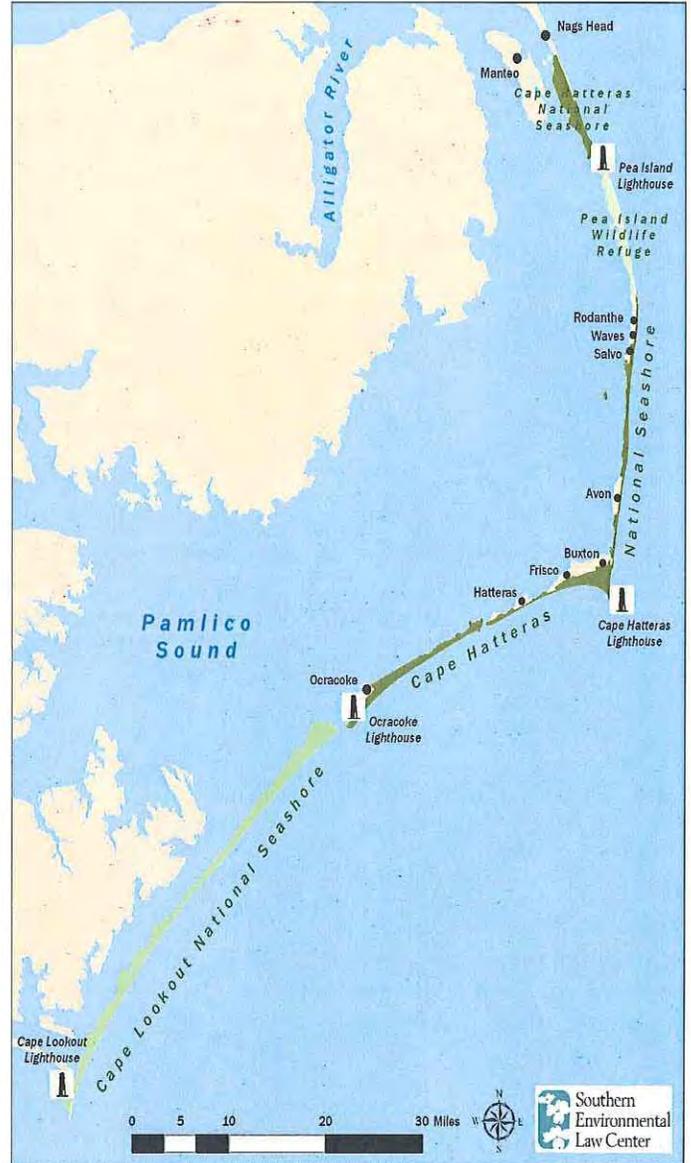
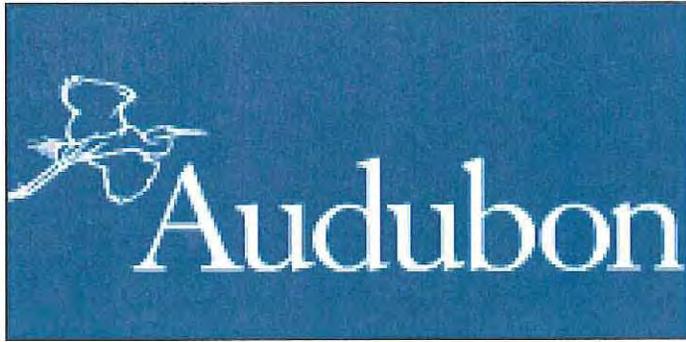
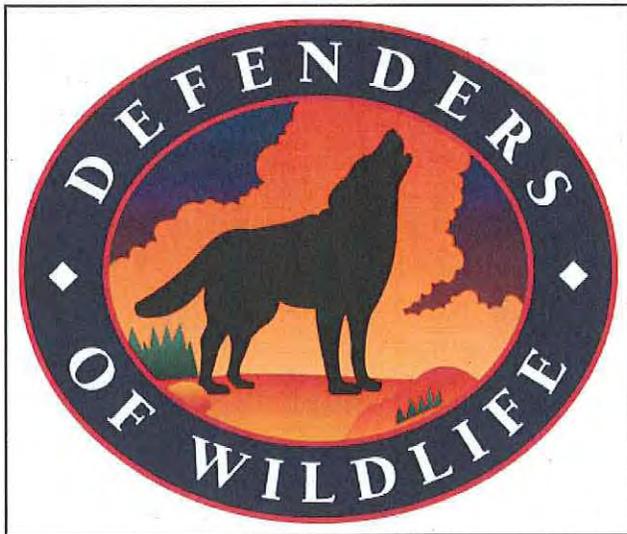


Cape Hatteras National Seashore ORV Management Regulation





Southern
Environmental
Law Center



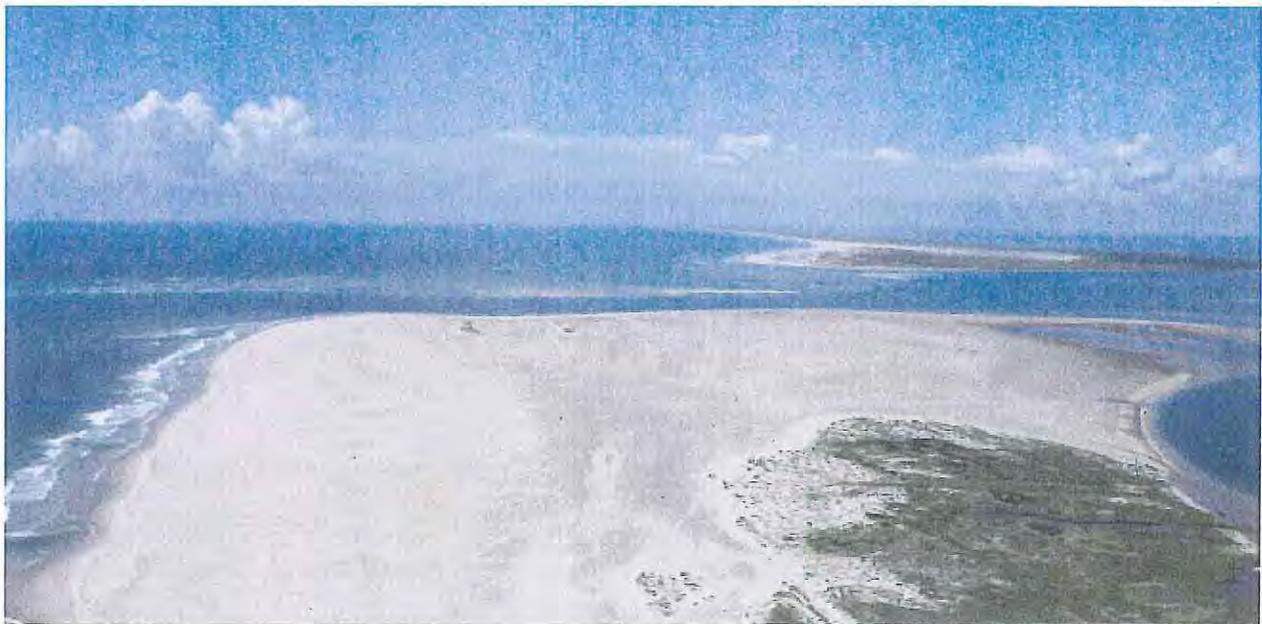
Cape Hatteras National Seashore
ORV Management

OFF-ROAD VEHICLE USE AT CAPE HATTERAS NATIONAL SEASHORE

Prepared by the National Audubon Society, Defenders of Wildlife,
and Southern Environmental Law Center

June 23, 2011

The National Park Service has issued the Final Environmental Impact Statement (FEIS) for its Off-Road Vehicle (ORV) Management Plan for Cape Hatteras National Seashore. The Park Service issued the FEIS as part of its compliance with federal law (Executive Order 11644 and 36 C.F.R. §4.10) and a consent decree entered in a federal lawsuit, all of which require it to publish regulations designating routes and areas for off-road vehicle driving on the Seashore. The regulations must protect the Seashore's natural resources from harm caused by ORV use and must reconcile conflicts between ORV use and other uses of the Seashore.



