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**Subject:** Re: notes from last week's call  
**Date:** 06/21/2010 01:31 PM  
**Attachments:** [CAHA Meeting Notes\\_Final\\_Edited061510.mbm062110.docx](#)

Nancy,

The notes do a good job of capturing the discussion. There is one edit I would make on page 11, regarding piping plover chick buffers. There is no scientifically based pedestrian buffer distance for PIPL chicks that I am aware of; however, the Recovery Plan does provide specific vehicle buffer distance recommendations (Appendix G, etc.). See attached edited version of notes in Track Changes.



CAHA Meeting Notes\_Final\_Edited061510.mbm062110.docx

Thanks,

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06/16/2010 10:11 AM

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Subject notes from last week's call

Sandy and Mike et al.-  
Attached are the edited notes from last week's call. (Sandy – please replace what I sent you Monday with these that have now gone through

the editor.) If there are any corrections to be made, please let us know. We will be using these in our responses to comments. Cyndy- would you please distribute to others at the park who need to see these? Josh Schnabel (Berger – Denver) has remapped the various areas (seasonal, ORV YR, Vehicle free) and has a summary which shows the ORV YR and vehicle free miles to be pretty even, assuming villages are closed YR- BUT the total miles he shows are not exactly what we (Doug) had before, so he is working to figure that out. We will send those maps and the numbers ASAP.

Thanks!

Nancy

Nancy L. Van Dyke

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[attachment "CAHA\_Meeting Notes\_Final\_Edited061510.docx" deleted by Mike Murray/CAHA/NPS]

**CAHA ORV Management Plan/EIS**  
**Conference Call to Discuss Alternative F Issues and Revisions**  
**June 10–11, 2010**

**Attendees:**

Park:

- Mike Murray
- Cyndy Holda
- Jon Anglin
- Paul Stevens
- Britta Muiznieks
- Darrell Echols
- Thayer Broili
- Michelle Bogardus
- Kenny Balance (part-time on day 2)

Region:

- Tim Pinion

EQD:

- Sandy Hamilton
- Doug Wetmore (day 1 only)

Louis Berger:

- Nancy Van Dyke
- Rudi Byron (Julia Eitner—last half of day 2)
- Spence Smith

Meeting notes—summary of main discussion points and final decision are provided under headings “**Group Discussion**” and “**Decision**” immediately following each item as listed in the agenda. If discussion was continued on day 2, the notes include all discussions/decisions from both days under the appropriate heading.

**A. MISC. ORV ISSUES**

**1. There are too many signs**

They are unsightly; wording is too regulatory rather than educational; etc.

**OBJECTIVES:** Reduce the overall number of resource closure signs used, while retaining effectiveness as a deterrent to closure violations. Use educational signs in lieu of regulatory signs where appropriate.

**IDEAS FOR DISCUSSION:**

- Reduce signing for pre-nesting areas. Sign only usable habitat (e.g., at Cape Point, do not include the whole Dredge Pond area, which makes the closure look HUGE). Use symbolic fencing only along either end of pre-nesting area (i.e., perpendicular to beach) and along dune line, then use red carsonite along the high tide line along with informational sign at either end of closure to explain if shoreline is closed and why.
- Edit sign language in DEIS: “...areas with symbolic fencing (string between posts) or with other closure signs would be closed to recreational access....”

- Increase spacing of signs or limit use of “Area Closed” placard to every other post.
- Reduce number of signs visible from NC 12.
- As part of a comprehensive resource education program (see later “ISSUE”), develop educational signs to use in lieu of regulatory signs where appropriate (e.g., at turtle nest closures).

**Group Discussion:** Can have goal to reduce signage as plan becomes more known and accepted. Need to imagine visitor compliance is achievable with more education. Currently is heavily signed at each closure. Regulatory signs need to be in regulatory language, legally.

**Decision:** Make acknowledgement in ROD that there is an overabundance of signs; as it becomes more accepted by the public, signs can be reduced. Second bullet on agenda is a change the NPS could make; increases flexibility. Will also add more educational signs and increased education. Leave response/ changes vague, but state that the NPS will work toward doing all of the bullets (above), if feasible.

## 2. Pet restrictions

Are stated inconsistently in different sections of the DEIS and are overly complicated to communicate, understand, and enforce (e.g., no pets in Breeding Shorebird SMAs during the breeding season and in Nonbreeding Shorebird SMAs during the nonbreeding season, but allowed in other locations except as specified). Multilayered restrictions with different times, locations, etc. are perceived as confusing and overly restrictive.

**OBJECTIVE:** Simplify pet restrictions for ease of education and enforcement.

**IDEAS FOR DISCUSSION** (In lieu of complicated alternative F measures):

- Pets are required to be on a leash of not more than 6 feet at all times in any area open to the public and there is a “zero tolerance” enforcement policy for pets off leash during the breeding season and for pets chasing or harassing wildlife; **or**
- Pets prohibited in SMAs year-round (assuming ORV corridors at Cape Point and South Point are “excluded” from the respective SMAs).
- Allow “assistance animals” and not just guide dogs (comment about such animals being needed by some visitors).

**Group Discussion:** Restrictions are currently inconsistent in the DEIS; this is an error and will be fixed. They are too complicated as it currently stands and it is confusing for the public to understand changes per alternative. Question for law enforcement personnel: Is it easier to enforce on a leash or just to exclude pets? Law enforcement prefers on a leash and does not like zero tolerance; prefers law enforcement to have discretion to decide verbal, written, or fine violations. How to lower violations? Need more enforcement. A violation of the leash law could result in a revoking of ORV driving privilege. Ratio of warnings to citations for pets (at CACO and YELL) is about 10:1. Data does not show verbal warnings, but CAHA is on par with these citations.

Prohibitions in SMAs? No pets in pass-through corridors or pre-nesting areas during breeding season? Pets are only allowed where people are allowed to go; however, in areas where there are pre-nesting areas, during the breeding season, pets should not be allowed (discussed on day 2—included in “Decision” notes below).

**Decision:** Enforce leash law in all areas; 6-foot leash with strict enforcement, then some areas may be closed to pet use either during breeding season only, or year-round in areas with particularly high concentrations of resting birds. Language as follows: “Pets are permitted subject to the 6-foot leash requirement and prohibited where posted.”

Include leash laws in ORV permit education as part of the permitting process; could be a condition for revoking the permit. Eliminate “zero tolerance” and change to “strict enforcement” at all times in first bullet. Violating any of the terms and conditions of the permit (including the leash law) could result in revocation of permit.

Add an educational component.

Regarding assistance animals—discuss with solicitors.

### 3. Village closure dates

Dates are different for northern and southern villages. Difficult to communicate, understand, and enforce. Concerns about the possibility of allowing ORV use in locations such as Frisco and Hatteras that have been closed to ORVs for many years.

**OBJECTIVE:** Simplify dates and base them on visitation and occupancy data, and provide for pedestrian safety on narrow village beaches during the off season (if the decision is to allow ORV use in the off season).

#### IDEAS FOR DISCUSSION:

- Close all village beaches to ORVs year-round; or
- If we decide to stick with seasonal ORV closures, use the same dates for northern and southern villages and establish criteria (e.g., minimum beach width) for deciding whether to reopen narrow village beaches to ORV use in the off season.
- Make all villages vehicle free for 6 months; open to ORVs for 6 months (with beach width criteria for safety closures during the off season).

**Group Discussion:** No parking or public beach access in villages if they are closed fully to ORVs year-round. Best resource protection solution? Generally village beaches are not driven by resource issues. Beach-width parameter for safety closures – two traffic lanes. Stick with some version of treating the villages differently? 6-month closures for northern villages, year-round closures for southern beaches? Closure of all village beaches - may be best “long haul” option because of beach erosion, safety- will likely become more of a problem and will need to eventually close the village beaches like others have been closed. Possibly a question for solicitors. Possible boundary/jurisdiction issues. Other option raised was to have all village beaches open. Many think should have all villages have same open/closure dates for consistency and predictability.

