

**Comments by NCBBA/CHAPA/OBPA
On NPS Pre-nesting Closure Recommendations**

February 26, 2010

The Consent Decree requires piping plover (PIPL) pre-nesting closures beyond that which is required by the Endangered Species Act (ESA), the Migratory Bird Treaty Act, the NPS Organic Act, and NPS *Management Policies 2006*. After reviewing the 2010 pre-nesting closures proposed by the National Park Service for Bodie Island, Cape Point, South Beach, Hatteras Spit, Ocracoke, and South Ocracoke, the NCBBA, OBPA, and CHAPA recommend the following changes.

American Oyster Catcher (AMOY) nest sites should not be considered a relevant factor, nor shown on any maps of proposed closures for PIPL since the species was not specifically addressed in the Consent Decree.

Bodie Island – Map #1

- The pre-nesting closure at the southern tip of Bodie Island Spit is encompassing more area than was closed in 2009 and there were no (0) PIPL nests in that area. With the dredging, erosion and uncertain accretion on this ever changing spit, this extended closure is unwarranted. Should nesting occur outside of a reasonable pre-nesting closure, it can be enlarged. However, if erosion occurs, there is no provision to relocate these overzealous boundaries. The chance of total closure to the safest youth recreation area north of ramp 23 is too great for the NPS to not allow this minimal request. The area where the high tide line touches the proposed closure line needs to be reconsidered and a 100 ft. corridor should be maintained.
- With no (0) nesting of PIPL near the northwestern border of the pre-nesting closure, NPS should reopen the access corridor from the ocean beach to the “Bait Pond.” This corridor could act as a potential barrier between the predators in these dunes and the potential nesting areas on the spit. This corridor will also help keep this area free of vegetation. This entire area is routinely subject to ocean over wash, as it has for the last two (2) years.
- The closure for “Pedestrians Only” from the “Bait Pond” southward is unjustified and unreasonable. As evidenced by the NPS aerial photographs, this family beach continues to accrete from the south to the north. The waters adjoining this beach are shallow and warm early in the spring, allowing families with children (and the untold materials they bring for a day’s enjoyment) to utilize this beach from the “Bait Pond” to the southern tip of the Spit. This genteelly sloped beach with minimal wave action loved by our young visitors should be opened to the maximum for the families that flock there every year in pursuit of a safe beach on which their children may play. If NPS enforcement personnel believe that the beach is currently unsafe for vehicles, it should have a safety closure, not “Pedestrian Only,” until it has grown to an acceptable width.

Cape Point Map #2

- Cape Point closure should not eliminate the bypass The bypass should either continue west of the 2009 nest site to rejoin the access corridor further south, or the bypass should be shortened to join the access corridor further north.
- Relocate the most northern / east pre-nesting closure line, to the southern most point of the bypass trail. This can be allowed because of the natural dune barriers that provide protection of the various bird species from ORVs and pedestrians. These provisions are allowed under the Piping Plover Recovery Plan.
- Move east facing pre-nesting closure line 50m to the west to accommodate reasonable closure expansion. Maintain access to Cape Point to the greatest extent possible.
- Should restore plover habitat on the south and west side of the Salt Pond to encourage plover nesting to safer interior areas, keeping natural dune barriers to protect species.

South Beach Map #3

- Should restore plover habitat on the south and west side of the Salt Pond to encourage plover nesting to safer interior areas, keeping natural dune barriers to protect species.

Over-Wash Fans Map #4

- Eliminate Hatteras Spit Over-Wash Fans area pre-nesting closures. This area has no (0) history as plover breeding /nesting areas. Pole road is necessary in the future ORV Management Plan, along with additional ramp provisions.

Hatteras Spit Map #5

- Eliminate Hatteras Spit pre-nesting closures. Hatteras Spit has no plover habitat. NO areas of PCEs (Primary constituent elements.) Erosion has all but eliminated plover habitat, back interior dune area.
- Current conditions do not warrant expansion of the closure at Pole Road. NO PCEs exist.
- A 100 ft. corridor should be maintained.

Ocracoke – Map #6

- Open pedestrian corridor to ORVs, as ORVs are less disturbing to birds than pedestrians.

South Ocracoke – Map #7

- Maintain flexible 100 ft. corridor.