

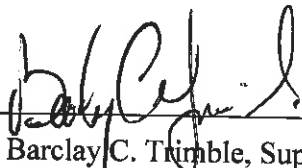
National Park Service
U.S. Department of the Interior
Cape Hatteras National Seashore, Manteo, NC

FINDING OF NO SIGNIFICANT IMPACT
PROPOSAL TO CONSTRUCT NEW DEVELOPMENT THAT FACILITATES PUBLIC ACCESS
CAPE HATTERAS NATIONAL SEASHORE

Month Day, 2013


Based on the following summary of effects, as discussed in the attached environmental assessment (EA), it has been determined that the selected alternative will not have a significant impact on the human environment. Environmental impacts that could occur are limited in context and intensity, with impacts that range from localized to widespread, short-to long-term, and negligible to moderate. There are no unmitigated adverse effects on public health, public safety, threatened or endangered species, sites or districts listed in or eligible for listing in the National Register of Historic Places, or other unique characteristics of the region. No highly uncertain or controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence were identified. Implementation of the selected alternative will not violate any federal, state, or local environmental protection law. Therefore, an environmental impact statement (EIS) is not required.

Recommended by:


Barclay C. Trimble, Superintendent
Cape Hatteras National Seashore

Date: 10/18/13

Approved by:


for Regional Director
Southeast Region, National Park Service

Date: 11/18/13

**FINDING OF NO SIGNIFICANT IMPACT
PROPOSAL TO FACILITATE ADDITIONAL PUBLIC BEACH ACCESS
CAPE HATTERAS NATIONAL SEASHORE**

INTRODUCTION

This finding of no significant impact (FONSI) and the Proposal to Facilitate Additional Public Beach Access Environmental Assessment/Assessment of Effect (EA) constitute the record of the environmental impact analysis and decision-making process for the Cape Hatteras National Seashore (the Seashore) project. The National Park Service (NPS) will implement the selected alternative (Alternative B: the Action Alternative,) which includes constructing 29 development projects. Implementation of the selected alternative will provide a consistent, comprehensive, and adaptive approach to visitor access and maintain safety, while protecting, to the maximum extent possible, the Seashore's significant historical and natural resources.

In February 2012, NPS published the Special Regulations, Areas of the National Park System, Cape Hatteras National Seashore Off-Road Vehicle (ORV) Management Final Rule. This rule designates ORV routes and authorizes limited ORV use within the Seashore in a manner that will protect and preserve natural and cultural resources, provide a variety of safe visitor experiences, and minimize conflicts among various users. Under the NPS general regulations, the operation of motor vehicles off of roads within areas of the NPS is prohibited unless authorized by special regulation.

The final rule implements portions of the Cape Hatteras National Seashore Off-Road Vehicle Management Plan (ORVMP) Final EIS (FEIS) and Record of Decision (ROD). In accordance with the National Environmental Policy Act, NPS prepared a Draft and Final ORVMP/EIS, which was released November 2010. The FEIS evaluated six alternatives for managing off-road motorized vehicle access and use at the Seashore, including two no-action alternatives. The ROD, which selected Alternative F, was signed on December 20, 2010, and a notice of the decision was published in the Federal Register on December 28, 2010. The purpose of the action is to implement the Selected Action as described in the ROD. A full description of the alternatives that were considered, the environmental impacts associated with the project, and public involvement is contained in the FEIS available online at: <http://www.parkplanning.nps.gov/caha>. This rule became effective on February 15, 2010 (NPS 2012b).

The ORVMP identified construction projects that will facilitate visitor access to key recreational areas within the Seashore. These projects relate to development of parking areas, unpaved roads and ramps, and Americans with Disabilities Act (ADA) accessible boardwalks. These construction projects and general locations were selected because of their location on the Seashore in relation to open or closed ORV routes. Therefore, Alternative B is identified as the NPS selected alternative.

SELECTED ALTERNATIVE

Based on the analysis presented in the EA the NPS has selected Alternative B: the Action Alternative. Under the selected alternative, the 29 public access facilities including parking areas, unpaved ORV ramps and roads, foot paths, ADA accessible boardwalks, and elevation of a road segment will be constructed to facilitate visitor access to key recreational areas within the Seashore (Figure 1). The facilities will disturb up to 26 acres throughout the Seashore on Bodie, Hatteras, and Ocracoke Island, not including disturbance from foot trails. To determine more specific locations for each development, the following surveys were conducted:

- 1) Rare plant survey
- 2) Wetland delineation
- 3) Level 1 archaeology survey

ORV use at the Seashore will continue to be managed under the 2010 ORVMP/EIS. The 29 developments were identified during the Cape Hatteras National Seashore ORVMP/EIS and through internal and public scoping. These facilities will enhance pedestrian access on the Seashore by providing increased parking capacity and ADA boardwalks at various points of access to Vehicle Free Areas (VFAs) and by increasing ORV access points to areas open to ORV use. A list of these projects with approximate acreage or length of the project is provided in Table 1.

The purpose of the action is to develop a set of public access facilities including those evaluated in the Cape Hatteras National Seashore ORVMP/EIS and other facilities identified in the agency and public scoping process for this EA. The developments will facilitate visitor access to key recreational areas within the Seashore to provide a variety of visitor use experiences while minimizing conflicts among various users. The selected alternative includes constructing 29 facilities consisting of parking areas, paved and unpaved roads and ORV ramps, foot paths, ADA accessible boardwalks, and elevating a section of an existing road. The goals of the selected alternative are as follows:

- Facilitate ORV and pedestrian access to areas of the Seashore open to ORVs;
- Facilitate pedestrian access to areas of the Seashore closed to ORVs;
- Facilitate visitor access for visitors with disabilities;
- Minimize conflicts between different types of recreation users;
- Update facilities (e.g. parking area) to accommodate visitor use; and
- Improve safety conditions along NC-12, other roads, beaches, and parking areas for all users.



Table 1. Facilities Locations and Metrics

D.F.V. No.	Facility	Size and/or length
1	A 10-car parking at the former site of the U.S. Coast Guard Station on Bodie Island	0.11 acre parking area
2	A handicap accessible boardwalk at Coquina Beach on Bodie Island	0.03 acre boardwalk
3	Additional access road from NC 12 to fee station at Coquina Beach	0.11 acre access road
4	An ORV ramp and 10-car parking area 0.5 miles south of Coquina Beach (New Ramp 2.5)	0.41 acre ORV ramp 0.19 acre parking area
5	A 10-car parking area at Ramp 4 with foot-trail to beach	0.08 acre parking area 1800 ft. foot trail
6	A 20-car parking area and handicap accessible boardwalk at Ramp 23 (ca. 0.3 mi S of Salvo)	0.36 acre parking area 0.25 acre boardwalk
7	A 10-car parking area about 1.0 mile south of Ramp 23 with foot trail to the beach	0.31 acre parking area 1155 ft. foot trail
8	An ORV Ramp 25.5 with parking area, and foot trail or boardwalk to the beach	0.82 acre ORV ramp
		0.20 parking area
		960 ft. foot trail
9	A 5-car parking area and foot trail to beach (beachside) at soundside Ramp 48	0.20 acre parking area 391 ft. foot trail
10	An ORV Ramp 32.5 (Little Kinnakeet) with a 10-car parking area and foot trail to the beach	0.62 acre ORV ramp 0.23 acre parking area 677 ft. foot trail
11	A handicap accessible boardwalk at Ramp 34	0.16 acre boardwalk
12	A handicap accessible boardwalk to sound at Haulover Beach Parking Area	0.02 acre boardwalk
13	A 15-car parking area west side of highway at/near Kite Point	0.29 acre parking area
14	A 15-car parking area at soundside access #59 with foot trail from highway to beach	0.19 acre parking area
15	A 5-car parking area west side of highway at/near soundside access 60	0.07 acre parking area
16	A 50-car parking area at the former Buxton Coast Guard Station with handicap accessible boardwalk	0.06 acre boardwalk
17	A handicap accessible boardwalk at Lighthouse Beach	0.07 acre boardwalk
18	A 3-car parking area at Loran Road with new handicap accessible boardwalk to the beach	0.06 acre parking area
		0.10 acre boardwalk

Dev No.	Facility	Size and/or length
19	An elevated section of Lighthouse Road to address flooding at ramps 43 and 44	1.34 acres road elevation
20	An unpaved interdunal road (IDR) between Ramp 45 and 49 with new ORV Ramp 48 to the beach	15.24 acres IDR 0.43 ORV ramp
21	Widen Ramp 49 and add connector road and 5 car parking area to Billy Mitchell Rd. near Frisco Campground	3.04 acres entire area
22	A handicap accessible boardwalk at the Ramp 55 parking area on Hatteras Island	0.03 acre boardwalk
23	An unimproved 20-car parking area near the Pole Road/Spur Road intersection	0.39 acre parking area
24	A handicap accessible boardwalk at/near north ferry terminal parking area on Ocracoke	0.08 acre boardwalk
25	An ORV Ramp 59.5 at north Ocracoke	0.31 acre ORV ramp
26	A 5-car parking area at the west/north side of highway entrance of Borrow Pit Road	0.14 acre parking area
27	An ORV Ramp 63 across from Scrag Cedar Road	0.17 acre ORV ramp
28	A handicap accessible boardwalk at the Ocracoke Pony Pens	0.02 acre boardwalk
29	A handicap accessible boardwalk at the Ocracoke Day Use Area	0.03 acre boardwalk

Funding will come from ORV permit fees established under the ORVMP/EIS and other funding sources, as available. While this alternative analyzes implementing all 29 developments, a decision on any one of these developments will not affect potential implementation of the other developments. Analyzing all 29 developments provides NPS with the maximum extent of possible adverse impacts or the worst case scenario. Facilities will be implemented based on funding, cost, and regulatory issues and public input will be solicited to assist with priorities.

Ramps and parking areas will be constructed using best management practices and environmentally sensitive standards to minimize stormwater runoff. New ramps will be built between 24 feet to 36 feet wide and will consist of a pervious mixture of sand, shell, and clay. This sand/shell/clay mixture has been utilized successfully during ramp construction and/or rehabilitation at the Seashore. The new ramps will also be constructed with a maximum slope of 5 percent and a vertical curve that will minimize ORVs (including trucks pulling trailers with low tire pressures) getting stuck at the crown of the ramp. To the extent possible, ramps will be constructed up and over dunes and will not cut through a dune or raised area. Dunes may have to be re-shaped at a ramp to allow for proper drainage, safe driving conditions, and to reduce vehicle obstacles and impacts to vegetation. ORV speed will be limited to 15mph (unless otherwise posted). The interdunal road will be primitive in nature (for example, not paved or otherwise hardened) and will not require surfacing. The new access road from NC-12 to the fee station at Coquina Beach will be a two-lane asphalt paved road. Culverts will be placed along Lighthouse Road to restore the hydrology to the wetland areas that have been bisected by the road.

NPS will utilize any existing asphalt pavement at the parking area locations. Asphalt will also be added to extend existing asphalt pavement. Asphalt will be used to extend the parking areas at both the former site of the U.S. Coast Guard Station on Bodie Island and at Ramp 49/Billy Mitchell Rd. The development at Ramp 49 will also require some grading and fill for the pull out area but native materials will be used. The one way spur off of Ramp 49 will be constructed with the same material as the ORV ramps. No additional asphalt will be used at the 50-car parking area at the former Buxton Coast Guard Station. For the remaining parking areas, a hardened pervious surface will be used that includes concrete or brick pavers typical to the area, or another suitable structural system that allows for drainage and minimum runoff. The unimproved 20-car parking area near the Pole Road/Spur Road intersection will only be accessible by 4-wheel drive vehicles and will not require a hardened surface because vehicles will travel over sand to reach them.

Boardwalks will be built 5 to 10 feet wide with treated wood framing and support members with a composite wood deck material. The minimum width is to comply with ADA regulations. The maximum width is to allow for any site specific conditions where a wider boardwalk will be selected. The impacts in this document are determined assuming the maximum width. Each boardwalk could include a viewing platform, at the Park Superintendent's discretion. Each boardwalk is of varying length given the site conditions, see Table 2-1. The boardwalk at the Loran Road parking area will be elevated high enough to allow for vegetation to receive sunlight. Foot trails will be marked, but the Seashore will not mow or maintain these areas.

Signs placed at facility locations will include 4 x 4 treated wood posts with metal signs. Construction crews will consist of four to eight man paving and general labor crew, both skilled and unskilled. Heavy equipment could include backhoes, dump trucks (10 tons), asphalt paving machines, motorgraders, or bulldozers (D4H). The facility management division at the Seashore will be responsible for all maintenance activities for the action. Maintenance activities include routine maintenance and emergency repairs of beach ramps and parking areas and they will also be responsible for maintaining the vehicles used by law enforcement, resources management and other staff associated with the maintenance of these facilities. Additional staff time by facilities management will be required to establish and maintain the action.

MITIGATION

The 29 public access facilities will avoid wetlands and sensitive plants to the extent possible. Construction activities will also avoid wetlands and use materials and management practices that will reduce surface runoff. To protect soundside wetlands and vegetation, protective signage will be installed at all soundside access points. Where needed, storm inlet protections will be utilized that will include surrounding inlets with metal posts, wire mesh, or 2 feet of #57 stone. The Seashore will use culverts for ramps, parking areas, and roads within wetlands along NC-12 ditches to maintain flow and avoid flooding. In the unlikely event that protected species or cultural resources are found in a construction area, the area will be under resource closure and no construction will occur. Construction activities will occur outside of the bird breeding season, during daylight hours, and outside of any protected species breeding or foraging habitat. If construction does occur between March and October, all construction areas will be assessed for shorebird breeding activity prior to commencement and will be allowed to proceed only appropriate resource buffers are in place.

NPS will follow all standard safety and environmental requirements and guidelines set by North Carolina Department of Transportation (NCDOT) and/or North Carolina Department of Environment and Natural Resources (NCDENR). Construction fences (chain link or orange plastic fences with metal posts) and silt fences (typically 24 inch black fabric and metal posts) will be used during construction activities. Disturbance to wetlands and other sensitive resources will be avoided to the extent possible.

In areas with a high presence of the sensitive plant dune bluecurl, the Seashore will survey the extent of the population and establish resource closures along the development to prevent pedestrian impacts to dune bluecurl populations. The Seashore will also collect and store enough seed for the propagation of 2,000 plants. The seeds will be collected in the fall after seeds ripen. Seeds will be collected from plants that will be at some of the impacted sites. These plants will be used to restore vegetation in areas impacted by inappropriate visitor use.

Spread of non-native, invasive plants will be prevented by following Best Management Practices outlined in USDA Forest Service's *Guide to Noxious Weed Prevention Practices*. Before construction begins, each project site will be surveyed for non-native plants. If plants are present, project operations will begin in uninfested areas before operating in infested areas. Equipment travel through infested areas will be avoided where possible. If operating in a site with non-native, invasive plants, equipment will be cleaned before leaving project site or taken to a designated site for cleaning. Workers should inspect, remove, and properly dispose of plant seeds and parts found on clothing and equipment. Proper disposal means bagging seeds and plant parts and incinerating them. Workers will ensure that any materials (sand, borrow, fill) taken off-site are free of non-native, invasive plant materials. Construction sites will be monitored after project completion for non-native plants; follow-up treatments will be conducted if necessary.

