



North Carolina Department of Environment and Natural Resources

Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

March 22, 2006

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

<input checked="" type="checkbox"/>	SUPERINTENDENT	WJ
<input type="checkbox"/>	DEPUTY SUPT.	
<input type="checkbox"/>	PIO/PLANNING	
<input checked="" type="checkbox"/>	RESOURCE MGMT.	
<input type="checkbox"/>	INTERPRETATION	
<input type="checkbox"/>	ADMINISTRATION	
<input type="checkbox"/>	PERSONNEL	
<input type="checkbox"/>	VISITOR SERVICES	
<input type="checkbox"/>	SAFETY OFFICER	
<input type="checkbox"/>	SPECIAL USES	
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SUBJECT: CD06-010 - Consistency Concurrence for the Proposed Interim Protected Species Management Strategy, Cape Hatteras National Seashore, Dare County, North Carolina (DCM#20060011)

Dear Mr. Murray:

The Division of Coastal Management received (February 6, 2006) a consistency determination from the National Park Service (NPS) finding that implementation of the proposed Interim Protected Species Management Strategy for the Cape Hatteras National Seashore would be consistent with the State's coastal management program. North Carolina's coastal zone management program consists of, but is not limited to, the Coastal Area Management Act, the State's Dredge and Fill Law, Chapter 7 of Title 15A of North Carolina's Administrative Code, and the land use plan of the County and/or local municipality in which the proposed project is located. It is the objective of the Division of Coastal Management (DCM) to manage the State's coastal resources to ensure that proposed Federal activities would be compatible with safeguarding and perpetuating the biological, social, economic, and aesthetic values of the State's coastal waters.

To solicit public comments, DCM circulated a description of the proposed project to State agencies that would have a regulatory interest. Additionally a public notice was published in the Outer Banks Sentinel on February 12, 2006. No comments asserting that the proposed activity would be inconsistent with the State's coastal management program were received. However, the North Carolina Wildlife Resources Commission (NCWRC) expressed concern that certain proposed actions to protect species at risk require strengthening. A copy of the response by the NCWRC, as well as each of the other responses received, has been attached for reference.

DCM has reviewed the submitted information pursuant to the management objectives and enforceable policies of Sections 15A NCAC 07H .0206 and 15A NCAC 07H .0207 of Chapter 7 of Title 15A of North Carolina's Administrative Code which are a part of the State's certified coastal management program and concurs that the proposed Federal activity is consistent, to the maximum extent practicable, with the enforceable policies of North Carolina's coastal management program. Though we concur that the proposed activity is consistent with the enforceable policies of the State's coastal management

400 Commerce Avenue, Morehead City, North Carolina 28557-3421

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program, we would encourage NPS to work with the NCWRC to resolve their concerns regarding the protection of sea turtles, colonial waterbirds, and shorebirds.

Please note, this consistency concurrence is limited to the Cape Hatteras National Seashore Interim Protected Species Management Strategy itself. This consistency concurrence does not authorize future development activities necessary to implement the plan. Planned development projects (such as the relocation of trails, dune alterations, and/or wetland impacts) will require consistency review by DCM and concurrence before the development project can be implemented.

Should the proposed action be modified, a revised consistency determination could be necessary. This might take the form of either a supplemental consistency determination pursuant to 15 CFR 930.46, or a new consistency determination pursuant to 15 CFR 930.36. Likewise, if further project assessments reveal environmental effects not previously considered by the proposed development, a supplemental consistency certification may be required. If you have any questions, please contact Stephen Rynas at 252-808-2808. Thank you for your consideration of the North Carolina Coastal Management Program.

Sincerely,



Doug Huggett
Manager, Major Permits and Consistency Unit

Cc: Ted Sampson, Division of Coastal Management
Maria Tripp, NC Wildlife Resources Commission



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

William G. Ross Jr., Secretary

MEMORANDUM

February 8, 2006

TO: Maria Tripp
Division of Inland Fisheries, Habitat Conservation Program
NC Wildlife Resources Commission
943 Washington Square Mall
Washington, NC 27899-3532

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Consistency Determination Submission for the Interim Protected Species Management Strategy (DCM#20060011)

LOCATION: Cape Hatteras National Seashore, Dare County, North Carolina

The above listed document is being circulated for review and comment by **March 3, 2006**. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or e-mail me at: "stephen.rynas@ncmail.net".

