

INTERIM STRATEGIC PLAN FOR PROTECTED SPECIES

CAPE HATTERAS NATIONAL SEASHORE

KILL DEVIL HILLS, NORTH CAROLINA

PRESENTATION AND PUBLIC HEARING

NOVEMBER 2, 2005

COURT REPORTER - T.K. TRAVIS

CAROLINA COURT REPORTERS, INC.

105 Oakmont Professional Plaza

Greenville, North Carolina 27858

TEL: (919) 355-4700 (800) 849-8448

FAX: (919) 355-4707

INDEX OF EXHIBITS

- [1] INTERIM PROTECTED SPECIES MANAGEMENT STRATEGY/ENVIRONMENTAL ASSESSMENT
- [2] INTERIM PROTECTED SPECIES MANAGEMENT STRATEGY LAWS AND NPS MANAGEMENT POLICIES
- [3] INTERIM PROTECTED SPECIES MANAGEMENT STRATEGY
- [4] PROTECTED SPECIES - PIPING PLOVER
- [5] PROTECTED SPECIES - COLONIAL WATERBIRDS
- [6] PROTECTED SPECIES - SEA TURTLES
- [7] PROTECTED SPECIES - SEABEACH AMARANTH
- [8] PROTECTED SPECIES - AMERICAN OYSTERCATCHER
- [9] AREA 1: BODIE ISLAND SPIT PHOTOCOPY OF AERIAL PHOTOGRAPH
- [10] AREA 2: CAPE POINT PHOTOCOPY OF AERIAL PHOTOGRAPH
- [11] AREA 3: HATTERAS SPIT PHOTOCOPY OF AERIAL PHOTOGRAPH
- [12] AREA 4: OCRACOE SPIT PHOTOCOPY OF AERIAL PHOTOGRAPH
- [13] COMMON ELEMENTS IN ALL ALTERNATIVES
- [14] JEFF LEWIS COMMENT LETTER

CAROLINA COURT REPORTERS, INC.

105 Oakmont Professional Plaza
Greenville, North Carolina 27858
TEL: (919) 355-4700 (800) 849-8448
FAX: (919) 355-4707

1 COURT REPORTER'S NOTE: Sign in and Open House
2 began Wednesday, November 2, 2005, at 6:00 p.m.

3 MR. JAMES HARRIS: This is Mr. James Harris at
4 Cape Hatteras, which is the north end of the wintering range
5 of the piping plovers. And it's the south end of their
6 breeding population. Normal overwash kills more birds than
7 anything else. The flooding of the pond and the campground
8 has reduced the feeding areas to just the ocean side beaches.

9 In September, the plovers and the terns feed around the
10 fishermen on scraps of bait and food that the seagulls don't
11 eat. That's a major food source that shouldn't be lost.
12 They're so thick, they're a trip hazard when you're getting
13 in and out of your truck. And you can't kill every feral
14 animal to protect the birds. Mother Nature will make a cruel
15 parent someday. And up north in Cape Cod and in the New York
16 beaches, they have very small closures around the nests and
17 they seem to work there. And down here, night fishing is the
18 best time to fish, so you can't close the beaches at night.
19 And something on the turtles; the nest -- the eggs should be
20 dug up and incubated because that works almost one hundred
21 percent for survival. That's it.

22 (Comment concluded at 6:02 P.M.)
23
24
25

1
2 COURT REPORTER'S NOTE: A Presentation and Public
3 Hearing began Monday, October 3, 2005, at 6:34 P.M.

4 MR. PATRICK REED: Good evening, I appreciate
5 you all coming this evening to spend some time with us and
6 share your thoughts and ideas on the public scoping meeting
7 here for the Interim Threatened Species Strategy for the Cape
8 Hatteras National Seashore. My name is Pat Reed. I am the
9 acting superintendent of the Outer Banks Group. And again, I
10 thank you all for coming and being with us this evening and
11 sharing with us here. We did have some similar meetings in
12 early -- early October, at least some different meetings, I
13 guess, in terms of more informational status upon which it
14 was right here in this room also. And this is, of course,
15 the formal public scoping meeting as an opportunity to
16 receive more formal comments from the public on the -- on the
17 -- the plan here. I guess I would like to start with the
18 purpose and objectives of the -- of this meeting here.

19 First, to explain the planning process and the timeline this
20 evening; to share information from the internal scoping; the
21 purpose, to meet the objectives and the issues as they have
22 been defined so far and to share what we heard from you at
23 the informational meetings in which we have considered and
24 we'll be incorporating in using both for this Interim
25 Strategy and also for the longer ORV Management Plan and to

1 receive the comments, which is the most important thing this
2 evening to -- to have you here and be able to let you comment
3 on where we're at in the process and add your ideas and
4 thoughts as we move forward to develop other alternatives and
5 biological assessment for this Interim Strategy.

6 With that, I'd like to turn this over to -- to
7 the environmental planner from a consulting firm here that's
8 been helping us move this process along, Jess Commerford.
9 And he'll come forward and lead us through on the
10 presentation so far as where we're at right now. And then
11 you all will have the opportunity then to make -- to make
12 some comments during that hearing phase. Jess?

