

Superintendent Mike Murray
Cape Hatteras National Seashore
1401 National Park Drive
Manteo N.C. 27954

Dear Mike Murray:

On page 121-127 the DEIS states "any Piping Plover unfledged chick broad will require a 1,000 meter pedestrian and Off Road Vehicle closure in all directions". I strongly disagree with applying such massive protection buffers around these plovers. 1000 meters in all directions constitutes an area equal to 771 acres, which is equal to the size of the parking lot at the New Orleans Super Dome. Typical distances in other plover areas are 300 meters. NPS should exercise consistence buffer distances from other successful areas like Cape Cod. In addition birds like the American Oyster catcher, are not threaten or endangered and do not warrant buffer closures of that magnitude.

On page 124, I feel, NPS should make every effort to accommodate access with these suggestions that are good for birds and access.

1. Vegetation Management -- (especially at Cape Point, good for piping plover success and access for recreation. Cape Point is traditionally, culturally and historically important for the area economy. **1000 meter distance is a jobs and economy killer for the village economies.**
2. Habitat Management
3. Improved predator Management
4. Colonial water bird social attraction
5. Plover fledge rate
6. Plover chick buffer distance
7. Pass-thru buffers during incubation time

A more equitable and adequate buffer distance for the listed species is.

Nesting / Breeding season

Piping plovers—50 meters

AMOY ---Flush and add 15 meters (as done in Pea Island) Non-endangered

Wilson Plovers----30 meters / non endangered

Least terns--- 30 meters / non endangered

Colonial water birds—30 meters / non endangered

Unfledged chicks:

Piping plover-----200 meters (as is done is other area seashore locations)

AMOY-----Flush and add 15 meter

Wilson Plovers-----30 meters

Least Terns----- 30 meters

Other Colonial Water birds-----30 meters

Any protected area should have a bypass or a corridor system to allow access to popular areas such as the spits, inlets and Cape Point. NPS should promote and provide for equal opportunities for access in these areas. It is a part of the mandate they promised to uphold in the (e.g.) Conrad Wirth letter in 1952. The local people have historically used these areas for social gatherings and to subsidize their dinner tables with catching fish etc. NPS has trampled on the traditional, cultural and historical use of these areas. They should be recognized as significant social areas that can be used when there is not nesting or breeding activity.

The DEIS references pet/horse restrictions on page **(136)**, banning pets anywhere in the seashore from March 15 to July 31. I strongly oppose any restrictions on pets in the park at any time. Common sense should dictate, that visitors to the Park must have pets under their personal control at all times and on a six foot leash. Better education and signage would help immensely. Any violation of the leash law should constitute a heavy fine. This is an enforcement issue. Once again NPS has chosen to ignore the economic impact of banning pets from the seashore. If people cannot bring their pets, they will not book, but will look elsewhere to vacation. A personal phone call to the 4 major rental companies will reflect a 38% to 27% of the property rental inventory has been recently upgraded to "pet friendly". Those companies are: Hatteras Realty, Outer Beaches Realty, Midgett Realty, and Ocracoke Island Realty. The traveling public wants to bring their pets with them and for NPS to discount the "pet friendly" economic factors are ill advised and displays a lack of understanding.

On page **377** NPS states: "ORV and other recreational use would have long-term major adverse impacts on sea turtles due to the amount of seashore available for ORV use and by allowing nighttime driving on the beach". I disagree. NPS has not provided data that nighttime driving on the beach kills nesting females. The turtle data from Cape Hatteras shows a yearly turtle nest mortality loss of 38 percent loss, due to the unsuccessful NCWRC guidelines that do not promote other viable opportunities of protecting nests. Corraling and hatcheries and nest relocation are ignored. NPS does not move nests in spit, inlet and areas of Cape Point and South Point. Every year nests are lost do to weather and predation, not humans. False crawl ratios due to light infraction are well below the accepted 1:1 ratio. Losing 38 % of turtle nests each year is catastrophic. NPS should move each nest like Pea Island. All nests should be moved to a safe area. Not moving nests will bring a lawsuit. Nighttime driving is an essential economic component of the Cape Hatteras game fish (Red Drum, Stripers) experience.