REPLY

____ No Comment.

____ This office supports the project as proposed.

X ____ Comments to this project are attached.

____ This office objects to the project as proposed.

Signed: Maria Tripp

Date: 3/2/2006

CORRECTIONS

Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM

to
Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

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MAR 03 2006

Morehead City DCM



☒ North Carolina Wildlife Resources Commission ☒

Richard B. Hamilton, Executive Director

MEMORANDUM

TO: Stephen Rynas, Consistency Coordinator
Division of Coastal Management

FROM: Maria Tripp, Northeast Coastal Region Coordinator *Maria Tripp*
Habitat Conservation Section

DATE: March 2, 2006

SUBJECT: Consistency Determination Submission of the Interim Protected Species
Management Strategy (DCM#20060011), Cape Hatteras National Seashore,
Dare County, North Carolina.

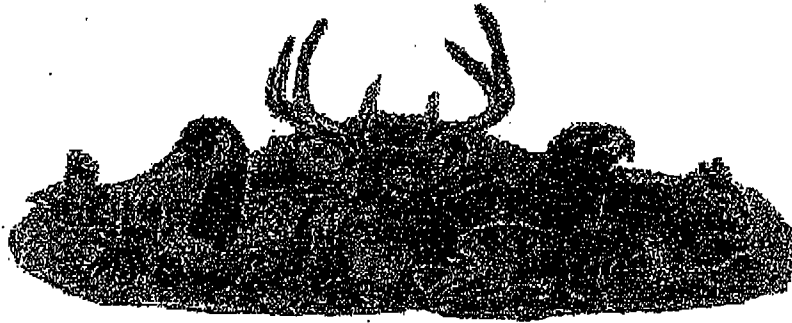
Biologists with the North Carolina Wildlife Resources Commission (Commission) reviewed the management strategy with regard to impacts on fish and wildlife resources. Our comments are provided in accordance with provisions of the North Carolina Environmental Policy Act (G.S. 113A-1 et seq., as amended; 1 NCAC-25), the Coastal Area Management Act (G.S. 113A-100 through 113A-128) as amended, and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

The Commission recently reviewed this management plan during the National Park Service's public comment period. Please use the attached memorandum dated March 1, 2006 to reference our concerns.

We appreciate the opportunity to review and comment on this consistency determination. If you need further assistance or additional information, please contact me at (252) 948-3916.

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MAR 03 2006

Morehead City DCM



☒ North Carolina Wildlife Resources Commission ☒

Richard B. Hamilton, Executive Director

MEMORANDUM

TO: Michael B. Murray, Superintendent
Outer Banks Group
National Park Service

FROM: Maria Tripp, Northeast Coastal Region Coordinator *Maria Tripp*
Habitat Conservation Section

DATE: March 1, 2006

SUBJECT: Cape Hatteras National Seashore Interim Protected Species Management
Strategy/Environmental Assessment, Dare County, North Carolina.

Biologists with the North Carolina Wildlife Resources Commission (Commission) reviewed the management strategy with regard to impacts on fish and wildlife resources. Our comments are provided in accordance with provisions of the North Carolina Environmental Policy Act (G.S. 113A-1 et seq., as amended; 1 NCAC-25), the Coastal Area Management Act (G.S. 113A-100 through 113A-128) as amended, and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

The National Park Service (NPS) has issued an Interim Protected Species Management Strategy/Environmental Assessment (INPSMS EA) regarding protected species management at Cape Hatteras National Seashore. This document presents the evaluation of four alternatives for managing protected species during the interim period until a Long-term Off-Road Vehicle (ORV) Management Plan and associated regulations are developed. The NPS has selected Alternative D as their preferred alternative because they feel it best meets the purpose, need, and objectives of the strategy. These objectives are listed below:

- The need for a clear and consistent set of management strategies. The lack of an approved strategy over time has led to inconsistent management of protected species and has created confusion for both the public and the seashore staff.
- The need for a management strategy on which to consult with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act.
- The need for a management strategy that complies with the Endangered Species Act, Migratory Bird Treaty Act, NPS management policies, and park regulations, and that avoids adverse affects to protected species.
- The need to immediately address public concerns about species management and recreational use.