13 MR. JESS COMMERFORD: Thanks. Welcome
14 everybody. I want to thank everyone for taking time out of
15 their schedules to join us this evening. I was here the
16 first week of October when we had the open house meeting and
17 I see a few familiar faces tonight. And so, to those of you
18 that have come back for the second time, I appreciate you
19 staying with us. And for those of you that are new to the
20 process, I'll take just a minute or two explaining the
21 difference between what we did in October and tonight's
22 meeting. And then we'll spend a few minutes going through
23 some slides that explain this process, much of which is on
24 the boards out here, so we won't spend too much time on the -
25 - on the repeats. And if you've had some time to go through

1 that, that's great. In October, we had more of a question
2 and answer format, which was basically a meeting to describe
3 what this process would entail and to give people an
4 opportunity to ask questions about what the process would be.

5 Tonight's meeting is a more formal scoping
6 meeting as defined in the National Environmental Policy Act.

7 And this meeting really has to do with collecting comments
8 and hearing your issues with respect to the Environmental
9 Assessment that's being prepared for the Interim Species
10 Management Plan. What you see before you is the board that
11 really illustrates what that planning process is. That's out
12 here where you can read it a little bit better on the board,
13 but it does show that this process began with an internal
14 scoping. And what that is is an effort of the National Park
15 Service personnel sitting down and identifying what needs to
16 happen through this planning process; looking at the purpose,
17 needs and objectives of that process and developing some
18 preliminary alternatives for discussion. After that, as I
19 said, we had the open house meetings in the first week of
20 October. We're back here now for the public scoping to hear
21 your comments about the Environmental Assessment and the
22 Interim Species Protection Plan in process. And as you can
23 see here, the schedule has this effort wrapping in the March
24 time frame. It is important to distinguish the difference
25 between this plan and the upcoming ORV Management Plan. This

1 species is an interim plan which basically is a carryover to
2 that. And the Interim Strategy is really a seven month
3 process focused in particular on Protected Species Management
4 to consider -- considering the impacts of the ORV on
5 protected species. And we'll focus on species protection in
6 particular. The larger ORV plan is a three year long
7 process. It involves regulation development for ORV use and
8 the Park. It will consider all aspects of ORV use rather
9 than just Protected Species Management in particular.

10 The National Environmental Policy Act or NEPA is
11 a planning process that includes developing a purpose, need
12 and objectives for taking action and to identify issues
13 associated with that action. And we'll define those a little
14 bit more in a moment. Some of those, again, are on the
15 boards that you saw coming through. These are also
16 identified on a flyer that's available for you in a handout,
17 and so if you didn't have an opportunity to grab that, I
18 would encourage you to do that. And this was also sent out
19 by mail and e-mail in particular to some of the folks that
20 participated in the meeting in October.

21 The purpose of the action is a broad goal
22 statement. And that really is to help you understand what
23 alternatives -- what the alternatives intend to accomplish by
24 taking this action. The purpose of this plan in particular
25 is to evaluate and implement strategies to protect sensitive

1 and protected species and for recreational use as directed in
2 the enabling legislation, National Park Service management
3 policies and other laws of mandate until the longer term ORV
4 management plan is developed.

5 The need for action here is the cause statement
6 that defines why the action needs to be taken now. And that
7 action is needed now because a clear and consistent set of
8 management strategies is definitely needed. And the lack of
9 an approved plan has led to inconsistent management of
10 protected species and created confusion for both the public
11 and Park staff. It is needed to provide a management
12 strategy on which to consult with U.S. Fish and Wildlife
13 Service under Section 7 of the Endangered Species Act as
14 well. The Management Strategy is -- is needed. It complies
15 with the Endangered Species Act, The Migratory Bird Treaty
16 Act, the National Park Service management policies, the
17 enabling legislation for this park -- which avoids adverse
18 impacts to protect its species and also to address public
19 concerns about the species management and recreational use
20 which needs to be addressed immediately.

21 Objectives within this process are smaller goals
22 that need to be met in large part for this strategy to be
23 considered a success. NPS has developed five categories of
24 objectives for the strategy. And those categories are,
25 Management Methodology, Public Engagement, Visitor Use and

1 Experience in the Park, Protected Species and Park
2 Operations. The Management Methodology objectives include
3 establishing adapt -- adaptive interim management practices
4 and procedures that have the ability to respond to changes in
5 the Seashore's dynamic -- dynamic physical and biological
6 environment, and to establish procedures with prompt and
7 efficient notification of Protected Species Management
8 actions and the reasons for taking these actions. And the
9 Public Engagement objective would establish an ongoing and
10 meaningful dialogue with the multiple groups of individuals
11 interested in and affected by Protected Species Management to
12 ensure development of an implemented strategy. Visitor Use
13 and Experience objectives include providing for continued
14 recreational use and access consistent with required
15 Management and Protected Species in the Park and increase
16 opportunities for public awareness and understanding of
17 National Park Service Resource Management Visitors' Use
18 Policies and the responsibilities as they pertain to the
19 Seashore and Protected Species Management. Protected Species
20 Management objectives include providing -- providing
21 threatened, endangered and other protected species and their
22 habitats protection from adverse impact related to
23 recreational use as required by laws and policies, again,
24 such as The Migratory Bird Treaty Act, Endangered Species Act
25 and National Park Service Management Strategies, and to

1 provide consultation with -- with the Fish and Wildlife
2 Service to ensure that National Park Service Management
3 Actions complied with the Endangered Species Act. The Park
4 Operations objective is to provide for effective Protected
5 Species Management while maintaining other Park operations.

6 I should say all of these have been identified
7 so far through, again, that internal scoping process and part
8 of what we're here about tonight is to gather public input on
9 those objectives, the issues that have not been identified so
10 far for discussion and analysis. And then in particular, the
11 alternatives that have been identified so far and we can talk
12 about in a moment.

