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U.S. District Court

EASTERN DISTRICT OF NORTH CAROLINA

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**Case Name:** Defenders of Wildlife et al v. National Park Service et al  
**Case Number:** 2:07-cv-45  
**Filer:** Defenders of Wildlife  
The National Audubon Society

**WARNING: CASE CLOSED on 04/30/2008**

**Document Number:** 85

**Docket Text:**

**STATUS REPORT and Response to Notice of Compliance with Consent Decree** by Defenders of Wildlife, The National Audubon Society. (Attachments: # (1) Index of Exhibits, # (2) Exhibit 1 Charts, "Species Rebounding Under Consent Decree", # (3) Exhibit 2 Testimony of W. Judge, Hearing Before Senate Subcommittee on National Parks (July 30, 2008), # (4) Exhibit 3 H.R. 718 (Jan. 27, 2009), # (5) Exhibit 4 S. 1557 (Aug. 3, 2009), # (6) Exhibit 5 Excerpts from Preserve Beach Access website) (Carter, Derb)

2:07-cv-45 Notice has been electronically mailed to:

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**Document description:**Index of Exhibits

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**Document description:**Exhibit 1 Charts, "Species Rebounding Under Consent Decree"

**Original filename:**n/a

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**Document description:**Exhibit 2 Testimony of W. Judge, Hearing Before Senate Subcommittee on National  
Parks (July 30, 2008)

**Original filename:**n/a

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**Document description:**Exhibit 3 H.R. 718 (Jan. 27, 2009)

**Original filename:**n/a

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**Document description:**Exhibit 4 S. 1557 (Aug. 3, 2009)

**Original filename:**n/a

**Electronic document Stamp:**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION

No. 02:07-CV-0045-BO

DEFENDERS OF WILDLIFE and )  
 THE NATIONAL AUDUBON )  
 SOCIETY, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 NATIONAL PARK SERVICE, et al. )  
 )  
 Defendants, )  
 )  
 and )  
 DARE COUNTY, et al. )  
 )  
 Defendant- Intervenors. )  
 \_\_\_\_\_ )

PLAINTIFFS' STATUS REPORT  
 AND RESPONSE TO NOTICE  
 OF COMPLIANCE WITH  
 CONSENT DECREE

[E.D.N.C. Local Rule 5.1, 7.1]

Plaintiffs Defenders of Wildlife and National Audubon Society submit this status report in response to the Notice of Compliance with the Consent Decree filed by Defendants. The Consent Decree requires the National Park Service ("NPS") to provide the parties and the Court with reports including data on various bird and sea turtle species from the previous breeding season with information on closures, nesting sites and management. Consent Decree ¶¶ 19, 21. In addition, the NPS is required to provide the Court a written summary of the progress of the

Negotiated Rulemaking Advisory Committee for ORV Management at Cape Hatteras National Seashore. Id. ¶ 20. Plaintiffs submit the following additional information regarding the status of the implementation of the Consent Decree:

1. Plaintiffs have reviewed the reports filed by the NPS and find that the NPS has complied with both the letter and spirit of the Consent Decree. We recognize that some of the intensive management measures required by the Consent Decree have placed additional burdens on NPS staff. We appreciate the efforts by NPS management and staff to comply with the management requirements imposed by the Consent Decree. Our overall assessment is the Consent Decree is achieving its objective of stabilizing and increasing nesting bird and sea turtle populations on Cape Hatteras National Seashore until a final ORV management plan and rule are adopted. All species appear to be responding favorably to the enhanced protections afforded by the required management measures. For instance, the number of nests laid by colonial waterbirds (least terns, common terns, and black skimmers) more than tripled in 2009 as compared to 2007 (the last pre-Consent Decree year), increasing from 212 nests to 642, and the number of chicks fledged doubled (86 in 2007 to 174 in 2009). The number of turtle nests reached 104, more than all previously recorded seasons except for last year's record-setting 112. Piping plover numbers also increased: in 2009, there were nine nesting pairs and six chicks fledged, as compared to six nesting pairs and

four chicks fledged in 2007. Attached as Exhibit 1 are charts showing these trends, using NPS data from its reports.

2. Since recommending to the Court that it approve the Consent Decree in April 2008, Defendant-Intervenors Dare County and the Cape Hatteras Access Preservation Alliance (“CHAPA”) have worked doggedly to enact legislation to invalidate the Consent Decree. In 2008, Dare County and CHAPA supported companion bills in the U.S. House and Senate (H.R. 6233 and S. 3113) to overturn the Consent Decree. Their efforts violated the spirit of the Consent Decree (see page 3 and paragraphs 32-33, 42) and the constitutional principle of separation of powers. *See, e.g., Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211, 228 (1995) (“separation of powers prohibition . . . is violated when an individual final judgment is legislatively rescinded”); *Clinton v. Jones*, 520 U.S. 681, 699 (1997) (“Congress may not exercise the judicial power to revise final judgments.”).

3. After testimony before congressional subcommittees in favor of the bills by Dare County Commissioner Warren Judge and against the bills by National Park Service Deputy Director Daniel Wenk and by Southern Environmental Law Center attorney Derb Carter, neither bill received favorable committee action. (Mr. Judge’s testimony before the Senate committee is attached as Exhibit 2.) The House Bill never came up for a committee vote and the Senate

Bill was defeated by a vote of the Senate Committee on Energy and Natural Resources on September 11, 2008.

