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 Date: Thursday, July 29, 2004 06:53PM  
 Subject: Inadequate protection for migratory birds at Cape Hatteras N.S.

By E-mail

July 29, 2004

Patricia Hooks  
Acting Regional Director  
National Park Service  
Atlanta, GA

Re: Continuing risk of illegal take of protected shorebird chicks at Cape Hatteras National Seashore

Dear Ms. Hooks:

Today, the National Park Service erected pedestrian closure posts, without any symbolic fencing, at the existing ORV corridor posts at the Hatteras Inlet spit at Cape Hatteras National Seashore. As the closure

posts are only a few yards away (approximately 5 -30) from nesting least terns and unfledged chick(s), the National Park Service has failed to provide an adequate buffer from ORVs, dogs, and people, ignored the best available science regarding the effects of disturbance on breeding colonial waterbirds and shorebirds ("shorebirds"), and acted inconsistently with long-standing management practices to protect breeding shorebirds from take. Six days after two chicks were killed illegally due to the National Park Service's decision to prematurely open a known shorebird breeding area to ORV use, the National Park Service again has acted in an arbitrary manner. So there is no ambiguity: the National Park Service's actions today, while adding just a slight bit of additional protection, still conflict with long-standing shorebird management practices and present a clearly foreseeable, high level of risk that additional chicks will be illegally killed.

The take of the two least tern chicks at the Hatteras Spit is not an isolated event. American oystercatcher, least tern, common tern, or black skimmer chicks, all legally protected under the Migratory Bird Treaty Act, have been found dead in ORV tire tracks over the last four breeding seasons. A very quick search of my records also showed documentation of earlier deaths. It is important to note that due to the considerable difficulties in detecting crushed chicks, the actual number that were taken likely is higher; dead chicks can be covered with wind blown sand, ground into the sand by ORVs, washed away, or scavenged by predators (e.g., Melvin et al. 1994).

There is considerable scientific information from other breeding bird locations, and enough birds have died here at the Seashore, for any objective person to realize that if breeding shorebirds are not given an adequate buffer from ORVs, people and dogs, it is foreseeable - indeed, likely - that chicks will be taken. There also is the clear risk that eggs or chicks will be lost due to abandonment.

This summer, I spent over three weeks visiting private, local government, Fish and Wildlife Service National Wildlife Refuge, National Park Service National Seashore or National Recreation Area, and Canadian Park Service lands to examine management practices for breeding shorebirds. I spent time in the field with biologists, and time in the office speaking with managers. Without exception, from Virginia to Prince Edward Island, Canada, not one allowed - or even came anywhere close to allowing - what occurs at Cape Hatteras National Seashore.

Just this week, yet another protected migratory bird - this time, a black skimmer - was found dead in ORV tire tracks on Ocracoke. No amount of spin or public outreach will change the biological requirements of black skimmers or the other colonial waterbirds or shorebirds. No amount of spin or public outreach will prevent chicks from being crushed due to what can only be construed, at this time, as the National Park Service's knowing failure to provide an adequate buffer.

Even at Cape Hatteras National Seashore, dozens of miles of historical shorebird and waterbird habitat have been destroyed due to stabilization efforts and other activities. There are only a few places that remain at the Seashore where these birds have the habitats that they need to nest, and these areas should be cherished and protected. Indeed, under federal law, the National Park Service is required to protect the wildlife species and their habitats at the Seashore. I am asking that you, as Acting Regional Director, to make sure that the Seashore provides an adequate buffer for nesting birds and unfledged chicks.

Sidney Maddock  
Buxton, NC

PROTECTED MIGRATORY BIRD CHICKS  
KILLED AT CAPE HATTERAS NATIONAL SEASHORE

2004

American Oystercatcher chick, found crushed in ORV track outside of breeding bird closure, south of the "drain" (between Cape Point and Frisco).

Two least tern chicks found dead in ORV tracks, after ORVs illegally drove through signed, closed area

Two least tern chicks found dead in ORV tracks, Hatteras Inlet spit, after NPS prematurely reopened area

Black skimmer chick, found crushed outside of breeding bird closure, in ORV track, Ocracoke Inlet spit, Ocracoke

2003 AMERICAN OYSTERCATCHER BREEDING ACTIVITY  
CAPE HATTERAS NATIONAL SEASHORE  
(page 3, emphasis added)

"Existing closures did not allow adequate protection from human activities in some sites. Two American Oystercatcher chicks were found crushed in tire tracks in June north of Ramp 30. One chick was alive when found and taken to Roanoke Island Animal Clinic where it soon died from injuries sustained during the accident. The three-week-old chicks had moved outside the closure closer to the surf when they were hit. Chick mortality from beach vehicles has been documented in past years. In addition to the two oystercatcher chicks, four least tern chicks between Ramps 23 and 30 and seven Black Skimmer chicks at Ocracoke Inlet were found dead or dying in vehicle tracks during the 2003 breeding season. In all cases the chicks were found adjacent to but outside of posted closures. Neighboring Cape Lookout National Seashore (CALO) also reported the loss of oystercatcher chicks from off-road vehicles in 2003 (J.Altman, personal communication). Vehicles pose the biggest threat to nesting birds after chicks hatch and become mobile. It is unknown if vehicles killed other oystercatcher chicks in 2003. For example, where CAHA staff last observed three chicks at Hatteras Inlet, the birds stood within approximately ten feet of vehicle traffic along two perimeters of their closure. Though the cause of their loss remains unknown, being hit by nearby vehicles can not be ruled out"