13 The issues underneath that really relate to
14 identifying concerns or obstacles to accomplishing the
15 objectives that we've just mentioned. There are issue
16 statements that describe the relationship between the action
17 that can be taken and potential environmental impacts which
18 include natural, cultural and associated economic resources.

19 The issues that have been identified by the
20 National Park Service so far and, again, these are
21 preliminary issues, are Visitor Use and Experience, which
22 includes management of protected species that result in
23 adverse and beneficial changes to visitor use and experience.

24 The Economy of the Communities within the Seashore and how
25 the management of the protected species could effect the

1 local and regional economy. Local Commercial Fishing
2 Activities, how the management of protected species could
3 affect access for the commercial fishing. Again, protected
4 species and how recreational activities of the Seashore could
5 impact federally protected species and their habitat on the
6 beach and the soundside of the Seashore and identifying
7 conflicts between the listed species and recreational uses
8 that could create direct or indirect losses of the species.
9 And Other Sensitive Species in the habitat for American
10 Oystercatcher and other locally sensitive species as well as
11 species listed by the state of North Carolina which may be
12 vulnerable to recreational use. Soundscapes and how
13 recreational activities of the Seashore could create noise
14 that could impact protected species by altering -- altering
15 the natural flight and sounds of the Seashore. And Wetlands
16 and how human activity in Wetland areas could adversely
17 affect the Wetlands and other habitat that is important to
18 protected species. And finally, the Coastal Barrier
19 Ecosystem and how natural processes such as hurricanes and
20 storm events may create habitat for protected species
21 resulting in conflicts between management of those areas,
22 habitat, and management of the area for recreational uses.

23 Alternatives that are included in the NEPA
24 process include a full range or reasonable alternatives that
25 requires part of the Environmental Assessment Process. Where

1 the purpose and need that we mentioned earlier define the
2 problems, the alternatives are a different way to solve those
3 problems which result in solving needs and issues that were
4 identified. The alternatives are all within stated
5 constraints including the National Park Service policies.
6 Each alternative should find ways to minimize impacts to all
7 or several of the resources that we just mentioned.
8 Alternatives are the heart of the NEPA document and a
9 critical part of the Environmental Planning Process. The
10 alternatives need to provide real options for decision makers
11 as they move forward. They require creative approaches.
12 They are based on sound environmental rather than technical
13 logistics or economical differences. And I should explain
14 that just briefly. That's not to say that economics and
15 these other things are not considered. Environmental impacts
16 do include socioeconomic impacts, land use impacts, not just
17 environmental issues. What that means is that these
18 alternatives need to provide different environmental
19 approaches that are distinguished from one another and they
20 need to be reasonable. And so what is reasonable?
21 Reasonable alternatives need to be economically feasible.
22 They need to display common sense. They need to meet the
23 objectives of taking action that we just defined. They need
24 to be technically feasible. And they're not consistent --
25 they need not necessarily be the cheapest or easiest solution

1 to those issues. I'll talk briefly for a moment how these
2 alternatives are developed just to go over it. Again, it's
3 out there and you can take a look at it and read this in a
4 little more detail. The Park Service starts this process by
5 reviewing their requirements under the Organic Act and their
6 management policies and other related federal requirements of
7 which we've just identified and then looking at particular
8 parts of enabling legislation for Cape Hatteras and the
9 purpose and the significance of this park in particular, and
10 then drilling down to the purpose need under -- under
11 objectives of this strategy which is the Interim Protected
12 Species Management Plan, and then through that identifying
13 the full range of alternatives that covers the wide range of
14 issues that we've discussed. The preliminary alternatives
15 that have been identified by the National Park Service so far
16 are illustrated on the boards out there. They're all also
17 are available on the handouts in which hopefully all of you
18 have coming in. And again, I stress that these are
19 preliminary and subject for adjustment as we move forward
20 going through the scoping process and identifying other
21 issues that are raised through scoping.

22 The alternatives are developed, again, with
23 recognition of the Federal laws that affect this process,
24 National Park Service policies, in which I mentioned,
25 scientific protocols that affect management of the protected

1 species, practical knowledge gained from a variety of sources
2 including Park staff and also public involvement through this
3 process and others. And again, as I said, the ones that are
4 illustrated here this evening are really a sounding board for
5 moving forward. When there are many alternatives that can be
6 analyzed, it's typical to choose a few of those which really
7 cover the full spectrum of the issues and options that can be
8 adopted in trying to get a boundary analysis. And
9 identifying the range of alternatives is really more
10 important than identifying every single one.

11 NEPA requires that all Federal agencies include
12 the no action as part of the NEPA process. And this one,
13 therefore, is no different, so you will see no action
14 included. In this instance, that includes management
15 practices that were typical before moving through this
16 planning process. And Park Service has identified the 2004
17 management review as the baseline in which -- in other words
18 means management continuing forward as it was during that
19 period.

20 As I said, we were here for meetings on three
21 evenings the first week of October, including here in this
22 facility. And there were some common themes through all
23 three -- all three of those meetings in which we thought we
24 would summarize here this evening. That included the effect
25 of the Interim Strategy on ORV access to the Park; the effect

1 of Interim Strategy on species protection; the 2005 escort
2 system, turtle management in particular; the economic impacts
3 of taking action; and other management practice suggestions.

