Note: This appendix did not appear in the DEIS. To make it more easily readable, it is not displayed in red-line/strikeout format.

APPENDIX D: FEDERAL, STATE, AND LOCAL AGENCIES COMMENTS ON THE DRAFT EIS

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Raleigh Field Office
Post Office Box 33726
Raleigh, North Carolina 27636-3726

May 11, 2010

Michael B. Murray
Superintendent, Cape Hatteras National Seashore
National Park Service
1401 National Park Drive
Manteo, North Carolina 27954

Subject: Comments on Cape Hatteras National Seashore Off Road Vehicle Management Plan and Draft Environmental Impact Statement

Dear Superintendent Murray:

This provides the comments of the U. S. Fish and Wildlife Service (USFWS) on the Draft Environmental Impact Statement (DEIS) for the Cape Hatteras National Seashore Off-Road Vehicle (ORV) Management Plan, dated February 2010. At the conclusion of the decision-making process mandated by the National Environmental Policy Act (NEPA), the alternative selected for implementation will become the ORV management plan, which will guide the management and control of ORVs at Cape Hatteras National Seashore (CAHA) for the next 10 to 15 years. The management plan will also form the basis for a special regulation to manage ORV use within CAHA. These comments are provided for NPS use in meeting your requirements under NEPA. Our agencies are currently in consultation pursuant to Section 7 of the Endangered Species Act, and specific comments and determinations regarding the effects of the proposed action on federally listed species will be provided through that process.

The USFWS has actively worked with the National Park Service (NPS) and other stakeholders regarding this issue for many years. We have provided technical assistance to the NPS regarding management of federal trust fish and wildlife resources, and have rendered biological opinions and incidental take statements regarding the Interim Strategy and Consent Decree, which have been used by NPS to guide management of ORV use at CAHA over the past few years. We also participated in the Negotiated Rule-making process convened by the NPS. At the conclusion of that process, we provided a detailed set of recommendations to the NPS (through the Consensus Building Institute via a memorandum dated March 27, 2009) for your use in developing the proposed ORV Management Plan. We have used our March 27, 2009, recommendations as the basis for the following comments.

The main thrust of our March 27, 2009, recommendations was to encourage the NPS to set goals and implement management actions for the fish and wildlife resources of CAHA that would ensure that CAHA is truly contributing to the recovery of federally listed species and the long

term conservation of other priority federal trust resources. We continue to believe these steps are necessary to ensure that the natural resources of CAHA are not impaired. We also encouraged the NPS to pursue those goals through a robust adaptive management strategy that would ensure that the best science and continuous learning were fully integrated in the management process.

With respect to goals, we note that the DEIS describes a set of desired future conditions (i.e., target population levels) for beach-nest birds, sea turtles, and sea beach amaranth. We find that the desired future conditions for the federally listed species (nesting piping plovers, nesting sea turtles and sea beach amaranth) parallel recovery criteria described in the recovery plans for these species, and we support them. The desired future conditions for American Oystercatcher also appear reasonable. While we support the desired population growth rates for colonial waterbirds, we note that the baseline population levels for these species were drawn from a period during which populations of these species at CAHA were historically low. As such, the 10 and 20 year population targets described in the desired future conditions are likely lower than what could be supported at CAHA with sustained management. We anticipate that with continued implementation of management actions such as those described in Alternative F, populations of these species could easily exceed the desired future conditions as currently defined. We encourage the NPS to take another look at the historic data set to determine a more appropriate baseline, or prepare to re-calibrate the desired future conditions for these species at the first 5-year review period to reflect population levels that more closely reflect the likely ability of CAHA to support these species.

Our March 27, 2009, recommendations also emphasized the importance of modeling to the effective application of adaptive management. While the DEIS describes a number of research questions that the NPS would like to pursue as the ORV Management Plan is implemented, it does not articulate a desire on the part of NPS to develop and use species-habitat models as tools to inform management. As we have previously stated, models are important tools and essential components of an adaptive management framework. They would enable you to make better predictions about the effects of management actions relative to your desired future conditions, and would help focus research and monitoring efforts for maximum effectiveness. We continue to encourage the NPS to commit resources to the development of models for priority species, and we continue to offer our assistance toward that end.

Notwithstanding our above recommendations to strengthen the adaptive management component of the ORV Management Plan, we broadly support the identification of Alternative F as the preferred alternative. It largely embraces our March 27, 2009, recommendations and constitutes a baseline management program that is generally well grounded in our current understanding of the needs of these trust species. It also does include an adaptive component that will allow adjustment of management actions over time, based on improved knowledge and progress toward established goals. We support the ORV routes as described, the Species Management Areas and Management Levels. The buffer distances described for the protection of nesting birds and unfledged chicks reflect our current understanding of the biological needs of these species. Measures to protect nesting sea turtles are generally appropriate, including the restrictions on night driving and the nest relocation provisions. However, there are some specific issues regarding sea turtle management that we would like to explore further with you through the consultation process. They include lighting issues, fires on the beach, and the timing of

beach closures relative to sunrise and sunset. We will provide further information regarding these issues under separate cover.

We appreciate the opportunity to provide these comments. If you have any questions, please contact me at (919) 856-4520 extension 11, or via email at Pete_Benjamin@fws.gov.

Sincerely,

Pete Benjamin
Field Supervisor

United States Department of the Interior

NATIONAL PARK SERVICE
Fort Raleigh National Historical Site Wright Brothers National Memorial
Cape Hatteras National Seashore
1401 National Park Drive
Manteo, NC 27954
252-473-2111

IN REPLY REFER TO:

L7615 (CAHA)

February 17, 2010

Mr. Pete Benjamin
U.S. Fish and Wildlife Service
Raleigh Field Office
P.O. Box 33726
Raleigh, NC 27636-3726

Dear Mr. Benjamin:

The purpose of this letter is to request formal consultation with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act (ESA) on Alternative F of the draft Cape Hatteras National Seashore Off-Road Vehicle Management Plan/Environmental Impact Statement (DEIS). We are requesting consultation for the following listed species: piping plover (Charadrius melodus) of the Atlantic Coast, Great Lakes and Great Plains populations; seabeach amaranth (Amaranthus pumilus); and loggerhead (Caretta caretta), green (Chelonia mydas), and leatherback (Dermochelys coriacea) sea turtles. Based on the information in the DEIS we have determined that actions that would be implemented under the NPS preferred Alternative F, may affect/are likely to adversely affect piping plover; may affect/are likely to adversely affect sea turtles, and may affect/are likely to adversely affect seabeach amaranth. We have also determined that the implementation of Alternative F may affect/is not likely to adversely affect designated critical habitat for wintering piping plover.

For this project the DEIS has been developed to also serve as the biological assessment (BA). The following BA information is contained on the pages of the DEIS as indicated below:

1. Project Description
   a) Desired future conditions for federally listed species, pp. 7-9
   b) Description of elements common to all alternatives, pp. 56 – 59
   c) Description of elements common to all action alternatives, pp. 61 – 74
   d) Text description of Alternative F, pp. 80-82
   e) Table 7 Off-Road Vehicle Routes and Areas, far right column describes routes and areas for Alternative F, pp. 97-101

TAKE PRIDE IN AMERICA

f) Table 8 Summary of Alternative Elements, far right column describes elements of Alternative F, pp. 102-115
g) Table 10 Species Management Strategies for Action Alternatives, pp. 121-126
h) Table 11 Shorebird/Waterbird Buffer Summary for Action Alternatives, p.127
i) Table 12 Analysis of How Alternatives Meet Objectives, far right column for alternative F, p. 129 Endangered and Other Protected Species.
j) Figure 2 Maps of the Alternatives, 7 maps for Alternative F, pp. 175 – 181

2. General Impact Analysis (for all topics)
   a) General methodology for establishing impact thresholds and measuring effects by resource, pp. 292 – 293, General methodology for analyzing cumulative impacts, pp. 293 – 296

3. General Impact Analysis (for listed species)
   a) Guiding regulations and policies, assumptions, methodologies and threshold definitions for ESA effects determinations, pp. 318 – 320
   b) Table 13 Environmental Impact Summary by Alternative, the far right column summarizes impacts of Alternative F on the federally listed species, pp. 133-134

4. Piping Plover
   a) Description of species biology and current conditions, pp. 184 - 212
   b) Cumulative effects of state and private actions in the project area, pp 358 - 359
   c) Critical habitat, description pp. 189 – 191; effect p. 361
   d) Effects of proposed action (Alternative F) on piping plover and critical habitat and potential for incidental take of listed species, pp. 320 – 322 describes species specific methodology and assumptions used for impact analysis; pp. 356 - 361 analyzes impacts; pp. 362 – 367 Table 52 Summary of Impacts to Piping Plover under the Alternatives, far right column summarizes impacts to piping plover of Alternative F
   e) ESA effects determination, pp. 360 – 361

5. Sea turtles
   a) Description of species biology and current conditions, pp. 212 - 221
   b) Cumulative effects of state and private actions in the project area, pp. 393 - 394
   c) Critical habitat has not been designated for sea turtles and is therefore not discussed
   d) Effects of proposed action (Alternative F) on sea turtles and critical habitat and potential for incidental take of listed species, pp. 368 – 370 describes species specific methodology and assumptions used for sea turtle impact analysis; pp. 392 -396 analyzes impacts of Alternative F on sea turtles; p. 396 Table 53 Summary of Impacts to Sea Turtles under the Alternatives, far right column, summarizes impacts to sea turtles of Alternative F
   e) ESA effects determination, pp. 395 – 396

6. Seabeach amaranth
   a) Description of species biology and current conditions, pp. 221 - 223
   b) Cumulative effects of state and private actions in the project area, pp. 416
   c) Critical habitat has not been designated for seabeach amaranth and is therefore not discussed

d) Effects of proposed action (Alternative F) on seabeach amaranth and critical habitat and potential for incidental take of listed species pp. 397 – 399 describes species specific methodology and assumptions used for impact analysis; pp. 415 – 418 analyzes impacts; p. 418 Table 54 Summary of Impacts to Seabeach Amaranth under the Alternatives, far right column, summarizes impacts to seabeach amaranth of Alternative F
e) ESA effects determination, pp. 417 – 418

7. Conservation measures
NPS proposes to seek funding to conduct the following conservation measures described in Table 10 Species Management Strategies for Action Alternatives: p. 124 piping plover chick fledge rate study; p. 126 sea turtle study to determine ways to increase the number of hatchlings that emerge and reach the water; p. 126 seabeach amaranth study to assess the feasibility of seabeach amaranth restoration at up to four suitable sites.

8. Literature cited
pp. 657 – 685

9. Preparers
pp. 641 – 642

Three compact discs (CDs), each containing an advance copy of the DEIS, are enclosed for your use. Please be aware that the Notice of Availability for the DEIS, and consequent approval to release the DEIS for public review, has not yet completed the sign-off circuit in the Washington Office. We ask you and your staff to keep the DEIS confidential until it is publicly released for review.

We look forward to receiving your Biological Opinion on Alternative F. We are available for a conference call or to meet with you as needed during the Section 7 consultation process. Please contact Cyndy Holda at 252-473-2111 ext. 148 to arrange a call or meeting.

Sincerely,

Michael B. Murray

Michael B. Murray
Superintendent

Enclosures

#2297
CAHA ORV

MM	SUPERINTENDENT	
	DEPUTY SUPT.	
	PIO/PLANNING	
3/29	RESOURCE MGMT.	
	INTERPRETATION	
	ADMINISTRATION	
	PERSONNEL	
	VISITOR SERVICES	
	SAFETY OFFICER	
	SPEC. PARK USES	
	MAINTENANCE	
✓	FILE	

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Raleigh Field Office
Post Office Box 33726
Raleigh, North Carolina 27636-3726

April 27, 2010

Michael B. Murray
Superintendent, Cape Hatteras National Seashore
National Park Service
1401 National Park Drive
Manteo, North Carolina 27954

Dear Superintendent Murray:

This letter acknowledges the U.S. Fish and Wildlife Service's (Service) receipt of your February 17, 2010, letter requesting the initiation of formal section 7 consultation under the Endangered Species Act (ESA). Your letter was received on February 18, 2010. The consultation concerns the possible effects of Alternative F within the Cape Hatteras National Seashore Off-Road Vehicle Management Plan/Draft Environmental Impact Statement (DEIS), dated March 2010. The Service received the DEIS on March 8, 2010. The DEIS serves as the biological assessment for the purposes of section 7 consultation requirements.

You requested consultation on the piping plover (*Charadrius melodus*) of the Atlantic Coast, Great Lakes and Great Plains populations; seabeach amaranth (*Amaranthus pumilus*); and loggerhead (*Caretta caretta*), green (*Chelonia mydas*), and leatherback (*Dermochelys coriacea*) sea turtles. You have determined that actions that would be implemented under the National Park Service's preferred alternative, Alternative F, may affect and is likely to adversely affect these species. You state that implementing Alternative F may affect, but is not likely to adversely affect, designated critical habitat for wintering piping plovers which we understand to mean that the proposed actions are not likely to destroy or adversely modify such critical habitat.

All information required of you to initiate consultation was either contained in your letter or is otherwise accessible for our consideration and reference. We have assigned log number 2010-F-0157 to this consultation. Please refer to that number in future correspondence on this consultation.

Section 7 allows the Service up to 90 calendar days to conclude formal consultation with your agency and an additional 45 calendar days to prepare our biological opinion (unless we mutually agree to an extension). Therefore, we expect to provide you with our biological opinion no later than July 2, 2010.

As a reminder, the Endangered Species Act requires that after initiation of formal consultation, the Federal action agency may not make any irreversible or irretrievable commitment of resources that limits future options. This practice ensures agency actions do not preclude the formulation or implementation of reasonable and prudent alternatives that avoid jeopardizing the continued existence of endangered or threatened species or destroying or modifying their critical habitats.

If you have any questions or concerns about this consultation or the consultation process in general, please feel free to contact me or Howard Hall at 919-856-4520, ext. 27 or by e-mail at < howard_hall@fws.gov >.

Sincerely,

Pete Benjamin
Field Supervisor

United States Department of the Interior

NATIONAL PARK SERVICE
Fort Raleigh National Historical Site Wright Brothers National Memorial
Cape Hatteras National Seashore
1401 National Park Drive
Manteo, NC 27954
252-473-2111

IN REPLY REFER TO:

L7615 (CAHA)

October 14, 2010

Mr. Pete Benjamin
U.S. Fish and Wildlife Service
Raleigh Field Office
P.O. Box 33726
Raleigh, NC 27636-3726

Dear Mr. Benjamin:

The purpose of this letter is to provide updated information related to our February 17, 2010 letter requesting formal consultation with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act (ESA) on Alternative F, the National Park Service (NPS) preferred alternative, in the draft Cape Hatteras National Seashore Off-Road Vehicle (ORV) Management Plan/Environmental Impact Statement (draft plan/EIS or DEIS). Based on public and agency comment on the DEIS, we have revised Alternative F and are hereby providing information about those revisions, so that the biological opinion (BO) can be based on the NPS preferred alternative (Alternative F), as described in the Final Cape Hatteras National Seashore ORV Management Plan/EIS (FEIS).

In our February 17, 2010 letter we requested consultation for the following listed species: piping plover (Charadrius melodus) of the Atlantic Coast, Great Lakes and Great Plains populations; seabeach amaranth (Amaranthus pumilus); and loggerhead (Caretta caretta), green (Chelonia mydas), and leatherback (Dermochelys coriacea) sea turtles. Based on the information in the DEIS and in the revisions we have made in the Alternative F, we have determined that actions that would be implemented by NPS may affect/are likely to adversely affect piping plover; may affect/are likely to adversely affect sea turtles, and may affect/are likely to adversely affect seabeach amaranth. We have also determined that the implementation of Alternative F may affect/is not likely to adversely affect designated critical habitat for wintering piping plover.

As noted in our letter of February 17, 2010, the DEIS was developed to also serve as the biological assessment (BA). This letter and its attachments provide an updated description of the proposed action (Alternative F).

DESCRIPTION OF ALTERNATIVE F: NPS PREFERRED ALTERNATIVE (FEIS)

In December 2007, the Department of the Interior established a negotiated rulemaking advisory committee (Committee) to assist the NPS in the development of an ORV regulation for the Seashore. The Committee met 11 times from January 2007 through February 2009, and conducted numerous subcommittee and work group meetings and conference calls. The Committee discussed and explored options for the full spectrum of ORV management issues covered in this plan/EIS. As a result of these discussions, the NPS considered a variety of concepts and measures that either originated from Committee members or were discussed during Committee, subcommittee, or work group sessions. Although the Committee as a whole did not reach a consensus on a recommended alternative, in creating this action alternative the NPS has made management judgments as to which combination of concepts and measures would make an effective overall ORV management strategy. The NPS has also included under Alternative E some ORV management approaches identified by the Committee that would require more intensive management (such as park-and-stay and SCV camping), in keeping with the maximum management theme of that alternative.

After reviewing public and agency comments on the DEIS, the NPS revised Alternative F for the FEIS by adopting some of the simpler approaches from the other alternatives (e.g., instead of SMAs, designating more year-round vehicle free areas and using standard buffers with prenesting and nonbreeding closures; adopting simpler and easier to understand hours for night-driving restrictions; and using more consistent seasonal closure dates among the villages). Also in response to public and agency comments, the amount of construction was decreased and pedestrian access increased. Designation of ORV routes was adjusted to provide balance between ORV areas and vehicle-free areas. The bypass provision and criteria from Alternative A was incorporated in Alternative F to mitigate effects of sea turtle closures that could block fall ORV access to Cape Point. A bypass would be instituted, if feasible, only for turtle nests (not for shorebird breeding activity) in the area between Ramp 44 and Cape Point. The existing short, interdunal route at the "narrows" has been added as an interdunal route since it has been in existence for a number of years and it could also be used to by-pass a turtle nest after bird breeding has ended in the area. Night driving (9 p.m. to 7 a.m.) would not be permitted in the vicinity of a turtle nest that has reached its hatch window of 50-55 days (see Table 10-1); however, the bypass, if feasible, would permit ORV access to the Point during daylight hours until the nest has hatched.

This Alternative F is designed to provide visitors to the Seashore with a wide variety of access opportunities for both ORV and pedestrian users, including access to the spits and points, but often with controls or restrictions in place to limit impacts on sensitive resources. This means that some areas may be kept open to ORV users for longer periods of time by reopening some ORV corridors at the spits and points sooner after shorebird breeding activity is completed than in alternatives C or E, and by improving interdunal road and ORV ramp access. Pedestrian access would be enhanced by providing increased parking capacity at various points of access to vehicle-free areas. Such areas would be provided during all seasons so non-ORV users can experience the Seashore without the presence of vehicles. Like the other action alternatives, this Alternative F would manage ORV use by identifying areas that historically do not support sensitive resources and areas of lower visitor use. Some of these areas would be designated as ORV routes year-round. Areas of high resource sensitivity and high visitor use would generally be designated as vehicle-free areas year-round or as seasonal ORV routes, with restrictions based on seasonal resource and visitor use.

The year-round designation of vehicle-free areas and ORV routes, in conjunction with the species management strategies described in Table 10-1, would provide for species protection during both the breeding season and the nonbreeding season. SMAs would not be designated under this alternative and one set of standard buffers, similar to the ML2 buffers in the other action alternatives, would be utilized. During the shorebird breeding season, pedestrian shoreline access along ocean and inlet shorelines below the high-tide line would be permitted in front of (i.e., seaward of) prenesting areas until breeding activity is observed, then standard buffers for breeding activity would apply. The NPS retains discretion at all times to enforce more proactive closures or take other measures, if considered necessary, consistent with its obligations under the law. Prenesting areas would generally be closed March 15 through July 31 (or August 15 if black skimmers are present), or until two weeks after all chicks have fledged and breeding activity has ceased, whichever comes later. For all species closures, including prenesting closures, the NPS would not reduce buffers to accommodate an ORV corridor or ORV ramp access.

Bodie Island Spit would be designated as a seasonal ORV route from September 15 through March 14 and would be vehicle-free from March 15 through September 14. Like alternative E, alternative F also involves the development of an interdunal pedestrian trail on Bodie Island. The trail would begin at a new parking area near Ramp 4 and would provide access to the inlet. This new trail would also be subject to resource-protection closures. Year-round ORV routes would be designated at Cape Point and South Point, with 35-meter-wide (115-foot-wide) ORV corridors during the breeding season. Standard resource-protection buffers would apply to these ORV corridors. When nests occur near the ORV corridor or unfledged chicks are present, the probability of being able to provide this access would decrease. The provision and criteria described in Alternative A for creation of short-term bypasses would be incorporated in Alternative F only for sea turtle nests and only between Ramp 44 and Cape Point. Alternative F would include the construction of a short seasonal ORV route to provide pedestrian access to the sound on Ocracoke Island. In addition, the NPS would consider applications for commercial use authorizations to offer beach and water shuttle services and would apply for funding to conduct an alternative transportation study to evaluate the feasibility of alternative forms of transportation to popular sites, such as inlets and Cape Point.

The variety of access methods possible under Alternative F, based on the establishment of year-round and seasonal ORV routes and vehicle-free areas, and increased interdunal roads and parking to support access, would provide the public with ORV and pedestrian access to a greater number of areas within the Seashore. This alternative would afford less predictability than alternative C or D, but more predictability than Alternative E, regarding areas available for use, and it would require a comparable level of oversight and management to Alternative E.

Areas that would be seasonally designated as vehicle free would include the areas in front of Ocracoke Campground and villages, except for Rodanthe north of the pier and Buxton, which would be vehicle free year-round. The dates for ORV use in front of the seasonally designated villages and Ocracoke Campground would be November 1 to March 31 when visitation and rental occupancy is lowest. These areas would be vehicle free April 1 to October 31 when visitation and rental occupancy is highest. When these beaches are open to ORV use, a safety closure would be implemented on portions of the beach that are not consistently at least 20 meters (66 feet) wide during normal high tides.

To facilitate access to ORV routes, Alternative F would add new Ramp 25.5 approximately 2.5 miles south of Ramp 23, relocate Ramp 59 to 59.5, and add a new Ramp 63 across from Scrag

Cedar Road. (Note: All action alternatives involve relocating Ramp 2 and building a new ramp at 32.5). New interdunal roads would facilitate access to locations that have either seasonal or year-round restrictions on ORV use. Locations for interdunal roads would include: inland of South Beach from Ramp 45 to Ramp 49, with one new ramp at 47.5 and on Hatteras Inlet Spit extending from the intersection of Pole and Spur Roads southwest toward the inlet, stopping at least 100 meters from the inlet. Existing soundside access points would remain open, with better maintenance than currently occurs. Signage/posts would be installed at the soundside parking areas and boat launch areas to prevent damage to vegetation and other soundside resources. This alternative also involves the addition of new parking areas with associated foot trails or boardwalks to facilitate pedestrian access at a number of locations.

ORV routes and vehicle-free areas under this alternative would still be subject to temporary resource closures established when protected-species breeding behavior warrants and/or if new habitat is created. Outside the breeding season, vehicle-free areas throughout the Seashore would provide relatively less-disturbed foraging, resting, and roosting habitat for migrating and wintering birds. These areas would be open to pedestrians for recreational use. In addition, resource closures at spits and points would also be established, based on an annual nonbreeding habitat assessment conducted after the breeding season, to provide areas of nonbreeding shorebird habitat with reduced human disturbance.

Designated ORV routes would be open to ORV use 24 hours a day from November 16 through April 30. From May 1 through November 15, all potential sea turtle nesting habitat (ocean intertidal zone, ocean backshore, and dunes) would be closed to non-essential ORV use from 9:00 p.m. until 7:00 a.m. to provide for sea turtle protection and allow enforcement staff to concentrate their resources during the daytime hours; however, from September 16 through November 15 selected ORV routes with no turtle nests remaining (as determined by the NPS) would reopen to night driving, subject to the terms and conditions established under the ORV permit.

ORV safety closures could be designated as conditions warrant and would be evaluated for reopening by NPS law enforcement staff on a weekly basis. ORV safety closures would be applicable only to ORV access; pedestrian and commercial fishing access would generally be maintained through safety closures. Alternative F provides specific guidelines for establishing and removing safety closures. Additional ORV-driving requirements would be implemented to provide for increased pedestrian safety in all areas open to ORV use, including the village beaches when open to ORV use. Under the carrying capacity requirement for Alternative F, the maximum number of vehicles allowed on any particular ORV route during peak use periods would be the linear distance of the route divided by 6 meters (20 feet) per vehicle (i.e., the equivalent of 260 vehicles per mile). In addition, parking within ORV routes would be allowed, but restricted to one vehicle deep. These measures would reduce safety concerns associated with overcrowding, such as at peak use periods during major summer holidays and weekends.

Alternative F would include an ORV permit system, with no limit on the number of permits issued. Permit fees would be determined based on the recovery of NPS costs incurred in implementing the ORV management plan that are not already covered by the Seashore's base operating funds. Expected permit fees would be similar to Alternative E due to the level of management required for implementation. Both annual and 7-day permits would be available under this alternative. To obtain a permit, ORV owners would be required to complete a short education program in person at an NPS facility. Vehicle owners would need to sign for their permit to acknowledge that they

understand the rules and that all drivers of the permitted vehicle will abide by the rules and regulations governing ORV use at the Seashore. A violation of the rules and regulations by the owner or driver of the ORV could result in revocation of the vehicle permit, and the owner/permittee would not be allowed to obtain another permit for any vehicle for a specified period of time. In addition to the mandatory education program for ORV users, the NPS would establish a voluntary resource-education program targeted toward non-ORV beach users.

Designated ORV routes under Alternative F are shown in the attached maps and described in Table 7-1 (attached). Details of the related ORV management actions under this alternative are described in Table 8 (attached).

The year-round designation of vehicle-free areas and ORV routes, in conjunction with the revised species management strategies described in Table 10-1 (attached) would provide for species protection during both the breeding season and the nonbreeding season. Species Management Areas (SMAs), as described for action alternatives C-E, would not be designated under Alternative F and one set of standard buffers, similar to the ML2 buffers in the other action alternatives, would be utilized. During the shorebird breeding season, pedestrian shoreline access below the high-tide line would be permitted in front of (i.e., seaward of) pre-nesting areas until breeding activity is observed, then standard buffers for breeding activity would apply. Pre-nesting areas would generally be closed March 15 through July 31 (or August 15 if black skimmers are present), or until two weeks after all chicks have fledged and breeding activity has ceased, whichever comes later.

NPS staff will follow guidance in the NCWRC handbook and FWS Loggerhead Sea Turtle Recovery Plan, which is to allow sea turtle nests to incubate at their original location if there is any reasonable likelihood of survival. Relocation of a nest would be considered only as an option of last resort. Accommodation of ORV access shall not be a factor in determining whether a nest needs to be relocated. When relocation is determined to be necessary, nests would be moved toward the dunes immediately behind the original nest location (when possible). Narrow beaches or beaches without nearby dunes (i.e. points and spits) may necessitate relocations to adjacent areas above the high tide line that are free of vegetation. If a choice for a relocation site must be made among adjacent areas that are equally suitable biologically, then accommodation of ORV access to a popular location may be considered as a factor in choosing an appropriate relocation site. An adjacent site that is less suitable biologically shall not be selected for a relocated nest to accommodate ORV access.

Every five years the NPS would conduct a systematic review of the species management measures identified in this alternative as being subject to periodic review. This could result in changes to those management actions in order to improve effectiveness.

SELECTION OF ALTERNATIVE F AS THE NPS PREFERRED ALTERNATIVE (FEIS)

To identify the preferred alternative, the planning team evaluated each alternative based on its ability to meet the plan objectives and the potential impacts on the environment. Alternative D was identified as the environmentally preferable alternative. Alternative F was identified as the NPS preferred alternative. Based on public and agency comments received on the draft plan/EIS (DEIS), the NPS has revised the Alternative F as described in the final plan/EIS (FEIS).

Both Alternatives D and F would meet most of the plan objectives either fully or to a large degree. In terms of species protection, both alternatives would provide the necessary buffers, as well as the proactive establishment of prenesting areas and protection of breeding and nonbreeding shorebird habitat. Seasonal night-driving restrictions would be similar under both of these alternatives, offering comparable protection to sea turtles and foraging bird species. However, Alternative F was chosen as the preferred alternative because it would provide not only effective resource protection but also would provide Seashore visitors with more diverse options for access and recreational use. Providing approximately 26 miles of the Seashore that are designated vehicle free areas (VFA) year-round, while 28 miles are open to ORV use year-round (subject to resources closures), would provide for a greater diversity of visitor use.

