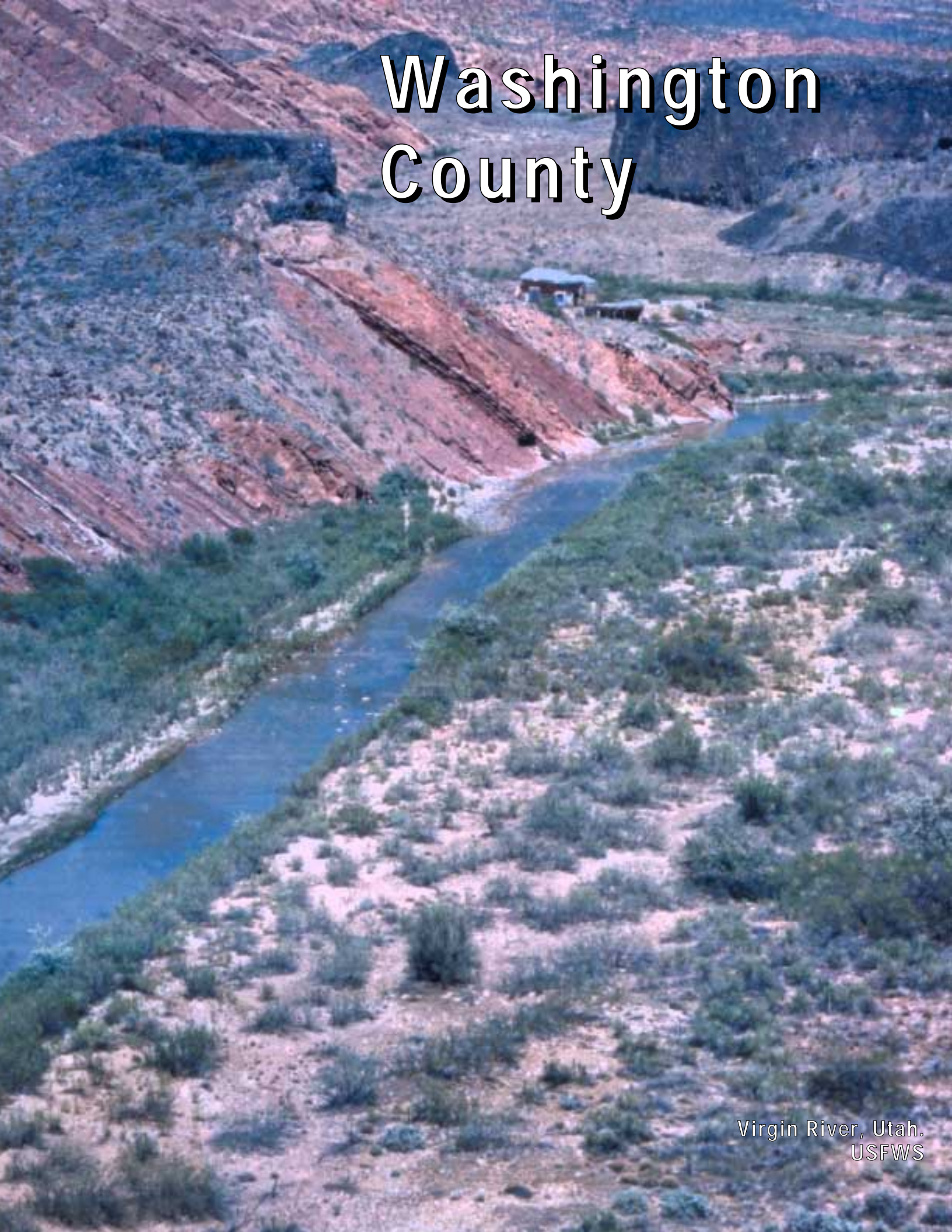


Washington County



Virgin River, Utah.
USFWS



Desert tortoise. USFWS

Washington County

Location: Utah

Acreage: 135,000 acres

Species Covered: Listed species include the desert tortoise, dwarf bear poppy, woundfin minnow, Virgin River chub, peregrine falcon, bald eagle, and the Siler pincushion cactus. In addition, there are 29 unlisted species covered in this HCP.

Challenge: Washington County, one of the most rapidly growing areas in Utah, has extensive desert tortoise habitat containing the highest known densities of tortoises. This HCP was developed to conserve species, while allowing commercial and residential development within the county to continue. Local elected officials have supported the HCP and most Washington County communities have enacted local ordinances to fund its implementation.

