

November x, 2006

Mr. Mark Alexander
Hearing Officer
DEP--Marine Fisheries Division
PO Box 719
Old Lyme CT. 06371

RE: Proposed Changes to 26-159a-17 2007 Horseshoe Crab Regulations

Dear Mr. Alexander:

I am writing on behalf of Audubon Connecticut in *strong support* of the DEP's proposed changes to the regulations governing the horseshoe crab harvest in Connecticut. These revised regulations would implement a limited entry program, establish possession limits, and enact season changes for the commercial horseshoe crab fishery, as well as protecting certain sensitive areas from horseshoe crab harvest.

Horseshoe crab eggs represent a key forage substrate for many species of migratory shorebirds taking part in annual journeys sometimes from as far away as southern South American wintering grounds to nesting areas in the Arctic. Migratory shorebirds that utilize this food source include: Sanderling; Red Knot; Dunlin; Ruddy Turnstone; and Semipalmated Sandpiper, all of which pass through Connecticut in substantial numbers. Horseshoe crab eggs are particularly important as a food source in spring migration since it is imperative that these birds reach their Arctic nesting grounds in peak physical condition so they can reproduce within the short window of opportunity presented by the brief Arctic summer. Since horseshoe crab eggs are such an important food source for these shorebirds, many of which are undergoing significant range-wide population declines, it is important that Connecticut's horseshoe crab harvest is conducted in a sustainable manner and that populations of horseshoe crabs at key shorebird stopover areas are allowed to recover to historic levels.

The most important change for shorebird conservation would be the establishment of horseshoe crab sanctuaries that are closed to harvest at Connecticut's three Important Bird Areas that support significant shorebird concentrations in spring migration:

- Menunketesuck Island in Westbrook.
- Sandy Point in West Haven
- Milford Point in Milford
 - Regarding Milford Point, Audubon Connecticut strongly recommends a slight adjustment of the proposed sanctuary. The closed area should include all beaches west of Francis Street. The marsh does not need to be included within the closure area.

These areas have been identified by Audubon Connecticut as Important Bird Areas that provide critical avian habitat (see attached information sheets for each site). These areas have also recently been approved as Long Island Sound Stewardship sites by the Policy Committee of Long Island Study that includes DEP Commissioner Gina McCarthy and EPA Region 1 Administrator Robert Varney. Prohibiting horseshoe crab harvest at these areas will have the most direct impact on the health and survival of the birds that utilize these areas.

Audubon Connecticut also strongly recommends adding the following additional measures that will help to improve shorebird habitat to the regulations before they are promulgated:

- Postponing the start of the statewide horseshoe crab season from May into June, as the bulk of spring migrants pass through our state in May. While this season change is not included in the current draft regulations, we strongly recommend that it be included in the final regulations,
- Restricting harvest for two days before and two days after the new and full moons rather than closures corresponding to weekends.
- Establishing clear penalties for violation of the horseshoe crab regulations in the final regulations, and ensuring that such penalties are substantial enough to effectively deter violations.

Audubon Connecticut strongly recommends that the DEP initiate both avian and horseshoe crab-monitoring programs at these shorebird concentration areas. The data gathered will enable us to assess the effects of restricting the horseshoe crab harvest with greater efficacy.

Thank you very much for your consideration of this issue, which is so critical to birds in our state.

Sincerely,

Tomas R. Baptist
Vice President and Executive Director

CC Dale May, DEP Wildlife Division
Greg Chasko, DEP Wildlife Division
Dave Simpson, DEP Marine Fisheries
Penny Howell, DEP Marine Fisheries
Jenny Dickson, DEP Wildlife Division
Carolyn Hughes, Deputy Director, Audubon CT
Sandy Breslin, Director of Governmental Affairs, Audubon CT
Patrick Comins, Audubon CT
Representative Robert Megna, State Representative
Brian Casey, the Harbor Group
Anthony Dominski, the Harbor Group
Milan Bull, CT Audubon Society

Audubon Connecticut, a part of the National Audubon Society with more than over 10,000 members in the state, works to protect birds, other wildlife and their habitats through education, research, conservation and legislative advocacy.

