United States Department of the Interior

FISH AND WILDLIFE SERVICE

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In Reply Refer To:
2022-0077028

December 7, 2022

Peter Weppler, Chief
Environmental Analysis Branch
U.S. Army Corps of Engineers, Planning Division
26 Federal Plaza, Room 2151
New York, New York 10278-0090
Attn: Katie Pijanowski

Dear Mr. Weppler:

This Streamlined Biological Opinion (SBO) concludes project-level consultation pursuant to Section 7 of the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq*.) (ESA) for the U.S. Army Corps of Engineers (Corps) proposed beach renourishment in Monmouth Beach Borough, Elberon (Long Branch City), Sea Girt Borough, and Manasquan Borough, Monmouth County, New Jersey. Effects to listed species from the Corps' 50-year program of beach nourishment and renourishment along a 21-mile section of Monmouth County's Atlantic coast shoreline were evaluated in the U.S. Fish and Wildlife Service's (Service) 2002 Programmatic *Biological Opinion on the Effects of Completion of Sections I and II of the Atlantic Coast of New Jersey Beach Erosion Control Project Sea Bright to Manasquan, Monmouth County, New Jersey on the Piping Plover (Charadrius melodus) and Seabeach Amaranth (Amaranthus pumilus)* (PBO). This SBO covers only the proposed 2022-2023 renourishment event, including potential direct and indirect effects to federally listed species that may occur during and after construction. Subsequent events will be considered separate Federal actions and will require individual streamlined consultation under the PBO. This letter also concludes informal consultation for the federally listed (threatened) rufa red knot (*Calidris canutus rufa*).

CONSULTATION HISTORY

July 27, 2022	The Corps initiated consultation via letter.
October 31, 2022	Via email, the Corps indicated that project activities were expected to begin in December.
December 6, 2022	Via email, the Service coordinated with the Corps regarding project details and conservation measures.

PROJECT DESCRIPTION

The 2022-2023 renourishment includes one Base Task beachfill area. The project also includes three possible beachfill Option Tasks and one non-beachfill Option Task. Some or all of the Option Tasks will be awarded based on schedule and availability of funds. Work is expected to begin in late December 2022 or early January 2023. The maximum total quantity of material to be placed per the Base and all Option Tasks for this renourishment cycle would be approximately 3.2 million cubic yards. Considering both Base and all Option areas, this consultation covers activity in four sections of beach; the maximum extent of each area is described below.

Northern (Option 1): Placement of approximately 1 million cubic yards along roughly 0.7 mile of beach, from Central Road to Surf Road in Monmouth Beach.

Central (Options 2 and 4): Option 2 involves placement approximately 300,000 cubic yards along roughly 0.3 mile of beach, from Sternberger Avenue to South Lake Drive in Elberon (contiguous with the Base Task). In this same section of beach, Option 4 involves raising of a junction box at Lake Takanassee.

Base: Placement of approximately 1.2 million cubic yards along roughly 1.1 mile of beach, from South Lake Drive to Lawrence Avenue in Elberon.

Southern (Option 3): Placement of approximately 700,000 cubic yards along roughly 1 mile of beach, from Crescent Parkway in Sea Girt to Ocean Avenue in Manasquan.

ADHERENCE TO CONSERVATION MEASURES

The Corps has confirmed that all Conservation Measures (CMs) in the PBO will be implemented. Regarding CM 5, the Corps has confirmed the following:

- To avoid any disturbance to piping plovers, work is slated to be completed by March 1, 2023. If work cannot be completed and continues past March 1, monitoring will be carried out in accordance with the final monitoring plan. No work will continue past March 15, 2023.

- The Corps will coordinate with ENSP regarding any State-listed and other beach nesting birds of concern.

Additional coordination is needed for certain CMs, as noted below.

CM 5 Please submit a final monitoring plan before the start of work.

