

DECISION DOCUMENT
CASPIAN TERN RELOCATION FY2001-2002 MANAGEMENT PLAN
LOWER COLUMBIA RIVER, OREGON

This documents the U.S. Army Corps of Engineers' (Corps) decision to implement the Caspian Tern Relocation FY 2001-2002 Management Plan. This project is being taken to relocate Caspian tern nesting from Rice Island to East Sand Island in order to reduce avian predation of juvenile salmonids, particularly Endangered Species Act (ESA) listed species. This plan was developed with input from the Caspian Tern Working Group (CTWG), a multi-agency work group, which includes the Corps, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), Bonneville Power Administration (BPA), Oregon State University (OSU), Columbia River Inter-Tribal Fish Commission (CRITFC), Oregon Department of Fish and Wildlife, Washington Department of Fish and Wildlife, and Idaho Department of Fish and Game in coordination with other interested parties.

The National Marine Fisheries Service, in their March 2, 1995 Biological Opinion on Operation of the Federal Columbia River Power System (1995 Biological Opinion), included an Incidental Take Provision stating "the Corps shall conduct studies to identify (a) Caspian Tern predation of juvenile salmonids, and (b) methods to discourage tern nesting." In response, research on Caspian tern foraging ecology began in 1996, conducted by OSU and CRITFC. Research results (1997) indicate the Caspian tern colony is growing rapidly and is estimated to have consumed 6 to 25 million salmonid smolts that year.

The Caspian Tern Working Group (CTWG) was formed in May 1998 to develop short- and long-term management plans for reducing juvenile salmonid predation by Caspian terns. The CTWG developed a pilot study to investigate methods for relocating the Caspian terns. A draft Environmental Assessment (EA) was prepared with input from the Caspian Tern Working Group and released for 30-day review by agencies and the public on October 29, 1998. Comments on the draft EA were received from 24 Federal and State agencies, organizations and interested parties. Comments were summarized and responded to in the final EA and Finding of No Significant Impact (FONSI) issued on January 15, 1999. The pilot study, implemented in April before the 1999 juvenile fish out-migration, was intended to increase juvenile salmonid survival and provide information for development of the long-term management plan.

This pilot study was partially successful in that 1,400 pairs of Caspian terns nested on East Sand Island. Their consumption of salmonids was 44 percent of their diet versus 75 percent for terns that continued to nest on Rice Island. Attempts to reduce the tern colony on Rice Island to 1,000 pairs were not successful, and about 8,100 pairs of terns nested on about 2.4 acres of the island. Although only 1 acre was cleared, the terns expanded into the adjacent uncleared area.

On September 15, 1999, the National Marine Fisheries Service (NMFS) issued a Biological Opinion (Bi Op) requiring the Corps of Engineers to prevent Caspian terns from nesting on Rice Island in 2000 and to conduct studies of ways to prevent double-crested cormorants from perching on pile dikes in the Columbia River estuary. The CTWG continued to meet and discuss

relocation of the Caspian tern colony in 1999 and 2000. The result of these discussions was the FY 2000 Tern Management Plan. A draft Environmental Assessment (EA) was prepared by the Portland District on a proposed action to implement this management plan. The Corps also responded to non-discretionary requirements of the Bi Op in preparing the EA, and included elements of the cormorant study. The Corps proposed preventing terns from nesting on Rice Island by implementing passive and active harassment, including the take of up to 300 tern eggs and maintaining approximately 4 acres of Caspian tern nesting habitat at East Sand Island. The draft EA was circulated for 30-day public and agency review, and 28 comment letters were received and evaluated. A Finding of No Significant Impact was signed on March 17, 2000. Action was begun on East Sand Island, and research activities, supported by the Bonneville Power Administration, began on Rice Island.

On April 10, 2000, a temporary restraining order was issued against the Corps and the U.S. Fish and Wildlife Service, prohibiting harassment activities on Rice Island. An injunction followed, and remains in effect. Most terns did nest on East Sand Island in 2000, apparently due to habitat modification conducted on Rice and East Sand Islands prior to the injunction. About 9,100 breeding pairs of Caspian terns nested on East Sand Island, and about 580 pairs nested on Rice Island. Preliminary research data indicate that about 44 percent of the diet of East Sand Island terns was composed of salmonids, while about 91 percent of the diet of Rice Island terns was composed of salmonids. Estimated total consumption by terns nesting in the estuary in 2000 was about 7.3 million salmonid smolts, or 6.4 percent of the estimated 115 million out-migrating smolts that reached the estuary. Relocation of terns in FY 2000 resulted in about 6 million fewer smolts being consumed than would have been consumed if all Caspian terns had nested on Rice Island. The result of this effort was that Caspian terns could be moved successfully from Rice Island to East Sand Island without adverse impact to the terns while significantly reducing consumption of juvenile salmonids.

