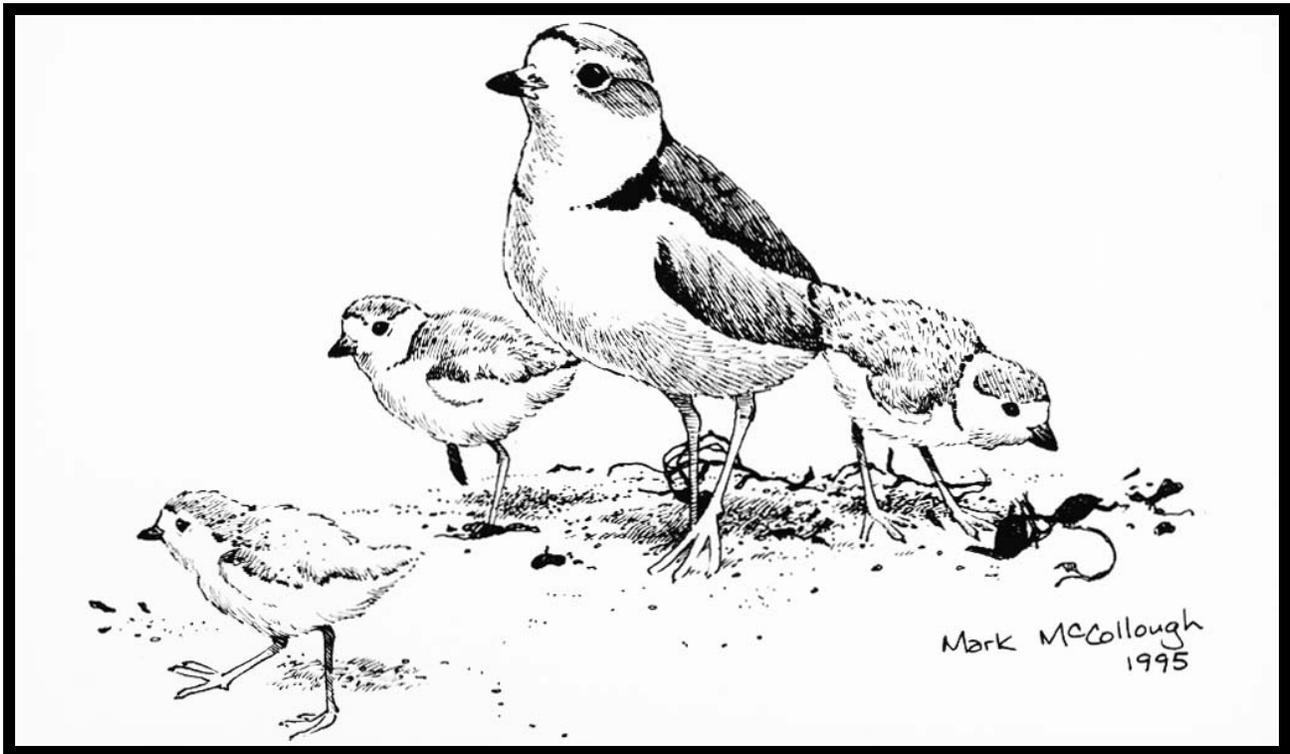


ESSENTIAL WILDLIFE HABITATS FOR MAINE'S ENDANGERED AND THREATENED SPECIES



VERSION DATE: valid as of March 01, 2006



**Maine Department of Inland Fisheries & Wildlife
284 State Street
Augusta, ME 04333**

PLEASE READ!

“Essential Wildlife Habitat” pertains **only** to definitions under Maine's endangered species laws (12 MRSA, Chapter 925, Subchapter 3, Sections 12804 and 12806) and regulations (MDIFW Rules, Chapter 8.05). Information about and mapped locations of other endangered and threatened species habitats, “Significant Wildlife Habitat” (38 MRSA, Chapter 3, Subchapter 1, Section 480-B), rare plants and natural communities, or other important natural resources are **not** included. For comprehensive information about these resources, please contact the following agencies:

Fish and Wildlife Information:

Maine Dept. of Inland Fisheries and Wildlife
284 State Street, State House Station #41
Augusta, Maine 04333-0041
Phone: (207) 287-8000

Rare Plant and Natural Community Information:

Maine Natural Areas Program
Maine Department of Conservation
159 Hospital Street, State House Station #93
Augusta, Maine 04333-0093
Phone: (207) 287-8044

ATTENTION!!

THE DESIGNATION OF ESSENTIAL HABITATS IS AN ONGOING PROCESS, WHERE SITES MAY BE ADDED, DELETED, AND/OR REVISED FOLLOWING PUBLIC RULEMAKING. AS A RESULT, INFORMATION AND MAPS WILL BE PERIODICALLY UPDATED. TO BE CERTAIN THE MOST CURRENT ESSENTIAL HABITAT MAPS AND DOCUMENTS ARE CONSULTED, USERS ARE ADVISED TO CAREFULLY MONITOR UPDATE NOTICES AND VERSION DATES.

Sign up to receive automatic email notices of updates to Essential Habitat!

Please email your name, agency/affiliation, mailing address, and email address to essential.habitat@maine.gov with the subject line “ADD TO MAILING LIST”.

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INTRODUCTION

In 1988, the Maine Legislature amended the Maine Endangered Species Act (Appendix C) by adding habitat protection provisions in recognition of two issues: 1) the effect habitat loss has on endangered and threatened species in Maine, and 2) the confusion and sometimes costly problems that can arise in the absence of consistent, predictable land use decision-making processes for endangered and threatened species. As a result, the Maine Department of Inland Fisheries and Wildlife (MDIFW) may designate areas as "Essential Habitat" for species listed on the Maine Endangered And Threatened Species List (Appendix C), and develop protection guidelines for these areas.

Essential Habitats are defined as areas currently or historically providing physical or biological features essential to the conservation of an endangered or threatened species in Maine, and which may require special management considerations. Examples of areas that could qualify for designation are nest sites or important feeding areas. For some species, protection of these kinds of habitats is vital to preventing further decline or achieving recovery goals.

Before an area can become designated as Essential Habitat, it must be identified and mapped by MDIFW and adopted through public rulemaking procedures, following Maine's Administrative Procedures Act. Essential Habitats were first taken through rulemaking by MDIFW in 1989, when designation criteria and protection guidelines were developed for bald eagle nest sites. Since then, Essential Habitat has also been implemented for three more listed species: the roseate tern, least tern, and piping plover (Appendix B). Additions of newly qualified areas, as well as deletions of sites no longer eligible, are ongoing for these four species. In the future, additional listed species may receive attention under the Essential Habitat rule.

Once an area becomes designated as Essential Habitat, the Maine Endangered Species Act requires that **no state agency or municipal government shall permit, license, fund or carry out projects that would significantly alter the habitat or violate protection guidelines adopted for the habitat.** If a project occurs partly or wholly within an Essential Habitat, it must be evaluated by MDIFW **before** state and/or municipal permits can be approved or project activities can take place. **No additional permits or fees are required.** Designation of Essential Habitat simply establishes a standardized review process within existing state and municipal permitting processes. Activities of private landowners are **not** affected by Essential Habitat designation, unless they require a state or municipal permit, or are funded or carried out by a state agency or municipality.

This regulatory habitat protection tool is used only when habitat loss has been identified as a major factor limiting species recovery. Criteria for designating sites as Essential Habitat, protection guidelines listing the types of projects that must be reviewed, factors considered during project evaluations, and maps showing areas currently designated as Essential Habitat are all adopted in Inland Fisheries and Wildlife Rules (Appendix C). Before any Essential Habitat rulemaking is ever initiated, MDIFW contacts affected landowners and municipalities to inform them of the proposal and invite their input and participation. After a proposal is adopted, MDIFW provides copies of official maps and supporting documentation, as well as a guide to the Essential Habitat review process, to state and municipal permitting officials. Essential Habitat

maps and information are also available to the public at all MDIFW offices and via the Department's website at <http://www.mefishwildlife.com/>.

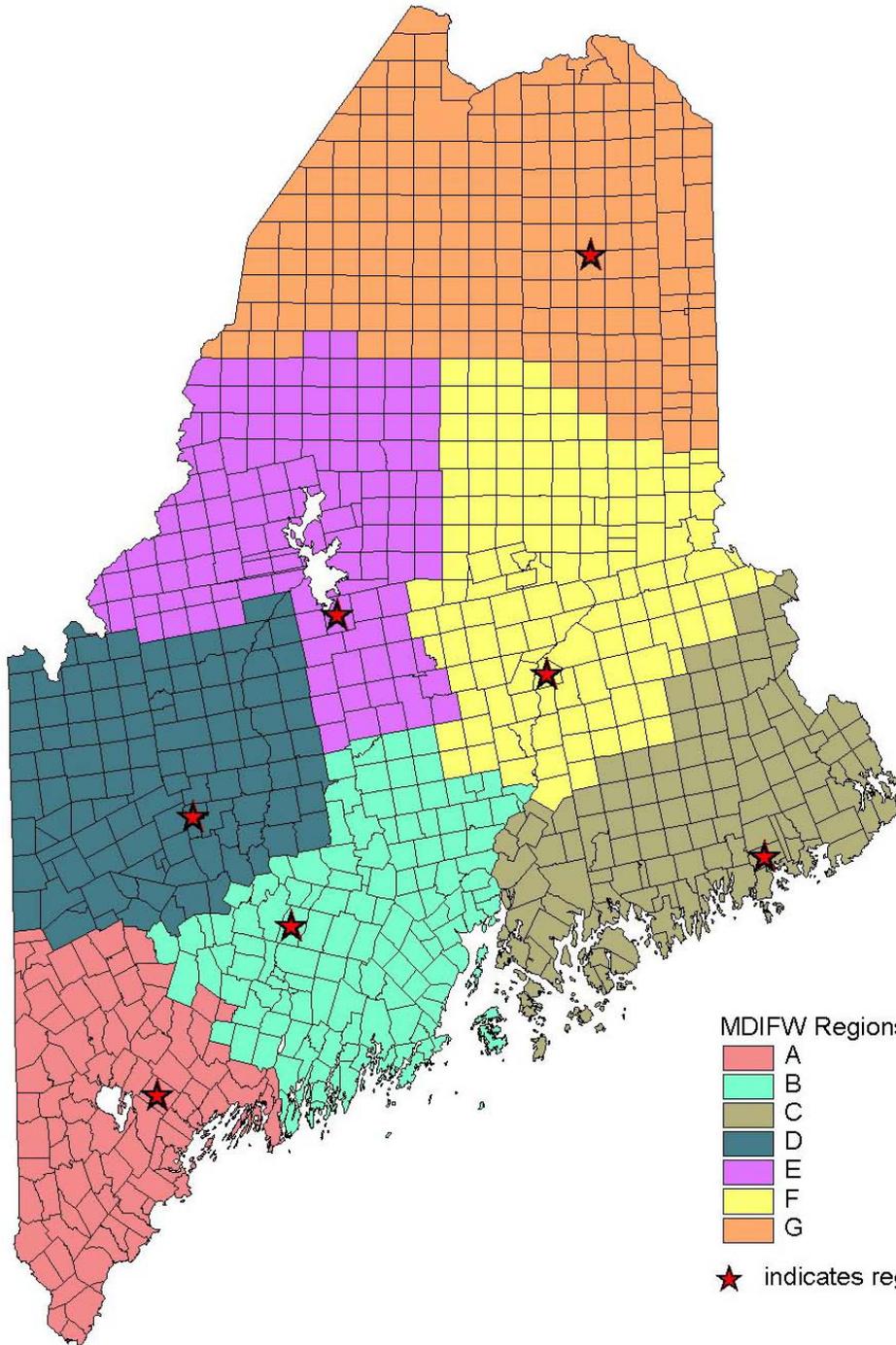
Designating Essential Habitats and making the information readily available have greatly benefited both the resources and people of Maine by successfully reducing potential conflicts between endangered species' habitat and land use concerns. Landowners, developers, land use planners, state agencies and municipal governments now know where these regulated habitats are and have standardized, predictable and reasonable guidelines to work within. By becoming involved early in the planning and permitting process, MDIFW is also able to work with agencies and project applicants to identify incompatible projects up front and resolve avoidable conflicts before problems arise.

After more than fifteen years of implementation, Essential Habitat has not only helped to ensure continued availability of quality habitat for Maine's endangered and threatened species, but has also become an important tool in building cooperative and productive relationships between MDIFW and other state agencies, municipalities, landowners, and project planners. MDIFW encourages anyone who wishes to manage their lands to enhance habitat for wildlife to contact one of the Department's Regional Wildlife Biologists (Figure 1) for assistance.



For additional information on Essential Wildlife Habitat, please reference the materials and documents included in Appendix A (Essential Habitat Map Legend, Index To Essential Wildlife Habitats By Town, and Boundary Line Detail Photos For Piping Plover and Least Tern Essential Habitats), Appendix B (Issue Profiles: Bald Eagle Nest Sites; Roseate Tern Nesting Areas; and Piping Plover and Least Tern Nesting, Feeding, and Brood-rearing Areas), and Appendix C (Essential Habitat Rule, Maine Endangered Species Act, and Maine Endangered and Threatened Species List).

FIGURE 1. MDIFW Regional Wildlife Offices



MDIFW Regions

- A
- B
- C
- D
- E
- F
- G

★ indicates regional office

Region A

Regional Wildlife Biologist
 ME Dept. Inland Fisheries
 & Wildlife
 RR1, 358 Shaker Rd
 Gray, ME 04039
 Tel: (207) 657-2345

Region B

Regional Wildlife Biologist
 ME Dept. Inland Fisheries
 & Wildlife
 270 Lyons Rd
 Sidney, ME 04330
 Tel: (207) 547-5318

Region C

Regional Wildlife Biologist
 ME Dept. Inland Fisheries
 & Wildlife
 PO Box 220
 Jonesboro, ME 04648
 Tel: (207) 434-5927

Region D

Regional Wildlife Biologist
 ME Dept. Inland Fisheries
 & Wildlife
 689 Farmington Rd
 Strong, ME 04983
 Tel: (207) 778-3324

Region E

Regional Wildlife Biologist
 ME Dept. Inland Fisheries
 & Wildlife
 PO Box 551
 Greenville, ME 04441
 Tel: (207) 695-3756

Region F

Regional Wildlife Biologist
 ME Dept. Inland Fisheries
 & Wildlife
 HC 67, Box 1066
 Enfield, ME 04493
 Tel: (207) 732-4132

Region G

Regional Wildlife Biologist
 ME Dept. Inland Fisheries
 & Wildlife
 PO Box 447
 Ashland, ME 04732
 Tel: (207) 435-3231

ESSENTIAL HABITAT REVIEW PROCESS

These are the steps a municipality or state agency must take to address Essential Habitat concerns when reviewing or proposing projects within their jurisdiction.

1. DETERMINE IF THE PROPOSED PROJECT IS IN OR NEAR AN ESSENTIAL HABITAT.

Consult the Essential Wildlife Habitat Maps. Some piping plover and least tern areas are also depicted in greater detail on “*Boundary Line Detail Photos for Piping Plover and Least Tern Essential Habitats*” (Appendix A). An index by town name (Appendix A) lists all sites currently designated as Essential Habitat. If a town is not listed in the index, there are no Essential Habitats mapped for that town at this time. Please contact the appropriate MDIFW Regional Wildlife Biologist (Figure 1) for assistance in verifying a project location relative to an Essential Habitat. **If the proposed project is located partly or wholly within an Essential Habitat, go on to Steps 2-3.** If the proposed project is clearly outside an Essential Habitat, **STOP:** these regulations and review procedures do **not** apply.

2. CONSULT WITH THE MDIFW REGIONAL WILDLIFE BIOLOGIST.

Encourage the applicant to obtain MDIFW guidance during project planning and design. Municipalities and state agencies should request assistance from the Regional Wildlife Biologist during initial project reviews and **before** seeking final MDIFW evaluation. Early involvement of MDIFW will help to minimize or avoid any potential conflicts, facilitate cooperation between all parties, and enable quick turnarounds on project evaluations.