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MAR 29 2006

Mailing Address: Division of Inland Fisheries • 1721 Mail Service Center • Raleigh, NC 27699-1721
Telephone: (919) 707-0220 • Fax: (919) 707-0028

Morehead City, NC

The Commission has reviewed the INPSMS EA and has several concerns with the alternative selected by NPS and the potential adverse impacts its implementation could have on wildlife resources and their associated habitats. We strongly urge NPS to consider our concerns.

Sea Turtles

The Cape Hatteras National Seashore provides nesting habitat for the federally threatened loggerhead (*Caretta caretta*) and the federally endangered greenturtle (*Chelonia mydas*) and leatherback (*Dermochelys coriacea*) sea turtles. In order to protect these species, the following strategies should be implemented:

1. There should be no moving of sea turtle nests to accommodate recreational uses. The NC Wildlife Resources Commission Handbook clearly states that nests should be moved only when one or more of the following situations exist:
 - The nest is below the average high tide line where regular inundation will result in embryonic mortality.
 - The nest is in an area known to be susceptible to erosion.
 - The nest is under a sloughing escarpment and is subject to being buried too deeply.
 - The nest is in an area where unusual, but lawfully conducted, human activities pose a serious threat to nests, such as emergency dune pushing following a major storm event. Beach driving is not considered among those unusual events described above.
2. Nighttime beach driving is of particular concern regarding the success of sea turtles. Vehicle lights may deter or impede females from nesting on the beach. Females who have emerged onto the beach may be injured or killed by unregulated vehicular activity. Nighttime driving may also conceal sea turtle tracks, making new nests difficult to find, post, and protect. These unposted nests and eggs could subsequently be driven over and destroyed. Lastly, nighttime driving could injure and kill hatchlings that have emerged from a nest and are traversing across the beach to the ocean.
3. The Commission recommends the daily monitoring effort for sea turtle nests and hatchling emergencies be expanded. Nesting of loggerheads in North Carolina begins in May and many records indicate nests have successfully incubated until November. Therefore, we request monitoring be conducted May 1 – November 15 of every year.

Colonial Waterbirds and Shorebirds

Many species of colonial waterbirds and shorebirds utilize habitat on Cape Hatteras National Seashore for migration, breeding, and wintering. The federally threatened piping plover (*Charadrius melodus*) along with the NC Wildlife Resources Commission's current and proposed species of concern that include American oystercatchers (*Haematopus palliatus*), Wilson's plovers (*Charadrius wilsonia*), common terns (*Sterna hirundo*), least terns (*Sterna antillarum*), gull-billed terns (*Sterna nilotica*), and black skimmers (*Rynchops niger*) may be adversely affected by the recreational opportunities afforded in Alternative D. We have the following recommendations and concerns:

1. The Commission is concerned that none of the discussed alternatives adequately address newly created habitat. New areas are proposed to be posted only when breeding behavior is observed on two consecutive visits or when a nest is found. This may cause problems following severe storms which result in significant changes to the beach front.

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Morehead City DCM

2. Several of the alternatives will require the frequent moving of symbolic fencing and vehicle corridors to protect chicks. This will be very labor intensive and may cause delays in species protection and lead to the loss of chicks. A more feasible option that would afford nesting birds adequate protection would include leaving vehicle corridors open on inlet spits during egg laying and incubation and closing portions of the inlet spits to ORVs after chicks hatch. This eliminates the need to continuously move fencing necessary to keep adequate buffers around moving chicks and allows continual and safe access to vital foraging areas at the waters edge.
3. Nighttime beach driving is of particular concern and should not be permitted during the nesting season for shorebirds. Shorebird chicks cannot be monitored at night and may move away from protected areas to forage nearby. There is evidence that American oystercatcher chicks are attracted to vehicle headlights and may migrate towards areas of ORV activity.
4. Alternative D states that piping plover chicks will be observed continuously during the daylight hours. However, chicks can be active at night and the minimum 600 foot buffer around chicks may be too small to afford protection from nighttime driving when capable chicks move outside this area.
5. Many species of waterbirds have smaller buffers than the 600 foot piping plover buffer. For example, American oystercatcher broods are monitored once a day and allowed only a 300 foot buffer. Chicks may easily move outside this buffer area and could be struck by ORVs. The management strategy states buffer areas may be enlarged for mobile chicks, but infrequent monitoring increases the likelihood of chick mortality.
6. Changes in posted areas should not require superintendent approval. The additional time required to obtain the necessary approval and continued operation of ORV and other recreational activities near beach nesting birds, especially piping plovers, may discourage adults from nesting, cause birds to abandon active nests, or push foraging chicks out of the area. Biologists making observations on site should be allowed to post areas immediately upon seeing courtship behavior, nesting activity, or foraging chicks.
7. The Commission requests April 1 of every year be the latest date by which colonial waterbird and shorebird nesting areas are posted. This would alleviate some confusion from the different proposed dates for closures and monitoring and afford the greatest protection to waterbirds.

