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CAHA #785

Michael B Edwards
03/28/2005 09:58 AM
MST

To: Melissa Behrent/Partner/NPS@NPS
cc:
Subject: Fw: CAHA ORV FA Orientation Draft Summary

docs for CAHA admin record attached. thanks

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— Forwarded by Michael B Edwards/DENVER/NPS on 03/28/2005 09:58 AM —



"Kim Vogel"
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03/25/2005 03:19 PM
EST

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<jami_hammond@nps.gov>
cc: "Patrick Field" <pfield@cbuilding.info>, "Greg Sobel"
<gsobel@mediate.com>, "Mike Eng" <eng@ecr.gov>
Subject: CAHA ORV FA Orientation Draft Summary

Hello:

Please find attached our Draft Summary of the Organizational Meeting held on March 17-18, 2005 and associated documents for your review and comment.

Thank you!

Kim Vogel
for the EMS~CBI Neutral Assessment Team

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CAHA ORV FA Draft IV Protocol.doc CAHA ORV FA Orientation DRAFT Meeting Summary 3-25-05.doc CAHA ORV SH Chart.ppt

[DRAFT] Interview Protocol

INTRODUCTION

As you know, the National Park is considering the possibility of using collaborative processes such as negotiated rulemaking to develop an ORV Management Plan and associated regulations. The U.S. Institute for Environmental Conflict Resolution and the NPS have asked us to assess the feasibility of using negotiated rulemaking to address these ORV issues. The idea of regulatory negotiation, or reg-neg for short, is straightforward. Representatives of the responsible agency and those with a stake in the regulations work together to prepare the content of a proposed rule before the agency submits the rule to the formal rulemaking process (listing in the federal register, public comment and hearings, and so forth). Just such a process was used by Cape Cod National Seashore and Fire Island National Seashore to develop off-road vehicle regulations.

Our immediate task is to interview representatives of the range of interests and views on the issues. Our intent is to identify the points of agreement and disagreement among the stakeholders and determine the opportunities for, and obstacles to building consensus on how to manage ORV issues. This conversation is confidential meaning that we will not attribute specific comments or findings to anyone by name or position. Confidentiality protects your interests and, we hope, encourages open conversation.

Points to note:

- Based on these interviews, we will assess whether or not a regulatory negotiation or other collaborative approaches are likely to be productive at this time.
- If such a process seems fruitful, we will suggest a process for how to proceed as part of our Assessment Report. The draft Assessment Report will be sent to all parties whom we interviewed for your feedback before the report is finalized.
- We understand that our final Assessment Report will be an important consideration as NPS determines how to proceed with the ORV Management Plan and regulations.
- Do you have any questions about EMS/CBI before we begin?

BACKGROUND

1. What is your affiliation to Cape Hatteras?
2. Do you represent an organization that is concerned about vehicle use on Cape Hatteras? If so, what is your position and role in that organization?
3. What is your mailing and email address, phone, fax, and so forth, so that we can send you a copy of the draft Assessment Report?

THE ISSUES

1. How do your organization's members use the Seashore?
2. Tell us about your organization's views on the current use of off-road vehicles on the Seashore? Generally? In particular geographic areas of the Seashore?
3. What changes, if any, would you like to see in the ways ORV use is managed in the Seashore?
4. If you were to imagine Cape Hatteras Seashore twenty years from now, ideally, what would you like it to be?

THE CURRENT MANAGEMENT

1. What are the best points of the current system for managing off-road vehicles on the Cape Hatteras Seashore?
2. What are the worst points of the current system for managing off-road vehicles on the Cape Hatteras Seashore?
3. What improvements for managing off-road vehicles in the Seashore have promise, given your organizations' interests?

THE STAKEHOLDERS

1. Here's the stakeholder groups and organizations that might represent those stakeholder groups we've identified so far who have an interest in CAHA ORV planning and regulation. Looking at the list of interviewees are there important perspectives not included? What are your views on how we have categorized the stakeholder interests?
2. Which organizations might most credibly represent these broad categories?
3. Have any key groups been excluded in discussion on these issues in the past? If so, who are they and do you know why they were excluded?
4. What kinds of information (and why) are needed to help address ORV use on the Seashore? Is this readily available? How could the needed information be gathered?

