

**BIRD conservation Committee PART I**

**Chair: Gordon Myers, NC Wildlife Resources Commission**

**Vice-Chair: Tony Wilkinson, NY Department of Environmental Conservation**

**Date: Monday, 10 September 2018**

**Time: 1:00-5:00 pm**

**AFWA Annual Meeting**

**Tampa, FL**

**US Fish & Wildlife Service Migratory Bird Program Updates**

*Ken Richkus, Acting Division Chief, Division of Migratory Bird Management*

See [Ken’s presentation](https://www.fishwildlife.org/download_file/1479/0) for full content.

**Priorities**: USFWS continues to focus on implementing the Department of the Interior’s priorities: 1) Access to public lands (and hunting/fishing opportunities); 2) Regulatory reform; 3) State and Tribal relationships. They also work to implement three related Secretarial orders, including streamlining the NEPA process, providing hunting opportunities on DOI lands, and increasing recreational opportunities on DOI lands.

**Personnel**: Division of Migratory Bird Management Chief position posted in September (Ken Richkus has been acting in this role for 9 months). Jim Kelley, the MS Flyway representative, retired in August.

**Status Reports**: 2018 Status Reports [are now available](http://www.fws.gov/birds/surveys-and-data/reports-and-publications.php) for waterfowl, woodcock, sandhill crane, mourning dove, and band-tailed pigeon. Conditions drier this year; 14% decrease in pond numbers, and ~14% decrease in duck numbers, but still 17% above long-term average.

**Hunting Regulations**: Final rules published in August. Pintail bag limit has increased to two.

**Grants and Cooperative Agreements**: DOI reviews all; NAWCA has been waived from review, NBCA has not, JVs have not.

**NAWCA Funding**: ~50% comes from Appropriations, some comes from coastal funds, Gulf Oil spill, etc. Expect to lose some revenue for NAWCA based on new MBTA interpretation.

**Federal Duck Stamp**: More than $1B raised since 1934. No drop in sales due to price increase.

See slides for Eagle updates, Permitting, and Council for the Conservation of Migratory Birds (which has been reviewed by DOI and cleared to continue meeting).

**Double-Crested Cormorants**: USFWS hosted a series of regional meetings to facilitate stakeholder engagement. Meeting outcomes/themes included: need a short-term solution now, conflict differs across the country, questions about definitions of “free-swimming fish”. Note that AFWA’s Bird Conservation Committee and Fisheries and Water Resource Policy Committees have formed a joint Bird-Fish Related Conflicts WG to continue to engage on this issue. USFWS is also [requesting data from states and tribes](https://djcase.com/cormorant).

**Solicitor’s M-Opinion 37050**: Interprets that incidental take of migratory birds is not enforceable under MBTA. USFWS has also expanded their Good Samaritan policy- you don’t need a permit to take a bird to a rehabber, and if you are aware of a nest/bird in imminent danger, you can remove that nest and take it to rehab facility without a permit.

**Migratory Bird Incidental Take- Migratory Bird Treaty Act, State Regulations, and Discussion of Paths Forward**

*Gordon Myers, Executive Director, North Carolina Wildlife Resources Commission*

*Judith Scarl, Bird Conservation Program Manager, AFWA/NABCI Coordinator*

**Background**: The reinterpretation of the Migratory Bird Treaty Act, that indicates that incidental take of migratory birds is not enforceable under the MBTA, has received a lot of attention within the bird conservation community. Before evaluating potential responses on behalf of the states, AFWA set out to establish a baseline for understanding the impacts of this reinterpretation, through [compilation of state rules and regulations pertaining to incidental take](https://www.fishwildlife.org/download_file/1484/0), in order to inform these paths forward. AFWA’s [evaluation of existing rules](https://www.fishwildlife.org/download_file/1483/0) suggests that of the 51 jurisdictions evaluated, only 15 had statutes that could be interpreted as some form of protection for incidental take, and these varied widely in structure and limitations. 12 states were indeterminate, and 24 had no provisions.

**Question**: Do we see a need/opportunity to develop additional mechanisms to decrease or prevent incidental take of migratory birds?