Option 1: All villages closed to ORVs year-round (*preliminary decision made, may be revisited when we discuss mileage or ORV and vehicle-free area; concern is that do not want to sacrifice other valuable closures for birds*).

Option 2: Keep varying closures per village (north and south)—NPS can justify treating them differently, based on desire to have different options for visitors.

Option 3: Close all villages seasonally—April 1 through October 31.

Option 4: Open year-round (would require vehicle-free areas somewhere else).

**Decision:** Leaning toward option 1, but need to revisit once all mileages added up at the end of day 2.

### 4. ORV permits

Concerns include ease of obtaining one and cost. Current alternative F proposal (with test requirement) may trigger 60- to 90-day Paperwork Reduction Act review by OMB.

**OBJECTIVE:** Simplify, but ensure there is an effective education component.

IDEAS FOR DISCUSSION:

- Eliminate test requirement.
- Develop a good 8- to 10-minute video for ORV users that can be watched online or in person before individual signs for permit. Content could include general resource education information that is appropriate for pedestrians, along with specific ORV requirements. See next issue.
- Require video be watched at NPS permit offices to ensure it is watched.

**Group Discussion:** Educational program/signed acknowledgment. Drop the test requirement. Will have to read rules and regs and will sign and date it. Short info to watch or read, when they sign for permit, they will acknowledge. Eliminate test requirement—put burden on user, not NPS. Video is best way to summarize information that NPS wants to focus on. Can provide rules and regs with permit. Unsure if video could be in place by next permit season. Made available online? Signature ensures they are responsible for complying with rules. Other options: run on cable channels, rental units have DVD. If need to come in person, where would they go? Most likely visitor centers. Put permit money to use to hire new staff.

Weekly vs. annual permits? Alternative C is annual, alternative D is annual, alternative E is weekly/annual, alternative F is weekly/annual. NC fishing license is either 10 day or annual. Weekly gives visitors more options economically.

**Decision:** Drop testing requirement; require permit be obtained at park office with video or other educational material and make sure visitor signs name and date; want to be more certain that visitor sees the material and has some personal contact with the park staff. Cannot commit to saying video available immediately; may be “reading or viewing educational material” in person. Weekly and annual permits confirmed.

## 5. Carrying capacity

Some think it is too high; some think Cape Point should not have a higher carrying capacity than elsewhere; some think there should be a carrying capacity for pedestrians if there is one for ORVs.

**OBJECTIVE:** Compare alternative F carrying capacity with stakeholder suggestion and confirm best approach.

IDEAS FOR DISCUSSION:

- Carrying capacity (alternative F: 260 vehicles/mile, except 400 within a 1-mile area centered on Cape Point).
- Lower carrying capacity everywhere?
- Cape Point: 260 vehicles/mile?
- Carrying capacity for pedestrians? NO. Rejected.
- **Correspondence #831:** Use ORV permits as a tool to enforce carrying capacity in particular areas.

**Group Discussion:** 260 OK? Pick a lower number? Permit would reduce traffic on holiday weekends? Alternative D has just one vehicle parking provision (essentially equivalent to 260)—or say 260 is subject to periodic review (also subject to political pressure). Could select a no-carrying-capacity requirement (it is within the range of analyzed alternatives).

**Decision:** Keep 260/mile at all beaches (keeping this number, as well as parking element).

Limit parking to one car deep (viewed as a different action in alternatives table—can choose options 1 and 2 together). *Decided:* One lane of cars, maintaining two lanes of traffic at all times. Emergency closures/no parking when this amount of beach is not available. No carrying capacity for pedestrians.

## 6. Safety closure language

OBJECTIVES: Review/revise if appropriate/confirm final language on safety closures.

IDEAS FOR DISCUSSION:

- Leave language as is in alternative F; or
- Revise alternative F language as follows:

An ORV safety closure would be implemented in the event of a ~~clear and imminent~~ threat of significant bodily injury or death, and/or damage to personal property, including vehicles and their contents. Triggers that could justify a safety closure include, but are not limited to:

- Deep beach cuts that block the beach from dune to surf with no obvious way around.
- Obstacles, such as exposed stumps, shipwrecks, or debris, that cannot be safely bypassed or that block the entire width of the beach and cannot be easily removed.
- Severe beach slope that puts vehicles in an unsafe gradient position and increases the chances of the loss of vehicular control.
- A high concentration of pedestrian users coupled with a narrow beach.
- (Add) A narrow beach where there is insufficient width to safely exit the beach in the vehicle corridor during normal (non-storm) high tides.
- (Add language about minimum beach width for village beaches, when open to ORVs during the off season)

Triggers do not include:

— ~~A narrow beach by itself.~~

- ~~High tides that block access through portions of beaches occur periodically and predictably, and are an obvious, easily avoidable hazard.~~
- Hazards blocking only a portion of the beach, where safe passage is available around the hazard.

ORV safety closures would preclude ORV access, while pedestrian and commercial fishing access would be maintained through most safety closures.

- **Concern ID 20434**: Commenters requested that the NPS provide data on visitor use conflicts/incidents. They further stated that they believed that there were no visitor conflicts to base management decisions on.

Does the park have incident data to add to chapter 3?

- **Concern ID 24061**: Commenters expressed concern that alternative D did not include safety closures. Concerns included ORVs driving on dunes where there was narrow beach.

If alternative D is selected, will this language need to be added?

**Group Discussion**: Add minimum beach width—anywhere, not just villages. Two traffic lanes plus 30 ft (approximately 50 ft minimum total). Village beaches—suggested 75 ft wide (convert to meters). **Need to confirm village beach width parameter if village beaches will be open.**

**Decision**: Accept changes provided above. Strike “clear and imminent threat” – now says “clear hazard,” then need to tweak language to reflect “a hazard” (remove “imminent”). Add minimum beach width—**TBD**. Willing to commit to checking it once a week? Need to commit to checking it with some regularity. Can retain weekly language.

## 7. Terminology

OBJECTIVE: Fine-tune definitions to address commenter concerns.

IDEAS FOR DISCUSSION:

- SMAs: Add “roosting/resting” to definition.
- Breeding shorebird SMAs: delete “concentration of” from definition (since AMOY nest individually, it sounds like there would be no SMAs for AMOY nest sites).
- Commercial fishing (*define as*): Commercial fishing methods that involve the use of haul seine or gill nets; the term does not include guides for recreational fishing activity **or an individual selling low numbers of fish that are caught by a fishing rod.**

**Group Discussion/Decision**: Superintendent thinks these are all OK; use language such as “concentration of colonial nesting birds or recurring use of site by solo nesting birds.” Concern with commercial fishing, need to limit to actual commercial fisherman that meet these definitions—easy for residents to obtain a license. Suggested language is good; strike selling language shown in **blue** above. Need to tie to context.

## B. SEA TURTLE ISSUES

### 1. Perception of high loss of sea turtle nests

ORV groups and NCWRC have concerns about high loss of sea turtle nests in locations that are predictably subject to frequent overwash.

OBJECTIVE: Refine nest relocation criteria to allow nest relocation in situations that are likely to result in nest loss due to overwash (not talking about major storm events, but regular storm or lunar high tides).

IDEAS FOR DISCUSSION:

- Use GIS to identify areas with history of nest loss due to overwash. Conduct 5-year adaptive management study to compare results of proactive relocation of 50% of nests in those areas vs. nonrelocation of 50% of nests in those locations, then analyze/document results and reevaluate the policy after 5 years; or
- If I understand Michelle correctly, she and Matthew Godfrey have already agreed to, and we are implementing, a more proactive nest-relocation policy in certain locations that are known to be subjected to frequent overwash. If that is the case and we are comfortable with that approach, then maybe all we need to do in the FEIS is describe the current approach in more detail than currently is in the DEIS so it is more obvious what we are doing. As it stands now, the DEIS (chapter 2, table 10, p. 125) describes the above approach in brief terms but then it says that relocation will follow the policy identified in the NCWRC handbook, which is “relocation as a last resort.”