4. In 2009, Dare County and CHAPA renewed their efforts to enact legislation to invalidate the Consent Decree with the introduction of bills in both the House and Senate (H.R. 718 and S. 1557). Upon information and belief, despite ongoing lobbying efforts in favor of these bills by Dare County and CHAPA, the bills remain pending, and the Consent Decree is still in force. A copy of these two bills is attached hereto as Exhibits 3 and 4. Information regarding the ongoing lobbying effort to enact the bills is available at the Dare County-sponsored website. <http://www.preservebeachaccess.org>. Excerpts from that website are attached as Exhibit 5.

5. While seeking to overturn the Consent Decree by legislation, Dare and Hyde Counties and CHAPA have lauded the Consent Decree's management measures as providing "important biological benefits and protections" for threatened piping plovers in an ongoing lawsuit in the United States District Court for the District of Columbia, in which they are challenging designation of portions of Cape Hatteras National Seashore as critical habitat for wintering piping plovers under the Endangered Species Act. Cape Hatteras Access Preservation Alliance, Dare County, and Hyde County, North Carolina v. U.S. Department of Interior, et al., 09-0236-RCL (D.D.C.).

6. In a memorandum in support of a motion for summary judgment in that case, CHAPA and Dare and Hyde Counties argue the designation of critical habitat was arbitrary and capricious because the species was already protected by an existing management plan, highlighting at least three management measures in the Consent Decree, and concluding these measures in the Consent Decree provide “important biological benefits and protections” and provide “assurances that the conservation management strategies will be implemented to accomplish the objectives” of protection of piping plover habitat on the Seashore and critical habitat designation is not necessary. *Id.* (Mem. in Supp. of Pls.’ Mot. for Summ. J., Feb. 4, 2010, at 22, 23, 43).

7. Finally, on March 5, 2010, the NPS released a draft environmental impact statement (“DEIS”) and off-road vehicle management plan. It is available at: <http://parkplanning.nps.gov/documentsList.cfm?parkId=358&projectId=10641>. On March 12, 2010, EPA published a notice of availability in the Federal Register, which began a 60-day public comment period on the DEIS and proposed plan. 75 Fed. Reg. 11881, 11882 (Mar. 12, 2010). The DEIS includes an NPS-preferred alternative that would designate 52 of the 68 miles (76%) of Seashore beaches as year-round or seasonal ORV routes subject to natural resource closures. The comment period ends May 11, 2010.

Respectfully submitted this 17th day of March, 2010.

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CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of March, 2010, served a copy of the foregoing pleading upon the parties listed below by electronically filing the foregoing with the Court on this date using the CM/ECF system:

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IN THE UNITED STATES DISTRICT COURT  
 FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
 NORTHERN DIVISION