In general, we feel the management strategy presented in the preferred Alternative D does not offer adequate protection of listed and non-listed species. Changes in this alternative may afford increased protection while still allowing the NPS to meet their objectives for public use. Implementation of the preferred alternative may also be perceived by the public as confusing. This confusion may lead to additional impacts from inadvertent violations. We request the NPS seriously consider the afore mentioned concerns and implement them within the interim management plan.

The Commission appreciates the opportunity to review and comment on this management strategy. If you need further assistance or additional information, please contact me at (252) 948-3916.

cc: Rabon, D. - US Fish and Wildlife Service

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Morehead City DCM



North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor

February 22, 2006

William C. Ross Jr., Secretary

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FEB 28 2006

STEPHEN RYNAS
NC DIVISION OF COASTAL MANAGEMENT
400 COMMERCE AVENUE
MOREHEAD CITY, NC 28557-3421

Morehead City DCM

Re: Consistency Determination Submission for the Interim Protected Species Management Strategy
(DCM#20060011)

Dear Mr. Rynas:

I have reviewed the Interim Protected Species Management Strategy for the NC Natural Heritage Program. For several biological and ecological reasons, we believe that the use of Off Road Vehicles (ORV's) at Cape Hatteras National Seashore has the high potential for negative effects on rare species, natural communities, and significant natural heritage areas, and should be very closely regulated and monitored, if not discontinued altogether.

If the National Park Service must continue to allow the use of ORV's, then the management strategy outlined in this document seems appropriate. Some of the most important aspects of the plan with respect to rare species protection include the use of closure and buffers, data collection, ongoing studies, enforcement, education, and the removal of invasive species.

Please do not hesitate to contact me at 919-715-8700 if you have questions or need further information.

Sincerely,

Misty Franklin, Botanist
NC Natural Heritage Program



North Carolina Department of Environment and Natural Resources

Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

HISTORIC PRESERVATION OFFICE

William G. Ross Jr., Secretary

MEMORANDUM

February 8, 2006

TO: Renee Gledhill-Early
State Historic Preservation Office
4617 Mail Service Center
Raleigh, NC 27699-4617

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Consistency Determination Submission for the Interim Protected Species Management Strategy (DCM#20060011)

LOCATION: Cape Hatteras National Seashore, Dare County, North Carolina

The above listed document is being circulated for review and comment by **March 3, 2006**. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-408-2403 or e-mail me at: "stephen.rynas@ncmail.net".

REPLY

 No Comment.

 K This office supports the project as proposed.

 Comments to this project are attached.

 This office objects to the project as proposed.

Signed:

Renee Gledhill-Early

Date:

3/2/06

CORRECTIONS

Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM

to

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

FEB 10 2006



North Carolina Department of Environment and Natural Resources

Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

William G. Ross Jr., Secretary

MEMORANDUM

February 8, 2006

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FEB 24 2006

FEB 10 2006

Morehead City DCMCOASTAL MANAGEMENT
ELIZABETH CITY

TO: Charlan Owens
Planning
DCM - Elizabeth City Office
1367 U.S. 17 South
Elizabeth City, NC 27909-7634

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Consistency Determination Submission for the Interim Protected Species Management Strategy (DCM#20060011)

LOCATION: Cape Hatteras National Seashore, Dare County, North Carolina

The above listed document is being circulated for review and comment by **March 3, 2006**. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or e-mail me at: "stephen.rynas@ncmail.net".

REPLY

- ☐ No Comment.
- ☐ This office supports the project as proposed.
- ☒ Comments to this project are attached.
- ☐ This office objects to the project as proposed.