3. SUBMIT A "REQUEST FOR PROJECT EVALUATION" TO MDIFW.

If the project meets municipal or state review standards and is recommended for approval by the town or state agency, an evaluation of the final proposal **must** be obtained from MDIFW **before** a formal decision can be issued. Town or state officials request an evaluation by submitting a "*Request for Project Evaluation*" (MDIFW Form EHR4/03) with information and required attachments provided by the applicant. A copy of this form, and instructions for completing it, begin on the next page.

MDIFW will evaluate the final project proposal according to review standards established for Essential Habitats, and determine if the project would significantly alter the habitat or violate protection guidelines. **Conditions agreed to as safeguards for the Essential Habitat must be itemized** in the permit application, site plan, or other project documentation. Site visits and discussions with the project applicant may be necessary if they have not previously occurred.

MDIFW will notify the town or state agency of the results of its evaluation. The town or state agency issues a decision based on the Department's evaluation and notifies the project applicant.

**INSTRUCTIONS FOR COMPLETING
A "REQUEST FOR PROJECT EVALUATION"
(ESSENTIAL HABITATS OF ENDANGERED AND THREATENED SPECIES)**

Formal MDIFW review of projects proposed within Essential Habitats is initiated upon submission of a "**Request For Project Evaluation**" (MDIFW Form EHR4/03) by a state agency or municipality. **Both the project applicant and the agency or municipal official reviewing the project must provide information on the form.**

Please read the following instructions carefully before completing a request form. Contact the appropriate MDIFW Regional Wildlife Biologist if you have questions or require assistance.

1. **Please type or print clearly.** Illegible or incomplete forms will be returned.
2. The **project applicant**¹, or representative, must complete, sign and date **Section A** (see both sides of form) and provide the appropriate agency or municipal official with **3 copies** of each of the following items:
 - a. a copy of that portion of the official MDIFW Essential Habitat map that denotes the affected Essential Habitat and clearly shows project boundaries; and
 - b. a copy of the **final** project application, permit, and/or license as recommended for approval by the town or state. If none of these items exist for the project, a site map must be provided (scale: 1" = 200'). **Conditions agreed to as safeguards for the Essential Habitat must be itemized** in the permit application, site plan, or other project documentation.

Additional project documentation is generally not required but, if included, may enable a more rapid review by the Department.

3. An appropriate **representative of the state agency or municipality** reviewing or proposing the project must complete, sign, and date **Section B**, and ensure that all information and attachments required from the applicant are provided.
4. The completed form and all attachments should be sent to:

**Maine Department of Inland Fisheries and Wildlife
Attn: Environmental Coordinator/EH Review
284 State Street, State House Station #41
Augusta, Maine 04333-0041**

¹In cases where a state agency or municipality is proposing to fund or carry out a project within an Essential Habitat, the agency or municipality is considered the project applicant.

5. The reviewing agency or municipality and the project applicant should each retain a copy of the completed form and all attachments. This will facilitate response to any additional inquiries from MDIFW staff during the project evaluation.

The completed "*Request For Project Evaluation*" and all attachments will be retained on file by MDIFW and referenced to ensure that approved projects are carried out as described. **Projects that deviate from information provided on the form may be referred to the State Attorney General's Office as possible violations of the Maine Endangered Species Act.**

REQUEST FOR PROJECT EVALUATION

ESSENTIAL HABITATS OF ENDANGERED AND THREATENED SPECIES



INSTRUCTIONS:

- Please type or print clearly. Incomplete or illegible forms will be returned.
- The project applicant must complete, sign, and date Section A (see both sides).
- An appropriate state agency or municipal representative must complete, sign, and date Section B (see reverse).
- Send completed form and all required attachments to: **Maine Department of Inland Fisheries and Wildlife, ATTN: Environmental Coordinator/EH Review, State House Station #41, Augusta, Maine 04333-0041.**
- For assistance, contact the appropriate MDIFW Regional Wildlife Biologist.

SECTION A (to be completed by project applicant or representative)

1. Name of project applicant: _____
 Mailing address: _____
 _____ Telephone: _____

2. Name of property owner: _____
 Mailing address: _____
 _____ Telephone: _____

3. Project location: Town Tax Map# _____ Lot# _____
 Township: _____ County: _____

4. Are permit(s) or license(s) required for this project? _____ Yes _____ No
 If Yes, please list: _____

5. Attachments: Each of the following items must be sent **in triplicate** with this form:
- a) a photocopy of that portion of the official MDIFW map denoting the affected Essential Habitat and clearly showing project boundaries (maps are available in all MDIFW and affected town offices, and at www.mefishwildlife.com); **and**
 - b) a copy of the **final** project application, permit, and/or license as recommended for approval; if none of these items exist for the project, the applicant must provide a site map (scale: 1" = 200')

Additional project documentation is generally not required but, if included, may enable a more rapid review by MDIFW.

6. Are any of the following activities associated with this project?
- | | | | | |
|---|-------|----|-------|-----|
| a) subdivision plan or residential development? | _____ | No | _____ | Yes |
| b) exterior construction or repair of buildings? | _____ | No | _____ | Yes |
| c) road or trail construction or maintenance? | _____ | No | _____ | Yes |
| d) recreational activities? | _____ | No | _____ | Yes |
| e) alteration of soils or vegetation? | _____ | No | _____ | Yes |
| f) timber harvests or forest management? | _____ | No | _____ | Yes |
| g) agriculture or agricultural management? | _____ | No | _____ | Yes |
| h) alterations to wetlands, open waters, submerged lands, dunes, islands, or alpine areas? | _____ | No | _____ | Yes |
| i) modifications to shoreland zones (uplands within 250 feet of any wetland or water body)? | _____ | No | _____ | Yes |

****SEE REVERSE: APPLICANT MUST COMPLETE SECTION A****

Section A (continued)

7. Briefly describe the nature and extent of project activities. Address each item answered by a "yes" in the previous question and provide details of those activities proposed within the Essential Habitat. (If additional space is needed, complete on a separate page and attach to this form.):

8. What are the starting and ending dates of the project? If applicable, give dates for on-site planning, construction, and operational phases.

9. Please summarize and attach any additional facts regarding this project you wish to bring to the attention of MDIFW.

10. I certify that the information described within this form is complete and accurate to the best of my knowledge and belief.

Signature: _____ Date: _____

Section B (to be completed by agency or municipal representative)

1. Name of agency/municipality: _____

Mailing address: _____

Contact Individual: _____

Title: _____ Telephone: _____

2. This agency/municipality finds the project described herein meets our criteria for approval, but is partly or wholly within a designated Essential Habitat. I hereby request evaluation by MDIFW to determine if the project would significantly alter the Essential Habitat or violate protection guidelines adopted for the habitat.

Signature: _____ Date: _____

Section C (for use by MDIFW only)

Received by: _____ Date: _____

EHR#: _____ EH#: _____ Region: _____ CD: _____

EO#: _____ Town: _____ Agency: _____ Type: _____

APPENDIX A

Essential Habitat Map Legend

Index To Essential Wildlife Habitats By Town

**Boundary Line Detail Photos For Piping Plover And
Least Tern Essential Habitats**

ESSENTIAL HABITAT MAP LEGEND

BE000A Bald Eagle (BE) Nest Site # 000A

All boundaries are shown as a solid circular line (○) and the inside of the line is the edge of the boundary. Each circle has a radius of approximately 1,320 feet and a center located approximately on the nest. The line on the map determines the boundary. The area within each circle is approximately 126 acres.

RT000 Roseate Tern (RT) Nesting Area # 000

All boundaries are shown as a solid line and the inside of the line is the edge of the boundary. The boundary line is located approximately 1,320 feet from the low tide edge of the nesting island or approximately 1,320 feet from the portion of the island used for nesting. The line on the map determines the boundary.

PPLT00 Piping Plover And Least Tern (PPLT) Nesting, Feeding, And Brood-rearing Area # 00

Essential Habitat within the boundary line depicted on the map encompasses portions of the coastal sand dune system and associated coastal wetlands. Within the line coverage, boundaries delineated by the line type "ocean" are determined by the line on the coverage and the inside of the line is the edge of the boundary; boundaries delineated by the line type "coastal" are determined by the edge of the coastal wetland as defined in Maine Statute (Title 38, Section 480-B); and boundaries delineated by the line type "detail" are depicted in greater detail on composite aerial photographs entitled "*Boundary Line Detail Photos For Piping Plover And Least Tern Essential Habitats*" (see page 26), taken in 1986 and prepared in November 1994 and February 1997. Areas delineated by the line type "out" are **not** part of the Essential Habitat.

INDEX TO ESSENTIAL WILDLIFE HABITATS BY TOWN

effective March 01, 2006

TOWN NAME	ESSENTIAL HABITAT ID#
Addison	BE049G, BE049H, BE051F, BE052G, BE052H, BE127C, BE127D, BE127E, BE167C, BE195B, BE196A, BE418A, RT021
Alexander	BE074D
Alna	BE212B
Argyle Twp	BE184B, BE357A
Attean Twp	BE309A, BE309B, BE444A
Auburn	BE274B, BE408A
Augusta	BE317A
Baileyville	BE140C, BE266A
Bar Harbor	BE028D, BE201A, BE241A, BE286A, BE346A
Baring Plt	BE132B, BE353A
Bath	BE010F, BE011H, BE011I, BE345A, BE351A, BE459A
Beals	BE119E, BE119F, BE125E, BE125F, BE148B, BE148C, BE342A
Beaver Cove	BE209A, BE209C
Beddington	BE142C
Belgrade	BE244B
Benton	BE251A, BE278A, BE278B
Biddeford	PPLT11, RT001
Big Moose Twp	BE177C
Blue Hill	BE022A, BE169D, BE169E

NOTE: Towns not listed in this index do not have Essential Habitats designated at this time.

Boothbay	BE217A, BE292B
Bowdoin College Grant West Twp	BE434B
Bowdoinham	BE009E, BE009F, BE010E, BE010F
Bradley	BE277A, BE457A
Bremen	BE155D, BE400A
Brewer	BE199A, BE199B, BE464A
Bristol	BE237A, RT011
Brooklin	BE391A, RT018
Brooksville	BE020E, BE021D, BE210D, BE210E, BE293B, BE312A, BE312B, BE312C, BE422A
Brunswick	BE204B, BE257A, BE316B, BE316C, BE379A, BE451A
Bucksport	BE325A
Burnham	BE203A, BE203B
Calais	BE072F, BE073E, BE129D, BE273A
Camden	BE306A, BE361A
Canton	BE466A
Cape Elizabeth	PPLT07, PPLT09, PPLT13
Caratunk	BE301A, BE301B, BE377A
Carrying Place Twp	BE301A, BE301B, BE377A
Castine	BE210E, BE210F
Chester	BE149C, BE151A, BE151B, BE154C, BE323A, BE386A, BE448A
Chesterville	BE341A
Chesuncook Twp	BE186A, BE186B
China	BE383A, BE411A
Codyville Plt	BE083B, BE083D
Cranberry Isles	BE254F, BE445A
Criehaven	RT015, RT016

Cutler	BE121C, BE211B, BE224C, BE427A
Damariscotta	BE335A
Danforth	BE085C
Dead River Twp	BE302A
Dedham	BE456A
Deer Isle	BE157B, BE157C, BE193B, BE229C, BE303A, BE324A, BE324B, BE371A, BE374A, BE374B, BE375A, BE375B, BE394A, BE394C, BE473A, BE478B
Dennysville	BE066F, BE066H
Dexter	BE275B
Dresden	BE007A, BE008B, BE102B, BE192B, BE272A, BE272C
Drew Plt	BE350A
Durham	BE334A
Dyer Twp	BE083B, BE083D
Eagle Lake Twp (Pisc. Co.)	BE349A, BE349B
East Machias	BE059C, BE059D, BE164C
East Middlesex Canal Grant	BE092G
East Millinocket	BE214D
Eastbrook	BE170C, BE360A
Eastport	BE165C, BE359A, BE359B, BE413A
Eddington	BE305A, BE457A
Edinburg	BE095B, BE095C, BE304B, BE460A
Edmunds Twp	BE062C, BE063C, BE064C, BE066F, BE118B, BE171F, BE381A
Ellsworth	BE029G, BE029H, BE300A, BE327A, BE369A
Embden	BE415A
Enfield	BE096C, BE213A, BE331A, BE338A, BE338B, BE338C

Etna	BE382A
Eustis	BE483A
Fairfield	BE278A, BE278B
Falmouth	RT007
Flagstaff Twp	BE156D, BE281A
Fort Fairfield	BE337A
Frankfort	BE094A
Franklin	BE033I, BE034D, BE197A, BE197C, BE197H, BE417A, BE417B
Freedom	BE423A
Freeport	BE202A, BE202D, BE268A, BE268B
Frenchboro	BE023C, BE023D, BE024A, BE138F, BE313A
Friendship	BE295B
Gardiner	BE005D
Georgetown	BE013F, BE432A, PPLT06, RT002, RT003, RT014
Gouldsboro	BE038E, BE040B, BE040D, BE040E, BE041D, BE045B, BE145D, BE187D
Gray	BE376A
Great Pond	BE239A, BE239B
Greenbush	BE184B
Greene	BE274B, BE407A, BE407B
Greenville	BE434A
Hallowell	BE004C
Hampden	BE220B, BE464A
Hancock	BE031E, BE031F, BE032E, BE036F
Harpswell	BE257A, BE316C, RT004, RT009
Harrington	BE047A, BE048F, BE127C, BE242B, BE315A, BE373A, BE401A, BE419A, BE435A
Hartland	BE231B

Haynesville	BE384A
Hermon	BE392A
Hobbestown Twp	BE482A
Hodgdon	BE372A
Holden	BE319A
Howland	BE096C
Hudson	BE318A, BE354A
Indian Twp	BE082C, BE256C, BE256D, BE256E, BE259B, BE260A
Island Falls	BE143B
Isle au Haut	BE146C, BE179B, BE179D, BE215C, BE328A
Islesboro	BE250A, BE340A, BE340C, BE362A, BE362B
Jackman	BE436A
Jay	BE412A
Jonesboro	BE288A
Jonesport	BE053C, BE055D, BE111F, BE119E, BE119F, BE153D, BE183A, BE288A, BE352A, BE352B, BE428A, BE469A
Kennebunk	PPLT02
Kennebunkport	PPLT03, RT006
Kineo Twp	BE280A
Lakeville	BE258A
Lambert Lake Twp	BE083B, BE083D
Lamoine	BE032E, BE458A
Leeds	BE002A, BE002F, BE002G
Lewiston	BE408A
Lexington Twp	BE433A
Lincoln	BE154C, BE323A, BE386A, BE448A, BE468A
Lincolntown	BE306A

Linneus	BE344A
Lisbon	BE334A
Litchfield	BE003C, BE347A
Livermore	BE356A
Livermore Falls	BE356A
Lowell	BE172A
Lubec	BE068A, BE068B, BE070A, BE070D, BE194B, BE425A, BE426A, BE485A
Lynchtown Twp	BE486A
Machias	BE058E, BE131B
Machiasport	BE057C, BE057E, BE128B, BE162B, BE232B, BE298B, BE298C
Madison	BE291A
Mariaville	BE030B, BE030C
Marion Twp	BE060C, BE126C
Matinicus Isle Plt	BE395A, RT012, RT013
Mattamiscontis Twp	BE154C, BE338A, BE338B, BE338C
Mattawamkeag	BE269B
Meddybemps	BE353A, BE353B
Medway	BE097A, BE097D, BE387A
Milbridge	BE046D, BE046F, BE242A, BE242B, BE267A, BE267B, BE435A, BE475A, RT020
Milford	BE357A, BE463A
Millinocket	BE098D, BE098E, BE236A, BE236C, BE236D, BE289A, BE289C
Monmouth	BE333A, BE333B
Mount Desert	BE026E, BE027A, BE445A
Mount Vernon	BE341A
Muscle Ridge Shoals	BE191B, BE472A

