

0013653



North Carolina  
Department of Administration

Beverly Eaves Perdue, Governor

Moses Carey, Jr., Secretary

December 20, 2010

Mr. Michael Murray *M/M 1/1/11*  
U.S. Dept. of the Interior  
National Park Service  
1401 National Park Drive  
Manteo, NC 27954

Dear Mr. Murray:

**Re: SCH File # 11-E-0000-0128; FEIS; Off-road vehicle (ORV) Management Plan  
at Cape Hatteras National Seashore**

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,

A handwritten signature in blue ink, appearing to read "Sheila Green".

Sheila Green  
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



## North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue  
GovernorDce Freeman  
Secretary

## MEMORANDUM

TO: Sheila Green  
State Clearinghouse

FROM: Melba McGee ✓  
Environmental Review Coordinator

SUBJECT: 11-0128 FEIS Off-road Vehicle (ORV) Management Plan at Cape  
Hatteras National Seashore in Dare and Hyde Counties

DATE: December 17, 2010

The Department of Environment and Natural Resources has reviewed the proposed information. The attached comments are for the applicant's information. The applicant is encouraged to continue to work with our commenting agencies as this project moves forward.

Thank you for the opportunity to review.

Attachments



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

December 16, 2010

Ms. Melba McGee, Environmental Projects Officer  
N.C. Department of Environment and Natural Resources  
1601 Mail Service Center  
Raleigh, NC 27699-1601

Dear Ms. McGee,

The North Carolina Division of Marine Fisheries (DMF) has reviewed the FEIS - 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 DMF 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 other elements that are common between all alternatives. Commercial fishing vehicles would be exempted from some ORV restrictions, when not in conflict with resource protection.

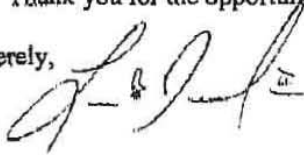
As stated in the DMF May 7, 2010 letter, the DMF can support parts of Alternative F - Management Based on Advisory Committee Input - elements. We believe it is appropriate that we emphasize our specific concerns regarding access. While the DMF has no jurisdiction over birds and turtles on the beach, we do pay close attention to best management practices that may impact our stakeholders, the recreational and commercial fishermen of North Carolina.

Melba McGee Letter  
December 16, 2010  
Page Two

The DMF 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 and North Ocracoke, and other seasonal closures at beaches 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: Anne Deaton, DMF  
Nancy Fish, DMF  
Dee Lupton, DMF  
Sara Winslow, DMF

LBD/kh/cb



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

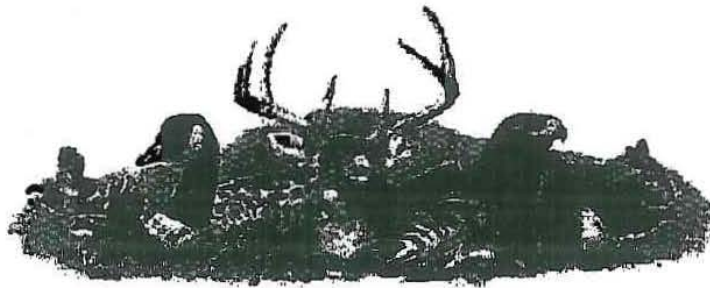
**Through:** Al Hodge, Supervisor Surface Water Protection

**From:** Roberto L. Scheller, Senior Environmental Specialist

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

**Date:** December 7, 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](mailto:roberto.scheller@ncdenr.gov) or contact me by phone at 252-948-3940.



## ☒ North Carolina Wildlife Resources Commission ☒

Gordon S. Myers, Executive Director

### MEMORANDUM

**TO:** Melba McGee, Environmental Coordinator  
Office of Legislative and Intergovernmental Affairs  
North Carolina Department of Environment and Natural Resources

**FROM:** Maria T. Dunn, Northeast Coastal Region Coordinator *M. T. Dunn*  
Habitat Conservation Program

**DATE:** December 13, 2010

**SUBJECT:** Comments on the Cape Hatteras National Seashore Off-Road Vehicle  
Management Plan / Environmental Impact Statement, Dare County, North Carolina.  
**OLIA No. 11-0128**

Biologists with the North Carolina Wildlife Resources Commission (NCWRC) reviewed the project with regard to impacts of the project on fish and wildlife resources. Our comments are provided in accordance with the North Carolina Environmental Policy Act (G.S. 113A-1 et seq., as amended; 1 NCAC-25), provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the Coastal Area Management Act (G.S. 113A-100 through 113A-128), and Sections 401 and 404 of the Clean Water Act (as amended).

