

## INTRA-SERVICE SECTION 7 BIOLOGICAL EVALUATION FORM

I. **Region:** 3; Ohio

II. **Service activity:** Migratory Birds and State Programs Section 7 Consultation on the Supplemental Environmental Assessment on Reducing Double-crested Cormorant Damage in Ohio.

III. **Pertinent species and critical habitat:**

A. **Listed species and/or critical habitat within the action area:**

Indiana bat	( <i>Myotis sodalis</i> ) [Endangered (E)]
Piping Plover*	( <i>Charadrius melodus</i> ) [E]
Kirtland's Warbler	( <i>Dendroica kirtlandii</i> ) [E]
Rayed Bean	( <i>Villosa fabalis</i> ) [E]
Karner blue butterfly	( <i>Lycaeides melissa samuelis</i> ) [E]
Lakeside daisy	( <i>Hymenoxys herbacea</i> ) [Threatened (T)]
Northern monkshood	( <i>Aconitum noveboracense</i> ) [T]
Eastern prairie fringed orchid	( <i>Platanthera leucophaea</i> ) [T]

\* Denotes species with critical habitat designations

B. **Proposed species and/or proposed critical habitat within the action area**

Northern Long-eared Bat	( <i>Myotis septentrionalis</i> ) [Proposed]
Red Knot	( <i>Calidris canutus rufa</i> ) [Proposed]

C. **Candidate species within the action area:**

Eastern massasauga	( <i>Sistrurus catenatus</i> ) [Candidate]
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IV. **Location:** The Double-crested Cormorant (DCCO) Public Resource Depredation Order (PRDO), which is the primary tool used to manage DCCOs in Ohio, applies to all lands and freshwaters where DCCOs may be found nesting, loafing, roosting, feeding, and migrating in the State of Ohio. This includes ponds and lakes (natural and artificial), slow-

moving rivers, open coastlines, and small rocky or sandy islands. Nests are built in trees, on structures, or on the ground. Nesting trees and structures are usually standing in or near water, on islands, in swamps, or on tree-lined lakes. Roosts and resting places are often on exposed sites such as rocks or sandbars, pilings, high-tension wires, or trees near favored fishing sites. During migration, DCCOs can be found in any of the areas listed above.

**V. Description of proposed action:** The proposed action is the control of DCCOs through a combination of non-lethal and lethal techniques as described in the Supplemental Environmental Assessment on Reducing Double-crested Cormorant Damage in Ohio. Three options are available to reduce resource damages associated with DCCOs in Ohio: (1) birds can be harassed (with shotgun blasts, fire crackers, propane cannons, or other scare devices); (2) the U.S. Fish and Wildlife Service (Service) can issue agencies or individuals a permit to take DCCOs (via shooting, egg oiling/destruction, or nest destruction); and (3) the PRDO can be used by certain agencies.

The PRDO authorizes State fish and wildlife agencies, Federally-recognized Tribes, and State Directors of the Wildlife Services program of the U.S. Department of Agriculture Animal and Plant Health Inspection Service (collectively termed "action agencies") to take, without a permit, DCCOs found committing or about to commit, and to prevent, depredations on the public resources of fish (including hatchery stock at Federal, State, and Tribal facilities), wildlife, plants, and their habitats. Landowner approval is required and other terms and conditions apply to the PRDO. The specific control actions authorized under the PRDO include:

1) *Shooting:* Shooting DCCOs is a highly targeted specific technique that can be used to reduce local DCCO numbers and/or reinforce non-lethal harassment. In the case of DCCOs, shooting is always conducted with shotguns or rifles. When used by trained personnel, the risk of inadvertently taking nontarget species is minimal. Shooting can be conducted from a distance and while this quality minimizes the likelihood of direct human disturbance to species co-occurring with DCCOs, the noise associated with gunfire could cause indirect disturbance.