Newcastle	BE014B, BE014D, BE212B, BE335A
Newport	BE159A
Nobleboro	BE014D
Norridgewock	BE291A
North Haven	BE016D, BE016E, BE017E, BE109A, BE480A
Number 21 Plantation	BE074D
Oakfield	BE344A
Oakland	BE416A
Ogunquit	PPLT01
Old Orchard Beach	PPLT04, PPLT08
Old Town	BE277A
Orland	BE166A, BE166B, BE393A
Orono	BE277A, BE457A
Orrington	BE220A, BE220B, BE319A, BE464A
Osborn	BE221B
Passadumkeag	BE095B, BE095C, BE304B, BE460A
Pembroke	BE065B, BE065D, BE066H, BE067I, BE069D, BE069E, BE101B, BE101C, BE381A
Penobscot	BE020B, BE020E, BE421A, BE422A
Perkins Twp (Sagadahoc Co.)	BE007A, BE008B
Perry	BE069D, BE069E, BE071D, BE133A, BE133B, BE161A, BE223A, BE223B, BE233A
Phippsburg	BE168B, BE168C, BE290A, BE345A, BE396A, BE432A, PPLT05, RT002, RT003
Pittsfield	BE203B
Pittston	BE005D
Pittston Academy Grant	BE320A
Plymouth	BE382A
Plymouth Twp	BE182A

Poland	BE454A
Portage Lake	BE228C, BE228D
Presque Isle	BE455A
Princeton	BE256C, BE256E, BE260A
Prospect	BE094A
Pukakon Twp	BE081C, BE258A
Rangeley	BE398A
Richardsontown Twp	BE252C
Richmond	BE102B, BE192B
Rockwood Strip T1 R1	BE280A
Rockwood Strip T2 R1	BE185B
Rome	BE287A, BE287B
Roque Bluffs	BE056C, BE056F, BE128B
Roxbury	BE282A
Saco	PPLT08, RT005
Sakom Twp	BE081C, BE200A
Sandwich Academy Grant	BE185A, BE185B
Sapling Twp	BE177A, BE177B, BE177C
Scarborough	PPLT04, PPLT09, PPLT12
Searsmont	BE336A
Searsport	BE339A
Sedgwick	BE021D, BE022A, BE293B
Shapleigh	BE488A
Sidney	BE262A, BE262B, BE443A
Sinclair Twp	BE227B, BE227C, BE247A
Skowhegan	BE414A
Smithfield	BE287A

Solon	BE415A
Soper Mountain Twp	BE090A, BE322A
Sorrento	BE035D, BE036D, BE037C, BE037J
South Bristol	BE217A, RT010
Southport	BE249C
Spencer Bay Twp	BE092F, BE092G
Square Lake Twp	BE207C, BE226C, BE447A
St. George	BE238A, RT017, RT022
Starks	BE291A
Steuben	BE044A, BE045A, BE045B, BE144A, BE144B, BE144C, BE329A, BE420A
Stockton Springs	BE339B, BE339D
Stonington	BE147C, BE147D, BE326A, BE326B, BE470A
Sullivan	BE036D, BE036F
Surry	BE169E
Swans Island	BE023E, BE150C, BE150D, BE152E, BE152F, BE198C, BE198D, BE307A, BE307B, BE370A, BE402A, BE429A, BE430A
Swanville	BE271A, BE271B
Topsfield	BE084D, BE446A
Topsham	BE178C, BE178D, BE178E, BE204B, BE451A
Township C	BE365A
Tremont	BE246A, BE314B, BE314C
Trenton	BE300A, BE346A, BE458A
Trescott Twp	BE064C, BE068A, BE068B, BE218A, BE263A, BE366A, BE425A, BE425B, BE426A, BE485A
TA R7 WELS	BE214D, BE236A, BE289C
TA R10 WELS	BE440A
T1 R5 WELS	BE299A

T1 R6 WELS	BE248B
T1 R8 WELS	BE461A
T1 R9 WELS	BE089C, BE089E, BE285A, BE285B
T1 R10 WELS	BE089C, BE439A
T1 R12 WELS	BE332A
T2 R9 NWP	BE176A
T2 R9 WELS	BE089E
T2R10 WELS	BE088D, BE088E
T2 R13 WELS	BE389A
T3 Indian Purchase	BE141A, BE141C, BE236C, BE236D, BE385A
T3 ND	BE467A
T3 R1 NBPP	BE205A, BE205B
T3 R5 BKP WKR	BE482A
T3 R9 NWP	BE176A, BE462A
T3 R10 WELS	BE088D, BE088E, BE088F
T3 R12 WELS	BE264A, BE358A
T4 Indian Purchase	BE245B, BE440A
T4 R3 WELS	BE143B
T4 R9 NWP	BE175A, BE175B
T6 ND BPP	BE234A
T6 R1 NBPP	BE189C, BE189D
T6 R11 WELS	BE390A
T6 R14 WELS	BE091A, BE441A
T6 R15 WELS	BE091A
T7 R8 WELS	BE487A
T7 R9 WELS	BE363A
T7 R12 WELS	BE090A, BE368A

T7 R13 WELS	.....	BE368A
T7 R14 WELS	.....	BE181E, BE484A
T7 R15 WELS	.....	BE163C
T8 R6 WELS	.....	BE438A
T8 R7 WELS	.....	BE284A, BE330A
T8 R14 WELS	.....	BE484A
T9 R11 WELS	.....	BE235B, BE235C
T9 R12 WELS	.....	BE173C, BE173D
T9 R15 WELS	.....	BE321B
T10 R9 WELS	.....	BE343A
T10 R11 WELS	.....	BE139B
T11 R3 NBPP	.....	BE283A, BE283B
T11 R8 WELS	.....	BE348A, BE367A
T11 R11 WELS	.....	BE279A, BE279C
T12 R8 WELS	.....	BE348A
T13 R8 WELS	.....	BE116C, BE116D
T13 R16 WELS	.....	BE364A
T14 R6 WELS	.....	BE228C, BE228D
T14 R8 WELS	.....	BE116D
T18 ED BPP	.....	BE160A, BE222A, BE222C
T19 ED BPP	.....	BE378A
T19 MD BPP	.....	BE452A
T26 ED BPP	.....	BE124A
T27 ED BPP	.....	BE080B, BE080C
T28 MD	.....	BE437A
T34 MD	.....	BE239A, BE239B
T39 MD	.....	BE075D

T40 MD	BE076A, BE076C
T41 MD	BE296A
T42 MD BPP	BE077B, BE078A
T43 MD BPP	BE077B
Unity	BE270C, BE270D, BE270E
Vanceboro	BE283A, BE283B
Vassalboro	BE262A, BE308A, BE443A
Veazie	BE199A, BE199B
Verona	BE166A, BE166B
Vienna	BE341A
Vinalhaven	BE107C, BE108E, BE276C, BE276D, BE294A, BE481A
Waldoboro	BE400A, BE403A
Waltham	BE030B, BE030C
Warren	BE106D, BE106E
Wells	PPLT01, PPLT02
West Bath	BE316C, BE379A
West Gardiner	BE003C
Weston	BE137C
Whitefield	BE465A
Whiting	BE062C, BE442A
Willimantic	BE355A, BE355B
Winn	BE151A, BE448A
Winslow	BE251A
Winter Harbor	BE042D, BE043G, BE043H, BE297B, BE297C, BE310A, RT019
Winterport	BE325A
Winthrop	BE333A, BE333B

BOUNDARY LINE DETAIL PHOTOS FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS

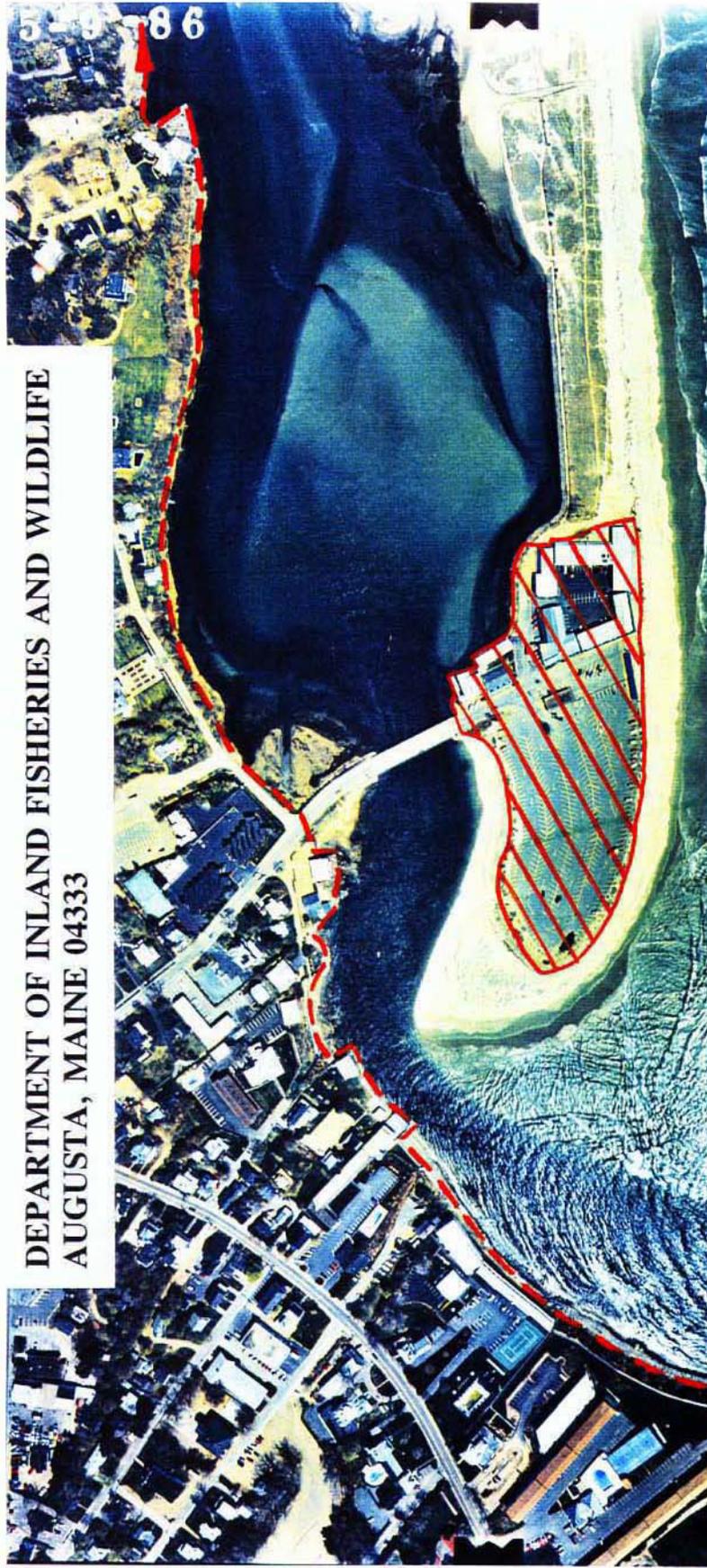
For the exact location of the boundary line of a “detail” area of the “ehplovtrn” polygon coverage of Piping Plover and Least Tern Essential Habitats, refer to the following photograph(s):

<u>EH ID #</u>	<u>Photo #(s)</u>	<u>Preparation Date</u>
PPLT01	PPLT01	11/94
PPLT02	PPLT02a, PPLT02b	11/94
PPLT03	PPLT03a, PPLT03b	11/94
PPLT04	PPLT04a, PPLT04b, PPLT04c	2/97(a), 11/94(b,c)
PPLT05	PPLT05	11/94
PPLT08	PPLT08	11/94
PPLT09	PPLT09	11/94
PPLT11	PPLT11	2/97
PPLT12	PPLT12a, PPLT12b	2/97

NOTE: The following aerial photographs are presented at full size (100%) to maintain the original scale. To print individual photos, paper and/or image size may need to be adjusted.

BOUNDARY LINE DETAIL PHOTOS FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333



PPLT01 Ogunquit Beach

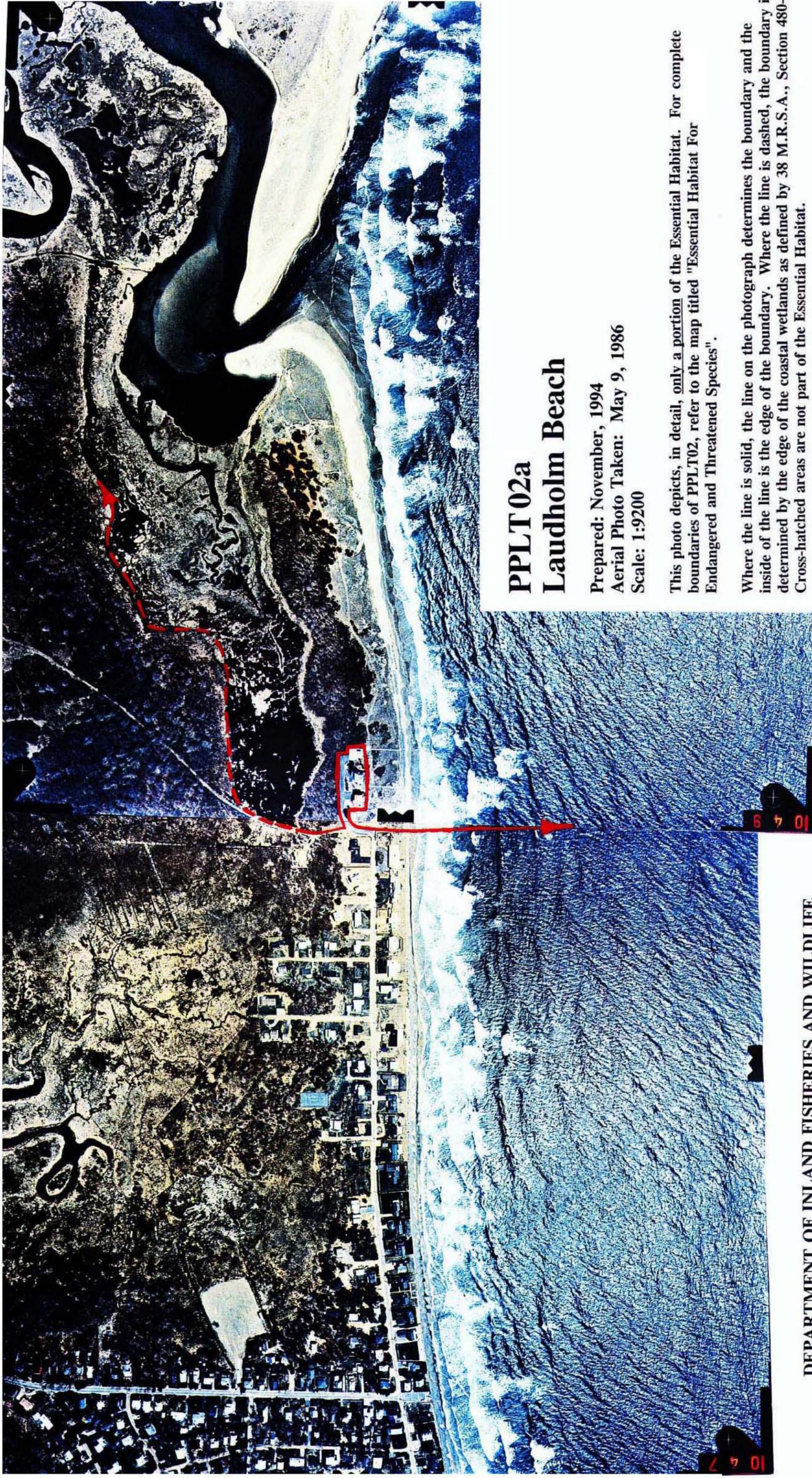
Prepared: November, 1994
Aerial Photo Taken: May 9, 1986
Scale: 1:9200

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT01, refer to the maps titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by Title 38, Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: MAY 31, 1995