OTHER ALTERNATIVES CONSIDERED

The EA analyzed two alternatives in detail: the no-action alternative and the action alternative, which is the NPS selected alternative. In addition, several alternatives were considered, but eliminated from further evaluation in the EA.

NO-ACTION, ALTERNATIVE A

This alternative represents a continuation of the existing situation and provides a baseline for evaluating the changes and impacts of the action alternative. None of the 29 parking areas, unpaved roads and ORV ramps, foot paths, ADA accessible boardwalks, or road elevations will be constructed. ORV management on the Seashore will continue to be managed under the 2010 ORVMP/EIS without the public access facilities under Alternative B' of this plan. VFAs and ORV routes will continue to occur as outlined in Alternative F of the ORVMP/EIS. Seashore visitors will use existing ORV ramps and roads, boardwalks, and foot paths to access the beach. Visitor access to key recreational areas within the Seashore will not occur. ORV routes not accessible to ORVs will remain closed. Current safety issues, visitor use, and visitor conflicts will remain the same.

ALTERNATIVES CONSIDERED BUT DISMISSED FROM FURTHER ANALYSIS

Air Stations

NPS considered providing air stations on or near ORV ramps for ORV tire inflation when exiting the beaches as an element of the selected alternative. NPS dismissed this as an element because local businesses provide free air stations for visitors of the Seashore. While the Seashore considered air stations in locations where there are no local businesses with free air stations within 15 to 20 miles of the sites, these areas have no source of power. Due to the costs of providing a power source, air stations are not being considered at this time.

New Interdunal ORV route from Eastern Portion of Spur Road West Toward Inlet

NPS considered constructing an interdunal ORV route from the eastern portion of Spur Road west towards Hatteras Inlet. NPS dismissed this as a potential project because the dune system at this location was altered in the fall of 2011 by Hurricane Irene. An interdunal ORV route is no longer possible from the eastern portion of Spur Road west toward the inlet.

A seasonal foot trail approximately 1 mile south of Ramp 72

NPS considered constructing a pedestrian trail to the Pamlico Sound approximately 1 mile south of Ramp 72. Prior to the fall of 2011 this portion of the sound was a popular area for Seashore visitors. This trail will have provided visitor access from the beach to the sound at this location. NPS dismissed this as a potential project because the soundside beach was washed out during Hurricane Irene.

A relocation of soundside access 52 (Little Kinnakeet)

NPS considered relocating the soundside access 52 north of the Little Kinnakeet Life Saving Station entrance. Seashore visitors accessing the sound at this location currently use the Little Kinnakeet Historic District access road. NPS originally proposed this project in order to minimize visitor conflicts between Little Kinnakeet Life Saving Station and soundside visitors. NPS dismissed this project because it is not feasible at this time. This project could be proposed in the future and will have its own NEPA review and documentation.

ENVIRONMENTALLY PREFERRED ALTERNATIVE

In accordance with DO-12, the NPS is required to identify the “environmentally preferred alternative” in all environmental documents, including EAs. The environmentally preferred alternative is determined by applying the criteria suggested in NEPA, which is guided by the CEQ. As stated in Section 2.7 (D) of the NPS DO-12 Handbook, “The environmentally preferred alternative is the alternative that will best promote the national environmental policy expressed in NEPA (Section 101(b)).” This environmental policy is stated in six goal statements, which include:

- Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;
- Attain the widest range of beneficial uses of the environment without degradation, risk to health and safety, or other undesirable and unintended consequences;
- Preserve important historic, cultural, and natural aspects of our national heritage, and maintain wherever possible, an environment which supports diversity and variety of individual choice;
- Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life’s amenities; and
- Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources (NEPA, 42 USC 4321-4347).

In sum, the environmentally-preferred alternative is the alternative that, not only results in the least damage to the biological and physical environment, but also that best protects, preserves, and enhances historic, cultural, and natural resources.

As evaluated against the CEQ regulations, Alternative A, the No-Action, is the Environmentally Preferred Alternative as it will have no additional adverse environmental impact. Developing the 29 facilities under Alternative B will impact up to 26 acres throughout the Seashore, and it will adversely impact wildlife and habitat; geology, topography, and soils; vegetation; water quality and estuarine resources; wetlands; floodplains; and human health and safety. It will also impact floodplains, visitor use and experience, and human health and safety beneficially. Developing the selected action will facilitate visitor access to key recreational areas on the Seashore, provide a variety of visitor use experiences, and minimize conflicts among various users. While the level of impact for Alternative B is minimal, Alternative A would result in no human or environmental impacts.

PUBLIC INVOLVEMENT AND AGENCY CONSULTATION

A summary of public concerns and the NPS responses are contained in Attachment D to this FONSI, and where necessary, errata to the EA are included in Attachment E.

PUBLIC INVOLVEMENT

CEQ requires agencies to make “diligent” efforts to involve the interested and affected public in the NEPA process (40 CFR 1506.6), regardless of the level of impact or documentation. The extent of the public involvement will change depending on the degree of impact and interest in the proposal. Agencies must also “encourage and facilitate public involvement in decisions which affect the quality of the human environment” (40 CFR 1500.2 (d)). Scoping is an early and open process completed by the NPS to:

- Determine important issues;
- Eliminate issues that are not important or relevant;
- Identify relationships to other planning efforts or documents;
- Define a time schedule of document preparation and decision-making; and
- Define purpose and need, agency objectives and constraints, and the range of alternatives.

Public scoping for the selected alternative was first conducted during the Draft ORVMP/EIS and interested individuals or government officials were given an opportunity to comment on the developments listed in the ORVMP/EIS through the NPS Planning, Environment, and Public Comment website between March 12, 2010 and May 11, 2010. A concern and response report is found in Appendix C of the EIS.

A second opportunity to comment on the developments listed in the ORVMP/EIS as well as on additional developments identified during internal scoping was provided through the NPS Planning, Environment, and Public Comment website. A brief project synopsis, including the facilities and alternatives, was posted on the website along with instructions for providing comments. The comment period extended from March 1 through March 31, 2012. One hundred ninety two comments were received through the Planning, Environment, and Public comment website. A summary of the concerns in those comments are outlined in Appendix C of this document.

In addition to comments from the general public, comments were also received from the Southern Environmental Law Center, Dare County Commission, and the Hatteras Island Genealogical and Preservation Society. Regardless of how a specific comment was submitted or received, all comments were given equal consideration in the scoping process. Important issues relevant to the selected alternative were identified by input from the general public and agency officials.

AGENCY CONSULTATION

Within the state of North Carolina, the following agencies have reviewed the EA:

North Carolina Department of Environment and Natural Resources
Division of Coastal Management
Coastal Resources Commission
Division of Marine Fisheries
North Carolina Natural Heritage Program
North Carolina Department of Transportation
North Carolina State Historic Preservation Officer
North Carolina Wildlife Resources Commission

The Seashore also submitted the EA directly to the U.S. Army Corps of Engineers, Wilmington District and the U.S. Fish and Wildlife Service, Ecological Services, Raleigh Field Office.

The Seashore prepared and submitted a separate consistency determination document and sought a consistency concurrence from the North Carolina Division of Coastal Management for the implementation of the 29 projects that will facilitate visitor access to key recreational areas within the Seashore. Sixteen state agencies reviewed the document through the consistency review process. The application for concurrence was submitted to ensure conformity with 15 CFR Part 930, which requires that the selected alternative complies, to the maximum extent practicable, with the enforceable policies of the State's approved coastal management program. North Carolina's coastal zone management program consists of, but is not limited to, the Coastal Area Management Act, the State's Dredge and Fill Law, and the land use plan of the county and/or local municipality in which the project is located. Division of Coastal Management, NC Division of Energy, Mineral, and Land Resources, and Dare County provided comments through the consistency review process which were addressed by the Seashore.

Of the federally acknowledged tribes recognized pursuant to Public Law 103-454, 108 Statute 4791, the Tuscarora Nation is the only tribe affiliated with the Seashore. NPS is not aware of any historic properties that may be of religious and cultural significance to the Tuscarora Nation that will potentially be affected by the selected alternative to facilitate visitor access. During the development of the ORV management plan/EIS, the Seashore consulted with the Tuscarora Nation and the Tuscarora Nation did not inform the Seashore of sacred sites or other historic properties of religious or cultural significance to theme which will be potentially affected. Therefore, the topic of sacred sites has been dismissed from further consideration.

WHY THE SELECTED ALTERNATIVE WILL NOT HAVE A SIGNIFICANT EFFECT ON THE HUMAN ENVIRONMENT

As defined in 40 CFR § 1508.27, significance is determined by examining the following criteria:

Impacts that may be both beneficial and adverse. A significant effect may exist even if the agency believes that on balance the effect will be beneficial. The selected alternative will not result in major or significant impacts that will require analysis in an EIS.

As described in the EA, inherent to the Seashore's location on a barrier island system, it is a dynamic and constantly changing environment. Erosion and overwash of sand are natural processes that occur with daily wave action and passing storms. Past, present, and future actions within the Seashore may have short term, minor to moderate adverse impacts. In the past, the construction of sand fences to build up dune sand, and the planting of stabilization vegetation on the dunes occurred in the 1930's. These actions resulted in the artificial blockage of sand and the movement of the dune field across the island. Narrowing of the beaches occurred and created long-term adverse effects to the geology, topography, and soils of the Seashore. Compared to dune stabilization, the effects of pavement and building for Seashore facilities in the past have been minor. Currently, and in the future, the Seashore intends to not impede any major processes in regards to geology and topography of the barrier islands. However, combined with the past events, the overall impacts to geology, soils, and topography is long-term, moderate adverse.

Under the selected alternative, short term, minor, and long term, negligible, minor, and moderate adverse impacts will occur from ground disturbing actions from implementation. The contribution of the selected alternative impacts to the cumulative impacts from past, present, and future impacts will remain long-term, moderate adverse.

Impacts to water quality, and marine and estuarine resource will be short-term, minor, adverse and long-term negligible as a result of Alternative B. Impacts to these resources result from minor ground disturbance associated with establishing new ORV ramps and creation of new parking areas or expansions of existing parking areas. These impacts will not contribute further to the long-term, minor, adverse cumulative impacts.

Overall, the majority of the 29 public access projects will have localized, short to long-term, negligible to minor, adverse effects to vegetative communities. Projects located near sensitive resources, including state-listed plant species will have localized, short to long term, moderate adverse effects to vegetation. Any impacts to sensitive plants will be avoided or mitigated. Specifically, the interdunal road between Ramps 45 and 49 will be primitive and will not include the addition of any hardened or semi-hardened material. Vegetation will be crushed from ORVs along the marked IDR. The IDR was aligned to avoid state-listed blue witch grass and moundlily yucca. Due to high densities of dune bluecurls found in this area, impact from construction of the IDR cannot be avoided. To minimize adverse impacts to this species, the Seashore will survey the extent of the population and establish resource closures along the interdunal road to prevent pedestrian impacts to dune bluecurl populations. The Seashore will also collect and store enough seed for the propagation of 2,000 plants. The seeds will be collected in the fall after seeds ripen. Seeds will be collected from plants that will be destroyed along the route of the interdunal road. These plants will be used to restore vegetation in areas impacted by inappropriate visitor use. Impacts to vegetation will be localized, long term, moderate adverse. Cumulative effects from past, ongoing, and future actions will be long term, minor to moderate adverse, as well as, beneficial.

There will be localized, short to long term, negligible to minor, adverse impacts to wetlands from the projects. Cumulative long term, minor to moderate, adverse impacts on wetlands is also anticipated. There will be localized, long term, minor to moderate, adverse impacts to floodplains will result from the construction of parking areas, access roads, and ramps. Construction of the interdunal road and placement of the foot trails will have no impacts to floodplains. Also, beneficial impacts to floodplains will result due to elevating a portion of Lighthouse Road from the reduction of flooding and hydrology restoration. Cumulative impacts from past, present, and future projects on floodplains will be long term, minor to moderate adverse.

Alternative B will have short and long term, negligible to minor, localized, direct, adverse impacts on wildlife and habitat from construction activities and increased use and maintenance of project sites. Overall, Alternative B will contribute negligible, adverse cumulative impacts on wildlife and habitat.

The developments under Alternative B will be constructed to facilitate appropriate user access based on the type of beach is a given location, ORV-open or ORV-closed. These developments were identified in the ORV MP/EIS to improve the impacts to visitor use as a result of beach closures to ORVs. As such, the projects that will be implemented as part of this action will have

long term, beneficial impacts to the visitor use and experience. In addition, as a result of cumulative effects loss of vegetation from ORV ramp and boardwalk construction, there may be short term, adverse, impacts in the future but overall long term impacts will be beneficial to the visitor use and experience in the Cape Hatteras National Seashore.

The degree to which public health and safety are affected. As described in the EA, the proposed projects under Alternative B were selected facilitate safe visitor access to key recreational areas within the Seashore. ADA boardwalks would be added to potentially improve the safety for visitors with disabilities to access the Seashore who may be currently using unsafe access points. These construction projects would also enhance the safety of pedestrian access on the Seashore by providing increased parking capacity, preventing the need for potentially unsafe on street parking in some locations.

Establishment of new parking areas, boardwalks, foot trails, road connectors, and additional and improved ORV and handicap ramps would result in long-term minor beneficial impact on public health and safety for ORV users, motorists, bicyclists, pedestrians, and users with restricted mobility in the project area. Alternative B would also result in short-term minor adverse impacts to construction crew.

Overall, establishment of new parking areas, boardwalks, foot trails, road connectors, and additional and improved ORV and handicap contributes a noticeable, minor beneficial increment to the cumulative minor adverse impacts on public health and safety associated with past, present, and future actions.

Unique characteristics of the area such as proximity to historic or cultural resources, wild and scenic rivers, ecologically critical areas, wetlands or floodplains. As described in the EA, there will be no impacts to historic or cultural resources. There are no wild and scenic rivers on or in the vicinity of the Seashore. There will be localized short to long term, negligible to minor, adverse impacts to wetlands from the projects. Cumulative long term minor to moderate adverse impacts on wetlands are also anticipated.

Negligible to minor impacts will occur to the floodplains from the majority of the projects (Floodplains Statement of Findings, Appendix B). The addition of less than 1.2 acres of improved surface along the Seashore will result in moderate impacts to the floodplain. Mitigation will include good design through sustainable design principles, appropriate siting, best management practices during and after construction as well as implementation of non-structural methods through flood warning and evacuation procedures. The NPS finds the proposal to be consistent with Executive Order 11988 and with the policies and procedures of NPS Special Directive 77-2 (Floodplain Management Guidelines).

Degree to which effects on the quality of the human environment are likely to be highly controversial. There were no highly controversial effects identified during either preparation of the EA or the public review period.

Degree to which the possible effects on the quality of the human environment are highly uncertain or involve unique or unknown risks. There were no highly uncertain, unique, or unknown risks identified during either preparation of the EA or the public review period.

Degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration. The selected alternative neither establishes an NPS precedent for future actions with significant effects, nor represents a decision in principle about a future consideration.

Whether the action is related to other actions with individually insignificant, but cumulatively significant, impacts. The selected alternative of the EA analyzed impacts to soils and topography, water resources, floodplains, wildlife, and wildlife habitat, federally listed threatened and endangered species, historic structures, cultural landscapes, archeological resources, visitor use, and experience, public safety, transportation and site access, and operations and infrastructure. As described in the EA, the cumulative impacts of past, present, and future actions in the area, combined with the impacts of the selected alternative are not anticipated to produce any significant adverse cumulative effects.