2) *Egg oiling and destruction:* DCCO eggs have been destroyed in attempts to reduce recruitment into populations and to eliminate colonies at specific locations. Egg oiling is a method of suppressing reproduction of nuisance birds by spraying a small quantity of 100% corn oil on eggs in nests. The oil prevents exchange of gases and causes asphyxiation of developing embryos. The Environmental Protection Agency has ruled that use of corn oil for this purpose is exempt from registration requirements under the Federal Insecticide, Fungicide, and Rodenticide Act. This method is extremely target-specific. However, it requires direct physical contact with DCCOs, their eggs, or their nests, which necessitates immediate human presence at nest and roost sites. Such control efforts are typically conducted on foot by a small number of personnel in order to minimize incidental disturbance to other species, especially at nest colonies.

3) *Nest destruction*: Nest destruction involves the removal of nesting materials during the construction phase of the nesting cycle. Nest destruction on the ground simply involves the physical breakup of nest structures. Tree nests present a greater challenge. Nests can be destroyed manually or by use of high pressure water to dislodge nests from trees.

4) *Cervical dislocation*: Cervical dislocation is sometimes used to euthanize birds that are captured by hand or in live traps and when relocation is not a feasible option. The bird is stretched and the neck is hyper-extended and dorsally twisted to separate the first cervical vertebrae from the skull. The American Veterinary Medical Association approves this technique as a humane method of euthanasia. In the case of DCCOs, this is a secondary technique that will generally be used only when damage control personnel are already on site using other methods such as egg oiling.

5) *CO<sub>2</sub> asphyxiation*: CO<sub>2</sub> is sometimes used to euthanize birds which are captured by hand or in live traps and when relocation is not a feasible option. Live birds are placed in a container such as a plastic 5-gallon bucket or chamber and sealed shut. CO<sub>2</sub> gas is released into the bucket or chamber and birds quickly die after inhaling the gas. This method is approved as a euthanizing agent by the American Veterinary Medical Association. In the case of DCCOs, this is a secondary technique that will generally be used only when damage control personnel are already on site using other methods such as egg oiling.

## **VI. Determination of effects:**

### **A. Description of effects of the action on species and critical habitats in Items III:**

**Indiana bat (*Myotis sodalis*) [Endangered (E)]:** No suitable habitat for this species occurs in the areas where DCCO control will be conducted, and the proposed action will have no effect on this species.

**Northern long-eared bat (*Myotis septentrionalis*) [Proposed]:** No suitable habitat for this species occurs in the areas where DCCO control will be conducted, and the proposed action will have no effect on this species.

**Piping Plover (*Charadrius melodus*) [E]:** The Great Lakes breeding population of the Piping Plover is listed as endangered in Ohio. Piping Plovers nest on sandy beaches, sandbars, dredge disposal islands, and drained floodplains. They are generally solitary nesters but may nest with terns. Activities authorized by the proposed action could lead to harassment (i.e., incidental take) of Piping Plovers. Piping Plover critical habitat has been designated in Ohio, but it does not include any of the DCCO control sites.

**Red Knot (*Calidris canutus rufa*) [Proposed]:** The Red Knot is a shorebird that uses

sand beaches when it migrates through Ohio. It is considered a rare migrant in the State. Activities authorized by the proposed action could lead to harassment (i.e., incidental take) of Red Knots. No critical habitat has been proposed for Red Knots in Ohio.

**Kirtland's Warbler (*Dendroica kirtlandii*) [E]:** The Kirtland's Warbler migrates through Ohio but DCCO control is mostly done during the breeding season, and the likelihood of the Kirtland's Warbler occurring at the sites where DCCO control work is done is very small. Because personnel involved in DCCO control can readily identify Kirtland's Warbler and they look nothing like the Double-crested Cormorant, there is virtually no chance of incidental take of Kirtland's Warbler during DCCO control activities.

**Karner blue butterfly (*Lycaeides melissa samuelis*) [E]:** No suitable habitat for this species occurs in the areas where DCCO control will be conducted, and the proposed action will have no effect on this species.

**Lakeside daisy (*Hymenoxys herbacea*) [T]:** No suitable habitat for this species occurs in the areas where DCCO control will be conducted, and the proposed action will have no effect on this species.

**Northern monkshood (*Aconitum noveboracense*) [T]:** No suitable habitat for this species occurs in the areas where DCCO control will be conducted, and the proposed action will have no effect on this species.

