



ASSOCIATION of  
FISH & WILDLIFE  
AGENCIES

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**BIRD CONSERVATION COMMITTEE PART I**

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

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

**6 March 2019**

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

**North American Wildlife and Natural Resources Conference**

**Denver, CO**

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

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

[See slides](#) for more details, and [contact Ken Richkus](#) with questions.

**Personnel:** Note new DOI/USFWS leadership: Deputy Secretary David Bernhardt has been nominated as new Secretary of the Interior, and Margaret Everson is Principal Deputy Director of USFWS. The hiring freeze has largely been lifted, so priority vacancies should be advertised/filled soon. Waivers now only needed for GS14 and GS15 positions.

**Budget:** The 2019 funding bill has been signed, and FY19 enacted funding is similar to past levels for Migratory Birds. The Program received increases for permits, duck stamp, and NAWCA grants, decrease for conservation and monitoring program, and flat funding for NAWMP/JV and Neotropical grants.

**Grants:** See slides for more information on NAWCA and NMBCA 2018/2019 Note that a substantial portion of NAWCA funding comes from Deepwater Horizon fine money (Gulf Oil Spill), but 2019 is the last year for those payments.

**Federal Duck Stamp:** This program has raised more than \$1billion since 1934 and conserved 6 million acres. No decrease in stamp sales after price increase 4 years ago.

**Priorities:** USFWS continues to focus on the Administration's and the DOI's priorities, including access to public lands and regulatory reform. Reforms include incidental take under MBTA, streamlining the permitting process under the Bald and Golden Eagle Protection Act, streamlining NEPA, and ESA reform.

See slides for details of hunting regulations and timing, harvest assessments, and harvest monitoring updates

**Double-Crested Cormorants:** A summary report of the four regional meetings held in August 2018 [is available](#). The Cormorant/Fisheries technical core team meeting is rescheduled to March 26-27.

See slides for additional information on Bald and Golden Eagles (slide 16) and upcoming meetings (Slide 17).

**Migratory Bird Treaty Act:** USFWS is developing a proposed rule that will 1) establish regulations that define the scope of the MBTA to be consistent with the December 2017 M-opinion, and 2) revising permit exceptions to include a Good Samaritan provision for individuals who transport birds/eggs/chicks to a rehab facility in anticipation of their nest being destroyed.

**Discussion:**

-Since cormorants are not the only bird species related to bird-fish conflicts, the cormorant work opens the door to approaching other bird-fish conflicts.

-Currently Service only issues as many permits for cormorant depredation as they have in the past (52,000 birds), divided among Flyways based on past need. They are reviewing their permitting data to see in which regions they hit their cap.

-There is concern about aerial insectivores, which are a declining group of birds. Under the FAST act, which allows removal of swallow nests from bridges in certain situations, DOT is supposed to report on these removals.

**Canadian Wildlife Service Update**

*Silke Neve, Director of Monitoring, Assessment and Information Division*

[See slides](#) for details, or [contact Silke Neve](#) with questions.

See slides for leadership information.

**Budget:** In 2018, Canada announced \$1.3 billion for conservation over five years. This includes \$500 million to create Nature Fund partnership. To date, \$15M invested in “Quick Start” protected/conserved area projects in 2018-2019, with additional projects proposed for securing privately owned eco-sensitive lands, wetlands, and creation of additional protected areas.

**Transforming Species Conservation:** Strategic shifts towards multi-species conservation, shared priority places/species/threats, and actions that achieve meaningful outcomes. Currently, there are 11 agreed-upon federal/provincial/territorial priority places, with programs focused on multi-species and multi-stakeholder initiatives. Similar to JVs for all biodiversity, in that they will have similar governance structure and use similar tools.

**Priority Sectors, Threats, and Species:** Canada has identified three priority sectors (Forestry, Agriculture, and Urban Development) and is working with these sectors to enhance beneficial practices and minimize harmful ones. Priority Threats include invasive species, wildlife disease, and illegal wildlife trade. Priority species include several caribou, wood bison, and greater sage grouse.

See slides for information about NAWMP in Canada. [Habitat Matters 2018](#) released September 2018 and focused on Canadian waterfowl habitat and the benefits to all North Americans.