Attachment I

IBA Information Sheets for the Three Proposed Horseshoe Crab Sanctuary Locations:

Menunketesuck/Duck Islands area 15.1/5.6 Terrestrial acres 72° 27' W
Westbrook, Middlesex County +aquatic and inter-tidal acreage 41° 15' N

Status: Recognized IBA.

Ownership: Private/State of Connecticut/Public Trust.

Habitats: **Primary** – Island, tidal flats/marine. **Secondary** –Sandy shore, rocky shore, shrub, maritime forest.

Land Use: **Primary** – Hunting/fishing, nature and wildlife conservation, other recreation or tourism, undeveloped.

Threats: **Serious** – Disturbance to birds or habitat (by boaters, general recreation and dogs), predators. **Potential** – Invasive or non-native plants, pollution, habitat conversion (succession), hydrologic changes (changes in sea level), erosion, development.

Site Description: The site is composed of two small, undeveloped islands off the coast of Westbrook with approximately 200 acres of inter-tidal flats, inter-tidal sandbars and shell-bars situated to the east of the islands. Menunketesuck Island is a privately owned 15.1-acre island, and consists of low scrubby vegetation, rocky and sandy shoreline. It is nearly connected to the mainland via a gravel and shell-bar at low tide. Duck Island Natural Area Preserve is a 5.6-acre state-owned island located to the west of Menunketesuck, across the outflow of the Menunketesuck River. Its vegetation is more mature, consisting of small trees, with dense shrub/scrub understory and a rocky shoreline.

IBA Criteria: Connecticut (and federally) Endangered and Threatened Species; High Conservation Priority Species; Rare, Unique, or Representative Habitat; 500+ Waterfowl (winter)/1,000+(staging/migration); 100 Terns/500+ Gulls (staging and migration); 500+ Shorebirds; 25+ Breeding Pairs of Wading Birds/100+ Individual Staging/Feeding; Single-species Concentrations (>1%).

Birds: **Menunketesuck Island** has 1 nesting pair of the federally threatened Piping Plovers, up to 4 pairs of American Oystercatchers, and a small colony of Least and Common Terns. The extensive inter-tidal area is a significant foraging area for migratory shorebirds, which roost on the island at higher tides. The area is a wintering area for Dunlin, Sanderling, Purple Sandpipers and Ruddy Turnstones. Red Knots are regular in small numbers in migration. The island has been the location of Manomet International Shorebird Surveys since 1998. Egrets forage in the intertidal zone (max # of Snowy Egrets 100). Up to several hundred Common Terns loaf on the exposed sandbars at lower tidal levels. Small numbers of the federally endangered Roseate Tern (max #20) are regular in the Common Tern flocks. The island is a historical nesting area for Roseate Tern, but predators and human disturbance make this unlikely to happen again. Both Common and Roseate Terns forage in the waters south of the island and between Menunketesuck and Duck. Over 10,000 gulls have been observed feeding around the two islands in the late winter, and large flocks of Atlantic Brant, Green-winged Teal, and Greater Scaup, have been observed using the waters.

Duck Island Natural Area Preserve is the largest egret rookery in eastern Connecticut, with as many as 50-100 pairs of Snowy Egret, over 25 pairs of Great Egret, plus nesting Glossy Ibis, Black-crowned Night-Heron, and Little Blue Heron.

Non-avian Resources: Undeveloped coastal islands are a rare resource in Connecticut. There appears to be healthy populations of small fish and mollusks and other invertebrates in the inter-tidal zone, as evidenced by large numbers of birds feeding in the area and direct observations. The area is a popular recreational zone.

Existing Conservation Measures: Educational signage has been placed on Duck Island by the CT DEP Wildlife Division.

Nominator: Patrick Comins, Connecticut Audubon Society and U.S. Fish and Wildlife Service.