The degree to which the action may adversely affect items listed or eligible for listing in the National Register of Historic Places, or other significant scientific, cultural, or historic resources. No NRHP properties or other significant scientific, cultural, or historic resources will be affected by the new development.

The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973. No species listed by the U.S. Fish and Wildlife Service as endangered or threatened will be adversely affected by the new developments. The U.S. Fish and Wildlife Service concurred with the Seashore's determination of "may affect, not likely to adversely affect" on September 24, 2013. Conversely, the public access management plan already implemented for the Seashore, a portion of which comprises the new developments for public access, was designed to protect T&E species while allowing public access to large portions of the Seashore by ORVs and visitors on foot.

Whether the action threatens a violation of federal, state, or local environmental protection law. The selected alternative violates no federal, state, or local environmental protection laws.

ATTACHMENT A

**FINDING OF NO SIGNIFICANT IMPACT
PROPOSAL TO CONSTRUCT NEW DEVELOPMENT
THAT FACILITATES PUBLIC ACCESS
CAPE HATTERAS NATIONAL SEASHORE

NON-IMPAIRMENT DETERMINATION**

NON-IMPAIRMENT DETERMINATION

BACKGROUND

The prohibition against impairment originates in the National Park Service (NPS) *Organic Act*, which directs that the NPS shall:

“promote and regulate the use of the...national parks...which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

According to NPS *Management Policies 2006*, an action constitutes an impairment when an impact “will harm the integrity of park resources or values, including the opportunities that otherwise will be present for the enjoyment of those resources or values” (NPS 2006, sec. 1.4.5). To determine impairment, the NPS must evaluate “the particular resources and values that will be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts” (NPS 2006, sec. 1.4.5).

National Park system units vary based on their enabling legislation, natural and cultural resources present, and park missions; likewise, the activities appropriate for each unit and for areas in each unit also vary. For example, an action appropriate in one unit could impair resources in another unit.

As stated in the NPS *Management Policies 2006* (NPS 2006, sec. 1.4.5), an impact on any park resource or value may constitute an impairment, but an impact will be more likely to constitute an impairment to the extent that it affects a resource or value whose conservation is:

- necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park; or
- key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or
- identified as a goal in the park’s General Management Plan or other relevant NPS planning documents.

NON-IMPAIRMENT GUIDANCE

Since publication of the Seashore’s Off-Road Vehicle Management Plan/Draft Environmental Impact Statement in March 2010, the NPS has issued *Guidance for Non-Impairment Determinations and the NPS NEPA Process* (NPS 2011). Consistent with the Guidance, the written non-impairment determination for only the selected alternative is included with the decision document of the EA. The Guidance provides that non-impairment findings should be based on analysis in the NEPA document, but should have enough detail to stand on their own. Accordingly, sufficient impact analysis detail is provided here to substantiate the determination, but the reader should refer to the EA for the complete impact analysis.

The Guidance states:

A non-impairment determination must be completed for each resource impact topic carried forward and analyzed for the selected alternative. Non-impairment findings are not necessary for visitor experience, socioeconomics, public health and safety, environmental justice, land use, park operations, etc., because non-impairment findings relate back to [Seashore] resources and values, and these impact areas are not generally considered to be [Seashore] resources or values according to the *Organic Act*, and cannot be impaired the same way that an action can impair [Seashore] resources and values.

The resource impact topics carried forward and analyzed for the NPS selected alternative in the EA, and for which a non-impairment determination is contained in the decision document, are: wetlands, floodplains, piping plover, sea turtles, seabeach amaranth, state-listed and special status species (American oystercatcher, Wilson's plover, least tern, common tern, gull-billed tern, black skimmer, and red knot), invertebrates, and other bird species, and soundscapes.

The Guidance provides that the non-impairment determination must address the following information:

- a brief description of the condition of the resource;
- whether the resource is necessary to fulfill the purposes for which the [Seashore] was established;
- whether the resource is key to the natural or cultural integrity of the [Seashore] or to the opportunity for enjoyment of the [Seashore];
- whether the resource is identified as a significant resource in the [Seashore]'s planning documents, and
- a discussion of why the action will or will not result in impairment of the resource including a discussion of the context, severity, duration and timing of any impacts, and any mitigation measures, if applicable.

RESOURCES AND THE [SEASHORE]'S PLANNING DOCUMENTS

To assist in addressing the 4th bullet in the paragraph above, i.e., “whether a resource is identified as a significant resource in the [Seashore]'s planning documents,” a brief summary of how the resources in this non-impairment determination are addressed in the Seashore's planning documents is provided here.

The Seashore's planning documents do not provide an explicit listing of “significant resources,” i.e., a list stating which resources are significant and which are not. However, the planning documents repeatedly address the flora and fauna and physiographic conditions of the Seashore, particularly migratory birds and threatened and endangered species. The Seashore's 2007 Long Range Interpretive Plan in its description of the Seashore's purpose calls out preserving and protecting the “[Seashore]'s natural resources” and “dynamic barrier islands that are shaped by

ongoing natural processes” (Cape Hatteras National Seashore Long Range Interpretive Plan (NPS 2007a)). The Seashore’s 2006 – 2011 Strategic Plan lists preserving and protecting the “dynamic coastal barrier island system...flora and fauna that are found in a variety of habitats at the [Seashore],” including “migratory birds and several threatened and endangered species” (NPS 2007b). The Seashore’s General Management Plan states:

“The overall planning objective for the national [Seashore] is to preserve the cultural resources and the flora, fauna, and natural physiographic condition, while providing for appropriate recreational use and public access to the Oceanside and soundside shores in a manner that will minimize visitor use conflict, enhance visitor safety, and preserve [Seashore] resources (NPS 1984).”

The primary resource management objective of the Seashore, as expressed in the General Management Plan, is to preserve the dynamic physiography and the characteristic ecological communities of the Outer Banks, in all units of the Seashore except for the developed areas.

As described in the Seashore’s 2006 – 2011 Strategic Plan, the mission of the NPS at Cape Hatteras National Seashore is rooted in the National Park Service *Organic Act* and the Seashore's enabling legislation, *Congressional Act*, H. R. 7022 of August 17, 1937. The Seashore's mission statement is a synthesis of this mandated purpose, plus the Seashore's primary significance as itemized below.

The Seashore’s enabling legislation states:

“Except for certain portions of the area, deemed to be especially adaptable for recreational uses, particularly swimming, boating, sailing, fishing and other recreational activities of similar nature, which shall be developed for such uses as needed, the said area shall be permanently reserved as a primitive wilderness and no development of the project or plan for the convenience of visitors shall be undertaken which will be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing in the area.”

The Seashore’s Strategic Plan states:

“The purpose of Cape Hatteras NS is to preserve and protect significant segments of barrier island coastline for the benefit and enjoyment of the people and to provide for recreational visitor use consistent with that purpose. Cultural resources reflecting and revealing the national maritime experience, cultural expressions and man's inherent relationships with the land are also protected and preserved.”

The Seashore’s Strategic Plan describes the significance of the Seashore as follows:

“This dynamic coastal barrier island system continually changes in response to natural forces of wind and wave. The flora and fauna that are found in a variety of habitats at the Seashore include migratory birds and several threatened and endangered species. The islands are rich with maritime history of humankind's attempt to survive at the edge of the sea, and with accounts of dangerous storms, shipwrecks, and valiant rescue efforts. Today, the seashore provides unparalleled

opportunities for millions to enjoy recreational pursuits in a unique natural seashore setting and to learn of the nation's unique maritime heritage.”

In addition to these broader planning documents, that include the flora and fauna, migratory birds and threatened and endangered species as part of the significant resources of the Seashore, the Seashore’s Off-Road Vehicle Management Plan (ORVMP) provides management measures specifically for the following protected species: piping plover (*Charadrius melodus*), loggerhead sea turtle (*Caretta caretta*), green sea turtle (*Chelonia mydas*), Kemp’s Ridley sea turtle (*Lepidochelys kempi*), leatherback sea turtle (*Dermochelys coriacea*), seabeach amaranth (*Amaranthus pumilus*), common tern (*Sterna hirundo*), least tern (*Sterna antillarum*), gull-billed tern (*Sterna nilotica*), black skimmer (*Rynchops niger*), American oystercatcher (*Haematopus palliatus*), Wilson’s plover (*Charadrius wilsonia*), and red knot (*Calidris canutus rufa*). In 1999, the Seashore was designated a Globally Important Bird Area in recognition of the value it provides to bird migration, breeding, and wintering (American Bird Conservancy 2005).

TOPOGRAPHY AND SOILS

Brief Description of the Condition of the Resource:

Cape Hatteras National Seashore, located on the Outer Banks, is on a series of wave dominated, elongated barrier islands. Barrier islands are narrow strips of sand deposits that parallel the coastline and are formed as a result of wind and wave action. They are among the most dynamic natural landscapes as they tend to change shape and migrate rather quickly in response to sea level rise and fall, and to storm events through deposition and erosion processes. Barrier islands are part of a greater barrier island system that generally consists of the following features: beach, dunes, washover deposits, tidal inlets, and deltas, tidal flats and marsh, and a protected bay.

The highest topographic features on the Outer Banks islands are the sand dunes, generally 10 to 20 feet above sea level (Dolan and Lins 1986). Lines of dunes occur in parallel rows immediately upland of the beach. The first line of dunes, primary dunes, is directly affected by waves, currents, and wind. Behind the primary dune line are back-dune areas that are sheltered from the direct effects of blown sand and salt spray, except during storm events.

Soils in the project area include mostly quartz sand with some shell, gravel, and mineral deposits (Dolan and Lins 1986). The sedimentary layers have been deposited over time by storm overwash, tidal currents, and wind transportation. These sand deposits of the Outer Banks are moving landward overtime with rising sea level.

Topography and soils are necessary to fulfill the purposes for which the Seashore was established:

The Seashore’s enabling legislation provides that outside those areas where the Seashore develops facilities to support recreation such as swimming, boating, sailing, and fishing, the Seashore shall be permanently reserved as a primitive wilderness and the unique flora and fauna and physiographic conditions prevailing in the area preserved.

Topography and soils are key to the natural or cultural integrity of the Seashore or to the opportunity for enjoyment of the Seashore:

Cape Hatteras will not exist if there was not adequate topography and soil available to provide dry land above the ocean's surface.

Topography and soils are implicitly but not explicitly identified as a significant resource in the Seashore's planning documents:

As described above in the "Resources and the Seashore's Planning Documents" section of the Non-Impairment Determination, the Seashore's planning documents do not provide an explicit listing of "significant resources," i.e., a list of which resources are significant and which are not. The planning documents instead repeatedly address the flora, fauna, and physiographic conditions for wildlife species. Since topography and soil are the basis for all vegetation, it is reasonable to conclude that the Seashore's planning documents implicitly consider soil a "significant" resource as part of the flora, fauna, and physiographic conditions the Seashore is mandated to preserve.

Analysis:

Activities associated with the 29 construction projects will disturb approximately 26 acres of soil or less than 0.01% of the Seashore, resulting in the loss of soil productivity and increasing the potential for soil erosion. Also, the 29 construction projects are located on a barrier island which is defined by dynamic coastal processes. Projects located on the beach side of the island could affect the artificial dunes that provide protection from storm overwash damage. The EA identifies minor impacts to soil and topography due to the small footprints involved. Therefore, impacts to topography and soils would affect only 0.01% of the total Seashore acreage and will not result in impairment to this resource.

Cumulative impacts from combining the effects of the selected alternative with effects of other past, present, and future planned actions (EA, Appendix C) in and around the Seashore will likely result in moderate, long term, adverse effects. Construction of ORV ramps will remove vegetation and alter the topography in discrete locations for four new ramps. These ramps will be maintained to provide suitable access to the beach, so dune re-establishment will not occur naturally. Transport of sand by wind and storm events will not be affected by the new ramps. Two additional ramps will be relocated, and the existing ramps will be allowed to revert to a natural dune field, so there is no net effect to geology, topography and soils. Due to the minimal size of disturbance from the new ramps and that wind and storm events will continue to transport sand, impacts to soils and topography will not result in impairment to this resource.

VEGETATION

Brief Description of the Condition of the Resource:

Vegetation is a primary component of the barrier island ecosystem that constitutes the Seashore. Sea oats (*Uniola paniculata*) and various grasses cover the dunefields which transition into fresh and brackish water wetlands consisting of sedges and grasses (*Spartina spp*). Upland areas are comprised of maritime forests and dune barrens communities with *Quercus* and *Pinus* plant

communities. Over 28,000 acres (93%) of the seashore exists in the expected vegetative condition of a barrier island ecosystem. Approximately, 800-900 acres are infested with the non-native, invasive plant species *Phragmites australis*.

Vegetation is necessary to fulfill the purposes for which the Seashore was established:

The Seashore's enabling legislation provides that outside those areas where the Seashore develops facilities to support recreation such as swimming, boating, sailing, and fishing, the Seashore shall be permanently reserved as a primitive wilderness and the unique flora and fauna and physiographic conditions prevailing in the area preserved.

Vegetation is key to the natural or cultural integrity of the Seashore or to the opportunity for enjoyment of the Seashore:

The barrier island ecosystems at the Seashore provide habitat for large numbers of migratory and nesting bird species and coastal marshes are critical to wintering populations of many waterbirds. Nearly 400 species of birds have been sighted within the Seashore and its surrounding waters (Fussell et al. 1990), and many of these species rely on, at some portion of their life history, adequate vegetation for foraging, loafing, or nesting. In 1999, the American Bird Conservancy designated the Seashore as a Globally Important Bird Area in recognition of the Seashore's value in bird migration, breeding, and wintering (American Bird Conservancy 2005).

Vegetation is implicitly but not explicitly identified as a significant resource in the Seashore's planning documents:

As described above in the "Resources and the Seashore's Planning Documents" section of the Non-Impairment Determination, the Seashore's planning documents do not provide an explicit listing of "significant resources," i.e., a list of which resources are significant and which are not. The planning documents instead repeatedly address the flora and fauna and physiographic conditions for wildlife species. As noted earlier, the Seashore has been designated a Globally Important Bird Area, in part because many species of migratory birds depend on it for resting and foraging during migration. Therefore, it is reasonable to conclude that the Seashore's planning documents implicitly consider vegetation "significant" resources as part of the flora, fauna, and physiographic conditions the Seashore is mandated to preserve.

Analysis:

Twenty-six miles of Seashore are designated as vehicle free year-round and 13 miles of beach are a seasonal VFA. These VFAs reduced the potential for disturbances to vegetation along the beach and duneline. The duneline is signed with prohibitive language which protects the vegetation from vehicles. Implementation of the selected alternative will not result in impairment to vegetation as sufficient area of vegetative cover and functional habitat will remain to maintain sustainable populations of for all wildlife species. The new infrastructure will impact a maximum of 26 acres or 0.09% of habitat. Impacts from the projects will be short to long term, negligible to minor.

Cumulative impacts from combining the effects of the selected alternative with effects of other past, present, and future planned actions in and around the Seashore will likely minor to

moderate, and functional habitat will remain to maintain sustainable wildlife populations in the Seashore. Therefore, impacts to vegetation will not result in impairment to this resource.