**Group Discussion**: Written comments available from park/Michelle. Suggested geomorphic criteria for when we relocate a nest. WRC/USFWS have criteria for relocation. Need criteria to define when the NPS wants to move a nest, so can garner USFWS support. Want positive endorsement from USFWS and NCWRC.

Option 1: Articulate areas with high nest loss, then use adaptive management. Make long-term decision based on results.

Option 2: Describe relocation rationale. Make criteria apparent.

Michelle info: Moving produces more females, and nests should only be moved if you KNOW that nest will be lost. 30 percent relocation should be average for this park. Relocate to hill of dunes, farther back from beach.



**Decision:** Option 2. NPS needs to develop specific criteria or a decision tree. Tim recommends to tie to DFC for turtles; that is, 5-year average of less than (*or equal to—need to check with USFWS*) 30% relocated.

## 2. Other sea turtle issues

It is perceived that NPS focuses on the number of sea turtle nests, rather than hatch and emergence rates, as its measure of success. Expanded buffers for sea turtle nests during their hatch window seem larger than needed and unreasonably restrictive on recreational access. The filter fencing policy is perceived as ineffective and may put nests in jeopardy during overwash periods. “No pedestrians” in the intertidal zone below the nests seems unreasonable. (We say we are following the NCWRC handbook, but it says nothing about the various sizes of the expanded buffers or the filter fencing). These measures were in the Interim Strategy, perhaps because of similar measures mentioned in the USGS protocols, but the context is one of most of the park being open to ORV use in the fall and there being no night-driving restriction. Do we think such measures reasonable and effective, really necessary if ORV use is limited to designated routes and there is some sort of night-driving restriction in the fall, and do we really need to continue implementing these measures for the next 15 years?

**OBJECTIVES:** Take reasonable steps to improve hatch and emergence success. Reconsider and retain or revise the turtle management measures that do not originate in the NCWRC handbook. Ensure that measures selected for FEIS are reasonable to implement, understand, and enforce.

### IDEAS FOR DISCUSSION:

- Would a reduced expansion size, or standardized buffer regardless of use zone, be appropriate given that ORV would be restricted to fewer locations and at night?
- Aggressively pursue a nest watch program, or better define situations in which a nest watch would be applied vs. situations in which it would be less likely to occur.
- Consider keyhole fencing (like PINWR) for nests that are actively being watched.
- Once a nest reaches its hatch window and the buffer expansion is implemented, allow pedestrian access during daylight hours in the intertidal zone seaward of the nest, and sign site accordingly (to prevent pedestrians from walking up into the U-shaped closure).
- Develop educational signs for turtle closures.
- Consider alternatives, if any, for reducing nest loss and improving hatch and emergence rates. Would it be reasonable to identify a target hatch or emergence rate (e.g., 60%)?

**Group Discussion:** There are two main issues: (1) filter fencing policy and (2) pedestrian use in intertidal areas.

1. Filter fence/expanded buffer w/ night-driving restrictions—does filter fencing still makes sense? It creates erosion at nest and maintenance issues. Is it effective? Should it continue? Should CAHA allow pedestrians?
  - Keyhole fencing would be beneficial, but also has negative consequences with hatchling mortality.
  - Higher filter does not keep out light or ghost crab predation.
  - Filter advantage is decrease in size of buffer, with the elimination of night driving. In remote pedestrian areas, smaller buffers; bigger buffers in congested areas.
2. Pedestrian use in intertidal area below the nests? Signs/plan still say no. But can they safely pass through the area, so long as they do not settle within the closure area?

**Decision:** Berger to get Michelle's notes, which defend what the park is doing. For filter fencing, the NPS will continue use it but FEIS will state the NPS "will continue to examine in consultation with WRC and USFWS." For pedestrian access, should be able to allow this in daytime, but need to be explicit that they cannot set up camp or walk up into closure. Can we design a way for pedestrians to walk around? *Need to work on revisiting the three different levels of buffer expansions; do they all have to be this far above the nest? Can pedestrians walk around them on either side?*

### 3. Use of volunteers for turtle management activities

**OBJECTIVE:** Compare alternative F with stakeholder suggestions and decide upon best approach.

**IDEAS FOR DISCUSSION:**

- Use volunteers to conduct daily patrols.  
Have two-phased approach: FINDER patrol for signs of a nest, then mark it; PROTECTORS evaluate found nest sites to determine if relocation is needed (then implement relocation, if needed).
- Do NOT use volunteers to conduct turtle patrols (may have conflict of interest).
- Use volunteers for nest watch program.
- Need a volunteer coordinator position to develop program and manage volunteers.

**Group Discussion:** Have tried using volunteers previously. Who is going to make sure what happens? There are concerns about conflict of interest.

**Decision:** The decision was made to continue current practices: NPS will not use volunteers for turtle patrols but will use them for nest watch program, as that encourages ownership and stewardship. Need to add to volunteer program for the long run.

### 4. Beach fires

USFWS has expressed concerns about allowing any beach fires during the turtle nesting season. Recreational groups have expressed concerns that the fire restrictions proposed in F are overly restrictive and take away from visitor experience opportunities.

**OBJECTIVE:** Simplify. Have a reasonable beach fire policy that considers resource protection as well as visitor experience interests, and is easy to understand and enforce.

**IDEAS FOR DISCUSSION:**

- Stick with alternative F (during the turtle season, beach fires allowed only in front of the villages and primary day use areas); or
- Allow fires anywhere, but reduce hours for beach fires to end at 11:00 p.m. and emphasize education in the free fire permit; or
- Prohibit beach fires during the turtle nesting season; or
- Other ideas?

**Group Discussion:** The NPS is not inclined to prohibit beach fires, but the fires would result in an incidental take. Possibly leave policy as is, but back up end time to 10 p.m. to avoid time of peak emergence (8–11 p.m.). Do the fires need to be 100 m from turtle nest? Are they allowable in front of villages? What about the off season?

**Decision:** The NPS is comfortable with changing the end time to 10 p.m. all year and leaving closure/area language under alternative F with free permit. From May 1 to November 15, fires would be limited to day use and within designated day use areas. Same language as within alternative F, except the time change to 10 p.m. *Ask solicitors: OK to change to 10 p.m.?*

## 5. Hours of night-driving restrictions

USFWS and others recommend that we go with fixed hours, rather than “hour after sunset, 1/2 hour after sunrise or after turtle patrols are completed” language which is harder to understand and enforce. Others are concerned that the hours are overly restrictive given the history of good false crawl-to-nest ratios during most years at CAHA.

**OBJECTIVE:** Simplify. Come up with fixed hours for night-driving restrictions that are perceived as protective for turtle protection, allow time for NPS turtle patrols of designated ORV areas during the primary nesting period, and are not unreasonably restrictive for recreational access at other times. Provide complementary protection measures for hatchlings in the fall (such as light filter fencing, etc.), but have criteria for allowing night driving in areas without unhatched turtle nests after September 15.

### IDEAS FOR DISCUSSION:

- Use the existing data on first nest/last nest laid at CAHA, plus the data on sunrise/sunset times during that same period, to come up with fixed hours that provide effective resource protection during the expected nesting period (mid-May to early September) and some protection but reasonable recreational use before and after that period. For example, it would not make sense to me to say that night driving is restricted all season long from 7 p.m. to 7 a.m. based only on the fact that those hours approximate sunset/sunrise on September 30 when some nests may hatch. The hours should effectively cover the primary nesting period and have complementary measures for dealing with potential lighting effects during the fall hatching season.
- Limit modification of night-driving hours (+/-2 hours) for commercial fishermen to morning hours only (i.e., do not modify in evening, only in the morning).
- Hybrid approach?