THE PROCESS

1. What are the advantages of undertaking a collaborative effort at preparing a management plan and regulations for ORV use on Cape Hatteras?
2. What do you expect would be the most significant barriers to achieving a consensus on such a plan and regulations? How can these barriers best be overcome?
3. Would your organization be willing to work together with other parties in a collaborative planning and negotiated rulemaking process? Why or why not?
4. What kind of forum for negotiations (number of players, length and number of meetings, meeting times and locations) would be most successful in garnering widespread support for the effort?
5. What kind of groundrules or protocols are needed to ensure constructive interaction?

NOTE: Please note that this interview protocol was used as a guide for interviews among the neutral EMS/CBI team and Cape Hatteras stakeholders. All questions may or may not have been asked depending on the interests and comments of the stakeholder and the length of time available for the interview.

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**Cape Hatteras National Seashore
Off-Road Vehicle Management Plan/EIS**

**Draft Summary of Organizational Meeting
Re: Feasibility Assessment
March 17-18, 2005**

I. Introduction

NPS presented highlights of relevant background information on ORV management at CAHA, including the history of the Park, past attempts to establish an ORV Management Plan, and the present intention to work with the community to develop an acceptable Plan and associated regulations. NPS described the Seashore, its towns and villages, as well as some of the organized ORV user groups and outlined their view of likely areas of conflict and controversy regarding ORV use and the relative priority for CAHA of key issues likely to be identified during interviews with stakeholders.

The purpose of this two-day meeting was to serve as an orientation for NPS, USIECR, and the neutral assessment team and to set forth the roles, responsibilities and process for initiating the feasibility assessment.

II. The Process – Negotiated Rulemaking Feasibility Assessment

Roles and responsibilities of the neutrals, the Institute and NPS staff:

NPS

- Will post applicable Management Policies on its website, including: ORV, Natural Resources, Cultural Resources, Visitor Use and Experience, Closure Management Policies and Soundscapes.
- Assist assessment team in arranging interview locations: Fessenden Center in Buxton, Dare County offices in Hatteras.

USIECR

- Will be available to assist NPS with the following federal entities to keep apprised of the assessment process/collaborative effort: DOI [Congressional Affairs and Solicitors Offices, Secretary of the Interior's Chief of Staff], NPS Director, Congressional Office, DOI Whitehouse Liaison to NPS.

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Neutrals: The Assessment Team will:

- Prepare a draft letter for NPS to send to the stakeholders introducing the assessment process and team. The letter will include background information and inform/ invite stakeholders of the interview and timeframe.
- Prepare an interview protocol for NPS review and input. (See attached "CAHA ORV FA Draft IV Protocol.doc").
- Develop the list of stakeholders to be contacted for interviews with assistance of NPS and IECR; however, decision of who to interview is the responsibility of the assessment team.
- Contact stakeholders and schedule interviews.
- Prepare draft and final Feasibility Assessment Report and share with all interviewees, including NPS.
- Draft Feasibility Assessment Report will be distributed to all parties, including NPS at the same time.
- Inform NPS of needed/helpful information to place on its website.

Process for ongoing communication and coordination among project members:

Communications between the Team and NPS will be sent to the following NPS representatives: Jeff Cobb, NPS Project Leader for EIS/Scope, Mary Doll, NPS Project Manager for ORV Management Plan, Sandra Hamilton, EQD Project Manager, Sarah Bransom, EQD, Michael Edwards, EQD, Sherri Fields and Jami Hammond, EQD SE Regional Office. Park Superintendent Lawrence Belli will be brought in when needed. If there is a conflict between comments from NPS representatives, EQD Project Manager Sandra Hamilton will be consulted.

Regarding the ***confidentiality*** of the process, USIECR noted the interagency agreement between USIECR and NPS, which requires NPS to consult with USIECR when it receives a FOIA Request to assure that confidential information is not communicated. Further discussion of confidentiality is included in the Administrative Dispute Resolution Act of 1996 and the Negotiated Rulemaking Act of 1996.

USIECR will be kept apprised of the process and copied on communications between the Team and NPS, but will only be directly involved with issues outside of the scope of the Team's role/responsibilities.

Criteria for selecting stakeholders and specific individuals to be interviewed:

The first tier of interviewees will be those stakeholders who: 1) are directly affected by the regulations; 2) are necessary parties to any resulting agreement; and, 3) could potentially derail the outcome. Others will be interviewed at the discretion of the Team.

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Key stakeholder groups and their interests relative to ORV use in CAHA:

NPS, USIECR, and the team identified key stakeholder groups for potential interviews (see attached "CAHA ORV SH Chart.ppt"). The role of other federal agencies, including DOI and FWS will require further discussion.

