



# Nebraska Game and Parks Commission

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6 March 2008

Chuck Norris  
Big Sandy Development, LLC  
230 Mallard Cir  
Ashland, NE 68003-2258

Re: Endangered species concerns at lakeshore housing developments

Mr. Norris:

The Nebraska Game and Parks Commission (Commission) and its partners seek to work cooperatively and proactively with stakeholders in the event that their activities may affect endangered or threatened species. Interior Least Terns (*Sternula antillarum anthalassos*) are currently state and federally listed as endangered and Piping Plovers (*Charadrius melodus*) are state and federally listed as threatened. Least Terns and Piping Plovers nest on unvegetated or sparsely vegetated expanses of sand and gravel. In the Platte River valley, these birds frequently nest on river sandbars and sand and gravel mine spoil piles. The nesting season for both species is approximately 15 April through 30 August.

As you well know, in recent years, these two legally protected species have nested at lakeshore housing developments. The broad expanse of unvegetated or sparsely-vegetated sand adjacent to a sandpit lake is attractive to Least Terns and Piping Plovers for nesting. As development progresses, human activity at the site by current and future homeowners, contractors, and recreationists increases.

During the breeding season, nests and chicks, which blend in perfectly with the sandy substrate, are vulnerable to destruction in areas that humans on foot and in their vehicles frequent. Direct destruction of nests or chicks are violations of the Federal Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) and the Nebraska Nongame and Endangered Species Conservation Act (§37-801 through §37-811). Disturbance of nesting adults can negatively impact the birds and decrease their productivity, further imperiling the species.

The Tern and Plover Conservation Partnership (<http://ternandplover.unl.edu/>) was founded in 1999 to work with the sand and gravel mining industry, government agencies, and other entities to find common-sense solutions to protect Least Tern and Piping Plovers nesting at sand and gravel mines, while ensuring that mining activities are not unnecessarily delayed. The Partnership now has 14 cooperating partners and has been tremendously successful at resolving potential conflicts. The Partnership also works to prevent and resolve conflicts at housing developments by communicating with developers, contractors, housing associations, and lot owners. The Partnership advises stakeholders on how to best deter birds from nesting on their property using one of several methods (e.g., planting early season rye grass, regularly raking their lot, or placing Mylar® flagging on their property). If

lot owners choose not to manage their property and Least Terns and Piping Plovers initiate nesting there, Partnership and Commission personnel, in cooperation with lot owners and the homeowner's association, will cordon off the area by posting "do not enter" signs around the perimeter to ensure that eggs and chicks are not destroyed.

As you also well know, the Big Sandy housing development near Ashland has been used by nesting Least Terns and Piping Plovers. I am pleased to note that the residents of Big Sandy have worked proactively with the Partnership and Commission to avoid conflicts with nesting birds. Despite our efforts, we have been unable to avoid all conflicts that negatively affected birds and inconvenienced people.

In light of recent events, I would like to work together to make 2008 better, in every way, for those of us that work with the birds and the residents of Big Sandy. It would benefit all parties to proactively and cooperatively develop a management plan before the 2008 nesting season commences. I must stress that conflict prevention and avoidance is our focus because when violations of endangered species statutes are committed and prosecuted there are only negative outcomes for all parties (including the birds). Neither the Partnership nor the Commission is interested in hindering development or residents in any way. The creation of a mutually-agreed-to management plan would foster positive results.

I appreciate your past cooperation on this matter and I look forward to working with you and the resident of Big Sandy to find an agreeable solution and avoid any conflicts. I am available to meet with you to discuss this matter. I am also be willing to attend housing association meetings if you believe this would be helpful. I would also urge you to contact the Partnership for further assistance. Please contact me if you have questions or if I can be of further assistance.

Sincerely,



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cc: Mark Webb, Special Agent, U.S. Fish and Wildlife Service Law Enforcement  
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