**BOUNDARY LINE DETAIL PHOTOS
FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS**



**PPLT02a
Laudholm Beach**

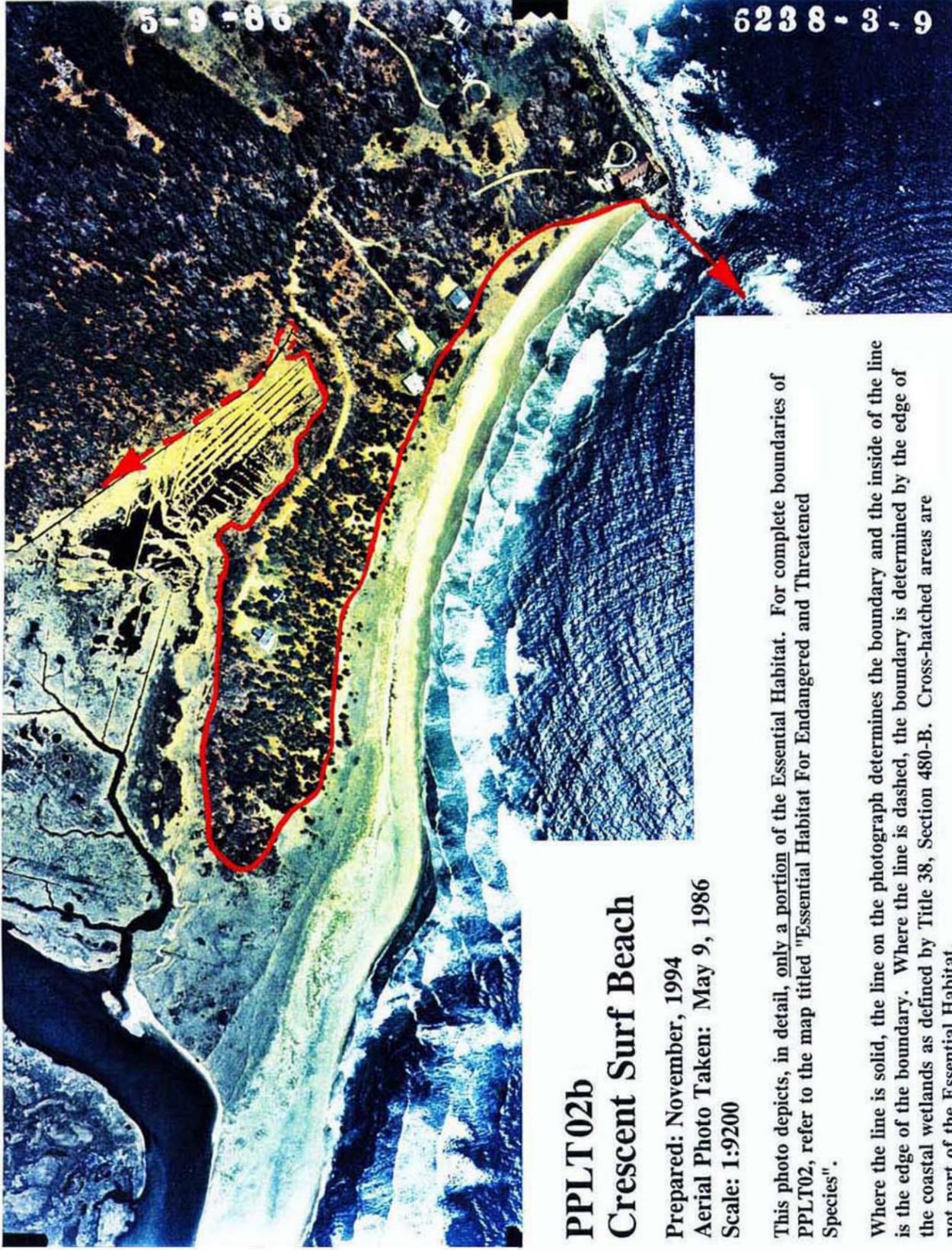
Prepared: November, 1994
Aerial Photo Taken: May 9, 1986
Scale: 1:9200

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT02, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by 38 M.R.S.A., Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: May 31, 1995

**BOUNDARY LINE DETAIL PHOTOS
FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS**



**PPLT02b
Crescent Surf Beach**

Prepared: November, 1994
Aerial Photo Taken: May 9, 1986
Scale: 1:9200

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT02, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by Title 38, Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: MAY 31, 1995

**DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333**

**BOUNDARY LINE DETAIL PHOTOS
FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS**



**PPLT 03a
Goose Rocks Beach
and Batson River**

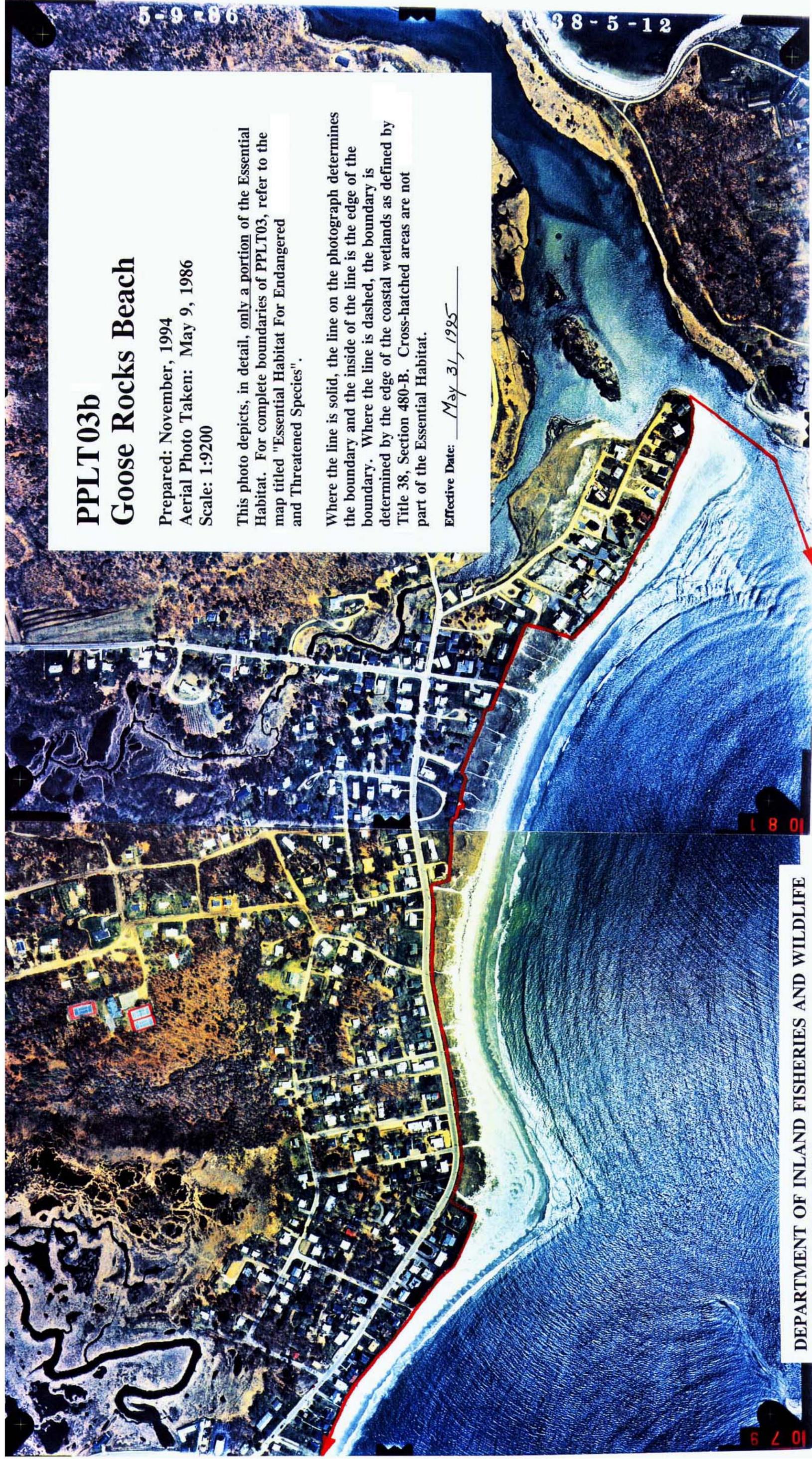
Prepared: November, 1994
Aerial Photo Taken: May 9, 1986
Scale: 1:9200

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT03, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by Title 38, Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: MAY 31, 1995

BOUNDARY LINE DETAIL PHOTOS
FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS



PPLT03b
Goose Rocks Beach

Prepared: November, 1994
Aerial Photo Taken: May 9, 1986
Scale: 1:9200

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT03, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by Title 38, Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: May 31, 1985

BOUNDARY LINE DETAIL PHOTOS FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS



PPLT 04a Pine Point and Western Beach

Prepared: February, 1997

Aerial Photo Taken: May 9, 1986

Scale: 1:9200

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT04, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by Title 38, Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: OCTOBER 29, 1998

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333

**BOUNDARY LINE DETAIL PHOTOS
FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS**



**PPLT 04b
Pine Point and
Western Beach**

Prepared: November, 1994
Aerial Photo Taken: May 9, 1986
Scale: 1:9200

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT04, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by 38 M.R.S.A., Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

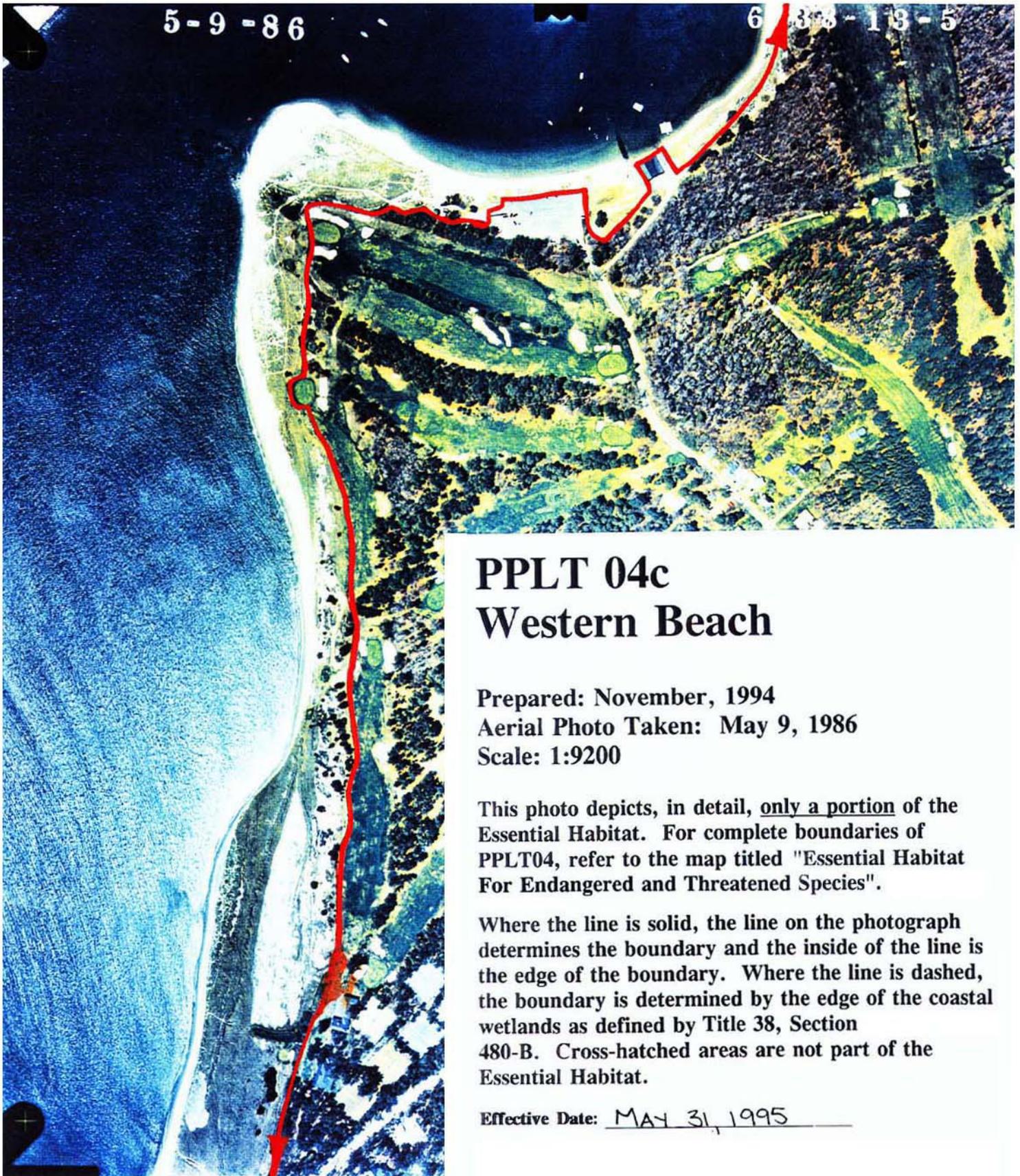
Effective Date: MAY 31, 1995



DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333

**BOUNDARY LINE DETAIL PHOTOS
FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS**

**DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333**



**PPLT 04c
Western Beach**

**Prepared: November, 1994
Aerial Photo Taken: May 9, 1986
Scale: 1:9200**

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT04, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by Title 38, Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: MAY 31, 1995

BOUNDARY LINE DETAIL PHOTOS FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS



PPLT 05 Popham and Hunnewell Beaches

Prepared: November, 1994
Aerial Photo Taken: May 9, 1986
Scale: 1:9200

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT05, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by 38 M.R.S.A., Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: MAY 31, 1995

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333

**BOUNDARY LINE DETAIL PHOTOS
FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS**

**PPLT 08
Goosefare Brook**

Prepared: November, 1994
Aerial Photo Taken: May 9, 1986
Scale: 1:9200

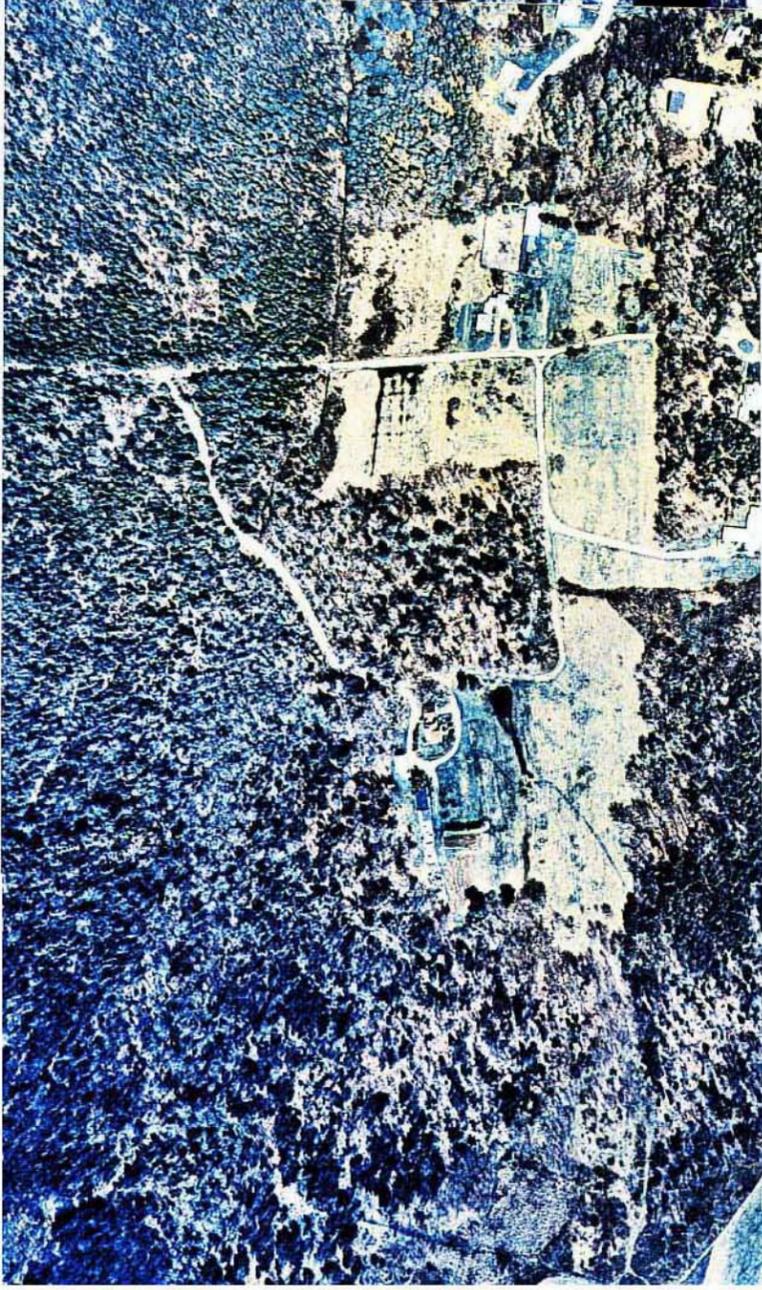
This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT08, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by Title 38, Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: MAY 31, 1995