Okracoke Inlet

Sidney Maddock

Misleading information has been propagated by factions interested in promoting beach driving over other uses of the Seashore. These myths, and the truth behind them, include:

Myth: *Restrictions on beach driving harm the local economy.*

Truth: Driving restrictions do not appear to have harmed tourism under the consent decree. While evidence of economic harm is unconfirmed and anecdotal, verifiable statistics published by the state as well as Dare County itself show that:

- Dare County visitor occupancy from January to August 2010 exceeded occupancy in all prior years for the same period. For the four months of 2011 for which data is available, visitor occupancy was even higher than 2010 in each month.¹
- Hatteras Island visitors spent a record-setting \$27.8 million on lodging during the month of July 2010, which exceeded July 2009 by 18.5 percent and surpassed all preceding years.²

¹ http://www.outerbanks.org/pdf/Gross_Occupancy_Summary_receipts.pdf.

- Tourism spending increased in Dare County in 2008, with tourists spending 1.9% more in 2008 (during the first year under the consent decree) than in 2007.³ Visitor spending on lodging in 2008, 2009, and 2010, the three years in which the Seashore has been managed under the consent decree, were higher than any year since the Outer Banks Visitors Bureau began recording occupancy statistics in 1993. Total occupancy grossed over \$356 million in 2010 – the most the Outer Banks Visitors Bureau has ever recorded.⁴
- All told, visitor occupancy and tourism is generally trending upwards since the consent decree went into effect.

Dare County achieved these results despite the nationwide recession, high gas prices, and a public relations campaign funded by Dare County to advertise its beaches as closed to the public.⁵

Myth: *Beach driving is the predominant use of the Seashore and is essential to its enjoyment.*

Truth: A 2008 study by the US Fish and Wildlife Service concluded that only 2.7 to 4.0 percent of the approximately 2.5 million visitors each year are ORV users and that restrictions on beach driving would likely significantly increase visitation by other categories of visitors.⁶ Other studies confirm that the vast majority of visitors to the Seashore are engaging in activities other than beach driving.⁷



Bodie Island Spit with ORVs

Sidney Maddock

Finally, the NPS confirmed that the majority of people who commented on the DEIS wrote in favor of greater restrictions on beach driving and/or greater protections for wildlife.⁸ Rather than limiting access to the beach, the NPS's preferred alternative will make it easier for the public to enjoy the Seashore by creating new parking areas and pedestrian walkovers.

² <http://outerbanksvoice.com/2010/09/16/occupancy-dollars-hit-an-all-time-high/>

³ http://www.outerbanks.org/visitor_services/press_room/press_releases/2008_Dare_County_Tourism_Figures.pdf

⁴ http://www.outerbanks.org/pdf/Gross_Occupancy_Summary_receipts.pdf;

<http://outerbanksvoice.com/2011/03/22/highs-set-for-local-and-state-tourist-spending/>

⁵ Catherine Kozak, "Dare County Beach Access Campaign Goes Online," *Virginian Pilot*, Feb. 13, 2009, available at: <http://eyeondare.blogspot.com/2009/10/prudent-fiscal-policy.html>; *see also* <http://hamptonroads.com/2009/02/dare-county-nc-goes-online-beachaccess-campaign>.

⁶ Industrial Economics, Inc., "Economic Analysis of Critical Habitat Designation for the Wintering Piping Plover," prepared for U.S. Fish & Wildlife Service (Sept. 23, 2008) at 2-12 – 2-13, 2-17.

⁷ FEIS at 281-284

⁸ Erin James, "Nobody's Happy Over Off-Road Vehicle Plan on Shoreline," *Virginian Pilot*, Nov. 21, 2010, available at: <http://hamptonroads.com/2010/11/nobodys-happy-over-offroad-vehicle-plan-shoreline>. *See also* statistics on DEIS comments, available from National Park Service.



Bodie Island Spit without ORVs

Sidney Maddock

Myth: *The number of miles of beach designated as “vehicle free” in the FEIS preferred alternative is unreasonably large.*

Most other national seashores either have regulations in place to manage and restrict ORV use or do not allow ORV use at all; only Cape Lookout National Seashore continues to allow beach driving without a regulation in place. Canaveral, Cumberland Island, Gulf Islands, and Point Reyes National Seashores all prohibit off-road vehicles entirely. Assateague Island,

Cape Cod, Fire Island, and Padre Island National Seashores all have regulations restricting ORV use, and all of those, except Padre Island, allow driving on a much smaller percentage of the beach than would the Hatteras preferred plan. Thus, if anything, the number of miles Cape Hatteras’s beach set aside for ORV use in the FEIS preferred alternative is unreasonably large.

Myth: *There is no evidence that ORVs harm nesting birds and sea turtles.*

Truth: Evidence from Cape Hatteras confirms that ORVs can have significant impacts on birds and sea turtles. A recent study found that nine American oystercatcher chicks were found directly killed by vehicles on Cape Hatteras National Seashore from 1995 to 2007.⁹ Because those chicks were found by chance, the authors of the study determined that those nine were a “fraction of the number of chicks killed by vehicles.”¹⁰ ORVs also



Piping Plover with chick and eggs

Walker Golder

indirectly impact the survival of chicks by degrading their habitat in myriad ways and making chicks more vulnerable to predators; the same study showed that, when ORVs are excluded from nesting areas at Cape Hatteras, 47 percent of chicks survived, while the presence of an ORV lane on

⁹ Theodore R. Simons & Shiloh Shulte, *American Oystercatcher (Haematopus palliatus) research and monitoring in North Carolina: 2007 Annual Report* at 24.

¹⁰ *Id.*

the beach reduced the survival rate to only 27 percent of chicks. Sea turtles are also vulnerable. This past June, an ORV drove over and killed a threatened loggerhead sea turtle that had come ashore to nest. That same night, an ORV destroyed eggs in another sea turtle nest.¹¹



NPS photo of Loggerhead killed by ORV in June 2010 on Ocracoke Island

¹¹ National Park Service, Cape Hatteras National Seashore Resource Management Field Summary for June 17-June 23, 2010.

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October 8, 2010

Michael B. Murray
Superintendent, Cape Hatteras National Seashore
National Park Service, Outer Banks Group
1401 National Park Drive
Manteo, NC 27954

**Re: Supplemental Comments on the Draft Environmental Impact Statement for
the Cape Hatteras National Seashore Off-road Vehicle Management Plan**

Dear Mr. Murray:

These comments supplement the comments previously submitted by National Audubon Society, Defenders of Wildlife, and the Southern Environmental Law Center on the Draft Environmental Impact Statement on the Cape Hatteras National Seashore Off-road Vehicle Management Plan ("DEIS"). We previously wrote in favor of adoption by NPS of an ORV plan and special regulation based on a modified version of Alternative D. Our supplemental comments are largely based on new information and ideas not available at the time of the original deadline for comments on the DEIS.

1. Buffers and Other Wildlife Protections Must Be Included in the Final ORV Regulation.

First, we believe that the final Cape Hatteras ORV regulation should include and enforce, not only the routes and areas available for possible off-road travel, but also the buffers and other wildlife protections prescribed in the USGS protocols and the Consent Decree, and described at pages 73 and 121-127 of the DEIS. In other words, those protections should be memorialized in the final regulation itself and not in another document, such as the Seashore's superintendent's compendium. Inclusion in the actual final ORV regulation will make the buffers less susceptible to collateral attack, for instance by those who might try to pressure Seashore personnel to alter or eliminate the buffers without formal rulemaking procedures.

A National Park Service ("NPS") superintendent's compendium generally contains the limits and restrictions that a superintendent has discretion to set under various statutes and regulations. The Cape Hatteras superintendent's compendium is no exception; its introduction even states that it comprises "designated closures, permit requirements, and other restrictions imposed under the discretionary authority of the Superintendent of the Outer Banks Group." (Emphasis added.) Thus, the limits contained in the compendium have not been instituted as the result of a formal rulemaking process and can be changed as easily.