WETLANDS (INCLUDING MARINE AND ESTUARINE)

Brief Description of the Condition of the Resource:

The majority of the undeveloped acreage in the Seashore is classified as a wetland, predominantly marine and estuarine wetlands. Marine wetlands occur along the beaches on the oceanside of the Seashore, and estuarine wetlands generally occur along the soundside, adjacent to the many tidal creeks that are prevalent along the islands. Approximately 14,500 acres of Seashore wetlands are in natural condition, having characteristic wetland vegetation, wildlife, and hydrology. However, historical activities have degraded some wetland areas. The most important landscape altering activities by humans were: (1) early efforts at mosquito control and waterfowl management, which involved excavation of drainage ditches and construction of water control structures; and (2) construction and vegetative stabilization of primary dunes along the length of the Seashore. Also, between 800 and 900 acres of wetland have significant infestations of exotic phragmites.

Wetlands are necessary to fulfill the purposes for which the Seashore was established:

The Seashore's enabling legislation provides that outside those areas where the Seashore develops facilities to support recreation such as swimming, boating, sailing, and fishing, the [Seashore] shall be permanently reserved as a primitive wilderness and the unique flora and fauna and physiographic conditions prevailing in the area preserved. Wetlands are an important and predominant physiographic feature of the Seashore, which supports the flora and fauna that characterize the barrier island ecosystem that Seashore preserves.

Wetlands are key to the natural or cultural integrity of the Seashore or to the opportunity for enjoyment of the Seashore:

Marine and estuarine wetlands are the predominant physiographic feature of the Seashore and support the characteristic barrier island system flora and fauna. Unimpaired wetlands are an integral component of the natural barrier island ecosystem at the Seashore. Wetlands provide ecological conditions required by Seashore wildlife.

Wetlands are implicitly but not explicitly identified as a significant resource in the Seashore's planning documents:

As described above, the Seashore's planning documents do not provide an explicit listing of "significant resources," i.e., a list stating which resources are significant and which are not. However, the planning documents repeatedly address the flora and fauna and physiographic conditions of the Seashore, particularly migratory birds and threatened and endangered species. Wetlands are the predominant physiographic feature in the Seashore and provide habitat for the characteristic barrier island wildlife and plant resources, including migratory birds and threatened and endangered species. Therefore, it is reasonable to conclude that the Seashore's planning documents implicitly consider wetlands "significant" because they are necessary for the flora, fauna, and physiographic conditions the Seashore is mandated to preserve.

Analysis:

Implementation of the preferred alternative will not impair wetlands because of the low magnitude of impacts to wetlands. Species management activities will not typically occur in estuarine wetland areas; and effects on the size, integrity, or connectivity of marine intertidal wetlands from ORVs crossing these areas will not be measurable or perceptible. ORV damage to soundside vegetation will continue to be confined to small areas, and will not affect the overall viability of the Seashore's wetlands. Where driving on limited portions of the soundside is allowed, generally on sandy beach areas, incidental driving on vegetation at the fringes of these sandy areas may occur when vehicles are passing each other, turning around, or during periods of high water because the soundside sandy beach areas tend to be narrow and bordered by vegetation. Incidental driving on vegetation along the margins of interior ORV routes may occur at times to avoid standing water. Signage will help protect soundside vegetation and will serve as mitigation to eliminate or minimize this impact. The effects of the small amount of damage to soundside wetland vegetation were deemed to be short to long term, negligible to minor, because the change will be so slight that it will not be of any measureable or perceptible consequence. Parking area and ramp construction will avoid wetland areas and will use materials and management practices that will reduce surface runoff. The effects of this construction on the size, integrity, or connectivity of wetlands will not be measurable or perceptible and were deemed to be short to long term, negligible to minor in the EA analysis.

Cumulative impacts from combining the effects of the selected alternative with effects of other past, present, and future planned actions in and around the Seashore will likely result in a small permanent loss of wetlands, mostly from the construction of the Bonner Bridge, which will affect 1.5 acres and result in minor to moderate effects. Large areas will not be affected and wetland functions will not be affected over the long-term. Therefore, the impacts of the selected alternative on wetlands will not result in impairment.

FLOODPLAINS

Brief Description of the Condition of the Resource:

North Carolina's barrier islands have historically been and continue to be affected by coastal forces and flooding events. The barrier islands where the Seashore is located are flat and narrow and lie adjacent to the shallow and wide Pamlico Sound. The widest part of the Seashore is near Cape Point, between Buxton and Frisco (Pendleton et al. 2005). According to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps, most of the Seashore is in the 100-year floodplain, with the exception of some areas in the 500-year floodplain at the Navy tower site on Bodie Island and a larger area near Buxton. Generally, lands along the ocean beaches and adjacent to the sound (at wide points) are in flood zone "VE," also known as the Coastal High Hazard Area, which is the flood insurance rate zone that corresponds to 100-year coastal floodplains that have additional hazards associated with storm waves. The rest of the Seashore that is located in the 100-year floodplain and not directly adjacent to the ocean or sound lies in the "AE" zone, which is subject to waves less than 3 feet high (NCDCCPS 2008).

Because the Seashore is almost entirely in the 100-year floodplain and is subject to high water table conditions and high wave action, many areas are subject to drainage and flooding problems

that often result from storm events. Areas near Buxton Woods and Cape Point Campground have been documented as historically flood-prone and are examples of popular Seashore destinations that experience flooding during times of above-average precipitation events.

Floodplains are necessary to fulfill the purposes for which the Seashore was established:

The Seashore's enabling legislation provides that outside those areas where the Seashore develops facilities to support recreation such as swimming, boating, sailing, and fishing, the Seashore shall be permanently reserved as a primitive wilderness and the unique flora and fauna and physiographic conditions prevailing in the area preserved. The physiographic conditions characterizing the Seashore include their flat topography, high water table, and susceptibility to high wave action and flooding events caused by storms. The Seashore is almost entirely in the 100-year floodplain; the remainder is in the 500-year floodplain. Floodplains are an important and predominant physiographic feature of the Seashore, and are necessary to fulfill the purpose of the enabling legislation to preserve the "physiographic conditions then prevailing."

Floodplains are key to the natural or cultural integrity of the Seashore or to the opportunity for enjoyment of the Seashore:

The barrier islands where the Seashore is located are flat and narrow and lie between the shallow and wide Pamlico Sound and the Atlantic Ocean. The native wildlife of the Seashore is adapted to live on the barrier island floodplains and relies on the recurrent storms and flood events for habitat creation. As a predominant physiographic feature of the Seashore and the habitat supporting the characteristic barrier island system flora and fauna, the floodplains are an integral and key component of the natural barrier island ecosystem at the Seashore. Floodplains are an important and predominant physiographic feature of the Seashore, and are necessary to fulfill the purpose of the enabling legislation to preserve the "physiographic conditions then prevailing."

Floodplains are implicitly but not explicitly identified as a significant resource in the Seashore's planning documents:

As described above in the "Resources and the Seashore's Planning Documents" section of this Non-Impairment Determination, the Seashore's planning documents do not provide an explicit listing of "significant resources," i.e., a list stating which resources are "significant" and which are not. The planning documents instead repeatedly address the flora and fauna and physiographic conditions, particularly migratory birds and threatened and endangered species. Wetlands and floodplains are the predominant physiographic condition in the Seashore and provide habitat for the characteristic barrier island wildlife and plant resources. Therefore, it is reasonable to conclude that the Seashore's planning documents implicitly consider floodplains "significant" as part of the flora, fauna, and physiographic conditions the Seashore is mandated to preserve.

Analysis:

Implementation of the selected alternative will not impair floodplains because the use of ORVs for recreation or commercial fishing and the use of ORVs for Seashore management activities in the project area will not have a measurable effect on floodplains. Driving on beaches, interior ORV routes, or along soundside ORV access routes will not impact the natural function of the

floodplain or affect floodplain values. Floodplains in the study area do not function as a natural moderator of floods because water levels in the Seashore are not dependent on floodplain storage capacity. The Seashore is subject to coastal flooding caused by both hurricanes and other storm systems that can raise water levels substantially via storm surge. Implementation of the selected alternative will involve the construction of four new ORV access ramps, the relocation of two ORV access ramps, the establishment of two new interdunal roads, the establishment of two pedestrian trails on Bodie and Ocracoke islands, and the construction of 10 new public parking areas (surfaced with semi-permeable materials such as a clay-shell base) and the reuse or resurfacing for public parking of two existing paved areas that were not previously used for public parking). Ramps will be surfaced with a natural semi-permeable clay/shell base, reducing stormwater runoff during heavy rain events and limiting the potential for impacts to floodplain function. New parking areas will be located landward of the primary dune. The new parking areas will be designed and constructed with a semi-permeable clay/shell base, turf block, or other porous material, using environmentally sensitive standards to minimize stormwater runoff, and will have a limited effect on the ability of the floodplain to convey floodwaters from storm surge. Two new on-sand parking areas accessible by 4-wheel drive vehicles at the end of two of the new interdunal roads will have no floodplain impact because they will not require a hardened surface because vehicles will travel over sand to reach them. The interdunal roads will be constructed at grade and will not alter topography or require a finished surface. The pedestrian trails will not result in floodplain impacts because they will be primitive in nature and will not be paved or surfaced. The EA impact analysis deemed the impacts from construction to be minor to moderate because they will result in a change in floodplain functions and values that will be detectable but small, of little consequence, and localized in the immediate area of construction.

Cumulative impacts from combining the effects of the action alternative with effects of other past, present, and future planned actions in and around the Seashore, such as the location of structures and impervious surfaces in the floodplain, development of NC-12, the Bonner Bridge and its replacement, and local development, will result in a change to floodplain functions and values. The cumulative impacts were deemed short to long term, minor to moderate in the EA impact analysis because they will be readily detectable and could increase risk to life or property but will be relatively localized and could be successfully mitigated. Additionally, selected alternative will not contribute appreciably to cumulative impacts. Therefore, the floodplain impacts will not result in impairment.

STATE-LISTED AND SPECIAL STATUS SPECIES

Brief Description of the Condition of the Resource:

State-listed and Special Status Species at the Seashore include the American oystercatcher; four species of colonial waterbirds, including gull-billed tern, least tern, common tern, and black skimmer; Wilson's plover; and red knot. The American oystercatcher is classified as a Species of High Concern in the U.S. Shorebird Conservation Plan because of its small population (11,000 individuals), widespread habitat loss, and the threats it faces both during the breeding and nonbreeding seasons. At the Seashore, the oystercatcher population has experienced declines in numbers of breeding pairs since the 1990s. From 1999 to 2012, the number of nesting pairs declined 44% from 41 to 22 pairs and has remained stable at 23 nesting pairs for the last five years. The annual number of fledged chicks has ranged from a low of 5 in 1999 to a

high of 30 in 2010, which represents the first time the fledge rate exceeded 1.0 at the Seashore. American oystercatchers also use the Seashore during migration.

Colonial waterbirds at the Seashore include gull-billed tern, common tern, least tern, and black skimmer. All four species are listed on the 2008 Birds of Conservation Concern (USFWS 2008). Gull-billed terns are considered by the State to be threatened in North Carolina, while the other three are listed by the State as Species of Special Concern. Ground-nesting colonial waterbirds breed along the Seashore beaches. Studies have documented that populations of some species of colonial waterbirds are declining. Beach nesters such as common terns, gull-billed terns, and black skimmers have shown the most significant declines. Coastal development, disturbances by humans, and increased nest predation all contribute to the decline in numbers of colonial waterbirds.

Wilson's plover was classified as a species of conservation concern by the USFWS in 2002. Wilson's plover is listed as endangered in Virginia and Maryland, threatened in South Carolina, rare in Georgia, state protected in Alabama, and as a species of special concern in North Carolina. No indications of Wilson's plover nesting had been documented at the Seashore until 2009 when a three-egg nest was found. During the 2010 breeding season, a Wilson's plover chick successfully fledged, which was the first time that this had been documented at the Seashore. Seashore staff has not completed a comprehensive survey of nonbreeding Wilson's plovers, so it is not known if the Seashore supports wintering populations.

The red knot is a shorebird that breeds in the Canadian Arctic and is known to visit North Carolina, the Outer Banks, and the Seashore, as well as the entire eastern seaboard of the United States, only as a migrant and an occasional winter resident. The red knot is not listed as threatened or endangered by the USFWS, but it is a federal candidate species. Red knots have one of the longest migrations of any shorebird and use the Seashore in the winter and during spring and fall migration.

State-listed and special status species are necessary to fulfill the purposes for which the Seashore was established:

The Seashore's enabling legislation provides that outside those areas where the Seashore develops facilities to support recreation such as swimming, boating, sailing and fishing, the Seashore shall be permanently reserved as a primitive wilderness and the unique flora and fauna and physiographic conditions prevailing in the area preserved. The state-listed shorebird species are an integral and easily recognizable part of the Seashore's wildlife which characterizes the barrier island ecosystem that the Seashore preserves.

State-listed and special status species are key to the natural or cultural integrity of the Seashore or to the opportunity for enjoyment of the Seashore:

These species are an important part of the characteristic wild life of the barrier island ecosystem and are integral members of the ecological community.

State-listed and special status species are implicitly but not explicitly identified as a significant resource in the Seashore's planning document:

As described above in the "Resources and the Seashore's Planning Documents" section of the Non-Impairment Determination, the Seashore's planning documents do not provide an explicit listing of "significant resources," i.e., a list of which resources are significant and which are not. The planning documents instead repeatedly address the flora and fauna and physiographic conditions, particularly migratory birds and threatened and endangered species. The state listed shorebirds are well known migratory birds that breed in the Seashore. American oystercatcher and black skimmer are easily recognized larger shorebirds that are characteristic of the ecosystem. These shorebirds are an integral component of the Seashore wildlife. Therefore, it is reasonable to conclude that the Seashore's planning documents implicitly consider these species "significant" as part of the flora, fauna, and physiographic conditions the Seashore is mandated to preserve.

Analysis:

Implementation of the selected alternative will not impair state-listed or special status species. Although some individuals differentially respond to vehicle disturbance, the current ORV Management Plan provides protection targeted at protecting species during critical periods of reproductive activity or in key habitats. Some disturbance could result in harassment, injury, or mortality to one or more individuals but sufficient population numbers and functional habitat will remain to maintain a sustainable population in the Seashore. The following discussion of management actions currently undertaken describes avoidance and minimization actions to protect state listed and special status species.

Under current management, the Seashore establishes pre-nesting closures, as well as areas that are seasonally vehicle free (13 miles of the Seashore) or year-round vehicle free (26 miles of the Seashore), which proactively reduce or preclude recreational use from ORVs early in the breeding season. Pedestrians are permitted in the VFAs, which are subject to resource closures using standard buffers. Under the current management, ORVs and pedestrians are prohibited in pre-nesting closures. Pre-nesting closures will be established by March 15 at sites involving piping plover, Wilson's plover or American oystercatcher, and by April 15 at sites involving only colonial waterbirds. Surveys for American oystercatchers and Wilson's plover begin on March 15, and surveys for colonial waterbirds begin on May 1.

Because colonial waterbird colonies shift locations from year to year, ramps that have had colonies in more than one of the past five years will remain open until scraping or nesting is observed. Pre-nesting closures are established in these areas, however, the closure allows vehicle access through the areas until scraping or nesting is documented at which point the appropriate buffer is established.