Discussion (For each section, each bullet reflects comments from one person):

* Future actions are up to each state, but it would be helpful to have examples of strong laws that would address the gap in incidental take.
* Some states have pending legislation that is comprehensive and would fill gaps left by MBTA reinterpretation.
* Much uncertainty about future of M-opinion; 8 states recently filed suit to challenge the opinion.
* Other signatories of the Migratory Bird Treaty have expressed concerns about the new interpretation
* Canada considers incidental take contrary to their Convention

Group moves forward to [explore five potential pathways, described in a document that was presented to Committee prior to the meeting](https://www.fishwildlife.org/download_file/1482/0). See document for prior evaluation of pros and cons. Note that proposed pathways are not mutually exclusive, and some can be pursued sequentially or simultaneously.

1. Outreach to encourage avoidance- Discussion:

* Would help if the community were promoting the same messaging; USFWS and states should share BMPs with each other, and USFWS already has a lot of messaging
* Partners are already developing BMPs (for example, the PIF/SB/WB WG collaborated on BMPs for lighting on communication towers); this option is essentially an increase in the status quo
* This pathway may require a prioritization step (which BMPs are most important); this could be labor intensive
* Solicitor’s opinion is department-wide (Interior) and affects BLM, NPS, etc, but other agencies can choose their own path

1. State-level legislation- AFWA could develop model legislation that could provide continuity across state lines- Discussion:

* Suggestion that this is a good starting place and an appropriate focus for this Committee
* Would need to be consistent across states while recognizing limited enforcement resources.

1. Question M-opinion within DOI- Several groups within the bird conservation community, including former high-ranking DOI employees, two Flyways, and the Midwest Association of Fish and Wildlife Agencies, have sent letters to Secretary Zinke asking him to reconsider the M-opinion. Does AFWA want to take a similar path?

* In the context of mitigation, the M-opinion essentially rescinds a compensatory mitigation policy; having a broader conversation about how we apply mitigation and BMPs may be a way to approach the DOI.
* Note that the MBTA doesn’t require mitigation, and there are some opinions that USFWS didn’t apply MBTA equally across all sectors (for example, didn’t prosecute wind as much as oil/gas)

1. Challenge M-opinion with a lawsuit- Existing litigation has been filed on behalf of 8 states. Note that litigation is a decision for individual states and is outside of the scope of the Bird Committee.
2. Encourage federal legislation that would clarify that incidental take is covered under the MBTA:

* Note existing introduced legislation that would codify the M-opinion
* It takes a long time to get amendments passed, especially in an election year- unlikely to be successful this Congress. If we pursue a long-term federal fix, important to work closely with partners.
* BCC could take two different paths: 1) Champion a bill that clarifies MBTA includes incidental take, which would be a big lift. 2) Focus on speaking against legislative efforts that codify existing M-opinion (act defensively for now). The latter may be a better focus for now.

**General Discussion**

* Current effort could focus on outreach to encourage avoidance, and state-level legislation
* USFWS already working on methods to encourage avoidance; states can work with USFWS to build on this
* Uncertain benefits to questioning M-opinion
* BCC can provide coordination between states and Service on BMPs/communication
* USFWS can help provide information they have, BCC can help to package this information

Motion: The AFWA Bird Conservation Committee will work with the Service on Best Management Practices for avoiding incidental take of migratory birds, as well as to synthesize data that has been compiled into potential model legislation or guiding principles for model legislation.

Rick Jacobson (CT) moves; Jerome Ford (USFWS) seconds. Motion Carries.

.

**Canadian Wildlife Service Update**

*Garry Donaldson, Acting Assistant Director, Atlantic Region*

See [Garry’s presentation](https://www.fishwildlife.org/download_file/1480/0) for full content.

**Budget**: 2018 Canadian Federal Budget will include $1.3 billion over 5 years for conservation. CWS expects to have a ~50% increase in staffing, which will bring the organization to 700+ people.

**CWS Transformation:** Includes organization into new Directorates.

**State of Canada’s Birds**: Expected to be released spring 2019.

**Ocean Protection Plan**: Evaluation on how we can make ocean transportation safer- includes funds to assess where marine birds are at different times of year.

**Tri-national Cooperation**: Trilateral Vision for next 100 years launched in December 2016; NABCI Canada playing a role in action planning, and all 3 countries will collaborate, exploring involvement in Americas’ Flyways Framework as well.

