

TO: Mr. Mike Murray, DFO  
FROM: Virginia Luizer, citizen of Buxton, NC  
DATE: January 13, 2009  
RE: Routes and Trails, including resource protection requirements

Please accept the below as my comment regarding the Routes and Trails proposals presented at the past three meetings of the negotiated rulemaking committee.

Based upon data provided in the peer review of visitor use studies, park visitation data, and photographic evidence supplied by Mr. Hardham, typical use patterns can be summarized in the following fashion:

1. At least 50% of visitors are ORV users. The majority of ORV users congregate at the point, inlet spits, and ramp 45 to Frisco Village. The remainder of the ORV users seek out more secluded opportunities provided in low-density undeveloped areas between Salvo and Avon.
2. At most 50% of visitors are non-ORV users. The vast majority of non-ORV users congregate at the village beaches, the life guarded beaches, and the bathhouse walkover south of Frisco Village.
3. Off-season visitor use patterns shift decidedly in favor of ORV use and surf fishing.

In order to accommodate the above noted use patterns and thus minimize conflict between users, the designated Routes and Trails should allow for the following allocation of resources

1. At least 50% designated for ORV use, including Cape Point, inlet spits, ramp 45 to Frisco Village, and some lower density use areas for those ORV users who prefer a more secluded experience.
2. 25% designated as “seasonal” pedestrian use, including the village beaches, the life guarded beaches, and the bathhouse walkover south of Frisco Village.
3. 25% designated as pedestrian use in low-density undeveloped areas to provide for remote experiences.

According to the park service, at present, the entire park is designated as open except during the tourist season when 43% is designed as “seasonal” pedestrian use. This is **NOT** an accurate representation of current resource allocations. A more accurate representation is as follows:

1. 39 miles or 49% is designated for ORV use, including historically popular areas—namely, Cape Point, inlet spits, ramp 45 to Frisco Village. Included in the 39 miles is 12 miles of low-density use areas for those ORV users who prefer a more secluded experience.
2. 14 miles or 18% is designated for “seasonal” pedestrian use, including the village beaches, and the life guarded beaches. Off season these areas are reopened to provide anglers access to popular trout holes.
3. 26 miles or 33% is designated for pedestrian use in low-density undeveloped areas to provide for remote experiences. The 26 miles is comprised of 12 miles on Pea Island and 14 miles of beach that is and has, for 30 years, remained too narrow for ORV use. These narrow beaches include 1 mile at Oregon Inlet, 3.7 miles between Avon and Buxton, 3.7

miles between Frisco and Hatteras, and 5.6 miles on the north end of Ocracoke are more than adequate for foot traffic. I know because I have walked them.

The significant discrepancy between above summary and the park service's representation as presented in ORV Management Alternatives A and B is the result of 1) the park service's failure to recognize defacto non-ORV designations, and 2) the park service's refusal to recognize that Pea Island, while set aside as a Wildlife Refuge managed by USFWS, is within CHNSRA boundaries. If the intent of the park service is to accurately reflect the current allocation of park resources, these errors must be corrected. If you like, provide a footnote stating that Pea Island is set aside as a Wildlife Refuge managed by USFWS but **DO NOT** exclude Pea Island as it is, without question, the best place within the park to find undisturbed beaches thus providing remote experiences.

Based upon the fact that the current allocation of park resources has evolved over time in response to users' needs, it should come as no surprise that the current allocation is consistent with historical public use patterns resulting in few user conflicts. As demonstrated by the summary of the environmental/pedestrian proposal presented below, the environmental/pedestrian group does not even come close to satisfying demand as demonstrated by public use patterns.

1. The 49% (39 miles) currently designated for of ORV use is reduced to **26 miles or 33%** of the park's resources. The ORV use areas, **exclude** most popular areas (i.e. inlet spits, ramp 45 to Frisco Village). The 12 miles of low-density ORV use is reduced to 8 miles. One low-density use area was added. The area is located north of Buxton and has been identified as **too narrow** for ORV use, thus is of little value to ORV users.
2. The 18% (14 miles) currently designated for "seasonal" pedestrian use is reduced to **9 miles or 11%** of the park's resources. The 9 miles does not include the most popular off-season trout fishing locations. Furthermore, the 9 miles includes 3.4 miles of beach that has been identified as **too narrow** for ORV use—namely, 1.5 south of Avon Pier and 1.9 between Frisco and Hatteras Villages. That is, the seasonal designation of is little value to ORV users.
3. The 33% (26 miles) of undeveloped low-density use areas currently designated for pedestrians is increased to **44 miles or 56%**. The 44 miles includes 12 miles of Pea Island which is the longest contiguous stretch of undeveloped low-density use within the park. The remaining 32 miles represents an 18 mile increase from current policy. The additional 18 miles results from re-designating 14 miles fragmented areas including the most popular ORV use areas (i.e.. inlet spits, ramp 45 to Frisco Village) and 4 miles of lower density use areas normally provided to those ORV users as permanent non-ORV use areas.

Quite simply, the environmental/pedestrian proposal allocates 56% of the resource to at most 25% of pedestrian users who are seeking remote experiences. With respect to the areas designated for ORV use, the vast majority of these areas are not particularly well suited to the recreational endeavors sought by ORV users. Alternatively stated, the environmental/pedestrian proposal results in a significant misallocation of the park's resources. The increase in the density of ORV use that results from this misallocation will, at best, have a significant negative impact on visitor use and experience. At worst, this proposal will force ORV users who are engaged in

activities that are not particularly compatible (i.e. fishing and swimming) into smaller areas greatly increasing the potential for user conflicts.

