

6241 Hampton Ridge Road
Raleigh, NC 27603

May 14, 2008

Paul R Anderson
Regional Director S.E.NPS
100 Alabama St. S.W/ 1924 Building
Atlanta, GA 30303

Mr. Anderson:

First, I would like to thank you for taking the time to read my letter. I am a concerned North Carolina citizen and am hoping that that you will be able to take an interest in the issue described below. I am proud to call North Carolina home and have lived here my entire life. Cape Hatteras is one of my favorite vacation destinations and I have been vacationing there for almost thirty years. I have several Cape Hatteras family traditions which include traveling to the outer banks 3 to 4 times each year. Each June I spend a week there with my parents, each October with my husband to celebrate our anniversary, and then a couple extended weekends. We mainly travel there to fish as do thousands of other people each year. Recent events are threatening to put an end to these treasured family traditions. These are traditions that I would like to start with my future children and grandchildren, but I fear this may not be possible.

The park service and environmentalists have been struggling with protecting birds and allowing people to continue off-road vehicle use at the Cape Hatteras National Seashore. Currently due to a consent decree signed by U.S. District Court Judge Terrence W. Boyle, the majority of the beaches are closed to off-road vehicle and recreational use. Thousands of individuals and families travel to Cape Hatteras National Seashore each year to enjoy the tranquility and beauty and to experience activities such as surf fishing, surfing, kite boarding, shelling, and beach walking. One of the aspects that attract most of these individuals has been the open access to all the beaches. Cape Hatteras National Seashore was established in the early 1950's as America's first National Seashore in order to preserve a natural beach area for future generations so that all individuals would have access to a seaside recreational area. **Please note that an important distinction to make is that this was established as Cape Hatteras National Seashore Recreational Area, not as a wildlife refuge.** For the past several years Ocracoke Island has been selected as one of the top beaches in the country because of the wide open beaches. If these beaches continue to be closed, then Cape Hatteras will have a serious economic problem as the local economy is completely dependent on tourism for survival. Cape Hatteras will lose millions of dollars each year while these beaches are closed. Hundreds of residents who make their living on the island (restaurant owners/operators, bait and tackle shop owners, real estate, etc.) could lose their jobs and their quality of life will be decreased. Protecting wildlife is important but protecting open access for individuals is even more important. When did birds and other forms of wildlife become more important than humans? None of the birds that are being protected have been injured or killed by individuals visiting the seashore. Most of the birds that have been injured or killed have drowned because of high tides and natural predators.

In today's trying times of war, increasing gas prices, and other high stress issues, it's extremely important that we fight the battle to keep treasures such as these beaches open for families to use, for family traditions to continue, and to continue to provide a place for individuals to escape the everyday stresses. We should be able to find a compromise that

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protects individuals' rights to use the beach (off-road vehicle use, surf fishing, surfing, etc.) and at the same time protect the wildlife. Why can't we simply block off small areas to protect the birds without closing down entire sections of or the entire beach? For years small areas have been blocked off for sea turtles and this has worked without extreme measure of closing the entire beach. I have included several documents that provide more information to the court consent decree and the impact caused by these beach closures. I would like to take a proactive approach in improving this issue and would be happy to meet with you to discuss further. Please help me and the other thousands of individuals that are concerned about losing this valuable treasure.

Cordially,

Misty Foster



National Park Service
U.S. Department of the Interior

Outer Banks Group:
· Cape Hatteras National
Seashore
· Fort Raleigh National
Historic Site
· Wright Brothers National
Memorial

1401 National Park Road
Manteo, NC 27954

252-473-2111 phone
252-473-2595 fax

National Park Service Beach Access Report for May 8, 2008

FOR IMMEDIATE RELEASE: May 8, 2008
CONTACT: 252-473-2111, ext. 148

***Bold, blue print = updated news.**

****Report resource protection area violations to:**

Dare Central Communications Center: 252-473-3444

Hyde County Dispatch: 252-928-3171

Ocracoke Sheriff Dept: 252-928-7301

Certain portions of beaches may be impassible at high tide and some ramps and interdunal routes still have standing water on them. Visitors should pay attention to tide changes and exercise caution while traveling the beaches and interdunal routes of the park.