Signed: Date: 2-21-06CORRECTIONS

Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM

to
Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

William G. Ross Jr., Secretary

MEMORANDUM

February 8, 2006

TO: John Fear
NC National Estuarine Research Reserve
400 Commerce Avenue
Morehead City, NC 28557-3421

FROM: Stephen Rynas, AICP, Federal Consistency Coordinator

SUBJECT: Consistency Determination Submission for the Interim Protected Species Management Strategy (DCM#20060011)

LOCATION: Cape Hatteras National Seashore, Dare County, North Carolina

The above listed document is being circulated for review and comment by **March 3, 2006**. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or e-mail me at: "stephen.rynas@ncmail.net".

REPLY

____ No Comment.

____ This office supports the project as proposed.

X ____ Comments to this project are attached.

____ This office objects to the project as proposed.

→ why not make it easy?
No ORV in the park during
the interim period.

Signed: John Fear

Date: 2-21-06

CORRECTIONS

Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM

to
Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421



North Carolina Department of Environment and Natural Resources

Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

William G. Ross Jr., Secretary

FEB 21 2006

MEMORANDUM

February 8, 2006

Morehead City, NC

TO: Patty Fowler
Shellfish Sanitation District
NCDENR - Division of Environmental Health
Marine Fisheries Building, P.O. Box 769
Morehead City, NC 28557-0769

FROM: Stephen Rynas, AICP, Federal Consistency Coordinator

SUBJECT: Consistency Determination Submission for the Interim Protected Species Management Strategy (DCM#20060011)

LOCATION: Cape Hatteras National Seashore, Dare County, North Carolina

The above listed document is being circulated for review and comment by **March 3, 2006**. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or e-mail me at: "stephen.rynas@ncmail.net".

REPLY

- ☒ No Comment.
- ☐ This office supports the project as proposed.
- ☐ Comments to this project are attached.
- ☐ This office objects to the project as proposed.

Signed: *[Signature]* for Patty Fowler

Date: 2-10-06

CORRECTIONS

Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM

to

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421



North Carolina Department of Environment and Natural Resources

Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

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Secretary

MEMORANDUM

TO: Stephen Rynas, AICP, DCM Federal Consistency Coordinator

FROM: Charlan Owens, AICP, NE DCM District Planner

Through: Ted Sampson, NE DCM District Manager

SUBJECT: Review of the Interim Protected Species Management Strategy/Environmental Assessment (EA) for the Cape Hatteras National Seashore submitted by the National Park Service (NPS) that includes four (4) alternatives for interim management of the Seashore, a portion of which is located in Dare County.

Morehead City DCM

FEB 24 2006

Date: February 21, 2006

Consistency Determination: The four (4) alternatives are consistent with/not in conflict with the Dare County 1994 Land Use Plan

Overview: The Cape Hatteras National Seashore consists of more than 30,000 acres distributed along 62 miles of shoreline. Federal ownership in the seashore extends from ocean to sound across three barrier islands-Ocracoke, Hatteras, and Bodie-spanning Dare and Hyde counties. Hatteras and Bodie Island are located in Dare County. In Dare County, the U. S. Coast Guard Property and seven village enclaves (Rodanthe, Waves, Salvo, Avon, Buxton, Frisco, and Hatteras) are excluded from the seashore boundaries. The 5,990 acre Pea Island National Wildlife Refuge, located at the northern end of Hatteras Island, is part of the Seashore, but is administered for refuge purposes by the U. S. Fish and Wildlife Service (USFWS). The Seashore hosted approximately 2.2 million visitors in 2004.

The purpose of and need for taking action is to evaluate and implement strategies to protect sensitive species and provide for recreational use as directed in the enabling legislation, NPS management policies, and other laws and mandates until a long-term off-road vehicle (ORV) management plan/Environmental Impact Statement (EIS) is developed. ORV use on the seashore beaches predates the establishment of the Seashore and is considered an appropriate visitor use. ORVs are currently used to provide vehicular access onto the seashore beaches for recreational purposes, including surf fishing; surfboarding; sunbathing; swimming; bird watching; scenic driving; etc.

An interim protected species management strategy would meet the following needs until the long-term ORV management plan/EIS is completed:

- Need for a clear and consistent set of management strategies. The lack of an approved strategy over time has led to inconsistent management of protected species and has created confusion for both the public and seashore staff.
- Need for a management strategy on which to consult with the USFWS under Section 7 of the Endangered Species Act.