CM 6 Please submit a plan to conserve the seabeach amaranth seed bank in two key locations: (1) a 2022 concentration area from Stuyvesant Place to Beringer Road in Long Branch; and (2) Sea Girt National Guard Training Center that is actively managed for this species. The plan should involve scraping and stockpiling the top 6 inches of sand in areas of 2022 plant locations prior to the beachfill, and

then respreading the stockpiled material on the surface following the fill. Please also submit a summary of the seabeach amaranth protective measures that were carried out during the previous two renourishments in Monmouth County.

STATUS OF THE SPECIES

Relevant biological and ecological information on listed species occurring in the action area was provided in the PBO. That information remains pertinent and was considered by the Service in formulating this SBO.

ENVIRONMENTAL BASELINE

Piping Plover

The PBO defines a piping plover nesting area as "1,000 meters on either side of a site [as determined by a Service-approved field monitor (monitor) and confirmed by the Service] currently occupied by courting, territorial, incubating, or brood-rearing piping plovers, nests with eggs, or unfledged chicks, or any site so occupied during any of the most recent three nesting seasons (including the current one if territories have already been established for the year)."

Based on this definition, all of the Northern (Option 1) action area is considered a nesting area. Consistently occupied nesting habitat extends from the Driftwood Club in Sea Bright Borough to Cottage Road in Monmouth Beach, where it overlaps for about 330 meters of the Option 1 placement area. All the rest of Option 1 is within the 1,000-meter buffer of this nesting habitat and is thus also considered part of the nesting area. Known as "Monmouth Beach - North," this habitat supported 3 nesting pairs in 2022, 5 pairs in 2021, and 2 pairs in 2020. Except for 2011 and 2012, the Monmouth Beach - North nesting habitat has been occupied by nesting plovers every year since 1997.

Additional nesting habitat is located south of Option 1, extending from the Monmouth Beach Bathing Pavilion through Seven Presidents County Park in Long Branch. Known as "Monmouth Beach - South" and the contiguous "Seven Presidents Park," this nesting habitat is located about 200 meters south of Option 1 at its closest point. This nesting habitat was not occupied in the past 3 years, but supported 2 pairs in 2019 and 1 pair per year from 2014 through 2018.

There is no history of piping plover nesting within the Option 2 action area.

The approved Long Branch Beach Management Plan designates a Protection Zone for listed species, from south of Lake Takanassee to the southern boundary of Long Branch City, corresponding almost exactly with the Base Task action area. There had been no previous history of piping plover nesting within this section of beach. However, in 2022 one pair nested near Garfield Road in Long Branch, within the southern part of the Base Task action area. Based on this nest, the Base Task action area is considered a nesting area from its southern end at Berringer Road north to Pullman Avenue in Long Branch.

Another pair nested near Poplar Avenue in Deal, approximately 575 meters south of the Base Task action area, with additional breeding activity observed ever farther south between Brighton Avenue and Parker Avenue in Deal. This nesting activity in Deal does not affect the limits of the

Base Task nesting area as defined above, but underscores the need for conservation measures in this area.

All of the Option 3 action area is considered a nesting area, based on piping plover breeding activity at the Sea Girt National Guard Training Center for each of the past 4 years. The National Guard property supported 2 pairs in 2019 and 1 pair per year in 2020, 2021, and 2022.

Seabeach Amaranth

Table 1 shows seabeach amaranth numbers for each section.

Table 1. Seabeach amaranth numbers 2019 to 2022

	2022	2021	2020	2019
Northern (Option 1)	2	7	0	0
Central (Option 2 and 4)	0	0	0	0
Base Task	62	25	10	3
Southern (Option 3)	2	4	4	34

EFECTS OF THE ACTION

The Service has reviewed information provided by the Corps for the 2022-2023 Monmouth Beach to Manasquan renourishment, and determined that the potential effects of the project are consistent with those described in the PBO. Direct and indirect adverse effects to listed species are minimized but not totally avoided by the Corps' adherence to the CMs listed in the PBO.