No. 02:07-CV-0045-BO

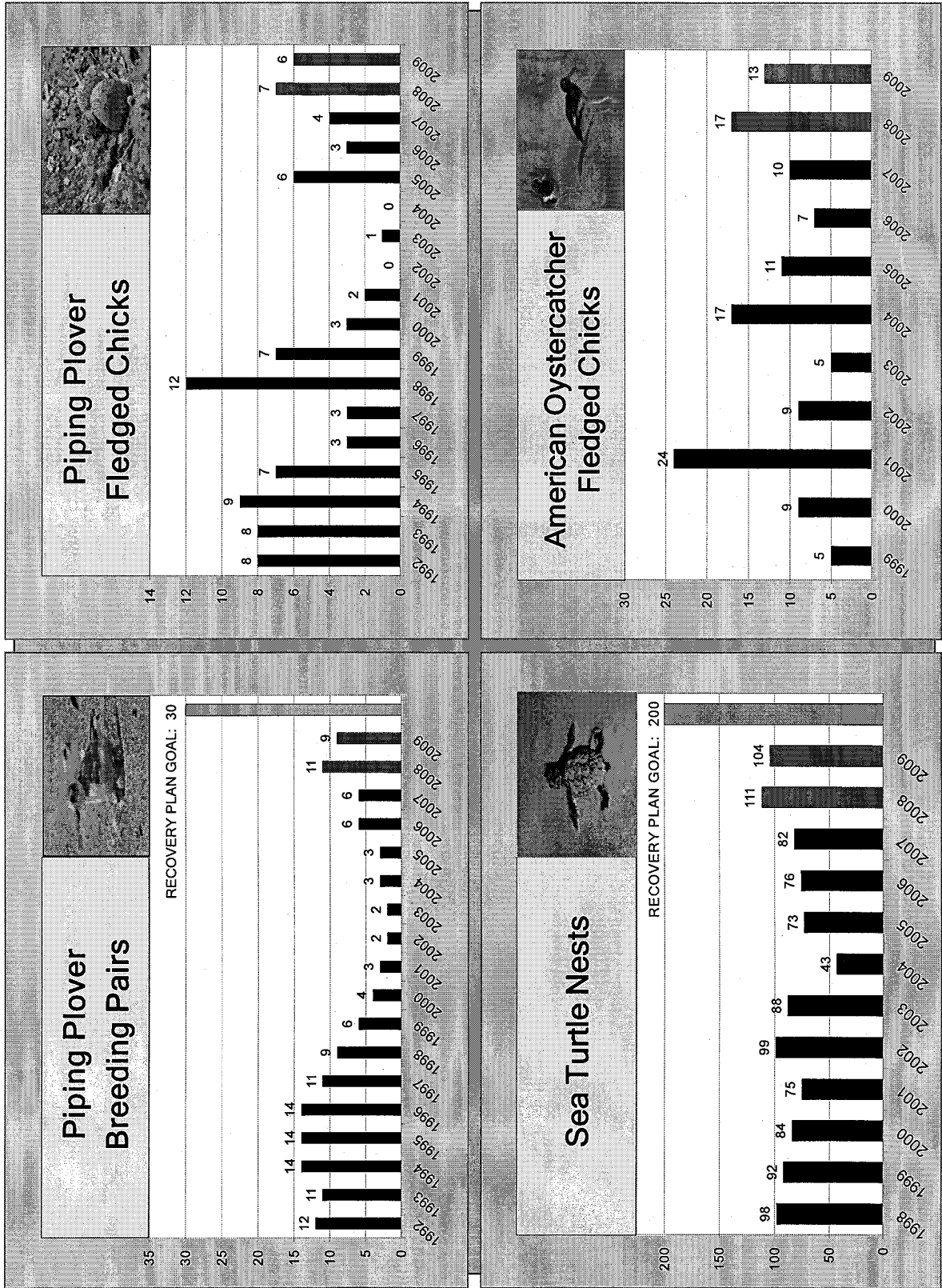
DEFENDERS OF WILDLIFE and	)	
THE NATIONAL AUDUBON	)	
SOCIETY,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	PLAINTIFFS' STATUS REPORT
	)	AND RESPONSE TO NOTICE
NATIONAL PARK SERVICE, et al.	)	OF COMPLIANCE WITH
	)	CONSENT DECREE
Defendants,	)	
	)	[E.D.N.C. Local Rule 5.1, 7.1]
and	)	
	)	
DARE COUNTY, et al.	)	
	)	
Defendant- Intervenors.	)	
	)	

**INDEX OF EXHIBITS**

<b><u>Exhibit</u></b>	<b><u>Description</u></b>
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2	Testimony of Warren Judge, Chairman of the Dare County Board of Commissioners, from Hearing Before the Senate Subcommittee on National Parks of the Committee on Energy and Natural Resources, S. Hrg. 110-599 (July 30, 2008)
3	H.R. 718 (January 27, 2009)
4	S. 1557 (August 3, 2009)
5	Excerpts from Preserve Beach Access website