**Group Discussion:** For simplicity, better to set firm hours. Staff looked at data for peak nesting period and determined set hours that would be reasonable for this time period.

Best option (from staff): 8 p.m.–8 a.m. (to protect most of the peak nesting hours before midnight and to allow for time for beach patrols to finish in the morning); 6 a.m. was too early for patrols to be finished and 7 a.m. gives about 1-1/2 hours to check the beach. The type of gate to be used will be determined later. Patrol able to check each section of beach each night? Yes, but cannot close gates each night and therefore cannot commit to operating gates. The group discussed a switch to 9 p.m., which allows for protection but is not so early in the summer.

**Decision:** Driving restriction from 9 p.m. to 7 a.m. with gates.

## 6. Night access after September 15

USFWS and environmental stakeholders want night-driving restrictions continued until November 15 to protect hatchlings that emerge after September 15. Alternative F would allow NPS to reopen “areas with no or a low density of turtle nests” to night driving after September 15. “Low density” is not defined.

**OBJECTIVES:** Clarify wording to address concerns and consider options for night access.

### IDEAS FOR DISCUSSION:

- Revise alternative F language (“after September 15 NPS would reopen to night driving areas with no or a low density of turtle nests”). Night access to popular areas would be “luck of the draw” based on location of turtle nests; or
- Revise wording as above and consider options, such as “park and stay” for night access to Bodie Island Spit, Cape Point, and South Point if there are unhatched turtle nests blocking night access in the ORV corridor. In other words, after September 15, in areas with unhatched turtle nests, “park and

stay” would be allowed (only) at Bodie Island Spit, Cape Point, and South Point with the following terms and conditions:

- Arrive before night-driving restriction (time) goes into effect. Do not leave until designated morning reopening time.
- Life-or-death emergencies, call 9-1-1.
- Must have self-contained portable toilet.
- Violation of terms and conditions would result in minimum 1-year revocation of ORV permit.
- Other ideas?
- **Correspondence #15074:** The “moderate” level USGS protocols recommend night-driving restrictions begin April 1.

**Group Discussion:** Would differ from the consent decree, as “low density” is not defined. For the FEIS, we need to eliminate “low density”; if have more than 0 nests—would be restricted. The park-and-stay option dismissed because it is too complicated. Keep 9 p.m.–7 a.m. for nighttime driving.

Discussion on closure dates: It is more beneficial for the turtles to extend night restriction from September 15 to October 15, but would have problems with fall fishing. After September 15, if there are no turtle nests, certain areas are reopened to night driving. Restrictions begin again on May 15, or first loggerhead/Kemps Ridley/green turtle nest of the season, whichever is first.

How close to a nest can an ORV be? It depends on topography of an area. Park to fine-tune the rest of the language regarding closure areas (distances from nest). Buffer goes to 150 ft in areas with night-driving restrictions. After night-driving restrictions end for areas with no nests, then area would go up to the area of the larger buffer. *We will wait for handbook for final decision on this. Also wait for response from USFWS on this.*

**Decision:** Night driving restricted 9 p.m. to 7 a.m. from May 15 to September 15; after September 15, if no nests, then reopen to night driving until May 15 or when first loggerhead/Kemps Ridley/green turtle nest of season is found, whichever is first. **Distance to nest TBD.**

## C. SHOREBIRD ISSUES

### 1. Shorebird pre-nesting areas

Perception is that the pre-nesting areas will end up being massive closures for an extended period of time, regardless of if birds actually show up and use the site or not (e.g., the overwash fans at Hatteras Inlet). This is perceived as a complete “lock out” of visitor use in a significant portion of the Seashore. Some comments that July 31 reopening date is not late enough for black skimmer (BLSK).

**OBJECTIVE:** Ensure adequate nesting habitat is available for shorebirds at the start of the breeding season, while providing some level of flexibility and well-managed visitor use until actual breeding activity prompts the need for implementation of the standard (ML2) buffers.

#### IDEAS FOR DISCUSSION:

- In pre-nesting areas, allow pedestrian shoreline access below the high tide line until breeding activity is observed, and then implement standard buffers to provide a full beach closure where it is actually needed.
- To reduce signage, mark the perpendicular ends of the pre-nesting areas with symbolic fencing and the high tide line with red carsonite, then post signs at either end of the pre-nesting area to indicate

whether (1) shoreline access is permitted seaward of the red carsonite until breeding activity is observed (“share the beach”) or (2) shoreline access is closed (“yield the beach”).

- Consider adding language that “portions of pre-nesting areas with BLSK present will be left in place until August 15, or until after all breeding activity has ceased, whichever is later.”
- **Correspondence #15073:** Initiation of pre-nesting surveys on May 1 is too late to adequately detect breeding activity for colonial waterbirds (CWB). This will likely result in abandonment of otherwise suitable nesting areas resulting from off-road vehicle use and the associated human disturbances before colonies become established.

Start pre-nesting surveys before May 1? Response: Tend to show up between May 6 and May 10. Other colonies have formed after. Recent years show that May 1 is an adequate date to accurately capture all nesting activities. Closures are not being put in for breeding activities occurring before May 1.

**Group Discussion:** Pedestrian shoreline access below the high tide line: Would require change in signage, shoreline access open. Once the NPS sees nesting, that nesting would prompt a buffer. It would not be a full closure, would be much more reasonable, and would reduce signage. NPS would close nesting/foraging habitat, but not all vegetated areas. Forget ML1 closures, and stick with only ML2, with no dogs allowed in these areas (SMA pre-nesting area). The NPS would use standard string fencing with red carsonite with a sign saying pedestrian access below red carsonite. Need to ensure that this accurately protects BLSK; that would be covered by current language that would create a buffer if BLSK nests.

**Decision:** Allow pedestrian shoreline access below high tide in pre-nesting areas until breeding commences—no dogs would be allowed.

## 2. Shorebird buffer distances

Proposed buffer distances seem unreasonable, inflexible, and unsupported by peer-reviewed science. Specifically noted are: 1,000 m buffer for PIPL chicks; 300 m buffers for American oystercatcher (AMOY) and CWB activity/nests/chicks.

**OBJECTIVE:** Ensure adequate, consistent, biologically defensible buffers that will provide effective resource protection while allowing for reasonable access and flexibility when appropriate.

### IDEAS FOR DISCUSSION:

- For piping plover (PIPL) chicks, retain 1,000 m ORV buffer but also allow a 300 m (or 200 m?) buffer for pedestrians during daylight hours. Pursue an adaptive management study to determine if it would be appropriate to reduce the ORV buffer after a certain period of time (e.g., 2 weeks) once the chicks have settled into a foraging area.
- Eliminate ML1 buffers and use ML2 buffers and monitoring at all locations.

**Group Discussion:** There is no scientifically based [pedestrian buffer distance](#) number for plover chicks [buffers](#), but the NPS has park field observations from CAHA: chicks routinely range more than 200 m and sometimes over 1,000 m. The FEIS should include smaller buffer for pedestrians (300 m from consent decree, scientifically based buffers (200 m), but extend to 300 m so do not need to move fencing so much—based on reducing operational needs). 3 times/week for ML2 (monitoring).

**Decision:** Keep the same and respond to comment as noted in discussion.

## 3. Buffers for AMOY/WIPL and CWB

Should they allow vehicles to pass along the outside edge of nesting habitat, provided that the buffer is adequate to prevent human disturbance, should they be absolute buffers regardless of natural barriers?

**OBJECTIVE:** Confirm wording. Simplify if possible. Be reasonable, so that if a natural barrier separates the site from the ORV route and disturbance is unlikely, we do not impose unreasonable closures.

