

South Spit
Interim Management Plan

July 10, 2002

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Arcata Field Office
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BACKGROUND

The 800-acre South Spit is a four and one-half mile long, narrow strip of land located between Humboldt Bay's entrance and Table Bluff. The area has been used by the public for many years for a wide variety of activities. Its history is both unique and diverse. The South Spit is the homeland of the Wiyot people. During the 1980's and 1990's, the area was inhabited by transients and long-term homeless campers whose presence adversely affected both recreational opportunities and natural resource values. In 1997, Humboldt County's Health Department initiated a relocation program for those living on the South Spit, and the area is now open on a limited basis for a variety of recreation and other uses in accordance with County ordinances.

Most of the South Spit (600 acres) was recently gifted from Pacific Lumber Company to the State of California. Other ownerships include Humboldt County (17 acres), U.S. Fish and Wildlife Service (FWS) (160 acres), Texaco Corporation (19 acres), and U.S. Army Corps of Engineers (10 acres).

Through a Deed of Conservation Easement, the State of California conveyed to the Bureau of Land Management (BLM) an "interest" in and the "right" to manage the South Spit in all aspects of its use in perpetuity. To accomplish the purpose of this Easement, the following rights and interests are conveyed to BLM:

Purpose: It is the purpose of this Easement to preserve, protect, enhance, and restore the conservation values of the Property; to provide dispersed recreation for the general public; and to prevent any use of the Property that will significantly impair or interfere with such conservation values.

Affirmative Rights and Interests Conveyed:

- (a) To manage the Property in all aspects of its use in perpetuity, including the right to enforce the laws of the State of California and the United States of America;
- (b) To inspect, observe, and study the Property for the purposes of identifying the current uses and practices thereon and the baseline condition thereof, and monitoring the uses and practices regarding the Property to determine whether they are consistent with this Easement;
- (c) To perform habitat restoration in order to ensure the long-term viability of the conservation values of the Property and its ecological resources;
- (d) To manage the Property for dispersed recreational purposes of the general public, subject to such use being consistent with preservation of the conservation values of the Property;
- (e) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the reasonable restoration of such areas or features of the Property that may be materially damaged by any inconsistent activity or use.

The South Spit will be designated a State of California *Wildlife Management Area* pursuant to California Department of Fish and Game Code, Chapter 5, Article 2, Sections 1525-1530. This designation is used for management purposes to protect and enhance habitat for wildlife species and to provide the public with wildlife-related and other recreational uses.

INTERIM MANAGEMENT

This Interim Management Plan is intended to provide interim management and allow for a baseline level of services, public uses, resource protection, and habitat restoration until the long-term plan is being developed (see Map A, page 3).

A comprehensive Humboldt County *Beach and Dunes Management Plan* was completed in 1995, which recommended actions for resource protection and provisions of public recreation use on both the North and South Spits. As a result of this effort, and as a requirement of California Senate Bill 39, the California Coastal Conservancy completed the *South Spit Management Plan* in October, 1997. This plan evaluated the public acquisition, actions for habitat restoration, development of recreational improvements, and related management options of the South Spit. The Coastal Conservancy issued a \$500,000 grant for initial implementation of this plan, which is now administered by Redwood Community Action Agency. The plan also outlined priorities for allocating the grant monies directed towards implementation of its vision and recommendations.

The concept of adaptive management will be incorporated where appropriate and necessary to achieve the highest levels of public service and resource protection. The key to adaptive management is the willingness of management to let new information drive adaptation to changing conditions and information. To be successful, the plan must have the flexibility to adapt and respond to new information. With an initial level of knowledge and technology, and a baseline inventory, implementation will begin, followed by monitoring and evaluation of activities, their outcomes, and use levels. Using new knowledge and information, management actions can be modified to best meet the overall objectives of the plan. Most on-the-ground adjustments will fall within the realm of administrative change. Others may require formal NEPA documentation, Endangered Species Act compliance, and/or concurrence with State and Federal regulatory agencies. An example of an adaptive management practice is the proposal to create western snowy plover habitat using heavy mechanical equipment.

VISION STATEMENT

The South Spit is a unique and significant area to the people of Humboldt County. Due to the area's natural diversity, cultural resource values, and populations of sensitive species, protection of these resources is necessary and will require active management. The South Spit has provided, and will continue to provide, a variety of recreation activities and other uses including hiking, wildlife viewing, hunting (waterfowl, snipe and coot), picnicking, surfing, fishing, horseback riding, and vehicle access to the waveslope.

During the long-term management planning process, individuals, groups, and organizations will have the opportunity to assume their place as stakeholders in the development of the plan in concert with local, state, and federal agencies who will play a role in management. Such a private/public partnership will be fostered through a collaborative planning process where each stakeholder is given the opportunity to participate in a consensus-built, community-driven management approach, embracing multi-agency, multi-species, and multi-jurisdictional boundaries. The long-term planning process will be developed over the next three years and provide for future management of the South Spit.

GOALS AND OBJECTIVES

1. Management policies and direction will be consistent to the maximum extent possible with the *Humboldt Beach and Dunes Management Plan*, 1995, and the *South Spit Management Plan*, 1997;
2. Manage for the protection and enhancement of threatened and endangered plant and animal species and their habitats;
3. Eradicate invasive non-native vegetation, including European beachgrass, iceplant, yellow bush lupine, and others;
4. Inventory and monitor plants, animals, and cultural resources to provide an information base to support both short-term and long-range management goals, objectives, on-the-ground activities, and feedback to use for adaptive management;
5. Respect and provide for the cultural heritage of the Wiyot people for access and use. Fully protect all sensitive Tribal areas;
6. Manage for recreation opportunities and uses such as waterfowl hunting, wildlife/wildlands observation, photography, fishing, surfing, environmental education, and vehicle access to the waveslope;
7. Provide for limited recreational facilities necessary to accommodate the public health and safety;
8. Provide an active management presence, including visitor services and law enforcement

personnel. Develop a cooperative effort by various law enforcement agencies, including the County Sheriff's Office (HCSO), California Department of Fish and Game (DFG), Bureau of Land Management (BLM), and U.S. Fish and Wildlife Service (FWS).

EXISTING RESOURCE CONDITION

Recreation Uses and Facilities

The South Spit is currently accessible to the public. Access is limited to individuals who have purchased a key that opens a locked gate located on Table Bluff County Park. Several thousand keys have been issued since the gate was installed. It is often left open, allowing visitors without keys to access the area. Other existing facilities are limited to two information kiosks at the bottom of the hill on county park property, and several signs placed along South Jetty Road, the northern boundary to the Eel River Wildlife Area, and at the jetty. The access road is partially paved and graveled, and numerous potholes exist. Over 25 graveled turnouts exist at various locations on the west side of the road. Nearly 20 undeveloped access routes extend from the east side of the road out to the bayshore. The Army Corps of Engineers has stored some large rocks at the jetty area that are surrounded by a chain link fence.

The area is used for many recreational activities involving the consumptive and non-consumptive use of wildlife. Birdwatching, brant, duck, snipe and coot hunting, clamming in the bay and on the beach, fishing for surf perch and surf smelt off the beach, and bottom fish and salmon off the jetty are the major uses of wildlife on the spit. The spit is also used for commercial fishing for surf perch and surf smelt. Other existing recreation activities include hiking, sightseeing, picnicking, surfing, and off-highway vehicle (OHV) use. Much of the current OHV activity occurs in the dunes and near the bayshore, which are designated closed to vehicle use. Total annual recreation use is estimated at 25,000 visits. Firewood cutting of driftwood is a popular non-recreation activity that occurs frequently.