Pre-nesting closures are removed if no breeding activity is seen in the area by July 31 (or August 15 if black skimmers are present), or 2 weeks after all chicks have fledged, whichever comes later. Pedestrian access is allowed seaward of pre-nesting closures along the shoreline below the high tide line unless buffers preclude it. An ORV corridor is established at Cape Point and South Point, but is reduced in size from 50 meters (164 feet) to 35 meters (115 feet) during the period

pre-nesting closures are in effect. Many areas that have historically been used as habitat for state-listed and special status species, including Hatteras Inlet Spit and North Ocracoke spit, are designated as vehicle free year-round.

Under current management, there will be 39 miles of seasonal and year-round VFAs. Management of state-listed and special status species includes pre-nesting closures as well as the species-specific buffers listed in FEIS table 10-1. For colonial waterbirds, since the colonies may shift locations from year to year, ORV ramps and pedestrian access points that have had colonies in more than one of the past five years will remain open until scraping or nesting is observed. Waiting until this activity is observed may result in disturbance to colonial waterbirds that causes them to abandon the areas before nest/scrapes are produced or observed by Seashore staff, and may result in the selection of less desirable areas for breeding.

Buffers are applied both within and outside of pre-nesting areas. Under current management, buffers of 150m American oystercatchers are established for breeding and nesting activities and 200 meters (656 feet) for unfledged chick activity. Buffers for least terns are 100 meters (328 feet) for breeding and nesting activities and 200 meters (656 feet) for unfledged chick activity. All other colonial waterbird buffers are 200 meters (656 feet) for breeding, nesting, and unfledged chick activities.

For all species, the Seashore retains the discretion to expand scrape or nest buffers as needed to protect resources. In unprotected areas, a buffer is established immediately when a nest with egg(s) is found. If breeding activity or scraping is observed outside of an existing closure, buffers are expanded to accommodate the designated buffer for the particular species. Prior to hatching, vehicles may be allowed to pass by such areas within designated ORV access corridors that have been established along the outside edge of nesting habitat where, in the judgment of Seashore resources management staff, steep topography, dense vegetation, or other naturally-occurring obstacles minimize the risk of human disturbance. Such sites are re-evaluated for disturbance during each subsequent survey. When scrape(s), nest(s) or chick(s) occur in the immediate vicinity of paved roads, parking lots, campgrounds, buildings, and other facilities, such as within the villages or at NPS developed sites, the NPS will retain the discretion to adjust or reduce resource protection buffers to the extent necessary to allow these facilities to remain operational. In all cases involving such facilities, as a minimum, NPS provide signs, fencing, and reduced buffers to protect nest(s) and chick(s) once they occur. This provision does not apply to ORV routes or ORV ramp access, which will be subject to standard buffers.

Buffers remain in place for two weeks after a nest is lost to determine if the pair will re-nest. For buffers that occur outside of, or that expand, the original pre-nesting areas, the buffer or expansion is removed if no breeding activity is observed for a two-week period, or when associated breeding activity has concluded. Buffers will be removed outside of pre-nesting areas if no breeding activity is observed for a two-week period or when associated breeding activity has concluded, whichever is later.

Nonbreeding shorebird closures are established for migrating/wintering piping plovers. These closures are utilized by other birds at the Seashore. Nonbreeding resource closures are established at the points and spits based on habitat used by wintering piping plovers in more than one of the past five years, the presence of birds at the beginning of the migratory season, and

suitable habitat types based on the results of the annual habitat assessment. In addition to these closures, there are year-round VFAs (totaling 26 miles) that will provide areas of less intensive use at various locations throughout the Seashore. These measures ensure that adequate foraging, resting, and roosting areas are provided for all migratory and nonbreeding state-listed/special status species.

All nonessential ORV traffic is prohibited from Seashore beaches from 9:00 pm to 7:00 am from May 1 to November 15. From September 16 to November 15, ORV routes with no turtle nests remaining are reopened for night driving subject to the terms and conditions of the standard ORV permit. From November 16 to April 30, ORV use is allowed 24 hours per day on designated ORV routes for vehicles with a valid ORV permit.

Although most visitors respect closures, closure intrusions by vehicles, pedestrians, and pets may result in harassment, injury, or mortality to one or more individuals. However, current management requires a permit for ORV use that includes an educational component. Because ORV users are more aware of the regulations in place to protect state-listed/special status species, the permit requirement will likely increase compliance with buffers, closures, and other restrictions. Violations may result in permit revocation, which is expected to increase compliance.

The impact analysis of the selected alternative deemed adverse impacts to state-listed and special status species from ORV and other recreational use to be negligible because impacts will be detectable, and could be beyond the level of disturbance or harm that will occur naturally. Although some impacts might occur during critical reproductive periods or in key habitats in the Seashore and could result in injury or mortality, sufficient population numbers and functional habitat will exist to maintain a sustainable population in the Seashore.

The analysis in the EA of cumulative impacts combined the effects of the selected alternative with effects of other past, present, and future planned actions in and around the Seashore, such as major dredging and maintenance dredging of Oregon Inlet, storms and other weather events, local development, predator management by the Seashore, and increased interpretative programs as part of the Seashore's long-range interpretive plan.

The cumulative impacts were deemed to be negligible in the EA impact analysis because impacts on state-listed and special status species and their habitats will be detectable and could be beyond the level of disturbance or harm that will occur naturally. Some negative impacts to feeding, reproduction, resting or other factors affecting local population levels may occur and may result in harassment, injury, or mortality to one or more individuals. However, sufficient population numbers and functional habitat will exist to maintain a sustainable population in the Seashore. Therefore, the state-listed/special status impacts will not result in impairment.

WILDLIFE AND WILDLIFE HABITAT

Brief Description of the Condition of the Resource:

Wildlife and wildlife habitat includes invertebrate species and other bird species that are found at the Seashore. Thousands of migrating shorebirds use the barrier islands as a stopover point to rest, forage, or spend the winter. In 1999, the American Bird Conservancy designated Cape

Hatteras National Seashore as a Globally Important Bird Area in recognition of the Seashore's value in bird migration, breeding, and wintering. Studies have recorded 21 species of shorebirds (see table 32 of the plan/FEIS) on the beaches of the Outer Banks of North Carolina, such as whimbrels (*Numenius phaeopus*), willets (*Catoptrophorus semipalmatus*), and sanderlings (*Calidris alba*). Although not state-listed or federally listed, several of the shorebirds found at the Seashore appear on the USFWS Birds of Conservation Concern list, which identifies migratory birds that, without additional conservation actions, are likely to become candidates for listing under the ESA.

The Seashore beach ecosystem provides habitat to invertebrates, which form a valuable link in the coastal food chain. Many of the protected bird species found within the Seashore, including the piping plover, Wilson's plover, red knot, American oystercatcher, and gull-billed tern, feed on invertebrates in areas that are open to ORV use, such as the intertidal zone and the wrack line. High-energy, intertidal beaches in the southeastern United States generally support approximately 20 to 30 types of invertebrate species, with the most identifiable being mole crabs, ghost crabs, and coquina clams.

Wildlife and wildlife habitat are necessary to fulfill the purposes for which the Seashore was established:

The Seashore's enabling legislation provides that outside those areas where the Seashore develops facilities to support recreation such as swimming, boating, sailing and fishing, the Seashore shall be permanently reserved as a primitive wilderness and the unique flora and fauna and physiographic conditions prevailing in the area preserved. Other migratory shorebird species and wintering waterbirds and the invertebrates are wildlife characteristic of the barrier island ecosystem that Seashore preserves.

Wildlife and wildlife habitat are key to the natural or cultural integrity of the Seashore or to the opportunity for enjoyment of the Seashore:

The Outer Banks of North Carolina provides a crucial link in the migratory path of several shorebird species. The barrier island ecosystems at the Seashore provide habitat for large numbers of migratory and nesting bird species and coastal marshes are critical to wintering populations of many waterbirds. Nearly 400 species of birds have been sighted within the Seashore and its surrounding waters (Fussell et al. 1990). Migration routes for many raptor species include southeastern barrier islands. Thousands of migrating shorebirds use the barrier islands as a stopover point to rest, forage, or spend the winter (Manning 2004). In 1999, the American Bird Conservancy designated the Seashore as a Globally Important Bird Area in recognition of the Seashore's value in bird migration, breeding, and wintering (American Bird Conservancy 2005). Studies have recorded 21 species of shorebirds on the beaches of the Outer Banks of North Carolina, such as whimbrels (*Numenius phaeopus*), willets (*Catoptrophorus semipalmatus*), and sanderlings (*Calidris alba*). Studies have demonstrated the importance of the Outer Banks as a staging area for piping plover, whimbrels, and sanderlings when compared to other areas along the Atlantic Coast and confirmed that the area provides a critical link in the migratory path of several shorebird species (Dinsmore et al. 1998). For example, the Outer Banks is listed as a conservation site for sanderlings during migration along the Atlantic Coast (Payne 2010), and the Outer Banks (North Core Banks to Bodie Island) is considered an

important migratory stopover/staging site for whimbrel migration along the U.S. Atlantic coast (Wilke et al. 2010).

The Seashore beach ecosystem provides habitat for invertebrates, which form a valuable link in the coastal ecosystem. Many of the protected bird species found in the Seashore, including piping and Wilson's plover, red knot, American oystercatcher, and gull-billed tern, feed on invertebrates in the intertidal zone and wrack line. These other shorebird species and invertebrates are an integral component of the natural barrier island ecosystem at the Seashore and are key to the natural integrity of the Seashore.

Wildlife and wildlife habitat are implicitly but not explicitly identified as a significant resource in the Seashore's planning documents:

As described above in the "Resources and the Seashore's Planning Documents" section of the Non-Impairment Determination, the Seashore's planning documents do not provide an explicit listing of "significant resources," i.e., a list of which resources are significant and which are not. The planning documents instead repeatedly address the flora, fauna, and physiographic conditions, particularly migratory birds and threatened and endangered species. As noted earlier, the Seashore has been designated a Globally Important Bird Area, in part, because many species of migratory birds, particularly shorebirds, depend on it for resting and foraging during migration. Therefore, it is reasonable to conclude that the Seashore's planning documents implicitly consider these other shorebirds and invertebrates "significant" resources as part of the flora, fauna, and physiographic conditions the Seashore is mandated to preserve.

Analysis:

Implementation of the selected alternative will not result in impairment to wildlife as sufficient population numbers and functional habitat will remain to maintain sustainable populations of invertebrates and other bird species in the Seashore. The following is a discussion of current management practices in place for ORVs and pedestrians that minimize and mitigate their potential impacts.

Current management provides for recreational beach access and implements species protection through the use of pre-nesting closures and seasonal and year-round VFAs and night-driving restrictions. This requires an ORV permit with an educational component, and all species at the Seashore benefit from the increased level of resource stewardship that is associated with increased public awareness.

Twenty-six miles of Seashore are designated as VFAs year-round and 13 miles of beach are a seasonal VFA. These VFAs reduce the potential for disturbances to species that use these areas. However, this alternative allows pedestrian access to these areas, subject to resource closures. The size of the protected species buffers provides additional protection to other wildlife.

Limiting vehicles to daytime use 7:00 am to 9:00 pm for 6.5 months of the year reduces the potential for impacts to nocturnal invertebrates and sea turtles throughout the Seashore. Vehicle use results in the loss of individual invertebrates, but this is not measurable and is within natural fluctuations.

Impact analysis for current management deemed the adverse effects on other wildlife from the implementation of the selected alternative to be short term, negligible to minor because, although occasional disturbance and harm to other wildlife or their habitat occurs from ORV and other recreational use, it is not outside the level of disturbance or harm that occurs naturally and the Seashore maintains sustainable populations of invertebrates and other bird species.

Cumulative impacts from combining the effects of the selected alternative with effects of other past, present, and future planned actions in and around the Seashore will likely result in harassment of other bird species and injury or mortality to invertebrates at the Seashore. Even with these adverse effects, population numbers and functional habitat will remain to maintain sustainable populations in the Seashore. The cumulative impacts will be negligible and not result in impairment to these species.

REFERENCES

American Bird Conservancy

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FLOODPLAIN STATEMENT OF FINDINGS

FOR

EXECUTIVE ORDER 11988 ("FLOODPLAIN MANAGEMENT")

**Proposal to Facilitate Additional Public Beach Access
Cape Hatteras National Seashore**

Dare and Hyde Counties, North Carolina

Recommended:  9/16/13
for Superintendent, Cape Hatteras National Seashore Date

Concurred:  9/30/13
Chief, Water Resources Division Date

Concurred:  11/13/2013
Risk Manager, Southeast Region Date

Approved:  11/18/13
for Southeast Regional Director Date

Introduction

The Cape Hatteras National Seashore (Seashore) has prepared and made available an Environmental Assessment (EA) for constructing 29 proposed public access facilities related to facilitating visitor access on the Seashore. The purpose of the proposed action is to construct public access facilities that will help to:

- Facilitate ORV and pedestrian access to areas of the Seashore open to ORVs;
- Facilitate visitor access for visitors with disabilities;
- Minimize conflicts between different types of recreation users;
- Update facilities (e.g. parking lot) to accommodate visitor use; and
- Improve safety conditions along NC-12, other roads, beaches, and parking lots for pedestrians and motorists.

In January 2012, NPS published the Special Regulations, Areas of the National Park System, Cape Hatteras National Seashore Off-Road Vehicle (ORV) Management Final Rule. This rule designates ORV routes and authorizes limited ORV use within the Seashore in a manner that will protect and preserve natural and cultural resources, provide a variety of safe visitor experiences, and minimize conflicts among various users. Under the NPS general regulations, the operation of motor vehicles off roads within areas of the National Park System is prohibited unless authorized by special regulation.

The final rule implements portions of the Cape Hatteras National Seashore Off-Road Vehicle Management Plan (ORVMP) Final EIS (FEIS) and Record of Decision (ROD), and is a major Federal action significantly affecting the quality of the human environment. In accordance with the National Environmental Policy Act, NPS prepared a Draft and Final ORVMP/EIS. The Draft EIS (DEIS) was released to the public on March 5, 2010, and a 60-day public comment period followed beginning on March 12, 2010. The FEIS was released on November 15, 2010. This FEIS evaluated six alternatives for managing off-road motorized vehicle access and use at the Seashore, including two no-action alternatives. The ROD, which selected Alternative F, was signed on December 20, 2010, and a notice of the decision was published in the Federal Register on December 28, 2010. The purpose of this rule is to implement the Selected Action as described in the ROD. A full description of the alternatives that were considered, the environmental impacts associated with the project, and public involvement is contained in the FEIS available online at: <http://www.parkplanning.nps.gov/caha>. This rule became effective on February 15, 2010 (NPS 2012).

The ORVMP identified construction projects that will facilitate visitor access to key recreational areas within the Seashore. These projects relate to development of parking lots, unpaved roads and ramps, and Americans with Disabilities Act (ADA) accessible boardwalks. These construction projects and general locations were selected because of their location on the Seashore in relation to ORV routes. Additional projects were identified and added to the proposed action during internal and public scoping.

