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From: [Kristen Brengel](#)
To: Jon_Jarvis@nps.gov; Dan_Wenk@nps.gov; Mike_Murray@nps.gov; Gary_Machlis@nps.gov
Cc: [Clusen, Chuck](#); [Leslie Jones](#); [Chris Watson](#); [Don Barger](#)
Subject: CAHA ORV plan comments
Date: 05/11/2010 09:29 AM
Attachments: [CAHA ORV EIS COMMENTS --final.doc](#)

Director Jarvis, Deputy Director Wenk, Superintendent Murray and Mr. Machlis:

Please accept our joint comments with NRDC and The Wilderness Society on the Cape Hatteras off-road vehicle plan. We appreciate the National Park Service's effort to comply with its regulations and hope our comments are well-received. In the near future, we would appreciate an opportunity to discuss our concerns with you in-person before the Final EIS is published.

Thank you-
Kristen

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Superintendent Michael Murray
Cape Hatteras National Seashore
1401 National Park Drive
Manteo, North Carolina 27954

Re: Comments on the Cape Hatteras National Seashore Off Road Vehicle Management Plan / Draft Environmental Impact Statement

Dear Mr. Murray:

The National Parks Conservation Association, Natural Resources Defense Council, and The Wilderness Society are grateful for this opportunity to comment on this Off Road Vehicle Management Plan/Draft Environmental Impact Statement (DEIS). The Cape Hatteras National Seashore (CAHA) is a nationally significant resource for and to all Americans. It represents one of the last vestiges of open, wild, and undeveloped beaches on the eastern seacoast of the United States and provides protected habitats for rare, threatened, and endangered wildlife.

In reviewing the DEIS, we find that all of the alternatives presented in the draft privilege off-road vehicle use (ORV) over and above all other visitor uses and experiences. Overall, this approach is unbalanced and fails to conserve and protect the natural resources, wildlife and qualities that make CAHA a nationally significant resource.

We agree that the “**environmentally preferable**” **Alternative D** would cause the least environmental impact of the alternatives presented in the DEIS. Under this alternative, we have several concerns about year-round vehicular traffic and how it impacts other visitors and wildlife. As a consequence, we are willing to support a **modified Alternative D** that includes and recognizes the following points.

Wilderness

The CAHA authorizing legislation states, “**Except for certain portions of the area**, deemed to be especially adaptable for recreational use, particularly swimming, boating, sailing, fishing, and other recreational activities of similar nature, which shall be developed for such uses as needed, the said areas shall be **permanently reserved as a primitive wilderness**...(DEIS, p. 46).”

This language indicates the intent to manage CAHA as a primitive wilderness with some exceptions. Unfortunately, this document is the first attempt by the agency to identify areas for one particular recreational use – off-road vehicles. The wilderness term carries management implications that are not addressed in the DEIS and that are not compatible with recreational ORV use. Consequently, CAHA should be using wilderness policy principles in its management

of recreational off-road vehicles as per the enabling legislation and 2006 Management Policies -- these wilderness policy principles should be spelled out in the FEIS.

Congress enacted the Wilderness Act on September 3, 1964. The Act designated over 9 million acres of wilderness within the nation's national forests, administered by the Department of Agriculture. For the lands administered by the Department of the Interior within the National Park System, Congress required the Secretary to "review every roadless area of five thousand contiguous acres or more...and... report to the President his recommendation as to the suitability or nonsuitability of each such area...for preservation as wilderness. The President shall advise the President of the Senate and the Speaker of the House of Representative of his recommendation with respect to the designation as wilderness of each such area...on which review has been completed, together with a map thereof and a definition of its boundaries." Congress directed that the Secretary complete this review by September 3, 1974.

For parks in existence on September 3, 1964, the ten years after 1964 saw Presidents Johnson, Nixon and Ford transmit to Congress many wilderness recommendations. There are a number of parks that were in existence on the date of enactment of the Wilderness Act for which the NPS has never fulfilled the Congressional mandate to "review every roadless area of five thousand contiguous acres or more...and... report to the President his recommendation as to the suitability or nonsuitability of each such area...for preservation as wilderness." CAHA is one of these areas.

It is tragic that NPS has been so institutionally unresponsive to Congressional wilderness review mandates. CAHA provides an example where, if this mandate had been fulfilled at any time since 1964, many of the user conflicts that are currently wracking the Seashore may have been avoided.

It is also clearly evident, that any comprehensive attempt to establish an ORV management plan, should have been preceded, informed, and bounded by a wilderness suitability study. It is our position that it is absolutely essential that NPS protect the pedestrian visitor experience through environmentally appropriate access to primitive wilderness. As a consequence, we urge the National Park Service to execute and produce the wilderness suitability study for CAHA that is now 35 years overdue (see Management Policies 2006, Ch. 6).

Wildlife

The National Park Service cannot abrogate its responsibilities under the Organic Act and the National Seashore's authorizing legislation to protect wildlife and the habitat on which it depends. The Final Environmental Impact Statement (FEIS) must clearly assert NPS authority to adaptively manage the wildlife resources including increasing management protections as necessary in response to information produced by monitoring and analysis to achieve desired future conditions and species recovery goals.

