

From: [Mike Murray](#)
To: ffff1@mindspring.com
Bcc: [Cyndy Holda](#); [Mike Murray](#); [Darrell Echols](#); [Paul Stevens](#)
Subject: Re: CHNS name
Date: 05/04/2009 01:59 PM

Frank,

This is another issue with a convoluted history. Here it is:

- The 1937 legislation authorized the "conditional establishment" of "Cape Hatteras National Seashore" (CHNS). It provided that when title to at least 10,000 acres of land within the designated boundaries had been vested in the U.S., then the seashore could be "established." The original 1937 legislation also identified ALL the recreation and preservation mandates for the Seashore in Section 4 of the act (now found in 16 USC 459a-2), except for hunting, which was added in the 1940 amendment. The 1937 act included:

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 this area

- The 1940 amendment was brief. It modified the name to "national seashore recreational area" (CHNSRA) and authorized hunting. The reason for the name change was that NPS was concerned about the precedent of allowing hunting in a unit of the national park system.
- The park itself was not officially established (i.e., formally administered and operated) until January 1953 after the U.S. had received title to sufficient land to meet the 10,000 acres threshold.
- In May 1954, NPS Assistant Director Hillory Tolson issued a memo stating that the shorter title of "Cape Hatteras National Seashore" may be used, except in formal memoranda and documents requiring the full title of "Cape Hatteras National Seashore Recreational Area Project." "CHNSRA" was used as the name in official documents (deeds, legislation, etc.) during the 1940's and 1950's.
- In 1961, Congress authorized Cape Cod as the second "national seashore" and subsequently created eight more "national seashores" between 1962 and 1975 for a total of ten. All such park units that followed Cape Hatteras were officially named "national seashores." All related national seashore legislation was listed in the U.S. Code as subsections under the Cape Hatteras act (Cape Hatteras = 16 USC 459. **a**; Cape Cod = 16 USC 459. **b**, etc.).
- Since 1962 Congress has used "Cape Hatteras National Seashore" as the official title in all Cape Hatteras related legislation, NPS/DOI has used that

title in all official planning documents, the General Management Plan, federal regulations, agreements, contracts, etc. In other words, as soon as other "national seashores" started to be created, Cape Hatteras was once again referred to as a "national seashore" by Congress and "national seashore" became the standard nomenclature for this type of park.

- Congress did NOT change the 1940 amendment or re-amend the name, although it has consistently used "national seashore" since 1962.

As a result, there is ambiguity in legislation about the official name. The 1940 amendment clearly changed the name to "CHNSRA," but "National Seashore" is the name officially used by Congress and the NPS for the past 40+ years. As a result, either name has validity. In my judgment and the judgment of the Solicitors, the name *per se* is irrelevant to the issues at hand. The recreational part of the park purpose was established in the original "national seashore" legislation; that purpose was not changed or enhanced by the 1940 amendment, except that the amendment allowed hunting. Furthermore, section 3 of the 1937 legislation (preceding section 4, which contained the recreation and preservation mandates) included the following statement:

The administration, protection and development of the aforesaid national seashore shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of the Act of August 25, 1916 (i.e., the Organic Act)

In other words, a fundamental premise under which the Cape Hatteras National Seashore was established was that it would be managed in accordance with the Organic Act. The 1940 amendment did nothing to change that requirement.

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04/28/2009 03:47 PM

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To Mike Murray <mike_murray@nps.gov>

cc

Subject CHAC name

Mike,

Sorry to keep pestering you but when good questions need answers I do not want to be wrong in answering the question so I am going to the horses mouth.

Post on my internet board

Park Name? posted by [neil](#)

Frank

Do You or anyone know what the "official" name is for the park?

Cindy Holda just told me by phone that it is not Cape Hatteras National Seashore Recreational Area. Just Cape Hatteras National Seashore???

Answer by Ted Hamilton for the question

Not True posted by [Salvo Jimmy](#)

The enabling legislation was even purposely modified after original passage to add Recreational Area to the name. Cape Hatteras is the only National Seashore to have that in its name.

I even recall Murray at a REG-NEG meeting explaining that basically for ease

please let me know your thoughts on these questions?

Thanks

Frank