# Species Rebounding Under Consent Decree

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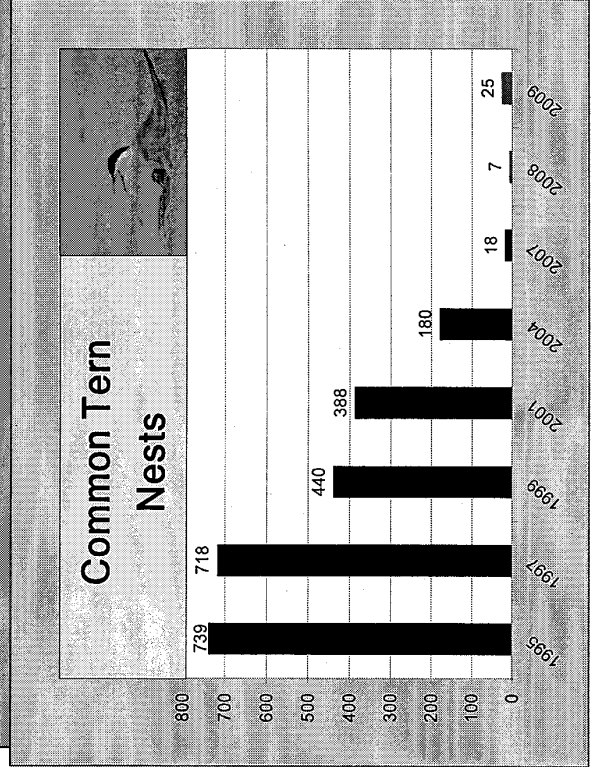
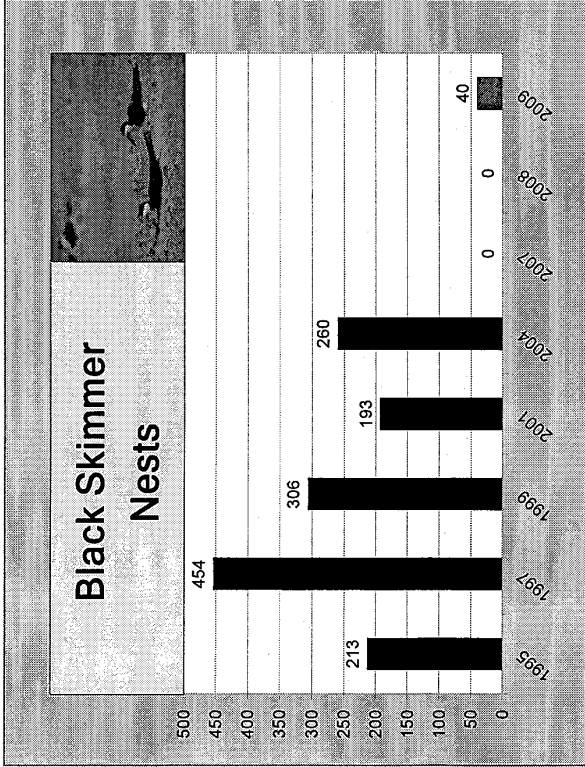
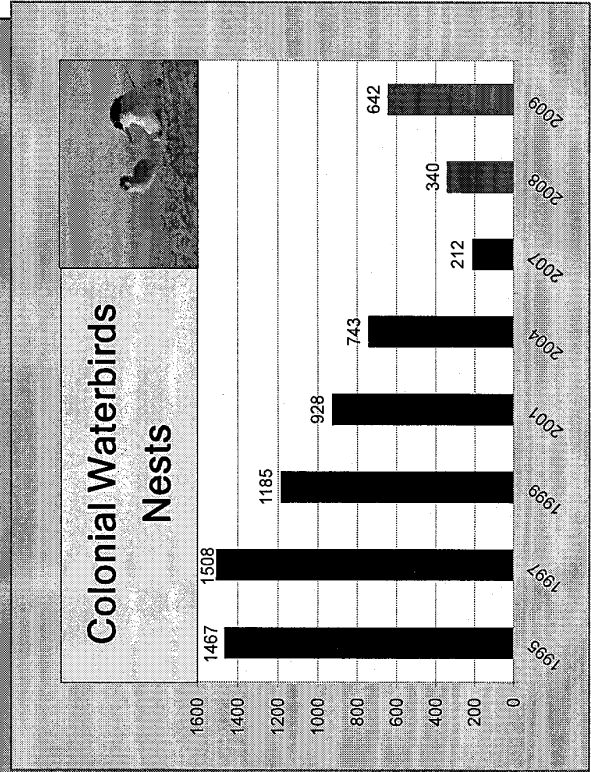
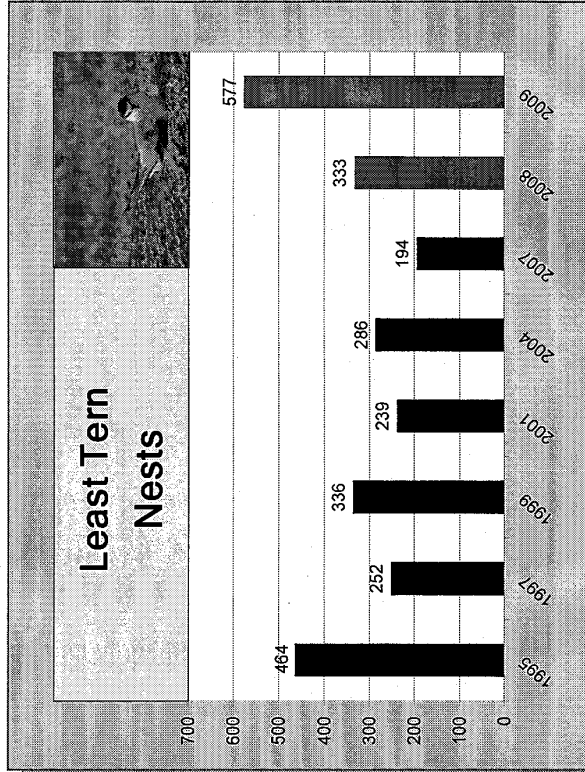


Photos by Walker Golder



# Species Rebounding Under Consent Decree

0032933



**MISCELLANEOUS NATIONAL PARKS BILLS**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON NATIONAL PARKS  
OF THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
UNITED STATES SENATE  
ONE HUNDRED TENTH CONGRESS

SECOND SESSION

ON

<b>S. 1816</b>	<b>S. 3148</b>
<b>S. 2093</b>	<b>S. 3158</b>
<b>S. 2535</b>	<b>S. 3226</b>
<b>S. 2561</b>	<b>S. 3247</b>
<b>S. 3011</b>	<b>H.R. 5137</b>
<b>S. 3113</b>	

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JULY 30, 2008



Printed for the use of the  
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45-339 PDF

WASHINGTON : 2008

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Senator AKAKA. I would like to call up the second panel.

The Honorable Warren Judge, Chairman of the Dare County Board of Commissioners; Derb Carter, Director of the Carolina Office for the Southern Environmental Law Center; Coline Jenkins, President of the Elizabeth Cady Stanton Trust; and, William Braunlich, President of the Monroe County Historical Society.

I want to thank all of you for being here today to testify before the committee. I want to tell you that we appreciate your coming. Some of you have traveled from out of town. We appreciate your time and effort.

Your testimonies will certainly help the committee. I just want you to know that following your testimony you will be subject to questions, and also to ask you to please limit your remarks to no more than 5 minutes. Your complete statements will be included in the record along with any other materials you may submit.