4 As we said then, and it's important to stress that tonight,
5 that the input that was received during October as well as
6 input from our meetings this week and other comments that are
7 submitted during the scoping period will all be considered as
8 the Interim Strategy as the environmental assessment is
9 developed and moves forward. Some of what has been heard
10 both in the meetings in October and during this week will be
11 taken as part of this process, but probably as more
12 appropriate for the overall ORV management plan as that moves
13 forward in the future. But we would like to stress that all
14 comments that are received through this process that are also
15 appropriate and are even more appropriate for the ORV
16 management plan will be carried forward and included in that
17 process as well.

18 So we touched on this a little bit, but there
19 are several ways to provide your input through this process.

20 We are accepting comments tonight. And as you see from the
21 agenda, we're doing an Open House before this and most of you
22 were here for that, clearly. And we'll have an Open House
23 session afterwards again where you can review the materials
24 and talk to Park Service staff that are here. We need those
25 comments to be received by November 17. You can submit them

1 also online through the website address that's identified
2 here as well as we have some handouts back here where you can
3 write your comments on the back. And they're self-addressed
4 and you can fold them up and either leave them here this
5 evening or mail those in afterwards if you wish to do that.
6 Here's an address where you can submit those comments.

7 Please include your full name and your mailing address, your
8 e-mail address if you wish to give us that as well. On the
9 cards when you signed in, I think you were given that option.

10 And further information and materials as we move forward can
11 be submitted that way as well. And again, we need those by
12 the 17th.

13 And we touched on this already, but it's just
14 worth mentioning again that the longer term ORV management
15 plan will be handled by a regulation development process.
16 And it will be accompanied by an environmental impact
17 statement process which is actually the more robust NEPA
18 process for the environmental assessment. And that process
19 will be announced in more detail in the coming months.

20 So with that, we're going to move to the public
21 comment portion of the meeting this evening. I'm going to
22 call on folks largely in the order that you signed in this
23 evening. And when we get through everyone who has signed up,
24 if there is someone who came in and didn't get an opportunity
25 to speak, we'll try to provide the opportunity to do that as

1 well. When I call out the person whose turn it is speak,
2 I'll try to identify one or two folks that are coming up
3 after that to give you a chance to prepare. It is our policy
4 for allowing elected officials to speak first. If there is
5 anyone here this evening who is a locally elected official,
6 if you would, please, when you come up to speak, speak into
7 the microphone. We do have a reporter here this evening.
8 And it's very difficult for him to pick up what you're saying
9 unless you're speaking into microphone, so do that. And if
10 you would state your name so he can get that for the record,
11 we would appreciate that as well. Speaking from your seat
12 will not work because he can't hear it and can't pick it up,
13 so we will need you to come up and speak into the microphone.

14 To give everybody a chance, I would like to limit your
15 comments to roughly four minutes to give everyone an
16 opportunity to speak. And as I said, during October, if you
17 have written statements that are much longer and more
18 detailed or if you have supporting information or other
19 information that you would like included in this process, you
20 can submit that to us this evening and it will be included as
21 part of the official record or give us that after the meeting
22 as well and we can attach it.

23 So with that, we'll go ahead and get started.
24 And the first up is Ted Hamilton and Jim Harris will follow.

25 MR. TED HAMILTON: I'm Ted Hamilton and I came

1 back again tonight because I stumbled on something today that
2 intrigued me. I reviewed the draft Environmental Impact
3 Statement for the Bonner Bridge replacement alternatives.
4 And in there, there are -- there's a protected species
5 section. And I looked at that and I found all the species
6 that are covered by the Endangered Species Act that are on
7 your list were on the bridge list. But then in looking at
8 the other species you have on you list, I could only find the
9 gull-billed tern. And so the others like least tern and
10 black skimmer that you say are of concern to the state, I
11 say, well, gee, the state is the one doing this impact
12 assessment for the bridge and they don't seem to be concerned
13 about them. And so that's a dilemma that to me needs to be
14 resolved and at least explained why the difference between
15 your list and -- and their list in terms of the concerns.
16 Okay, thanks.

17 MR. JESS COMMERFORD: Thank you.

18 MR. JIM HARRIS: I gave mine to the reporter
19 earlier. I didn't know the format when I came in, so I spoke
20 to the reporter.

21 MR. JESS COMMERFORD: Are you Mr. Harris? Okay,
22 thanks. Jim Keene.

23 MR. JIM KEENE: I'm Jim Keene, a citizen of Nags
24 Head and president of the North Carolina Beach Buggy
25 Association. I've attended all of your meetings so far and

1 intend to do so for the next three to five years, ever how
2 long it takes. I'm sure you'll get tired of seeing me. But
3 I hope you'll come to a good conclusion.

4 It's just as a matter of public record, I want
5 it to be known that we're totally, you know, taken aback by
6 the Interim Plan as it's written today and we've looked at
7 and in the short period of time that we've had to review
8 them. They're not worth the paper they're written on.
9 They're unmanageable. They're -- they cannot be put into
10 effect. They could not be -- you don't have enough rangers
11 to enforce them. And there's just no way that they would
12 ever work. And I think the paper that they're written on
13 could be put to be better use. You can do with it what you
14 like. A couple of sheets of that paper, though, ought to be
15 set aside, though, to write an apology to the U.S. taxpayer
16 for having wasted the money to have these protocols written.

17 As written, basically this park could be closed with the
18 exception of perhaps February and March of each year. And
19 that's totally unacceptable to everyone. And that's not just
20 the beach buggy people, not just the fishermen, but
21 everybody. This park is a recreational area and we could not
22 stand to have those protocols put into place.