NPS has misrepresented the data supporting shorter ORV season on the south facing beaches on Hatteras Island, at Frisco and Hatteras villages on page **23**. The closure to ORV's driving in the front all the villages have traditionally been from May 15 to Sept 15. The statistics are similar at all villages' locations. Ultimately using different dates confuses the public and significantly raises the possibility of a court challenge. Consider all locations in front of the villages from May 15 to September 15 to be ORV free, as have been established for the last 40 years. There is

no evidence of any major violations between pedestrians and ORV's. If so alternative F should quantify and identify those incidents!

It is unbelievable the economic impact study is not yet completed. Here we are commenting on a study that could have an impact on decisions that affect the economic structure on the Bodie, Ocracoke and Hatteras Island economies. The ROI data is flawed. Using the data on the ROI doe not give a clear snapshot of what income and commerce is taking place on the southern communities. Our seasons are from Easter to Thanksgiving. You make your income at that time or you lose out. In May, June, July and August of 2008, the first year of the consent decree, I accrued losses of \$30,000 due to the area of Cape Point being closed for the first time ever. The consent decree each year has an identical negative economic affect on my 2 businesses. No one has ever contacted me as to what affect the beach closures have on my livelihood. When Cape Point closes people, tourist especially surf fishermen, go to other locations for beach access. The closures kill me economically in the summer months. Corridors **MUST** be instituted for the economy to survive and thrive.

I have provided a letter I wrote September 9, 2008, to Dare County Board of Commissioners Chair Warren Judge. This letter reflects the negative economic effects of the consent decree that were the most restrictive resource management measures up until that time. NPS Preferred Alternative F now even more restrictive than the consent decree. I hope my comments on the economic impacts are understood and appreciated!

This concludes my comments to the DEIS. A 30 day extension to the 60 Day DEIS comment period should have been granted! I am disappointed with Washington NPS. The non Neg-Reg public have been overwhelmed and frustrated with the enormity of the DEIS.

Respectively,

John B. Couch
P.O. Box 751
Buxton N.C. 27920

The Outer Banks Chamber of Commerce, on behalf of its more than 1,000 members with businesses in Dare, Hyde and Currituck counties, vehemently disagrees with the validity of the economic impact analysis included in the Draft Environmental Impact Statement for proposed new rules for access to the Cape Hatteras National Seashore.

Not only does it not adequately convey the economic impact of the proposed Alternative F, it fails to address any of the alternatives listed in the DEIS. The data is incomplete, misleading and the statements of what are supposed to be facts are without sound basis. The area is unique because it is removed from any large populations and has limited transportation infrastructure. These two points translate into a very high cost of living which gained no mention in the DEIS.

Part of the problem of the economic impact analysis seems to be that its authors lack familiarity with the area.

Dare County, the largest county in the state, includes 1584 square miles, of which only 384 square miles are land; the remaining area encompasses a large portion of the Pamlico Sound. Although there are six municipalities and an unincorporated portion of the county, there is only about 25 square miles -- 16,000 acres -- that is both suitable for development and in private ownership. The remaining land is held in conservation by nonprofits or owned government entities - primarily US Fish and Wildlife Service and the National Park Service. Thus, approximately 6.5 percent of the county's buildable land area is used to support approximately 30,000 residents.

The Dare County portion of the Outer Banks stretches about 80 miles from north to south. Each of the towns, as well as the villages in the Cape Hatteras National Seashore, has a distinct personality and socioeconomic make-up ranging from wealthy retirees in the towns of Duck and Southern Shores in the northern part of the county to Hatteras village, a commercial fishing village, on the south end of Hatteras Island. Access to Hatteras Island is limited to NC 12 from the north, a ferry that runs between Hatteras and Ocracoke islands, and a small landing field.