State-listed Species:

Species	Breeding	Winter	Migration	Dates
Great Egret, T	10 to 20 pairs, Duck Island	-	√	1998-2001
Snowy Egret, T	10-50 pairs, Duck Island, up to 100 foraging on flats	-	√	1998-2001
Little Blue Heron, SC	1-2 pairs, up to 10 seen feeding on flats	-	√	1998-2001
Glossy Ibis, SC	10 pairs	-	√	1998-2001
Piping Plover, T, Federally T	1 pair	-	√	1998-2001
American Oystercatcher, SC	5-7 pairs in area	√	√	1998-2001
Roseate Tern, E, Federally E	Roost on sandbars in late summer	-	√	1998-2001
Common Tern, SC	~20 pairs nest, 100-500 regularly staging	-	√	1998-2001
Least Tern, T	~20 pairs nest	-	√	1998-2001

Sandy Point and Morse Point

~66 Acres + aquatic acreage

72° 55' W

West Haven, New Haven County

41° 15' N

Status: Announced IBA

Ownership: City of West Haven, public trust.

Habitats: **Primary-** Barrier Beach (sand spit)/dune, salt marsh w/ tidal creek. **Secondary-** Marine, tidal flats, sandbars.

Land Use: Primary – Hunting/fishing, other recreation or tourism, nature and wildlife conservation.

Threats: Serious –Predators, pollution, disturbance to birds or habitat by humans and dogs, hydrologic changes/rising sea level. **Minor** – Introduced animals (cats, Mute Swans). **Potential-** Habitat conversion, invasive or non-native plants.

Site Description: Sandy/Morse Point is a city-owned barrier beach (sand spit) system with a tidal creek, an area of tidal marsh and tidal flats. It protrudes into New Haven Harbor from the West Side. Upland acreage is unknown, but upland, marsh and tidal flat area is approximately 66 acres. The area is extremely popular for fishing and other beach related uses in the warmer months, as well as being a popular destination for birders.

IBA Criteria: Connecticut (and Federally) Threatened species; High Conservation Priority Species; Rare, Unique or Representative Habitat; 500+ Waterfowl (winter) 1000+ Waterfowl (staging); 100+ Terns; 500+ Shorebirds; Single Species Concentrations; Long-term Research and/or Monitoring.

Birds: One of the most significant nesting locations for the federally threatened Piping Plover, and also one of the most important Least Tern and mainland Common Tern colonies in the state. Sandy Point was the first successful nesting area in Connecticut for Black Skimmers. Area receives significant usage by migrating shorebirds, which roost on the sand spit and sandbars at high tide and forage on the tidal flats at lower tides. It is one of the primary stopover areas for Red Knot in Connecticut. The tidal flats of New Haven Harbor were historically one of the most important shorebird staging areas in Connecticut; reasons for greatly reduced use of the area are unknown. It is also one of the primary tern staging areas in the state, including some federally endangered Roseate Terns; Black Terns are also regular in small numbers in migration. There is apparently a small nesting colony of Saltmarsh Sharp-tailed Sparrows in the small tidal marsh, and the area receives significant usage by Saltmarsh and Nelson's Sharp-tailed Sparrows in migration. Migration and wintering area for the rare 'Ipswich' Savannah Sparrow. Waterfowl usage, including Atlantic Brant of the offshore waters of New Haven Harbor is significant, however at much reduced levels from historical numbers when area was a globally significant Greater Scaup wintering area. Foraging area for long-legged wading birds in nesting and post-nesting dispersal seasons. Significant numbers of raptors first reach land at Sandy Point after crossing New Haven Harbor from Lighthouse Point Park. Significant numbers of Common and Red-throated Loons use offshore areas in migration and winter. Significant usage of area by rails in migration; Clapper Rails nest.

Non-avian Resources: Important recreational and fishing area.