Provisions contained in compendia are, by their nature, discretionary, and, when they conflict with a regulation or statute, the regulation or statute governs. Compendia generally cite to 36 C.F.R. §§ 1.5 and 1.7 as their authority. Section 1.5 specifically states that superintendents "may" establish schedules of visiting hours, closures, and other such limits on public use of park system units, "consistent with applicable legislation and Federal administrative policies." 36 C.F.R. § 1.5(a). Section 1.7 provides that all such discretionary restrictions should be compiled in a publicly available compendium. 36 C.F.R. § 1.7(b). Section 1.5 further provides that "the public" need only be "informed of" the discretionary closures and other public use limits that appear in compendia, in contrast to formal regulations, which require publication in the Federal Register, notice and comment periods, and are otherwise the product of formal rulemaking procedures. 36 C.F.R. § 1.5 (e).

Because of the discretionary nature of compendia, the buffers and other wildlife protections contemplated by the DEIS cannot merely be informally included in the Seashore's superintendent's compendium, but, instead, should be included in the final ORV regulation. This would bring the ORV regulation into compliance with 36 C.F.R. § 1.5 (b), which requires that:

a closure, designation, use or activity restriction or condition, or the termination or relaxation of such, which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, adversely affect the park's natural, aesthetic, scenic or cultural values, require a long-term or significant modification in the resource management objectives of the unit, or is of a highly controversial nature, shall be published as rulemaking in the Federal Register.

36 C.F.R. § 1.5 (b) (emphasis added). Surely the ORV routes and areas, and the buffers that will modify them, invoke this section: the routes and areas, and any future relaxation of the buffers, will "adversely affect the park's natural, aesthetic, scenic or cultural values" and are "of a highly controversial nature."

Executive Order 11644 also mandates that the regulations in which routes and areas are designated for off-road driving must include provisions to "minimize harassment of wildlife or significant disruption of wildlife habitats," "minimize conflicts between off-road vehicle use and other" uses of the land, and close such routes and areas when "the use of off-road vehicles will cause or is causing considerable adverse effects on . . . wildlife [and] wildlife habitat." In turn, 36 C.F.R. § 4.10 states that the "designation of routes and areas" "shall be promulgated as special regulations" and "shall comply with [36 C.F.R § 1.5] and E.O. 11644." Thus, the Executive Order and the applicable regulations all require that the wildlife buffers and other protections that will constrain the Hatteras ORV routes and areas must be included in the actual final Hatteras ORV regulation.

In addition, including the buffers and other protections in the final ORV regulation will have numerous benefits: inclusion will increase the public's awareness of the buffers, clearly connect them to the ORV routes and areas that they are designed to modify, render them

Michael B. Murray

October 8, 2010

Page 3

undeniably enforceable, and insulate future Seashore staff from pressure to change or relax them without formal rulemaking procedures. The last three years of management under the Consent Decree have confirmed that responsible species management at the Seashore and a strong tourism industry can coexist if management of resources is consistent. The only way to provide that consistency is to incorporate scientifically based resource protections into the final ORV regulation.

3. Record-Setting 2010 Season Supports Buffers and Wildlife Protections

Next, as explained in more detail in my letter to NPS Director Jon Jarvis of September 24, 2010, data collected by NPS during the summer of 2010 support the implementation of the buffers and other wildlife protections prescribed in the USGS protocols and the Consent Decree, and described at pages 73 and 121-127 of the DEIS. Under these protections, three species set records during the 2010 breeding season: both piping plovers and American oystercatchers produced more fledged chicks during the 2010 breeding season than have ever been recorded at the Seashore, while sea turtles laid a record 153 nests, exceeding the previous Seashore record by more than 40 nests. At the same time, Dare County experienced an all-time high in vacation rental revenue in July 2010. The Outer Banks Visitors Bureau recently reported that Hatteras Island visitors spent \$27.8 million on lodging during the month of July, which was an 18.5% increase over July 2009 and exceeded all preceding years, including those years before the Consent Decree protections went into effect.⁵ These data demonstrate that protections based on the USGS protocols can and do benefit wildlife without sacrificing the local economy.

4. The Potential for Alternative Transportation Systems Should Be Explored More Thoroughly.

Finally, we note that, of the action alternatives explored in the DEIS, only a few, including the preferred alternative, included any consideration of alternative transit systems in the Seashore. Even those merely mentioned it in passing, as in: "alternative F would include . . . the consideration by the Seashore of applications for commercial use authorizations for a beach access shuttle service." (DEIS 556.) The DEIS contains little to no discussion of either the benefits or the potential hazards and environmental effects of alternative transit systems. The final EIS should contain a more extensive discussion of these issues.

In 2005, federal legislation created a program to provide funding for the development of alternative transportation systems in national parks and public lands. Renamed the Paul S. Sarbanes Transit in Parks Program in 2008, the program is designed to promote alternatives to the use of private automobiles, in order to reduce traffic congestion, noise, air pollution, and other effects associated with traffic that detract from the experience of visitors to national parks such as Cape Hatteras and other public lands. Materials on the transit program, including guidance for grant applications, are available on the Federal Transit Administration's website, http://www.fta.dot.gov/funding/grants/grants_financing_6106.html, and were distributed as recently as September 2010 in an online seminar open to the federal employees and the public. Millions of dollars are distributed each year for planning and capital expenses for alternate transit systems in national parks. The deadline for 2010 grant applications was June 28, 2010 (75 Fed. Reg. 27,109 (May 13, 2010)), but there will be future grant cycles in 2011 and beyond.

⁵ See Rob Morris, *Dare Occupancy Receipts Reach an All-Time High*, The Outer Banks Voice, Sept. 16, 2010, available at <http://outerbanksvoice.com/2010/09/16/occupancy-dollars-hit-an-all-time-high/>. See also charts published on the Outer Banks Visitors Bureau website: http://www.outerbanks.org/about_us/visitors_bureau/.

Michael B. Murray

October 8, 2010

Page 14

In light of the availability of funding, as well as the legislation's implicit goal of reducing traffic congestion and its ill effects on national park resources, the final EIS should include a comprehensive analysis of alternatives to private ORVs for transporting visitors to the more remote portions of the Seashore. In particular, the final EIS should examine the feasibility and environmental effects of both motorized transit (beach shuttles, trams, boats, etc.) and non-motorized transit (pedestrian and bicycle trails, etc.). Such systems are likely to vastly reduce the congestion, noise, and pollution that are currently plaguing the Seashore's beaches. In addition to easing those aesthetic impacts of beach driving, an alternative transit system could benefit many kinds of visitors, from the very youngest and oldest visitors and those with physical disabilities, to those with fishing gear and other heavy loads. It could also conserve energy and create transit-related jobs for local residents.

Conclusion

We appreciate the opportunity to supplement our comments on the DEIS for an ORV management plan for Cape Hatteras National Seashore. We provide the additional information contained in these supplemental comments in further support of our earlier recommendation that NPS adopt and implement an ORV plan and special regulation based on a modified Alternative D that maintains breeding species protections based on science, allocates more of the Seashore to pedestrian-only use and less-disturbed areas for wildlife, improves facilities for public access, and provides ORV access to key areas consistent with resource protection. Such a plan will restore a balance to the Seashore consistent with NPS's stewardship obligations to restore and protect the natural resources and leave them unimpaired for future generations.

Sincerely,



Julie Youngman

Derb S. Carter, Jr.