Although designation of all SMAs as year-round ORV closures under Alternative D would provide the necessary resource protection, the use of ML1 buffers in all SMAs would preclude all visitor access in these areas during the breeding season. If protected species do not utilize portions of the SMAs or if conditions of the Seashore change and habitat changes, Alternative D does not provide as much flexibility for the Seashore to manage visitor access as Alternative F, which provides for designated ORV routes that would remain open unless protected species activity results in a resource closure. In addition to providing species protection both during the breeding and nonbreeding seasons, Alternative F would also provide more flexibility and range of experience for visitor use and would enhance access to both VFAs and designated ORV routes by establishing strategically located new parking areas, pedestrian trails, interdunal routes, and ORV ramps. Because Alternative F provides for a greater variety of uses throughout the Seashore, it would have less of an impact on the socioeconomics of the area as well. As detailed in the impact analysis in Chapter 4, Alternative D would have greater impacts to the economy of the villages within the Seashore. In addition, Alternative F also would mitigate the potential economic and visitor impacts by encouraging alternative forms of access (water taxi and beach shuttle) to certain popular areas during times when they may be open for pedestrian use, but the access to the area may be closed due to a resource closure. By providing an alternate means for accessing these areas, beneficial economic impacts would be expected. Alternative F is also selected as the NPS preferred alternative because it incorporates some concepts and measures that originated in or were discussed during the negotiated rulemaking process, providing more public input. For these reasons, Alternative F was selected as the preferred alternative.

Alternatives C and E would meet the objectives from a moderate to a large degree, but to a lesser degree when compared to Alternative D because of the larger areas of recreational access allowed. By allowing more access to various areas of the Seashore during the breeding season of threatened, endangered, and species of special concern, the level of protection offered to these species would be less than Alternative D.

Alternatives A and B, on the whole, would meet the objectives from some degree to a moderate degree. These alternatives would not meet key objectives (such as those related to providing protection for threatened and endangered species and minimizing impacts to other natural resources at the Seashore) as well as the action alternatives. Because these alternatives would not meet the objectives to a large degree, they were not selected as the preferred alternative.

DETERMINATION OF EFFECT FOR ALTERNATIVE F (FEIS)

Piping Plover. Under the ESA, the actions taken under Alternative F may affect / are likely to adversely affect piping plover due to the minor adverse effects from monitoring and surveying and the minor to moderate impacts from ORV and other recreational use. Under Alternative F, year-round and seasonal VFAs would provide protection for migrating piping plover and plover establishing territories early in the season. However, recreational uses would still occur in the vicinity of plovers during breeding season in areas such as Cape Point and South Point. Under Alternative F, nonessential ORV traffic would be prohibited from all areas (other than the soundside access areas), from 9:00 p.m. to 7:00 a.m. from May 1 to November 15. From November 16 to April 30, ORV access would be allowed 24 hours per day in designated ORV routes for vehicles displaying a valid ORV permit. The NPS retains the discretion to limit night driving to certain areas or routes, based on resource protection considerations. These restrictions to night driving would provide long-term minor to moderate benefits to piping plovers but could still result in long-term minor adverse impacts during the time when night driving is allowed by permit. These impacts would result in a finding of may affect / are likely to adversely affect piping plovers under the ESA because the action would result in direct or indirect impacts to the species that are not discountable, insignificant, or beneficial. And while there may be beneficial impacts from surveys and monitoring, and management of recreation, the actions under Alternative F would also likely cause some adverse effects.

Under the ESA, the actions taken under Alternative F may affect / are not likely to adversely affect designated critical habitat for wintering piping plover due to the establishment of VFAs which would result in the closure of approximately 26 miles of shoreline to ORV use year round. These closures would provide less-disturbed foraging, resting, and roosting areas for migrating and wintering shorebirds and would protect the primary constituent elements of intertidal sand beaches and ocean backshores. These year-round VFAs along the ocean shoreline would be managed to allow for pedestrian use. Nonbreeding resource closures would also be established at the points and spits based on an annual habitat assessment, which would provide protection for wintering plover habitat. There would be some benefit to the critical habitat from the implementation of seasonal night-driving restrictions although these restrictions would only apply between May 1 and November 15, which would not cover the majority of time when the wintering population of piping plover is present at the Seashore.

Although there would be construction of ORV access ramps, parking areas, and interdunal roads, none of these improvements would impact any of the primary constituent elements of designated critical habitat for wintering piping plover.

Implementation of Alternative F would result in a finding of may affect / is not likely to adversely affect designated critical habitat for wintering piping plover under the ESA because the action would result in impacts to the critical habitat for the species that are discountable, insignificant, or beneficial. Actions under Alternative F would result in greater protection of the primary constituent elements of suitable interior habitat, spits, intertidal sand beaches, and ocean backshore, primarily as a result of the establishment of nonbreeding resource closures, and approximately 26 miles of year-round VFAs.

Sea Turtles. Under Alternative F, resources management activities would result in long-term moderate to major benefits due to the protection provided to sea turtles from daily surveys for nests

during the sea turtle nesting season (May 1 – September 15) and installation of closures around each nest found, expanding the closures and installing light filter fencing around the nests during the hatch window, relocating nests from areas prone to erosion or frequent flooding, installing turtle friendly lighting on the Seashore and working with the USFWS, the NCWRC, and Dare County to encourage the development of a turtle friendly lighting educational program or a turtle friendly lighting ordinance. The benefits of establishing prenesting closures for birds combined with other areas that are closed to ORVs use either year-round or seasonally such as some of the village beaches and Bodie Island Spit, would close approximately 39 miles of Seashore beach to ORV use during the turtle nesting and hatching season. These closures would minimize potential impacts to nesting turtles, turtle nests and turtle hatchlings in these areas; however, the benefits would be tempered somewhat by the fact that the prenesting areas would only be closed to ORV use from March 15 through July 31, which does not encompass the entire turtle nesting season and ORV corridors would be provided seaward of the prenesting closures at Cape Point and South Point.

ORV and other recreational use would have long-term minor to moderate adverse impacts due to the earlier re-opening of prenesting closures (after shorebird breeding activity has concluded), resulting in increased recreational access throughout the Seashore during the sea turtle nesting season. ORV and other recreational use would have impacts on sea turtles by affecting the beach profile and substrate characteristics in ways that reduce suitability for nesting and hatching success and likely continued closure violations and vandalism. Prohibiting recreational ORV use from 9:00 p.m. to 7:00 a.m. would greatly reduce potential impacts to adult and hatchling turtles caused by night driving. Opening select ORV routes from September 16 through November 15, subject to terms and conditions of a permit, only in areas where there are no turtle nests, would protect turtle hatchlings. Beach fires would still be allowed, but would be prohibited year-round between the hours of 10:00 p.m. and 6:00 a.m., and during the turtle nesting season would be restricted to areas in front of Coquina Beach and Rodanthe, Waves, Salvo, Avon, Buxton, Frisco, Hatteras Village, and the Ocracoke day use areas. While a permit would be required to have a beach fire, allowing beach fires would still cause adverse impacts to adult and hatchling turtles through light pollution. Under the ESA these impacts would result in a finding of may affect/are likely to adversely affect sea turtles because the actions would result in direct or indirect impacts to the species that are not discountable, insignificant, or beneficial. Though there would be beneficial impacts from resources management activities and restrictions on nonessential recreational ORV nighttime driving, the actions under Alternative F would also likely cause adverse effects.

Seabeach Amaranth. Under Alternative F, resources management activities would result in long-term minor to moderate benefits to seabeach amaranth if plants are detected in the Seashore. Benefits would be due to the protection provided by installing closures around plants that are detected, surveying for plants in August when they are visible, installing prenesting and other closures for nesting bird species that overlap seabeach amaranth habitat, and surveying bird and turtle closures for plants prior to reopening these closures to ORV and other recreation use. Approximately 39 miles of beach would be protected by seasonal and year-round VFAs, including Bodie Island Spit. Cape Point and South Point would have an ORV corridor seaward of the prenesting closures that may be closed depending on breeding shorebird buffers. These closures would protect seabeach amaranth and its habitat during these timeframes, but the seasonal closures would allow ORV impacts to occur during the seasons when these areas are reopened.

ORV and other recreational use would have long-term minor to moderate adverse impacts on seabeach amaranth as plants may go undetected and would therefore be unprotected from recreation

use of the Seashore. Seasonal restrictions on ORV use at seabeach amaranth and shorebird prenesting closures would help protect the species from impacts in those areas. Some additional seabeach amaranth habitat would be protected, for in all areas open to ORV use that are not in front of villages, a 32.8-foot (10-meter) wide ORV-free zone would be created in the ocean backshore wherever there is sufficient beach width to allow an ORV corridor of at least 98.4 feet (30 meters) above the mean high tide line. Constructing four new beach access ramps and relocating two existing ramps would eliminate some potential habitat for the species. During seabeach amaranth's dormant season more areas of the Seashore are open to ORV use, and while there would be no plants to be impacted, seeds of the plant could be either pulverized or buried by ORVs driving over them. Under the ESA, these impacts would result in a finding of may affect / likely to adversely affect for seabeach amaranth because the actions would result in direct or indirect impacts to the species that are not discountable, insignificant or beneficial. Though there would be beneficial impacts from resources management activities, the actions under Alternative F would also likely cause adverse effects.

UPDATED RESOURCE INFORMATION

2010 Piping Plover Breeding Summary:

Total Nests to Date	Active Nests	Total Nests Hatched	Total Nests Lost	Total Eggs Hatched	Unfledged Chicks	Lost Chicks	Fledged Chicks
16*	0	11	5	31	0	16	15

* This counts the three egg nest on Ocracoke, found 6/29, as a separate nest, although it is believed that this nest may be a clutch continuation from Nest #15, which was predated by ghost crabs 6/23.

2010 Sea Turtle Nesting Summary: 153 nests (146 loggerhead; 7 green); 112 false crawls

2009 and 2010 Seabeach Amaranth Summary: zero (0) plants found each year

In closing, we look forward to receiving your Biological Opinion on the FEIS preferred alternative (Alternative F). We are available for a conference call or to meet with you as needed during the Section 7 consultation process. Please contact Cyndy Holda at 252-473-2111, ext. 148 to schedule a phone call or meeting.

Sincerely,

Michael B. Murray

Michael B. Murray
Superintendent

Attachments

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
SAM NUNN
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA GEORGIA 30303-8960

May 10, 2010

Michael B. Murray, Superintendent
Cape Hatteras National Seashore
1401 National Park Drive
Manteo, North Carolina 27954

SUBJECT: Draft Off-Road Vehicle Management Plan/Environmental Impact Statement for the Cape Hatteras National Seashore in Manteo, North Carolina; CEQ Number 20100072

Dear Mr. Murray:

The U.S. Environmental Protection Agency (EPA) has reviewed the referenced Draft Off-Road Vehicle (ORV) Management Plan/Environmental Impact Statement (EIS) in accordance with its responsibilities under Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act. The purpose of this ORV management plan and Draft EIS is to evaluate the impacts of several alternatives for regulations and procedures that would carefully manage ORV use/access at Cape Hatteras National Seashore (CHNS) in Manteo, North Carolina, for the next 10 to 15 years. The National Park Service (NPS) is the lead federal agency for the proposed action.

NPS management plans represent the broadest level of planning conducted by the NPS and are intended to provide overall guidance for making informed decisions about future conditions in national parks. The outcome of the Draft EIS will also form the basis for a special regulation to manage ORV use at CHNS to protect and preserve natural and cultural resources and natural processes, to provide a variety of visitor use experiences while minimizing conflicts among various users, and to promote the safety of all visitors. The Draft EIS assesses the environmental impacts of six alternatives (A, B, C, D, E and F). Two no-action alternatives were analyzed to capture the full range of management actions that occurred and are currently occurring at CHNS. Alternative A represents continuation of management based on the 2007 Interim Protected Species Management Strategy. This management strategy was challenged in court and subsequently modified by a consent decree signed in 2008. Alternative B represents continuation of management as described in the consent decree.

Four action alternatives were evaluated. Alternative C would provide visitors to CHNS with a degree of predictability regarding areas available for ORV use, as well as vehicle-free areas, based largely on the seasonal resource and visitor use characteristics of various areas in CHNS. Under Alternative D, visitors to CHNS would have the maximum amount of predictability regarding areas available for ORV use and vehicle-free areas for pedestrian use with most areas having year-round, rather than seasonal designations. Restrictions would be

applied to larger areas over longer periods of time to minimize changes in designated ORV and non-ORV areas over the course of the year. Alternative D is identified as the environmentally preferable alternative. Alternative E would provide for the greatest amount of flexibility in access for both ORV and pedestrian users, including allowing some level of overnight vehicle use at selected points and spits. Where greater access is permitted, often additional controls or restrictions would be in place to limit impacts on sensitive resources. Alternative F includes a similar amount of access as provided under Alternative E, but with different limitations on allowable times and dates of ORV access. Alternative F is identified as the NPS preferred alternative.

CHNS provides important habitats and plays a vital role in the survival of many wildlife species, including a number of rare, unique, threatened and endangered species. ORV use along the CHNS can disrupt habitat or cause a loss of habitat in high use areas. Habitat loss due to ORV use could also occur indirectly as a result of the noise and disturbance from this activity. A number of these species have had historically low reproductive rates. The lack of large undisturbed areas for successful breeding contributes to these low rates at CHNS. Frequent human disturbance can cause the abandonment of nest sites as well as direct loss of eggs and chicks.

Vegetated wetlands along the soundside and interior of the islands are susceptible to direct damage from ORV use. Estuarine wetlands are often denuded of vegetation when ORVs are driven and parked along the soundside shoreline. Also, many of the interior or interdunal roads are located near wetland areas that are often not noticeable to visitors. When standing water is present along these ORV routes, visitors often drive over adjacent vegetated areas in an attempt to avoid the standing water. This results in wider roads, new vehicle routes, and crushed or dead vegetation. Construction of new parking areas is also of concern for wetlands that may be located nearby.

In general, EPA strongly supports the restriction of use of ORVs to specifically-designated routes that are clearly posted as such and monitored accordingly and to eliminate the use of ORVs within ecologically sensitive areas. Therefore, EPA supports the inclusion of a number of elements common to all the action alternatives that address this interest, including: 1) the establishment of areas that allow ORV use and vehicle-free (non-ORV) areas where ORV use is prohibited; 2) a requirement that ORV operators must drive only on marked ORV routes and must comply with posted restrictions; 3) increased education and outreach to support this requirement; 4) the establishment of Species Management Areas (SMAs) for protection of threatened and endangered species during the breeding and nonbreeding seasons; 5) a requirement that ORV operators must secure vehicular permits for use of designated ORV routes; and 6) the establishment of ORV carrying capacity limits for certain sensitive locations at CHNS. All of these measures when taken together should serve to minimize impacts to a number of the sensitive resources described above. However, the primary difference between the action alternatives is the amount of access each allows for ORV use and the degree of flexibility in establishing the operating parameters associated with the designated ORV routes.

EPA's primary concern about the preferred alternative (Alternative F) is that it designates the second-highest amount of shoreline miles for ORV use and includes the greatest number of new (or relocated) access ramps, parking areas, and new roads and trails among the action alternatives. There appears to be a significant number of existing access points and roads on CHNS, and it is unclear from the Draft EIS of the need for this additional access. These trails and roads will likely lead to additional potential impacts to soils and wetlands, particularly from ORV use in and around vegetated wetlands on the soundside and along interior ORV routes. Alternative F also allows for greater flexibility in the establishment and enforcement of buffer zones during the breeding season, night-time driving restrictions, and has higher carrying capacities in certain areas than other alternatives, which could lead to the disruption to sensitive and endangered wildlife. Alternative F will also require significantly more resources and operating costs to fully manage the greater flexibility that it allows while attempting to ensure environmental resources are adequately protected. EPA has concerns that the NPS will not have the ability to fully enforce and maintain the protection of sensitive resources if Alternative F is implemented.

EPA agrees with the NPS designation of Alternative D as the environmentally preferable alternative. Alternative D includes the greatest number of shoreline miles closed to ORVs and the least number of miles designated as ORV routes. It also has the least number of new or relocated access ramps, new parking lots, and new ORV interdunal roads. It also provides the greatest level of protection for sensitive species through the establishment of SMAs that involves larger and longer species protection buffers and would not allow pedestrian access once prenesting closures are established. It employs the most restrictive seasonal night-driving regulations to be protective of sea turtle nesting and hatching during that time. It also is the least expensive of any of the action alternatives and requires the least amount of personnel to manage implementation due to its more predictable design of ORV route designation. Therefore, we recommend reconsideration of this alternative as a viable action alternative.

However, EPA understands the need of the NPS to appropriately balance access to CHNS from multiple users based on its enabling legislation and other regulations. If the impacts of implementing Alternative D are considered significantly adverse on other users and socioeconomic factors, EPA recommends implementation of Alternative C, or perhaps some other hybrid alternative, as a reasonable compromise to achieve more access and greater flexibility with regard to ORV designation than Alternative D. Alternative C would provide greater protections for sensitive species with larger seasonal buffers, lower carrying capacities, and much fewer new access ramps, parking lots, and new roads as compared to Alternative F. Alternative C also appears to have approximately similar socioeconomic impacts as the preferred alternative.

A number of mitigation measures are proposed in the Draft EIS to avoid or minimize potentially adverse impacts from implementation of the ORV management plan and to ensure that the park's natural and cultural resources are protected and preserved for future visitors. EPA supports inclusion of these mitigation measures as part of the new management plan and subsequent ORV regulations for CHNS. These measures represent significant monitoring and adaptive management activities to ensure that the increase in ORV access areas and likely

subsequent increase in recreational usage of CHNS do not negatively impact natural and cultural resources.

We rate this document EC-2 (Environmental Concerns). Enclosed is a summary of definitions for EPA ratings. We have concerns that the proposed action identifies the potential for impacts to the environment that should be avoided/minimized. EPA recommends selection of other reasonably available alternatives that are analyzed in the Draft EIS which could reduce the environmental impacts of the proposal. We appreciate the opportunity to review the proposed action. Please contact Ben West at (404) 562-9643 if you have any questions or want to discuss our comments.

Sincerely,

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

Enclosure

cc: National Park Service, Southeast Regional Office

U.S. ENVIRONMENTAL PROTECTION AGENCY
ENVIRONMENTAL IMPACT STATEMENT (EIS) RATING SYSTEM CRITERIA

EPA has developed a set of criteria for rating Draft EISs. The rating system provides a basis upon which EPA makes recommendations to the lead agency for improving the draft.

RATING THE ENVIRONMENTAL IMPACT OF THE ACTION

$ LO (Lack of Objections): The review has not identified any potential environmental impacts requiring substantive changes to the preferred alternative. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposed action.

$ EC (Environmental Concerns): The review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact.

$ EO (Environmental Objections): The review has identified significant environmental impacts that should be avoided in order to adequately protect the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). The basis for environmental objections can include situations:

1. Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard;
2. Where the Federal agency violates its own substantive environmental requirements that relate to EPA's areas of jurisdiction or expertise;
3. Where there is a violation of an EPA policy declaration;
4. Where there are no applicable standards or where applicable standards will not be violated but there is potential for significant environmental degradation that could be corrected by project modification or other feasible alternatives; or
5. Where proceeding with the proposed action would set a precedent for future actions that collectively could result in significant environmental impacts.

$ EU (Environmentally Unsatisfactory): The review has identified adverse environmental impacts that are of sufficient magnitude that EPA believes the proposed action must not proceed as proposed. The basis for an environmentally unsatisfactory determination consists of identification of environmentally objectionable impacts as defined above and one or more of the following conditions:

1. The potential violation of or inconsistency with a national environmental standard is substantive and/or will occur on a long-term basis;
2. There are no applicable standards but the severity, duration, or geographical scope of the impacts associated with the proposed action warrant special attention; or
3. The potential environmental impacts resulting from the proposed action are of national importance because of the threat to national environmental resources or to environmental policies.

RATING THE ADEQUACY OF THE ENVIRONMENTAL IMPACT STATEMENT (EIS)

$ 1 (Adequate): The Draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

$ 2 (Insufficient Information): The Draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the Draft EIS, which could reduce the environmental impacts of the proposal. The identified additional information, data, analyses, or discussion should be included in the Final EIS.

$ 3 (Inadequate): The Draft EIS does not adequately assess the potentially significant environmental impacts of the proposal, or the reviewer has identified new, reasonably available, alternatives, that are outside of the spectrum of alternatives analyzed in the Draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. The identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. This rating indicates EPA's belief that the Draft EIS does not meet the purposes of NEPA and/or the Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised Draft EIS.

✓	SUPERINTENDENT	4/8/10
	DEPUTY SUPT.	
	PIO/PLANNING	
	RESOURCE MGMT.	
✓	Cultural Res.	
	INTERPRETATION	
	ADMINISTRATION	
	PERSONNEL	
	VISITOR SERVICES	
	Office of Archives and History	
	Division of Historical Resources	
	David Brook, Director	
	PROTECTION OFFICER	
	SPEC. PARK USES	
	MAINTENANCE	
	[illegible]	

North Carolina Department of Cultural Resources
State Historic Preservation Office
Peter B. Sandbeck, Administrator

Beverly Eaves Perdue, Governor
Linda A. Carlisle, Secretary
Jeffrey J. Crow, Deputy Secretary

April 6, 2010

Mike Murray
Cape Hatteras National Seashore
1401 National Park Drive
Manteo, NC 27954

Re: Off-RoadVehicle Management Plan at Cape Hatteras National Seashore, Dare County, ER 10-0173

Dear Superintendent Murray:

Thank you for your letter of March 4, 2010, concerning the above project.

We have conducted a review of the project and are aware of no historic resources which would be affected by the project. Therefore, we have no comment on the project as proposed.

The above comments are made pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's Regulations for Compliance with Section 106 codified at 36 CFR Part 800.

Thank you for your cooperation and consideration. If you have questions concerning the above comment, please contact Renee Gledhill-Earley, environmental review coordinator, at 919-807-6579. In all future communication concerning this project, please cite the above-referenced tracking number.

Sincerely,

Renee Gledhill-Earley

Peter Sandbeck

Location: 109 East Jones Street, Raleigh NC 27601 **Mailing Address:** 4617 Mail Service Center, Raleigh NC 27699-4617 **Telephone/Fax:** (919) 807-6570/807-6599

North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

May 7, 2010

Michael B. Murray, Superintendent
Outer Banks Group
National Park Service
1401 National Park Drive
Manteo, North Carolina 27954-9451

SUBJECT: **CD10-028** – Proposed Implementation of an Off-Road Vehicle Management Plan at the Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina (DCM#20100034)

Dear Mr. Murray:

We received your consistency determination on March 10, 2010 for the proposed implementation of Alternative "F" as the Off-Road Vehicle Management Plan (Plan) for the Cape Hatteras National Seashore (Seashore), Dare and Hyde Counties, North Carolina. Alternative "F" is detailed in the document "*Cape Hatteras national Seashore, Off Road Vehicle Management Plan/Environmental Impact Statement*" (March 2010). According to the submission, the National Park Service (NPS) proposes a variety of management measures and construction projects related to the management of off-road vehicle (ORV) usage at the Seashore. The NPS noted in its consistency submission that the NPS has not yet determined the exact location for the proposed improvements and is consequently not seeking consistency concurrence for these improvements at this time. Supplementary consistency reviews would be conducted for specific projects involving construction when final plans have been formulated. The Plan, when finalized, is intended to guide the management of ORV usage at the Seashore for the next 10 to 15 years.

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, Chapter 7 of Title 15A of the North Carolina Administrative Code, and the land use plan of the County and/or local municipality in which the proposed project is located. It is the objective of the Division of Coastal Management (DCM) to manage the State's coastal resources to ensure that proposed Federal activities would be compatible with safeguarding and perpetuating the biological, social, economic, and aesthetic values of the State's coastal waters.

To solicit public comments, DCM circulated a description of the proposed project to State agencies that would have a regulatory interest. No comments asserting that the proposed activity would be inconsistent with the State's coastal management program were received. Nevertheless, a comment

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

was received from the North Carolina Division of Marine Fisheries (NCDMF) expressing concern with the Hatteras Inlet Spit and North Ocracoke Spit areas being closed to ORV use. A copy of the responses received has been attached for reference.

DCM has reviewed the submitted information pursuant to the management objectives and enforceable policies of Subchapters 7H and 7M of Chapter 7 of Title 15A of the North Carolina Administrative Code and concurs, as conditioned below, that the proposed Federal activity is consistent, to the maximum extent practicable, with the relevant enforceable policies of North Carolina's coastal management program.

In order to be found consistent with North Carolina's coastal management, the NPS (Applicant) shall comply with the following condition of concurrence.

- In the event that impacts to waters of the U.S. are proposed, the Applicant, prior to initiating any land or water disturbing activities, shall obtain a Section 401 Water Quality Certification from the NC Division of Water Quality. The Applicant shall comply with the requirements of the Section 401 Water Quality Certification. A copy of the certification shall be forwarded to DCM.
- In the event that land disturbing activities (on a per-event-basis) exceed one acre; the Applicant, prior to initiating any land disturbing activities, shall obtain the approval of the NC Division of Land Resources of an erosion and sedimentation control plan. The Applicant shall comply with the requirements of the approved erosion and sedimentation control plan. A copy of the plan approval shall be forwarded to DCM.
- The Applicant, prior to initiating any land disturbing activities that will increase or otherwise modify impervious surface area, shall contact the NC Division of Water Quality to determine whether a Stormwater Permit would be required. If a stormwater permit is required, the Applicant shall obtain a Stormwater permit before implementing construction. The Applicant shall comply with the requirements of the stormwater permit. A copy of the stormwater permit shall be forwarded to DCM.
- The Applicant (prior to initiating any construction project contemplated in the Plan) shall submit (for the review and concurrence of DCM) final site plans for supplementary consistency review. Proposed construction activities must receive a consistency concurrence from DCM before they can be implemented.
- The Applicant shall adhere to any mitigation measures described in the consistency submission and the environmental assessment "*Cape Hatteras national Seashore, Off Road Vehicle Management Plan/Environmental Impact Statement*" (March 2010) to the extent that they do not conflict with any of the conditions of concurrence stated above.

This letter of concurrence is contingent on the Federal agency agreeing with the condition stated above. In the event that the Federal agency does not agree with the condition of concurrence, this letter effectively becomes a letter of State "*Objection*". Should the Federal agency not agree with the condition stated above, a letter of non-agreement should be sent to DCM. The procedures of 15 CFR 930.43 would then need to be followed.

To address the concerns of the NCDMF regarding the planned ORV closure at the Hatteras Inlet Spit and North Ocracoke Spit areas, DCM recommends that the NPS consult with NCDMF regarding possible seasonal and/or limited access opportunities since these areas are important for recreational and commercial fishing.

Should the proposed action be modified, a revised consistency determination could be necessary. This might take the form of either a supplemental consistency determination pursuant to 15 CFR 930.46, or a new consistency determination pursuant to 15 CFR 930.36. Likewise, if further project assessments reveal environmental effects not previously considered by the proposed development, a supplemental consistency certification may be required. If you have any questions, please contact Stephen Rynas at 252-808-2808. Thank you for your consideration of the North Carolina Coastal Management Program.

Sincerely,

Doug Huggett

Doug Huggett
Manager, Major Permits and Consistency Unit

Cc: Frank Jennings, Division of Coastal Management
David Moye, Division of Coastal Management
Megan Carfioli, National Park Service

Page: 3

NCDENR
North Carolina Department of Environment and Natural Resources
Division of Marine Fisheries
Dr. Louis B. Daniel III
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

MEMORANDUM

TO: Stephen Rynas, DCM

THROUGH: Anne Deaton, Chief Habitat Section

FROM: Sara E. Winslow, Northern District Manager
Kevin Hart, Habitat Permit Reviewer

SUBJECT: DCM #20100034 -Draft Cape Hatteras National Seashore Off-Road Vehicle Management Plan/Environmental Impact Statement

DATE: April 23, 2010

The North Carolina Division of Marine Fisheries has reviewed the DEIS – Cape Hatteras National Seashore Off-Road Vehicle Management Plan and submits the following comments pursuant to General Statute 113-131.

Alternative F – Management Based on Advisory Committee Input is the National Park Service (NPS) Preferred Alternative. Many of the actions in this alternative were from the Negotiated Rulemaking Advisory Committee's input, which the Division served on. This alternative is designed to provide visitors to the Seashore with a wide variety of access opportunities for both off road vehicle (ORV) and pedestrian users. Alternative F would re-open some Species Management Areas (SMAs) to ORV use earlier and for a longer time, once shorebird breeding was concluded, than the other alternatives. Under this alternative, Hatteras Inlet Spit and North Ocracoke Spit would be non-ORV areas year-round, with interdunal roads that allow access to the general area, but not the shoreline. SMAs would be closed to ORV use from March 15 through July 31, except South Point and Cape Point would have initial ORV access corridors and Bodie Island Spit would have an initial pedestrian access corridor at the start of the breeding season, with increased species monitoring in these areas. These access corridors would close when breeding activity is observed. All village beach closures would vary under Alternative F with the northern beaches closed to ORV use from May 15 – September 15 and southern beaches closed from March 1 – November 30. Seasonal night-driving restrictions would be established from one hour after sunset until after turtle patrol (NPS) has checked the beaches in the morning, approximately one-half hour after sunrise. There are numerous elements that are common between all alternatives. Several of the elements - commercial fishing vehicles would be exempted from some ORV restrictions, when not in conflict with resource protection; ORV permits would be required, establish a carrying capacity, ORV routes and areas would be officially designated, etc.