On April 30, 2008, U.S. District Curt Judge Terrence W. Boyle signed a Consent Decree that results in the settlement and dismissal of the lawsuit involving the Seashore's Interim Protected Species Management Strategy. The Consent Decree adopts the NPS Interim Strategy, with a number of modifications including a prohibition on night driving on Seashore beaches between the hours of 10:00 p.m. and 6 a.m. from May 1 through November 15. Between those dates, the public is expected to remove ORVs from the beach by 10:00 p.m. and may not enter the beach with vehicles until 6 a.m.; however, between September 16 and November 15, NPS may issue permits to authorize night driving between the hours of 10:00 p.m. and 6:00 a.m. **The night driving permitting process will be developed and available by September 16. No fee or limit on the number of 2008 night driving permits is anticipated.**

The Consent Decree states that NPS shall establish specified buffers for observed breeding behavior of piping plovers, least terns, other colonial waterbirds, and American oystercatchers. Breeding behavior includes, but is not limited to, territorial behavior, courtship, mating, confirmed scrapes, or other nest building activities; for breeding adult piping plover foraging outside of an established closure; and for nests and chicks of all species mentioned above. The buffers apply to both ORVs and pedestrians. The buffer distance for the most sensitive species in the area shall be used.

TABLE OF RELEVANT ORV AND PEDESTRIAN BUFFERS

Species	Breeding Behavior/Nest Buffer (m)	Unfledged Chick Buffer (m)
Piping Plover	50	1000 (ORV only) 300 (Pedestrian only)
Least Tern	100	200
Other Colonial Waterbirds	200	200
American Oystercatcher	150	200

The Consent Decree states that if NPS observes prenesting and/or breeding behavior of colonial waterbirds, piping plovers, or American oystercatchers, NPS shall establish the appropriate buffer within 8 daylight hours. Upon discovery of an active nest or chicks that are outside an existing closure, protective measures shall be taken immediately to close the area and establish the buffers described above, and the related fencing around the site shall be installed as soon as NPS staff can reasonably be mobilized, but always within 6 daylight hours. As a result of these required buffer distances and the time frames within which NPS must install them, beach access status can change quickly.

Pets must be physically restrained at all times on a leash no greater than 6 feet.

Note: *** All distances are approximate***

Bodie Island District (Coquina Beach to Ramp 27)

There are approximately 16.5 miles of ocean shoreline are open to pedestrian access and approximately 9.6 miles are open to ORV access in the Bodie Island District (excluding Pea Island).

Ramp 1 - Ramp 2 (Coquina Beach Area)

The beach is open for pedestrian access but no ORV access for 1.6 miles.

Ramp 2 - Ramp 4 to Bodie Island Spit

The beach is open for ORV and pedestrian access along the ocean shoreline for 0.2 mile south of Ramp 4. There is no through access to Oregon Inlet.

- A RESOURCE protection (prenesting) area was established at Bodie Island Spit the week of March 24, 2008. It includes interior areas of the spit and the “pond” shoreline. Access to pond from the northeast side is closed as part of the RESOURCE protection area. An ocean/inlet shoreline access corridor is currently being maintained (weather dependent) above the high tide line for ORV and pedestrian access to the southwest side of the inlet near Bonner Bridge. A modification of the existing closure was installed on April 17, for American Oystercatchers. This creates a full beach closure of the small strip of beach that runs parallel to the Herbert C. Bonner Bridge and there is no shoreline access to the Bait Pond.
- A RESOURCE protection (prenesting) area was established on Green Island during the week of April 7th. The island is closed to landing of any craft.
- A RESOURCE protection area was established in a non-ORV area on the north side of the Bait Pond (west side of the canal) on April 26 for American Oystercatchers.
- A RESOURCE protection area was established 0.2 of a mile south of Ramp 4 and extends for 0.25 of a mile for American Oystercatchers. This is a full beach closure that restricts access to Bodie Island Spit.
- A RESOURCE protection area was established 1.3 miles south of Ramp 4 and extends for 0.25 of a mile. This is a full beach closure (within a closure) for American Oystercatchers.

Villages of Rodanthe, Waves, and Salvo: (north of Ramp 23 for 3 miles to Pea Island NWR boundary)

The beach is open for ORV and pedestrian access.

Ramp 23 - Ramp 27: (4.3 miles)

The beach is open for ORV and pedestrian access for 1.9 miles north of Ramp 27 and 1.5 miles south of Ramp 23.

- A RESOURCE protection area was established 1.5 miles south of Ramp 23 and 1.9 miles north of Ramp 27 and extends for 200 meters. This is a full beach closure for American Oystercatchers.

