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Outer Banks Group

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 ☒ North Carolina Wildlife Resources Commission ☒
 

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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:

**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.