

**BEACH MANAGEMENT AGREEMENT BETWEEN MAINE DEPARTMENT OF
INLAND FISHERIES AND WILDLIFE, U.S. FISH AND WILDLIFE SERVICE, AND
TOWN OF WELLS, MAINE**



March 2025

**Town of Wells
Beach Management Agreement**

2025 through 2027

In 2025, representatives of the Town of Wells (The Town), the U.S. Fish & Wildlife Service (USFWS), the Maine Department of Inland Fisheries and Wildlife (MDIFW), and Maine Audubon developed the following Beach Management Agreement for the Town of Wells.

It is recognized that Wells and Drakes Island Beaches are a multiple-use, natural resource with a significant appeal as a tourist destination and a vital economic component of the Wells community. As such, the demands for intensive recreational use by residents and visitors must co-exist with the Town's obligations and desire to preserve Piping Plover and its habitat. The Town shall endeavor to comply with the *Guidelines for Managing Recreational Activities in Piping Plover Breeding Habitat on the U.S. Atlantic Coast to Avoid Take Under Section 9 of the Endangered Species Act* as published by the USFWS, a copy of which is attached hereto and incorporated herein.

IMPORTANT! This agreement is in effect from April 1 through August 31 or when nesting activity is occurring, *which is defined as when territorial pairs, nests, and chicks of Piping Plovers are present.* **When nesting activity is not occurring on Wells and Drakes Island Beaches, these guidelines are not in effect.** The Town must keep in weekly communication with MDIFW or its designee to know when Piping Plover nesting activity is occurring. MDIFW will verify when nesting activity is occurring and will make the final determination of whether nesting activity is or is not occurring.

This agreement allows the Town of Wells to continue their beach management program without filing state Incidental Take Plans (ITP) for each Town activity that occurs near or within Piping Plover nesting and foraging areas, as long as the Town implements protection measures outlined in this agreement. An "incidental take" is any activity which may unintentionally harm or kill an endangered or threatened species. Compliance with this agreement exempts the Town from subsequent regulations (section IV – L) for activities specifically addressed here.

There is an incentive for The Town to promote the nesting success of Piping Plovers because the birds that nest successfully in April or May will fledge their chicks by mid –to-late June or early July, thus minimizing restrictions on the beach. However, if earlier nesting fails or the birds are forced to nest late, the nesting and chick rearing season will extend into July and August, the peak summer months for beachgoers.

I) Introduction

The Piping Plover (*Charadrius melodus*) is a small sandy-colored shorebird that nests on beaches from Newfoundland to South Carolina. This species is imperiled throughout much of its range in the United States and Canada. Once common on sandy beaches in southern Maine, the Piping Plover is listed as endangered under the Maine Endangered Species Act. The east coast population of Piping Plovers is also federally listed as threatened. In Maine, the total number of pairs has ranged from a low of 6 pairs in 1983 to a high of 157 pairs in 2023.

Habitat loss and lack of undisturbed nest sites are two of the primary factors jeopardizing populations of Piping Plovers. Historically, Maine had more than 30 miles of suitable nesting beaches that may have supported up to 200 pairs of Piping Plovers. However, the construction of seawalls, jetties, piers, homes, parking lots, and other structures along Maine’s sand-beaches has dramatically reduced the extent of suitable nesting habitat. The capacity of the remaining habitat to support nesting plovers is further reduced by continued development and intense recreational use. Ensuring the availability of this limited habitat is essential for the continued existence of Piping Plovers and other shorebirds, such as the state-endangered Least Tern.

Historic records document that Piping Plovers nested on Wells and Drakes Island Beaches in recent decades. In fact, under ideal conditions, these 6.5 miles of sand-beach habitat may have once supported as many as 22 pairs of Piping Plovers at densities of 3.5 pairs/mile of beach. Unfortunately, jetties, sea walls, development and associated human disturbance and predation greatly reduced the ability of the habitat to support these rare birds. After a 12-year hiatus (1982-1994), plover nesting on Wells/Drakes Island Beaches resumed in 1995 (see table below). Numbers of breeding pairs of plovers never reached more than 8 until 2019. From 2019 through 2021, the number of breeding pairs of Piping Plovers increased, with Wells Beach supporting 8 pairs in each of those respective years, while Drakes Island had one pair in each of those years. From 2022-2024, pairs at Wells Beach grew from 14 to 17 pairs with a moderate increase at Drakes also. Wells Beach and Drakes Island Beach are essential to the recovery of Piping Plovers in Maine as they provide excellent nesting habitat.