Southern Environmental Law Center

Walker Golder

Audubon NC

Jason Rylander

Defenders of Wildlife

Enclosures

cc: Mr. David Vela, Southeast Regional Director, NPS (with enclosures)

**EXAMPLES OF RESISTANCE TO RESOURCE PROTECTION AT
CAPE HATTERAS NATIONAL SEASHORE**

2008	
April 30	Consent Decree is entered in <u>Defenders of Wildlife v. National Park Service</u> , No. 02:07-CV-0045 (E.D.N.C.). Intervenors Cape Hatteras Access Preservation Alliance (“CHAPA”), Dare County, and Hyde County sign it, then claim to have been coerced.
June 11	Two bills are introduced: S. 3113 and HR 6223, “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.” Dare County and CHAPA representatives lobby for them, but they are not enacted.
2009	
January 27	HR 718, “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,” is introduced. Dare County and CHAPA representatives lobby for it, but it is not enacted.
February 6	CHAPA, Dare County, and Hyde County sue Fish and Wildlife Service and Department of the Interior, challenging the designation of critical habitat for piping plovers and its effect on beach driving at Cape Hatteras in the US District Court for the District of Columbia, 1:09-CV-00236RCL. Summary judgment eventually is entered against them, in favor of FWS and DOI.
February 27,	Negotiated Rulemaking process for Cape Hatteras ORV regulation ends in stalemate.
March 21 or 22	NPS discovers deliberate violation of resource protection area under Consent Decree.
March 28	NPS discovers deliberate violation of resource protection area under Consent Decree.
March 28	NPS discovers deliberate violation of resource protection area under Consent Decree.
June 27	NPS discovers deliberate violation of resource protection area under Consent Decree.
June 27	NPS discovers deliberate violation of resource protection area under Consent Decree.
July 25	NPS discovers deliberate violation of resource protection area under Consent Decree.
August 3	Senate Bill 1557 / HR 718, “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,” is introduced. Dare County and CHAPA representatives lobby for it, but it is not enacted.
August 17	NPS discovers deliberate violation of resource protection area under Consent

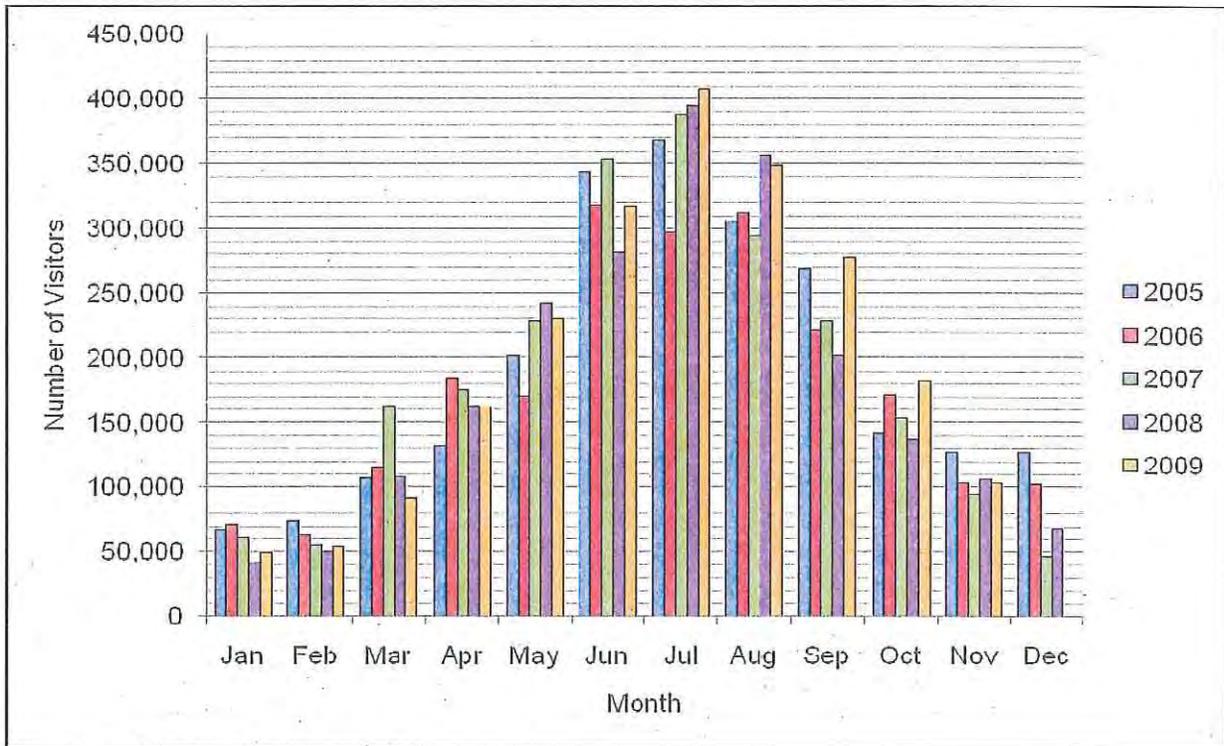
	Decree.
August 18	NPS discovers deliberate violation of resource protection area under Consent Decree.
August 19	NPS discovers deliberate violation of resource protection area under Consent Decree.
September 3	NPS discovers deliberate violation of resource protection area under Consent Decree.
September 6	Outer Banks Preservation Association holds "Beach Access Rally/March" in Buxton, NC, and continues efforts to fundraise for a "litigation fund."
October 28,	Former State Senator Marc Basnight writes North Carolina Congressional Delegation urging support for HR 718.
	2010
February 1	Warren Judge, Chairman of the Dare County Board of Commissioners, calls National Audubon Society "despicable" in public meeting and engages in lengthy criticism of it for submitting a petition signed by numerous scientists in favor of wildlife protections.
February 1	Warren Judge writes Superintendent Mike Murray petitioning Mr. Murray to weaken standards for protected species.
February 11	Warren Judge writes Superintendent Murray, accusing NPS of using "inflammatory and inappropriate" photographs in the annual reports on protected species at Cape Hatteras National Seashore, suggesting that the photographs indicate NPS bias.
February 24	Governor Beverly Perdue writes Congressman Larry Kissell in support of HR 718.
April 22	NPS discovers deliberate violation of resource protection area under Consent Decree.
May 8	Outer Banks Preservation Association holds "Beach Access Rally/March" in Buxton, NC, and continues efforts to fundraise for a "litigation fund."
May 31	NPS discovers deliberate violation of resource protection area under Consent Decree.
June 6	NPS discovers deliberate violation of resource protection area under Consent Decree.
June 7	NPS discovers deliberate violation of resource protection area under Consent Decree.
June 24	NPS announces that a federally threatened loggerhead sea turtle was killed while attempting to nest, and dragged approximately 12 feet by a vehicle driving on the beach in violation of NPS night driving restrictions. Both sea turtle and her eggs were lost. On the same night, a loggerhead nest was run over by a vehicle, also driving on the beach in violation of NPS restrictions, and many of the eggs were lost.
June 25	Outer Banks Preservation Association hosts "Stand in the Sand III" as a fundraiser to pay for "legal challenges for maintaining beach access," and continues efforts to fundraise for a "litigation fund."
July 1	NPS discovers deliberate violation of resource protection area under Consent Decree.



Cape Hatteras National Seashore

OFF-ROAD VEHICLE MANAGEMENT PLAN / ENVIRONMENTAL IMPACT STATEMENT

MARCH 2010



Source: NPS 2008e; Brolli pers. comm. 2009

FIGURE 22. MONTHLY RECREATIONAL VISITATION AT CAPE HATTERAS NATIONAL SEASHORE, JANUARY 2005–NOVEMBER 2009

VISITOR CHARACTERISTICS

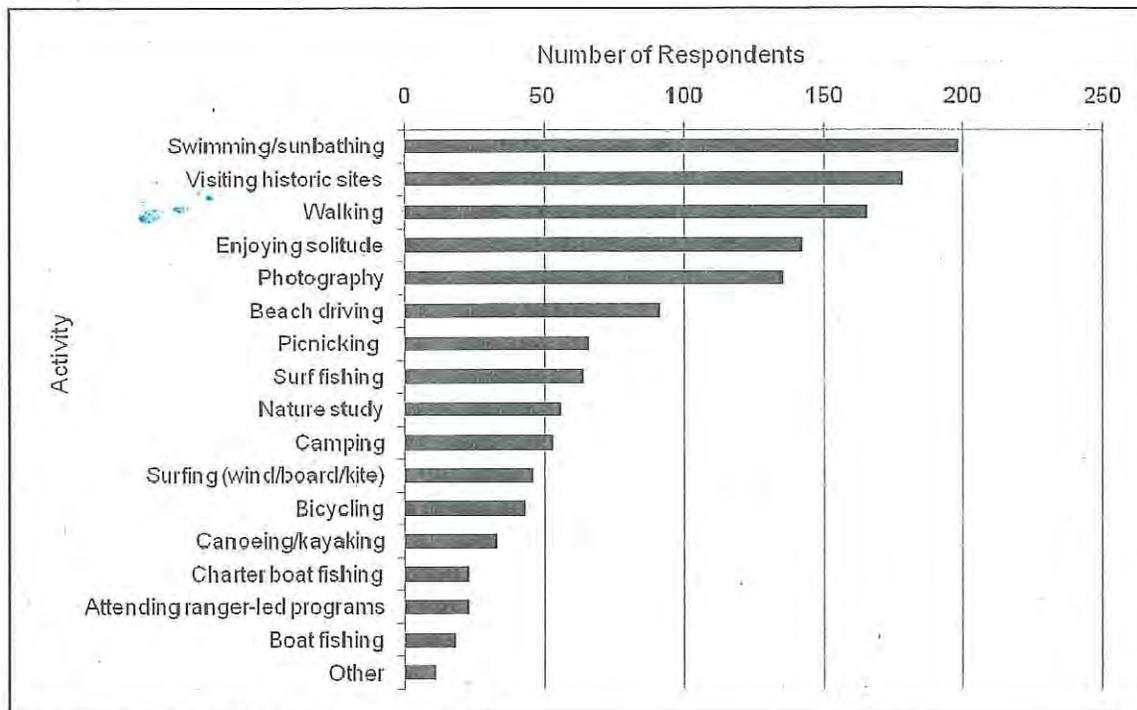
A study conducted by the University of Idaho during 1 week in July 2002 showed that many visitors (44%) were from North Carolina and Virginia, approximately 10% were from Ohio, and smaller proportions of visitors came from 29 other states and Washington DC. Over 50% of visitors were between 30 and 50 years of age (University of Idaho 2003).