Law enforcement patrols now occur on a weekly basis by both the BLM Law Enforcement Ranger and Humboldt County sheriff deputies. DFG wardens and the FWS Law Enforcement Ranger patrol the area occasionally. For a detailed evaluation of existing laws, rules and regulations pertinent to the South Spit, refer to Appendix A. Specific laws related to cultural resources are discussed in Appendix B.

Cultural and Native American Concerns

The Humboldt Bay region including the South Spit has been occupied for at least the last 1,500 years by Algonquian speaking people now referred to as Wiyot. Descendants of these people, the Wiyot Tribe, now reside at Table Bluff Reservation and other places in Humboldt County. An early ethnographer, Llewellyn L. Loud, collected information from surviving Wiyot informants about the ethnogeography and archaeology of the Humboldt Bay area in 1913; his report was published in 1918. Loud listed two modern village sites and five archaeological village sites on the South Spit plus a trail system connecting the southernmost site to Table Bluff where many more occupation sites were located. The South Spit was not occupied to the density

of other areas around the Bay; Loud suggests the Wiyot favored the upper bluffs and hillsides with their forests and less harsh environment as opposed to the South Spit's unprotected, low-lying open dunes and marshy bayside (Loud 1918:277). The present day Wiyot Tribe feel a strong connection to the South Spit as part of their aboriginal territory, and it has a great significance to them as part of their heritage and is still used for hunting, fishing, and gathering shellfish and vegetal resources. There are also reported sensitive Tribal areas.

The Sea Wall and South Spit Jetty are also historic resources as their construction by the Army Corps of Engineers began in 1889. Both Humboldt Harbor Jetties are registered as California Historic Civil Engineering Landmarks and the Humboldt Harbor Historical District is listed as California Historic Landmark Number 882. The Jetties are two of the oldest man-made structures on the Pacific Coast subject to extreme wave action.

Under an educational cooperative agreement between the BLM Arcata Field Office and Humboldt State University Foundation's Native American Ethnic Studies Program, six preliminary archaeological surveys of about 400 acres of the approximate 800 acres of the South Spit (including the Eel River Wildlife area) were undertaken in 1998 between June and October and one test excavation unit was placed to explore for subsurface materials. Oral histories were also gathered from living descendants during the project and Wiyot representatives participated in the survey work. However, not a single ethnographic or archaeological site was found and the reported burial ground could not be relocated. Previous limited cultural surveys (ACOE 1976, Bramlette and Lerner, 1988) were also conducted with negative results. The historic remains were not surveyed or recorded. However, an intensive Class III archaeological and cultural survey is presently underway on the South Spit by cultural resources staff from Table Bluff Reservation - Wiyot Tribe and the BLM. One proto-historic site, 8 prehistoric sites, and one prehistoric Isolate, ten historic period sites, and one historic isolate have now been identified on the South Spit and site records are presently being prepared. It is expected that several more such sites will be recorded when the cultural survey of the remaining acreage is completed.

Most of these sites have poor integrity which may have been caused over the last one hundred-fifty plus years by large storm events, accretion of sand, the construction and maintenance of the South Jetty over the years, and the active disturbance from modern encampments which have washed away, covered, eradicated and/or removed many traces of prehistoric and historic use by the Wiyot. Therefore, extra caution must be used for any proposed projects and undertakings on the South Spit. Any areas to be disturbed by recreational activities or impacted by ground disturbing activities should be monitored by a qualified archaeologist and a representative of the Wiyot Tribe if desired by Table Bluff Reservation Tribal officials. Once the survey is complete and all sites have been identified, cultural resources should be evaluated, sensitive areas protected, and a site monitoring program developed under the long-term management plan to aid in their protection and preservation.

Caretaker Site/DFG Property: The first land surveys of the South Spit took place as early as 1854 and were officially recorded in 1855. The Government Land Office's official Plats for 1855 and 1866 show two houses and a barn belonging to J. Clark and G. Langdon in Sections 34 and 35, Township 4 North, Range 2 West, HUM. The barn structure is still standing while the only remains of the adjacent house are concrete piers, slabs, foundations, bricks from the fireplace,

some water pipes, and scattered household debris. There are daffodils and a remnant Cypress shelter wood upslope from the house ruins that are part of the cultural landscape.

Vegetation

The South Spit is currently in a severely degraded vegetative condition with the majority of the spit consisting of invasive, non-native plant types. European beachgrass (*Ammophila arenaria*), iceplant (*Carpobrotus edulis*), and yellow bush lupine (*Lupinus arboreus*) now dominate the foredunes where once they were absent, as seen from sets of air photos dating from the late 1930-1940's. Most of the west side of the spit is a very young land form and is a direct artifact of the construction of the south jetty at the turn of the 20th century. Although difficult to see in the air photos, native species were present on the spit in the 1940's but not uniformly distributed or abundant due to wave over-wash events that maintained the spit sands in an actively moving state over much of the area, particularly near the south end (1992, Pacific Watershed Associates). Much more native vegetation is visible in the 1978 set of air photos. As a result of the explosive spread of invasive weeds, many native plant habitats have degraded as a result of the effects of the weed-induced over-stabilization of sand.

Common native dune mat species that have persisted on the South Spit include beach pea (*Lathyrus littoralis*), beach morning glory (*Calystegia soldanella*), beach layia (*Layia carnosa*), beach evening primrose (*Camissonia cheiranthifolia*), beach strawberry (*Fragaria chiloensis*), silver beach bur (*Ambrosia chamissonis*), dark-eyed gilia (*Gilia millefoliata*), sea thrift (*Armeria maritima*), dune goldenrod (*Solidago soldanella*), coast buckwheat (*Eriogonum latifolia*), yellow sand verbena (*Abronia latifolia*), and sand dune blue grass (*Poa douglasii*), among others.

On the bay margin of the spit, there are several native plant communities including salt marsh and its subset of community associations such as pickleweed (*Salicornia spp.*), cordgrass (*Spartina densiflora*), and mixed marsh, the most species rich; native dunegrass (*Leymus mollis* and *Leymus vancouverensis*); brackish marsh (where seasonal flooding of salt water through dikes and intertidal channels mixes with freshwater and saltwater influencing species composition); and reaching further inland from the bay margin, woody and herbaceous swales, which can become seasonally flooded. Taken together, the salt marsh, brackish marsh, and woody and herbaceous swales provide important perennial and ephemeral resources to waterfowl and wildlife.

In the early 1990's, two native species, Humboldt bay wallflower and beach layia, became federally listed as endangered but still occupy some sites on the South Spit. Beach layia, an endangered pioneering annual, occupies areas with bare to semi-stabilized sand; examples include infrequently used foot or vehicle access ways, recovering blow-outs, road margins, or remnant patches of native plant communities known as dune mat. Humboldt Bay wallflower occupies one remnant dune mat site on Texaco Inc. property, currently at-risk due to encroaching invasive weeds and wildlife (presumably deer) predation. According to the *1998 Recovery Plan for Seven Coastal Plants and the Myrtle's Silverspot Butterfly (Recovery Plan)*, this South Spit population of Humboldt Bay wallflower is the southern most occurrence for this subspecies. Several other special status species occur on the South Spit. These plants include California Native Plant Society (CNPS) List 1B plants; pink sand verbena (*Abronia umbellata* ssp.

breviflora) and dark-eyed gilia (*Gilia millefoliata*) found in the semi-stabilized open sand to dune mat plant community types; and Humboldt Bay owl's-clover (*Castilleja ambigua* ssp. *humboldtiensis*); Point Reyes bird's-beak (*Cordylanthus maritimus* ssp. *palustris*); and CNPS List 2 plant, western sand spurrey (*Spergularia canadensis* var. *occidentalis*) found in the mixed-saltmarsh plant community type.