Ocracoke Village in Hyde County also is unique in geographic as well as socioeconomic character. Located on the 16-mile-long Ocracoke Island, the village is situated on approximately 600 acres of buildable land. The remainder of the island is owned by the federal government and is part of the national seashore. The only access is by ferry, boat or small plane. Although Ocracoke village is home to only 10 to 15 percent of Hyde County's population, it provides approximately 50 percent of the tax revenue for the entire county, the bulk of which is on the mainland.

The primary product of the region is both simple and unique. The environment, history and culture of the area are intricately woven together into a tapestry that makes up what is in effect the largest outdoor interactive museum in the world.

Deficiencies in the economic impact analysis:

1. Page 566 in the DEIS states "To provide information for the economic analysis, a survey was conducted by RTI, International of selected categories of potentially affected businesses. The results of this survey are currently being analyzed and will be addressed in the final plan/EIS." Page 571 also notes that data is still being analyzed and will allow future analysis of the economic impact. How is it possible to comment on something that does not yet exist?

2. Page 566, table 63 uses what it purports to be revenues from 2004 when current data was available. And the revenues in the table are incorrect even for 2004 and doesn't appear to include Ocracoke village.

3. Page 568 uses "visitation" statistics reported annually by the National Park Service. These statistics are based on traffic counts, the amount of which is then multiplied by a formula. There is no way to know if vehicles have five passengers or just a driver or whether they are even a visitor. It also doesn't take into account events such as high numbers of construction vehicles in the area due to storm damage or other extraordinary events. Attempts often are made to use the gross occupancy tax collected as a method to determine the number of visitors, however, there are numerous confounders that negate this from being a reasonable barometer for visitation.

There is no valid way to count visitors on the seashore and the only gauge of impacts available is current data such as unemployment, increases/decreases in government aid, etc. in a given locality.

4. Page 595, table 80. There is no logical basis for this table and it seems to attempt to dilute impact by including all portions of Hyde and Dare counties. And there appears to be no basis for the footnote that states that 54 percent of the direct impact is expected occur in the Seashore villages. Obviously direct impact is going to be felt most by those in the seashore and it will be substantially more than 54 percent.

5. Page 595. "This uncertainty may impact small businesses disproportionately." By Small Business Administration's definition almost all of the businesses in the seashore are small businesses.

6. Page 56. "This alternative would involve the construction of a pedestrian access trail and improvements and additions to the interdunal road system."

Page 80. "...by improving interdunal road and ORV ramp access. Pedestrian access would be enhanced by providing increased parking capacity at various points of access to vehicle-free areas..."

Page 81. "would include the construction of a short ORV route to access a new pedestrian trail to the sound on Ocracoke Island..."

Page 593. "...additional pedestrian and ORV access would be facilitated by construction and relocation of access ramps, and the designation of ORV access corridors at Cape Point and South Point."

Page 598. "The extra efforts to increase ORV access and pedestrian access should increase the probability that the impacts are on the low rather than high end of the range."

The inclusion of these forward-looking statements is troublesome. There is no appropriation in the NPS budget through 2011 for these plans so they should not be used to imply that they will minimize economic impact. Furthermore, given the inherent unpredictability of each future budgetary cycle after FY 2011, it would be difficult or impossible to quantify any economic impact of these improvements given the likelihood they will be implemented over an unknown term and are likely subject to additional modification dependent on future budgetary constraints.

Leaving these statements in the DEIS or using them as a basis to determine/predict/minimize economic impact could raise questions about compliance with the Antideficiency Act described on Page 40.

7. In the beginning of the DEIS, there is a list of federal rules, policies, etc. that the DEIS must comply with. Missing from this list is compliance with the Regulatory Flexibility Act which requires "federal agencies to consider the effects of their regulatory actions on small businesses and other small entities and to minimize any undue disproportionate burden." The economic impact analysis in this document does not comply with that and thus should not be certified.