Commissioner Judge, will you please proceed?

**STATEMENT OF WARREN JUDGE, CHAIRMAN, BOARD OF COMMISSIONERS, DARE COUNTY, NC**

Mr. JUDGE. Good afternoon and thank you, Senator Akaka, Senator Burr and Senator Craig. I'm Warren Judge, Chairman of the Dare County Board of Commissioners. On behalf of the 33,000 people who call Dare County their home and six million people who visit Dare County and the Outer Banks every year, it is my honor to appear before you to seek your support for S. 3113 to return the management of the Cape Hatteras National Recreational Area to the Park Superintendent.

I've attached supporting materials by outside counsel Holland and Knight.



The National Park Service created the Cape Hatteras National Seashore in 1937. In 1952, in an effort to alleviate the concerns of the people of Hatteras Island after taking miles of privately owned lands, Conrad Wirth, the Director of the Park Service sent an open letter to the people of the Outer Banks assuring them that there will always be access to the beach for all people whether they are local residents or visitors. His letter went on to acknowledge that the people who had lived in the area for generations would be responsible for caring for the tourists that would arrive to the newly created seashore and that these communities would enjoy the prosperity created by the Park.

Until April of this year, Director Wirth's vision for the Park has been carried out. For decades the National Park Service has balanced the rights of all Americans to access the seashore with the need to protect the Park's resources. In April of this year, special interest environmental groups put an end to the National Park Service's successful and accepted management principles.

As a result of a lawsuit and under the threat of an injunction closing even larger portions of the seashore, a consent order was issued by U.S. Federal District Court Judge, resulting in the closure of significant portions of the seashore to human access including the most popular swimming areas in the seashore and the traditional and world renown fishing areas. Special interest groups were relentless in their pressure on the park and the management in their effort to close the seashore. These special interest groups have no practical sense and advocate the removal of people from the Cape Hatteras National Recreational Area.

Contrary to Director Wirth's acknowledgement that and I quote, "Man is an integral part of nature and a very important consideration of designing solutions in dealing with nature." Senators, this an issue of access for all people to their favorite place in the recreational area, the backside beaches and tidal pools at Oregon Inlet or for Moms and Dads a great place to take their young children to experience the oceanside out of the wave zone. Cape Point is world renown for fishing. There is no better place in the world to drum fish.

Cape Point is where the Gulf Stream and the Labrador Current collide. This phenomenon brings surfers from all over the world. If you surf Hawaii and if surf Australia, you will surf Cape Point.

This is an issue of how heritage and our culture. It is about our people. Generations of Hatterasmen who are descendants of shipwreck victims. It is about the Migdett's, Burrus', Couch's, Dillon's, all who for generations have owned and operated family businesses on Hatteras Island.

There are hundreds of stories that I could share with you today about people whose businesses, as a result of this court order, have declined in some cases by as much as 50 percent since April, even as we are on the prime part of our season. Senators, there are no factories in Dare County. There are no corporate headquarters. We are hundreds of small business men and women.

We go to work everyday to provide for ourselves and to serve as hosts to millions of vacationers as they come to Dare County and the Cape Hatteras National Recreational Area. Many of them eke out a living and are content to do that for the opportunity to live

and to enjoy the outdoors that Hatteras Island provides. Government should not take that away. Government should do all that it can to preserve this way of life.

These same men and women that I have spoken about are the very ones who care for the environment and the beauty of the Cape Hatteras National Recreational Area. You will find them cleaning the beaches or guiding and protecting turtle hatchings. They'll cherish the Park's natural resources.

These are the same resources that attracted them to Dare County and attract the visitors upon whom all of our livelihoods depend. They, too want to protect these resources, but do not believe it should be done without thought of human impact. The Interim Management Plan that was adopted in 2007 worked. The birds and turtles were protected and the people had access to the recreational area.

The people of Hatteras Island understood and accepted the plan. It was developed by the National Park Service in conjunction with the U.S. Fish and Wildlife Service. It gave Park Managers the ability to manage.

That ended when those unwilling to balance interests, who are single minded in their pursuits filed legal action to obtain their goals without thought to the impact on small communities and to the working people who live in those communities. It should now be restored while we work together to come up with a permanent plan that accomplishes these goals. The people of Hatteras Island and Dare County are counting on you to help them to keep the promises made by those before you.

Please help us preserve our culture, our history, our way of life. Please support S. 3113. Thank you for this opportunity to appear before you today.

[The prepared statement of Mr. Judge follows:]

PREPARED STATEMENT OF WARREN JUDGE, CHAIRMAN, BOARD OF COMMISSIONERS,  
DARE COUNTY, NC

Thank you Senator Akaka (Mr. Chairman), I appreciate the opportunity to be here today. It is an honor and a privilege to represent the 33,000 people who call Dare County, North Carolina their home and the 6 million people who visit Dare County and the Outer Banks every year.

I am here today on behalf of those people to ask for your support of S3113 to return the management of the Cape Hatteras National Recreational Area to the Park Superintendent. I have attached supporting material by outside counsel, Holland and Knight.