Benefit: One of the primary mitigation strategies in the HCP is establishment of desert habitat reserves through acquisition of privately-owned tortoise habitat. Acquisition would be accomplished through exchange of public non-habitat lands for private habitat lands, and purchase of privately-owned habitats utilizing HCP-generated funding. Walls will be constructed between development areas and tortoise habitat to protect tortoises and a public information and education program will be developed and implemented. The FWS is also funding a study that is moving tortoises from developed areas to unoccupied habitat. Different release techniques are being studied to improve future success of released animals. Grazing allotments are also being purchased in the protection area to provide more forage for the desert tortoises.



Kodachrome bladderpod. James L. Reveal/USFWS



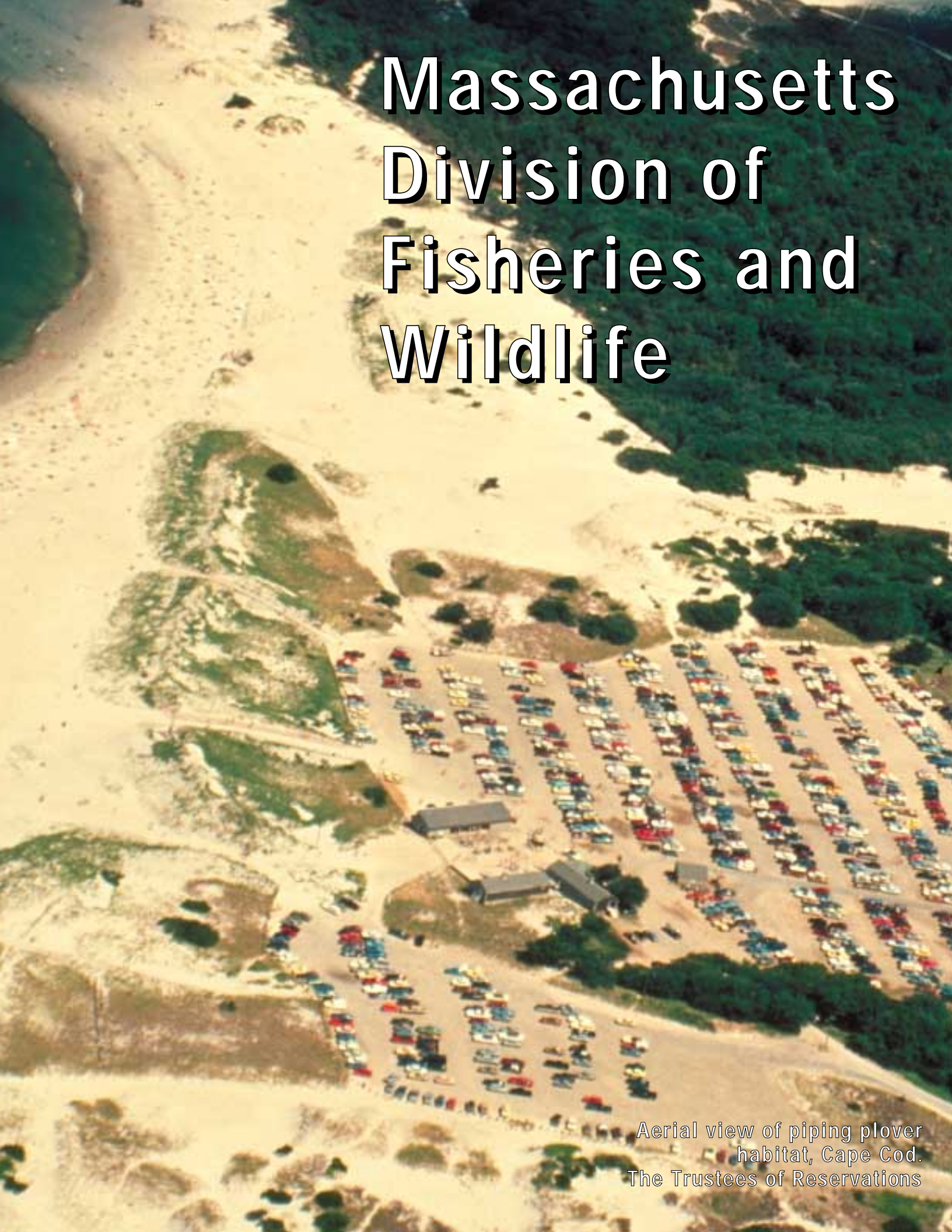
Desert tortoise habitat. USFWS

“The HCP process has provided a mechanism that enabled the Federal, State, and local governments to work together to conserve species. The process provides a way to balance economic development with species conservation. This plan has provided the county a legitimate mechanism that will allow long-term preservation of the species found in this county.”

*Ron Thompson
Washington County Water Conservancy District*



Woundfin. James E. Johnson/USFWS

An aerial photograph of a coastal area. The top half shows a wide, sandy beach with some sparse vegetation. Below the beach is a large, rectangular parking lot filled with many cars of various colors. Several small, dark-roofed buildings are situated near the parking lot. The background consists of a dense forest of green trees.