23 The dynamics of Cape Hatteras is one that seem
24 to get very little attention in these protocols and in our
25 general discussions. Cape Hatteras is always going to

1 require some adaptive management. And we've had very little
2 of that because we've had very little management here for the
3 last ten years. And I don't want anybody to take this
4 personal. I mean, we've had a lot of interim management.
5 That's how I mean it. If a volcano erupted in Yellowstone
6 every year, they would have to change their management
7 policies. And in fact, that's what happens here at Cape
8 Hatteras. We have the northeasters. We have the winter
9 storms. We have the hurricanes. This is a very dynamic
10 park, probably the most dynamic one in the system. I make it
11 a point to visit as many parks as possible all over this
12 country on a regular basis as I travel about on other
13 personal business. This is not a park that will ever be a
14 textbook or a case of concrete protocols. This is a park
15 that is going to require some adaptive leadership. It's
16 going to take some strong leadership -- and we have not seen
17 to date. We have been promised some changes and we look
18 forward to those. But the main thing is we need leadership
19 that is willing to come out as you all have done here on a
20 regular basis, not when there's a hot bid going on, but on a
21 regular basis and talk to the people. These people in this
22 audience, however you see that they may be and whatever they
23 may have to say, are the true conservators in this park. Now
24 you're going to have work with these people and you're going
25 to have to work with them regularly. And just because it's

1 been written into a set of protocols, that don't necessarily
2 mean these protocols. There's going to have to be adaptive
3 management in this park.

4 The habitat losses that have occurred in this
5 park, and I'll preface that a little bit by the fact that
6 I've been coming here for thirty-five years and a property
7 owner for twenty-five years and now a full-time resident, and
8 so I have seen a lot of the changes. The two biggest
9 problems that we have with habitat here, of course, is the
10 first one which is weather. Nobody can control that. We're
11 just going to have to learn to adapt to it and do what we
12 can. But the second most destructive force in this park has
13 been the humor -- human intervention on behalf of or on the
14 part of the National Park Service Resource Management Group.

15 You've closed vast areas of the park out there. These areas
16 are now overgrown with grasses and are no longer a suitable
17 habitat for any of the species of concern that we're talking
18 about specifically on these protocols. I think it's very,
19 very bad management, very poor management. I think you've
20 had the group of people that were intent on growing grass
21 while others were trying to protect species. And there has
22 to be some changes made in that area. The -- the predators
23 that we talk about in the grass areas, we're now hunting
24 those to extinction in the area. The red fox is not
25 acceptable, I don't know why. I don't know how he got there.

1 I don't know that anybody carried him over in their pocket.

2 We've all heard the funny story that ought to turn into a
3 cartoon where one pregnant fox went across the Bonner Bridge.

4 Drive the Bonner Bridge, the seagulls can't even fly it
5 without getting killed. And to think one fox went over there
6 and brought this population is pure folly. Again, I think
7 that goes back to the resource personnel. If they did arrive
8 there by storm or being washed ashore, whatever the case may
9 be, then they're there by nature. I don't necessarily feel
10 that we need to be spending a lot of money for the slaughter
11 of these animals.

12 No one in this room, and I mean anyplace in this
13 room, has any desire to eat a plover or a turtle or turtle
14 eggs or anything else, so please let's not make comparisons
15 to the old buffalo herds that were slaughtered for food and
16 for buffalo robes and so forth. We're all here for the same
17 purpose. We want to preserve Cape Hatteras National
18 Seashore. We want to preserve it for those of us that enjoy
19 it. We want to preserve it so it will be here for our
20 children. I think we talked in earlier meetings and my
21 grandchild has just visited for the first time. And I hope -
22 - would hope that someday she could bring her child to this
23 same park.

24 Tomorrow night, you will be putting on this same
25 show in Washington, D.C. Probably some of the same people

1 will be there. It's a shame that the people that truly love
2 this park, most of the people that are here, won't be there.

3 But I say when they come before you to speak, and I know you
4 cannot necessarily draw lines of who's speaking or who's
5 putting -- making input through the -- the voice recording, I
6 do want you to think though and look at the people that are
7 there. Your conservators are here. The people that will
8 preserve this park are here. You have a bunch of glass
9 tower, so called conservatives, that will be up there. Think
10 about what they're there for. Do they really care about Cape
11 Hatteras or are they there to earn a fee? I think you would
12 understand what I'm saying.

13 One of the endangered species not mentioned
14 anywhere in any of these protocols except in -- in the
15 statements -- are the people. And I think there is going to
16 have to be some different considerations and different items
17 taken into considerations. You talk about speeds, the one
18 that really jumps out in the protocols, lower the speed limit
19 from twenty-five to ten or fifteen and go slower if there's
20 birds around. Don't care if there's kids around. We don't
21 care if somebody's there in a wheelchair, but if there's
22 birds, you had better slow down. And I think that kind of
23 summarizes what -- what we feel about all of these protocols.

24 They are written in -- with total disregard for the people
25 that -- that live -- and -- and in fact the people that own

1 these parks, and that is the American public.

2 Two of the four last meetings that we had in
3 October, I attended. The other one from Ocracoke, I've read
4 the minutes of. And the fourth one, I have not yet had the
5 time or the chance to read those comments. But when I read
6 the consolidations, I'm a little bit taken aback because when
7 I -- having attended two of the meetings and read the minutes
8 of the third meeting, I cannot come up with a list that's
9 consistent with the list that was presented. And I think
10 somebody needs to make another review of that. And I think
11 when they get ready to consolidate the statements from these
12 two -- or these three meetings, that somebody review them
13 before they come out. I don't understand how we're releasing
14 some of the information that's being released. I think your
15 proposals that are back there on the boards are -- that are
16 available on handouts, we will be making further comment on
17 them and look forward to working on this program for the next
18 several years. Thank you.