RECREATIONAL OPPORTUNITIES AND USE AT CAPE HATTERAS NATIONAL SEASHORE

The Seashore provides a diverse range of recreational opportunities including auto touring, biking, bird watching, boating, camping, fishing, hiking, hunting, kayaking, taking nature walks, horseback riding, stargazing, swimming, wildlife viewing, surfing, kiteboarding, and wind surfing. According to the study conducted by the University of Idaho in 2002, the three most important reasons mentioned by visitors for visiting the Seashore were the lighthouses, the beach/beachcombing, and fishing. Historical significance and swimming followed closely (University of Idaho 2003). This study also asked visitor groups to list the activities in which they participated during their visit to the Seashore. The results are displayed in figure 23. Other activities that respondents participated in included family time / reunions, clamming/crabbing, shelling, shopping, and history study.



Historic Photo of Recreating at the Seashore
Credit: NPS

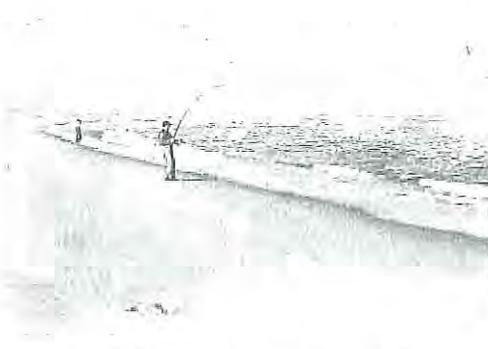


Source: University of Idaho 2003

FIGURE 23. VISITOR ACTIVITIES SURVEY RESULTS

Major developed facilities, such as visitor centers and campgrounds, as well as more informal visitor use areas at the Seashore that provide for these recreational activities, are shown on the Seashore map in chapter 1 of this document. Visitor centers are located on each island in association with Ocracoke, Cape Hatteras, and Bodie Island lighthouses, and campgrounds include Ocracoke, Frisco, Cape Point, and Oregon Inlet. Fishing piers are located near Frisco and at Avon and Rodanthe on Hatteras Island, and a major marina is located at Oregon Inlet on Bodie Island. Bathhouses and/or designated swimming beaches are available near Frisco on Cape Hatteras Island, Coquina Beach on Bodie Island, and on Ocracoke Island north of the village. Information stations, day use areas, and informal recreation opportunities, such as nature trails, are also found throughout the Seashore.