**IDEAS FOR DISCUSSION:**

- (Stakeholder suggestion) “If breeding activity is observed inside an existing closure at a distance under 75 meters from the closure boundary, the closure will be expanded to ensure a 75-meter buffer” ~~(Delete) Prior to hatching, vehicles may pass along the outside edge of nesting habitat, provided that buffers adequate to prevent human disturbance are maintained;~~ or
- Revise wording to make it clear that a smaller buffer may be used at locations if, in the judgment of NPS resource management personnel, natural barriers, such as dunes or vegetation, provide sufficient screening to minimize the risk of disturbance.

**Group Discussion/Decision:** Do not use first bullet language revisions, as this is not reasonable. For the second bullet, the wording revision is OK but would need to wordsmith the end of the sentence. The group does not like use of “minimize.” Use Britta’s examples (Britta to provide) in response to comments. OK with SELC rewording suggestions (p. 122 of the DEIS), but use better language drawn from the second bullet.

#### 4. Breeding season ORV corridors at Cape Point and South Point

**OBJECTIVE:** Compare alternative F corridors with proposal submitted by stakeholders and confirm best approach.

**IDEAS FOR DISCUSSION:**

- Exclude ORV corridors at Cape Point and South Point from the SMA; then have all SMAs exclude ORVs.
- Limit corridor width to 100 ft (or 50 m as in alternative F)?
- Cape Point: Have corridor no more than 100 ft wide immediately above the high tide line.
- South Point: Have corridor no more than 100 ft wide; that is, at least 300 ft from the high tide line.
- **Concern ID 24192:** Commenters suggested that pass-through corridors be allowed through all species closures. They stated this was necessary to allow access to various areas of the Seashore year-round.

**Group Discussion/Decision:** Leave corridor width of 50 m; possibly narrower at Cape Point. The NPS has discretion to do less, but not more. Not inclined to follow recommendations at South Point (not 300 ft). Study/NPS does not support corridors below buffers/nests (Allen study?). Will not change language in FEIS.

#### 5. Breeding and nonbreeding shorebird SMA descriptions are complicated and confusing

**OBJECTIVE:** Simplify language for ease of understanding, complying, and implementing.

**IDEAS FOR DISCUSSION:**

- Align vehicle-free areas with (more of) the nonbreeding shorebird areas, rather than have separate overlay. In other words, try to come up with a hybrid of alternative D (with no seasonal ORV areas) and alternative F (with ORV corridors at Cape Point and South Point).
- Nonbreeding shorebird SMAs: Install by July 15 if location does not have a breeding season closure. Simplify description (delete “Points and Spits” and “Ocean Shoreline Areas” descriptions and re-evaluate every 3 years (instead of every 5)). The NPS will send Nancy a marked-up table.
- Any other ideas?

- **Concern ID 24210:** DEIS does not set aside enough area from ORV use for nonbreeding and migratory shorebirds. Commenters suggested areas where nonbreeding and migratory shorebird closures should occur, such as Bodie Island Spit 0.1 mile south of Ramp 4 to the inlet; 0.2 mile northwest of Cape Point to Ramp 49; Hatteras Inlet Spit ocean shoreline and backshore beach, and dunes 0.68 mile west of Ramp 55 to the soundside of the inlet; North Ocracoke Spit inlet 1 mile west of Ramp 59; and South Point Ocracoke 0.2 mile west of Ramp 72 to the inlet.
- **Concern ID 24211:** Commenters requested that specific nonbreeding SMAs be designated, rather than leaving this decision to a later date.
- **Concern ID 24213:** Commenters stated that how SMAs are designated should be adjusted to include areas of high-quality habitat, even if there has not been recent breeding activity as that may have been due to high disturbance levels. They further asked that the past 10 years of nesting history (rather than 5) be considered when establishing these areas.

**Group Discussion:** Identify key breeding areas/nonbreeding areas and make those areas vehicle free year-round, and then not try to switch back and forth between seasons. Include access point to South Point and Cape Point. Bodie Island Spit—closer to alternative F w/ some vehicles? Or vehicle free?

**Decision:** Yes to Bullet 1 (need to work out details with routes and areas).

Bullet 2 addressed: No need to discuss.

Concern ID 24210: Conceptually, looking at an approach closer to Alt D, will line up more, but will not exactly align. Will be addressed under routes and areas discussion.

Concern ID 24211: Becomes moot point, if you follow the concept under Bullet 1.

Concern ID 24213: Should be based on current habitat conditions, not historical nesting. If the birds show up, they will be protected. Need to figure out routes and areas designation and help simplify definition of SMAs.

## 6. Desired future conditions (DFC) for CWB

Perceived as too low by environmental groups, since it is based on historically low nest results since 2007. DFC did not consider longer-term data including years with higher numbers of nests (only considered data from 2007 forward).

**OBJECTIVE:** Revisit the DFC for CWB. If possible, come up with a more ambitious DFC based on longer term data, provided the DFC is realistic.

### IDEAS FOR DISCUSSION:

- Reconsider an earlier draft DFC that was based on the longer-term data (number of nests in the park as an average percentage of the number of nests in the state for same species); or
- Consider a DFC based on incremental restoration of number of nests to a target based on the long-term data.
- **Correspondence ID 13438:** DFC for PIPL should be 60 pairs.
- **Correspondence ID 13279:** DFC for PIPL should be less than 30 pairs. Fourteen-year-old study is no longer valid.

**Group Discussion:** Tim responded to this Monday via email. Use revised numbers; ambitious, but offers more protection (CWB). Current habitat could support 60 pairs? Recovery Plan identifies population at 30 pairs. No good scientific basis for 60 or less than 30. Fifteen is the highest ever recorded, so possibly short-term target. The capacity is listed in appendix B as 30.

**Decision:** NPS is comfortable with the current numbers included in the plan.

## 7. Nonbreeding surveys (concern about SECN protocol)

Concern is that protocol as designed does not adequately determine or document the difference in shorebird utilization of areas closed to ORV use vs. open to ORV use.

**OBJECTIVE:** Compare alternative F with stakeholder suggestion(s) and decide upon best approach.

**IDEAS FOR DISCUSSION:**

- Delete reference to “SECN protocol.” Should survey and compare beach areas that are fully open to ORVs with areas that are closed to ORVs. Suggest survey methods used at ASIS (Forgues 2010) or CALO (Tarr 2009). Add GPS locations for banded birds so that information can be provided to researchers.
- Delete CWB from nonbreeding surveys as they are not dependent upon Seashore land for foraging.
- Follow ISS protocol.

**Group Discussion:** SECN complaint: Transects are too far apart to accurately count plovers.

NPS response: The counts are not meant to count every single bird, but are designed to show trends over time. Could provide research study in the future to compare open places vs. closed areas? Data is being collected over time; unsure what NPS wants to do with that information. More of a response to comment, no need to address within the DEIS. SECN is the data collection arm of the NPS regional office; we are coordinating with their other seashore parks. There is no objection to ISS protocol, if a research application is submitted. SECN protocols are also more robust than ISS. SECN collection can feed into ISS.

All surveys are dependent on foraging—check language for clarity.

**Decision:** Continue to do what are doing—use SECN, not ISS.

## D. ROUTES AND ACCESS POINTS

**There are three main issues—listed below with the agenda objectives only. This does not include Mike’s original ideas for discussion/changes by mile since we did not use that as a guide and do not want to confuse the reader. Decided to go through routes and areas from north to south using maps and table 7 in DEIS to address all three issues.**

### 1. There is too much construction proposed

(Comments included: Too many new ORV ramps and too many ORV access points proposed. Consider fewer new ramps, but more pedestrian access points. Provide more ORV access points (e.g., soundside access on Bodie Island). What if NPS doesn’t get funding to implement? What if new ramps attract CWB nesting?)

**OBJECTIVE:** Reduce the number of new ORV ramps and interdunal roads to that which is necessary to accomplish objectives of the DEIS. Provide multiple access opportunities for pedestrians.