19 MR. JESS COMMERFORD: Thank you, Mr. Keene. I
20 apologize if I get this wrong, Alice Hengesbach.

21 MS. ALICE ANN HENGESBACH: Hi. You did well.
22 Alice Ann, fine old Southern double name, Hengesbach. I want
23 to thank the National Park Service for having a meeting at
24 night. And the gentleman who proceeded me, unfortunately I
25 didn't get your last name, Keene?

1 MR. JIM KEENE: Jim Keene.

2 MS. ALICE ANN HENGESBACH: Thank you. I am a
3 Carolina girl newly returned, so I don't have a lot of
4 opinion right now on the alternatives. I desperately believe
5 in the process. I think that Mr. Keene really hit on
6 something. We need consistent opportunity to come and meet
7 with you. There are a lot of us who have made a choice to
8 live here and that choice was predicated on being able to use
9 and enjoy both the ocean and the sound. And so I don't want
10 anybody to feel sorry for us, but we do it pretty much
11 because that's the reason to be here. A lot of us made job
12 changes. The only time we can come is at night. I think we
13 need consistent opportunity for input. So when the -- as
14 this process goes forward, specifically for the seven month -
15 - the short plan, if you could do your very best to let
16 people know well in advance when and where those meetings
17 will take place, that would be appreciated, because some
18 people even work more than one job. I think that's it.
19 Thank you.

20 MR. JESS COMMERFORD: Thank you. Dave Masters.

21 MR. DAVE MASTERS: Good evening, thank you for
22 the -- thank you for this opportunity to speak. There was an
23 article in the, *The Coastal Land Times*, which if you read it
24 in *The Coastal Land Times*, you can believe it. That's the
25 local paper. It's been a hundred years. It came out on

1 Tuesday, yesterday, which was the first day of the first day
2 of your meetings. It said, "It was released on Friday,
3 October the 28th." The timing -- I'd like to hear
4 discussion, if it's possible, on the timing of this and how
5 it got started and why it's something this radical coming up
6 just as this plan is trying to be developed for responsible
7 use of Cape Hatteras National Seashore. It said, "It's done
8 by the management, monitoring and protected protocols for the
9 National Seashore or produced by scientists working with and
10 for the United States Geological Survey Protective Wildlife
11 Research Center." I don't know if that's an arm of the
12 government that writes all the protocols and sends them down
13 to the areas that need it or not, but I'd like to have that
14 looked at a little bit. It continues "That these scientists
15 caution that these protocols do not attempt to balance the
16 need for protection of these species with any other
17 activities that occurred, CAHA, nor was National Park Service
18 management policy considered in details." But it further
19 goes on to say even though it wasn't considered in details,
20 it said that they met. "These experts met with the Cape
21 Hatteras National Seashore and regional Park Service staff
22 to, quote, ensure that the description of recent management
23 at CANA -- HA was accurately represented and that the
24 approach was consistent with our work agreement." I'd like
25 to focus on that last phrase. Who is "our" and what

1 agreement was it. There -- there's some things in here
2 that's just unbelievable. It says, "To offer the highest
3 protection for the small shore bird, the scientists recommend
4 closure year around to all recreation uses of the ocean and
5 soundside habitat in all six areas." Year around, not just
6 during breeding season. Another statement that they make was
7 that this was in the -- for each of the protected species,
8 "That pets, flying -- kite flying, frisbee, ball playing,
9 fireworks, fishing and wildlife feeding and littering should
10 be prohibited." I don't know if that's just those things
11 that should be prohibited and we're going to be allowed to
12 fish down there or not. I'd like to address that if I could,
13 Pat. They do hit on a system that Mr. Irving of the Wildlife
14 -- Protective Wildlife stated and I quote, "With more than a
15 hundred kilometers of beach to patrol and twenty-four hour
16 access for recreation, no ORV permit system and limited
17 enforcement and resource management personnel effective
18 monitoring of important biological resources is strongly
19 compromised." I think the Park should address -- or at least
20 certainly this should be addressed in the long range plan.
21 I'm not sure you have time to do it in this interim plan,
22 Pat, but a couple of things, again, to be looked at. With
23 that, thank you very much and thank Marilyn for writing this.

24 MR. JESS COMMERFORD: Thank you. Steven Kayota.

25 MR. STEVEN KAYOTA: I represent a coalition of

1 two hundred homeowners in Frisco and Hatteras village. And
2 we favor a permanent year round ban on ORV driving in the
3 villages of Hatteras Island. Our homeowners rent their homes
4 on average twenty-five weeks per year to vacationers. Last
5 year, approximately 76,000 people stayed for a week in our
6 homes on Hatteras Island. 76,000 people who shop in the
7 stores, charter the fishing boats, shop in the tackle shops,
8 eat in the restaurants and fuel the local economy. We
9 believe this group deserves representation in this process as
10 well.