Year	Wells	Drakes Island
1981	1(0)	-
1982-1994	0	-
1995	2(5)	-
1996	4(12)	1(0)
1997	4(11)	-
1998	4(5)	1(0)
1999	6(9)	0
2000	5(10)	0
2001	6(19)	0
2002	7(10)	1(0)
2003	5(12)	1(1)
2004	7(21)	1(0)
2005	6(6)	1(0)
2006	4(9)	1(2)
2007	2(2)	1(1)
2008	2(6)	0
2009	2(3)	0
2010	3(6)	0
2011	4(7)	0
2012	4(8)	0
2013	3(7)	0
2014	3(7)	0
2015	5(8)	1(3)

2016	6(17)	0
2017	6(12)	1(2)
2018	6(15)	1(0)
2019	8(24)	1(4)
2020	8(13)	1(1)
2021	8(13)	1(1)
2022	14(40)	2(0)
2023	16(29)	1(3)
2024	17(37)	2(3)

pairs(fledged)

In 1997, the Maine Department of Inland Fisheries & Wildlife (MDIFW) proposed that Wells and Drakes Island Beaches be designated as Essential Habitat for Piping Plovers. However, in the face of public opposition to the proposal, MDIFW decided to pursue an alternative to Essential Habitat designation, and in 1998, a special committee of stakeholders convened to develop this Beach Management Agreement.

In May 1999, the Special Beach Management Agreement Committee completed its deliberations; the pages that follow verify the success of this experiment and give substance to the Committee’s work.

II) Authority to Enter Agreement

Maine Endangered Species Act of 1975 (MESA): Title 12 Maine Revised Statutes §12805

Federal Endangered Species Act of 1973 (ESA): 16 U.S.C. §1531 et seq.

III) Geographic Scope of Agreement

The area under this agreement is the entire beachfront commencing 1,300 feet north of Casino Square Public Parking Lot (including public rights of way on Wells Beach) to the northern limit at the boardwalk access to Laudholm State Beach on Drakes Island. The beachfront is defined on Wells and Drakes Island to be from the concrete seawall and/or the seaward side of the frontal dune (where no seawall exists) to the mean low water line.

The intent of this agreement is to provide a means to protect Piping Plovers on Wells and Drakes Island Beaches. The success of this agreement depends on the voluntary participation and cooperation of private landowners and the Town of Wells. Private property owners are encouraged to take advantage of the Town of Wells' willingness to assist them with resource management applicable to their property.

This agreement does not supersede or replace any local, state, or federal statutes, regulations, or guidelines that apply to private properties. Nothing herein shall relieve the Town or any other party to this Agreement from any permit requirements under federal and state law.

If MDIFW elects to pursue the designation of Wells Beach and/or Drakes Island Beach as “Essential Habitat,” the Department will follow the process for adopting rules required by the Maine Administrative Procedures Act, which provides for notice to affected property owners and the opportunity for public participation, including the right to a public hearing upon the request of at least 5 affected individuals.

IV) Beach Management Guidelines for Piping Plovers

A. Emergencies

Police, Emergency, and Non-Emergency response. All Public Safety or Town personnel assigned or normally required to use vehicles, including ATVs, on the beach shall annually receive specialized education and training from MDIFW or its designee in the spotting and protection of plover habitat. All other personnel shall have training materials and aids available to assist in spotting plover habitat when required to respond to either an emergency or a non-emergency incident. At least two town employees will respond, if a motor vehicle is required, to any non-emergency incident (e.g., removal of a dead or injured sea mammal or bird) within a plover nesting area. The passenger, or other respondent, will, on foot, act as the spotter to and from the scene. Other agencies that may respond to calls on the beaches will be notified of this policy.

All emergency response personnel will account for and avoid nesting sites and chicks to the maximum extent practicable, consistent with the nature and urgency of the emergency. However, it is the policy of the Town of Wells that such essential vehicles will avoid driving on the wrack line whenever possible and avoid frequent driving on the beach in a way that would create deep ruts that could impede movement of Piping Plover chicks. MDIFW or its designee will conduct a specialized education and training programs for all those working on the beaches and/or responding to emergency incidents. Training workshops will be conducted each year.

Natural Disasters - The Town reserves the right, during (or immediately following) natural disasters or other emergencies, to conduct maintenance and restoration procedures in the most expeditious manner possible, taking into account the need to minimize interference with Piping Plover activity and any applicable state and federal permit requirements. The Town agrees to notify all parties to this Agreement, as soon as practical in the event such activity is required.

B. Beach Infrastructure and Maintenance

During the nesting season, vehicles used for essential maintenance purposes shall require trained walking spotters always traveling in front of such vehicles, and extreme care shall be taken by Town employees and contractors to observe Piping Plover activity at all times and minimize any interference. Failure by the town to use spotters will be considered a breach of this agreement and gives MDIFW and USFWS the option to implement other protective management actions as identified by the MESA and the ESA. Vehicles shall refrain from driving on soft sand whenever plovers are present, to the greatest extent possible. In addition, maintenance activities for specific functions shall be as follows:

1) Cobble movement away from seawalls and upper beach areas.

Cobble removal and relocation from the seawall area to below mean water is permitted on Drakes Island Beach with state and federal permits from September 1 to March 31 (*i.e.*, outside the plover nesting period). However, on Wells Beach, no cobble or sand is to be removed by mechanical methods unless a full beach re-nourishment plan is developed and made a part of any permit granted to the beach owner and would only be

allowed during the non-plover nesting periods, i.e., from September 1 to March 31. In emergency situations, the Town will consult with MDIFW and USFWS for approval to remove cobble.