**BOUNDARY LINE DETAIL PHOTOS
FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS**



**PPLT 09
Higgins Beach**

Prepared: November, 1994
Aerial Photo Taken: May 9, 1986
Scale: 1:9200

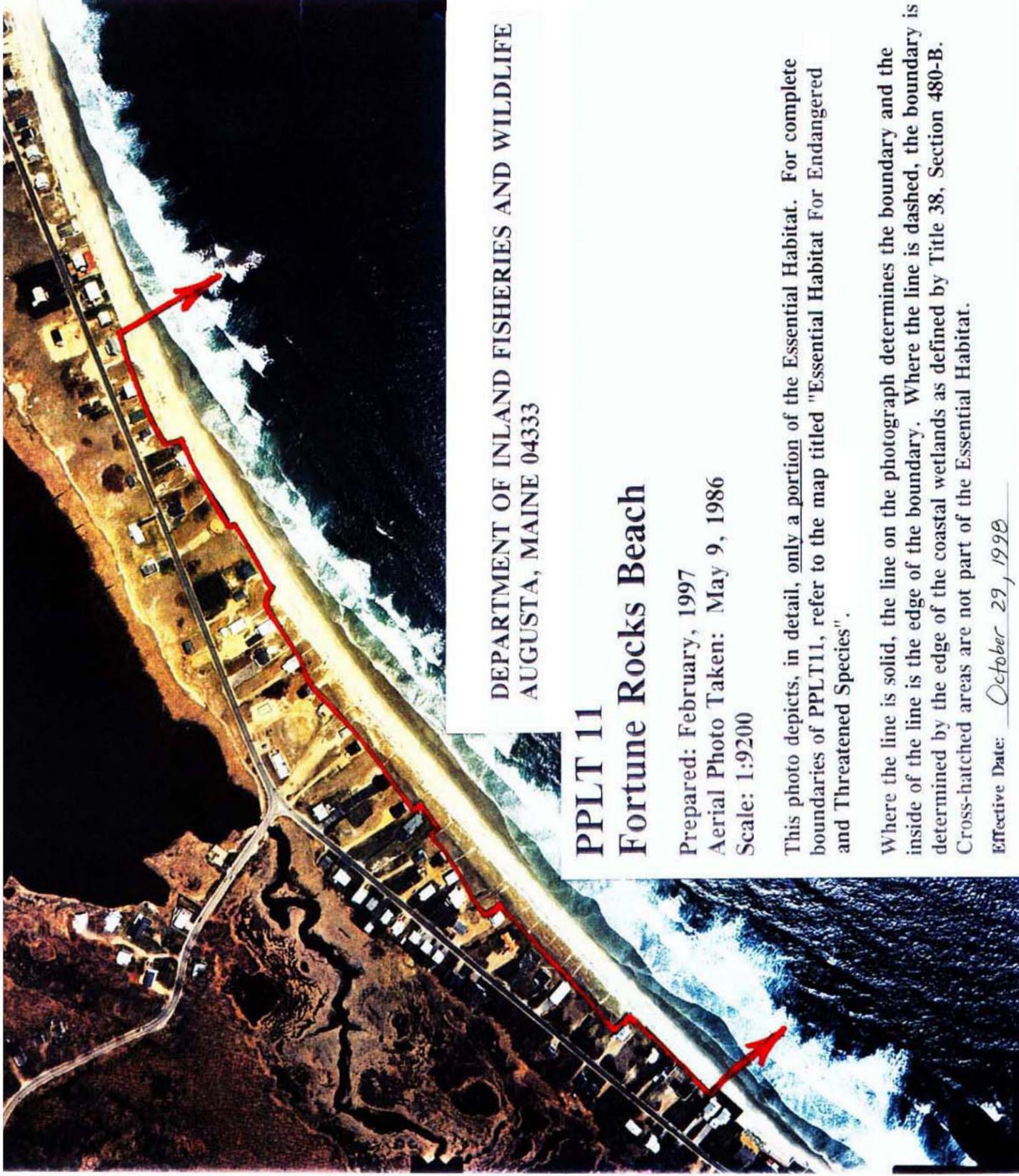
This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT09, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by 38 M.R.S.A., Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: MAY 31, 1995

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333

BOUNDARY LINE DETAIL PHOTOS
FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS



DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333

PPLT 11
Fortune Rocks Beach

Prepared: February, 1997
Aerial Photo Taken: May 9, 1986
Scale: 1:9200

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT11, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by Title 38, Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: *October 29, 1998*

**BOUNDARY LINE DETAIL PHOTOS
FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS**



**PPLT 12a
Scarborough Beach**

Prepared: February, 1997
Aerial Photo Taken: May 9, 1986
Scale: 1:9200

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT12, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by Title 38, Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: OCTOBER 29, 1998

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333

**BOUNDARY LINE DETAIL PHOTOS
FOR PIPING PLOVER AND LEAST TERN ESSENTIAL HABITATS**

**DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333**



**PPLT 12b
Scarborough Beach**

**Prepared: February, 1997
Aerial Photo Taken: May 9, 1986
Scale: 1:9200**

This photo depicts, in detail, only a portion of the Essential Habitat. For complete boundaries of PPLT12, refer to the map titled "Essential Habitat For Endangered and Threatened Species".

Where the line is solid, the line on the photograph determines the boundary and the inside of the line is the edge of the boundary. Where the line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by Title 38, Section 480-B. Cross-hatched areas are not part of the Essential Habitat.

Effective Date: October 29, 1998

APPENDIX B

MDIFW Issue Profile: Bald Eagle Nest Sites

MDIFW Issue Profile: Roseate Tern Nesting Areas

MDIFW Issue Profile: Piping Plover and Least Tern
Nesting, Feeding, and Brood-rearing Areas

ISSUE PROFILE

ESSENTIAL HABITAT: BALD EAGLE NEST SITES



October 2005

BACKGROUND

Maine's fish and wildlife are a valuable public resource, yet some species are in danger of becoming extinct within the State. In response, the Legislature enacted Maine's Endangered Species Act in 1975. The Legislature amended the Act in 1988 by adding habitat protection provisions in recognition of two issues: 1) habitat loss is a significant risk to Endangered and Threatened species; and 2) inconsistent decision-making on projects in these habitats readily leads to confusion, extra costs, unnecessary delays, and potential litigation. As a result, the Commissioner of the Maine Department of Inland Fisheries and Wildlife (MDIFW) may designate areas as "Essential Habitat" and develop protection guidelines for these Essential Habitats.

WHAT ARE ESSENTIAL HABITATS?

Essential Habitats are areas currently or historically providing physical or biological features essential to the conservation of an Endangered or threatened species in Maine, and which may require special management considerations. Examples of areas that could qualify for designation are nest sites or important feeding areas. For some species, protection of these kinds of habitats is vital to preventing further declines or achieving recovery goals. This habitat protection tool is used only when habitat loss has been identified as a major factor limiting species recovery. Before an area can be designated as Essential Habitat, it must be identified and mapped by MDIFW and adopted through public rulemaking procedures, following Maine's Administrative Procedures Act.

WHY DOES THE BALD EAGLE NEED THIS LEVEL OF PROTECTION?

Historically, Maine was home to many hundreds of pairs of bald eagles nesting along undisturbed shorelines of the coast, lakes, and major rivers. However, largely due to DDT contamination, eagle populations declined so drastically that the species was listed as Endangered in 1978. As DDT residues in the environment dropped, bald eagles began to recover in Maine. Increasing losses of undisturbed nesting sites during the late 1980s became another obstacle to further population growth and species recovery. The subsequent designation of traditional nest sites as Essential Habitat, ongoing since 1989, has played a significant role in advancing the recovery of Maine's bald eagle population. This progress was symbolized in 1996, when the bald eagle was reclassified as a Threatened species in Maine.

Loss of undisturbed nesting sites is still one of the greatest dangers to the State's eagle population. Adequate numbers of young eagles must be produced if the population is to fully rebound and achieve a lasting recovery from Endangered or Threatened status. For this reason, Essential Habitat designation of nest sites remains an important tool in removing the bald eagle from the State list of Endangered and Threatened species and assuring its future in Maine's wildlife heritage.

WHAT DOES ESSENTIAL HABITAT DESIGNATION MEAN TO A LANDOWNER?

Activities of private landowners are **not** affected by Essential Habitat designation **unless projects require a permit or license from, or are funded or carried out by, a state agency or municipality.** In these cases, the town or state agency reviewing the project must obtain an evaluation from MDIFW before issuing a final decision. The applicant and town or state representative reviewing the project must both sign it and forward related documents. **No additional permits or fees are required.** Designation of Essential Habitat establishes a standardized review process within existing state and municipal permitting processes. It ensures landowners of consistent reviews on land use permit applications where Endangered and Threatened species are involved, and eliminates the confusion, delays, and sometimes costly problems that can arise in the absence of standardized, predictable decision-making.

Landowners considering projects within Essential Habitats should initiate early consultations with the appropriate MDIFW Regional Wildlife Biologist, so that concerns for Endangered or Threatened species can be incorporated into preliminary project planning and design. The Department also offers technical assistance to property owners who wish to manage their lands to enhance habitat for wildlife.

WHAT DOES ESSENTIAL HABITAT DESIGNATION MEAN TO STATE AGENCIES AND MUNICIPALITIES?

State agencies and municipalities shall not permit, license, fund, or carry out projects that will significantly alter an Essential Habitat or violate protection guidelines adopted for the habitat. An evaluation of the **final** project proposal **must** be obtained from MDIFW **prior** to issuing a decision. Before seeking formal MDIFW evaluation, concerns for Endangered and Threatened species should be addressed during preliminary planning and existing agency or municipal review procedures. Consulting early with MDIFW Regional Wildlife Biologists will facilitate identification of incompatible projects, or appropriate modifications to proposals, within an Essential Habitat. Failure to do so may result in unnecessary conflicts, delays, or project denials. The Department also offers guidance to municipalities when wildlife concerns are being addressed in comprehensive plans and town ordinances.

HOW DO YOU DETERMINE IF A PROJECT IS WITHIN AN ESSENTIAL HABITAT?

All Essential Habitats are mapped on sections of 1:24,000 USGS topographic maps and indexed by town name. These maps are available from all MDIFW and affected town offices, or they can be viewed and printed from MDIFW's website at www.mefishwildlife.com. Digital coverage can also be downloaded from the Maine Office of GIS at <http://megis.maine.gov/>. Contact an MDIFW Regional Wildlife Biologist for assistance in verifying a project location relative to an Essential Habitat.

IF ONLY A PART OF YOUR PROPERTY IS WITHIN AN ESSENTIAL HABITAT, WILL EVERY PROJECT YOU CONSIDER BE AFFECTED BY ESSENTIAL HABITAT DESIGNATION?

No. Projects located wholly outside an Essential Habitat, regardless of whether some other portion of your property is within an Essential Habitat, are **not** affected by this rule.

WHAT TYPES OF PROJECTS REQUIRE MDIFW EVALUATION?

Any project that is wholly or partly within an Essential Habitat and is permitted, licensed, funded, or carried out by a state agency or municipal government, requires an evaluation by the Commissioner of MDIFW. Examples of projects that require MDIFW evaluation are:

- Subdivision of land
- Changes in land use zoning
- Construction or exterior alterations of buildings, wastewater systems, or utilities
- Conversion of seasonal dwellings to year-round
- Exemption to minimum lot size requirements
- Construction or relocation of roads
- Exploration or extraction of minerals
- Alteration to wetlands, submerged bottomlands, or shoreland zones
- Installation of docks, moorings, or aquaculture facilities

Landowners, project planners, municipalities, or state agencies considering a project proposal in or near an Essential Habitat should immediately contact an MDIFW Regional Wildlife Biologist for assistance. **Early consultations will help resolve potential conflicts, unexpected delays, frustrations, and economic pitfalls that might otherwise arise during final project review.**

ARE THERE PROJECTS EXEMPT FROM MDIFW REVIEW?

Yes. The following are examples of projects exempt from evaluation by MDIFW:

- Emergency repairs to existing structures and utilities
- Emergency activities necessary for public health and safety
- Interior repairs and construction
- Any project **not** carried out by, funded by, or requiring a permit or license from a state agency or municipality

WHAT ARE THE REVIEW STANDARDS FOR PROJECTS WITHIN ESSENTIAL HABITATS?

A project must not significantly alter an Essential Habitat. If the MDIFW evaluation determines that significant alteration of the habitat would occur, **a state agency or municipal government shall not issue a permit or license for the project.** The following factors are considered by MDIFW when evaluating a project proposal at bald eagle nest sites:

- Seasonal timing of project
- Noise and human activity generated by project before, during, or after completion
- Impact on wetlands, shoreland zones, or important visual buffers
- Impact on key habitat components such as nesting, foraging, perching, or roosting areas
- Reduction in the seclusion of the nest site due to increased access from upland areas, shoreland zones, or adjacent waters
- Impact on future suitability of the nest site due to new uses, cumulative impacts, or local limitations within the area
- Demonstrated tolerance by eagles at the site for types of activities associated with the project

IS THE SEASONAL TIMING OF PROJECTS A MAJOR CONCERN?

Yes! Eagles are very sensitive to disturbance during their nesting season. Generally, this is between **February 1 and August 31**. Timing constraints on projects are customized for regional timing, annual variations in eagle occupancy, unique circumstances of a site, as well as the intensity, duration, and relative location of each project. Seasonal timing of activities will often be a determining factor in project reviews and should always be addressed in a project's permit before seeking final MDIFW evaluation.

Contact an MDIFW Regional Wildlife Biologist for assistance in determining seasonal timing safeguards. Examples of projects often acceptable outside the critical nesting season are:

- Expansion, alteration, or repair of existing structures
- Routine road maintenance
- Forest management, timber harvest, and agricultural management
- Mineral exploration
- Construction, **if** all other review standards are met

ONCE AN AREA IS DESIGNATED AS ESSENTIAL HABITAT, WILL IT ALWAYS BE SO?

No. If an individual nest site no longer provides the physical or biological features essential for bald eagles, Essential Habitat designation will be removed via rulemaking procedures. Also, the Law allows Essential Habitat designation only for species on Maine's Endangered and Threatened Species List. The designation of bald eagle nest sites as Essential Habitat has enabled Maine's eagle population to grow and expand. As a result, the bald eagle was reclassified from Endangered to Threatened in 1996. Within the next few years, its population in Maine is expected to increase to the point where eagles are no longer listed as Threatened. When this occurs, all Essential Habitat designations for bald eagle nests will be eliminated. MDIFW is currently developing guidelines to promote stewardship of eagle nesting habitat once the species is officially delisted and Essential Habitat designation is removed.

WHO CAN YOU CONTACT FOR MORE INFORMATION?