**NABCI Canada**: Has received a boost recently. Note that original agreement for NABCI left the door open to include more countries, and interest in this may have grown again. NABCI Canada Priorities include Coordinate, Communicate, Track Bird Conservation and Influence Policy.

**Migratory Bird Regulation Modernization**: Canada is modernizing migratory bird regulations, most of which were written in the 1940s- modernizations will update references to Aboriginal people and improve hunting management.

**Permit Fees**: ECCC proposes to increase fees for Conservation Stamp and Migratory Game Bird Hunting Permit (see slides); increasing cost each year for 3 years

**Species at Risk Act**: 11 birds added to SARA List in 2017

**North American Bird Conservation Initiative (NABCI) Updates**

*Judith Scarl, Bird Conservation Program Manager, AFWA/NABCI Coordinator*

See Judith’s [presentation](https://www.fishwildlife.org/download_file/1478/0) for slides.

[**National Bird Conservation Priorities**](http://nabci-us.org/bird-conservation-community/national-bird-conservation-priorities/): Part of NABCI’s role is to help the bird conservation community speak with a unified voice about top priorities we agree on. The complexity of the bird conservation community makes identifying consensus challenging. NABCI used State of the Birds reports, as well as plans from the Bird Initiatives (Partners in Flight, North American Waterfowl Management Plan, US Shorebird Conservation Plan) to identify themes and strategies that were consistent across bird conservation groups. We identified a “Top 10” list of Priority Actions that NABCI will support, promote, and communicate to leadership and potential partners over the next 3-5 years, to advance NABCI’s vision. Priorities represent actions that *most urgently need to happen* AND for which *it will be possible to make progress* over this timeframe. These Priorities are organized into five themes: Land and Water Conservation, Research and Evaluation, Engagement and Partnerships, Addressing Threats, Policy and Funding. This [document](http://nabci-us.org/wp-content/uploads/2018/08/NABCI_flier_180703-spreads.pdf) provides emphasis to consistent, cross-cutting bird conservation needs and provides a consistent framework to talk about bird conservation.

**Demonstrating the Relevance of Bird Conservation**: To help bird conservation partners identify potential partnerships with organizations not exclusively focused on bird conservation, and to help bird conservation professionals approach these partners, NABCI has developed a [Relevancy Toolkit](http://nabci-us.org/resources/relevancy-toolkit/) to highlight some common outcomes that benefit multiple interests. Examples are sourced, and include information such as:

* Protected habitat, and the birds that use it, enhances property values; the presence of birds and greenspace can increase property values as much as $32,000.
* In Washington State, avian control of spruce budworm is worth >$570/square mile/year.
* Listening to bird songs and calls can help improve mood and attention.

**Human Dimensions Success Story Map**: NABCI released a [Human Dimensions Success Story map](http://nabci-us.org/success-stories/) that highlights 13 examples that demonstrate the importance of integrating HD into bird conservation. Stories include:

* “Science and Outreach together Secure Ballot Measure Funding for Wetland Conservation”
* “Satisfaction, not Payment, Drives Farmers to Conserve Mountain Plover”
* “Human Geographic Data Help Prioritize Conservation on Landscape”

**State of the Birds**: NABCI’s 2018-2019 State of the Birds report will focus on the critical role of state agencies in bird conservation and the need for increased resources to support state-based bird conservation.

**Private Lands**: NABCI is developing a Private Lands Staff forum for private lands staff across multiple agencies to come together and develop a community of practice. For more information, [contact Todd Fearer](mailto:tfearer@abcbirds.org).

**Alliance for America’s Fish and Wildlife/Recovering America’s Wildlife Act**

*Sean Saville, Blue Ribbon Panel Campaign Manager, AFWA*

See Sean’s [presentation](https://www.fishwildlife.org/download_file/1477/0) for more details and examples of graphics.

Senate legislation introduced in July, and had 5 co-sponsors as of September 2018. House legislation has over 100 co-sponsors as of October 2018. State directors and other partners continue to build support for Recovering America’s Wildlife Act. All of the regional associations have passed resolutions in support of RAWA, and 27 states have developed resolutions in support as well. AFWA emphasizes the importance of stakeholder letters of support.