Current vegetative mapping resources available on the South Spit depict all existing vegetation communities as of July 2002, existing and historical salt marsh communities, eel grass beds associated with the bay, population maps of Humboldt Bay owl's-clover and Point Reyes bird's-beak, and very generalized depictions of sensitive habitats and rare plant locations by Tom Duebendorfer.

Further, there has been limited research or monitoring completed on native plant resources compared to research or monitoring conducted or ongoing on the North Spit. The isolated population of Humboldt Bay wallflower has been sporadically monitored since its discovery in 1991 by Tom Duebendorfer. Examples of research that is ongoing on the North Spit or that could take place on the South Spit include the study of genotypes of endangered plant populations, native pollinator presence, invasive weed dynamics and edge effect on native habitat, and cryptogamic crust composition, distribution, and soil impacts on native dune mat.

Wildlife

The South Spit has a wide variety of wildlife resources both within and adjacent to its borders and provides many opportunities for both consumptive and non-consumptive wildlife uses. The exotic vegetation and recent use of the area by unauthorized human residences has allowed for unnatural increases in native as well as exotic (feral cat) species to the detriment of some native fauna.

The western snowy plover, one of many species on the South Spit, is probably of the most immediate importance because of its potential for extirpation. The Pacific coast population of the western snowy plover was federally listed as threatened in March of 1993 (USDI 1993). General population decline and a decrease in numbers of breeding locations were the basis for listing. The declines are attributed to loss and modification of habitat resulting from European beachgrass, encroachment and urban development, extensive human recreational activity in plover habitat, and predation exacerbated by human disturbance. Designation of critical habitat was proposed in 1995 (USDI 1995) with final designation being published in 1999. The South Spit was not designated critical habitat.

According to the Draft *Western Snowy Plover Pacific Population Recovery Plan* (USDI 2001), total numbers of breeding plovers and nest locations have decreased in Humboldt, Del Norte and Mendocino Counties over the last 10 years or so, but because of variations in levels of survey effort, it is difficult to compare past with current bird numbers. Five beaches where nesting plovers were detected by Page and Stenzel (1981) or Fisher (1992-94) have had no nesting activity in the past few years. The majority of Humboldt County plover nesting has shifted to Eel River gravel bars (Colwell et al. 2001). On the South Spit, plover nesting has been documented in 1983 (three nests detected by Paul Springer), and one nest in 1993 during Fisher's

surveys of 1992 - 1994 (Fisher 1994). In 1999, two nests and six chicks were observed (LeValley 1999).

Due to the current degree of dune habitat degradation, only about 30 to 50 acres of nesting habitat occurs on the approximately four and one-half miles of beach on the South Spit. LeValley (1999) has documented detrimental recreational vehicle interactions with plovers and has observed numerous predators. He has also documented wave wash effects on a plover nest on the narrow beach of the adjacent Eel River Wildlife area.

The brown pelican (federally listed as endangered in 1970) feeds in the waters surrounding the spit. Allegedly a night roost exists on the northeast corner of the spit, but we have yet to confirm it. Past human activity on the spit has probably discouraged or eliminated the roost. Pelicans may use the jetty rocks as a day roost when fishing activities are minimal.

The spit and its immediately vicinity are rich with bird life. The beaches, in addition to the western snowy plover, are occupied by the sanderling, semi-palmated plover, killdeer, whimbrel, dunlin, black-bellied plover, gulls, Caspian tern, western and least sandpiper. The bay and channel are occupied by the grebe (five species), cormorant (Brandt's, double-crested, and pelagic), scoter (surf, white-winged, black), gull (western, glaucous-winged, ring-billed, black-legged kittiwake, Heermann's gull, Forester's tern, elegant tern), loon (4 species), common murre, marbled murrelet, rhinoceros auklet, pigeon guillemot, willet, marbled godwit, brown pelican, and many species of waterfowl. Black turnstones, black oystercatchers, rock sandpipers and surfbirds can be found on the rocky jetty. Dune habitats contain many terrestrial birds as well. Northern harriers and black-shouldered kites are commonly seen on the spit and sightings of the American peregrine falcons and merlins are not unusual.

The common raven and American crow are ubiquitous and are likely to affect plover survival, both adults and young. A spring migration of merlins stop off at the spit and are suspected to be plover predators as well.

The adjacent bay contains vast eelgrass meadows important as spawning and nursery habitat for fish and essential forage for thousands of black brant. The east edge of the spit, and especially the northeast corner are important grit gathering sites for black brant (Black, pers. com.).

Marine mammals such as the gray whale and the harbor porpoise can be seen offshore from the spit. Terrestrial mammals that can be found in the area are coyotes, gray foxes, raccoons, weasels, skunks, voles, woodrats, mice (deer, harvest, and jumping), shrews, moles, brush rabbits, jackrabbits, and the introduced opossum and feral cat. Flying mammals probably include the big brown bat, California myotis and Yuma myotis.

INTERIM MANAGEMENT ACTIONS

This interim planning document is intended to disclose the full range of management actions anticipated to occur prior to completion of the long-term management plan. It is the intent to manage the South Spit under an interim strategy that does not foreclose future options for management or commit resources in a manner that would jeopardize potential alternatives in future planning.

This interim management plan provides a starting point for management of the South Spit that includes the initial period of implementation of protection measures and use restrictions. Management is anticipated to be fluid and adaptive, detecting changing resource conditions, management successes and failures, public and wildlife responses to management and use levels, and quickly responding with improved management practices. The interim plan provides a management scenario that will establish a baseline of information over a two to three period against which subsequent planning can be based.

Recreation Opportunities

Interim management provides for a variety of recreational opportunities that recognize present as well as historical activities on the South Spit. Recreational uses will include day use activities such as fishing, clamming, picnicking, sightseeing, beachcombing, hiking, horseback riding, wildlife viewing, and waterfowl, snipe and coot hunting. Vehicle access to the waveslope will be allowed for recreation uses and commercial fishing. Rules guiding some of these activities include:

1. The area will be open to day use only, with no nighttime general public use allowed. The entrance gate will be opened one hour before sunrise and closed one hour after sunset. Open hours will be extended during waterfowl hunting season (October - January);
2. Designated vehicle access corridors will provide access to the waveslope. In accordance with county ordinances for the South Spit and Table Bluff County Park, vehicles will be allowed on the wave slope with a speed limit of 15 miles per hour;
3. All public uses within a designated plover protection area during the nesting season are not allowed. The following restrictions apply to waveslope activities adjacent to fenced and posted plover nesting, temporary brooding, and seasonal habitat protection areas:
 - a) Dogs must be leashed
 - b) No kites or model airplanes
 - c) No campfires

No waveslope activity restrictions apply to the temporary wintering protection areas. Plover protection areas are described in detail beginning on page 16 under “Plover Protection Actions”;

4. Dogs must be under the owner’s control at all times. Owners must carry a leash. See #3 for use restriction;

5. Equestrian use is provided for on the west side of South Jetty Road;
6. Firewood cutting is allowed by permit from September 16th to March 1st;
7. Firearms (shotguns only) are only allowed for hunting of waterfowl, snipe, and coot;
8. Target shooting is not allowed (includes bow and arrows);
9. Fireworks are not allowed.
10. If fish are cleaned on the South Spit, then all entrails shall be carried off-site, or buried a minimum of 12 inches deep, or wrapped and disposed of in a proper receptacle: but in no case shall the entrails be left lying open on the beach.

A brochure and map will be developed and include information about the area's historic and cultural values, recreational opportunities, endangered plants and animals, restoration efforts, and will provide rules and regulations.