3441 Arendell Street, P.O. Box 769, Morehead City, North Carolina 28557
Phone: 252-726-7021 \ FAX: 252-726-0254 \ Internet: www.ncdmf.net

The Division supports the majority of Alternative F – Management Based on Advisory Committee Input – elements. However, this agency expresses concern with the Hatteras Inlet Spit and North Ocracoke Spit area being designated non-ORV areas year round. These areas are very important to the recreational and commercial fishing public and at least a seasonal access should be considered, while still maintaining protection of these areas utilized by the various listed and species of concern.

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NCDENR
North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

MEMORANDUM

March 11, 2010

TO: Claudia Jones
Division of Coastal Management - Elizabeth City
1367 US 17 South
Elizabeth City, NC 27909-7634

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore (DCM#20100034)

LOCATION: Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina

This document is being circulated for **consistency** review and comment by **April 9, 2010**. The National Park Service (NPS) is proposing to implement Alternative "F" in the attached DEIS as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore. The NPS has established the following webpage for this project: http://parkplanning.nps.gov/document.cfm?parkID=358&projectId=10641&documentID=32596. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or email me at stephen.rynas@ncdenr.gov.

REPLY:

____ No Comment.

____ This office supports the project as proposed.

__✓__ Comments to this project are attached.

____ This office objects to the project as proposed.

Signed: M. Claudia Jones Date: 4/5/10

CORRECTIONS: Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM TO:

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

TO: Stephen Rynas, Federal Consistency Coordinator

FROM: M. Claudia Jones, Coastal Management Representative, NE District MCJ

THROUGH: Frank A. Jennings, III, District Manager, NE District FAJ

DATE: April 5, 2010

SUBJECT: DCM #20100034 Proposed Implementation of the National Park Service Off-Road Vehicle Management Plan for the Cape Hatteras Nations Seashore DEIS

Comments: The National Park Service (NPS) has submitted a draft environmental impact statement (DEIS) on the Cape Hatteras National Seashore Off-road Vehicle Management Plan. The plan evaluates the impacts six alternatives, including two no action alternatives. These comments are in response to Alternative F, the NPS preferred alternative.

Overall, I do not see any specific inconsistencies with this proposal and the State's Coastal Management Program. However, there are referenced access areas/ramps that are proposed to be created or enlarged that will need to be individually reviewed for Federal Consistency once more detailed information regarding location, size and any resource impacts are known.

Specific areas referred to in the DEIS include:

- Relocation of Ramp 2
- Pedestrian trail and new parking at Oregon Inlet Camp Ground
- Parking at Ramp 23 expanded
- New ramps with parking at 24 and 26
- New ramp with parking established at 32.5
- New Ramp 39 across from Haulover and new soundside parking at Kite Point
- NPS (or Dare County) to establish new parking at the old Buxton Coastguard Station site

1367 US 17 South, Elizabeth City, NC 27909
Phone: 252-264-3901 \ FAX: 252-264-3723 ; Internet: www.nccoastalmanagement.net

DIVISION OF NATURAL RESOURCES PLANNING & CONSERVATION
Department of Environment and Natural Resources

April 8, 2010

MEMORANDUM

TO: Stephen Rynas, NC DCM Federal Consistency Coordinator

FROM: Linda Pearsall, Director

SUBJECT: DEIS B Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore County; Dare and Hyde counties

REFERENCE: DCM#20100034 Proposed Implementation of An Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore

The Natural Heritage Program supports the project as proposed; either Preferred Alternative D or Alternative F are acceptable to the Program. Alternative D is the Environmentally Preferred Alternative, which has a more simplified and fixed set of regulations that increase the predictability of areas for usage by the public. Alternative F is the National Park Service Preferred Alternative, which incorporates more seasonal and geographic flexibility to manage both the natural resources and the ORV/visitor usage of the seashore.

The DEIS indicates that both Alternatives D and F will have beach closures for ASpecies Management Areas@, which also includes protection for bird nesting areas as well as areas for protecting the Federally Threatened seabeach amaranth (*Amaranthus pumilus*). Additional regulations, such as regarding night driving, are proposed for the Federally Threatened loggerhead seaturtle (*Caretta caretta*) and several other seaturtles, which come ashore only at night to deposit eggs on the beaches in the summer; the turtle season is extended to November 15. Generally, these Species Management Areas will be closed starting on March 15. We endorse the establishment of these additional protection actions. Alternative F has more flexibility with the ending of the closures, depending on the lateness of the season for colonial nesting birds. Allowing NPS staff flexibility in this decision seems wise.

In summary, the DEIS addresses our concerns, and our Program supports the protection of significant resources that will result. Please do not hesitate to contact me at 919-715-8697 if you have questions or need further information.

North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

C. 10.03.12.01

MEMORANDUM

March 11, 2010

RECEIVED
APR 22 2010
Morehead City DCM

TO: Maria Dunn
Division of Inland Fisheries, Habitat Conservation Program
NC Wildlife Resources Commission
943 Washington Square Mall
Washington, NC 27889-1638

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore (DCM#20100034)

LOCATION: Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina

This document is being circulated for **consistency** review and comment by **April 9, 2010**. The National Park Service (NPS) is proposing to implement Alternative "F" in the attached DEIS as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore. The NPS has established the following webpage for this project: http://parkplanning.nps.gov/document.cfm?parkID=358&projectId=10641&documentID=32596. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or email me at stephen.rynas@ncdenr.gov.

MAR 2010
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Coastal Management
Program

REPLY:

____ No Comment.
____ This office supports the project as proposed.
____ Comments to this project are attached.
____ This office objects to the project as proposed.

Signed: David R. Cy Date: 4/22/10

CORRECTIONS: Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM TO:

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

North Carolina Wildlife Resources Commission

Gordon S. Myers, Executive Director

MEMORANDUM

TO: Stephen Rynas, Federal Consistency Coordinator
Division of Coastal Management
North Carolina Department of Environment and Natural Resources

FROM: David R. Cox, Technical Guidance Supervisor
Habitat Conservation Program

DATE: April 22, 2010

SUBJECT: Federal Consistency Review for the Draft Environmental Impact Statement (DEIS) for the proposed Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore, Dare and Hyde counties, North Carolina (DCM#20100034)

Biologists with the North Carolina Wildlife Resources Commission (NCWRC) reviewed the consistency determination with regard to impacts on fish and wildlife resources. Our comments are provided in accordance with provisions of the Coastal Area Management Act (G.S. 113A-100 through 113A-128), as amended, and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

The NCWRC reviewed the DEIS and the preferred alternative F in consultation with our non-game biologists. We have substantial comments on the DEIS but do not find alternative F inconsistent with NCWRC policies and guidelines.

We appreciate the opportunity to comment on this project. If you have questions or need further information please contact me at (919) 528-9886.

cc: Kevin Hart, NCDMF
Maria Dunn, NCWRC

Mailing Address: Division of Inland Fisheries • 1721 Mail Service Center • Raleigh, NC 27699-1721
Telephone: (919) 707-0220 • **Fax:** (919) 707-0028

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North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

MEMORANDUM

March 11, 2010

RECEIVED
MAR 1 2 2010
DWQ WARO

TO: Vivian Christy (401 Water Quality)
DWQ - 401 Water Quality Certification (Washington)
NCDENR - Division of Water Quality
943 Washington Square Mall
Washington, NC 27889-1638

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore (DCM#20100034)

LOCATION: Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina

This document is being circulated for **consistency** review and comment by **April 9, 2010**. The National Park Service (NPS) is proposing to implement Alternative "F" in the attached DEIS as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore. The NPS has established the following webpage for this project: http://parkplanning.nps.gov/document.cfm?parkID=358&projectId=10641&documentID=32596. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or email me at stephen.rynas@ncdenr.gov.

REPLY:

__X__ No Comment.

_____ This office supports the project as proposed.

_____ Comments to this project are attached.

_____ This office objects to the project as proposed.

Signed: _____ Date: March 30, 2010

CORRECTIONS: Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM TO:

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

NCDENR
North Carolina Department of Environment and Natural Resources
Division of Water Quality
Coleen H. Sullins
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

MEMO

To: Stephen Rynas, AICP; Federal Consistency Coordinator

Through: Al Hodge, Supervisor Surface Water Protection

From: Roberto L. Scheller, Senior Environmental Specialist

Subject: **Consistency Review for Alternative "F" Off-Road Vehicle Management Plan for Cape Hatteras National Seashore, Dare and Hyde Counties**

Date: March 30, 2010

Review of the subject project found that the proposed project would not have any anticipated impacts directly on wetlands or surface waters. Should this change during the implementation of the proposed project this Office should be contacted immediately. If you should have any questions or require additional information you may e-mail me at roberto.scheller@ncdenr.gov or contact me by phone at 252-948-3940.

North Carolina Division of Water Quality
943 Washington Square Mall
Washington, NC 27889
Phone: 252-946-6481 \ FAX: 252-946-9215
Internet: www.ncwaterquality.org

NCDENR
North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue, Governor | James H. Gregson, Director | Dee Freeman, Secretary

MEMORANDUM

March 11, 2010

TO: Jim Mead
DWR - Water Projects Section
NCDENR - Division of Water Resources
1611 Mail Service Center
Raleigh, NC 27699-1611

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore (DCM#20100034)

LOCATION: Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina

This document is being circulated for **consistency** review and comment by **April 9, 2010**. The National Park Service (NPS) is proposing to implement Alternative "F" in the attached DEIS as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore. The NPS has established the following webpage for this project: http://parkplanning.nps.gov/document.cfm?parkID=358&projectId=10641&documentID=32596. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or email me at stephen.rynas@ncdenr.gov.

REPLY:

X No Comment.

____ This office supports the project as proposed.

____ Comments to this project are attached.

____ This office objects to the project as proposed.

Signed: Jim Mead Date: 4/5/10

CORRECTIONS: Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM TO:

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

NCDENR

North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

MEMORANDUM

March 11, 2010

RECEIVED
MAR 25 2010
Morehead City DCM

TO: Steve Trowell
Division of Coastal Management - Washington
943 Washington Square Mall
Washington, NC 27889-1638

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore (DCM#20100034)

LOCATION: Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina

This document is being circulated for **consistency** review and comment by **April 9, 2010**. The National Park Service (NPS) is proposing to implement Alternative "F" in the attached DEIS as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore. The NPS has established the following webpage for this project: http://parkplanning.nps.gov/document.cfm?parkID=358&projectId=10641&documentID=32596. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or email me at stephen.rynas@ncdenr.gov.

REPLY:

____ No Comment.

____ This office supports the project as proposed.

____ Comments to this project are attached.

____ This office objects to the project as proposed.

Signed: _____ Date: 3/22/10

CORRECTIONS: Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM TO:

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

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NCDENR
North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

MEMORANDUM

March 11, 2010

TO:
County of Hyde
PO Box 95
Swan Quarter, NC 27885-0095

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore (DCM#20100034)

LOCATION: Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina

This document is being circulated for **consistency** review and comment by **April 9, 2010**. The National Park Service (NPS) is proposing to implement Alternative "F" in the attached DEIS as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore. The NPS has established the following webpage for this project: http://parkplanning.nps.gov/document.cfm?parkID=358&projectId=10641&documentID=32596. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or email me at stephen.rynas@ncdenr.gov.

REPLY:

X No Comment.

_____ This office supports the project as proposed.

_____ Comments to this project are attached.

_____ This office objects to the project as proposed.

Signed: Jerry Hodison Date: 3-12-2010

CORRECTIONS: Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM TO:

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

MEMORANDUM

March 11, 2010

TO: John Fear
Coastal Reserve Program - Beaufort
101 Pivers Island Road
Beaufort, NC 28516-9701

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore (DCM#20100034)

LOCATION: Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina

This document is being circulated for **consistency** review and comment by **April 9, 2010**. The National Park Service (NPS) is proposing to implement Alternative "F" in the attached DEIS as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore. The NPS has established the following webpage for this project: http://parkplanning.nps.gov/document.cfm?parkID=358&projectId=10641&documentID=32596. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or email me at stephen.rynas@ncdenr.gov.

REPLY:

X No Comment.

_____ This office supports the project as proposed.

_____ Comments to this project are attached.

_____ This office objects to the project as proposed.

Signed: John Fear Date: 3-18-10

CORRECTIONS: Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM TO:

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

NCDENR

North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

MEMORANDUM

March 11, 2010

ER 10-0173
(NC) Terrestrial 3/17/10
A (NC) meets consistency requirements
RWL/lff
3-29-10
S - NAE
RQS 4.5.10

TO: Renee Gledhill-Early
State Historic Preservation Office
4617 Mail Service Center
Raleigh, NC 27699-4617

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore (DCM#20100034)

LOCATION: Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina Due 3/29/10

This document is being circulated for **consistency** review and comment by **April 9, 2010**. The National Park Service (NPS) is proposing to implement Alternative "F" in the attached DEIS as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore. The NPS has established the following webpage for this project: http://parkplanning.nps.gov/document.cfm?parkID=358&projectId=10641&documentID=32596. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or email me at stephen.rynas@ncdenr.gov.

REPLY:

K No Comment.

_____ This office supports the project as proposed.

_____ Comments to this project are attached.

_____ This office objects to the project as proposed.

Signed: Renee Gledhill-Early Date: 4.6.10

CORRECTIONS: Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM TO:

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue, Governor | James H. Gregson, Director | Dee Freeman, Secretary

MEMORANDUM

March 11, 2010

TO: Pat McClain
NCDENR - Divison of Land Resources
943 Washington Square Mall
Washington, NC 27889-1638

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore (DCM#20100034)

LOCATION: Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina

This document is being circulated for **consistency** review and comment by **April 9, 2010**. The National Park Service (NPS) is proposing to implement Alternative "F" in the attached DEIS as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore. The NPS has established the following webpage for this project: http://parkplanning.nps.gov/document.cfm?parkID=358&projectId=10641&documentID=32596. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or email me at stephen.rynas@ncdenr.gov.

REPLY:

- ✓ No Comment.
- _____ This office supports the project as proposed.
- _____ Comments to this project are attached.
- _____ This office objects to the project as proposed.

Signed: _____ Date: 4/12/2010

CORRECTIONS: Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM TO:

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

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NCDENR

North Carolina Department of Environment and Natural Resources
Division of Coastal Management
James H. Gregson
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

RECEIVED
MAR 15 2010
Shellfish Sanitation & Recreational Water Quality Section

MEMORANDUM

March 11, 2010

RECEIVED
MAR 18 2010
Morehead City DCM

TO: Patti Fowler
Shellfish Sanitation and Recreational Water Quality Section
NCDENR - Division of Environmental Health
PO Box 769
Morehead City, NC 28557-0769

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore (DCM#20100034)

LOCATION: Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina

This document is being circulated for **consistency** review and comment by **April 9, 2010**. The National Park Service (NPS) is proposing to implement Alternative "F" in the attached DEIS as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore. The NPS has established the following webpage for this project: http://parkplanning.nps.gov/document.cfm?parkID=358&projectID=10641&documentID=32596. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or email me at stephen.rynas@ncdenr.gov.

REPLY:

X No Comment.

____ This office supports the project as proposed.

____ Comments to this project are attached.

____ This office objects to the project as proposed.

Signed: for Patti Fowler Date: 3/17/10

CORRECTIONS: Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM TO:

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

North Carolina Department of Environment and Natural Resources
Division of Coastal Management
James H. Gregson
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

MEMORANDUM

March 11, 2010

TO: Charlan Owens
Division of Coastal Management - Elizabeth City
1367 US 17 South
Elizabeth City, NC 27909-7634

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Proposed Implementation of an Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore (DCM#20100034)

LOCATION: Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina

This document is being circulated for **consistency** review and comment by **April 9, 2010**. The National Park Service (NPS) is proposing to implement Alternative "F" in the attached DEIS as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore. The NPS has established the following webpage for this project: http://parkplanning.nps.gov/document.cfm?parkID=358&projectId=10641&documentID=32596. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or email me at stephen.rynas@ncdenr.gov.

REPLY:

_____ No Comment.

_____ This office supports the project as proposed.

_X_ Comments to this project are attached.

_____ This office objects to the project as proposed.

Signed Charlan Owens Date: 4-20-10

CORRECTIONS: Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM TO:

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

NCDENR
North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

MEMORANDUM

TO: Stephen Rynas, AICP, DCM Federal Consistency Coordinator

FROM: Charlan Owens, AICP, NE DCM District Planner

SUBJECT: Federal Consistency Review request submitted by the National Park Service (NPS) for the Cape Hatteras National Seashore Off Road Vehicle (ORV) Management Plan Draft Environmental Impact Statement (DEIS) implementing Alternative "F" as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore, located in Dare County and Hyde County.

Date: April 20, 2010

Consistency Determination: The request is consistent with/not in conflict with the Dare County 1994 Land Use Plan, approved April 30, 1999 and the Hyde County 1992 Land Use Plan.

Overview: The Cape Hatteras National Seashore (Seashore) consists of more than 30,000 acres distributed along 62 miles of shoreline. Federal ownership in the seashore extends from ocean to sound across three (3) barrier islands-Ocracoke, Hatteras, and Bodie. Hatteras and Bodie Islands are located in Dare County and Ocracoke Island is located in Hyde County. In Dare County, the U. S. Coast Guard Property and seven (7) village enclaves (Rodanthe, Waves, Salvo, Avon, Buxton, Frisco, and Hatteras) are excluded from the Seashore boundaries. On Ocracoke Island, Ocracoke village is outside of the Seashore boundaries. The 5,990 acre Pea Island National Wildlife Refuge, located at the northern end of Hatteras Island, is part of the Seashore, but is administered for refuge purposes by the U. S. Fish and Wildlife Service (USFWS).

Due to low topography, nearly the entire Seashore is located within the 100-year floodplain and is subject to inundation during severe storm events. Remaining areas within the 500-year (Shaded X) zone include the Navy Tower Site on Bodie Island and a large area near Buxton, with AE zones in areas not directly adjacent to the ocean or sound. Additionally, land along the ocean beach and adjacent to some areas of the sound are in floodzone "VE", which have hazards associated with storm waves. The Seashore is also subject to high water table conditions. The high water table and location within flood plain and high wave action areas make the Seashore subject to drainage and flooding problems that often result from storm events.

Dynamic environmental processes within the Seashore provide a variety of important habitats. The majority of undeveloped acreage within the Seashore consists of tidal wetlands. Areas of non-tidal wetlands are located primarily on Hatteras Island near the village of Buxton and

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Buxton Woods Coastal Reserve. Marshes, tidal flats, and riparian areas provide habitats that support the federally listed piping plover; sea turtles; and one (1) listed plant species, the seabeach amaranth; as well as North Carolina Wildlife Resources Commission (NCWRC) listed species of special concern which include colonial waterbirds (least terns, common terns, and black skimmers), American oystercatcher, and Wilson's plover; and the gull-billed tern that is listed by the NCWRC as threatened.

Prehistoric and historic cultural resources are also found at the Seashore. As of 2007, the Seashore contains thirty-six (36) historic structures and (28) archaeological sites. Ongoing research by the Underwater Archaeology Branch of the NC Office of State Archaeology has also cataloged sixty-three (63) historic shipwreck remains on the beaches of the Seashore as of January 2008. There are also five (5) cultural landscapes within the Seashore: the Bodie Island Light Station, Little Kinnakeet Life Saving Station, Cape Hatters Light Station, Hatteras Weather Bureau Station, and Ocracoke Light Station. The Hatteras Weather Bureau Station and Ocracoke Light Station are listed on the National Register. The Bodie Island Light Station, Bodie Island Lifesaving/Coast Guard Station, and Cape Hatteras Light Station are listed in the National Register as historic districts.

The economy of the area is largely driven by tourism, mainly during the summer months, and the Seashore is a primary attraction. The Seashore is a popular recreation destination with more than 2.1 million visitors in 2008. Recreational activities include beach recreation (sunbathing, swimming, shell collecting, etc.), fishing (surf and boat), hiking, hunting, motorized boating, non-motorized boating (sailing, kayaking, canoeing), nature study, photography, ORV use (beach driving), shellfishing, sightseeing, watersports (surfing, windsurfing, kiteboarding, etc.), and wildlife viewing. Improvements for public access are included throughout the Seashore on Bodie and Hatteras islands in Dare County, and Ocracoke Island in Hyde County. Improvements in Dare County include twelve (12) oceanside vehicle access ramps, three (3) ocean fishing piers, two (2) bathhouses, one (1) marina, a boat ramp, three (3) campgrounds, thirteen (13) soundside access points, two (2) day use areas, and two (2) visitor centers. Improvements on Ocracoke Island include five (5) oceanside vehicle access ramps, one (1) bathhouse, one (1) marina, a boat ramp, one (1) campground, a pony pen, five (5) soundside access points, two (2) soundside commercial fishing access points, (1) day use area, and one (1) visitor center. Information stations, parking lots totaling approximately 1,000 spaces, and nature trails are found throughout the Seashore.

Seashore visitors often use off-road vehicles (ORVs) for traveling to and from swimming, fishing, and surfing areas and for pleasure driving. Some popular beach sites, particularly those near inlets and Cape Point, are a distance from established parking areas. Visitors who come for surf fishing and picnicking are accustomed to using large amounts of recreational equipment that cannot be practically hauled over these distances without motorized access. Commercial fishermen with large amounts of fishing gear also use ORVs to access the Seashore. As a result, ORVs are considered to be the primary and most practical form of access for many areas of the Seashore. Currently ORV users are allowed to drive on the beach seaward of the primary dune line, with 10 meter backshore areas seaward of the primary dune line protected seasonally. Designated vehicle access ramps are used to access the beach from NC Highway 12, which runs behind the primary dune.

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Improved access to the Seashore, increased population, and the popularity of 4-wheel drive Sport Utility Vehicles (SUVs)/ORVs has resulted in a dramatic increase in vehicle use on Seashore beaches. There has also been a decline in most beach nesting bird populations on the Seashore since the 1990s. ORV use at the Seashore has historically been managed since the 1970s through draft or proposed plans, though none were ever finalized or published. NPS issued an Interim Protected Species Management Strategy (Interim Strategy) in 2006 to provide resource protection guidance until the long-term ORV management plan and regulation could be completed. Following a Finding of No Significant Impact (FONSI) for the Interim Strategy in July of 2007, a lawsuit was filed by the Defenders of Wildlife and the National Audubon Society, represented by the Southern Environmental Law Center, claiming the Interim Strategy violated the Endangered Species Act (ESA) and other laws, failed to protect species at the Seashore, and failed to comply with requirements for ORV use. The lawsuit resulted in a consent decree with court ordered deadlines for completion of an ORV management plan/Environmental Impact Statement (EIS) and special regulation.

The submitted Cape Hatteras National Seashore Off-Road Vehicle Management Plan Draft Environmental Impact Statement (DEIS) evaluates the impacts of a range of alternatives for regulations and procedures to manage ORV use and access at the Seashore to protect and preserve natural and cultural resources and natural processes, to provide a variety of visitor use experiences while minimizing conflicts among various users, and to promote safety of all visitors. The DEIS evaluates the impacts of two (2) no-action alternatives (A and B) and four (4) action alternatives (C, D, E, and F).

- Alternative A: No Action – Continuation of Management under the Interim Protected Species Management Strategy
- Alternative B: No Action – Continuation of Management under Terms of the Consent Decree
- Alternative C: Seasonal Management
- Alternative D: Increased Predictability and Simplified Management (Environmentally Preferred Alternative)
- Alternative E: Variable Access and Maximum Management
- Alternative F: Management Based on Advisory Committee Input

The DEIS analyzes impacts of these alternatives in detail for floodplains, wetlands, federally listed threatened or endangered species, state-listed and special status species, wildlife and wildlife habitat, visitor use and experience, soundscapes, socioeconomics, and Seashore operations. The alternative selected for implementation will become the ORV management plan and will form the basis of special regulation, guiding the management and control of ORVs at the Seashore for the next 10 to 15 years. Alternative F is the NPS Preferred Alternative.

Alternative F was created through input by the Negotiated Rulemaking Advisory Committee and is designed to provide visitors to the Seashore with a wide variety of access opportunities for both ORV and pedestrian use. Under this alternative, approximately 16 miles of ocean

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shoreline that is currently open to ORV use under the Interim Species Management Strategy and the consent decree would be designated as closed to ORVs, 23 miles would be designated for seasonal ORV use, and 29 miles would be designated as year round routes. Hatteras Inlet Spit and North Ocracoke Spit would be non-ORV areas year-round, with interdunal roads that allow access to the general area, but not the shoreline. Species Management Areas (SMAs) would be closed to ORV use from March 15 through July 31; except South Point and Cape Point would have initial ORV access corridors and Bodie Island Spit would have an initial pedestrian access corridor at the start of the breeding season. These access corridor(s) would close when breeding activity is observed. Village beach closures would vary, with the northern beaches closed to ORV use from May 15 through September 15 and southern beaches closed from March 1 through November 30. Seasonal and night-driving restrictions would be established one hour after sunset until after a turtle patrol has checked the beaches in the morning, which is approximately one-half hour after sunrise. "Vehicle Carrying Capacity" would be established, setting a "peak use limit" for all areas based on the linear feet of beachfront and physical space requirements. NPS would also consider applications for commercial use authorization to offer beach shuttle services. Specific to accessibility for the disabled, special permits would be issued for areas in front of the villages to allow ORVs to transport disabled visitors to the beach and then return the vehicle back to the street; and ADA compliant beach access points and boardwalks would be available at Coquina Beach, the Frisco Bathhouse, the Ocracoke Pony Pen, and the Ocracoke Day Use Area.

Implementation of alternative F would result in the construction or replacement of nine (9) ORV access ramps, twelve (12) new or expanded parking lots, relocation or extension of four (4) interdunal roads, and the establishment of two (2) pedestrian trails. Proposed oceanside improvements in Dare County include relocation of Ramp 2 approximately .5 mile south of Coquina Beach; installation of a pedestrian trail to the inlet connecting to a new parking area near the campground just south of Ramp 4; newly established Ramp 24, Ramp 26, and Ramp 32.5 and associated parking; expanded parking at Ramp 38 south of Avon village; installation of a new Ramp 39 across from Haulover; establishment of a new parking area at the old Coast Guard Station site near Buxton village; installation of a new Ramp 47 along with an interdunal road extending west of new Ramp 47 to Ramp 49; installation of new Ramp 48 near the Frisco Campground; and installation of a new interdunal road extending southwest and northeast of the south end of Pole Road to provide parking for pedestrian access to False Point and Hatteras Inlet. If the Bonner Bridge construction closes Ramp 4, a new Ramp 3 would be constructed north of the Oregon Inlet campground and day-use parking would be provided. Soundside improvements in Dare County would include the establishment of parking at Kite Point and rerouting of Pole Road to the sound. Proposed improvements on Ocracoke Island include installation of a new interdunal road parallel to the beach extending from Ramp 59 for .2 mile northeast toward the inlet with parking at the terminus; newly established Ramp 62 and Ramp 64, with new parking to be installed at Ramp 64; expansion of parking at the pony pen; and installation of a new road and parking lot with a pedestrian trail to the sound .65 mile south of Ramp 72.

Anticipated impacts: under Alternative F are expected to include the following:

Construction within the Seashore has the potential to impact the floodplain. Some of the parking areas would be within the "VE" zone, others would be within the "AE" zone, and all of the parking lots would be within the 100-year floodplain. New or expanded parking, however,

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would be located outside of coastal high hazard areas subject to flooding when possible. Construction or expansion of ten (10) of the twelve (12) proposed parking lots would result in the placement of hardened surface within the floodplain, and would have a limited effect on the ability of the floodplain to convey floodwaters from storm surge. Ramps and parking areas would be constructed using environmentally sensitive standards to minimize stormwater runoff.

Impairment of wildlife habitat is not anticipated, since sufficient population numbers and functional habitat would remain to maintain sustainable populations of invertebrates and other bird species in the Seashore.

New access ramps and parking lots would be located exclusively in upland areas, avoiding direct impacts to wetlands, although heavy use of the roads could result in inadvertent wetland damage if vehicles were to leave the road surface. Proposed pedestrian trail and interdunal road extensions would not require any formal surfacing or removal of vegetation and would avoid wetland areas. Protective signage would be installed along all soundside access points to reduce the potential for wetland area impacts.