The National Park Service created the Cape Hatteras National Seashore in 1937. In 1952, in an effort to alleviate the concerns of the people of Hatteras Island after taking miles of privately owned lands, Conrad Wirth, the Director of the Park Service, sent an open letter to the people of the Outer Banks assuring them that "there will always be access to the beach for all people, whether they are local residents or visitors." His letter went on to acknowledge that the people who had lived in the area for generations would be responsible for caring for the tourists that would arrive to the newly created Seashore and that these communities would enjoy the prosperity created by the Park. Until April of this year, Director Wirth's vision for the Park has been carried out. For decades the National Park Service has balanced the rights of all Americans to access the Seashore with the need to protect the Park's resources.

In April of this year, environmental groups put an end to the National Park Service's successful and accepted management practices. As a result of a lawsuit and under the threat of an injunction closing even larger portions of the Seashore, a consent order was issued by a U.S. Federal District Court judge resulting in the closure of significant portions of the Seashore to human access, including the most popular

swimming areas in the Seashore and the traditional and world renowned fishing areas. Special interests groups, in particular National Audubon and the Defenders of Wildlife, were relentless in their pressure on the Park and the management in their efforts to close the Seashore. These special interest groups have no practical sense and advocate the removal of people from the Cape Hatteras National Recreational Area contrary to Director Wirth's acknowledgment that "man is an integral part of nature and a very important consideration of designing solutions in dealing with nature".

Senators, this is an issue of access for all people to their favorite place in the Recreational Area. Have you ever been to Oregon Inlet? It is a first class location to surf fish, and has some of the best family swimming beaches you will ever find. The back side beaches and tidal pools offer moms and dads a great place to take their small children to experience the ocean outside of the wave zone. Cape Point is world renowned for fishermen; there is no better place in the world to drum fish. Cape Point is where the Gulf Stream and the Labrador Current collide. This phenomenon brings Surfers from all over the world. If you surf Hawaii and Australia, you will surf Cape Point. South Beach, too, is a world class beach and known the world over. You do not visit Hatteras Island without spending a day on South Beach.

This is an issue of our heritage and our culture. It is about our people; generations of Hatterassmen who are descendants of shipwrecked victims. It is about two brothers, Stocky and Anderson Midgett, who operated a bus from Oregon Inlet to Hatteras Inlet delivering supplies and people up and down the Island—the Beach was the highway. This is about John Couch, a second generation family business owner, who has provided services for visitors. It is about Allen Burrus a five generation family business owner. Allen's family has owned and operated a Grocery Store in the same location since 1866. Allen's grandfathers watched as the Federal Government took their land for the Cape Hatteras National Seashore Recreational Area, and promised them that they would always be able to hunt, fish, and have access to the ocean. It is about Carol Garris, a wife and mother who with her husband had the American Dream, to own their own business. They worked hard and were successful. When the Consent Degree closed many miles of beach, their business was devastated. Not only is their business in jeopardy, but they are facing personal financial ruin. This is about Carol Dillon, a 79 year old woman, a native of Buxton, who has operated the Outer Banks Motel just north of Cape Point for 50 years. Carol was at the Public Meeting in the early 1950's when Director Conrad Wirth promised the people of Hatteras Island and Dare County that taking their land and making it a National Recreational Area was in their best interests. The land would be preserved forever for all to enjoy.

There are hundreds more of these faces that I can share with you today. These are the people whose businesses, as a result of a Court's order, have declined by as much as 50% since April, even as we are in the prime part of our season. Senators, there are no factories in Dare County; there are no Corporate Headquarters. However, we are as American as you can be. We are hundreds of small businessmen and women; from charter boat captains to commercial fisherman, from fishing tackle stores to gift shops; from motels and cottages to rental homes; from variety stores to eco sports outlets. We go to work everyday to provide for ourselves and to serve as hosts to millions of excited vacationing visitors as they come to Dare County and the Cape Hatteras National Recreational Area for the times of their lives. Many eke out a living and are content to do that for the opportunity to enjoy the outdoors that Hatteras Island provides. Government should not take that away. Government should do all that it can to preserve this way of life.

These same men and women that I have spoken about are the very ones who care for the environment and beauty of the Cape Hatteras National Recreation Area. You will find them cleaning the beaches as they organize beach sweeps to remove litter and trash that is harmful to birds; sitting up all night waiting for a nest of turtle eggs to hatch and then guide them safely to the ocean protecting them from their natural predators on land. These same people have more knowledge of all the birds and nests on Cape Hatteras than any special interest group spokesman that will come before you. The Interim Management plan that was adopted in 2007 worked, the birds and turtles were protected and the people had access to the Recreational Area. The people of Hatteras Island understood and accepted the plan. It gave Park Managers the ability to manage. That ended when those, who are unwilling to balance interests, who are single minded in their pursuits, filed legal action to obtain their goals without thought to the impact to small communities and to the working people who live in those communities.