In cooperation with Humboldt State University, a visitor survey will be conducted to gather information about preferred recreation activities, how people would like the area to be managed, perceived problems and user conflicts, and visitor demographics. The survey would involve a questionnaire and possibly a telephone poll sampling of Humboldt County residents. A traffic counter will be installed at the entrance gate to document overall visitor use.

Law enforcement efforts will be implemented under a cooperative program between BLM, FWS, DFG, and HCSO. BLM patrols will occur at a minimum of two days per week with one of the days being on the weekend. Patrol summaries and incident reports will be prepared annually.

Special events held during the plover use periods will require a separate consultation under Section 7 of the Endangered Species Act.

A Memorandum of Understanding (MOU) between the BLM, Humboldt County, and DFG will be developed to provide consistency with visitor management rules and regulations.

Commercial Uses

Commercial fishing will be allowed under a special use permit, by BLM, for hours outside of the day use period.

Facility Developments

1. Caretaker Site: A volunteer resident caretaker will open and close the entrance gate, provide information to visitors, and perform light maintenance duties. The preferred site is located on DFG property just south of Lighthouse Ranch. The site will include a graveled access route to a graveled pad. The site will also include a storage shed, developed drinking water well,

electricity and telephone service, and a septic tank with leach field.

2. Parking Areas and Access Routes: Eight existing graveled parking areas on the west side of the road will be improved; one for multiple uses at the southern end on County Park property, six at intervals along South Jetty Road, and one multiple use parking area at the north end next to the jetty (See Map A for locations). The north and south sites will each have a single vault restroom, picnic tables, trash receptacles, and an information kiosk.

Each of the parking areas along South Jetty Road will be expanded and graveled to accommodate at least four vehicles, and delineated by a post and cable barrier or driftwood logs. Three will be designated for pedestrian parking, two for vehicle access to the waveslope, and one for a combination of both.

Four vehicle access corridors will be provided for vehicle access to the waveslope. The two corridors along South Jetty Road will be delineated by post and cable barriers. The other two are located at each end of the spit where multiple use parking and picnic areas will be developed. The southern access corridor will be delineated using driftwood logs. The northern access corridor will require signing only, as the corridor is easily recognizable. An alternate vehicle corridor will be developed and used only if one of the other two sites needs to be closed for reasons associated with the snowy plover. Signs will be displayed on these corridors to inform visitors these are the only routes to the beach and all other unsigned routes are closed, and about potential difficulties while traveling at high tides, and that non-street legal ATV and motorcycle riders need to use the same route to and from the beach to avoid driving on South Jetty Road.

Vehicle access routes extending to the bayshore from the east side of South Jetty Road will be left undeveloped. Vehicle use on nine of these short access routes will be allowed only for loading and unloading supplies during waterfowl hunting season (October - January). During the remainder of the year these routes and surrounding lands will be closed to all vehicle use. Several existing corridors will be physically blocked using driftwood logs to prevent further vehicle use. To facilitate the access routes on the east side, 11 existing turnouts will be improved. The turnouts are located along South Jetty Road and will eliminate parking near the bay side of the area.

An area will be located at the northeastern corner of the management area on the north side of the spur road for small watercraft launching, picnicking, beachcombing, and wildlife viewing. This area will be developed as a picnic site, with tables, cooking grills, and trash receptacles. The spur road beyond this site will be closed to vehicle use to protect a cultural and wildlife sensitive area. An existing four wheel-drive access route paralleling the sea wall will connect the picnic site to the jetty parking area. This route is used heavily by fishermen and will continue to be open to street legal vehicles.

3. South Jetty Road: This road will be repaired and improved by scarifying the base course of the road, re-compacting, and repaving areas where large potholes have formed. Portions of the road will be graveled and graded. As funding allows, a short 100-foot section of road will be ripped and re-paved along the eastern edge to prevent erosion. The spur road leading to the proposed picnic site mentioned above will be graveled and graded. Traffic calming techniques

such as speed bumps may be installed. Roads will be maintained as necessary during interim management. The speed limit will be 25 miles per hour and open for street legal vehicles only.

A small section of road on County property has been impacted by erosion from the bluff above. The gully will be stabilized by constructing terraces and re-vegetating the area.

4. **Signing:** A variety of informational, educational, directional, and regulatory signs will be developed and installed. The information kiosks will display interpretive themes related to endangered plants and animals, and historical and cultural resource values. Information on types and locations of the various recreation activities will also be provided along with warning signs that beach areas in front of plover nest protection fences may not be passable during high tide. Adjacent to each kiosk will be a sign displaying the rules and regulations for the area. Many of the existing signs will be replaced with new ones that are more attractive looking. A sign plan with specific wording will be developed cooperatively between the Redwood Community Action Agency (RCAA) and BLM.

All facilities (including signs) will be designed to prevent, as much as reasonable possible, use as predator perches. All trash receptacles will be scavenger proof and emptied as necessary to prevent corvids from being attracted to these areas.

Prior to allowing public use of the area, two small piles of earthen materials containing potentially hazardous waste will be removed from the area. These sites are located near the proposed northernmost parking and picnic area adjacent to the jetty.

To provide for public safety and enhance the scenic quality at the jetty area, the chain link fence surrounding the large rocks that were stockpiled for jetty maintenance will either be removed or repaired.

Cultural Resources

During the interim management period, comprehensive archaeological surveys including subsurface test excavations in suspect areas are necessary to ensure any and all cultural resources are located, recorded, evaluated, and protected from facility developments and recreation use. Table Bluff Reservation - Wiyot Tribe will be contacted and given the opportunity to review the proposed interim management planning effort and share their ideas. Wiyot representatives will be included in all aspects of archaeological survey, monitoring, and test excavations. A Class III archaeological survey of the entire South Spit will be completed with participation by Wiyot tribe representatives and a comprehensive report prepared. The survey report will be used in developing long-term management plans.

The preferred location for the caretaker site on DFG lands coincides with the archaeological and historic house ruins and barn site that dates back to 1855. Some historic evaluation of this property has been done by Susie Van Kirk (1998) for the California Department of Fish and Game, however, no archaeological site records were prepared nor was a prehistoric survey conducted. An intensive archaeological survey of this area and complete recordation of the historic resources must take place before any ground disturbing activity occurs under interim

management. Evaluation of the historic resources and recommendations for their treatment will be included in the report to assist in proper long-term management of the area.

The development of graveled parking areas, vehicle access routes, two restrooms, and placement of information kiosks and other signs will only be done in conjunction with an intensive archaeological survey of the proposed sites where ground disturbing activities will occur. Special attention will be paid to the area adjacent to the northeast area of the South Spit near the sea wall and the old wharf remains to prevent disturbance to the burial grounds located somewhere in the vicinity. An archaeologist will be present to monitor every ground disturbing action to ensure that no cultural resources are disturbed. A Wiyot tribal representative should also be present if so desired by Table Bluff Reservation Tribal officials.

An Agreement will be developed jointly between the BLM Arcata Field Office and Table Bluff Reservation - Wiyot Tribe wherein tribal members will be given the free use of the South Spit for their traditional use and gathering of resources. These activities will include the following: surf fishing, clamming, eeling, gathering seaweed, bay grass, firewood, mushrooms, berries, basketry materials such as hazel, and waterfowl hunting. A tentative seasonal gathering schedule will be developed but may vary according to annual fluctuation of resources. Tribal members utilizing the South Spit will carry and present identification upon request by BLM staff and other law enforcement officers.