Executive Order 11988 (Flood Management) requires NPS and other federal agencies to evaluate the likely impacts of actions in floodplains. The objectives of the Executive Order is to avoid, as much as possible, the short- and long-term adverse impacts associated with occupancy, modification, or destruction of floodplains and to avoid indirect support of development and new construction in such areas where there is a practicable alternative. DO #77-2: Floodplain Management provides NPS procedures for complying with E.O. 11988. This Statement of Findings (SOF) has been prepared in accordance with the guidelines in NPS DO #77-2. The purpose of this SOF is to present the rationale for the location of the proposed plan in the floodplain area and to document the anticipated effects on these resources.

A SOF for Floodplains was completed as part of the 2010 ORVMP EIS effort and included the majority of the proposed projects. Additional projects have been proposed as a result of internal and public scoping efforts. Due to the proposal of projects that include the use of asphalt, a SOF for Floodplains was completed as part of this EA process.

Proposed Action

Under the proposed action, the 29 proposed public access facilities include parking lots, unpaved ORV ramps and roads, foot trails, ADA accessible boardwalks, and elevation of a road segment to facilitate visitor access to key recreational areas within the Seashore. The proposed facilities will disturb approximately 23.5 acres throughout the Seashore on Bodie, Hatteras, and Ocracoke islands, not including disturbance from proposed foot trails. A list of the proposed projects and approximate size (acreage or length) of the proposed project is provided in Table 1.

Table 1. Facilities and Size

Project Number	Facility	Size and/or length
1	A 10-car parking at the former site of the U.S. Coast Guard Station on Bodie Island*	0.11 acre parking area
2	A handicap accessible boardwalk at Coquina Beach on Bodie Island*	0.03 acre boardwalk
3	Additional access road from NC 12 to fee station at Coquina Beach	0.11 acre access road
4	An ORV ramp and 10-car parking area 0.5 miles south of Coquina Beach (New Ramp 2.5)*	0.41 acre ORV ramp 0.19 acre parking area
5	A 10-car parking area at Ramp 4 with foot-trail to beach	0.08 acre parking area 1800.08 ft. foot trail
6	A 20-car parking area and handicap accessible boardwalk at Ramp 23 (ca. 0.3 mi S of Salvo) *	0.36 acre parking area 0.25 acre boardwalk
7	A 10-car parking area about 1.0 mile south of Ramp 23 with foot trail to the beach	0.31 acre parking area 1155.69 ft. foot trail
8	An ORV Ramp 25.5 with parking lot, and foot trail or boardwalk to the beach*	0.82 acre ORV ramp .20 parking lot 960.69 ft. foot trail
9	A 5-car parking area and foot trail to beach (beachside) at soundside Ramp 48"	0.20 acre parking area 391.61 ft. foot trail
10	An ORV Ramp 32.5 (Little Kinnakeet) with a 10-car parking lot* and foot trail to the beach	0.62 acre ORV ramp 0.23 acre parking area 677.07 ft. foot trail
11	A handicap accessible boardwalk at Ramp 34	0.16 acre boardwalk
12	A handicap accessible boardwalk to sound at Haulover Beach Parking Area*	0.02 acre boardwalk
13	A 15-car parking area west side of highway at/near Kite Point*	0.29 acre parking area
14	A 15-car parking area at soundside access #59 with foot trail from highway to beach	0.19 acre parking area
15	A 5-car parking area west side of highway at/near soundside	0.07 acre parking area

Project Number	Facility	Size and/or length
	access 60*	
16	A 50-car parking area at the former Buxton Coast Guard Station* with handicap accessible boardwalk	0.06 acre boardwalk
17	A handicap accessible boardwalk at Lighthouse Beach	0.07 acre boardwalk
18	A 3-car parking area at Loran Road* with new handicap accessible boardwalk to the beach	0.03 acre parking area 0.10 acre boardwalk
19	An elevated section of Lighthouse Road to address flooding at ramps 43 and 44	1.34 acres road elevation
20	An unpaved IDR between Ramp 45 and 49 with new ORV Ramp 48 to the beach*	15.24 acres IDR 0.43 ORV ramp
21	Widen Ramp 49 and add connector road and 5 car parking lot to Billy Mitchell Rd. near Frisco Campground	1 acres entire area
22	A handicap accessible boardwalk at the Ramp 55 parking area on Hatteras Island	0.03 acre boardwalk
23	An unimproved 20-car parking area near the Pole Road/Spur Road intersection	0.39 acre parking area
24	A handicap accessible boardwalk at/near north ferry terminal parking area on Ocracoke	0.08 acre boardwalk
25	An ORV Ramp 59.5 at north Ocracoke*	0.31 acre ORV ramp
26	A 5-car parking area at the west/north side of highway entrance of Borrow Pit Road*	0.14 acre parking area
27	An ORV Ramp 63 across from Scrag Cedar Road*	0.17 acre ORV ramp
28	A handicap accessible boardwalk at the Ocracoke Pony Pens*	0.02 acre boardwalk
29	A handicap accessible boardwalk at the Ocracoke Day Use Area*	0.03 acre boardwalk

*Projects identified in the 2010 ORVMP/FEIS and SOF for Floodplains

Funding for the proposed construction projects could come from ORV permit fees established under the ORVMP/EIS and/or other appropriate fund sources. Projects will be implemented based on funding, cost, and regulatory issues with the highest priority given to construction projects that provide ORV access to areas of the Seashore.

Ramps and parking lots will be constructed using best management practices and environmentally sensitive standards to minimize stormwater runoff. New ramps will be built between 24 feet and 36 feet wide and will consist of a pervious mixture of sand, shell, and clay. This sand, shell, clay mixture has been utilized successfully during ramp construction and/or rehabilitation at the National Seashore. The new ramps will also be constructed with a maximum slope of 5 percent and a vertical curve that will minimize ORVs (including trucks pulling trailers with low tire pressures) getting stuck at the crown of the ramp. To the extent possible, ramps will be constructed up and over dunes and will not cut through a dune or raised area. Dunes may have to be re-shaped at a ramp to allow for proper drainage, safe driving conditions, and to reduce vehicle obstacles and impacts to vegetation.

New or expanded parking areas will be designed and constructed with a semi-permeable clay/shell base, turf block, or some other porous material, using environmentally sensitive standards that minimize stormwater runoff. Use of concrete or other impervious surface for ADA accessibility is required for spaces designated as ADA accessible. The construction or expansion of the parking areas will result in the placement of hardened, pervious surface in the 100-year floodplain and will have a limited effect on the

ability of the floodplain to convey floodwaters from storm surge. The use of asphalt will be limited to three of the proposed facilities.

Parking areas occurring within the Coastal High Hazard Area include:

- A 10-car parking lot at the former site of the U.S. Coast Guard Station on Bodie Island,
- An ORV Ramp and 10-Car Parking Area on 0.5 Miles South of Coquina Beach (New Ramp 2.5),
- A 5-car parking area west side of highway at/near soundside access 60, and
- A 5-car parking area at the west side of highway entrance of Borrow Pit Road.

The unimproved 20-car parking area near the Pole Road/Spur Road intersection will only be accessible by 4-wheel drive vehicles and will not require a hardened surface because vehicles will travel over sand to reach the parking area. Although Director's Order 77 allows the construction of day-use parking facilities within the 100-year floodplain in high hazard areas, signs informing visitors of flood risk and suggested actions in the event of flooding must be posted, and are included as part of this alternative.

NPS will utilize existing asphalt pavement in existing and proposed parking lots. Asphalt will be used to extend the parking areas at both the former site of the U.S. Coast Guard Station on Bodie Island and at Ramp 49. The proposed project at Ramp 49 will also require some grading and fill for the pull out area but native materials will be used. The Seashore will also cut back the oaks in this area to make the area safer for visitors. The one way spur off of Ramp 49 will be constructed with the same material as the proposed ORV ramps. No additional asphalt will be used at the 50-car parking area at the former Buxton Coast Guard Station. The interdunal road will be primitive in nature (for example, not paved or otherwise hardened) and will not require surfacing. The new access road from NC-12 to the fee station at Coquina Beach will be a two-lane paved road. Mitigation for the elevation of Lighthouse Road will include culverts to be placed along the road to restore the hydrology to the wetland areas that have been bisected by the road.

Boardwalks will be built between four and ten feet wide with treated wood framing and support members with a composite wood deck material. Each boardwalk could include a viewing platform. The boardwalk at the Loran Road parking area will be elevated to minimize vegetation shading. Foot trails will be marked, but the Seashore will not mow or maintain these areas.

Signs placed at project locations will include 4 x 4 treated wood posts with metal or fiberglass signs. Heavy equipment could include backhoes, dump trucks (10 tons), asphalt paving machines, motorgraders, or bulldozers (D4H). The facility management division at the Seashore will be responsible for all maintenance activities for the proposed 29 construction projects. Maintenance activities include routine maintenance and emergency repairs of beach ramps and parking areas currently authorized by Coastal Area Management Act (CAMA) under a programmatic agreement and they will also be responsible for maintaining the vehicles used by law enforcement, resources management and other staff associated with the maintenance of these facilities. Additional staff time by facilities management will be required to establish and maintain the proposed construction project.

Mitigation Measures

The proposed 29 public access facilities will avoid wetlands and sensitive plants to the extent possible. Locations for these projects were identified based on historic breeding areas to avoid disturbance to shorebirds. Construction activities will also avoid wetlands and use materials and management practices that will reduce surface runoff. To protect soundside wetlands and vegetation, protective signage will be installed at all soundside access points. Where needed, storm inlet protections will be utilized that will include surrounding inlets with metal posts, wire mesh, or 2 feet of #57 stone. The Seashore will use culverts for ramps, parking lots, and roads within wetlands along NC-12 ditches to maintain flow and avoid flooding. In the unlikely event that federally threatened or endangered, state-listed, or special status

species are found in a construction area, the area will be under resource closure, and no construction will occur.

NPS will follow all standard safety and environmental requirements and guidelines set by North Carolina Department of Transportation (NCDOT) and/or North Carolina Department of Environment and Natural Resources (NCDENR). Construction fences (chain link or orange plastic fences with metal posts) and silt fences (typically 24 inch black fabric and metal posts) will be used during construction activities. Disturbance to wetlands and other sensitive resources will be avoided at the extent possible.

Site Description

The barrier islands that comprise the Seashore are flat and narrow and lie adjacent to the shallow and wide Pamlico Sound. The widest part of the Seashore islands is near Cape Point, between Buxton and Frisco (Pendleton et al. 2005; NPS 2010). According to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps, the proposed construction project locations are within the 100-year floodplain. Generally, lands along the ocean beaches and adjacent to the sound (at wide points) are in flood zone "VE," which is the flood insurance rate zone that corresponds to 100-year coastal floodplains that have additional hazards associated with storm waves. Zone "VE" is also referred to as the "Coastal High Hazard Area." The remainder of the Seashore that is mainly located within the 100-year floodplain and not directly adjacent to the ocean or sound lies within the "AE" zone, which is subject to waves less than 3 feet high (NCDCCPS 2008; NPS 2010). Because the Seashore is almost entirely within the 100-year floodplain and is subject to high water table conditions and high wave action, many areas are subject to drainage and flooding problems that often result from storm events (NPS 2010). Appendix 1 describes the floodplain zone at each proposed facility (FEMA, n.d.).

The highest topographic features on the Outer Banks islands are sand dunes usually 10 to 25 feet above sea level. Lines of dunes occur in parallel rows immediately upland of the beach. The first line of dunes, primary dunes, is directly affected by waves, currents, and wind. Behind the primary dune line are back-dunes areas that are sheltered from the direct effects of blown sand and salt-spray, except during storm events. This enhanced dune system along the Seashore provides protection of backdune areas from flooding during smaller storms. Eventually, however, a major storm will occur and flood the area. Since the islands are located in the 100-year floodplain, it will be subject to periodic flooding in the VE and AE zones assigned by FEMA. There is a 1% chance that such an event will be equaled or exceeded in any given year. During such an event, the backdune area could potentially be washed completely away or greatly reduced, depending on the nature of the individual storm. The main effect on dunes will be associated with overwash.

General Characterization of Floodplain Values and of the Nature of Flooding and Associated Floodplain Process in the Area. Justification for the Use of Floodplains

The Seashore's barrier islands floodplains help reduce the impact of hurricanes and other storms on the shorelines that they shelter. These floodplains provide storm water holding capacity, reducing runoff that could otherwise flood NC-12 and other developed areas. They also provide habitat for species adapted to the coastal barrier island environment.

Storm events such as hurricanes and nor'easters (winter storms along the mid-Atlantic coast) and associated wave action and high precipitation are the prime sources of flooding in the Seashore. Additionally some areas are known to be susceptible to minor flooding without wave involvement when large amount of rainfall occur.

Justification for Location of the Action in the Floodplain

The purpose of constructing ORV ramps, establishing interdunal roads, creating foot trails, installing access roads, elevating road sections, and installing parking areas is to improve visitor access to the shoreline, both in areas where ORV routes will be designated and in areas where ORV routes will not be designated. To provide access the ORV ramps, interdunal road, access road, road elevation, foot trails, and parking areas must be located in the vicinity of the shoreline. Avoidance of impacts to floodplains is not possible because all of the areas between access points along NC-12 or interdunal roads and the shoreline is within the 100-year flood.

Investigation of Alternative Sites

Since the entire project area is located within the 100-year floodplain, there is no alternative site for establishment of the proposed facilities. In addition, each proposed facility has its own purpose and need based on designated ORV areas and Vehicle Free Areas. Sites were selected to avoid and minimize impacts to protected species, sensitive habitats, and floodplains.

The No Action Alternative, Alternative A, is the only viable alternative to the Preferred Alternative of Alternative B. Alternative A will result in no change or alteration to the 100-year floodplain in the project area because there will be no construction of the proposed public use facilities.

Impacts to Floodplain Function and Values

The use of ORV vehicles for NPS administrative use and by visitors for beach access will result in negligible impacts to floodplain functions or values. Under the proposed action, the establishment of the interdunal road will not result in floodplain impacts because impervious surfaces or above-grade structures will not be constructed. The interdunal road will be constructed at grade and will not alter topography or require a finished surface. Therefore floodplain functions will not be altered.

Foot trails and boardwalks will also not result in floodplain impacts because the trails will be primitive sand trails and will not be paved or surfaced and boardwalks will be constructed of treated wood and elevated. Minor impacts will result from the construction or relocation of ramps, which will be surfaced with semi-permeable clay/shell base, reducing stormwater runoff and limiting the potential for impacts to the floodplain's water storage function. Similarly, minor impacts will result from the construction of parking areas with a surface of semi-permeable or porous materials. Culverts will be used when necessary to minimize impacts to wetlands. While the elevation of Lighthouse Road will include fill material and asphalt, the width of the road will not increase. Culverts will also be used to restore the wetland hydrology at this location. Beneficial impacts to floodplains will result due to elevating a portion of Lighthouse Road from the reduction of flooding and hydrology restoration.

The proposed access road at Coquina Beach, proposed parking lot at the former site of the U.S. Coast Guard Station on Bodie Island, and the proposed pull off area and parking area expansion at Billy Mitchell Road will increase asphalt in the 100-year floodplain. The parking area at the U.S. Coast Guard Station will be approximately 0.11 acres in size, but there is currently asphalt at this location so any additional asphalt will be less than 0.11 acre. 0.11 acre of asphalt will be placed at Coquina Beach for the proposed access road and less than 1 acre of asphalt will be used at Ramp 49 for the proposed pull off area and parking area expansion. In total less than 1.2 acres of floodplains will be permanently lost due to the addition of surface improvements for parking on the Seashore. Of these three locations, only the proposed parking area at the U.S. Coast Guard Station on Bodie Island is within Zone VE of the floodplain. The addition of improved surfaces in these three areas will have moderate impacts to the floodplain.