2002 COLONIAL WATERBIRD BREEDING SUMMARY  
CAPE HATTERAS NATIONAL SEASHORE <http://www.nps.gov/caha/2002%20CWB.pdf> (page 3, emphasis added)

"Disturbance can lead to nesting failure. The North American Colonial Waterbird Conservation Management Plan recommends a minimum buffer of fifty yards to the nearest nest. At least eight colonies did not meet this minimum buffer. Four Least Tern chicks were found crushed in tire tracks outside two closures near ramps 23 and 27. As a result, these particular closures were expanded to the water's edge temporarily closing a total of 0.3 to 0.4 mile to ORV and pedestrian traffic. Two crushed skimmer chicks were found in vehicle tracks outside the Ocracoke colony. The closure was expanded without affecting ORV and pedestrian traffic on this broad beach."

2001 COLONIAL WATERBIRD BREEDING SUMMARY  
CAPE HATTERAS NATIONAL SEASHORE  
[www.nps.gov/caha/2001cwb.pdf](http://www.nps.gov/caha/2001cwb.pdf) (pages 3-4, emphasis added)

"At least three colonies did not have enough of a buffer between nests and human activities. If posted areas were enlarged to better reduce human disturbances, ORV passage and other recreational activities would be limited. The South Beach colony buffer was actually reduced to allow passage of ORV's after shoreline changes occurred. Exceptionally high tides at the end of July made ORV passage temporarily impossible in front of the colony located 1.3 miles north of Ramp 27. Some ORV's turned around during these impassable periods. However, at least three sets of ORV tracks were found within the site. The two chicks in this colony were not seen after this. Unrelated to tide, a set of ORV tracks was found throughout the same colony. Approximately nine bird pairs, who had previously been seen sitting in scrapes, were not seen after the vehicle drove through the closure. At Ocracoke Inlet, several chicks were found crushed in ORV tracks."

1996 American Oystercatcher Breeding Survey  
Cape Hatteras National Seashore (page 2)

"Though factors contributing to the loss of oystercatcher chicks remain largely unknown, vehicles do play a role. In 1995, turtle patrol volunteers found 3 dead chicks in tire tracks on Hatteras Island. A live chick was found crouched in a tire track at Cape Point in 1996."

S. Cooper, Colonial Waterbird Studies at Cape Hatteras National Seashore North Carolina (1987 30, 31, 33 emphasis added):

"Young [waterbirds] from the Cape Point Colony would often rest in tracks from off road vehicles. Depressions from these tracks provided shade at certain times of the day and protection from wind and blowing sand. The hunching down of chicks in these tracks made them even more inconspicuous and camouflaged than those chicks in the open. This refuge of tracks did however result in the death of several chicks and probably more than were observed.

...

"Deep tire ruts just outside the [Cape Beach Colony] tempted many young later in the season. Although only a few dead chicks were found, it is likely many were run over because of the number of chicks seen outside the colony boundaries and the heavy traffic."

W. Golder, Colonial Waterbird Studies at the Cape Hatteras National Seashore (1984: 6), states:

"The [Ocracoke Flats waterbird] colony existed on either side of an access road which eventually had to be closed due to numerous young being run over by offroad vehicles."

The Regional Review (Vol. VI, No. 3 & 4, 1941, O.B. Taylor, Regional Biologist, USDI, NPS, Region One, Richmond, VA), states (pages 23, 27, emphasis added):

"But there is also a sand road winding through the dunes, into the heart of the nesting areas used by the terns.

"To travel this road, the local citizens lower the air pressure in their auto tires, so that the tread is flattened against the ground. This gives better traction and keeps the car from getting stuck. It does another thing, too. It increases the damage to the colonies of nesting terns.

"Each year thousands of eggs and young birds are mashed under the wheels of automobiles which travel down the cape. There are no means of determining the exact annual mortality of birds from motorist travel. But it is high. The young birds tumble into the tire treads made in the sand. Sometimes, too, the eggs are crushed.

"A plan should be evolved for the protection of the least tern on Cape Hatteras..."

Citation:

Melvin, S. M., A. Hecht, C. R. Griffin. 1994. Piping plover mortalities caused by off-road vehicles on Atlantic Coast beaches. Wildl. Soc. Bull. 22(3) 409-414.

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