Vegetation

Consistent with the 1998 *Recovery Plan for Seven Coastal Plants and the Myrtle's Siverspot Butterfly*, which includes recovery plans for both the Humboldt bay wallflower and beach layia, interim management of native plant habitats and areas of endangered species occupation will focus on prevention of native plant and habitat loss, and the restoration of native dune habitat. Restoration methods employed will consist of manual removal of weeds that threaten further degradation of suitable habitat. Driftwood barriers and/or post and cable fencing may be used to prevent and discourage chronic or high intensity human impacts by foot, horse, or vehicle disturbance in inappropriate and sensitive plant habitat areas.

The BLM will continue to work with the Wildlife Conservation Board toward the public acquisition of the Texaco property to better manage and conserve its valuable plant resources including the threatened populations of Humboldt Bay wallflower and rare salt marsh species. The property will be posted as private on its north and west boundaries to dissuade public trespass.

Vegetative types, and endangered and rare plant species populations will be mapped and monitored. The mapping will provide valuable recreation, restoration, and wildlife planning assistance. Habitat features valuable to wildlife, such as ephemeral wetlands, will be included in the mapping.

Monitoring will occur for beach layia on the South Spit to meet these objectives 1) to collect data to provide occupied habitat area for comparable use in the future, 2) to establish baseline population estimates with which to establish overall population trends in the future, and 3) to

observe habitat changes with respect to recreation impacts.

Monitoring for the Humboldt Bay wallflower may occur on the South Spit. If permission can be obtained from Texaco Inc. to enter private property, vegetative and reproductive individuals will be counted and the overall population photo-documented. The BLM is willing to participate with the USFWS and Texaco Inc. to develop and implement a conservation and restoration strategy for the South Spit population, particularly if the USFWS finds that this population is genetically unique to other Humboldt Bay populations. In the event that the BLM is not granted permission to monitor and enhance the wallflower population from Texaco Inc., then, the BLM will patrol the property boundaries to dissuade trespass.

Research proposals will be considered by an interagency research team during the interim management period. Proposals will be evaluated and approved based on the following criteria: 1) they cannot alter natural resource values; 2) they should not compete with other approved projects; and 3) they must contribute to the management and conservation of native populations and habitats on the South Spit.

The BLM recognizes that the South Spit provides geographical range suitable for the subsistence of endangered beach layia and Humboldt Bay wallflower. The immediate objective of the *Recovery Plan* “is to minimize the threats to the species and the habitats upon which they depend.” The BLM will work in the interim to conserve these species and minimize threats by removing invasive weeds adjacent to existing threatened populations, managing types and levels of human use such that the species are not negatively impacted, and by working towards developing a conservation strategy by working collaboratively with the local FWS and interested parties during the long-term management planning process.

Wildlife

As a federal agency, the BLM is required to consult with the FWS as directed by the Endangered Species Act, as amended, and receive a biological opinion on the actions proposed in this draft interim plan. It is imperative that BLM modify this plan, as necessary, to comply with terms and conditions of the biological opinion to ensure that the continued existence of the western snowy plover is not jeopardized and that the plan would contribute to the recovery of the species. According to the FWS *Western Snowy Plover Pacific Coast Population Draft Recovery Plan* USDI (2001), the only federally administered land in the Northern California sub-population “Recovery Unit 2” that has documented recent plover nesting attempts, is the South Spit of Humboldt Bay.

1. Surveys and Monitoring

Conduct plover searches along the 4½ miles of the South Spit beach at least once per month during the winter to identify areas of use and numbers of birds and noting actions adversely impacting the birds. Coordinate with Humboldt State University (HSU) researchers (Colwell) and Humboldt County representatives to minimize overlaps and maximize efforts.

Conduct plover searches along the 4½ miles of the South Spit beach at least once per week during the nesting season. Make note of paired birds and nest scrapes and request nest protection

actions where appropriate. Monitor nest attempts, nest failures, presence of banded birds, brood numbers, brooding areas, brood failures, adult and brood harassment, and interaction with recreational activities. Record locations of bird activity and attempt to determine failures, abandonments, mortalities, and other incidents. Coordinate with HSU (Colwell) and Humboldt County representative to minimize overlaps and maximize efforts.

Monitor visitor compliance with rules guiding recreational activities and document non-compliance. Document acts of vandalism or tampering with temporary protective fencing or predator exclosures. Document observations of deliberate take of plovers or plover eggs. Coordinate with HSU researchers (Colwell) and Humboldt County representative to minimize overlaps and maximize efforts. All monitoring and protective actions will be conducted by people who hold a recovery permit that covers such actions.

2. Plover Protection Actions

Temporary Nest Protection Area

Upon verification of an active plover nest, a plover protection area will be closed to all recreational activity during the nesting season (3/1 to 9/15). The plover protection area will run along the beach, just above the seasonal high tide line, for a distance of 600 feet on each side of the nest, then proceed eastward to a line 200 feet inland from the nest. Temporary “symbolic” fencing will be erected to delineate the perimeter of the plover protection area. Preventive measures will be taken so as not to create additional perches for avian predators. The proposed plover protection area configuration is designed to:

- a) Protect nests from vehicle run-overs and still allow vehicle passage;
- b) Protect an area wide enough to make it difficult for predators or vandals to key in on the nest site;
- c) Provide a wide enough buffer from unleashed dogs and kite or model airplane types of disturbances;
- d) Protect an area deep enough to screen nesting plovers from activities in the back dunes without closing off a large area.

Temporary Brood Protection Area

If an area is discovered where one brood appears to be frequenting for one week, a plover protection area may be established which will be closed to all recreational activity until fledging. Temporary “symbolic fencing” will be erected, above the seasonal high tide line to delineate the concentrated use area of the broods and removed after birds fledge.

Seasonal Habitat Protection Area

In order to provide a dry-sand area of relatively disturbance-free habitat for plovers to initiate nesting activities, a seasonal (3/1 to 9/15) plover protection area will be established near the north end of the South Spit. The area will run from a point approximately 500 yards south of the Jetty for approximately 3,000 feet south along the beach at a level approximately 40 feet inland from the seasonal high tide line. The protection area will extend inland approximately 300 feet into the dunes creating a plover protection area of about 20 acres. The placement of the protection area at this location was chosen for several reasons. The site is toward the north end of the spit where visitor intensity is lower, but with a 500-yard buffer from the concentrated

fishing-sightseeing area at the jetty. The site is where wintering birds were observed in early 2002 and where a pair of plovers were seen as late as mid-April 2002. The beach is at its greatest distance from the access road and would potentially have the least amount of foot traffic by visitors. The site is located where the spit averages about one-half mile in width where plover habitat restoration actions could be implemented without potentially affecting the access road by sand movement. Temporary “symbolic” fencing will be erected to delineate the perimeter of the plover protection area. Preventive measures will be taken so as not to create additional perches for avian predators. The proposed plover protection area configuration is designed to:

- a) Protect nests from vehicle run-overs and still allow vehicle passage;
- b) Protect an area wide enough to make it difficult for predators or vandals to key in on the nest site;
- c) Provide a wide enough buffer from unleashed dogs and kite or model airplane types of disturbances;
- d) Protect an area deep enough to provide for the implementation of future habitat restoration activities.

Based on the recommendation of appropriate recovery permit holders, predator-proof enclosures will be constructed at nest sites after the departure of migrating merlins.

Temporary Wintering Protection Area

If an area is discovered where numerous plovers are wintering, a plover protection area may be established which will be closed to all recreational activity until the birds leave the area. A “picket line” of warning signs will be erected to delineate the concentrated use area and will be removed when the birds disburse.

3. Public Education and Enforcement

During the plover nesting season, an interpreter/maintenance person will update kiosk material, perform minor maintenance on fences and signs, and remove garbage which will otherwise be available for potential plover predators. This person will also be used to monitor visitor compliance with rules and document vandalism.