The above-noted misallocation of resources is a direct result of the objectives identified by the environmental/pedestrian group. One of the group's stated objectives is to create "new" low-density use areas in undeveloped areas for pedestrian users. The group justifies the designating these new areas by insisting that Pea Island is too far to travel for a remote experience. The absurdity of this argument is best demonstrated by looking at the definition of remote—namely, a secluded area situated some distance from populated areas. With respect to the current pedestrian areas that exist in closer proximity to the villages, the group does not state that they are insufficient to meet demand but rather insists that these areas are not particularly well suited to foot travel because they are too narrow and steep for walking. To demonstrate the absurdity of this argument consider that fact that the group proposes that these same "narrow" beaches be designated as appropriate for ORV navigation. I fail to see how a beach that is not well suited for foot traffic can accommodate ORV use.

The second objective of the environmental/pedestrian group is to protect the "ecological value" of the resource from adverse impacts associated with ORV use. I have not seen any proof that there is a need to increase the protection afforded the "ecological value" of the resource, either from the standpoint of the species or the habitat.

What I have seen is a series of experts paraded in front of this committee. Each of these experts addressed potential impacts on species and habitat using generalizations that typically assume **NO** resource protection efforts. **The issue is, these experts should be addressing the impacts recreation and ORV use in particular are actually having here at CHNSRA.** Every time this issue is raised, we have been told the experts were not asked to address CHNSRA specifically and not to press the issue lest we be considered disrespectful. **WHY NOT?** Mr. Murray you have said many times that past decisions made at this park seem to have been made without asking the "right" questions. **WHY AREN'T YOU ASKING THE RIGHT QUESTIONS NOW?**

You can't excuse the failure to ask the "right" questions because of insufficient data. We have directed you to detailed turtle and bird data compiled by the park over the years. We have directed you to on-line sources for relevant weather events, right down to thunderstorms and windstorms. We have directed you to on-line sources for relevant climate statistics for rainfall and temperatures. You can't even excuse the failure on lack of personnel because we took it upon ourselves to gather the data and summarize it for you (i.e. Larry Hardham's summaries of the turtle data, various summaries of bird data correlated to relevant weather events, pictorial data showing the use density in front of villages during the off-season, comparisons to other seashores' resource protection protocols, etc.). We supplied both you and committee members with this data. **We did what the DFO should have done in the first place—supply relevant data to the committee.** Still the data and summaries have not been forwarded to the experts and have been summarily ignored by the committee as a whole.

In point of fact, I have yet to see anything presented to the committee that that does not support tighter restrictions on ORV use and recreation in general. For example, we have heard over and over that ORVs have a negative impact on the beach habitat. There is at least one study out there that comes to a different conclusion—namely, a park service contracted study conducted by Dr.

Perry. According to Dr. Perry any damage caused by ORVs is washed away by the first high-energy storm. This study was never presented to the committee. Why? Could it be because the conclusion doesn't lend support for tighter restrictions on ORV use?

Worse yet, even when there is an attempt to develop site-specific data, the effort is contrived to support tighter restrictions on ORV use. One example, presented earlier, is the failure to use Pea Island when calculating the amount of resource devoted to various park uses and the overstate the amount of the park's resources allocated to ORV use that follows from the exclusion of Pea Island. Another example can be found in the proposed vehicle counts. Stated more specifically, given the dramatic change in visitor use patterns that have resulted from the implementation of the consent decree, the only possible conclusion will be to support the assertion that re-designation of the point, inlet spits, south beach, ramp 27, and ramp 34 as non-ORV use areas will have little impact on visitor use. Why? Because the implementation of the consent decree will result in closure of these popular areas thus, there will be no ORVs to count. The logical extension is that the resultant vehicle counts will be used to support the assertion that re-designation of these popular areas will have minimal economic impact. The only way to counter this argument is by using actual data that reflects the economic impact of the closures resulting from the consent decree. Unfortunately, as we are all aware, the 2009 data that will reflect the full impact of the consent decree closures will not be available until after the deadline for the completion of the ORV rule.

Recognizing the facts there is no time remaining to supply the committee with the data required to ask the right questions, and that the committee is unlikely to reach consensus on routes and trails. I call upon the park service to consider committee recommendations in conjunction with appropriate data. Stated more specifically the park service must:

1. Supply the experts with relevant site-specific data. Ask the experts to evaluate the impact ORV use has had under past resource management techniques. Ask the experts to evaluate the potential impact ORV use may have under proposed resource management techniques.
2. Review **all** studies, including those that do not support tighter restrictions on ORV use and recreation in general.
3. Ensure that efforts to collect new data are not biased toward tighter ORV restrictions or influenced by the dramatic change in public use patterns that have resulted from the implementation of the consent decree.

The above recommendations will ensure that all decisions to re-designate ORV routes because of impacts on the ecological value are based upon evidence that the ecological value is being negatively impacted by current policies. This is the only way to achieve the balance of resource protection while allowing appropriate recreational activities on which the community relies for its survival.

Quite simply, stop molding the data to the solution.