

COMING SOON:

# Alabama's Red-cockaded Woodpecker Safe Harbor Agreement

By Jan Garrett, Conservation Ecologist, The Nature Conservancy

**T**here is a rumor going around that if a landowner has red-cockaded woodpeckers (RCWs) on his property he'd better not tell anyone or the government will come in and take over and they won't let him cut any timber. Is this true? The experiences of landowners who have enrolled in Safe Harbor Agreements in other states show that this is **not** true. The Safe Harbor Program has been a big success in all states where it has been implemented. Landowners are pleased with the Program and RCWs are increasing on enrolled property.

As many of you will recall, the State of Alabama has been working on a Red-Cockaded Woodpecker Safe Harbor Agreement (RCWSHA) for a few years now. The purpose of this Agreement is to address the needs of both the endangered red-cockaded woodpecker, and the landowner who wants flexibility to manage his land as he sees fit. Through this Agreement, the parties will seek to conserve and maintain the existing number of occupied RCW territories in Alabama and encourage the development of new RCW territories on the enrolled properties. In return, non-federal landowners who undertake voluntary management activities that provide a net conservation benefit to RCWs, as described in the Agreement, will receive Safe Harbor assurances. Safe Harbor assures landowners that regulatory burdens, with respect to RCWs, will not increase as a result of conducting management activities designed to benefit RCWs. The purpose of this article is to provide background information for those of you who are unfamiliar with this topic, bring you up to date with the progress of the Safe Harbor Agreement, and to tell you how it

has been working in other states where similar Agreements are already in place.

## RCWS IN DECLINE

Why are red-cockaded woodpeckers rare? RCWs have **3** strikes against them which make them very vulnerable to extinction. Strike 1: They are habitat specialists; they have very restricted habitat requirements. They require mature pine forests, free of midstory, with grassy, herbaceous understory. They excavate their nesting and roosting cavities in living, mature pine trees, 65 years old or older that frequently have heart rot disease. The heart rot disease allows for easier excavation in the heartwood of the tree. Living pines are selected because the birds drill holes around the cavity to make the sticky sap flow down, which prevents snakes from climbing up the trunk and preying on their eggs and young. The open midstory allows free movement through the forest for the RCWs as they forage and does not provide refuge for predators. Additionally, RCWs not only need mature pine forests, but they also need active management to keep the midstory open. Prescribed fire is the most important, effective, and widely used habitat management tool for RCWs. Longleaf pine trees are the most commonly used cavity tree but loblolly, short leaf, and slash are sometimes used as well.

Strike 2: There has been extensive loss of the special type of habitat that



PHOTOS BY ERIC SPADGENSKÉ, USFWS

*This is a good example of the type of habitat that RCWs require: open, mature pine forests with an open midstory and grassy understory.*

RCWs require. More than 97% of the mature, open longleaf forests that once covered the southeastern coastal plain have been cut or developed, leaving the RCW restricted almost entirely to large public land holdings, such as national forests and military bases, where larger remnants of this type of habitat still exist. Open pine woodlands are even more rare on private landholdings due to fire suppression, clearing for agriculture, and short-rotation forestry. Fire suppression allows hardwood and fire-intolerant pines to reach into the midstory making the pine forest unsuitable for RCWs.

Strike 3: Catastrophic events can be a significant threat to the survival of a species already on the brink of extinction due to severe reductions in available habitat. Because the bird is so habitat specific and is now so restricted in its range, it is very vulnerable to catastrophes, such as hurricanes, that can cause a lot of damage to the few remaining cavity trees. Mature pine trees often take a beating during hurricane sea-



**An active cavity tree.** Notice how the RCW has pecked away the bark exposing the sapwood and causing the sap to flow down, which prevents snakes from climbing up the trunk and preying on their eggs and young.



**Longleaf pines such as this one are the most commonly used cavity tree but loblolly, short leaf, and slash are sometimes used as well.**

son, and because it takes many years to grow mature trees again and it often takes years for the birds to build a cavity, recovery from such catastrophes and from habitat loss is a very slow process.

### ENDANGERED SPECIES ACT

Due to a combination of these three factors, the RCW has declined dramatically over the past century. The RCW is now federally listed as endangered and is protected by the Endangered Species Act (ESA). The few remaining populations of RCWs are now scattered in isolated pockets across the southeastern U.S., and genetic interchange is restricted and breeding vacancies often go unfilled making critically small populations vulnerable to extinction.

Under the ESA, a landowner with a threatened or endangered species on or adjacent to his property is in danger of legal penalties if he takes management actions that destroy or degrade the habitat of the species. In the case of the RCW, this would include cutting the mature pine trees that serve as cavity trees, or degrading foraging habitat. Thus, the landowner is in the position of having to decide whether he should risk managing his property for mature, open pine forests and attracting RCWs to his property, or avoiding the whole problem and possible gov-

ernment interference by managing his property in such a manner that makes it unsuitable for RCWs so they do not come to live on his property. For example, he could keep his timber on a short rotation or let the understory grow up thick under the older trees. Under this scenario, the ESA actually provides disincentives for the landowner to manage his property in a manner that would benefit listed species, which could be detrimental for endangered species like the RCW.