Minimization of Harm or Risks to Life and Property

Mitigation will be provided by incorporating methods for protecting human safety and protection of investment. Minimization of harm or risk to life and property will be accomplished by siting new parking areas in locations known to be less susceptible to flooding from rainfall alone. Parking areas directly accessible from NC-12 are landward of the primary dune line. Overnight camping will not be allowed in the new parking areas or on the beach. Hurricanes and large nor'easters that may result in storm surge are predicted far enough in advance to allow ample time for evacuation.

In addition to Cape Hatteras National Seashore, the Fort Raleigh National Historic Site and the Wright Brothers National Memorial are collectively managed by NPS as the Outer Banks Group. The NPS – Outer Banks Group annually updates its All Risk management Plan, which describes the Incident Command System priorities, procedures, and timelines for the protection of human safety, property, and park resources and values in the event of a hurricane or other emergency. Evacuation of visitors and protection of park staff, contractors, and visitors is compliant with this plan. Evacuation of people and protection of resources in the vicinity of a high energy weather event will be consistent with the hurricane action plan.

Since the ramps, interdunal roads, pedestrian trails, and parking areas cannot be assured of protection from all future damage related to flood/storm events, the NPS will tolerate risk to these investments and will repair or reconstruct them when the damage occurs.

Conclusion

The protection of people, property, and resources is of high priority to the Cape Hatteras National Seashore. The 29 proposed visitor use facilities will be constructed on NPS land. The NPS concludes that there is no other practicable alternative for the proposed development. The proposed projects were designed to facilitate visitor access along the Seashore; provide a variety of visitor use experiences; provide a satisfying visitor experience throughout the Seashore for all visitors that is consistent with the purpose for which the park was established; ensure that future and current roads, ORV ramps, foot trails, boardwalks, and parking lots promote the safety of all visitors; minimize conflicts between different types of recreation users; and protect the Seashore's natural, cultural, scenic, and aesthetic values. To accomplish this, negligible to minor impacts will occur to the floodplains from the majority of the proposed projects. The addition of less than 1.2 acres of improved surfaces along the Seashore will result in moderate impacts to the floodplain. Mitigation will include good design through sustainable design principles, appropriate siting, best management practices during and after construction as well as implementation of non-structural methods through flood warning and evacuation procedures.

The NPS finds the proposal to be consistent with Executive Order 11988 and with the policies and procedures of NPS Director's Order 77-2 (Floodplain Management Guidelines).

Acronyms

ADA	Americans with Disabilities
DEIS	Draft Environmental Impact Statement
EA	Environmental Assessment
FEIS	Final Environmental Assessment
FEMA	Federal Emergency Management Agency
NCDCCPS	North Carolina Department of Crime Control and Public Safety
NCDENR	North Carolina Department of Environment and Natural Resources

NCDOT	North Carolina Department of Transportation
ORV	Off Road Vehicles
ORVMP	Off Road Vehicle Management Plan
ROD	Record of Decision
SOF	Statement of Findings

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APPENDIX 1

Site no.	Facility	Flood Zone
1	A 10-car parking at the former site of the U.S. Coast Guard Station on Bodie Island	Zone VE
2	A handicap accessible boardwalk at Coquina Beach on Bodie Island	Zone VE
3	Additional access road from NC 12 to fee station at Coquina Beach	Zone AE
4	An ORV ramp and 10-car parking area 0.5 miles south of Coquina Beach (New Ramp 2.5)	Zone VE
5	A 10-car parking area at Ramp 4 with foot-trail to beach	Proposed parking area will be located in Zone AE and the proposed foot trail will be located in Zone VE.
6	A 20-car parking area and handicap accessible boardwalk at Ramp 23 (ca. 0.3 mi S of Salvo)	Proposed parking area will be located in Zone AE and the proposed boardwalk will be located in both Zone AE and VE.
7	A 10-car parking area about 1.0 mile south of Ramp 23 with foot trail to the beach	Proposed parking area will be located in Zone AE and the proposed foot trail will be located in both Zone AE and VE.
8	An ORV Ramp 25.5 with parking lot, and foot trail or boardwalk to the beach	Proposed parking area will be located in Zone AE, the proposed ramp will be located in both Zone AE and VE, and the proposed foot trail will be located in both Zone AE and VE.
9	A 5-car parking area and foot trail to beach (beachside) at soundside Ramp 48	Proposed parking area will be located in Zone AE and the proposed foot trail will be located in both Zone AE and VE.
10	An ORV Ramp 32.5 (Little Kinnakeet) with a 10-car parking lot and foot trail to the	The proposed parking area will be located in Zone AE and the foot trail will be located in both

Site no.	Facility	Flood Zone
	beach	Zone AE and VE.
11	A handicap accessible boardwalk at Ramp 34	Zone AE and VE
12	A 15-car parking area at soundside access #59 with foot trail from highway to beach	Zone AE
13	A handicap accessible boardwalk to sound at Haulover Beach Parking Area	Zone VE
14	A 15-car parking area west side of highway at/near Kite Point	Zone AE
15	A 5-car parking area west side of highway at/near soundside access 60	Zone VE
16	A 50-car parking area at the former Buxton Coast Guard Station with handicap accessible boardwalk	Zone AE
17	A handicap accessible boardwalk at Lighthouse Beach	Zone VE
18	A 3-car parking area at Loran Road with new handicap accessible boardwalk to the beach	Zone AE
19	An elevated section of Lighthouse Road to address flooding at ramps 43 and 44	Zone AE

Site no.	Facility	Flood Zone
20	An unpaved IDR between Ramp 45 and 49 with new ORV Ramp 48 to the beach	Zone X and VE
21	Widen Ramp 49 and add connector road and 5 car parking lot to Billy Mitchell Rd. near Frisco Campground	Zone X and AE
22	A handicap accessible boardwalk at the Ramp 55 parking area on Hatteras Island	Zone VE
23	An unimproved 20-car parking area near the Pole Road/Spur Road intersection	Zone AE
24	A handicap accessible boardwalk at/near north ferry terminal parking area on Ocracoke	Zone VE
25	An ORV Ramp 59.5 at north Ocracoke	Zone VE
26	A 5-car parking area at the west/north side of highway entrance of Borrow Pit Road	Zone VE and AE
27	An ORV Ramp 63 across from Scrag Cedar Road	Zone AE and VE
28	A handicap accessible boardwalk at the Ocracoke Pony Pens	Zone VE
29	A handicap accessible boardwalk at the Ocracoke Day Use Area	Zone VE

ATTACHMENT C

**FINDING OF NO SIGNIFICANT IMPACT
PROPOSAL TO CONSTRUCT NEW DEVELOPMENT
THAT FACILITATES PUBLIC ACCESS
CAPE HATTERAS NATIONAL SEASHORE**

CONCERN STATEMENTS AND RESPONSES

Construction of New Development that Facilitates Public Access at CAHA; Characterization of and Response to Comments on Environmental Assessment

During the 30-day comment period after the subject Environmental Assessment (EA) was made available, the Park received 639 pieces of correspondence from the general public and other interested parties. The responses were evaluated and segregated into a total of 1473 comments, which were then recombined into topics so that responses could be formulated. The following represent the characterization of the comments and the Parks response. In cases where a change to the EA was deemed appropriate, it is noted in the response below and changes are noted in the errata sheet. Note that no comments resulted in changes to the alternatives considered or impacts as they were presented in the EA

Non-Substantive Comments: Of the 1473 comments, about 500 were characterized as non-substantive, mostly agreeing or disagreeing with the project proposal without substantive issues being mentioned. To be substantive, a comment must (1) question, with reasonable basis, the accuracy of the information in the EA, (2) question, with reasonable basis, the adequacy of the environmental analysis, (3) present reasonable alternatives or elements of alternatives other than those presented in the document, or (4) provide information that could lead to changes or revisions in the proposal. If substantive issues existed in the correspondence, they were sorted and included in different categories of topics. **No response is provided for the bulk of non-substantive comments;** however, some non-substantive comments are selectively addressed in responses below since they deal with central environmental issues in the EA such as protection of vegetation and wildlife

1) Comments Outside or Beyond the Scope of the Proposed Projects:

Comments are considered beyond the scope of a project when the comments are not offered to address the specific proposals contained in the EA, but deal with other elements of Park management activities that are not considered to be within the purpose and need of this EA. Over 350 comments were considered outside or beyond the scope of the proposal and were directed at the cost of the ORV permits, the beach closures, additional fees, and commenters general feelings about how the park is being managed. Since these comments do not focus on the purpose, need, or environmental impact of the proposal, no response is provided for most of them. An exception is made in the discussion of New Alternatives or Elements below where a great many new elements were offered, but were considered to be outside of the scope. Some of these are captured below and noted as outside the scope to give the public an indication of the nature of the comments.

2) Funds from ORV Permits Should be Restricted to ORV Projects and Funds for American Disability Act (ADA) Facilities Should Come from General or Capital Funds: 155 comments expressed that they did not want funding from the purchase of ORV permits to go towards anything other than ORV projects. Some commenters believe this was an unfair practice and discriminatory. Several comments indicated that ADA proposed facilities should come from funds other than ORV permit funds.

Response: The revenues from ORV permits are intended to improve access which includes providing for a greater variety of visitor experiences while minimizing conflicts among various users in accordance with the ORV Management Plan. Since part of this plan seeks to achieve appropriate improvements to access for all beach users and not exclusively ORV users, the use of ORV funds for all improvements in this proposal is deemed appropriate and no exclusion of these funds for ADA or other proposed facilities is justified.

- 3) **Project Prioritization:** A large number of comments (178) offered suggestions on which of the proposed projects receive a high priority with respect to implementation. The breakdown of comments on this subject is as follows:
- ADA accessible boardwalks should be the top priority (13 comments)
 - Interdunal Road improvements should be the top priority (23 comments)
 - Foot Trails should be the top priority (5 comments)
 - ORV Ramps should be the top priority (50 comments)
 - Parking lots should be the top priority (17 comments)
 - Road access projects should be the top priority (2 comments)
 - Elevation of Lighthouse Road should be the top priority (9 comments)
 - Comment provided a general concept of how projects should be prioritized (52 comments)
 - Comment provided suggestion regarding projects that should not be a priority (7 comments)
- Response:** The NPS appreciates the input of all commenters on this issue. The Park will provide a tentative plan for implementation of the proposed projects, which will include a schedule. The general time frame for implementation of all of the projects is currently in the 10-15 year range. It should be understood that this will be tentative and a “moving target” since it is contingent on a number of issues such as funding availability, availability of workforce, timing requirements relative to any mitigation, and weather events that may alter the project sites; however the Park will make a good faith effort to keep the public informed of the progress on this plan and modifications over time. The Park has concluded that the additional proposed ORV ramps and the improvements to the Interdunal Road do have a high priority, but that other of the improvements are appropriately interspersed as high on any priority list in fairness to the wide range of users and opinions on this subject.
- 4) **ADA Accessibility:** ADA boardwalks do not provide meaningful access to the beach for mobility challenged individuals. They cannot traverse the sand at the end of the boardwalk. The boardwalks do not provide access to beach recreation for the handicapped the same way an ORV does.
- Response:** ADA boardwalks meet the need of mobility impaired persons wishing to access the beach. ADA permits are available at the ORV permit offices for those individuals wishing to obtain an ADA permit for accessing the beach in front of the villages during the summer seasonal closure. Mobility impaired visitors with an ORV can access sections of the beach that are open to ORVs. For those mobility impaired visitors with an ORV that do not wish to drive on the beach or would like to visit a beach that is not open to ORVs, ADA boardwalks provide them access.
- 5) **Additional amenities:** Several comments expressed the desire for tire inflation stations and bathhouses.
- Response:** Please review “Alternatives and Elements Considered but Dismissed from Detailed Evaluation” section in the EA for rationale of not providing air stations at ramp locations throughout the Park. Several new air station locations were suggested during the public meetings that could be appropriate for future air stations including the Frisco Campground and the fish cleaning table near Ramp 44. NPS considered providing air stations on or near ORV ramps for ORV tire inflation when exiting the beaches as an element of the preferred alternative. NPS dismissed this as an element because local businesses provide free air stations for visitors of the Seashore. Bathhouses are being considered for the former Coast Guard site in Buxton and other areas of the park.

- 6) **Affected Environment** - Cultural Resources concerns regarding the dismissal of Cultural Resources as an impact topic considered in detail. Comments noted that ramps and trails should be included as part of the cultural landscape. Also, the Croatoan, rather than the Tuscarora Nation, should be considered. It is their cultural tradition to visit the beaches that have been impacted by NPS regulations.

Response: None of the infrastructure is proposed within any of the five (5) designated Cultural Landscapes within CAHA. Please refer to "Cultural Landscape" and "Sacred Sites" in the EA, pages 23-24. Pursuant to Public Law 103-454, 108 Statute 4791 the Tuscarora Nation is the only federally acknowledged tribe in existence that has a recognized affiliation with the Seashore. The Croatan historically occupied the project area but are considered an extinct tribe. Therefore, the Seashore fulfilled its consultation requirements with all appropriate tribes.

- 7) **Affected Environment** – Socioeconomics: Concerns that the Socioeconomic and Environmental Justice analysis should use only the statistics of those living on Hatteras and Ocracoke Islands, rather than the entire counties.

Response: As stated on page 25 of the EA, the Socioeconomic Region of Influence (ROI) defined in the EA is the same as the one described in the ORVMP 2010 FEIS. The economic analysis in the EIS did separate the seashore villages from other villages in Dare County. Since the EA is tiered from the FEIS, the use of the same ROI is consistent and appropriate and no change in this approach was necessary for this EA.

- 8) **Comments concerning additions, deletions, or alterations of elements** Approximately 250 comments offered additions, deletions, changes, or modifications to the proposed action.

Response: The NPS agrees that additional elements provided by commenters are viable options for managing current or future access or providing a variety of access throughout the Park. The subject projects were proposed in the Final ORV Management Plan completed in December 2010. The Background, Purpose, Need, and Objectives sections of the subject EA (pages 1-10) provides rationale for why these projects have been determined to enhance access to the Seashore. The desirability and location of the specific projects are in large part, an outgrowth of the extensive public participation process during the planning effort completed in 2010. This EA is to "fine tune" that process and to move thoughtfully forward toward its completion. The Park acknowledges that visitor use is a complicated issue to manage with a wide variety of competing visitor preferences; however, the proposed projects will be an enhancement to current access and meet the purpose, need, and objectives as stated in the EA.

Implementation of the proposed action does not limit the park from exploring additional access related elements beyond those in the proposed action in the future. The size and locations of projects included in the proposal are based on public input obtained during development of the EIS and the public scoping of this document.

- 9) **User conflicts:** A few comments were concerned with the conflict of pedestrian access to ORV beaches.