The Maine Department of Inland Fisheries and Wildlife. There are seven regional offices to assist you. Please contact a Regional Wildlife Biologist at the nearest regional headquarters:

Gray: 358 Shaker Rd., Gray, ME 04039
phone: (207) 657-2345

Sidney: 270 Lyons Rd., Sidney, ME 04330
phone: (207) 547-5318

Jonesboro: P.O. Box 220, Jonesboro, ME 04648-0220
phone: (207) 434-5927

Strong: 689 Farmington Rd., Strong, ME 04983
phone: (207) 778-3324

Greenville: P.O. Box 551, Greenville, ME 04441-0551
phone: (207) 695-3756

Enfield: 73 Cobb Road, Enfield, ME 04493
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Ashland: P.O. Box 447, Ashland, ME 04732-0447
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ISSUE PROFILE

ESSENTIAL HABITAT: ROSEATE TERN NESTING AREAS

April 2003

BACKGROUND

Maine's fish and wildlife are a valuable public resource, yet some species are in danger of becoming extinct within the State. The Legislature recognized this by passing the Maine Endangered Species Act in 1975. In 1988, the Legislature amended the Act by adding habitat protection provisions in recognition of two issues: 1) the effect habitat loss has on endangered and threatened species in Maine; and 2) the confusion and sometimes costly problems that arise in the absence of consistent, predictable land use decision-making processes for endangered and threatened species. As a result, the Commissioner of the Maine Department of Inland Fisheries and Wildlife (MDIFW) may designate areas as "Essential Habitat" and develop protection guidelines for these Essential Habitats.

WHAT ARE ESSENTIAL HABITATS?

Essential Habitats are areas currently or historically providing physical or biological features essential to the conservation of an endangered or threatened species in Maine and which may require special management considerations. Examples of areas that could qualify for designation are nest sites or important feeding areas. For some species, protection of these kinds of habitats is vital to preventing further declines or achieving recovery goals. This habitat protection tool is used only when habitat loss has been identified as a major factor limiting species recovery. Before an area can be designated as Essential Habitat, it must be identified and mapped by MDIFW and adopted through public rulemaking procedures, following Maine's Administrative Procedures Act.

WHY DOES THE ROSEATE TERN NEED THIS LEVEL OF PROTECTION?

Roseate terns are small, graceful seabirds that return each spring to nest and raise their young on a few traditionally used islands along the eastern coast of North America. Although exact historic figures are unknown, it is likely that several hundred pairs once nested in Maine. During the late 1800s, however, roseate tern numbers declined drastically as human-related habitat degradation and unrestricted shooting nearly eliminated the species throughout its range.

Around the turn of the century, state and federal laws were passed to prohibit indiscriminate killing of terns and other migratory birds. At the same time, human influences on coastal islands were decreasing. As a result, roseate tern numbers increased. By the early 1930s, Maine's population had grown to about 275 pairs. Unfortunately, this recovery was not to last. Renewed pressures from habitat loss and human disturbance, combined with predation and competition from a growing gull population, initiated a second decline. By 1987, as few as 52 pairs of roseate terns nested in Maine.

In 1986, the roseate tern was listed as an endangered species under both the United States and Maine Endangered Species Acts. As a result of intensive management efforts, Maine's population has grown to approximately 290 pairs. Roseate terns in Maine nest on just a small handful of islands. After more than 100 years of record-keeping, they have been found on only 22 of the more than 3,500 islands off our

coast. These few islands, providing the unique combination of features necessary for successful nesting, are essential to the restoration of roseate terns in Maine. Disturbances or land use changes at these traditional sites can cause nesting failure and consequently prevent the overall population from maintaining its numbers or increasing to recovery levels. For this reason, they are the focus of Essential Habitat designation for roseate terns.

WHAT DOES ESSENTIAL HABITAT DESIGNATION MEAN TO A LANDOWNER?

Activities of private landowners are **not** affected by Essential Habitat designation **unless projects require a permit or license from, or are funded or carried out by, a state agency or municipality**. In these cases, the town or state agency reviewing the project must obtain an evaluation from MDIFW before issuing a final decision. **No additional permits or fees are required**. Designation of Essential Habitat simply establishes a standardized review process within existing state and municipal permitting processes. It ensures landowners of consistent reviews on land use permit applications where endangered and threatened species are involved, and eliminates the confusion, delays, and sometimes-costly problems that can arise in the absence of standardized, predictable decision-making.

Landowners considering projects within Essential Habitats should initiate early consultations with the appropriate MDIFW Regional Wildlife Biologist, so that concerns for endangered and threatened species can be incorporated into preliminary project planning and design. The Department also offers technical assistance to property owners who wish to manage their lands to enhance habitat for wildlife.

WHAT DOES ESSENTIAL HABITAT DESIGNATION MEAN TO STATE AGENCIES AND MUNICIPALITIES?

State agencies and municipalities shall not permit, license, fund, or carry out projects that will significantly alter an Essential Habitat or violate protection guidelines adopted for the habitat. An evaluation of the **final** project proposal must be obtained from MDIFW **prior** to issuing a decision. Before seeking formal MDIFW evaluation, concerns for endangered and threatened species should be addressed during preliminary planning and existing agency or municipal review procedures. Consulting early with MDIFW Regional Wildlife Biologists will facilitate identification of incompatible projects or appropriate modifications to proposals within an Essential Habitat. Failure to do so may result in unnecessary conflicts, delays, or project denials. The Department also offers guidance to municipalities when wildlife concerns are being addressed in comprehensive plans and town ordinances.

HOW DO YOU DETERMINE IF A PROJECT IS WITHIN AN ESSENTIAL HABITAT?

All Essential Habitats are mapped on sections of 1:24,000 U.S.G.S. topographic maps and indexed by town name. These maps are available from all MDIFW and affected town offices, or they can be viewed and printed from MDIFW's website at www.mefishwildlife.com. Digital coverage can also be downloaded from the Maine Office of GIS at <http://megis.maine.gov/>. Contact an MDIFW Regional Wildlife Biologist for assistance in verifying a project location relative to an Essential Habitat.

IF ONLY A PART OF YOUR PROPERTY IS WITHIN AN ESSENTIAL HABITAT, WILL EVERY PROJECT YOU CONSIDER BE AFFECTED BY ESSENTIAL HABITAT DESIGNATION?

No. Projects located wholly outside an Essential Habitat, regardless of whether some other portion of your property is within an Essential Habitat, are **not** affected by this rule.

WHAT TYPES OF PROJECTS REQUIRE MDIFW EVALUATION?

Any project that is wholly or partly within an Essential Habitat and is permitted, licensed, funded, or carried out by a state agency or municipal government, requires an evaluation by the Commissioner of MDIFW. Some examples of projects that require MDIFW evaluation are:

- subdivision of land
- construction or alteration of buildings, wastewater systems, or utilities
- conversion of seasonal dwellings to year round
- exemption to minimum lot size requirements
- construction or relocation of roads
- exploration or extraction of minerals
- alteration to wetlands, submerged bottomlands, or shoreland zones
- installation of docks, moorings, or aquaculture facilities

Landowners, project planners, municipalities or state agencies considering a project proposal in or near an Essential Habitat should immediately contact an MDIFW Regional Wildlife Biologist for assistance.

Early consultations will help to resolve avoidable conflicts and prevent unnecessary delays, frustrations, and economic pitfalls that might otherwise arise during the final project review.

ARE THERE PROJECTS EXEMPT FROM MDIFW REVIEW?

Yes. The following are examples of projects exempt from evaluation by MDIFW:

- emergency repairs to existing structures and utilities
- emergency activities necessary for public health and safety
- interior repairs and construction
- any project **not** carried out by, funded by, or requiring a permit or license from a state agency or municipality

WHAT ARE THE REVIEW STANDARDS FOR PROJECTS WITHIN ESSENTIAL HABITATS?

A project must not significantly alter an Essential Habitat. If the MDIFW evaluation determines that significant alteration of the habitat would occur, **a state agency or municipal government shall not issue a permit or license for the project.** The following factors are considered by MDIFW when evaluating a project proposal at roseate tern nesting areas:

- seasonal timing of project
- noise and human activity generated by project before, during, or after completion
- physical alteration to uplands, waters, or submerged lands
- impact on key habitat components such as island vegetation, nesting and roosting substrate, and foraging areas
- increase in human disturbance, predation, or competition with other species
- demonstrated tolerance of terns at the site to human activity and disturbance
- reduction in the future suitability of the nesting area for roseate terns

IS THE SEASONAL TIMING OF PROJECTS A MAJOR CONCERN?

Yes! Roseate terns are very sensitive to disturbance during their nesting season. Generally, this is between **May 15 and August 31** but may vary slightly from year to year. Seasonal timing of activities will often be a determining factor in project reviews and should always be addressed in a project's design before seeking final MDIFW evaluation. **Contact an MDIFW Regional Wildlife Biologist for assistance in determining seasonal timing concerns.** Examples of projects often acceptable outside the critical nesting season are:

- expansion, alteration, or repair of existing structures
- construction, **if** all other review standards are met

ONCE AN AREA IS DESIGNATED AS ESSENTIAL HABITAT, WILL IT ALWAYS BE SO?

No. The Law allows Essential Habitat designation only for species on Maine's Endangered and Threatened Species List. Designating roseate tern nesting islands as Essential Habitat will allow Maine's roseate tern population to grow. If the species recovers to the point where it is no longer endangered or threatened, all Essential Habitat designations for roseate terns will be eliminated. Also, if an individual nesting area were no longer considered essential to achieving recovery goals for roseate terns, Essential Habitat designation would be removed.

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ISSUE PROFILE

ESSENTIAL HABITAT: PIPING PLOVER AND LEAST TERN NESTING, FEEDING, AND BROOD-REARING AREAS

April 2003

BACKGROUND

Maine's fish and wildlife are a valuable public resource, yet some species are in danger of becoming extinct within the State. The Legislature recognized this by passing the Maine Endangered Species Act in 1975. In 1988, the Legislature amended the Act by adding habitat protection provisions in recognition of two issues: 1) the effect habitat loss has on endangered and threatened species in Maine; and 2) the confusion and sometimes costly problems that arise in the absence of consistent, predictable land use decision-making processes for endangered and threatened species. As a result, the Commissioner of the Maine Department of Inland Fisheries and Wildlife (MDIFW) may designate areas as "Essential Habitat" and develop protection guidelines for these Essential Habitats.

WHAT ARE ESSENTIAL HABITATS?

Essential Habitats are areas currently or historically providing physical or biological features essential to the conservation of an endangered or threatened species in Maine and which may require special management considerations. Examples of areas that could qualify for designation are nest sites or important feeding areas. For some species, protection of these kinds of habitats is vital to preventing further declines or achieving recovery goals. This habitat protection tool is used only when habitat loss has been identified as a major factor limiting species recovery. Before an area can be designated as Essential Habitat, it must be identified and mapped by MDIFW and adopted through public rulemaking procedures, following Maine's Administrative Procedures Act.

WHY DO THE PIPING PLOVER AND LEAST TERN NEED THIS LEVEL OF PROTECTION?

The piping plover is a small, sandy-colored shorebird that nests on beaches from Newfoundland to South Carolina. The least tern is the smallest North American tern and nests on beaches along the East and West Coasts. Both species are imperiled throughout much of their range in the United States and Canada. Once common on sand beaches in southern Maine, the piping plover and least tern are now listed as endangered under the Maine Endangered Species Act. The East Coast population of piping plovers is also federally listed as threatened. In 2001, only 55 pairs of piping plovers and 120 pairs of least terns nested in Maine.

Habitat loss and lack of undisturbed nest sites are two of the primary factors jeopardizing populations of piping plovers and least terns. Historically, Maine had more than 30 miles of suitable nesting beaches that may have supported up to 200 pairs of piping plovers and 1200 pairs of least terns. However, the construction of seawalls, jetties, piers, homes, parking lots, and other structures along Maine's sand beaches has reduced the amount of suitable nesting habitat available to these species by more than 75%. Today, only about a dozen sites provide suitable habitat where these two species nest, feed, and raise their young. The capability of this remaining habitat to support nesting plovers and terns 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 least terns in Maine. Designation of these areas as Essential Habitat (on-going since 1995) will help to maintain the last remaining habitat for these endangered birds.

WHAT DOES ESSENTIAL HABITAT DESIGNATION MEAN TO A LANDOWNER?

Activities of private landowners are **not** affected by Essential Habitat designation **unless projects require a permit or license from, or are funded or carried out by, a state agency or municipality**. In these cases, the town or state agency reviewing the project must obtain an evaluation from MDIFW before issuing a final decision. **No additional permits or fees are required**. Designation of Essential Habitat simply establishes a standardized review process within existing state and municipal permitting processes. It ensures landowners of consistent reviews on land use permit applications where endangered and threatened species are involved, and eliminates the confusion, delays, and sometimes-costly problems that can arise in the absence of standardized, predictable decision-making.

Landowners considering projects within Essential Habitats should initiate early consultations with the appropriate MDIFW Regional Wildlife Biologist, so that concerns for endangered or threatened species can be incorporated into preliminary project planning and design. When projects also fall within areas governed by Maine's coastal sand dune laws, all requirements of the Maine Department of Environmental Protection and sand dune laws must be met before MDIFW will consider the project. MDIFW also offers technical assistance to property owners who wish to manage their lands to enhance habitat for wildlife.

WHAT DOES ESSENTIAL HABITAT DESIGNATION MEAN TO STATE AGENCIES AND MUNICIPALITIES?

State agencies and municipalities shall not permit, license, fund, or carry out projects that will significantly alter an Essential Habitat or violate protection guidelines adopted for the habitat. An evaluation of the **final** project proposal must be obtained from MDIFW **prior** to issuing a decision. Before seeking formal MDIFW evaluation, concerns for endangered and threatened species should be addressed during preliminary planning and existing agency or municipal review procedures. Consulting early with MDIFW Regional Wildlife Biologists will facilitate identification of incompatible projects or appropriate modifications to proposals within an Essential Habitat. Failure to do so may result in unnecessary conflicts, delays, or project denials. The Department also offers guidance to municipalities when wildlife concerns are being addressed in comprehensive plans and town ordinances.

HOW DO YOU DETERMINE IF A PROJECT IS WITHIN AN ESSENTIAL HABITAT?

All Essential Habitats are mapped on sections of 1:24,000 U.S.G.S. topographic maps and indexed by town name. In addition, "*Boundary Line Detail Photos*" have been prepared for all developed beach areas on 1:9,200 color aerial photos. These photos depict the precise boundaries of piping plover and least tern Essential Habitats in relation to existing houses, roads, seawalls and other physical features. Maps and photos are available from all MDIFW and affected town offices, or they can be viewed and printed from MDIFW's website at www.mefishwildlife.com. Digital coverage can also be downloaded from the Maine Office of GIS at <http://megis.maine.gov/>. Contact an MDIFW Regional Wildlife Biologist for assistance in verifying a project location relative to an Essential Habitat.

IF ONLY A PART OF YOUR PROPERTY IS WITHIN AN ESSENTIAL HABITAT, WILL EVERY PROJECT YOU CONSIDER BE AFFECTED BY ESSENTIAL HABITAT DESIGNATION?

No. Projects located wholly outside an Essential Habitat, regardless of whether some other portion of your property is within an Essential Habitat, are **not** affected by this rule.

WHAT TYPES OF PROJECTS REQUIRE MDIFW EVALUATION?

Any project that is wholly or partly within an Essential Habitat and is permitted, licensed, funded, or carried out by a state agency or municipal government, requires an evaluation by the Commissioner of MDIFW. Some examples of projects that require MDIFW evaluation are:

- subdivision of land
- construction or alteration of buildings, wastewater systems, or utilities
- exemption to minimum lot size requirements
- construction or relocation of roads
- dredging, bulldozing, or removing or displacing soil, sand, vegetation, or other materials
- alteration to wetlands, submerged bottomlands, or shoreland zones
- installation of docks, moorings, or aquaculture facilities
- beach nourishment or dune restoration
- state or municipal beach recreation management

Landowners, project planners, municipalities or state agencies considering a project proposal in or near an Essential Habitat should immediately contact an MDIFW Regional Wildlife Biologist for assistance. **Early consultations will help to resolve avoidable conflicts and prevent unnecessary delays, frustrations, and economic pitfalls that might otherwise arise during the final project review.**

ARE THERE PROJECTS EXEMPT FROM MDIFW REVIEW?