In a minute, you will hear from the attorney who represented those environmental groups in their efforts to close the seashore's beaches. He will no doubt tell you about his interpretation of the law, and about the correctness of his client's ac-

tions, about the failures of the National Park Service, and even provide you with statistics that he says support his view. Though other lawyers and biologists disagree with his opinions and statistics, he will not tell you that, nor will he tell you about the impact of his and his client's actions on the people of my community. While he may not care about the people of Hatteras Island and Dare County, these same people do care about the resources he says he is trying to protect. These are the same resources that attracted them to Dare County and attract the visitors upon whom all of our livelihoods depend. We too want to protect these resources, but do not believe it should be done without thought of the human impact. The Interim Management Plan provided the balance that we seek. It was developed by the National Park Service in conjunction with the U.S. Fish and Wildlife Service. It protected the resources of the Park and the interests of the community. It gave the National Park Service the flexibility to continue doing that. It should be restored while we all work together to come up with a permanent plan that accomplishes these same goals.

The people of Hatteras Island and Dare County are counting on you to help them, to keep the promises made by those before you. Please help us preserve our culture, our history, our way of life. Please support S3113.

[Resolution, background paper, and attachment 1 have been retained in subcommittee files.]

Senator AKAKA. Thank you very much, Honorable Judge.



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111TH CONGRESS  
1ST SESSION

# H. R. 718

To reinstate the Interim Management Strategy governing off-road vehicle use in the Cape Hatteras National Seashore, North Carolina, pending the issuance of a final rule for off-road vehicle use by the National Park Service.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2009

Mr. JONES introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To reinstate the Interim Management Strategy governing off-road vehicle use in the Cape Hatteras National Seashore, North Carolina, pending the issuance of a final rule for off-road vehicle use by the National Park Service.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REINSTATEMENT OF INTERIM MANAGEMENT**

4 **STRATEGY.**

5 After the date of the enactment of this Act, Cape  
6 Hatteras National Seashore shall be managed in accord-

1 ance with the Interim Protected Species Management  
2 Strategy/Environmental Assessment issued by the Na-  
3 tional Park Service on June 13, 2007, for the Cape Hat-  
4 teras National Seashore, North Carolina, until the Na-  
5 tional Park Service issues a special regulation and long-  
6 term off-road vehicle management plan for the use of Cape  
7 Hatteras National Seashore by the public.

8 **SEC. 2. INAPPLICABILITY OF CONSENT DECREE.**

9       The April 30, 2008, consent decree filed in the  
10 United States District Court for the Eastern District of  
11 North Carolina regarding off-road vehicle use at Cape  
12 Hatteras National Seashore in North Carolina shall not  
13 apply after the date of the enactment of this Act.

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111TH CONGRESS  
1ST SESSION

# S. 1557

To reinstate the Interim Management Strategy governing off-road vehicle use in the Cape Hatteras National Seashore, North Carolina, pending the issuance of a final rule for off-road vehicle use by the National Park Service.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2009

Mr. BURR introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To reinstate the Interim Management Strategy governing off-road vehicle use in the Cape Hatteras National Seashore, North Carolina, pending the issuance of a final rule for off-road vehicle use by the National Park Service.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preserving Public Ac-  
5 cess to Cape Hatteras Beaches Act of 2009”.

1 **SEC. 2. CAPE HATTERAS NATIONAL SEASHORE, NORTH**  
2 **CAROLINA.**

3 (a) REINSTATEMENT OF INTERIM MANAGEMENT  
4 STRATEGY.—During the period beginning on the date of  
5 enactment of this Act and ending on the date on which  
6 the Secretary of the Interior, acting through the Director  
7 of the National Park Service, issues a special regulation  
8 and long-term off-road vehicle management plan for the  
9 use of Cape Hatteras National Seashore, North Carolina  
10 (referred to in this section as the “Seashore”), the Sea-  
11 shore shall be managed in accordance with the Interim  
12 Protected Species Management Strategy/Environmental  
13 Assessment issued by the National Park Service on June  
14 13, 2007.

15 (b) INAPPLICABILITY OF CONSENT DECREE.—The  
16 consent decree dated April 30, 2008, and filed in the  
17 United States District Court for the Eastern District of  
18 North Carolina regarding off-road vehicle use at the Sea-  
19 shore shall not apply after the date of enactment of this  
20 Act.

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## Who We Are

PreserveBeachAccess.org is supported by the Dare County Board of Commissioners in partnership with the Dare County Tourism Board.

**We are.....**a grassroots movement dedicated to Preserving Access to America's Beaches. We believe in the basic principle that people and nature can live together in harmony.

**We are.....**people who respect and enjoy the Cape Hatteras National Seashore Recreational Area (CHNSRA). Our interests include, in alphabetical order — beach walking, bird watching, fishing, horseback riding, kayaking, kiteboarding, kite flying, off-road vehicle touring, scuba diving, shell collecting, snorkeling, sunbathing, surfing, swimming, and windsurfing.

**We are.....**those who live on Hatteras Island, Dare County and the Outer Banks of North Carolina. We are also among the hundreds of thousands of visitors who travel to the Cape Hatteras National Seashore Recreational Area (CHNSRA) each year from many other states and several foreign countries.

**We are.....**a diverse group of people with a common interest. We are men and women of all ages, from students to Senior Citizens. We are of all races, including African-American, Asian, Hispanic, Native American and White. We are of all political affiliations; represented by Democrats and Republicans, as well as Libertarians and Non-affiliated Independents. We are from every walk of life. We are a community, of residents and visitors, united in our mission of preserving access to America's beaches.