Landowners having State and Federal permits may remove cobble that is located landward of seawalls and the primary dune by hand or using mechanical equipment outside of the plover nesting period (September 1 to March 31). In emergencies, the Town will consult with regulatory agencies and the MDIFW and USFWS for approval to remove cobble during the plover nesting season (April 1 to August 31).

2) Daily Pickup of Trash Barrels on the Town's Beaches and Rights-of-ways.

The town picks up trash from the beach daily from barrels located on the rights of way. Trash barrels will be placed as far away from plover nesting areas as possible but no closer than 250 feet from a nest enclosure (see Section IV D). The town vehicle picking up the waste from the barrels each day shall have a trained spotter (trained by MDIFW or its designee) walk in front of the vehicle if driving on Wells and Drakes Island Beaches during the plover nesting period (April 1 to August 31).

3) Removal of dead or injured sea mammals, fish, or birds. Personnel removing dead or injured sea mammals or birds shall coordinate with the Piping Plover monitor coordinator to know the precise location of all nesting plovers and their chicks. At least two town employees will respond if a motor vehicle is required to conduct the removal with one respondent to act as a spotter during removal. If appropriate, the Maine Marine Reporting Hotline should be contacted at 1-800-532-9551.

4) Lobster Trap Recovery. The Town shall annually notify owners of lobster traps that private vehicles are not allowed on the beach, but that Town employees will retrieve any lost trap or equipment on the shore.

5) Seaweed and Debris Cleanup. In so much as possible, the Town shall strive to refrain from removing seaweed from the beach on a regular basis during plover nesting season (April 1 to July 31). If seaweed and/or debris are to be removed, spotters **must** be used by whatever removal methods are deemed most expedient (usually with a tractor using a rear rake and front bucket). Daily or weekly cleaning of the town's rights-of-way will be done by hand unless it is clearly outside any plover nesting area or accomplished outside of the plover nesting season. The manner in which seaweed is removed from the beach shall typically consist of the following strategies, in order of preference, with the understanding that trash must first be removed from the seaweed: (1) temporary storage at water's edge for removal by natural action of the sea, provided, however that pile size shall be kept to a minimum; or (2) off-site relocation using dump trucks provided it is returned to the beach in the fall as per Maine DEP Coastal Sand Dune Rules (Chapter 355).

There will be no seaweed clean-up activity within 150 feet of the stake and twine fencing identifying nesting areas. Also, during particularly sensitive breeding and nesting times, or when recently hatched chicks are present, the Town shall cease all raking activity in areas that have been specially flagged, to include the entire beach area up to the water's edge.

6) Guidelines for vehicles on the beach.

Most of the previous functions require vehicles on the beach. Vehicles on the beach will abide by the following:

- All vehicle entrances/exits to the beach will be either at an approved public way, historically PW 4, or the jetty. Allowance will be made with proper spotters (see below for spotting guidelines) for access through ROW #5.

- A spotter will be present with all moving vehicles on the beach between April 1 and August 31. Between April 1 and August 31, all vehicles entering from the jetty will travel at least 50 feet from the grass edge of the beach, close to the high-water mark to assure no conflicts between nest initiation and vehicular traffic. Spotters must be used if nesting activity or symbolic fencing is present.
- Recognizing that cleaning the beach beyond what residents request for human health and safety is costly to the town, has had a negative impact on Piping Plover habitat at other sites, and may unduly disturb residents due to the noise of the machinery, the Wells Beach Management Committee¹ recommends reducing the frequency of beach cleaning to every other day or less whenever possible. The Wells Beach Management Committee will review frequency and reporting of beach cleaning activities in the fall of each year.

¹ The Beach Management Committee consists of the Town Volunteer Monitor Coordinator and the Public Works Department.

7) **Guidelines for Beach Cleaning Activity.**

The following Guidelines are to be followed whenever vehicles are on the beach (except for emergencies concerning human life and property) wherever territorial pairs, nests, or chicks of Piping Plovers are present.

- Two spotters will be employed by the town of Wells and will guide all Town vehicle traffic on the beach.
- All vehicles will proceed at “walking speed.”
- Spotters will record observations of eggs, birds, and nests every 100 feet of the beach prior to vehicular access to that section. If no plover activity is identified, the cleaner will rake that 100 foot section while the spotter watches, standing in that zone.
- The spotter will proceed to the next area (approximately 100 feet down the beach), spotting, locating, and watching before giving the signal to allow the vehicles to enter the area.
- Beach cleaning will not occur within 150 feet of territorial pairs, nests, or chicks. This gives the birds a buffer from disturbance of the vehicles and leaves additional foraging habitat intact.