### 2. There is not enough access and no assurance of adequate access during the breeding season

With the apparent expansion of CWB nesting, e.g., least tern (LETE)’s scraping within the villages, there is no assurance under alternative F that any beach areas are not subject to closure for resource protection. Need some way to provide some level of access, even during the breeding season.

**OBJECTIVE:** Compare alternative F with stakeholder suggestions and come up with best approach that is simple to understand and implement.



### 3. Beach miles are “unfairly” distributed (during the nonbreeding season)

Designated routes and areas under alternative F are complicated, difficult to understand and implement (too many overlays: seasonal vs. year-round, breeding vs. nonbreeding, fixed vs. “floating,” different sets of dates for different locations, etc.). Some stakeholders want more flexibility; others want less.

**OBJECTIVE:** Simplify route designations to make them easier to understand and implement and to increase perception of “fairness.”

**Group Discussion on all three issues:** Group went through from north to south using maps 1–7 for alternative F, but also using alternative D maps in DEIS as a guide. Tried to address all three issues above: (1) Eliminate ramps to reduce construction if possible, and see if can allow access where do not have pattern of nesting (have GIS maps with nesting patterns from past few years); have access be light on the land, environmentally appropriate, and strategically located; (2) address issue of birds starting to expand their nesting and use near villages—make sure people can get to use the beaches; and (3) look at distribution of ORV and vehicle free areas during nonbreeding season—address comments that say is unfairly distributed—only 16 miles of vehicle free for half the year. The Group was asked to keep all three of these in mind as well as goal of simplicity, and to go north to south and make decisions on alternative F.

**Map 1:** Bodie Island: Ramp 1 to south of Ramp 2 should be vehicle free. Vehicle-free area needs to be far enough south of Coquina Beach, about 1/2 mile south. Ramp 4 may be impacted by new bridge construction, so NPS will need a new Ramp 2. Retain and relocate Ramp 2 1/2 mile south of Coquina (currently included under alternative F).

Ramp 4 to Bodie Island Spit: Lower level of use in the off season; environmentalists want ORV free for wintering habitat/migratory bird habitat. NPS Biologist has study regarding the wintering foraging habitat for PIPL; ORV users want use in the summer and fall fishing.

Experience of primitive wilderness? South Point is the most remote location. If Bodie Island Spit were vehicle free, it would be the most convenient vehicle-free area. Birds keep trying to nest in this area, but predation is very high there. Might be a good area to leave open to ORV; boat and bridge traffic eliminates some aspect of wilderness feel.

Two tenths of a mile below Ramp 4 begins seasonal ORV management, currently. Move transition zone south? Yes, to the north end of the flats (can be closed if birds use it, but not preemptively closed). Moved to 4/10 mile south of Ramp 4, approximately where the Bait Pond seasonal spur route is. This needs to be accurately measured. **NPS to determine accurate distance measurement.**

Seasonal dates: Confirmed: August 1–March 14. This gives ORVs one summer month and BLSK have bait ponds, as they are late nesters; however, if BLSK show up in August, the area is still subject to resource closure.

Ramp 4: Pedestrian trail proposed to flats currently under alternative F. Would need a boardwalk bridge along a wetland area. If there is pedestrian access along shoreline, it makes it easier to avoid ORV traffic. Pedestrian trail option should move forward—may need boardwalk through wetlands.

Interdunal route proposed by NCBBA: No, NPS does not want to do that as it would be too hard to get through wetlands.

Eliminate vehicle access to Bait Pond (pedestrian access still OK). Red line along to the Inlet is currently accurate (with slight curve towards the soundside). Might eliminate half of the last hatch mark. Will depend on the configuration.

#### **Decision:**

- Leave ramps as they are; keep relocated Ramp 2.

- Move open ORV area south to Bait Pond spur area (change to green on map).
- Remove Bait Pond spur access.
- Keep pedestrian trail at Ramp 4.
- Remove about half of a square hatch mark at end of spit on map.
- Seasonal dates for seasonal section: August 1–March 14.

**Maps 2 and 3:** Ramp 23 has typically been closed due to bird activity. Birds are gravitating toward the ramps and are nesting there. Instead of floating closures, perhaps make it defined, similar to alternative D. Include a 100-car parking lot near tri villages. Do it in a gap in the nesting pattern? Right at village edge? Parking lot at Ramp 23 would be converted to a pedestrian walkover. Beach is wider there, adjacent to a tri-village; day use areas have bigger parking lots; at a minimum, this area should have port-a-potty, not a whole lot of fixed facilities, but some level of development that sets it apart from pedestrian access or ORV ramp. Encourage concentrated access in this area to access beach without having to drive on it. Ramp is now used for pedestrian access. **Problem: Ramp 23 area treated the same under all alternatives—would possibly necessitate a supplemental DEIS. Need to talk to solicitors. And see how much shifting will occur.** Go with alternative D under this stretch of beach; eliminate floating areas.

Between ramps 23 and 27: Two new ramps under alternative F. Recommend one ramp, not two. No AMOY nests since 2007, but historically have used this area. Area varies with bird use; any construction may attract birds. Alternative F has floating 1.5-mile area: Best to take floating area, make permanent and year-round in a fixed location? Moderate parking lot south of Salvo and north of Avon, with pedestrian access.

**Decision:**

- Follow D in this location and eliminate floating areas. Designate about half ORV and half pedestrian (about 10 miles total).
- Use Ramp 23 as pedestrian access—maybe a 50-car lot or expand parking at Ramp 23. Highly likely that 23 would face resource closures. It is not reliable for access. Joint use (pedestrian and ORV access) is not allowed on ramps.
- Construct a new ramp south of Ramp 23 for ORVs. Pick either 24 or 26 for a new ramp; use the other for a small pedestrian walkover—assume is Ramp 24.
- From existing Ramp 23 to New Ramp 24—pedestrian only **if village is also non ORV**; need to shift about 1.5 miles. Salvo line to a mile south would be vehicle free.
- Ramp 24 to 27—stays as is—new small pedestrian access where New Ramp 26 was indicated on alternative F map—maybe a 5- to 10-car lot with trail.
- From 27 to 30—vehicle free—like alternative D.
- New ramp at 32.5—needs to be far enough north of where there is a traditional pattern of nests.
- Ramp 32.5 to village—vehicle free.
- Avon village—vehicle free for now—until check miles.
- South of Avon—under alternative F: Ramp 38, delete New Ramp 39 south of Haulover—this is not a suitable area—too narrow—soon will be an inlet. Alternative D is an accurate map of the final decision.
- Fix locator arrow for Kite Point.
- Buxton—vehicle free year-round.

**NOTE on terminology:** Instead of calling “non-ORV” or “pedestrian” area, call “vehicle-free” area.

**Sidebar notes:** Can reevaluate an option that was dismissed, but included again due to public comments—can be included in FEIS without doing a supplemental. Eliminate ORV use and include parking infrastructure are all included under alternatives dismissed. Other issue: Justifying not providing same level of protection for terns everywhere. Acceptable vs. unacceptable impact: Is it acceptable to impact one bird?

**Discussion with Mike Stevens on several subjects:**

**About Ramp 23/options not analyzed within DEIS:** Exact locations can change? Or will trigger SEIS?

**Decision:** No, would not trigger. Might depend on what the cumulative differences are. The specific Ramp 23 change is a reasonable change in response to comments, not wholesale difference. Need to put into Final what was changed and why, including rationale. Need to acknowledge any opposition and why that was not incorporated. Per DO-12: make the change in the text, wherever possible. EQD includes discussion about **why** was changed in the response to comment, not the FEIS. Mike—that should be OK as long as there is a cross reference and the reader is led to the response.