This interpreter/maintenance person will also erect informational and warning signs that will inform the public of plover resources and closure areas. The BLM will coordinate with other agencies to standardize plover signs as much as possible. This will serve to decrease public confusion over plover closures.

If plovers are present, additional staff will be on-site during high use periods (official opening of the area, holiday weekends of Memorial Day, Fourth of July and Labor Day), to act as interpretive/maintenance personnel to greet visitors at the South Spit entrance and to provide educational as well as current information on the presence of snowy plover nesting areas. Direct contact will assist in the visitor being well informed and able to watch for and avoid plovers on the beach.

4. Western Snowy Plover Habitat Restoration

As a part of the Interim Management Plan, a program of western snowy plover habitat restoration is planned. The program would provide an opportunity to increase suitable plover habitat by 80-150 percent over the existing situation.

The establishment of European beachgrass, ice plant and other invasive plants, have interrupted the functioning of natural systems on the spit, to the detriment of the western snowy plover. The stabilization of foredunes by beachgrass has eliminated low-gradient shifting dunes preferred by nesting plovers. The amount of suitable plover habitat available above the high tide line has dramatically narrowed to 30-50 acres. The remaining plover habitat is adjacent to a thatch of continuous vegetative ground cover convenient as ground predator ambush sites.

The most efficient and effective method for restoring a meaningful amount of plover habitat is to use heavy equipment (bulldozers, excavators, etc.) to bulldoze the beachgrass-covered dunes to the natural gradient of the unvegetated beach, disposing of spoils and vegetative material into the winter surf at low tide. The work would be performed at low tide prior to a winter storm so the natural power of the ocean could be used to mobilize and move the material in a natural way as storm drift when large amounts of beach in other local areas are also being mobilized by the storm. An archaeologist and a threatened/endangered plant specialist would be on site during the heavy equipment work to make sure those resources are not adversely impacted by the project. The flattened and exposed sand would then be available to natural wind and water-caused sand movement to maintain a natural dynamic system. Similar projects in degraded dune systems in Oregon have resulted in dynamic increases in plover nesting (Heany, Palermo, Segotta, Frounfelker pers. comm.). Further habitat enhancement may include dumping oyster shell hash on the project site, improving the effectiveness of the cryptic plover plumage and decreasing their vulnerability to predators (Kritz 1999). Resprouting of beachgrass is inevitable and annual maintenance for several years would be required to maintain appropriate landscape conditions. Permits would be required by the, Corps of Engineers, and possibly others.

The current project design would initially treat over one-half mile of foredune ocean-frontage to a distance of 300 feet east of the primary dune and grading it to the natural rise of the beach. This project configuration and location was chosen to treat a large area nearest the existing plover habitat on the widest portion of the spit while not impacting seasonal wetlands or encroaching on the paved access road to the east. The area treated would amount to approximately 20 acres and would be seasonally fenced with cable or rope and removable posts for the duration of each plover nesting season. The current proposed location of the project is in the 20-acre plover protection area mentioned in the "Plover Protection Actions".

COST ESTIMATES

Following is a list of management actions and projects that will be constructed and/or installed, using Coastal Conservancy grant funds, under interim management of the South Spit.

1. Potential Hazardous Waste Disposal	\$ 20,000
2. Stabilize / Re-vegetate old bluff trail	\$ 15,000
3. South Jetty Road Repair	\$ 70,000
4. Parking and Picnic Areas (includes grading, graveling, tables, restrooms, trash bins, corridors, barriers)	\$120,000
5. Caretaker Site	\$ 35,000
6. Signing (includes 2 kiosks)	\$ 30,000
7. Brochure / Publication	\$ 15,000
8. Cultural, Wildlife, Vegetation Inventory (in-house)	\$ 0
9. Remove invasive vegetation	\$ 20,000
10. Plover Protection Areas	\$ 20,000
11. Native American Consultation	\$ 5,000
12. Call Boxes (2)	\$ 15,000
13. Vehicle Barriers	\$ 40,000
14. HSU Visitor Survey	\$ 20,000
15. RCAA Overhead	\$ 75,000
<u>TOTAL</u>	<u>\$500,000</u>

Many of the projects and/or management actions listed above may need to be implemented prior to opening the area to the public. They include the following:

- removal of the potential hazardous waste;
- site specific resource inventories for cultural resources, wildlife, and vegetation;
- consultation with the Table Bluff Reservation;
- installation of signs that provide information as well as interim management rules and regulations; and
- construction of vehicle access corridors and barriers.

Development of the caretaker site would not have to be fully completed if a nearby resident is available to serve as a BLM volunteer caretaker.

The following management actions are discussed in the interim plan but not part of the Coastal Conservancy funding at this time:

1. South Jetty Road Rock Revetment (Rip-Rap)	\$ 20,000
2. Creating Plover Habitat with Heavy Equipment	\$ 75,000

REFERENCED CITED

- Berg, K.S. 1986. Population ecology of Menzies' wallflower, *Erysimum menziesii* (Hook.) Wetts., an endangered California mustard. Masters thesis, Humboldt State University, Arcata, Calif. 46pp.
- Blackshaw and Rode, 1991. Effect of Ensiling and Rumen Digestion by Cattle on Weed Seed Viability. *Science*. 39:104-105.
- Borgeld, J. C. Department of Oceanography, Humboldt State University, Arcata, CA 95521
- Botanica Northwest Associates, 1992. Monitoring Beach Layia in the Humboldt County Beach and Dunes Planning Area: A Pilot Study of Field Sampling Methods. Submitted to Humboldt County Planning Department. Unpublished Document.
- Botanica Northwest Associates, 1993. Sensitive Plant Survey of Sand Dunes in the Eel River Wildlife Area. Submitted to California Department of Fish and Game, Eureka, California. Unpublished Document.
- Carothers, S. 1996. Sampling to detect a persistent seed bank for the endangered Humboldt Bay wallflower (*Erysimum menziesii* ssp. *eurekaense*). Unpublished report for The Nature Conservancy, Arcata, Calif. 9pp.
- Collwell, M.A., R. LeValley, A. Transou, S. McAllister, J. Hall and C. Millett. 2001. Final report: 2001 snowy plover breeding in Humboldt County, CA. Submitted to MRB Research, Inc.
- Dubendorfer, T. 1992. Vegetation Classification, rare plant analysis, impacts, restoration, and habitat management strategies for the Humboldt County beach and dunes management plan. Humboldt County Planning and Building Department. Eureka, CA. 105 pp.
- Fisher, M.R. 1994. Western snowy plover productivity at select Humboldt County beaches, 1994. Unpublished report. California Department of Fish and Game, 619 2nd Street, Eureka, CA 95501. 9pp.
- Fisher, M.R. 1993. Western snowy plover (*Charadrius alexandrinus nuvosus*) seasonal distribution and productivity near Humboldt Bay, California. Unpublished report. Wildlife Department, Humboldt State University, Arcata, CA 95521. 11pp.
- Frounfelker, C. Wildlife biologist. Mapleton Ranger District, Siuslaw National Forest, Florence, OR.
- Heaney, J.L. Wildlife biologist. Bureau of Land Management, Myrtlewood Resource Area, Coos Bay District, Coos Bay, OR.
- Kritz, K. 1999. Biological assessment for the management of Federal lands on the North Spit of Coos Bay during the 1999 western snowy plover nesting season. Unpublished document. Bureau of Land Management, Coos Bay District Office, Coos Bay, OR. 31pp.
- LeValley, R. 1999. Snowy plover nesting season 1999. Report prepared for Humboldt County Planning Department. Mad River Biologists, McKinleyville, CA. 22pp.
- Merrick Animal Nutrition, Inc; on-line article on Equine Digestion;
<http://www.merricks.com/digestion.html>.
- Pacific Watershed Associates. 1991. Physical processes, geomorphology and management options for the coastal sand dunes of Humboldt Bay, Humboldt County, California. Humboldt County Planning and Building Department. Eureka, CA. pp. 76
- Page, G.W., Stenzel, L.E., Shuford, W.D., and C.R. Bruce. 1991. Distribution and abundance of the snowy plover on its Western North American breeding grounds. *J. Field Ornithol.*, 62: 245-255.