C) **Police, Emergency, and Non-Emergency Vehicle use**

It will be the policy of the Town of Wells that essential (non-emergency) vehicle use will not occur within 100 feet of designated Piping Plover nesting areas. The Town will coordinate with the Town’s Plover Monitoring Coordinator to determine current plover nest and/or brood locations. At least two employees shall respond to any non-emergency incident (such as removal of dead or injured marine mammals) within an area of plover ***nesting activity***, with one employee acting as the spotter to and from the scene.

The following USFWS guidelines should be followed within 500 feet of nesting areas and/or brood locations to minimize the probability that chicks will be crushed by essential (non-emergency) vehicles:

- Essential vehicles should travel through chick habitat areas only during daylight hours and should be guided by a qualified monitor who has first determined the location of all unfledged plover chicks.
- Speed of vehicles should not exceed five miles per hour.
- Use of open 4-wheel motorized all-terrain vehicles or non-motorized all-terrain bicycles are recommended whenever possible for monitoring and law enforcement because of the improved visibility afforded operators.
- Essential vehicles should avoid driving on the wrack line, and travel should be infrequent enough to avoid creating deep ruts that could impede chick movements.

All emergency response personnel will account for and avoid nesting areas and chicks to the maximum extent practicable, consistent with the nature and urgency of the emergency. All Public Safety or Town personnel assigned or normally required to use vehicles (including ATV's) on the beach shall annually receive specialized education and training from MDIFW or its designee in the spotting and protection of plover habitat (see Training below). All other personnel shall have training materials and aids available to assist in spotting plover nests, chicks, and fledglings, during their beach management activities. Training workshops shall be available for each nesting season.

¹ Territorial pairs will be defined as two adults exhibiting courtship behavior and the presence of multiple shallow depressions or “scrapes” in the sand.

D) Recreational Activities

Homeowners are responsible for the protection of any plover present on their property and should ensure that their family members and guests are aware of the precautions that must be observed. Property owners should check with the town to verify if plover nests or signs of their activity have been located on their property. If plovers have been located on the homeowner's property, such activities as fireworks, beach parties or large gatherings, clambakes, volleyball, golfing, Frisbee and whiffle and or football games, fires, etc., could seriously threaten the birds' survival and must be avoided. **It is highly recommended that property owners promote the nesting success of Piping Plovers because the birds that nest successfully in April or May will fledge their chicks by mid –to-late June or early July, thus removing restrictions on the beach.**

1) Lifeguards and stands. The annual lifeguard program on both Wells and Drakes Island Beaches will require that lifeguards be trained as plover spotters and monitors. This training will be done through MDIFW or its designee not later than June 30 of each year. Lifeguards will act as spotters and monitors and will assist in educating the public about safeguarding plovers.

Lifeguard stands should be placed prior to April 15 and will not be placed within 150 feet of a plover nest. Placement of stands after April 15 will require the use of spotters. In the event that a site does not allow for the required 150' buffer, MDIFW or its designee and the Town will determine an appropriate placement for the lifeguard stand. This mutually agreed upon location will maintain the public safety requirements as well as protect the nesting Piping Plovers.

2) Kites, parasails, drones, ultralights, etc. Kite flying is prohibited within 650 feet of an enclosure or symbolic stake and twine fencing from April 15 through August 31. Furthermore, during the Piping Plover nesting season, kite flying will be restricted to the intertidal zone during offshore winds and will be closely regulated by lifeguards and other town personnel.

No person shall utilize a sand surfer (wind driven sand cart), parasail, or paraboard sail within 650 feet of an enclosure or symbolic stake and twine fencing from April 15 through August 31.

No person shall utilize a bicycle, skateboard, Onewheel, eBike, radio-controlled vehicles, or other wheeled recreational devices, excluding non-motorized carts and wagons, within 650 feet of an enclosure or symbolic stake and twine fencing from April 15 through August 31.3) Volleyball. During the Piping Plover nesting season, volleyball playing is restricted to the intertidal zone at least 150 feet from Piping Plover nests and chicks.

4) Fireworks. The Town of Wells has not hosted a firework display since the 1970s. If the town selectmen have an interest in hosting a fireworks display, MDIFW and USFWS requests that the Town comply with the USFWS Guidelines for Managing Fireworks in the Vicinity of Piping Plovers and Seabeach Amaranth of the U.S. Atlantic Coast. To meet the requirements, MDIFW and USFWS request that:

- The fireworks launch site be located a minimum of $\frac{3}{4}$ mile from the nearest Piping Plover nesting and/or foraging area.
- The Town closes the parts of Wells Beach used by nesting and foraging Piping Plovers; uniformed officers capable of enforcing the closure be deployed at beach access points (volunteers could be used to assist the officers, and MDIFW and USFWS may provide uniformed wildlife enforcement officers to patrol nesting areas).
- A fireworks plan must be submitted by April 1.

5) Off-Road Vehicles. There shall be no motorized vehicles allowed on the beach, except for official Town use only, or when otherwise approved by the Town for special events; these vehicles shall be subject to all of the restrictions otherwise noted herein. From time-to-time lifeguards will access the beach using an ATV. During nesting activity, however, the use of this ATV shall require a trained walking spotter, except during emergency rescue activities, in which case all due care shall be used to minimize any interference in Piping Plover activity.