**Eastern prairie fringed orchid (*Platanthera leucophaea*) [T]:** No suitable habitat for this species occurs in the areas where DCCO control will be conducted, and the proposed action will have no effect on this species.

**Eastern massasauga (*Sistrurus catenatus*) [Candidate]:** No suitable habitat for this species occurs in the areas where DCCO control will be conducted, and the proposed action will have no effect on this species.

**Rayed bean (*Villosa fabalis*) [E]:** No suitable habitat for this species occurs in the areas where DCCO control will be conducted, and the proposed action will have no effect on this species.

**B. Explanation of actions to be implemented to reduce adverse effects:** Several factors will reduce the likelihood of adverse effects on listed species. Action agencies must abide by the following terms and conditions to undertake activities under the PRDO, and if they do not, the Service may suspend the privilege of the agencies to take action under the PRDO:

- 1) Specific provisions in the PRDO regulations (50 CFR 21.48 (d)(8)) must be followed to protect Piping Plovers. The discharge/use of firearms to kill or harass DCCOs, or the use of other DCCO harassment methods, is prohibited within 1,000 feet of nesting or migrating Piping Plovers and Piping Plover critical habitat. Use of other DCCO control activities (egg oiling and destruction, cervical dislocation, CO<sub>2</sub>

asphyxiation, and nest destruction) is prohibited within 500 feet of nesting or migrating Piping Plovers and Piping Plover critical habitat.

- 2) The agencies acting under the PRDO are prohibited from discharging/using firearms to kill or harass DCCOs, or from using other DCCO harassment methods, within 1,000 feet of Red Knots. Use of other DCCO control activities (egg oiling and destruction, cervical dislocation, CO<sub>2</sub> asphyxiation, and nest destruction) is prohibited within 500 feet of Red Knots.
- 3) When shotguns are used to take DCCOs, non-toxic shot will be used to lessen the likelihood of lead poisoning of non-target wildlife.
- 4) The incidental take of any listed species must be reported to the Service.

**VII. Effect determination and response requested:**

**A. Listed species/designated critical habitat:**

Determination

No effect/no adverse modifications \_\_X\_\_ Concurrence

Indiana bat (*Myotis sodalis*) [Endangered (E)]

Kirtland's Warbler (*Dendroica kirtlandii*) [E]

Karner blue butterfly (*Lycaeides melissa samuelis*) [E]

Lakeside daisy (*Hymenoxys herbacea*) [T]

Northern monkshood (*Aconitum noveboracense*) [T]

Eastern prairie fringed orchid (*Platanthera leucophaea*) [T]

Rayed Bean (*Villosa fabalis*) [E]

May affect, but is not likely to adversely affect species/adversely modify critical habitat \_\_X\_\_ Concurrence

Piping plover (*Charadrius melodus*) [E]

May affect, and is likely to adversely affect species/adversely modify critical habitat \_\_X\_\_ Concurrence

NONE

**B. Proposed species/designated critical habitat:**

Determination

No effect/no adverse modifications  Concurrency

Northern long-eared bat (*Myotis septentrionalis*) [Proposed]

May affect, but is not likely to adversely affect species/adversely modify critical habitat  Concurrency

Red Knot (*Calidris canutus rufa*) [Proposed]

No effect on proposed action/no adverse modifications of proposed critical habitat  Concurrency

NONE

Is likely to jeopardize proposed species/ adversely modify proposed critical habitat  Concurrency

NONE

**C. Candidate species:**

Determination

No effect on candidate species  Concurrency

Eastern massasauga (*Sistrurus catenatus*) [Candidate]

Is likely to jeopardize candidate species  Concurrency

NONE

Stephen Lewis  
Signature

11/15/13  
Date

**VIII. Reviewing Ecological Services Field Office evaluation:**

A. Concurrency \_\_\_\_\_ Nonconcurrency \_\_\_\_\_

B. Formal consultation required \_\_\_\_\_

C. Informal consultation required \_\_\_\_\_

D. Informal conference required \_\_\_\_\_

E. Remarks

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date