Existing Conservation Measures:

Plovers, terns, and migrating shorebirds are prone to predation and human disturbance and disturbance from unleashed dogs. Metal fencing would likely be more successful for protecting colonies than string fencing. Nest predators are commonplace, in part because of close proximity of fishing recreation and resulting fish scraps to nesting area. Education programs are necessary to inform public about the adverse impacts of disturbance on migrating and nesting birds.

Nominators: Lee and Marion Aimesbury, New Haven Bird Club, (203) 934-5767.

State-listed Species:

Species	Breeding	Winter	Migration	Dates
Great Egret, T	3, feeding	-	3	
Snowy Egret, T	3, feeding	-	3	Annual/ 6/99
Yellow-crowned	3, feeding	-	3	1998

Night-Heron, SC				
Least Bittern, T	-		3	
Northern Harrier E	-	-	3	Annual
American Kestrel, SC	-	-	3	
Peregrine Falcons E	Hunting area for Nesting pair in area.	-	3	97-2000
Piping Plover T, Fed. T	5.5 pairs average 11 pairs max.	-	3	Ave '84-00 Max '92
American Oystercatcher SC	-		3	2001
Willet, SC	-	-	3	Annual
Common Tern SC.	12-18 pairs	-	1000+	Annual
Least Tern T	314 pairs average 850 pairs max.	-	3	Ave '84-00 Max '86
Roseate Tern E, Fed. E.	-	-	3	Annual
'Ipswich' Sparrow, SC	-	2-3	3	Annual
Salt-Marsh Sharp-tailed Sparrow, SC	?	-	Significant Usage	Annual
Seaside Sparrow, SC	-	-	3	Annual

Milford Point/Wheeler Marsh WMA/ ~700 Acres + aquatic acreage 73° 6' W
Mouth of the Housatonic River 41° 10' N
Milford, Stratford, New Haven County

Status: Recognized IBA.

Ownership: U.S. Fish and Wildlife Service, State of Connecticut Department of Environmental Protection, Connecticut Audubon Society (lease agreement with State for barrier beach property on which nature center sits).

Habitats: **Primary** – Brackish tidal marsh. **Secondary** – Estuary, marine, barrier beach/dune, sandbars, river.

Land Use: **Primary** – Hunting/fishing, nature and wildlife conservation. **Secondary** – other recreation or tourism, suburban/residential, research, education.

Threats: **Serious** – Introduced animals (cats, Mute Swans), predators, pollution, habitat conversion (succession on barrier beach, invasive or non-native plants), disturbance to birds or habitat (by recreational beach-goers and domestic animals), hydrologic changes (rising sea level). **Minor** – None **Potential** – Development on adjacent land.

Site Description: The Wheeler Marsh Wildlife Management Area is a ~615-acre *Spartina alterniflora* –dominated low marsh at the mouth of the Housatonic River. The area receives substantial use by waterfowl hunters and some use by rail hunters. Milford Point is an 8.5-acre barrier beach with two large state-owned sandbars that are generally not covered by mean high water. The smaller of the two is often covered by storm or spring tides and the larger sandbar has recently become contiguous with the mainland. The Connecticut Audubon Society has a nature education center located on the barrier beach, which is operated under a lease agreement with the State of Connecticut, and the Stewart B. McKinney National Wildlife Refuge owns the 8.5-acre point proper. The area has much potential for education and research, and has been the site of Manomet International Shorebird Surveys since 1998, and location of an ongoing migrant banding station.

IBA Criteria: Connecticut (and Federally) Threatened species; High Conservation Priority Species; Rare, Unique or Representative Habitat; 500+ Waterfowl (winter) 1000+ Waterfowl (staging); 100+ Terns; 500+ Shorebirds; 100+ Individual Staging/Feeding Wading Birds; Exceptional Concentrations of Migratory Landbirds; Single Species Concentrations; Long-term Research and/or Monitoring.