Massachusetts Division of Fisheries and Wildlife

Aerial view of piping plover
habitat, Cape Cod.
The Trustees of Reservations



Piping plover. J.P. Mattson/USFWS

Massachusetts Division of Fisheries and Wildlife

Location: Massachusetts

Acreage: 200 miles of Massachusetts coastline

Species Covered: Piping plover

Challenge: The FWS and the Massachusetts Division of Fisheries and Wildlife were challenged to develop an HCP that provides increased management flexibility to facilitate continued public access to Massachusetts beaches, as well as access for law enforcement and public safety officials engaged in non-emergency activities, while reducing potential impacts to the piping plover population.

Benefit: The HCP conserves the piping plover population by limiting the activities that can occur at any one site. Authorizations for incidental take at specific beaches will be allocated via Cooperative Management Agreements with eligible landowners. Individual beaches can participate if they have attained established targets for abundance of breeding pairs, population growth rate, and productivity. They must also make plover protection commitments beyond those required under the ESA, such as use of predator exclosures, prohibition of dogs on the beach, and education of the public regarding the conservation of plovers and other beach-nesting birds. Landowners participating in the plan are provided additional flexibility for managing their beach property and are provided a mechanism that allows vehicle access.



Piping plover incubating eggs. John H. Gavin/USFWS

"There will always be a balancing act when trying to provide for the needs of the birds and the desires of summer beach goers. The point of balance is not static; it will continue to change, but for now the success is reflected in the growing numbers of piping plovers."

*Thomas W. French, PhD, Director
Natural Heritage and Endangered Species
Massachusetts Division of Fisheries and Wildlife*

Habitat Conservation Plans: Questions and Answers

What is an Incidental Take Permit?

Under strictly controlled circumstances the ESA authorizes the issuance of permits to take listed species. Such permits are known as Incidental Take Permits because they authorize a take of protected species that may be incidental to, but not the purpose of, otherwise lawful activities.

What is a Habitat Conservation Plan (HCP)?

A Habitat Conservation Plan, under section 10(a)(2)(A) of the ESA, is a planning document that is a mandatory component of an Incidental Take Permit application. Such a plan is also known as an HCP. An HCP must accompany an application for an Incidental Take Permit, and ensure that the effects of the authorized incidental take will be adequately minimized and mitigated to the maximum extent practicable.

What's in an HCP?

An *assessment* of impacts likely to result from the proposed taking of one or more Federally listed or unlisted species; *measures* the applicant will undertake to monitor, mitigate and minimize the impact on wildlife; *funding sources* that will be available to implement the plan; procedures to deal with unforeseen circumstances; and *alternative actions* that the applicant analyzed and the reasons why the applicant did not adopt such alternatives. Additional measures, if deemed necessary or appropriate, may be required.

How many HCPs are being developed and what size areas do they cover?

As of May 1998, more than 240 HCPs covering 6.2 million acres have been approved and another 200 are in development. The number of HCPs and the size and complexity of the areas they cover have increased. Approximately 14 range from 10,000-100,000 acres, 10 range from 100,000-500,000 acres, 4 exceed 500,000 acres and one covers more than 1,000,000 acres.

What is take?

"Take" is defined in the ESA as any action that would "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect" any threatened or endangered species. Harm may include significant habitat modification that actually injures a species. There are no Federal prohibitions under the ESA for the take of listed plants on non-Federal lands, unless taking of those plants is in violation of State law or would accompany a project that requires Federal authorization, permits or funding.

Who needs an HCP?

Anyone who believes that their otherwise lawful activities may result in the incidental take of a listed species needs a permit. The FWS or NMFS can help determine whether a proposed project is likely to result in take and whether an HCP is an option to consider. FWS and NMFS are also ready to provide technical assistance to help design a project that would avoid take, and therefore avoid the need for an HCP.

How long will it take to process an application?

If a project falls into the "low-effect" category -- one having minor or negligible effects on listed, proposed, or candidate species and their habitats, or on other environmental values or resources -- the target permit processing time is 3 months. Others, depending on their complexity, level of analysis and sometimes, on the degree of public controversy, have a target processing time of 3 to 10 months. These time frames reflect the approximate time it takes to process a complete application package. The agencies will work to complete all steps, such as the public comment process, as quickly as possible.