11 Our national park system is the envy of the
12 world. No other country has set aside and protected such a
13 vast amount of natural beauty and wildlife resources. Our
14 national parks, including Cape Hatteras National Seashore,
15 belongs to all Americans, including the locals, vacationers,
16 and non-resident property owners. And as we live in a
17 democracy, the opinion of majority park user groups should be
18 considered in the ORV management plan and decision making
19 process and not just the voices of the pro-ORV special
20 interest groups. The vacationers who rent our homes comprise
21 the majority of park users. The majority opinion of this
22 user group favors a year around ban on ORV driving in front
23 of the villages of Hatteras Island. This consensus was
24 proven by a recent survey which was actually funded by the
25 OBPA and conducted by William Neal, a member of the OBPA. In

1 this survey which was published by *The Island Breeze*, Mr.
2 Neal states and I quote, "We asked three user groups, the
3 visitors, non-resident property owners and local residents
4 about banning ORV driving in front of each of the villages.
5 All three groups were in general agreement. On average,
6 forty percent agreed with the year round ban on ORV traffic
7 in front of the villages compared to thirty percent who
8 believed those areas should be opened off season. The
9 visitors and vacationers who are the largest park user group
10 favored a permanent ORV ban in the villages by a vote of
11 forty-eight percent to twenty-three percent." Our group's
12 own current survey among vacationers thus far reveals a much
13 wider percentage of support for such a ban. Our group feels
14 that ORV driving in these pedestrian areas poses a safety
15 risk to children and beachcombers in general. There is a
16 high incident of reckless beach driving and speeding and
17 great difficulty with enforcement given the manpower
18 constraints of the Park Service in the off season.
19 Currently, the village beaches are closed from May 15 to
20 September 15 based on the 1978 Interim Management Plan.
21 Since 1978, there's been explosive growth and development on
22 Hatteras Island with more new homes, more pedestrians, and
23 more ORVs every year. This poses a safety concern. Many
24 visitors would simply like to walk on the beach without
25 having to scoop up their small children when a speeding ORV

1 comes barreling along. Others are tired of walking through
2 twelve inch ruts in the sand in front of the villages. The
3 seasonal closure dates of May 15 to September 15 are clearly
4 inadequate as our homes are nearly fully occupied in the busy
5 seasons of September, October and Thanksgiving week as well
6 as spring break season in March, April and May. We do not
7 seek to band ORV driving throughout the park. But we seek a
8 balance in the park between pedestrian safety and pedestrian
9 rights and ORV access. We ask the Park Service to address
10 this public safety issue by banning ORVs in the pedestrian-
11 heavy villages and be proactive and not wait until there is a
12 tragedy involving a child or another pedestrian. We ask that
13 you listen to the majority opinion of the largest park user
14 group, the vacationers, who fuel this economy and not just
15 the opinion of small politically savvy special interest
16 groups. Thank you.

17 MR. JESS COMMERFORD: Thank you. Tim Clark.

18 MR. TIM CLARK: I am in strong agreement with
19 Mr. Kayota. I have grave concerns about the Park Service's
20 ability to monitor the traffic on the beach at --
21 particularly in the -- in the communities of Frisco and --
22 and down in Hatteras Village. You know, I've just seen too
23 many instances of speeding, you know, too many instances of
24 neglect. I strongly encourage that there should be a permit
25 system and make it so that it's easy to identify who the

1 drivers are and there's an association between the driver's
2 license plate and the permit because when you call the Park
3 Service to report somebody speeding on the beach, a license
4 from wherever doesn't help you whatsoever. And with a permit
5 system, you can track down who the abusers are. I -- I don't
6 know that the rules need to be changed so much as they do
7 enforced. And if you don't have, as a part of your plan, a
8 way to enforce the rules that you establish, then the plan is
9 worthless. The number of rangers that you have down in
10 Hatteras Island is a joke. And if you need to a -- have a
11 permit system to help raise revenue to pay for, you know, the
12 Park Service authorities, then that's what you need to do.
13 But right now, it's a -- you know, you can drive whatever
14 speed you want down on the beach, but, you know, God forbid
15 you do that on Highway 12, and -- you know, you're going to
16 go home with a ticket. And so I'd really like to see the
17 rules monitored that are in place, see this process go to
18 fruition. But in the end without having a designed plan that
19 recognizes the needs of additional personnel in the Park
20 Service, you know, we're all wasting our time. And so
21 hopefully, that's addressed as well. Thanks.

22 MR. JESS COMMERFORD: Thank you. Laura Davis.

23 MS. LAURA DAVIS: Hi, my name is Laura Davis.
24 I'm a resident of Kill Devil Hills. I've been coming to the
25 Outer Banks for seventeen years, a property owner in '93 and

1 an actual resident last year. My question is who decides on
2 the Plan A, B, C or D that you have posted in the back, who
3 decides which plan are -- we're going to go by and will it be
4 followed for the interim until 2008. And if a plan is
5 adopted -- I -- I kind of like Plan B. But if a plan is
6 adopted and it's working for all of us, we're all happy, the
7 Park Service is happy, all of those ORV drivers are happy, is
8 there a chance that the final 2008 plan will be different?
9 That's one question. And then also, we need a time frame
10 published for the closures that will happen, you know, is it
11 one week, is it one month, is it six months or is it closed
12 forever and -- and it be published with that part of the
13 beach may be opened again. And so, those are my concerns.

14 MR. JESS COMMERFORD: Thank you. Sidney
15 Maddock.

16 MR. SIDNEY MADDOCK: Good evening, my name is
17 Sidney Maddock. These comments are submitted on behalf of
18 the 12,000 members of Audubon at North Carolina and
19 supplement the previous comments that I provided. They
20 address specifically the four alternative concepts.