E) Animal Control

Dogs can be a significant source of disturbance and mortality for Piping Plovers. Ideally dogs should be kept off beaches during the nesting season. The Town of Wells' ordinances require that dogs be on a leash between April 1 and September 15. This ordinance meets the minimum requirement in the USFWS *Guidelines for Managing Recreational Activities in Piping Plover Breeding Habitat on the U.S. Atlantic Coast to Avoid Take Under Section 9 of the Endangered Species Act*. No dogs are allowed on the beach between 8 AM and 6 PM

from June 16 to September 15. Exceptions can be made on personal property if landowner permission is given to others. No dogs are allowed on Laudholm Beach at any time.

Municipal, state, and federal enforcement officers will implement the following enforcement strategy:

- a. The area on Wells Beach from the jetty to Public Way #4 is the highest priority for enforcement;
- b. The dog ordinances will be strictly enforced;
- c. Horses, ponies, and other large, domesticated animals are prohibited on the beaches from April 1 to September 30.

F) Piping Plover monitoring

The Town agrees to sponsor a monitoring program consisting of a coordinator and a team of trained volunteers who shall attempt to conduct daily site visits during nesting season in order to maintain an up-to-date account of Piping Plover activity, including numbers of birds, nest locations, socialization patterns, foraging areas, and reactions to the presence of humans. The Town shall provide an annual stipend (and mileage reimbursements) to compensate the coordinator who shall work under the supervision of the Town Manger and perform related tasks as assigned, including, but not limited to weekly and year-end reports, which shall also be distributed to all the parties. The coordinator and monitors shall have no official enforcement authority whatsoever, but they are encouraged to provide friendly education whenever necessary. Monitors and the coordinator shall undergo annual training provided by MDIFW or its designee, in cooperation with MDIFW and USFWS personnel. More specifically, monitors shall also be expected to perform regular daily walks to maintain an up-to-date account of plover numbers, distribution, and activity to better protect them from predation and human activities. Monitors shall work under the direct supervision of the coordinator. The Town of Wells shall provide free parking passes for the coordinator and monitors to use during beach inspections.

Monitoring of Piping Plovers requires frequent visits by the plover managers each week throughout the nesting season to ascertain nesting status, number and location of nests, nest success, and the success of young. As the season progresses, new nests may be discovered at any time as renesting occurs, or as new pairs establish nests on the beach. Adult birds and their chicks commonly move 325 to 650 feet away from the nest to preferred foraging areas (wrack line and intertidal flats). Frequent visits are required to track the survival and movements of family groups. In particular, family groups must be monitored while vehicles are present on the beach.

The goal of this monitoring program is to establish regular, daily monitoring walks to maintain an up-to-date account of plover numbers, distribution, and activity on both Drakes Island and Wells Beaches to better protect them from predation and human activities.

The keystone of the monitoring program will be the use of trained volunteers. Recruitment will be accomplished through efficient use of the newsletters and outreach tools identified in the following section.

The position of Volunteer Monitor Coordinator will be created for 15 hours a week for 20 weeks between the months of April and August. There will be a stipend for this position including mileage reimbursement. The Coordinator will work for a person designated by the Wells Town Manager. It will be the responsibility of the Town Manager to budget annually for the Coordinator's stipend and other expenses needed to support the

volunteer monitoring program. In the event that a Volunteer Monitor Coordinator cannot be found, or is not hired, it is the responsibility of the Town to fill the duties of this position.

Training sessions will be conducted each year for Piping Plover monitors by the MDIFW or its designee. Each session should train a minimum of 10 monitors.

Responsibilities of the Coordinator include:

- Coordinate activities and communicate notable occurrences with the MDIFW who will communicate with USFWS as needed (See Appendix 4 for contact information).
- Visit each beach at least 3 times/week from April 1 until plovers complete nesting (usually mid-to late-August).
- Document the number and location of nests, nest attempts, nest success, number of chicks fledged, and causes of egg or chick mortality if known.
- Maintain temporary fencing and signs and help erect nest enclosures.
- Recruit and train volunteers to regularly monitor the beaches and document Piping Plover nesting activities.
- Ensure observations by volunteers are recorded on the data sheets provided by MDIFW or its designee.
- The Coordinator will collect weekly reports from volunteer monitors, compile data, and act as liaison with the Town and state officials.
- Provide an end-of-season summary and copies of field data sheets from volunteers and forward them to MDIFW or its designee no later than September 30.
- Document disturbance from dogs, pedestrians, or predators and report to MDIFW or its designee.
- Participate in training volunteers.
- If possible, attend the statewide pre- and post-season planning sessions for Piping Plover coordinators hosted by MDIFW.
- The Coordinator will communicate with landowners as to what is planned and will solicit their support for the monitoring project. For Wells beaches, in person interactions will be preferred if possible..