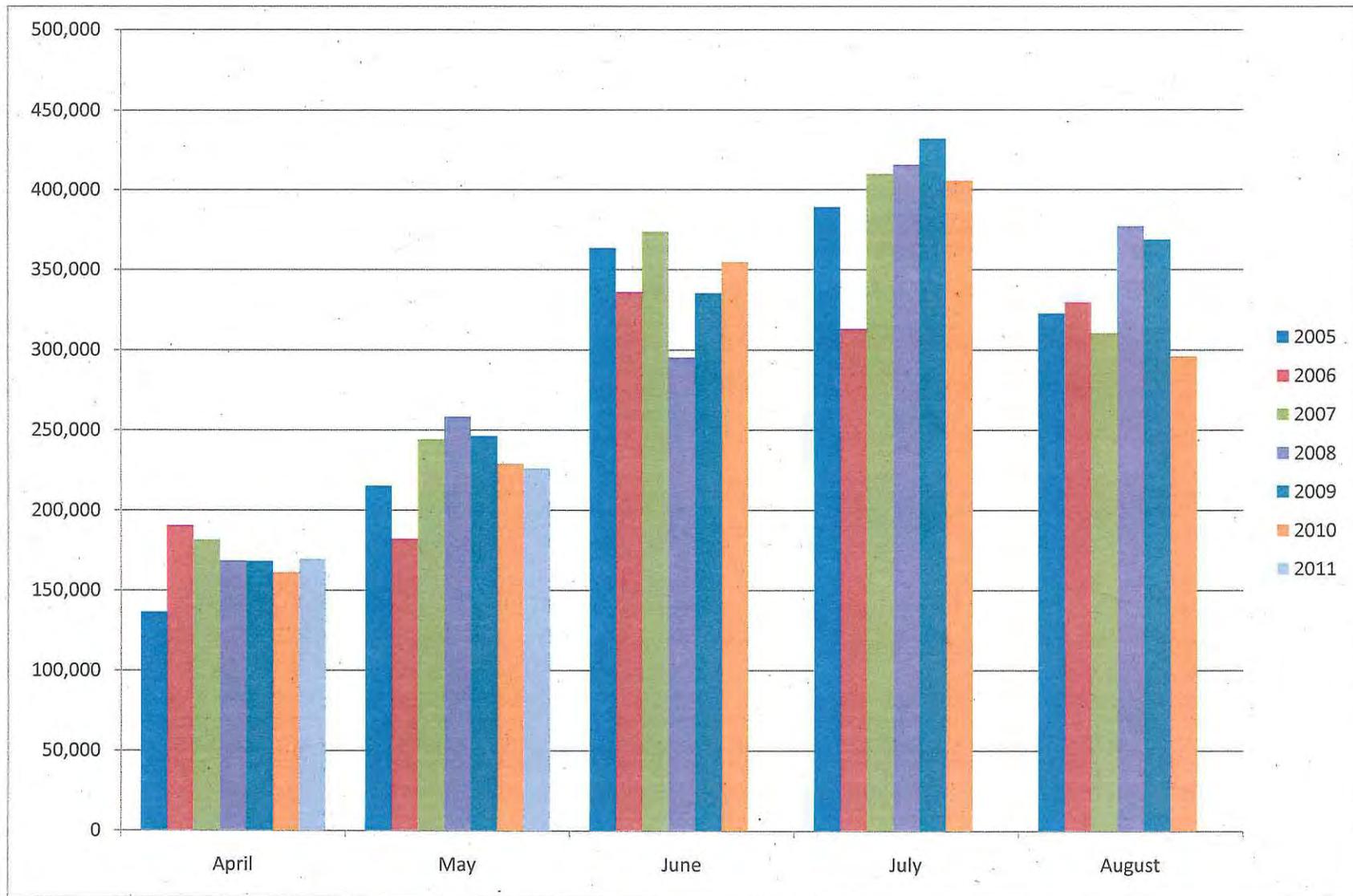
Recreational Fishing



Historic Photo of Recreational Fishing
Credit: NPS

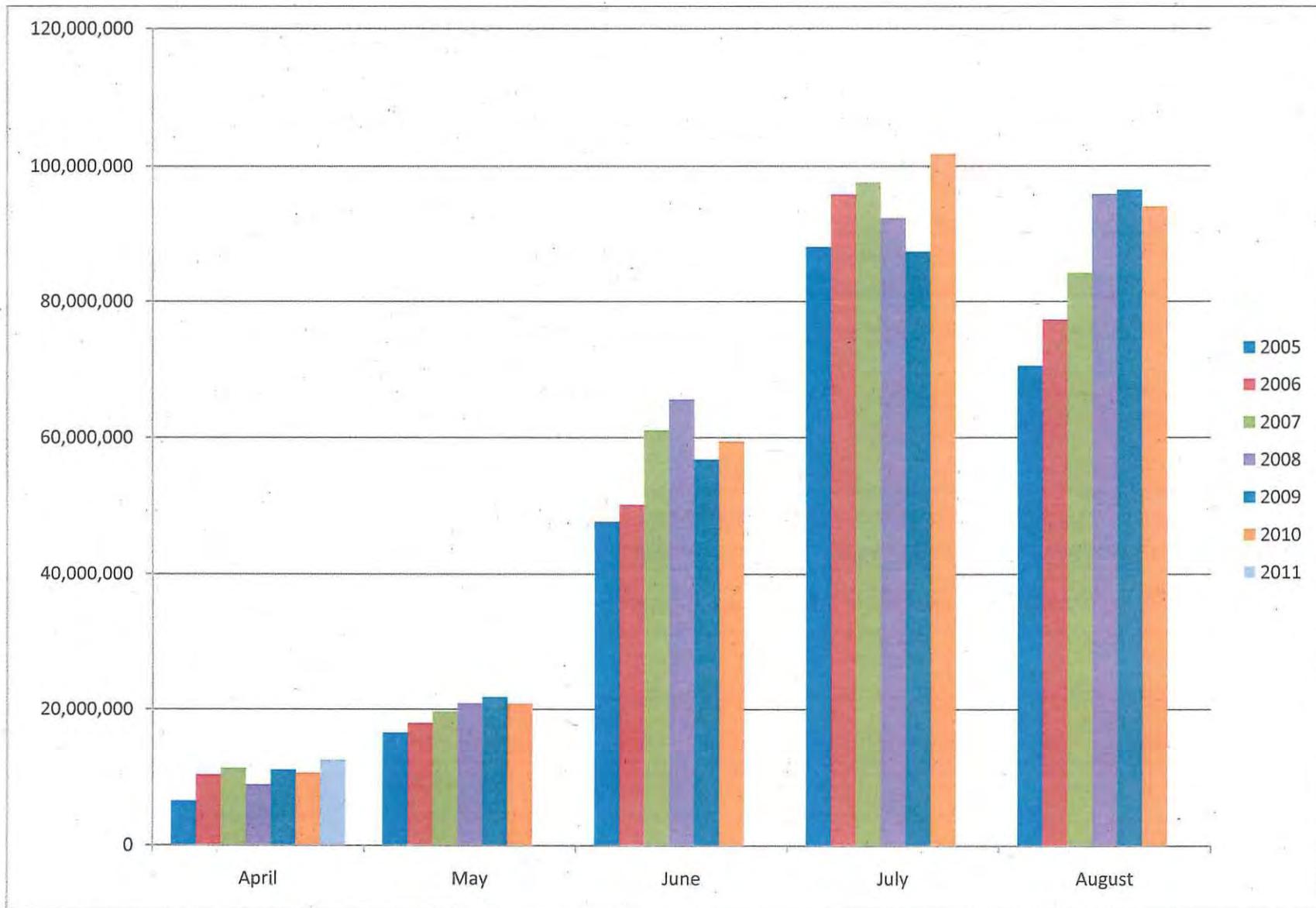
The cold Labrador Current and the warm waters of the Gulf Stream meet adjacent to the Outer Banks of North Carolina. The waters off the Seashore are known throughout the world as highly productive fishing areas. The fish that congregate in the waters off the Outer Banks attract anglers from throughout the region, but largely from North Carolina and Virginia. In the spring and fall, when bluefish (*Pomatomus saltatrix*), spotted sea trout (*Cynoscion nebulosus*), red drum (*Sciaenops ocellatus*), and other species are present in offshore waters, surf fishermen line the beaches to cast their baits and lures over the incoming breakers and into the schooling fish. Most of the beach and sound are open to fishing as are the fishing piers in the villages of Rodanthe, Frisco, and Avon. NPS boat ramps are located at the Oregon Inlet Marina and near the ferry office in Ocracoke Village. Charters and

Cape Hatteras National Seashore Visitation During Peak Breeding and Nesting Season 2005-2011*



*Occupancy data for June 2011 and later were unavailable at http://www.outerbanks.org/pdf/Visitation_Stats.pdf as of June 20, 2011.

Dare County Gross Occupancy During Peak Breeding and Nesting Season 2005-2011*



* Occupancy data for May 2011 were unavailable at http://www.outerbanks.org/pdf/Gross_Occupancy_Summary_receipts.pdf as of June 20, 2011.

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September 24, 2010

Jon Jarvis
Director, National Park Service
1849 C Street NW
Washington, DC 20240

Re: Economic Impact of Beach Driving Restrictions on Cape Hatteras National Seashore

Dear Director Jarvis:

On behalf of the Southern Environmental Law Center, Defenders of Wildlife, and Audubon Society, I write to thank you for the opportunity to discuss the protection of wildlife and management of off-road vehicles at Cape Hatteras National Seashore with you and your staff earlier this week. We appreciate the efforts of National Park Service to include a variety of interested parties in the decision-making process that will lead to the final off-road vehicle regulation for the Seashore. We continue to believe that management of the Seashore through science-based regulations will allow wildlife, visitors, and the local economy all to thrive.

In our meeting, you asked about the impact of natural resource protections on the local economy. I have enclosed some recent reports to supplement the answer I gave. Although Dare County – the county containing two of the three islands that constitute Cape Hatteras National Seashore – has not published comprehensive data covering all sectors of its economy, its Outer Banks Visitors Bureau does publish some tourism data. The Visitors Bureau recently reported that the county had an all-time high in vacation rental revenue this July, and expected August rental reports to be similarly strong. As summarized in the attached article from *The Outer Banks Voice*, Hatteras Island visitors spent \$27.8 million on lodging during the month of July, an 18.5% increase over July 2009.¹ In contrast, the northern beaches of Dare County – which are not part of the National Seashore and are therefore not affected by NPS wildlife resource closures – had only a 15% increase in rental receipts. Some of the data underlying the article is published on the Visitors Bureau website, http://www.outerbanks.org/about_us/visitors_bureau/. Copies of two relevant charts are also enclosed: those showing “Gross Occupancy” and “Meals” broken down by district, both of which show that tourism substantially increased in June and July over the same months last year. Other charts from the same website show the trends over longer periods of time.

This record-breaking year for vacation rental revenues coincided with a record-breaking year for several key species on the Seashore’s beaches. As we mentioned during our meeting this week, both piping plovers and American oystercatchers produced more fledged chicks

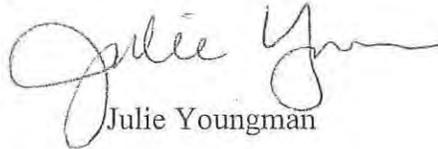
¹ Rob Morris, *Dare Occupancy Receipts Reach an All-Time High*, *The Outer Banks Voice*, Sept. 16, 2010, available at <http://outerbanksvoice.com/2010/09/16/occupancy-dollars-hit-an-all-time-high/>.

during the 2010 breeding season than have ever been recorded at the Seashore. Sea turtles laid a record 153 nests at Cape Hatteras, exceeding the previous record set in 2008 by more than 40 nests.

Together, the Visitors Bureau's report and the results of this breeding season reaffirm our belief that responsible, science-based resource management at Cape Hatteras National Seashore will not result in long-term economic harm to the businesses and communities surrounding the Seashore. Despite anecdotal claims by some that current management measures will cause economic ruin, verifiable data from Dare County indicates that the economies of Hatteras Island and the county as a whole have been resilient even in the face of the nationwide recession of the last several years.

Please do not hesitate to contact me at (919) 967-1450 if I can provide any additional information regarding off-road vehicle management at Cape Hatteras National Seashore.