Historic and cultural resources are not in immediate danger of damage from ORV users and are not anticipated to be impacted. There should be no cultural landscape viewshed impacts, since oceanside ORV use areas are close to a mile from the Cape Hatteras Lighthouse Station and ORV use does not occur in areas surrounding other historic structures. None of the archaeological remains associated with structures are in immediate danger of damage from ORV users.

Designation of ORV areas would help minimize conflicts, and implementation of a permit system would provide additional education and the ability to increase compliance with ORV use regulations. ORV users, however, would experience adverse impacts, as the designation of non-ORV areas and the establishment of SMAs would preclude ORV use, either seasonally or year round, from some areas of the Seashore that are popular visitor use areas. Non-ORV users would experience benefits, through the establishment of year-round non-ORV areas and seasonal ORV closures and new pedestrian trails. Pedestrian based activities would be allowed outside of any resource closed areas. Additional access to soundside areas would be provided.

Commercial fishermen using ORVs would be less impacted than recreational ORV users. Commercial fishermen would have access to the Seashore beaches except during full resource closures for breeding and at lifeguard beaches, so they would not be affected by longer seasonal closures. Commercial fishermen would not be required to obtain an ORV permit and would continue to be managed by the commercial fishing special use permit.

Specific to socioeconomic impacts, the seashore village areas are expected to experience impacts to specific businesses that cater to ORV users, since less access by ORVs to the beach is proposed. Variation in the nesting patterns and subsequent beach area closures make the socioeconomic impacts difficult to forecast. Impacts would be low when beach closures are minimal and high if beach closures are widespread and long lasting.

See ATTACHMENT for policy statements that may be applicable to this request.

cc: John Thayer, AICP, Manager, CAMA Local Planning and Access Programs

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ATTACHMENT

Policy Review:

The Cape Hatteras National Seashore is located within Dare County and Hyde County.

The Dare County 1994 LUP and the Hyde County 1992 LUP are the applicable LUPs for this review. While not the most recent LUPs state certified by the Coastal Resources Commission (CRC), the Dare County 1994 LUP and the Hyde County 1992 LUP are the most recent LUPs federally approved by the Office of Oceans & Resource Management (OCRM) and are to be used in determining federal consistency.

A general review of policy statements in the most recent state certified Dare County 2003 LUP and Hyde County 2008 LUP indicates no apparent conflict with the request. As indicated in the Hyde County 2008 LUP (Policy 42, Page 193), Hyde County does not oppose the use of off-road vehicles. While Dare County provides specific policy concerning four-wheel drive access to the beaches (Dare 2003 LUP, Policy #40, Page 73) and does not support efforts to prohibit beach driving, the County prefers to review proposals to impose additional driving restrictions on a case-by-case basis with support or opposition to depend on potential impacts to the local tourist economy.

As of April 20, 2010, the following policies from the Dare County 1994 LUP are applicable to this request:

The Dare County 1994 Land Use Plan Land Classification Map identifies the Cape Hatteras National Seashore as "Conservation". The following LUP policies may be applicable to this request:

Topographic Conditions and/or Proximity to Surface Water Bodies:

Policy 2.1.1 (b), Page 50:

"Dare County supports, as minimum standards, the administration and enforcement of all applicable floodplain management regulations, and the national flood insurance program."

Coastal Wetlands:

Policy 2.1.2 (a), Page 52:

"Dare County advocates the use of existing state and federal regulatory programs as adequate measures for protecting and preserving coastal wetland areas of environmental concern."

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Estuarine Waters:

Policy 2.1.2 (b), Page 53:

"Estuarine Shoreline development should continue to be managed to protect and preserve the natural resources of the Estuarine Waters. In addition, development located in Estuarine Waters shall be water-dependent, related to developed on the Estuarine Shoreline, or an accessory use to a structure located on the Estuarine Shoreline."

Public Trust Areas:

Policy 2.1.2 (c-1), Page 54:

"Dare County supports the preservation and protection of the public's right to access and use of the Public Trust Areas and Waters."

Estuarine Shorelines:

Policy 2.1.2 (d-1), Page 55:

"Estuarine shoreline development should continue to be managed to protect and preserve the natural resources along the estuarine shoreline."

Ocean Hazard Areas:

Policy 2.1.2 (e), Page 57:

"Oceanfront shoreline development should continue to be managed to protect and preserve the natural resources along the oceanfront."

Freshwater Swamps and Marshes:

Policy 2.1.2 (h-1), Page 60:

"Dare County supports the Coastal Resources Commission's policy to mitigate losses of coastal resources for those projects shown to be in the public interest as defined by the standards in 15NCAC7M.0700 et. seq. and only after all other means of avoiding or minimizing such losses have been exhausted."

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(Implementation Strategy
1. In instances when improvements to publicly-owned or managed facilities conflict with freshwater wetland protection programs, an alternatives analysis should be conducted in an effort to avoid wetland loss or alteration... However, should the analysis determine that there is no practicable alternative, a mitigation permit proposal shall be implemented. Mitigation activities and improvements designed as compensation for wetland loss occurring in Dare County shall be located, whenever possible, in Dare County and in proximity to the loss.")

Policy 2.1.2 (h-2), Page 61:

"Dare County supports the U. S. Army Corps of Engineers Nationwide Permit Program."

Cultural, Historical, and Archaeologically Significant Lands and Structures:

Policy 2.1.3 (a), Page 62:

"The Dare County Board of Commissioners supports the protection of structures, lands, and artifacts that have been identified by the NC Department of Cultural Resources Division of Archives and History as archaeologically or historically significant. On a case by case basis, individual protection/management strategies should be implemented to ensure archaeological and/or historical resources are not destroyed."

Stormwater Management:

Policy 2.1.5 (b), Page 65:

"Stormwater runoff should be managed to the greatest possible degree to protect the quality of water in all water bodies surrounding Dare County."

Fisheries Resources:

Policy 2.2.4-a, Page 72:

"The continued productivity of commercial and recreational fisheries shall be fostered through restoration and protection of the unique coastal ecosystems upon which they depend."

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Policy 2.2.4-d, Page 73:

"State and Federal agencies with the authority to manage fisheries resources should be the responsible parties for the resolution of conflicts involving fisheries resources in Dare County. However, Dare County reserves the right to review, comment, advocate or oppose any proposed regulations or programs that may affect the fisheries resources or management."

Shoreline Resources:

Policy 2.2.5 (a), Page 74:

"Efforts to properly balance and control the use of off-road vehicles along the County's beaches, dune areas, and Estuarine Shorelines shall continue to receive support from County government."

Wildlife Resources:

Policy 2.2.6, Page 74:

"Dare County supports the maintenance of several preserve areas for wildlife habitat and access by the public to these areas for managed wildlife harvesting and observation."

Tourism:

Policy 2.3.9-b, Page 87:

"Dare County supports the concept of combining natural resources and tourism to promote the area's ecological values, also known as 'eco-tourism'."

Shoreline Access:

Policy 2.3.10, Page 89:

"Dare County supports North Carolina's shoreline access policies as stated in 15NCAC7H, Section .300. Dare County recognizes shoreline access to both ocean and estuarine shorelines as a key component in the local tourist economy."

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Bikeways/Walkways/Greenways:

Policy 2.3.13, Page 92:

"Dare County supports the development of sidewalks, bike paths, greenways, and walking/jogging trails to provide a safe setting for these types of outdoor recreation in unincorporated Dare County."

As of April 20, 2010, the following policies from the Hyde County 1992 LUP are applicable to this request:

The Hyde County 1992 Land Use Plan Land Classification Map identifies the Cape Hatteras National Seashore on Ocracoke Island, but does not provide a land use classification. As indicated on Page V-1, the "Conservation" classification includes the following areas of environmental concern: Coastal Wetlands, Section 404 Wetlands, Estuarine Shoreline, and Estuarine and Public Trust Waters. The following LUP policies may be applicable to this request:

Physical Limitations

Policy (d), Page IV-4

"...Within 404 wetlands, the only development will be docks, piers, pilings, and pedestrian walkways as allowed by this plan."

Flood Hazard Areas

Policy (a), Page IV-4

"Hyde County will continue to coordinate all development within flood hazard areas with the Hyde County Inspections Department, North Carolina Division of Coastal Management, FEMA, and the U. S. Corps of Engineers."

Stormwater Runoff

Policy (a), Page IV-7

"Hyde County recognizes the value of water quality maintenance to the protection of fragile areas and to the provision of clean water for recreational purposes. The county will support existing state regulations relating to stormwater runoff resulting from development..."

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ATTACHMENT

404 Wetlands

Policy, Page IV-7

"Hyde County recognizes the value of water quality maintenance to the protection of fragile areas and to the provision of clean water for recreational purposes. The county will support existing state regulations relating to stormwater runoff resulting from development..."

Ocean Hazard AECs

Policy, Page IV-11

"All ocean hazard AECs are located on the ocean side of Ocracoke Island, which is under federal control as part of the Cape Hatteras National Seashore. State and federal agencies are requested to comply with specific use standards for ocean shoreline erosion control activities as specified in 15A NCAC 7H.0308 dated March 1, 1990."

Estuarine Shorelines

Policy (a), Page IV-11

"Setback: The top priority of Ocracoke is for the 75 foot estuarine shoreline AEC to be maintained in its natural state. No clear cutting of vegetation, or filling or draining of wetlands, shall occur within the estuarine shoreline AEC. Land uses associated with water dependent activities that are consistent with this section shall be allowed in the estuarine shoreline AEC. The following are considered water dependent activities:

...6) Recreational and commercial fishing and aquaculture which are consistent with all federal and state regulations.
7)Publicly-owned regulatory signage."

Coastal Wetlands

Policy, Pages IV-12 and IV-13

"A top priority of Ocracoke is to preserve coastal wetlands. These wetlands are important to the maintenance of the water quality of the estuarine waters and afford protective habitat and nursery areas in the life cycles of fish, crabs and shellfish. They also provide an important habitat for many different shorebirds. Another priority of Ocracoke is to allow use of coastal wetlands which require water access and which are consistent with other policy statements in this section. Any proposed land uses in coastal wetlands must demonstrate that the proposed project requires water access

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ATTACHMENT

and that there is no alternative location with less impact on wetlands. Only the following development shall be allowed in coastal wetlands:

...g)All signs, except publicly-owned regulatory signs, shall be prohibited in coastal wetlands."

Estuarine Waters and Public Trust Areas

Policy, Pages IV-12 and IV-13

"...Hyde County desires to prevent further deterioration of estuarine water quality and loss of public trust uses in Ocracoke. A second concern is to restore degraded water quality and lost uses of public trust areas. Hyde County desires to allow uses of estuarine waters and public trust areas in Ocracoke that provide public benefits to Ocracoke Village, and which satisfy the riparian access needs of private property owners. Only the following uses shall be allowed in estuarine water and public trust areas; all other uses shall be prohibited:

...c)Boat ramps as allowed by the policies of this plan
...f)Recreational and commercial fishing and aquaculture which are consistent with all federal and state regulations
g) Publicly-owned regulatory signage."

Recreational Resources

Policy (a), Page IV-14

"All lands classified as coastal wetlands, 404 wetlands, estuarine waters, and public trust areas are considered valuable passive recreation areas...Except as otherwise provided for in these policy statements, these areas will be protected in their natural state, and development will not be allowed except for public shoreline access including dune crossovers structures and boardwalks in ocean hazard areas..."

Policy (b), Page IV-14

"The National Park Service provides an extremely important recreational resource to Ocracoke and the nation. The National Seashore is vital to the economy of Ocracoke. There exists a high degree of interdependence between Ocracoke and the Park Service with a high degree of cooperation. In keeping with this spirit of cooperation, Hyde County adopts the following policies in regard to the Cape Hatteras National Seashore:

...2. Pump Out Facility at NPS Marina: A sewage pump out facility for boats is needed at the National Park Service marina.

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...5. Hyde County requests that the National Park Service not issue any commercial leases or permits for retail sales and food concessions on National Park Service property."

Off-Road Vehicles

Policy, Page IV-16

"Outside of the Cape Hatteras National Seashore, Hyde County supports the responsible use of off-road vehicles on Ocracoke Island."

Estuarine Access

Policy (a), Page IV-19

"The National Park Service boat ramp provides adequate boating access for the public. To prevent more traffic congestion and the destruction of natural resources, no new commercial boat ramps shall be constructed in Ocracoke. Private boat ramps for individual residents should comply with all state and federal regulations and the policies contained in this plan."

Policy (c), Page IV-19

"Pedestrian access which is consistent with the policies contained in this plan will be supported."

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Beverly Eaves Perdue
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Director

Dee Freeman
Secretary

March 12, 2010

Michael B. Murray, Superintendent
Outer Banks Group
National Park Service
1401 National Park Drive
Manteo, North Carolina 27954-9451

SUBJECT: Status of Consistency Determination Submission for Implementation of an Off-Road Vehicle Management Plan at the Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina (DCM#20100034)

Dear Mr. Murray:

We received your consistency determination on March 10, 2010 for the proposed implementation of Alternative "F" as the Off-Road Vehicle Management Plan for the Cape Hatteras National Seashore, Dare and Hyde Counties, North Carolina. The project has been distributed to State agencies that would have a regulatory interest in the proposed activity for review and comment. The public review period will close on April 9, 2010. Please be aware that as we continue to review this submission that we may request additional information. We intend to make a decision regarding whether the proposed activity would be consistent with the State's coastal program soon after.

The State of North Carolina has sixty (60) days from the receipt of the consistency determination to either "*concur*" or "*object*" to your consistency determination unless an extension is agreed to. The sixtieth day is May 9, 2010. Furthermore, the State is entitled to an extension of up to fifteen (15) days if additional review time is necessary. Final Federal agency action cannot be taken sooner than ninety (90) days from the State's receipt of the consistency determination unless State concurrence is obtained. Please feel free to contact me at 252-808-2808 if you have any questions. Thank you for your consideration of the North Carolina Coastal Management Program.

Sincerely,

Stephen Rynas, AICP
Federal Consistency Coordinator

Cc: Doug Huggett, Division of Coastal Management
Frank Jennings, Division of Coastal Management
David Moye, Division of Coastal Management
Megan Carfioli, National Park Service

400 Commerce Ave., Morehead City, NC 28557-3421
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

North Carolina
Department of Administration

Beverly Eaves Perdue, Governor

Moses Carey, Jr., Secretary

May 11, 2010

CERTIFIED MAIL #7008 1300 0000 1133 9637
RETURN RECEIPT REQUESTED
Mr. Michael Murray, Superintendent
Cape Hatteras National Seashore
U.S. Dept. of the Interior
National Park Service
1401 National Park Drive
Manteo, NC 27954

Re: SCH File # 10-E-0000-0331; DEIS; Off-road vehicle (ORV) Management Plan at Cape Hatteras National Seashore. DEIS is available at http:/parkplanning.nps.gov/caha

Dear Mr. Murray:

The above referenced environmental impact information has been submitted to the State Clearinghouse under the provisions of the National Environmental Policy Act. According to G.S. 113A-10, when a state agency is required to prepare an environmental document under the provisions of federal law, the environmental document meets the provisions of the State Environmental Policy Act. Attached to this letter for your consideration are the comments made by agencies in the course of this review.

If any further environmental review documents are prepared for this project, they should be forwarded to this office for intergovernmental review.

Should you have any questions, please do not hesitate to call.

Sincerely,

Chrys Baggett (SJG)

Ms. Chrys Baggett
State Environmental Review Clearinghouse

Attachments

cc: Region R

Mailing Address:
1301 Mail Service Center
Raleigh, NC 27699-1301

Telephone: (919)807-2425
Fax (919)733-9571
State Courier #51-01-00
e-mail state.clearinghouse@doa.nc.gov

Location Address:
116 West Jones Street
Raleigh, North Carolina

mm

NCDENR

North Carolina Department of Environment and Natural Resources

Division of Marine Fisheries

Dr. Louis B. Daniel III
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

May 7, 2010

Mr. Mike Murray, Superintendent
Cape Hatteras National Seashore
1401 National Park Drive
Manteo, NC 27954

Dear Mr. Murray,

The North Carolina Division of Marine Fisheries has reviewed the DEIS – Cape Hatteras National Seashore Off-Road Vehicle Management Plan and submits the following comments pursuant to N. C. General Statute 113-131.

Alternative F – Management Based on Advisory Committee Input is the National Park Service (NPS) Preferred Alternative. Many of the actions in this alternative were from the Negotiated Rulemaking Advisory Committee's input, which the Division served on. This alternative is designed to provide visitors to the Seashore with a wide variety of access opportunities for both off road vehicle (ORV) and pedestrian users. Alternative F would re-open some Species Management Areas (SMAs) to ORV use earlier and for a longer time, once shorebird breeding was concluded, than the other alternatives. Under this alternative, Hatteras Inlet Spit and North Ocracoke Spit would be non-ORV areas year-round, with interdunal roads that allow access to the general area, but not the shoreline. SMAs would be closed to ORV use from March 15 through July 31, except South Point and Cape Point would have initial ORV access corridors and Bodie Island Spit would have an initial pedestrian access corridor at the start of the breeding season, with increased species monitoring in these areas. These access corridors would close when breeding activity is observed. All village beach closures would vary under Alternative F with the northern beaches closed to ORV use from May 15 – September 15 and southern beaches closed from March 1 – November 30. Seasonal night-driving restrictions would be established from one hour after sunset until after turtle patrol (NPS) has checked the beaches in the morning, approximately one-half hour after sunrise. There are numerous elements that are common between all alternatives. Several of the elements - commercial fishing vehicles would be exempted from some ORV restrictions, when not in conflict with resource protection; ORV permits would be required, establish a carrying capacity, ORV routes and areas would be officially designated, etc.

The DMF can support parts of Alternative F – Management Based on Advisory Committee Input – elements. We believe it is appropriate that we emphasize our specific concerns regarding access. While the DMF has no jurisdiction over birds and turtles on the beach, we do pay close attention to best management practices that may impact our stakeholders, the recreational and commercial fishermen of North Carolina. It is with this understanding that we support any comments or suggestions from our partners with the Wildlife Resources Commission that support alternatives to modify buffers and permanent closures to provide more fair and open access.

3441 Arendell Street, P.O. Box 769, Morehead City, North Carolina 28557
Phone: 252-726-7021 \ FAX: 252-726-0254 \ Internet: www.ncdmf.net

The Division of Marine Fisheries believes it is critical to maintain the cultural and historical traditions of access on the North Carolina Outer Banks. We remain very concerned about any permanent closures, particularly with the Hatteras Inlet, North Ocracoke, and Oregon Inlet Spits, Cape Point, South Beach, and the South Point on Ocracoke areas being designated non-ORV areas year round. These areas are very important to the recreational and commercial fishing public. We are convinced that flexibility in regards to these closures is critically important and that the use of corridors and modified buffers that protect species of concern and provide year-round access to the greatest extent practicable are critical.

Thank you for the opportunity to comment on this very important issue.

Sincerely,

Louis B. Daniel III, Director
N.C. Division of Marine Fisheries

cc: Melba McGee, DENR
Anne Deaton, DMF
Nancy Fish, DMF
Dee Lupton, DMF
Sara Winslow, DMF

LBD/cb

North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

May 5, 2010

MEMORANDUM

TO: Melba McGee, DENR Environmental Coordinator

FROM: Harry LeGrand, Natural Heritage Program

SUBJECT: DEIS – Off-road Vehicle (ORV) Management Plan at Cape Hatteras National Seashore; Dare and Hyde counties

REFERENCE: Project No. 10-0331

The Natural Heritage Program supports the project as proposed; either Preferred Alternative D or Alternative F are acceptable to the Program. Alternative D is the Environmentally Preferred Alternative, which has a more simplified and fixed set of regulations that increase the predictability of areas for usage by the public. Alternative F is the National Park Service Preferred Alternative, which incorporates more seasonal and geographic flexibility to manage both the natural resources and the ORV/visitor usage of the seashore.

The DEIS indicates that both Alternatives D and F will have beach closures for "Species Management Areas", which also includes protection for bird nesting areas as well as areas for protecting the Federally Threatened seabeach amaranth (*Amaranthus pumilus*). Additional regulations, such as regarding night driving, are proposed for the Federally Threatened loggerhead seaturtle (*Caretta caretta*) and several other seaturtles, which come ashore only at night to deposit eggs on the beaches in the summer; the turtle season is extended to November 15. Generally, these Species Management Areas will be closed starting on March 15. We endorse the establishment of these additional protection actions. Alternative F has more flexibility with the ending of the closures, depending on the lateness of the season for colonial nesting birds. Allowing NPS staff flexibility in this decision seems wise.

In summary, the DEIS addresses our concerns, and our Program supports the protection of significant resources that will result.

Please do not hesitate to contact me at 919-715-8697 if you have questions or need further information.

1601 Mail Service Center, Raleigh, North Carolina 27699-1601
Phone: 919-733-4984 \ FAX: 919-715-3060 Internet: www.enr.state.nc.us

mm

NCDENR

North Carolina Department of Environment and Natural Resources
Division of Water Quality

Beverly Eaves Perdue
Governor

Coleen H. Sullins
Director

Dee Freeman
Secretary

MEMO

To: **Melba McGee**, Environmental Coordinator

Through: Al Hodge, Supervisor Surface Water Protection

From: Roberto L. Scheller, Senior Environmental Specialist

Subject: **Environmental Impact Statement Review for Off-Road Vehicle (ORV) Management Plan for Cape Hatteras National Seashore, Dare and Hyde Counties**

Date: April 19, 2010

Review of the subject project found that the proposed project impacts would not have anticipated impacts directly on wetlands or surface waters from beach traffic. It is this Offices' understanding that impacts would be to beach areas as a result of ORV traffic. Current management practices at the Seashore allow ORV users to drive on the beach seaward of the primary dune line, with a 10-meter backshore area seaward of the primary dune line protected seasonally. Drivers must use designated ramps to cross between the beach and NC-12 that runs behind the primary dune line.

It was noted that wetland impacts are occurring on the sound side from drivers deviating from designated drive paths. It is recommended that access roads on the sound side should be improved enough to allow reasonable access during high water to help reduce wetland impacts from off road traffic and/or closed until vegetation can reestablish. Any impacts to wetlands or surface waters from the implementation of the proposed management plans should be reported to this Office immediately. If you should have any questions or require additional information you may e-mail me at roberto.scheller@ncdenr.gov or contact me by phone at 252-948-3940.

North Carolina Division of Water Quality
943 Washington Square Mall
Washington, NC 27889
Phone 252-946-6481 | FAX 252-946-9215
Internet www.ncwaterquality.org

MM

North Carolina Wildlife Resources Commission

Gordon S. Myers, Executive Director

May 10, 2010

Mike Murray, Superintendent
Cape Hatteras National Seashore
1404 National Park Drive
Manteo, NC 27954

Melba McGee
DENR-Environmental Review
1601 Mail Service Center
Raleigh, NC 27699-1601

Dear Superintendent Murray;

The United States Department of the Interior National Park Service (NPS) is proposing an off-road vehicle (ORV) management plan for the Cape Hatteras National Seashore (CHNS) located in Dare and Hyde counties, North Carolina. Comments on the Draft Environmental Impact Statement (DEIS) from the North Carolina Wildlife Resources Commission (Commission) are provided under provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661-667d) and the National Environmental Policy Act (42 U.S.C. 4332(2)(c)).

The CHNS provides numerous recreational opportunities, some of which have a historical and traditional association with ORV use. In addition to important recreational opportunities, the CHNS features several significant and unique habitats formed and maintained by the dynamic environmental processes found along this portion of North Carolina's outer banks region. These habitats support numerous species of management emphasis, including the federally-listed piping plover and five species of federally-listed sea turtles, three of which nest on the beaches within CHNS.

The Commission has reviewed the proposed alternatives and generally supports the NPS preferred alternative (Alternative F). We recognize the inherent difficulty in attaining the much needed equilibrium between allowable recreational uses, access to public trust resources and natural resource protection. In effort to help attain a fair and sustainable balance, we request the NPS address the following issues in the Final EIS:

Mailing Address: Director's Office • 1701 Mail Service Center • Raleigh, NC 27699-1701
Telephone: (919) 707-0010 • Fax: (919) 707-0020

1. **State listed species of concern:** Page 419 of the DEIS states "The NPS *Management Policies 2006* state that NPS will inventory, monitor, and manage state and locally listed species in a manner similar to its treatment of federally listed species to the greatest extent possible." The Commission has statutory authority and responsibility to adopt, publish, reconsider, and revise a list of species of special concern (G.S. 113-333), and by definition, a species of special concern means "any species of wild animal … which is determined to require monitoring but which may be taken under regulations adopted under the provisions of this Article" (G.S. 113-331). The treatment of state-listed species of special concern as if those species were federally listed is inconsistent with the letter and intent of the statutes that authorize the state-listing process. Therefore we request the NPS not use state listing of species of special concern as justification for recommending actions required by federal listing, or in lieu of federal listing. Rather, we request the NPS consult with WRC biologists to understand specific monitoring and other conservation actions warranted by state listing.

2. Drive-through corridors for SMA closures: In order to accommodate balanced wildlife conservation objectives and recreational use, we request the NPS examine the applicability of allowing drive-through corridors (no pedestrian access) in the event that a resource closure eliminates ORV access to a segment of beach not otherwise subject to closure and having no other public access.

Example: American Oystercatcher
Observed behavior in a recent study conducted within CHNS and Cape Lookout National Seashore indicated little or no association between ORV traffic and the rate at which incubating American Oystercatchers made trips to and from their nests (McGowan and Simons 2006). Another study conducted at Cumberland Island National Seashore showed that vehicles passing occupied American Oystercatcher nests at a distance approximately 50m seaward of an occupied nest did not negatively impact reproductive behavior during incubation, suggesting little effect on hatching success (Sabine 2005). We believe these findings provide a basis to implement drive-through corridors past oystercatcher nests during the incubation phase.

In the same study, observations during brood rearing revealed that foraging behavior decreased in the presence of vehicles. As a result, we recommend additional study to determine feasibility and optimal location for drive-through corridors in the vicinity of unfledged chicks.

3. Buffer distances for shorebird/waterbird protection: The shorebird/waterbird protection buffers associated with Management Level 1 (ML1) specified on page 127 of the DEIS are based upon results of research appropriate for determining buffer distances (Erwin 1989, Sabine 2005, Rodgers and Smith 1995); however, the additional buffer distances associated with Management Level 2 (ML2) exceed the empirically derived distances associated with ML1. Given the competing demands for the seashore and the importance of balancing human and wildlife uses of CHNS, we recommend using only the buffer distances listed under ML1.

4. Sea turtle nest protection: Sea turtle nesting activity and success at CHNS is variable over years, and some nests are lost to erosion and repeated inundation. Considerations of nest relocation can be contentious and based on inexact science. To reduce the level of subjectivity in decision making, we recommend the NPS evaluate the applicability of sea turtle nest relocation criteria, similar to those used at Pea Island National Wildlife Refuge, that quantify geomorphologic characteristics of beach width, beach slope and distance from mean high tide.

WRC biologists have worked with CHNS biologists to verify the sea turtle data in their database as compared to the Commission sea turtle database. As a result, we were able to correct the annual values for 4 years that were presented in Figure 13 on page 214. We recommend that the following corrected values be incorporated into the Final EIS:

2002 = 94 loggerhead nests total
2005 = 63 loggerhead nests total
2007 = 73 loggerhead nests total
2009 = 101 loggerhead nests total

5. Species to be surveyed during the non-breeding season: The DEIS states piping plovers, Wilson's plovers, American oystercatchers, red knots and some colonial nesting birds will be included in surveys conducted during the non-breeding season. Because colonial nesting birds do not depend on the land portion of the seashore for foraging, we recommend deleting these species from the list of surveyed birds during the non-breeding season. However, there are many shorebirds that are dependent on the seashore during this time period for foraging, so if bird surveyors have the expertise to differentiate species of shorebirds, we suggest they count all shorebirds using the International Shorebird Survey (ISS) protocol. We also recommend continued and enhanced coordination among federal, state, local and nongovernmental partners to ensure that future bird surveys are conducted in a seamless manner. This coordinated approach will better enable the Commission and the NPS to assess overall breeding success as well as species status and distribution within a system boundary larger than CHNS leading to better informed decisions about future species management needs.

The DEIS indicates that the NPS will conduct a systematic review of the ORV and species management measures every 5 years. WRC requests that this review allow for agency input.

The North Carolina Wildlife Resources Commission supports the NPS in its attempt to implement an ORV management plan that balances protection of the diverse wildlife and habitats on CHNS with the varied recreational uses of this popular destination. Those goals are consistent with our mission to conserve North Carolina's wildlife resources and their habitats and provide programs and opportunities that allow hunters, anglers, boaters and other outdoor enthusiasts to enjoy wildlife-associated recreation. We appreciate your efforts and the opportunity to provide input to the DEIS for this project. If you have questions or need additional information please contact Shannon Deaton at 919-707-0222.