Hatteras Island District (Ramp 27 South to Hatteras Inlet)

The Hatteras District has a total distance of 31.9 miles of ocean shoreline. There are 23.7 miles of ocean shoreline open to pedestrians and 14.0 miles open for ORV access. ORV use is restricted by 6.8 miles of safety closures.

Ramp 27 - Ramp 30: (2.2 miles)

Beach is open for ORV and pedestrian access along the ocean shoreline for 0.1 of mile south of Ramp 27 and 0.6 mile north of Ramp 30. Currently there is no through access for ORVs between the ramps due to resource closures. A 1.5 mile stretch between the resource closures is open to pedestrian access but not ORV access.

- A RESOURCE protection area begins 0.1 mile south of Ramp 27 and extends for 0.25 of a mile. This is a full beach closure for American Oystercatchers.
- A RESOURCE protection area begins 0.2 mile south of Ramp 27 and extends for 0.25 of a mile. This is a full beach closure for American Oystercatchers.
- A RESOURCE protection area begins 1.0 mile south of Ramp 27 and extends for 0.25 of a mile. This is a full beach closure for American Oystercatchers.
- A RESOURCE protection area begins 0.6 mile north of Ramp 30 and extends for 0.25 of a mile. This is a full beach closure for American Oystercatchers.

Ramp 30 - Ramp 34: (4.3 miles)

The beach is open for ORV and pedestrian access from Ramp 30 south for 3.8 miles. Currently there is no through access for ORVs between the ramps due to a resource closure.

- A RESOURCE protection area begins 0.5 mile north of Ramp 34 and extends for 0.25 of a mile. This is a full beach closure for American Oystercatchers.
- A RESOURCE protection area begins 0.2 mile north of Ramp 34 and extends for 0.25 of a mile. This is a full beach closure for a least tern colony.

Ramp 34 - Ramp 38: (4.0 miles)

The beach is open for ORV and pedestrian access from Ramp 34 to Ramp 38. Currently, there is through ORV and pedestrian access. On May 15 the seasonal village closure goes into effect and will prevent ORV traffic in front of the village.

Ramp 38 - Ramp 43: (6.0 miles)

The beach is open to ORV and pedestrian access for 1.8 of a mile south of Ramp 38. Currently there is no through access for ORVs between Ramp 38 and Ramp 43. Pedestrian access is open.

- A SAFETY closure is 3.8 miles long, beginning 1.8 of a mile south of Ramp 38 to 0.4 of a mile north of Ramp 43, due to narrow beaches. This section is open to pedestrian access, but not ORV access.
- A RESOURCE protection area begins 0.7 of a mile north of the village of Buxton and extends for 0.25 of a mile. This is a full beach closure for American Oystercatchers. This section is within a SAFETY CLOSURE which is not open to ORV access and pedestrian access is restricted through the 0.25 mile closure.

Ramp 43 - Ramp 44: (0.3 of a mile)

The beach is open for ORV and pedestrian access onto the beach at Ramp 43 with no access along the ocean shoreline to the north or south due to resource protection closures.

- A RESOURCE protection area begins south of Ramp 43 and extends for 0.26 of a mile. This is a full beach closure for American Oystercatchers. The closure was expanded 200 feet to the south on April 28 for nesting/territorial behavior.
- A RESOURCE protection area begins 50 feet north of Ramp 43 parking lot and extends for 0.25 of a mile for American Oystercatchers.
- **A RESOURCE protection area begins north of Ramp 43 and extends for 0.25 of a mile. This is a full beach closure for American Oystercatchers.**

Ramp 44 - Ramp 45 (Cape Point): (2.4 miles)

Ramp 44 has been re-opened and there is ORV and pedestrian access to the south for 0.6 of a mile.

- ORV and pedestrian access is open south of Ramp 44 with no through access to Cape Point. A RESOURCE protection (prenesting) area was established the week of March 24, 2008. It included interior areas of Cape Point and a complete shoreline closure that started approximately 0.25 miles south/west of Cape Point and ends approximately 0.3 east of Ramp 45. The total closure distance is approximately 1.0 mile in length.
- **A RESOURCE protection area was established between Ramp 44 and the Salt Pond Bypass Road. This is a 150' buffer for foraging piping plover.**
- **A RESOURCE protection area was established 0.6 miles south of Ramp 44. This is a full beach closure for a least tern colony that prevents ORV and pedestrian traffic on the East side of Cape Point.**

Ramp 45 to Ramp 49 (South Beach): (3.4 miles)

Ramp 45 is open and accessible via the interdunal road from Ramp 44.