Page, G.W. and L.E. Stenzel. 1981. The breeding status of the snowy plover in California. *West. Birds* 12:1-39.

Palermo, K. Wildlife biologist. Bureau of Land Management, Coos Bay District Office, Coos Bay, OR.

Pickart, Eicher, Biven, and Hayler. 2000. *Changes in a Metapopulation of the Endangered Humboldt Bay Wallflower in Relation to Disease Incidence and Management*. *Natural Areas Journal*. 20:234-242.

Prosser, Bev. April 2002, personal communication regarding horse use on Manila Beach and Dunes Recreation Area.

Segotta, D. Botanist. Mapleton Ranger District, Siuslaw National Forest, Florence, OR.

USDI BLM. 1994-2002. unpublished monitoring data for; Mattole beach, City of Eureka dunes, Samoa Dunes open riding area, Samoa Dunes Endangered Plant Protection Area, and Manila Dunes Area of Critical Environmental Concern.

USDI BLM. 2002. unpublished population monitoring data for the South Spit.

USDI Fish and Wildlife Service. 2001. Western snowy plover (*Charadrius alexandrinus nivosus*) Pacific Coast population draft recovery plan. Portland, OR. xix + 630pp.

USDI Fish and Wildlife Service. 1999. Endangered and threatened wildlife and plants; Designation of critical habitat for the Pacific coast population of the western snowy plover; final rule. *Federal Register* 64:68508-68544.

USDI Fish & Wildlife Service, 1998. Recovery Plan for Seven Coastal Plants and the Myrtle's Silverspot Butterfly.

APPENDIX A: Law Enforcement of the South Spit

Approximately 627 acres of land on the south spit of Humboldt Bay have been acquired by the State of California for purposes of resource conservation and public recreation. Fee title to these lands is to be held by the State of California, with management authority delegated to the Bureau of Land Management.

The acquired lands include most of the land on the south spit, but do not include several parcels of land that are owned privately or by other governmental entities. The newly acquired lands are bounded at the south end of the spit by lands owned by the County of Humboldt at Table Bluff County Park, and by lands owned by the US Fish and Wildlife Service as part of the Humboldt Bay National Wildlife Refuge. Additionally, a parcel of land owned by the Texaco Corporation exists near the south end of the spit, and a parcel owned by the US Army Corps of Engineers exists at the north end of the spit, near the jetty and seawall.

SOURCES OF AUTHORITY

Federal Laws and Regulations

Exercise of federal law enforcement authority by BLM Rangers on the South Spit derives from language in the Deed of Conservation Easement with the California Department of Fish and Game (DFG), Wildlife Conservation Board (DFG), and the United States of America, acting by and through the Bureau of Land Management. The conservation easement applies to approximately 627 acres of land on the south spit owned by the DFG, and conveys to BLM the right to manage that property in perpetuity to protect, preserve, and restore the beach dune habitat, open space, recreational, and scenic values (defined as “conservation values”) of the property.

Acceptance of the conservation easement by BLM is authorized under Section 205 (acquisitions) of the Federal Land Policy and Management Act of 1976 (FLPMA). While DFG remains owner of fee title to the subject lands, grant of the conservation easement conveys to BLM an “interest” in the subject lands. Acquisition of such an interest makes the subject lands “public lands” as defined in Section 103 of FLPMA, and makes applicable to those lands the enforcement provisions authorized pursuant that law, including those contained in Title 43 of the Code of Federal Regulations.

In the conservation easement, the DFG and BLM agree that the purpose of the easement is to “preserve, protect, enhance and restore the conservation values of the property; to provide dispersed recreation for the general public; and to prevent any use of the property that will significantly impair or interfere with such conservation values.” Section 2 (a) of the conservation easement, “Affirmative Rights and Interests Conveyed”, grants to BLM the right “to manage the Property in all aspects of its use in perpetuity, *including the right to enforce the laws of the State of California and the United States of America*”.

California Laws and Humboldt County Regulations

As authorized by Section 303(d) of FLPMA, the BLM has entered into a Memorandum of Understanding (MOU) with the Humboldt County Sheriff granting to BLM law enforcement personnel authority to enforce applicable state law or county ordinances within Humboldt County, CA.

Section III. E. of the MOU defines United States Property as “any land and interest in land owned by the United States within the several states and administered by the Secretary of the Interior through the BLM, and those Federal lands where a MOU or interagency agreement exists allowing the BLM to assist in law enforcement services”.

Section IV. B. 1. (b) of the MOU specifies that designated BLM law enforcement personnel may enforce applicable state law or county ordinances “on property owned or possessed by the United States Government *and on any street, sidewalk, or property adjacent thereto*”.

Section IV. B. 2.(c) of the MOU provides that BLM enforcement personnel will “Issue citations and release persons suspected of misdemeanor and infraction violations of California State laws and County ordinances violations *which relate to natural resource protection or visitor safety protection.*” Section IV. B. further provides, in general and dependent upon individual circumstances, that BLM enforcement personnel will respond to requests for assistance from the Humboldt County Sheriff’s Office, will arrest and transport persons with active arrest warrants, and will arrest or detain persons suspected of violations of state or county laws.

BLM Manual 9260, Law Enforcement General Order number 3, V. C. 2., stipulates that the exercise of state or local law enforcement authority by BLM law enforcement personnel “must involve activities that are necessary for the protection of the public lands or resources administered by the BLM”.

Discussion

In accord with the Deed of Conservation Easement to BLM, the full scope of federal laws and regulations applicable to the public lands apply to those lands which are the subject of the grant of easement. Generally speaking, BLM regulations contained in 43 CFR are applicable only to the public lands, and are not applicable on adjacent parcels of land owned privately, by other federal agencies, the state of California, or the County of Humboldt. In some cases, the BLM has identified the scope of its law enforcement program as extending to related lands and waters. Title 43 CFR regulations involving such extension and which may have applicability to the South Spit relate to closures (sec. 8364) and fire (sec. 9212).

BLM law enforcement activities on lands in which the BLM has no property interest are authorized pursuant to the MOU with the Humboldt County Sheriff. In accord with policy direction contained in BLM Handbook 9260, and consistent with the purpose of the MOU between BLM and the Humboldt County Sheriff, exercise of state enforcement authority by BLM officers on the south spit will involve activities that are necessary for the protection of the public lands resources and visitor safety.

Pursuant to the MOU with the sheriff, BLM officers are authorized to enforce state and county laws on all lands subject to the conservation easement. The MOU further provides authorization for BLM officers to enforce state and county laws on parcels of land meeting the “adjacent thereto” definition with regard to lands on the south spit subject to the conservation easement. These adjacent lands include the Humboldt County Table Bluff County Park, the parcel owned by the Texaco Corporation, the parcel owned by the U.S. Army Corps of Engineers, adjacent lands in the Humboldt Bay National Wildlife Refuge, and tidal lands at and below the mean high tide line (the “waveslope”).