Sincerely,

Gordon Myers
Executive Director

References

Erwin, R.M. 1989. Responses to human intruders by birds nesting in colonies: experimental results and management guidelines. Colonial Waterbirds 12:104-108.

McGowan, C.P. and T.R. Simons. 2006. Effects of human recreation on the incubation behavior of American oystercatchers. Wilson Journal of Ornithology 118:485-493.

Rodgers, J.A., Jr., and H.T. Smith. 1995. Set-back distances to protect nesting bird colonies from human disturbance in Florida. Conservation Biology 9:89-99

Sabine, J.B., III. 2005. Effects of human activity and predation on breeding American Oystercatchers. Thesis, University of Georgia, Athens, GA.

NCDENR

North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

MEMORANDUM

TO: Valerie McMillan
State Clearinghouse

FROM: Melba McGee
Environmental Review Coordinator

RE: 10-0331 DEIS Off-road Vehicle (ORV) Management Plan at Cape Hatteras National Seashore in Dare and Hyde Counties

DATE: May 10, 2010

The Department of Environment and Natural Resources has reviewed the proposed Draft Environmental Impact Statement. The attached comments are for the applicant's information.

Thank you for the opportunity to review. Please let me know if you have any questions.

Attachments

1601 Mail Service Center, Raleigh, North Carolina 27699-1601
Phone: 919-733-4984 \ FAX: 919-715-3060 Internet: www.enr.state.nc.us

NORTH CAROLINA STATE CLEARINGHOUSE
DEPARTMENT OF ADMINISTRATION
INTERGOVERNMENTAL REVIEW

mm

COUNTY: DARE

G04: RECREATION FACILITIES/PARKS

STATE NUMBER: 10-E-0000-0331
DATE RECEIVED: 03/10/2010
AGENCY RESPONSE: 05/05/2010
REVIEW CLOSED: 05/10/2010

RECEIVED
MAR 11 2010
HISTORIC PRESERVATION OFFICE

MS RENEE GLEDHILL-EARLEY
CLEARINGHOUSE COORDINATOR
DEPT OF CULTURAL RESOURCES
STATE HISTORIC PRESERVATION OFFICE
MSC 4617 - ARCHIVES BUILDING
RALEIGH NC

ER 10-0173 LEM
(NA) Terrestrial 3/17/10
(NA) Underwater RWL/HF 3-29-10

5. (NAE) 4.6.2010

REVIEW DISTRIBUTION

ALBEMARLE REG PLANNING COMM
CC&PS - DIV OF EMERGENCY MANAGEMENT
DENR - COASTAL MGT
DENR LEGISLATIVE AFFAIRS
DEPT OF CULTURAL RESOURCES
DEPT OF TRANSPORTATION

PROJECT INFORMATION

APPLICANT: U.S. Dept. of the Interior
TYPE: National Environmental Policy Act
Draft Environmental Impact Statement

Due 3/29/10

DESC: Off-road vehicle (ORV) Management Plan at Cape Hatteras National Seashore. DEIS is available at http:/parkplanning.nps.gov/caha

The attached project has been submitted to the N. C. State Clearinghouse for intergovernmental review. Please review and submit your response by the above indicated date to 1301 Mail Service Center, Raleigh NC 27699-1301.

If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED: ☒ NO COMMENT ☐ COMMENTS ATTACHED

SIGNED BY: Renee Gledhill-Earley DATE: 4-6-10

APR 2010
RECEIVED
Secretary's Office
DOA

MAR 12 2010

United States Department of the Interior
NATIONAL PARK SERVICE
OUTER BANKS GROUP
Fort Raleigh National Historic Site Wright Brothers National Memorial
Cape Hatteras National Seashore
1401 National Park Drive
Manteo, North Carolina 27954

H4217 CAHA

AUG 27 2010

Mr. Neil Patterson, Jr.
Director, Tuscarora Environmental Program
2045 Upper Mountain Road
Sanborn, NY 14132

Dear Mr. Patterson:

RE: Compliance with Section 106 of the National Historic Preservation Act and National Environmental Policy Act (NEPA), Cape Hatteras National Seashore (CAHA)

The National Park Service (NPS), CAHA, is developing an Off-Road Vehicle Management Plan/Environmental Impact Statement (Plan/EIS) to manage off-road vehicle (ORV) use. The Plan/EIS provides relevant information and impact analysis of alternatives for managing ORV's on seashore beaches. CAHA will also develop a special regulation for the management of ORV's within its boundaries. The target date for the completion of the Plan/EIS is December 31, 2010. The target date for completion of the associated regulation is April 1, 2011. The draft Plan/EIS is enclosed. A proposed rule has not been published yet.

In accordance with section 106 regulations, 36 CFR 800, the NPS is asking for your help in gathering information about historic properties. We are not aware of any historic properties that may be of religious and cultural significance to the Tuscarora Nation that would potentially be affected by the management alternatives described in the draft Plan/EIS. Please let us know if you have any information regarding historic properties that may be located in the potentially affected area. We have notified the North Carolina State Historic Preservation Officer and the Advisory Council on Historic Preservation of our intent to use the NEPA process for associated compliance with Section 106 of the National Historic Preservation Act.

If you have any questions, please contact Doug Stover, Cultural Resource Manager at 252-473-2111 x 153. We look forward to hearing from you. Thank you for your assistance.

Sincerely,

Michael B. Murray

Michael B. Murray
Superintendent

Enclosure

TAKE PRIDE IN AMERICA

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NORTH CAROLINA GENERAL ASSEMBLY
RALEIGH

May 4, 2010

Mike Murray, Superintendent
Cape Hatteras National Seashore
1401 National Park Drive
Manteo, NC 27954

Superintendent Murray:

We are writing you today to make formal comments on the Cape Hatteras National Seashore Recreational Area Off-Road Vehicle Management Plan Draft Environmental Impact Statement, specifically Alternative F, created by the National Park Service with input from the negotiated rulemaking advisory committee.

Before commenting on the contents of the document, we would like to call attention to the shocking exclusion of useful data to determine the potential economic impact of Alternative F. The DEIS suggests "F" will have revenue impacts on small businesses "at the low end of the estimated range rather than the high end." From our conversations with small business owners on Hatteras Island, any restriction in access will have severe economic impacts to their families, as the closures in the past years have. In an already disastrous economy, the actions taken by the Court and the Service have proved devastating to all businesses and residents on Hatteras Island. For anyone to claim differently would be either a misguided statement of ignorance or just a pure falsification of the truth. The last names of the original settlers of Hatteras Island can be found in the phonebook to this day. These families have been rooted in this community even before the founding of our nation. Today, their livelihoods are being threatened by that government.

After consulting with the elected leaders of Dare County, we would like to comment on the four critical aspects of the DEIS, the first being the vitally important management tool of corridors. In the past during a closure, our offices were able to work with you and your staff to create corridors around resource closures. These alternative paths are indispensible to the continued movement of pedestrians and vehicles. Also, the corridors allow visitors to access an open area that may be sandwiched between two closed areas. These corridors have limited negative impacts to the protected species, but they are crucial to providing access during closure periods. We stand with Dare County in requesting that corridors be maintained for pedestrians and vehicles in all areas of the Cape Hatteras National Seashore Recreational Area throughout the entire breeding and nesting season.

When reviewing the management of any wildlife species by the state of North Carolina, anyone can see our management plans are based on reliable and reputable science and data. Political whims are not entered into the formula for the management of species by our State. We are concerned that political inclination is the reason for and basis of the management buffers within the DEIS. A 1,000-meter buffer in all directions of an unfledged piping plover chick represents 771 acres of closed beach. This seems a bit arbitrary and capricious when managing a species. We have yet to read any scientific reasoning behind this management strategy. We would argue a buffer of 200 meters would be just as effective for the survival of a piping plover chick without the extreme penalization of the residents and visitors of Hatteras Island.

Another confusing issue in the buffers listed in the DEIS is the equal and even more protective status given to species not on the endangered species list. Birds listed as North Carolina species of concern should not be given protected status under the Endangered Species Act. We have spoken with both the Chairman and Executive Director of the North Carolina Wildlife Resources Commission regarding this matter. Both have informed us that these unnecessary protections were never the intent of the Commission's participation in this process, nor a requested outcome. They have also informed us that other species of concern are not given ESA status on other federal lands. Pre-nesting closures should be exclusively for the piping plover, the only federally listed threatened bird species. Also, non-ESA listed birds should not have buffers of 300 meters. The county feels a more appropriate buffer would be 30 meters. We also spoke with NCWRC regarding the inclusion of all birds in the ecosystem being counted when doing any type of management plan. Currently, birds on dredge spoil islands located adjacent to the Park are not being included in the population figures. They agree these islands have no predation and are ideal locations for nesting. To not include the populations of these islands is disingenuous to the intent of this process.

The last technical portion of our comments centers on the treatment of the nests of endangered sea turtles within the Seashore. We would urge the Park Service to allow for the relocation of nests to higher beach elevations. The United States Fish and Wildlife Service practices this management tool in Pea Island National Wildlife Refuge, as do other management agencies on state and federal lands. The Seashore has lost over 46% of the nests laid in the last 11 years, while South Carolina relocated 40.1% of their nests during 2009, finishing the year with only a 7.7% loss of nests. To not allow for the relocation of nests puts both the users of the parks and the turtle hatchlings at competitive disadvantages.

The key to any management plan is flexibility. Without the ability to change user patterns while keeping access open, the Cape Hatteras National Seashore Recreational Area will become but a memory to generations of users from across the globe. We would say that nowhere in our great nation can individuals enjoy the beauty and sereneness of our coast as in the Seashore. For decades, families have been coming to Hatteras and Ocracoke Islands to utilize this area as President Roosevelt envisioned.

As you move forward with your plan, you must remember the promises made by previous directors and superintendents and protect the access for residents and visitors alike.

Sincerely,

Senator Marc Basnight

Representative Tim Spear

MM

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

BEVERLY EAVES PERDUE
GOVERNOR

May 11, 2010

Mr. Mike Murray
Superintendent, Cape Hatteras National Seashore
1401 National Park Drive
Manteo, North Carolina 27954

Dear Mr. Murray:

I would like to take this opportunity to comment on the Draft Environmental Impact Statement (DEIS) for the Cape Hatteras National Seashore Off-road Vehicle Management Plan. The Cape Hatteras National Seashore is truly one of the treasures of our State, and I take very seriously the need for a balanced management approach for this important resource.

Based on the analysis provided in the DEIS, I believe you and your staff are working to include the economic, social, cultural, recreational and environmental dimensions of this complex issue in the new Management Plan. However, I also believe there are a number of local concerns related to Alternative F that need to be fully addressed. In particular, the Dare County analysis of Alternative F raises several key points, including how corridors, buffers and other practices can be better used to address species management issues and how local businesses are adversely affected by limiting beach access. The history of managing this beautiful Seashore shows that local support and buy-in is crucial to the success of any management approach. I strongly encourage you to take these local concerns seriously and develop appropriate responses to them as you continue working on the new Management Plan.

Any plan that is adopted by the National Park Service must provide an open and accessible beach for the public while also protecting this fragile environment. An effective and sustainable plan must also address Seashore's vital role in the local economy and in the social and cultural lives of local communities. I appreciate the opportunity to comment on the DEIS and I thank you for your continued attention to these issues as the process moves forward.

Sincerely,

Bev Perdue

LOCATION: 116 WEST JONES STREET • RALEIGH, NC • TELEPHONE: (919) 733-5811
WWW.GOVERNOR.STATE.NC.US

COUNTY OF DARE
Office of the Board of Commissioners
P.O. Box 1000, Manteo, North Carolina 27954

(252) 475-5700
Fax (252) 473-6312
Katie V. VanLear
Clerk to the Board
Robert L. Outten
County Attorney

May 10, 2010

Mike Murray, Superintendent
Cape Hatteras National Seashore
1401 National Park Drive
Manteo, NC 27954

RE: Dare County Comments on the Draft Environmental Impact Statement (DEIS)

Dear Superintendent Murray,

On behalf of the Dare County Board of Commissioners, following are our written public comments on the Draft Environmental Impact Statement (DEIS) for the Cape Hatteras National Seashore Recreational Area.

It is our longstanding position that the beaches of America's first national seashore should be open to the people consistent with the promises of the enabling legislation.

Our residents and visitors have been faithful stewards of wildlife and for generations have proven that people and nature can live in harmony. Our people have labored tirelessly to help shorebirds and sea turtles through a variety of volunteer programs. We support science-based resource protection that balances the need for reasonable recreational access.

We respectfully request that you make substantive changes to Alternative F in the Final Environmental Impact Statement as are outlined in the following written public comments. Timely changes to the DEIS are crucial not only for the survival of wildlife in the seashore, but also for the survival of our people.

Sincerely,

Warren C. Judge

Warren Judge, Chairman

LAND OF BEGINNINGS

Dare County
DEIS
Written Public Comments

SUMMARY

The Dare County Board of Commissioners strongly supports open and accessible beaches for the Cape Hatteras National Seashore Recreational Area. We believe in open access for everyone consistent with the enabling legislation that created America's first National Seashore.

Our residents and visitors have always been faithful stewards of wildlife. For generations they have proven that people and nature can live in harmony. Following in the sacred tradition of the Native Americans, they have consistently demonstrated a reverence for nature and have labored diligently to preserve it for future generations.

We support resource protection for shorebirds and sea turtles based on peer reviewed science. Who better to advocate preservation of area wildlife than the people whose lives and futures are intertwined to the success of each species? For this reason, Dare County is committed to balancing resource protection and providing reasonable access for recreation.

Dare County supports the work done by the Coalition for Beach Access. They have produced a well-researched position statement representing thousands of hours of effort by a dedicated and diverse group of community volunteers. We support their endeavor 100% and ask that you give it your attention.

Dare County has identified four (4) major items that we believe should be modified in the Final Environmental Impact Statement. These are not the only issues worthy of public comment, but represent core principles that we believe are vital for the future of the Cape Hatteras National Seashore Recreational Area. These include –

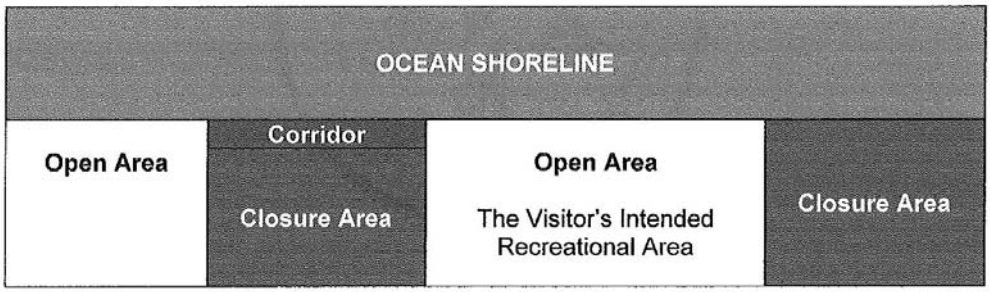
- **CORRIDORS** as a vital tool in providing access without impairment of resources
- **MANAGEMENT BUFFERS** based on transparent and peer-reviewed science
- **NON-ENDANGERED BIRDS** should not have same protection as if endangered
- **TURTLE MANAGEMENT** that would benefit from more proactive nest relocation

CORRIDORS

Corridors are a vital tool in providing access while managing resources. Corridors provide a small path around temporary resource closures in order to provide access to open areas that would otherwise be blocked. Corridors allow visitor access to an open area that may be sandwiched between two closed areas. These corridors have limited negative impacts to the protected species, but they are crucial to providing access during closures periods.

In some instances, corridors can be made through or around closure areas. In other places corridors can be established below the high tide line. Since unfledged chicks are not found in nests between the ocean and the high tide line, this type of pass through corridor would have no negative effect on wildlife and should be established throughout the seashore.

In the example below, the visitor's intended recreational area would be accessible through a small pass through corridor. Without this corridor, the area marked "Open" would actually be closed because it would otherwise be impossible to get there.



As outlined on pages xii, xvii, and 468 of the DEIS, corridors would only be permitted in Management Level 2 portions (ML2) of Species Management Areas (SMA). In more restrictive Management Level 1 portions (ML1) corridors would not be permitted at all.

Corridors are vital to providing access in a way that does not hinder resource protection. Therefore, Dare County believes pass through corridors should be maintained for pedestrians and ORVs in **all areas** of the Cape Hatteras National Seashore Recreational Area throughout the entire breeding and nesting season.

MANAGEMENT BUFFERS

Buffers, or closures, are important management practices for species recovery. However, in order to have long-term benefit for the protected species and the visiting public, the buffers must be based on peer-reviewed science. Once established, buffers must be routinely monitored throughout the breeding season to ensure that resources are effectively protected and public access is provided.

The extreme buffers outlined in DEIS pages 121 to 127 should be modified to substantially reduce the minimum 1,000 meter buffer in all directions required in Alternative F for unfledged Piping Plover chicks.

Dare County believes a more appropriate and yet effective buffer would be 200 meters. This is consistent with distances currently used at other National Seashores on the Atlantic coast including the following federal facilities –

- Cape Cod National Seashore 200 meters first week, 100 meters thereafter
- Cape Lookout Nat. Seashore 183 meters
- Assateague Island, Maryland 200 meters

Dare County formally requests as part of the NEPA process that the National Park Service provide peer-reviewed science that justifies a 1,000 meter closure in all directions as is currently outlined in the DEIS.

Additionally, buffers for other species, including American Oystercatchers, Least Terns and Colonial Waterbirds should also be changed in the Final Environmental Impact Statement. An effective 30 meter buffer should be established for these species rather than the 300 meter closure as outlined in the DEIS.

NON-ENDANGERED BIRDS

Under the Endangered Species Act (ESA), all endangered species must be protected. However, there is no requirement in the ESA to give non-endangered species the same level of protection.

Dare County believes the National Park Service should change its position of giving birds designated as a North Carolina "species of concern", the same protection as those that are truly endangered.

The purpose of individual states establishing these lists is to designate certain birds for statewide monitoring and tracking, not to impose unnecessary protections. The North Carolina Wildlife Resources Commission never requested that their participation in this process should result in additional closures. Additionally, they have stated that birds on their species of concern list are not given ESA status at other federal lands.

Dare County's position is supported by Gordon Myers, the Executive Director of the North Carolina Wildlife Resources Commission. He says the state designation is supposed to be more of a call to action for a species. The North Carolina wildlife Resources Commission has voiced its objections to the use of state species of concern lists to trigger ORV management strategies under the federal Endangered Species Act.

Pre-nesting closures, outlined on pages 121 to 127 of the DEIS should be modified to include only endangered or threatened species. This important modification would result in establishing pre-nesting closures exclusively for the Piping Plover, the only threatened bird species in the seashore.

Accordingly, pre-nesting closures are not warranted for the non-endangered and non-threatened American Oystercatchers. Because Colonial Waterbirds do not return to the exact same place for nesting each year, establishing pre-nesting closures for these birds is both unpredictable and unnecessary.

In monitoring and tracking birds for purposes of determining resource viability, all birds in the same ecosystem of the seashore should be counted. When conducting a bird census of the Cape Hatteras National Seashore Recreational Area, it is imperative to count the many birds on the nearby dredge and spoil islands that are located just yards away and within sight of the seashore. These birds are part of the same ecosystem and should be included. To not include the bird populations of these islands is disingenuous to the intent of this process.

The following photo taken of Cora June Island, just off Hatteras Village, shows a huge population of birds in early June of 2009. The large birds with black backs are Black Skimmers. The smaller birds to the left are mostly Royal Terns. Cora June Island, a man-made dredge island just 500 meters west of Hatteras Village, is an ideal nesting site as a sheltered island with no predators.

Page 5

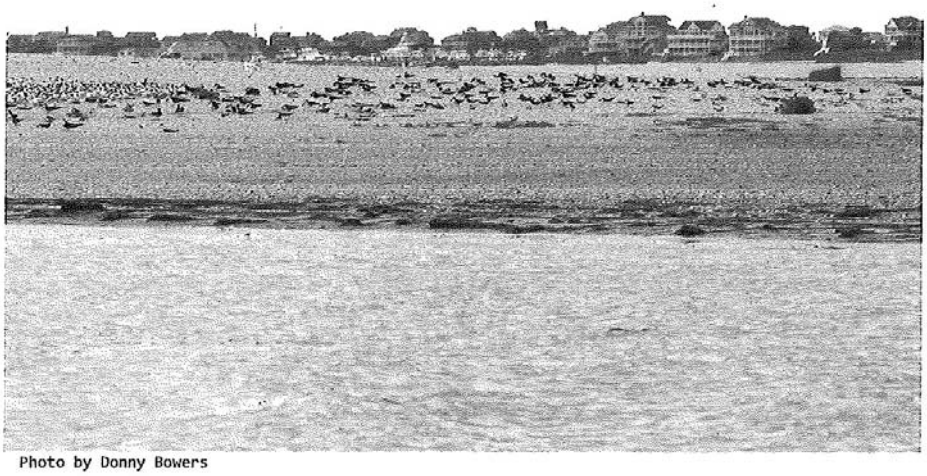


Photo by Donny Bowers

TURTLE MANAGEMENT

Dare County believes endangered sea turtles would benefit from management practices now in use at other federal seashores that are more proactive in efforts to achieve nesting success. This includes relocating nests to more desirable locations as is done in other state and federally controlled areas.

The Cape Hatteras National Seashore Recreational Area is on the northernmost fringe of turtle nesting locations for the southeast. In this area, weather and predators represent the greatest threat to sea turtles.

Nesting in the United States occurs primarily in four southeastern states as detailed in the USFWS & NMFS species "Recovery Plan"

North Carolina	**1.0 %**	The northernmost area with the fewest nests
South Carolina	**6.5 %**	
Georgia	**1.5 %**	
Florida	**91.0 %**	Primary area where the most nesting occurs

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The Loggerhead Recovery Plan recognizes that, "*Historically, relocation of sea turtle nests to higher beach elevations or into hatcheries was a regularly recommended conservation management activity throughout the southeast U.S.*" (2009,Second Revision, page 52) while the North Carolina Wildlife Resources Commission (NCWRC) sea turtle program currently recommends relocation only as ***"as a last resort."***

The National Park Service in page 125 of the DEIS relies upon the approach used by North Carolina Wildlife Resources Commissioner (NCWRC). This contradicts the U.S. Fish and Wildlife Service (USFWS) practice of relocating nests on the Pea Island Wildlife Refuge, located on the north end of Hatteras Island, North Carolina.

By not supporting nest relocation, the Cape Hatteras National Seashore Recreational Area has lost over 46% of the nests laid in the last 11 years. Meanwhile, South Carolina relocated 40.1% of its nests during 2009, resulting in an incredibly low lost nest rate of only 7.7% making a strong case for the relocation of nests.

The turtle management practices outlined on DEIS pages 125, and 392 to 396 should be modified to allow nest relocation as a tool for species recovery. See attached appendix B.

CONCLUSION

Dare County urges the National Park Service to make these changes in their preferred alternative F and incorporate the provisions outlined in these public comments. In doing so, we believe it will be beneficial to the long-range success for wildlife, enhance the visitor experience and improve the lives of those living near the Cape Hatteras National Seashore Recreational Area. Without these changes, people will suffer harm.

On the subject of harm, we conclude these comments with our statement about the economic harm that is described in the DEIS. On page xlviii, Alternative F is characterized as having a "negligible to moderate" adverse impact on small businesses.

We believe the negligible to moderate projection is inaccurate and relies on economic surveys that have not yet been published. Furthermore, this material is not expected to be added to the DEIS until after the public comment period has ended. This concern has been echoed by the Outer Banks Chamber of Commerce on behalf of its 1,000 business members, in their public comments on the DEIS, dated May 6, 2010.

Based upon the economic harm we have already experienced under the consent decree, Dare County projects the economic impact of Alternative F to be substantial.

We have seen how unemployment has disproportionately impacted the villages within the Cape Hatteras National Seashore Recreational Area. In September 2009, Dare County as a whole experienced an unemployment rate of 6.8%, one of the lowest in the state. However, during the same period Hatteras Island had 12.8% unemployment with the village of Salvo at 28%, Buxton 16.5% and Rodanthe at 12.4%.

Beach closures have already had a devastating and unfair impact on many Dare County businesses causing foreclosures, bankruptcies, lay-offs, cutbacks, expensive refinancing, and depleted college funds and savings accounts.

Even businesses whose revenue has stayed level or showed a modest increase have accomplished this at a costly price. Many have had to cut back employee hours, forego much-needed capital improvements, and sacrifice profits.

Family-owned businesses are the backbone of Dare County. Hard working, local families have for generations provided employment opportunities for the community, and offered outstanding service and hospitality to Outer Banks visitors.

Attached as Appendix C, are notarized affidavits from a representative cross section of business owners. These hard-working people have already suffered greatly because of beach closures. It is unfair and inaccurate for the National Park Service to simply write off these people and describe their pain under Alternative F as "negligible to moderate." Our small business owners do not ask for special favors or government handouts, just a fair opportunity to earn their part of the American dream. In good faith, they established businesses and built a way of life based on solemn promises that were made by the federal government when creating the Cape Hatteras National Seashore Recreational Area. They look to you today to honor those promises.

On behalf of the residents and visitors of Dare County, the Board of Commissioners respectfully submits these public comments and urges the National Park Service to incorporate them into the Final Environmental Impact Statement as practical solutions that will benefit both wildlife and people.

Appendix A

Summary Chart of Dare County Position

Issue	DEIS Page #	Alternative F Park Service Preferred	Dare County Position
Corridors	xii xviii 468	Corridors are only allowed in ML-2 portions of SMA's and are subject to resource closures at any time	Corridors are a vital tool in providing access while managing resources. They provide a small path around temporary resource closures in order to provide access to open area that would otherwise be blocked. Corridors should be permitted throughout the seashore during the entire breeding and nesting season including ML-1 portions of SMA's. These corridors would provide valuable access without impairment or damage to protected resources
Management Buffers	121-127	Buffers (closures) are larger than required by species recovery plans. For example, Piping Plover unfledged chicks, are given a protective buffer of a minimum of 1,000 meters in all directions.	Buffers, or closures, are important management practices for species recovery. However, to have long term benefit for the wildlife and the visiting public, buffers must be based on peer-reviewed science For example, the Piping Plover, a species classified as threatened and not endangered, is given a level of unprecedented protection in Alternative F. A 1,000 meter buffer in all directions represents over 771 acres. The DEIS does not cite any peer-reviewed science in supporting such closure. A more appropriate & effective buffer would be 200 meters
Non-Endangered Birds	121-127	Non-endangered species, such as American Oystercatchers, Least Terns and Colonial Waterbirds are given Pre-Nesting closures and buffers up to 300 meters	Birds that are not listed as endangered should not be afforded the level of protection given to ESA (Endangered Species Act) protected species. Instead of 300 meter buffers for these birds, a more appropriate buffer would be 30 meters Also, all birds in the same ecosystem of the seashore should be counted. This includes all the many birds on the dredge and spoil islands located just yards away and within sight of the seashore.
Turtle Management	125 392-396	DEIS claims North Carolina Wildlife Resources Commission turtle guidelines will be followed.	The National Park Service should consider turtle management practices successfully used in other federal and state areas to achieve nesting success. More proactive measures include relocating nests to more desirable locations, which is routinely and successfully done in other areas.

Appendix B

Sea Turtle Management Practices In the Southeast Coastal Region

All sea turtles are classified as threatened or endangered and protected by the Endangered Species Act. Two Federal agencies divide jurisdiction over sea turtles. U.S. Fish & Wildlife Service (USFWS) has authority when sea turtles are on the beach. The National Marine Fisheries Service (NMFS) has jurisdiction when sea turtles are in the water.

Section 6 of the Endangered Species Act requires states to show they have an "adequate and active" program for the conservation of endangered sea turtles. The most common sea turtle to nest on the beaches of the southeast coastal region is the threatened Loggerhead sea turtle (Caretta caretta).

Nesting in the United States occurs primarily in four southeastern states as detailed in the USFWS & NMFS species "Recovery Plan"

North Carolina	**1.0 %**	The northernmost area with the fewest nests
South Carolina	**6.5 %**	
Georgia	**1.5 %**	
Florida	**91.0 %**	Primary area where the most nesting occurs

Throughout these southeastern states, there are regional differences in how sea turtles are protected. Some areas make an effort to identify and mark all nests. Others do not.

In the Cape Hatteras National Seashore Recreational Area, nests are marked with stakes and string. As the hatch date approaches, the buffer is expanded closing access between the nest and the ocean, and often prevents access behind the nest as well.

In Florida, where the most sea turtle nesting occurs, it is a different story. Some nests are marked only with a single stake. Others have a small triangular string enclosure, with or without a warning sign. And, some nests are not marked in any way. Most noticeable is the fact that people in Florida are permitted responsible recreational access in close proximity to sea turtle nests buried beneath the sand.