MDIFW or its designee will:

- Train the Piping Plover Coordinator and volunteers
- Provide stake, twine, signs, and materials for nest enclosures
- Provide outreach materials as available
- Provide enforcement as related to state and federal wildlife laws

Neither the Coordinator nor volunteer monitors will be involved in enforcement of regulations. The task of negotiating for the purchase and installation of protective fencing will remain the responsibility of MDIFW.

Volunteer monitors shall be required to commit to training and a weekly commitment of time. They shall attend periodic meetings for program review and reinforcement of training. Monitors shall fill out a standardized, daily report including the number of hours spent on the beach and deliver it to established collection point for pick up by Coordinator. Monitors shall report on the location of Piping Plover nests and on adherence to the provisions of this beach management plan. Monitors shall be provided free parking in town parking lots while conducting their monitoring duties.

G) Protection measures for Piping Plovers

Protection measures shall consist of the following strategies: (a) installing fencing using stakes, twine and signage to delineate potential nesting areas at the beginning of the season; (b) installing symbolic stake and twine fencing to delineate areas in which human activity is not allowed to protect actual nests and foraging areas, whereby the initial placement of such fencing shall be a radius of approximately 150 feet from a nest and thereafter may be reduced upon demonstration of human acceptance by nesting pairs or fledglings or otherwise due to a lack of need; and (c) installing temporary exclosures in the immediate vicinity of actual nests that are designed to prevent intrusions by humans and wildlife using whatever materials are deemed to be most expedient. The actual installation and removal of fencing, exclosures, and signs which indicate the protection activity and prohibitions shall be undertaken by MDIFW or its designee, with assistance by Town agents to the extent practical.

Symbolic Stake-and-Twine Fencing: symbolic fencing is temporary fencing and signage used to manage recreational use of the beach in the vicinity of plover nesting areas and protect nesting and feeding habitat for the plovers. Ideally, plover nesting areas will be fenced and signed as soon as courtship and nest scraping activity are first observed.

1. Plover nesting areas are fenced using wooden stakes and bailing twine and signs erected by MDIFW or its designee. Only persons engaged in Piping Plover monitoring should enter the fenced areas. Ideally, fenced areas should extend 150 feet along the wrack line on either side of the nest.
2. Fenced areas around nests may be smaller than 150 feet if MDIFW or its designee determines that the birds are accepting of human activity. In other instances, fencing may be expanded if the 150-foot radiuses are deemed inadequate to protect incubating adults and unhatched eggs. In many instances, fenced areas may encompass more than one nest.
3. Nesting territories should be monitored frequently (daily if possible) until nests are located. It is preferable to leave symbolic fencing on the beach until all chicks in the vicinity have fledged.

Nest Exclosures: Predation by crows, gulls, foxes, dogs, and cats is a major source of nest failure for Piping Plovers. Therefore, individual nests should be enclosed to protect the birds, their eggs, and young until hatching is completed. Eight-foot radius nest exclosures should be placed around each nest after the third or fourth egg is laid. Nest exclosures are constructed of 2 x 4-inch welded wire fence and supported by metal stakes. Sometimes heavy twine or bird netting is strung over the top to deter avian predators. Nest exclosures will be removed by MDIFW or its designee when plover nesting is completed. Guidelines for constructing and maintaining exclosures can be found in Appendix F of the federal Piping Plover Revised Recovery Plan (U.S. Fish and Wildlife Service 1996).

Plover nests that are not quickly fenced are vulnerable to disturbance. In an effort to afford plovers the immediate protection they require, The Town of Wells will offer landowners the option to sign a blanket permission form approving fencing of plover nests.

[This is an incentive for managers (and landowners) to promote the nesting success of plovers. Plovers that nest successfully in April will have fledged chicks by mid-to-late June. The nesting and chick rearing season of re-nesting or late nesting plovers will extend into July and August, the peak summer months for beachgoers.]

H. Beach Restoration and Maintenance

Wells and Drakes Island Beaches are barrier beaches that have been altered drastically by “hard” structures--jetties and seawalls. Historically, these beaches were much wider and had well-developed dunes. Currently, there are only a few dunes remaining near the jetties. This agreement proposes guidelines to reestablish dunes in order to secure a more “natural” beach, slow the rate of erosion, and develop a system that may regain some natural ability to protect the mainland from storm events.

It is of great benefit to the community to conserve and enhance a self-sustaining dune system at Wells and Drakes Island Beaches. Recognizing that a healthy and self-sustaining beach/dune system is not fully attainable because of problems created by the jetties, it is still possible to design and create erosion control measures to protect, promote, and maintain the beaches’ natural formation, permit responsible recreational use of the beaches in a clean and safe environment, and protect wildlife habitat.

There are instances where erosion control projects, such as dune and beach rebuilding and enhancement, including installation of sand fences, plantings of beach grass, and other “soft solutions” for beach and dune stabilization, should be encouraged and may be necessary to protect public health and safety by preventing or minimizing an imminent threat from storms and flooding. Typically, measures such as sand fencing and dune grass plantings are not recommended in plover nesting areas. However, implementation of these measures in areas that are deprived of sand and are currently poor-quality plover habitat may, in fact, benefit plovers. These soft solutions should be employed until a balance is reached between a developed dune system and suitable plover habitat.