The National Park Service (NPS) for Cape Hatteras National Seashore (CHNS) has provided a Final Environmental Impact Statement (FEIS) for Off-Road Vehicle (ORV) Management. This document evaluates the impacts of six alternatives for regulations and procedures that would manage ORV use / access at CHNS. The NPS considered agency and public comments generated from the Draft Environmental Impact Statement (DEIS) and has selected Alternative F as their preferred alternative in the FEIS. The DEIS was placed on public notice on March 5, 2010 and NCWRC reviewed and provided comments on this document in a May 10, 2010 letter that supplied additional information and requested clarification of other concerns.

The NCWRC has reviewed the FEIS and has no additional comments on this project. We understand the difficulties in finding equilibrium among natural resource protection and public use and appreciate the consideration and incorporation of our concerns into the FEIS. We encourage an open relationship between the NPS and our agency to continue, especially involving species protected by the NCWRC and the NPS. If you have questions or concerns regarding our comments please contact me at (252) 948-3916.



North Carolina Department of Environment and Natural Resources  
Office of Conservation, Planning, and Community Affairs

Beverly Eaves Perdue, Governor

Linda Pearsall, Director

Dee Freeman, Secretary

December 10, 2010

**MEMORANDUM**

TO: Melba McGee, DENR Environmental Coordinator

FROM: Linda Pearsall, Natural Heritage Program 

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

REFERENCE: Project No. 11-0128

In a memorandum dated April 8, 2010, of the Draft EIS for the Off-road Vehicle (ORV) Management Plan at Cape Hatteras National Seashore, the Natural Heritage Program stated that it "supports the project as proposed, either Preferred Alternative D or Alternative F are acceptable to the Program." In reviewing the FEIS plan, we wish to modify these recommendations.

The FEIS presents occurrence data on rare species for the 2010 season, as well as for a number of years preceding 2010. Of great concern is that the Federally Threatened seabeach amaranth (*Amaranthus pumilus*) has gone from a count of 265 plants in 1998, to 93 plants in 2002, to 2 plants in 2005, and not a single plant seen on the seashore from 2006-2010 (page 239). Nest totals for most of the colonial waterbirds on the Seashore are also alarming in recent years, as shown on page 240. The State Threatened gull-billed tern (*Gelochelidon nilotica*) has declined from 108 nests in 2001 to 6 nests in 2007, to just one nest in 2010. The State Special Concern common tern (*Sterna hirundo*) has declined from 573 nests in 2001 to 21 nests in 2010. The State Special Concern black skimmer (*Rynchops niger*) has declined from 342 nests in 2004 to 11 nests in 2007, to just 5 nests in 2010. Though the Federally Threatened piping plover (*Charadrius melodus*) nest totals in the Seashore for the past decade

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Comments on Project No. 11-0128

appear to be increasing (page 209), as are those of the Federally Threatened loggerhead seaturtle (*Caretta caretta*) (page 231), there is a clear loss of nesting colonial waterbirds and seabeach amaranth on the Seashore over the past decade.

The FEIS states on Table ES-5 –

Sea Turtles: Alternative D [the environmentally preferable alternative] – “Cumulative impacts to sea turtles would be long-term minor adverse”. Alternative F [the National Park Service Preferred Alternative] – “Cumulative impacts to sea turtles would be long-term minor to moderate adverse.”

Seabeach Amaranth: Alternative D – “Cumulative impacts to seabeach amaranth would be long-term minor adverse”. Alternative F – “Cumulative impacts to seabeach amaranth would be long-term minor to moderate adverse.”

Piping Plover: Alternative D – “Cumulative impacts to piping plover would be long-term minor adverse”. Alternative F – “Cumulative impacts to piping plover would be long-term minor to moderate adverse.”

All State-listed and Special Status Species – Alternative D – “Cumulative impacts to state-listed and special status species would be long-term minor adverse”. Alternative F – “Cumulative impacts to state-listed and special status species would be long-term minor to moderate adverse.”

Based on the actual data presented in the FEIS, and the expected long-term trends in impacts to rare species, our Program believes that Alternative D would provide the best protection to rare species on the Seashore. Although Alternative F is acceptable to our Program, it provides more visitor access (on foot and by ORV) which appears to have the potential to cause greater harm. Thus, we favor Alternative D over Alternative F in order to protect the valuable natural resources on Cape Hatteras National Seashore. .

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