There will be no direct mortality, physical injury, or disturbance of piping plovers due to the seasonal restrictions and monitoring (CM 5). Piping plovers are not expected to be exposed to contaminated sediments based on CM 2. There will be no mortality or injury of seabeach amaranth plants, because all plants in New Jersey have already died for the 2022 growing season and the renourishment will be completed before the start of the 2023 growing season.

It is almost certain that seabeach amaranth seeds are present in the renourishment footprint and that all seeds in the sand placement area (other than those captured via surface sand stockpiling) will be buried and therefore lost to the beach ecosystem, at least for the next few years. It is not possible to estimate how many seeds will be affected; how many of those might have germinated in 2023 absent the renourishment; or how many may survive burial and could eventually germinate following subsequent erosion or re-working of the placed sand. The Corps seabeach amaranth plan (under CM 6) is expected to at least partially offset adverse effects stemming from burial of the seedbank.

Shorter-term indirect effects to listed species include creation of sub-optimal beach profiles and burial of the piping plover prey base, both of which were evaluated in the PBO. The PBO recognizes that the Corps' beach nourishment program maintains sandy beach habitats in areas where they would otherwise be lost due to an extensive network of hard shoreline stabilization structures. The 2022-2023 renourishment is expected to provide some benefits to listed species by widening the beach in areas of occupied habitat, and potentially also by setting back vegetative succession in the upper beach. However, the linear and generally erosional habitats created and maintained by the project are considered sub-optimal for piping plovers and

seabeach amaranth. Design template slopes and local dune building activities also result in sub-optimal habitat conditions that may adversely affect listed species, particularly if piping plovers colonize the project area instead of more optimal habitats such as in Sandy Hook. However, based on recent nesting and productivity patterns—and based on intensive species management—we do not expect the project area to create a population sink for piping plovers.

The effects of prey burial on piping plovers are considered highly dependent on the time of year in which renourishment takes place. Renourishment between November and January would coincide with a period of sharp seasonal decline in invertebrate abundance, and the infaunal community would not be expected to recover for at least 6.5 months. Therefore, renourishment during this timeframe may result in reduced piping plover productivity, or possibly abandonment of nesting areas from reduced prey resources. Renourishment in February or early March may also result in reduced piping plover productivity and/or abandonment of nesting areas due to depression of prey resources close to the start of the nesting season. Based on the proposed timing of the 2022-2023 renourishment (December/January through February/early March), we expect that the piping plover prey base will be reduced during the 2023 nesting season. This adverse effect can be minimized by scheduling and completing work in/near the nesting habitats first, which is required by the PBO (Terms and Conditions (TCs) #1a). As a reminder, TCs #7 is to "Monitor the response of the wrack line and intertidal infaunal invertebrate communities during and after sand placement within nesting areas." Please coordinate with the Service on how the Corps can implement this requirement during 2023, and provide a summary on how this requirement was met during the previous two renouishment cycles.

Longer-term indirect effects include preclusion of natural habitat formation (adverse) and increased sand transport to Sandy Hook (generally beneficial), both of which were evaluated in the PBO. Past shoreline stabilization (*i.e.*, extensive system of hard stabilization structures and upland development) within the project area has interfered with the formation and maintenance of natural habitats for piping plover and seabeach amaranth. The project will further perpetuate shoreline stabilization and interfere with natural processes, such as the formation of overwash areas that provide optimal habitat for listed species, extending along up to 3.4 linear miles of Atlantic coast shoreline. This landscape-scale adverse effect may be partially offset by increased sediment transport to Sandy Hook, where wider beaches may benefit listed species.

Other longer-term adverse effects can stem from beach widening that attracts both listed species and human activities such as recreation and beach management practices (*e.g.*, raking, sand fencing), as well as human-associated predator species. The long-term adverse effects associated with human use and management of project area beaches are minimized, but not entirely avoided, by CM 4 (educational signs) and CM 3 (Endangered Species Management Program). Funding of the Endangered Species Management Program also satisfies TCs #6, which requires development of local Beach Management Plans (BMPs). The BMPs have proven a highly effective mechanism for balancing species conservation with local beach management needs.