Yes. The following are examples of projects exempt from evaluation by MDIFW:

- emergency activities necessary for public health and safety
- emergency repairs to existing utilities and structures, including seawalls and roads
- any project **not** carried out by, funded by, or requiring a permit or license from a state agency or municipality

WHAT ARE THE REVIEW STANDARDS FOR PROJECTS WITHIN ESSENTIAL HABITATS?

A project must not significantly alter an Essential Habitat. If the MDIFW evaluation determines that significant alteration of the habitat would occur, **a state agency or municipal government shall not issue a permit or license for the project.** The following factors are considered by MDIFW when evaluating a project proposal at piping plover and least tern nesting, feeding, and brood-rearing areas:

- seasonal timing and magnitude of project
- degradation of coastal wetlands or sand dune systems
- increase in human disturbance, predation, or competition from other species
- reduction in the future capability of the habitat to provide nesting, feeding, and brood-rearing opportunities

IS THE SEASONAL TIMING OF PROJECTS A MAJOR CONCERN?

Yes! Piping plovers and least terns are sensitive to disturbance during their nesting season. Generally, this is between **May 1 and August 31** but may vary slightly from year to year. Seasonal timing of activities will often be a determining factor in project reviews and should always be addressed in a project's design before seeking final MDIFW evaluation. **Contact an MDIFW Regional Wildlife Biologist for assistance in determining seasonal timing concerns.**

WILL BEACHES WITHIN ESSENTIAL HABITATS CONTINUE TO BE OPEN FOR SWIMMING AND SUNBATHING?

Yes! Some of our most popular State Parks (i.e. Reid and Popham Beach) are also successful tern and plover nesting areas. They provide examples of how, if managed properly, plovers, terns and existing recreational uses of beaches can coexist.

COULD ESSENTIAL HABITAT DESIGNATION BE USED TO PREVENT REBUILDING OF STORM OR FIRE-DAMAGED STRUCTURES OR SEAWALLS?

No. This rule is **not** intended to preclude rebuilding of existing structures in accordance with implementation of the coastal sand dune regulations. Furthermore, emergency repairs to utilities and structures, including seawalls, are exempt from this rule.

ONCE AN AREA IS DESIGNATED AS ESSENTIAL HABITAT, WILL IT ALWAYS BE SO?

Not Necessarily. The Law allows Essential Habitat designation only for species on Maine's Endangered and Threatened Species List. Designating piping plover and least tern nesting, feeding, and brood-rearing areas as Essential Habitat will allow Maine's piping plover and least tern populations to grow. If these species recover to the point where they are no longer endangered or threatened, all Essential Habitat designations will be eliminated. Also, if an individual area were no longer considered essential to achieving recovery goals for the species, Essential Habitat designation would be removed.

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APPENDIX C

Essential Habitat Rule

Maine Endangered Species Act

Maine Endangered and Threatened Species List

STATE OF MAINE

INLAND FISHERIES AND WILDLIFE RULES

Chapter 8.05 Essential Habitat for Species Designated as Endangered or Threatened.

The following areas, identified as currently or historically providing physical or biological features essential to the conservation of an Endangered or Threatened Species and requiring special management considerations, and the management guidelines for the protection of these areas, are adopted in accordance with the provisions of Title 12, §§7754 [12804] (2,3) and 7755-A [12806] (1,2,3). The Commissioner has identified and mapped such habitats as depicted on the maps entitled "Essential Habitat For Endangered And Threatened Species" which are incorporated herein.

A. Bald Eagle Nest Site

1. Purpose

To provide special protection to maintain breeding habitat and to prevent disturbance which may cause nesting failure of bald eagles. Protection is focused on the nest site.

2. Definitions

When used in this section, the following words and terms shall have the following meaning:

- a. **Nesting area.** "Nesting area" means a locality containing one or more nest sites and that has been used by a pair of nesting bald eagles.
- b. **Occupied.** "Occupied" means the presence of one or a pair of adult eagles, eagle eggs, or eagle chicks any time between March 1 - July 15.
- c. **Project.** "Project" means a planned undertaking, newly initiated or reinitiated.

3. Designation Criteria

Bald eagle nest sites identified and mapped by the Commissioner of Inland Fisheries and Wildlife as Essential Habitat must be within a nesting area occupied in at least one of the three most recent years and have either a nest that has existed for two consecutive years, or the only existing nest in that nesting area. Bald eagle nest sites designated as Essential Habitat will be deleted as follows:

- a. All nest sites in the nesting area will be deleted if a nesting area has not been occupied, as defined, at any time during the most recent five years.
- b. An individual nest site within an active nesting area will be deleted if a nest structure has not existed at any time during the most recent five years or the Commissioner determines that the site is no longer suitable nesting habitat.

4. Protection Guidelines

- a. **Projects Prohibited Without the Commissioner's Approval**

Any project requiring a permit or license from, or to be funded or carried out by, a state agency or municipal government partly or wholly within a bald eagle nest site designated as Essential Habitat shall not be permitted, licensed, funded, or carried out unless the Commissioner determines that the activity will not significantly alter or unreasonably harm the essential nesting habitat. Projects that may be affected include, but are not limited to: subdivision of land or buildings; construction, installation,

expansion, alteration or repair of permanent structures; agricultural management; mineral exploration and extraction; forest management; road projects and construction; shoreland alteration; utility construction; water crossing; water impoundment; aquaculture; conversion of seasonal dwelling; installation of subsurface wastewater disposal system; and issuance of an exemption of the minimum lot size requirement.

b. Exemptions

The following activities are exempted from the requirements of this paragraph.

- 1) Projects limited to repairs, maintenance and alterations to the interior of an existing structure.
- 2) Emergency repairs to existing structures and utilities which due to unforeseen circumstances require immediate action.
- 3) Emergency activities which due to unforeseen circumstances require immediate action for public health or safety.
- 4) Licenses and permits to operate or occupy a completed project.
- 5) Projects that address the protection of the Essential Habitat and the Endangered and Threatened Species and are conducted as part of a Department Wildlife Management Area Plan or Species Management Plan, or a Land Use Regulation Commission Resource Protection Plan (P-RP) to which the Department is a party, provided that the parties of the agreement perform according to its terms.

5. Significant Alteration of Habitat

In determining whether a project significantly alters or unreasonably harms essential nesting habitat, the following factors will be considered:

- a. Magnitude and time of year of noise and human activity generated by the project.
- b. Physical alteration to the landscape.
- c. Destruction of or alteration to key habitat components such as perch trees, roost trees, and foraging areas.
- d. Reduction in the seclusion of the nest site and adjacent shoreland area.
- e. Demonstrated tolerance of the particular eagles to human activity and disturbance.
- f. Reduction in the future suitability of the nest site to bald eagles.

B. Roseate Tern Nesting Area

1. Purpose

To provide special protection to maintain breeding habitat and to prevent disturbance which may cause nesting failure of roseate terns. Protection is focused on the nesting area.

2. Definitions

When used in this section, the following words and terms shall have the following meaning:

- a. **Nesting area.** "Nesting area" means a locality encompassing an island or portion of an island used by at least one pair of nesting roseate terns.
- b. **Nesting.** "Nesting" means the presence of one or more nests, eggs, chicks, or pairs of territorial adult terns between May 15 - August 15.
- c. **Project.** "Project" means a planned undertaking, newly initiated or reinitiated.

3. Designation Criteria

Roseate tern nesting areas identified and mapped by the Commissioner of Inland Fisheries and Wildlife as Essential Habitat must:

- a. Have a record of at least one pair of nesting roseate terns since 1930,
- b. Have suitable habitat as indicated by the presence of nesting common, arctic, or roseate terns in at least any 3 years since 1976, and
- c. Be considered essential to the achievement of the Department's management goals and objectives for roseate terns.

Roseate tern nesting areas designated as Essential Habitat will be deleted if:

- a. The nesting area has not been occupied by any nesting pairs of common terns, arctic terns, or roseate terns during the most recent 10 years, and the lack of occupancy is not related to predation or competition from other species, or to any human-related activity, or
- b. The nesting area is no longer considered essential to the achievement of the Department's management goals and objectives for roseate terns.

4. Protection Guidelines

- a. **Projects Prohibited Without the Commissioner's Approval**

Any project requiring a permit or license from, or to be funded or carried out by, a state agency or municipal government partly or wholly within a roseate tern nesting area designated as Essential Habitat shall not be permitted, licensed, funded, or carried out unless the Commissioner determines that the activity will not significantly alter or unreasonably harm the Essential Habitat. Projects that may be affected include, but are not limited to: Subdivision of land or buildings; construction, installation, expansion, alteration or repair of permanent structures; agricultural management; mineral exploration and extraction; forest management; road projects and construction; shoreland alteration; utility construction; water crossing; water impoundment; dredging; aquaculture; conversion of seasonal dwelling; installation of subsurface wastewater disposal system; and issuance of an exemption of the minimum lot size requirement.

b. Exemptions

The following activities are exempted from the requirements of this paragraph.

- 1) Projects limited to repairs, maintenance and alterations to the interior of an existing structure.
- 2) Emergency repairs to existing structures and utilities which due to unforeseen circumstances require immediate action.
- 3) Emergency activities which due to unforeseen circumstances require immediate action for public health or safety.
- 4) Licenses and permits to operate or occupy a completed project.
- 5) Projects that address the protection of the Essential Habitat and the Endangered and Threatened Species and are conducted as part of a Department Wildlife Management Area Plan or Species Management Plan, or a Land Use Regulation Commission Resource Protection Plan (P-RP) to which the Department is a party, provided that the parties of the agreement perform according to its terms.

5. Significant Alteration of Habitat

In determining whether a project significantly alters or unreasonably harms essential nesting habitat, the following factors will be considered:

- a. Magnitude and time of year of noise and human activity generated by the project.
- b. Physical alteration to the landscape of the uplands, waters, and submerged lands.
- c. Destruction of or alteration to key habitat components such as island vegetation, nesting and roosting substrate, and foraging areas.
- d. Increase in disturbance by humans, and in predation or competition by other species.
- e. Demonstrated tolerance of terns at the site to human activity and disturbance.
- f. Reduction in the future suitability of the nesting area to nesting roseate terns.

C. Piping Plover And Least Tern Nesting, Feeding, And Brood-Rearing Areas

1. Purpose

The purpose of Essential Habitat designation for piping plovers and least terns is to: 1) provide special protection to maintain nesting, feeding, and brood-rearing habitats essential to the conservation of these species; and 2) minimize human-related disturbance that can cause nesting failure of these species. Protection is focused on the coastal wetlands and coastal sand dune systems used by nesting piping plovers or least terns.

This rule is not intended to, and shall not be interpreted to: 1) preclude rebuilding of existing structures in accordance with implementation of the coastal sand dune regulations (38 MRSA, Sect. 480-A (Q) and Chapter 355 of Department of Environmental Protection Rules), nor 2) preclude recreational uses in practice at the time an area was designated as Essential Habitat and that are otherwise allowed by law.

2. Definitions

When used in this section, the following words and terms shall have the following meaning:

- a. **Nesting.** "Nesting" means the presence of one or more nests, eggs or chicks of piping plovers or least terns.
- b. **Nesting, feeding, and brood-rearing area.** "Nesting, feeding, and brood-rearing area" means a locality encompassing portions of coastal wetlands and coastal sand dune systems (including subtidal, intertidal and beach and associated salt marshes and wetlands) used by at least one pair of nesting piping plovers or least terns.
- c. **Project.** "Project" means a planned undertaking, newly initiated or reinitiated.

3. Designation Criteria

Piping plover and least tern nesting, feeding, and brood-rearing areas identified and mapped by the Commissioner of Inland Fisheries and Wildlife (IF&W) as Essential Habitat must:

- a. Have a record of nesting by at least one pair of piping plovers or least terns since 1986, and
- b. Be considered essential to the achievement of the Department's management goals and objectives for piping plovers or least terns.

Piping plover and least tern nesting, feeding, and brood-rearing areas designated as Essential Habitat will be deleted if:

- a. The area has not been occupied by any nesting pairs of piping plovers or least terns during the most recent 10 years and the lack of occupancy is not related to predation or competition from other species, or to any human-related activity; or
- b. The area is no longer considered essential to the achievement of the Department's management goals and objectives for piping plovers or least terns.

4. Interpretation of Essential Habitat Area Boundaries

The following guidelines shall be used to interpret mapped Essential Habitat boundaries:

- a. In shaded areas, boundary lines are delineated in greater detail on composite aerial photographs (see "Boundary Line Detail Photos For Piping Plover And Least Tern Essential Habitat", prepared in November, 1994). Copies of these photographs are available for viewing at town offices in affected municipalities; Maine Department of Inland Fisheries and Wildlife offices in Gray, Augusta, and Bangor; and Maine Department of Environmental Protection offices in Portland and Augusta; or they may be purchased from: Essential Habitat Maps, Wildlife Assessment Section, 650 State Street, Bangor, Maine 04401-5654.

Outside of shaded areas, the lines on the maps indicate the boundaries. Where a line is solid, the line on the map determines the boundary, and the inside of the line is the edge of the boundary. Where a line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by 38 MRSA, Sect. 480-B. Cross-hatched areas are not part of the Essential Habitat.

- b. Where a boundary line follows a seawall or similar protective structure, only the beach area on the seaward side is intended to be included within the Essential Habitat: neither the seawall itself nor the property behind it are part of the Essential Habitat.

5. Protection Guidelines

a. Projects Prohibited Without the Commissioner's Approval

Any project requiring a permit or license from, or to be funded or carried out by, a state agency or municipal government partly or wholly within a piping plover and least tern nesting, feeding, and brood-rearing area designated as Essential Habitat shall not be permitted, licensed, funded, or carried out unless the Commissioner determines that the project will not significantly alter the Essential Habitat.

Examples of projects that may be affected include, but are not limited to: subdivision of land or buildings; construction, installation, expansion, alteration or repair of permanent structures; mineral exploration and extraction; road projects and construction; dredging; bulldozing; removing or displacing soil, sand, vegetation, or other materials; draining or otherwise dewatering; filling, including adding sand or other material to a coastal sand dune; beach nourishment projects; dune restoration projects; utility construction; water crossing; water impoundment; aquaculture; installation of subsurface wastewater disposal system; and issuance of an exemption to the minimum lot size requirement.

Projects located wholly outside an area designated as Essential Habitat, regardless of whether some other portion of the lot or parcel of land is within the Essential Habitat, are not affected by this rule.

Licensed activities which are not considered projects and therefore are not affected by this rule include, but are not limited to: recreational hunting and fishing, shellfish harvesting, sulky driving, dog ownership, and motor vehicle and boat operation.

b. Exemptions

Within areas designated as Essential Habitat, the following projects are exempted from the requirements of this paragraph:

- 1) Emergency repairs to existing utilities and structures, including roads and seawalls that, due to unforeseen circumstances, require immediate action and do not require a coastal sand dune permit under 38 MRSA, Section 480-A, Q.
- 2) Emergency activities that, due to unforeseen circumstances, require immediate action for public health or safety.
- 3) Licenses and permits to operate or occupy a completed project.
- 4) Projects limited to repairs, maintenance, and alterations to the interior of an existing structure.
- 5) Projects that address the protection of the Essential Habitat and the Endangered or Threatened Species and are conducted as part of a Department Management Area Plan or Species Management Plan, or a Land Use Regulation Commission Resource Protection Plan (P-RP) to which the Department is a party, provided that the parties of the agreement perform according to its terms.
- 6) Municipal licenses or permits for a project for which the Department, through another permitting process, has already found no significant alteration of the habitat or violation of protection guidelines for the Essential Habitat as currently mapped.

c. Review Process

For projects located partly or wholly within Essential Habitat as defined by 12 MRSA, §7754 and this chapter, it is the responsibility of the state agency or municipality considering the permit or license application, or funding or carrying out the project, to obtain the Department's review. Forms entitled "Request For Project Evaluation" will be provided by the Department. Upon receiving a Request For Project Evaluation, the Department will provide an evaluation of whether the project would significantly alter the Essential Habitat or violate the Department protection guidelines as set forth in 12 MRSA, §7755-A [12806] (1). If the proposed project will significantly alter Essential Habitat or violate the protection guidelines, and if a variance is sought, the Commissioner will determine whether a certification of no significant risk to the population, as described in 12 MRSA, §7755-A [12806] (2) can be issued.