North Carolina Department of Environment and Natural Resources
Division of Coastal Management

MEMORANDUM

Page 2

- Need for a management strategy that complies with the Endangered Species Act, the Migratory Bird Treaty Act, NPS management policies, and park enabling legislation, and that avoids adverse impacts to protected species.
- Need to immediately address public concerns about species management and recreational use.

While the number of visitors to the Seashore has grown, the breeding population of the federally threatened piping plover and the occurrence of seashore amaranth have declined. Statewide declines were also documented for common terns, least terns, gull-billed terns, black skimmers, and American oystercatchers; all of which are, or are being considered for listing as Species of Special Concern by the North Carolina Wildlife Resources Commission. Recreational pressure has been implicated in low reproduction success and declining population trends for all of these species as well as for the disturbance and/or mortality of migrating and wintering piping plovers, colonial waterbirds, and American oystercatches, and adults, nests, and hatchlings of the three (3) species of sea turtle that nest at the Seashore, the federally threatened loggerhead and the federally endangered green turtle and leatherback turtle. Wilson's plover and red knot are also species of concern. The species addressed in this strategy/EA are those specifically affected by recreational use within the seashore that are listed federally or by the State as threatened, endangered, or species of special concern and/or of special concern to the Seashore. Management of protected species could affect the local and regional economy as well as access, visitor use and experience, and commercial fishing. Currently, commercial fishermen have access to areas closed to other users because of safety, but they do not have access to areas closed for resource protection.

Four (4) management alternatives are reviewed in the environmental assessment. Alternative A – Continuation of 2004 Management (baseline or no action) - The Seashore would implement protective measures for recent piping plover breeding areas (areas used during the past three breeding seasons); American oystercatches and colonial waterbirds, if nests are established; sea turtle nests; and seabeach amaranth plants or seedlings. Any species management closures would require the Superintendent's approval. Measures vary for special status bird species according to the activity. Management would continue for predator removal, recreation use restrictions, and public outreach. Alternative B – Undisturbed Area Focus - Year round species management closures would be erected around areas where piping plover breeding and/or nesting has occurred in the past 10 years, with ORV access being prohibited from these identified areas. Seasonal closures for recent American oystercatcher and Wilson's plover, and historic colonial waterbird areas would be implemented. Pedestrian access would be restricted to a 150 foot corridor along the Oceanside shoreline around bird closure areas. Seasonal buffer zones around other protected bird species, turtle nests, and seabeach amaranth would protect important habitat types. Management would continue for predator removal and would provide for additional recreation use restrictions and public outreach. Alternative C – Tailored Management Focus - Protective measures would be implemented for historic piping plover and colonial waterbird breeding areas (areas used some time during the past ten breeding seasons) and for recent American oystercatcher and Wilson's plover breeding areas. As with Alternative A, sea turtle protections would be established with some variation. As with Alternative B, closures would be established around all historic and existing populations of seabeach amaranth. ORV and pedestrian access would be maintained around these areas within a 150 foot access corridor along the oceanside beaches of each area. Adaptive management would be provided, in that an alternative ORV routes/by pass routes would be identified if a closure

blocked access to the spits or Cape Hatteras Point. Management would continue for predator removal and would provide for additional recreation use restrictions and public outreach. This alternative would allow for some variability in species management based on individual species behavior and would adapt management strategies to afford access where feasible while protecting species. Alternative D - Access/Research Component - The Seashore would survey habitat used by each bird species during the last ten years and implement seasonal protective closures around areas used during the past three years. ORV and pedestrian access would be maintained around closures within a 100 foot wide corridor along the ocean and soundside beaches of each area. A buffer zone would be provided around other protected bird species, turtle nests, and seabeach amaranth plants, and would protect important habitat types. Adaptive management would be provided, in that an alternative ORV routes/by pass routes would be identified if a closure blocked access. Management would continue for predator removal and would provide for protecting the wrack line, additional recreation use restrictions and public outreach. This alternative would allow for some variability in species management based on individual species behavior and would adapt management strategies to afford access where feasible while protecting species.

Alternative B is considered the environmentally preferred alternative, which is defined as the alternative that causes the least damage to the biological and physical environment; it also means the alternative best protects, preserves, and enhances historic, cultural, and natural resources.