Salt Pond Road is closed due to a RESOURCE protection area. Currently there is no through access for ORVs or pedestrians between the ramps due to resource closures. There is ORV and pedestrian access from Ramp 49 east for approximately 1.7 miles.

- A RESOURCE protection area (prenesting area) was established the week of March 24, 2008. It included upper beach areas that encompass the dunes and extends towards the ocean. On April 21, a modification (150 foot shoreline section) of this prenesting area was installed for American Oystercatchers. This is a full beach closure.
- A RESOURCE protection area begins 0.50 mile west of Ramp 45 and extends for 0.25 of a mile along the shoreline. This is a full beach closure for American Oystercatchers.
- A RESOURCE protection area begins 0.8 mile west of Ramp 45 and extends for 0.25 of a mile along the shoreline. This is a full beach closure for American Oystercatchers.
- **A RESOURCE protection area was established 1.9 miles East of Ramp 49 and extends for 150 meters. This is a full beach closure for a least tern colony and a pair of American Oystercatchers.**
- **A RESOURCE protection area was established directly in front of Ramp 45 which closes Ramp 45 and the interdunal road. This is a full beach closure for a least tern colony.**
- **A RESOURCE protection area was established 1.7 miles East of Ramp 49 and extends for 150 meters. This is a full beach closure for a least tern colony and a pair of American Oystercatchers.**

Ramp 49 - Ramp 55: (5.9 miles; includes Sandy Bay soundside parking area)

The beach is open to ORV for 1.2 miles west of Ramp 49 and 0.1 of a mile east of Ramp 55 (in front of Frisco and Hatteras Villages). Currently, there is no through ORV access between Ramp 49 and Ramp 55 but pedestrian access is open from Ramp 49 to Ramp 55.

- The beach in front of Frisco Village to Hatteras Village is open to pedestrian access, but not ORV access for 4.7 miles.
- A RESOURCE protection area begins 50 yards south of the Sandy Bay parking lot on the soundside and extends for 0.25 of a mile for American Oystercatchers.

Ramp 55 - Hatteras Inlet: (2.7 miles)

ORV and pedestrian access is open along the ocean shoreline from Ramp 55 west to 0.1 mile south/west of the southern exit of the Pole Road, where a RESOURCE protection area begins. Pole Road is open from Ramp 55 west to the Isabel overwash areas, where traffic is routed onto the beach due to a RESOURCE protection area. South of the overwash areas, the Pole Road is open. The Cable Crossing route is open to access along the sound shoreline. The Spur Road is open to access to the sound shoreline.

- A RESOURCE protection (prenesting) area was established at the Isabel overwash area from the sound shoreline to the ocean dune during the week of March 24, 2008. Ocean shoreline access is open past this area.
- A RESOURCE protection (prenesting) area was established the week of March 24, 2008 south of the southern exit of Pole Road. The area includes upper beach and interior areas south of Pole Road and a full ocean beach closure beginning approximately 0.1 mile south/west of the southern exit of Pole Road. The full beach closure is approximately 0.8 miles long and continues south/west around the tip of Hatteras Inlet, which encompasses the "Rip."
- A RESOURCE protection area for foraging piping plovers was established on the soundside, 0.1 mile southwest of where the Spur Road exits onto the sound shoreline on April 9.

Ocracoke Island District

The Ocracoke Island District has a total distance of 16.3 miles of ocean shoreline. There are **12.6 miles** open to pedestrians and approximately **8.8 miles** are open to ORV access. ORV use is restricted by a SAFETY closure of 5.2 miles long.

Ramp 59 - Ramp 67: (7.8 miles; includes North Ocracoke Spit)

There is no through ORV shoreline access between these two ramps. Pedestrian access is open.

- A RESOURCE protection (prenesting) area was established at North Ocracoke Spit the week of March 24, 2008. It includes interior areas of the spit and the ocean shoreline. An ocean/inlet shoreline access corridor is currently being maintained (weather dependent) above the high tide line for ORV and pedestrian access from Ramp 59 north for 0.9 miles toward North Ocracoke Spit. There is no ORV or pedestrian access in the RESOURCE protection area.
- A RESOURCE protection area was established 0.8 of a mile south of Ramp 59 and extends for 0.25 of a mile. This is a full beach closure for American Oystercatchers.
- A SAFETY closure is 5.2 miles long, and begins 1.0 miles south of Ramp 59 to 1.4 miles north of Ramp 67. This section is open to pedestrian access but not to ORV access.

