

From: [Tommy Jones](#)
To: [Doug Stover](#)
Cc: [Allison Pena](#); [Michael Evans](#); [Mike Murray](#)
Subject: Re: Meeting Notes
Date: 02/08/2010 04:25 PM
Attachments: [Meeting Notes.020510.mbm.docx](#)

Guys---

The confusion about 106 and NR is making my head hurt. *Section 106 has absolutely nothing to do with anything about the present situation.* Until it has been determined that there is a NR/TCP property present, there simply are no 106 requirements. Period.

We *do*, however, have obligations under Section 110 to identify and nominate NR properties (including TCPs). The easiest thing would be to get Barbara to write a nomination, send it forward, and let the chips fall where they may. That is exactly what they want the park to do and I can't see there's a down side to doing that, other than having to put some resources toward a nomination. How would nomination and listing really impact the park?

Have y'all pointed out to the NCBBA that NR/TCP listing will do absolutely nothing to give them the unrestricted beach access that they seem to want? Would they be going to all this trouble if they didn't think that it would give them a weapon for unrestricted access? If I understand it correctly, the beach is closed periodically on account of endangered species, and NR/TCP won't do a thing to change that. NEPA has teeth; NHPA does not.

We seem to be going in circles. The only resolution is to send a nomination forward and be done with it, one way or the other.

Tommy H. Jones
Regional 106 Coordinator
Southeast Regional Office
404-507-5783

▼ [Doug Stover/CAHA/NPS](#)

**Doug
Stover/CAHA/NPS**

02/05/2010 03:38 PM

To Allison Pena/JELA/NPS@NPS, Tommy Jones/Atlanta/NPS@NPS, Michael Evans/Omaha/NPS@NPS, Mike Murray/CAHA/NPS@NPS

cc

Subject Meeting Notes

Attached is the meeting notes that Superintendent Mike Murry and I had with North Carolina Beach Buggy Association.



Meeting Notes.020510.mbm.docx

Reminder: Conference call regarding the DRAFT Ethnographic Study Analysis for Cape Hatteras National Seashore. Friday, Feb. 12th at 11:00 a.m. (ET) which is 9:00 a.m. Mountain Time

Dial in #: 877-531-9176

Participant #: 2598725#

Doug Stover
Historian/Cultural Resource Program Manager
Cape Hatteras NS/Fort Raleigh NHS/Wright Brothers NMEM
1401 National Park Drive
Manteo, NC 27954
Tel: 252-473-2111x153
Fax: 252-473-2595

Meeting Notes
February 5, 2010
Outer Banks Group Headquarters

Present: (NPS) Mike Murray, Doug Stover; (NCBBA) Jim Keen, David Joyner, Chris Egghart

Topic: NCBBA assertion that Bodie Island Spit, Cape Point, Hatteras Inlet Spit, and South Point (Ocracoke) are Traditional Cultural Properties (TCPs). The meeting was held at the request of NCBBA.

Mike Murray's Notes:

Chris Egghart (CE) identified himself as an archeologist with a Virginia state agency. He said he was present as a private citizen, not as a consultant.

When asked who the "community" is, CE stated that it is the Outer Banks communities that are described in the "8 villages" report. He said that the document serves as the "identification level" for identifying the "community" and under 106 requirements there needed to be further investigation by NPS. Jim Keene (JK) talked about the importance of beach access and said that the people who commented at the various negotiated rulemaking meetings (during public comment periods) were representatives of the "community."

CE talked about "patterns of land use" pre-dating the creation of the park and having continued uninterrupted into the present; and the people who constituted the community included multi-generational native residents, as well as other people who have moved here or who visit here.

When I asked who are the representative(s) or spokesperson for the community, CE said he was.

CE said that under NPS guidelines if a community claims a site is a TCP, then it is considered a potential TCP and the 106 consultation process must be followed. He said that once a site has been "claimed as a TCP" there must be consultation with "the community," particularly if there is potentially adverse affect on the property.