**About level of protection (non PIPL): Provide minimal protection without damaging resource or forcing a closure:** Create more day use areas and in those areas, they would be for concentrated recreation and nonlisted bird nesting protection would be minimal. What is obligation under Organic Act to give maximum protections? Also under fire for maximum buffers for nonlisted species. Hard to justify both. MBTA/take issue: thriving species. If provides less protection and results in abandonment or predation due to disturbance, this is a slippery slope. Need to give populations room to grow, not worry about protecting individual birds from a take. Any MBTA take not the same as ESA take. Any new info that comes during the drafting of the FEIS can be incorporated (including population numbers).

**Regarding the second bullet on Mike’s list:**

- Establish new “day use” parking lots adjacent to each village, and expand existing day use area parking. Refine language as follows: When breeding activity involving non-listed species occurs within the villages or within 1/4 mile of day use area parking lot, NPS will monitor the site but not install buffers until nest(s) occur. ~~When~~ If nesting or chicks occur within a village or in the immediate vicinity of paved roads, parking lots, campgrounds, buildings, and other facilities, NPS retains the discretion to provide resource protections to the maximum extent possible while still allowing those sites to remain operational.” NPS will provide the minimum resource protections necessary to prevent direct loss of nests or chicks.

The enabling legislation: Contemplated where things could be developed for visitors—and OK to treat that area differently. Might close a little bit of it, or just protect nest from direct take without shutting the beach down. These areas need to be clearly drawn: Areas that are developed for the convenience of the visitor (including Coquina, Lighthouse, Frisco, Hatteras Day Use). What is the definition of developed for visitors? Parking? Bathrooms?

The executive order is good validation for why ORV development (ramps) does not fall under “convenience for the visitor.” And to restrict ORVs to protect the resource. Non-ORV use is not addressed by the executive order.

Privatizing the beach and not protecting the resource? Just a concern to think about, or how the NPS will respond to that comment. Providing the parking lots in order to encourage all people to use them, not just oceanfront homeowners.

**Decision:** Mandated to prevent MBTA take. Do have to watch out for whatever level of take is controlled by the MBTA. That is inflexible. The Organic Act offers more global protection.

**About Alternative Transportation:** Shuttle to access trails? No, a shuttle would not be a viable option. County has also shown no motivation to create parking in the villages. Provide protection without unacceptably impeding visitor experience. Will prevent direct take of a nest. (Language from Consent Decree is good—provide protection while allowing the areas to remain operational for visitors while preventing a direct take.)

**Decision:** Do not include for now; include in the plan that it might be an option for the future.

**Map 4:** Enhance paved area near lighthouse road to allow handicap access. Consider having boardwalk from end of road to other bog, then a pedestrian shortcut to the pedestrian beach, increasing accessibility. Leave demarcation line above Ramp 43—using that as an access point for pedestrians. Does not need to be included in this plan, but can be included as rationale for performing that action in the future.

Eastside Cape Point: OK with designated vehicle corridor, excluded from SMA. Toward New Ramp 47, nesting patterns are consistent. Possibly move Ramp 47 west, so it is not right at a nesting area. Would not shut off inner road due to buffers. Hybrid of F and D—interdunal road is OK. Put new ramp somewhere between proposed Ramp 47 and 48 (*indicated as Ramp 47.5 on new map*).

ORV access: Red area vehicle free? Would shift miles and address nonbreeding concerns. Could park at campground and walk. But still maintain access on east side. On alternative F map—all red areas would be vehicle free year-round. Possibly areas along interdunal road where pedestrians/can walk over and get to Cape Point east of the ORV access area.

Two tenths of a mile west to Cape Point during the breeding season—adding on other end. Designate it as a route for up to 4/10 mile and can make smaller with pre-nesting. Drainage area—unsure what would happen without vehicles on it. Shift the line westerly around the hook (green X'd line)—shift a little farther, NPS to determine how far (range from 2/10 to 4/10 mile). Full protection would be afforded in this area. Lighthouse beach would be considered a developed area. Lighthouse eventually slated for a bathhouse (needs funding).

**Decision:**

- Interdunal road stays. Remove connections to the beach. NPS will provide pullouts/parking along this road to be able to park and walk to beach.
- Add one ramp west of New Ramp 47 (combo of New Ramp 48/47, located in between the proposed ramps in alternative F map).
- Red checked lines—change to vehicle free year-round.
- Green squares extended westward approximately 4/10 mile around the point to the west (**Mike to determine exact distance**)—change green Xs to squares and remove “limited ORV access” label.
- Frisco: Need to revisit village closures. Due to erosion, should be closed year-round. If less protection in day use areas, then should keep village areas closed. **No decision made. Tabled for later.**
- Buxton closed year-round.

**Map 5:** Other than Hatteras and Frisco Village closures, Map 5 is OK (alternative F map). Delete interdunal road. Pole Road puts you near inlet. Do not need three red segments; could just be terminal parking for oceanside access. Need map with current GIS.

**Decision:**

- Hatteras and Frisco Villages—show as closed for now.
- Re-describe mileages—spit does not extend much farther than that after Spur Road. Route will continue two green blips to the left of the star at Spur Road.

- Between Cable Crossing and Spur Road stars—remove red and delete interdunal road.

**Map 6:** North of 59, vehicle free year-round. Problem is that parking is south of Ramp 59, so they would need to cross the ramp. Can we move the ramp so that parking is north of ramp? Best solution would be to move Ramp 59 south of the current parking area. Checked with Kenny: Yes—move to south of 59 parking.

ORV area from Ramp 59 down to Ramp 64 would be open because area is too narrow for most types of nesting. One potential problem is that under severe weather conditions, area near Ramp 62 often has overwash and may be inaccessible for ORVs.

Remove Ramp 62. Only new ramp near 64. Move Ramp 64 a bit farther north. Look at site to determine exact location.

Reversed labeling for alternative F for north end turnout MP 64 and north end turnout MP 59.5.

Need some place for pedestrians to park and walk to trail to access area near Ramp 59.

Stick with vehicle-free area on either side of Pony Pens.

Increase ORV area north of 67 up to 2/10 mile, but need to determine the final balance of miles.

**Decision:**

- Move Ramp 59 to south of existing parking; provide just pedestrian access north of new ramp.
- From Ramp 59 south—ORV year-round to new ramp just north of 64.
- Delete New Ramp 62.
- From New Ramp 64 south—leave vehicle free on either side of Pony Pens.
- Fix labeling for north end turnouts.

**Map 7:** Ocracoke day use area north to 68 would be vehicle-free area year-round. However, from Ramp 68 north to the Ocracoke Campground should stay closed during camping season, but could be opened during off season.

From Ramp 72 south, ORV route subject to closure.

Leave two red areas south of Ramp 72 red.

**Decision:**

- May extend ORV area farther to north at 67— wait to see how mileages turn out.
- Ramp 68 north to campground—keep seasonal use—same seasons.
- Ramp 68 south to Ocracoke day use—change to vehicle free year-round.
- Change southern tip to ORV route—change from Xs to squares—would be subject to resource closure; remove “limited ORV access” label.

**Other Issues:** Seek partnerships with State and villages to highlight other visitor opportunities and areas.

Village beaches have two options: (1) Close to ORV use year-round or (2) treat all villages the same and close during 7-month breeding season (April 1–October 31). Need to add up miles and if OK—err on side of year-round ORV closures in villages—for these reasons:

- Consistency
- Better compliance with executive order to minimize conflicts in populated areas
- Management of turtles easier

- Becoming more problematic with erosion—will eventually be closed due to safety concerns
- Solve conflicts during the shoulder seasons

## E. REMAINING ISSUES

### 1. Periodic review

OBJECTIVES: Review topics that are “subject to periodic review” and confirm best approach.