III. NEPA Process/Rulemaking and Integrated Timeline

Process Objectives: IECR stated that the objective of the NPS is to conduct this collaborative effort to develop a Plan and associated regulations simultaneously with the NEPA process through an integrated schedule. See Draft schedule at tab #6 in *DO-12 & NEPA: Conservation, Planning, Environmental Impact Analysis, and Decision-Making*, Notebook developed by NPS EQD for CAHA, March 18, 2005.

NPS on Purpose & Need for Management Plan: An ORV management plan is needed because: 1) The seashore must comply with Executive Orders 11644 and 11989 respecting ORV use, and with NPS laws, regulations (36 CFR 4.10), and policies to minimize impacts to park resources and values. 2) The lack of an approved plan has led over time to inconsistent management of ORV use. 3) Increased ORV use has resulted in conflicts between seashore uses; and ORV use could damage natural and cultural resources.

Missing Information:

- USGS Protocol: Wildlife protocol with regard to Threatened and Endangered Species and Migratory Birds to be completed by the summer of 2005, which will serve as scientific peer reviewed material to inform the ORV Management Plan.
- Visitor Use: Currently, NPS has OMB permission to ask questions of visitors.
- Socioeconomic factors: (NEPA impact on human environment) Studies: NPS will talk with FWS to see about integrating the current socioeconomic studies. Bruce Peacock to recommend 3-5 contractors to perform studies. The contractor will be chosen in similar manner to neutral team interviews.
- Public information/Public participation: NPS has planned a meeting on April 14, 2005 with a civic engagement specialist in accordance with Directors Order 75A; is participating in a local television program to keep the public apprised of the process; and, has scheduled a meeting with ORV User Groups on March 22, 2005, to discuss the upcoming season.
- <https://www.pepc.nps.gov> = PEPC has both a public and an agency use site. The public site will be used for public input during the NEPA process.
- Government Partners Meeting hosted by NPS: held during internal scoping period (incl. FWS, DNR, Counties(?)).
- See www.parkplanning.gov

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Draft Assessment Schedule

WHEN	ACTIVITY
March 2005	Contract for Services
April 2005	Send out invitation to interview from NPS Schedule interviews Initiate interviews
May 2005	Continue Interviews Begin to analyze findings from interviews Begin to develop recommendations
June 2005	Complete any final interviews Complete draft report Issue draft report to interviewees
July 2005	Take comments on draft report Finalize report Facilitate public meetings

Meeting Attendance:

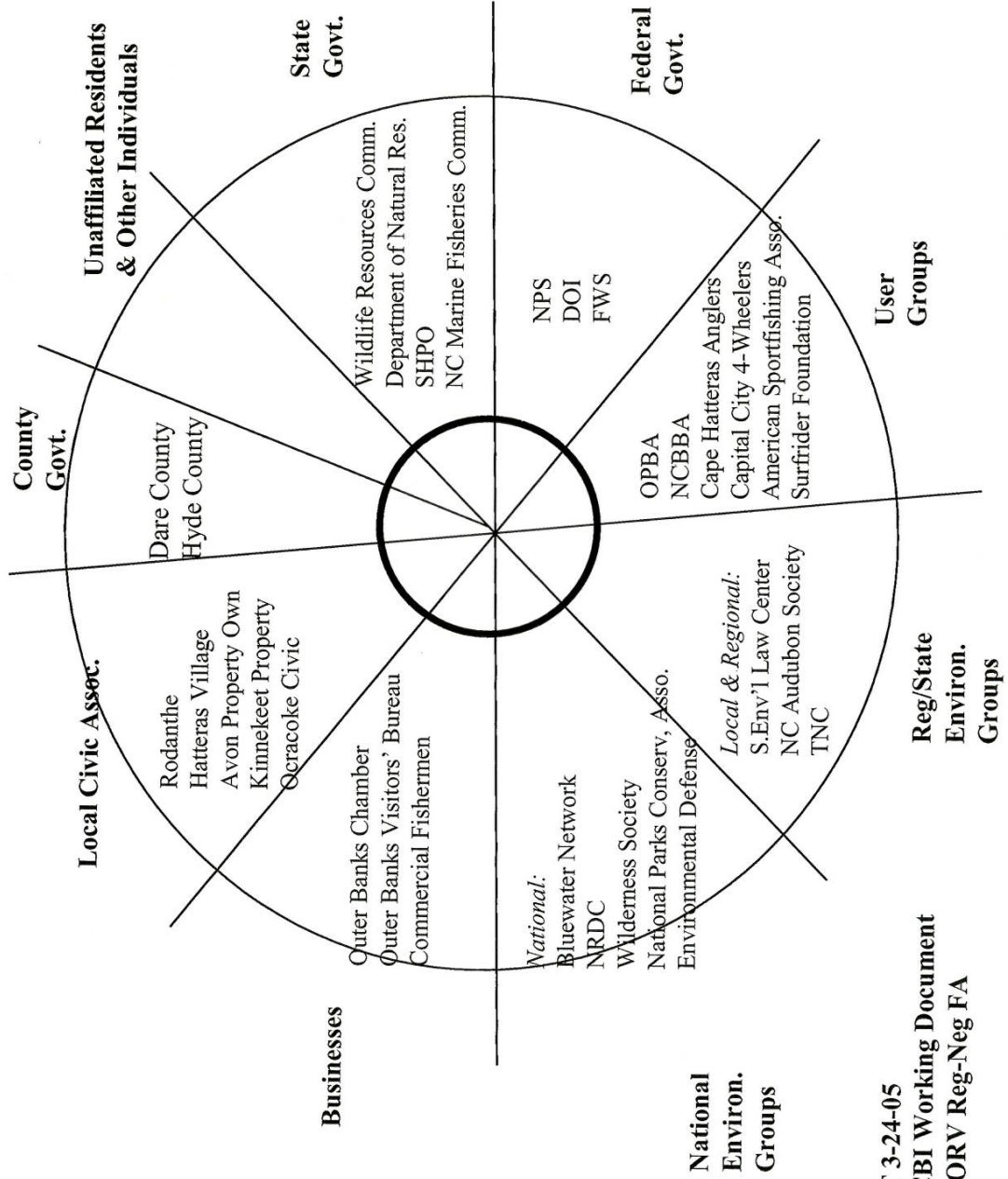
John Anglin, NPS
 Lawrence Belli, CAHA Park Superintendent
 Sarah Branson, EQD
 Jeff Cobb, NPS
 Mary Doll, NPS
 Michael Edwards, EQD
 Mike Eng, USIECR
 Patrick Field, CBI
 Sandra Hamilton, EQD
 Steve Harrison, NPS
 Kimberly Vogel, EMS
 Greg Sobel, EMS