Sincerely,



Julie Youngman

Enclosures

Cc (with enclosures):

Mr. Thomas Strickland, Assistant Secretary for Fish & Wildlife & Parks, DOI
Mr. William Shafroth, Deputy Assistant Secretary for Fish & Wildlife & Parks, DOI
Dr. Bert Frost, Associate Director, Natural Resource Stewardship and Science, NPS
Mr. David Vela, Southeast Regional Director, NPS
Mr. Michael Murray, Superintendent, Cape Hatteras National Seashore, NPS

Dare occupancy receipts reach an all-time high

[Rob Morris](#) | September 16, 2010

A tight economy apparently hasn't discouraged people from vacationing on the Outer Banks.

Vacation rental receipts hit an all-time high in Dare County during July, and August is likely to show similar results when the numbers come in later this month.

The Dare County Visitor's Bureau reported that rentals of cottages, hotel rooms, bed-and-breakfast accommodations and camping sites brought in \$101,783,465, a 16 percent jump over last July.

Year-to-date, occupancy receipts are up 8.42 percent over last year, said Lee Nettles, managing director of the bureau.

Nettles attributed the increase partially to pent-up demand after a long stretch of discouraging economic news.

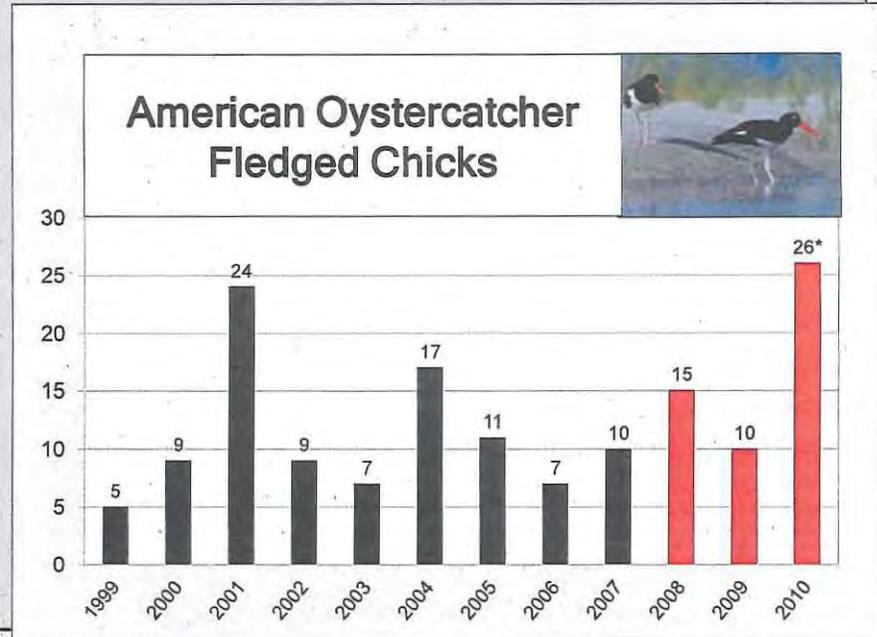
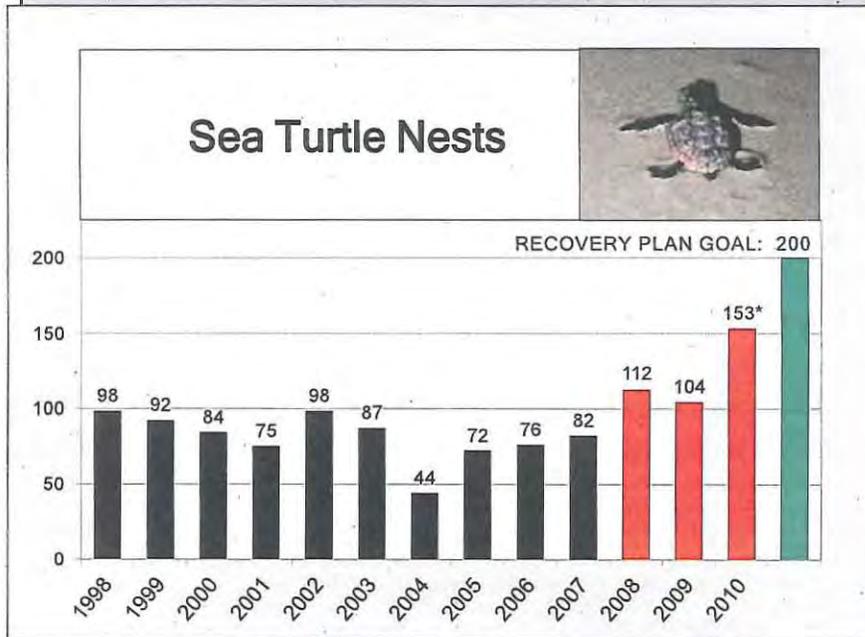
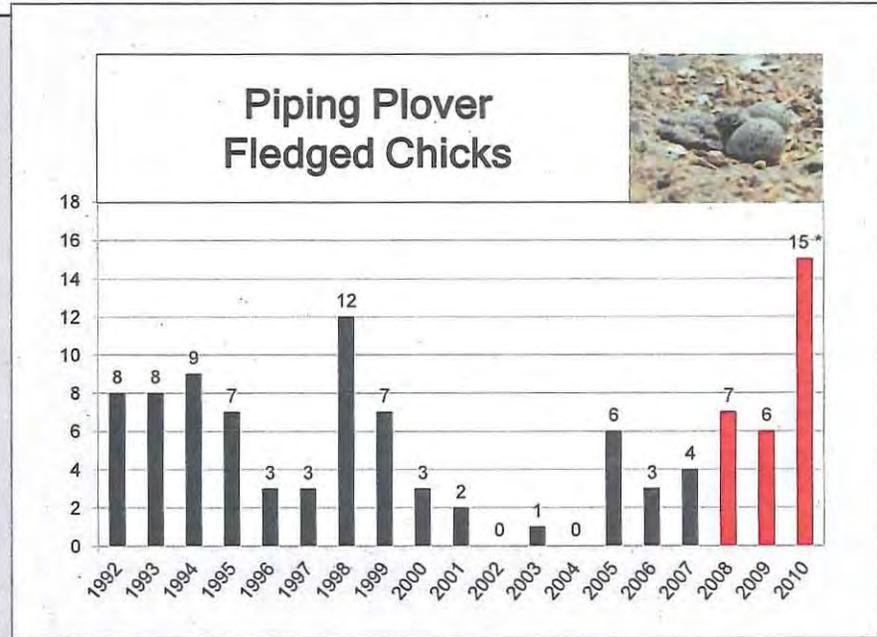
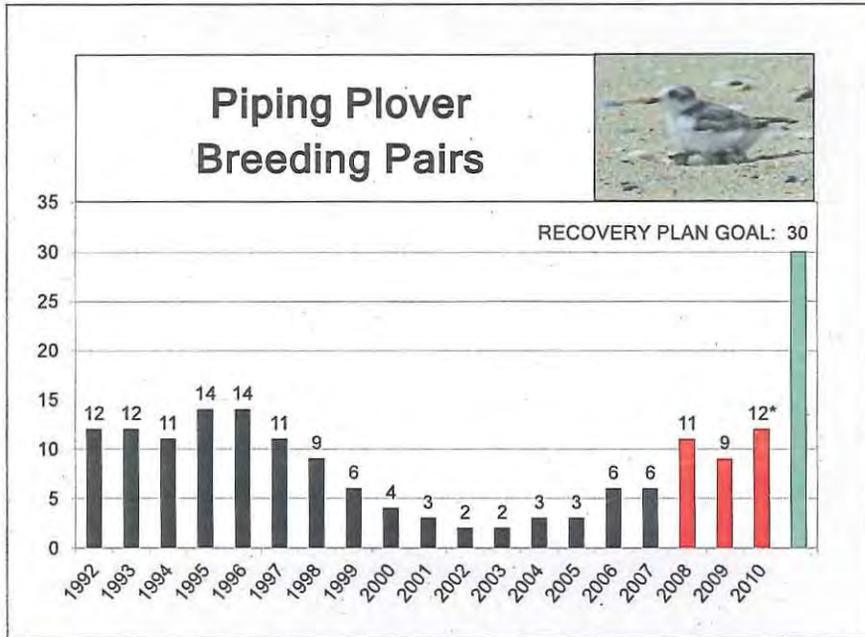
"A lot of destinations had a good July and August, I think," he said.