Beach nourishment projects should have a goal of establishing a self-sustaining beach system, increasing beach aesthetics, and improving Piping Plover nesting habitat.

From time to time, the Town of Wells, in cooperation with the Army Corps of Engineers, proposes dredging of Wells Harbor. As part of any permitting process for this project, the Town will work with the State Coastal Geologist to develop a beach nourishment plan. This plan will determine the most appropriate beaches to nourish with the spoils from the dredge as well as plans for planting grass and other native vegetation to stabilize the sand whenever possible. This beach nourishment project could be used to help restore damaged primary dunes on Wells Beach or create dunes on Drakes Island.

Any sand used in proposed beach nourishment must be comparable in size and composition to that found naturally on Wells and Drakes Island Beaches and must be free from contamination. The profile of the new nourished beach area must be compatible with the elevation, width, slope and shape of any adjacent beach and sand dune, or other natural beach profile to the extent practicable. Beach nourishment projects must be completed prior to April 1 to avoid the Piping Plover nesting season. The Army Corps has a disposal area

offshore of Wells Beach. Sand may be deposited there during the nesting season after coordinating and consulting with the USFWS.

I) Sand Fencing and Beach Plantings

Sand fences and vegetation help build sand dunes by trapping and collecting wind-blown sand. Dunes help preserve sand in the beach ecosystem and protect property from severe storms and sea level rise. As part of any beach nourishment projects, the Town will work with the State Coastal Geologist to determine when sand fencing and beach plantings could be employed on Wells and Drakes Island Beaches to help enhance dune formation and stabilization. Wherever possible, the Town will encourage natural beach vegetation to trap and secure sand and encourage the natural formation of dunes.

J) Access Points and Trails

Without vegetation, sand dunes become unstable. Dune plants tolerate harsh beach conditions including wind, salt spray, storms, scarce nutrients, limited fresh water, and intense sunlight and heat. However, they cannot withstand the pounding of feet and vehicles. Wells and Drakes Island beaches are densely developed, and a tradition exists of each residence having an access trail to the beach. In addition, public access trails also exist on each beach. In all, hundreds of trails access these two beaches. Each of these trails weakens the dunes and is a source of beach erosion. Once Wells and Drakes Island Beaches have been nourished, the Town of Wells will work with landowners to consolidate beach trails in order to avoid impacting nourished dunes. Whenever possible, public access ways should be used. Ideally, passageways should cross-dunes at 300-foot intervals. Designing a trail system that would provide one trail for every five residences would eliminate 80% of existing trails. Unused trails should be re-vegetated with dune grass.

Boardwalks or Mobi Mats are desirable for trails and public access ways. Boardwalks are inexpensive and easy to construct and maintain. They are constructed using a series of 4-foot-wide 2 x 4's (8-foot 2 x 8's for public access ways) connected by a cable. Boardwalk sections can be in 10- to 20-foot lengths for easy handling and storage in the winter. Examples are in use at Ogunquit Beach and any of the state park beaches. Boardwalks conform to the changing dune profile and greatly reduce erosion or cuts in the primary dune. Boardwalks are rolled up (at least over the top of the frontal dune) in winter to avoid their loss during storms. Placement of boardwalks should be coordinated each spring with USFWS and MDIFW personnel to avoid placing trails near nesting Piping Plovers.

K) Responsibility

Activities within the sand dune system at Wells and Drakes Island Beaches occur within a protected resource area under the jurisdiction of the Maine Department of Environmental Protection (DEP). The U.S. Army Corps of Engineers (Corps) has federal jurisdictional responsibilities within the sand dune system. Many projects and activities (such as moving sand, altering vegetation, repairs to jetties and seawalls) require a permit from the DEP and/or the Corps. Therefore, all proposed beach nourishment, sand fencing, planting, and trail plans should be coordinated with the Town of Wells and reviewed by MDIFW, DEP, and the Corps to ensure that state and federal regulations are adhered to and that Piping Plovers are not adversely affected.

Town of Wells Beach Management Agreement 2025-2027

Sand fencing, planting, and trail construction require considerable cost and labor and must be managed in a coordinated fashion on an annual basis to work effectively. Collectively, they are part of a coordinated beach management program. These activities are the responsibility of the Town of Wells. Planning for beach restoration activities should be incorporated into future beach nourishment plans. A coordinated beach-wide approach is needed to ensure the success of recreating a sustainable beach and dune system. Since fencing, planting, and trail maintenance will occur in many instances on private property, an outreach effort is needed to educate landowners about the value and benefits of these activities. Similarly, the town should take the lead in obtaining long-term landowner approval for these activities. Landowners and volunteers can play an important role in assisting with planning and conducting planting, fencing and trail maintenance activities. The beachfront landowners on Wells and Drakes Island Beaches are encouraged to participate in these activities. Their participation is instrumental in developing a sense of ownership in stewardship of their beach.