IDEAS FOR DISCUSSION:

- Revise periodic review language to say “where progress is not being made toward goals, periodic review and adaptive management ‘may provide for increased ~~appropriate~~ restrictions...’”
- Is there anything related to ORV management or resource management that is listed as “subject to periodic review” that should be “fixed” instead?
  - Hours of allowable night driving
  - Night-driving modifications (+/- 2 hours) for commercial fishermen
  - Carrying capacity
  - Location of designated SMAs
- **Concern ID 24216**: Commenters stated that the 5-year review was too long to wait because of the dynamic nature of the Seashore, and that reviews should be more frequent.
- **Concern ID 24217**: What constitutes a “major hurricane”? Also, language should be clarified that protection measures could be both increased and decreased.

**Group Discussion/Decision**: First bullet: OK; “increased” should be underlined (it’s a new word, added in).

Second bullet: Hours of night driving have been fixed, no longer up for periodic review. Night-driving modifications: +/- 2 hours can allow commercial fishing to start at 5 a.m. and can restrict it as necessary. Need something to distinguish them as commercial (will be a fluorescent permit on dash). Can be changed every 5 years.

Third bullet: Carrying capacity—leave as fixed, per new revisions.

Fourth bullet: SMAs—simplify definitions of SMAs and make it subject to review. Needs to remain under periodic review. After storms and other events that significantly change or create new habitat (would revise SMAs) (p. 47 of the SELC letter for language).

**Concern 24216/24217**: Not just hurricanes—all storms or events that change habitat quality and quantity; include “or more often ...” language from p. 54 of the SELC letter.

### 2. Handicap accessibility

Use of ORVs to provide “equal access” to areas accessible by pedestrians. Restrictions on pets.

OBJECTIVES: Provide reasonable access and ensure the plan is in compliance with ADA or other legal requirements.

IDEAS FOR DISCUSSION:

- Inadequate number of handicap-accessible boardwalks (four is not enough) and beach wheelchairs.

- SUP concerns: Not reasonable for handicap driver to return vehicle to road (may not always have a fully capable driver).
- Other ideas?

**Group Discussion/Decision:** ADA does not apply—the ARA applies to federal agencies. Need to fine-tune wording. Do not need to provide for everyone to be able to go everywhere. Comfortable with language in DEIS and retain option for a disabled person to be transported to areas for a family gathering, etc. Need solicitor language for why ADA does not apply but ARA does.

Need to identify new ramps and identify where accessible boardwalks could be created. In planning for specific construction new boardwalks, accessibility would be considered.

### 3. Resource education for pedestrians

Is not mandatory, yet pedestrians are responsible for the majority of resource closures intrusions. NPS approach to signing and information is highly regulatory and would be better received if it were more of an educational approach that invites public support and involvement.

**OBJECTIVES:** Develop a sustainable, highly visible, and effective resource education program for all beach users, including pedestrians. Come up with a friendly educational approach that encourages visitors to “share the beach” with (or “yield the beach” to) wildlife during critical life-cycle stages.

#### IDEAS FOR DISCUSSION:

- Develop a good 8- to 10-minute video that can be watched online, in person, or on DVD in rental homes. Content could be similar to the ORV video, except ORV video might be longer to cover specific ORV requirements.
- Establish a full-time education outreach coordinator position to develop programs and volunteer opportunities that help develop stakeholder participation and buy-in with resource protection programs.
- Develop educational signs to replace regulatory signs for turtle nests and to complement regulatory signs in bird nesting areas.
- Come up with simple wording to convey the key messages (e.g., “share the beach with wildlife” for areas with activity restrictions; “yield the beach to wildlife” for areas that are temporarily closed).
- Have a “beach badge” program to identify pedestrians who have completed the resource education program (or require completion of a program for night use of the beach during turtle season).

**Group Discussion/Decision:** Mike says make a commitment to dealing with this in the FEIS but remain general. Develop a resource education program that includes pedestrians. At CAHA, there is definitely room for improvement. CACO has a mock PIPL nest and info at the visitor center. CAHA could do walks and talks about turtle nests. It will take more staff but is completely appropriate and reasonable. Wants a major step forward in resource education outreach as a result of this plan. Needs to be a fully dedicated position. Make a commitment to doing it in the FEIS, would like a firm commitment for the position to develop these programs. Park agrees resource stewardship and resource education is important for all visitors and will add a position in the staffing to become the education outreach coordinator. Key to success in the long run is community ownership and stewardship, and this position is needed.

### 4. Additional staffing needed to implement plan effectively

**OBJECTIVE:** Consider additional needs that have been identified by superintendent during 2009 and 2010 implementation of the consent decree.

IDEAS FOR DISCUSSION:

- Management-level position (GS-13?) to serve as “beach program manager” and provide inter-divisional coordination (in lieu of Superintendent) for beach management decisions.
- Science and Adaptive Management Coordinator (GS-11 or 12?) to develop, coordinate, implement, and manage an ongoing research, habitat modeling, and adaptive management program related to protected species that utilize beach and beach-related habitat. There is an obvious need for continued research (i.e., a research plan) as a follow-on to the EIS. How should we address it?
- Resource education ranger (GS-9) to develop and implement ongoing resource education program for all beach users, including pedestrians and ORV users. Includes development of educational material, programs, and signs.
- Public affairs assistant (9-month STF GS-7?) to handle routine phone calls and information requests related to beach access and to coordinate distribution of information.
- Potential funding: Could fund some of these positions with ORV permit fee revenues.

**Group Discussion:** Not in response to a specific comment. In the future, the superintendent will not be as active in the ORV decisions, so a management strategy needs to be discussed. Possibly two superintendents? One for beach management, one for everything else? Needs to have decision-making authority. May not be needed in the long run, but in the interim, it is necessary.

Coordinator : Not to physically do the research, but to develop and coordinate.

Public Affairs: Cyndy’s time is almost entirely spent on ORV; does not get the opportunity to do the positive outreach of her job. Need lower-level person to deal with day-to-day ORV issues.

Hard to put a priority on which position should come first. They are all important and needed. Will come down to funding provided by the permitting system. Need some capacity to address these functions. DEIS does not indicate the funding sources or costs projected. Language does not bind NPS.

**Decision:** In plan, identify functions needed, not positions. Would be common to all action alternatives. Do not add dollar estimates.

## 5. Next steps/description of selected alternative

**Other Issues from Mike Murray (email of 6/10/10 to Sandra Hamilton and Doug Wetmore):**

*Alternative transportation study.* Seems like a good suggestion. Let’s add it to the list of additional plans that NPS will seek funding for.

Concern that suggestions or resolutions from this study would result in need for more NEPA documents. For example, encouraging water taxis and beach shuttles may require an EA.

Alternative F has land shuttle.

Alternative E has water shuttle.

Say that this study would focus on a few key areas. Would we say what areas? Just state “a few key areas,” no specifics.

*Wilderness suitability study.* Our plan is to address that in the upcoming GMP. Any concerns about deferring it until then?

This will be on the list for internal scoping for the GMP in the fall.

*Adaptive management initiatives.* There is obviously an ongoing need for continued research (i.e., a research plan) as a follow-on to the EIS.



*Traditional cultural property issue.* How to address in FEIS. Need to cover in response to comments.

*Handicap accessibility issue.* What are the applicable statutes (is it ADA or something else) and are we comfortable that the plan is in compliance with same?

Response would be that there are numerous ORV-accessible access points that could be used.

*Be sure “deliberate violation” buffer expansion is not part of “selected alternative.”* Eliminate this from final preferred alternative because seems to be counterproductive to public relations. Need to check that this is not in the preferred alternative anywhere.

**Follow-up Items:**

Notes will be reviewed and distributed Monday.

Mileage totals—Berger will redo maps and calculations on Monday. Will feed into Village Beach decision.

Matching up the vehicle-free areas with the nonbreeding areas. Make sure are we are comfortable with this.

Turtle language will be written by end of next week. Simply and revise to make it consistent with what was discussed.

Park will look at breeding/nonbreeding SMAs and see if can simplify that.

Nancy and Sandy have a call on Monday to go over responses. Go over most responses and only get park involved at end.