Response: Minimizing conflicts between pedestrians and ORVs is a paramount concern for the NPS. The ORV management plan was designed to minimize these conflicts by providing vehicle free areas, designated ORV routes, and various methods of access to park beaches. Boardwalks located at ramp locations help minimize conflicts between pedestrians and ORV users by providing alternate methods of accessing the beach without having to walk along ORV beach ramps. Pedestrians always have the right of way within ORV routes

- 10) Costs:** Commenters were concerned with the lack of cost information provided in the EA and that prioritizing the project must take capital and on-going operation and maintenance costs into consideration.

Response: A cost range for implementation of all proposed projects is \$8-17 million. Costs for any given project are highly variable and dependent upon economic factors such as the price of materials, supplies, and fuel, the location of the project, construction or mitigation measures required by permits, how the project is implemented such as whether a contract is issued or the project is completed in-house, and other factors.

On-going operation and maintenance costs are discussed in the ORV Management Plan Final EIS (pages 635-636) and referenced in proposed in the EA (page 26). These costs and the impact on Facility Management Division operations with respect to the proposed access improvements are not broken out from the overall projected costs of the ORV Management Plan. It is anticipated that such costs are adequately supported, and will be in the foreseeable future, by ORV permit fees.

- 11) Cumulative effects:** One commenter believed the cumulative impacts may be more substantial than documented in the EA. In the EA, the Park Service did not adequately consider several factors in its cumulative and indirect impacts analysis.

Response: Cumulative effects are detailed throughout the Environmental Consequences section of the EA. Appendix C provides a list of past, present, and reasonably foreseeable actions that were considered. The commenter did not provide additional details for CAHA to consider and the NPS believes that the analysis of Environmental Consequences, including consideration of cumulative impacts is appropriate and adequate.

- 12) Editorial:** Several comments pointed to specific editorial mistakes in the document.

Response: The NPS notes these errors and the errata sheet will reflect the changes.

- 13) Effects determination:** One comment was concerned with use of both 'beneficial' and 'adverse' impacts for a given action.

Response: The NPS maintains that what can be an adverse effect for one type of resource can serve as a beneficial effect for another type of resource and therefore asserts that the effect determinations outlined within the EA are appropriate and accurate.

- 14) Direct and indirect effects:** Two comments expressed concern with the impacts of "cutting" dunes.

Response: The NPS agrees that dunes and dune lines provide important protection from storm events and any development should minimize impacts to these resources. Proposed boardwalks and ramps would be built over the tops of dunes and the orientation of ramp access roads would be considered so that impacts to the dune field and the effects of storm flooding would be minimized.

- 15) Implementation schedule:** Several comments requested a timeline for the proposed projects. Commenters want to know when the proposed projects will be implemented.

Response: The Park intends to begin implementation of the proposed projects as soon as the NEPA process is completed, construction permits are obtained and funding and/or contracts are complete. The expected timeline to implement all projects is in the range of 10-15 years. A more precise timeline cannot be determined since it is dependent upon multiple factors outside of the

agency's control including budget constraints, contracting requirements, environmental conditions, and more.

- 16) Direct and Indirect effects:** Concern about the possibility to cause damage to soil, watershed, and vegetation that will result from implementing projects particularly raising the road at Ramps 43 and 44.

Response: Refer to "Environmental Consequences" section in the EA. The park has designed the proposed all elements in a manner that avoids, minimizes or when necessary, mitigates the impacts to natural and cultural resources and values. The NPS asserts that elevating the existing roadway between Ramps 43 and 44 will lessen impacts to wetlands, aid in restoration of wetland hydrology, enhance the visitor experience, and help ensure access to the adjacent ramps.

- 17) Permit sales:** A number of comments requested implementation of an online permit system.

Response: The NPS is working with a contractor to provide a method for visitors to secure an ORV permit on-line. The on-line system is anticipated to begin December 1, 2013. This response is provided as a courtesy since issues with permit sales are not within the scope of the proposed actions.

- 19) Purpose and need:** Several comments were concerned with lack of study demonstrating the need for parking lots or ADA boardwalks and inquired as to the level of consultation with appropriate agencies to ensure ADA boardwalks are meeting the needs.

Response: The projects proposed in this EA were a direct result of public and agency input during the Negotiated Rulemaking process and through the ORV EIS. Please refer to "Purpose and Need" section in the EA. Appropriate legal and policy requirements will be applied to all proposed development projects including parking lots and boardwalks.

- 20) Purpose and need:** Comments were received inquiring of the conducting of an Alternative Transportation Study and suggested completing the alternative transportation study before implementing the proposed improvements at Sites 19, 20, 21, and 25.

Response: As identified in the ORV EIS, the NPS contracted with the John A. Volpe National Transportation Systems Center in 2012 to examine the feasibility of an alternative transportation program focused on providing access to key recreational areas within the Park. This project was completed in September 2012 and determined that there are limited options for alternative transportation systems at the Park, due to low anticipated demand; high start-up costs due to purchase of vehicle and liability insurance; unreliability of access due to temporary resource and safety closures; and variable and challenging operational conditions (e.g. shallow depths, high tides, strong currents, dynamic shoaling); among other factors.

- 21) Coordination and Consultation:** Comments were received suggesting NPS consults with local agencies on the prioritization of projects.

Response: Dare and Hyde County Commissions provided comments during the public comment period which offered their views of prioritization. NPS will continue close coordination with these commissions during implementation of the selected alternative.

- 22) Applicable law policy and regulation:** Several comments were concerned about violation of federal laws. Representative comments included, (1)the no action alternative fails to note that no action would result in not complying with the ORV Final Rule in that the rule requires added ORV ramps and extended Interdunal Rd.; (2)the NPS, DOI, and the OMB are in violation of federal law

in that the ORV ramps regulated in the tables associated with 36 CFR 7.58, do not exist; some comments were concerned with missing discussion of certain regulations, including the Federal Lands Recreation Enhancement Act, Executive Order 12962 as amended by EO 13474, and 1937 Enabling Act (1940 Amended) ; some comments state that NPS is in violation of regulations including the Antideficiency Act, and Executive Orders 11988 and 11990. .

Response: The NPS is required to abide by all laws, regulations, and policies. Implementation of the proposed action adheres to this requirement and is therefore conducted in accordance with all law, policy, regulation, and guidance. Refer to "Purpose and Need" section of the EA.

- 23) Public Safety:** A number of comments noted concern over safety. Examples of these included concern with adding 3 additional intersections on a busy highway such as NC Rt. 12; the proposed interdunal road intersects 2 pedestrian boardwalks and creates a safety hazard; more parking at Ramp 49 would cause pedestrians to walk up the ramp thereby creating a safety hazard; and creating parking areas where people have to walk across Highway 12 is dangerous

Response: Visitor safety is a paramount concern for the NPS and is factored into all management decisions. While it is impossible to eliminate all safety risks, the NPS will incorporate various methods to eliminate, minimize, or mitigate safety concerns associated with the proposed projects. In some ways, the proposed project itself minimizes safety concerns such as the addition of a boardwalk where visitors have traditionally walked to the beach via ORV ramps. The NPS has consulted and will continue to consult with all appropriate permitting agencies, such as NCDOT, to address potential safety concerns along Highway 12 associated with the proposed projects and other issues that may affect public safety. Additionally, existing policies, laws, and regulations, such as pedestrians having the right of way and speed limits, help minimize conflicts between recreational opportunities and user groups.

- 24) Facility maintenance:** A number of comments expressed concern about maintenance of facilities in a barrier island habitat.

Response: The NPS acknowledges that any structure built in a barrier island ecosystem is subject to environmental influences. To this end, infrastructure would be built using durable, environmentally friendly materials requiring minimal maintenance. Routine inspections would ensure the infrastructure is maintained to Seashore standards. Where maintenance is needed, cost will be covered by ORV permit fees.

- 25) Direct impacts to wetlands and plants:** Several comments were concerned with the impact to wetlands and vegetation from the interdunal road and other development. Additionally, comments were also concerned with the location of state listed plants at sites 5, 18, 19, 20, 21, 23, and 29, and requested that the NPS protect plants in those areas as new boardwalks and footpaths are developed.

Response: One of the objectives for preparing the EA was to methodically look at the proposed project areas and get information to adjust the siting of projects to avoid resource impacts or to determine what would be done during project implementation to avoid, minimize, or mitigate adverse impacts. As such, the document represents a blueprint for project implementation, but it should be recognized that oversight will occur during the implementation phase to assure resource disturbance is minimal. In the EA, Figures 2-1 through 2-29 show that the siting of facilities avoided wetland and sensitive plant populations. The EA presents its approach to avoiding and mitigating for sensitive vegetation, specifically dune bluecurls, on pages 130-131, including seed collection and propagation for replanting efforts.

26) Aesthetics: Several comments were concerned that the addition of parking lots and boardwalks will only make the natural setting of Hatteras Island as viewed from Route 12 less inviting as it has been in the recent years.

Response: The number and extent of proposed projects has been limited so that additional improvements are minimally intrusive to the natural setting. Proposed projects, including the parking lots and boardwalks, are being constructed within the Seashore's development areas and will be of minimum construction to appear aesthetically similar to the existing facilities. Siting of parking areas along Highway 12 will provide additional opportunities for park visitors to enjoy the seashore beyond the parking areas.

27) Impact of the Proposal on Wildlife and Wildlife Habitat: There were several comments related to concern about the impact these proposed projects would have on wildlife species within the Park. One commenter urged that the Park plan and implement construction activities so as not to coincide with breeding and nesting seasons. These comments were not substantive; however a response is offered below.

Response: One of the objectives for preparing the EA was to methodically look at the proposed project areas and get information to adjust the siting of projects to avoid resource impacts or determine what could be done during project implementation to avoid, minimize, or mitigate adverse impacts. As such, the document represents a blueprint for project implementation, but it should be recognized that oversight will occur during the implementation phase to assure resource disturbance is minimal. NPS is confident that it can implement these projects with overall negligible, adverse cumulative impacts to wildlife and habitat (EA, pages 156-161).

28) Visitor Use: A number of comments were related to visitor use as a result of the projects. Most of these were general complaints about the lack of ORV access (as a result of the ORV Management Plan) and offering an opinion that the proposed projects would not rectify this situation. Although these comments are considered non-substantive since they don't deal with either the purpose or need of this EA or the projects proposed, a response is provided below. One comment questioned whether some of the projects were adequate to meet visitor needs given the amount of visitation (see page 108 of EA) to the Seashore annually.

Response: The subject projects were proposed in the Final ORV Management Plan completed in December 2010. The Background, Purpose, Need, and Objectives sections of the subject EA (pages 1-10) provides rationale for why these projects have been determined to enhance access to the Seashore. The desirability and location of the specific projects are in large part, an outgrowth of the extensive public participation process during the planning effort completed in 2010. This EA is to "fine tune" that process and to move thoughtfully forward toward its completion. The Park acknowledges that visitor use is a complicated issue to manage with a wide variety of competing visitor preferences; however, the proposed projects will be an enhancement to current access and meet the purpose, need, and objectives as stated in the EA.

ATTACHMENT D

**FINDING OF NO SIGNIFICANT IMPACT
PROPOSAL TO CONSTRUCT NEW DEVELOPMENT
THAT FACILITATES PUBLIC ACCESS
CAPE HATTERAS NATIONAL SEASHORE**

ERRATA

ERRATA

Errata: Red not was not included in the original text as it was not proposed for listing at that time.

Correction: Pg 1. INSERT after 2nd sentence 3rd paragraph. "The Seashore provides habitat to two federally listed species of shorebirds. Piping plovers (threatened) are found at the Seashore during all stages of their life history (wintering, migration, and breeding). Red knots (proposed threatened) migrate through the Seashore during Fall. No wintering or nesting red knots occur at the Seashore."

Errata: Page 5, Purpose and Need, Table 1.1 under "Need" column incorrectly states that Ramp 23 south is seasonally closed for 1.5 miles.

Correction: 1.5 miles South of Ramp 23 is a designated VFA while the area from the southern Salvo boundary north to the Rodanthe fishing pier is seasonally restricted for ORVs from April 1 – October 31.

Errata: Page 22: Table 1-2. The loggerhead sea turtle is not included in the table.

Correction: Insert "Loggerhead sea turtle" below "Reptiles"; Status is "Threatened"; County is "Dare and Hyde"

Errata: Red knot was not included in the table as it was not proposed for listing at the time of the draft EA.

Correction: Pg. 22. Table 1.2. INSERT red knot to the table as a "proposed threatened" shorebird for Dare and Hyde County.

Errata: On page 39, the EA provided outdated NCDOT information which stated "The NCDOT and the FHWA released a supplemental draft EIS regarding this replacement, and a supplement to the EIS was released in 2007 (OBTF 2007; FHWA 2007). In September 2008, NCDOT announced its preferred alternative, known as the Parallel Bridge with Phased Approach / Rodanthe Bridge Alternative. This alternative includes constructing a new Oregon Inlet bridge (Phase I) west of the existing structure, and later elevating NC-12 onto a series of bridges during Phases II-IV. Replacement of the Oregon Inlet bridge is expected to be complete in 2014 (NCDOT 2008)."

Correction: The updated information provided by NCDOT should state: "Since the publication of the 2008 FEIS, Federal Highway Administration and NCDOT issued a ROD in December 2010 that identified the Parallel Bridge Corridor with NCDOT Management Plan as the selected alternative for this project. This alternative identifies the replacement of the existing Bonner Bridge as Phase I of the project. The construction contract for the replacement bridge was awarded in July 2011. Currently, NCDOT is awaiting issuance of regulatory permits from various agencies for the construction of Phase I. Once all Phase I permits are received, a construction schedule will be set. The later phases of the selected alternative located between Oregon Inlet and Rodanthe will be identified as coastal conditions warrant. Like Phase I, these later phases will be vetted through the NEPA/Section 404 Merger process. The planning process for Phase II of the selected alternative, which includes the long term plans for the sections of NC 12 damaged by Hurricane Irene in August 2011, is currently underway. NCDOT expects to award construction contracts for Phase IIa (the Pea Island site) this fall; the award of a design-build construction contract for Phase IIb (Rodanthe area) is expected in April 2014."

Errata: Page 45, first paragraph, first sentence states that (i)unding for the proposed action would come from ORV permit fees established under the ORVMP/EIS.

Correction: *NPS will seek a variety of sources to fund the proposed action, although it is likely that the primary source of funds will be ORV permit fees established pursuant to the ORVMP.*

Errata: On page 47, the EA incorrectly states, "Construction activities would occur outside of the bird breeding season, during daylight hours, and outside of any protected species breeding or foraging habitat."

Correction: *Construction activities would only occur during daylight hours and outside of any protected species breeding or foraging habitat."*

Errata: On page 107, the EA incorrectly states "Visitor totals per year over the last 10 years to Cape Hatteras National Seashore have ranged from 1.9 million to 2.3 million; with the lowest count occurring in 2011 and the highest in 2012."

Correction: *The statement should read "Visitor totals per year over the last 10 years to Cape Hatteras National Seashore have ranged from 1.9 million in 2011 to over 2.6 million in 2003.*

Errata: Development #16 Page 7. "A 50-car parking area at the former Coast Guard Station with handicap accessible boardwalk." Concern was expressed during the public comment period that access through the residential area would create traffic issues.

Correction: *To clarify and based on public concern, no access will be allowed through the residential area. Access will be provided to this location through an existing route on the north side of the old lighthouse location.*