8. There has been no obvious attempt to gauge indirect impact. Because they are in small, semi-isolated communities, businesses in the seashore villages must depend to varying degrees on vendors outside the area for supplies and services. Any decrease in visitors in the villages translates into a decrease for their chosen purveyors.

Also ignored is that any negative financial impact in the seashore villages in Dare County translates into decreased revenues from a county-wide occupancy tax which is shared by the six municipalities and the county. A decrease in the amount collected on Hatteras Island reflects in the amount of the pool that is divided amongst the local governments.

In Hyde County, the importance of the revenues generated in Ocracoke village can not be overstated. The small village is the economic engine of the rural county which is among the poorest in the state. Any decrease in revenues translates into further straining budgets for schools, emergency personnel and other critical services provided and/or funded by the county.

9. Since the implementation of the Consent Decree, there have been documented impacts to the seashore villages that are verifiable and should be included in any economic analysis related to the DEIS and its proposed alternative. Although the country is in a nationwide economic downturn and gas prices have added to the woes, Hatteras Island has had disproportionate adverse impacts compared to the rest of the county.

The following data should be included in the economic analysis related to the implementation of the Consent Decree:

In September 2009, (the first full year under the Consent Decree) the beginning of the prime fall fishing season – Dare County as a whole experienced an unemployment rate of 6.8 percent, one of the lowest in the state, but when the North Carolina Division of Labor Marketing broke the unemployment down to zip codes it showed that Hatteras

Island's villages had extraordinary unemployment. The island as a whole had 12.8 percent unemployment. When broken down to the villages, Salvo was at 28 percent; Buxton 16.5 percent; and Rodanthe was 12.4.

According to data provided by the Dare County Social Services, in 2009, the first full year under the Consent Decree, the Hatteras Island increase in individuals applying for food stamps was 81.6 percent over 2008. The remainder of Dare [north of Oregon Inlet] 56.6 percent, and the countywide 59.3 percent.

In October 2009, Cape Hatteras United Methodist Men's Emergency Assistance and Food Pantry reported that requests for food and other assistance in the seashore villages was continuing to rise. In 2008, the group paid out \$56,000 the entire year to help with utility bills, rent, ect. but in 2009, the amount was surpassed before the end of October.

Other issues of concern

10. Page 58. "Beach access points and boardwalks compliant with the American with Disabilities Act requirements would be provided at Coquina Beach, the Frisco Boathouse, the Ocracoke Pony Pen and the Ocracoke day use area...Beach wheelchairs could be checked out at each district on a first-come, first-served basis."

These statements raise the same issues as those listed in item 6 above.

In addition, if the projects are removed from the alternative chosen, it then raises questions about compliance with the Architectural Barriers Act of 1968 and the Americans with Disabilities Act of 1990.

A large number of commentors at the recent public hearings specifically expressed concerns about those with disabilities and others who have an inability to walk long distances and would no longer be able to enjoy the seashore, particularly those who fish.

11. In March of this year, "A Review and Synthesis of the Scientific Information Related to the Biology and Management of Species of Special Concern at Cape Hatteras National Seashore, North Carolina" by authors Jonathan B. Cohen, R. Michael Erwin, John B. French, Jr., Jeffrey L. Marion, and J. Michael Meyers was published by the U.S. Geological Survey's Patuxent Wildlife Research Center (PWRC) which conducted the original study at the National Park Service's request in 2005. According to the published report's summary, the intention was to "review, evaluate, and summarize the available scientific information for selected species of concern at CAHA (piping plovers, sea turtles, seabeach amaranth, American oystercatchers, and colonial waterbirds). This work consisted of reviewing the scientific literature and evaluating the results of studies that examined critical life history stages of each species, and focused on the scientific findings reported that are relevant to the management of these species and their habitats at CAHA...Although no new original research or experimental work was conducted, this synthesis of the existing information was peer reviewed by over 15 experts with familiarity with these species...To ensure that the best available information is considered when assessing each species of interest at CAHA, this review included published research as well as practical experience of scientists and wildlife managers who were consulted in 2005. PWRC scientists evaluated the literature, consulted wildlife managers,

and produced an initial draft that was sent to experts for scientific review. Revisions based on those comments were incorporated into the document. The final draft of the document was reviewed by NPS personnel to ensure that the description of the recent status and management of these species at CAHA was accurately represented and that the report was consistent with our work agreement..."