L) Enforcement

Each party shall exercise its police and law enforcement powers using its best discretion to the fullest extent that federal, state, and local statutes or ordinances are applicable. Patrols by enforcement officials shall be conducted routinely in addition to random spot checks and in response to calls for service. Prior to the beginning of each nesting season, the parties to this Agreement, in conjunction with the various law enforcement agencies with Wells beach jurisdiction, and all “front-line” personnel (police and lifeguards and ACO) shall conduct at least one training exercise in order to: coordinate communication protocols, prioritize enforcement goals and objectives, prepare for the fireworks event, discuss techniques to achieve voluntary compliance to the greatest extent practical, and decrease the likelihood of inconsistent enforcement and/or preventable misunderstandings. This pre-season annual training event shall be administered by MDIFW or its designee. Thereafter, additional training sessions may be arranged as necessary to prepare for special events or to debrief after a specific activity.

M) Education and Outreach

Educational efforts will take many forms and will be coordinated with MDIFW or its designee. Efforts will rely heavily on local organizations to promote proper stewardship of the Piping Plover and other shorebirds on Wells and Drakes Island Beaches. Local organizations should include educational materials in their newsletters, meetings, bulletin boards, and other forms of communication. Target organizations include, but are not limited to, the Drakes Island Improvement Association, Wells Reserve, Wells Chamber of Commerce, S.O.S. Wells, York County Audubon Society, Maine Audubon, Wells Public Schools, Wells Public Library, Wells Town meeting and Wells Town offices. Press coverage in newspapers as well as on the local public service TV channel will also be sought. <https://www.wellstown.org/agendacenter>

Through the volunteer monitors, the volunteer coordinator, S.O.S. Wells members, the Drakes Island Improvement Association, the Wells Beach Association, MDIFW or its designee, town personnel who work on the beaches and many others, opportunities for face-to-face contact with property owners and beach users will be utilized to educate them about Piping Plovers and the importance of respecting their habitat.

In support of the volunteer monitoring program, MDIFW or its designee will conduct annual training sessions for beach volunteer monitors and seasonal plover biologists in May. This training will include information regarding plover biology, plover conservation/management, monitoring protocol, record keeping and regulations, including dogs on the beach. MDIFW or its designee will include the enforcement divisions of the

USFWS and the MDIFW in these training sessions. Maine Audubon has developed a Volunteer Monitoring Handbook, which contains background and training materials, regulations (including those pertaining to dogs on the beach), and daily monitoring check-off sheets.

N) Permit Review Process

Landowners and the Town of Wells must apply for and obtain all appropriate, necessary environmental permits before conducting activities or projects that require environmental review. The Cooperative Beach Management Agreement does not negate this responsibility and legal requirement, nor does it supersede or replace state and federal laws.

This Agreement does facilitate state and federal environmental review and permitting provided that such activities and projects are consistent with other federal and state statutes. Concurrence from the USFWS on any future project that could affect plovers or their habitat within the geographic area subject to this Agreement is contingent upon the successful implementation of all Piping Plover protection measures described in this Agreement and demonstration that these protection measures have proven adequate in avoiding “take” (harass, harm, pursue, hunt, shoot, kill, trap, capture, or collect) of the federally-threatened Piping Plover (U.S. Fish and Wildlife Service 1973).

Situations, activities, or projects may arise that were not addressed in this Agreement that affect the Piping Plovers on Wells Beach or Drakes Island Beach. Successful resolution of such eventualities requires communication and coordination--landowners and the Town of Wells are encouraged to seek early and frequent consultation with MDIFW and USFWS prior to initiating activities or projects that may affect Piping Plovers.

O) Time Frame of Agreement

It is recognized that this Agreement does not contemplate every possible scenario required for a beach management plan and that some issues remain unresolved amongst the parties hereto. Accordingly, it is agreed that representatives from the parties shall meet with the Special Beach Management Agreement Committee at the beginning and end of each nesting season (at a minimum) to discuss such issues and concerns in an attempt to foster harmonious relationships and encourage dialogue to enhance each party’s understanding of the various circumstances and reactions that may occur. In addition, the parties agree to promptly meet and communicate whenever requested by one of the other parties to the extent reasonable in the event an unforeseen issue arises.

This Agreement will commence April 1, 2025 and terminate on October 1, 2027. All signatory parties to this Agreement will continue to support this Agreement during the three-year period.

P) Amendments

Amendments to this agreement can be made with the concurrence of all signatory parties to the agreement. Amendments will be documented in writing, dated, signed by all parties, and attached to the agreement. Amendments will be considered annually at the fall meeting, as prescribed previously therein.

Signatories to the Agreement

DATE:



Wells Town Manager

DATE: 4/9/2025



Chair, Wells Select Board

DATE: 4/9/2025

AMANDA CROSS

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CROSS
Date: 2025.04.14 15:40:13 -04'00'

DATE:

U.S. Fish and Wildlife Service



Maine Dept. of Inland Fisheries & Wildlife

DATE: 4/16/2025