The CTWG continued to meet periodically and urged the preparation of a long-term management plan for Caspian terns and other piscivorous birds in the Columbia River. No agency stepped forward to prepare such a plan. Thus, in 2001, the Corps again prepared an EA for management of Caspian terns in order to respond to the NMFS' 1999 Bi Op to prevent terns nesting on Rice Island. The Corps' proposed action covered 2 years in the hope that an appropriate agency would have prepared a long-term plan, with required environmental documents, in the interim. The Corps' proposed action includes preparation of a minimum of 4 acres of Caspian tern nesting habitat on East Sand Island and passive/active harassment on former tern nesting area on Rice Island. Further emplacement of cormorant excluders on pile dikes would also occur. These kinds of activities have been described and commented on in the two previous EAs, thus the Corps did not issue a draft EA, but proceeded to a FONSI with 30-day notification. New scientific information provided within that 30-day period would be considered prior to taking action. The Corps' EA acknowledged that unless the restraining order was rescinded, the Corps could take no action on Rice Island.

The Corps received 10 letters on the EA/FONSI for FY 2001-2002. Little new scientific information was submitted. Issues were the same as those provided in prior comments to the EAs of 1999 and 2000. Sea Resources, a community based watershed restoration and education organization located in Chinook, Washington, submitted an update on its activities with

Washington Department of Fish and Wildlife (WDFW) regarding salmonid restoration projects, and expressed concern that those activities could be adversely affected by the proposed action. We have contacted the WDFW about these concerns; however, comments from the WDFW are supportive of the 2001 proposed action. The American Bird Conservancy, Pacific Seabird Group, and Range Bayer submitted information similar to comments submitted on previous EAs. This information is not new and has been identified by NMFS as inappropriate for the situation. Cited sources tend to be related to studies of the OPI coho experiment in the 1980's and are not relevant. NMFS has advised the Corps that official correspondence from the director represents the position of the agency, not internal memoranda from staff members.

Idaho Department of Fish and Game requested the Corps consider the impacts of all predatory birds in the estuary, and restated its objection to providing as many as 4 acres for nesting habitat. Columbia River Inter-Tribal Fish Commission also submitted comments expressing concern over salmonid consumption that would continue should terns be encouraged to nest on East Sand Island, and reminded the Corps of treaty trust responsibilities. The Corps is limited to responding to the requirements of the NMFS' 1999 Bi Op, which directed action on Rice Island regarding tern nesting and pile dike locations regarding cormorant roosting. The provision of alternate nesting habitat for terns on East Sand Island was developed with the CTWG as temporary mitigation for the loss of habitat on Rice Island, and assumes a long-term plan which would relocate a portion of the tern colony outside the Columbia River Estuary. The Corps' actions are therefore restricted and limited in scope. And these actions are currently under judicial review. The Corps does not have the authority, nor is it part of our mandate, to make seabird management decisions. The Corps maintains that these broader seabird management issues should be addressed by Federal and State wildlife management agencies. The NMFS' 1999 Bi Op required the Corps to prevent tern nesting on Rice Island, not to manage them elsewhere.

Comments were also received from Oregon Department of Fish and Wildlife (ODFW), WDFW, and the U.S. Fish and Wildlife Service (USFWS). While some of these comments offered political and philosophical positions, none provided new scientific information. The USFWS wished to clarify the record that the Corps' statements that the USFWS was the agency that would assume responsibility for tern management and subsequent environmental documents were made without consulting that agency. Also requested was the removal of the statement that the regional office did not support the CTWG goal of reducing avian predation. The basis for that statement was review comments provided by them on the preliminary draft EA, requesting that a sentence identifying reducing avian predation as a goal of the CTWG be deleted, as this was not a consensus goal, and USFWS did not agree with the statement. The Corps is therefore clarifying the record in this regard.

ODFW did point out that with the present drought situation, fish runs are not expected to be as high as the previous year, thus avian predation could be more serious than was identified in the EA. ODFW also refers to the NMFS' 2000 Bi Op, section 9.6.1.5.3, Studies: Action 102, and recommends the Corps re-initiate Section 7 consultation. Idaho Fish and Game also requested the Corps re-initiate consultation. The NMFS' 2000 Bi Op addresses studies by several "Action Agencies," including the Corps. It does not require unilateral action by the Corps in this instance. The Corps continues to respond to the requirement of the 1999 Bi Op to prevent nesting on Rice Island, to the best of our ability, given the injunction.

I have reviewed and evaluated documents concerning the proposed action using the scientific information currently available. After careful consideration of the issues, public concerns, and balancing the needs of the fish and wildlife species involved in this activity, I have decided to implement the Caspian Tern Relocation FY 2001-2002 Management Plan Project for the 2001-2002 salmon migration and tern nesting seasons as described in the EA, subject to Court guidance and restrictions.

/signed/

Date: ____23 Mar 01____

RANDALL J. BUTLER
Col. EN
Commanding