The previous best July was in 2007, when occupancy receipts stood at a little over \$97 million. The dollar amounts do not take into account changes in rental rates from year to year. So they are not necessarily a comparative measure of the number of people vacationing in Dare County from one year to the next.

Records were not immediately available for the years before 2001, but Nettles said it was a safe assumption that none of them approached this July's total. July is historically the highest month of the year for occupancy receipts.

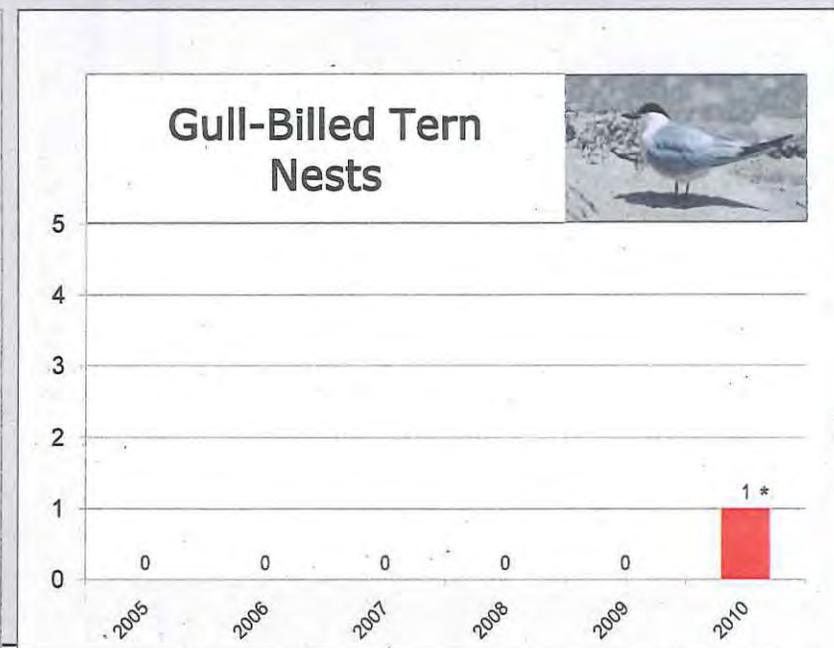
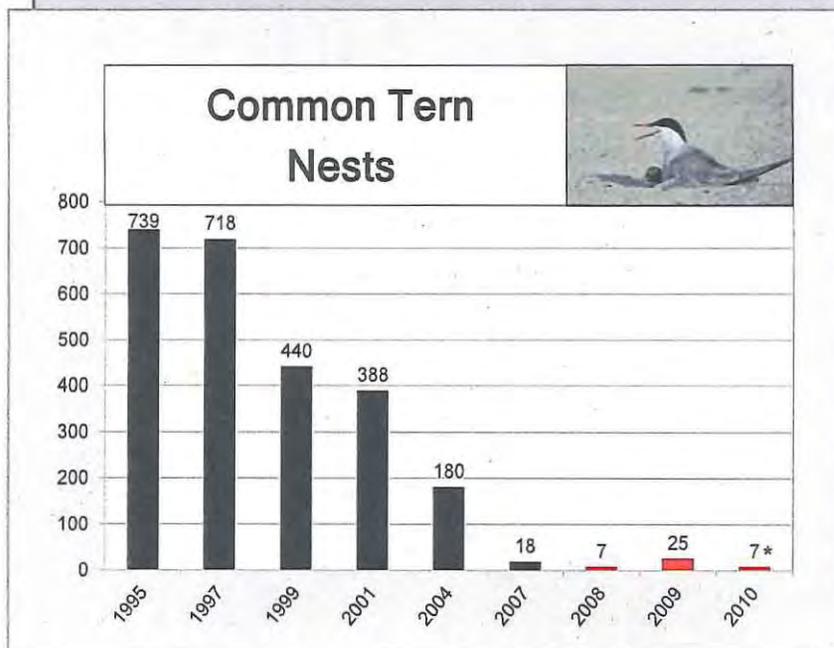
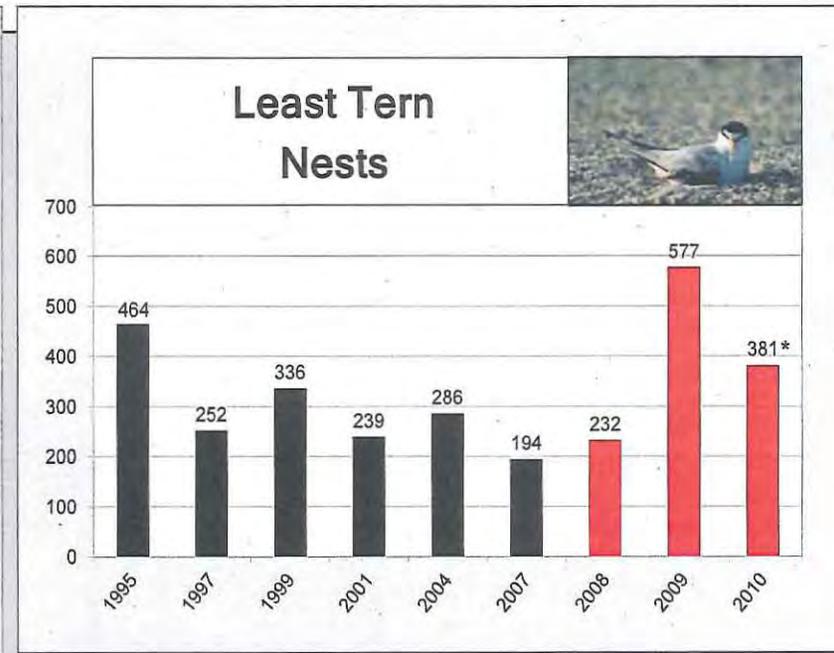
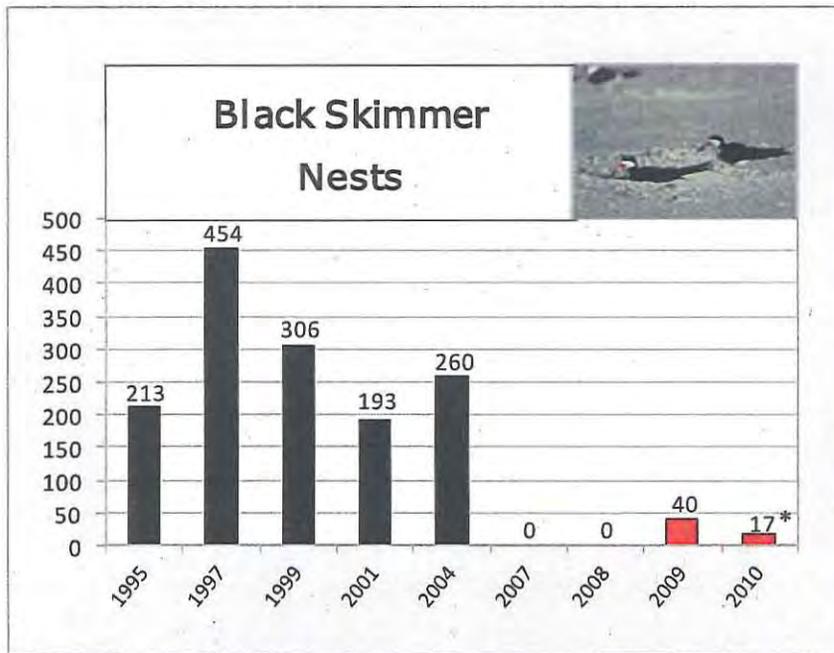
Even Hatteras Island, which has dealt with beach closures under a consent decree to protect nesting shorebirds, saw a big jump this July to \$27.8 million from \$23.4 million last July. That was an increase of 18.5 percent, which was even more than the northern beaches, which saw a 15 percent increase.

Species Rebounding Under Consent Decree



* Statistics for 2010 are based on the Cape Hatteras National Seashore 2010 Annual Resource Reports, excluding numbers from Green Island.

Species Rebounding Under Consent Decree



* Statistics for 2010 are based on the Cape Hatteras National Seashore 2010 Annual Resource Report, excluding Green Island. The report states that a "change in survey dates from the previous year led to a potential under-estimate of nests for the Seashore" in 2010.