Birds: The marsh, sandbars, and barrier beach are some of the most important shorebird migratory stopover areas on Long Island Sound, providing foraging areas and resting areas for tens of thousands of shorebirds each year. Numbers of some species of migrating shorebirds (especially Semipalmated and Black-bellied Plovers) may elevate this area to the level of national or continental significance. The marsh, barrier beach and sandbars provide nesting habitat for several species of regional and national concern. Two to ten pairs of Piping Plovers nest in area annually. Common and Least Terns have nested in the area with up to 100 pairs of each species in recent years; it is an important tern staging area, including some Roseate Terns, with 1000+ terns recorded annually. Seaside and Salt Marsh Sharp-tailed Sparrows nest in the marsh. The marsh may also be a significant migratory stopover area for Saltmarsh and 'Acadian' Nelson's Sharp-tailed Sparrows. The area is an American Oystercatcher nesting area for 2-3 pairs. Species among 10-20,000 shorebirds recorded annually include small numbers of Red Knot, and significant (1000+/year) numbers of Black-bellied and Semipalmated Plovers. The marsh is a regionally important Clapper Rail and Willet nesting area. The marsh serves as an important waterfowl stopover and staging area, and a nesting area for American Black Duck and Gadwall. It's also one of Connecticut's most significant feeding areas for egrets and herons, and is particularly important to Black-crowned Night-Herons, which, however, can cause problems for other nesting bird species. The area is a Peregrine Falcon foraging area in migration/nesting season, Horned Lark nesting area, important heron/egret foraging area in nesting/post-nesting dispersal seasons, regionally important stopover/wintering area for Short-eared Owl, Northern Harrier, and American Bittern, Osprey nesting area, and significant migratory stopover.

Barrier beach is one of Connecticut's primary 'Ipswich' Sparrow wintering and migratory stopover habitats. Milford Point is one of Connecticut's most-visited bird viewing areas.

Non-avian Resources: Wheeler Marsh and Milford Point are one of the healthiest remaining tidal marsh/barrier beach systems in Connecticut, and as such host several uncommon plant species. The area is popular for fishing and hunting, and the marsh is an important nursery for many species of fishes. There is a significant Diamondback Terrapin population. A significant number of Red Bats (Special Concern) are known to use the area during fall migration.

Existing Conservation Measures: Access to the USFWS property is limited to protect wildlife in the nesting season. The CT DEP Wildlife Division, USFWS and Connecticut Audubon Society use interns and volunteers to monitor nesting Piping Plovers and Least Terns.

Nominator: Patrick Comins, Connecticut Audubon Society, US Fish and Wildlife Service.

State-listed Species:

Species	Breeding	Winter	Migration	Dates
American Bittern E	?	1-2 pairs	√	Annual
Great Egret T	Ave 10-20/day feeding Max 46	-	√	Annual/ 6/98
Snowy Egret T	Ave 10-15/day Max. 19(greater Numbers probable)	-	√	Annual/ 6/99
Yellow-crowned Night-Heron, SC	Max 16	-	√	1998
Northern Harrier E	May forage in Marsh coming from nearby Stratford Marsh.	3-4/winter	50-100 avg./ year (est)	Annual
Blue-winged Teal, T	Poss.	-	10/yr	Annual
Peregrine Falcons E	Nearby pair hunts area	√	√	97-2000
Piping Plover T, Fed. T	5+ pairs (4.8 average 92-2002	-	√	Annual From CT DEP data.
American Oystercatcher SC	2-3 pairs	√	√	Annual
Willet SC	√	-	10-15/day	Annual
Common Tern SC	~100 pairs	-	1000+	Annual
Least Tern T	50-100 pairs	-	√	Annual
Roseate Tern E, Fed. E	-	-	<10/year	Annual

Short-eared Owl T	-	1-2	√	Annual
Horned Lark, T	1 Pair	√	√	1999
'Ipswich' Sparrow, SC	-	2-3	√	Annual
Salt-Marsh Sharp-tailed Sparrow, SC	√	?	√ 50-100 Max/day	Annual
Seaside Sparrow SC	√	-	√	Annual

* Higher numbers have been recorded in casual observations, data are from Manomet ISS and courtesy of Manomet, USFWS and Connecticut Audubon Society.