6. Significant Alteration of Habitat

In determining whether a project significantly alters essential nesting, feeding, and brood-rearing habitat for piping plovers and least terns, the following factors will be considered:

- a. Magnitude and time of year of noise and human activity generated by the project;
- b. Within the area designated as Essential Habitat, destruction, alteration, or degradation of a portion of a coastal wetlands or coastal sand dune system (including subtidal, intertidal and beach and associated salt marshes and wetlands) which will adversely affect the Essential Habitat;
- c. Increase in disturbance by humans and their pets, or increased predation (or attraction of predators) or competition from other species; and
- d. Reduction in the future suitability of the nesting, feeding, and brood-rearing habitat for piping plovers and least terns.

AUTHORITY: Title 12, MRSA, Sections 7035 [10104], 7753 [12803], 7754 [12804]

NOTE: Numbers in brackets indicate the new section numbers from the recodified version of Title 12 MRSA Part 13, Chapters 901 to 941

The Maine Endangered Species Act
State of Maine, Inland Fisheries and Wildlife Laws

12 MRSA PART 13
CHAPTER 925
SUBCHAPTER 3
ENDANGERED SPECIES

§12801. Declaration of purpose

The Legislature finds that various species of fish or wildlife have been and are in danger of being rendered extinct within the State of Maine, and that these species are of esthetic, ecological, educational, historical, recreational and scientific value to the people of the State. The Legislature, therefore, declares that it is the policy of the State to conserve, by according such protection as is necessary to maintain and enhance their numbers, all species of fish or wildlife found in the State, as well as the ecosystems upon which they depend. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

This subchapter and chapter 631 are established to carry out the purposes of this section. [2003, c. 573, §5 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]

§12802. Commissioner's authority, investigations and programs

- 1. Investigations.** The commissioner may conduct investigations in order to develop information relating to population size, distribution, habitat needs, limiting factors and other biological and ecological data relating to the status and requirements for survival of any species of fish or wildlife occurring in the State, whether endangered or not. [2003, c. 614, §9 (aff); c. 655, Pt. B, §308 (amd); §422 (aff).]
- 2. Programs.** The commissioner may develop programs to enhance or maintain the populations described in subsection 1. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

§12803. Designation of endangered species

- 1. Standards.** The commissioner shall recommend a species to be listed as endangered or threatened whenever the commissioner finds one of the following to exist:
 - A. The present or threatened destruction, modification or curtailment of its habitat or range; [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - B. Overutilization for commercial, sporting, scientific, educational or other purposes; [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - C. Disease or predation; [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - D. Inadequacy of existing regulatory mechanisms; or [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - E. Other natural or manmade factors affecting its continued existence within the State. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
- [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

- 2. Commissioner's duties.** In recommending a species to be listed as endangered or threatened, the commissioner shall:
- A. Make use of the best scientific, commercial and other data available; [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - B. Consult, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the species and interested persons and organizations; and [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - C. Maintain a list of all species that the Legislature has designated to be endangered or threatened, naming each species by both its scientific and common name, if any, and specifying over what portion of its range each species so designated is endangered or threatened. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
- [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
- 3. Legislative authority.** The Legislature, as sole authority, shall designate a species as a state endangered or state threatened species. The list of state endangered or state threatened species by common name, scientific name, and status is as follows:
- A. Least tern, *Sterna albifrons*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - B. Golden eagle, *Aquila chrysaetos*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - C. Piping plover, *Charadrius melodus*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - D. Sedge wren, *Cistothorus platensis*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - E. Grasshopper sparrow, *Ammodramus savannarum*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - F. Box turtle, *Terrapene carolina*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - G. Black racer, *Coluber constrictor*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - H. Roseate tern, *Sterna dougallii*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - I. Northern bog lemming, *Synaptomys borealis*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - J. Blanding's turtle, *Emydoidea blandingii*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - K. Black tern, *Chlidonias niger*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - L. American pipit, *Anthus rubescens*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - M. Peregrine falcon, *Falco peregrinus*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]
 - N. Flat-headed mayfly, *Epeorus frisoni*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff.).]

- O. Ringed boghaunter, *Williamsonia lintneri*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- P. Clayton's copper, *Lycaena dorcas claytoni*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- Q. Edwards' hairstreak, *Satyrium edwardsii*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- R. Hessel's hairstreak, *Mitoura hesseli*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- S. Katahdin arctic, *Oenis polixenes katahdin*, endangered; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- T. Spotted turtle, *Clemmys guttata*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- U. Bald eagle, *Haliaeetus leucocephalus*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- V. Razorbill, *Alca torda*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- W. Atlantic puffin, *Fratercula arctica*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- X. Harlequin duck, *Histrionicus histrionicus*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- Y. Arctic tern, *Sterna paradisaea*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- Z. Upland sandpiper, *Bartramia longicauda*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- AA. Swamp darter, *Etheostoma fusiforme*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- BB. Tidewater mucket, *Leptodea ochracea*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- CC. Yellow lampmussel, *Lampsilis cariosa*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- DD. Tomah mayfly, *Siphonisca aerodromia*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- EE. Pygmy snaketail, *Ophiogomphus howei*, threatened; [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- FF. Twilight moth, *Lycia rachelae*, threatened; and [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
- GG. Pine barrens zanclognatha, *Zanclognatha martha*, threatened. [2003, c. 573, §6 (new); §8 (aff); c. 655, Pt. C, §§3, 6 (aff).]
[2003, c. 573, §6 (rpr); §8 (aff); c. 614, §9 (aff.); c. 655, Pt. C, §§3, 6 (aff).]

4. Process for recommendation; notice and hearings. Prior to recommending an addition, deletion or other change to the endangered and threatened species listed in subsection 3, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter 2. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

5. **Designation by Legislature.** The Legislature may not amend the list of endangered or threatened species in subsection 3 except upon the recommendation of the commissioner. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

§12804. Conservation of endangered species

1. **Conservation of nongame and endangered species.** The commissioner may establish such programs as are necessary to bring any endangered or threatened species to the point where it is no longer endangered or threatened, including:
 - A. Acquisition of land or aquatic habitat or interests in land or aquatic habitat; [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - B. Propagation; [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - C. Live trapping; [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - D. Transplantation. Prior to the transplantation, introduction or reintroduction of an endangered or threatened species in the State, the commissioner shall, in conjunction with the Atlantic Salmon Commission, when appropriate, develop a recovery plan for that species, conduct a public hearing on that recovery plan pursuant to Title 5, Part 18 and submit that plan to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. The introduction or reintroduction of that species must be conducted in accordance with the recovery plan developed under this paragraph and may not begin sooner than 90 days after all conditions of this paragraph have been met; and [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - E. In the extraordinary case where population pressures within a given group ecosystem can not be otherwise relieved, regulated taking. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
[2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
2. **Habitat.** For species designated as endangered or threatened under this subchapter the commissioner may by rule identify areas currently or historically providing physical or biological features essential to the conservation of the species and that may require special management considerations. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2003, c. 614, §9 (aff); c. 655, Pt. B, §309 (amd); §422 (aff).]
3. **Protection guidelines.** The commissioner may by rule develop guidelines for the protection of species designated as endangered or threatened under this subchapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2003, c. 614, §9 (aff); c. 655, Pt. B, §309 (amd); §422 (aff).]
4. **Annual report.** The commissioner shall submit a written report by January 1st of each year to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters and the joint standing committee of the Legislature having jurisdiction over marine resources matters describing the status of all current and planned programs, activities and rules of the department pertaining to

the conservation or management of endangered or threatened species. When appropriate, this report may be combined with any transplantation report required under subsection 1, paragraph D. The commissioner shall notify the Legislature by January 1st of each year that the report has been delivered. [2003, c. 573, §7 (amd); c. 614, §9 (aff).]

§12805. Cooperative agreements

The commissioner may enter into agreements with federal agencies, other states, political subdivisions of this State or private persons for the establishment and maintenance of programs for the conservation of endangered or threatened species and may receive all federal funds allocated for obligations to the State pursuant to these agreements. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

§12806. State and local cooperation

1. Review. A state agency or municipal government may not permit, license, fund or carry out projects that will:

- A. Significantly alter the habitat identified under section 12804, subsection 2 of any species designated as threatened or endangered under this subchapter; or [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
- B. Violate protection guidelines set forth in section 12804, subsection 3. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

The commissioner shall make information under section 12804 available to all other state agencies and municipal governments for the purposes of review. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

2. Variance. Notwithstanding subsection 1, state agencies and municipal governments may grant a variance from this section provided that:

- A. The commissioner certifies that the proposed action would not pose a significant risk to any population of endangered or threatened species within the State; and [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
- B. A public hearing is held on the proposed action. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

[2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

3. Pending applications. Notwithstanding Title 1, section 302, applications pending at the time of adoption of habitats and guidelines under section 12804, subsections 2 and 3 are governed by this section. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

§12807. Introduction of wolves to State; approval

A person may not release a wolf in the State for the purpose of reintroducing that species into the State without the prior approval of both Houses of the Legislature and the commissioner.

[2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

A person who violates this section commits a Class E crime. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

§12808. Misuse of endangered or threatened species

For the purposes of this section, "to take", "take" and "taking" mean the act or omission that results in the death of any endangered or threatened species. [2003, c. 614, §9 (aff); c. 655, Pt. B, §310 (amd); §422 (aff).]

1. Prohibited acts regarding endangered or threatened species; negligence. Except as provided in subsections 2 and 3, a person may not negligently:

- A. Import into the State or export out of the State any endangered or threatened species. A person who violates this paragraph commits a Class E crime; [2003, c. 614, §9 (aff); c. 655, Pt. B, §311 (rpr); §422 (aff).]
- B. Hunt, take, trap or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class E crime; [2003, c. 614, §9 (aff); c. 655, Pt. B, §311 (rpr); §422 (aff).]
- C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species. A person who violates this paragraph commits a Class E crime; or [2003, c. 614, §9 (aff); c. 655, Pt. B, §311 (rpr); §422 (aff).]
- D. Feed, set bait for or harass any endangered or threatened species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class E crime. [2003, c. 614, §9 (aff); c. 655, Pt. B, §311 (rpr); §422 (aff).]
[2003, c. 614, §9 (aff); c. 655, Pt. B, §311 (rpr); §422 (aff).]

1-A. Prohibited acts regarding endangered or threatened species; intentional.

Except as provided in subsections 2 and 3, a person may not intentionally:

- A. Import into the State or export out of the State any endangered or threatened species. A person who violates this paragraph commits a Class D crime; [2003, c. 655, Pt. B, §312 (new); §422 (aff).]
- B. Hunt, take, trap or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class D crime; [2003, c. 655, Pt. B, §312 (new); §422 (aff).]
- C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species. A person who violates this paragraph commits a Class D crime; or [2003, c. 655, Pt. B, §312 (new); §422 (aff).]
- E. Feed, set bait for or harass any endangered or threatened species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class D crime. [2003, c. 655, Pt. B, §312 (new); §422 (aff).]
[2003, c. 655, Pt. B, §312 (new); §422 (aff).]

2. Exceptions for certain purposes. Notwithstanding subsections 1 and 1-A or section 10650 as it applies to rules adopted in accordance with this subchapter, the commissioner may:

- A. Under such terms and conditions as the commissioner may prescribe, permit any act prohibited by this section or by rule for educational or scientific purposes or to enhance the propagation or survival of an endangered or threatened species; and [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
- B. Under such terms and conditions as the commissioner may prescribe, permit any endangered or threatened species that enters the State and is being transported to a point outside the State to be so entered and transported without restriction in accordance with the terms of any federal or state permit. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
[2003, c. 614, §9 (aff); c. 655, Pt. B, §313 (amd); §422 (aff).]

3. Exceptions; incidental take plan. Notwithstanding subsection 1, the commissioner may:

- A. Permit the taking of any endangered species or threatened species if:
 - (1) Such taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity;
 - (2) The taking will not impair the recovery of any endangered species or threatened species; and
 - (3) The person develops and implements an incidental take plan approved by the commissioner to take an endangered species or threatened species pursuant to paragraph B; and[2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
- B. Allow a plan that minimizes the incidental taking of an endangered species or threatened species that specifies the following:
 - (1) A description of the specific activities sought to be authorized by the incidental take permit and an analysis of potential alternatives;
 - (2) The individual and cumulative effects that may reasonably be anticipated to result from the proposed actions covered by the plan;
 - (3) The recovery measures the applicant will implement to prevent, minimize and mitigate the individual and cumulative effects and any provisions that are necessary to prevent, minimize and mitigate circumstances that are likely to impair the recovery of any endangered or threatened species covered by the plan;
 - (4) The procedures for monitoring the effectiveness of the recovery measures in the plan;
 - (5) The anticipated costs of implementing the plan and the availability of necessary funding for the applicant to implement the plan; and
 - (6) Other modifications to the plan or other additional measures, if any, that the department may require and such other matters as the department determines to be necessary for the recovery of species consistent with this section.[2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

The department shall seek input from knowledgeable individuals or groups on each incidental take plan for endangered or threatened species.

If any person fails to abide by the terms of any permit authorizing the incidental taking of an endangered or threatened species, the permit must be immediately suspended or revoked.

[2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

§12809. Judicial enforcement

- 1. General.** In the event of a violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter, the Attorney General may institute injunctive proceedings to enjoin any further violation, a civil or criminal action, or any appropriate combination of those proceedings without recourse to any other provision of law administered by the department. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

 - 2. Restoration.** The court may order restoration of any area affected by any activity found to be in violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter, to its condition prior to the violation or as near to that condition as possible. When the court finds that the violation was willful, the court shall order restoration under this subchapter, unless the restoration would result in:
 - A. A threat to public health and safety; [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - B. Environmental damage; or [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
 - C. A substantial injustice. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]
- [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

MAINE ENDANGERED AND THREATENED SPECIES LIST

Endangered:

Peregrine Falcon (Falco peregrinus) - breeding population only
Golden Eagle (Aquila chrysaetos)
Piping Plover (Charadrius melodus)**
Least Tern (Sterna antillarum)
Roseate Tern (Sterna dougallii)*
Sedge Wren (Cistothorus platensis)
Grasshopper Sparrow (Ammodramus savannarum)
Black Tern (Chlidonias niger)
American Pipit (Anthus rubescens) - breeding population only
Blanding's Turtle (Emydoidea blandingii)
Box Turtle (Terrapene carolina)
Black Racer (Coluber constrictor)
Roaring Brook Mayfly (Epeorus frisoni)
Ringed Boghaunter (Williamsoni lintneri)
Clayton's Copper (Lycaena dorcas claytoni)
Edwards' Hairstreak (Satyrium edwardsii)
Hessel's Hairstreak (Mitoura hesseli)
Katahdin Arctic (Oeneis polixenes katahdin)

Threatened:

Bald Eagle (Haliaeetus leucocephalus)**
Razorbill (Alca torda)
Atlantic Puffin (Fratercula arctica)
Harlequin Duck (Histrionicus histrionicus)
Arctic Tern (Sterna paradisaea)
Upland Sandpiper (Bartramia longicauda)
Northern Bog Lemming (Synaptomys borealis)
Spotted Turtle (Clemmys guttata)
Swamp Darter (Etheostoma fusiforme)
Tidewater Mucket (Leptodea ochracea)
Yellow Lampmussel (Lampsilis cariosa)
Tomah Mayfly (Siphonisca aerodromia)
Pygmy Snaketail (Ophiogomphus howei)
Twilight Moth (Lycia rachelae)
Pine Barrens Zanclognatha (Zanclognatha martha)

*federally-listed endangered species

**federally-listed threatened species

Additional information about Maine's endangered and threatened species can be found on the Department's website at <http://www.maine.gov/ifw/wildlife/etweb/index.htm>.