



United States Department of the Interior
NATIONAL PARK SERVICE
OUTER BANKS GROUP



Fort Raleigh National Historic Site

Wright Brothers National Memorial

Cape Hatteras National Seashore

1401 National Park Drive

Manteo, North Carolina 27954

IN REPLY REFER TO:

L7615 (CAHA)

July 20, 2010

Mr. Pete Benjamin
U.S. Fish and Wildlife Service
Raleigh Field Office
P.O. Box 33726
Raleigh, NC 27636-3726

Dear Mr. Benjamin:

On April 12, 2010, the National Park Service (NPS) and the U.S. Fish and Wildlife Service (FWS) entered into a Memorandum of Understanding (MOU) in response to Executive Order 13186, which promotes the conservation of migratory birds. The purpose of this letter is to coordinate with your office regarding the applicability of the MOU to the current off-road vehicle (ORV) management planning process for Cape Hatteras National Seashore. In March 2010, prior to the signing of the MOU, NPS released a Draft Off-Road Vehicle Management Plan/Environmental Impact Statement (DEIS) for the Seashore. The public comment period on the DEIS closed on May 11, 2010. NPS is currently in the process of preparing a final EIS (FEIS) and a proposed rule to implement the FEIS.

One of the primary purposes of the Executive Order is to reduce unintentional take of migratory birds as a result of agency actions. According to the MOU, NPS and FWS will work together to develop conservation measures that are consistent with the Executive Order to help reverse the decline of migratory birds, to protect and restore the natural habitat of migratory birds on lands administered by NPS, and to prevent the loss or degradation of remaining natural habitats.

We believe that Alternative F, which is the NPS preferred alternative, will minimize the unintentional take of migratory birds on their breeding, migrating, and wintering habitats while still allowing appropriately managed off-road vehicle use/recreation to occur on the Seashore. We previously requested formal Section 7 consultation on the potential effects of Alternative F on the federally listed threatened and endangered

species, which includes the piping plover. We now request your concurrence that implementation of Alternative F adequately addresses concerns about impacts to migratory birds and is in compliance with the MOU. Please advise us if you believe that further consultation is necessary and consider this letter as our request to initiate such consultation if deemed necessary.

By establishing areas that are vehicle-free year-round, prohibiting or restricting ORV use in resource sensitive areas, implementing pre-nesting closures at the start of the breeding season, and implementing resource closures when breeding activity is observed to maintain adequate nest buffers and unfledged chick buffers, NPS will promote the conservation of migratory birds by incorporating conservation measures into the proposed action that protect listed as well as non-listed species. NPS is also establishing desired future conditions (DFCs) for the number of breeding or nesting pairs, fledge rate, and depredation rate for piping plovers and American oystercatchers and for the annual peak number of nests for colonial waterbirds (DEIS pp. 7-10). In response to comments on the DEIS, the DFCs for colonial waterbirds that were presented will be revised upward in the FEIS and will be based on a longer period of historical nesting data. The DFCs will provide long-term goals for increasing the number of breeding/nesting pairs of, and increasing the fledge rate and decreasing the depredation rate for, piping plovers and American oystercatchers; and for increasing the annual peak number of nests for colonial waterbirds. The DEIS also identifies adaptive management processes, based on periodic review, that will allow for systematic evaluation of progress toward attaining the DFCs and provide for changes in management procedures should any DFC not be met.

We believe that the above mentioned resource protection closures and other conservation measures outlined in the DEIS are consistent with section 3 of Executive Order 13186 concerning the responsibilities of Federal agencies to protect migratory birds. We also believe that the completion and implementation of the FEIS will help reverse the decline of migratory birds at the Seashore. The migratory and wintering bird surveys that the staff conducts on a regular basis will help document long term trends for the species surveyed. Implementation of Alternative F should minimize actions that may negatively impact migratory birds, including impacts to their breeding, migrating, or wintering habitats, and help protect and restore the natural habitats of migratory birds and prevent the loss or degradation of remaining natural habitats by limiting ORV access to specific areas of the Seashore.

We look forward to receiving your response.

Sincerely,



Michael B. Murray
Superintendent