The document has been at the center of controversy since first referenced during the negotiated rule-making process. There are continuing questions about whether it was peer reviewed per the USGS guidelines and although the published version states that there is no new science or additions to it, there are a number of changes that are referenced as being the result of research that occurred after the original document was produced.

Questioned about the peer review process, a spokesperson for USGS responded that the acknowledgments at the end of each chapter of the original document was actually the list of those who peer reviewed that particular section. Calls to some of those listed as such said that they had never seen the document and therefore had not peer reviewed it. Those acknowledgments are not at the ends of the chapters in the published version of the report.

Federal environmental regulations are to be based on best available science, yet the process to ensure that seems to be missing in this instance. This matter should be referred to the Department of Interior Inspector General with a request that the science be reviewed and that an investigation be conducted to determine if in fact the USGS complied with its own peer review guidelines.

12. The Outer Banks Chamber of Commerce supports the adoption of Alternative A - aka the Interim Plan. Under the plan there was negligible economic impact, however, there was an increase in piping plovers that was clearly demonstrated by increased numbers in 2007 and in 2008. In the latter year, the Consent Decree went into effect but not until after the nesting season was underway. In 2009, the first full year under the decree, the numbers actually declined. This alternative was based on science and balanced access by the public with protection of the wildlife.

OMB Meeting - June 23, 2011

Thanks and I am Bob Eakes, Red Drum Tackle Shop, Inc
I bought my shop directly after college and have been doing this for 35 years. The shop was there as a business for 25 years before that. It dates back to the early 50s.

Most folks realized there was a recession in the fall of 2008. Hatteras Island's recession began in the spring of 2008 with the signing of the so called Consent decree. Most businesses never had a say in whether to sign or not sign off on the decree and were blind sided by the NPS and environmentalist and the federal judge.

At the signing of the consent decree my May sales in '08 dropped 18%. June loss in sales was 35% from 07. July's loss in sales was 24% from the previous year. Finally the beaches and Cape Point reopened and guess what? July's sales were the same as 07. By September and October the recession according to the press was full on but we were only showing monthly losses of 10% to 20%. My losses started with our beaches being closed. I used to employ 10 folks and now am down to 5 employees. I might add at 62 years of age I am working as many or more hours than when I was 35.

Cape Point closed on March 19 this year for no reason. March sales were down 76% from 07. April sales were down 32%. May sales of this year were down 27%. We did not have a nest which would have blocked access to Cape Point until late May. June's figures look to be off by 50% or more.

What we lost with the consent decree were the folks that used to come down for the weekend. This has killed our spring business where Saturday's used to be the busy day and now have become one of the slowest.

There are over 400 small businesses on Hatteras Island and many of them will cease to exist after this travesty. By travesty I mean in 3 full years of the consent decree which was an environmentalist dream come true, there is not a measurable positive gain in either birds or turtles.

I sat at negotiated rule making, met the folks from Research Triangle the economy experts and like the rest of all the small business owners was never interviewed. Research Triangle sat through 30 or so days of reg neg and



Oceanfront Lodging
· CAPE HATTERAS, NC ·

March 1, 2008

I am the Owner/Manager of Lighthouse View Oceanfront Lodging in the Village of Buxton, NC. We have eighty five rental units ranging from motel rooms to four bedroom cottages. We accommodate about 350 people when fully occupied. We have been in business at this location for over 55 years catering almost entirely to people that want to do some type of beach activity.