21 We strongly question the May 1 prenesting
22 closure for colonial waterbird areas. It's inconsistent with
23 North Carolina Wildlife Resources Guidance as well as other
24 science-based guidance and the protocols. We would suggest
25 that these areas be posted by April 1. Not providing

1 adequate protection early in the season can not only reduce
2 the chance of species using -- utilizing the area, but also
3 delay nesting initiation. And if you have early nesting and
4 it's successful and the chicks fledge, it's that much quicker
5 that you can open an area up, so it's the interest -- in the
6 interest of all for this to be successful rather than
7 delayed.

8 The term active piping plover nesting areas
9 previous three breeding seasons and support piping plover
10 areas previous ten breeding seasons, what does this -- these
11 terms mean? Depending on how you define active and previous
12 and nesting, you could have very different results with areas
13 such as Bodie Island either being included or not included.
14 Closure areas must be of sufficient size. We don't know from
15 the four alternatives whether -- what will be in place for
16 pre-nest -- what they call pre-nesting activity will be
17 consistent with even the least restrictive of the protocol
18 alternatives regarding nesting 150 foot closure for piping
19 plover nests may not be sufficient. The recovery plan
20 specifically notes the larger buffer distances that were
21 observed in a Virginia study. And our observations are
22 consistent with larger flush distances for North Carolina
23 birds and birds in the Northeast. That has to be considered.

24 Let's see, distance from the shoreline; in -- in
25 some of the protocols, not the alternatives -- the conceptual

1 alternatives, there's distances from a shoreline, and you
2 have a fifty meter distance. In certain areas, you have to
3 remember that it's a narrow beach and if you talk fifty
4 meters off the shoreline, you're going to be in the nesting
5 colony or even behind it. Regarding going back to the
6 conceptual alternatives, C and D reduce -- talk about reduced
7 size of closures and assume increased monitoring. A 300 foot
8 minimum buffer for piping plover chicks is inconsistent with
9 the observed ability of these chicks at the Seashore to move
10 very large distances in a short period of time, such as the
11 brood this summer at South Beach which moved half a mile in
12 under a day. We're also concerned that this could become a
13 ceiling rather than a floor.

14 And most importantly from an institutional
15 prospective, realistically option D is unworkable unless you
16 have massive increases in staffing. This summer monitoring
17 at critical nesting locations was sharply reduced just to one
18 escort location. And it will be even more challenging if you
19 expand this to all four locations. The -- if you don't have
20 an adequate monitoring effort, not only will you not be able
21 to timely erect predator enclosures which can help your
22 nesting success, but in addition if you're missing nests, it
23 makes it more difficult to know when you will have the -- the
24 nest hatch. If you're finding it as a foreign clutch like
25 occurred at South Beach, you don't know if it's going to

1 hatch that day or if it's going to hatch twenty-five days
2 from now, which makes it much more difficult to manage ORV
3 use.

4 In terms of migration and wintering issues, I'm
5 very concerned that the four conceptual alternatives do not
6 provide adequate protection. C & D say open all shoreline at
7 Cape Point and Spits. This will result in the loss of both
8 ocean and sound feeding habitats. We already see differences
9 in ocean use between the Seashore and either Pea Island or
10 Cape Lookout due to varying disturbance levels. And this
11 would restrict plover to less valuable dry sand feeding
12 areas. With the concept of adjusting closures, we, of
13 course, agree with the concept generally. The -- the concern
14 is that based on past practice, we tend to see an emphasis or
15 do we see a bird there right now. And monitoring of non-
16 breeding birds show that these birds move within a mosaic of
17 habitats between DOT Island and Hatteras Spit, between Bodie
18 Island and Pea Island and Green Island. And you have to
19 realize how these birds move. In addition, just because you
20 don't see birds, you have to look at the habitat quality.
21 High levels of disturbances resulting in low level use could
22 then be used as a justification to abandon protection. Dogs,
23 we're happy to see that being addressed. It's a continuing
24 issue.

25 Other practical considerations; there's a

1 continuing problem with the maintenance of closures that are
2 near in the Intertidal area. Certain people go around in
3 vehicles and cars. And so we hope that would be addressed.
4 Let's see; the conceptual alternatives do not protect LAC
5 both as a valuable feeding habitat for shore birds as well as
6 a roosting habitat. Speed limit, it's not addressed.
7 Twenty-five is too fast. Those are the technical issues. We
8 have concerns about some of the economical issues in which we
9 will go into detail in our comments. In conclusion, I'd like
10 to say that the Seashore cannot take actions that discourage
11 the establishment of nesting territories and then provide
12 insufficient protections for those few birds that do try to
13 nest. The Seashore has already experienced significant nest
14 declines with least tern down eighteen percent between '99
15 and 2004, the common tern down sixty-two percent, the gull-
16 bill down eighty-four percent, black skimmer down fifteen
17 percent, piping plover down fifty percent from six to three
18 pairs which is down from a high of fifteen. These are
19 symptoms of broader ecosystem issues. And if appropriate
20 protection isn't implemented, the eventual result will be
21 extrication of these species from the Seashore. Thank you
22 for the opportunity to present these comments.

23 MR. JESS COMMERFORD: Thanks. That's everyone
24 that signed up to speak this evening. Is there anyone else
25 who didn't sign up to begin with that wishes to speak at this

1 point. With that, we'll go ahead and close the formal part
2 of the meeting. As was shown on the agenda, we'll be around
3 here for another Open House period with the Park Service
4 personnel and feel free to ask them any questions that you
5 have and to get some answers for a while. And with that, I
6 appreciate everyone showing up this evening. Thank you very
7 much.

8 (The proceedings concluded at 7:29 P.M.)
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25