



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Raleigh Field Office  
Post Office Box 33726  
Raleigh, North Carolina 27636-3726  
December 3, 2009

Michael B. Murray  
Superintendent  
National Park Service, Outer Banks Group  
1401 National Park Drive  
Manteo, North Carolina 27954

Dear Mr. Murray:

The Fish and Wildlife Service (Service) has reviewed your November 25, 2009, letter regarding the protection of the sea turtle nest laid on October 7, 2009. The nest is located just north of Ramp 49 on Hatteras Island, within the Cape Hatteras National Seashore (CAHA) in Dare County, North Carolina. In accordance with the Service's Biological Opinion, the National Park Service (NPS) has extended sea turtle nest protection for all nests detected from the discrete nest location out to the waterline on day 50 to 55 of the incubation period. For the identified late nest, the NPS proposes to postpone extension of the protective sea turtle zone until day 80 (80 days after the nest was laid). Our comments are provided in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 USC 1531 et seq.).

Your November 25, 2009, letter points out that sea turtle nesting activity on CAHA typically occurs from mid-May to the end of August. Patrols for nesting activity are conducted between May 1 and September 15. Due to the discovery of a loggerhead turtle nest laid on September 15, the NPS extended the patrols past the required period to ensure that any new nests would be detected. As a result of the continued effort, the October 7 nest was discovered. The species that laid the late nest is unknown.

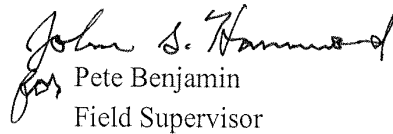
Success rates of late nests are usually diminished due to the decreasing ambient temperatures and the NPS believes the October 7, 2009 nest is unlikely to hatch. Based on records of successful late nests, incubation periods are much longer at CAHA and the NPS is proposing to implement expansion of the nest area on day 80 instead of day 55. If the nest does produce hatchlings, they will be collected and taken to the Gulf Stream by boat due to cold inshore ocean temperatures.

The NPS will check the nest daily until day 90, which is consistent with the Service's recommended protocol. If any signs of hatching are noted, the NPS will expand the nest protection area immediately. A preliminary excavation will be carried out on day 90 (January 5). If the nest is determined to be active on day 90, the nest will be left in place and the expansion will be maintained until the nest hatches or is considered dead. The nest will be monitored daily until that determination is made.

Based on a review of the information provided, the Service concurs with your determination that the proposed modified protective measures for the late (October 7, 2009) turtle nest is not likely to adversely affect sea turtle species known to nest on Cape Hatteras National Seashore. We believe that the requirements of section 7(a)(2) of the Act have been satisfied. We remind you that obligations under section 7 consultation must be reconsidered if: (1) new information reveals impacts of this identified action that may affect listed species or critical habitat in a manner not previously considered; (2) this action is subsequently modified in a manner that was not considered in this review; or, (3) a new species is listed or critical habitat determined that may be affected by the identified action.

If you have any questions, please contact John Hammond at 919-856-4520, extension 28.

Sincerely,

  
Pete Benjamin  
Field Supervisor

Cc: Sandy MacPherson