Comments submitted by Kenneth A. Smith, LCDR USCG Ret.

Mike Murray,
Superintendent, Cape Hatteras National Seashore **Recreational Area**
1401 National Park Drive,
Manteo, North Carolina 27954.

I hereby submit my personal comments concerning the request for comments on the Draft Environmental Impact Statement for the Department of Interior's, National Park Service, Notice of Availability of a Draft Environmental Impact Statement for Cape Hatteras National Seashore issued on March 5th, 2010.

As an employee of the federal government employed to write regulations and policy for the United States Coast Guard, I am appalled at the actions of the National Park Service and most importantly the casual nature by which the National Park Service refuses to recognize the name of the park mandated by Congress. It is my heartfelt opinion, that the exceptional amount of money wasted by your agency battling numerous law suits and meeting the demands of the consent decree is directly related to the total failure of the NPS "desire" to implement the "desires" of Congress outlined in the United States Code; these actions are totally contrary to actions of other federal agencies, mine in particular. I sincerely hope that the NPS will recognize and implement the desires expressed by the majority of public citizens that spoke at public meetings and expressed comments during the open comment period. In keeping with the President's mandate on transparency, the NPS should clearly identify the number of persons speaking in favor of open access, those speaking against the NPS recommended alternative, and those speaking in favor of the Coalition for Beach Access.

As a member of the federal government cognizant of the APA and rules related to transparency, I would like a personal response from you as to why this project was not accessible to the public through the online system established by the federal government at www.regulations.gov. Rather, it was accessible online through a website managed exclusively by the NPS. I would like to note that in the past I have submitted comments through the NPS exclusive server only to find the comments were never recognized. I urge all the distinguished members of the federal government that I have copied to inquire to the Department of Interior about my comments concerning the electronic practices of the NPS and importantly to inquire about the data affiliated with public submissions and positions thereof to ensure that the NPS is fully recognizing and acting according to public input.

Specific Comments

Title Page: The title of the document does not correctly reflect the name of the area under review. In accordance with Title 16 of the United States Code, Chapter 1, Subchapter LXIII, Section 459, the title should be amended to reflect the name of the park codified by U.S. law, "…said area shall be, and is, established, dedicated, and set apart as a national seashore recreational area for the benefit and enjoyment of the people and shall be known as the Cape Hatteras National Seashore Recreational Area." Please change the title page accordingly.

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Executive Summary section, page i, first paragraph: Change the opening lines of the first paragraph to account for changing the title page as follows: This draft *Cape Hatteras National Seashore* ***Recreational Area*** *Off-Road Vehicle Management Plan / Environmental Impact Statement* (plan/EIS) analyzes a range of alternatives and actions for the management of off-road vehicles (ORVs) at Cape Hatteras National Seashore **Recreational Area** (the Seashore).

Background section, page i, 4th paragraph, first sentence: The statement, "Historically, beach driving at the Seashore was for the purpose of transportation, and not recreation." is misleading. Historically, beach driving has been both for transportation and for recreational use. Accordingly, this sentence should be changed to maintain light of the importance of recreation in the recreational area.

Background section, page i, 4th paragraph, last sentence: The statement, "There has also been a decline in most beach nesting bird populations on the Seashore since the 1990s." is unclear and not supported. Please clarify and/or annotate this statement in the document for readers with a superscript number identifying the supporting data and point to the section in the document that discusses the decline stated.

Purpose of the plan section, page ii: The paragraph should reflect congressional intention and contain some information about the park being established, dedicated, and set apart as a recreational area for the benefit of the people. Recommend rewriting the paragraph as follows: "The purpose of this plan is to develop regulations and procedures that carefully manage ORV use/access in the Seashore to **protect recreational access**, preserve natural and cultural resources and natural processes, **and** ~~to~~ provide a variety of visitor use experiences while minimizing conflicts among various users, and to promote the safety of all visitors."

Need for Action section, page ii, 2nd paragraph, last sentence: The sentence should include additional information about the role that the NPS has in carrying out the policy set for in the National Environmental Policy Act. Namely that the NPS has the responsibility, as an agent of the federal government, for achieving a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities. (Reference NEPA 1969)

The document fails to convey details associated with the workbooks which provided for public input. The full results obtained from the workbooks should be conveyed as fact and not minimized and presented as a general statement. This is necessary to ensure the decision maker fully understands results of public input. Likewise, the number of people who spoke at public meetings along with their positions should be presented in order for the decision maker to clearly understand the public's desire not the unsupported desires of NPS employees or special interest groups.

General Comments

Your attention is drawn to the fact that the National Environmental Policy Act of 1969 was originally intended to be a guide for U.S. environmental and public policy. The act itself states that its purpose is to:

- "fulfill the responsibilities of each generation as trustee of the environment for

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Congress directed the NPS to protect for the benefit of the people. (Reference: Title 16 of the United States Code, Chapter 1, Subchapter LXIII, Section 459).

The position statement of the Coalition for Beach Access balances the need to conserve natural resources with the mandate to provide for the enjoyment of them. It gives consideration to natural resource management within the context of all recreational uses of the beach, particularly emphasizing the distinct needs for ORV access and management. As a public citizen, I urge the NPS to consider the above comments and I urge the NPS to implement the full list of recommendations provided by the Coalition for Beach Access.

Kenneth A. Smith

Kenneth A.Smith, LCDR, USCG Ret.
14 Bridgeport Circle
Stafford, VA 22554

Copy: The Honorable Barack Obama, President of the United States
The Honorable Ken Salazar, Secretary, U.S. Department of the Interior
The Honorable Bob McDonnell, Governor of the State of Virginia
The Honorable Beverly Purdue, Governor of the State of North Carolina
The Honorable Robert Wittman, Representative of Virginia
The Honorable Richard Burr, Representative of North Carolina
The Honorable Walter B. Jones, Jr, Representative of North Carolina
The Honorable Kay Hagan, Senator of North Carolina
Jon Jarvis, Director, National Park Service
Dan Wenk, Deputy Director Operations
Nancy Sutley, Chairman, U.S. Council on Environmental Quality