### SAFE HARBOR AGREEMENT

The Safe Harbor Agreement (SHA) was introduced in 1995 by the Secretary of Interior, Bruce Babbitt, as a means of eliminating these disincentives associated with the ESA. The SHA provides assurances to the landowner that if he manages his property in a manner that is beneficial for the RCW, and the population of RCWs increase on his property as a result of his management, then he will not incur additional legal restrictions due to the presence of these addi-

tional birds. At the time of enrollment in the SHA, a survey is done to determine how many RCWs are currently residing on the property. This number becomes the landowner's baseline and is the number that he is legally responsible for protecting under the Endangered Species Act, whether zero or greater. Any additional birds that come to live on the property afterwards are called above-baseline birds, or safe harbor groups. The landowner is allowed to conduct management activities, such as tree cutting, that might incidentally result in "take" or "harm" of these birds if he agrees to give the Alabama Department of Conservation and Natural Resources Wildlife and Fisheries Division (ADCNR-WFF) a 60 day notice prior to conducting the activity. If it is determined that the proposed management activity might harm the birds, the ADCNR-WFF will then attempt to remove the birds to safety, either on that same property or on another property so that the landowner may proceed with his management objectives. The SHA also provides flexibility for a landowner to terminate the Agreement or to sell his property.

What is the current status of Alabama's Safe Harbor Agreement? The SHA is now in a close to final form and should soon be placed in the Federal Register for public comment. After the comment period is up, the comments have been reviewed, and the concerns addressed, it will be ready for implementation. It is anticipated that this will be sometime during the coming winter.



**Fire is the best management tool for maintaining the open, grassy pine forests that RCWs require.**

How is the Safe Harbor Program working in other states? The SHA is a huge success in other states. Essentially all landowners who have had it explained to them become advocates. There are currently 234 landowners in the program in 5 states (and Louisiana, #6, is just beginning to enroll landowners) with many more interested in enrolling. Only one landowner has left the program (the single cavity tree died and the bird left) and of those who have sold their lands, all of the new landowners wanted to enroll in the SHA.

**BENEFITS FOR LANDOWNERS**

To find out how the SHA is working for landowners in other states, I contacted three participating landowners and asked them to share their experiences. All three landowners are from North Carolina, the state with the oldest Safe Harbor Program, where the U.S. Fish and Wildlife Service (USFWS) administers the Program. Each landowner has been signed up for at least five years, and their land management objectives include agriculture, timber production, sustainable forestry practices, pine straw raking, recreation, and wildlife. When asked about their experiences with the Program, all three landowners said that they were happy with the Agreement and that they would recommend it to others and often did. None of them had any complaints, further explaining that the Program was very flexible and enabled them to manage their land as they wanted.

Julian Johnson, who has 640 acres enrolled, stated, "I don't know why anyone would not want to enroll. There are cost share programs to help pay for management. The USFWS is very helpful and allows us flexibility in management. I am able to manage like I want to. At first I was afraid, like a lot of landowners, of losing control of my property once the government found out about my RCWs. But the SHA restricts the government as well as the landowner and reduces the fear of intimidation by government interference." Mr. Johnson's property had a baseline of several clusters, and after enrolling in the Program a few new clusters have been added.

David Buhler's 2,600 acres includes 2 nesting sites, one with 3-4 cavity trees and one with 5-6 cavity trees; however, there are currently no RCWs living in any of these cavity trees. David explained the main advantages of being enrolled in the Program for him, "I am able to conduct my timber practices like I want to. I just thinned my forest at the nesting site. The U.S. Fish and Wildlife Service (USFWS) told me it would be good to cut a few more, but as I did not want to, I didn't. There are very few strict rules—we couldn't cut during the nesting season and we couldn't get too close to the cavity trees". According to David, "It makes good sense to join. Working with the USFWS has been great. They always let you know in advance when they are going to be on your property."

Dr. Barbara Simpson has 157 acres enrolled in the Program and a baseline of zero, but she is responsible for foraging habitat for her neighbors' birds. She has installed artificial cavities on her farm and hopes that some birds will come to live there. When asked what the advantages of being enrolled in the program were for her, she explained, "Educational—I have learned a lot about my property and about the wildlife on it. I have gotten management advice and assistance, and funding to

pay for burning and other management activities. I have learned a lot about good stewardship of my land."

**BENEFITS FOR RCWS**

How is Safe Harbor working for the RCW? According to Ralph Costa, the USFWS RCW Recovery Coordinator, RCWs are doing remarkably well on many private landholdings across the Southeast. In fact, they are increasing on many enrolled properties. (See the table below for statistics on the RCW status on private lands enrolled in the Safe Harbor Program.) The statistics speak for themselves. Without Safe Harbor assurances, and management and funding assistance, RCWs would quietly disappear from many private forestlands within the next decade. Clearly, participating landowners are satisfied with the Program and RCWs are thriving under its implementation. With such a proven track record in other states, the Safe Harbor Agreement promises to provide a Win-Win situation for Alabama's forestland owners and the RCW.

For more information on Alabama's Statewide Red-cockaded Woodpecker Safe Harbor Agreement, contact Michael Barbour at the Alabama Natural Heritage Program at 334-833-4062.

RCW STATUS UNDER SAFE HARBOR PROGRAM				
STATE	NUMBER OF ACRES ENROLLED	NUMBER OF LANDOWNERS ENROLLED	NUMBER OF RCW BASELINE CLUSTERS	NUMBER OF NEW RCW CLUSTERS
North Carolina (Sandhills)	48,191	89	59	5
Texas	15,232	23	31	4
South Carolina	396,980	102	278	17
Georgia	129,906	18	103	22
Virginia	2,986	2	5	0
<b>TOTALS</b>	593,295	234	476	48