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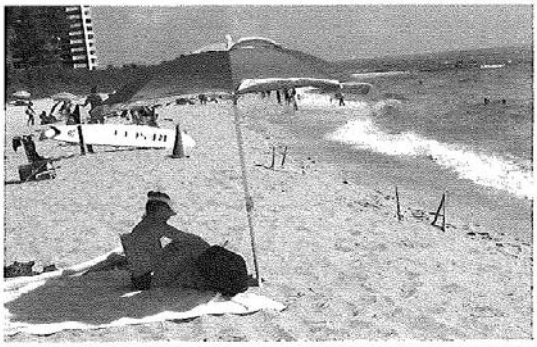
Unlike Florida, people in Cape Hatteras National Seashore Recreational Area are fined $150.00 for even walking in the wet sand in front of a sea turtle nest like the one shown in the above photograph.

According to the Florida Fish & Wildlife Conservation Commission, ***"Not every sea turtle nest needs to be marked"*** and many are not. (Marine Turtle Conservation Guidelines, revised 2007) Each year, Florida has up to 1,000 sea turtle nests per mile compared to a peak level of 1.7 nests per mile in the Cape Hatteras National Seashore Recreational Area.



In this photo of a busy Florida beach, the two buried turtle nests shown are only marked with a small triangle of sticks, without a warning sign, while surrounded by nearby beachgoers.

October 23, 2009, the Island Free Press featured an in-depth report on sea turtle nests. The article (attached) contrasted differences in sea turtle management between Florida and North Carolina.

Florida beach photo showing people and umbrellas near nests

Sea Turtle Nesting Facts –

Sea turtles live in the ocean and come ashore only for the female to lay eggs which are buried in the sand, at night, at a depth of 18 to 22 inches. One female will bury approximately 112 eggs the size of ping-pong balls. The eggs remain buried until hatching, at night, approximately 55 to 80 days later.

Important – It is not the number of nests laid, but whether they survive to hatch. Successful recovery depends on solutions to the real problems – Loss of nests due to high tides from weather events, failure to relocate nests, and predation

Nest Relocation –

The Loggerhead Recovery Plan recognizes that, "***Historically, relocation of sea turtle nests to higher beach elevations or into hatcheries was a regularly recommended conservation management activity throughout the southeast U.S.***" (2009, Second Revision, page 52)

The sea turtle program of the North Carolina Wildlife Resources Commission (NCWRC) currently recommends relocation only as ***"as a last resort."*** As outlined in their protocol, ***"Nests in heavy foot traffic areas should not be relocated. These nests should be fenced off and marked, so that pedestrians will avoid them."***

North Carolina's approach is contrary to the USFWS practice of relocating nests on the Pea Island Wildlife Refuge, located on the north end of Hatteras Island, North Carolina.

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The nearby Cape Hatteras National Seashore Recreational Area does not support moving nests and has lost over 46% of the nests laid on Cape Hatteras beaches in the last 11 years.

Meanwhile, South Carolina relocated 40.1% of its nests during 2009 resulting in an incredibly low lost nest rate of only 7.7% making a strong case for the relocation of nests as a tool for species recovery.

Unanswered Questions –

Sea turtle volunteer Larry Hardham who was also a participant in the negotiated rule making proceeding for the Cape Hatteras National Seashore Recreational Area, has repeatedly asked for science-based answers to a series of pertinent questions about sea turtle nests.

USFWS has been asked, in writing, the following questions –

- Do vibrations in the sand affect incubation or hatchlings?
- At what distance can emerging hatchlings hear a passing car?
- At what distance can emerging hatchlings feel a car pass at 15 mph?
- And, does either of these events alter their activity?
- How far away does a stationary light source have to be disorienting (We were told a moving light is not as disorienting as stationary light)

None of these questions have yet been answered

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Appendix C

Notarized Affidavits from Business Owners

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, *personally appeared* **Frank Folb**, *known to me to be a credible person and of lawful age, who* being by me first duly sworn, on his oath, deposes and says:

I am the owner of Frank & Fran's, The Fisherman's Best Friend, a fishing tackle retail business in Avon, North Carolina on Hatteras Island. I have served fishermen from this shop for the last 22 years.

Before the consent decree, in 2007, my business experienced its best year ever. Since the implementation of the consent decree, I have suffered a decline in business. In 2008, during the first year of consent decree closures, revenue had a 20% drop. So far, through July 2009, I have seen an additional 10% decrease from the previous year.

The decline in my business is directly related to closures and restricted beach access under the consent decree. Over the past 22 years, every economic downturn has resulted in an increase of business for me. I have witnessed first-hand that when the national economy suffers, people turn to inexpensive, short-distance vacations. That is why during bad economic times, my business has always prospered.

The impact of beach closures on my business is further verified by the fact that since access to Cape Point was re-opened on July 28, 2009, I have seen a dramatic, sudden increase in business because of the return of fishermen to the area.

The decline in my business because of the consent decree has also taken a toll on my employees and their families. I employ a staff of 5 people. For the first time in the 22 year history of my business, I have been unable for the past two years to give cost of living increases to my employees. Additionally, I have had to eliminate 8 hours from each employee's work-week, causing financial hardship for each one of their families.

[signature of affiant]

Frank Folb
40210 Hwy 12
Avon, NC 27915

[signature of Notary]

Janice E. Williams

Subscribed and sworn to before me
this 24th day of August, 2009

NOTARY PUBLIC
My commission expires: November 27, 2013

[Notary Seal]

JANICE E. WILLIAMS NOTARY PUBLIC DARE CO., NC

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, personally appeared **Hal Lester**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

I own and operate Finnegan's Restaurant on Hatteras Island in Buxton, North Carolina. We are directly across the street from Lighthouse Road, which is the entrance to Cape Point and the Cape Hatteras Lighthouse. We moved to Hatteras Island 5½ years ago to fulfill our dream of operating a business here and becoming part of this wonderful community.

We have worked hard and built a good business. Our close proximity to Cape Point attracted those who came to here for world-class fishing and other recreational opportunities. The ambience of Finnegan's is such that everyone feels comfortable. Families with small children feel right at home, as well as anglers coming directly from the beach. These people were a significant portion of our business. Before the consent decree went into effect in May 2008, our business was healthy and strong.

Since the consent decree was implemented in 2008, it has been very hard for us. We experienced a devastating 25% decline in business for the year. This tragedy then repeated itself for 2009, resulting in a total loss of 50% for our business since the consent decree. The closures have also changed the way we operate. Previously I provided general supervision and had a staff of up to 12 people. Now our workforce is half that size and I labor in the kitchen every day as we struggle to survive.

We know our loss is directly related to beach closures because whenever access is restored and the barricades are removed, hungry fishermen and families return to our restaurant. When Cape Point is closed, my business pays the price. When Cape Point is open, we are able to earn a living. Sadly, the revenue lost while the beaches are closed is gone forever.

Because of our close proximity to the Cape Point entrance, we are on the front lines of hearing angry comments from frustrated visitors turned away from their favorite recreational area. Many have told us with Cape Point closed they "are not coming back." We need help.

Hal Lester
[signature of affiant]

Janice E. Williams
[signature of Notary]

Hal Lester
46948 Highway 12
Buxton, NC 27920

[Notary Seal:]

JANICE E. WILLIAMS NOTARY PUBLIC DARE CO., NC

Janice E. Williams

Subscribed and sworn to before me
this 24th day of August, 2009

NOTARY PUBLIC
My commission expires: November 27, 2013

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, personally appeared **Jaki Gray**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on her oath, deposes and says:

For 53 years my family has owned and operated the Tower Circle Motel in Buxton, North Carolina on Hatteras Island. I am the owner and manager. My motel caters to fishermen and their families. Most of our business is from surf fishermen who are repeat customers. They select our motel, because of its close proximity to the famous Cape Point fishing location in the Cape Hatteras National Seashore Recreational Area.

My business has suffered greatly since the consent decree started in 2008. During the first year under the consent decree, we experienced a sudden 50% drop in business from the preceding year. This year, for 2009, my business is down an additional 65%.

I have witnessed this decline in business and can track it directly to the closures at Cape Point. We regularly hear from our long-time customers who call the motel to ask, "Is Cape Point Open?" When they learn it is closed, they say, "If I can't fish the Point, I am not coming."

Regardless of the national economic condition, we know that our customers are still taking their traditional fishing vacations. Unfortunately, since the consent decree has closed Cape Point for extensive periods, my customers are forced to go elsewhere.

In 2007, before the consent decree, my business employed 6 people. Because of the closures, we now have only 2 employees. I have sadly had to let go of 4 people because of the consent decree closures. Our 53-year-old business is now in jeopardy.

Jaki Gray
[signature of affiant]

Janice E. Williams
[signature of Notary]

Jaki Gray
46243 Old Lighthouse Road
Buxton, NC 27920

Janice E. Williams

Subscribed and sworn to before me
this 24th day of August, 2009

[Notary Seal]

JANICE E. WILLIAMS NOTARY PUBLIC DARE CO., NC

NOTARY PUBLIC
My commission expires: November 27, 2013

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, personally appeared **Bob Eakes**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

I am the owner of Red Drum Tackle, in Buxton, North Carolina on Hatteras Island. My business is located in close proximity to the entrance of Cape Point, one of the top surf fishing spot in the world. Since 1976, Red Drum Tackle has been a landmark to generations of surf fishermen.

Since the implementation of the consent decree, my business has sustained a 35% loss for each of the last 2 years. I have seen a decline in weekly sales and witnessed a severe drop in business during weekends. I attribute this unparalleled loss of business directly to the closures of the consent decree. Immediately after the consent decree was implemented in May 2008, our business had an abrupt drop when people were unable to fish at Cape Point. We experienced this sudden revenue plunge long before the nationwide economic recession occurred later in the fall of 2008.

My business has weathered previous economic recessions because we cater to surf fishing, a sport with a relatively low cost of participation. However, for the past two years, whenever Cape Point was closed, business was down. On the other hand, when Cape Point was open, revenue immediately surged. I have witnessed first-hand this direct, cause and effect correlation between revenue and access to Cape Point.

My employees and my family have suffered because of the consent decree. I was forced to lay-off one third of my workforce. These were hard-working employees who depended on the success of Red Drum Tackle in order to feed their families. In order to survive, I have also had to use funds set aside for my son's education. Sadly, this year the decline in revenue caused by the consent decree will also consume the funds remaining in my 401k. We have had the rug pulled out from beneath us.

[signature of affiant]

[signature of Notary]

Bob Eakes
P.O. Box 1354
Buxton, NC 27920

Janice E. Williams

[Notary Seal]

JANICE E. WILLIAMS NOTARY PUBLIC DARE CO., NC

Subscribed and sworn to before me
this 24th day of August, 2009

NOTARY PUBLIC
My commission expires: November 27, 2013

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, personally appeared **John Couch**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

I am the President and Owner of Lighthouse Service Center, Inc. and Lighthouse Auto Parts, often referred to as Carquest Auto Parts. My businesses are located on Hatteras Island in Buxton, North Carolina near the entrance to the Cape Hatteras Lighthouse and the popular Cape Point fishing destination. *We perform automobile and truck repairs and sell* replacement parts.

Prior to the consent decree, 2007 was the best year for my businesses. *This was when the* National Park Service Interim Management Strategy governed access to the beach. In contrast, since the implementation of the consent decree in May of 2008, I have suffered a decline in revenue in both of my business operations with a crushing loss of 30,000.00 in first 3 months of the consent decree. Since then we have tracked a decline in revenue that directly correlates to the times of closure periods at Cape Point. When access is denied, business goes down. After the beaches re-open, business goes back up.

I am confident the losses sustained by my businesses are due to the closures and not the general economy. Not only do we see the direct correlation to closure periods, but also my business has historically not been adversely affected by previous recessions. In fact, during economic downturns, automotive repair and parts businesses *generally benefit from people* retaining their cars longer and performing more of their own maintenance.

The impact of beach access restrictions has not only hurt me, it has also harmed others. Because of the consent decree, I was forced to eliminate 3 job positions. This involved a bookkeeper, a mechanic and a parts worker. These were all innocent people who did not deserve to lose their livelihoods because of unreasonable beach access restrictions.

[signature of affiant]

[signature of Notary]

John Couch
46813 Highway 12
Buxton, NC 27920

Janice E. Williams

Subscribed and sworn to before me
this 24th day of August, 2009

NOTARY PUBLIC
My commission expires: November 27, 2013

[Notary Seal:]

JANICE E. WILLIAMS NOTARY PUBLIC DARE CO., NC

LAND OF BEGINNINGS
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AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, personally appeared **Earl Younce Jr,** known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

Since 1954 our family has owned and operated the Avon Cottages and Avon Motel. Both businesses are located on Hatteras Island in Avon, North Carolina. For 55 years, we have provided lodging for generations of surf fishermen. Our regular customers depend on open and accessible beaches for recreational fishing.

Immediately following the implementation of the consent decree in 2008, our business abruptly declined. We experienced a 31 to 33% loss of revenue. Based upon direct feedback from our regular customers, we know that the loss we sustained was linked to beach closures.

During periods when Cape Point or large portions of the beach were closed, our business would drop-off. When access was restored, revenue would immediately start to pick-up. If our loss was caused by the economic recession, our revenue would not rebound as soon as beach access was restored for surf fishing.

The restrictive closures under the consent decree have put a stranglehold on our family business. We have had to undergo costly refinancing in order to survive. We have also had to reduce our employee workforce from 16 down to 8. This drastic cutback has hurt those who depended upon us for a job to provide for their families.

[signature of affiant]

Earl Younce Jr.
40279 Younce Road
Avon, NC 27915

[signature of Notary]

Janice E. Williams

Subscribed and sworn to before me
this 24th day of August, 2009

NOTARY PUBLIC
My commission expires: November 27, 2013

[Notary Seal]

JANICE E. WILLIAMS NOTARY PUBLIC DARE CO., NC

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Norma J. DeFago *[name of Notary before whom affidavit is sworn]*, on this 15 day of September, 2009, personally appeared **Fred Sawyer**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

My wife Denise and I have owned the Froggy Dog Restaurant for 14 years. We are located on Hatteras Island in Avon, North Carolina. The Froggy Dog is a family restaurant that has built a loyal following of regular customers for breakfast, lunch and dinner.

We depend on open and accessible beaches to attract fisherman, surfers and others to our area for recreation. Since implementation of the consent decree in 2008, I have witnessed a direct correlation in business revenue depending on whether beaches are opened or closed.

Our restaurant has struggled to survive whenever the Avon access ramp or Cape Point are closed. When these areas are shut down, revenue suffers. On the other hand, when these areas are re-opened for recreation, we see a sudden increase in business. This confirms for me the fact that regardless of the economy, people are willing to come to our area when the beaches are open. For us, and many other businesses, the beach is our industry.

In order to combat the negative impact of beach closures, we have had to work even longer hours and spend money on costly promotions and improvements. For example, we added a porch and offered music in an effort to help gain business. As the universe of potential customers dwindled because of the consent decree closures, we faced unprecedented competition in attracting each guest.

My wife and I have direct contact with our customers on a daily basis. We have listened to their frustration and anger about beach closures. Many tell us they are physically unable to hike over steep sand dunes in order to enjoy the ocean. I recall one older customer with bad knees saying, "If the beaches are closed, I'll never come back."

[signature of affiant]

Fred Sawyer
40050 NC Highway 12
Avon, NC 27915

[Notary Seal]

NORMA J. DEFAGO NOTARY PUBLIC DARE COUNTY NC

[signature of Notary]

Norma J. DeFago
[printed name of Notary]

Subscribed and sworn to before me this 15 day of September, 2009

NOTARY PUBLIC
My commission expires: 8-8, 2010

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, KAREN KELMER *[name of Notary before whom affidavit is sworn]*, on this 24 day of September, 2009, personally appeared **Anne C. Bowers**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on her oath, deposes and says:

I have owned and operated Indian Town Gallery on Hatteras Island in Frisco, North Carolina since April of 2000. We also lease retail space to 2 other businesses and rent 2 apartments.

2008 started out as a good year until the effect of the consent decree closures hit in early summer. For example, in June 2008 revenue declined 20%. The subsequent months of the year were even worse. June was followed with a decline of 27% in July, 25% in August 25%, 38% in September, 24% in October, and 38% in November. December was the only month with an increase, a meager 200 dollars.

The decline in our business revenue was directly related to the restrictive closures of the consent decree. This was confirmed by the comments of many of our regular customers. They repeatedly said they would not be making their traditional trip to Hatteras Island, because the most popular recreational areas, including Cape Point, were closed.

The impact of the consent decree has changed the way my business operates. We have had to add the expense and effort of educational features and launch special promotions. Tragically, one of my key employees lost her home to foreclosure and had to leave the area to seek other opportunities. Since I was unable to immediately fund a replacement for her, I found myself having to work 70-hour weeks on a routine basis

Not only did my gallery business drop, but my leasing income diminished as well. As area businesses experienced declines because of closures, many could not pay their rent. We who lease space were put into difficult dilemmas as property managers. When our tenants suffered, we suffered. In fact, I lost one of mine completely when they went out of business in September 2008. This caused a hardship on me and my family that created a do-or-die struggle to survive that has continued to exist since the consent decree was implemented.

ACBowers
[signature of affiant]

Anne C. Bowers
50840 Highway 12
Frisco, NC 27936

[Notary Seal:]

KAREN KELMER NOTARY PUBLIC DARE COUNTY, N.C.

Karen Kelmer
[signature of Notary]

KAREN KELMER
[printed name of Notary]

Subscribed and sworn to before me
this 24 day of ~~August~~ September 2009

NOTARY PUBLIC
My commission expires: March 9, 2012

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, personally appeared **Steve Hissey**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

I am the Co-Manager of Teach's Lair Marina. We are located in the village of Hatteras, North Carolina. We are a full service marina and carry a wide range of products and services for the many who travel to Hatteras Island for surf fishing. The bait and tackle portion of Teach's Lair Marina is known as "The Roost" which is named in honor of the "Pelican's Roost" our former tackle shop which closed in 2004 as the result of hurricane Isabel.

After the implementation of the consent decree in 2008, we experienced a significant decline because of restrictive closures. Our revenue is down 30 to 40% since 2007, the year before the consent decree. Each and every time access to Hatteras Inlet was closed for surf fishing, our business suffered. We lost 300 to 600 dollars for every day that access was restricted.

Our long-time customers are very frustrated by the beach closures and express their dissatisfaction to us on a regular basis. This has caused many to abandon the relatively inexpensive sport of surf fishing and invest in more costly boats in order to continue fishing. Even during a national recession, our regular customers are reporting to us that they are still fishing on a regular basis, just not here. As they complain, "Why travel to Hatteras if they won't let you fish?"

The aftermath of the consent decree has created a very fragile existence for Hatteras Island unlike anything I have ever seen before. It has made it extremely difficult for hard-working people to earn a living. During this time, our business has been forced to lay-off 2 people solely related to the closures.

Steve Hissey
[signature of affiant]

Steve Hissey
58646 Highway 12
Hatteras, NC 27943

Janice E. Williams
[signature of Notary]

Janice E. Williams

Subscribed and sworn to before me
this 24th day of August, 2009

NOTARY PUBLIC
My commission expires: November 27, 2013

[Notary Seal:]
JANICE E. WILLIAMS
NOTARY
PUBLIC
DARE CO., NC

LAND OF BEGINNINGS
PRINTED ON RECYCLED PAPER

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Jody L. Midgett
[name of Notary before whom affidavit is sworn], on this 13 day of Oct, 2009, personally appeared **Kim Mosher**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on her oath, deposes and says:

I am a professional artist and conduct business as Kim Mosher Designs on Hatteras Island in Buxton, North Carolina. My artwork encompasses several mediums featuring depictions of wildlife offering a unique view of nature available for discovery on Hatteras Island.

I am passionate about wildlife and enjoy helping others experience a special connection with nature through my art. There is nothing more gratifying than knowing that my artwork has inspired in someone an appreciation and respect for wildlife.

My business has been hit hard by the consent decree closures. After implementation of the consent decree in May 2008, my business was forced to scramble. Revenue declined from the sale of my fish drawings that are reproduced on t-shirts and distributed to tackle shops. Over the years, my depictions of in-shore fish species have been well received by the fishing community. However, as the consent decree closures forced away many fishermen, my income started a downward spiral culminating in 2009 with being down 30%.

I am also active in the Hatteras Island Arts and Crafts Guild, which conducts public art shows to raise scholarship money for local students. Because this event occurs during the summer when many of the most popular portions of the beach are closed, attendance has suffered. This has caused a decrease in the amount of money we have been able to raise for student scholarships as compared to before the consent decree.

It is easy to get mad watching scholarship money decline and people suffer. Like many other businesses, the consent decree has forced me to work harder to make less.

Kim Mosher
[signature of affiant]

Kim Mosher
46427 Flowers Ridge Road
Buxton, NC 27920

[Notary Seal:]

Jody L Midgett
[signature of Notary]

Jody L. Midgett
[printed name of Notary]

Subscribed and sworn to before me
this 13 day of Oct., 2009

NOTARY PUBLIC
My commission expires: 6-15, 2013

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, personally appeared **Brian Jones**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

I own and operate "My Mechanic at the Beach," providing a mobile repair service for cars and trucks. Previously I operated a repair shop on Hatteras Island in Buxton, North Carolina known as "My Mechanic." After 2½ years, I was forced out of my repair shop because of the consent decree closures and now work as a mobile mechanic.

Prior to the consent decree implementation in 2008, my business was thriving. The majority of my customers were fisherman who frequented the Cape Point area in Buxton, North Carolina. Business was good and I invested a substantial sum in tools, equipment and a specialized four-wheel drive wrecker truck. I worked hard and made a good, honest living.

Things changed overnight after the consent decree. With Cape Point and other popular fishing areas closed during the most important times of the year, my regular customers stopped coming to Hatteras Island. I heard from many who told me they were going elsewhere to fish because of the closures. Without fishermen coming to Hatteras Island, the foundation of my business disappeared.

Revenue in my repair shop dropped over 50% after implementation of the consent decree. In order to survive, I had to liquidate for cash my four-wheel drive wrecker truck. It was sad to sacrifice one of the tools of my trade and suffer a tremendous financial loss in the transaction.

I held on to the repair shop for as long as possible, but eventually had to close the doors of the business for which I had worked so hard. Because of the consent decree I was forced out of my shop and now struggle to get by as a mobile mechanic. This has severely hampered my ability to earn a living and provide for my family.

[signature of affiant]

Brian Jones
40083 Williams Road
Avon, NC 27915

[Notary seal:]

JANICE E. WILLIAMS NOTARY PUBLIC DARE CO., NC

[signature of Notary]

Janice E. Williams

Subscribed and sworn to before me
this 24th day of August, 2009

NOTARY PUBLIC
My commission expires: November 27, 2013

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, personally appeared **Walton Fulcher**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

I am the President of the Cape Hatteras United Methodist Men. We serve the community through the Cape Hatteras Emergency Assistance program and Food Pantry. We provide aid to individuals and families in need. We are located at the Buxton United Methodist Church in the village of Buxton, North Carolina on Hatteras Island.

We have seen a tremendous increase in the number of families needing our assistance. In the past year, this number has more than doubled. These people, many of whom have been impacted by the closures of popular fishing areas on the Cape Hatteras National Seashore Recreational Area, rely on us for food and emergency assistance.

In the past year, we have paid out more than $66,800 in assistance to 160 families. During the same time, our Food Pantry has been utilized 730 times. This has provided provisions to 2,475 people with enough food to feed 60,000 meals.

Volunteers run our program completely with 100% of our budget spent directly on services for people on Hatteras Island.

Walton Fulcher
[signature of affiant]

Janice E. Williams
[signature of Notary]

Walton Fulcher
P.O. Box 1591
Buxton, NC 27920

Janice E. Williams

Subscribed and sworn to before me
this 24th day of August, 2009

[Notary Seal:]

NOTARY PUBLIC
My commission expires: November 27, 2013

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, personally appeared **Lee Ann Quidley-Canning,** known to me to be a credible person and of lawful age, who being by me first duly sworn, on her oath, deposes and says:

My family has owned and operated Sonny's Waterfront Restaurant for 34 years. We are located in the village of Hatteras, North Carolina.

Since the implementation of the consent decree, our business has experienced a substantial loss of income. I have witnessed an overall reduction of 20% since 2007, the year prior to the consent decree.

As a small business owner, I have the opportunity to talk with our customers on a daily basis. I hear their frustrations about the beach closures. Many of them are discouraged about restricted access and say they will never return to Hatteras.

[signature of affiant] *[signature of Notary]*

Lee Ann Quidley-Canning
57947 Highway 12
Hatteras, NC 27943

[Notary Seal:]

Janice E. Williams

Subscribed and sworn to before me
this 24th day of August, 2009

NOTARY PUBLIC
My commission expires: November 27, 2013

JANICE E. WILLIAMS NOTARY PUBLIC DARE CO., NC

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, personally appeared **Mike Harrell**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

I have owned and operated Cape Woods Resorts since 1997. We are a campground with 70 sites located at 47646 Buxton Back Road in the village of Buxton on Hatteras Island, North Carolina. My campground is very close to the entrance of Cape Point.

Since implementation of the consent decree, I have witnessed a 10% drop-off in business. My customers have repeatedly told me that their cancellations are because of the consent decree closures, People express to me that they come here to fish on Cape Point and take their grand children to the beach. My business depends on access to the world class fishing of Cape Point.

Mike Harrell
[signature of affiant]

Mike Harrell
47646 Buxton Back Road
Buxton, NC 27920

[Notary Seal:]

Janice E. Williams
[signature of Notary]

Janice E. Williams

Subscribed and sworn to before me
this 24th day of August, 2009

NOTARY PUBLIC
My commission expires: November 27, 2013

AFFIDAVIT

State of North Carolina
County of Dare

BEFORE ME, the undersigned Notary, Janice E. Williams, on this 24th day of August, 2009, personally appeared **John A. Mortensen**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

I have worked in the recreational fishing industry since moving to Hatteras Island in 2003 following my career in the United States Air Force. I am a builder of custom fishing rods, and have been an employee of area bait and tackle shops.

The consent decree closures have taken a severe toll on me. I have personally been victimized by the restrictive closures that have denied access to the most popular fishing locations in the Cape Hatteras National Seashore Recreational Area.

Ever since the 2008 consent decree, my ability to earn a living has been severely damaged. I have had to endure 40 difficult weeks of unemployment since the consent decree was implemented. During this time, employment opportunities have not been available because of the general decline in area business caused by the closures.

As a custom fishing rod builder, I have seen my income nearly vanish. Before the consent decree, I was building over 300 custom fishing rods each year for the many fishermen traveling to Hatteras Island. In the past year, I have only built 8 rods. This is how severely and dramatically the closures have crushed my business.

[signature of affiant]

John A. Mortensen
46750 Buxton Back Road
Buxton, NC 27920

[Notary Seal:]

Janice E. Williams *[signature of Notary]*

Janice E. Williams

Subscribed and sworn to before me
this 24th day of August, 2009

NOTARY PUBLIC
My commission expires: November 27, 2013

AFFIDAVIT

State of North Carolina
County of Hyde

BEFORE ME, the undersigned Notary, Judith G. Garrish
[name of Notary before whom affidavit is sworn], on this 22 day of September, 2009, personally appeared **David Esham**, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

Since 1973 my family has owned and operated the Pony Island Motel on Ocracoke Island. This 50-room facility is popular with fishermen, families and others coming to the Cape Hatteras National Seashore Recreational Area.

Since the closures of the consent decree began in 2008, our business has suffered. We witnessed an abrupt decline in business as soon as the closures began. During 2008, we were off by an average of 14%. The impact of these closures has forced us to cut back employee hours causing a financial hardship for them. The drop in business we experienced parallels the periods of beach closures and occurred long before the national economic recession at the end of 2008.

The consent decree closures have made it harder for us, and other businesses, to plan for the future. Our customers depend upon recreational access to the beach. They frequently express their frustration to us that there is no way for them to effectively plan a family vacation to our area, because of the unpredictable way the closures are implemented under terms of the consent decree.

Our base of regular customers includes many fishermen and families. These frequent travelers have been the sustaining force for our family business over the years. Ever since the consent decree closures were implemented, they have told us over and over again, "if the beaches are closed, there is no reason to come back."