Ramp 67 - Ramp 70 (includes Ramp 68): (3.8 miles; includes Ramp 68)

There is no through ORV shoreline access between these two ramps. Pedestrian access is open.

- A RESOURCE protection area begins 0.8 mile south of Ramp 68 (or 1.5 miles north of Ramp 70) and extends for 0.25 of a mile. This is a full beach closure for American Oystercatchers. An expansion/modification of 200 feet to the north was installed on April 30 for observed breeding behavior.

Ramp 70 - Ramp 72 (1.8 miles) and Ramp 72 to South Ocracoke Spit (4.4 miles):


The beach is open to ORV and pedestrian access from Ramp 70 south along ocean shoreline, for approximately 0.2 of a mile south of Ramp 72. There is no through access to South Point.

- A RESOURCE protection (prenesting) area was established the week of March 24, 2008 that encompasses interior and soundside areas of the spit. There is ocean shoreline access for 2.6 miles from Ramp 72 south. On the soundside shoreline, 1.3 miles of shoreline is closed to ORV and pedestrian access.
- **A RESOURCE protection area was established 0.2 mile south of Ramp 72. This is a 50 meter buffer along the ocean shoreline which precludes access to South Point. This is a full beach closure that extends for approximately 0.7 of a mile along the ocean shoreline for foraging piping plover.**

Temporary resource protection areas are necessary to protect threatened and endangered species and species of concern including Piping Plovers, American Oystercatchers, Colonial Waterbirds (Terns and Skimmers), and sea turtles. Posted areas are closed to vehicles, pedestrians and pets.

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What's driving beach restrictions

Michael A. Berry

CHAPEL HILL - No reasonable person doubts the need for an off-road vehicle (ORV) management plan for the Cape Hatteras National Seashore, especially in the face of regional population growth and improved highway systems leading to the Outer Banks.

After many years of U.S. Department of Interior foot-dragging, an ORV regulation/negotiation process was launched this year. Under the direction of a professionally competent park superintendent, the National Park Service went out of its way to encourage public participation in ORV management for the park.

Litigants representing environmental organizations, along with dozens of other stakeholders, agreed months ago to take part in a highly visible process of good faith regulation/negotiation designed to provide factual information to the Park Service for an effective ORV management plan. A primary purpose of the process was to avoid costly litigation.

However, through their litigation, while sitting as major participants of the negotiation process, the environmental activists evidenced little intention of good-faith negotiation.

The recently announced "settlement" being prepared by lawyers for the Justice Department and environmental organizations is beyond public view. There is no opportunity for public participation under the court-directed settlement proceeding. "Transparency" in a settlement between the federal government and the environmental litigants is not possible without a public review and comment period.

The court is sending a clear message that it does not care what the public thinks. This is an insult to citizens who have taken the time and their personal resources to attend the meetings, sit at the table to negotiate in good faith and provide factual information and constructive comment to the Park Service.

There are predictable outcomes from this court action. The settlement will result in restrictive beach usage.

For many years, environmental organizations have targeted the 12 percent of the shoreline that is the most ORV accessible part of the park. In effect they are transforming the most popular recreational areas into six new wildlife refuges, so as to prevent ORVs on the beach.

Under the settlement proceedings, there is no public discussion of economic impact. The "settlement" will definitely affect the lives and economic well-being of thousands of citizens who

live and own businesses and property in the villages on the Outer Banks. Businesses will close, and families will suffer. The value of property will decrease.

Just as bad, there will be a substantial loss in recreational enjoyment, such as surf-fishing, for hundreds of thousands of citizens who visit the park and its unique environment.

There will be no serious consideration of environmental fact, because there is no peer-reviewed science to support the claims of species loss as the result of ORV traffic. Environmental organizations claim expertise that the court accepts at face value, yet there has been no data to support the claims. Science explains how the environment works by way of measurement and quantification. Without data, there is no science. Without science, there is no basis for effective management.

The real objective of the litigation is not species protection, it is ORV restriction. If the beach-using public is not concerned to the point of outrage by the current situation, it should be. The only thing that will make the public be heard, and turn the situation around, is legislation that requires public participation or focused ORV management in the park. Those who care should contact their lawmakers today and express their concern.

(Michael A. Berry, a former senior manager for the Environmental Protection Agency, served as deputy director of the National Center for Environmental Assessment at RTP. He has taught public health, environmental science and business and environment courses at UNC. He is a consultant specializing in evaluation of environmental quality and human health effects, environmental management strategies and policy.)

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