

Section 21 Unforeseen Circumstances

Purpose

Occasionally situations arise that pose a threat to protected species on St. Johns County beaches. These are considered as unforeseen circumstances that could not have been anticipated or addressed in the preparation of the HCP and must be independently and effectively evaluated in coordination with the USFWS.

Relevant ITP Condition – J.

J. Unforeseen Circumstances. “Unforeseen and/or changed circumstances may become apparent either to the Permittee, the Permittee’s authorized agents, or to personnel of the U.S. Fish and Wildlife Service. For purposes of implementation of this condition unforeseen circumstances are defined as changes in circumstances affecting a species or geographic area covered by the HCP which could not reasonably have been anticipated by the HCP developers and the U.S. Fish and Wildlife Service at the time of the HCP’s negotiation and development and that result in a substantial and adverse change in the status of the covered species. Changed circumstances are defined as changes in circumstances affecting a species or geographic area covered by the HCP that can reasonably be anticipated by HCP developers and the U.S. Fish and Wildlife Service and that can be planned for.

“The Permittee and the U.S. Fish and Wildlife Service acknowledge that even with the above detailed provisions for mitigating and/or minimizing impacts, circumstances could arise which were not fully anticipated by this Permit and which are considered unforeseen. Such circumstances may become apparent either to the Permittee or to personnel of the U.S. Fish and Wildlife Service. For purposes of implementation of this condition, unforeseen circumstances are defined as any significant unanticipated adverse change in the status of species, any significant, unanticipated adverse change in impacts of the activity or in other factors upon which the HCP and Permit are based, or any other significant new information relevant to the Permit and activity that was unforeseen by the Permittee and the U.S. Fish and Wildlife Service that could give rise to the need to review the Permittee’s conservation program.”

“If, during the implementation of the HCP and the Permittee’s adherence to this Permit, a significant unanticipated situation occurs that would have a serious effect on species covered by this Permit or the ability of the Permittee to continue the effective implementation of the HCP and/or adherence to this Permit, the Permittee shall undertake actions described in Chapter 10 (Unforeseen Circumstances) of the HCP.”

HCP Performance During 2012

Implementation: St. Johns County experienced an “Unforeseen Circumstance” in 2012 with the dredging of the St. Augustine Inlet by the Army Corps of Engineers (ACOE). The ACOE removed a portion of the Porpoise Point beach to use as borrow material to renourish the beach

at the City of St. Augustine Beach. That removal caused a reduction in beach area which diminished the available space for beach activities. During certain times, such as high tide or weather events, it is difficult for the County to maintain a 30 foot Conservation Zone (CZ) without risk of public safety, losing CZ signs to the ocean or having unintentional activity occur in the 30 foot CZ area.

Assessment: It is the County's position that the request to modify the CZ at Porpoise Point to a 15 foot CZ falls within the definition of minor as it is consistent with the protection established for all of the beaches in the County, does not cause "new or significantly" different operations or effects and does not cause any additional "take". Porpoise Point is the only area in St. Johns County that has a 30 foot CZ as all other areas the County maintains a 15 foot CZ. The Habitat Conservation Plan (HCP) for St. Johns County set a 30 foot CZ for the Porpoise Point area to address, "a potential Anastasia Island Beach Mouse (AIBM) and bird nesting habitat." The original analysis included in the HCP for the 30 foot CZ is no longer applicable as other activities since that time have increase available habitat for the AIBM and have implemented protections for the nesting birds that far exceed the idea of a 30 foot CZ.

In 2006 when the County received the Incidental Take Permit the multiple driving lanes that ran in numerous areas between and in the dunes at Porpoise Point were closed off and vehicles were confined to a driving lane seaward of the most seaward dune. This allowed the vegetation to reestablish and habitat to expand which provides protection for animals that may inhabit the area. The County replanted this broad area, including the relict driving areas, with sea oats to restore the beach habitat. This activity has resulted in a greatly increased dune area with flourishing sea oats thereby increasing available AIBM habitat and although no AIBM have been located in this area there is a large area of protected habitat for use.

The County responds annually to the possibility of bird nesting by monitoring Porpoise Point each season for any indications that the area is being selected for the season's nesting activity. If there are indications that the birds are selecting Porpoise Point for the nesting season the nesting habitat is closed to both vehicular and pedestrian traffic. As the season progresses, the County staff evaluates the location and modifies the protected area as needed. This protection of the area includes prohibiting vehicles and pedestrians not only in any CZ area but for a larger portion of the beach including a portion of the beach going from the waters edge to the dunes. The CZ is immaterial in this issue as the birds require a larger area than a 30 foot zone next to the dune so a 15 foot CZ, as present in the remainder of the County, is effective to protect the dune habitat as the birds are protected using a more comprehensive and expansive approach.

Program Improvements: St. Johns County would like to improve the management of Porpoise Point by establishing a 15 foot CZ which is consistent with all other St. Johns County beaches. The County intends to initiate a process to analyze environmental conditions daily, such as tide heights, predicted storm events, etc., to determine management needs for this area. This analysis shall continue on a weekly cycle in order to provide at least seven days advanced notice to any management challenges and/or changes. In order to protect the habitat and public safety certain environmental conditions may require the temporary closing of all or a portion of the Porpoise Point area to beach driving and/or to pedestrians.