BIOLOGICAL OPINION

Actions and effects associated with the above action are consistent with those identified and evaluated in the PBO. After reviewing the size and scope of the project, the environmental baseline, the status of federally listed species in the action area, and the effects of the action, it is the Biological Opinion of the Service that the subject action is not likely to jeopardize the

continued existence of the piping plover or seabeach amaranth. No critical habitat has been designated for these species within the action area; therefore, no critical habitat will be affected.

INCIDENTAL TAKE STATEMENT

Section 9 of the ESA and Federal regulations pursuant to Section 4(d) of the ESA prohibit the take of endangered and threatened wildlife species, respectively, without special exemption. *Take* is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. *Harm* is further defined by the Service as an act which actually kills or injures fish or wildlife; such an act may include significant habitat modification or degradation which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including, breeding, spawning, rearing, migrating, feeding or sheltering (50 CFR 17.3). Take that is incidental to, and not intended as part of a Federal action, is not considered prohibited take under the ESA, as long as such take is in compliance the provisions of a Biological Opinion (*i.e.*, the PBO and this SBO).

We expect the 2022-2023 renourishment will cause non-lethal take (harm) of up to 2 pairs of piping plovers during the 2023 nesting season (*i.e.*, injury caused by burial of the prey base, suboptimal habitat conditions, and impacts associated with high levels of human activity despite the BMPs, potentially culminating in reduced reproductive success). The type and amount of anticipated incidental take is consistent with effects to listed species as evaluated in the PBO.

To be exempt from the take prohibitions of Section 9 of the ESA, the Corps must implement all pertinent Reasonable and Prudent Measures (RPMs), as stipulated in the PBO, to minimize the impact of anticipated incidental take of listed wildlife. The Service has determined that no additional RPMs or implementing TCs, beyond those specified in the PBO, are needed to minimize the impact of incidental take anticipated for the subject action. Please review the TCs with the Service to ensure they are carried out appropriately.

REINITIATION – CLOSING STATEMENT

This concludes streamlined formal consultation on the effects of the proposed 2022-2023 renourishment. As provided in 50 CFR Section 402.16, re-initiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this opinion; or, (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending re-initiation. In order to be exempt from the prohibitions of Section 9 of the ESA, the Corps must comply with all binding provisions of the PBO (CMs, RPMs, and TCs), and must carry out the action consistent with the above Project Description. This streamlined formal consultation covers only the 2022-2023 renourishment. Future renourishment actions will be considered separate Federal actions and will require further streamlined consultation.

INFORMAL CONSULTATION FOR RUFA RED KNOT

Based on review of the mapping provided by the Corps and best available species occurrence data, the Service concluded that the 2022-2023 Base, Option 1, and Option 2 action areas are suitable but unoccupied habitat for the federally listed (threatened) rufa red knot (*Caladrius canutus rufa*). The Option 3 action area is considered occupied but low use for spring and fall migration; however, the project is proposed to take place outside of the rufa red knot's migration seasons. Therefore, the Service concurs with the Corps' determination that the subject renourishment is not likely to adversely affect the rufa red knot.

CONCLUSION

Please contact Wendy Walsh at wendy_walsh@fws.gov, if you have any questions regarding this consultation, or require further assistance regarding federally listed threatened or endangered species. Please continue to coordinate with the Service and the ENSP, and please submit the piping plover monitoring plan and the seabeach amaranth seedbank conservation plan. Please also coordinate with the Service regarding implementation of the TCs, which are required by the PBO to minimize incidental take of piping plovers.

Sincerely,

ERIC SCHRADING

Digitally signed by ERIC SCHRADING
Date: 2022.12.07 15:00:38 -05'00'

Eric Schrading
Field Supervisor

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