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Documents Distributed:

Synopsis of Off-Road Vehicle Planning, CAHA, April 2004
Cape Hatteras National Seashore Case Study, NPS ORV Conference, March 8, 9, and 10, 2005
CHNS Off-Road Driving Fact Sheet, NPS, pre-1978
Off Road Vehicle Use and Planning Law and Policy, NPS and CAHA (Executive Orders)
 Off-Road Vehicle Rulemaking Timeline/Task Schedule, CAHA, 08-06-04
 “A Letter to the People of the Outer Banks”, Conrad Wirth, NPS Director, *Coastland Times*, 10/27/52
In re: Off-Road Vehicle Use in the Cape Hatteras National Seashore, North Carolina. Petition for Rulemaking Governing Off-Road Vehicle Use in the Cape Hatteras National Seashore, June 7, 2004
 Summary Interim Management Plan for Off-Road Vehicle Use, Cape Hatteras National Seashore (Excludes Pea Island National Wildlife Refuge), National Park Service Off Road Vehicle Relevant Policies, Court Cases, Regulations, etc.
 Superintendent’s Note, February 22, 2005: “CAHA Off-Road Vehicle Negotiated Rulemaking Management Plan/EIS”
 Legislation Relating to National Recreation Area, 1937 enabling legislation “Beach Sections to be Closed to Protect Sea Turtle Hatchlings” CAHA News Release, 8/23/04
 Park Visitation Statistics for 2001-2004
Breeding Pairs & Fledgling Success of American Oystercatcher, 1999-2003
Piping Plover hatching success records, 1992-2003
 Outer Banks Group Parks Visitor Study, Report 136a, Summer 2002
 Cape Hatteras National Seashore Visitor Use Study, August 2003
 Beach Driving in Dare County, presentation slides
 Superintendent’s Issue documents: “Develop Protocols to Monitor and Protect Endangered Species, Migratory Birds, and Other Wildlife”; and, “Off-Road Vehicle Plan and Regulation
NEPA Overview and NPS Mandates, NPS, August 2004
DO-12 & NEPA: Conservation, Planning, Environmental Impact Analysis, and Decision-Making, Notebook developed by NPS EQD for CAHA, March 18, 2005

DRAFT CAHA ORV Stakeholder Group Composition



DRAFT 3-24-05
 EMS-CBI Working Document
 CAHA ORV Reg-Neg FA