With specific regard to Title 50 CFR, wildlife and resource related enforcement issues on lands on the South Spit owned and managed by the FWS in the Humboldt Bay National Wildlife Refuge (HBNWR), an interagency MOU exists within the U.S. Department of the Interior which authorizes cross designation of law enforcement authority between the BLM and FWS. Such cross designation is authorized in circumstances where the designation may be “mutually beneficial, economical, and advantageous to the public interest”, and where written local operational agreements have been established by the appropriate managers in charge. Entry into such an agreement by the BLM Arcata Field Office and the HBNWR would likely enhance resource protection efforts on the South Spit.

SPECIFIC ENFORCEMENT ISSUES

Management direction for the South Spit will be consistent with the Humboldt Beach and Dunes Management Plan. Since existing federal regulations do not specifically address a number of activities proposed in this interim management plan, BLM law enforcement personnel will need to utilize a number of state and county regulations in order to achieve effective management of human activity on the spit. These regulations are, for the most part, already in place within the Humboldt County Codes and/or Title 14 of the California Code of Regulations. It is anticipated that, concurrent with development of a long term management plan for the area, federal supplemental rules will be proposed which will enable BLM Rangers to achieve enforcement and management objectives within the framework of Code of Federal Regulations. Specific non-federal regulations anticipated to be necessary for effective management of the South Spit are outlined below.

Off Road Use of Motor Vehicles

Existing Humboldt County regulations address issues of off-highway vehicle use on the South Spit and at Table Bluff County Park. Separate county regulations exist for county park areas. Dependent upon location, i.e., whether within the boundaries of the county park or elsewhere along the spit, different regulations related to vehicle use may apply. It should be noted, however, that for purposes of BLM enforcement related to motor vehicle use on the south spit, the Humboldt County Beach and Dunes Planning Area (and the HCC 917 regulations promulgated thereunder) includes the full length of the South Spit from the county park northward to the south jetty.

Regulations are summarized as follows:

The South Spit, generally:

HCC 917-3: Motor Vehicles Prohibited on Beach and Dune Areas:

All motor vehicles, including four-wheel drives, ATVs, and motorcycles, are prohibited from operation except on roads, parking areas, designated beach access routes, and the waveslope of the ocean beach. (Waveslope defined (HCC 917-2): “The area of the beach that shows evidence of having been washed by waves during the last tidal cycle.”)

HCC 917-6: Speed Limits:

Driving on the waveslope is limited to 15 miles per hour.

HCC 917-5: Vehicles Prohibited - Snowy Plover Habitat:

All vehicle use is prohibited during the snowy plover nesting season at any posted site, as necessary to protect the seasonal nesting area of the endangered snowy plover.

Within Table Bluff County Park:

HCC 271-13: Speed Limit:

The maximum speed limit on any County park beach area is 15 mph except upon such roads as the Director may designate for higher or lower speed limits.

HCC 271-14: Vehicle Types Allowed, Where Allowed, Speed Limit, Vehicle Play

All types of vehicles allowed. Vehicles allowed on waveslope only. The waveslope shall be accessed only by the designated access route. No driving in dunes. No person shall operate any motor vehicle for the purpose of vehicle play. The speed limit is 15 miles per hour.

Overnight Camping:

Existing Humboldt County regulations prohibit overnight camping on the South Spit and at Table Bluff County Park, as follows:

South Spit, generally:

Humboldt County Zoning Ordinance A311-4:

This county zoning ordinance prohibits uses that are inconsistent with an area’s zoning designation, e.g., camping in areas that area not designated for camping. The south spit is not designated to permit overnight camping.

Table Bluff County Park:

HCC 271-9: Length of Stay:

No person shall reside, remain, or park overnight in any park not designated for overnight camping.

Firearms Possession and Use:

Existing county regulations address issues related to possession and use of firearms only within county park areas, i.e., only within Table Bluff County Park. Existing regulations do not

specifically prohibit such possession and/or use of firearms except as follows:

HCC271-5: Hunting, Fishing and Use of Firearms and Other Weapons:

No person in a park shall hunt, harm, kill...any mammal, amphibian, reptile, or bird.

No person in a park shall use any firearm of any size or description, air rifle, pellet gun, bow and arrow, sling, or any weapon or instrument which when so used creates a significant risk of harm to wildlife or human safety...

It is anticipated that, consistent with the stated objectives of the interim management plan for the South Spit, regulations prohibiting use of firearms and other weapons will be promulgated by the CFG under Title 14.

Dogs and Animal Control:

Humboldt County has an animal control ordinance currently in effect:

HCC 541-21(a): Confined to Owner's Premises:

Requires that any dog owned, harbored, or controlled by a person be kept under the control of the owner or other authorized person when the dog is not on the premises where owned, harbored, or kept.

APPENDIX B: Cultural Resource Laws and Regulations

There are multiple federal laws and regulations governing the management of cultural resources and Indian relationships as pertains to the South Spit. The Federal Land Policy and Management Act of 1976 (FLPMA)(43 USC 1701; 90 STAT.2743) Section 307 (a) provides that the Secretary of the Interior may conduct investigations, studies and experiments, on his/her own initiative or in cooperation with others, involving management, protection, development, acquisition and conveyance of public lands and (b) may enter into cooperative agreements for these purposes, subject to applicable law; and Section 202 (b) provides Tribal officials an opportunity to raise issues and comment on BLM's land use plans. FLPMA also sets policies under Section 102 (a) (2) that public lands and their resources should be periodically and systematically inventoried with present and future use designated through a land use planning process coordinated with other Federal and State planning efforts and Section 102 (a) (8) managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values.

E.O.13084 of 1998 orders federal agencies to consult and coordinate with Indian tribal governments and mandates government-to-government relationships between Indian tribes and federal agencies. The 1998 Protocol Agreement between California BLM and State Historic Preservation Office (SHPO) requires each field office to develop a government-to-government protocol with the Federally recognized Indian tribes within their jurisdiction or who historically occupied the area.

The National Environmental Policy Act (NEPA) of 1969 provides Tribal officials a 30-day opportunity to review and comment on EA's and 45 days on EIS's that may contain resources of interest or importance to them. Federal agencies are encouraged to coordinate compliance with NHPA's Section 106 and its procedures to meet the requirements of NEPA. EO 11593 of 1971 furthers the purposes and policies of NEPA and mandates Federal agencies to provide leadership in preservation, restoration, and maintenance of the Nation's historic and cultural environment and to inventory, evaluate, and nominate qualifying historic properties to the National Register of Historic Places.

The National Historic Preservation Act of 1966, as amended, and its Guidelines lay out the BLM's responsibilities under both Section 106 (protection of historic properties and response to proposed undertakings) and Section 110 (integrates historic preservation into BLM programs and missions and is proactive) and is applicable to BLM controlled or managed properties such as the South Spit. Sections 110(a)(1) and 110(b) and 110 (2) of the National Historic Preservation Act of 1966, as amended, directs the federal government to preserve the heritage of the United States in cooperation and partnership with States, local governments, Indian tribes...; to document, record, and report heritage resources; and to work with other agencies, Indian tribes, local governments, and SHPO's to advance the Act's purposes .

There are two main purposes of the Archaeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat. 721; 16 USC 470aa-ll) as applied to the South Spit. The first is to protect cultural resources from "unauthorized excavation, removal, damage, alteration, or defacement." The second is to "increase communication and exchange of information among governmental

authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained prior to enactment of the Act.” Under ARPA, the BLM must notify Tribal officials 30 days in advance of issuing a permit that may harm or impact an “Indian religious or cultural site on public lands.”

The American Indian Religious Freedom Act (AIRFA) of 1978 sets goals relating to the preservation of Indian religious sites and practices that may be impacted or interfered with by federal development of natural resources and requires consultation with concerned Indian tribes which in this case would be Table Bluff Reservation - Wiyot Tribe.