I would like to comment on the economic impact of a beach closure to ORV access to Cape Point. About 70 percent of my guests at some point in their stay visit the Cape Point Area by off road vehicle. I estimate over 75% of these people use the area 3 to 10 times during their stay, especially the weekly stays. If these people are not allowed access, they absolutely will not return to do their favorite beach activity. Whether you are a fisherman, surfer, windsurfer, or bather the Cape Point area cannot be duplicated any where else in the Cape Hatteras National Seashore. I think it is important to note that the issue is access to the Area which is only practical with a four wheel drive vehicle.

Speaking from 35 years of experience in the rental business, I can assure you the loss of 60 to 70 percent of business will be devastating to my business as well as the whole business community here in Buxton.

Sincerely,

John R. Hooper
Lighthouse View Oceanfront Lodging

PO Box 39, Buxton NC 27920 Phone 252.995.5680

ISLAND CONVENIENCE



**PO Box 159
Rodanthe NC 27968
252/987-2239
252/987-1322**

February 29, 2008

To Whom It May Concern:

This letter is in regards to the off road beach driving under scrutiny on Hatteras Island. I own a convenience store and tackle shop in Rodanthe, NC and the impact to my business of 25 years will be substantial should drivers not be allowed beach driving access while here on vacation. I am saddened by the lack of effort of all parties involved to work together to come up with a viable solution to this issue.

My business is primarily groceries, fuel and tackle and without the tourism industry on Hatteras Island, every individual living here will be affected. Time after time I have heard from my many loyal customers in the past year how they would not be interested in traveling this far to Hatteras if they cannot drive on the beach to be able to reach the best fishing and surfing areas in the United States. Not only will the loss of tourism dollars completely destroy this island's economy, it will greatly affect those of us who have resided here their entire life by loss of businesses and jobs.

I sincerely hope that all involved will work together to see that drivers are more informed of the rules and regulations resulting in a plan that will work for everyone on this issue.

Please feel free to contact me at any time to discuss.

Sincerely,

Martha Midgett Caldwell
President

September 9, 2008

The Honorable Warren Judge
Chairman; Dare County Board of Directors
211 Budleigh Street
Manteo N.C. 27954

Dear Chairman Judge;

My name is John Couch and I own and operate Lighthouse Auto Parts Inc. and Lighthouse Service Center Inc in Buxton N.C. My family and I have owned these businesses since 1965. I have raised my 3 children here at Cape Hatteras and my two brothers and their families also reside in Buxton. My two businesses are located "a stones throw" from the entrance to the Cape Hatteras National Seashore Recreational Park located on Highway 12 in Buxton N.C. I am writing you today as one of the many businesses that are suffering unwarranted and unprecedented economic harm as a result of the consent decree that was imposed on the residents and visitors to our seashore on April 30, 2008. I have incurred a loss of 32% in my retail sales through the months of May, June and July. These economic losses have been the result of massive beach closures my community has endured because of a court ordered consent decree.

This consent decree was orchestrated by National Audubon Society, Defenders of Wildlife and legally represented by Southern Environmental Law Center and was accepted by a compliant judge. This consent decree lacked the necessary public transparency and basic public involvement that citizens expect from our federal government. In fact the Department of Interior has been negligent in their responsibilities to develop an Off Road Vehicle Management Plan as directed by executive orders in 1972 and 1976. Through the ineptness and lack of action by the National Park Service, it is now the public that is feeling the results of the failure of government. We are eight villages that lie with the seashore park and we have no other industry other than tourism.

I employ seven full time people who are like family to me. I have already let my two part time people go. My businesses cannot survive 2 more years of this consent decree. I am sure you hear the cries of help from the rest of our island community. Please in your journey to our nations capital, let your voice be strong and ask our federal government to protect us from the special interest groups. Be sure to let them know how Dare County is sharing in this economic debacle.

One last request Mr. Chairman; please ask both houses of Congress to support House Bill 6233 and Senate Bill 3113. It is one of the basic responsibilities and obligations of government to protect its citizens from the wrongs by the government.

Sincerely,

John B. Couch
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Buxton N.C. 27920
252-995-4955