For more information on the grassroots movement to Preserve Access to America's Beaches, contact Dorothy Toolan, at 252-475-5903

## Get Involved!

### Join Our Grass Roots Movement

Add your name to our growing database of supporters and stay informed of the latest beach access news by subscribing to our e-mail newsletter. [Get started](#)

### Let Congress Know

Regardless of where you live, your voice is powerful in preserving beach access. That is why it is important to add your name now to our database. When key legislative action becomes necessary, we will then be able to let you know who to contact, provide a sample letter and address. Legislative issues can arise anytime and joining our database will keep you informed in a timely way. [Get started](#)

### Tell Your Friends

Send an attractive, free E-Card to your friends featuring a beautiful photograph of the Cape Hatteras National Seashore Recreational Area (CHNSRA). Your friends will enjoy receiving a special "Outer Banks Moment" while you show your support of open beach access. Check back often because new photographs are frequently added to our free E-Card collection. [Get started](#)

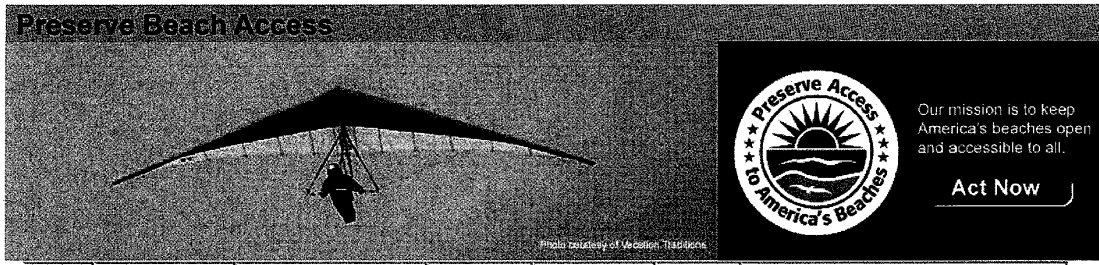
### Display Our Logo

Show your support for Preserving Access to America's Beaches by adding our colorful logo to your personal or business website. Displaying our logo is an effective way to show your website visitors that you care about beach access. Easy to follow steps are outlined on this website. [Get started](#)

### Your Business Can Help

Businesses in and near the Cape Hatteras National Seashore Recreational Area (CHNSRA) are vital in the on-going effort to educate visitors about the importance of open beach access. Every type of business can help from gift shops to restaurants. Learn more on this website how your business can become a partner with the grassroots campaign to Preserve Access to America's Beaches. [Get started](#)

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**Preserve Beach Access**

Our mission is to keep America's beaches open and accessible to all.

**Act Now**

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## Write Congress

**Your Voice is important.** The grassroots effort to preserve beach access needs people everywhere to write Congress. A letter to your elected officials in Washington, D.C. will help regardless of where you live in the United States. A sample letter and easy instructions are listed below.

Legislation that would set aside the consent decree needs the support of Senators & Representatives from every Congressional District. As federal property, the Cape Hatteras National Seashore Recreational Area is ultimately controlled by Congress and belongs to all American taxpayers.

### Instructions

1. Highlight text of sample letter, then copy it (**Control + C**)
2. Click link below to select your Representative or Senator
3. Paste letter in the message space provided (**Control + V**)

To write your **REPRESENTATIVE**: [Click Here](#)  
 To write your U.S. **SENATORS**: [Click Here](#)

You can also telephone your Senator or Representative through the main Congressional switchboard 202-224-3121

### Sample Letter

Dear Senator/Representative:

I am writing to you today because my family enjoys recreation in the Cape Hatteras National Seashore Recreational Area. I support H.R. 718 and S.1557 which would reinstate the National Park Service "Interim Management Strategy", pending the issuance of a long-term management plan, for America's first National Seashore, on the Outer Banks of North Carolina where recreational access was promised in the enabling legislation.

People throughout America have a tradition of traveling to the Cape Hatteras National Seashore Recreational Area for family activities. These include fishing, surfing, swimming, bird watching, beachcombing, kiteboarding, horseback riding and others. For many disabled Americans, responsible beach access is the only way to safely enjoy the ocean and recreational activities.

Currently the area is in the wake of a consent decree that restricts public access to prime locations in many parts of this recreational area. The consent decree is the result of a lawsuit filed against the National Park Service by special interest groups which has hurt area residents, visitors and businesses.

H.R. 718 and S.1557 would reinstate the National Park Service Interim Management Strategy that had an Environmental Assessment under NEPA and was subject to the public process. The Interim Plan also had a biological review by the U.S. Fish & Wildlife Service, an ESA Section 7 consultation, and a public comment period. The Provisions of the consent decree were never subject to these reviews.

The Interim Plan does not remove protection for shorebirds and sea turtles. Instead it gives the National Park Service flexibility to adjust buffers based on bird behavior. It provides reasonable access to the recreational area and will help the area's tourism-based economy.

I would appreciate your support of H.R. 718 and S.1557. Thank you for your efforts to preserve access to America's beaches for responsible family recreational activities.

Sincerely,

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