[signature of affiant]

David Esham
785 Irvin Garrish Highway
Ocracoke, NC 27960

[Notary Seal:]
JUDITH G GARRISH
NOTARY PUBLIC
HYDE COUNTY, NC

[signature of Notary]

Judith G. Garrish
[printed name of Notary]

Subscribed and sworn to before me
this 22 day of September, 2009

NOTARY PUBLIC
My commission expires: 6/20/, 2013

COUNTY OF HYDE

30 Oyster Creek Road
PO Box 188
SWAN QUARTER, NORTH CAROLINA 27885
252-926-4400
252-926-3701 Fax

May 11, 2010

Mike Murray, Superintendent
Cape Hatteras National Seashore
1401 National Park Drive
Manteo, NC 27954

RE: Coalition Position Statement

Dear Superintendent Murray:

The Hyde County Board of Commissioners disagrees with the validity of the economic impact analysis included in the Draft Environmental Impact Statement (DEIS) proposing new rules for access to the Cape Hatteras National Seashore. Economic data provided is outdated, incorrect, and in addition you draw conclusions from the bad data that are unwarranted.

Hyde County strongly supports open and accessible beaches for the Cape Hatteras National Seashore Recreational Area. Consistent with legislation that created America's first National Seashore, we support open access for all citizens and visitors of Hyde County.

Hyde County is very unique in that Ocracoke Village is both a small fishing village and a busy tourism site from May 31 to September 6, with the peak season being July. Ocracoke Island is 16 miles long with Ocracoke Village situated on approximately 600 acres of buildable land. Ocracoke Village provides approximately 50 percent of Hyde County tax revenue although it is home to only 15 percent of the County's population. Limited access to Ocracoke Island beach areas would cause Hyde County economic hardship.

Hyde County has identified four (4) major themes which represent the core of our beliefs on the Draft Environmental Impact Statement (DEIS) for the Cape Hatteras National Seashore Recreational Area, Alternative F. These four issues are by no means the only issues worthy of comment, but do represent the County's main concerns. (see attached)

The four major themes are:

1) **CORRIDORS** are a vital tool in providing access while managing resources
2) **MANAGEMENT BUFFERS** must be based on peer-reviewed science
3) **NON-ENDANGERED BIRDS** should not have same protection as if endangered
4) **TURTLE MANAGEMENT** would benefit from nest relocation and other practices

Based upon the economic harm felt by Ocracoke Village and Mainland Hyde County under the consent decree, Hyde County believes the economic impact of Alternative F will be substantial.

In conclusion, Hyde County urges the National Park Service to incorporate the provisions outlined in its Position Statement. It is our belief that incorporation of the outlined provisions citizens and visitors of Hyde County will benefit from the long range success for wildlife, and the enhanced visitor experience for those living near the Cape Hatteras National Seashore Recreation Area.

Sincerely,

Tom Davis
Chairman

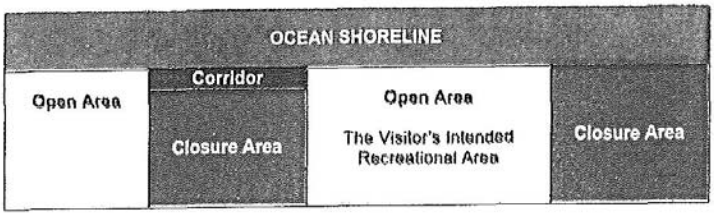
cc: Board of Commissioners

CORRIDORS

Corridors are a vital tool in providing access while managing resources. Corridors provide a small path around temporary resource closures in order to provide access to open areas that would otherwise be blocked.

In some instances, corridors can be made through or around closure areas. In other places corridors can be established below the high tide line. Since unfledged chicks are not found in nests between the ocean and the high tide line, this type of pass through corridor would have no negative effect on wildlife and should be established throughout the seashore.

In the example below, the visitor's intended recreational area would be accessible only through the small pass through corridor. Without this corridor, the area marked "Open" would, in actuality, be closed, because it is impossible to get there without the corridor.



As outlined on pages xii, xvii, and 468 of the DEIS, corridors would only be permitted in Management Level 2 portions (ML2) of Species Management Areas (SMA). In more restrictive Management Level 1 portions (ML1) corridors would not be permitted at all.

Corridors are vital to providing access in a way that does not hinder resource protection. Therefore, Hyde County believes pass through corridors should be maintained for pedestrians and ORVs in all areas of the Cape Hatteras National Seashore Recreational Area throughout the entire breeding and nesting season.

MANAGEMENT BUFFERS

Buffers, or closures, are important management practices for species recovery. However, in order to have long term benefit for the protected species and the visiting public, the buffers must be based on peer-reviewed science. Once established, buffers must be routinely monitored throughout the breeding season to ensure that resources are effectively protected and public access is provided.

The extreme buffers outlined in DEIS pages 121 to 127 must be modified to substantially reduce the minimum 1,000 meter buffer in all directions required in Alternative F for unfledged Piping Plover chicks. Hyde County believes a more appropriate and yet effective buffer is 200 meters. Ample scientific evidence and precedent exists to support a 200 meter buffer. As part of the NEPA process, Hyde County formally requests the National Park Service to provide peer-reviewed science that justifies a 1,000 meter closure in all directions.

Buffers for other species, including American Oystercatchers, Least Terns and Colonial Waterbirds must also be changed. An effective 30 meter buffer should be established for these species rather than the 300 meter closure outlined in the DEIS.

NON-ENDANGERED BIRDS

Under the Endangered Species Act (ESA), all endangered species must be protected. However, there is no requirement in the ESA to give non-endangered species the same level of protection.

Hyde County believes the National Park Service should re-evaluate its position of giving birds designated only as a North Carolina species of concern, the same protection as those truly endangered. This request is consistent with management practices in other federal parks. The purpose of individual states establishing lists of species of concern is to earmark those for special statewide monitoring and tracking.

The management buffers described in pages 121 to 127 of the DEIS should be modified to allow pre-nesting closures for only endangered or threatened species. This important modification would result in establishing pre-nesting closures exclusively for the Piping Plover, the only threatened bird species in the seashore.

Accordingly, pre-nesting closures are not warranted for the non-endangered and non-threatened American Oystercatchers. Because Colonial Waterbirds do not return to the exact same place for nesting each year, establishing pre-nesting closures for these birds is both unpredictable and unnecessary.

Additionally, in monitoring and tracking birds for purposes of determining resource viability, all birds in the same ecosystem of the seashore should be counted. When conducting a bird census of the Cape Hatteras National Seashore Recreational Area, it is imperative to count the many birds on the nearby dredge and spoil islands that are located just yards away and within sight of the seashore. These birds are part of the same ecosystem and should be included.

The following photo taken of Cora June Island, just off Hatteras Village, shows a huge population of birds in early June of 2009. The large birds with black backs are Black Skimmers. The smaller birds to the left are mostly Royal Terns. Cora June Island, a man-made dredge island just 500 meters west of Hatteras Village, is an ideal nesting site as a sheltered island with no predators.

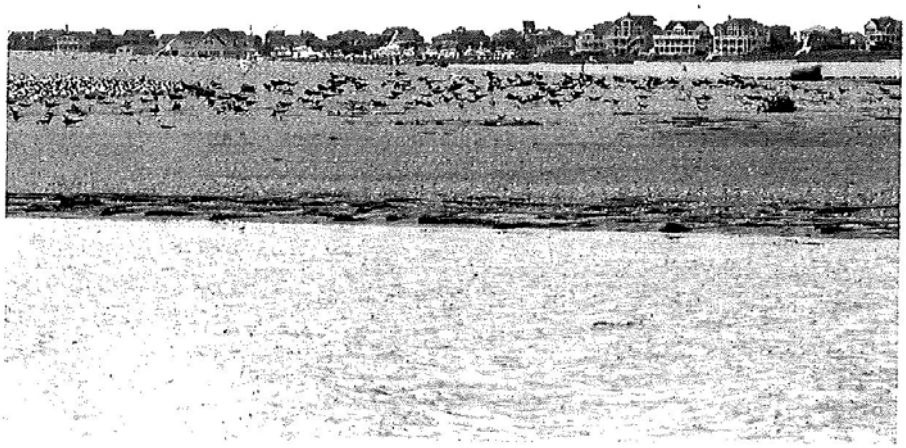


Photo by Donny Bowers

TURTLE MANAGEMENT

Hyde County believes endangered sea turtles would benefit from management practices now in use at other federal seashores that are more proactive in efforts to achieve nesting success. This includes relocating nests to more desirable locations as is done in other state and federally controlled areas.

The Cape Hatteras National Seashore Recreational Area is on the northernmost fringe of turtle nesting locations for the southeast. In this area, weather and predators represent the greatest threat to sea turtles.

Nesting in the United States occurs primarily in four southeastern states as detailed in the USFWS & NMFS species "Recovery Plan"

North Carolina 1.0 % The northernmost area with the fewest nests
South Carolina 6.5 %
Georgia 1.5 %
Florida 91.0 % Primary area where the most nesting occurs

The Loggerhead Recovery Plan recognizes that, "Historically, relocation of sea turtle nests to higher beach elevations or into hatcheries was a regularly recommended conservation management activity throughout the southeast U.S." (2009,Second Revision, page 52) while the North Carolina Wildlife Resources Commission (NCWRC) sea turtle program currently recommends relocation only "as a last resort."

The National Park Service in page 125 of the DEIS relies upon the approach used by North Carolina Wildlife Resources Commissioner (NCWRC). This contradicts the U.S. Fish and Wildlife Service (USFWS) practice of relocating nests on the Pea Island Wildlife Refuge, located on the north end of Hatteras Island, North Carolina.

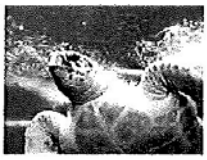
By not supporting nest relocation, the Cape Hatteras National Seashore Recreational Area has lost over 46% of the nests laid in the last 11 years. Meanwhile, South Carolina relocated 40.1% of its nests during 2009, resulting in an incredibly low lost nest rate of only 7.7% making a strong case for the relocation of nests.

The turtle management practices outlined on DEIS pages 125, and 392 to 396 should be modified to allow nest relocation as a tool for species recovery. Statistics compiled Dare County DEIS Position Statement materials – Appendix B – Sea Turtle Management Practices in The Southeast Coastal Region. (attached)

Appendix B

Sea Turtle
Management Practices
in the Southeast Coastal Region

All sea turtles are classified as threatened or endangered and protected by the Endangered Species Act. Two Federal agencies divide jurisdiction over sea turtles. U.S. Fish & Wildlife Service (USFWS) has authority when sea turtles are on the beach. The National Marine Fisheries Service (NMFS) has jurisdiction when sea turtles are in the water.



Section 6 of the Endangered Species Act requires states to show they have an "adequate and active" program for the conservation of endangered sea turtles. The most common sea turtle to nest on the beaches of the southeast coastal region is the threatened Loggerhead seaturtle (Caretta caretta).

Nesting in the United States occurs primarily in four southeastern states as detailed in the USFWS & NMFS species "Recovery Plan"

North Carolina	**1.0 %**	The northernmost area with the fewest nests
South Carolina	**6.5 %**	
Georgia	**1.5 %**	
Florida	**91.0 %**	Primary area where the most nesting occurs

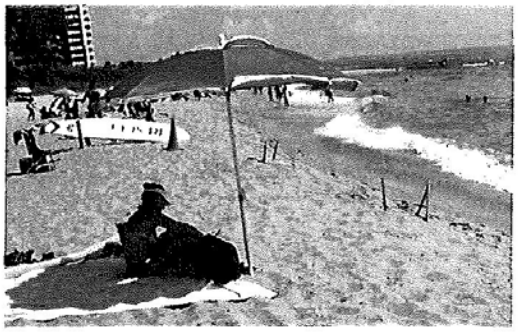
Throughout these southeastern states, there are regional differences in how sea turtles are protected. Some areas make an effort to identify and mark all nests. Others do not.

In the Cape Hatteras National Seashore Recreational Area, nests are marked with stakes and string. As the hatch date approaches, the buffer is expanded closing access between the nest and the ocean, and often prevents access behind the nest as well.

In Florida, where the most sea turtle nesting occurs, it is a different story. Some nests are marked only with a single stake. Others have a small triangular string enclosure, with or without a warning sign. And, some nests are not marked in any way. Most noticeable is the fact that people in Florida are permitted responsible recreational access in close proximity to sea turtle nests buried beneath the sand.

Unlike Florida, people in Cape Hatteras National Seashore Recreational Area are fined $150.00 for even walking in the wet sand in front of a sea turtle nest like the one shown in the above photograph.

According to the Florida Fish & Wildlife Conservation Commission, ***"Not every sea turtle nest needs to be marked"*** and many are not. (Marine Turtle Conservation Guidelines, revised 2007) Each year, Florida has up to 1,000 sea turtle nests per mile compared to a peak level of 1.7 nests per mile in the Cape Hatteras National Seashore Recreational Area.



In this photo of a busy Florida beach, the two buried turtle nests shown are only marked with a small triangle of sticks, without a warning sign, while surrounded by nearby beachgoers.

October 23, 2009, the Island Free Press featured an in-depth report on sea turtle nests. The article (attached) contrasted differences in sea turtle management between Florida and North Carolina.

Florida beach photo showing people and umbrellas near nests

Sea Turtle Nesting Facts –

Sea turtles live in the ocean and come ashore only for the female to lay eggs which are buried in the sand, at night, at a depth of 18 to 22 inches. One female will bury approximately 112 eggs the size of ping-pong balls. The eggs remain buried until hatching, at night, approximately 55 to 80 days later.

Important – It is not the number of nests laid, but whether they survive to hatch. Successful recovery depends on solutions to the real problems – Loss of nests due to high tides from weather events, failure to relocate nests, and predation

Nest Relocation –

The Loggerhead Recovery Plan recognizes that, ***"Historically, relocation of sea turtle nests to higher beach elevations or into hatcheries was a regularly recommended conservation management activity throughout the southeast U.S."*** (2009,Second Revision, page 52)

The sea turtle program of the North Carolina Wildlife Resources Commission (NCWRC) currently recommends relocation only as ***"as a last resort."*** As outlined in their protocol, ***"Nests in heavy foot traffic areas should not be relocated. These nests should be fenced off and marked, so that pedestrians will avoid them."***

North Carolina's approach is contrary to the USFWS practice of relocating nests on the Pea Island Wildlife Refuge, located on the north end of Hatteras Island, North Carolina.

The nearby Cape Hatteras National Seashore Recreational Area does not support moving nests and has lost over 46% of the nests laid on Cape Hatteras beaches in the last 11 years.

Meanwhile, South Carolina relocated 40.1% of its nests during 2009 resulting in an incredibly low lost nest rate of only 7.7% making a strong case for the relocation of nests as a tool for species recovery.

Unanswered Questions –

Sea turtle volunteer Larry Hardham who was also a participant in the negotiated rule making proceeding for the Cape Hatteras National Seashore Recreational Area, has repeatedly asked for science-based answers to a series of pertinent questions about sea turtle nests.

USFWS has been asked, in writing, the following questions –

- Do vibrations in the sand affect incubation or hatchlings?
- At what distance can emerging hatchlings hear a passing car?
- At what distance can emerging hatchlings feel a car pass at 15 mph?
- And, does either of these events alter their activity?
- How far away does a stationary light source have to be disorienting (We were told a moving light is not as disorienting as stationary light)

None of these questions have yet been answered

May 11, 2010
Gene Ballance, 81 Marks Path
PO Box 704
Ocracoke, NC 27960

Mr. Mike Murray, Superintendent
Cape Hatteras National Seashore

Following are my suggested improvements to the ORV DEIS.

1. Commercial fishing vehicles have already their own permits (xxx, 325), and given their long history on the ocean beach (19), I believe they should be give corridors through resource closures.(viii,xi) The ramps were originally created for them (20). That commercial fishermen are not given corridors through resource closures is inconsistent with their being allowed through safety closures (xxi) and having more night driving time (xxx). Some might say this is special treatment, and I agree (53). I disagree with the statement that they are *non-essential vehicles* (xxx). They provide food for our people. There could at least have been a definition of *essential vehicle* given in the DEIS, instead of referring the reader to a piping plover document. That definitely shows that plovers are rated above the descendants of the original people that settled these islands (325). Even the ESA recognizes that a long history of species coexisting together is evidence that one is no great harm to the other. This is why Alaskan natives are exempt. The piping plover is not even endangered. Moreover, page 327 of the DEIS says:

Commercial fish harvesting would have negligible impact on piping plovers because plovers do not feed on any commercially important fish. However, plovers do feed on some of the same prey items of fish species that may be harvested and, as such, harvest of fish may mean greater prey encounters for plovers. In this case, the impact of commercial fishing could result in long-term minor to moderate increases in prey availability that would have a beneficial impact on piping plover foraging.

   This is inconsistent with commercial fishermen not being allowed corridors through resource closures.

2. A buffer with 1,000 meters diameter could cover all private land on Ocracoke Island (121-127). Thus it is not a buffer, but just a more politically correct way of saying "no access".

3. Much was made of the fact that of that of US National Seashores only Cape Hatteras has seen a decline in piping plover numbers in recent years (121-127). There has also been an increase in ORV use. Every scientist knows that *correlation does not necessarily imply causation.* The Pamlico Sound area is very large and unique in the US. They are many other places immediately outside the seashore that are good bird habitat. This may not be true to such an extent for the other seashores. There should be a study of how this factor might figure into bird counts.

Thanks for all you hard work on this DEIS. –Gene Ballance

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TOWN OF KITTY HAWK
First in Flight December 17, 1903 Est. 1981

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MM

May 6, 2010

Cape Hatteras Group Headquarters
1401 National Park Drive
Manteo, NC 27954

RE: ***Resolution Supporting Open and Accessible Beaches on the Cape Hatteras National Seashore Recreational Area***

Dear Sir/Madam:

On behalf of the Kitty Hawk Town Council, please find enclosed a copy of the ***Resolution Supporting Open and Accessible Beaches on the Cape Hatteras National Seashore Recreational Area*** adopted on May 3, 2010.

Sincerely,

Lynn U. Morris
Town Clerk

Enclosure

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Resolution
Supporting Open and Accessible Beaches
on the Cape Hatteras National Seashore Recreational Area

Whereas, the Cape Hatteras National Seashore Recreational Area (CHNSRA) was created by Congress in 1937 as America's first National Seashore with the promise that people would always have access for recreation; and

Whereas, a tourism based economy has been developed on Bodie Island, Hatteras Island and Ocracoke Island, where the Cape Hatteras National Seashore Recreational Area is located, comprising part of the area known as the Outer Banks of North Carolina; and

Whereas, access to the beaches of this area has always been the defining element of the visitor's complete seashore experience and is the foundation of the area's economic base upon which thousands of families depend for their livelihood; and

Whereas, the National Park Service has managed the Cape Hatteras National Seashore Recreational Area and in July of 2007, adopted an Interim protected Species Management Plan (Interim Plan) to protect the natural resources of the CHNSRA while still providing for public access to the most popular and traditionally used beaches of the area; and

Whereas, in October 2007, environmental groups filed suit in U.S. Federal Court seeking to enjoin access to large areas of the CHNSRA resulting in a Consent Decree issued in April of 2008 by the U.S. Federal District Court modifying the Interim Plan and resulting in the closure to the public of large areas of the CHNSRA; and

Whereas, the unprecedented closures as a result of the Consent Decree has created significant economic harm to businesses in the area and disrupted a recreational heritage which has been responsibly enjoyed by families for generations; and

Whereas, in January 2009, Congressman Walter B. Jones (R-NC) introduced H.R. 718, to reinstate the Interim Management Plan on the CHNSRA, which he first introduced as H.R. 6233 on June 11, 2008; and

Whereas, H.R. 718 would set aside current mandates put in place in the wake of the Consent Decree, restore public access and improve economic conditions by reinstating the Interim Management Plan until the National Park Service establishes a long-term management plan for use of the CHNSRA.

Whereas, in August 2009, Senator Richard Burr (R-NC) introduced S. 1557 to reinstate the Interim Management Plan on CHNSRA, which was first introduced in 2008.

Whereas, in March 2010, the National Park Service released the Draft OFF-ROAD VECHICLE MANAGEMENT PLAN/ENVIRONMENTAL IMPACT STATEMENT which is more restrictive than the Consent Decree, closing (to ORV) the Inlet spits and the Points during the migrations of large Bluefish, Red Drum, and Cobia.

Now Therefore Be It Resolved that the Kitty Hawk Town Council supports open public access to the Cape Hatteras National Seashore Recreational Area consistent with promises made in the enabling legislation, recognizes the importance of recreational access to sustain the economic viability of this unique area and finds the Interim Management Plan of the National Park Service the most effective tool available to regulate the area until a long-term plan can be adopted.

Adopted May 3, 2010 by a vote of 5 for and 0 against.

Lynn U. Morris, Town Clerk

The Town of 1981 Kitty Hawk

Clifton G. Perry, Mayor

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Note: This appendix did not appear in the DEIS. To make it more easily readable, it is not displayed in red-line/strikeout format.

APPENDIX E: IMPAIRMENT DETERMINATION FOR THE NATIONAL PARK SERVICE PREFERRED ALTERNATIVE

BACKGROUND

Chapter 1 of the *Cape Hatteras National Seashore Off-Road Vehicle Management Plan/Final Environmental Impact Statement* (FEIS) describes the related federal acts and policies regarding the prohibition against impairing Seashore resources and values in units of the national park system. 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 "would harm the integrity of park resources or values, including the opportunities that otherwise would 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 would 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 would 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
- identified as a goal in the park's General Management Plan or other relevant NPS planning documents.

INTERIM GUIDANCE

Since publication of the Cape Hatteras National Seashore Off-Road Vehicle Management Plan/Draft Environmental Impact Statement in March 2010, the NPS has issued *Interim Guidance for Impairment Determinations In NPS NEPA Documents* (Interim Guidance) (NPS 2010). Consistent with the Interim Guidance, the draft written impairment determination for only the preferred alternative is included in this appendix E of the FEIS. Also, consistent with the Interim Guidance, the potential of the no-action alternative A to result in impairment to common tern, gull-billed tern, black skimmer and sea turtles is discussed in the impact analysis for those species in chapter 4 of the FEIS.

The Interim Guidance provides that 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 FEIS for the complete impact analysis.

The Interim Guidance states:

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

The resource impact topics carried forward and analyzed for the NPS preferred alternative in the FEIS, and for which an impairment determination is contained in this appendix, 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 impairment determination for the NPS preferred alternative in the DEIS has been updated in this FEIS to reflect revisions in the preferred alternative and the provisions of the Interim Guidance for content of the determination.

The Interim Guidance provides that the 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 park was established
- whether the resource is key to the natural or cultural integrity of the park or to the opportunity for enjoyment of the park
- whether the resource is identified as a significant resource in the park'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 park's planning documents," a brief summary of how the resources in this 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 "park'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 park," 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 park 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 park'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 would 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 park 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 Interim Protected Species Management Strategy provides management measures specifically for the following protected species: piping plover (*Charadrius melodus*), loggerhead sea turtle (*Caretta caretta*), green sea turtle (*Chelonia mydas*), 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 palliates*), Wilson's plover (*Charadrius wilsonia*), and red knot (*Calidris canutus rufa*). The Interim Strategy notes that since 1999 the Seashore has been designated a Globally Important Bird Area in recognition of the value it provides to bird migration, breeding, and wintering (American Bird Conservancy 2005).

WETLANDS

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 park 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 park 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 the 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 seems 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 alternative F would not impair wetlands because of the low magnitude of impacts to wetlands. Species management activities would not typically occur in estuarine wetland areas; and effects on the size, integrity, or connectivity of marine intertidal wetlands from ORVs crossing these areas would not be measurable or perceptible. ORV damage to soundside vegetation would continue to be confined to small areas, and would 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 would help protect soundside vegetation and would 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 negligible in the plan/EIS analysis because the change would be so slight that it would not be of any measureable or perceptible consequence. Parking area and ramp construction would avoid wetland areas and would use materials and management practices that would reduce surface runoff. The effects of this construction on the size, integrity, or connectivity of wetlands would not be measurable or perceptible and were deemed to be negligible in the plan/EIS analysis. Cumulative impacts from combining the effects of alternative F with effects of other past, present, and future planned actions in and around the Seashore would likely result in a small permanent loss of wetlands, mostly from the construction of the Bonner Bridge, which would affect 3.1 acres. Large areas would not be affected and wetland functions would not be affected over the long-term. Therefore, the impacts of alternative F on wetlands would 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 l00-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 (Martin pers. comm. 2003).

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 park 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 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 seems 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 alternative F would 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 would not have a measurable effect on floodplains. Driving on beaches, interior ORV routes, or along soundside ORV access routes would 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 alternative F would involve the construction of 4 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), which in combination would create or improve a total of approximately 135 new public parking spaces along the Seashore, with associated pedestrian access to the beach. Ramps would 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 would be located landward of the primary dune. The new parking areas would 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 would 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 would have no floodplain impact because they would not require a hardened surface because vehicles would travel over sand to reach them. The interdunal roads would be constructed at grade and would not alter topography or require a finished surface. The pedestrian trails would not result in floodplain impacts because they would be primitive in nature and would not be paved or surfaced. The plan/EIS impact analysis deemed the impacts from construction to be minor because they would result in a change in floodplain functions and values that would be detectable but small, of little consequence, and localized in the immediate area of construction. Cumulative impacts from combining the effects of alternative F 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, would result in a change to floodplain functions and values. The cumulative impacts were deemed minor to moderate in the plan/EIS impact analysis because they would be readily detectable and could increase risk to life or property, but would be relatively localized and could be successfully mitigated. Additionally, alternative F would not contribute appreciably to cumulative impacts. Therefore, the floodplain impacts would not result in impairment.

FEDERALLY LISTED THREATENED OR ENDANGERED SPECIES

Piping Plover

Brief Description of the Condition of the Resource:

The piping plover (*Charadrius melodus*) became a protected species under the *Endangered Species Act* on January 10, 1986. Piping plovers use the Seashore during all phases of their annual cycle: breeding, migrating, and wintering. The Seashore is used by both the endangered Great Lakes population of piping plover (considered threatened on wintering grounds, which include the Seashore) and the threatened Atlantic Coast population (for breeding and wintering, with breeding occurring at the Seashore). The Seashore contains 1,827 acres of USFWS-designated critical habitat for wintering plovers. Between 1995 and 2005 the number of piping plover breeding pairs at the Seashore dropped from 14 to 2. However, between 2005 and 2010 the number of breeding pairs at the Seashore increased from 2 to 12. A fledge rate of 1.25 fledged chicks per breeding pair annually would be needed to sustain the population and the recovery goal set by the USFWS is 1.50 fledged chicks per breeding pair. Although a fledge rate of 1.25 chicks per breeding pair was achieved at the Seashore in 2010, the fledge rate at the Seashore has averaged less than half the recovery goal since 1992.

Piping plover 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. Piping plover are characteristic of the barrier island fauna that the enabling legislation mandates be preserved.

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

Vital signs identified for the Seashore include wintering and migratory shorebirds and threatened and endangered species. Piping plover use the Seashore for nesting, migration and wintering; are a federally

and state listed threatened species; and are a key component of the natural integrity of the fauna the enabling legislation mandates be preserved.

Piping plover 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 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. 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 Interim Protected Species Management Strategy provides management measures specifically for piping plover. Therefore it seems reasonable to conclude that the Seashore's planning documents implicitly consider piping plover "significant" as part of the flora, fauna, and physiographic conditions the Seashore is mandated to preserve.

Analysis:

Implementation of alternative F would not impair piping plover because sufficient population numbers and functional habitat would remain to maintain a sustainable population of piping plover in the Seashore. Under alternative F, the Seashore would survey and evaluate all potential breeding habitats by March 1 of each year and recommend piping plover prenesting closures based on that evaluation. Areas of suitable habitat that have had individual piping plover nests in more than one of the past five years and new habitat that is particularly suitable for nesting (such as the habitat at new inlets or overwash areas) would be posted as prenesting closures using symbolic fencing by March 15 of each year.

In addition to prenesting closures, the Seashore would also designate year-round and seasonal vehicle-free areas (VFAs), which would preclude recreational ORV use early in the breeding season. Many of the VFAs would be located in areas of suitable habitat that have had concentrated and recurring use by multiple individuals and/or multiple species of protected shorebirds during the breeding or nonbreeding season. Under alternative F, ORVs and pedestrians would be prohibited in prenesting closures. Once established at the beginning of the breeding season, prenesting closures would not be reduced to accommodate an ORV corridor. Prenesting closures would be 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. Nonbreeding shorebird habitat protection would be implemented before prenesting areas are removed. Pedestrian access would be allowed seaward of prenesting closures along the shoreline below the high tide line unless standard buffers implemented in response to observed breeding behavior preclude access. Areas where piping plover have been known to breed would be designated as VFAs seasonally (Bodie Island spit), or year-round (Hatteras Inlet Spit and North Ocracoke Spit), or would have protective measures to manage or restrict ORV use during the breeding season, (Cape Point and South Point). Alternative F would prohibit pets in resource closures and in pedestrian shoreline access areas in front of (i.e. seaward of) prenesting closures to offer additional protection in these areas, but would allow pets in the other areas of the Seashore, on a 6-foot leash. From March 15 through July 15, Seashore staff would survey prenesting closures three times per week and suitable habitat outside of prenesting closures two times per week, increasing to three times per week once birds are present. If breeding piping plover are observed foraging outside an existing closure, the site would be surveyed daily and if foraging is observed outside a closure on two consecutive surveys, a buffer would be established or expanded to include the foraging site. These closures would provide undisturbed foraging opportunities close to breeding sites.