From a messaging standpoint, AFWA supports both the DOI prioritization of NPS deferred maintenance backlog funding, and the Land and Water Conservation Fund- we characterize these as complementary with RAWA, and there is money in a treasury account to fund all of these pieces. We can help advance all of these by characterizing them as uniquely valuable and complementary.

Note map graphic that shows one example of a SGCN for all 50 states; graphic is popular on social media. Note also “Birds Could Be Big Winners” graphic (see presentation).

Note that [resources are now linked to AFWA’s website](https://www.fishwildlife.org/afwa-acts/alliance-americas-fish-and-wildlife), including [state fact sheets](https://drive.google.com/drive/folders/1j3xTVH0kDiqsSxP89pnD0biVMBWve0M8).

**NABCI State of the Birds 2018: State Agency Contributions to Bird Conservation**

*Tom Moorman, Chief Scientist, Ducks Unlimited*

See [presentation](https://www.fishwildlife.org/download_file/1476/0) for more details, and graphs

NABCI’s 2018-2019 State of the Birds report will focus on the critical role of state agencies in bird conservation, and how insufficient funding hinders agencies’ efforts to reverse declines. As always, the report will have a backdrop of science, showing a net population loss of 2 billion native landbirds since 1970, across all habitats. 50% of this loss represents decreases in 10 of the most abundant and widespread species. The Recovering America’s Wildlife Act is highlighted as one solution, and the report will highlight success stories of how conservation works when we fund state efforts. Target release likely in early 2019.

**NAWMP Plan Release and Overview**

*Jerome Ford, Assistant Director, Migratory Birds, USFWS*

The Plan Update is complete, and as of September 2018, Canada has signed, and US is next. Once the Plan is signed, English, French, and Spanish versions will be available at nawmp.org. The revised Plan maintains focus on waterfowl and habitat objectives, but added a human dimensions piece in the last revision that will be in the current revision also. [See presentation](https://www.fishwildlife.org/download_file/1475/0) for details of recommendations. The Communications Subcommittee is looking to develop and guide implementation of a broad communications strategy to build support for waterfowl and wetland conservation.

**America’s Wildlife Values Presentation**

*Mike Manfredo, Head, Human Dimensions of Natural Resources Department, Colorado State University*

See the [presentation](https://www.fishwildlife.org/download_file/1481/0) for more details, maps, and charts, or watch a more detailed [webinar](https://meet39041854.adobeconnect.com/pfu7tyriao9g/?OWASP_CSRFTOKEN=eea2f09184633f336ac44d0a88153c90fe43493eaaa6c8b4c6d643f6aff0822b) on his results (recommended).

Mike describes a study that explores the wildlife values shift that affects US fish and wildlife management, and describes the culture of fish and wildlife agencies and explores dynamics between public values and agency adaptation. These studies used 3 sources of data: a 2004 Wildlife Values in the West (19 states), 2018 America’s Wildlife Values (50 states), and an Agency Culture Survey (28 states). The studies examine 2 value dimensions: 1) Utilitarian/(Domination) and 2) Mutualist. Northeast and West Coast are more mutualists.

Key Points:

1. Wildlife Values differ significantly across states
2. Social Values are important to management- note negative correlation between % mutualist in state and % who agree that coyotes that kill pets should be lethally removed; negative correlation between % mutualist and % who express trust in state fish and wildlife agency; and negative correlation between percent mutualist and % of active hunters.
3. Wildlife Values are changing due to modernization. Note that many Western states have declined in traditionalist values over 14 year period.
4. Agency values are unified, but not changing with public change.

**Southern Wings Progress Updates***Deb Hahn, International Relations Director, AFWA*

Connecting with community values and economic needs is critical when working internationally. Currently, 30 states participate in Southern Wings, and more than $2.8 million has been contributed since the program started. Southern Wings has a new [brochure that promotes the program to state agencies](https://www.fishwildlife.org/application/files/9315/3961/8734/2018_Southern_Wings_states.pdf) to raise participation, but also a [brochure targeted at partners/funders](https://www.fishwildlife.org/application/files/4815/3961/8739/2018_Southern_Wings_brochure_partners.pdf) that might contribute match.