I provided the NCBBA representatives with a copy of the Keeper's memorandum regarding the Cape Cod dune shacks determination. When we pointed out the criteria for TCP that was articulated in the letter by the Keeper, David Joyner and CE said that the CAHA sites clearly met those requirements. When we talked about the Keeper's finding that the dune shacks did not meet the criteria for a TCP, CE said that Cape Cod was in essence a weak case because the properties were privately owned (*which is not accurate*) and a TCP is a property used by the community such as the Cape Hatteras sites. I mentioned that the dune shack historic district had been determined to be eligible for listing many years prior to the TCP issue arising. CE said that

if ever there is a good case for a Euro-American TCP, Cape Hatteras would be it, since there is an unbroken pattern of land use, etc. He said that the CAHA sites clearly qualify under the NPS guidelines for a TCP as described in Bulletin 38. CE also said that the CCC dune system should be registered as a potential archeological site or landscape.

CE said that NC is one of only 2 states in which the SHPO does a rigorous pre-screening process. He said that they had submitted a “nomination” to the NC SHPO for the study list. CE said it was unfortunate that SHPO had responded as it had (“pushed back”) because the SHPO did not like dealing with TCPs. On several occasions, he said that the SHPO was doing the park a “disservice” by “pushing back” and not letting the NPS 106 process take its course.

CE disagreed with those who assert that one of the purposes of the Seashore is to preserve “primitive wilderness.” He said that Hatteras has had such a long history of human occupation that it was not a “wilderness” and, due to that human occupation, was one of the most messed-up barrier islands on the east coast.

We talked about the option of NCBBA completing and submitting a 106 nomination directly to the Keeper. CE said he was reluctant to do that and it was not their responsibility. He asserted that since they have brought their claim to NPS’s attention, it is NPS responsibility. CE said that the consultation process had not begun, and he would like to see it followed through to a DOE. In the meantime, since they are claiming it is a TCP, on the ORV plan NPS is required to consult with the “community,” as well as the local government (which he said is identified in the 106 guidelines). CE seemed optimistic that if ACHP were involved, they have a much broader view of what constitutes a cultural property than the SHPO does.

On several occasions, CE said that he hoped to work with NPS within the process and was reluctant to take the issue to the newspapers.

Given the history of the Seashore and how many years it had been since it was created, I asked why the group was raising this issue now. If it really were a TCP how come it has taken so long for them to assert this claim? JK indicated that he was unaware of TCPs until CE had brought it to his attention and now with the ORV planning process he felt that access to traditionally important areas was at risk. JK acknowledged that the letters he signed were prepared by CE.

In closing, JK indicated that he hoped for a written response to his previous letter (1/29/09).

Doug Notes:

Meeting Notes
2/5/2010, 8:30 am
Outer Banks Group Headquarters

Present: (NPS) Mike Murray, Doug Stover; (NCBBA) Jim Keen, David Joyner, Chris Egghart

Topic: Traditional Cultural Properties (TCPs). NCBBA

Started the meeting about the Cape Code Dune Shacks of the Peaked Hill Bar Historic District TCP, Mike explained the Keepers decision.

Questions: (Mike) asked, "who" is the community

Answer: (Chris) Outer Banks Community, the people who live here, the family names that pre-date the park, the community, the way of life access to the beaches,

Question: (Mike) Who do you represent as the community, are you the spoke person of these communities.

Answer: (Chris) We represent the Outer Banks family, the visitors, the community as a whole; stated that they had no discussions with the communities.

Question: (Doug) Why only pick specific areas of the Cape Hatteras NS vs. all the beaches.

Answer: Chris and Jim, The area that we picked is the area of traditional fishing and access areas that pre-date the park.

Discussion: (Chris) NCBBA submitted an applicant study list to the North Carolina State Historic Preservation Office, the SHPO responses was the application didn't not have sufficient information.

CAHA: (Mike) We told the NCBBA that we have been consulted with a team of advisor in accordance with the Federal regulations for National Register listing.