In addition to the relatively less disturbed habitat in the year-round VFAs, under alternative F a survey for nonbreeding habitat would occur and would result in nonbreeding closures in areas of important habitat. The plan/EIS impact analysis deemed the management measures for breeding and nonbreeding piping plover (such as establishment of prenesting closures early in the breeding season; 75-meter buffers for nests, nest scrapes, and breeding behavior; 1,000-meter ORV buffers and 300-meter pedestrian buffers for chicks; nonbreeding closures; use of predator exclosures for nests, establishment of VFAs; and prohibition of night driving between 9:00 pm and 7:00 am to be moderate beneficial. At the moderate intensity level, beneficial impacts would be detectable and could be beyond the level of disturbance or harm that would occur naturally. Protection to key life history stages would minimize or prevent harassment or injury to individuals and improve the sustainability of the piping plover in the Seashore.

Effects from commercial fishing would not be observable or measurable and would be well within natural fluctuations because the special use permit under which commercial fishing is managed prohibits entering resource closures and because a relatively small number of commercial fishermen operate inside the Seashore.

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, alternative F would require a permit for ORV use, which includes an educational component. Because ORV users would be more aware of the regulations in place to protect piping plover, the permit requirement would likely increase compliance with buffers, closures, and other restrictions. Violations may result in permit revocation, which is also expected to increase compliance. Alternative F would also establish a new voluntary resource education program targeted toward pedestrian beach users. Under alternative F, ORVs would bring people into the vicinity of plover areas where trash associated with recreation use would continue to attract mammalian and avian predators. Predation is known to affect the reproductive success of piping plovers; the indirect impacts of attracting predators would be detectable and beyond the level of disturbance and harm that would occur naturally, but is not expected to result in large declines in population because the Seashore takes management action to protect piping plover from predation.

The plan/EIS impact analysis of alternative F deemed adverse impacts to piping plover from ORV and other recreational use to be minor to moderate. This range of impacts is projected, in part, because it is not possible to predict the extent or exact effect of closure intrusions by vehicles, pedestrians, or pets on piping plover. Minor adverse effects would not result in impacts beyond what could occur naturally with occasional responses by some individuals to disturbance and minimal interference to feeding, reproduction, resting, or other factors affecting population levels. Adverse effects at the minor level of intensity would neither be expected to result in changes to the Seashore's population numbers of piping plover, population structure or other demographic factors nor to result in injury or mortality to individual piping plover. At the moderate level of impact intensity the impacts on piping plover, their habitat, or the natural processes sustaining them could be beyond what would occur naturally. Frequent responses by some individuals to disturbance could be expected, with some negative impacts to feeding, reproduction, resting, or other factors affecting Seashore population levels. Small changes to population numbers in the Seashore, population structure, and other demographic factors may occur. 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 would remain to maintain a sustainable population in the Seashore. The FEIS establishes desired future conditions for piping plover number of breeding pairs, fledge rate, and depredation rate and provides that where progress is not being made toward the attainment of desired future conditions, periodic review and adaptive management may result in increased restrictions on recreational use. Over the life of the plan, as public awareness increases and compliance with closures improves, the impacts on piping plover would be more likely to be at the minor than the moderate level of intensity.

The plan/EIS analysis of cumulative impacts from combining the effects of alternative F 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) indicates that NPS management actions within the Seashore would act as a driver for overall cumulative impacts. The cumulative impacts were deemed to be minor to moderate adverse in the plan/EIS impact analysis because large declines in population numbers would not result and sufficient population numbers and functional habitat would remain to maintain a sustainable population in the Seashore. 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 would remain to maintain a sustainable population in the Seashore. Therefore, the piping plover impacts would not result in impairment.

Sea Turtles

Brief Description of the Condition of the Resource:

Five of the seven sea turtle species existing in the world today occur in the coastal waters of North Carolina and the Seashore, and all are listed as either federally threatened or endangered. These five species are the loggerhead sea turtle, the green sea turtle, the Kemp's ridley sea turtle, the leatherback sea turtle, and the hawksbill sea turtle. Of the five species, only three are known to nest at the Seashore: the loggerhead, green, and leatherback sea turtles. The number of nests recorded at the Seashore from 2000 to 2010 has fluctuated greatly, with only 43 nests recorded in 2004 and 153 nests recorded in 2010, which was the highest number on record. Of the three species that nest at the Seashore, the loggerhead turtle is by far the most numerous, comprising approximately 95% of the known nests between 2000 and 2010.

Sea turtles 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. Sea turtles are an important member of the Seashore's barrier island fauna that the enabling legislations mandates be preserved.

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

Sea turtles are key to the natural integrity of the Seashore, which has for decades provided management to protect them during the terrestrial part of their life cycle. They are a characteristic and significant member of barrier island system wildlife.

Sea turtles 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 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, such as sea turtles as a significant member of the Seashore's fauna. Loggerhead and green sea turtles are listed as threatened; leatherback sea turtles as endangered. All three have the same listing by the State of North Carolina. As mentioned above the Seashore's Interim

Protected Species Management Strategy contains management measures for sea turtles, as does this plan/EIS. Therefore it seems reasonable to conclude that the Seashore's planning documents implicitly consider sea turtles a "significant" resource as part of the flora, fauna, and physiographic conditions the Seashore is mandated to preserve.

Analysis:

Implementation of alternative F would not result in impairment to sea turtles because sufficient population numbers and functional habitat would remain to maintain a sustainable population in the Seashore. Beach fires would be prohibited from 10:00 pm to 6:00 am year-round. A permit would be required for all beach fires to ensure that users are informed of basic safety and resource protection measures. Beach fires would be restricted to areas in front of the villages and Coquina Beach and the Ocracoke Day Use Area during the sea turtle nesting season, reducing the areas of the Seashore subject to light pollution from beach fires. Where fires are permitted, they would be prohibited within 100 meters of turtle nest closures. From May 1 through November 15 portable lanterns, auxiliary lights, and powered fixed lights of any kind shining for more than 5 minutes at a time would be prohibited on Seashore ocean beaches.

By May 1, 2012, turtle-friendly lighting fixtures would be installed on all Seashore structures visible from the ocean beach (except where prevented by other overriding lighting requirements, such as lighthouses, which serve as aids to navigation) and fishing piers operated by NPS concessioners. The Seashore would provide information about and encourage the use of turtle-friendly lighting. Educational material would be developed to inform visitors about their impact on the success of sea turtle nests. The Seashore would work with the USFWS, the NCWRC, and Dare County to encourage development of a turtle-friendly lighting education program for villages within the Seashore on Hatteras Island.

Unattended beach equipment (chairs, canopies, volleyball nets, watersports gear, etc.) would be prohibited on the Seashore at night. Turtle patrol and law enforcement would tag equipment found at night. Owners would have 24 hours to remove equipment before it would be removed by NPS staff. The Seashore would work with local organizations and businesses, including real estate rental agencies and hotels/motels, to ensure wider distribution of ORV and resource protection educational information. This would include encouraging these businesses to provide information about removal of beach equipment from the beaches at night.

The Seashore would implement a Nest Watch Program. A cadre of trained volunteers would be established to watch nests that have reached their hatch windows to monitor hatchling emergence success and success reaching the water, and to minimize negative impacts from artificial lighting, predation, and human disturbance. Depending on the number of nests that may be ready to hatch and the availability of volunteers, it may be necessary for NPS turtle staff to prioritize which nests are watched on any particular night. Priority would be given to watching the nests that are most likely to be negatively impacted by manageable factors.

During part of the nesting season approximately 39 miles of ocean beach would be closed to ORV use, although where resource conditions permit an ORV corridor would be provided at Cape Point and South Point. Between May 1 and November 15 night driving on designated ORV routes would be prohibited between 9:00 pm and 7:00 am. However, from September 16 through November 15, night driving would be allowed on ORV routes where there are no turtle nests, subject to terms and conditions of the ORV permit. Night driving on ORV routes prior to 9:00 pm during the turtle nesting/hatching season; night driving from September 16 through November 16 (only if an undiscovered nest is in an area with no known nests), erosion and sand compaction; and other adverse effects related to ORV and other recreational use would be expected to occasionally result in aborted nesting attempts (false crawls),

hatchling disorientation or misorientation, running over hatchlings or nests, complete or partial nest loss due to human activities, and obscuring turtle crawl tracks that Seashore staff use to locate newly laid nests so that the undetected nests are not managed. These adverse effects on sea turtles were deemed to be minor to moderate in the plan/EIS analysis because, although there would be occasional disturbance and harm to sea turtles or their habitat (beyond the level of disturbance and harm that occur naturally), the Seashore would be expected to maintain a sustainable sea turtle population.

Cumulative impacts from combining the effects of alternative F with effects of other past, present, and future planned actions in and around the Seashore would likely result in infrequent or occasional occurrences of disturbance to some nesting females with negative effects to reproduction affecting local population levels, infrequent or occasional complete or partial nest loss due to human activities, and occasional disorientation or disruption of hatchling movement or direct hatchling mortality from human activities. Even with these adverse effects, large declines in population numbers would not result and sufficient population numbers and functional habitat would remain to maintain a sustainable population in the Seashore. Therefore the sea turtle impacts would not result in impairment.

Seabeach Amaranth

Brief Description of the Condition of the Resource:

Seabeach amaranth is an annual plant native to barrier-island beaches along the U.S. Atlantic Coast, including those within the Seashore. It was federally listed as threatened by the USFWS in 1993 because of its vulnerability to human and natural impacts and the fact that it had been eliminated from two-thirds of its historic range. This species is listed as threatened by the State of North Carolina. Within the Seashore, seabeach amaranth numbers ranged from 550 to nearly 16,000 plants between 1985 and 1990. However, in the last 10 years a maximum of only 93 plants was observed in 2002. More recently, only one plant was found in 2004 and two plants in 2005. Since 2005, no plants have been found within the Seashore.

Seabeach amaranth 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. Seabeach amaranth is a characteristic feature of the Seashore flora that the Seashore's enabling legislation mandates it to preserve.

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

Seabeach amaranth is a characteristic barrier island native, occupying a fairly narrow habitat niche, and is a characteristic member of the flora that the Seashore's enabling legislation mandates it to preserve.

Seabeach amaranth 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 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. Seabeach amaranth is federally-listed as a threatened species

under the *Endangered Species Act* and is also listed as a threatened species by the State of North Carolina. It is native to barrier island beaches, including those at the Seashore and the Seashore has implemented management measures for it. Therefore it seems reasonable to conclude that the Seashore's planning documents implicitly consider seabeach amaranth "significant" as part of the flora, fauna, and physiographic conditions the Seashore is mandated to preserve.

Analysis:

Seabeach amaranth has not been found in the Seashore since 2005, and for reasons discussed in the seabeach amaranth impact analysis in the plan/EIS, it is thought that the species may possibly be extirpated from the Seashore, thus creating a potential impairment before the no-action alternatives A and B were implemented. However, as noted in the USFWS 5-year review of the plant species, populations of seabeach amaranth may still be present, existing in the seed bank, even though plants are not visible for several years. NPS Management Policy 1.4.7 (NPS 2006) provides that if there is, or will be, an impairment, the decision-maker must take appropriate action, to the extent possible within NPS authorities and available resources, to eliminate the impairment. Although developing a specific plan to remedy the potential impairment is outside the scope of this plan/EIS, the desired future conditions for seabeach amaranth described in chapter 1 of this plan/EIS state that the Seashore will develop a seabeach amaranth restoration plan for four suitable sites. A restoration plan would be consistent with NPS Management Policy 4.4.2.2, which provides that NPS will strive to restore extirpated native plant and animal species to parks whenever certain criteria are met. Although unmanaged or poorly managed beach driving can constitute an important threat to the species, it can be mitigated by using vehicle corridors, and closures and buffers to protect the plants and seeds. The relative contribution of various factors, both human and natural, to the possible extirpation of the species from the Seashore is unknown. However, the action alternatives in this plan/EIS have been developed to manage beach driving so that its effects are at a sufficiently low intensity to not preclude restoration of seabeach amaranth to the Seashore. Moreover, seabeach amaranth has been known to reoccur on its own in areas where it has not occurred for many years. For example, seabeach amaranth was believed extirpated in New York from Long Island's barrier beaches for 35 years before plants were discovered in 1990, 1991, and again in 1992, though it is not known if this reoccurrence resulted from seed dispersal from other plant populations or exposure of local seed banks. Therefore, this impairment determination focuses on how alternative F protects potential habitat where plants might eventually occur, as well as unknown sites where seeds might be, in addition to protecting plants, if discovered or reintroduced.

Implementation of alternative F would not impair seabeach amaranth because the adverse impacts to seabeach amaranth habitat are low enough that sufficient functional habitat would remain to maintain a sustainable population in the Seashore, if the species reappears or is reintroduced to the Seashore. The effects on seabeach amaranth of constructing four new beach access ramps and relocating two existing ramps were deemed negligible to minor because the amount of potential habitat affected would be small compared to the total amount of habitat in the Seashore. Historically, most areas where seabeach amaranth has been found at the Seashore were either in established bird closures or other areas closed to vehicular traffic. Under alternative F, in addition to areas closed seasonally for shorebird nesting, suitable habitat at the points and spits used by seabeach amaranth during the preceding 5 years would be seasonally closed as well, which would protect additional seabeach amaranth habitat, if the species is rediscovered or reintroduced. Some other areas would not be designated as ORV routes to provide areas for visitors to enjoy the beach without the presence of vehicles. The 10-meter-wide backshore zone, which would be closed year-round to ORVs wherever there is sufficient beach width to allow an ORV corridor of at least 30 meters above the mean high tide line, would protect some additional habitat year-round. Alternative F would provide about 39 miles of habitat protected, at least seasonally, from vehicles (which have more adverse impacts than pedestrians to seabeach amaranth) and would include areas that are historically important for seabeach amaranth. If plants are found outside an existing closure, the

Seashore would install 30-foot by 30-foot closures around them for protection from vehicle or foot traffic. Before bird or turtle closures are reopened to ORV traffic, the areas would be surveyed for seabeach amaranth plants. If found, the plants would be protected by a 30-foot by 30-foot closure. The potential for undetected plants outside closures to be crushed and seeds pulverized or buried to a depth where they cannot germinate was deemed to constitute a minor to moderate adverse impact in the plan/EIS analysis because sufficient habitat inside closures is protected to maintain a sustainable population of seabeach amaranth, if rediscovered or reintroduced.

Cumulative impacts from combining the effects of alternative F with effects of other past, present, and future planned actions in the state of North Carolina would likely result in measurable or perceptible adverse effects (beyond the level of disturbance or harm that would occur naturally) and result in a change in the abundance and distribution of plants or quantity and quality of available habitat over the long-term, but the magnitude would be low enough to allow sufficient population numbers and functional habitat to remain to maintain a sustainable population in the Seashore, if plants reappear or are reintroduced. Therefore the seabeach amaranth impacts would 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 2006, the number of nesting pairs declined 44% from 41 to 23 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 have 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 shorebirds 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 characterize 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 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 seems 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 alternative F would not impair state-listed and special status species because although frequent responses by some individuals to disturbance would be expected, with negative impacts to feeding or reproduction, and impacts would occur during critical periods of reproduction or in key habitats in the Seashore and could result in harassment, injury, or mortality to one or more individuals, sufficient population numbers and functional habitat would remain to maintain a sustainable population in the Seashore.

Under alternative F, the Seashore would establish prenesting 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 would be permitted in the VFAs, which would be subject to resource closures using standard buffers. Under alternative F, ORVs and pedestrians would be prohibited in prenesting closures. Prenesting closures would 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 would begin on March 15, and surveys for colonial waterbirds would begin on May 1.

Because colonial waterbird colonies may 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. Prenesting closures will still be established in these areas, however, the closure will allow vehicle access through the areas until scraping or nesting is documented at which point the appropriate buffer will be established.

Prenesting closures would be 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 would be allowed seaward of prenesting closures along the shoreline below the high tide line unless buffers preclude it. An ORV corridor would be established at Cape Point and South Point, but would be reduced in size from 50 meters (164 feet) to 35 meters (115 feet) during the period prenesting 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, would be designated as vehicle free year-round.

Alternative F would continue to allow pets at the Seashore, in accordance with 36 CFR 2.15, which applies to all units of the national park system and prohibits pet owners from "failing to crate, cage, restrain on a leash which shall not exceed 6 feet in length, or otherwise physically confine a pet at all times." This alternative would prohibit pets in resource closures and in pedestrian shoreline access areas in front of (i.e., seaward of) bird prenesting areas.

From March 15 through July 15, Seashore staff would survey prenesting closures three times per week and suitable habitat outside of prenesting closures two times per week, increasing to three times per week once breeding pairs are present.

Under alternative F, there would be 39 miles of seasonal and year-round VFAs. Management of state-listed and special status species would include prenesting closures as well as the 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.

American oystercatchers at the Seashore can begin courting and nesting as early as mid-February or early March and be particularly sensitive to disturbance at that time. Hence, a March 15 start to management could mean that early nesting oystercatchers, especially those that establish territories outside of historic areas, would not be fully protected under alternative F.

Buffers would be applied both within and outside of prenesting areas. Under alternative F, management for American oystercatchers would establish 150-meter (492-foot) buffers for breeding and nesting activities and 200 meters (656 feet) for unfledged chick activity. Buffers for least terns would be 100 meters (328 feet) for breeding and nesting activities and 200 meters (656 feet) for unfledged chick activity. All other colonial waterbird buffers would be 200 meters (656 feet) for breeding, nesting, and unfledged chick activities.

For all species, the Seashore would retain the discretion to expand scrape or nest buffers as needed to protect resources. In unprotected areas, a buffer would be established immediately when a nest with egg(s) is found. If breeding activity or scraping is observed outside of an existing closure, buffers would be 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 would be 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 would 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 would 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 would be subject to standard buffers.

Buffers would 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 prenesting areas, the buffer or expansion would be removed if no breeding activity is observed for a two-week period, or when associated breeding activity has concluded. For alternative F, buffers would be removed outside of prenesting areas if no breeding activity is observed for a two-week period or when associated breeding activity has concluded, whichever is later.

Under alternative F, nonbreeding shorebird closures would be established for migrating/wintering piping plovers. These closures could be utilized by other birds at the Seashore. Nonbreeding resource closures would be 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 would be year-round VFAs (totaling 26 miles) that would provide areas of less intensive use at various locations throughout the Seashore. These measures would ensure that adequate foraging, resting, and roosting areas would be provided for all migratory and nonbreeding state-listed/special status species.

Under alternative F, all nonessential ORV traffic would be 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 would reopen for night driving subject to the terms and conditions of the standard ORV permit. From November 16 to April 30, ORV use would be allowed 24 hours per day on designated ORV routes for vehicles with a valid ORV permit. Effects from commercial fishing would not be observable or measurable and would be well within natural fluctuations because the special use permit under which commercial fishing is managed prohibits entering resource closures and because a relatively small number of commercial fishermen operate inside the Seashore.

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, alternative F would require a permit for ORV use that includes an educational component. Because ORV users would be more aware of the regulations in place to protect state-listed/special status species, the permit requirement would likely increase compliance with buffers, closures, and other restrictions. Violations may result in permit revocation, which is expected to increase compliance. Alternative F would also establish a new voluntary resource education program targeted toward pedestrian beach users. Under alternative F, ORVs would bring people into the vicinity of state-listed/special status species where trash associated with recreation use would continue to attract mammalian and avian predators. Predation is known to affect the reproductive success of shorebirds; the indirect impacts of attracting predators would be detectable and beyond the level of disturbance or harm that would occur naturally, but would not be expected to result in large declines in population because the Seashore takes management action to protect state-listed species from predation.

The impact analysis of alternative F deemed adverse impacts to state-listed/special status species from ORV and other recreational use to be minor to moderate because impacts would be detectable, and could be beyond the level of disturbance or harm that would 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 would exist to maintain a sustainable population in the Seashore.

The analysis in the plan/EIS of cumulative impacts combined the effects of alternative F 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 minor to moderate adverse in the plan/EIS impact analysis because impacts on state-listed/special status species and their habitats would be detectable and could be beyond the level of disturbance or harm that would 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 would exist to maintain a sustainable population in the Seashore. Therefore, the state-listed/special status impacts would 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 is home to a vast quantity of 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, which form a valuable link in the coastal food chain, 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 is home to a vast quantity of invertebrates, which form a valuable link in the coastal food chain. 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.

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 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. 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 seems 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 alternative F would not result in impairment to wildlife as sufficient population numbers and functional habitat would remain to maintain sustainable populations of invertebrates and other bird species in the Seashore. Alternative F would continue to provide for recreational beach access but would implement species protection through the use of prenesting closures and seasonal and year-round VFAs and night-driving restrictions. This alternative would require an ORV permit with an educational component, and all species at the Seashore would benefit from the increased level of resource stewardship that is associated with increased public awareness.

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

Limiting vehicles to daytime use 7:00 am to 9:00 pm for 6.5 months of the year would reduce the potential for impacts to nocturnal invertebrates and night foraging birds throughout the Seashore. Vehicle use would result in the loss of individual invertebrates, but would not be measurable and would be well within natural fluctuations.

The plan/EIS impact analysis deemed the adverse effects on other wildlife from the implementation of alternative F to be minor because, although occasional disturbance and harm to other wildlife or their habitat would occur from ORV and other recreational use, it would not be outside the level of disturbance or harm that would occur naturally and the Seashore would maintain sustainable populations of invertebrates and other bird species.

Cumulative impacts from combining the effects of alternative F with effects of other past, present, and future planned actions in and around the Seashore would 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 would remain to maintain sustainable populations in the Seashore. Therefore, impacts to other wildlife would not result in impairment to these species.

SOUNDSCAPES

Brief Description of the Condition of the Resource:

A soundscape is defined as the way in which humans perceive this acoustic environment. According to the NPS, 72% of visitors indicate that a crucial reason for the need to preserve national parks is that parks provide opportunities to experience natural peace and the sound of nature (NPS 2009). Wildlife is very sensitive to sound, as animals often depend on auditory cues for hunting, predator awareness, sexual communication, defense of territory, and habitat quality assessment. Negative population-level, behavioral, and habitat use consequences of higher ambient sound levels from human voices, along with sound events associated with human activities (motorists, snowmobiles, hikers), have been observed in many species.

The presence of millions of visitors to the Seashore engaging in various activities, coupled with the vehicular traffic through the Seashore along NC-12 and associated ramps, including ORV usage on the beaches, serve as sources of unnatural sounds in the Seashore. However, these sources are also considered to be consistent with the Seashore's purpose. Currently visitors are allowed to operate ORVs on all the ocean and inlet shoreline and on existing soundside routes that are designated as ORV routes, 24 hours per day, subject to temporary resource closures, seasonal night driving restrictions, seasonal ORV closures in front of the villages and temporary ORV safety closures.

Soundscapes 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 soundscape is an integral component of the Seashore environment which is important to the fauna of the barrier island ecosystem that the Seashore preserves. As described in the plan/FEIS, birds in particular depend on the natural soundscape, as they rely heavily

on auditory cues for identifying and attracting suitable mates, pair bonding, communication, and detection of predator alerts or warning signals

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

The barrier island soundscape, in itself, is an important feature of the Seashore. The natural soundscape is an integral component of the natural barrier island ecosystem at the Seashore, which provides necessary ecological requirements for the Seashore wildlife.

Soundscapes 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 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. Soundscapes are an integral component of species habitat. Therefore it seems reasonable to conclude that the Seashore's planning documents implicitly consider this resource "significant" as part of the flora, fauna, and physiographic conditions the Seashore is mandated to preserve.

Analysis:

Implementation of alternative F would not result in impairment to soundscapes because the noise from ORV passages (i.e., from an ORV as it passes a set point) would still leave areas of the Seashore where natural sounds would predominate, including areas of visitor use, and would increase the opportunity to experience natural sounds when compared to the current condition. ORV access would be prohibited in all areas of the Seashore except where an ORV route is specifically designated. In general, ORV use at the Seashore would continue intermittently over the life of the plan, but would be limited as a result of the establishment of 26 miles of year-round vehicle-free areas (VFAs), and 13 miles of seasonally designated VFAs. The impact analysis in this plan/EIS deemed vehicle noise to be a minor adverse impact in all areas of the Seashore beaches open to ORV driving. In these areas, noise from vehicles traveling 15 mph would only exceed sound energy generated by the surf (and inhibit the ability to hear natural sounds) to a distance of approximately 20 meters inland from an ORV track and to a distance of approximately 10 meters from the ORV track towards the surf. Vehicle noise would also exceed the natural ambient environment by 3 dBA or more to a distance of approximately 12 meters inland and 8 meters seaward of a vehicle traveling at 15 mph, leaving many areas of the Seashore where natural sounds would predominate for visitor enjoyment. Under these conditions during an ORV passage, opportunities to hear the sounds of nature would be degraded to a certain degree, which would be less than the existing condition because of the lower speed limit under alternative F. Due to the size of the affected area and the differences between the vehicle noise and the sounds of the surf, impairment of Seashore resources would not occur.

Prohibiting ORV access in all areas of the Seashore, except where an ORV route is specifically designated, would result in less area of the Seashore being open to ORV use year-round than is currently occurring, and would provide more areas where visitors and wildlife can experience natural sounds. Areas of high resource sensitivity and high visitor use would generally be designated as year-round or seasonal VFAs. Generally, most areas where there is a designated seasonal ORV route would be open to ORVs from November 1 through March 31, with several seasonal routes including Bodie Island spit open to ORVs from September 15 through March 14. During the periods when these areas would not be open to ORV use, both visitors and wildlife would experience benefits from a reduction in vehicle related noise

and the ability to experience natural sounds. Most areas of historically lower visitor use and resource sensitivity would be designated as year-round ORV routes, subject to temporary resource closures. The establishment of seasonal VFAs for approximately 2 to 3 months longer than under alternatives A and B (depending on where the seasonally designated VFA is located), would provide longer periods of time for natural sounds to prevail and for visitors and wildlife to experience the benefits of reduced vehicle noise. Throughout the Seashore, where ORV use is permitted, the speed limit would be reduced from 25 mph to 15 mph (unless otherwise posted), which would also contribute to long-term beneficial impacts because slower moving vehicles produce less sound. Additional beneficial impacts would result from seasonal night-driving restrictions, which would create vehicle-free beaches at night from May 1 to November 15, from 9:00 pm until 7:00 am and provide visitors with a nighttime experience that is free of vehicle noise.

Improving, reconfiguring, and adding new ramps and parking areas would result in noise from construction. The impact analysis in this plan/EIS deemed these construction impacts to be minor because they would be expected to be localized in the immediate area of the construction; of short duration, lasting only a few days to a week; would not occur in ecologically sensitive areas; and would not inhibit the long-term ability to experience natural sounds at the Seashore.

Overall, the impact analysis in this plan/EIS found that impacts would be long-term minor adverse, with short- and long-term beneficial impacts because ORV use, and its resulting soundscape impacts, would be largely limited to areas of the Seashore designated as ORV routes. Sounds related to ORV use such as from essential vehicles[1] or commercial fishermen operating under a special use permit, could be experienced at times throughout the Seashore, even in VFAs. However, many opportunities to experience natural sound would exist due to the extent of seasonal and year-round VFAs, seasonal night-driving restrictions, and lowered speed limits. Cumulative impacts from combining the effects of alternative F with effects of other past, present, and future planned actions in and around the Seashore would likely contribute to a similar level of adverse impacts as alternative F, with noise being present for intervals of time, with beneficial impacts from intervals of natural sounds. Therefore, impacts to soundscapes would not result in impairment.

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[1] Essential vehicles are vehicles used by the National Park Service, or its agents, to conduct authorized administrative activities, such as resources management, law enforcement or other park operations, related to implementation of this plan or other applicable management plan(s) or permit(s), or as needed to respond to emergency operations involving threats to life, property, or park resources, within areas that are otherwise closed to recreational ORV or visitor use.

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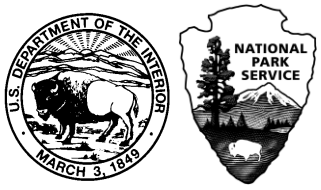

As the nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering wise use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historic places, and providing for the enjoyment of life through outdoor recreation. The department assesses our energy and mineral resources and works to ensure that their development is in the best interests of all our people. The department also promotes the goals of the Take Pride in America campaign by encouraging stewardship and citizen responsibility for the public lands and promoting citizen participation in their care. The department also has a major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration.

NPS FES 10-55 (November 2010)