**State of Canada’s Birds** anticipated spring 2019 and will include population goals for Canadian species.

See notes for information on full annual cycle/international conservation.

**Regulation modernization:** “Modernized” regulations have anticipated publication date, for public review, in mind-2019

**Permit/Stamp Fees:** Conservation Stamp and Migratory Game Bird Hunter fees will be increased, starting in 2021 season

See slides for details on hunting regulations, and Species at Risk Act listed birds

## **Migratory Bird Incidental Take: Best Management Practices and Model Regulatory Language**

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

[See presentation](#) for details, or [contact Judith Scarl](#) with questions.

**Background:** In response to the December 2017 DOI Solicitor's opinion that indicated that the MBTA did not include jurisdiction over incidental take of migratory birds, AFWA's Bird and Legal Committees performed an analysis of state statutes to evaluate state-level protections over incidental take. 17 states have some incidental take provisions (although few/none with protections as extensive as previous MBTA interpretations offered), 9 states' statutes are indeterminate due to reference to MBTA, and 25 states have no incidental take provisions. In September 2018, the BCC formed a working group to 1) work with the US Fish and Wildlife Service on Best Management Practices for avoiding incidental take of migratory birds; and 2) synthesize data that has been compiled into potential model legislation or guiding principles for model legislation.

### **Best Management Practices:**

**Compilation:** The group is compiling existing BMPs, with the Partners in Flight/Shorebird/Waterbird WG, the American Bird Conservancy, and the US Fish and Wildlife Service developing compilations that the WG will summarize. Next step is to develop a repository for hosting these BMPs.

**Evaluation of Needs:** The group distributed a survey to states and provinces asking about significant causes of incidental take for state/provincial agencies, as well as need for new/revised BMPs. 35 states and 2 provinces responded, with the most significant causes of incidental take identified as:

- Transmission line electrocution or collision (n=28; 74%)
- Wind energy collisions (n=24; 63%)
- Building collisions (n=19; 50%)
- Communication and instrumentation tower collision (n=19; 50%)
- Lead shot or ammunition in the environment (n=15; 39%)

Next Steps for evaluating needs: Small teams formed to follow up on top 5 identified threats to better understand what states/provinces want in BMPs.

**Barriers to Implementation:** 79% of survey respondents indicated that lack of regulatory authority/enforceability was a barrier to implementation of existing BMPs, suggesting that regulatory and voluntary approaches need to go hand in hand

### **Model Language for States**

AFWA and Audubon are developing model language for states wishing to develop statutes/rules addressing incidental take. Four approaches include: issuing a legal advisory that clarifies that state law prohibits incidental take, initiating rulemaking to set up a regulatory process to develop an incidental take permitting system, developing laws that specify that birds are covered under incidental take protections and specifying how state law is distinct from federal law, and developing laws that affirm incidental take protections that are accompanied by a compliance framework. Current model language is based on

proposed legislation and language coming out of California, so AFWA's next step is to find additional models that reflect a broader range of state perspectives and political situations.

## Discussion

Question about whether this WG was looking at the certification side of incidental take; for example, the forestry industry has the Sustainable Forest Initiative. While that is beyond the scope of this work group, could be worth pursuing in the future. Also, suggestion to consider possibilities beyond regulations, such as tax incentives to corporations and building owners to minimize risk to migratory birds. Could look into LEED certification for buildings, and work to add bird-friendly elements to these designs. General suggestion to support sectors that affect birds, and give them suggestions and benefits to compliance/doing the right thing, rather than only being punitive. Also, some discussion about how best to market BMPs, and how to find benefits to industry for following; for example, for communication towers, there are cost-saving benefits to using different lighting that also benefits birds.

We asked the question, what states have effective incidental take laws that can be used as a model? **BCC Vice Chair asked state partners to look into this and follow up.** Additional comments include:

South Carolina: Birds and active nests are protected, but there is no legislation for incidental take.

Texas: Has language that protects nests, but cases are not prosecuted.

Georgia: No incidental take in their code, but take in general is a misdemeanor. However, previous reliance on MBTA for prosecution, so they don't have a history of prosecution and don't know if there will be support from the courts.

**Judith asks that states that have some incidental take protections look into whether any cases have ever been tried under state law.** Others express interest in seeing the outcome, if there has ever been a case that has gone to the courts.