In the analysis of the specific wildlife conservation and management implications of the DEIS, we concur with the comments submitted by Audubon North Carolina, National Audubon

Society, Defenders of Wildlife, and Southern Environmental Law Center, with the following additional comments.

First, with regard to desired future conditions (species recovery goals) we believe that NPS is choosing long-term targets, and possibly short-term targets that are too low. For piping plover (DEIS, p. 8), the long term target is 30 breeding pairs. However, the footnote indicates that CAHA could potentially support 30-60 pairs, *and* actual population growth at other sites has exceeded the projections. Consequently, if CAHA could potentially support more than 60 breeding pairs, the long term target should be at least 60 breeding pairs.

Second, in the section on “Issues and Impact Topics” (DEIS, p. 29), it states that “Nesting sea turtles at the Seashore include the loggerhead, green, and leatherback turtles.” However, when desired future conditions are discussed (DEIS, p. 8), loggerheads are the only species for which short-term and long-term targets are stated. Again, the long-term loggerhead target is set low at 115 nests, when the footnote states the 50 year projection as being 201 nests. If there is a scientifically based 50 year projection, then why is a lower number being chosen for a long-term target? What is the basis for this choice?

Also, the DEIS needs to include projections and targets for green and leatherback turtles. “From 2000 to 2009, there was an annual average of four green turtle nests at the Seashore, with a peak of nine nests in 2005 (DEIS, p.216).” Nesting by leatherback turtles at the seashore was first documented in 1998 and there have been six known nests since 2000 (DEIS, p.216). These very low numbers cannot be an excuse for not setting recovery projections and targets. In fact, just the opposite is the case, the lower the numbers the more important the projections and targets become.

Alternative Transportation Systems for Federal Public Lands

In 2005, the SAFETEA-LU legislation established a new program called the Alternative Transportation in Parks and Public Lands program, changed in 2008 to the Paul S. Sarbanes Transit in the Parks program. Administered by the Federal Transit Administration in partnership with the Department of the Interior and the Forest Service, the program funds capital and planning expenses for alternative transportation systems in national parks and public lands. The goals of the program are to conserve natural, historical, and cultural resources; reduce congestion and pollution; improve visitor mobility and accessibility; enhance visitor experience; and ensure access to all, including persons with disabilities.

Programs, resources, and expertise now exist that CAHA can access and could employ to answer the questions: Are there feasible alternatives to recreational ORV use in getting visitors on and off the beach including those with fishing equipment? Specifically, NPS should be contemplating whether some sort of environmentally sensitive mass transit system could accomplish the objective of getting people efficiently on and off the beach while reducing the number of vehicles and vehicle trips. If such a study is too complex for the FEIS, then the FEIS should assert and spell out that such a study is needed, will follow the FEIS, and that NPS will adaptively adjust its management in light of an alternative transportation study. Moreover, such a study should be complementary to the wilderness suitability study, previously discussed, to

distinguish precisely between those areas where mass transport of visitors is suitable and those where it is not (i.e. wilderness).

Management Policies 2006

The “objectives in taking action” (DEIS, pp. 2-3), “desired future conditions” (DEIS, p. 7), and management policies discussion (DEIS, p. 44) are all missing significant requirements under the 2006 Management Policies. We request that NPS expand the “desired future conditions” section beyond species management and include goals from the management policies on least impacting vehicles and motorized equipment (Management Policies 2006, 8.2.3; 8.2.3.1; 6.4.3.3), noise (Management Policies 2006, 4.9), appropriate uses (Management Policies 2006, 8.1.1), and wilderness (Management Policies 2006, Ch. 6). These policies are essential guideposts for determining whether a recreational use is appropriate and causing unacceptable impacts in National Park System units. In addition, we believe they are critical for determining whether or not the agency is upholding its management duties under the Organic Act. We would urge the agency to develop a set of desired future conditions for 1) motorized equipment 2) noise 3) appropriate use and 4) wilderness.

In conclusion, we are in complete accord with Audubon North Carolina, National Audubon Society, Defenders of Wildlife, and Southern Environmental Law Center on the following point.

The regulation to govern off-road vehicle use on the beaches of Cape Hatteras National Seashore will be the most important action by the National Park Service in the history of Cape Hatteras National Seashore. The regulation will determine the future of the Seashore. It will determine the future for North Carolina’s beach-nesting shore and waterbird populations, the health of migrating and wintering shorebird populations, North Carolina’s sea turtle populations, and the fate of other natural resources. Equally important, it will determine the quality of the Seashore experience for more than 2.25 million visitors annually and it will shape public sentiment toward the National Park Service as the stewards of the most significant natural landmarks of the United States.

We are thankful for the opportunity to provide these comments. We appreciate the hard work and dedication of the National Park Service in preserving the best examples of America’s natural and cultural heritage for future generations. And we look forward to an FEIS that addresses and incorporates our concerns.

Sincerely,

Chris Watson, Program Manager
National Parks Conservation Association

Charles Clusen, Director, National Parks Project
Natural Resources Defense Council

Leslie Jones, General Counsel
The Wilderness Society