Alternative D is the Seashores preferred alternative because it best meets the purpose, need, and objectives for the strategy of protecting sensitive species and providing for recreational use until a long-term ORV management plan/EIS is developed.

Anticipated impacts: Activities in each alternative are primarily operational. No impacts to wetlands, water quality, or cultural and archaeological resources are anticipated. Increases in resource protection areas could result in further restrictions on public access, recreational uses, access by ORV, and access for commercial fishing.

Basis for Determination:

The Dare County 1994 Land Use Plan Land Classification Map identifies the Cape Hatteras National Seashore as "Conservation". The following LUP policies may be applicable to the four (4) alternatives under review:

Public Trust Areas:

Policy 2.1.2 (c-1), Page 54:

"Dare County supports the preservation and protection of the public's right to access and use of the Public Trust Areas and Waters."

Policy 2.1.2 (c-2), Page 54:

"Dare County advocates a management program at the State or Federal level to address the competition among recreational uses of Public Trust Waters. However, Dare County reserves the right to review, comment, advocate, or oppose any proposed regulations or programs that may affect the Public Trust Waters."

Natural and Cultural Resource AECs:

Policy 2.1.2 (g), Page 59:

"The Dare County advocates the management of fragile coastal, natural, and cultural resources as defined in 15NCAC7H, Section .0500. When such areas are of local significance, Dare County supports the use of local zoning ordinances as the appropriate management tool."

Policy 2.1.2 (h-1), Page 60:

"Dare County supports the Coastal Resources Commission's policy to mitigate losses of coastal resources for those projects shown to be in the public interest as defined by the standards in 15NCAC7M.0700 et. sq. and only after all other means of avoiding or minimizing such losses have been exhausted."

Fisheries Resources:

Policy 2.2.4-a, Page 72:

"The continued productivity of commercial and recreational fisheries shall be fostered through restoration and protection of the unique coastal ecosystems upon which they depend."

Policy 2.2.4-d, Page 73:

"State and Federal agencies with the authority to manage fisheries resources should be the responsible parties for the resolution of conflicts involving fisheries resources in Dare County. However, Dare county reserves the right to review, comment, advocate or oppose any proposed regulations or programs that may affect the fisheries resources or management."

North Carolina Department of Environment and Natural Resources
Division of Coastal Management

MEMORANDUM
Page 5

Shoreline Resources:

Policy 2.2.5 (a), Page 74:

"Efforts to properly balance and control the use of off-road vehicles along the County's beaches, dune areas, and Estuarine Shorelines shall continue to receive support from County government."

Wildlife Resources:

Policy 2.2.6, Page 74:

"Dare County supports the maintenance of several preserve areas for wildlife habitat and access by the public to these areas for managed wildlife harvesting and observation."

Tourism:

Policy 2.3.9 -b, Page 87:

"Dare County supports the concept of combining natural resources and tourism to promote the area's ecological values, also known as 'eco-tourism'."

Shoreline Access:

Policy 2.3.10, Page 89:

"Dare County supports North Carolina's shoreline access policies as stated in 15NCAC7H, Section .300. Dare County recognizes shoreline access to both ocean and estuarine shorelines as a key component in the local tourist economy."



North Carolina Department of Environment and Natural Resources

Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

William G. Ross Jr., Secretary

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FEB 28 2006

Morehead City DCM

MEMORANDUM

February 8, 2006

TO: John Cece
Field Representative
DCM - Elizabeth City Office
1367 U.S. 17 South
Elizabeth City, NC 27909-7634

FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Consistency Determination Submission for the Interim Protected Species Management Strategy (DCM#20060011)

LOCATION: Cape Hatteras National Seashore, Dare County, North Carolina

The above listed document is being circulated for review and comment by **March 3, 2006**. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or e-mail me at: "stephen.rynas@ncmail.net".

REPLY

____ No Comment.
____ This office supports the project as proposed.
____ ☒ Comments to this project are attached.
____ This office objects to the project as proposed.