What's the benefit of an HCP and incidental take permit for a private landowner?	The HCP process allows the landowner to proceed with the activity that would result in the take of a listed species, as long as the applicant complies with the terms and conditions of an approved HCP. In addition, the landowner is provided regulatory assurances.
What are the No Surprises rule and the No Surprises assurances?	The "No Surprises" rule sets forth a clear commitment by the FWS, NMFS, Department of the Interior, and Department of Commerce that, to the extent consistent with the requirements of the ESA and other Federal laws, the government will honor its agreements under an approved HCP for which the permittee is in good faith implementing the HCP's terms and conditions. No Surprises assurances are provided by the government through the section 10(a)(1)(B) process to non-Federal landowners. Essentially, private landowners are assured that if "unforeseen circumstances" arise, the Services will not require the commitment of additional land, water or financial compensation or additional restrictions beyond the level otherwise agreed to for the species covered by the HCP without the consent of the permittee. The government will honor these assurances as long as a permittee is implementing the terms and conditions of the HCP, permit, and other associated documents in good faith. In affect, this regulation states that the government will honor its commitment as long as the HCP permittees honor theirs.
What is the process for getting an HCP and incidental take permit?	The applicant is responsible for deciding whether to pursue the permit process, but FWS and NMFS personnel will, upon request, provide detailed guidance and technical assistance throughout the process. The development of an HCP, however, is driven by the applicant. The HCP coordinator for your state or region (see list in this booklet) can tell you more.
How do I know if I have a listed species on my land?	The nearest FWS field office, your State fish and wildlife agency, or the NMFS can help you determine the answer to this question. A telephone number for the FWS HCP coordinator for your state or region may be found on the last page of this booklet; for other agencies, check the listings in your local telephone directory under State and U.S. government.
What kinds of actions are considered mitigation?	Mitigation actions may take many forms, such as preservation (via acquisition or conservation easement) of existing habitat; enhancement or restoration of degraded or former habitat; creation of new habitats; establishment of buffer areas around existing habitats; modifications of land use practices; and restrictions on access. Mitigation measures reduce or address potential adverse effects of a proposed activity upon species covered by an HCP.
What is the legal commitment of an HCP?	The elements of the HCP are made binding through the Incidental Take Permit. While Incidental Take Permits contain an expiration date, the mitigation identified in the HCP can be in perpetuity. If a violation is deemed technical or inadvertent, the landowner will receive a notice of noncompliance that should recommend alternative actions to regain compliance with the terms of the permit.
Who approves these plans?	The FWS Regional Director for the region that includes your state. For NMFS, the Director, Office of Protected Species in the Washington, D.C. Office.
Does the public get a chance to comment on a plan?	Yes. The law requires a minimum 30-day period for comments from the public on the application for an incidental take permit. All public comments must be taken into consideration in the final permit decision.
Does someone monitor the plan for compliance?	Yes. The permittee, FWS, NMFS, or any party designated by the applicant and the FWS and NMFS (a State wildlife agency, or an entity of a local government) will monitor the project for compliance with the terms of the incidental take permit or HCP.

U.S. Department of the Interior
US Fish & Wildlife Service
1849 C Street, NW
Washington, DC 20240
1 800 344 WILD
<http://www/fws.gov>



August 1998

For More Information About Habitat Conservation Plans

For more information about Habitat Conservation Plan applications and about the planning process, please call the Habitat Conservation Plan coordinator at the Regional Fish and Wildlife Service office that includes your state:

- Region One (Pacific Region)** **1-503-231-6241**
California, Hawaii, Idaho, Nevada, Oregon, Washington, American Samoa,
Commonwealth of the Northern Mariana Islands, Guam, Pacific Trust Territories
- Region Two (Southwest Region)** **1-505-248-6920**
Arizona, New Mexico, Oklahoma, Texas
- Region Three (Great Lakes, Big Rivers Region)** **1-612-713-5343**
Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Wisconsin
- Region Four (Southeast Region)** **1-404-679-7110**
Alabama, Arkansas, Louisiana, Georgia, Kentucky, Mississippi, North Carolina,
South Carolina, Florida, Tennessee, Puerto Rico, U.S. Virgin Islands
- Region Five (Northeast Region)** **1-413-253-8628**
Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts,
New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont,
Virginia, West Virginia
- Region Six (Mountain-Prairie Region)** **1-303-236-7462**
Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming
- Region Seven (Alaska)** **1-907-786-3520**
Alaska
- Headquarters** **1-703-358-2106**
Arlington, Virginia and Washington, D.C.

The Division of Endangered Species has launched a Home Page on the Internet's World Wide Web, offering comprehensive information on threatened and endangered species, and valuable information from the Fish and Wildlife Service's Regional and Field Offices throughout the United States. The Home Page can be found at <http://www.fws.gov> at the URL prompt. Once there, click on "Endangered Species." The web page address provides some of the most current information on threatened and endangered species and related programs.