Additional comments include:

-Suggestion that AFWA play a role with companies and promote consistent BMPs so that these don't differ among states. This is part of the goal with the compilation of BMPs; to have the same BMPs accessible to everyone.

-Comment that industry has come together on transmission line issue, but there is still a lot to learn.

-Communication towers guidance is good and exists, and is available on the FCC website.

## North American Bird Conservation Initiative (NABCI) Updates

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

[See slides](#) for more details, and [contact Judith Scarl](#) with questions.

**Meeting:** NABCI's February 2019 meeting was canceled due to the federal shutdown; the next meeting will be in August 2019.

**National Bird Conservation Priorities:** The [National Bird Conservation Priorities](#), released in August 2018, highlight a "Top 10 Priority Actions" and provide a common framework to talk about bird conservation. In 2019, NABCI's [All-Bird Bulletin Blog](#) will highlight projects that

support one or more Priority Actions. [Contact Justin Fritscher](#) for more information about blog submissions. A symposium at The Wildlife Society conference in September 2019 will feature presentations that support two Priority Actions: 1) Increase coordination and cooperation among federal agencies, and between federal and state agencies for broad-scale conservation policy implementation, and 2) Develop multi-agency approach to research and monitoring to provide information on broad patterns and trends. [Contact Geoff Walsh](#) to participate in the symposium. NABCI partners have committed to specific ways to advance the Priorities, and we are using these Priorities to build partnerships with the National Fish and Wildlife Foundation, the American Zoological Association, and the American Ornithological Society.

**State of the Birds:** Will focus on results showing loss of ~3 billion birds since 1970 across all 50 states, and will highlight success stories demonstrating that conservation works. In particular, report will highlight state and state-partnership success stories. Report will include one-page insert, developed by the Alliance for America's Fish and Wildlife, that highlights connections to Recovering America's Wildlife Act legislation. Anticipated release: Spring 2019.

**Human Dimensions:** New National Bird Conservation Social Science Coordinator: Jessica Barnes ([contact Jessica](#)). "Integrating Human Dimensions into Joint Venture Implementation Plans" document will be released this spring.

**Private and Working Lands:** Regionally focused partner biologist staff forums will begin this fall, with the first forum based in the MAFWA region and hosted by Missouri. [Contact Todd Fearer](#) to learn more.

### **Honoring David Pashley and Addressing Loss of 3 Billion Birds: Symposium Proposal**

*EJ Williams, Vice President of Migratory Birds & Habitats, American Bird Conservancy*

With the passing of David Pashley in 2018, we lost a bird conservation hero who brought people together to address pressing issues. New analyses that show a loss of 3 billion birds are staggering, but when birds are in trouble, our community has rallied through NAWMP, the PIF plan, shorebirds, development of Bird Conservation Regions, etc. Birds may be the key to relevancy, since no other group of wildlife has millions of people that care about them. We should include the Bird Committee and NABCI in these discussions.

David Pashley was a bird conservation hero. Brought people together, addressing things that needed to be addressed. "We should have a David party!"

Loss of 3 billion birds is staggering. When birds are in trouble, we've rallied. We rallied around waterfowl- NAWMP. Rallied around other birds- PIF plan, shorebird plan, etc. Came up with BCRs- common geographic language. This is where we are- it will be hard, but we can do it. Birds are one of the keys to relevancy- no other group of wildlife has millions that care about them. Let's keep birds in the relevancy discussion. BCC, NABCI should be part of this.

Questions this symposium might ask include:

- What have we learned in the last 30 years?
- Where have we fallen short and what did we just miss?
- Where is the puck going and How do we skate to where it will be?
- How do we look outside of ourselves and start listening to the broader community?
- What is the true scope of the challenge?

- What should “we” look like in the future?

### **Bird Conservation in the 116<sup>th</sup> Congress: Migratory Bird Conservation Funding Briefing**

*Jennifer Cipolletti, Director of Conservation Advocacy, American Bird Conservancy*

The [Bird Conservation Alliance](#) will hold a meeting, combined with a legislative briefing and reception, with the goal to present bird conservation priority programs and funding to Congress, staffers, and conservation partners. Many of these programs overlap with NABCI priorities. The meeting agenda will include presentations on migratory bird declines, the MBTA, Migratory Bird conservation programs, climate change, and the Agreement for the Conservation of Albatross and petrels. [Let Jennifer know](#) if you want an invitation, or if you'd like to be added to the Bird Conservation Alliance list.