Signed: _____

Date: _____

2/23/06

CORRECTIONS

Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM

to

Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

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COASTAL MANAGEMENT
ELIZABETH CITY

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FEB 28 2006

North Carolina Department of Environment and Natural Resources

Division of Coastal Management **Morehead City DCM**

Michael F. Easley, Governor

Charles S. Jones, Director

William G. Ross Jr., Secretary

MEMORANDUM

TO: Stephen Rynas, Federal Consistency Coordinator

FROM: John Cece, Coastal Management Representative, NE District *J Cece*

THROUGH: Ted Sampson, District Manager, NE District

DATE: February 23, 2006

SUBJECT: Project Number: DCM#20060011; Dated: February 8, 2006
Description of Project: Cape Hatteras National Seashore Interim Protected Species Management Strategy / Environmental Assessment
Proposed by: National park Service
Location: Dare County

REFERENCE: (a) Cape Hatteras National Seashore Interim Protected Species Management Strategy / Environmental Assessment, January 2006
(b) Memo from Federal Consistency Coordinator, dated February 8, 2006

Type of Review Performed:

- ☒ General Comments (Only of informational interest)
- ☐ Determination of Permits Needed
- ☐ Identification of Land Use Plan Issues
- ☒ NEPA or NCEPA Comments
- ☒ Preliminary Federal/State Consistency Comments
- ☐ Federal/State Consistency Comments

Assessment:

- ☐ This office objects to the project as proposed.
- ☒ Comments on this project are attached.
- ☐ This office supports the project proposal.
- ☐ No Comment

Signed:*Ted Sampson*
Ted Sampson, District Manager**Date:**02/23/06

Attachment of Comments**Consistency Memo Dated: February 23, 2006****From: Field Rep John Cece****Comments:**

I have reviewed reference (a) and have determined that the strategies outlined in the Preferred Alternative identified in the Environmental Assessment (Alternative D - Access/Research Component Focus) appear consistent with North Carolina's Coastal Management Program. However, the EA does not provide sufficient details to determine if the efforts required to create the alternative ORV routes discussed in Alternative D would be consistent with the Division of Coastal Management's policies and rules established to protect Coastal Wetlands and dune ecosystems. Should the implementation of alternative ORV routes require the alteration of Coastal Wetlands and/or dune ecosystems, the National Park Service should be required to submit consistency determinations prior to their implementation.

From: District Manager Ted Sampson**Comments:***Concur*



North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor
William G. Ross Jr., Secretary

Division of Marine Fisheries

Preston P. Pate Jr., Director

MEMORANDUM

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MAR 2 2006

Morehead City DCM

TO: Stephen Rynas
Federal Consistency Coordinator

FROM: Mike Street

DATE: February 28, 2006

SUBJECT: Interim Protected Species Management Strategy
DCM # 20060011 - Dare County

Attached is the Divisions' reply for the above referenced project. If you have any questions, please do not hesitate to contact me.

MS/sw

3441 Arendell Street, P.O. Box 769, Morehead City, North Carolina 28557
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Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

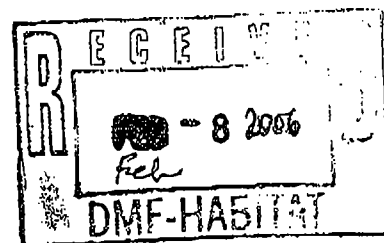
William G. Ross Jr., Secretary

Morehead City DCM

MEMORANDUM

February 8, 2006

TO: Mike Street
NCDENR - Division of Marine Fisheries
P.O. Box 769
Morehead City, NC 28557-0769



FROM: Stephen Rynas, AICP; Federal Consistency Coordinator

SUBJECT: Consistency Determination Submission for the Interim Protected Species Management Strategy (DCM#20060011)

LOCATION: Cape Hatteras National Seashore, Dare County, North Carolina

The above listed document is being circulated for review and comment by **March 3, 2006**. Your responses will assist us in determining whether the proposed project would be consistent with the State's Coastal Management Program. If the proposed project does not conform to your requirements, please identify the measures that would be necessary to bring the proposed project into conformance. If you have any additional questions regarding the proposed project you may contact me at 252-808-2808 or e-mail me at: "stephen.rynas@ncmail.net".

REPLY

- ☐ No Comment.
- ☒ This office supports the project as proposed. - Preferred alternative
- ☐ Comments to this project are attached.
- ☐ This office objects to the project as proposed.

Signed: Dana Wearlow

Date: 2-21-06

Concur with Dana Wearlow's assessment - Further Monitor
02/27/06

CORRECTIONS

Please identify any corrections, additions, or deletions that should be made in terms of contact information.

RETURN COMPLETED FORM

to
Stephen Rynas, Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421