### **2018 NAWMP Plan Release**

*Dean Smith, Canadian Wildlife Liaison/Director, NAWMP, Association of Fish and Wildlife Agencies*

[See presentation](#) for an overview of the new NAWMP plan.

The 2018 NAWMP update is signed and available in English, French, and Spanish on [nawmp.org](#). Plan focuses on five strategic priorities: Leadership/Planning, Integration, Performance Evaluation and Reporting, Funding Resources, and Communication. Note that next year is the 30<sup>th</sup> anniversary of NAWCA, so group is considering celebrations.

*Dean Smith gave the presentation.*

### **New Avian Knowledge Network Capacities and Next Steps**

*John Alexander, Executive Director, Klamath Bird Observatory*

[See presentation](#) for more details, or [contact John Alexander](#) with questions.

The Avian Knowledge network is a decision support system that works to deliver the best available science for conservation. The mission is to support a network of people, data, and technology to improve bird conservation, management, and research across organizational boundaries and spatial scales. It works to ensure that data are not at risk of getting lost, and to deliver good science for the benefit of natural resource management.

The AKN can accommodate data collected using many field methodologies and AKN continues to expand its protocol library. See slides for representation of how data is entered into and managed within the system. The data owner controls who gets to see the data and who can summarize or graph their data. The AKN has nodes, which are views into the AKN that provide decision support systems designed to reach specific audiences. For example, there are decision support tools for climate change, phenology, etc. Some existing use cases include developing distribution models for shrubsteppe and grassland ecosystems to ask questions about which species would be protected under certain frameworks, and identifying Short-eared Owl distribution knowledge gaps.

Over the past few years, with support from federal and state agencies, AKN has increased its geographic and taxonomic coverage, its ability to federate large datasets, and its capacity

to deliver data and decision support to meet specific natural resource management information needs.

### **Alliance for America's Fish and Wildlife/Recovering America's Wildlife Act**

*Sean Saville, Campaign Manager, Alliance for America's Fish & Wildlife, AFWA*

[See presentation](#), or [contact Sean](#) for more details.

Last Congress, the Recovering America's Wildlife Act had 116 Cosponsors in the House and 6 in the Senate. 19 House and 1 Senate co-sponsor are not returning this Congress. We hope that legislation will be reintroduced this March or April. The Alliance is looking to expand its partner base.

27 states have passed resolutions in support of RAWA, and all states have supported this legislation in some way, either through regional association support, letters, etc. The current effort of the Alliance will focus on developing a broader, coordinated campaign strategy in order to build public and congressional support for this legislation.

Sean notes the importance of sharing digital content, such as high-resolution images of birds or other SGCN that would benefit from this funding. Videos that can be shared on social media can also help. Other ways to help including educating new members of Congress, onboarding previous sponsors, developing coalition partners, etc.

Question: What are the biggest barriers moving forward? Answer: Advocating for mandatory, dedicated funding is a big ask, so we need to build a strategy and obtain the level of political will that will get us over the hump of coming up with the offset for this.

### **Legislative Updates**

*Jen Mock Schaeffer, Government Affairs Director, AFWA*

[View the legislative summary](#).

Some highlights include: proposed rule on MBTA M-opinion likely to be released this spring; ESA proposed rules likely to be released this spring; permanent reauthorization of Land and Water Conservation Fund achieved; a modified version of the Migratory Bird Framework and Opportunities for Veteran's Act has been developed, which the state directors won't oppose; NAWCA reauthorization has been reintroduced, with funding at \$60 million per year (down from \$75 million per year).

### **Southern Wings Progress Updates**

*Deb Hahn, International Relations Director, AFWA*

[Contact Deb Hahn](#) for more information.

Thirty-one states participate in Southern Wings, with almost \$2.9 million in contributions. Working with the Pacific Flyway, states have the opportunity to support 3 projects in Mexico, and each Pacific Flyway state is encouraged to voluntarily contribute to these projects.

Southern Wings may convene 4-5 agency directors to brainstorm new ways to grow the program and is also talking with other flyways about participation.